

01-1776-CD  
ALLEGHENY ENTERPRISES, INC. -vs- MID-EAST OIL COMPANY

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

ALLEGHENY ENTERPRISES, INC.,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
MID-EAST OIL COMPANY,	:	
	:	
Appellant	:	No. 732 WDA 2004

Appeal from the Judgment April 5, 2004,  
In the Court of Common Pleas of Clearfield County,  
Civil Division at No. 01-1776 CD.

**FILED**

MAR 04 2005

1/12:30 PM  
William A. Shaw  
Prothonotary

BEFORE: BENDER, PANELLA and POPOVICH, JJ.

MEMORANDUM: FILED: JANUARY 14, 2005

Mid-East Oil Company (Mid-East) appeals the entry of summary judgment in favor of Allegheny Enterprises, Inc., (Allegheny Enterprises), on April 5, 2004, in the Court of Common Pleas of Clearfield County. Upon review, we affirm.

The relevant facts and procedural history of this case are as follows: On May 16, 2001, Allegheny Enterprises assigned its oil and gas drilling lease rights for property situated in Cooper Township, Clearfield County, to Mid-East. Pursuant to the assignment, Mid-East agreed to reimburse lease rents paid by Allegheny Enterprises on the assigned properties and pay Allegheny Enterprises a "well-site fee" of \$7,500.00 for the three well sites, or \$2,500.00 per well site. The amount Allegheny Enterprises had prepaid in

lease rent at the time the assignments were made was \$22,080.00. In addition to the assignment of drilling rights, Allegheny Enterprises also executed with Mid-East an assignment of a right of way agreement on the property. Mid-East agreed to pay \$1,000.00 for the assignment of the right of way agreement. Therefore, Mid-East's total contractual debt to Allegheny Enterprises was \$30,580.00.

Despite Allegheny Enterprises' demands for payment, Mid-East refused to pay due to problems it perceived with the warranty of title under the assignment agreements. Accordingly, on October 2, 2001, Allegheny Enterprises filed a complaint against Mid-East that sought damages in the amount of \$30,580.00, plus interest, for reimbursement of lease rentals paid by Allegheny Enterprises and for payment for the three well sites. Allegheny Enterprises also sought the trial court to declare the assignment void for Mid-East's failure to drill gas wells as required by the assignment.

Thereafter, on November 21, 2001, Mid-East filed an answer and new matter to Allegheny Enterprises' complaint. Mid-East contended that Allegheny Enterprises failed to cure title defects pursuant to an oral agreement and that Mid-East had no obligation to drill any gas well until the title defects with the assigned property were cured.

The case proceeded through pre-trial pleadings and discovery, and, on October 23, 2003, Allegheny Enterprises filed a motion for summary judgment. On April 5, 2004, following submission of briefs and oral

argument, the trial court granted summary judgment in Allegheny Enterprises' favor. The trial court's judgment ordered that Mid-East pay to Allegheny Enterprises \$35,472.80, which represented the \$30,580.00 due under the assignment agreements, plus 6% interest *per annum* accrued from May 16, 2001. The trial court issued a memorandum in support of its judgment.

Mid-East filed a timely notice of appeal to this Court on April 30, 2004. The trial court did not order Mid-East to file a concise statement of matters complained on appeal, and it did not author an opinion in this case.

Mid-East raises the following issues for our review:

1. Whether there was a genuine issue of fact [regarding the dispute]?
2. Whether the parol evidence rule bars the admissibility of testimony regarding the issue of warranty of title?
3. Was the curing of title defects a condition precedent to the obligation to perform under the agreement?
4. Whether there was a subsequent oral modification of the assignment[s]?
5. Whether there was consideration to support a subsequent oral modification of the assignment[s]?
6. Whether the finding that the parol evidence rule was applicable could preclude damage evidence to be presented that was not specifically listed in the assignments and the receipt of which has been acknowledged in the assignments?
7. Whether the [trial] court should have granted summary judgment based on the deposition testimony?

Mid-East's brief, at 4.

Mid-East's issues assail the trial court's entry of summary judgment. Accordingly, we will address them jointly. Our review of appeals from the entry of summary judgment is governed by the following standard:

A reviewing court may disturb the [entry of summary judgment] only where it is established that the court committed an error of law or abused its discretion. As with all questions of law, our review is plenary.

In evaluating the trial court's decision to enter summary judgment, we focus on the legal standard articulated in the summary judgment rule. The rule states that where there is no genuine issue of material fact and the moving party is entitled to relief as a matter of law, summary judgment may be entered. Where the non-moving party bears the burden of proof on an issue, he may not merely rely on his pleadings or answers in order to survive summary judgment. Failure of a non-moving party to adduce sufficient evidence on an issue essential to his case and on which it bears the burden of proof [...] establishes the entitlement of the moving party to judgment as a matter of law. Lastly, we will review the record in the light most favorable to the non-moving party, and all doubts as to the existence of a genuine issue of material fact must be resolved against the moving party.

***Downey v. Crozer-Chester Medical Center***, 817 A.2d 517, 524 (Pa. Super. 2003) (citations and quotation marks omitted).

Mid-East argues essentially that a genuine issue of material fact existed such that summary judgment should not have been granted because the parties agreed orally, subsequent to the execution of the contract, that Mid-East would not pay Allegheny Enterprises until Allegheny Enterprises tendered good title to the property assigned by the contracts. The trial court concluded that this agreement was barred by the "parol evidence rule."

The parol evidence rule holds that evidence of a contemporaneous oral agreement is not admissible to alter, vary, add to, modify, or contradict a written instrument complete within itself unless the oral agreement was omitted through fraud, accident, or mistake. **See *Gemini Equipment Co. v. Pennsy Supply, Inc.***, 595 A.2d 1211, 1215 (Pa. Super. 1991) (citations omitted). Moreover, parol evidence is inadmissible to show a contemporaneous oral agreement that, if made, would naturally and normally have been contained in the written agreement between the parties. ***Id.***, 595 A.2d at 1215. Thus, the written contract, if unambiguous, must be held to express all of the negotiations, conversations, and agreements made prior to its execution, and neither oral testimony, nor prior written agreements are admissible to explain or vary the terms of such a contract. ***Id.***, 595 A.2d at 1215.

To fall within the grasp of the parol evidence rule, the contract need not be "complete within itself," or "integrated," as to all clauses contained within the contract or a particular clause. **See, e.g., *Henry v. First Fed. Sav. & Loan Ass'n.***, 459 A.2d 772, 776 (Pa. Super. 1983). Stated differently, a contract may be integrated as to some clauses and not integrated as to others. ***Id.***, 459 A.2d at 776.

The contracts-at-issue do not contain an integration clause reciting that the parties have set forth their entire agreement in them. Therefore, we must examine their text to determine whether they are integrated as to

the issue of warranty of title. **Henry**, 459 A.2d at 776. The question of whether a contract is integrated as to any or all of its contents requires this Court to examine whether the disputed contractual language appears to be couched in such terms as to import a complete legal obligation without any uncertainty as to the object or extent of the engagement. ***Id.***, 459 A.2d at 776. Moreover, where the cause of action rests entirely on an alleged oral understanding concerning a subject that is covered in a written contract, it is presumed that the writing was intended to set forth the entire agreement as to that particular subject. ***Id.***, 459 A.2d at 776.

Each assignment contract states, without reservation, "The assignment is made without warranty of title, either express or implied, and is specifically subject to all the terms, provisions, and conditions of Subject Leases." **See** assignment of oil and gas lease, 5/16/2001, at 2 (unnumbered); **see also** assignment of right of way, 5/16/2001, at 1 (unnumbered). This *proviso* indicates clearly that the question of warranty of title was considered within the contract and that Mid-East knew that the assignments were made without warranty of title when it executed each contract. Accordingly, we presume that this language set forth the entire agreement between Mid-East and Allegheny Enterprises as to that particular subject. **Henry**, 459 A.2d at 776.

Mid-East has not presented evidence that the aforementioned *proviso* was altered by a subsequent oral contract supported by valid consideration.

Moreover, Mid-East has not averred that its alleged oral agreement with Allegheny Enterprises that required Allegheny Enterprises to ensure good title prior to Mid-East's payment was absent from the written agreement through fraud, mistake, or accident. Thus, Mid-East has failed to rebut the presumption that the language set forth the entire agreement between the parties regarding warranty of title. **Henry**, 459 A.2d at 776. Accordingly, we conclude that the trial court was correct when it held that evidence of the alleged oral agreement could not be introduced due to the parol evidence rule. ***Id.***, 459 A.2d at 776. Consequently, no issue of material fact existed as to whether Mid-East was obliged to pay Allegheny Enterprises pursuant to the terms of the assignment contracts. Therefore, the trial court's entry of summary judgment was proper. **See Downey**, 817 A.2d at 524.<sup>1</sup>

As the trial court's entry of summary judgment was proper, we affirm.

Judgment affirmed.

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<sup>1</sup> Mid-East also asserts that if we conclude that the evidence of the oral agreement should have been barred by the parol evidence rule, then Allegheny Enterprises should be barred from presenting any damages, with the exception of \$7,500.00 for the three well sites, because the assignments do not specify the amount of other monies due under the assignments. This argument is without merit. As stated above, a contract may be integrated as to one issue and not integrated as to others within the contract. **See Henry**, 459 A.2d at 776. Therefore, it is of no moment whether Allegheny

Judgment Entered:

Eleanor R. Valecko  
Deputy Prothonotary

DATE: JANUARY 14, 2005

FILED

MARK 4 2005

William A. Shaw  
Prothonotary

---

Enterprises' monetary damages for prepaid rent on the assigned leases were stated with specificity within the assignment of lease contract.

**The Superior Court of Pennsylvania  
Sitting at Pittsburgh**

600 Grant Building  
Pittsburgh, Pennsylvania  
15219

**CERTIFICATE OF CONTENTS OF REMANDED RECORD  
AND NOTICE OF REMAND**

**under**

**PENNSYLVANIA RULES OF APPELLATE PROCEDURE 2571 AND 2572**

THE UNDERSIGNED, Prothonotary (or Deputy Prothonotary) of the Superior Court of Pennsylvania, the said court of record, does hereby certify that annexed to the original hereof, is a true and correct copy of the entire record:  
**Original Record 1 Part(s), 1 Transcripts, and 1 Superior Court Opinion.**

As remanded from said court in the following matter:

**IN RE: ALLEGHENY ENTERPRISES, INC V. MID EAST OIL CO.  
No(s). 732 WDA 2004  
Court of Common Pleas Clearfield County  
Civil Court Division No (s). 01-1776 CD.**

**FILED**

MAR 4 2005

mf 12-30 pm

William A. Shaw  
Prothonotary

In compliance with Pennsylvania Rules of Appellate Procedure 2571.

The date of which the record is remanded is: March 2, 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: March 4, 2005

*Eleanor R. Valecko*  
(Signature & Title)

PROTHONOTARY

COPY TO Superior Court

Current Judge: Fredric Joseph Ammerman

Allegheny Enterprises, Inc. vs. Mid-East Oil Company

## Civil Other

Date	Judge
10/29/2001	No Judge
① Filing: Action for Declaratory Judgment Complaint Paid by: Terry R. Heeter, Esquire Receipt number: 1833342 Dated: 10/29/2001 Amount: \$80.00 (Check) One CC Sheriff	10
11/13/2001	No Judge
② Praecipe for appearance on behalf of Mid-East Oil Company. Filed by s/Wayne A. Kablack, Esq. no cc	2
11/21/2001	No Judge
③ Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	2
12/10/2001	No Judge
④ Answer to Action For Declaratory Judgment Complaint and New Matter. Filed by s/Wayne A. Kablack, Esq. no cc	16
03/21/2002	No Judge
⑤ Reply to New Matter. Filed by s/Terry R. Heeter, Esq. Verification s/Randy F. Stout Certificate of Service no cc	8
05/23/2002	No Judge
⑥ Notice of Taking Deposition, filed by Atty. Heeter no cc RE: Deposition of Lance Casaday and Mark Thompson on August 12, 2002.	3
05/28/2002	No Judge
⑦ Notice of Deposition of RANDY F. STOUT & Certificate of Service. Filed by s/Wayne A. Kablack, Esq. no cc	3
10/23/2003	No Judge
⑧ Motion for Summary Judgment filed by Atty. Heeter. No cc.	10
⑨ Praecipe For Argument. filed by s/Terry R. Heeter, Esq. no cc	3
11/18/2003	No Judge
⑩ Response To Plaintiff's Motion For Summary Judgment. filed by, s/Wayne A. Kablack, Esquire no cc	12
⑪ Certificate Of Service, Defendant's Response to Plaintiff's Motion for Summary Judgment upon: TERRY R. HEETER, ESQUIRE. by the Court, s/Wayne A. Kablack, Esquier No cc	
12/10/2003	Fredric Joseph Ammerman
⑫ ORDER, AND NOW, this 9th day of December, 2003, re: Argument on Plaintiff's Motion for Summary Judgment scheduled for Friday, January 16, 2004, at 3:00 p.m. by the Court, s/FJA,J. 2 cc Atty Heeter w/memo re: service	
01/08/2004	Fredric Joseph Ammerman
⑬ Motion For Continuance. filed by, Atty Kablack. 2 cc Atty Kablack	4
01/12/2004	Fredric Joseph Ammerman
⑭ ORDER, AND NOW, this 9th day of January, 2004, re: Hearing scheduled for January 16, 2004 at 3:00 p.m. in Courtroom #1 is hereby CONTINUED until the 23rd day of January, 2004, at 9:00 a.m. in Courtroom #1. by the Court, s/FJA,P.J. 2 cc Atty Kablack w/service memo	
01/14/2004	Fredric Joseph Ammerman
⑮ Affidavit of Service, Motion For Continuance upon TERRY R. HEETER, ESQUIRE. filed by, s/Wayne A. Kablack, Esquire no cc	
01/21/2004	Fredric Joseph Ammerman
⑯ Transcript of Oral Depositions of Mark Thompson and Lance Casaday. filed. no cc	4
01/23/2004	Fredric Joseph Ammerman
⑰ ORDER, NOW, this 23rd day of January, 2004, re: Defense has no more than 15 days from this date to supply the Court w/appropriate Brief and references to those areas of testimony contained within the depositions that they feel are relevant to their defense of the Motion. by the Court, s/FJA,P.J. 1 cc Atty Heeter, Kablack	
02/09/2004	Fredric Joseph Ammerman
⑱ Certificate of Service, Defendant's Brief in Opposition to Plaintiff's Motion for Summary Judgment upon Terry R. Heeter, Esq. filed by, s/Christopher S. Welch, Esq. no cc	
⑲ Certificate of Service, Defendant's Brief in Opposition to Plaintiff's Motion for Summary Judgment upon Terry T. Heeter, Esq. filed by, s/Christopher S. Welch, Esq. no cc	
04/05/2004	Fredric Joseph Ammerman
⑳ Order NOW this 2nd day of April, 2004 following oral argument and the submission of briefs on Plff. Motion of Summary Judgment. S/FJA 2 CC to Atty. Kablock 2 CC to Atty. Heeter.	2

Date: 05/07/2004

**Clearfield County Court of Common Pleas**

User: BHUDSON

Time: 09:12 AM

**ROA Report**

Page 2 of 2

Case: 2001-01776-CD

Current Judge: Fredric Joseph Ammerman

Allegheny Enterprises, Inc. vs. Mid-East Oil Company

**Civil Other**

Date	Judge
04/30/2004 ②0 Filing: Praecipe to Enter Judgment (attorney for Mid-East Oil Company) Receipt number: 1878192 Dated: 3 04/30/2004 Amount: \$20.00 (Check)	Fredric Joseph Ammerman
②1 Filing: Appeal to High Court Paid by: Kablack, Wayne A. Esq (attorney for Mid-East Oil Company) Receipt number: 1878215 Dated: 04/30/2004 Amount: \$45.00 (Check) 1 cert. to Superior Court with \$60.00 Check 1 Q cert. to Att.	

**COPY**

June 2, 2004

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

Re: Allegheny Enterprises, Inc.  
Vs.  
Mid-East Oil Company  
No. 01-1776-CD  
Superior Court No. 732 WDA 2004

Dear Prothonotary:

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

Sincerely,

William A. Shaw  
Prothonotary/Clerk of Courts

Fredric J. Ammerman, P.J.  
Court of Common Pleas  
230 E. Market Street  
Clearfield, PA 16830

Terry Heeter, Esq.  
PO Box 700  
Clarion, PA 16214

Wayne A. Kablack, Esq.  
834 Philadelphia Street  
Indiana, PA 15701

Allegheny Enterprises, Inc.  
Vs.  
Mid-East Oil Company

Court No. 01-1776-CD; Superior Court No. 732 WDA 2004

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on June 2, 2004.

Sincerely,

William A. Shaw  
Prothonotary/Clerk of Courts

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**CERTIFIED MAIL™ RECEIPT**

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Street, Apt. No.,

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City, State, ZIP+4

600 Grant Building

Pittsburgh, PA 15219

PS Form 3800, June 2002

See Reverse for Instructions

**FILED**

183631  
JUN 03 2004  
KZ

William A. Shaw  
Prothonotary/Clerk of Courts

**SENDER: COMPLETE THIS SECTION**

- 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 Prothonotary  
600 Grant Building  
Pittsburgh, PA 15219

01-1776-cp

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) B. Date of Delivery

6-3

## C. Signature

X *J. DeLayh* Agent  
 AddresseeD. Is delivery address different from item 1?  
If YES, enter delivery address below: Yes  
 No

## 3. Service Type

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

## 4. Restricted Delivery? (Extra Fee)

 Yes

## 2. Article Number (Copy from service label)

7002 3150 0000 7855 1383

PS Form 3811 July 1999 | | | | | Domestic Return Receipt | | | | | | | | 102595-00-M-0952

01-1776-cp

**FILED**m18:46a81  
JUN 07 2004William A. Shaw  
Prothonotary/Clerk of Courts

(A) ~~100-0000000~~

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

ALLEGHENY ENTERPRISES, INC. :

-vs- : No. 01-1776-CD

MID-EAST OIL COMPANY :

O R D E R

NOW, this 23rd day of January, 2004, following argument on the Plaintiff's Motion for Summary Judgment, it is the ORDER of this Court that Defense have no more than fifteen (15) days from this date in which to supply the Court with appropriate brief and references to those areas of testimony contained within the depositions that they feel are relevant to their defense of the motion.

BY THE COURT,

---

President Judge

FILE COPY

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

ALLEGHENY ENTERPRISES, INC :

-vs- : No. 01-1776-CD

MID-EAST OIL COMPANY :

O R D E R

NOW, this 23rd day of January, 2004, following argument on the Plaintiff's Motion for Summary Judgment, it is the ORDER of this Court that Defense have no more than fifteen (15) days from this date in which to supply the Court with appropriate brief and references to those areas of testimony contained within the depositions that they feel are relevant to their defense of the motion.

BY THE COURT,

---

President Judge

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

ALLEGHENY ENTERPRISES, INC.,	:	
Plaintiff,	:	Civil Action - Law
vs.	:	
MID-EAST OIL COMPANY,	:	No. 01-1776 CD
Defendant.	:	

**FILED** NC  
M 1:29 AM pd 7.00 100-  
Cert of Sat to Atty  
DEC 09 2004

**RELEASE OF LIEN**

William A. Shaw  
the Prothonotary

KNOW ALL MEN BY THESE PRESENTS, that the Judgment filed in the ~~Case~~ referenced  
case in the Office of the Prothonotary of Clearfield County, Pennsylvania, is being secured by an  
Escrow Agreement dated November 9, 2004, as amended by an Amendment dated November 9,  
2004, with Greco & Lander, P.C., as Escrow Agent. The judgment lien is assigned to the escrow  
account by the Amendment to Escrow Agreement. By these presents, and intended to be legally  
bound hereby, Allegheny Enterprises, Inc., Plaintiff, hereby remises, leases, quitclaims, and  
forever discharges any and all liens that it may have of record in and to any property owned by  
Mid-East Oil Company, Defendant, including, but not limited to:

"Oil and gas lease between M, M & V Energy, L.L.C. and Mid-East Oil Company dated November 5, 2003, concerning 113 acres located in Karthaus Township, Clearfield County, Pennsylvania, and recorded in Clearfield County Recorder of Deeds Office at Inst. #200411220.

IN WITNESS WHEREOF, Allegheny Enterprises, Inc. has hereunto set its hand and seal  
this 20<sup>th</sup> day of November, 2004.

ATTEST:

## ALLEGHENY ENTERPRISES, INC.:

Nancy A. Fox  
Secretary

BY: Randy J. Stolt  
President

**EXHIBIT A**

COMMONWEALTH OF PENNSYLVANIA

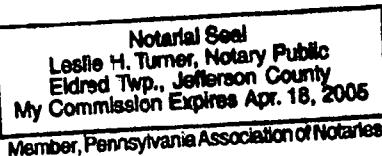
: SS.

COUNTY OF JEFFERSON

:

On this the 20<sup>th</sup> day of November, 2004, before me, the undersigned officer, personally appeared Reney F. Stoot, who acknowledged himself to be President of ALLEGHENY ENTERPRISES, INC., a Pennsylvania corporation, and that he as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

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



  
Leslie H. Turner (SEAL)  
NOTARY PUBLIC

LAW OFFICES  
OF  
GRECO & LANDER, P.C.

Attorneys At Law  
P. O. Box 667  
1390 East Main Street, Suite 2  
Clarion, Pennsylvania 16214-0667

DOM W. GRECO  
AL LANDER

Telephone ..... (814) 226-6853  
FAX ..... (814) 226-4951  
e-mail..... [ahlander@usachoice.net](mailto:ahlander@usachoice.net)

December 7, 2004

Mr. William A. Shaw  
Prothonotary  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

Re: Allegheny Enterprises, Inc. vs. Mid-East Oil Company: No. 01-1776 CD: Release  
Of Lien

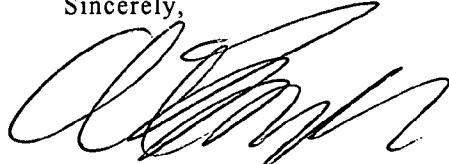
Dear Mr. Shaw:

I am enclosing herewith an original and one copy of a Release of Lien to be filed with your office and entered on the docket. I have also enclosed herewith a check in the amount of \$7.00 for the filing fee.

Please file the original document with your office and time stamp and return the copy to me in the enclosed self-addressed, stamped envelope.

Thank you for your anticipated service in this matter.

Sincerely,



Al Lander

AL:sss  
Enclosure

## Appeal Docket Sheet

Docket Number: 732 WDA 2004

Page 1 of 3

May 5, 2004

01-1776-CO

Superior Court of Pennsylvania



Allegheny Enterprises, Inc.,

v.

Mid-East Oil Company, Appellant

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: May 4, 2004

Awaiting Original Record

Journal Number:

Case Category: Civil

Case Type:

Declaratory Judgment

Consolidated Docket Nos.:

Related Docket Nos.:

## SCHEDULED EVENT

Next Event Type: Case Initiation

Next Event Due Date: May 4, 2004

Next Event Type: Docketing Statement Received

Next Event Due Date: May 18, 2004

Next Event Type: Original Record Received

Next Event Due Date: June 9, 2004



FILED  
 01-1776-CO  
 MAY 10 2004  
 KEL

William A. Shaw  
 Prothonotary/Clerk of Courts

Recd - 1  
 Transcr - 1

## Appeal Docket Sheet

Docket Number: 732 WDA 2004

Page 2 of 3

May 5, 2004

Superior Court of Pennsylvania



## COUNSEL INFORMATION

**Appellant** Mid-East Oil Company  
 Pro Se: Appoint Counsel Status:  
 IFP Status: No

**Appellant Attorney Information:**

Attorney: Kablack, Wayne Andrew  
 Bar No.: 25818 Law Firm: Simpson, Kablack & Bell  
 Address: 834 Philadelphia Street  
 Indiana, PA 15701  
 Phone No.: (724)465-5559 Fax No.: (724)465-2046  
 Receive Mail: Yes  
 E-Mail Address: wkablack@skblawyers.com  
 Receive E-Mail: No

**Appellee** Allegheny Enterprises, Inc.  
 Pro Se: Appoint Counsel Status:  
 IFP Status: No

**Appellee Attorney Information:**

Attorney: Heeter, Terry Ross  
 Bar No.: 52750 Law Firm: The Kooman Law Firm  
 Address: Marianne Professional Center  
 Box 700  
 Clarion, PA 16214  
 Phone No.: (814)226-9100 Fax No.: (814)226-7361  
 Receive Mail: Yes  
 E-Mail Address: |0  
 Receive E-Mail: No

## FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
4/30/04	Notice of Appeal	60.00	60.00	2004SPRWD000544

## TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

County: Clearfield Division: Civil

Date of OrderAppealed From: April 2, 2004 Judicial District: 46

Date Documents Received: May 4, 2004 Date Notice of Appeal Filed: April 30, 2004

Order Type: Order Dated OTN:

Judge: Ammerman, Fredric J. Lower Court Docket No.: No. 01-1776 CD  
 President Judge

## ORIGINAL RECORD CONTENTS

## Appeal Docket Sheet

Docket Number: 732 WDA 2004

Page 3 of 3

May 5, 2004

Superior Court of Pennsylvania



## 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
May 4, 2004	Notice of Appeal Filed	Appellant	Mid-East Oil Company
May 4, 2004	Docketing Statement Exited (Civil)		Lower Court or Agency

COMMONWEALTH OF PENNSYLVANIA



Superior Court of Pennsylvania

David A. Szewczak, Esq.  
Prothonotary  
Eleanor R. Valecko  
Deputy Prothonotary

Western District

May 5, 2004

600 Grant Building  
Pittsburgh, PA 15219  
412-565-7592  
[www.superior.court.state.pa.us](http://www.superior.court.state.pa.us)

Mr. William A. Shaw  
Prothonotary  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

Re: 732 WDA 2004  
Allegheny Enterprises, Inc.,  
v.  
Mid-East Oil Company, Appellant

Dear Mr. Shaw:

Enclosed please find a copy of the docket for the above appeal that was recently filed in the Superior Court. Kindly review the information on this docket and notify this office in writing if you believe any corrections are required.

Appellant's counsel is also being sent a Docketing Statement, pursuant to Pa.R.A.P. 3517, for completion and filing. Please note that Superior Court Dockets are available on the Internet at the Web site address printed at the top of this page. Thank you.

Very truly yours,

Eleanor R. Valecko  
Deputy Prothonotary

GJM

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:

01-1776-CD

Allegheny Enterprises, Inc.  
VS.  
Mid-East Oil Company

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

The documents compromising the record have been numbered from **No. 1 to No. 21**, 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 June 2, 2004.



\_\_\_\_\_  
Prothonotary/Clerk of Courts

(seal)

Date: 06/01/2004

Time: 09:46 AM

Page 1 of 2

## Clerkfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2001-01776-CD

Current Judge: Fredric Joseph Ammerman

Allegheny Enterprises, Inc. vs. Mid-East Oil Company

## Civil Other

Date	Judge	
10/29/2001	Filing: Action for Declaratory Judgment Complaint Paid by: Terry R. Heeter, Esquire Receipt number: 1833342 Dated: 10/29/2001 Amount: \$80.00 (Check) One CC Sheriff	No Judge
11/13/2001	Praecipe for appearance on behalf of Mid-East Oil Company. Filed by s/Wayne A. Kablack, Esq. no cc	No Judge
11/21/2001	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
12/10/2001	Answer to Action For Declaratory Judgment Complaint and New Matter. Filed by s/Wayne A. Kablack, Esq. no cc	No Judge
03/21/2002	Reply to New Matter. Filed by s/Terry R. Heeter, Esq. Verification s/Randy F. Stout Certificate of Service no cc	No Judge
05/23/2002	Notice of Taking Deposition, filed by Atty. Heeter no cc RE: Deposition of Lance Casaday and Mark Thompson on August 12, 2002.	No Judge
05/28/2002	Notice of Deposition of RANDY F. STOUT & Certificate of Service. Filed by s/Wayne A. Kablack, Esq. no cc	No Judge
10/23/2003	Motion for Summary Judgment filed by Atty. Heeter. No cc.	No Judge
	Praecipe For Argument. filed by s/Terry R. Heeter, Esq. no cc	Fredric Joseph Ammerman
11/18/2003	Response To Plaintiff's Motion For Summary Judgment. filed by, s/Wayne A. Kablack, Esquire no cc Certificate Of Service, Defendant's Response to Plaintiff's Motion for Summary Judgment upon: TERRY R. HEETER, ESQUIRE. by the Court, s/Wayne A. Kablack, Esquier No cc	No Judge
12/09/2003	ORDER, AND NOW, this 9th day of December, 2003, re: Argument on Plaintiff's Motion for Summary Judgment scheduled for Friday, January 16, 2004, at 3:00 p.m. by the Court, s/FJA,J. 2 cc Atty Heeter w/memo re: service	Fredric Joseph Ammerman
01/08/2004	Motion For Continuance. filed by, Atty Kablack. 2 cc Atty Kablack	Fredric Joseph Ammerman
01/12/2004	ORDER, AND NOW, this 9th day of January, 2004, re: Hearing scheduled for January 16, 2004 at 3:00 p.m. in Courtroom #1 is hereby CONTINUED until the 23rd day of January, 2004, at 9:00 a.m. in Courtroom #1. by the Court, s/FJA,P.J. 2 cc Atty Kablack w/service memo	Fredric Joseph Ammerman
01/14/2004	Affidavit of Service, Motion For Continuance upon TERRY R. HEETER, ESQUIRE. filed by, s/Wayne A. Kablack, Esquire no cc	Fredric Joseph Ammerman
01/21/2004	Transcript of Oral Depositions of Mark Thompson and Lance Casaday. filed. no cc	Fredric Joseph Ammerman
01/23/2004	ORDER, NOW, this 23rd day of January, 2004, re: Defense has no more than 15 days from this date to supply the Court w/appropriate Brief and references to those areas of testimony contained within the depositions that they feel are relevant to their defense of the Motion. by the Court, s/FJA,P.J. 1 cc Atty Heeter, Kablack	Fredric Joseph Ammerman
02/09/2004	Certificate of Service, Defendant's Brief in Opposition to Plaintiff's Motion for Summary Judgment upon Terry R. Heeter, Esq. filed by, s/Christopher S. Welch, Esq. no cc	Fredric Joseph Ammerman
	Certificate of Service, Defendant's Brief in Opposition to Plaintiff's Motion for Summary Judgment upon Terry T. Heeter, Esq. filed by, s/Christopher S. Welch, Esq. no cc	Fredric Joseph Ammerman
04/05/2004	Order NOW this 2nd day of April, 2004 following oral argument and the submission of briefs on Plff. Motion of Summary Judgment. S/FJA 2 CC to Atty. Kablock 2 CC to Atty. Heeter.	Fredric Joseph Ammerman

Date: 06/01/2004

Time: 09:46 AM

Page 2 of 2

Cliffield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2001-01776-CD

Current Judge: Fredric Joseph Ammerman

Allegheny Enterprises, Inc. vs. Mid-East Oil Company

Civil Other

Date		Judge
04/30/2004	Filing: Praecipe to Enter Judgment Paid by: Kablack, Wayne A. Esq (attorney for Mid-East Oil Company) Receipt number: 1878192 Dated: 04/30/2004 Amount: \$20.00 (Check) Filing: Appeal to High Court Paid by: Kablack, Wayne A. Esq (attorney for Mid-East Oil Company) Receipt number: 1878215 Dated: 04/30/2004 Amount: \$45.00 (Check) 1 cert. to Superior Court with \$60.00 Check 1 cert. to Att.	Fredric Joseph Ammerman
05/10/2004	Appeal Docket Sheet, Docket Number: 732 WDA 2004. filed no cc	Fredric Joseph Ammerman

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

JUN 01 2004

Attest.

*William L. Brown*  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 01-1776-CD  
Allegheny Enterprises, Inc.  
VS.  
Mid-East Oil Company

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	10/29/01	Action for Declaratory Judgment	10
02	11/13/01	Praeclipe for Appearance on behalf of Mid-East Oil Company	02
03	11/21/01	Sheriff Return	02
04	12/10/01	Answer to Action for Declaratory Judgment Complaint and New Matter	06
05	03/21/02	Reply to New Matter	08
06	05/23/02	Notice of Taking Deposition of Lance Casaday and Mark Thompson	03
07	05/28/02	Notice of Deposition of Randy F. Stout and Certificate of Service	03
08	10/23/03	Motion for Summary Judgment	10
09	10/23/03	Praeclipe for Argument	03
10	11/18/03	Response to Plaintiff's Motion for Summary Judgment	12
11	11/18/03	Certificate of Service, Defendant's Response to Plaintiff's Motion for Summary Judgment upon Terry R. Heeter	01
12	12/09/03	Order, Re: Argument on Plaintiff's Motion for Summary Judgment scheduled	01
13	01/08/04	Motion for Continuance with Order granting continuance filed January 12, 2004	04
14	01/14/04	Affidavit of Service, Motion for Continuance upon Terry R. Heeter, Esq.	01
15	01/21/04	Transcript of Oral Depositions of Mark Thompson and Lance Casady	Separate Cover
16	01/23/04	Order, Re: Defense has no more than 15 days to supply Court with appropriate Brief	01
17	02/09/04	Certificate of Service, Defendant's Brief in Opposition to Plaintiff's Motion for Summary Judgment	01
18	02/09/04	Certificate of Service, Defendant's Brief in Opposition to Plaintiff's Motion for Summary Judgment	01
19	04/05/04	Order, Re: Motion for Summary Judgment	02
20	04/30/04	Praeclipe to Enter Judgment	03
21	04/30/04	Notice of Appeal	09

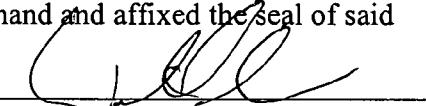
COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

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

**Allegeny Enterprises, Inc.**  
VS.  
**Mid-East Oil Company**  
**01-1776-CD**

So full and entire as the same remains of record before the said Court, at **No. 01-1776-CD**

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 1<sup>st</sup> Day of June, 2004.

  
Prothonotary/Clerk of Courts

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

  
President Judge

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

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, this 2<sup>nd</sup> day of June, 2004.

  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALLEGHENY ENTERPRISES, INC., : CIVIL ACTION - DECLARATORY JUDGMENT  
Plaintiff :  
: No. \_\_\_\_ - 2001 01-1776-CO  
v. :  
: TYPE OF CASE: CIVIL  
MID-EAST OIL COMPANY, :  
Defendant : TYPE OF DOCUMENT:  
: Complaint  
: FILED ON BEHALF OF:  
: Allegheny Enterprises, Inc.,  
: Plaintiff  
: COUNSEL OF RECORD FOR THIS PARTY:  
: Terry R. Heeter  
: Supreme Court No. 52750  
: The Kooman Law Firm  
: Marianne Professional Center  
: P.O. Box 700  
: Clarion, PA 16214  
: (814) 226-9100

jc:1247er  
#18090

FILED  
OCT 29 2001

William A. Shaw  
Prothonotary

111

ALLEGHENY ENTERPRISES, INC., : IN THE COURT OF COMMON OF  
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA  
:  
v. : CIVIL ACTION - DECLARATORY JUDGMENT  
:  
MID-EAST OIL COMPANY, :  
Defendant : No. \_\_\_\_\_ - 2001

**NOTICE TO DEFEND**

TO: MID-EAST OIL COMPANY  
130 Raymond Drive  
Indiana, PA 15701

**Notice**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Civil 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 Civil Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
ONE NORTH SECOND STREET  
CLEARFIELD, PA 16830  
TELEPHONE: (814) 765-2641 Ext. 50-51

ALLEGHENY ENTERPRISES, INC., : IN THE COURT OF COMMON OF  
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA  
: :  
v. : CIVIL ACTION - DECLARATORY JUDGMENT  
: :  
MID-EAST OIL COMPANY, :  
Defendant : No. \_\_\_\_\_ - 2001

**ACTION FOR DECLARATORY JUDGMENT  
COMPLAINT**

AND NOW, comes the plaintiff, ALLEGHENY ENTERPRISES, INC., by and through its attorney, Terry R. Heeter, and brings this civil complaint on a cause of action the following of which is a statement:

**General Allegations**

1. The plaintiff, Allegheny Enterprises, Inc., is a Pennsylvania corporation with its principal place of business located at R D 1, Box 48F, Corsica, Pennsylvania.

2. The defendant, Mid-East Oil Company, is a Pennsylvania corporation with its principal place of business at 130 Raymond Drive, Indiana, Pennsylvania 15701.

3. On May 16, 2001, the plaintiff and the defendant entered into an assignment of oil and gas lease covering property located in Cooper Township, Clearfield County and identified as Assessment Nos. 110-R6-1, 110-U4-1 and 110-T6-27 (the "Assignment"). A copy of the Assignment is marked as Exhibit "A", attached hereto and made a part hereof.

4. On May 16, 2001, the plaintiff and the defendant entered into an assignment of right of way (the "Right of Way Assignment"). A copy of the Right of Way Assignment is marked as Exhibit "B", attached hereto and made a part hereof.

COUNT I  
Breach of Contract - Damages

5. The plaintiff incorporates Paragraphs 1 through 4 of the foregoing complaint by reference as fully as if the same were set at length herein.

6. Pursuant to the Assignment, the defendant agreed to pay the following sums to the plaintiff:

a. Reimbursement of lease rentals paid by the plaintiff in the amount of \$22,080.00; and

b. Prepayment of three well sites in the amount of \$2,500 for a total of \$7,500.

7. Pursuant to the Assignment, the defendant is presently indebted to the plaintiff in the amount of \$29,580.

8. Pursuant to the Right of Way Assignment, the defendant agreed to pay the sum of \$1,000 to the plaintiff.

9. The total amount owed to the plaintiff by the defendant under the Assignment and the Right of Way Assignment is \$30,580.

10. The plaintiff has demanded that the defendant pay it the sum of \$30,580, but the defendant has refused and continues to refuse to pay the sum of \$30,580 to the plaintiff.

WHEREFORE, the plaintiff, Allegheny Enterprises, Inc., demands judgment against the defendant, Mid-East Oil Company, in the amount of \$30,580 together with interest at the agreed upon periodic rate of six (6%) percent per annum from May 16, 2001.

COUNT II  
Declaratory Judgment

11. The plaintiff incorporates Paragraphs 1 through 4 of the foregoing complaint by reference as fully as if the same were set forth at length herein.

12. Pursuant to the Assignment, the defendant agreed to drill an initial well within ninety (90) days of May 16, 2001, a second well within six (6) months of drilling the first well and a third well within one (1) year of drilling the first well.

13. To date, the defendant has failed to drill any wells pursuant to the Assignment.

14. The defendant is in breach of the terms of the Assignment for failing to drill the well as required by the Assignment.

WHEREFORE, the plaintiff, Allegheny Enterprises, Inc., requests this honorable court to decree as follows:

- a. That the Assignment is rendered void and of no further effect as a result of the defendant's failure to drill the wells as required by the Assignment; and
- b. Such other relief as the court deems just and reasonable.

Respectfully submitted,

By   
TERRY R. HEETER, ESQUIRE  
The Kooman Law Firm  
Marianne Professional Center  
P.O. Box 700  
Clarion, PA 16214  
(814) 226-9100

TRH/jc:1245a  
#18090

# ASSIGNMENT

THE STATE OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

KNOW ALL MEN BY THESE PRESENTS:

The parties herein below agree as follows:

WHEREAS, Allegheny Enterprises, Inc. hereinafter called "Assignor", whose address is, RD #1, Box 48F, Corsica, PA 15829.

AND

Mid-East Oil Company, herein after described as "Assignee", whose address is P. O. Box 1378 Indiana, PA 15701

**DESCRIPTION OF OIL AND GAS LEASE ASSIGNED HEREIN:**

**Property #1 – 438 acres, Cooper Township, Clearfield County, Assessment Numbers 110-R6-1**

Lessor: French Brothers Limited Partnership (1/6 interest)  
Lease Date: April 1, 2001

Lessor: Catherine Gregerson Anderson (1/18 interest)  
Lease Date: April 4, 2001

Lessor: Robert L. Gregerson (1/9 interest)  
Lease Date: April 9, 2001

Lessor: David K. Dahlgren & Marjorie J. Dahlgren (1/3 interest)  
Lease Date: April 11, 2001

Lessor: Bonnie Lou Dahlgren Gilham (1/6 interest)  
Lease Date: April 3, 2001

Lessor: Schoonover Real Estate Trust (1/6 interest) c/o Jeffrey A. Dalke & Orrin L. French  
Lease Date: April 1, 2001

**Property #2 – 666 Acres, Cooper Township, Clearfield County, Assessment Numbers 110-U4-1 and 110-T6-27**

Lessor: French Brothers Limited Partnership (1/16 interest)  
Lease Date: April 1, 2001

Lessor: David K. Dahlgren & Marjorie J. Dahlgren (1/8 interest)  
Lease Date: April 11, 2001

Lessor: Bonnie Lou Dahlgren Gilham (1/16 interest)  
Lease Date: April 3, 2001

Lessor: Catherine Gregerson Anderson (1/12 interest)  
Lease Date: April 4, 2001

Lessor: Robert L. Gregerson (1/6 interest)  
Lease Date: April 9, 2001

Lessor: Schoonover Real Estate Trust (1/4 interest)  
Lease Date: April 1, 2001

NOW, THEREFORE, and in consideration for the above described leases herein assigned to Assignee for the consideration of ten dollars (\$10.00) and reimbursement to said Assignor for all rentals paid to Lessors for the above premises, the receipt and sufficiency of which are hereby acknowledged. The Assignor does hereby TRANSFERS and SETS OVER unto Mid-East Oil Company the above described leases. Assignor hereby RESERVES and SETS OVER unto Allegheny Enterprises, Inc., an undivided (3.125%) of 100% overriding royalty interest of all oil and gas produced from the subject leases or from such part of any production unit said leasehold premises are assigned and included in. At the commencement of drilling each well on the leasehold premises, the Assignor shall be paid a well site fee of twenty-five hundred dollars (\$2500.00). In addition, upon signing this agreement, Assignee agrees to pre-pay for three of the above mentioned well sites.

Said overriding royalty shall be free and clear of all expenses for drilling, testing, developing, operating and maintaining Subject Lease, including all transportation costs and production taxes. Said overriding royalty shall be subject to any renewal of Subject Lease. The said overriding royalty shall be paid to Assignor whether any covenants of the lease, or of a new lease, is amended, re-negotiated or re-executed for any reasons whatsoever including any new lease or third party assignment of the property in those situations where the original lease has expired or has been terminated

All payments to Assignor under the terms of this Agreement shall be made on a monthly basis together with a copy of the production records received by Assignee from the purchaser of the oil and gas. It is also understood and agreed that Assignee shall fulfill all conditions and make all payments due to Lessors of the above described premises in a timely manner; and shall save and hold harmless Assignor for any liabilities regarding payment and lease conditions hereinafter.

*Assignee shall drill the first well within (90) days of the date of this assignment and a second well within (6) months of the first well and a third well within (1) year of drilling the said first well*

Allegheny Enterprises, Inc. (Assignor) he reserves the right to participate for up to 10% working cost at actual cost in any well or wells drilled on the above leasehold premises. Allegheny Enterprises, Inc. (Assignor) shall notify Mid-East Oil Company (Assignee) of its election to reject or participate in said well or wells within 60 days of receipt of written notice of Mid-East Oil Company's (Assignee's) notice of intent to drill.

The assignment is made without warranty of title, either express or implied, and is specifically subject to all the terms, provisions, and conditions of Subject Leases.

This agreement shall be binding upon heirs, administrators, successors and assigns of the parties, and the parties hereto enter into this Agreement with the intent to be legally bound as of the date first above provided.

IN WITNESS WHEREOF, this instrument is executed on the date of the acknowledgment herein below set forth, to be effective, however, for all purposes, as of the 16<sup>th</sup> day of May 2001.

Assignor:

Randy F. Stout (SEAL)  
Allegheny Enterprises, Inc.

Assignee:

Mark A. Thompson (SEAL)  
Mid-East Oil Company

#### CORPORATE ACKNOWLEDGMENT

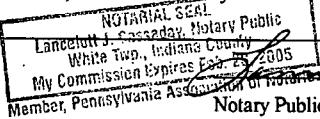
COMMONWEALTH/STATE OF Pennsylvania

COUNTY OF Indiana

On this 16<sup>th</sup> a day of May, 2001, before me the undersigned officer personally appeared Randy F. Stout, and acknowledged himself to be the President of Allegheny Enterprises, Inc., a corporation, and that he, as such President, being authorized to do so, did execute the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself as President.

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

My commission expires



#### CORPORATE ACKNOWLEDGMENT

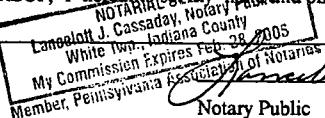
COMMONWEALTH/STATE OF Pennsylvania

COUNTY OF Indiana

On this 16<sup>th</sup> day of May, 2001, before me the undersigned officer personally appeared Mark A. Thompson, and acknowledged himself to be the President of Mid-East Oil Company, a corporation, and that he, as such President, being authorized to do so, did execute the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself as President.

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

My commission expires



ASSIGNMENT

THE STATE OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

KNOW ALL MEN BY THESE PRESENTS:

The parties herein below agree as follows:

WHEREAS, Allegheny Enterprises, Inc. hereinafter called "Assignor", whose address is, RD #1, Box 48F, Corsica, PA 15829.

AND

Mid-East Oil Company, herein after described as "Assignee", whose address is P. O. Box 1378 Indiana, PA 15701

DESCRIPTION OF RIGHT OF WAY ASSIGNED HEREIN:

Cooper Township, Clearfield County, State of Pennsylvania  
164-2 acres

Tax L.D. # 110-T-6, Parcel # 16

Bounded as follows:

On the North by: Thompson, Shephard & Franck

On the East by: Schoonover Heirs, et. al.

On the South by: County National Bank

On the West by: S. Franck

NOW, THEREFORE, and in consideration for the above described right of way for the consideration of one thousand dollars, the receipt and sufficiency of which are hereby acknowledged. The Assignor does hereby TRANSFERS and SETS OVER unto Mid-East Oil Company the above described right of way agreement. Assignee agrees to indemnify and hold Assignor harmless from the date of this agreement and thereafter for any personal or property damage whatsoever relating to the above described right of way building, maintenance, and usage.

The assignment is made without warranty of title, either express or implied, and is specifically subject to all the terms, provisions, and conditions of Subject Right of Way.

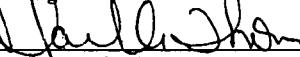
This agreement shall be binding upon heirs, administrators, successors and assigns of the parties, and the parties hereto enter into this Agreement with the intent to be legally bound as of the date first above provided.

IN WITNESS WHEREOF, this instrument is expected on the date of the acknowledgment herein below set forth, to be effective, however, for all purposes, as of the 16<sup>th</sup> day of May 2001.

Assignor:

  
Randy F. Stout (SEAL)  
Allegheny Enterprises, Inc.

Assignee:

  
Charles J. Thompson (SEAL)  
Mid-East Oil Company

**CORPORATE ACKNOWLEDGMENT**

COMMONWEALTH/STATE OF Pennsylvania

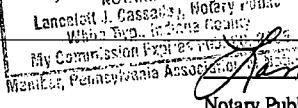
COUNTY OF Indiana

On this 16<sup>th</sup> a day of May, 2001, before me the undersigned officer personally appeared Randy F. Stout, and acknowledged himself to be the President of Allegheny Enterprises, Inc.

a corporation, and that he, as such President, being authorized to do so, did execute the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself as President.

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

My commission expires 12/31/2001



Notary Public

CORPORATE ACKNOWLEDGMENT

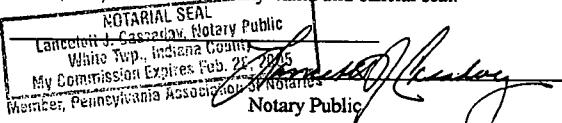
COMMONWEALTH/STATE OF Pennsylvania

COUNTY OF Indiana

On this 16<sup>th</sup> day of May, 2001, before me the undersigned officer personally appeared Mark A. Thompson, and acknowledged himself to be the President of Mo-East Oil Company, a corporation, and that he, as such President, being authorized to do so, did execute the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself President.

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

My commission expires



VERIFICATION

I, RANDY F. STOUT, President, of Allegheny Enterprises, Inc., verify that the statements made herein are true and correct to the best of my knowledge, information and belief and are made subject to the penalties of 18 Pa. Con. Stat. Ann. Section 4904 relating to unsworn falsification to authorities.

DATE: October 22, 2001

Randy F. Stout  
Randy F. Stout

**FILED**

Oct 29 2001  
Bd m 1853/11c  
William A. Shaw  
Prothonotary

Sheriff  
Atty Hester, pd \$80.00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALLEGHENY ENTERPRISES, INC.,

CIVIL DIVISION

Plaintiff

CASE NUMBER: No. 01-1776-CD

vs.

TYPE OF PLEADING: Praeclipe

MID-EAST OIL COMPANY,

FILED ON BEHALF OF: Defendant

Defendant

NAME, ADDRESS AND TELEPHONE  
OF: Counsel of Record

Wayne A. Kablack, Esquire  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701  
(724) 465-5559

Attorney's State ID#: 25818

Attorney's Firm ID#: 25-0918627

**FILED**

NOV 13 2001

11/14/01 noc

William A. Shaw

Prothonotary

*[Signature]*

20

ALLEGHENY ENTERPRISES, INC.,  
Plaintiff

In the Court of Common Pleas of  
Clearfield County, Pennsylvania

vs.

No. 01-1776-CD

MID-EAST OIL COMPANY,  
Defendant

Civil Action - Law

**PRAECIPE**

TO THE PROTHONOTARY:

Please enter our appearance on behalf of the above named defendant, Mid-East Oil  
Company.



---

Wayne A. Kablack, Esq.

WAK:sn  
358-92

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 11695

ALLEGHENY ENTERPRISES, INC.

01-1776-CD

VS.  
MID-EAST OIL COMPANY

COMPLAINT FOR DECLARATORY JUDGMENT

**SHERIFF RETURNS**

NOW OCTOBER 29, 2001, DONALD BECKWITH, SHERIFF OF INDIANA COUNTY  
WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD  
COUNTY TO SERVE THE WITHIN COMPLAINT FOR DECLARATORY JUDGMENT  
ON MID-EAST OIL COMPANY, DEFENDANT.

NOW NOVEMBER 2, 2001 SERVED THE WITHIN COMPLAINT FOR DECLARATORY  
JUDGMENT ON MID-EAST OIL COMPANY, DEFENDANT BY DEPUTIZING THE  
SHERIFF OF INDIANA COUNTY. THE RETURN OF SHERIFF BECKWITH IS  
HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE  
SERVED BRAD BROTHERS.

---

Return Costs

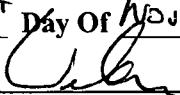
Cost	Description
27.57	SHFF. HAWKINS PAID BY: ATTY.
39.00	SHFF. BECKWITH PAID BY: ATTY.
10.00	SURCHARGE PAID BY: ATTY.

**FILED**

NOV 21 2001

William A. Shaw  
Prothonotary

Sworn to Before Me This

25 Day Of November 2001  


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

So Answers,

  
Chester A. Hawkins  
Sheriff 



# INDIANA COUNTY SHERIFF

825 PHILADELPHIA STREET  
 INDIANA, PENNSYLVANIA 15701-3934  
 (724) 465-3930  
 FAX: (724) 465-3937

Donald L. Beckwith  
 Sheriff  
 David J. Rostis  
 Chief Deputy Sheriff

## Affidavit of Service

Page: 615

Docket Number: 01-1776-CD

Now, NOVEMBER 2, 2001 at 1115 hrs. served the within

COMPLAINT upon MID-EAST OIL COMPANY

at 130 RAYMOND DRIVE INDIANA, PA 15701

by handing to BRAD BROTHERS

A true and correct copy(s) of the within COMPLAINT

and making known to him/her/them the contents thereof.

So Answers:

Donald L. Beckwith

Donald L. Beckwith, Sheriff

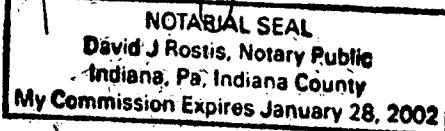
By: Robert F. Ciancio Jr.

ROBERT F CIANCIO JR Deputy

Sworn and subscribed before me  
 This 6<sup>th</sup> day of Nov. 2001

David J. Rostis

Costs: \$39.00-PAID



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALLEGHENY ENTERPRISES, INC.,

CIVIL DIVISION

Plaintiff

CASE NUMBER: No. 01-1776-CD

vs.

MID-EAST OIL COMPANY,

TYPE OF PLEADING: Answer to Action  
For Declaratory Judgment Complaint  
and New Matter

Defendant

FILED ON BEHALF OF: Defendant

NAME, ADDRESS AND TELEPHONE  
OF: Counsel of Record

Wayne A. Kablack, Esquire  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701  
(724) 465-5559

Attorney's State ID#: 25818

Attorney's Firm ID# 25-0918627

**FILED**

DEC 10 2001

William A. Shaw  
Prothonotary

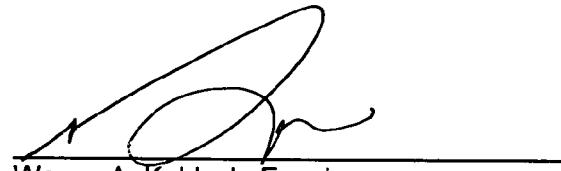
#4

ALLEGHENY ENTERPRISES, INC., : In the Court of Common Pleas of  
Plaintiff : Clearfield County, Pennsylvania  
vs. : No. 01-1776-CD  
MID-EAST CIL COMPANY, : Civil Action - Law  
Defendant :

NOTICE TO PLEAD

TO THE PLAINTIFF:

You are hereby notified to plead to the within New Matter within 20 days from service hereof or a default judgment may be entered against you.



Wayne A. Kablack, Esquire  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701  
(724) 455-5559  
Attorneys for Defendant

ALLEGHENY ENTERPRISES, INC.,	:	In the Court of Common Pleas of
Plaintiff	:	Clearfield County, Pennsylvania
vs.	:	No. 01-1776-CD
MID-EAST OIL COMPANY,	:	Civil Action - Law
Defendant	:	

#### ANSWER TO ACTION FOR DECLARATORY JUDGMENT COMPLAINT

AND NOW, comes the Defendant, Mid-East Oil Company, by and through its attorney, Wayne A. Kablack, of Simpson, Kablack & Bell, and files the following response to the Plaintiff's complaint:

- 1.-2. Admitted.
3. Admitted in part and denied in part. It is admitted that attached to the complaint is Exhibit A. The document speaks for itself. By way of further clarification, as shall be elaborated on in the New Matter, this assignment was not to take effect until after all title problems were resolved.
4. Admitted in part and denied in part. It is admitted that attached to the complaint is Exhibit B. The document speaks for itself. By way of further clarification, it shall be elaborated on in the New Matter, that this assignment was not to take effect until after all title problems were resolved.

#### COUNT 1

5. Paragraphs 1 through 4 are incorporated herein by reference as though set forth fully herein.
6. Admitted in part and denied in part. It is admitted that the Defendant did agree to make certain payments to the Plaintiff. It is denied, however, that those payments are due since they were not supposed to be made until after all title defects were cleared on the property.
7. Denied. Since the title defects have not been cleared, this Defendant is not indebted to the Plaintiff.
8. Admitted in part and denied in part. It is admitted that the Defendant did agree to pay \$1,000 to the Plaintiff for the right-of-way assignment. However, both parties were aware that it

was not to be paid until after the title defects were resolved regarding the leases upon which the gas wells were to be drilled.

9. Denied. The Defendant has no obligation to pay the Plaintiff at this time since the title defects were never cured.

10. Admitted.

WHEREFORE, the Defendant prays this Honorable Court dismiss the Plaintiff's complaint.

#### COUNT 2

11. The Defendant incorporates herein by reference Paragraphs 1 through 4 of the answer as though set forth fully herein.

12. Denied. The Defendant had no obligation to drill any gas wells or to pay any amount for the assignment until after the title defects were cleared.

13. Admitted.

14. Denied. The Defendant has not breached the terms of the assignment since the precondition to the assignment was that the title defects were to be cleared.

WHEREFORE, the Defendant prays this Honorable Court dismiss the Plaintiff's complaint.

#### NEW MATTER

15. Paragraphs 1 through 14 of the answer are incorporated herein by reference as though set forth fully herein.

16. Randy Stout, the proprietor of the Plaintiff, had worked for Mid-East Oil Company to obtain leases in this area of Clearfield County that is represented by Exhibit A.

17. Despite the fact that the Defendant had paid substantial sums to the Plaintiff for this work, the Plaintiff obtained the instant leases in his own name for his own purposes.

18. Randy Stout's activities created a significant amount of discord between the parties

19. Ultimately the parties agreed that Mid-East Oil Company would take an assignment of the leases and the right-of-way after the title defects were cured.

20. For several months, and at great expense, Mid-East Oil Company attempted to cure the title defects. Randy Stout, on behalf of the Plaintiff, also assisted in some of those efforts.

21. It became clear that it would be extremely difficult to clear the title defects and Mid-East Oil Company advised Allegheny Enterprises, Inc. that it would not drill on the premises due

to the significant title problems; one of which is obvious from Exhibit A to the complaint which shows that, on one lease, less than 100% of the ownership interests were obtained.

22. Despite the fact that both of the assignments contain language that the assignments are made without warranty of title, the parties agreed prior to the signing of the assignments, during the signing of the assignments, and after the signing of the assignments that Mid-East Oil Company would have no obligations to Allegheny Enterprises, Inc. until the title defects were cured.

23. The curing of the title defects was a condition precedent to any obligations on the part of Mid-East Oil Company.

24. The documents do not reflect the entire agreement between the parties and, therefore, Mid-East Oil Company has no obligations to Allegheny Enterprises, Inc.

25. Exhibit A, the assignment, states that a consideration of \$10.00 together with the reimbursement of all rentals paid has been made, the receipt and sufficiency of which are thereby acknowledged. Therefore, no claim can be made for any rentals paid by the Lessor.

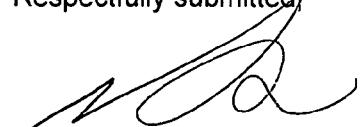
26. Exhibit B, the assignment of the right-of-way, provides that the \$1,000 consideration has been paid. Therefore, no claim can be made for those damages.

27. Since, after significant expense and effort, Mid-East Oil Company was not able to clear the titles to the property, even with the assistance of Allegheny Enterprises, Inc., the necessary precondition has not been met and, therefore, Mid-East Oil Company has no obligation to Allegheny Enterprises, Inc.

WHEREFORE, the Defendant prays this Honorable Court dismiss the Plaintiff's complaint.

JURY TRIAL DEMANDED

Respectfully submitted,

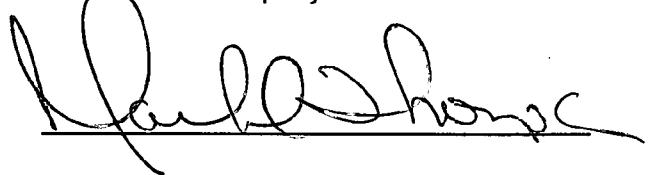


Wayne A. Kablack, Esquire  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701  
(724) 465-5559  
Attorneys for Defendant

VERIFICATION

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

Mid-East Oil Company

A handwritten signature in black ink, appearing to read "Michael J. Shouse". The signature is fluid and cursive, with "Michael" and "Shouse" being the most distinct parts.

Date: 12/5/01

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALLEGHENY ENTERPRISES, INC., : CIVIL ACTION - DECLARATORY JUDGMENT  
Plaintiff :  
: No. 01 - 1776 - CD  
v. :  
: TYPE OF CASE: CIVIL  
MID-EAST OIL COMPANY, :  
Defendant : TYPE OF DOCUMENT:  
: Reply to New Matter  
: FILED ON BEHALF OF:  
: Allegheny Enterprises, Inc.,  
: Plaintiff  
: COUNSEL OF RECORD FOR THIS PARTY:  
: Terry R. Heeter  
: Supreme Court No. 52750  
: The Kooman Law Firm  
: Marianne Professional Center  
: P.O. Box 700  
: Clarion, PA 16214  
: (814) 226-9100

jc:1247er  
#18090

FILED

MAR 21 2002

William A. Shaw  
Prothonotary

(#5)

ALLEGHENY ENTERPRISES, INC. : IN THE COURT OF COMMON PLEAS OF  
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA  
:  
v. : CIVIL ACTION - LAW  
:  
MID-EAST OIL COMPANY, : No. 01 - 1776 - CD

**REPLY TO NEW MATTER**

AND NOW, comes the plaintiff, ALLEGHENY ENTERPRISES, INC., by and through its attorney, Terry R. Heeter, and avers that it has a full, complete and just defense to the allegations contained in the new matter filed by the defendant, the nature whereof is as follows:

1. In response to Paragraph 15 of the new matter, the plaintiff incorporates Paragraphs 1 through 14 of its complaint by reference as fully as if the same were set forth at length herein.
2. The averments of Paragraph 16 of the new matter are denied as stated. On the contrary, Randy Stout has in the past acquired leases for the defendant in Clarion County as an independent contractor. At no time in the past has Randy Stout been employed as an employee of the defendant. The remaining averments of Paragraph 16 of the new matter constitute conclusions of law to which no response is necessary.
3. The averment of Paragraph 17 of the new matter are denied and in response thereto, the plaintiff incorporates Paragraph 2 of this reply to new matter by reference as fully as if the same were set forth at length herein. By way of further answer, the defendant knew at all times relevant to this cause of action that

the plaintiff was engaged in the oil and gas business and was obtaining leases for its own purposes. By way of further answer, the defendant never paid the plaintiff any sums for any work involved by the plaintiff in obtaining the instant leases.

4. The averments of Paragraph 18 of the new matter are denied. By way of further answer, it is admitted that the defendant covenanted leases and was upset that they were purchased or obtained by a third party.

5. The averments of Paragraph 19 of the new matter are denied. On the contrary, the defendant acquired the assignment pursuant to the written terms of the agreements which are marked as Exhibits "A" and "B" and are attached to the plaintiff's complaint, which are incorporated by reference as fully as if the same were set forth at length herein. The agreements fully provide that they were being signed without any warranty of title.

6. The averments of Paragraph 20 of the new matter are denied. On the contrary, Randy Stout, on behalf of the plaintiff never assisted in any attempts by the defendant to cure any title defects. After reasonable investigation, the plaintiff is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in Paragraph 20 of the new matter, therefore said averments are denied and strict proof of the same is demanded at the trial of this matter.

7. The averments of Paragraph 21 of the new matter are admitted in part and denied in part. It is admitted that the defendant has advised that it would not drill on property due to alleged title problems. It is denied that the status of the title in any way effects the defendant's obligation to pay the plaintiff. On the contrary, as acknowledged by the defendant in Paragraph 21 of the new matter, the assignments were sold without any warranty of title.

8. The averments of Paragraph 22 of the new matter are denied. On the contrary, the wording of the assignments comprised all of the understanding and obligation between the parties.

9. The averments of Paragraph 23 of the new matter are denied. On the contrary, the leases were sold as is and there were no conditions precedent.

10. The averments of Paragraph 24 of the new matter constitute conclusions of law to which no response is necessary. In the event that it is ultimately determined that a response to said allegations is necessary, the averments of Paragraph 24 of the new matter are denied. On the contrary, the assignments fully reflect the entire agreement between the parties.

11. The averments of Paragraph 25 of the new matter constitute conclusions of law to which no response is necessary. In the event that it is ultimately determined that a response to said allegations is necessary, the averments of Paragraph 25 of the

new matter are denied. On the contrary, at the time of closing, Mark Thompson, President of the defendant, obtained a blank check from the plaintiff and advised that the money would be wired into the bank account of the defendant. Despite the representation by Mark Thompson that the money would be wired, Mark Thompson never wired the money.

12. The averments of Paragraph 26 of the new matter constitute conclusions of law to which no response is necessary. In the event that it is ultimately determined that a response to said allegations is necessary, the averments of Paragraph 25 of the new matter are denied. On the contrary, at the time of closing, Mark Thompson, President of the defendant, obtained a blank check from the plaintiff and advised that the money would be wired into the bank account of the defendant. Despite the representation by Mark Thompson that the money would be wired, Mark Thompson never wired the money.

13. The averments of Paragraph 27 of the new matter constitute conclusions of law to which no response is necessary. In the event that it is ultimately determined that a response to said allegations are necessary, the averments of Paragraph 27 of the new matter are denied. On the contrary, there were no necessary preconditions and the defendant is obligated to the plaintiff for the sum set forth in the complaint.

WHEREFORE, the plaintiff, Allegheny Enterprises, Inc., demands judgment against the defendant, Mid-East Oil Company, for the sum and relief requested in the complaint.

Respectfully submitted,

By

  
TERRY R. HEETER, ESQUIRE  
The Kooman Law Firm  
Attorney for Plaintiff  
Marianne Professional Center  
P.O. Box 700  
Clarion, PA 16214  
(814) 226-9100

TRH/jc:1299a  
#18090

ALLEGHENY ENTERPRISES, INC., : IN THE COURT OF COMMON PLEAS OF  
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA  
:  
v. : CIVIL ACTION - LAW  
:  
MID-EAST OIL COMPANY, :  
Defendant : No. 01 - 1776 - CD

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 19th day of March, 2002, served the foregoing reply to new matter by depositing a true and correct copy of the same in the United States mail, postage paid, at Clarion, Pennsylvania, addressed to the following:

WAYNE A. KABLACK, ESQUIRE  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701

Respectfully submitted,

By   
TERRY R. HEETER, ESQUIRE  
The Kooman Law Firm  
Attorney for Plaintiff  
Marianne Professional Center  
P.O. Box 700  
Clarion, PA 16214  
(814) 226-9100

jc:1362a  
#18090

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALLEGHENY ENTERPRISES, INC., : CIVIL ACTION - DECLARATORY JUDGMENT  
Plaintiff :  
: No. 01 - 1776 - CD  
v. :  
: TYPE OF CASE: CIVIL  
MID-EAST OIL COMPANY, :  
Defendant : TYPE OF DOCUMENT:  
: Notice of Taking  
: Deposition  
: FILED ON BEHALF OF:  
: Allegheny Enterprises, Inc.,  
: Plaintiff  
: COUNSEL OF RECORD FOR THIS PARTY:  
: Terry R. Heeter  
: Supreme Court No. 52750  
: The Kooman Law Firm  
: Marianne Professional Center  
: P.O. Box 700  
: Clarion, PA 16214  
: (814) 226-9100

jc:1247er  
#18090

FILED

MAY 23 2002

William A. Shaw  
Prothonotary

#16

ALLEGHENY ENTERPRISES, INC., : IN THE COURT OF COMMON PLEAS OF  
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA  
:  
v. : CIVIL ACTION - DECLARATORY JUDGMENT  
:  
MID-EAST OIL COMPANY, :  
Defendant : No. 01 - 1776 -CD

**NOTICE OF TAKING DEPOSITION**

TO: LANCE CASADAY  
and MARK THOMPSON  
Wayne A. Kablack, Esquire  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701

NOTICE is hereby given that, pursuant to Pennsylvania Rule of Civil Procedure No. 4007.1 the deposition of **LANCE CASADAY** and **MARK THOMPSON** will be taken on oral examination for the purpose of discovery in The Kooman Law Firm, Marianne Professional Center, 10385 Route 322, Suite 1, Shippenville, Pennsylvania on the 12th day of August, 2002 beginning at 10:00 A.M. and at any and all adjournments thereof. Deponents are directed to bring with them any and all notes, memoranda, statements and other documents used, acquired, prepared or generated by the deponents in connection with the issues framed in this action.

By Terry R. Heeter  
TERRY R. HEETER, ESQUIRE  
The Kooman Law Firm  
Attorney for Plaintiff  
Marianne Professional Center  
P.O. Box 700  
Clarion, PA 16214  
(814) 226-9100

ALLEGHENY ENTERPRISES, INC., : IN THE COURT OF COMMON PLEAS OF  
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA  
:  
v. : CIVIL ACTION - DECLARATORY JUDGMENT  
:  
MID-EAST OIL COMPANY, :  
Defendant : No. 01 - 1776 - CD

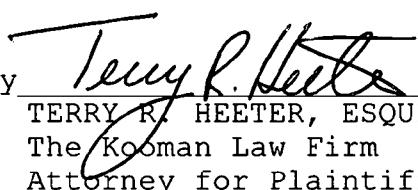
**CERTIFICATE OF SERVICE**

I hereby certify that I have this 21st day of May, 2002, served the foregoing notice of taking deposition by depositing a true and correct copy of the same in the United States mail, postage paid, at Clarion, Pennsylvania, addressed to the following:

WAYNE A. KABLACK, ESQUIRE  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701

Respectfully submitted,

By

  
TERRY R. HEETER, ESQUIRE  
The Kooman Law Firm  
Attorney for Plaintiff  
Marianne Professional Center  
P.O. Box 700  
Clarion, PA 16214  
(814) 226-9100

jc:1362a  
#18090

ALLEGHENY ENTERPRISES, INC., Plaintiff  
vs.  
MID-EAST OIL COMPANY, Plaintiff  
Defendant

ALLEGHENY ENTERPRISES, INC.,

CIVIL DIVISION

MID-EAST OIL COMPANY, Plaintiff  
Defendant

CASE NUMBER: No. 01-1776-CD

vs.

TYPE OF PLEADING: Notice of Deposition  
of Randy F. Stout & Certificate of

MID-EAST OIL COMPANY,

NOTICE OF DEPOSITION Service

Defendant

FILED ON BEHALF OF: Defendant

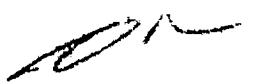
TO Randy F. Stout  
c/o Terry R. Kooman, Esquire  
The Kooman Law Firm  
Marianne Professional Center  
P.O. Box 700  
Clairton, PA 16214

NAME, ADDRESS AND TELEPHONE  
OF: Counsel of Record

Wayne A. Kablack, Esquire  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701

NOTICE IS HEREBY GIVEN that, pursuant to (724) 465-5559, of Pennsylvania Report of Civil Procedure No. 4007, your deposition will be taken by oral examination in the offices of The Kooman Law Firm, located at Marianne Professional Attorney's State ID#: 25818 Suite 1 Shippensburg, Pennsylvania telephone number (717) 228-9100, on August 12, 2002, at 10:00 AM. Attorney's Firm ID#: 25-0918627

The subject matter of the deposition will be any matters not privileged which relate to the subject matter involved in this action. The Deponent is directed to bring with him all notes, memoranda, statements, and other documents used, adopted, prepared, or generated by the Deponent in connection with the issues framed in this action.

  
Wayne A. Kablack, Esquire  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701  
(724) 465-5559  
Attorney for Defendant

Date: May 24, 2002

cc Jct **FILED** Reporter

WAK/ch  
358-92

MAY 28 2002

William A. Shaw  
Prothonotary

m1127100  
EKS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALLEGHENY ENTERPRISES, INC., : CIVIL ACTION - DECLARATORY JUDGMENT  
Plaintiff :  
: No. 01 - 1776 - CD  
v. :  
: TYPE OF CASE: CIVIL  
MID-EAST OIL COMPANY, :  
Defendant : TYPE OF DOCUMENT:  
: Motion for Summary Judgment  
: FILED ON BEHALF OF:  
: Allegheny Enterprises, Inc.,  
: Plaintiff  
: COUNSEL OF RECORD FOR THIS PARTY:  
: Terry R. Heeter  
: Supreme Court No. 52750  
: The Kooman Law Firm  
: Marianne Professional Center  
: P.O. Box 700  
: Clarion, PA 16214  
: (814) 226-9100

jc:1247er  
#18090

FILED

OCT 23 2003

William A. Shaw  
Prothonotary/Clerk of Courts

#8

ALLEGHENY ENTERPRISES, INC., : IN THE COURT OF COMMON OF  
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA  
: :  
v. : CIVIL ACTION-DECLARATORY JUDGMENT  
: :  
MID-EAST OIL COMPANY, :  
Defendant : No. 01-1776-CD

**MOTION FOR SUMMARY JUDGMENT**

AND NOW, comes the plaintiff, **ALLEGHENY ENTERPRISES, INC.,** by and through its attorney, Terry R. Heeter, and files this motion for summary judgment, pursuant to the Pennsylvania Rules of Civil Procedure §1035.1-1035.5, stating in support thereof as follows:

1. This lawsuit arises out of an assignment of oil and gas lease (hereinafter the "Assignment") executed by the plaintiff and defendant on May 16, 2001, and covering such property located in Cooper Township, Clearfield County and identified as Assessment Nos. 110-R6-1, 110-U4-1 and 110-T6-27. A copy of the Assignment is marked as Exhibit "A", attached hereto and made a part hereof.

2. The dispute also involves an assignment of right of way (hereinafter the "Right of Way Assignment") executed contemporaneously with the Assignment. A copy of the Right of

Way Assignment is marked as Exhibit "B", attached hereto and made a part hereof.

3. Pursuant to the Assignment, the defendant agreed to pay the following sums to the plaintiff:

- a. Reimbursement of lease rentals paid by the plaintiff in the amount of \$22,080.00; and
- b. Prepayment of three well sites in the amount of \$2,500 each for a total of \$7,500.

4. Pursuant to the Assignment, the defendant is presently indebted to the plaintiff in the amount of \$29,580.

5. Pursuant to the Right of Way Assignment, the defendant agreed to pay the sum of \$1,000 to the plaintiff.

6. The total amount owed to the plaintiff by the defendant under the Assignment and the Right of Way Assignment is \$30,580 (the "Total Debt").

7. The Assignment was made without warranty of title, either express or implied.

8. The Right of Way Assignment was made without warranty of title, either express or implied.

9. The plaintiff has demanded that the defendant pay it the sum of \$30,580, but the defendant has refused and continues to refuse to pay the sum of \$30,580 to the plaintiff.

10. The defendant denies that it is responsible to pay the Total Debt, because of an alleged defect in the title to the Assignment and the Right of Way Assignment.

11. The defendant alleges the existence of an oral agreement between the parties, whereby the defendant is not bound to pay the Total Debt until the title defects are cured as its basis for refusing to pay the Total Debt.

12. The parole evidence rule bars the introduction of evidence of an oral agreement. Kehr Packages, Inc., v. Fidelity Bank, 710 A.2d 1169 (Pa. Super. 1998).

13. Since the parole evidence rule bars the defendant from introducing the alleged oral agreement into evidence, which is the defendant only defense in this litigation, there exists no genuine issue of material fact and the plaintiff is entitled to summary judgment as a matter of law.

WHEREFORE, the plaintiff, Allegheny Enterprises, Inc., respectfully requests that the Honorable Court enter summary judgment in its favor, and award the plaintiff \$30,580.00

together with interest at the legal rate of six (6%) percent per annum from May 16, 2001.

Respectfully submitted,

By Terry R. Heeter  
TERRY R. HEETER, ESQUIRE  
Attorney for Plaintiff  
The Kooman Law Firm  
Marianne Professional Center  
P.O. Box 700  
Clarion, PA 16214  
(814) 226-9100

BEE:1762a  
#18090

ASSIGNMENT

THE STATE OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

KNOW ALL MEN BY THESE PRESENTS:

The parties herein below agree as follows:

WHEREAS, Allegheny Enterprises, Inc. hereinafter called "Assignor", whose address is, RD #1, Box 48F, Corsica, PA 15829.

AND

Mid-East Oil Company, herein after described as "Assignee", whose address is P. O. Box 1378 Indiana, PA 15701

**DESCRIPTION OF OIL AND GAS LEASE ASSIGNED HEREIN:**

Property #1 – 438 acres, Cooper Township, Clearfield County, Assessment Numbers 110-R6-1

Lessor: French Brothers Limited Partnership (1/6 interest)  
Lease Date: April 1, 2001

Lessor: Catherine Gregerson Anderson (1/18 interest)  
Lease Date: April 4, 2001

Lessor: Robert L. Gregerson (1/9 interest)  
Lease Date: April 9, 2001

Lessor: David K. Dahlgren & Marjorie J. Dahlgren (1/3 interest)  
Lease Date: April 11, 2001

Lessor: Bonnie Lou Dahlgren Gilham (1/6 interest)  
Lease Date: April 3, 2001

Lessor: Schoonover Real Estate Trust (1/6 interest) c/o Jeffrey A. Dalke & Orrin L. French  
Lease Date: April 1, 2001

Property #2 – 666 Acres, Cooper Township, Clearfield County, Assessment Numbers 110-U4-1 and 110-T6-27

Lessor: French Brothers Limited Partnership (1/16 interest)  
Lease Date: April 1, 2001

Lessor: David K. Dahlgren & Marjorie J. Dahlgren (1/8 interest)  
Lease Date: April 11, 2001

Lessor: Bonnie Lou Dahlgren Gilham (1/16 interest)  
Lease Date: April 3, 2001

Lessor: Catherine Gregerson Anderson (1/12 interest)  
Lease Date: April 4, 2001

Lessor: Robert L. Gregerson (1/6 interest)  
Lease Date: April 9, 2001

Lessor: Schoonover Real Estate Trust (1/4 interest)  
Lease Date: April 1, 2001

NOW, THEREFORE, and in consideration for the above described leases herein assigned to Assignee for the consideration of ten dollars (\$10.00) and reimbursement to said Assignor for all rentals paid to Lessors for the above premises, the receipt and sufficiency of which are hereby acknowledged. The Assignor does hereby TRANSFERS and SETS OVER unto Mid-East Oil Company the above described leases. Assignor hereby RESERVES and SETS OVER unto Allegheny Enterprises, Inc., an undivided (3.125%) of 100% overriding royalty interest of all oil and gas produced from the subject leases or from such part of any production unit said leasehold premises are assigned and included in. At the commencement of drilling each well on the leasehold premises, the Assignor shall be paid a well site fee of twenty-five hundred dollars (\$2500.00). In addition, upon signing this agreement, Assignee agrees to pre-pay for three of the above mentioned well sites.

Said overriding royalty shall be free and clear of all expenses for drilling, testing, developing, operating and maintaining Subject Lease, including all transportation costs and production taxes. Said overriding royalty shall be subject to any renewal of Subject Lease. The said overriding royalty shall be paid to Assignor whether any covenants of the lease, or of a new lease, is amended, re-negotiated or re-executed for any reasons whatsoever including any new lease or third party assignment of the property in those situations where the original lease has expired or has been terminated.

All payments to Assignor under the terms of this Agreement shall be made on a monthly basis together with a copy of the production records received by Assignee from the purchaser of the oil and gas. It is also understood and agreed that Assignee shall fulfill all conditions and make all payments due to Lessors of the above described premises in a timely manner, and shall save and hold harmless Assignor for any liabilities regarding payment and lease conditions hereinafter.

*KED*  
Assignee shall drill the first well within (90) days of the date of this assignment and a second well within (5) months of the first well and a third well within (1) year of drilling the said first well

Allegheny Enterprises, Inc. (Assignor) hereunder reserves the right to participate for up to 10% working interest at actual cost in any well or wells drilled on the above leasehold premises. Allegheny Enterprises, Inc. (Assignor) shall notify Mid-East Oil Company (Assignee) of its election to reject or participate in said well or wells within 60 days of receipt of written notice of Mid-East Oil Company's (Assignee's) notice of intent to drill.

The assignment is made without warranty of title, either express or implied, and is specifically subject to all the terms, provisions, and conditions of Subject Leases.

This agreement shall be binding upon heirs, administrators, successors and assigns of the parties, and the parties hereto enter into this Agreement with the intent to be legally bound as of the date first above provided.

IN WITNESS WHEREOF, this instrument is expected on the date of the acknowledgment herein below set forth, to be effective, however, for all purposes, as of the 16<sup>th</sup> day of May 2001.

Assignor:

Randy F. Stout (SEAL)  
Allegheny Enterprises, Inc.

Assignee:

Mark A. Thompson (SEAL)  
Mid-East Oil Company

#### CORPORATE ACKNOWLEDGMENT

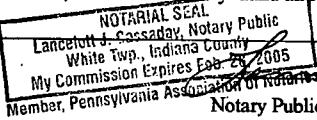
COMMONWEALTH/STATE OF Pennsylvania

COUNTY OF Indiana

On this 16<sup>th</sup> a day of May, 2001, before me the undersigned officer personally appeared Randy F. Stout, and acknowledged himself to be the President of Allegheny Enterprises, Inc. a corporation, and that he, as such President, being authorized to do so, did execute the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself as President.

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

My commission expires



Lancefield J. Cassaday  
Notary Public

#### CORPORATE ACKNOWLEDGMENT

COMMONWEALTH/STATE OF Pennsylvania

COUNTY OF Indiana

On this 16<sup>th</sup> day of May, 2001, before me the undersigned officer personally appeared Mark A. Thompson, and acknowledged himself to be the President of Mid-East Oil Company a corporation, and that he, as such President, being authorized to do so, did execute the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself as President.

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

My commission expires



Lancefield J. Cassaday  
Notary Public

ASSIGNMENT

THE STATE OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

KNOW ALL MEN BY THESE PRESENTS:

The parties herein below agree as follows:

WHEREAS, Allegheny Enterprises, Inc. herein after called "Assignor", whose address is, RD #1, Box 48F, Corsica, PA 15829.

AND

Mid-East Oil Company, herein after described as "Assignee", whose address is P. O. Box 1378 Indiana, PA 15701

**DESCRIPTION OF RIGHT OF WAY ASSIGNED HEREIN:**

Cooper Township, Clearfield County, State of Pennsylvania  
164.2 acres

Tax L.D. # 110-T-6, Parcel # 16

Bounded as follows:

On the North by: Thompson, Shephard & Franck

On the East by: Schoonover Heirs, et. al.

On the South by: County National Bank

On the West by: S. Franck

NOW, THEREFORE, and in consideration for the above described right of way for the consideration of one thousand dollars, the receipt and sufficiency of which are hereby acknowledged. The Assignor does hereby TRANSFERS and SETS COVER unto Mid-East Oil Company the above described right of way agreement. Assignee agrees to indemnify and hold Assignor harmless from the date of this agreement and thereafter for any personal or property damage whatsoever relating to the above described right of way building, maintenance, and usage.

The assignment is made without warranty of title, either express or implied, and is specifically subject to all the terms, provisions, and conditions of Subject Right of Way.

This agreement shall be binding upon heirs, administrators, successors and assigns of the parties, and the parties hereto enter into this Agreement with the intent to be legally bound as of the date first above provided.

IN WITNESS WHEREOF, this instrument is executed on the date of the acknowledgment herein below set forth, to be effective, however, for all purposes, as of the 16<sup>th</sup> day of May 2001.

Assignor:

  
Randy F. Stout (SEAL)  
Allegheny Enterprises, Inc.

Assignee:

  
Sarah J. Thompson (SEAL)  
Mid-East Oil Company

**CORPORATE ACKNOWLEDGMENT**

COMMONWEALTH/STATE OF Pennsylvania

COUNTY OF Indiana

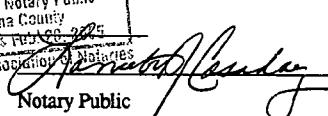
On this 16<sup>th</sup> a day of May, 2001, before me the undersigned officer personally appeared Randy F. Stout, and acknowledged himself to be the President of Allegheny Enterprises, Inc.

a corporation, and that he, as such President, being authorized to do so, did execute the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself as President.

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

My commission expires 10/20/2005

Lancelott J. Cassadore, Notary Public Village Twp., Indiana County My Commission Expires 10/20/2005
Member, Pennsylvania Association of Notaries

  
Notary Public

CORPORATE ACKNOWLEDGMENT



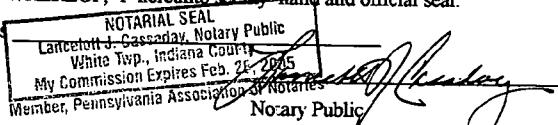
COMMONWEALTH/STATE OF Pennsylvania

COUNTY OF Indiana

On this 16<sup>th</sup> day of May, 2001, before me the undersigned officer personally appeared Mark A. Thompson, and acknowledged himself to be the President of Mo-East Oil Company, a corporation, and that he, as such President, being authorized to do so, did execute the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself President.

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

My commission expires



ALLEGHENY ENTERPRISES, INC.. : IN THE COURT OF COMMON PLEAS OF  
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA  
:  
v. : CIVIL ACTION - DECLARATORY JUDGMENT  
:  
MID-EAST OIL COMPANY, :  
Defendant : No. 01 - 1776 - CD

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 21<sup>st</sup> day of October, 2003, served the foregoing motion for summary judgment by depositing a true and correct copy of the same in the United States mail, postage paid, at Clarion, Pennsylvania, addressed to the following:

WAYNE A. KABLACK, ESQUIRE  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701

Respectfully submitted,

By   
TERRY R. HEETER, ESQUIRE  
The Kooman Law Firm  
Attorney for Plaintiff  
Marianne Professional Center  
P.O. Box 700  
Clarion, PA 16214  
(814) 226-9100

jc:1362a  
#18090

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALLEGHENY ENTERPRISES, INC., : CIVIL ACTION - DECLARATORY JUDGMENT  
Plaintiff :  
: No. 01 - 1776 - CD  
v. :  
: TYPE OF CASE: CIVIL  
MID-EAST OIL COMPANY, :  
Defendant : TYPE OF DOCUMENT:  
: Praecipe for Argument  
:  
: FILED ON BEHALF OF:  
: Allegheny Enterprises, Inc.,  
: Plaintiff  
:  
: COUNSEL OF RECORD FOR THIS PARTY:  
: Terry R. Heeter  
: Supreme Court No. 52750  
:  
: The Kooman Law Firm  
: Marianne Professional Center  
: P.O. Box 700  
: Clarion, PA 16214  
: (814) 226-9100

jc:1247er  
#18090

FILED

OCT 23 2003

William A. Shaw  
Prothonotary/Clerk of Courts

AFQ

ALLEGHENY ENTERPRISES, INC., : IN THE COURT OF COMMON PLEAS OF  
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA  
:  
v. : CIVIL ACTION-DECLARATORY JUDGMENT  
:  
MID-EAST OIL COMPANY, :  
Defendant : No. 01 - 1776 - CD

**PRAECIPE FOR ARGUMENT**

TO THE PROTHONOTARY:

KINDLY SUBMIT THIS MATTER TO  
THE COURT FOR ARGUMENT ONLY

1. The matter to be submitted for argument is the motion for summary judgment filed by the plaintiff, Allegheny Enterprises, Inc., on October 22, 2003.
2. Oral argument is requested.
3. A transcript is not required for disposition of this argument.
4. This matter does not require the taking of testimony.
5. I certify that notice has been given to all counsel of record and to all unrepresented parties of record of the filing of this praecipe.

Respectfully submitted,

DATE: October 21, 2003

By Terry R. Heeter  
TERRY R. HEETER, ESQUIRE  
Attorney for Plaintiff  
Marianne Professional Center  
P.O. Box 700  
Clarion, PA 16214  
(814) 226-9100

ALLEGHENY ENTERPRISES, INC., : IN THE COURT OF COMMON PLEAS OF  
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA  
:  
v. : CIVIL ACTION - DECLARATORY JUDGMENT  
:  
MID-EAST OIL COMPANY, :  
Defendant : No. 01 - 1776 - CD

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 21st day of October, 2003, served the foregoing praecipe for argument by depositing a true and correct copy of the same in the United States mail, postage paid, at Clarion, Pennsylvania, addressed to the following:

WAYNE A. KABLACK, ESQUIRE  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701

Respectfully submitted,

By

  
TERRY R. HEETER, ESQUIRE  
The Koonan Law Firm  
Attorney for Plaintiff  
Marianne Professional Center  
P.O. Box 700  
Clarion, PA 16214  
(814) 226-9100

jc:1362a  
#18090

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

ALLEGHENY ENTERPRISES, INC., :  
Plaintiff, :  
vs. : No. 01-1776 CD  
MID-EAST OIL COMPANY, :  
Defendant. : **RESPONSE TO PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGEMENT**

FILED ON BEHALF OF:

Mid-East Oil Company,  
Defendant

COUNSEL OF RECORD FOR  
THIS PARTY:

Wayne A. Kablack, Esq.  
Supreme Court ID No. 25818

Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, Pennsylvania 15701  
Phone: 724-465-5559

FILED

NOV 18 2003

John J. Shaw  
Prothonotary, Clerk of Courts

10

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

ALLEGHENY ENTERPRISES, INC., :  
Plaintiff, :  
vs. : No. 01-1776 CD  
MID-EAST OIL COMPANY, :  
Defendant. :

**DEFENDANT'S RESPONSE TO PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT**

AND NOW, comes the Defendant, Mid-East Oil Company, by and through its attorneys, Simpson, Kablack and Bell, and files the within Response to the numbered paragraphs of Plaintiff's Motion for Summary Judgment.

1. Admitted.
2. Admitted.

3. Denied as stated. It is denied that pursuant to the assignment the Defendant agreed to pay the Plaintiff reimbursement of lease rentals paid the plaintiff in the amount of \$22,080.00. The express terms of the assignment provides only that Defendant would pay Plaintiff \$10.00 and reimbursement for all rentals paid by Plaintiff to Lessors. The Assignment does not provide a specific dollar amount for such reimbursement, which omission provides evidence that the Assignment attached to Plaintiff's Complaint does not contain the complete integrated agreement of the parties regarding the Assignments. In this regard, there was a condition precedent that Plaintiff was required to satisfy before the Assignment was to become effective, which condition precedent provided that Plaintiff would remove all clouds on the titles to the property subject to the Assignments prior to the Assignment becoming a binding agreement (see page 38 line 16 through page 39 line 8 of deposition transcript of Lance Casaday, attached hereto as Exhibit 1, and page 13 line 10-15 of deposition transcript of Mark Thompson, attached hereto as Exhibit 2). Since Plaintiff failed to satisfy the condition precedent the Assignment never became an enforceable agreement, and as such, Defendant had no obligation to pay Plaintiff the amounts contemplated in the Assignment (see page 12 line 23 through page 13 line 20 of deposition transcript of Randy Stout attached hereto as Exhibit 3).

By way of further Answer, following the execution of the Assignment, Plaintiff and Defendant entered into a subsequent oral agreement wherein Plaintiff again promised that he

would remove all clouds on the titles to the property subject to the Assignments before Plaintiff would be obligated to pay the sums contemplated by the Assignment (See page 12 lines 3-7 of deposition transcript of Mark Thompson, attached hereto as Exhibit 4). Again, since Plaintiff breached the parties' subsequent oral agreement, Defendant had no duty to pay Plaintiff the sums contemplated under the Assignment.

4. Denied. For the reasons set forth in Paragraph 3 of this Answer, it is denied that Defendant is indebted to Plaintiff in the amount of \$29,580.00.

5. Admitted in part and denied in part. It admitted that the Right-of-Way Assignment provides that Defendant agreed to pay Plaintiff the sum of \$1,000.00. Pursuant to the express terms of Right-of-Way Assignment, Plaintiff acknowledges the receipt and sufficiency of the \$1,000.00. Accordingly, it is believed, and therefore averred that Plaintiff is estopped from making a claim for the \$1,000.00. In the alternative and by way of further Answer, the Right-of-Way Assignment was subject to the same condition precedent and subsequent oral modification as the Assignment as set forth fully in Paragraph 3. As such, for the reasons stated in Paragraph 3, Defendant's duty to pay Plaintiff \$1,000.00 for the Right-of-Way never arose as a result of Plaintiff's failure to remove all clouds on the titles to the property subject to the Assignments and Right-of-Way.

6. Denied. For the reasons set forth in Paragraphs 3 and 5 of this Answer, it is denied that Defendant is indebted to Plaintiff in the amount of \$30,580.00.

7. Denied as stated. While it is admitted that the Assignment document provides that the Assignment is made without warranty of title, either expressed or implied, it is denied that Plaintiff did not have a duty to provide Defendant with a warrantable title. As set forth fully in Paragraph 3 of this answer, the Assignment was not intended to be an enforceable agreement until Plaintiff satisfied the condition precedent to clear the clouds on the properties' titles. Moreover, following the execution of the Assignment, the parties entered into a subsequent oral modification of the assignment whereby Plaintiff agreed that he would remove all clouds on the titles to the properties.

8. For the reasons stated in Paragraphs 5 and 7 of this Answer, paragraph 8 of Plaintiff's Motion is denied as stated.

9. Paragraph 9 is admitted in part and denied in part. It is admitted that Plaintiff has demanded that Defendant pay it the sum of \$30,580.00 and that Defendant has refused to pay the same. For the reasons set forth above, however, it is denied that Defendant is indebted to Plaintiff in the amount of \$30,580.00.

10. Denied as stated. As set forth more fully above, the Assignments at issue were not intended to become binding agreements unless, or until the Plaintiff fulfilled a condition precedent, which condition precedent required Plaintiff to remove all defects in the titles to the subject properties. Additionally, the Plaintiff reaffirmed its commitment to remove all defects in title when it entered into a subsequent oral modification of the Assignments whereby Plaintiff again agreed to provide Defendant with warrantable titles. Accordingly, when Plaintiff failed to satisfy the condition precedent and/or its duties under the subsequent modification, the contemplated Assignment never became effective and/or the Defendant's duties there under were extinguished.

11. Denied for the reasons stated in Paragraph 10 above. It is Defendant's position that the written Assignment never became effective and/or its duties under the assignment were extinguished when Plaintiff failed to fulfill the condition precedent to provide Defendant with a warrantable title and/or its duties were extinguished when Plaintiff breached the oral modification to the written Assignment.

12. Paragraph 12 contains a conclusion of law to which no response is required. To the extent that a response is deemed necessary, it is denied that the parol evidence rule bars the introduction of evidence that will be relevant to the instant matter.

It is well-settled that the parol evidence rule bars the admission of oral testimony that purports to explain or vary the terms of an integrated written agreement. Green Valley Dry Cleaners, Inc. v. Westmoreland County Indus. Development Corp., 2003 WL 22053122, — A.2d — (Pa.Cmwth 2003)(emphasis added). Correspondingly, where the writing is not intended to be the final and complete expression of the parties' agreement, parol evidence of the parties agreement is not to be excluded. See Green Valley Dry Cleaners, Inc., 2003 WL 22053122, citing Gianni v. R. Russell & Co., 281 Pa. 320, 323-324, 126 A. 791, 792 (1924)(the writing must be the entire contract between the parties if parol evidence is to be excluded). While no particular form is required for there to be an integrated contract, the absence of an integration clause serves as persuasive evidence that the parties did not intend the written agreement to serve as a complete and exclusive statement of the terms of their transaction. See Sundlun v. Shoemaker, 421 Pa.Super. 353, 617 A.2d 1330, 1334 (1992) ("[N]othing in the parties" written agreement supports the contention that it was intended as a complete and exclusive statement of the terms of the agreement. It did not contain an integration clause that would have made such an intention manifest.).

In the instant matter, the Assignments at issue were not intended to be the complete and exclusive statement of the terms of their transaction. The fact that the Assignments were not

meant to be an expression of the parties' final agreement is evidenced most notably by the Assignments failure to contain an integration clause and more subtly by the failure of the Lease Assignment to define a set dollar to be paid Plaintiff. Accordingly, as the Assignment is not an integrated agreement, the parol evidence rule does not bar Defendant from presenting evidence that the Assignments were subject to a condition precedent, which condition precedent required Plaintiff to remove all clouds on the titles to the subject property. At the very least a question of fact exists as to whether the Assignments were subject to such a condition precedent and, if so, whether Plaintiff fulfilled that condition so as to make the Assignments a binding enforceable agreement.

On the same note, the parol evidence rule has no applicability to issues or proof of facts surrounding subsequent oral modifications to a written agreement. See Green Valley Dry Cleaners, Inc., 2003 WL 22053122, citing Gianni v. R. Russell & Co., 281 Pa. 320, 323-324, 126 A. 791, 792 (1924)(where parties have deliberately put their engagements in writing, the law declares the writing to be the only evidence of their agreement and all preliminary negotiations, conversations, and verbal agreements are merged in and superseded by the subsequent written contract). Accordingly, the parol evidence rule does not bar Defendant from presenting evidence that Plaintiff reaffirmed his obligation to provide Defendant with warrantable titles through a subsequent oral agreement to do so. Again, at the very least a question of fact exists as to whether the parties entered into a subsequent oral modification agreement concerning the Assignments and, if so, whether Plaintiff breached that agreement.

13. Paragraph 13 contains a conclusion of law to which no response is required. To the extent that a response is deemed necessary, it is denied that there exists no issues of material fact and that Plaintiff is entitled to summary judgment. There are certainly issues of material fact regarding whether the parties intended the Assignments were subject to a condition precedent, which condition required Plaintiff to clear all clouds on the title to the subject properties. On this same note, there is a question of fact as to whether Plaintiff fulfilled this condition precedent. Additionally, there is the question of whether the parties entered into a subsequent oral modification of the written assignments whereby Plaintiff agreed to provide Defendant with warrantable titles to the properties. Notably, the parol evidence rule does not bar Defendant from introducing evidence:

- a. when the written instrument does not contain the complete integrated agreement of the parties;

- b. to demonstrate the existence of a condition precedent whereby the parties did not intend the written instrument to become binding until such condition is satisfied; and
- c. to demonstrate the existence of a subsequent oral modification of the written instrument.

WHEREFORE, for the reasons set forth above, the Defendant respectfully requests that this Honorable Court deny Plaintiff's request for Summary Judgment.

Respectfully submitted,

By:   
Wayne A. Kablack, Esq.  
PA Supreme Court ID # 25818

Simpson, Kablack & Bell  
834 Philadelphia Street, Suite 200  
Indiana, Pennsylvania 15701  
Telephone: 724-465-5559

1 paid for these leases that he agreed to pay the people  
2 that are involved here and being that it was an  
3 extraordinary amount of rental, I told Randy that we  
4 would not pay any of those rentals until we were sure of  
5 title.

6 Q And that was before May 16<sup>th</sup> of 2001?

7 A It may have even been on --- yeah, it was before May 16<sup>th</sup>  
8 and it was --- yeah, the day that this had been signed.

9 Q In the lawsuit that Allegheny Enterprises filed against  
10 Mid-East, Allegheny states that the advanced rentals were  
11 twenty-two thousand and eighty dollars. Do you know if  
12 that number is correct as to what Allegheny Enterprises  
13 paid?

14 A That sounds like it's correct, yeah. I don't have  
15 anything to go against it, but that sounds like the right  
16 amount.

17 Q So at one time you do remember knowing what the rentals  
18 were?

19 A Yeah. Uh-huh.

20 Q When the Assignment was signed on May 16<sup>th</sup> of 2001, do  
21 you recall Randy Stout giving you a carbon copy of a  
22 check so that the money for the Assignment could be wired  
23 into his account?

24 A Well, it wasn't a check. It was a carbon copy of a bank  
25 deposit slip.

1 Q Okay. That's what I think I said. It was a carbon copy  
2 of a check so that you could have the routing number?

3 A Yeah, but it wasn't an actual check. It was a deposit  
4 slip or something that had bank numbers on it.

5 Q And that was given to you or given to Mid-East so that  
6 the money could be wired into his account?

7 A Right.

8 Q And that was done on May 16<sup>th</sup>, 2001 when this agreement  
9 was signed?

10 A Yes.

11 Q Who was present for the May 16<sup>th</sup> meeting?

12 A We went to lunch that day. I was there, you were  
13 there(indicating).

14 Q You referring to Mark Thompson?

15 A Mark Thompson. Brad Brothers was there and I think Frank  
16 Latido.

17 Q Do you know who drafted or prepared this assignment  
18 agreement?

19 A It wasn't us or Mid-East so I don't know who actually  
20 drafted or prepared it.

21 Q On Page 2 of the Assignment marked Plaintiff's Exhibit  
22 No. 1, would you agree that the second paragraph states,  
23 "The assignment is made without warranty of title, either  
24 express or implied, and is specifically subject to all  
25 the terms, provisions, and conditions of subject

1       filed in this case, you state that the curing of the  
2       title defects was a condition president to any  
3       obligations on the part of Mid-East Oil Company?

4       A     Yes.

5       Q     Can you tell me what you mean by that language?

6       A     We are obligated to have clean title to drill any well  
7       and basically that says I can not go out and drill a well  
8       anymore unless I have a cured title or say I have  
9       certified title to drill the well.

10      Q     So it would be your testimony then that at the time that  
11       you signed this lease, that it was subject to the  
12       precondition that you would receive good title to this  
13       property?

14      A     Yes, as also in all the other leases he brought to us and  
15       he has cleaned those titles up too in the past.

16      Q     In Paragraph 16 of your Answer in New Matter, you state  
17       that he had worked for Mid-East --- strike that. In  
18       Paragraph 16 of your New Matter, you state that Randy  
19       Stout had worked for Mid-East Oil Company to obtain  
20       leases in this area of Clearfield County, is that  
21       correct?

22      A     Yes.

23      Q     Was he an employee of Mid-East Oil Company?

24      A     Just a land agent that picked up leases for Mid-East and  
25       then we paid him an override and fees.

1       had given us the indication that the title was probably  
2       good and that's the extent of it.

3   Q    Okay. And when did she tell you that?

4   A    When we were negotiating with the heirs on the Schoonover  
5       property which is the six hundred and sixty-six acre  
6       property.

7   Q    You were here during the testimony of Mr. Casaday and Mr.  
8       Thompson?

9   A    Sure was.

10   Q   And the indication was that she had made a statement that  
11       there were problems with the title. Do you remember  
12       hearing that?

13   A   I heard what they said.

14   Q   But your memory is she told you there were no problems  
15       with the title?

16   A   There weren't major problems with the title.

17   Q   Okay. Are you aware that when you provided this  
18       assignment that you did not have leases for all the  
19       interest owners?

20   A   No.

21   Q   Do you have Exhibit 1 in front of you there?

22   A   Yes.

23   Q   When you add up the fractional interest on Property No.  
24       2, there's some interest missing, are there not?

25   A   Yeah, there probably are.

1 Q About a quarter interest, something of that nature?

2 A Which was a typo with regard to the Schoonover real  
3 estate trust. There are two different interests there  
4 that if you'll see, the payments were made for all and  
5 obviously Mid-East accepted the assignment as is. That's  
6 all I can say there.

7 Q Let's clarify your point there. My understanding is that  
8 there's interest missing. Can we agree on that?

9 A There's interest missing?

10 Q Yes. There's not one hundred percent interest?

11 A Obviously there isn't by this Assignment.

12 Q And you don't have any knowledge otherwise that there's  
13 an interest that you already have leased that you just  
14 forgot to put on here or a fraction is incorrect?

15 A There was an interest that we believe was leased and was  
16 given over to Mid-East Oil Company.

17 Q And which interest is that?

18 A I believe it's one of the --- there's a Schoonover real  
19 estate trust and another Schoonover interest which were  
20 confused there.

21 Q Do you have any knowledge in fact they have picked up the  
22 additional interest to cure this defect?

23 A No, I have no knowledge. I was not made aware either of  
24 any fractional interest that was not included.

25 Q Normally when you acquire leases, do you not get one

1 Q --- what discussion did you have with Randy about the  
2 title to the property?

3 A When we have good title, you will be paid and I believe  
4 his partner was also --- Tim, Tim Lanager. He also spoke  
5 to Lance and myself and knew the same thing, that they  
6 would help clean the title up. To this day, title is  
7 still not cleaned up.

8 Q On the second page of the lease, the second paragraph,  
9 would you agree that that paragraph, which is made of one  
10 sentence, states, "The assignment is made without  
11 warranty of title, either express or implied, and is  
12 specifically subject to all the terms, provisions, and  
13 conditions of Subject Leases."?

14 A Do I agree with it?

15 Q Do you agree that that's what the document says?

16 A That's what the document says.

17 Q And the document that says that is the one that you  
18 signed on behalf of Mid-East?

19 A That's correct.

20

21 MR. HEETER: Do you have a copy  
22 of your Answer in New Matter on hand?

23 MR. KABLACK: Yes.

24

25 Q In Paragraph 23 of the Answer in New Matter that you

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

ALLEGHENY ENTERPRISES, INC., :  
: Plaintiff, :  
: vs. : No. 01 –1776 CD  
: :  
MID-EAST OIL COMPANY, :  
: Defendant :  
:

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the Defendant's Response to Plaintiff's Motion for Summary Judgment, filed at the above captioned term and docket number, was served upon the individual listed below by first class United States mail, postage prepaid at Indiana Pennsylvania, this 17<sup>th</sup> day of November, 2003.

Terry R. Heeter, Esq.  
The Kooman Law Firm  
Marianne Professional Center  
P.O. Box 700  
Clarion, Pennsylvania 16214

  
Wayne A. Kablack, Esq.  
Simpson, Kablack, & Bell  
834 Philadelphia Street  
Indiana, PA 15701

**FILED**

NOV 18 2003

William A. Shaw  
Prothonotary/Clerk of Courts

11

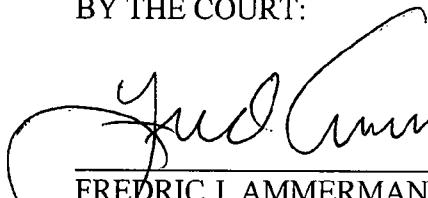
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL DIVISION

ALLEGHENY ENTERPRISES, INC. :  
: No. 01-1776-CD  
vs. :  
MID-EAST OIL COMPANY :  
:

ORDER

AND NOW, this 9<sup>th</sup> day of December, 2003, it is the ORDER of  
the Court that argument on Plaintiff's Motion for Summary Judgment in the above  
matter has been scheduled for Friday, January 16, 2004 at 3:00 P.M. in Courtroom  
No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

  
\_\_\_\_\_  
FREDRIC J. AMMERMAN  
Judge

FILED

DEC 09 2003

William A. Shaw  
Prothonotary/Clerk of Courts

612

FILED  
cc  
Dec 8 2003  
Atty Hecker  
w/ memo re: service  
William A. Shaw  
Prothonotary/Clerk of Courts  
2003

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

ALLEGHENY ENTERPRISES, INC.	:	No. 01-1776-CD
Plaintiff,	:	
vs.	:	
MID-EAST OIL COMPANY,	:	JAN 08 2004
Defendant.	:	William A. Shaw Prothonotary/Clerk of Courts

## **MOTION FOR CONTINUANCE**

AND NOW, comes the defendant, Mid-East Oil Company and files the following Motion  
for Continuance and in support thereof avers as follows: |

1. Wayne A. Kablack, Esquire represents the defendant, Mid-East Oil Company, in the above captioned matter.
2. Terry R. Heeter, Esquire represents the plaintiff, Allegheny Enterprises, Inc., in the above captioned matter.
3. By letter dated December 11, 2003, Terry R. Heeter, Esquire provided Wayne A. Kablack, Esquire with notice of the January 16, 2004 argument on a Motion for Summary Judgment scheduled for 3:00 o'clock p.m.
4. By letter dated December 15, 2003, Wayne A. Kablack, Esquire, advised Terry R. Heeter, Esquire that he previously had scheduled a Coroner's Inquest for 1:00 p.m. on January 16, 2004 and that there were ten witnesses subpoenaed for the hearing. Wayne A. Kablack, Esquire serves as solicitor for the Indiana County Coroner's Office and needs to be present at the Coroner's Inquest.
5. Terry R. Heeter, Esquire's office advised Wayne A. Kablack, Esquire that he had no problem with the continuance in this matter.

13

WHEREFORE, the defendant, by and through his attorney, Wayne A. Kablack, Esquire requests that this Honorable Court grant an continuance in this matter.

Respectfully submitted,



---

Wayne A. Kablack, Esquire  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701

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

ALLEGHENY ENTERPRISES, INC. :  
: No. 01-1776-CD  
Plaintiff, :  
: vs.  
: MID-EAST OIL COMPANY, :  
: Defendant. :

ORDER

AND NOW, this 9 day of January, 2004, upon consideration of the within Motion it is hereby ordered and decreed that the hearing scheduled for January 16, 2004 at 3:00 p.m. in courtroom number 1 of the Clearfield County Courthouse is hereby continued until the 22 day of January, 2004 at 9:30 o'clock A. m. in courtroom number 1 of the Clearfield County Courthouse.

BY THE COURT,

  
\_\_\_\_\_  
j.

FILED

JAN 12 2004

WILLIAM A. SHAW  
PROTHONOTARY, CLEARFIELD COUNTY COURTS

11:58 AM 2CC  
JAN 12 2004 Atty Kablach w/service memo  
Walter A. S. C.  
Prothonotary, Clerk of Courts

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

ALLEGHENY ENTERPRISES, INC. :  
: No. 01-1776-CD  
Plaintiff, :  
: vs.  
: :  
MID-EAST OIL COMPANY, :  
: Defendant. :  
:

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the Motion for Continuance was served upon counsel, listed below by placing a copy of the same in the United States Mail, postage prepaid at Indiana, Pennsylvania this 1 day of January, 2004.

Terry R. Heeter, Esquire  
The Kooman Law Firm  
Marianne Professional Center  
P.O. Box 700  
Clarion, PA 16214



---

Wayne A. Kablack, Esquire  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701

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

ALLEGHENY ENTERPRISES, INC. :

Plaintiff : No. 01-1776-CD

vs. :

MID-EAST OIL COMPANY, :

Defendant. :

**AFFIDAVIT OF SERVICE**

COMMONWEALTH OF PENNSYLVANIA :

ss.

COUNTY OF INDIANA :

I, Wayne A. Kablack, Esquire being duly sworn according to law, depose and say that on the 13<sup>th</sup> day of January, 2004, I did mail by first class mail a certified copy of a Motion for Continuance to Terry R. Heeter, Esquire.



Wayne A. Kablack, Esquire  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701  
(724) 465-5559  
Attorneys for Defendant

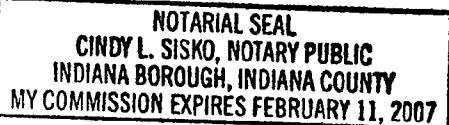
Sworn to and subscribed before me  
this 13<sup>th</sup> day of January, 2004

  
\_\_\_\_\_  
Notary Public

**FILED**

JAN 14 2004

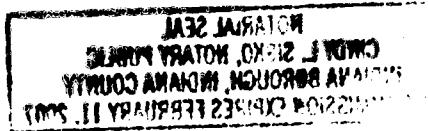
William A. Shaw  
Prothonotary/Clerk of Courts



#14

FILED  
M 11:30 AM 8/14/04  
JAN 14 2004  
KPS

William A. Shaw  
Prothonotary/Clerk of Courts



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

ALLEGHENY ENTERPRISES, INC.:

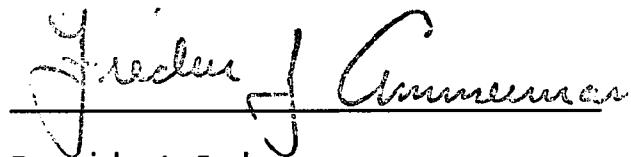
-vs- : No. 01-1776-CD

MID-EAST OIL COMPANY :

O R D E R

NOW, this 23rd day of January, 2004, following argument on the Plaintiff's Motion for Summary Judgment, it is the ORDER of this Court that Defense have no more than fifteen (15) days from this date in which to supply the Court with appropriate brief and references to those areas of testimony contained within the depositions that they feel are relevant to their defense of the motion.

BY THE COURT,

  
\_\_\_\_\_  
President Judge

FILED

JAN 23 2004

William A. Shaw  
Prothonotary/Clerk of Courts

#16

**FILED**

1cc Anrys

Leiter, Kalback

O/24/04

JAN 23 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

ALLEGHENY ENTERPRISES, INC., :

Plaintiff, :

vs. : No. 01 –1776 CD

MID-EAST OIL COMPANY, :

Defendant. :

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the Defendant's Brief in Opposition to Plaintiff's Motion for Summary Judgment, filed at the above captioned term and docket number, was served upon the individual listed below by first class United States mail, postage prepaid at Indiana Pennsylvania, this 4<sup>th</sup> day of February, 2004.

Terry R. Heeter, Esq.  
The Kooman Law Firm  
Marianne Professional Center  
P.O. Box 700  
Clarion, Pennsylvania 16214

  
Christopher S. Welch, Esq.  
Simpson, Kablack, & Bell  
834 Philadelphia Street  
Indiana, PA 15701

**FILED**

FEB 09 2004

William A. Shaw  
Prothonotary/Clerk of Courts

#17

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

ALLEGHENY ENTERPRISES, INC.,

Plaintiff,

vs.

No. 01-1776 CD

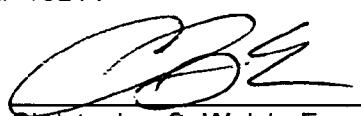
MID-EAST OIL COMPANY,

Defendant

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the Defendant's Brief in Opposition to Plaintiff's Motion for Summary Judgment, filed at the above captioned term and docket number, was served upon the individual listed below by first class United States mail, postage prepaid at Indiana Pennsylvania, this 4<sup>th</sup> day of February, 2004.

Terry R. Heeter, Esq.  
The Kooman Law Firm  
Marianne Professional Center  
P.O. Box 700  
Clarion, Pennsylvania 16214

  
Christopher S. Welch, Esq.  
Simpson, Kablack, & Bell  
834 Philadelphia Street  
Indiana, PA 15701

**FILED**

FEB 09 2004

William A. Shaw  
Prothonotary/Clerk of Courts

PA 18

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

ALLEGHENY ENTERPRISES, INC., :  
Plaintiff, :  
v. :  
MID-EAST OIL COMPANY, :  
Defendant. :  
:

No. 01-1776-CD

FILED

APR 05 2004

ORDER

William A. Shaw  
Prothonotary

NOW this 2<sup>nd</sup> day of April 2004 following oral argument and the submission of briefs on Plaintiff's Motion for Summary Judgment, and after having considered the record as a whole, the Court finds as follows:

At issue in this case is the interpretation of two separate documents, one entitled "Assignment of Oil and Gas Leases" and one entitled "Right of Way Assignment" (the Lease Assignment and ROW Assignment respectively; together, the Assignments). While neither document contains an integration clause, it is apparent that the ROW Assignment is an integrated document and that the Lease Assignment is not an integrated document.

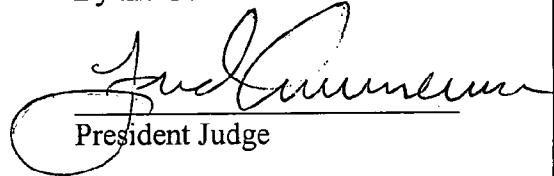
While the Lease Assignment is not a completely integrated document, one of its provisions does contain unequivocal language dealing with the issue of warranty of title. The Court finds the Lease Assignment to be integrated as to that point contained in the Lease Agreement. Henry v. First Federal Savings & Loan Association of Greene County, 459 A.2d 772 (Pa.Super. 1983). Consequently, the Court is precluded from considering parol evidence regarding prior or contemporaneous agreements or understandings between the parties on that point. Kehr Packaging v. Fidelity Bank, 710 A.2d 1169 (Pa.Super. 1998).

419

Additionally, Defendant failed to show by clear and convincing evidence that any subsequent oral or written modification of either Assignment occurred regarding warranty of title. Nor did Defendant show that any modification occurred based upon valid consideration, this being necessary for advancing an argument regarding subsequent modification of a written agreement. Pellegrine v. Luther, 403 Pa. 212, 169 A.2d 298 (1961); Edelstein v. Carole House Apartments, Inc. 286 A.2d 658 (Pa.Super. 1971). Consequently, the Court finds that the written provisions in the Assignments regarding warranty of title are controlling in this matter.

Therefore, Plaintiff's Motion for Summary Judgment is hereby GRANTED and Plaintiff is awarded the sum of \$35,472.80, representing the \$30,580.00 due under the terms of the Assignment and the Assignment of the Right of Way signed by the parties, plus interest at 6% per annum.

By the Court:



Judge James J. Cawley  
President Judge

FILED

RECEIVED  
APR 02 2004  
2nd DISTRICT COURT  
CLERK'S OFFICE  
WILLIAM A. SHAW  
PROTHONOTARY

APR 05 2004

William A. Shaw  
Prothonotary

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

**ALLEGHENY ENTERPRISES, INC.,**

**Plaintiff,**

**vs.**

**MID-EAST OIL COMPANY,**

**Defendant.**

**No. 01 –1776 CD**

**Praecipe to Enter Judgment**

FILED By:

Mid-East Oil Company,  
Defendant

COUNSEL OF RECORD FOR  
THIS PARTY:

Wayne A. Kablack, Esq.  
Supreme Court ID No. 25818

Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, Pennsylvania 15701  
Phone: 724-465-5559

**FILED**

APR 30 2004

7/1/2011  
William A. Shaw  
Prothonotary

1 copy to ATTY KABLACK

#20

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

ALLEGHENY ENTERPRISES, INC.,

Plaintiff,

vs.

No. 01-1776 CD

MID-EAST OIL COMPANY,

Praecipe to Enter Judgment

Defendant.

**PRAECIPE TO ENTER JUDGMENT**

TO: Prothonotary of Clearfield County

Kindly enter judgement in favor of Plaintiff and against the Defendant based on the Order of Court dated April 2, 2004, wherein Plaintiff's Motion for Summary Judgment was granted.



Wayne A. Kablack, Esq.  
Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, PA 15701

Date: April 26, 2004

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

ALLEGHENY ENTERPRISES, INC.,

Plaintiff,

vs.

No. 01-1776 CD

MID-EAST OIL COMPANY,

Praecipe to Enter Judgment

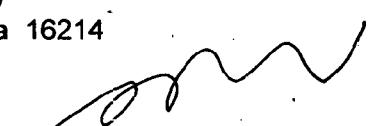
Defendant.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the Praecipe to Enter Judgment filed at the above captioned term and docket number, was served upon the individuals listed below by first class United States mail, postage prepaid at Indiana Pennsylvania, this 27<sup>th</sup> day of April 2004.

Terry R. Heeter, Esq.  
The Kooman Law Firm  
Marianne Professional Center  
P.O. Box 700  
Clarion, Pennsylvania 16214

Wayne A. Kablack, Esq.  
Simpson, Kablack, & Bell  
834 Philadelphia Street  
Indiana, PA 15701



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

## ALLEGHENY ENTERPRISES, INC.,

**Plaintiff,**

vs.

No. 01-1776 CD

## **MID-EAST OIL COMPANY,**

## **NOTICE OF APPEAL**

**Defendant.**

FILED ON BEHALF OF:

Mid-East Oil Company,  
Defendant

**COUNSEL OF RECORD FOR  
THIS PARTY:**

Wayne A. Kablack, Esq.  
Supreme Court ID No. 25318

Simpson, Kablack & Bell  
834 Philadelphia Street  
Indiana, Pennsylvania 15701  
Phone: 724-465-5559

FILED

APR 30 2004

017:00/4

William A. Shaw  
Prthonotary

### 1. CEMT TO SUPERIOR CT-W/CHFC

1 cent to Atg.

421

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

ALLEGHENY ENTERPRISES, INC., :  
Plaintiff, :  
vs. : No. 01-1776 CD  
MID-EAST OIL COMPANY, : NOTICE OF APPEAL  
Defendant. :  
:

**NOTICE OF APPEAL**

Notice is hereby given that Mid-East Oil Company, the Defendant named above, hereby appeals to the Superior Court of Pennsylvania from the Order dated April 2, 2004 granting Plaintiff's Motion for Summary Judgment, which Order was filed on April 5, 2004. This Order has been entered in the docket as evidenced by the attached copy of the Docket Entries.

Respectfully submitted,

Simpson, Kablack, & Bell  
834 Philadelphia Street  
Indiana, PA 15701

by:   
Wayne A. Kablack  
counsel for the Defendant/Petitioner

## Civil Other

Date		Judge
10/29/2001	Filing: Action for Declaratory Judgment Complaint Paid by: Terry R. Heeter, Esquire Receipt number: 1833342 Dated: 10/29/2001 Amount: \$80.00 (Check) One CC Sheriff	No Judge
11/13/2001	Praeclipe for appearance on behalf of Mid-East Oil Company. Filed by s/Wayne A. Kablack, Esq. no cc	No Judge
11/21/2001	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
12/10/2001	Answer to Action For Declaratory Judgment Complaint and New Matter. Filed by s/Wayne A. Kablack, Esq. no cc	No Judge
03/21/2002	Reply to New Matter. Filed by s/Terry R. Heeter, Esq. Verification s/Randy F. Stout Certificate of Service no cc	No Judge
05/23/2002	Notice of Taking Deposition, filed by Atty. Heeter no cc RE: Deposition of Lance Casaday and Mark Thompson on August 12, 2002.	No Judge
05/28/2002	Notice of Deposition of RANDY F. STOUT & Certificate of Service. Filed by s/Wayne A. Kablack, Esq. no cc	No Judge
10/23/2003	Motion for Summary Judgment filed by Atty. Heeter. No cc. Praeclipe For Argument. filed by s/Terry R. Heeter, Esq. no cc	No Judge Fredric Joseph Ammerman
11/18/2003	Response To Plaintiff's Motion For Summary Judgment. filed by, s/Wayne A. Kablack, Esquire no cc Certificate Of Service, Defendant's Response to Plaintiff's Motion for Summary Judgment upon: TERRY R. HEETER, ESQUIRE. by the Court, s/Wayne A. Kablack, Esquier No cc	No Judge No Judge
12/10/2003	ORDER, AND NOW, this 9th day of December, 2003, re: Argument on Plaintiff's Motion for Summary Judgment scheduled for Friday, January 16, 2004, at 3:00 p.m. by the Court, s/FJA,J. 2 cc Atty Heeter w/memo re: service	Fredric Joseph Ammerman
01/08/2004	Motion For Continuance. filed by, Atty Kablack. 2 cc Atty Kablack	Fredric Joseph Ammerman
01/12/2004	ORDER, AND NOW, this 9th day of January, 2004, re: Hearing scheduled for January 16, 2004 at 3:00 p.m. in Courtroom #1 is hereby CONTINUED until the 23rd day of January, 2004, at 9:00 a.m. in Courtroom #1. by the Court, s/FJA,P.J. 2 cc Atty Kablack w/service memo	Fredric Joseph Ammerman
01/14/2004	Affidavit of Service, Motion For Continuance upon TERRY R. HEETER, ESQUIRE. filed by, s/Wayne A. Kablack, Esquire no cc	Fredric Joseph Ammerman
01/21/2004	Transcript of Oral Depositions of Mark Thompson and Lance Casaday. filed. no cc	Fredric Joseph Ammerman
01/23/2004	ORDER, NOW, this 23rd day of January, 2004, re: Defense has no more than 15 days from this date to supply the Court w/appropriate Brief and references to those areas of testimony contained within the depositions that they feel are relevant to their defense of the Motion. by the Court, s/FJA,P.J. 1 cc Atlys Heeter, Kablack	Fredric Joseph Ammerman
02/09/2004	Certificate of Service, Defendant's Brief in Opposition to Plaintiff's Motion for Summary Judgment upon Terry R. Heeter, Esq. filed by, s/Christopher S. Welch, Esq. no cc	Fredric Joseph Ammerman

Apr. 26 '04 14:56

Date: 04/26/2004

Time: 02:46 PM

Page 2 of 2

Clearfield County Court of Common Pleas

P. 4

ROA Report

Case: 2001-01776-CD

Current Judge: Fredric Joseph Ammerman

Allegheny Enterprises, Inc. vs. Mid-East Oil Company

Civil Other

Date	Judge
02/09/2004	Certificate of Service, Defendant's Brief in Opposition to Plaintiff's Motion for Summary Judgment upon Terry T. Heeter, Esq. filed by, s/Christopher S. Welch, Esq. no cc
04/05/2004	Order NOW this 2nd day of April, 2004 following oral argument and the submission of briefs on Plff. Motion of Summary Judgment. S/FJA 2 CC to Atty. Kablock 2 CC to Atty. Heeter.

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

**ALLEGHENY ENTERPRISES, INC.,**

**Plaintiff,**

**vs.**

**No. 01-1776 CD**

**MID-EAST OIL COMPANY,**

**NOTICE OF APPEAL**

**Defendant.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the Defendant's Notice of Appeal filed at the above captioned term and docket number, was served upon the individuals listed below by first class United States mail, postage prepaid at Indiana Pennsylvania, this 27<sup>th</sup> day of April, 2004.

Terry R. Heeter, Esq.  
The Kooman Law Firm  
Marianne Professional Center  
P.O. Box 700  
Clarion, Pennsylvania 16214

The Honorable Fredrick J. Ammerman, P. J.  
Clearfield County Court of Common Pleas  
230 East Market Street  
Clearfield, PA 16830

  
Wayne A. Kablack, Esq.  
Simpson, Kablack, & Bell  
834 Philadelphia Street  
Indiana, PA 15701

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

ALLEGHENY ENTERPRISES, INC., :  
Plaintiff, :  
: v. : No. 01-1776-CD  
MID-EAST OIL COMPANY, :  
Defendant. :  
:

O R D E R

NOW this 2<sup>nd</sup> day of April 2004 following oral argument and the submission of briefs on Plaintiff's Motion for Summary Judgment, and after having considered the record as a whole, the Court finds as follows:

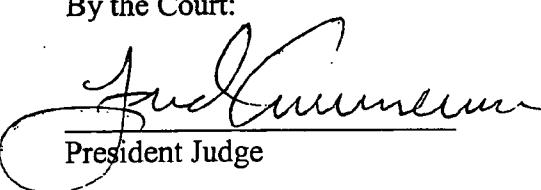
At issue in this case is the interpretation of two separate documents, one entitled "Assignment of Oil and Gas Leases" and one entitled "Right of Way Assignment" (the Lease Assignment and ROW Assignment respectively; together, the Assignments). While neither document contains an integration clause, it is apparent that the ROW Assignment is an integrated document and that the Lease Assignment is not an integrated document.

While the Lease Assignment is not a completely integrated document, one of its provisions does contain unequivocal language dealing with the issue of warranty of title. The Court finds the Lease Assignment to be integrated as to that point contained in the Lease Agreement. Henry v. First Federal Savings & Loan Association of Greene County, 459 A.2d 772 (Pa.Super. 1983). Consequently, the Court is precluded from considering parol evidence regarding prior or contemporaneous agreements or understandings between the parties on that point. Kehr Packaging v. Fidelity Bank, 710 A.2d 1169 (Pa.Super. 1998).

Additionally, Defendant failed to show by clear and convincing evidence that any subsequent oral or written modification of either Assignment occurred regarding warranty of title. Nor did Defendant show that any modification occurred based upon valid consideration, this being necessary for advancing an argument regarding subsequent modification of a written agreement. Pellegrine v. Luther, 403 Pa. 212, 169 A.2d 298 (1961); Edelstein v. Carole House Apartments, Inc. 286 A.2d 658 (Pa.Super. 1971). Consequently, the Court finds that the written provisions in the Assignments regarding warranty of title are controlling in this matter.

Therefore, Plaintiff's Motion for Summary Judgment is hereby GRANTED and Plaintiff is awarded the sum of \$35,472.80, representing the \$30,580.00 due under the terms of the Assignment and the Assignment of the Right of Way signed by the parties, plus interest at 6% per annum.

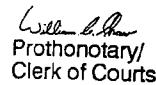
By the Court:

  
President Judge

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

APR 05 2004

Attest.

  
Prothonotary/  
Clerk of Courts

**Allegheny Enterprises, Inc. vs. Mid-East Oil Company**

Filed: 10/29/2001  
Subtype: Civil Other

Physical File: Y     Appealed: N

Comment:

**Register of Actions**

10/29/2001	Filing: Action for Declaratory Judgment Complaint Paid by: Terry R. Heeter, Esquire Receipt number: 1833342 Dated: 10/29/2001 Amount: \$80.00 (Check) One CC Sheriff	No Judge,
11/13/2001	Praeclipe for appearance on behalf of Mid-East Oil Company. Filed by s/Wayne A. Kablack, Esq. no cc	No Judge,
11/21/2001	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge,
12/10/2001	Answer to Action For Declaratory Judgment Complaint and New Matter. Filed by s/Wayne A. Kablack, Esq. no cc	No Judge,
03/21/2002	Reply to New Matter. Filed by s/Terry R. Heeter, Esq. Verification s/Randy F. Stout Certificate of Service no cc	No Judge,
05/23/2002	Notice of Taking Deposition, filed by Atty. Heeter no cc RE: Deposition of Lance Casaday and Mark Thompson on August 12, 2002.	No Judge,
05/28/2002	Notice of Deposition of RANDY F. STOUT & Certificate of Service. Filed by s/Wayne A. Kablack, Esq. no cc	No Judge,
10/23/2003	Motion for Summary Judgment filed by Atty. Heeter. No cc. Praeclipe For Argument. filed by s/Terry R. Heeter, Esq no cc	No Judge, Ammerman, Fredric Joseph
11/18/2003	Response To Plaintiff's Motion For Summary Judgment. filed by, s/Wayne A. Kablack, Esquire no cc Certificate Of Service, Defendant's Response to Plaintiff's Motion for Summary Judgment upon: TERRY R. HEETER, ESQUIRE. by the Court, s/Wayne A. Kablack, Esquier No cc	No Judge,
12/10/2003	ORDER, AND NOW, this 9th day of December, 2003, re: Argument on Plaintiff's Motion for Summary Judgment scheduled for Friday, January 16, 2004, at 3:00 p.m. by the Court, s/FJA,J. 2 cc Atty Heeter w/memo re: service	Ammerman, Fredric Joseph
01/08/2004	Motion For Continuance. filed by, Atty Kablack. 2 cc Atty Kablack	Ammerman, Fredric Joseph

**Allegheny Enterprises, Inc. vs. Mid-East Oil Company****Register of Actions**

01/12/2004	ORDER, AND NOW, this 9th day of January, 2004, re: Hearing scheduled for January 16, 2004 at 3:00 p.m. in Courtroom #1 is hereby CONTINUED until the 23rd day of January, 2004, at 9:00 a.m. in Courtroom #1. by the Court, s/FJA,P.J. 2 cc Atty Kablack w/service memo	Ammerman, Fredric Joseph
01/14/2004	Affidavit of Service, Motion For Continuance upon TERRY R. HEETER, ESQUIRE. filed by, s/Wayne A. Kablack, Esquire no cc	Ammerman, Fredric Joseph
01/21/2004	Transcript of Oral Depositions of Mark Thompson and Lance Casaday. filed. no cc	Ammerman, Fredric Joseph
01/23/2004	ORDER, NOW, this 23rd day of January, 2004, re: Defense has no more than 15 days from this date to supply the Court w/appropriate Brief and references to those areas of testimony contained within the depositions that they feel are relevant to their defense of the Motion. by the Court, s/FJA,P.J. 1 cc Atty Heeter, Kablack	Ammerman, Fredric Joseph
02/09/2004	Certificate of Service, Defendant's Brief in Opposition to Plaintiff's Motion for Summary Judgment upon Terry R. Heeter, Esq. filed by, s/Christopher S. Welch, Esq. no cc Certificate of Service, Defendant's Brief in Opposition to Plaintiff's Motion for Summary Judgment upon Terry T. Heeter, Esq. filed by, s/Christopher S. Welch, Esq. no cc	Ammerman, Fredric Joseph Ammerman, Fredric Joseph
04/05/2004	Order NOW this 2nd day of April, 2004 following oral argument and the submission of briefs on Plff. Motion of Summary Judgment. S/FJA 2 CC to Atty. Kablock 2 CC to Atty. Heeter.	Ammerman, Fredric Joseph
04/30/2004	Filing: Praeclipe to Enter Judgment Paid by: Kablack, Wayne A. Esq (attorney for Mid-East Oil Company) Receipt number: 1878192 Dated: 04/30/2004 Amount: \$20.00 (Check)	Ammerman, Fredric Joseph

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



## Appeal Docket Sheet

Docket Number: 732 WDA 2004

Page 1 of 3

May 5, 2004

01-1776-CD  
Superior Court of Pennsylvania

Allegheny Enterprises, Inc.,

v.

Mid-East Oil Company, Appellant

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: May 4, 2004 Awaiting Original Record

Journal Number:

Case Category: Civil

Case Type:

Declaratory Judgment

Consolidated Docket Nos.:

Related Docket Nos.:

## SCHEDULED EVENT

Next Event Type: Case Initiation

Next Event Due Date: May 4, 2004

Next Event Type: Docketing Statement Received

Next Event Due Date: May 18, 2004

Next Event Type: Original Record Received

Next Event Due Date: June 9, 2004

FILED *No CC*  
*m7/14/2004*  
*A*  
*MAY 10 2004*  
*KEL*

William A. Shaw  
 Prothonotary/Clerk of Courts

## Appeal Docket Sheet

Docket Number: 732 WDA 2004

Page 2 of 3

May 5, 2004

Superior Court of Pennsylvania



## COUNSEL INFORMATION

**Appellant** Mid-East Oil Company  
 Pro Se: Appoint Counsel Status:  
 IFP Status: No

**Appellant Attorney Information:**

Attorney: Kablack, Wayne Andrew  
 Bar No.: 25818 Law Firm: Simpson, Kablack & Bell  
 Address: 834 Philadelphia Street  
 Indiana, PA 15701  
 Phone No.: (724)465-5559 Fax No.: (724)465-2046  
 Receive Mail: Yes  
 E-Mail Address: wkablack@skblawyers.com  
 Receive E-Mail: No

**Appellee** Allegheny Enterprises, Inc.  
 Pro Se: Appoint Counsel Status:  
 IFP Status: No

**Appellee Attorney Information:**

Attorney: Heeter, Terry Ross  
 Bar No.: 52750 Law Firm: The Kooman Law Firm  
 Address: Marianne Professional Center  
 Box 700  
 Clarion, PA 16214  
 Phone No.: (814)226-9100 Fax No.: (814)226-7361  
 Receive Mail: Yes  
 E-Mail Address: |0  
 Receive E-Mail: No

## FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
4/30/04	Notice of Appeal	60.00	60.00	2004SPRWD000544

## TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

County: Clearfield Division: Civil

Date of Order Appealed From: April 2, 2004 Judicial District: 46

Date Documents Received: May 4, 2004 Date Notice of Appeal Filed: April 30, 2004

Order Type: Order Dated OTN:

Judge: Ammerman, Fredric J. Lower Court Docket No.: No. 01-1776 CD  
 President Judge

## ORIGINAL RECORD CONTENTS

## Appeal Docket Sheet

Docket Number: 732 WDA 2004

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May 5, 2004

Superior Court of Pennsylvania



Original Record Item	Filed Date	Content/Description
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Date of Remand of Record:	
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BRIEFS			
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DOCKET ENTRIES			
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Filed Date	Docket Entry/Document Name	Party Type	Filed By
May 4, 2004	Notice of Appeal Filed	Appellant	Mid-East Oil Company
May 4, 2004	Docketing Statement Exited (Civil)		Lower Court or Agency



## Superior Court of Pennsylvania

David A. Szewczak, Esq.  
Prothonotary  
Eleanor R. Valecko  
Deputy Prothonotary

Western District

May 5, 2004

600 Grant Building  
Pittsburgh, PA 15219  
412-565-7592  
[www.superior.court.state.pa.us](http://www.superior.court.state.pa.us)

Mr. William A. Shaw  
Prothonotary  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

Re: 732 WDA 2004  
Allegheny Enterprises, Inc.,  
v.  
Mid-East Oil Company, Appellant

Dear Mr. Shaw:

Enclosed please find a copy of the docket for the above appeal that was recently filed in the Superior Court. Kindly review the information on this docket and notify this office in writing if you believe any corrections are required.

Appellant's counsel is also being sent a Docketing Statement, pursuant to Pa.R.A.P. 3517, for completion and filing. Please note that Superior Court Dockets are available on the Internet at the Web site address printed at the top of this page. Thank you.

Very truly yours,

Eleanor R. Valecko  
Deputy Prothonotary

GJM