

01-1799-CD  
COUNTY NATIONAL BANK et al -vs- BARRY LUMADUE et al

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

County National Bank, the Executor :  
of the Estate of Marie G. Mitchell :  
and as attorney-in-fact for the :  
Anna Dougherty Trust, :  
Petitioners :  
: No. 01-1799 C.D.  
vs. :  
: PETITION TO OPEN  
Barry Lumadue and Cathey Lumadue, : PRIVATE ROAD  
Respondents :  
:

Filed on behalf of  
Petitioners

Counsel of Record for  
this Party:

Carl A. Belin, Jr.  
Attorney-at-Law  
Pa. I.D. 06805

Belin & Kubista  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830

(814) 765-8972

**FILED**

OCT 31 2001

William A. Shaw  
Prothonotary

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

County National Bank, the Executor :  
of the Estate of Marie G. Mitchell :  
and as attorney-in-fact for the :  
Anna Dougherty Trust, :  
Petitioners :  
: : No. 01-1799. C.D.  
vs. :  
: :  
Barry Lumadue and Cathey Lumadue, :  
Respondents :  
:

ORDER

AND NOW, this 31 day of Oct, 2001, upon  
reading and considering the foregoing Petition, a rule is  
hereby issued to show cause why a Board of View should not be  
appointed in the above-captioned action to determine the  
necessity of the road.

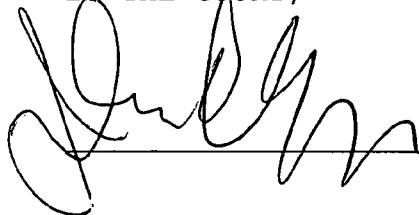
Rule returnable November 20, 2001, and  
hearing to be held if necessary on the 7th day of  
December, 2001, at 2:30 o'clock P M. in Courtroom  
No. 1 of the Clearfield County Courthouse, Clearfield,  
Pennsylvania.

**FILED**

OCT 31 2001

William A. Shaw  
Prothonotary

BY THE COURT,



**FILED**

OCT 3 1 2001  
2001/30/36 - at the Belm  
William A. Shaw  
Prothonotary

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

County National Bank, the Executor :  
of the Estate of Marie G. Mitchell :  
and as attorney-in-fact for the :  
Anna Dougherty Trust, :  
Petitioners :  
: : No. 01-1799 C.D.  
vs. :  
: :  
Barry Lumadue and Cathey Lumadue, :  
Respondents :  
:

PETITION TO OPEN A PRIVATE ROAD

NOW COMES, the Petitioners, and by and through their attorneys Belin & Kubista, file the following petition to open a private road, and in support thereof aver as follows:

1. That the Petitioners are County National Bank, Executor of the Estate of Marie G. Mitchell and the Anna Dougherty Trust whose address is P.O. Box 42, 7 South Second Street, Clearfield, Pennsylvania.
2. The Respondents are Barry Lumadue and Cathey Lumadue, his wife, whose address is R.R. 1, Box 263, West Decatur, Pennsylvania.
3. That the Petitioners are the owners of a tract of land consisting of 101.2 acres which is further identified in the Clearfield County Tax Maps as Parcel Number 105-M9-52, which is located in Boggs Township, Clearfield County,

Clearfield Pennsylvania, more particularly bounded and described as follows:

BEGINNING at pitch pine corner of Harbison-Walker Co., and George Lauder; thence by land formerly of George Lauder and William Turner South four (4°) degrees fifteen (15') minutes West two thousand four hundred sixty-six (2,466) feet to stones; thence by H. Butler North eighty-four (84°) degrees West one thousand seven hundred fifty-five (1,755) feet to corner; thence by land formerly of W.G. Kelly North three (3°) degrees forty-five (45') minutes East two thousand five hundred ten (2,510) feet to corner; thence by land of Hiram Goss and Harbison-Walker Co. South eighty-three (83°) degrees ten (10) minutes East two thousand sixty-five (2,065) feet to place of beginning. Containing 101.2 acres. ("the property").

4. Respondents are the owners of a tract of land consisting of 43.3 acres which is further identified in the Clearfield County Tax Maps as Parcel Number 105-M9-9.

5. That Petitioners' tract of land is landlocked as there is no public road leading to the property.

6. That Petitioners have secured a right-of-way over an existing dirt road but for that section of the road which extends through the Respondents' property to the Petitioners' property by virtue of a final judgment in a quiet title action

in the court of Common Pleas of Clearfield County, Pennsylvania to No. 00-1034-CD.

7. That Petitioners also joined Respondents in said quiet title action but have decided to discontinue said action as to Respondents.

8. That an existing dirt road traverses the northern edge of the Respondents' property and leads from L.R. 17042 to the right-of-way secured by the Quiet Title Action to Respondents' property referred to in Paragraph 6 herein.

9. That Petitioners request that the Court appoint a board of view and direct a view to be held at the place where the road is requested in accordance with Act of 13 June 1836, June 13, P.L. 551, § 11, as amended 36 P.S. § 2731 et. seq.

WHEREFORE, Petitioners request Your Honorable Court to appoint a Board of View to view the property and determine whether said road is necessary to access the property of Petitioners.

Respectfully Submitted,

BELIN & KUBISTA

By \_\_\_\_\_  
Carl A. Belin, Jr., Esq.

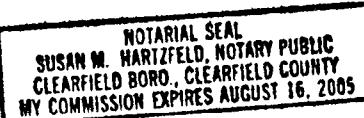
COMMONWEALTH OF PENNSYLVANIA :  
: SS.  
COUNTY OF CLEARFIELD :  
:

On this the 31<sup>st</sup> day of October, 2001, before  
me, a notary public, the undersigned officer, personally  
appeared Calvin R. Thomas, Jr., Assistant Vice President and  
Trust Officer of County National Bank, Executor of the Last Will  
and Testament of Marie G. Mitchell, and Attorney-in-Fact for the  
Anna Dougherty Trust and that he as such officer is authorized  
to do so, acknowledged that facts contained in the foregoing  
Petition to Open Private Road are true and correct to the best  
of his knowledge, information and belief.

Calvin R Thomas Jr.  
Calvin R. Thomas, Jr.

Sworn and Subscribed to this 31<sup>st</sup> day of October,  
2001.

Susan M. Harizfeld  
Notary Public



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

County National Bank, the Executor :  
of the Estate of Marie G. Mitchell :  
and as attorney-in-fact for the :  
Anna Dougherty Trust, :  
Petitioners :  
: No. 01-1799- C.D.  
v. :  
: Barry Lumadue and Cathey Lumadue, :  
Respondents :  
:

ACCEPTANCE OF SERVICE

I accept service of the Petition to Open Private Road on  
behalf of Respondents Barry Lumadue and Cathey Lumadue, and  
certify that I am authorized to do so.

Please enter my appearance for Respondents Barry Lumadue  
and Cathey Lumadue in the above-captioned matter.

DATE: 10/31/01

  
Kim C. Kesner, Esquire  
23 North Second Street  
Clearfield, PA 16830  
Attorney for Respondents  
Barry Lumadue and  
Cathey Lumadue

**FILED**

NOV 01 2001

6/10:45 AM  
William A. Shaw  
Notary Public

No. 91



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

COUNTY NATIONAL BANK, the  
Executor of Marie G. Mitchell and  
as Attorney-in-Fact for the Anna  
Dougherty Trust, Petitioners

VS.

BARRY LUMADUE and CATHEY  
LUMADUE,

## Respondents

- \* Type of Pleading: Answer to Petition
- \* to Open A Private Road and
- \* Written Response to Rule

\* Counsel of Record for Respondents:

\* Kim C. Kesner, Esquire  
\* Supreme Court I.D. #28307  
\* 23 North Second Street  
\* Clearfield, PA 16830  
\* Phone: (814) 765-1706  
\* Fax: (814) 765-7006

\* Other Counsel of Record:

\* Carl A. Belin, Jr.  
\* Attorney for Petitioners  
\* P. O. Box 1  
\* Clearfield, Pa., 16830  
\* (814) 765-8972

FILED

NOV-2 2001

William A. Shaw  
Prothonotary

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

COUNTY NATIONAL BANK, the	*
Executor of Marie G. Mitchell and	*
as Attorney-in-Fact for the Anna	*
Dougherty Trust, Plaintiffs	*
	*
vs.	*
	No. 01-1799-CD
	*
BARRY LUMADUE and CATHEY	*
LUMADUE, Respondents	:

**ANSWER TO PETITION TO OPEN A PRIVATE ROAD**  
**AND WRITTEN RESPONSE TO RULE**

TO: The Honorable John K. Reilly, Jr., President Judge:

AND NOW, COMES the Respondents, Barry Lumadue and Cathey Lumadue, by their counsel, Kim C. Kesner, Esquire, who file the following:

**I. ANSWER TO PETITION TO OPEN A PRIVATE ROAD**

1. The averments contained in paragraph 1 of the Petition are admitted.
2. The averments contained in paragraph 2 of the Petition are admitted.
3. The Respondents are without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 3 of the Petition which include allegations of ownership and property boundaries which are subject to proof.
4. The averments contained in paragraph 4 of the Petition are admitted except that Respondents' property is identified as Clearfield County Assessment Map No. 105-M9-10.
5. Respondents admit that there is no state or township road along or on the property identified by Clearfield County Tax Map No. 105-N9-52. Otherwise, Respondents are without

sufficient knowledge or information to form a belief as to the truth of the balance of the allegations and strict proof thereof is requested.

6. Respondents are without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 6 to which proof is required. By way of further answer, the allegations contained in paragraph 6 constitute conclusions or contentions of law to which no response is required.

7. It is admitted that Respondents are named as Defendants in that Action to Quiet Title filed in the Court of Common Pleas of Clearfield County at No. 00-1034-CD. To date, the action has not been discontinued as to Respondents.

8. It is admitted that there is an existing dirt travel way over and upon Respondent's property. Otherwise, Respondents are without sufficient knowledge, information or belief to form an opinion as to the truth of the remaining allegations for which proof is required. By way of further answer, portions of the allegations contained in paragraph 8 constitute conclusions or contentions of law to which no response is required.

9. The averments contained in paragraph 9 constitute a prayer for relief to which no response is required. To the extent that an answer is required, Respondents acknowledge that Petitioners are entitled to commence proceedings to open a private road under 36 P.S. §2731.

## II. WRITTEN RESPONSE TO RULE

10. On October 31, 2001, upon consideration of the Petition to Open a Private Road, this Court issued a "Rule Returnable November 20, 2001 and hearing to be held if necessary on the 7<sup>th</sup> day of December, 2001 at 2:30 o'clock p.m. in Court Room No. 1 of the Clearfield County Courthouse, Clearfield, Pa."

11. The Order does not specify the method for return of the Rule.

12. Local Rule 206 provides that Rules to Show Cause shall be answered by "filing written response". Rule 206(i). However, it has been the custom of this Court to issue Rules Returnable by appearance.

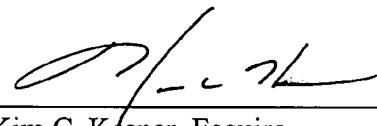
13. Respondents are confused as to the intents of the Court for the proper construction to be given to its Order of October 31, 2001. Respondents acknowledge that Petitioners may commence proceedings to open a private road under 36 P.S. §2731 by the filing of a Petition, and that upon the filing of such Petition, the Court shall direct that a View be had by a Board of Viewers. Thus, while Respondents acknowledge that this Court may direct a view under 36 P.S. §2731 et seq., without further proceedings, they do not wish to waive any rights or defenses they may have by failing to return this Court's Rule.

14. Therefore, Respondents file this Written Response to this Court's Rule in order to preserve any rights, entitlements or defenses they may have in proceedings to be conducted.

15. Respondents do not request that a Hearing be conducted on December 7, 2001, on Petitioner's right to proceedings to open a private road.

16. However, Respondents do request an opportunity to submit written comments or objections to any further Order entered by the Court upon the Petition.

Respectfully submitted,

  
\_\_\_\_\_  
Kim C. Kesner, Esquire

Attorney for Respondents

I, Kim C. Kesner, Attorney for Respondents and on their behalf, verify that the statements made in this Answer and Written Response are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Neither of the Respondents were available at the time this Answer/Written Response was prepared to endorse a verification. An additional verification will be supplied upon request.

Date: 11/20/01



Kim C. Kesner, Esquire  
Attorney for Respondents

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

County National Bank, the Executor :  
of the Estate of Marie G. Mitchell :  
and as attorney-in-fact for the :  
Anna Dougherty Trust, :  
Petitioners :  
: No. 01 - 1799 - C.D.  
vs. :  
: Barry Lumadue and Cathey Lumadue, :  
Respondents :  
:

ORDER

AND NOW, this 7th day of December, 2001, upon reading and  
considering the foregoing Petition and Answer thereto it is the  
ORDER of the Court that Richard M. Kelly,  
James J. St., and Ed Paulino, are hereby  
appointed Viewers to consider the location of a private road as  
requested in said Petition and to determine the damages  
therefor.

BY THE COURT,

FILED

DEC 06 2001

6/20/01  
William A. Shaw  
Prothonotary

6 cent to Atty Brian

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

County National Bank, the Executor :  
of the Estate of Marie G. Mitchell :  
and as attorney-in-fact for the :  
Anna Dougherty Trust, :  
Petitioners :  
: : No. 01 - 1799 - C.D.  
vs. :  
: :  
Barry Lumadue and Cathey Lumadue, :  
Respondents :  
:

ORDER

AND NOW, this 7th day of December, 2001, upon reading and  
considering the foregoing Petition and Answer thereto it is the  
ORDER of the Court that J.R. MATERN, Esq.,  
Samuel Yost, and Evo FACCHINE, are hereby  
appointed Viewers to consider the location of a private road as  
requested in said Petition and to determine the damages  
therefor.

BY THE COURT,

---

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

COUNTY NATIONAL BANK, the  
Executor of Marie G. Mitchell and  
as Attorney-in-Fact for the Anna  
Dougherty Trust, Plaintiffs

VS.

BARRY LUMADUE, CATHEY LUMADUE, DALE KNEPP, DAVID LAIRD, STACY LAIRD, ELMER C. LAIRD, LANA G. LAIRD, WENDY GREEN, PENNSYLVANIA ELECTRIC COMPANY, LOREN GREEN, ELLEN GREEN, THOMAS LUZIER, JOSEPH GILLILAND, CLEARFIELD CYCLE CLUB, KENNETH WISOR, DEBBIE WISOR, RICHARD ROWLES, COLEEN ROWLES, WILLIAM RAUCH, CINDY KAY RAUCH, DELBERT WISOR and JUDY WISOR, Defendants

**FILED**

FEB 08 2002

William A. Shaw  
Prothonotary

and

COUNTY NATIONAL BANK, the  
Executor of Marie G. Mitchell and  
as Attorney-in-Fact for the Anna  
Dougherty Trust, Petitioners

\* No. 01-1799-CD

## Type of Pleading: Stipulation and Consent Order

vs.

BARRY LUMADUE and CATHEY  
LUMADUE,  
Respondents

\* Counsel of Record for This Party:

Kim C. Kesner, Esquire  
Supreme Ct. I.D. #28307  
23 North Second Street  
Clearfield, PA 16830  
Phone: (814) 765-1706  
Fax: (814) 765-7006

**Other Counsel of Record:**

\* Carl A. Belin, Jr.  
\* Attorney for Plaintiffs  
\* P. O. Box 1  
\* Clearfield, Pa., 16830  
\* (814) 765-8972

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COUNTY NATIONAL BANK, :  
Executor of the Estate of  
Marie G. Mitchell and as  
Attorney-in Fact for the  
Anna Dougherty Trust.

1799  
NO. 01-1799-CD

Petitioners :

VS. :

BARRY LUMADUE and  
CATHEY LUMADUE

Respondents

Type of Case: PETITION TO  
OPEN PRIVATE ROAD

Type of Pleading: REPORT OF  
BOARD OF VIEWERS, SCHEDULE  
OF FEES & COSTS, AND ORDER  
FOR PAYMENT.

Filed on Behalf of:  
BOARD OF VIEWERS

Counsel of Record for this Party:

J. RICHARD MATTERN II, ESQ.  
Attorney ID# 06817  
CHAIRMAN, BOARD OF VIEWERS  
211 East Pine Street  
Clearfield, Pa. 16830  
(814) 765-6416

**FILED**

FEB 19 2002

William A. Shaw  
Prothonotary

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

COUNTY NATIONAL BANK, :  
The Executor of the Estate of :  
Marie G. Mitchell and as :  
Attorney-in Fact for the :  
Anna Dougherty Trust, :  
Petitioners :  
VS. : NO. 01-1779-CD  
BARRY LUMADUE and :  
CATHEY LUMADUE, :  
Respondents :  
:

REPORT OF VIEWERS

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

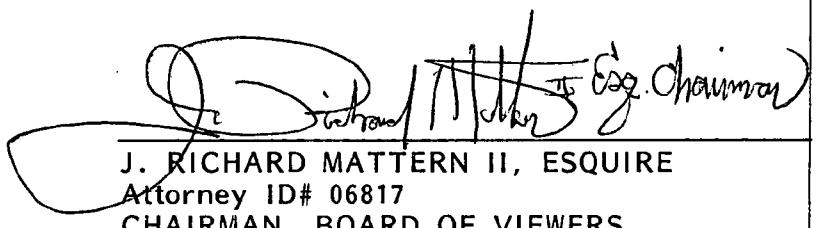
J. Richard Mattern, II, Esq., Chairman of the Board of Viewers  
respectfully represents:

1. A Petition to Open a Private Road was filed by County National Bank, Executor, Petitioner, whose address is P.O. Box 42, 7 South Second Street, on October 31st., 2001.
2. The Respondents are Barry Lumadue and Cathey Lumadue, his wife, whose address is R R 1, Box 23, West Decatur, Pennsylvania.
3. By Order of your Honorable Court dated December 7th., 2001, pursuant to Petition of the Petitioner, J. Richard Mattern II, Esq., Samuel B. Yost and Evo G. Facchine were appointed Board of Viewers to consider location of a road and to determine the damages therefor. See Exhibit "A", attached hereto.
4. On December 7th., 2001, Chairman Mattern received written communication from Carl A. Belin, Jr. Counsel for the Petitioner of their being so appointed, and were requested to schedule a View and Hearing.

5. Pursuant to that request Chairman Mattern contacted the Attorneys for the respective parties and members of the Board to determine a date to schedule the View and Hearing.
6. That on December 11th., 2001 Chairman Mattern did prepare a Notice of View, scheduling such for January 15th., 2002, and mailed the same to all parties by U.S. Mail, First Class. A copy of said Notice is attached hereto and marked Exhibit "B".
7. That on the morning of January 15th., 2002 at 9:15 A.M. the Board did review all papers filed in the action; and, subsequent to this did travel to the property site and conduct its view, return to the office of Carl A. Belin, Esq. at approximately 11:00 A.M. where a brief conference was held to determine a date for the Hearing.
8. Said Hearing date was set for March 20th, 2002 at 9:00 A.M. at the Office of the County Commissioners Conference Room; and Notice of this was prepared by Chairman Mattern and mailed to all parties U.S. Mail First Class. A copy of said Notice is attached hereto and marked Exhibit "C".
9. By written communication dated February 8th., 2002, Chairman Mattern was notified by Carl A. Belin, Jr. Esquire that the case had been settled by Stipulation and Order and enclosed a copy of said Stipulation and Order, which Order indicated that the Board of View appointed by Court Order dated December 7th., 2001 is therefore released from any further duty. A copy of said Letter, Stipulation and Consent Order is attached hereto marked Exhibit "D".
10. Said letter further directed the Chairman to send to the Court the Board's application for fees and copy Attorney Belin. By phone communication the Chairman was directed to have the Court Order payment of the Board's fees by the Petitioner, County National Bank, Executor.
11. That despite the settlement of this case, the Board of Viewers have incurred fees and expenses in the preparation for View and Hearing, scheduling of View and Hearing, attending the View and in preparing this Report for the Court.

12. Your Petitioner, Board of View Chairman Mattern hereby submits for the Court's approval a Schedule of Costs and Fees and an Order for County National Bank, Executor of the Estate of Marie G. Mitchell and as Attorney-In-Fact for the Anna Dougherty Trust, to pay said fees and costs.

Respectfully submitted,



J. RICHARD MATTERN II, ESQUIRE  
Attorney ID# 06817  
CHAIRMAN, BOARD OF VIEWERS

Date: February 15<sup>th</sup>, 2002

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

COUNTY NATIONAL BANK, :  
Executor of the Estate of  
Marie G. Mitchell and as  
Attorney-in-Fact of the  
Anna Dougherty Trust, : NO. 01-1779-CD

Petitioners :

VS,

BARRY LUMADUE and :  
CATHEY LUMADUE, :

Respondents :

BOARD OF VIEWERS  
SCHEDULE OF FEES AND COSTS

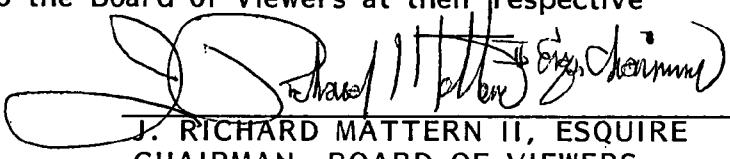
TO BE PAID BY

COUNTY NATIONAL BANK,  
Executor of the Estate of Marie Mitchell  
And as Attorney-in-Fact of the Anna Dougherty Trust

Payable to :	SAMUEL B. YOST R.D.# 2, Box 111 Clearfield, Pa. 16830	
	Three (3) hours @ \$70.00 per hour:	\$210.00
	Twenty (20) miles @ .365¢ per mile:	7.30
	Due and Payable to Samuel B. Yost:	\$217.30
Payable to:	EVO G. FACCHINE 407 Patterson Avenue DuBois, Pa. 15801	
	Three (3) Hours @ \$70.00 per hour:	\$210.00
	Forty-Four (44) Miles @ .365¢ per mile:	16.06
	Due and payable to Evo G. Facchine	\$226.06
Payable to:	J. RICHARD MATTERN II, CHAIRMAN 211 East Pine Street Clearfield, Pa. 16830	
	Eight and One-Half (8½) hrs. at \$70.00 per hour:	\$595.00
	Postage: 10 x .34¢	3.40
	Due and payable to J. Richard Mattern II, Esquire	\$598.40

Please mail all checks directly to the Board of Viewers at their respective addresses.

Date: February 15<sup>th</sup> 2002

  
J. RICHARD MATTERN II, ESQUIRE  
CHAIRMAN, BOARD OF VIEWERS

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

COUNTY NATIONAL BANK, :  
Executor of the Estate of  
Marie G. Mitchell and as  
Attorney-in-Fact of the  
Anna Dougherty Trust,

Petitioners, : *1799*  
NO. 01-1799-CD

VS. :

BARRY LUMADUE and  
CATHEY LUMADUE, :

Respondents :

O R D E R

AND NOW, this 19<sup>th</sup> day of February, 2002 the Court acknowledges the filing of the Report of Viewers, together with the attached Schedule of Fees and Costs, and ORDERS that the COUNTY NATIONAL BANK, Executor of the Estate of Marie G. Mitchell and as Attorney-in-Fact of the Anna Dougherty Trust, pay for the services rendered and costs incurred in the above captioned case the sum of Two Hundred Seventeen Dollars and Thirty Cents (\$217.30) to Samuel B. Yost, the sum of Two Hundred Twenty-Six Dollars and Six Cents (\$226.06) to Evo G. Facchine, and the sum of Five Hundred Ninety-Eight Dollars and Forty Cents (\$598.40) to J. Richard Mattern II, Esquire, directly to the Board of Viewers at the addresses noted.

BY THE COURT:

*John K. Reilly, Jr.*  
JOHN K. REILLY, JR., PRESIDENT JUDGE

FILED

FEB 19 2002

William A. Shaw  
Prothonotary

**FILED**

10:30 AM  
FEB 19 2002

3cc  
Atty Mather  
LAW

William A. Shaw  
Prothonotary

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

County National Bank, the Executor :  
of the Estate of Marie G. Mitchell :  
and as attorney-in-fact for the :  
Anna Dougherty Trust, :  
Petitioners :  
: No. 01 - 1799 - C.D.  
vs. :  
: Barry Lumadue and Cathey Lumadue, :  
Respondents :  
:

ORDER

AND NOW, this 7th day of December, 2001, upon reading and  
considering the foregoing Petition and Answer thereto it is the  
ORDER of the Court that J.R. Mattern, Esq.,  
Samuel Yost, and Evo Faccine, are hereby  
appointed Viewers to consider the location of a private road as  
requested in said Petition and to determine the damages  
therefor.

BY THE COURT,

/s/ JOHN K. REILLY, JR.

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

DEC 06 2001

Attest.

*Wendell*  
Prothonotary/  
Clerk of Courts

EXHIBIT "A"

**BELIN & KUBISTA**  
ATTORNEYS AT LAW  
15 NORTH FRONT STREET  
P. O. BOX 1  
CLEARFIELD, PENNSYLVANIA 16830

CARL A. BELIN, JR.  
KIMBERLY M. KUBISTA

CARL A. BELIN  
1901-1997

AREA CODE 814  
TELEPHONE 765-8972  
TELECOPIER (814) 765-9893

cc: [redacted]

December 6, 2001

J. Richard Mattern, II, Esquire  
211 East Pine Street  
Clearfield, PA 16830

Mr. Samuel Yost  
Baney Settlement  
Clearfield, PA 16830

Mr. Evo Facchine  
407 Patterson Avenue  
DuBois, PA 15801

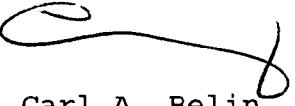
In re: County National Bank, the Executor of the Estate  
of Marie G. Mitchell and as attorney-in-fact for  
the Anna Dougherty Trust, Petitioners v. Barry  
Lumadue and Cathey Lumadue, Respondents  
No. 01-1799-CD

Gentlemen:

Enclosed find an Order appointing you the Board of Viewers  
concerning a petition to consider location of a private road.  
The attorney for Petitioners is Carl A. Belin, Jr., Belin &  
Kubista, P.O. Box 1, Clearfield, PA 16830, 814-765-8972; and  
for Respondents is Kim C. Kesner, 23 North Second Street,  
Clearfield, PA 16830, 814-765-1706.

Very truly yours,

BELIN & KUBISTA

  
Carl A. Belin, Jr.

CABjr:smh

Enclosure

cc: Kim C. Kesner, Esquire, w/enclosure  
Mr. Calvin R. Thomas, Jr., w/enclosure

12/7/01 - in TRUSS

10:30 - 11:30 - Setting New Hay Bales

11:30 - 12:00 (2nd Round of Bales)

1/13/02

VIEW 9:30

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

County National Bank,  
the Executor of the Estate of  
Marie G. Mitchell and as  
attorney-in-fact for the Anna  
Doughery Trust,

Petitioners

No. 01-1779-CD

vs.

Barry Lumadue and Cathey  
Lumadue,

Respondents

**NOTICE OF VIEW AND HEARING**

To: **Samuel B. Yost**  
**Evo G. Facchine**  
**Carl A. Belin, Jr., Esquire**  
**Kim C. Kesner, Esquire**  
**Calvin R. Thomas, Jr., Asst. VP/Trust Officer**  
**County National Bank**

You are hereby notified that J. Richard Mattern, II, Esquire, Samuel B. Yost and Evo G. Facchine, Board of Viewers in the above captioned matter, appointed by Order of Court on December 7, 2001, will hold a View on property owned by the Petitioners and Respondents, located in West Decatur, Boggs Township, Clearfield County, Pennsylvania on Tuesday, January 15, 2001, at 10:00 AM to determine the necessity of a road over the Respondents' property and to determine the damages therefore. Following this View, there will be a hearing regarding the matters if such is requested by the Petitioners and

EXHIBIT "B"

Respondents at a location in Clearfield, Pa., to be designated by counsel for the respective parties.

In the event of in climate weather making it impossible to travel, the rain date for said View will be Thursday, January 31, 2001 at 10:00 AM.

Date: December 11, 2001

  
J. RICHARD MATTERN, II, ESQUIRE  
Attorney ID# 06817  
CHAIRMAN, BOARD OF VIEWERS  
211 East Pine Street  
Clearfield, Pa., 16830  
(814) 765-6416

**CERTIFICATE OF SERVICE**

I, J. RICHARD MATTERN, II, Esquire, Chairman of the Board of Viewers, hereby certify that a true and correct copy of a NOTICE OF VIEW AND HEARING (to be held on January 15, 2001 was served by U.S. Mail, First Class, this 11th day of December, 2001, upon the following:

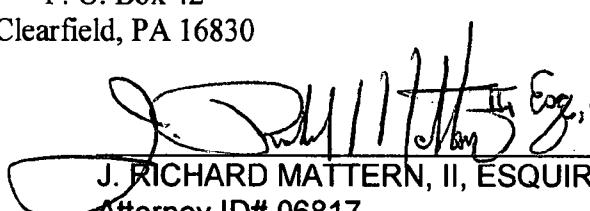
Samuel B. Yost  
Board of Viewers  
R. D. 2, Box 111  
Clearfield, Pa., 16830

Evo G. Facchine  
Board of Viewers  
407 Patterson Avenue  
Dubois, Pa., 15801

Carl A. Belin, Jr., Esq.  
Attorney for Petitioners  
15 North Front Street  
Clearfield, PA 16830

Kim C. Kesner, Esq.  
Attorney for Respondents  
23 North Second Street  
Clearfield, PA 16830

Calvin R. Thomas, Jr.  
Asst. Vice President/Trust Officer  
County National Bank  
P. O. Box 42  
Clearfield, PA 16830

  
J. RICHARD MATTERN, II, ESQUIRE  
Attorney ID# 06817  
CHAIRMAN, BOARD OF VIEWERS  
211 East Pine Street  
Clearfield, Pa., 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

## CIVIL DIVISION

**NOTICE OF HEARING**

**To:** **Samuel B. Yost**  
**Evo G. Facchine**  
**Carl A. Belin, Jr., Esquire**  
**Kim C. Kesner, Esquire**  
**Calvin R. Thomas, Jr., Asst. VP/Trust Officer**  
**County National Bank**

You are hereby notified that J. Richard Mattern, II, Esquire, Samuel B. Yost and Evo G. Facchine, Board of Viewers in the above captioned matter, appointed by Order of Court on December 7, 2001, will hold a Hearing with regard to the above captioned matter on Wednesday, March 20, 2002 at 9:00 AM at the Clearfield County Commissioner's Conference Room, Courthouse Annex, East Market Street, Clearfield, Pa., 16830.

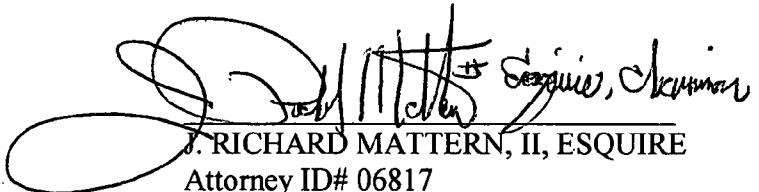
The purpose of the Hearing will be to determine the necessity of a road over the Respondents' property and to determine any damages. The Board, by agreement of

EXHIBIT "C"

counsel for the parties, orders that a Pre-Trial Statement be submitted to each member of the Board and opposing counsel ten (10) days prior to March 20, 2002.

In the event that either counsel has a conflict with conducting the Hearing on March 20, 2002, then it is the Order of this Board that said Hearing will be conducted on Friday, March 22, 2002 at the same time and location. Further, it shall be the responsibility of counsel requesting the continuance to notify the Board members, opposing counsel and all parties.

Date: 1/22/2002



J. RICHARD MATTERN, II, ESQUIRE  
Attorney ID# 06817  
CHAIRMAN, BOARD OF VIEWERS  
211 East Pine Street  
Clearfield, Pa., 16830  
(814) 765-6416

**CERTIFICATE OF SERVICE**

I, J. RICHARD MATTERN, II, Esquire, Chairman of the Board of Viewers, hereby certify that a true and correct copy of a NOTICE OF HEARING (to be held on March 20, 2002 ) was served by U.S. Mail, First Class, this 22nd day of January, 2002, upon the following:

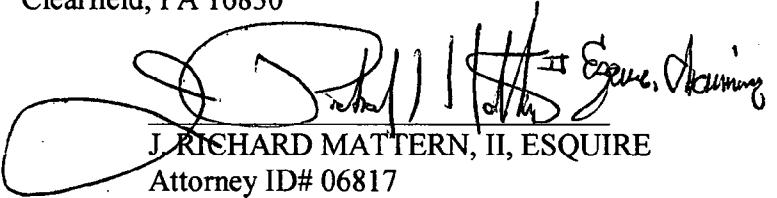
Samuel B. Yost  
Board of Viewers  
R. D. 2, Box 111  
Clearfield, Pa., 16830

Evo G. Facchine  
Board of Viewers  
407 Patterson Avenue  
Dubois, Pa., 15801

Carl A. Belin, Jr., Esq.  
Attorney for Petitioners  
15 North Front Street  
Clearfield, PA 16830

Kim C. Kesner, Esq.  
Attorney for Respondents  
23 North Second Street  
Clearfield, PA 16830

Calvin R. Thomas, Jr.  
Asst. Vice President/Trust Officer  
County National Bank  
P. O. Box 42  
Clearfield, PA 16830

  
J. RICHARD MATTERN, II, ESQUIRE  
Attorney ID# 06817  
CHAIRMAN, BOARD OF VIEWERS  
211 East Pine Street  
Clearfield, Pa., 16830  
(814) 765-6416

**BELIN & KUBISTA**  
ATTORNEYS AT LAW  
15 NORTH FRONT STREET

CARL A. BELIN, JR.  
KIMBERLY M. KUBISTA

P. O. BOX 1  
CLEARFIELD, PENNSYLVANIA 16830

CARL A. BELIN  
1901-1997

AREA CODE 814  
TELEPHONE 765-8972  
TELECOPIER (814) 765-9893

February 8, 2002

J. Richard Mattern, II, Esquire  
211 East Pine Street  
Clearfield, PA 16830

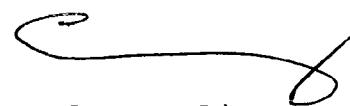
In re: County National Bank, the Executor of the Estate  
of Marie G. Mitchell and as attorney-in-fact for  
the Anna Dougherty Trust v. Barry Lumadue and  
Cathey Lumadue  
No. 01-1779-CD

Dear Rick:

Enclosed find certified copy of the Stipulation and Order  
settling the above-captioned case. Please prepare and send to  
the Court your application for fees and copy me on this. Please  
call Lisa of our office and advise her of the total amount of  
fees as soon as you have the application prepared.

Very truly yours,

BELIN & KUBISTA

  
Carl A. Belin, Jr.

CABjr:smh

Enclosure

cc: Mr. Calvin R. Thomas, Jr.  
w/enclosure

EXHIBIT "D"

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

COUNTY NATIONAL BANK, the  
Executor of Marie G. Mitchell and  
as Attorney-in-Fact for the Anna  
Dougherty Trust, Plaintiffs

\*\*\*

No. 00-1034-CD

BARRY LUMADUE, CATHEY LUMADUE, DALE KNEPP, DAVID LAIRD, STACY LAIRD, ELMER C. LAIRD, LANA G. LAIRD, WENDY GREEN, PENNSYLVANIA ELECTRIC COMPANY, LOREN GREEN, ELLEN GREEN, THOMAS LUZIER, JOSEPH GILLILAND, CLEARFIELD CYCLE CLUB, KENNETH WISOR, DEBBIE WISOR, RICHARD ROWLES, COLEEN ROWLES, WILLIAM RAUCH, CINDY KAY RAUCH, DELBERT WISOR and JUDY WISOR, Defendants

and

COUNTY NATIONAL BANK, the  
Executor of Marie G. Mitchell and  
as Attorney-in-Fact for the Anna  
Dougherty Trust, Petitioners

\* No. 01-1799-CD

## Type of Pleading: Stipulation and Consent Order

vs.

BARRY LUMADUE and CATHEY  
LUMADUE,  
Respondents

Counsel of Record for This Party:

\* Kim C. Kesner, Esquire  
\* Supreme Ct. I.D. #28307  
\* 23 North Second Street  
\* Clearfield, PA 16830  
\* Phone: (814) 765-1706  
\* Fax: (814) 765-7006

Other Counsel of Record:

\* Carl A. Belin, Jr.  
\* Attorney for Plaintiffs  
\* P. O. Box 1  
\* Clearfield, Pa., 16830  
\* (814) 765-8972

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

COUNTY NATIONAL BANK, the  
Executor of Marie G. Mitchell and  
as Attorney-in-Fact for the Anna  
Dougherty Trust, Plaintiffs

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\*

vs.

\* No. 00-1034-CD

BARRY LUMADUE, CATHEY  
LUMADUE, DALE KNEPP, DAVID  
LAIRD, STACY LAIRD, ELMER C.  
LAIRD, LANA G. LAIRD, WENDY  
GREEN, PENNSYLVANIA ELECTRIC  
COMPANY, LOREN GREEN,  
ELLEN GREEN, THOMAS LUZIER,  
JOSEPH GILLILAND, CLEARFIELD  
CYCLE CLUB, KENNETH WISOR,  
DEBBIE WISOR, RICHARD ROWLES,  
COLEEN ROWLES, WILLIAM RAUCH,  
CINDY KAY RAUCH, DELBERT WISOR  
and JUDY WISOR, Defendants

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and

COUNTY NATIONAL BANK, the  
Executor of Marie G. Mitchell and  
as Attorney-in-Fact for the Anna  
Dougherty Trust, Petitioners

\* No. 01-1799-CD  
\*  
\*  
\*  
\*  
\*

vs.

\*  
\*  
\*  
\*

BARRY LUMADUE and CATHEY  
LUMADUE,  
Respondents

\*  
\*  
\*

STIPULATION

It is hereby stipulated by the following parties and their counsel of record that the following Consent Order be entered in full and final disposition of the above captioned actions as to Barry and Cathey Lumadue:

County National Bank  
By:

Carl A. Belin, Jr.

Carl A. Belin, Jr., Attorney for  
County National Bank

Barry Lumadue  
Barry Lumadue

Cathey Lumadue  
Cathey Lumadue

Kim C. Kesner  
Kim C. Kesner, Attorney for Barry &  
Cathy Lumadue

**CONSENT ORDER**

AND NOW this 8 day of February, 2002, it is hereby ORDERED  
and DECREED as follows:

1. County National Bank shall pay to Barry and Cathey Lumadue the sum of Two  
Thousand Five Hundred (\$2,500.00) Dollars.

2. A non-exclusive access easement is hereby confirmed for the benefit and use of  
Plaintiff, its successors and assigns in and to that existing dirt roadway which extends from its  
intersection with L.R. 17042 in Boggs Township and extends in an easterly direction through  
Boggs and Bradford Township, Clearfield County, Clearfield, Pennsylvania, to the property of  
Plaintiff which roadway is more particularly bounded and described as follows:

BEGINNING at a point on L.R. 17042 where L.R. 17042 is intersected from the  
East by an unnamed dirt road, thence following the dirt road through it meanders  
through the following properties: thence through the land now or formerly of  
Delbert Wisor, et. ux; thence through the land now or formerly of William Rauch,  
et. ux.; thence through the land now or formerly of Barry Lumadue, et. ux.; thence  
through the land now or formerly of Richard Rowles, et. ux. thence through the  
land now or formerly of Kenneth Wisor, et. ux.; thence through the land now or  
formerly of Clearfield Cycle Club; thence through the land now or formerly of Joseph Gilliland;  
thence through the land now or formerly of Thomas Luzier; thence through the land now or formerly of Thomas Luzier; thence through the

land now or formerly of Loren Green, et. ux.; thence through the land now or formerly of Dale Knepp; thence through the land now or formerly of Wendy Green; thence through the land now or formerly of the Pennsylvania Electric Company; thence through the land now or formerly of David Laird, et. ux. to its terminus situate on the property of the Plaintiffs identified in paragraph (3) in Plaintiffs Complaint in action to Quiet Title.

3. This Consent Order shall constitute a final judgment in the foregoing Action to Quiet Title at No. 00-1034-CD.
4. This Consent Order shall conclude the proceedings at No. 01-1799-CD.
5. The Board of View appointed by this Court's Order dated December 7, 2001 is therefore released from any further duty.

BY THE COURT:

/s/ JOHN K. REILLY, JR.

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

FEB 08 2002

Attest:

William A. Prothonotary

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
CIVIL DIVISION  
NO. 01-179-CD  
Petition to Open Road

COUNTY NATIONAL BANK,  
Executor of the Estate of  
Marie G. Mitchell and as  
Attorney-in-Fact for the  
Anna Dougherty Trust, Petitioners

VS.

BARRY LUMADUE, and  
CATHEY LUMADUE, Respondents

REPORT OF  
BOARD OF VIEWERS  
SCHEDULE OF FEES AND COSTS  
and  
ORDER FOR PAYMENT

J. RICHARD MATTERN II, ESQ.  
CHAIRMAN, BOARD OF VIEWERS  
FEBRUARY \_\_\_\_\_ 2002

FILED 300  
01/10/2002 Atty motion  
FEB 19 2002  
FAS  
William A. Shaw  
Prothonotary

RICK MATTERN  
ATTORNEY AT LAW  
211 EAST PINE STREET  
CLEARFIELD, PENNSYLVANIA 16830