

02-155-CD
CITY OF DUBOIS -vs- LEMUEL G. BAUMAN

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

CITY OF DuBOIS,

Plaintiff,

vs.

LEMUEL G. BAUMAN, a/k/a LEMU
BAUMAN, and his heirs, devisees,
administrators, executors and assigns,
and all other person, persons, firms,
partnerships or corporate entities in
interest,

Defendants.

: No. 02 - 155 C.D.

: TYPE OF CASE:

: ACTION TO QUIET TITLE

: TYPE OF PLEADING: COMPLAINT

: FILED ON BEHALF OF:

: CITY OF DuBOIS, Plaintiff

: COUNSEL OF RECORD FOR THIS PARTY:

: TONI M. CHERRY, ESQ.

: Supreme Court No. 30205

: GLEASON, CHERRY AND CHERRY, L.L.P.

: Attorneys at Law

: One North Franklin Street

: P.O. Box 505

: DuBois, PA 15801-0505

: (814) 371-5800

FILED

FEB 01 2002

**William A. Shaw
Prothonotary**

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

CITY OF DuBOIS,	:	
	Plaintiff,	:
vs.	:	No. 02 - _____ C.D.
LEMUEL G. BAUMAN, a/k/a LEMU	:	ACTION TO QUIET TITLE
BAUMAN, and his heirs, devisees,	:	
administrators, executors and assigns,	:	
and all other person, persons, firms,	:	
partnerships or corporate entities in	:	
interest,	:	
Defendants.	:	

NOTICE

TO: LEMUEL G. BAUMAN, a/k/a LEMU BAUMAN, and his heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest:

YOU ARE HEREBY NOTIFIED THAT AN ACTION TO QUIET TITLE TO THE PREMISES SITUATE IN THE FIRST WARD OF THE CITY OF DuBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, HAS BEEN FILED AGAINST YOU. Said premises are described as follows:

BOUNDED on the North by land now or formerly of Annabelle Barrett; on the East by Stone Alley; on the South by land now or formerly of A.J. Beeman; and on the West by McCullough Street.

BEING Lot Number 5 in Reed and McCullough Addition to DuBois, fronting 50 feet more or less on McCullough Street and being 150 feet more or less deep to an alley.

BEING SUBJECT to same mineral reservations as contained in W.H. Stamey deed.

EXCEPTING AND RESERVING however to former grantors, their heirs and

assigns forever, all the coal and other minerals beneath the surface of said land, together with the unobstructed right to enter under the said land for the purpose of mining and removing the same without liability to leave surface support, and without liability for any damages done to the surface for want of support.

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

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

COURT ADMINISTRATOR
Clearfield County Courthouse
2nd & Market Streets
Clearfield, PA 16830
(814) 765-2641 Ext. 5982

GLEASON, CHERRY AND CHERRY, L.L.P.
Attorneys at Law
One North Franklin Street
P.O. Box 505
DuBois, PA 15801-0505
(814) 371-5800
Attorneys for Plaintiff

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

CITY OF DuBOIS, :
vs. Plaintiff :
LEMUEL G. BAUMAN, a/k/a LEMU : No. 02 - _____ C.D.
BAUMAN, and his heirs, devisees, :
administrators, executors and assigns, :
and all other person, persons, firms, :
partnerships or corporate entities in :
interest, :
Defendants. :
:

C O M P L A I N T

The Plaintiff in the above-entitled matter, CITY OF DuBOIS, brings this Action to Quiet Title for the purpose of barring the Defendant, LEMUEL G. BAUMAN, a/k/a LEMU BAUMAN, and his heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest, entitled Defendants, from asserting any right, title and interest or lien in and to the premises described in Exhibit "A", which is situate in the First Ward of the City of DuBois, Clearfield County, Pennsylvania, and assessed on the Clearfield County Assessment Map as No. 7.1-20-6518, and aver the following cause of action:

1. The Plaintiff in the above-entitled matter, CITY OF DuBOIS, is a municipal corporation of the Third Class in the County of Clearfield, Commonwealth of Pennsylvania, with its principal office located at 16 West Scribner Avenue, DuBois, Pennsylvania 15801.

2. After diligent search, the Plaintiff is unable to discover the whereabouts or the identity of the Defendant, LEMUEL G. BAUMAN, a/k/a LEMU BAUMAN, and his heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest.

3. The premises more particularly described in Exhibit "A", which is situate in the City of DuBois, Clearfield County, Pennsylvania, was conveyed to LEMUEL G. BAUMAN, the Defendant herein, by deed of Norman Loeb and Fred Loeb, dated July 20, 1904, and recorded in the Office of the Register and Recorder of Deeds of Clearfield County, Pennsylvania, in Deed Book Vol. 146, Page 120, on April 3, 1905.

4. It is believed and therefore averred that the said LEMUEL G. BAUMAN, a/k/a LEMU BAUMAN, conveyed premises more particularly described in Exhibit "A", which is attached hereto and made a part hereof and is the subject of this Action to Quiet Title, to the CITY OF DuBOIS, by deed dated December 6, 1937, as evidenced by the City of DuBois, Pennsylvania, Property Registration record for the subject premises, a copy of which is attached hereto and made a part hereof as Exhibit "B".

5. A search of the records in the Clearfield County Courthouse fails to show that the above-set forth deed was recorded in the county courthouse and it is believed and therefore averred that although such deed was prepared and registered with the City of DuBois, the deed conveying the subject premises to the CITY OF DuBOIS was either lost, misplaced, destroyed or inadvertently not properly recorded in the Office of the Register and Recorder of Deeds in and for Clearfield County.

6. The premises located in the City of DuBois, Clearfield County, Pennsylvania, more particularly described in Exhibit "A" which is attached hereto and made a part hereof, is assessed in the Office of the Assessment Records in and for Clearfield County as being owned by the CITY OF DuBOIS and is assessed as Map No. 7.1-20-6518, in both the City of DuBois records and the assessment records in and for Clearfield County.

7. The CITY OF DuBOIS has been in actual, open, notorious, visible, hostile and continuous possession of the premises more particularly described in Exhibit "A", which is attached hereto and made a part hereof, for a period of Twenty-one (21) years and upward.

8. That one of the purposes of this Action is to quiet the title as to any interest that the said LEMUEL G. BAUMAN, a/k/a LEMU BAUMAN, and his heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest, may have in said premises described in Exhibit "A" attached hereto and made a part hereof, because of any defect that may exist in the title due to any defects that may exist or may have existed in past sales of the subject premises including any tax sales conducted by the City of DuBois, the Treasurer of Clearfield County or the Clearfield County Commissioners, or because of the premises being improperly assessed, not properly described, no proper notice of sales to the record owners, or that the premises were sold as the property of one other than the record owners or legal heirs or assigns of the record owners, or because no deed of conveyance was placed of record in the Clearfield County Courthouse conveying the premises to the CITY OF DuBOIS or because of any other defect or any other reason or reasons that may raise some question as to the validity of the title. Further, the Plaintiff, CITY OF DuBOIS, claims title in fee to the premises more particularly described in Exhibit "A" by

adverse possession because it has been in actual, open, notorious, visible, hostile and continuous possession of the premises for a period of Twenty-one (21) years and upward. Another purpose of this Action is to make the title to the premises described in Exhibit "A" marketable so that the same can be certified.

WHEREFORE, Plaintiff requests the Court to:

- (a) Determine that its rights are superior to the rights of the Defendant, LEMUEL G. BAUMAN, a/k/a LEMU BAUMAN, and his heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest;
- (b) Determine that the Plaintiff has fee simple title to the premises described in Exhibit "A" as against the Defendant, LEMUEL G. BAUMAN, a/k/a LEMU BAUMAN, and his heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest;
- (c) Enjoin the Defendant, LEMUEL G. BAUMAN, a/k/a LEMU BAUMAN, and his heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest, from setting up any title to the premises described in Exhibit "A" and from impeaching, denying or in any way attacking the title of the Plaintiff to the premises described in Exhibit "A"; and
- (d) Grant and decree whatever relief may seem equitable and proper.

AND it will ever pray.

CITY OF DuBOIS:

By

Solicitor for the City of DuBois

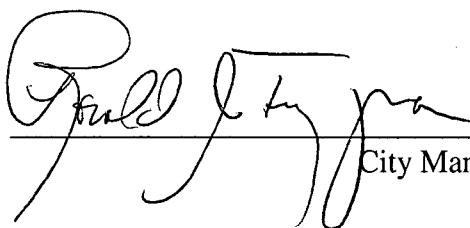
COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

: SS.

:

Personally appeared before me, the undersigned officer, JOHN F. SUPLIZIO, who acknowledged himself to be the Mayor of the CITY OF DuBOIS, a municipal corporation, and that he, as such Mayor, being authorized to do so by the municipality, and being duly sworn according to law, deposes and says that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief, and that he executed the foregoing instrument for the purposes therein contained by signing his name thereon as such and be virtue and in pursuance of the authority therein confirmed upon him as Mayor of the CITY OF DuBOIS, acknowledged the same to be the act and deed of said municipality.

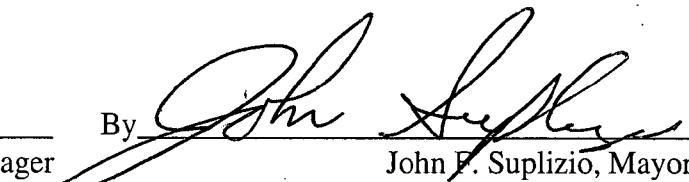
ATTEST:



City Manager

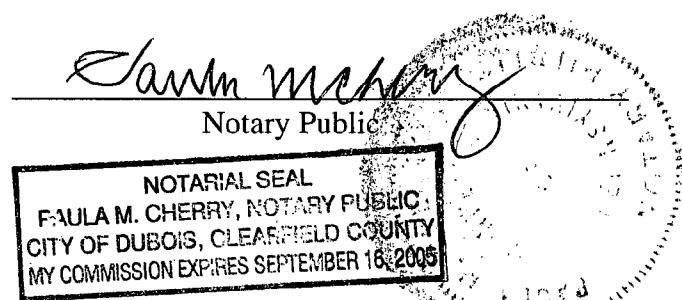
CITY OF DuBOIS:

By



John F. Suplizio, Mayor

Sworn to and subscribed before me, this 28th day of January, 2002.



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

CITY OF DuBOIS,	:	
	Plaintiff,	
vs.	:	No. 02 - _____ C.D.
LEMUEL G. BAUMAN, a/k/a LEMU	:	ACTION TO QUIET TITLE
BAUMAN, and his heirs, devisees,	:	
administrators, executors and assigns,	:	
and all other person, persons, firms,	:	
partnerships or corporate entities in	:	
interest,	:	
Defendants.	:	

A F F I D A V I T

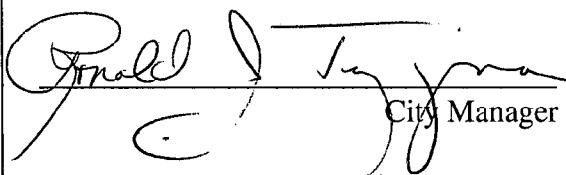
COMMONWEALTH OF PENNSYLVANIA	:	
	:	SS.
COUNTY OF CLEARFIELD	:	

Personally appeared before me, the undersigned officer, JOHN F. SUPLIZIO, Mayor of the CITY OF DuBOIS, who, being duly sworn according to law, deposes and says that after diligent search, including a search of the Clearfield County Courthouse records, telephone book, and post office by its Solicitor, he is unable to find Defendant, LEMUEL G. BAUMAN, a/k/a LEMU BAUMAN, and his heirs, devisees, administrators, executors and assigns, and all

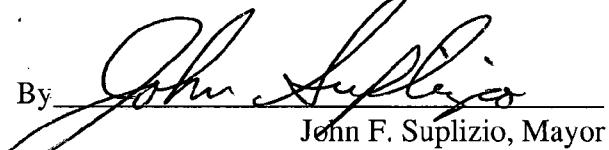
other person, persons, firms, partnerships or corporate entities in interest.

Further Deponent saith not.

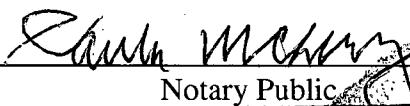
ATTEST:


Ronald J. Sypnior
City Manager

CITY OF DuBOIS:

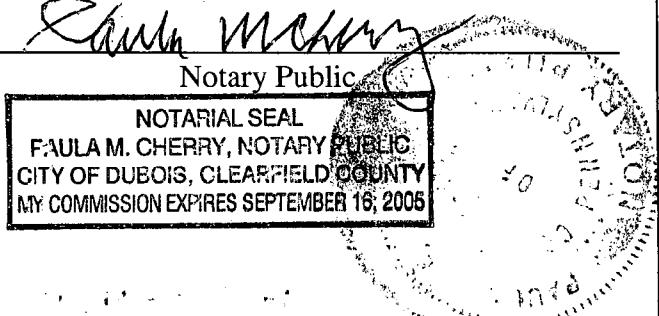
By 
John F. Suplizio, Mayor

Sworn to and subscribed before me, this 28th day of January, 2002.


Paula M. Cherry

Notary Public

NOTARIAL SEAL
PAULA M. CHERRY, NOTARY PUBLIC
CITY OF DUBOIS, CLEARFIELD COUNTY
MY COMMISSION EXPIRES SEPTEMBER 16, 2005



6518

20
Section
Number

City of DuBois, Penna.

PROPERTY REGISTRATION

6518
20

PRESENT OWNER	FORMER OWNER	DATE OF DEED
City of DuBois.	Lena Bauman.	December 6, 1937.

city Bldg.
Address of Owner 16 W. scribner Ave

Location of Property Mc. Cullough st. Taxes & Costs
(GIVE STREET NUMBER) Consideration \$34.19

DESCRIPTION OF PROPERTY

*Bring Deed with this, that it may be Registered, which must be
an exact copy in wording of the deed.*

All of that lot or piece of ground situate in the First, ward, City of DuBois, Penna., being lot No. 5
in _____
BEGINNING:

On the North by land of Annabelle Barrett
 " " East by Stone Alley
 " " South by land of A. J. Beeman
 " " West by McCullough Street

Signature of Agent or Owner _____
 BLANK SHOULD BE FILLED IN WITH TYPEWRITER

Exhibit "B"

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

CITY OF DuBOIS, Plaintiff

vs.

LEMUEL G. BAUMAN, a/k/a LEMU
BAUMAN, and his, heirs, devisees,
administrators, executors and
assigns, and all other person,
persons, firms, partnerships or
corporate entities in interest,
Defendants

No. 02- C.D. Action to
Quiet Title

C O M P L A I N T

To the Within Defendants:

YOU ARE HEREBY NOTIFIED TO PLEAD
TO THE WITHIN COMPLAINT WITHIN
TWENTY (20) DAYS FROM THE DATE OF
SERVICE HEREOF.

GLEASON, CHERRY AND CHERRY, L.L.P.

By *John J. Gleason*
Attorneys for Plaintiff

LAW OFFICES
GLEASON, CHERRY & CHERRY, L.L.P.

P. O. Box 505
DuBois, PENNSYLVANIA 15801-0505

ONE NORTH FRANKLIN STREET

FILED

FEB 01 2002

John J. Gleason
William A. Shaw
Cherry
Prothonotary
pd \$90.00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CITY OF DuBOIS, :
vs. Plaintiff :
LEMUEL G. BAUMAN, a/k/a LEMU :
BAUMAN, and his heirs, devisees, :
administrators, executors and assigns, :
and all other person, persons, firms, :
partnerships or corporate entities in :
interest, Defendants. :
: No. 02 - 155 C.D.
: ACTION TO QUIET TITLE

FILED

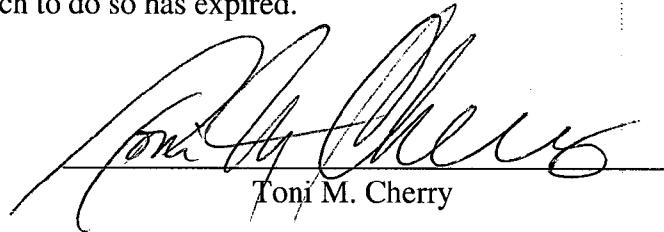
MAR 15 2002

013.31 NOCC
William A. Shaw
Prothonotary

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

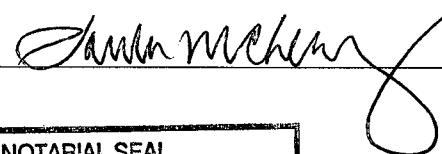
Personally appeared before me, the undersigned Notary Public, TONI M. CHERRY,
ESQ., Attorney for the CITY OF DuBOIS, Plaintiff, who, being duly sworn according to law,
deposes and says that service of the foregoing Complaint to Quiet Title, endorsed with Notice
to Plead within Twenty (20) days from the date of publication was made on all of the
Defendants by publication on February 8, 2002, in the Courier-Express newspaper, and the
week of February 15, 2002, in the Clearfield County Legal Journal, proof of the same is hereto
attached, in accordance with the Order of Court, and more than Twenty (20) days have elapsed

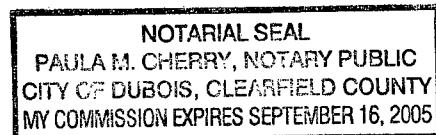
since said publications and that said Defendants have not filed an Appearance or any Answer to the Complaint, although the time in which to do so has expired.



Toni M. Cherry

Sworn to and subscribed before me this 15th day of March, 2002.

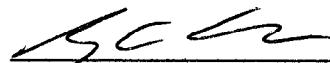




PROOF OF PUBLICATION

STATE OF PENNSYLVANIA :
:
COUNTY OF CLEARFIELD :

On this 6th day of February AD 2002, before me, the subscriber, a Notary Public in and for said County and State, personally appeared Gary A. Knaresboro editor of the Clearfield County Legal Journal of the Courts of Clearfield County, and that the annexed is a true copy of the notice or advertisement published in said publication in the regular issues of Week of February 15, 2002, Vol. 14 No. 7. And that all of the allegations of this statement as to the time, place, and character of the publication are true.

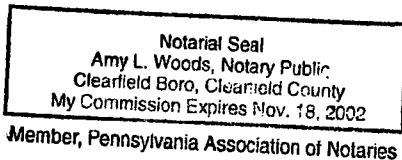


Gary A. Knaresboro, Esquire
Editor

Sworn and subscribed to before me the day and year aforesaid.

Amy L. Woods

Notary Public
My Commission Expires

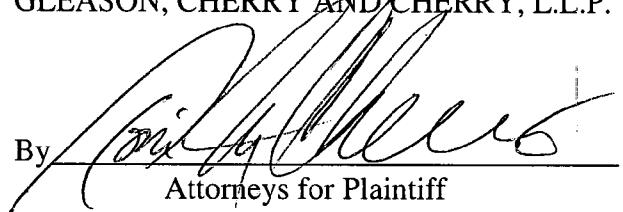


Gleason Cherry & Cherry
PO Box 505
DuBois PA 15801

with the interest or claim Plaintiff set forth in its Complaint.

GLEASON, CHERRY AND CHERRY, L.L.P.

By


Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CITY OF DuBOIS,

Plaintiff

vs.

No. 02 - 155 C.D.

LEMUEL G. BAUMAN, a/k/a LEMU
BAUMAN, and his heirs, devisees,
administrators, executors and assigns,
and all other person, persons, firms,
partnerships or corporate entities in
interest,

Defendants

ACTION TO QUIET TITLE

FILED

MAR 18 2002

William A. Shaw
Prothonotary

O R D E R

AND NOW, this 18 day of March, 2002, it appearing that service of the Complaint to Quiet Title in the above Action was made on all of the Defendants and by Affidavit of TONI M. CHERRY, Attorney for Plaintiff, no Answer or Appearance has been filed to said Action, and on Motion of TONI M. CHERRY, Attorney for Plaintiff, it is hereby ORDERED AND DECREED:

1. That the Defendants, LEMUEL G. BAUMAN, a/k/a LEMU BAUMAN, and his heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest, are forever barred from asserting any right, title, lien or interest inconsistent with the interest or claim of the Plaintiff as set forth in its

Complaint in and to:

ALL that certain piece, parcel or tract of land situate, lying and being in the First Ward of the City of DuBois, Clearfield County, Pennsylvania, being bounded and described as follows, to wit:

BOUNDED on the North by land now or formerly of Annabelle Barrett;
on the East by Stone Alley;
on the South by land now or formerly of A.J. Beeman; and
on the West by McCullough Street.

BEING Lot Number 5 in Reed and McCullough Addition to DuBois,
fronting 50 feet more or less on McCullough Street and being 150 feet
more or less deep to an alley.

BEING SUBJECT to same mineral reservations as contained in W.H. Stamey
deed.

EXCEPTING AND RESERVING however to former grantors, their heirs and
assigns forever, all the coal and other minerals beneath the surface of said land,
together with the unobstructed right to enter under the said land for the purpose
of mining and removing the same without liability to leave surface support,
and without liability for any damages done to the surface for want of support.

and that title to said property is now vested in CITY OF DuBOIS, Plaintiff, as prayed.

2. That the rights of the Plaintiff are superior to the rights of the Defendants, LEMUEL G. BAUMAN, a/k/a LEMU BAUMAN, and his heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest.
3. That the Plaintiff has title in fee simple to said premises as described in the Complaint as against the Defendants, LEMUEL G. BAUMAN, a/k/a LEMU BAUMAN, and his heirs, devisees, administrators, executors and assigns, and all other person, persons, firms, partnerships or corporate entities in interest.

4. That the Defendants, LEMUEL G. BAUMAN, a/k/a LEMU BAUMAN, and his heirs, devisees, administrators, executors and assigns, and all other person, persons, partnerships or corporate entities in interest, are enjoined and forever barred from asserting any right, title or interest in and to the premises described which are inconsistent with the interest or claims of the Plaintiff as set forth in its Complaint and from setting up any title to the premises and from impeaching, denying or in any way attacking the title of the Plaintiff to the premises.

5. That the Thirty (30) day provision of Pennsylvania Rules of Civil Procedure 1066(b)(i) be modified as to eliminate the said Thirty (30) day Rule of Pennsylvania Rules of Civil Procedure from this case. Said modification is in accordance with the authority vested in this Court by virtue of the Pennsylvania Rules of Civil Procedure No. 248, to eliminate any time period prescribed by Pennsylvania Rules of Civil Procedure upon Order of Court.

6. That these proceedings, or any authenticated copy thereof, shall at all times hereafter be taken as evidence of the facts declared and established thereby.

7. That a certified copy of this Order shall be recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania.

BY THE COURT

Judge

FILED

MAR 18 2002

3441/c atty Cherry
William A. Shaw
Prothonotary
cc
100

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CITY OF DuBOIS, :
Plaintiff, :
vs. : No. 02 - 155 C.D.
: :
LEMUEL G. BAUMAN, a/k/a LEMU : ACTION TO QUIET TITLE
BAUMAN, and his heirs, devisees, :
administrators, executors and assigns, :
and all other person, persons, firms, :
partnerships or corporate entities in :
interest, :
Defendants. :

P R A E C I P E

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

Dear Sir:

Please enter final judgment in favor of the above-named Plaintiff and against the
Defendants in accordance with Order of Court dated March 18, 2002.

GLEASON, CHERRY AND CHERRY, L.L.P.

By

Attnorneys for Plaintiff

FILED

MAR 18 2002

013A61 no. *8*
William A. Shaw
Prothonotary *WAS*