



02-1019-CD  
ALAN D. CHAPLIN -vs- JOSEPH OWENS et al

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALAN D. CHAPLIN, in his own  
individual right, and ALAN  
D. CHAPLIN, Agent  
Plaintiffs

vs.

JOSEPH OWENS and SKY HAVEN  
COAL COMPANY, INC.; R. WESLEY  
SMITH and RAYMOND A. SMITH,  
Defendants

CIVIL DIVISION

No. 02 - 1019 - CD

COMPLAINT

Filed on behalf of:

Plaintiffs, ALAN D. CHAPLIN  
Individually and ALAN D.  
CHAPLIN, Agent

Counsel of Record for  
Said Party:

JOSEPH COLAVECCHI, ESQUIRE  
PA I.D. 06810

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

814/765-1566

**FILED**

JUN 26 2002

William A. Shaw  
Prothonotary

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

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

ALAN D. CHAPLIN, in his own :  
individual right, and ALAN D. :  
CHAPLIN, Agent, :  
Plaintiffs : No. 02 - - CD  
vs. : JURY TRIAL DEMANDED  
: :  
JOSEPH OWENS and SKY HAVEN :  
COAL COMPANY, INC.; R. WESLEY :  
SMITH and RAYMOND A. SMITH, :  
Defendants : :  
:

N O T I C E

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

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

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COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
Second and Market Streets  
Clearfield, PA 16830  
Phone 814/765-2641 Ex. 5982

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

ALAN D. CHAPLIN, in his own :  
individual right, and ALAN D. :  
CHAPLIN, Agent, :  
Plaintiffs : No. 02 - - CD  
vs. : JURY TRIAL DEMANDED  
: :  
JOSEPH OWENS; SKY HAVEN COAL :  
COMPANY, INC.; R. WESLEY :  
SMITH and RAYMOND A. SMITH, :  
Defendants : :  
:

C O M P L A I N T

1. Plaintiff is Alan D. Chaplin, in his own individual right, and as Agent for the owners of the A.B. Shaw property situated in Goshen Township, Clearfield County, Pennsylvania, having a mailing address of 2515 Meadow Road, Clearfield, Pennsylvania, 16830.

2. Defendants are:

a. Joseph Owens, an individual residing at R.D. 1, Penfield, Pennsylvania, 15849.

b. Sky Haven Coal Company, Inc., a Pennsylvania Corporation organized and existing under the laws of the Commonwealth of Pennsylvania, having its principal place of business at R.D. 1, Box 180, Penfield, Pennsylvania, 15849.

c. R. Wesley Smith, having a mailing address of P.O. Box 39, Reynoldsville, Pennsylvania, 15851

d. Raymond O. Smith, having a mailing address of P.O. Box 39, Reynoldsville, Pennsylvania, 15851.

3. Plaintiffs entered into an agreement with R. Wesley Smith and Raymond A. Smith dated the \_\_\_\_\_ day of \_\_\_\_\_, 1980 for the removal of coal from the A.B. Shaw property situated in Goshen Township, Clearfield County, Pennsylvania. A copy of the Articles of Agreement is attached hereto marked Exhibit "A".

4. There was an Amendment to the undated Articles of Agreement which was entered into on July 22, 1980, from Plaintiffs to Defendants. A copy of which is attached hereto marked Exhibit "B".

5. It is alleged on information and belief that R. Wesley Smith and Raymond A. Smith, Lessees under this Agreement, assigned said Agreement to Joseph Owens on an unknown date. R. Wesley Smith and Raymond A. Smith have refused to supply any of the documents concerning their dealings with Sky Haven Coal Company, Inc. and/or Joseph Owens. This is set out in a letter dated June 10, 2002 from R. Wesley Smith, a copy of which is attached to this Complaint marked Exhibit "C".

6. The original Articles of Agreement provided in Paragraph 16 that as long as the Lessees conducted coal mining operations on adjacent land areas at the same time as the operation on the A.B. Shaw property, the Lessees would have the right of continuing to use the Shaw property for portage of coal and equipment in hauling

coal from the neighboring properties. It further set out that in the event portage rights are exercised after the conclusion of the lease, the Lessees shall pay the Lessors the sum of One Hundred (\$100) Dollars per year as rental.

7. In the Amendment to this Agreement dated July 22, 1980, it sets out that any coal mined from other lands carried across the A.B. Shaw property shall be subject to ten (10¢) cents per ton wheelage and that the monthly minimum for such wheelage shall be One Hundred (\$100) Dollars per month.

8. It is alleged on information and belief that coal mining operations ceased on the A.B. Shaw property on or about September, 2000.

COUNT I

ALAN D. CHAPLIN, IN HIS OWN INDIVIDUAL RIGHT, and  
ALAN D. CHAPLIN, AGENT, vs. JOSEPH OWENS,  
SKY HAVEN COAL COMPANY, INC.

Paragraphs 1 through 8 are incorporated herein by reference thereto.

9. At that point, it is alleged on information and belief that Sky Haven Coal Company, Inc. and/or Joseph Owens continued to haul coal from adjoining lands across the A.B. Shaw property.

10. As of the date of the execution of this Complaint, the monthly minimum royalty in the amount of One Hundred (\$100) Dollars per month has not been paid to Lessors, being the minimum amount

for wheelage, nor has any amount been paid to Lessors on a per ton basis.

11. As of the date of filing this Complaint, no accounting has been made of the wheelage for coal hauled from the adjoining land across the A.B. Shaw property.

12. Since the removal of coal from the A.B. Shaw property ceased on or about September, 2000, there would be at least the monthly minimum of One Hundred (\$100) Dollars per month times twenty-two (22) months, for a total of Two Thousand Two Hundred (\$2200) Dollars, plus interest.

13. It is alleged on information and belief that an amount of coal in excess of one hundred thousand (100,000) tons has been hauled across the A.B. Shaw property for which they have not been paid wheelage and which would be in an amount in excess of Ten Thousand (\$10,000) Dollars, plus interest, payable to Plaintiffs.

14. It is further alleged that said omission to make payment and the hauling of the coal across the A.B. Shaw property has been done in a willful manner and in violation of Plaintiffs' ownership of this property and as such, punitive damages should be awarded.

WHEREFORE, Plaintiffs ask that judgment be entered in favor of Plaintiffs in an amount in excess of Twenty Thousand (\$20,000) Dollars, plus interest.

LAW OFFICES OF  
COLAVECCHI  
RYAN & COLAVECCHI  
221 E. MARKET ST.  
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COUNT II

ALAN D. CHAPLIN, IN HIS OWN INDIVIDUAL RIGHT,  
AND ALAN D. CHAPLIN, AGENT, vs. R. WESLEY SMITH and  
RAYMOND A. SMITH, DEFENDANTS

Paragraphs 1 through 14 are incorporated herein by reference thereto.

15. R. Wesley Smith and Raymond A. Smith, as Lessees from Plaintiffs, had an obligation to use their best efforts in promoting the use of Plaintiffs' property for the benefit of Plaintiffs.

16. It is alleged on information and belief that R. Wesley Smith and Raymond A. Smith, without authority from the Shaw Heirs, entered into an agreement with Joseph Owens and/or Sky Haven Coal Company to release any further claims under this Lease Agreement, including the Wheelage, and to not hold Joseph Owens and/or Sky Haven Coal Company, Inc. liable for wheelage payments.

17. It is alleged on information and belief that R. Wesley Smith and Raymond A. Smith received consideration for this release, together with other covenants they had with Joseph Owens and/or Sky Haven Coal Company, Inc., and have failed to account for said consideration to Plaintiffs.

18. This was done in complete violation of the Lease Agreement from Plaintiffs to Smith and as such, was done in a

deliberate, willful and malicious manner to defeat the rights of Plaintiffs.

19. It is alleged on information and belief that R. Wesley Smith and Raymond A. Smith conspired with Joseph Owens and/or Sky Haven Coal Company, Inc. in such a manner as to be detrimental to the interest of Plaintiffs, including the failure to properly check on the removal of coal and the use of Plaintiffs' property by Joseph Owens and/or Sky Haven Coal Company, Inc.

20. These actions or non-actions of R. Wesley Smith and Raymond A. Smith were done willfully and maliciously and as such, call for punitive damages to be awarded to Plaintiffs in addition to compensation for any coal mined and removed from the premises and any use of the property concerning the Wheelage Agreement for which Plaintiffs were not reimbursed by R. Wesley Smith and Raymond A. Smith.

WHEREFORE, Plaintiffs ask that Judgment be entered in their favor for any coal unaccounted for, any wheelage unaccounted for, and any consideration received by R. Wesley Smith and Raymond A. Smith which was not paid to Plaintiffs, together with an award of Punitive Damages for the unlawful actions which were detrimental to the Plaintiffs, against Defendants, in an amount in excess of Twenty Thousand (\$20,000) Dollars.

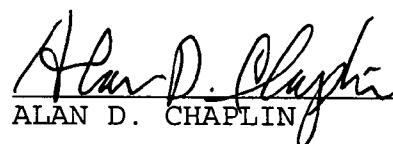


JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Plaintiffs

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VERIFICATION

I verify that the statements made in this Complaint 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.



Alan D. Chaplin

ALAN D. CHAPLIN

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ARTICLES OF AGREEMENT

THIS AGREEMENT, made this                    day of                   , 1980,  
by and between JEANNE S. LEACH of 12545 Third Street, Yucaipa,  
California (92399) the owner of an undivided 1/7 interest; ROBERT  
LEIPOLD of R. D. #4, Red Oak Drive, Danville, Pennsylvania (17821)  
the owner of an undivided 1/7 interest; MILDRED SHAW of 512 East  
Market Street, Clearfield, Pennsylvania (16830) the owner of an  
undivided 1/7 interest; JAMES KELLEY of P. O. Box 807, Bethel  
Island, California (94511) the owner of an undivided 1/14 interest;  
FLORENCE CONNOR, & H. C. Connor, 2213 Mount Vernon Street, Phila-  
delphia, Pennsylvania (19130) the owner of an undivided 1/14  
interest; DOROTHY GREEN of P. O. Box 17, Edgewood, Pennsylvania  
(19028) the owner of an undivided 1/14 interest; MARJORIE IRWIN  
ALLISON, & Gay Shook, P. O. Box 382, Kersey, Colorado (80644) the  
owner of an undivided 1/14 interest; AGNES FULFORD of #6 Fairfield  
House, Moorestown Road, Moorestown, New Jersey (08057) the owner  
of an undivided 1/21 interest; NAN F. HALLEN of #6 Fairfield House  
Moorestown Road, Moorestown, New Jersey (08057) the owner of an  
undivided 1/21 interest; B. N. CLUNE of 829 N. W. 82nd Avenue,  
Plantation, Florida (33324) the owner of an undivided 1/21  
interest; DR. JAMES CLUNE, & James G. Clune III, R. F. D. 2,  
Arlington, Vermont (05250) the owner of an undivided 1/21 interest;  
HENRY COWELL of 32 Hobart Drive, Building 1E1, Spring Run, Newark,  
Delaware (19713) the owner of an undivided 1/21 interest; JOSEPH  
COLAVECCHI of 2 East Market Street, Clearfield, Pennsylvania  
(16830) the owner of an undivided 1/21 interest, Parties of the  
First Part, Lessors

and

R. WESLEY SMITH and RAYMOND A. SMITH, individuals,  
Parties of the Second Part, Lessees,

WITNESSETH THAT:

1. The Lessors, for and in consideration of the sum of

Exhibit

"A"

one (\$1.00) dollar in hand paid, the receipt whereof is hereby acknowledged, do hereby let, lease and demise unto the Lessees, all of those seams or veins of coal in, under and upon all that certain piece, parcel or lot of land lying and being situate in Goshen Township, Clearfield County, Pennsylvania, bounded and described as follows:

ON THE NORTH BY Jesse Taylor and A. M. Gorman;

ON THE EAST BY Harbison Walker Refractories Company;

ON THE SOUTH BY L. M. Martell; Joseph Michaels;

Linglewood Lodge, Inc.;

ON THE WEST BY Pauline Kurtz Heirs.

CONTAINING 766 acres, more or less.

ALSO, all other property which is commonly known as or once referred to as the Shaw Estate premises located in Goshen Township, Clearfield County, Pennsylvania, which may be contiguous to or non-contiguous to the parcel above described. Both parcels herein containing a total of 800 acres, more or less.

2. The Lessors further grant to the Lessees the rights of ingress, egress and regress into, through and upon the above described premises for the purpose of examining, searching for, prospecting, mining said coal by the surface, auger, drift or strip mining method, and preparing said coal for market, and taking, storing, removing and transporting the same, and for these purposes the said Lessees shall have the right to mine and remove the coal by the surface, auger, drift or strip mining process, and deep mining process, together with the right to use and occupy so much of the surface of the aforesaid land for tipples, dumps, chutes, roads, electric power or transmission lines, improvements and other buildings, upon, over, across and through said lands and the surface of the same, so far as may be necessary or convenient for the proper operation of any surface, auger, drift, deep, or strip mining project for the removal of said coal or the shipping of the same, together with the right to deposit dirt or waste from such operation upon the

surface thereof, except as otherwise provided herein.

3. The Lessors further grant to the Lessees a release of all damages to the surface and strata of said land, the waters therein or thereon, and buildings and objects now or hereafter to be erected thereon, and trees and crops growing thereon, which may be caused by prospecting, searching for, drilling, stripping, mining, and removing of said coal.

4. It is further agreed that this lease does contemplate mining by surface mining methods including, but not limited to, strip mining and auger mining. The Lessors therefore lease and let unto the Lessees all rights of title possessed by the said Lessors, which may not be referred to above, to allow the surface exploration, drilling, testing, mining, removal, marketing, and transportation of the coal in the premises.

5. This agreement shall become effective upon the signature of the Lessors and shall continue in force for a period of three (3) years from the date hereof providing however, that in the event mining operations exist on the premises at the conclusion of the third year, then this lease shall continue in effect for so long thereafter as mining operations and removal of coal from the premises continue. Termination of this lease shall in no way waive or release the Lessees' obligation of compliance with Federal or State law or regulations pertaining to the operations conducted on the premises. This agreement, however, recognizes that the Lessees may be required to maintain at least one (1) piece of equipment on the premises because of security required by the Commonwealth of Pennsylvania restrictions and reservations to comply with backfilling and restoration of the premises. In such cases the maintenance of said equipment, for security purposes, shall not be considered a breach or carryover by either party. This lease further recognizes that after removal of coal from the premises within the term of this lease, complete compliance with the required backfilling, contouring, retopsoiling, and planting may not be possible. The Lessees,

therefore, shall have the right of carryover for the purposes only of compliance with the State or Federal Law or regulation. Such carryover, however, shall not be construed or meant to be a carryover for the purposes of the mining or removing of coal.

6. The Lessees are not obligated to mine and remove any coal that is unmerchantable and unmineable, but the said Lessees shall have the right to mine and remove the same if it so desires. If it exercises said right, it shall pay therefore royalty at the rate herein provided for the mining and removal thereof.

7. The Lessees agree to pay as royalty to the Lessors ~~as 10% of sales price~~ the amount of two (\$2.00) dollars per ton for every net ton of coal (2000 lbs.) mined and removed from the premises which is extracted by the strip mine or auger mine method. Further, the Lessees agree to pay as royalty to the Lessors the amount of one (\$1.00) dollar per ton for every net ton of coal (2000 lbs.) mined and removed from the premises which is extracted by the deep mine method. Settlements in payments of royalty shall be made on the 25th day of each month for all coal mined and removed from the premises during the preceding calendar month. Royalty computation shall be based on the weights by which the coal is marketed, and shall be evidenced by truck weight invoices or statements of coal transported by truck from the premises and accordingly weighed for tonnage, or railroad receipts or statements of coal loaded from the premises at railroad tipple sites. It is further understood and agreed that the Lessees shall pay to the Lessors the sum of Three hundred fifty (\$350.00) dollars per month as advanced royalty commencing thirty (30) days from the date this instrument being duly signed by all owners and properly notarized and delivered to the Lessees herein. Further, Lessees do agree to pay Three hundred (\$300.00) dollars per month as advanced royalty until mining operations commence or this lease terminates as hereinabove provided. The above Lessors share of the royalty shall be sent to each individual Lessor in the amount and at the address hereinabove specified.

8. It is further agreed that any and all advanced royalties or considerations paid for this lease shall be considered as advances against royalties to be earned by coal tonnage mined and removed from the premises. The Lessees shall have the right of crediting royalties against the said advances and consideration prices until said time as advances are exhausted. The Lessee shall account for all coal sales producing said credits on a monthly basis the same as if royalties had been paid. In the event that the coal produced does not exhaust the advanced royalties or considerations, the Lessors shall have no duties or obligations of refunding or repaying any amounts to the Lessees, and said amounts shall be considered as a consideration price for this lease.

9. The Lessees agree to keep at all times full and complete records and books of account showing the amount of coal mined and removed and shipped from the demised premises, which records and books of account shall be open at all reasonable times for the inspection and examination of the Lessors, their successors or assigns. The Lessees shall and will also give the Lessors, their duly authorized agent or employees, at reasonable times, access to any and all portions of the leased premises and to the operations in connection therewith.

10. The Lessees covenant and agree to operate by approved methods and to comply with all Federal and State laws or regulations regarding strip mining, operating and transportation of said coal and, without limiting the generality of the foregoing, including, but not limited to, backfilling and drainage and antipollution laws of the State and Federal government. Lessors, or their agent, shall have access to the operations on or in the leased premises at any and all reasonable times.

11. This agreement recognizes that after entry by the Lessees the exclusive control of the premises actually being used by the Lessees and exclusive control of all mining from the surface shall be with the Lessees and the Lessees agree that any charge, liability or cause of action arising from its use of the

premises or from any tortious conduct on the part of its agents, officers and employees, shall be the responsibility of the said Lessee. Furthermore, the said Lessees agree to release and hold harmless the Lessors from any cause of action, claim or liability arising because of the conduct or omissions of the said Lessees, their agents, employees, officers, and servants or because of the said Lessees' use of the premises.

12. The Lessees agree to give the Lessors at least a ninety (90) day notice prior to their entry on the premises in order that the Lessors may sever and remove all standing timber or vegetation.

13. It is further agreed that there shall be no mining operations or surface disturbance within two hundred (200) feet of any building located on the premises, without the express written consent of the Lessors.

14. In the event of mining operations in any area that constitutes township right-of-way or public utility right-of-way, the Lessees shall have the right of deducting from the royalty payment agreed herein that amount paid to the governmental body or public utility maintaining the right-of-way as surface royalty.

15. In the event this lease is executed as a lease for the surface and coal and mining rights "fee simple" and it is subsequently discovered that the Lessors do not own or have the right to lease the coal or the mining and removal rights, then the Lessees may, at their option, (a) declare this lease null and void, with both parties being replaced to the position they were prior to the lease, or (b) decreasing the royalty agreed upon by one-half (1/2), or (c) crediting against payments owing to the Lessors those amounts paid to the owner of the coal or mining interests.

16. In the event the Lessees conduct coal mining operations on adjacent land areas at the same time as the operations on the premises or thereafter, then the Lessees shall have the right of continuing to use the premises for portage of

coal and equipment for so long as operations shall continue on neighboring properties. In the event portage rights are exercised by the Lessees after the conclusion of this lease, then the Lessees shall pay the Lessors the sum of one hundred (\$100.00) dollars per year as rental. Portage rights may only be established on that cartway in existence at the time of the termination of the lease.

17. The Lessors agree to pay tax assessments on the value of the coal in place, as it now being taxed. Should there be an assessment or a reassessment during the course of mining operations the Lessees agree to pay said increased assessment caused by the mining and severances of the coal.

18. On failure of the Lessees to pay the minimum royalty, rent, royalty on coal actually mined, and keep all of the covenants in this lease, or remove from the premises at the determination of the same, and failure to remedy said breach within fifteen (15) days after notice, then the Lessees hereby authroize and empower any attorney of any court of record in Pennsylvania, to appear in court and confess judgment in favor of the Lessors and against the Lessees, in an amicable action of ejectment for the premises above described, and authorize the immediate issuance of a writ of habere facias possessionem, with clause of fi. fa., for rent, royalty or amount due, with costs of suit and attorney's commission of ten per cent, or fees, to be released upon payment of the amount due with costs and attorney commission, as herein provided, within five (5) days from the confession of said judgment.

19. The Lessees hereby authorize any attorney of any court of record, as often as default shall be made in payment of said minimum royalty, royalty for coal actually mined, or for taxes or charges assessed and herein referred to, and after the Lessors have given the Lessees fifteen (15) days' notice, in writing, of said default, the Lessees neglect or refuse to remedy, rectify or make payment during the said period of fifteen (15)

days, to appear for it and confess judgment or judgments against it for the amount of royalties or charges then due and unpaid, with attorney's commission of ten per cent, costs of suit, without stay of execution, waiving inquisition and exemption.

20. It is expressly understood and agreed between the parties hereto that this lease and the grants hereunder are made subject to all restrictions, conditions, reservations, exceptions, covenants, and agreements under the deed, grants and conveyances by virtue of which the Lessors hold title to the leased premises aforesaid, and the Lessors are only granting such rights as it has the right to grant under and by virtue of said instrument of conveyance.

21. This agreement reserves the right unto the Lessees to cancel and terminate the lease agreement at any time by giving a thirty (30) day written notice to the Lessors. Any cancellation hereunder shall not relieve the Lessees of any obligation of payment for any amounts owing under the lease, furthermore, all amounts paid to the Lessors shall remain that of the Lessors as consideration for this lease without any duty to refund or rebate.

22. This agreement is meant to be binding upon and inure to the parties, their heirs, successors and assigns. Furthermore, this lease does not preclude assignment by either party.

IN WITNESS WHEREOF, the Parties hereunto set their hands and seals.

\_\_\_\_\_  
(SEAL)  
Jeanne S. Leach, Lessor

\_\_\_\_\_  
(SEAL)  
Robert Leipold, Lessor

\_\_\_\_\_  
(SEAL)  
Mildred Shaw, Lessor

\_\_\_\_\_  
(SEAL)  
James Kelley, Lessor

\_\_\_\_\_  
(SEAL)  
Florence Connor, Lessor

24amni. 1/6

AMENDMENT TO ARTICLES OF AGREEMENT

WHEREAS, upon Articles of Agreement at this time still undated, a copy of which is attached hereto and which this shall become a part thereof, owners of 5/7's interest in and to 800 acres more or less located in Goshen Township, Clearfield County, Pennsylvania, bounded and described more fully in said Articles of Agreement and known as "Shaw Estate" lands, have executed said Articles of Agreement;

AND WHEREAS, it has been agreed by the Lessees and the remaining 2/7's Owners/Lessors that certain changes and modifications are necessary prior to the execution of the said Articles of Agreement by the said remaining Owners/Lessors and Lessees agree to so change the said Articles of Agreement;

NOW THEREFORE, in consideration of execution of said Articles of Agreement by the said remaining Owners/Lessors, the Lessees agree to modify the terms of said Articles of Agreement as follows:

Paragraph #3--the following sentence shall be added: "However, Lessees shall fully comply with all State and Federal laws and regulations which require that Lessees backfill and replant the areas effected by Lessees' mining operations and further, Lessees agree that in the event such laws and regulations be revoked or otherwise become ineffective, Lessees still agree to backfill and replant to specifications as they presently exist."

Paragraph #5--the following sentence will be added after the first sentence in Paragraph #5: "Once mining operations commence, mining must be continuous and for the purpose of this lease, continuous mining shall mean that 12,000 tons of coal per year must be mined or in the event said 12,000 tons are not mined, royalty amounts on 12,000 tons must be paid as an advance.

Paragraph #7--the royalty provision is hereby modified to read as follows: "The Lessees agree to pay as minimum royalty to the Lessors the amount of two (\$2.00) dollars per ton for every net ton of coal (2,000 lbs.) mined and removed from the premises which is extracted by the strip mine or auger mine method. Further, the Lessees agree to pay as royalty to the Lessors the amount of one (\$1.00) dollar per ton for every net ton of coal (2,000 lbs.) mined and removed from the premises which is extracted by the deep mine method. In the event the selling price of coal f.o.b. the mine shall exceed \$20.00 per ton, Lessees shall pay Lessors the amount equal to 10% the selling price of coal f.o.b. the mine for strip and auger coal and 5% the selling price of coal f.o.b. the mine for every said ton of coal extracted by the deep mine method."

Paragraph #7--the next to the last sentence shall be changed to read as follows: "Further, Lessees do agree to pay three hundred and fifty (\$350.00) dollars per month as advance royalty until mining operations commence or this lease terminates as herein provided.

Paragraph #16--delete last two sentences and add: "Any coal mined from other lands carried across the premises herein shall be subject to ten (\$.10) cents per ton wheelage. Said wheelage shall be paid by Lessees to Lessors on a monthly basis on or before the 25th day of the month following such haulage. The minimum payment for such wheelage shall be one hundred (\$100.00) dollars per month. If such rights are exercised after the conclusion of the mining on the subject premises, haulage must occur only on cartways in existence at the conclusion of this lease.

IN WITNESS WHEREOF, the Parties hereto set their hands and seals this 22nd day of July, 1980, intending to be legally bound hereby and intending this to become part of the aforesaid Articles of Agreement, a copy of which is attached hereto and made a part hereof.

R. Wesley Smith (SEAL)  
R. Wesley Smith, Lessee

Raymond A. Smith (SEAL)  
Raymond A. Smith, Lessee

COMMONWEALTH OF PENNSYLVANIA:  
COUNTY OF JEFFERSON

On this, the 22nd day of July, 1980, before me, the undersigned officer, personally appeared R. Wesley Smith and Raymond A. Smith, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purpose therein contained.

In witness whereof, I have hereunto set my hand and official seal.

Denise A. McGranor

Notary Public  
DENISE A. MCGRANOR, Notary Public  
Reynoldsburg, Jefferson County, Pa.  
My Commission Expires Jan. 24, 1983

June 10, 2002

Mr. Alan Chaplin  
2515 Meadow Road  
Clearfield, PA. 16830

Re: Show Heirs Coal lease  
Assignment to Sky Haven  
Coal, Inc.

Dear Mr. Chaplin,

After talking with you on June 8, 2002 I have been advised that Attorney Ann Blood will represent Sky Haven Coal, Inc. against any possible litigation regarding this coal lease and assignment. All documents are in her possession.

As such I have been advised that I should not turn over documents to you and that any information regarding this matter should be handled through the coal company or her office.

Sincerely,  
R. Wesley Smith

Exhibit

"C"

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION  
No. 02- - CD

ALAN D. CHAPLIN, in his own  
individual right, and ALAN  
D. CHAPLIN, Agent, Plaintiffs

vs.

JOSEPH OWENS and SKY HAVEN  
COAL COMPANY, INC.; R. WESLEY  
SMITH and RAYMOND A. SMITH,  
Defendants

C O M P L A I N T

NOTICE TO DEFENDANTS:

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

*John Colavecchi*  
JOSEPH COLAVECCHI, ESQUIRE  
ATTORNEY FOR PLAINTIFFS

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

FILED 500  
0/3/31/02 JUN 26 2002  
Atty pd \$80.00  
B6  
William A. Shaw  
Prothonotary

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

ALAN D. CHAPLIN, in his own : NO. 02-1019-CD  
individual right, and ALAN :  
D. CHAPLIN, Agent, :  
Plaintiffs :  
VS. :  
: Type of Pleading:  
JOSEPH OWENS and SKY HAVEN : ANSWER AND NEW MATTER  
COAL COMPANY, INC.; R. WESLEY :  
SMITH and RAYMOND A. SMITH, :  
Defendants :  
: Filed on Behalf of:  
: Defendants, Joseph A. Owens  
: and Sky Haven Coal, Inc.  
: Counsel of Record for this  
: Party:  
: Ann B. Wood, Esquire  
: Supreme Court No. 23364  
: Bell, Silberblatt & Wood  
: 318 East Locust Street  
: P.O. Box 670  
: Clearfield, PA 16830  
: (814) 765-5537  
:  
:  
:  
:

**FILED**

JUL 30 2002

6/12/05  
William A. Shaw  
Prothonotary

1 copy to Attn: *[Signature]*

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

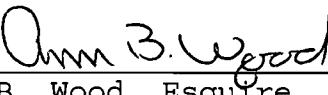
ALAN D. CHAPLIN, in his own individual right, and ALAN D. CHAPLIN, Agent,	:	
	:	No. 02-1019-CD
	:	
Plaintiffs	:	
	:	
vs.	:	
	:	
JOSEPH OWENS and SKY HAVEN COAL COMPANY, INC.; R. WESLEY SMITH and RAYMOND A. SMITH,	:	
	:	
Defendants	:	
	:	

NOTICE TO PLEAD

TO: Alan D. Chaplin, individually  
and as Agent, Plaintiffs  
c/o Joseph Colavecchi, Esquire  
COLAVECCHI, RYAN & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830

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

BELL, SILBERBLATT & WOOD  
BY

  
\_\_\_\_\_  
Ann B. Wood, Esquire  
Attorney for Defendants,  
Joseph A. Owens and Sky Haven  
Coal, Inc.

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

ALAN D. CHAPLIN, in his own individual right, and ALAN D. CHAPLIN, Agent,	:	No. 02-1019-CD
	:	
	:	
Plaintiffs	:	
	:	
vs.	:	
	:	
JOSEPH OWENS and SKY HAVEN COAL COMPANY, INC.; R. WESLEY SMITH and RAYMOND A. SMITH,	:	
	:	
Defendants	:	
	:	

ANSWER AND NEW MATTER

AND NOW COMES the Defendants, JOSEPH A. OWENS and SKY HAVEN COAL, INC., by their attorney, Ann B. Wood, Esquire, and sets forth their Answer to Complaint as follows:

1. Paragraph 1 of the Complaint is admitted insofar as Alan D. Chaplin is an individual residing at the mailing address shown in the Complaint. The Complaint is denied insofar as the allegation that Alan D. Chaplin is Agent for the owners of the A.B. Shaw property. The Defendants, after reasonable investigation, are unable to determine the truth of this allegation and strict proof thereof is demanded at trial.

2. (a.) Paragraph 2(a.) of the Complaint is denied as stated and, on the contrary, it is averred that the Defendant's proper name is Joseph A. Owens, who is an adult individual residing at R.D. 1, Penfield, 15849.

(b.) Paragraph 2(b.) of the Complaint is denied as stated and, on the contrary, it is averred that the proper name of the Defendant is Sky Haven Coal, Inc., a Pennsylvania Corporation organized and existing under the laws of the Commonwealth of Pennsylvania, having its principal place of business at R.D. 1, Box 180, Penfield, Pennsylvania 15849.

(c.) Paragraph 2(c.) Of the Complaint is admitted.

(d.) Paragraph 2(d.) of the Complaint is admitted.

3. Paragraph 3 of the Complaint is admitted.

4. Paragraph 4 of the Complaint is denied as stated and, on the contrary, it is averred that there were Articles Of Amendment negotiated between the Plaintiffs and Defendants, R.Wesley Smith and Raymond A. Smith, but it is denied that those Articles Of Amendment were ever executed by the Lessors and, therefore, never became part of the agreement between the Parties.

5. Paragraph 5 of the Complaint is admitted insofar as the Defendants, R. Wesley Smith and Raymond A. Smith, Lessees, under the original Lease Agreement, did assign said Agreement to Joseph A. Owens. The balance of the allegations are denied as the Defendants, after reasonable investigation, were unable to determine the truth thereof as said information being within the

particular knowledge of other parties, strict proof is demanded at trial.

6. Paragraph 6 of the Complaint is admitted.

7. Paragraph 7 of the Complaint is admitted insofar as the language set forth in the Complaint does appear in the purported Amendment to the original Lease. However, it is denied that said Article Of Agreement ever became effective as an amendment of the original Articles Of Agreement.

8. Paragraph 8 of the Complaint is admitted.

COUNT I

ALAN D. CHAPLIN, IN HIS OWN INDIVIDUAL RIGHT, and  
ALAN D. CHAPLIN, AGENT vs. JOSEPH OWENS,  
SKY HAVEN COAL COMPANY, INC.

The answers to Paragraph 1 through 8 are incorporated herein by reference as though set forth in full.

9. Paragraph 9 of the Complaint is denied as stated and, on the contrary, it is averred that Sky Haven Coal, Inc. did haul coal from adjoining lands across the A.B. Shaw property after September, 2000.

10. Paragraph 10 of the Complaint is denied as stated and, on the contrary, it is averred that no funds have been paid to Lessors for wheelage. It is further denied that there is any moneys owed to Lessors for either monthly minimums or wheelage per ton based on the purported Amendment to the original Agreement.

11. Paragraph 11 of the Complaint is admitted.

12. Paragraph 12 of the Complaint is denied as stated and, on the contrary, it is averred that there would be no monthly minimum owned.

13. Paragraph 13 of the Complaint is denied as stated and, on the contrary, it is acknowledged that there has been hauling of coal across the A.B. Shaw property for which wheelage has not been paid, but it is denied that any payment for wheelage is due pursuant to the Lease Agreement.

14. Paragraph 14 of the Complaint is denied as stated and, on the contrary, it is averred that the omission to pay the yearly fee for said haulage was an oversight and no punitive damages should be awarded.

WHEREFORE, Defendants ask that the Court deny and dismiss the Complaint of the Plaintiffs.

COUNT II

ALAN D. CHAPLIN, IN HIS OWN INDIVIDUAL RIGHT, and  
ALAN D. CHAPLIN, AGENT vs. JOSEPH OWENS,  
SKY HAVEN COAL COMPANY, INC.

The answers to Paragraph 1 through 14 are incorporated herein by reference as though set forth in full.

15. The balance of the Count II of the Complaint being directed to Parties other than these Defendants, no answer is required thereto.

16. The balance of the Count II of the Complaint being directed to Parties other than these Defendants, no answer is required thereto.

17. The balance of the Count II of the Complaint being directed to Parties other than these Defendants, no answer is required thereto.

18. The balance of the Count II of the Complaint being directed to Parties other than these Defendants, no answer is required thereto.

19. The balance of the Count II of the Complaint being directed to Parties other than these Defendants, no answer is required thereto.

20. The balance of the Count II of the Complaint being directed to Parties other than these Defendants, no answer is required thereto.

NEW MATTER

AND NOW COMES the Defendants, JOSEPH A. OWENS and SKY HAVEN COAL, INC., by their attorney, Ann B. Wood, Esquire, and sets forth their New Matter as follows:

21. The Amendment to Article Of Agreement which were negotiated between the Lessors and the Lessees were signed by the Lessees, R. Wesley Smith and Raymond A. Smith, but were never executed by the Lessors.

22. As the Amendment were never executed by the Lessors, said Amendment to Articles Of Agreement did not become an effective part of the contract between the Parties.

23. That the Lessees, R. Wesley Smith and Raymond A. Smith, did executed a Limited Assignment of Coal Option and Lease Agreement on March 24, 1982 to Joseph A. Owens, which Agreement included in Paragraph D. the A.B. Shaw Heirs property which is the subject of this suit. Copy of said Limited Assignment is attached hereto as Exhibit "A".

24. That Joseph A. Owens did arrange a subcontract with Sky Haven Coal, Inc. for the actual conducting of mining on the premises.

25. That the Lessors and Lessees, under the original Agreement, were aware of the assignment to Owens and the subcontracting and actual mining by Sky Haven Coal, Inc.

26. That the last hauling of coal from adjoining properties across the A.B. Shaw property occurred in April of 2002.

27. That the original Articles Of Agreement from 1980 only required payment under Paragraph 16 for wheelage in years after conclusion of mining on the property.

28. That the four (4) years statute of limitations applicable in this case would bar and limit claims of the Plaintiffs to any payments claimed to be due and owing prior to June 26, 1998.

WHEREFORE, Defendants would request the Honorable Court to dismiss the Complaint of the Plaintiffs with prejudice.

BELL, SILBERBLATT & WOOD  
By:

Ann B. Wood  
Ann B. Wood, Esquire  
Attorney for Defendants  
Joseph A. Owens and Sky  
Haven Coal, Inc.

COMMONWEALTH OF PENNSYLVANIA:

: SS.

COUNTY OF CLEARFIELD

:

Before me, the undersigned officer, personally appeared JOSEPH A. OWENS, individually, and as President of SKY HAVEN COAL, INC., who, being duly sworn according to law, deposes and says that the facts set forth in the foregoing ANSWER AND NEW MATTER are true and correct to the best of his knowledge, information and belief.

Joseph A. Owens  
JOSEPH A. OWENS, Individually  
and as President of SKY HAVEN  
COAL, INC.

SWORN and SUBSCRIBED before me  
this 29th day of July, 2002.

Nancy M. Smeal



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

ALAN D. CHAPLIN, in his own individual right, and ALAN D. CHAPLIN, Agent, : No. 02-1019-CD  
Plaintiffs :  
vs. :  
JOSEPH OWENS and SKY HAVEN COAL COMPANY, INC.; R. WESLEY SMITH and RAYMOND A. SMITH, :  
Defendants :  
:

CERTIFICATE OF SERVICE

I hereby certify that a Certified Copy of ANSWER AND NEW MATTER with reference to the above captioned matter has been served upon the attorney for Plaintiffs by mailing a true and correct copy of same to him by United States First Class Mail, postage prepaid, addressed as follows on July 30, 2002 :

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

BELL, SILBERBLATT & WOOD  
By:

Ann B. Wood

Ann B. Wood, Esquire  
Attorney for Defendants,  
Joseph A. Owens and Sky  
Haven Coal, Inc.

LIMITED ASSIGNMENT OF COAL OPTION AND LEASE AGREEMENT

THIS AGREEMENT, made and entered into as of the 24<sup>th</sup> day of July, 1982, between R. WESLEY SMITH of 324 Fourth Street, Reynoldsville, Pennsylvania, and RAYMOND A. SMITH of R.D. #1, Reynoldsville, Pennsylvania, hereinafter called ASSIGNORS and JOSEPH A. OWENS of Penfield, Pennsylvania, hereinafter called ASSIGNEE.

WITNESSETH, that in consideration of one (\$1.00) dollar in hand paid, and further sums specified below, paid by Assignee to Assignors, and in consideration of the promises and covenants hereinafter mentioned and stipulated, the parties hereto agree to be bound as follows:

Assignors hereby transfer, assign and set over unto Assignee all of their right, title and interest in the Coal Option and Lease Agreements specified as follows:

A. Lessors: Edwin L. Snyder, Jr., and Virginia C. Snyder, 39 acres and 32 perches, excepting and reserving 19.5 acres, East Mahoning Township, Indiana County, Pennsylvania, lease dated July 17, 1980.

B. Lessors: William B. and LaRue M. Oberlin, 35 acres, East Mahoning Township, Indiana County, Pennsylvania, lease dated May 5, 1979, recorded in Indiana County Deed Book 780, Page 177.

C. Lessors: Mrs. David (Eunice) Best, James E. Wheat-croft and Lee Mathews, 57 acres, Redbank Township, Armstrong County, Pennsylvania, lease dated July 25, 1979.

D. Lessors: Shaw Heirs, Robert Leipold, et al, 800 acres, Goshen Township, Clearfield County, Pennsylvania, lease dated 1980.

Copies of said leases are attached hereto and marked Exhibit A.

Assignee hereby assumes the performance of all the terms, conditions, covenants and provisions of the said Option and Lease Agreements hereby assigned except payments to be made to the said Lessors and will well and truly perform all such terms, covenants and conditions of the said Option and Lease Agreement herein assigned except said royalty payments, all with the same full force and effect as if Assignee had been the original Lessee therein.

Upon execution of the assignment herein, Assignee shall pay to Assignors the sum set forth in the Option and Lease Agreement to be paid to the Lessor which shall be paid directly to Assignees. Royalty shall be paid to Assignors as specified in said Option and Lease Agreement at the rate set forth therein.

Additionally, Assignee shall pay to Assignors the following overrides or additional royalty and at the same time Lessors in the leases herein must be paid the following overriding payments:

A. Edwin L. Snyder, Jr., et ux, overriding royalty of 60¢ per ton of 2,000 lbs. or 2% the selling price of coal f.o.b. the mine, which ever is greater.

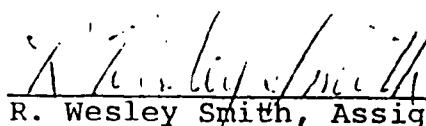
B. William B. Oberlin et ux, overriding royalty of 60¢ per ton or 2,000 lbs. or 2% the selling price of coal f.o.b. the mine, which ever is greater.

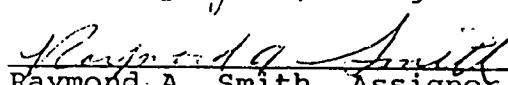
C. Mrs. David Best et al, overriding royalty of 65¢ per ton of 2,000 lbs. or 2% the selling price of coal f.o.b. the mine which ever is greater for the Freeport vein of coal. All other veins shall be paid for at 50¢ per ton or 2% the selling price of coal f.o.b. the mine, which ever is greater.

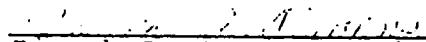
D. Shaw Heirs, overriding royalty of 65¢ per ton of 2,000 lbs. or 2% the selling price of coal f.o.b. the mine, which ever is greater.

This assignment to Assignee is conditioned upon Assignee commencing operations on the above described premises within the time frame provided in each individual lease. In the event Assignee does not commence operations within the time specified on the above leases, this assignment shall lapse and become null and void as to that property upon which Assignee has not commenced operations within the given time and all right, title and interest in that lease shall revert to Assignors.

IN WITNESS WHEREOF, Assignors and Assignee have caused  
these presents to be duly executed and sealed the day and year  
first above written.

  
\_\_\_\_\_  
R. Wesley Smith, Assignor (SEAL)

  
\_\_\_\_\_  
Raymond A. Smith, Assignor (SEAL)

  
\_\_\_\_\_  
Joseph A. Owens, Assignee (SEAL)

In The Court Of Common Pleas Of  
Clearfield County, Pennsylvania  
Civil Action  
No.02-1019-CD

ALAN D. CHAPLIN, in his own  
individual right, and ALAN D.  
CHAPLIN, Agent, Plaintiffs

vs.

JOSPEH OWENS and SKY HAVEN COAL,  
INC.; R. WESLEY SMITH and  
RAYMOND A. SMITH, Defendants

ANSWER AND NEW MATTER

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

**FILED**

JUL 30 2002

William A. Shaw  
Prothonotary

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

ALAN D. CHAPLIN, in his own :  
individual right, and ALAN :  
D. CHAPLIN, Agent :  
Plaintiffs :  
: NO. 02 - 1019 - CD  
vs. :  
: ANSWER AND NEW MATTER  
JOSEPH OWENS and SKY HAVEN :  
COAL COMPANY, INC.; R. WESLEY :  
SMITH and RAYMOND A. SMITH,  
Defendants :  
:

Filed on Behalf of:  
Defendants R. Wesley Smith  
And Raymond A. Smith

Counsel of Record for  
This Party:

Carl A. Belin, Jr., Esquire  
PA I.D. #06805

BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830  
(814) 765-8972

**FILED**

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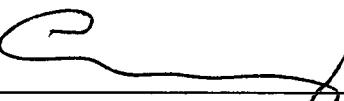
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ALAN D. CHAPLIN, in his own	:
individual right, and ALAN	:
D. CHAPLIN, Agent	:
Plaintiffs	:
	NO. 02 - 1019 - CD
vs.	:
	:
JOSEPH OWENS and SKY HAVEN	:
COAL COMPANY, INC.; R. WESLEY	:
SMITH and RAYMOND A. SMITH,	:
Defendants	:

NOTICE

You are hereby notified to plead to the within pleading  
within twenty (20) days of service thereof, or default judgment  
may be entered against you.

BELIN & KUBISTA

By   
Carl A. Belin, Jr., Esq.  
Attorney for Defendants  
R. Wesley Smith and  
Raymond A. Smith

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

ALAN D. CHAPLIN, in his own	:	
individual right, and ALAN	:	
D. CHAPLIN, Agent	:	
	Plaintiffs	:
	:	NO. 02 - 1019 - CD
vs.	:	
	:	
JOSEPH OWENS and SKY HAVEN	:	
COAL COMPANY, INC.; R. WESLEY	:	
SMITH and RAYMOND A. SMITH,	:	
	Defendants	:

ANSWER AND NEW MATTER

AND NOW, comes Defendants R. Wesley Smith and Raymond A. Smith (hereinafter "Defendants Smith"), by and through their attorneys, Belin & Kubista, and hereby file the following answer and new matter to Plaintiffs' Complaint, and in support thereof avers as follows:

1. Paragraph 1 is admitted in part that Alan D. Chaplin is an individual who resides at 2515 Meadow Road, Clearfield, Pennsylvania 16830. Defendants Smith after reasonable investigation are without knowledge or information sufficient to form a belief as to the truth of the remainder of the averment

as to agency and, if relevant, strict proof is demanded thereof at trial.

2. Paragraph 2 is admitted.

3. Paragraph 3 is admitted.

4. Paragraph 4 is admitted.

5. Paragraph 5 is admitted in that it is averred that Smith assigned the lease referred to in Paragraphs 3 and 4 to Joseph Owens ("Owens") on March 24, 1982. A copy of the assignment is hereto attached and marked Exhibit "1." Defendants Smith aver Owens assigned the lease to Sky Haven Coal Company, Inc ("Sky Haven") before mining commenced. The letter set forth in Paragraph 5 is admitted.

6. Paragraph 6 is admitted.

7. Paragraph 7 is admitted.

8. Paragraph 8 is neither admitted nor denied as after reasonable investigation Defendants Smith are without knowledge or information sufficient to form a belief as to the truth of the averment as said information is under the control of a third party, Sky Haven, and if, relevant, strict proof is demanded at trial.

COUNT I

ALAN D. CHAPLIN, IN HIS OWN INDIVIDUAL RIGHT, and  
ALAN D. CHAPLIN, AGENT, vs. JOSEPH OWENS,  
SKY HAVEN COAL COMPANY, INC.

Paragraphs 1 through 8 of this Answer and New Matter are hereby incorporated by reference and made a part hereof.

9. Paragraph 9 is neither admitted nor denied as after reasonable investigation Defendants Smith are without knowledge or information sufficient to form a belief as to the truth of the averment as said information is under the control of a third party, Sky Haven, and if, relevant, strict proof is demanded at trial.

10. Paragraph 10 is admitted but it is averred that Defendants Smith have received no information one way or the other that the operations have ceased or that any coal has been hauled from adjoining properties across the A. B. Shaw property. It is admitted that no minimum or actual wheelage royalties have been paid to the Lessors and it is further averred Sky Haven has not paid Defendants Smith any minimum or actual wheelage royalties.

11. Paragraph 11 is admitted that no accounting has been made for wheelage of coal and it is averred that Defendants Smith have received no notice from Sky Haven that it has discontinued operations of the lease or that it has hauled coal from other properties across the A.B. Shaw property. It is further averred that Sky Haven has not paid Defendants Smith any minimums or wheelage royalties for the A. B. Shaw property which would require payment to Plaintiffs.

12. Paragraph 12 is neither admitted nor denied as after reasonable investigation Defendants Smith are without knowledge or information sufficient to form a belief as to the truth of the averment as said information is under the control of a third party, Sky Haven, and if, relevant, strict proof is demanded at trial; and in further answer thereto Paragraphs 8 through 11 of this Answer and New Matter are hereby incorporated by reference and made a part hereof.

13. Paragraph 13 is neither affirmed or denied in that after reasonable investigation Defendants Smith are without knowledge or information sufficient to form a belief as to the truth of the averment as said information is under the control of a third party, Sky Haven, and if, relevant, strict proof is

demanded at trial; and in further answer thereto Paragraphs 8 through 11 of this Answer and New Matter are hereby incorporated by reference and made a part hereof.

14. Paragraph 14 is denied and it is averred that Defendants Smith have received no minimum wheelage royalties or actual wheelage royalties from Sky Haven which would require payment to Plaintiffs. As to the remainder of the averments in Paragraph 14, Defendants Smith after reasonable investigation are without knowledge or information sufficient to form a belief as to the truth of the averment as said information is under the control of a third party, Sky Haven, and if, relevant, strict proof is demanded at trial.

WHEREFORE, Defendants Smith ask that judgment be entered in favor of Defendants Smith.

COUNT II

ALAN D. CHAPLIN, IN HIS OWN INDIVIDUAL RIGHT,  
AND ALAN D. CHAPLIN, AGENT, vs. R. WESLEY SMITH and  
RAYMOND A. SMITH, DEFENDANTS

Paragraphs 1 through 14 of this Answer and New Matter are hereby incorporated by reference and made a part hereof.

15. Paragraph 15 sets forth a conclusion of law to which no answer is required under the Pennsylvania Rules of Civil

Procedure. In further answer thereto, said Paragraph is denied and it is averred that Defendants Smith as lessees entered into a contract with the A.B. Shaw heirs which included the right to assign the lease to a third party, Owens and subsequently Sky Haven, in this case. It is further averred that Paragraphs 1 through 14 of this Answer and Paragraphs 22 through 29 of the New Matter are hereby incorporated by reference and made a part hereof.

16. Paragraph 16 is denied and it is averred that Defendants Smith have not entered into any agreement with Owens to release any further claims under the lease nor have they released Owens from any liability for wheelage minimums or wheelage royalties.

17. Paragraph 17 is denied and it is averred that Defendants Smith have paid over to Lessors all amounts due under the lease that have been received from Sky Haven; in further answer thereto, Paragraphs 1 through 16 of this Answer and Paragraphs 22 through 29 of the New Matter are hereby incorporated by reference and made a part hereof.

18. Paragraph 18 is denied and in further answer thereto Paragraphs 15 through 17 of this Answer and Paragraphs 22

through 29 of the New Matter are hereby incorporated by reference and made a part hereof.

19. Paragraph 19 is denied and it is averred that Defendants Smith have not conspired with Owens in any manner and it is averred that Plaintiffs have received all royalties due under the terms and conditions of the Lease between the Shaw heirs and Defendants Smith that have been received from Sky Haven; it is further averred that Defendants Smith had no obligation to "properly check on the removal of coal and the use of Plaintiffs' property" by Owens as Lessors agreed that Defendants Smith would have the right to assign the lease to a third party. In further answer thereto, Paragraphs 9 through 18 of this Answer and Paragraphs 22 through 29 of the New Matter are hereby incorporated by reference and made a part hereof.

20. Paragraph 20 is denied. In further answer thereto, Paragraphs 15 through 19 and Paragraph 22 through 29 of this Answer and New Matter are hereby incorporated by reference and made a part hereof. It is further averred that Plaintiff seeks punitive damages that are not recoverable on a contract which is the basis for the action.

WHEREFORE, Defendants Smith ask that judgment be entered in favor of Defendants Smith.

NEW MATTER

Paragraphs 1 through 21 of this Answer and New Matter are hereby incorporated by reference and made a part hereof.

21. Smith are individuals who lease coal from property owners for assignment to coal companies who actually mine the coal for the lessors.

22. The lessors were aware of Smith's activities and agreed to lease to them with the right to assign to third party coal companies.

23. That on and after the assignment which was dated March 24, 1982 and referred to in Paragraph 5, Defendant Sky Haven has conducted mining operations under the lease and amendment thereto which is the subject of this action.

24. That Lessors received actual Sky Haven royalty statements and signed supplemental "C" forms naming Sky Haven as the miner which are recorded in the Clearfield County Courthouse Recorder of Deeds Office indicating the production activities of Sky and have received production royalties totaling \$1,211,912.40 through September 18, 2000.

25. That Plaintiffs/Lessors have been aware of the activities of Sky Haven Coal Company, Inc. and have had the opportunity to enter upon the land and to observe the activities of Owens in mining and removing coal from other parties.

26. That Plaintiffs have received the royalties since 1982 and have not made any complaints of Defendants Smith since the date of the assignment in 1982.

27. That under the circumstances of this case, Plaintiffs/Lessor are estopped to claim that Defendants Smith were guilty of any misconduct in assigning the leases and amendment thereto to Owens and subsequently Sky Haven.

28. That Plaintiffs/Lessor have waived any claims as to improper conduct arising from the assignment of said lease to Sky Haven under the circumstances of this case.

29. That Smiths join Defendant Sky Haven as an additional defendant as to this count as, in the event there are royalties due Plaintiffs, Sky Haven is liable alone to Plaintiffs or is liable over to Defendants Smith for the payment of said royalties.

WHEREFORE, Defendants Smith request that judgment be entered in their favor.

RESPECTFULLY SUBMITTED,

BELIN & KUBISTA

By 

Carl A. Belin, Jr. Esq.  
Attorney for Defendants  
R. Wesley Smith and  
Raymond A. Smith

COMMONWEALTH OF PENNSYLVANIA :  
COUNTY OF ~~REEDSBURG~~ JEFFERSON : SS.

Before me the undersigned officer, personally appeared R. Wesley Smith and Raymond A. Smith, who being duly sworn according to law, depose and say that the facts set forth in the and New Matter foregoing Answer/ are true and correct to the best of their knowledge, information and belief.

R. Wesley Smith  
R. Wesley Smith

Raymond A. Smith  
Raymond A. Smith

Sworn and subscribed before me this 25<sup>th</sup> day of July, 2002.

Denise A. McGranor  
Notary Public

Notarial Seal  
Denise A. McGranor, Notary Public  
Reynoldsville Boro, Jefferson County  
My Commission Expires Jan. 24, 2003

Member, Pennsylvania Association of Notaries

LIMITED ASSIGNMENT OF COAL OPTION AND LEASE AGREEMENT

THIS AGREEMENT, made and entered into as of the 14<sup>th</sup> day of March, 1982, between R. WESLEY SMITH of 324 Fourt Street, Reynoldsville, Pennsylvania, and RAYMOND A. SMITH of R.D. #1, Reynoldsville, Pennsylvania, hereinafter called ASSIGNORS and JOSEPH A. OWENS of Penfield, Pennsylvania, hereinafter called ASSIGNEE.

WITNESSETH, that in consideration of one (\$1.00) dollar in hand paid, and further sums specified below, paid by Assignee to Assignors, and in consideration of the promises and covenants hereinafter mentioned and stipulated, the parties hereto agree to be bound as follows:

Assignors hereby transfer, assign and set over unto Assignee all of their right, title and interest in the Coal Option and Lease Agreements specified as follows:

A. Lessors: Edwin L. Snyder, Jr., and Virginia C. Snyder, 39 acres and 32 perches, excepting and reserving 19.5 acres, East Mahoning Township, Indiana County, Pennsylvania, lease dated July 17, 1980.

B. Lessors: William B. and LaRue M. Oberlin, 35 acres, East Mahoning Township, Indiana County, Pennsylvania, lease dated May 5, 1979, recorded in Indiana County Deed Book 780, Page 177.

C. Lessors: Mrs. David (Eunice) Best, James E. Wheatcroft and Lee Mathews, 57 acres, Redbank Township, Armstrong County, Pennsylvania, lease dated July 25, 1979.

D. Lessors: Shaw Heirs, Robert Leipold, et al, 800 acres, Goshen Township, Clearfield County, Pennsylvania, lease dated 1980.

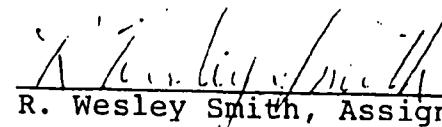
Copies of said leases are attached hereto and marked Exhibit A.

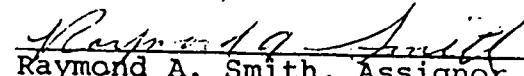
Assignee hereby assumes the performance of all the terms, conditions, covenants and provisions of the said Option and Lease Agreements hereby assigned except payments to be made to the said Lessors and will well and truly perform all such terms, covenants and conditions of the said Option and Lease Agreement herein assigned except said royalty payments, all with the same full force and effect as if Assignee had been the original Lessee therein.

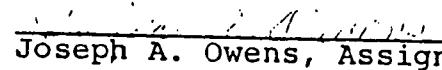
Upon execution of the assignment herein, Assignee shall pay to Assignors the sum set forth in the Option and Lease Agreement to be paid to the Lessor which shall be paid directly to Assignees. Royalty shall be paid to Assignors as specified in said Option and Lease Agreement at the rate set forth therein.

Additionally, Assignee shall pay to Assignors the following overrides or additional royalty and at the same time Lessors in the leases herein must be paid the following overriding payments:

IN WITNESS WHEREOF, Assignors and Assignee have caused these presents to be duly executed and sealed the day and year first above written.

  
R. Wesley Smith, Assignor (SEAL)

  
Raymond A. Smith, Assignor (SEAL)

  
Joseph A. Owens, Assignee (SEAL)

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

ALAN D. CHAPLIN, in his own	:	
individual right, and ALAN	:	
D. CHAPLIN, Agent	:	
	Plaintiffs	:
		NO. 02 - 1019 - CD
vs.	:	
	:	
JOSEPH OWENS and SKY HAVEN	:	
COAL COMPANY, INC.; R. WESLEY	:	
SMITH and RAYMOND A. SMITH,	:	
	Defendants	:

CERTIFICATE OF SERVICE

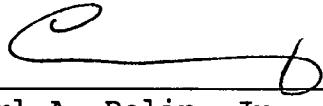
This is to certify that the undersigned has sent a certified copy of the Answer and New Matter of Defendants R. Wesley Smith and Raymond A. Smith in the above-captioned matter to the following party by postage prepaid United States first class mail on the 1st day of August, 2002:

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

Ann B. Wood, Esquire  
P.O. Box 670  
Clearfield, PA 16830

BELIN & KUBISTA

By

  
Carl A. Belin, Jr., Esq.

Attorney for Defendants

R. Wesley Smith and

Raymond A. Smith

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

---

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

ALAN D. CHAPLIN, in his own individual right, and ALAN D. CHAPLIN, Agent and ALAN D. CHAPLIN, Agent, Plaintiffs vs. JOSEPH OWENS and SKY HAVEN COAL COMPANY, INC. and RAYMOND A. SMITH and RAYMOND A. SMITH, Defendants

Plaintiffs : CIVIL DIVISION  
vs. : No. 02 - 1019 - CD  
Plaintiffs : No. REPLY TO NEW MATTER  
vs. : JUR Filed on behalf of:  
JOSEPH OWENS and SKY HAVEN : Plaintiffs, ALAN D. CHAPLIN  
COAL COMPANY, INC. and RAYMOND A. SMITH : Individually and ALAN D. CHAPLIN, Agent  
RAYMOND A. SMITH and RAYMOND A. SMITH : Counsel of Record for  
Defendants : Said Party

REPLY TO NEW MATTER JOSEPH COLAVECCHI, ESQUIRE  
PA I.D. 06810

NOW COMES, Plaintiffs, who, through COLAVECCHI & RYAN & COLAVECCHI, 221 East Market Street, Clearfield, PA 16830, respectfully state as follows:

21. This is neither admitted nor denied. The proof of this averment is in the possession of Smith, and strict proof thereof is demanded at the trial of this case.

22. Denied. It is admitted there was an agreement to sell to Smith and a right to assign to third party. Plaintiffs were not aware of the activities of Smith.

23. This is neither admitted nor denied. It is admitted that Sky Haven has conducted mining operations on the property of William A. Shaw, Prothonotary. However, the terms of their mining the Shaw property are present to Am. *gj*

VERIFICATION

I verify that the statements made in this Reply to New Matter 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.



Alan D. Chaplin

ALAN D. CHAPLIN

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

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION  
No. 02-1-10195- CD

ALAN D. CHAPLIN, in his own  
individual right, and ALAN D.  
CHAPLIN, Agent,  
Plaintiffs

vs.

JOSEPH OWENS and SKY-HAVEN  
COAL COMPANY, INC.; R. WESLEY  
SMITH and RAYMOND A. SMITH,  
Defendants

REPLY TO NEW MATTER

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

FILED

AUG 07 2002

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALAN D. CHAPLIN, in his own  
individual right, and ALAN  
D. CHAPLIN, Agent  
Plaintiffs

vs.

JOSEPH OWENS and SKY HAVEN  
COAL COMPANY, INC.; R. WESLEY  
SMITH and RAYMOND A. SMITH,  
Defendants

CIVIL DIVISION

No. 02 - 1019 - CD

REPLY TO NEW MATTER

Filed on behalf of:

Plaintiffs, ALAN D. CHAPLIN  
Individually and ALAN D.  
CHAPLIN, Agent

Counsel of Record for  
Said Party:

JOSEPH COLAVECCHI, ESQUIRE  
PA I.D. 06810

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

814/765-1566

**FILED**

AUG 13 2002  
6/9/05/wm  
William A. Shaw  
Prothonotary  
4 cent to ATM

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

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

ALAN D. CHAPLIN, in his own :  
individual right, and ALAN D. :  
CHAPLIN, Agent, :  
Plaintiffs : No. 02 - 1019 - CD  
:  
vs. : JURY TRIAL DEMANDED  
:  
JOSEPH OWENS; SKY HAVEN COAL :  
COMPANY, INC.; R. WESLEY :  
SMITH and RAYMOND A. SMITH, :  
Defendants :  
:

REPLY TO NEW MATTER

NOW COMES, Alan D. Chaplin, who, through his Attorney, Joseph Colavecchi, Esquire, files his Reply to the New Matter of Joseph A. Owens and Sky Haven Coal, Inc. and respectfully avers as follows:

21. Denied. The Amendment to Articles of Agreement provides that Articles of Agreement, a copy of which is attached hereto, are still undated and that the Amendment shall become a part thereto; and that the Owners/Lessors of 5/7's interest in and to eight hundred (800) acres have executed said Articles of Agreement. The Amendment further states that it has been agreed by the Lessors and the remaining 2/7's Owners\Lessors that certain changes and modifications are necessary. The Articles of Agreement as Amended were then executed by the remaining 2/7's interest of the Owners\Lessors. Due to the individual ownership rights, each owner has de facto veto power over the remaining owners. Even though

5/7's of the owners executed the original Articles of Agreement, the remaining 2/7's owners by refusing to sign temporarily vetoed those Articles as originally written. By executing the Articles of Agreement, as Amended, they then revalidated the signatures of the original 5/7's. The fact that the 5/7's who signed the original Articles took no action to disagree with any of the Amendments amounts to a tacit approval.

22. Denied for the reasons as set forth in Paragraph 21.

23. Admitted.

24. Denied. Plaintiffs have no knowledge of this Subcontract and proof of said Subcontract and the circumstances surrounding it is demanded at the trial of this case.

25. Denied. Plaintiffs had no knowledge of the actual terms of any Assignment to Owens and the details of any Subcontract to Sky Haven Coal, Inc.

26. Denied. After reasonable investigation, Plaintiffs are unable to determine the truth of this averment and strict proof is demanded at the trial of this case.

27. Denied. As set forth above, the changes by the Amendment and the overall Agreement provided for wheelage for hauling coal from other owners across the Shaw property. There is nothing in the Agreement to preclude the obligation to pay wheelage. Owens and Sky Haven owe wheelage from the commencement of the coal operations up to the present date.

VERIFICATION

I verify that the statements made in this Reply to New Matter 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.



ALAN D. CHAPLIN

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

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

No. 02 - 1019 - CD

ALAN D. CHAPLIN, in his own  
individual right, and ALAN D.  
CHAPLIN, Agent,

Plaintiff

vs.

JOSEPH OWENS; SKY HAVEN COAL  
COMPANY, INC.; R. WESLEY SMITH  
and RAYMOND A. SMITH,

Defendants

REPLY TO NEW MATTER

**FILED**

AUG 13 2002

William A. Shaw  
Prothonotary

**COLAVECCHI**  
**RYAN & COLAVECCHI**

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

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

ALAN D. CHAPLIN, in his own individual right, and ALAN D. CHAPLIN, Agent, : NO. 02-1019-CD  
Plaintiffs :  
VS. :  
: Type of Pleading:  
JOSEPH OWENS and SKY HAVEN COAL COMPANY, INC.; R. WESLEY SMITH and RAYMOND A. SMITH, : **ANSWER TO NEW MATTER OF DEFENDANTS, SMITH**  
Defendants :  
: Filed on Behalf of:  
: Defendants, Joseph A. Owens and Sky Haven Coal, Inc.  
: Counsel of Record for this Party:  
: Ann B. Wood, Esquire  
: Supreme Court No. 23364  
: Bell, Silberblatt & Wood  
: 318 East Locust Street  
: P.O. Box 670  
: Clearfield, PA 16830  
: (814) 765-5537  
:  
:  
:

**FILED**

AUG 20 2002

William A. Shaw  
Prothonotary

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

ALAN D. CHAPLIN, in his own	:	
individual right, and ALAN	:	No.02-1019-CD
D. CHAPLIN, Agent,	:	
	:	
Plaintiffs	:	
	:	
vs.	:	
	:	
JOSEPH OWENS and SKY HAVEN	:	
COAL COMPANY, INC.; R. WESLEY	:	
SMITH and RAYMOND A. SMITH,	:	
	:	
Defendants	:	

ANSWER TO NEW MATTER OF DEFENDANTS, SMITH

AND NOW COMES, the Defendants, JOSEPH A. OWENS and SKY HAVEN COAL, INC., by their attorney, Ann B. Wood, Esquire, and sets forth their Answer to the New Matter of Defendants, Smith, as follows:

21. Paragraph 21 of the New Matter is admitted.

22. Paragraph 22 of the New Matter is denied as after reasonable investigation, these Defendants were unable to determine the truth thereof as said information is in the particular knowledge of other parties, strict proof thereof is demanded at trial.

23. Paragraph 23 of the New Matter is denied as stated and on the contrary, it is averred that after the Assignment to Joseph A. Owens, dated March 24, 1982, the Defendant, Joseph A. Owens, arranged for Defendant, Sky Haven, to subcontract the mining

and Defendant, Sky Haven did conduct actual mining operations on the premises.

24. Paragraph 24 of the New Matter is admitted insofar as Supplemental C Forms were signed. The balance of the allegations are denied and on the contrary, as after reasonable investigation, these Defendants were unable to determine the truth thereof as said information is in the particular knowledge of other parties, strict proof thereof is demanded at trial.

25. Paragraph 25 of the New Matter is admitted.

26. Paragraph 26 of the New Matter is denied and on the contrary, as after reasonable investigation, these Defendants were unable to determine the truth thereof as said information is in the particular knowledge of other parties, strict proof thereof is demanded at trial.

27. Paragraph 27 of the New Matter is a conclusion of law and no answer is required thereto.

28. Paragraph 28 of the New Matter is a conclusion of law and no answer is required thereto.

29. Paragraph 29 of the New Matter is admitted insofar as joining Sky Haven as an Additional Defendant. It is further

averred that no coal royalties are due Defendants, Smith, or Plaintiffs. The balance of the allegations being a conclusion of law, no answer is required thereto.

WHEREFORE, Defendants, JOSEPH A. OWENS and SKY HAVEN COAL, INC., request that the Complaint be dismissed and judgment entered in favor of Defendants.

BELL, SILBERBLATT & WOOD  
By:

Ann B. Wood  
Ann B. Wood, Esquire  
Attorney for Defendants  
Joseph A. Owens and Sky  
Haven Coal, Inc.

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

Before me, the undersigned officer, personally appeared JOSEPH A. OWENS, individually, and as President of SKY HAVEN COAL, INC., who, being duly sworn according to law, deposes and says that the facts set forth in the foregoing ANSWER TO NEW MATTER OF DEFENDANTS, SMITH, are true and correct to the best of his knowledge, information and belief.

Joseph A. Owens  
JOSEPH A. OWENS, Individually  
and as President of SKY HAVEN  
COAL, INC.

SWORN and SUBSCRIBED before me  
this 20<sup>th</sup> day of August, 2002.

Nancy M. Smeal

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

ALAN D. CHAPLIN, in his own :  
individual right, and ALAN : No. 02-1019-CD  
D. CHAPLIN, Agent, :

Plaintiffs :  
:  
vs. :

JOSEPH OWENS and SKY HAVEN :  
COAL COMPANY, INC.; R. WESLEY :  
SMITH and RAYMOND A. SMITH, :

Defendants :  
:

CERTIFICATE OF SERVICE

I hereby certify that a Certified Copy of ANSWER TO NEW  
MATTER OF DEFENDANTS, SMITH, with reference to the above captioned  
matter has been served upon the attorneys of record by mailing a  
true and correct copy of same to them by United States First Class  
Mail, postage prepaid, addressed as follows on August 20, 2002 :

Joseph Colavecchi, Esquire -Attorney For Plaintiffs  
COLAVECCHI, RYAN & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830

Carl A. Belin, Jr., Esquire-Attorney for Defendants, Smith  
BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830

BELL, SILBERBLATT & WOOD  
By:

Ann B. Wood  
Ann B. Wood, Esquire  
Attorney for Defendants,  
Joseph A. Owens and Sky  
Haven Coal, Inc.

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION  
No. 02-1019-CD

ALAN D. CHAPLIN, in his own  
individual right, and ALAN D.  
CHAPLIN, Agent, Plaintiffs  
and

JOSEPH OWENS and SKY HAVEN COAL  
COMPANY, INC.; R. WESLEY SMITH  
and RAYMOND A. SMITH, Defendants

ANSWER TO NEW MATTER OF  
DEFENDANTS, SMITH

**FILED**

08/20/02  
AUG 20 2002

William A. Shaw  
Prothonotary

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

200  
Atty Wood  
W.A.S.

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

**Sheriff Docket # 12687**

**CHAPLIN, ALAN D.**

**02-1019-CD**

**VS.**

**OWENS, JOSEPH al**

**COMPLAINT**

**SHERIFF RETURNS**

---

**NOW JULY 9, 2002 AT 1:45 PM DST SERVED THE WITHIN COMPLAINT ON SKY HAVEN COAL COMPANY, INC., DEFENDANT AT EMPLOYMENT, RD#1 BOX 180 PENFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO DAVE HEITSENRETER, ACCT. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.**

**SERVED BY: COUDRIET/RYEN**

**NOW JULY 9, 2002 AT 1:45 PM DST SERVED THE WITHIN COMPLAINT ON JOSEPH OWENS, DEFENDANT AT EMPLOYMENT, RD#1 BOX 180, PENFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO DAVE HEITSENRETER, ACCT. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.**

**SERVED BY: COUDRIET/RYEN**

**NOW JUNE 28, 2002, THOMAS DEMKO, SHERIFF OF JEFFERSON COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON R. WESLEY SMITH & RAYMOND A. SMITH, DEFENDANTS.**

**NOW JULY 15, 2002 SERVED THE WITHIN COMPLAINT ON R. WESLEY SMITH AND RAYMOND A. SMITH, DEFENDANTS BY DEPUTIZING THE SHERIFF OF JEFFERSON COUNTY. THE RETURN OF SHERIFF DEMKO IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED BOTH COPIES ON RAYMOND.**

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 12687

CHAPLIN, ALAN D.

02-1019-CD

VS.

OWENS, JOSEPH al

COMPLAINT

SHERIFF RETURNS

---

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Return Costs

Cost Description

56.84 SHFF. HAWKINS PAID BY: ATTY.

42.12 SHFF. DEMKO PAID BY: ATTY.

40.00 SURCHARGE PAID BY: ATTY.

Sworn to Before Me This

29 Day Of August 2002

William A. Shaw

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

So Answers,

*Chester A. Hawkins*  
Chester A. Hawkins  
Sheriff

FILED

*WAS*  
AUG 29 2002  
018:56 / BA

William A. Shaw  
Prothonotary

No. 02-1019-CD

Personally appeared before me, Terry Fedigan, Deputy for Thomas A. Demko, Sheriff of Jefferson County, Pennsylvania, who according to law deposes and says that on July 15, 2002 at 1:30 o'clock P.M. served the Notice and Complaint upon R. WESLEY SMITH and RAYMOND A. SMITH, Defendants, at their residence, R.D. #2, Reynoldsville, Township of Winslow, County of Jefferson, State of Pennsylvania by handing to Raymond, personally, two true and attested copies of the Notice and Complaint, and by making known to him the contents thereof.

Advance Costs Received: \$125.00  
My Costs: \$ 40.12 Paid  
Prothy: \$ 2.00  
Total Costs: \$ 42.12  
Refunded: \$ 82.88

**Sworn and subscribed**  
to before me this 24th  
day of July 2002  
Raymond A. Smith  
PROTHONOTARY

MY COMMISSION EXPIRES THE FIRST  
MONDAY IN JANUARY 2006.

So Answers,

Terry Fedigan  
Thomas A. Demko  
Sheriff  
JEFFERSON COUNTY, PENNSYLVANIA

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

ALAN D. CHAPLIN, in his own :  
individual right, and ALAN D. :  
CHAPLIN, Agent, :  
Plaintiffs : No. 02 - 1019 - CD  
vs. : JURY TRIAL DEMANDED  
JOSEPH OWENS; SKY HAVEN COAL :  
COMPANY, INC.; R. WESLEY :  
SMITH and RAYMOND A. SMITH, :  
Defendants :  
:

**FILED**

MAY 12 2003

COMMONWEALTH OF PENNSYLVANIA :  
: ss  
COUNTY OF CLEARFIELD :  
:

William A. Shaw  
Prothonotary

Before me, the undersigned officer, personally appeared Joseph Colavecchi, Esquire, who, being duly sworn according to law, deposes and says as follows:

1. Affiant is an Attorney licensed to practice law in the Commonwealth of Pennsylvania, having his principal place of business at 221 East Market Street, Clearfield, Pennsylvania, 16830.

2. Affiant is the Attorney for Alan D. Chaplin in his own individual right and as Agent for all of the owners of certain real estate situated in Goshen Township, Clearfield County, Pennsylvania, said legal action having been filed against Joseph

Owens; Sky Haven Coal Company, Inc.; R. Wesley Smith; and Raymond A. Smith in the Court of Common Pleas of Clearfield County, Pennsylvania to Docket Number 02-1019-CD.

3. Affiant is the owner of approximately a 1/21st interest in the real estate which is the subject of this legal action set out at the above docket number. The real estate was conveyed to Affiant by deed dated August 8, 1973 from Edward Conrad Clune and Margaret F. Clune, his wife, said deed being recorded at Clearfield County Volume 655, Page 008. A copy of the deed is attached to this Affidavit.

4. The purpose of this Affidavit is so that the record will reflect that Joseph Colavecchi, Attorney for the Plaintiff, has an ownership interest in said property which is the subject of this legal action.

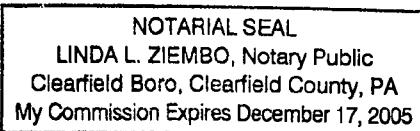


---

JOSEPH COLAVECCHI, ESQUIRE

Sworn to and subscribed before  
me this 9th day of May, 2003.

Linda L. Ziemblo



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

655 ~~ma~~ 008

QUIT-CLAIM DEED

Made the 8<sup>th</sup> day of August in the year of our Lord one thousand nine hundred and seventy-three between EDWARD CONRAD CLUNE and MARGARET F. CLUNE, his wife, of 200 Scarborough Road, Briarcliff Manor, New York, parties of the first part, hereinafter referred to as Grantors

AND

JOSEPH COLAVECCHI of Clearfield Borough, Clearfield County, Pennsylvania, party of the second part, hereinafter referred to as Grantee

WITNESSETH, that in consideration of one thousand three hundred thirty-three dollars and thirty-three cents (\$1,333.33) in hand paid, the receipt whereof is hereby acknowledged, the said grantors do hereby release and quit-claim to the said grantee all of their interest in the real estate in the Commonwealth of Pennsylvania which was received from the estate of Arnold Bishop Shaw also known as A. B. Shaw who died September 21, 1915.

This includes the properties shown on the tax assessment records of Clearfield County, Pennsylvania in the name of EDWARD CONRAD CLUNE which are described as follows:

1. Eighty-two-forty-four (82-44) acres in Goshen Township, Clearfield County, Pennsylvania
2. Twenty-six (26) acres in Goshen Township, Clearfield County, Pennsylvania
3. Lot in Goshen Township, Clearfield County, Pennsylvania
4. Five hundred thirty (530) acres in Goshen Township, Clearfield County, Pennsylvania
5. One hundred eighty (180) acres in Goshen Township, Clearfield County, Pennsylvania
6. A one-half ( $\frac{1}{2}$ ) interest in one hundred eighty-five (185) acres coal rights in Beccaria Township, Clearfield County, Pennsylvania

(1)

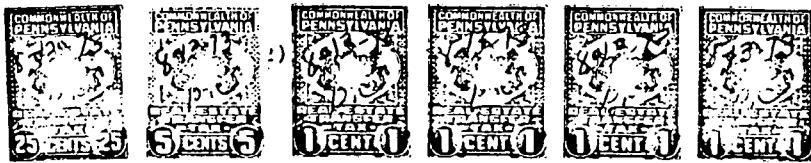
7. One-half (½) interest in one hundred (100) acres coal rights in Beccaria Township, Clearfield County, Pennsylvania

The properties intended to be conveyed from the grantors to the grantee are described in more detail as follows:

1. All those two certain tracts or pieces of land situate in the Township of Goshen, Clearfield County, Pennsylvania, bounded and described as follows:

One Thereof; BEGINNING at a white oak on the North bank of the West Branch of the Susquehanna River, thence down said river by its several courses two hundred sixty-five (265) perches, more or less, to a red oak; thence North fifty-nine (59) degrees East, by residue of tract No. 1885, thirty-six (36) perches to post; thence North twenty-six (26) degrees West one hundred thirty-six (136) perches to a pitch pine; thence North twenty-nine (29) degrees East seventy-six (76) perches to a white oak grub; thence North seventy-one (71) degrees West one hundred eleven (111) perches to stones; thence North thirty-one (31) perches to a black oak; thence North eleven (11) degrees West twenty-five (25) perches to an ash; thence North thirty-one (31) degrees East sixteen (16) perches to a post; thence North forty-seven (47) degrees East thirty (30) perches to a maple; thence North twenty (20) degrees East forty (40) perches to a white oak; thence North six (6) degrees West sixty-nine (69) perches to a white pine; thence North ten (10) degrees East seventy-two (72) perches to a white oak; thence North eighty-two (82) degrees East one hundred forty (140) perches to stones; thence East thirteen (13) perches to a maple; thence North eighty-seven (87) perches to stones at corner of tract No. 1945; thence West along line of tract No. 1945, two hundred forty-eight (248) perches to a maple and line of tract No. 1884; thence South along line of tract No. 1884 in line of tract No. 1915, four hundred (400) feet to the white oak and place of beginning. Containing three hundred seventy-five (375) acres and thirty (30) perches and being part of tract No. 1885.

LAW OFFICES OF  
JOSEPH COLAVECCHI  
2 EAST MARKET ST.  
CLEARFIELD, PA.



655 or 010

The Other Thereof; BEGINNING at stones at Northeast corner of the above described tract of land; thence North along line of tract No. 1921, one hundred sixty-two (162) perches to a post at corner of tract No. 5317; thence West along line of tract No. 5317, five hundred sixty-two (562) perches to a post; thence South along line of tract No. 5317, one hundred sixty-two (162) perches to a post; thence East along line of tract No. 1884 and No. 1885, five hundred sixty-two (562) perches to stones and place of beginning. Containing five hundred thirty-six (536) acres and one hundred thirty (130) perches and allowance and known as tract No. 1945.

The above described two pieces of land being the same premises which Richard Shaw, Sr., by his Last Will and Testament recorded in Will Book B, Page 434, devised to Arnold Bishop Shaw.

2. All those two (2) certain pieces or parcels of land situated in Goshen Township, Clearfield County, Pennsylvania, bounded and described as follows:

The First Thereof; BEGINNING at a white oak corner, thence West eighty-one (81) perches to a white oak corner; thence North sixty-six (66) perches to a hemlock corner; thence North eighty-two (82) degrees East eighty-three and one-half (83½) perches to stones; thence South seventy-seven (77) perches to beginning. Containing thirty-four (34) acres and allowance and known as the Kyler Farm.

The Second Thereof; BEGINNING at the Southeast corner of the above described Kyler Farm on line of E. A. Nelson, thence by line of Kyler Farm North seventy-seven (77) perches to line of land of Edward Shaw; thence by same in line of Harbison Walker Company land (known as the Schick place) East forty-six (46) perches, more or less, to Township Road leading from Woods Farm to the Eden Church; thence by line of said Township Road South perches to a pine oak by said Road; thence in the same direction thirty-eight (38) perches to a chestnut on line of E. A. Nelson; thence by same West forty-six (46) perches to a white oak and place of beginning.

Containing between twenty-two (22) and twenty-three (23) acres. Reserving and excepting, however, all the coal and mining privileges which were heretofore conveyed by John W. Nelson and wife to Harbison Walker Company by Deed recorded in Deed Book 116, Page 362 at Clearfield.

Being part of the same premises which W. O. Gulbranson by his Deed recorded in Deed Book No. 283, Page 418 granted and conveyed to the said Edgar Shaw, J. Boynton Nevling and Charles M. Shaw, Trustees of the estate of A. B. Shaw deceased.

3. All the bituminous coal and other minerals in, upon and under all that certain tract of land situate in Beccaria Township, Clearfield County, Pennsylvania, bounded and described as follows

BEGINNING at an ash at Southwest corner of the Jacob Foutz survey, thence North ninety-nine (99) perches, more or less, to post; thence East one hundred forty-two (142) perches, more or less, to a post; thence South one hundred two (102) perches, more or less, to a post; thence West ninety (90) perches, more or less, to posts; thence North three (3) perches, more or less, to post; thence West fifty-two (52) perches, more or less, to the ash and place of beginning. Containing ninety-three (93) acres, more or less. Together with a strip of land on the South and about three (3) rods wide and ninety (90) rods long, more or less, also with the right of ingress, egress, and regress and also the right and privilege of building railroads, highways, improvements, etc. upon the surface as may be necessary for the successful operation of the grant, with such timber that may be suitable for mining purposes. Being the same premises which David L. Krebs and wife by their Deed recorded in Deed Book No. 14, Page 375 conveyed to Thomas H. Forcey and A. B. Shaw.

4. All the stone, coal and other minerals in and underlying the following described tract of land situated in Beccaria Township, Clearfield County, Pennsylvania; Beginning at stone corner, thence by land of Levi Spangle East eighty-eight (88) degrees

655 & 012

South fifty (50) perches to post; thence South two (2) degrees West fifty-four and one-half (54½) perches to stones; thence by land of Sarah O'Donnell South twenty-five (25) degrees West twenty-eight (28) perches to a pine; thence by same East eighty-eight (88) degrees South seventy-three (73) perches to a post; thence by land of L. D. Weld South two (2) degrees West ninety-nine (99) perches to a post; thence by same West eighty-eight (88) degrees North eighty-six (86) perches to a post; thence by land of Samuel Hagerty North two (2) degrees East eighteen (18) perches to a post; thence by same West eighty-eight (88) degrees North eleven (11) perches to a post; thence by land of L. D. Weld North two (2) degrees East one hundred sixty-three (163) perches to stones and place of beginning and containing eighty-five (85) acres and fifty (50) perches. Being the same premises which John H. Charles and wife by their Deed recorded in Deed Book No. 16, Page 189 at Clearfield granted and conveyed to A. B. Shaw and Israel Test.

5. All the bituminous coal lying under a certain tract of land situate in Beccaria Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a point of William heirs, thence by same North seventy-nine (79) perches to a post; thence West ninety-one and one-half (91½) perches to a post of L. D. Weld; thence by same South seventy-nine (79) perches to a post; thence by Haupt and Company East ninety-one and one-half perches (91½) to the place of beginning. Containing forty-five (45) acres more or less. Being the same premises which Isaac Ricketts Sr. and wife by their Deed recorded in Deed Book No. 18 at Page 116 granted and conveyed to Israel Test and A. B. Shaw.

6. All the stone coal in and underlying that certain piece of land situate in Beccaria Township, Clearfield County, Pennsylvania, and bounded and described as follows:

BEGINNING at a post South along line of Jacob Foutz eighty-three (83) perches to a post; thence West along land of L. D. Weld

one hundred thirteen and one tenth (113.1) perches to a post; thence North along line of L. D. Weld eighty-three (83) perches to a post; thence East along land of L. D. Weld one hundred thirteen (113) perches to a post and place of beginning. Containing fifty-eight (58) acres, more or less, and being part of a larger tract in name of Peter Musser. Being the same premises which Miles Williams and wife and Edmund Williams by their Deed recorded at Clearfield in Deed Book No. 23, Page 75 granted and conveyed to Israel Test and A. B. Shaw.

A. B. Shaw having passed away on September 21, 1915 and by his Last Will leaving his property to his children and a one-twenty-first (1/21) interest in the real estate of A. B. Shaw having become vested in the grantors herein named.

It is the intent of the grantors herein named to convey all of their interest in all of the real estate in the Commonwealth of Pennsylvania which they received from the estate of Arnold Bishop Shaw also known as A. B. Shaw who passed away a resident of Clearfield County, Pennsylvania on September 21, 1915.

It is further their intent to convey all of their interest under any lease agreements whether recorded or otherwise to the grantee.

IN WITNESS WHEREOF, said grantors have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered  
in the Presence of

Jonathan Edward Clune

Edward Conrad Clune (SEAL)  
(EDWARD CONRAD CLUNE)

Margaret F. Clune

Margaret F. Clune (SEAL)  
(MARGARET F. CLUNE)

655 no 014

State of New York : ss.  
County of Westchester :

On this, the 8th day of August, 1973, before me, the undersigned officer, personally appeared EDWARD CONRAD CLUNE and MARGARET F. CLUNE, his wife, of 200 Scarborough Road, Briarcliff Manor, New York, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

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


ANITA BUCKHOLZ  
Notary Public, State of New York  
No. 60-0130450  
Qualified in Westchester County  
Commission Expires March 30, 1975

CERTIFICATE OF RESIDENCE

The undersigned hereby certifies that the precise residence and complete post office address of the within named grantee is  
2 East Market Street, Clearfield, Pennsylvania 16830

  
Attoomey for Grantee

LAW OFFICES OF  
JOSEPH COLAVECCHIO  
2 EAST MARKET ST.  
CLEARFIELD, PA.

CLEARFIELD AREA SCHOOL DISTRICT

1% REALTY TRANSFER TAX

AMOUNT \$ 19.37

(7)

PAID Aug 13 1973 Cecil A. Burns  
Dad Agent

Entered of Record Aug 13 1973, 11:25 AM,  Burns Recorder

FILED NO

01325781 CC  
MAY 12 2003

89  
KED

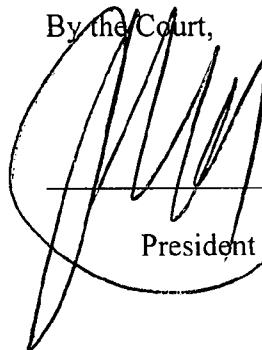
William A. Shaw  
Prothonotary

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

ALAN D. CHAPLIN, in his own  
individual right, and ALAN D. CHAPLIN,  
Agent :  
:  
-vs- : No. 02 - 1019 - CD  
:  
JOSEPH OWENS; SKY HAVEN COAL  
COMPANY, INC.; R. WESLEY SMITH  
AND RAYMOND A. SMITH :  
:

**ORDER**

NOW, this 12<sup>th</sup> day of May, 2003, upon consideration of the attached Affidavit,  
it is the ORDER of this Court that the Bench of Clearfield County shall be and is hereby  
recused from hearing proceedings therein and the Court Administrator directed to make  
arrangements for a Judge from another jurisdiction to proceed with the determination thereof.

By the Court,  
  
President Judge

**FILED**

MAY 12 2003

William A. Shaw  
Prothonotary

**FILED**

MAY 3, 2003  
12:26 PM  
MAY 12 2003

3cc

William A. Shaw  
Prothonotary

Atty Colawech,

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FILED

ALAN D. CHAPLIN, in his  
own individual right, and  
ALAN D. CHAPLIN, Agent

JUL 28 2003

-VS-

No. 02-1019-CD

William A. Shaw  
Prothonotary/Clerk of Courts

JOSEPH OWENS, SKY HAVEN  
COAL COMPANY, INC.; R.  
WESLEY SMITH and RAYMOND  
A. SMITH

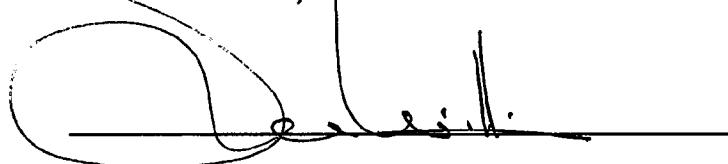
O R D E R

NOW, this 28th day of July, 2003, after argument  
and upon the agreement of counsel, it is hereby ORDERED as  
follows:

1. Plaintiff, Alan D. Chaplin, through counsel,  
shall either join all owners of the Shaw property as  
Plaintiffs on the theory they are all indispensable parties  
or Mr. Chaplin shall secure something in writing from all  
owners designating him as their authorized agent for this  
litigation;
2. The caption is amended to identify Defendant  
sky Haven as Sky Haven Coal, Inc., rather than Sky Haven  
Coal Company, Inc.;
3. Count II is withdrawn and R. Wesley Smith  
and Raymond A. Smith are dismissed as Defendants;
4. Counsel for the remaining parties shall meet

and attempt to formulate a stipulation of fact upon which the Court can determine the issue of the statute of limitations. Said stipulation shall be attached to Plaintiffs' brief, which shall be filed as promptly as possible; remaining Defendants shall have ten (10) days following the filing of Plaintiffs' brief to submit their own brief.

BY THE COURT,

A handwritten signature in black ink. It starts with a large, irregular loop on the left, followed by a smaller loop and a vertical line. To the right of the loops is a series of short, vertical, slanted strokes.

The Honorable J. Michael Williamson,  
Specially Presiding

**FILED**

2 ac Andy T-Cobuccelli  
2 ac Andy L. Ward  
2 ac Andy Belin

William A. Shaw  
Prothonotary/Clerk of Courts

*fed*

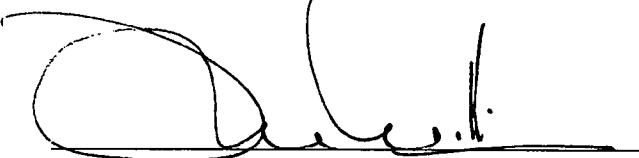
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

ALAN D. CHAPLIN, in his own individual )  
right, and ALAN D. CHAPLIN, Agent, )  
Plaintiff )  
 )  
v. ) NO. 02-1019-CD  
 )  
JOSEPH OWENS, SKY HAVEN COAL )  
COMPANY, INC.; R. WESLEY SMITH )  
and RAYMOND A. SMITH, )  
Defendants )

**ORDER**

NOW, this 16th day of October, 2003, a status conference will be held in the above matter on Friday, October 24, 2003, at 11:30 a.m. in Court Room No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania. All counsel must attend and proof of the federal bankruptcy filing submitted.

BY THE COURT:



J. Michael Williamson, Judge  
Specially Presiding  
25th Judicial District of Pennsylvania

xc: Joseph Colavecchi, Esquire  
Ann B. Wood, Esquire  
Carl A. Belin, Jr., Esquire  
Court Administrator

J. MICHAEL WILLIAMSON  
JUDGE  
COURT OF COMMON PLEAS  
25TH JUDICIAL DISTRICT  
OF PENNSYLVANIA  
COURT HOUSE  
LOCK HAVEN, PA 17745

**FILED**

OCT 17 2003

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

11/1/2003  
OCT  
17 2003

Copies

distributed

William A. Shaw  
Prothonotary/Clerk of Courts

*[Signature]*



JUDGES CHAMBERS

TWENTY-FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA  
LOCK HAVEN, PENNSYLVANIA 17745

J. MICHAEL WILLIAMSON  
JUDGE

570-893-4014  
FAX 570-893-4126

October 16, 2003

William Shaw, Pro-honorary  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

Re: **Chaplin v. Owens, et al.**  
**No. 02-1019-CD**

Dear Mr. Shaw:

Please file the enclosed Order in the above referenced matter. All copies have been distributed.

Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Carol E. Miller".

Carol E. Miller  
Secretary to Judge Williamson

Enclosure

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

ALAN D. CHAPLIN, in his own individual right, and ALAN D. CHAPLIN, Agent, : NO. 02-1019-CD  
Plaintiffs :  
VS. : Type of Pleading:  
JOSEPH OWENS and SKY HAVEN COAL COMPANY, INC.; R. WESLEY SMITH and RAYMOND A. SMITH, : SUGGESTION OF BANKRUPTCY  
Defendants :  
: Filed on Behalf of:  
: Defendants, Joseph A. Owens and Sky Haven Coal, Inc.  
: Counsel of Record for this Party:  
: Ann B. Wood, Esquire  
: Supreme Court No. 23364  
: Bell, Silberblatt & Wood  
: 318 East Locust Street  
: P.O. Bx 670  
: Clearfield, PA 16830  
: (814) 765-5537  
:  
:

**FILED**

OCT 21 2003

William A. Shaw  
Prothonotary

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

ALAN D. CHAPLIN, in his own individual right, and ALAN D. CHAPLIN, Agent, : No. 02-1019-CD  
Plaintiffs :  
vs. :  
JOSEPH OWENS and SKY HAVEN COAL COMPANY, INC.; R. WESLEY SMITH and RAYMOND A. SMITH, :  
Defendants :  
:

SUGGESTION OF BANKRUPTCY

NOW COMES the Defendant, SKY HAVEN COAL, INC., by its attorney, Ann B. Wood, Esquire, and in support of the suggestion of bankruptcy, represents as follows:

1. On October 15, 2003, Sky Haven Coal, Inc. filed its Chapter 11 Petition pursuant to 11 U.S.C. §101 et. seq. (See Exhibit "A")

2. Pursuant to *Inter alia*, 11 U.S.C. §362, this matter is now stayed.

Respectfully submitted,

BELL, SILBERBLATT & WOOD  
By:

Ann B. Wood  
Ann B. Wood, Esquire  
Attorney for Defendants  
Joseph A. Owens and Sky  
Haven Coal, Inc.

United States Bankruptcy Court  
Western District of Pennsylvania

## Notice of Bankruptcy Case Filing

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 11 of the United States Bankruptcy Code, entered on 10/15/2003 at 09:02 AM and filed on 10/15/2003.

**Sky Haven Coal, Inc.**  
R.R. 1, Box 180  
Penfield, PA 15849



The case was filed by the debtor's attorney:

**David K. Rudov**  
Rudov & Stein  
First and Market Building  
100 First Avenue, Suite 500  
Pittsburgh, PA 15222  
412-281-7300

The case was assigned case number 03-32932.

The filing of a bankruptcy case automatically stays certain actions against the debtor and the debtor's property. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page <http://ecf.pawb.uscourts.gov> or at the Clerk's Office 5414 U.S. Steel Tower, 600 Grant Street, Pittsburgh, PA 15219 or 717 State Street, Suite 501, Erie, PA 16501.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

Theodore S.  
Hopkins  
Clerk, U.S.  
Bankruptcy Court

PACER Service Center

## IncompleteFiling, PlnDue, DsclsDue

U.S. Bankruptcy Court  
Western District of Pennsylvania (Pittsburgh)  
Bankruptcy Petition #: 03-32932

*Assigned to:*  
Chapter 11  
Voluntary  
Asset

*Date Filed:* 10/15/2003

**Sky Haven Coal, Inc.**  
R.R. 1, Box 180  
Penfield, PA 15849  
**Debtor**

**David K. Rudov**  
Rudov & Stein  
First and Market Building  
100 First Avenue, Suite 500  
represented by Pittsburgh, PA 15222  
412-281-7300  
Fax : 412-281-7305  
Email: drudov@rudovstein.com

**Office of the United States Trustee**  
Liberty Center.  
1001 Liberty Avenue, Suite 970  
Pittsburgh, PA 15222  
412-644-4756  
**U.S. Trustee**

Filing Date	#	Docket Text
10/15/2003	1	Chapter 11 Voluntary Petition. Receipt Number cc, Fee Amount: \$ 830 Filed by Sky Haven Coal, Inc.. Government Proof of Claim due by 4/12/2004. Chapter 11 Plan due by 2/11/2004. Disclosure Statement due by 2/11/2004. Declaration Re: Electronic Filing due 10/30/2003. Atty Disclosure Statement due 10/30/2003. Completion of Petition due 10/30/2003. Debtor Signature re: Relief Availability due 10/30/2003. Declaration of Schedules due 10/30/2003. List of Equity Security Holders due 10/30/2003. Mailing Matrix due 10/30/2003. Schedule A due 10/30/2003. Schedule B due 10/30/2003. Schedule C due 10/30/2003. Schedule D due 10/30/2003. Schedule E due 10/30/2003. Schedule F due 10/30/2003. Schedule G due 10/30/2003. Schedule H due 10/30/2003. Schedule I due 10/30/2003. Schedule J due 10/30/2003. Schedules A-J due 10/30/2003. SSN/Tax ID due 10/30/2003. Statement of Financial Affairs due 10/30/2003. Summary of schedules due 10/30/2003. (Attachments: # 1 Exhibit A) (Rudov, David) (Entered: 10/15/2003)
10/15/2003	2	20 Largest Unsecured Creditors Filed by Sky Haven Coal, Inc.. (Rudov, David) (Entered: 10/15/2003)
10/15/2003	3	Application to Employ Rudov & Stein, P.C. as Counsel Filed by Sky Haven Coal, Inc..

		(Attachments: # 1 Exhibit A# 2 Proposed Order) (Rudov, David) (Entered: 10/15/2003)
10/15/2003	4	Application to Employ Ann Wood, Esq. as Counsel Filed by Sky Haven Coal, Inc.. (Attachments: # 1 Proposed Order # 2 Exhibit A) (Rudov, David) (Entered: 10/15/2003)
10/15/2003	5	Application to Employ Charles Johnston as Accountant Filed by Sky Haven Coal, Inc.. (Attachments: # 1 Exhibit A# 2 Proposed Order) (Rudov, David) (Entered: 10/15/2003)
10/15/2003	6	Motion to Expedite Hearing Filed by Sky Haven Coal, Inc.. (Attachments: # 1 Notice of Hearing) (Rudov, David) (Entered: 10/15/2003)
10/15/2003	7	Motion Filed by Sky Haven Coal, Inc.. (Attachments: # 1 Proposed Order) (Rudov, David) (Entered: 10/15/2003)
10/15/2003	8	Motion Filed by Sky Haven Coal, Inc.. (Attachments: # 1 Proposed Default Order) (Rudov, David) (Entered: 10/15/2003)

PACER Service Center			
Transaction Receipt			
10/15/2003 13:25:43			
PACER Login:	rs0368	Client Code:	
Description:	Docket Report	Case Number:	03-32932
Billable Pages:	1	Cost:	0.07

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

ALAN D. CHAPLIN, in his own individual right, and ALAN D. CHAPLIN, Agent, :

Plaintiffs :

vs. :

JOSEPH OWENS and SKY HAVEN COAL COMPANY, INC.; R. WESLEY SMITH and RAYMOND A. SMITH, :

Defendants :

CERTIFICATE OF SERVICE

I hereby certify that a Certified Copy of SUGGESTION OF BANKRUPTCY with reference to the above captioned matter has been served upon the attorneys of record by mailing a true and correct copy of same to them by United States First Class Mail, postage prepaid, addressed as follows on October 21, 2003 :

Joseph Colavecchi, Esquire -Attorney For Plaintiffs  
COLAVECCHI, RYAN & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830

Carl A. Belin, Jr., Esquire-Attorney for Defendants, Smith BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830

Carl A. Belin, Jr., Esquire-Attorney for Former Defendants, Smith BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830

BELL, SILBERBLATT & WOOD  
By:

Ann B. Wood  
Ann B. Wood, Esquire  
Attorney for Defendants,  
Joseph A. Owens and Sky  
Haven Coal, Inc.

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
No. 02-1019-CD

ALAN D. CHAPLIN, in his own

individual right, and ALAN D.

CHAPLIN, Agent,

Plaintiffs

vs.

JOSEPH OWENS and SKY HAVEN COAL  
COMPANY, INC.; R. WESLEY SMITH  
and RAYMOND A. SMITH,  
Defendants

SUGGESTION OF BANKRUPTCY

**FILED**

O 11/06 2003 4:00 PM *Letter*

OCT 21 2003

*WAS*

William A. Shaw  
Prothonotary

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

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

ALAN D. CHAPLIN, in his own individual )  
right, and ALAN D. CHAPLIN, Agent, )  
Plaintiff )  
 )  
v. ) NO. 02-1019-CD  
 )  
JOSEPH OWENS and SKY HAVEN COAL, )  
INC., )  
Defendants )

**FILED**

NOV 14 2003

William A. Shaw  
Prothonotary/Clerk of Courts

**ORDER**

On July 28, 2003, we entered an Order requiring counsel to meet to attempt to resolve preliminary matters. Thereafter, counsel agreed upon a settlement in the amount of \$16,500.00, as acknowledged by the attached correspondence. Prior to the consummation of the settlement, Sky Haven filed for bankruptcy.

While Owens suggests both counsel recognized that Sky Haven rather than Owens was the entity which would be satisfying the judgment, it is clear to us from the correspondence that both Defendants agreed that Plaintiff should receive \$16,500.00. Although we recognize that Plaintiff may be precluded from proceeding against Sky Haven as a result of the bankruptcy action, we see no reason why the Court and the taxpayers of Clearfield County should be burdened by further proceedings when the dispute has been settled through counsel's negotiations.

J. MICHAEL WILLIAMSON

JUDGE

COURT OF COMMON PLEAS  
25TH JUDICIAL DISTRICT  
OF PENNSYLVANIA  
COURT HOUSE  
LOCK HAVEN, PA 17745

NOW, this 7th day of November, 2003, IT IS HEREBY ORDERED as follows:

1. Judgment is entered in favor of Plaintiff, Alan D. Chaplin, in his own individual right, and Alan D. Chaplin, Agent, against Joseph Owens and Sky Haven Coal, Inc., in the amount of Sixteen Thousand Five Hundred (\$16,500.00) Dollars.
2. The Prothonotary is directed to enter judgment on the record.

BY THE COURT:



J. Michael Williamson, Judge  
Specially Presiding  
25th Judicial District of Pennsylvania

xc: Joseph Colavecchi, Esquire  
Ann B. Wood, Esquire  
Carl A. Belin, Jr., Esquire  
Court Administrator

J. MICHAEL WILLIAMSON  
JUDGE  
\_\_\_\_\_  
COURT OF COMMON PLEAS  
25TH JUDICIAL DISTRICT  
OF PENNSYLVANIA  
COURT HOUSE  
LOCK HAVEN, PA 17745

Law Offices  
BELL, SILBERBLATT & WOOD  
318 East Locust Street  
P.O. Box 670  
Clearfield, PA 16830  
e-mail: bswlaw @ pennswoods.net  
Writer's direct e-mail: annwood@pennswoods.net

RICHARD A. BELL  
ANN B. WOOD  
F. CORTEZ BELL, III

(814) 765-5537  
FAX (814) 765-9730

PAUL SILBERBLATT 1954-1985  
F. CORTEZ BELL, JR. 1954-2002

OF COUNSEL:  
DANIEL C. BELL

November 4, 2003

RE: Alan D. Chaplin, in his own  
individual right, and Alan D.  
Chaplin, Agent, Plaintiffs vs.  
Joseph Owens and Sky Haven  
Coal, Inc.; R. Wesley Smith  
and Raymond A. Smith, Defendants  
No. 02-1019-CD

The Honorable J. Michael Williamson  
CLINTON COUNTY COURTHOUSE  
230 East Water Street  
Lock Haven, PA 17745

Dear Judge Williamson:

This is in response to your Memo of October 28, 2003. I have also received Mr. Colavecchi's response to you dated November 3, 2003.

Mr. Colavecchi's recital to you of the correspondence relating to the settlement negotiations are correct in terms of dates and amounts.

However, while intention of both sides was that this was to be a full settlement of all claims and releasing both Mr. Owens and Sky Haven as Defendants, I made it clear to Mr. Colavecchi that the payment was being made by Sky Haven. My records show that he and I had a phone conference on August 22, 2003, which was confirmed by my letter to him of that same date. A copy of that letter is enclosed.

I was representing both Mr. Owens and Sky Haven throughout this process. Mr. Colavecchi was fully aware of the relationship between these Defendants, both on general knowledge and specifically, as a result of the deposition that he took of Mr. Owens in this matter. Mr. Owens had personally taken the assignment of the Plaintiffs' lease, but had turned that over to Sky Haven for mining and the Plaintiffs were aware of this fact. All payments on this mining operation had been made by Sky Haven.

Mr. Colavecchi was aware that Mr. Owens is the President of Sky Haven Coal and that all the company stock is owned by Mr. Owens and his wife.

Law Offices  
**COLAVECCHI & COLAVECCHI**  
221 East Market Street  
(across from Courthouse)  
P.O. Box 131  
Clearfield, Pennsylvania 16830  
(814) 765-1566

FAX  
(814) 765-4570

November 3, 2003

Honorable J. Michael Williamson  
Clinton County Courthouse  
230 E. Water Street  
Lock Haven, PA 17745

In Re: Chaplin vs. Owens and Sky Haven  
No. 02-1019-CD

Dear Judge Williamson:

This is in reference to your letter dated October 28, 2003, concerning the above-captioned matter.

You had instructed us to send you a written statement setting forth our understanding of the settlement and confirming that the settlement agreement was reached prior to October 15, 2003, the date of the filing of bankruptcy by Sky Haven Coal Company.

The settlement negotiations were handled as follows:

1. I sent a letter dated July 30, 2003, to Ann B. Wood, attorney for the defendants, making an offer of settlement in this case for the sum of \$20,000.

2. I then received a letter dated August 22, 2003, from Ann Wood, attorney for the defendants, wherein she made a counteroffer to settle the case for the sum of \$15,000.

3. I then sent a letter dated August 29, 2003, to Ann Wood, attorney for defendants, and offered to settle the case for the sum of \$16,500.

4. I then received a letter dated September 2, 2003, from Ann B. Wood accepting our offer of settlement of \$16,500 at which time she said he had spoken with Mr. Owens who had agreed to this settlement. She further stated that they would first need

LAW OFFICES  
COLAVECCHI & COLAVECCHI

November 3, 2003

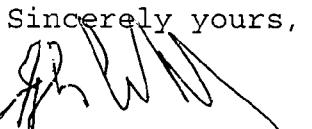
Page 2

the documentation that Mr. Chaplin was acting on behalf of all of the property owners before we could have him sign a Release and exchange that and a Praeclipe to mark the action settled and discontinued for the check.

We then obtained the Releases from the heirs of the various owners authorizing Alan D. Chaplin to settle on their behalf and forwarded them to Ann Wood, attorney for defendants.

At no time in any correspondence with Ann Wood who represented all defendants was there any reference to an allegation that this settlement only involved Sky Haven Coal Company. The clear understanding was that the case was being settled against all defendants, including Joseph Owens who is the owner of Sky Haven Coal Company.

As you will note from above, the settlement agreement was reached when Ann Wood sent us the letter dated September 2, 2003, accepting our offer of \$16,500.

Sincerely yours,  
  
Joseph Colavecchi

JC:llh  
cc: Ann B. Wood, Attorney at Law  
Alan Chaplin

FILED No cc  
11/13/03 off copies distributed  
NOV 14 2003  
EAG prior to filing

William A. Shaw  
Prothonotary/Clerk of Courts

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5574-287

11/13/03  
5574-287



JUDGES CHAMBERS  
TWENTY-FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
LOCK HAVEN, PENNSYLVANIA 17745

J. MICHAEL WILLIAMSON  
JUDGE

570-893-4014  
FAX 570-893-4126

November 10, 2003

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

Re: **Chaplin v. Owens, et al.**  
**No. 02-1019-CD**

Dear Mr. Shaw:

Please file the enclosed Order in the above referenced matter. All copies have been distributed.

Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Carol E. Miller".  
Carol E. Miller  
Secretary to Judge Williamson

Enclosure

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALAN D. CHAPLIN, in his own  
individual right, and  
ALAN D. CHAPLIN, Agent,  
Plaintiffs

Vs.

JOSEPH OWENS; SKY HAVEN COAL  
COMPANY, INC.; R. WESLEY  
SMITH and RAYMOND A. SMITH,  
Defendants

CIVIL DIVISION

No. 02 - 1019 - CD

PRAECLYPE TO FILE AUTHORITY  
OF ALAN D. CHAPLIN, AS  
ATTORNEY-IN-FACT

Filed on Behalf of:

Plaintiff,

Counsel of Record for This  
Party:

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

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

814/765-1566

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

FILED

NOV 24 2003

William A. Shaw  
Prothonotary/Clerk of Courts

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

ALAN D. CHAPLIN, in his own individual right, and ALAN D. CHAPLIN, Agent,	:	No. 02 - 1019 - CD
	:	
	Plaintiffs	:
	:	
vs.	:	
	:	
JOSEPH OWENS; SKY HAVEN COAL COMPANY, INC.; R. WESLEY SMITH and RAYMOND A. SMITH,	:	
	Defendants	:

**PRAECIPE TO FILE AUTHORITY  
OF ALAN D. CHAPLIN, AS ATTORNEY-IN-FACT**

TO: WILLIAM L. SHAW, PROTHONOTARY

Please file the following Authorizations to the above-captioned case appointing Alan D. Chaplin as Attorney-in-Fact for the following named parties:

1. Robert W. Leipold;
2. H. Clark Conner & Andrea Nye;
3. Samuel J. Serian;
4. Marjorie Truelsen;
5. William Patton Kelley for James Horton Kelley;
6. Sandra Shaw DeCasper;
7. James G. Clune, III;
8. Joseph Colavecchi;

9. Patricia Chaplin Wallace;
10. Julie Chaplin Dragavon;
11. Pamela Cowell Checketts;
12. Nan E. Boileau;
13. David M. Chaplin; and,
14. Paul Shaw Chaplin.



JOSEPH COLAVECCHI, ESQUIRE

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

AUTHORIZATION

I/We, Robert W. Leipold, M.D.  
(name, printed)

of 12 Red Oak Drive Danville PA 17821-8417  
(address)

owner of 14.29 percent interest in property in Goshen Township, Clearfield County, Pennsylvania which was formerly known as the A.B. Shaw Estate make the following authorization:

I/We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield, Pennsylvania 16830-3530 to file the legal action against Joseph Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD in the Court of Common Pleas of Clearfield County, Pennsylvania. I/We grant the said Alan D. Chaplin full authority to act in my/our behalf in the above cited legal action.

Robert W. Leipold, M.D.  
(signature)

## AUTHORIZATION

I/We, H. Clark Connor

(name, printed)

of P.O. BOX 104 CANADENSIS PA. 18325

(address)

Co - owner of 14.29 percent interest in property in Goshen Township, Clearfield County, Pennsylvania which was formerly known as the A.B. Shaw Estate make the following authorization:

I/We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield, Pennsylvania 16830-3530 to file the legal action against Joseph Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD in the Court of Common Pleas of Clearfield County, Pennsylvania.  
I/We grant the said Alan D. Chaplin full authority to act in my/our behalf in the above cited legal action.

H. Clark Connor

(signature)

AUTHORIZATION

I/We, Andrea Nye  
(name, printed)

of P.O. 145 West Newbury VT 05085  
(address)

co- owner of 14.29 percent interest in property in Goshen Township, Clearfield County, Pennsylvania which was formerly known as the A.B. Shaw Estate make the following authorization:

I/We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield, Pennsylvania 16830-3530 to file the legal action against Joseph Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD in the Court of Common Pleas of Clearfield County, Pennsylvania. I/We grant the said Alan D. Chaplin full authority to act in my/our behalf in the above cited legal action.

Andrea C. Nye  
(signature)

## AUTHORIZATION

*Ruth Serian (Deceased)*  
I/We, Samuel J. Serian  
(name, printed)

of 22 Clinton St Box 257  
(address)

owner of 10.52% percent interest in property in Goshen Township, Clearfield County, Pennsylvania which was formerly known as the A.B. Shaw Estate make the following authorization:

I/We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield, Pennsylvania 16830-3530 to file the legal action against Joseph Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD in the Court of Common Pleas of Clearfield County, Pennsylvania. I/We grant the said Alan D. Chaplin full authority to act in my/our behalf in the above cited legal action.

*Samuel J. Serian*  
(signature)

AUTHORIZATION

I/We, MARJORIE TRUEISEN  
(name, printed)

of 3333 E. Florida Ave, Denver, Co - 80210  
(address)

owner of 8.52 percent interest in property in Goshen Township,  
Clearfield County, Pennsylvania which was formerly known as the  
A.B. Shaw Estate make the following authorization:

I/We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield,  
Pennsylvania 16830-3530 to file the legal action against Joseph  
Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD  
in the Court of Common Pleas of Clearfield County, Pennsylvania.  
I/We grant the said Alan D. Chaplin full authority to act in my/our  
behalf in the above cited legal action.

Marjorie Trueisen  
(signature)

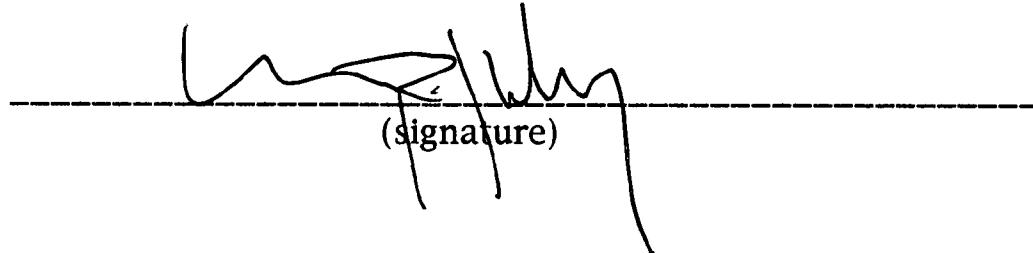
AUTHORIZATION

I/We, WILLIAM PATTON KELLEY for JAMES HORTON KELLEY II  
(name, printed)

of P.O. Box 3681 Quincy, CA 95971-3681  
(address)

owner of 7.14 percent interest in property in Goshen Township,  
Clearfield County, Pennsylvania which was formerly known as the  
A.B. Shaw Estate make the following authorization:

I/We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield,  
Pennsylvania 16830-3530 to file the legal action against Joseph  
Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD  
in the Court of Common Pleas of Clearfield County, Pennsylvania.  
I/We grant the said Alan D. Chaplin full authority to act in my/our  
behalf in the above cited legal action.

  
(signature)

AUTHORIZATION

We, SANDRA SHAW DECASPER  
(name, printed)

of 403 NORTH POWETA AVENUE, DOUGLAS, GA.  
(address) 31533

owner of 7.14 percent interest in property in Goshen Township,  
Clearfield County, Pennsylvania which was formerly known as the  
A.B. Shaw Estate make the following authorization:

We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield,  
Pennsylvania 16830-3530 to file the legal action against Joseph  
Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD  
in the Court of Common Pleas of Clearfield County, Pennsylvania.  
I/We grant the said Alan D. Chaplin full authority to act in my/our  
behalf in the above cited legal action.

Sandra Shaw Decasper  
(signature)

AUTHORIZATION

I/~~W~~ James G. Clark III  
(name, printed)

of 378 Bee Pond Rd. Allentown, VT. 05250  
(address)

owner of 4.76 percent interest in property in Goshen Township, Clearfield County, Pennsylvania which was formerly known as the A.B. Shaw Estate make the following authorization:

I/We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield, Pennsylvania 16830-3530 to file the legal action against Joseph Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD in the Court of Common Pleas of Clearfield County, Pennsylvania.  
I/We grant the said Alan D. Chaplin full authority to act in my/our behalf in the above cited legal action.

James G. Clark III  
(signature)

## AUTHORIZATION

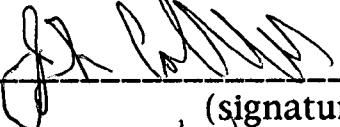
I/We, JOSEPH COLAVECCHI  
(name, printed)

of 221 East Market Street, Clearfield, Pennsylvania 16830  
(address)

owner of 4.76 percent interest in property in Goshen Township, Clearfield County, Pennsylvania which was formerly known as the A.B. Shaw Estate make the following authorization:

I/We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield, Pennsylvania 16830-3530 to file the legal action against Joseph Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD in the Court of Common Pleas of Clearfield County, Pennsylvania.  
I/We grant the said Alan D. Chaplin full authority to act in my/our behalf in the above cited legal action.

---

  
(signature)  
8/13/02

AUTHORIZATION

I/~~We~~, PATRICIA CHAPLIN WALLACE  
(name, printed)

of 3301 ALTAIR PL. OAK HARBOR, WA 98277-9100  
(address)

owner of 3.57% percent interest in property in Goshen Township, Clearfield County, Pennsylvania which was formerly known as the A.B. Shaw Estate make the following authorization:

I/~~We~~ authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield, Pennsylvania 16830-3530 to file the legal action against Joseph Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD in the Court of Common Pleas of Clearfield County, Pennsylvania.  
I/~~We~~ grant the said Alan D. Chaplin full authority to act in my/~~our~~ behalf in the above cited legal action.

Patricia Chaplin Wallace  
(signature)

AUTHORIZATION

I/We, Julie Chaplin Dragayon  
(name, printed)

of 804 Sandbar Way Carlshad, Pa 92009  
(address)

owner of 3.572 percent interest in property in Goshen Township, Clearfield County, Pennsylvania which was formerly known as the A.B. Shaw Estate make the following authorization:

I/We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield, Pennsylvania 16830-3530 to file the legal action against Joseph Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD in the Court of Common Pleas of Clearfield County, Pennsylvania.  
I/We grant the said Alan D. Chaplin full authority to act in my/our behalf in the above cited legal action.

Julie Chaplin Dragayon  
(signature)

AUTHORIZATION

I/We, PAMELA COWELL CHECKETTS  
(name, printed)

of 4921 WINWOOD VILLAGE DRIVE  
(address)

owner of 2.98 percent interest in property in Goshen Township, Clearfield County, Pennsylvania which was formerly known as the A.B. Shaw Estate make the following authorization:

I/We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield, Pennsylvania 16830-3530 to file the legal action against Joseph Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD in the Court of Common Pleas of Clearfield County, Pennsylvania. I/We grant the said Alan D. Chaplin full authority to act in my/our behalf in the above cited legal action.

Pamela C. Checkett  
(signature)

AUTHORIZATION

I/we, ALAN E. Boileau

(name, printed)

of 202 N° BRENTWOOD BLVD

ST. LOUIS  
MO. 63105

(address)

owner of 2.79 percent interest in property in Goshen Township, Clearfield County, Pennsylvania which was formerly known as the A.B. Shaw Estate make the following authorization:

I/We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield, Pennsylvania 16830-3530 to file the legal action against Joseph Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD in the Court of Common Pleas of Clearfield County, Pennsylvania.

I/We grant the said Alan D. Chaplin full authority to act in my/our behalf in the above cited legal action.

Alan E. Boileau

(signature)

AUTHORIZATION

I/We, DAVID M CHAPLIN  
PO Box 3563 (name, printed)  
of 1180 BECKER RD LANDERS CALIFORNIA 92285  
(address)

owner of 1.79 percent interest in property in Goshen Township, Clearfield County, Pennsylvania which was formerly known as the A.B. Shaw Estate make the following authorization:

I/We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield, Pennsylvania 16830-3530 to file the legal action against Joseph Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD in the Court of Common Pleas of Clearfield County, Pennsylvania.  
I/We grant the said Alan D. Chaplin full authority to act in my/our behalf in the above cited legal action.

David M. Chaplin

(signature)

AUTHORIZATION

I/We, Paul SHAW CHAPLIN  
(name, printed)

of 2164 EAST SAN MICHEL #C, COSTA MESA, CA 92627  
(address)

owner of 1.79 percent interest in property in Goshen Township,  
Clearfield County, Pennsylvania which was formerly known as the  
A.B. Shaw Estate make the following authorization:

I/We authorize Alan D. Chaplin of 2515 Meadow Road, Clearfield,  
Pennsylvania 16830-3530 to file the legal action against Joseph  
Owens and Sky Haven Coal, Inc. filed to Docket Number 02-1019-CD  
in the Court of Common Pleas of Clearfield County, Pennsylvania.  
I/We grant the said Alan D. Chaplin full authority to act in my/our  
behalf in the above cited legal action.

P. A. S. J.  
(signature)

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
CIVIL DIVISION  
No. 02 - 1019 - CD

ALAN D. CHAPLIN, in his own  
individual right, and ALAN D.  
CHAPLIN, Agent,

Plaintiffs

vs.

JOSEPH OWENS; SKY HAVEN COAL  
COMPANY, INC.; R. WESLEY SMITH  
and RAYMOND A. SMITH,  
Defendants

PRAEICE TO FILE AUTHORITY  
OF ALAN D. CHAPLIN, AS  
ATTORNEY-IN-FACT  
NOV 24 2003

William A. Shaw  
Prothonotary/Clerk of Courts  
*W. A. Shaw*

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALAN D. CHAPLIN, in his own  
individual right, and  
ALAN D. CHAPLIN, Agent,  
Plaintiffs

Vs.

JOSEPH OWENS; SKY HAVEN COAL  
COMPANY, INC.; R. WESLEY  
SMITH and RAYMOND A. SMITH,  
Defendants

CIVIL DIVISION

No. 02 - 1019 - CD

PRAECIPE TO DISCONTINUE

Filed on Behalf of:

Plaintiff,

Counsel of Record for This  
Party:

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

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

814/765-1566

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

FILED

DEC 15 2003

William A. Shaw  
Prothonotary/Clerk of Courts

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

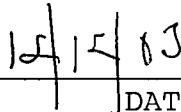
ALAN D. CHAPLIN, in his own individual right, and ALAN D. CHAPLIN, Agent,	:	No. 02 - 1019 - CD
	Plaintiffs	:
		:
VS.	:	
		:
JOSEPH OWENS; SKY HAVEN COAL COMPANY, INC.; R. WESLEY SMITH and RAYMOND A. SMITH,	:	
	Defendants	:

***PRAECIPE TO DISCONTINUE***

TO: WILLIAM L. SHAW, PROTHONOTARY

Please mark the record in the above-captioned action as  
settled, discontinued and ended.

  
JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Plaintiffs

  
DATE

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

CIVIL DIVISION

No. 02 - 1019 - GDD

ALAN D. CHAPLIN, in his own  
individual right, and ALAN D.  
CHAPLIN, Agent,

Plaintiffs

vs.

JOSEPH OWENS; SKY HAVEN COAL  
COMPANY, INC.; R. WESLEY  
SMITH and RAYMOND A. SMITH,  
Defendants

PRAECLPTE TO DISCONTINUE

FILED  
300  
DEC 15 2003

William A. Shaw  
Prothonotary/Clerk of Courts

300  
Copy to CIA  
Amy Colavecchi

COLAVECCHI  
RYAN & COLAVECCHI

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

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

**COPY**

**CIVIL DIVISION**

**Alan D. Chaplin**

**Vs.**

**No. 2002-01019-CD**

**Joseph Owens  
Sky Haven Coal, Inc.  
R. Wesley Smith  
Raymond A. Smith**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on December 15, 2003, marked:

Settled, Discontinued, and Ended

Record costs in the sum of \$80.00 have been paid in full by Joseph Colavecchi, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 15th day of December A.D. 2003.

---

William A. Shaw, Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ALAN D. CHAPLIN, in his own  
individual right, and ALAN D.  
CHAPLIN, Agent,  
Plaintiffs

Vs.

JOSEPH OWENS and SKY HAVEN  
COAL COMPANY, INC.; R. WESLEY  
SMITH and RAYMOND A. SMITH,  
Defendants

CIVIL DIVISION

No. 02 - 1019 - CD

**PRAECIPE TO SATISFY JUDGMENT**

Filed on Behalf of:

Plaintiff, ALAN D. CHAPLIN

Counsel of Record for This  
Party:

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

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

814/765-1566

**FILED**

*m/2:17pm 10  
MAR 06 2006*  
No CC  
Cert of Sat  
to Atty J.  
Colavecchi

William A. Shaw  
Prothonotary

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

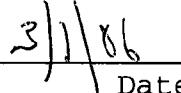
ALAN D. CHAPLIN, in his own :  
individual right, and ALAN D. : No. 02 - 1019 - CD  
CHAPLIN, Agent, :  
Plaintiffs:  
:  
Vs. :  
:  
JOSEPH OWENS, and SKY HAVEN COAL :  
COMPANY, INC.; R. WESLEY SMITH :  
and RAYMOND A. SMITH, :  
Defendants:  
:

**PRAECIPE TO SATISFY JUDGMENT**

TO: WILLIAM SHAW, PROTHONOTARY

Please mark the judgment entered in accordance with the Order  
of Judge Williamson dated November 7, 2003, paid in full and have  
the record show that this matter is discontinued and ended, with  
prejudice.

  
\_\_\_\_\_  
JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Plaintiffs

  
\_\_\_\_\_  
Date

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

CERTIFICATE OF SATISFACTION OF JUDGMENT

No.: 2002-01019-CD

Alan D. Chaplin, in his own individual  
right, and Alan D. Chaplin, agent

Debt: \$16500.00

Vs.

Atty's Comm.:

Joseph Owens and  
Sky Haven Coal, Inc.

Interest From:

Cost: \$7.00

NOW, Monday, March 06, 2006 , directions for satisfaction having been received, and all costs having been paid, SATISFACTION was entered of record.

Certified from the record this 6th day of March, A.D. 2006

Willie L. Chapman  
Prothonotary