

02-1190-CD
FRANK SCHALL et al -vs- LYND A K. FERNICHTO

William A. Shaw
Prothonotary

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

FRANK SCHALL, a/k/a FRANK S. *
SCHALL and JULIANNE SCHALL, *
husband and wife, RICHARD CLOSE, *
an adult individual, and BARBARA *
D. HOPKINS, an adult individual, *
Plaintiffs *

vs. *

LYNDA K. FERNICHIO, a/k/a *
LYNDA K. KERR, her heirs, execu- *
tors, administrators, nominees, *
grantees, successors and assigns *
and/or any person or entity *
whatsoever claiming title in and *
to the herein described premises *
under her, *
Defendants *

02-1190-CD
No. -2002 CD
ACTION TO QUIET TITLE

NOTICE

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

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

Court Administrator's Office
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641

FRANK SCHALL, a/k/a FRANK S. *
SCHALL and JULIANNE SCHALL, *
husband and wife, RICHARD CLOSE, *
an adult individual, and BARBARA *
O. HOPKINS, an adult individual, *
Plaintiffs *

No. -2002 CD

ACTION TO QUIET TITLE

AND NOW come Plaintiffs, Frank Schall, a/k/a Frank S. Schall and Julianne Schall, husband and wife, Richard Close, an adult individual, and Barbara D. Hopkins, an adult individual, by and through their counsel of record in the above captioned matter, John R. Lhota, Attorney at Law, who brings this action to quiet title against the above captioned Defendant, upon a cause of action whereof the following is a statement.

1

referred to as "Close"), whose address is 1524 Mt. Jackson Road, Enon Valley, Pennsylvania 16120, Julianne Schall whose address is Treasure Lake, DuBois, Pennsylvania 15801 and Barbara D. Hopkins, whose address is 1315 Treasure Lake, DuBois, Pennsylvania 15801.

2. Defendant is Lynda K. Fernichio a/k/a Lynda K. Kerr, an adult individual, whose last known address is Apartment 201, 525 Vine Street, Johnstown, Pennsylvania 15901.

3. The real property which is the subject of this action to quiet title is described as follows:

ALL that certain tract of land designated as Lot No. 114, Section No. 4 in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, recorded in the recorder of Deeds Office in Miscellaneous Docket Map File No. 25. EXCEPTING AND RESERVING THEREFROM AND SUBJECT TO:

1. All easements, rights of way, reservations, restrictions and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.
2. The Declaration of Restrictions, Treasure Lake, Inc. recorded in Miscellaneous Book Volume 146, Page 476, all of said restrictions being covenants which run with the land.
3. All minerals and mining rights of every kind and nature.
4. A lien for all unpaid charges or assessments as may be made by Treasure Lake, Inc., its successors, or Treasure Lake Property Owners Association, Inc.; which lien shall run with the land and be an encumbrance against it.

The above described real property is referred to throughout the remainder of this Complaint as the "Subject Premises".

4. Under a deed dated July 30, 1969, which is recorded in the Office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in Deed Book 559, Page 132, Treasure Lake, Inc.

granted and conveyed the Subject Premises to Carl H. Dubbs and Bessie L. Dubbs, husband and wife.

5. Under a deed dated September 9, 1974 which is recorded in the above mentioned Office in Deed Book 690, Page 135, the aforesaid Carl H. Dubbs and Bessie L. Dubbs, husband and wife, granted and conveyed the Subject Premises to David Nelson and Mary Nelson, husband and wife.

6. Under a deed dated February 24, 1977 which is recorded in the above mentioned Office in Deed Book 734, Page 440, the aforesaid David Nelson and Mary Nelson, husband and wife, granted and conveyed the Subject Premises to Mary Nelson.

7. Under a deed dated December 9, 1986 which is recorded in the above mentioned Office in Deeds and Records Book 1131, Page 545, the aforesaid Mary Nelson granted and conveyed the Subject Premises to Frank Schall and Richard Close, two of the Plaintiffs herein.

8. Plaintiffs Schall and Close agreed to grant and convey the Subject Premises to Anthony D. Fernichio and Lynda K. Fernichio a/k/a Lynda K. Kerr, husband and wife, Defendant herein, under the terms and conditions of an installment sale land contract dated May 20, 1987 which is recorded in the above mentioned Office in Deeds and Records Book 1159, Page 139.

9. For approximately eighteen (18) months subsequent to May 20, 1987, the aforesaid Anthony D. Fernichio and Lynda K. Fernichio, husband and wife, occupied the Subject Premises under the terms and conditions of the above mentioned installment sale

land contract dated May 20, 1987.

10. In either late 1988 or early 1989, the aforesaid Anthony D. Fernichio and Lynda K. Fernichio, husband and wife (hereinafter referred to as "Fernichios"), ceased making the payments which they were required to make to Plaintiffs Schall and Close under the terms and conditions of the aforesaid installment sale land contract dated May 20, 1987 (hereinafter referred to as the "Contract").

11. In either late 1988 or early 1989, given the fact that Fernichios had either failed, refused or neglected to make the payments which they were required to make to Plaintiffs Schall and Close under the terms and conditions of the Contract, Plaintiffs Schall and Close and Fernichios agreed that the Contract would be terminated and be regarded by both Plaintiffs Schall and Close and Fernichios as null and void, that Fernichios would vacate the Subject Premises, that Fernichios would make all payments which they were required to make under the Contract until that particular point in time to Plaintiffs Schall and Close and that upon Fernichios vacation of the Subject Premises and the making of the aforesaid payments by Fernichios to Plaintiffs Schall and Close, neither Plaintiffs Schall and Close nor Fernichios would have any claim whatsoever against one another.

12. In either late 1988 or early 1989, Fernichios vacated the Subject Premises, and, several months later, made payment to Plaintiffs Schall and Close of all amounts which Plaintiffs Schall and Close and Fernichios agreed that Plaintiffs Schall and Close

were entitled to under the terms and conditions of the Contract.

13. Plaintiffs Schall and Close represent and aver that upon Fernichio's vacation of the Subject Premises and upon the making of the aforesaid payments by Fernichios to Plaintiffs Schall and Close, the Contract, under the terms and conditions of the agreement which had been reached as between Plaintiffs Schall and Close and Fernichios, was terminated, became null and void and was of no further legal force or effect whatsoever as of either late 1988 or early 1989.

14. Fernichios were divorced from the bonds of matrimony under an Order of this Court dated November 19, 1996 which is filed to No. 94-996-CD.

15. Fernichios have not been in possession of the Subject Premises, or any portion thereof, since they vacated the Subject Premises, as aforesaid, in either late 1988 or early 1989.

16. Since Fernichios vacated the Subject Premises in either late 1988 or early 1989, Plaintiffs and/or their lessees, grantees, designees, successors and/or assigns have been in possession of the Subject Premises.

17. Under the terms and conditions of a real estate purchase option contract dated February 28, 1995, Plaintiffs Schall and Close granted Barbara D. Hopkins an option to purchase the Subject Premises. A memorandum of option evidencing the existence of the aforesaid real estate purchase option contract is recorded in the above mentioned office in Deeds and Records Book 1667, Page 270.

18. Plaintiff Barbara D. Hopkins has been in sole and

exclusive possession of the Subject Premises since February 28, 1995 under the terms and conditions of the above mentioned real estate purchase option contract dated February 28, 1995.

19. Under a deed dated February 21, 1996 which is recorded in the above mentioned Office in Deeds and Records Book 1742, Page 517, Plaintiff Frank Schall, a/k/a Frank S. Schall and Plaintiff Julianne Schall, his wife, granted and conveyed an undivided one-half (1/2) interest in and to the Subject Premises to Frank S. Schall and Julianne Schall, husband and wife, Plaintiffs herein.

20. Under a quit claim deed dated February 10, 2000, which is recorded in the above mentioned Office at Instrument No. the aforesaid Anthony D. Fernichio released, discharged and quit-claimed all of his right, title and interest, in and to the Subject Premises, if any, to Plaintiffs.

21. Plaintiffs represent and aver that at no time has Defendant or any person or entity claiming title in and to the Subject Premises under her attempted to secure possession of the Subject Premises, contest to the title of Plaintiffs in or to the Subject Premises or asserted any interest in and to the Subject Premises adverse to that of Plaintiffs' by any legal action or by any action whatsoever.

22. Plaintiffs represent and aver that Plaintiffs collectively own the Subject Premises in fee simple.

23. Defendant Lynda K. Fernichio a/k/a Lynda K. Kerr and/or her heirs, executors, administrators, nominees, grantees, successors, assigns and/or a person or entity claiming title in and

to the Subject Premises under her claims or may claim an interest or an estate in and to the Subject Premises adverse to Plaintiffs, and such claim, claims or potential claim or claims constitutes or may constitute a cloud on Plaintiffs' title in and to the Subject Premises and/or a defect in Plaintiffs' title in and to the Subject Premises.

24. Defendant Lynda K. Fernichio a/k/a Lynda K. Kerr's claim and/or the claim of any person or entity whatsoever claiming title in and to the Subject Premises under her is without any right whatsoever and Defendant and/or any person or entity whatsoever claiming title in and to the Subject Premises under her has no right, estate, title, lien or interest in or to the Subject Premises or any portion thereof.

25. Defendant Lynda K. Fernichio, a/k/a Lynda K. Kerr and/or her heirs, executors, administrators, nominees, grantees, successors, assigns and/or any person or entity whatsoever claiming title in and to the Subject Premises under her are the only persons or entities known to Plaintiffs who have or may have an interest in or claim to the Subject Premises adverse to Plaintiffs.

26. The purpose of this action to quiet title is to extinguish any interest in or to the Subject Premises which may be either owned by or claimed by Defendant or any person or entity claiming an interest in and to the Subject Premises under her.

WHEREFORE, Plaintiffs respectfully request that: (a) by Order of this Court, Defendant and her heirs, executors, administrators, nominees, grantees, successors and/or assigns and each of them, and

all persons or entities claiming under her, be required to set forth the nature of her or their claim or claims in and to the Subject Premises; (b) that by Order of this Court it may be declared that the Contract was terminated by mutual agreement of Plaintiffs Schall and Close and Fernichios in either late 1988 or early 1989, that Plaintiffs own the Subject Premises in fee simple and that Plaintiffs, their heirs, executors, administrators, nominees, grantees, successors and/or assigns are entitled to the quiet and peaceful possession of the Subject Premises; (c) that by Order of this Court it may be declared that Defendant and her heirs, executors, administrators, nominees, grantees, successors and/or assigns and each of them and any and all persons and/or entities claiming under her, have no estate, right, title, lien or interest in or to the Subject Premises or any portion thereof; (d) that said Order permanently enjoin Defendant and her heirs, executors, administrators, nominees, grantees, successors and/or assigns and each of them, and all persons and/or entities claiming under her, from asserting any adverse claim to Plaintiffs' title in and to the Subject Premises; and (e) for such other and further relief as this Court may deem just, appropriate and proper.

Respectfully submitted,

BY: 


John R. Lhotka, Attorney at Law,
Counsel to Frank Schall, a/k/a
Frank S. Schall, Julianne Schall,
Richard Close and Barbara D. Hopkins,
Plaintiffs

COMMONWEALTH OF PENNSYLVANIA :

SS:

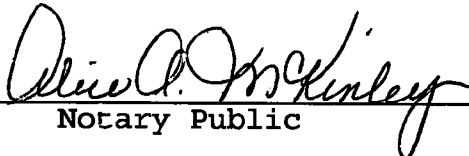
COUNTY OF ARMSTRONG :

Frank Schall, a/k/a Frank S. Schall, one of the Plaintiffs named in the attached and/or foregoing complaint, being duly sworn, according to law, does hereby depose and say that the facts set forth in the attached and/or foregoing complaint are true and correct to the best of his information, knowledge and belief.

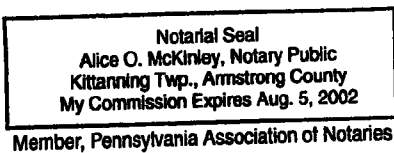


Frank Schall a/k/a Frank S.
Schall, Plaintiff

Sworn to and subscribed
before me this *28th* day
of *November*, 2000.



Notary Public



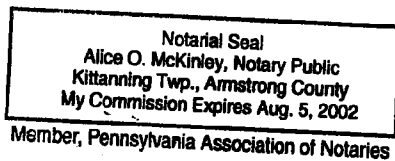
COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF ARMSTRONG : SS:

Richard Close, one of the Plaintiffs named in the attached and/or foregoing complaint, being duly sworn, according to law, does hereby depose and say that the facts set forth in the attached and/or foregoing complaint are true and correct to the best of his information, knowledge and belief.


Richard Close, Plaintiff

Sworn to and subscribed
before me this 28th day
of November, 2000.


Notary Public



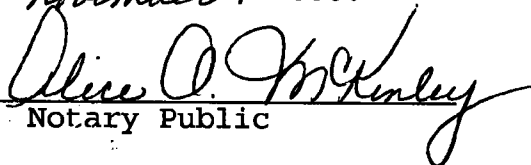
COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF ARMSTRONG : SS:

Julianne Schall, one of the Plaintiffs named in the attached and/or foregoing complaint, being duly sworn, according to law, does hereby depose and say that the facts set forth in the attached and/or foregoing complaint are true and correct to the best of her information, knowledge and belief.



Julianne Schall, Plaintiff

Sworn to and subscribed
before me this 28th day
of November, 2000.


Notary Public

Notarial Seal
Alice O. McKinley, Notary Public
Kittanning Twp., Armstrong County
My Commission Expires Aug. 5, 2002

Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF CLEARFIELD : SS:

Barbara D. Hopkins, one of the Plaintiffs named in the attached and/or foregoing complaint, being duly sworn, according to law, does hereby depose and say that the facts set forth in the attached and/or foregoing complaint are true and correct to the best of her information, knowledge and belief.

Barbara D. Hopkins
Barbara D. Hopkins, Plaintiff

Sworn to and subscribed
before me this 30 day
of July, 2002.

Shelly A. Reasinger
Notary Public

Notarial Seal
Shelly A. Reasinger, Notary Public
Sandy Twp., Clearfield County
My Commission Expires Mar. 28, 2005
Member, Pennsylvania Association of Notaries

JOHN R. LHOTA, P.C.
ATTORNEY AT LAW
110 NORTH SECOND STREET
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

FILED
013:13
JUL 31 2002
Aug 01
06:00
SEC Aug Lhota

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 12858

SCHALL, FRANK a/k/a FRANK S. SCHALL & JULIANNE a/

02-1190-CD

VS.

FERNICHIO, LYND K. a/k/a LYND K. KERR Executors,

COMPLAINT ACTION TO QUIET TITLE

SHERIFF RETURNS

NOW AUGUST 1, 2002, BOB KOLAR, SHERIFF OF CAMBRIA COUNTY WAS
DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY
TO SERVE THE WITHIN COMPLAINT ACTION TO QUIET TITLE ON LYND K.
FERNICHIO a/k/a LYND K. KERR, DEFENDANT.

NOW AUGUST 14, 2002 SERVED THE WITHIN COMPLAINT ACTION TO QUIET
TITLE ON LYND K. FERNICHIO a/k/a LYND K. KERR, DEFENDANT BY
DEPUTIZING THE SHERIFF OF CAMBRIA COUNTY. THE RETURN OF SHERIFF
KOLAR IS HERETO ATTACHED AND MADE A PART OF THIS RETURN.

Return Costs

Cost	Description
28.20	SHFF. HAWKINS PAID BY; ATTY.
75.75	SHFF. KOLAR PAID BY: ATTY.
10.00	SURCHARGE PAID BY: ATTY.
113.95	

Sworn to Before Me This

20 Day Of Sept 2002




FILED

SEP 20 2002

William A. Shaw
Prothonotary

So Answers,


Chester A. Hawkins
Sheriff

CASE # PLAINTIFF
90240-02 SCHALL, FRANK
DATE 8/14/02

DEFENDANT
FERNICHIO, LYND A 02-1190

AT 13;40 HRS. SERVED THE COMPLAINT ACTION TO QUIET TITLE
UPON LYND A K. FERNICHIO A/K/A LYND A K. KERR BY HANDING A
TRUE AND ATTESTED COPY THEREOF TO HER PERSONALLY AT 49 F
OAKHURST HOMES JOHNSTOWN, CAMBRIA CO. PA. AND MAKING
CONTENTS THEREOF KNOWN TO HER. MY COSTS PAID BY ATTORNEY
FOR PLAINTIFF.

SHERIFF COSTS 72.75
PRO 3.00
TOTAL COSTS 75.75

SO ANSWERS,

Bob Kolar

BOB KOLAR SHERIFF

SWORN AND SUBSCRIBED TO BEFORE ME THIS 20TH DAY OF AUG. 02.

. PROTHONATARY *Patty Berkebile*

Notice of Proposed Termination of Court Case

October 18, 2007

RE: 2002-01190-CD

Frank Schall
Julianne Schall
Richard Close
Barbara D. Hopkins

Vs.

Lynda K. Fernichio

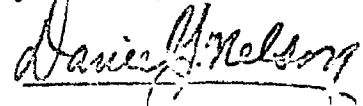
Dear John R. Lhota, Esq:

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

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **December 17, 2007**.

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


By the Court,



Daniel J. Nelson
Court Administrator

FILED

OCT 18 2007



William A. Shaw
Prothonotary/Clerk of Courts

Notice of Proposed Termination of Court Case

October 18, 2007

RE: 2002-01190-CD

Frank Schall
Julianne Schall
Richard Close
Barbara D. Hopkins

Vs.

Lynda K. Fernichio

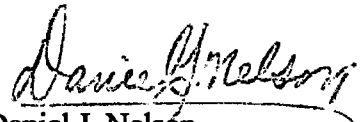
Dear Lynda K. Fernichio:

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

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **December 17, 2007**.

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

By the Court,

A handwritten signature in cursive script, appearing to read "Daniel J. Nelson", written over a horizontal line.

Daniel J. Nelson
Court Administrator

FILED

OCT 18 2007

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

02-1190-CD

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

FILED

OCT 23 2007

William A. Shaw
Prothonotary/Clerk of Courts

Lynda K. Fernichio a/k/a
Lynda K. Kerr
Apartment 2
525 Vine St
Johnstown,

NIXIE 165 DE 1 00 10/20/07
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

BC: 16030054949 *2343-20260-10-34

133011300000549

|||||

Notice of Proposed Termination of Court Case

October 18, 2007

RE: 2002-01190-CD

Frank Schall
Julianne Schall
Richard Close
Barbara D. Hopkins

Vs.

Lynda K. Fernichio

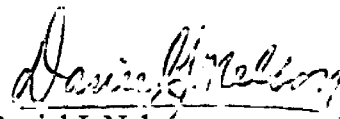
Dear Lynda K. Fernichio:

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

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **December 17, 2007**.

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

By the Court,



Daniel J. Nelson
Court Administrator

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

FRANK SCHALL, a/k/a FRANK S.
SCHALL and JULIANNE SCHALL,
husband and wife, RICHARD CLOSE,
an adult individual, and BARBARA
D. HOPKINS, an adult individual,
Plaintiffs,

v.

LYNDA K. FERNICHIO, a/k/a
LYNDA K. KERR, her heirs,
executors, administrators
nominees, grantees, successors and
assigns and/or any person or entity
claiming title in or to the herein
described premises under her,
Defendant.

No. 02-1190-CD

Type of Pleading: ACTION TO QUIET TITLE

Type of Pleading: STATEMENT OF INTENTION
TO PROCEED

Filed on behalf of Plaintiffs:

FRANK SCHALL, et al.

Counsel of record for this party:

John R. Lhota, Attorney at Law
JOHN R. LHOTA, P.C.
110 North Second Street
Clearfield, PA 16830
(814) 765-9611
Pa. I.D. #22492

FILED ^{icc}
013:46067
DEC 17 2007
Att'y Lhota

William A. Shaw
Prothonotary/Clerk of Courts

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

FRANK SCHALL, a/k/a FRANK S.
SCHALL and JULIANNE SCHALL,
husband and wife, RICHARD CLOSE,
an adult individual, and BARBARA
D. HOPKINS, an adult individual,
Plaintiffs,

v.

LYNDA K. FERNICHIO, a/k/a
LYNDA K. KERR, her heirs,
executors, administrators
nominees, grantees, successors and
assigns and/or any person or entity
claiming title in or to the herein
described premises under her,
Defendants.

No. 02-1190-CD

Type of Pleading: STATEMENT OF INTENTION
TO PROCEED

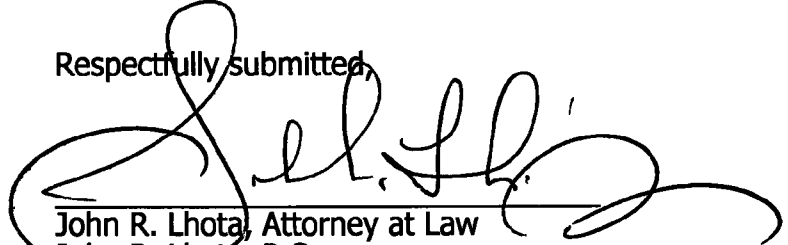
STATEMENT OF INTENTION TO PROCEED

AND NOW, comes, Frank Schall, a/k/a Frank S. Schall and Julianne Schall, husband and wife, Richard Close, an adult individual, and Barbara D. Hopkins, an adult individual, by and through their counsel of record in the above-captioned matter, John R. Lhota, Attorney at Law, John R. Lhota, P.C., who files this Statement of Intention to Proceed in the above-captioned matter, a statement of which is as follows:

Plaintiffs intend to complete the above-captioned action to quiet title by filing any and all documents of record in the above-captioned matter which are necessary to complete such action to quiet title.

WHEREFORE, Plaintiffs respectfully request that the above-captioned case not be terminated so that said action can properly be concluded, as aforesaid.

Respectfully submitted,



John R. Lhota, Attorney at Law
John R. Lhota, P.C.
110 North Second Street
Clearfield, PA 16830
(814) 765-9611
Pa. I. D. No. 22492

Dated: December 17, 2007

C:\clients\MISC\HOPKINSSTATEMENTINTENT.TOPROCEED.wpd

JOHN R. LHOTA, P.C.
ATTORNEY AT LAW
110 NORTH SECOND STREET
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

RECEIVED
JUN 1 1987
FBI - BOSTON
COMMUNICATIONS SECTION