

03-648-CD
ELAINE ECKBERG vs. JAMES H. TRAVIS, ETAL

Date: 05/27/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 12:57 PM

ROA Report

Page 1 of 2

Case: 2003-00648-CD

Current Judge: Paul E. Cherry

Elaine Eckberg vs. James Travis, Mildred Travis, Bigler Township Sewer Authority

Civil Other

Date	Judge
04/29/2003	✓ Filing: Civil Complaint Paid by: John Carfley Receipt number: 1859344 No Judge Dated: 04/29/2003 Amount: \$85.00 (Check)
05/14/2003	✓ Entry of Appearance on behalf of Bigler Township Sewer Authority filed by No Judge Atty. Marquis.
05/28/2003	✓ Sheriff Returns: Now May 1, 2003, served Complaint on Defendants at residence. Served Bigler Twp. Sewer Authority at employment. Shff. Hawkins \$39.49, Surcharge \$20.00 paid by Atty.
09/05/2003	✓ Amended Complaint. filed by s/John R. Carfley, Esquire Verification s/Elaine Eckberg 3 cc to Atty Carfley
09/12/2003	✓ Certificate of Service, Amended Complaint upon: BIGLER TOWNSHIP SUPERVISORS and MR. & MRS. JAMES H. TRAVIS. filed by s/John R. Carfley, Esquire no cc
10/20/2003	✓ Answer, New Matter and New Matter Pursuant To Rule 2252(d). filed by s/Christian D. Marquis, Esquire Verification. s/Gale Jack Brink, Chairman Certificate of Service no cc
10/28/2003	✓ Plaintiff's Answer to Defendant, Bigler Township's new Matter. 1 CC Atty. Carfley ✓ Certificate of Service of Plaintiff's Answer to Defendant. No cc. No Judge
11/14/2003	✓ Entry of Appearance on Behalf of Defendants, JAMES H. TRAVIS and MILDRED TRAVIS. filed by, s/Frederick M. Neiswender, Esquire Certificate of Service 3 cc to Atty Copy to C/A No Judge
03/24/2004	✓ Motion To Compel. filed by, s/Christian D. Marquis, Esquire Certificate of Service 4 cc to Atty No Judge
03/25/2004	✓ ORDER OF COURT, AND NOW, this 25th day of March, 2004, re: Defendant Bigler Township's Motion to Compel is GRANTED. It is further ORDERED that Plaintiff shall serve full, complete and verified answers and responses to Defendant Bigler Township's Interrogatories Directed to Plaintiff and Defendant Bigler Township's Request for Production of Documents Directed to Plaintiff within 20 days of the date of this Order or shall be subject to sanctions upon an additional Motion to this Court. by the Court, s/FJA, P.J. 4 cc Atty Marquis Fredric Joseph Ammerman
05/10/2004	✓ Notice of Intent to Serve Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.22. filed by, s/Christian D. Marquis, Esquire Certificate of Service no cc Fredric Joseph Ammerman
06/11/2004	✓ Petition to Withdraw as counsel for Defendant. 3 CC to Atty. Fredric Joseph Ammerman ✓ Certificate of Service of Petition to Withdraw filed by Atty. Carfley. No cc. Fredric Joseph Ammerman
06/17/2004	✓ Rule AND NOW, this 17th day of June, 2004, a rule is hereby issued upon Plaintiff to show cause why the Petition should not be granted. Rule returnable July 14, 2004 at 10:30 AM S/PEC. 3 CC to Atty. Carfley ✓ Certificate Prerequisite to Service of Subpoena Pursuant to Rule 4009.22, Paul E. Cherry filed by s/Christian D. Marquis, Esq. No CC
07/14/2004	✓ Order, NOW, this 14th day of July, 2004, date set for hearing on a petition to Withdraw filed by John Carfley, Esq.; Court noting that Plaintiff has not appeared, as well as any of the Defendants, Order that John R. Carfley, Esq. and his law firm are hereby permitted to withdraw as counsel for Plaintiff and from any further representation of said Plaintiff. BY THE COURT: /s/Paul E. Cherry, Judge One CC Atty: Carfley, Neiswender, Marquis

Date: 05/27/2005

Clearfield County Court of Common Pleas

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ROA Report

Page 2 of 2

Case: 2003-00648-CD

Current Judge: Paul E. Cherry

Elaine Eckberg vs. James Travis, Mildred Travis, Bigler Township Sewer Authority

Civil Other

Date		Judge
04/25/2005	✓ Praeclipe for Argument filed. By s/ Christian D. Marquis, Esquire. No CC ✓ Motion For Summary Judgment, filed by s/ Christian D. Marquis, Esquire. Paul E. Cherry 2CC Atty Marquis ✓ Brief In Support of Motion For Summary Judgment, filed by s/ Christian D. Paul E. Cherry Marquis, Esquire.	Paul E. Cherry
04/29/2005	✓ Order, Proposed Scheduling Order, AND NOW, this 29th day of April, 2005, Defendant Bigler Twp. has filed its Motion for Summary Judgment and Supporting Brief. Oral argument shall be scheduled before the Honorable Cherry on May 25, 2005 in courtroom No. 2 at 1:30 p.m. BY THE COURT: /s/ Paul E. Cherry, Judge. 2CC Atty Marquis	Paul E. Cherry
05/20/2005	✓ Motion for Continuance, filed by Plaintiff 6 cert. copies.	Paul E. Cherry
05/23/2005	Order, AND NOW, this 23rd day of May, 2005, the above civil continuance Paul E. Cherry request is hereby denied. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC E. Eckberg	

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ELAINE ECKBERG :
Plaintiff

vs. : No. 2003- *648 CD*

JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife, :
and BIGLER TOWNSHIP SEWER :
AUTHORITY, : Document Filed: COMPLAINT

Defendant : Filed on behalf of:
PLAINTIFF

: Counsel for this Party:
John R. Carfley, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

FILED

APR 29 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ELAINE ECKBERG :
Plaintiff

vs. : No. 2003-

JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife,
and BIGLER TOWNSHIP SEWER :
AUTHORITY,
Defendant :

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 claims or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

COURT ADMINISTRATOR
COURTHOUSE
CLEARFIELD, PA., 16830
(814) 765-2641 - Extension 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ELAINE ECKBERG :
Plaintiff
vs. : No. 2003-
JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife,
and BIGLER TOWNSHIP, :
Defendants :
:

COMPLAINT

AND NOW comes the plaintiff, ELAINE ECKBERG, who by and through her attorney, John R. Carfley, Esquire, sets forth the following claim against the Defendants, JAMES H. TRAVIS and MILDRED TRAVIS, husband and wife, and BIGLER TOWNSHIP and in support for said claims sets forth the following factual averments:

1. Plaintiff Elaine Eckberg is an adult individual residing at P. O. Box 353, Madera, Clearfield County, Pennsylvania.
2. Defendants James H. Travis and Mildred Travis, husband and wife, are adult individuals currently residing at P. O. Box 563, Madera, Pennsylvania, 16661.
3. Defendant Bigler Township is a political subdivision, whose principal office is located at Madera, Pennsylvania and whose day to day operations are managed by three (3) supervisors duly elected to said positions as provided by the Township Code.
4. Plaintiff is the owner of a piece or parcel of land located at the corner of Second Street and Lynn Street, Madera, Bigler Township, Clearfield County, Pennsylvania, with improvements thereon, consisting of a dwelling, which property is more particularly described in Deed Book 1686, Page 7, attached hereto as Exhibit "A".
5. In or about December of 1998, Plaintiff first noticed

discharges of water which appeared to be disrupting her driveway and causing an offset of the macadam portion of that structure.

6. In or about December of 1998, Plaintiff first noticed discharges and accumulations of what appeared to be sewage in her crawlspace and in her back yard although the exact definition of these discharges and accumulations was not verified until the Department of Environmental Protection conducted an onsite inspection and analysis during the summer of 2000. At this time water continued to seep through cracks in the driveway and in the garage floor slab which were believed to have been created through the actions of the defendants as hereinafter set forth.

7. In the summer of 2000, Defendants James H. and Mildred Travis experienced an obstruction of their sewer pipe accessing their property and as a result contracted the Roto-Rooter Company to clean out any obstructions within the line.

8. Upon Roto-Rooter's inspection it was determined that the sewer pipe accessing the Travis' residence had collapsed underneath the Plaintiff's driveway. In addition, it was determined by the Plaintiff through the dye penetrations used by her expert that the seepage identified at that time as sewage was occurring up into her driveway.

COUNT I vs. Defendant Bigler Township Supervisors

9. Plaintiff incorporates Paragraphs 1 through 8 inclusive as though set forth at length.

10. At all times referred to herein, Defendant Bigler Township was the owner, operator and had exclusive access to a sewer collection system, which provided sewage collection service,

storm water, gray water and all other liquid collectors within the Township of Bigler, Clearfield County, Pennsylvania, generally and specifically to the Plaintiff's property described in Exhibit A.

11. In or about the summer of 2001, Plaintiff contacted the Defendants about the sewage problems permeating her property.

12. Defendant, despite its knowledge of the condition of the sewage collection system as well as the knowledge of the back-up on Plaintiff's property took no steps and as of this date have still taken no steps to remedy the defective condition.

13. Plaintiff believes and therefore avers that the defect that caused the sewage backup was the result of a blockage in a collection line constructed across Plaintiff's property and within the exclusive control of the Defendant.

14. As a direct result of the defective condition within the sewer line and the resulting sewer backup, Plaintiff's property was damaged in an amount totalling \$38,600.00 as set forth in the estimate of Bowman Masonry attached hereto as Exhibit "B".

WHEREFORE, Plaintiff demands that judgment be entered against Defendants individually and severally for a sum in excess of \$38,600.00, delay damages, plus costs and interest.

COUNT II vs. Defendants James H. and Mildred Travis

15. Plaintiff incorporates Paragraphs 1 through 14 inclusive as though set forth herein at length.

16. At some time in the summer of 2002, Defendant James Travis hired the Roto-Rooter Company to inspect and clear a potential obstruction in the sewer line accessing his property on Lynn Street directly across the street from Plaintiff's property.

17. Through the tests run by Roto-Rooter, it was determined that the sewer pipe underneath Plaintiff's driveway that accessed the Defendants' property had collapsed.

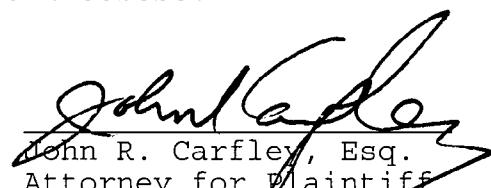
18. Shortly thereafter, Defendant James Travis attempted to cure his sewage problems by replacing the collapsed pipe himself without the assistance of Bigler Township Sewer Authority or the consent of the Plaintiff.

19. Defendant James Travis rerouted his deteriorated and obstructed sewer line to an adjacent yard and driveway in an attempt to drain the sewage into Alexander Run Stream, which runs directly behind Plaintiff's home.

20. In the course of his replacement and diversion of the sewer line, Defendant James Travis dug up approximately 20 feet of driveway and lawn on Plaintiff's property, which has yet to be fixed or replaced.

21. As a result of Defendant's lack of maintenance of his sewer line and the careless rerouting of the existing line, Plaintiff's property has been damaged in an amount in excess of \$38,600.00 as set forth in Exhibit B.

WHEREFORE, Plaintiff demands that judgment be entered against Defendants individually and severally for a sum in excess of \$38,600.00 plus delay damages, costs and interest.



John R. Carfley, Esq.
Attorney for Plaintiff
222 Presqueisle Street
Philipsburg, Pa., 16866
(814) 342-5581
Pa. ID# 17621

Dated: April 25, 2003

VERIFICATION

I hereby verify that the statements made in this instrument 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.

Elaine Ebbing

Dated: April 25, 2003

County Parcel No. 103-K14-486-59

SEARCHED

This Deed,

MADE the 29th day of June in the year nineteen hundred and —ninety-five. —

BETWEEN WESLEY G. SHAMP, SR., and ANDREA L. SHAMP, his wife, both of Eight Highland Drive, Union City, Pennsylvania 16438, Grantors and Parties of the First Part,

— AND —

ELAINE ECKBERG, single, of 712 Mary Street, Houtzdale, Clearfield County, Pennsylvania 16651, Grantee and Party of the Second Part.

WITNESSETH, That in consideration of

FIFTY-NINE THOUSAND AND 00/100 (\$59,000.00) DOLLARS ----- Dollars, in hand paid, the receipt whereof is hereby acknowledged, the said grantors — do hereby grant and convey to the said grantee — her heirs and assigns. —

ALL those certain lots or pieces of ground situate in Madera, Bigler Township, Clearfield County, Pennsylvania, bounded and described as follows: —

THE FIRST THEREOF: BEGINNING at an iron pipe on the West side of Second Street, and the North bank of Alexander Run, being the Southeast corner of the property herein described; thence along the North Bank of Alexander Run North Eighty degrees Sixteen minutes West (N 80° 16' W) One Hundred Sixty-five and Five tenths (165.5') feet to an iron pipe; thence through residue of land now or formerly of W. I. Swoope North Thirteen degrees Seventeen minutes East (N 13° 17' E) One Hundred Eighteen (118') feet to an iron pipe on the South side of Lynn Street; thence along the South side of Lynn Street South Sixty-eight degrees Forty-nine minutes East (S 68° 49' E) to a point on the West side of Second Street; thence along the West side of Second Street South Twelve degrees Thirty minutes East (S 12° 30' E) One Hundred (100') feet to an iron pipe and the place of beginning. **CONTAINING 0.421 acres.**

THE SECOND THEREOF: BEGINNING at an existing iron pipe corner on the South side of Lynn Street which said point is also the Northwestern corner of an adjoining parcel of land now or formerly of Charles W. and Grace W. Shoff; thence along said land, South Thirteen degrees Thirty minutes West (S 13° 30' W) One Hundred Seventeen and One tenth (117.1') feet to an existing iron pipe corner on the North bank of Alexander Run; thence South Eighty-nine degrees Forty-five minutes West (S 89° 45' W) Thirty-nine and Zero tenths (39.0') feet to an iron pipe

corner and land now or formerly of Daniel L. Rebo and Beverly Rebo, his wife; thence along said land North Nineteen degrees Thirty-two minutes East (N 19° 32' E) One Hundred Thirty and Four tenths (130.4') feet to an iron pipe corner on the South side of Lynn Street; thence along the South side of Lynn Street, South Sixty-eight degrees Thirty-six minutes East (S 68° 36' E) Twenty-four and Four tenths (24.4') feet to an existing iron pipe corner and place of beginning. Consisting of Eighty-seven thousandths (0.087) acres.

BEING the same premises as were granted and conveyed unto the Grantors herein by deed of Charles W. Shoff, et ux, dated March 26, 1986, and entered for record in the Office for the Recording of Deeds of Clearfield County, Pennsylvania, in Deeds and Records Volume 1072, Page 529, on April 1, 1986.

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

Ronald E. Rebo *Elaine Eckberg*
Elaine Eckberg

This 29th day of June 1995

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

• AND the said grantors - will -SPECIALLY - WARRANT AND FOREVER DEFEND the property hereby conveyed.

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

Sealed and delivered in the presence of

Ronald E. Archer
as to both



Wesley G. Shamp [Seal]
Wesley G. Shamp, Sr.
Andrea L. Shamp [Seal]
Andrea L. Shamp
..... [Seal]
..... [Seal]
..... [Seal]
..... [Seal]

CERTIFICATE OF RESIDENCE
will be

I hereby certify, that the precise residence of the grantee ~~herein~~ is as follows:

Lynn and Second Streets
Madera, PA. 16661

Ronald E. Archer
Attorney or Agent for Grantee

Commonwealth of Pennsylvania

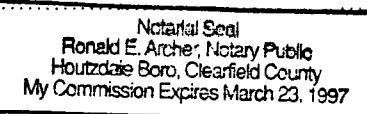
County of *Clearfield*

ss.

On this, the 29th day of June 19 95, before me, a Notary Public, the undersigned officer, personally appeared WESLEY G. SHAMP, SR., and ANDREA L. SHAMP 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 purpose therein contained.

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

My Commission Expires



Ronald E. Archer

State of
County of

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On this, the day of 19 , before me
the undersigned officer, personally appeared
known to me (or satisfactorily proven) to be the person whose name subscribed to the within
instrument, and acknowledged that executed the same for the purpose therein
contained.

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

My Commission Expires

Commonwealth of Pennsylvania
County of

55.

RECORDED in the Office for Recording of Deeds, etc., in and for the said
County, in Deed Book No. , Page
WITNESS my hand and official seal this day of , 19

Recorder of Deeds

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WARRANTY DEED

The Blankenbush Co Williamsport Pa

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WESLEY G. SHAMP, SR., et ux.
Grantors and Parties of the
First Part, AND
ELAINE ECKBERG, single,
Grantee and Party of the
Second Part,

Dated

For . premises . . . in . . . Bigler . . .

Township, Clearfield County,...

Pennsylvania.....

Consideration : \$59,000.00

Recorded

Entomol. Soc. Pennsylv. in the Standard's

Office of County, the day of Tax. \$

19..... } Fees, \$

Recorder)

RONALD E. ARCHER
ATTORNEY AT LAW
HOOTZDALE, PENNSYLVANIA

PROPOSAL

BOWMAN MASONRY

Proposal No.

Sheet No.

Date MARCH 20, 2001

Proposal Submitted To	Work To Be Performed At
Name <u>Elaine Eckberg</u> Street <u>2nd & Lynn St.</u> City <u>MADERA</u> State <u>Pa. 16661</u> Telephone Number <u>(814) 378-7311</u>	Street <u>SAME</u> City <u>SAME</u> State _____ Date of Plans _____ Architect _____

We hereby propose to furnish the materials and perform the labor necessary for the completion of

All necessary work to remove and redo the same as it was originally. ~~_____~~

The following is a brief description of all work needed to be done.

- 1) Appx 4" x 24' x 24' concrete garage floor to remove, fill and tamp and pour new concrete. * 3400.
- 2) Tear down and relay a brick flue, footer and fireplace appx 21' High outside, 7' x 8' inside. * 7200.
- 3) Replaster and paint cracks inside the house. 200.
- 4) Back Porch, appx 20' 4" x 22' 4" is falling off of the house. Prop up existing addition. Remove concrete floor, appx 7 courses of blocks and footer and haul away. Retamp and fill in as necessary. Pour new footer, lay all blocks and pour an appx 4" thick concrete floor. * 8900.
- 5) Put railing back onto the porch as it was before. * 450.
- 6) Remove and relay appx 45 sq ft of sidewalk beside the back porch. * 450.
- 7) REMOVE and relay blocks on one corner of the house at the left rear. * 400.
- 8) Work shop appx 10' x 20' - Prop up the addition, remove appx 7 courses of blocks and the footer and haul away. Retamp, lay a new concrete footer, blocks back under the addition. * 5400.
- 9) Remove and relay the lower garage floor measuring appx 4" x 19' 4" x 13' 6". * 2500.
- 10) Remove and replace concrete steps measuring appx 5' long x 4' wide and a 3' x 4' pad. * 1500.
- 11) REMOVE and tamp and fill a black top driveway - At the front of the house, Appx 168 sq. ft. * 3600.
- 12) REMOVE and relay a new black top driveway on the side of the house - Appx 782 sq. ft. * 2,600.
- 13) Redo the yard around the house and backfill everywhere and plant grass. * 2,000.

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of

work and completed in a substantial workmanlike manner for the sum of
Thirty Eight Thousand, Six Hundred Dollars (\$ **38,600.00**).

with payments to be made as follows:

Appx one third of the total Amount before we begin ,

one third half way through the job.

And the balance in full upon completion.

Any alteration or deviation from above specifications involving extra costs, will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance upon above work. Workmen's Compensation and Public Liability Insurance on above work to be taken out by

tted _____
Per _____ Gary Bowman
Bowman Masonry

Note — This proposal may be withdrawn by us if not accepted within 120 days

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date _____ **Signature** _____

FILED

MAY 14 2003

William A. Shaw
Prothonotary

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

ELAINE ECKBERG,) CIVIL DIVISION
)
 Plaintiff,) No: 2003-648
)
 v.)
) **ENTRY OF APPEARANCE**
 JAMES H. TRAVIS and MILDRED)
 TRAVIS, Husband and Wife, and BIGLER)
 TOWNSHIP SEWER AUTHORITY,) Filed on behalf of:
) **Defendant, Bigler Township Sewer Authority**
 Defendants.)
)
) Counsel of Record:
)
) CHRISTIAN D. MARQUIS, ESQUIRE
) PA ID # 85070
)
) **MARSHALL, DENNEHEY, WARNER,**
) **COLEMAN & GOGGIN**
) US Steel Tower, Suite 2900
) 600 Grant Street
) Pittsburgh, PA 15219
) (412) 803-1140

JURY TRIAL DEMANDED

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

ELAINE ECKBERG,) CIVIL DIVISION
v.)
Plaintiff,) No: 2003-648
)
JAMES H. TRAVIS and MILDRED)
TRAVIS, Husband and Wife, and BIGLER)
TOWNSHIP SEWER AUTHORITY,) JURY TRIAL DEMANDED
Defendants

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter the appearance of Marshall, Dennehey, Warner, Coleman & Goggin, and Christian D. Marquis, Esquire, on behalf of Defendant, Bigler Township Sewer Authority, in connection with the above-captioned matter.

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

By:

CHRISTIAN D. MARQUIS, ESQUIRE
Attorney for Defendant Bigler Township
Sewer Authority
PA I.D. #85070
2900 US Steel Tower, 600 Grant Street
Pittsburgh, PA 15219
(412) 803-1140
(412) 803-1188 - Fax

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **ENTRY OF APPEARANCE** has been served upon the following known counsel of record this 12th day of May, 2003, via United States First-Class Mail, postage prepaid:

John R. Carfley, Esquire
P.O. Box 249
Philipsburg, PA 16866
(Counsel for Plaintiff)

James H. Travis and Mildred Travis
P.O. Box 563
Madera, PA 16661
(Defendants)

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

By: 

CHRISTIAN D. MARQUIS, ESQUIRE
**Attorney for Defendant, Bigler Township
Sewer Authority**

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In The Court of Common Pleas of Clearfield County, Pennsylvania

ECKBERG, ELAINE

Sheriff Docket # 14003

VS.

03-648-CD

TRAVIS, JAMES H. & MILDRED & BIGLER TOWNSHIP SEWER AUTHORITY

COMPLAINT

SHERIFF RETURNS

NOW MAY 1, 2003 AT 10:19 AM SERVED THE WITHIN COMPLAINT ON JAMES H. TRAVIS & MILDRED TRAVIS, DEFENDANTS AT RESIDENCE, PO BOX 563, MADERA, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO MILDRED TRAVIS A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: DAVIS/MORGILLO

NOW MAY 1, 2003 AT 10:22 AM SERVED THE WITHIN COMPLAINT ON BIGLER TOWNSHIP SEWER AUTHORITY, DEFENDANT AT EMPLOYMENT, BIGLER TOWNSHIP SUPERVISORS , MADERA, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO RANDY MICK, TWP. SUPERVISOR, A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: DAVIS/MORGILLO

FILED

BS 0 9:54 AM
MAY 28 2003

**William A. Shaw
Prothonotary**

Return Costs

Cost	Description
39.49	SHERIFF HAWKINS PAID BY: ATTY CK# 631
20.00	SURCHARGE PAID BY: ATTY CK# 630

Sworn to Before Me This

28 Day Of May 2003

William A. Shaw

So Answers,

*Chester A. Hawkins
by Maury Hause*

**Chester A. Hawkins
Sheriff**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ELAINE ECKBERG :
Plaintiff
vs. : No. 2003-648-CD
JAMES H. TRAVIS and MILDRED : Document Filed:
TRAVIS, Husband and Wife, : Amended Complaint
and BIGLER TOWNSHIP, :
Defendants : Filed on behalf of:
Plaintiff
: Counsel for this Party:
John R. Carfley, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

FILED

SEP 05 2003
0120013ccatty Carfley
William A. Shaw
Prothonotary/Clerk of Courts
EKA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ELAINE ECKBERG :
Plaintiff

vs. : No. 2003-648-CD

JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife,
and BIGLER TOWNSHIP,
Defendant

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 claims or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

COURT ADMINISTRATOR
COURTHOUSE
CLEARFIELD, PA., 16830
(814) 765-2641 - Extension 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ELAINE ECKBERG :
Plaintiff
vs. : No. 2003-
JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife,
and BIGLER TOWNSHIP,
Defendants :
:

AMENDED COMPLAINT

AND NOW comes the plaintiff, ELAINE ECKBERG, who by and through her attorney, John R. Carfley, Esquire, files this Amended Complaint and the following claim against the Defendants, JAMES H. TRAVIS and MILDRED TRAVIS, husband and wife, and BIGLER TOWNSHIP and in support for said claims sets forth the following factual averments:

1. Plaintiff Elaine Eckberg is an adult individual residing at P. O. Box 353, Madera, Clearfield County, Pennsylvania.
2. Defendants James H. Travis and Mildred Travis, husband and wife, are adult individuals currently residing at P. O. Box 563, Madera, Pennsylvania, 16661.
3. Defendant Bigler Township is a political subdivision, whose principal office is located at Madera, Pennsylvania and whose day to day operations are managed by three (3) supervisors duly elected to said positions as provided by the Township Code.
4. Plaintiff is the owner of a piece or parcel of land located at the corner of Second Street and Lynn Street, Madera, Bigler Township, Clearfield County, Pennsylvania, with improvements thereon, consisting of a dwelling, which property is more particularly described in Deed Book 1686, Page 7, attached hereto as Exhibit "A".

5. In or about December of 1998, Plaintiff first noticed discharges of water which appeared to be disrupting her driveway and causing an offset of the macadam portion of that structure.

6. In or about December of 1998, Plaintiff first noticed discharges and accumulations of what appeared to be sewage in her crawlspace and in her back yard although the exact definition of these discharges and accumulations was not verified until the Department of Environmental Protection conducted an onsite inspection and analysis during the summer of 2000. At this time water continued to seep through cracks in the driveway and in the garage floor slab which were believed to have been created through the actions of the defendants as hereinafter set forth.

7. In the summer of 2000, Defendants James H. and Mildred Travis experienced an obstruction of their sewer pipe accessing their property and as a result contracted the Roto-Rooter Company to clean out any obstructions within the line.

8. Upon Roto-Rooter's inspection it was determined that the sewer pipe accessing the Travis' residence had collapsed underneath the Plaintiff's driveway. In addition, it was determined by the Plaintiff through the dye penetrations used by her expert that the seepage identified at that time as sewage was occurring up into her driveway.

COUNT I vs. Defendant Bigler Township Supervisors

9. Plaintiff incorporates Paragraphs 1 through 8 inclusive as though set forth at length.

10. At all times referred to herein, Defendant Bigler Township was the owner, operator and had exclusive access to a

sewer collection system, which provided sewage collection service, storm water, gray water and all other liquid collectors within the Township of Bigler, Clearfield County, Pennsylvania, generally and specifically to the Plaintiff's property described in Exhibit A.

11. In or about the summer of 2001, Plaintiff contacted the Defendants about the sewage problems permeating her property.

12. Defendant, despite its knowledge of the condition of the sewage collection system as well as the knowledge of the back-up on Plaintiff's property took no steps and as of this date have still taken no steps to remedy the defective condition.

13. Plaintiff believes and therefore avers that the defect that caused the sewage backup was the result of a blockage in a collection line constructed across Plaintiff's property and within the exclusive control of the Defendant.

14. As a direct result of the defective condition within the sewer line and the resulting sewer backup, Plaintiff's property was damaged in an amount totalling \$38,600.00 as set forth in the estimate of Bowman Masonry attached hereto as Exhibit "B".

WHEREFORE, Plaintiff demands that judgment be entered against Defendants individually and severally for a sum in excess of \$38,600.00, delay damages, plus costs and interest.

COUNT II vs. Defendants James H. and Mildred Travis

15. Plaintiff incorporates Paragraphs 1 through 14 inclusive as though set forth herein at length.

16. At some time in the summer of 2002, Defendant James Travis hired the Roto-Rooter Company to inspect and clear a potential obstruction in the sewer line accessing his property on

Lynn Street directly across the street from Plaintiff's property.

17. Through the tests run by Roto-Rooter, it was determined that the sewer pipe underneath Plaintiff's driveway that accessed the Defendants' property had collapsed.

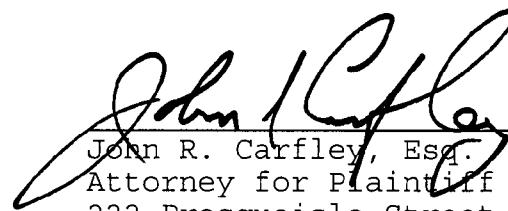
18. Shortly thereafter, Defendant James Travis attempted to cure his sewage problems by replacing the collapsed pipe himself without the assistance of Bigler Township or the consent of the Plaintiff.

19. Defendant James Travis rerouted his deteriorated and obstructed sewer line to an adjacent yard and driveway in an attempt to drain the sewage into Alexander Run Stream, which runs directly behind Plaintiff's home.

20. In the course of his replacement and diversion of the sewer line, Defendant James Travis dug up approximately 20 feet of driveway and lawn on Plaintiff's property, which has yet to be fixed or replaced.

21. As a result of Defendant's lack of maintenance of his sewer line and the careless rerouting of the existing line, Plaintiff's property has been damaged in an amount in excess of \$38,600.00 as set forth in Exhibit B.

WHEREFORE, Plaintiff demands that judgment be entered against Defendants individually and severally for a sum in excess of \$38,600.00 plus delay damages, costs and interest.



John R. Carfley, Esq.
Attorney for Plaintiff
222 Presqueisle Street
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: August 28, 2003

VERIFICATION

I hereby verify that the statements made in this instrument 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.

Elaine Ekhberg

Dated: August 28, 2003

County Parcel No. 103-K14-486-59

103-K14-486-59

This Deed,

29thMADE the 29th day of June
in the year nineteen hundred and — ninety-five. —BETWEEN WESLEY G. SHAMP, SR., and ANDREA L. SHAMP, his wife, both of Eight
Highland Drive, Union City, Pennsylvania 16438, Grantors and Parties of the
First Part,

— AND —

ELAINE ECKBERG, single, of 712 Mary Street, Houtzdale, Clearfield County,
Pennsylvania 16651, Grantee and Party of the Second Part. —

WITNESSETH, That in consideration of

FIFTY-NINE THOUSAND AND 00/100 (\$59,000.00) DOLLARS ————— Dollars,
in hand paid, the receipt whereof is hereby acknowledged, the said grantors — do hereby grant
and convey to the said grantee — her heirs and assigns. —ALL those certain lots or pieces of ground situate in Madera, Bigler Township,
Clearfield County, Pennsylvania, bounded and described as follows: —

THE FIRST THEREOF: BEGINNING at an iron pipe on the West side of Second Street,
and the North bank of Alexander Run, being the Southeast corner of the property
herein described; thence along the North Bank of Alexander Run North Eighty
degrees Sixteen minutes West (N 80° 16' W) One Hundred Sixty-five and Five tenths
(165.5') feet to an iron pipe; thence through residue of land now or formerly of
W. I. Swoope North Thirteen degrees Seventeen minutes East (N 13° 17' E) One
Hundred Eighteen (118') feet to an iron pipe on the South side of Lynn Street;
thence along the South side of Lynn Street South Sixty-eight degrees Forty-nine
minutes East (S 68° 49' E) to a point on the West side of Second Street; thence
along the West side of Second Street South Twelve degrees Thirty minutes East (S
12° 30' E) One Hundred (100') feet to an iron pipe and the place of beginning.
CONTAINING 0.421 acres.

THE SECOND THEREOF: BEGINNING at an existing iron pipe corner on the South side
of Lynn Street which said point is also the Northwestern corner of an adjoining
parcel of land now or formerly of Charles W. and Grace W. Shoff; thence along
said land, South Thirteen degrees Thirty minutes West (S 13° 30' W) One Hundred
Seventeen and One tenth (117.1') feet to an existing iron pipe corner on the
North bank of Alexander Run; thence South Eighty-nine degrees Forty-five minutes
West (S 89° 45' W) Thirty-nine and Zero tenths (39.0') feet to an iron pipe

corner and land now or formerly of Daniel L. Rebo and Beverly Rebo, his wife; thence along said land North Nineteen degrees Thirty-two minutes East (N 19° 32' E) One Hundred Thirty and Four tenths (130.4') feet to an iron pipe corner on the South side of Lynn Street; thence along the South side of Lynn Street, South Sixty-eight degrees Thirty-six minutes East (S 68° 36' E) Twenty-four and Four tenths (24.4') feet to an existing iron pipe corner and place of beginning. Consisting of Eighty-seven thousandths (0.087) acres.

BEING the same premises as were granted and conveyed unto the Grantors herein by deed of Charles W. Shoff, et ux, dated March 26, 1986, and entered for record in the Office for the Recording of Deeds of Clearfield County, Pennsylvania, in Deeds and Records Volume 1072, Page 529, on April 1, 1986.

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

Ronald E. Archer *Elaine Eckberg*
Ronald E. Archer Elaine Eckberg

This 29th day of June 1995

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

AND the said grantors - will -SPECIALLY - WARRANT AND FOREVER DEFEND the property hereby conveyed.

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

Sealed and delivered in the presence of

Ronald E. Archer
as to both



Wesley G. Shamp, Sr. [Seal]
Andrea L. Shamp [Seal]
[Seal]
[Seal]
[Seal]
[Seal]

CERTIFICATE OF RESIDENCE
will be

I hereby certify, that the precise residence of the grantee ~~is~~ is as follows:

Lynn and Second Streets
Madera, PA. 16661

Ronald E. Archer
Attorney or Agent for Grantee

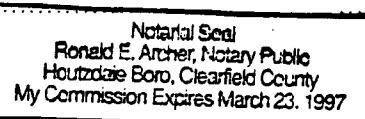
Commonwealth of Pennsylvania

County of Clearfield } ss.

On this, the 29th day of June 19 95, before me, a Notary Public, the undersigned officer, personally appeared WESLEY G. SHAMP, SR., and ANDREA L. SHAMP 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 purpose therein contained.

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

My Commission Expires



Ronald E. Archer

State of } ss.
County of

On this, the day of 19 , before me

the undersigned officer, personally appeared
known to me (or satisfactorily proven) to be the person
instrument, and acknowledged that
contained.

whose name subscribed to the within
executed the same for the purpose therein

IN WITNESS WHEREOF, I have hereunto set my hand and

seal.

My Commission Expires

Commonwealth of Pennsylvania } ss.
County of

RECORDED in the Office for Recording of Deeds, etc., in and for the said
County, in Deed Book No. , Page
WITNESS my hand and official seal this day of , 19

Recorder of Deeds

W.P.D

WARRANTY DEED
The Plankenhorn Co., Williamsport, Pa.

WESLEY G. SHAMP, SR., et ux,
Grantors and Parties of the
First Part, AND ELAINE ECKBERG, single,
Grantee and Party of the
Second Part.

Dated
For Premises..... in Bigrer...
Township, Clearfield County, ...
Pennsylvania.....
Consideration \$59,000.00.....
Recorded
Entered for Record in the Recorder's
Office of
County, the day of Tax. \$
19 Fees, \$
Recorder

RONALD E. ARCHER
ATTORNEY AT LAW
HOUTZDALE, PENNSYLVANIA

PROPOSAL

BOWMAN MASONRY

All Types of Brick, Block, Stone & Concrete Work
 R.R. #1 BOX 245 CLEARFIELD, PA. 16830
 (814) 765-6095

Proposal No.

Sheet No.

Date MARCH 20, 2001

Proposal Submitted To	Work To Be Performed At	
Name <u>ELAINE ECKBERG</u> Street <u>2nd & Lynn St.</u> City <u>MADERA</u> State <u>PA. 16661</u> Telephone Number <u>(814) 378-7311</u>	Street <u>SAME</u> City _____ State _____ Date of Plans _____ Architect _____	

We hereby propose to furnish the materials and perform the labor necessary for the completion of

All necessary work to remove and redo the same as it was originally.

The following is a brief description of all work needed to be done.

- 1) Apx 4" x 24" x 24' concrete garage floor to remove, fill and tamp and pour new concrete. \$ 3400.
- 2) Tear down and replace a brick flue, footer and fireplace approx 21' high outside, 7' x 8' inside. \$ 7200.
- 3) Replaster and paint cracks inside the house. 200.
- 4) Back Porch, approx 20' 4" x 22' 4" is falling off of the house. Prop up existing addition. Remove concrete floor, approx 7 courses of blocks and footer and haul away. Restamp and fill in as necessary. Pour new footer, lay all blocks and pour an approx 4" thick concrete floor. \$ 8900.
- 5) Put railing back onto the porch as it was before. \$ 450.
- 6) Remove and relay approx 45 sq ft of sidewalk beside the back porch. \$ 450.
- 7) Remove and relay blocks on one corner of the house at the left rear. \$ 400.
- 8) Workshop approx 10' x 20'. - Prop up the addition, remove approx 7 courses of blocks and the footer and haul away. Restamp, lay a new concrete footer, blocks back under the addition. \$ 5400.
- 9) Remove and relay the lower garage floor measuring approx 4" x 19' 4" x 13' 6". \$ 2500.
- 10) Remove and replace concrete steps measuring approx 5' long x 4' wide and a 3' x 4' pad. \$ 1500.
- 11) Remove and tamp and fill a blacktop driveway - At the front of the house, approx 108 sq ft. \$ 3600.
- 12) Remove and relay a new blacktop driveway on the side of the house - approx 782 sq ft. \$ 2,600.
- 13) Redo the yard around the house and backfill everywhere and plant grass. \$ 2,000.

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of

Thirty Eight Thousand, Six Hundred

Dollars (\$ 38,600.00).

with payments to be made as follows:

Appx one third of the total amount before we begin,

one third half way through the job,

and the balance in full upon completion.

Any alteration or deviation from above specifications involving extra costs, will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance upon above work. Workmen's Compensation and Public Liability Insurance on above work to be taken out by

Bowman Masonry

Respectfully submitted
 Per _____
Gary Bowman
Bowman Masonry

Note — This proposal may be withdrawn
 by us if not accepted within 120 days

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date _____ Signature _____

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

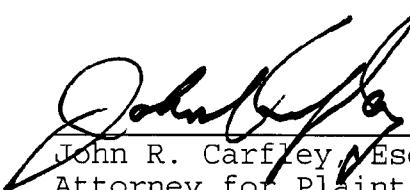
ELAINE ECKBERG :
Plaintiff
vs. : No. 2003-648-CD
JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife, :
and BIGLER TOWNSHIP, :
Defendants :
:

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the Amended Complaint filed in the above matter by depositing the same in the United States mail on September 5, 2003, to the following parties of record:

Bigler Township
Bigler Township Supervisors
Madera, Pa., 16661

Mr. & Mrs. James H. Travis
P. O. Box 563
Madera, Pa., 16661

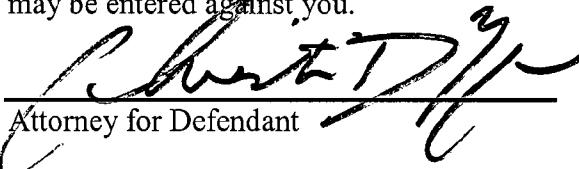

John R. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

FILED

SEP 12 2003
m 12:05 PM
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

ELAINE ECKBERG,) CIVIL DIVISION
Plaintiff,))
v.) No: 2003-648
JAMES H. TRAVIS and MILDRED)
TRAVIS, Husband and Wife, and BIGLER)
TOWNSHIP SEWER AUTHORITY,)
Defendants.) ANSWER, NEW MATTER AND NEW
) MATTER PURSUANT TO RULE 2252(d)
) Filed on behalf of:
) Defendant, Bigler Township Sewer Authority
)
)
To Plaintiff and Defendants James H.) Counsel of Record:
Travis and Mildred Travis: You are hereby)
notified to plead to the enclosed Answer,) CHRISTIAN D. MARQUIS, ESQUIRE
New Matter and New Matter Pursuant to) PA ID # 85070
Rule 2252(d) within twenty (20) days from)
the service hereof or a default judgment) MARSHALL, DENNEHEY, WARNER,
may be entered against you.) COLEMAN & GOGGIN
) US Steel Tower, Suite 2900
) 600 Grant Street
) Pittsburgh, PA 15219
) (412) 803-1140



Attorney for Plaintiff

JURY TRIAL DEMANDED

\12_A\LIAB\CBM\LLPG\289450\TKC\05130\00469

FILED

OCT 20 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

ELAINE ECKBERG,) CIVIL DIVISION
)
 Plaintiff,) No: 2003-648
 v.)
)
 JAMES H. TRAVIS and MILDRED)
 TRAVIS, Husband and Wife, and BIGLER)
 TOWNSHIP SEWER AUTHORITY,) **JURY TRIAL DEMANDED**

Defendants.

ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO RULE 2252(d)

AND NOW, comes Defendant, Bigler Township Sewer Authority (hereinafter "Bigler Township), by and through its attorneys, CHRISTIAN D. MARQUIS, ESQUIRE, and MARSHALL, DENNEHEY, WARNER, COLEMAN AND GOGGIN and files the within Answer, New Matter and New Matter Pursuant to Rule 2252(d), and states in support thereof the following:

1. After reasonable investigation, Bigler Township is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 1 of Plaintiff's Amended Complaint, therefore said averments are denied.
2. After reasonable investigation, Bigler Township is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 2 of Plaintiff's Amended Complaint, therefore said averments are denied.
3. The averments of paragraph 3 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is required. To the extent a response may be required, which is denied, Bigler Township admits the averments of paragraph 3 of Plaintiff's Amended Complaint.

4. After reasonable investigation, Bigler Township is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 4 of Plaintiff's Amended Complaint, therefore said averments are denied. By way of further response, the Deed attached to Plaintiff's Amended Complaint as Exhibit "A" speaks for itself.

5. After reasonable investigation, Bigler Township is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 5 of Plaintiff's Amended Complaint, therefore said averments are denied.

6. After reasonable investigation, Bigler Township is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 6 of Plaintiff's Amended Complaint, therefore said averments are denied.

7. After reasonable investigation, Bigler Township is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 7 of Plaintiff's Amended Complaint, therefore said averments are denied.

8. After reasonable investigation, Bigler Township is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 8 of Plaintiff's Amended Complaint, therefore said averments are denied.

COUNT I VS. DEFENDANT BIGLER TOWNSHIP

9. Bigler Township incorporates herein by reference its responses as contained in paragraphs 1 though 8 of its Answer, New Matter and New Matter Pursuant to Rule 2252(d) as though said responses are fully set forth at length herein.

10. The averments of paragraph 10 of Plaintiff's Amended Complaint are denied; to the contrary, Bigler Township is not the owner, operator and does not have exclusive access to a sewer collection system, which provided sewage collection services, storm water, gray water and all other liquid collectors within Bigler Township generally and specifically to the Plaintiff's

property. By way of further response, Bigler Township does maintain some storm water liquid collectors within Bigler Township.

11. After reasonable investigation, Bigler Township is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 11 of Plaintiff's Amended Complaint, therefore said averments are denied.

12. The averments of paragraph 12 of Plaintiff's Amended Complaint are denied; to the contrary, Bigler Township had no knowledge of the condition as alleged of the sewage collection system or knowledge of the backup on Plaintiff's property, and therefore did not take any steps to remedy the alleged defective condition. By way of further response, it is specifically denied that any defective condition exists to which Bigler Township would have been required to maintain, remedy and/or correct.

13. After reasonable investigation, Bigler Township is without knowledge or information sufficient to form a belief as to the truth of the averment that the alleged defect that allegedly caused the sewage back-up was the result of a blockage in a collection line constructed across Plaintiff's property as contained in paragraph 13 of Plaintiff's Amended Complaint, therefore said averments are denied. Bigler Township specifically denies the averment that the collection line constructed across Plaintiff's property was within the exclusive control of Bigler Township; to the contrary, the alleged collection line constructed across Plaintiff's property was not in the exclusive control of Bigler Township. By way of further response, to the extent that the averments of paragraph 13 of Plaintiff's Amended Complaint incorporate averments set forth elsewhere in Plaintiff's Amended Complaint, Bigler Township incorporates herein by reference its responses to said averments as though said responses are fully set forth at length herein.

14. After reasonable investigation, Bigler Township is without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 14 of Plaintiff's Amended Complaint, therefore said averments are denied.

WHEREFORE, Defendant, Bigler Township, respectfully requests that this Honorable Court dismiss Plaintiff's Amended Complaint with prejudice and enter judgment in its favor, together with all costs and counsel fees.

JURY TRIAL DEMANDED.

COUNT II VS. DEFENDANTS JAMES H. AND MILDRED TRAVIS

15. Bigler Township incorporates herein by reference its responses as contained in paragraphs 1 though 14 of its Answer, New Matter and New Matter Pursuant to Rule 2252(d) as though said responses are fully set forth at length herein.

16. The averments of paragraph 16 of Plaintiff's Amended Complaint are directed to parties other than Bigler Township. Therefore, no response by Bigler Township is required.

17. The averments of paragraph 17 of Plaintiff's Amended Complaint are directed to parties other than Bigler Township. Therefore, no response by Bigler Township is required.

18. The averments of paragraphs 18 of Plaintiff's Amended Complaint are directed to parties other than Bigler Township. Therefore, no response by Bigler Township is required.

19. The averments of paragraph 19 of Plaintiff's Amended Complaint are directed to parties other than Bigler Township. Therefore, no response by Bigler Township is required.

20. The averments of paragraph 20 of Plaintiff's Amended Complaint are directed to parties other than Bigler Township. Therefore, no response by Bigler Township is required.

21. The averments of paragraph 21 of Plaintiff's Amended Complaint are directed to parties other than Bigler Township. Therefore, no response by Bigler Township is required.

WHEREFORE, Defendant, Bigler Township, respectfully requests that this Honorable Court dismiss Plaintiff's Amended Complaint with prejudice and enter judgment in its favor, together with all costs and counsel fees.

JURY TRIAL DEMANDED.

NEW MATTER

22. Bigler Township incorporates herein by reference its responses and averments as contained in paragraphs 1 through 21 of its Answer, New Matter and New Matter Pursuant to Rule 2252(d) as though said responses and averments are fully set forth at length herein.

23. The rights of the Plaintiff in this action are governed, diminished and/or barred by the contributory and/or comparative negligence of the Plaintiff.

24. The rights of the Plaintiff in this action are governed, diminished and/or barred by the Plaintiff's assumption of the risk.

25. Any and all damages allegedly sustained by the Plaintiff are the result of superseding, intervening and/or independent causes over which Bigler Township had no control or in any way participated.

26. Any and all damages allegedly sustained by the Plaintiff are the direct and proximate result of the conduct of other persons, parties and/or forces over which Bigler Township is not responsible and did not control.

27. Bigler Township avers and asserts all immunities and defenses pursuant to the doctrine of governmental immunity as preserved in the Political Subdivision Tort Claims Act, 42 Pa.C.S. §8541, et seq.

28. Bigler Township avers that any and all damages that may be recoverable from Bigler Township are limited pursuant to the Political Subdivision Tort Claims Act, 42 Pa.C.S. §8541, et seq.

29. Bigler Township did not control, own, possess or maintain the subject sewer line which Plaintiff claims caused damages to her property.

30. Plaintiff's claims are barred by the applicable statutes of limitation.

31. It is averred that Bigler Township was not given proper or timely notice of the alleged incident or injuries by the Plaintiff or on behalf of the Plaintiff as required pursuant to 42 P.S. §5522.

WHEREFORE, Defendant, Bigler Township, respectfully requests that this Honorable Court dismiss Plaintiff's Amended Complaint with prejudice and enter judgment in its favor, together with all costs and counsel fees.

JURY TRIAL DEMANDED.

NEW MATTER PURSUANT TO RULE 2252(d)

BIGLER TOWNSHIP VS. JAMES H. TRAVIS AND MILDRED H. TRAVIS, HIS WIFE

32. Bigler Township incorporates herein by reference its responses and averments as contained in paragraphs 1 through 31 of its Answer, New Matter and New Matter Pursuant to Rule 2252(d) as though said responses and averments are fully set forth at length herein.

33. Solely for the purpose of compliance with Pennsylvania Rule of Civil Procedure 2252(d), Bigler Township incorporates herein by reference the averments of Plaintiff's Amended Complaint as they relate to the alleged negligence of the Co-Defendants, James H. Travis and Mildred Travis, as though the same are fully set forth at length herein.

34. Bigler Township has denied all liability in its Answer. In the alternative, if it is determined that the Plaintiff sustained the damages and losses alleged in the Amended Complaint, and that Bigler Township was negligent or otherwise liable to the Plaintiff as a result of the claims set forth in Plaintiff's Amended Complaint, which is denied, then in that alternative, Bigler

Township denies that its negligence or actions and/or inactions were the sole and proximate cause of the Plaintiff's injuries and damages; to the contrary, any damages sustained by the Plaintiff was the direct and proximate result of the negligence and/or actions of Defendants James H. Travis and Mildred Travis.

35. In the same alternative as the preceding paragraph, Defendants James H. Travis and Mildred Travis, other than Bigler Township, are solely liable to the Plaintiff for any damages and injuries sustained by the Plaintiff as a result of the claims as set forth in the Amended Complaint, or, in a further alternative, should Bigler Township be found liable for any or all of the Plaintiff's damages and injuries, said liability being denied, then in that alternative, Bigler Township demands contribution and/or indemnification from Defendants James H. Travis and Mildred Travis.

WHEREFORE, Defendant, Bigler Township, denies that it is liable to the Plaintiff for any sum or sums whatsoever, or, in the alternative, demands contribution and/or indemnification from Defendants James H. Travis and Mildred Travis, together with all costs of the suit and counsel fees.

JURY TRIAL DEMANDED.

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

By:


CHRISTIAN D. MARQUIS, ESQUIRE
Attorney for Defendant, Bigler Township
Sewer Authority
PA I.D. #85070
2900 US Steel Tower, 600 Grant Street
Pittsburgh, PA 15219
(412) 803-1140

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

ELAINE ECKBERG,) CIVIL DIVISION

)

Plaintiff,) No: 2003-648

)

)

JAMES H. TRAVIS and MILDRED)

TRAVIS, Husband and Wife, and BIGLER)

TOWNSHIP SEWER AUTHORITY,)

) **JURY TRIAL DEMANDED**

)

v. Defendants.

VERIFICATION

I, Gale Jack Brink, Chairman of the Board of Supervisors, being duly sworn according to law deposes and says that I am authorized to make this verification on behalf of the Bigler Township Sewer Authority and that the facts set forth in the foregoing **Answer, New Matter and New Matter Pursuant to Rule 2252(d)** are true and correct to the best of my knowledge, information, and belief. This verification is subject to 18 Pa. C.S. §4904 which provides for certain penalties for making false statements.

Gale Jack Brink
Gale Jack Brink, Chairman

Date: *October 13, 2003*

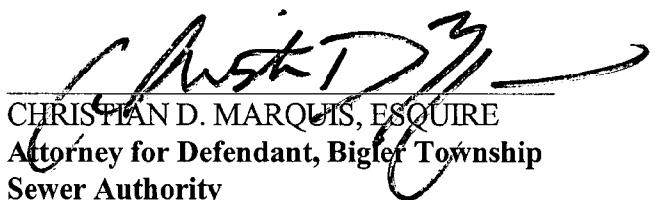
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO RULE 2252(d)** has been served upon the following known counsel of record this 17 day of October, 2003, via United States First-Class Mail, postage prepaid:

John R. Carfley, Esquire
P.O. Box 249
Philipsburg, PA 16866
(Counsel for Plaintiff)

James H. Travis and Mildred Travis
P.O. Box 563
Madera, PA 16661
(Defendants)

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

By: 

CHRISTIAN D. MARQUIS, ESQUIRE
Attorney for Defendant, Bigler Township
Sewer Authority

\12_A\LIB\CBM\LLPG\289450\TKC\05130\00469

OCT 28 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ELAINE ECKBERG :
Plaintiff
vs. : No. 2003- 648-QD
JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife, :
and BIGLER TOWNSHIP, :
Defendants :
:

PLAINTIFF'S ANSWER TO DEFENDANT, BIGLER TOWNSHIP'S NEW MATTER

AND NOW comes the plaintiff, ELAINE ECKBERG, who by and through her attorney, John R. Carfley, Esquire, files this Answer to Defendant, Bigler Township's New Matter in the following manner:

22. The averments of Paragraphs 1 through 21 of Defendant's Answer are in response to, and place at issue for purposes of trial the averments and cause of action set forth in Plaintiff's complaint, the factual averments of which are incorporated herein by reference as fully as though set forth at length.

23. Denied. On the contrary it is averred that Paragraph 23 of Defendant's New Matter states a conclusion of law as to which no response is required. Insofar as relevant proof of the factual averments giving rise to said legal argument, if applicable, are demanded at time of trial.

24. Denied. On the contrary it is averred that Paragraph 24 of Defendant's New Matter states a conclusion of law as to which no response is required. Insofar as relevant proof of the factual averments giving rise to said legal argument, if applicable, are demanded at time of trial.

25. Denied. On the contrary it is averred that Paragraph 25

of Defendant's New Matter states a conclusion of law as to which no response is required. Insofar as relevant proof of the factual averments giving rise to said legal argument, if applicable, are demanded at time of trial.

26. Denied. On the contrary it is averred that Paragraph 26 of Defendant's New Matter states a conclusion of law as to which no response is required. Insofar as relevant proof of the factual averments giving rise to said legal argument, if applicable, are demanded at time of trial.

27. Denied. On the contrary it is averred that Paragraph 27 of Defendant's New Matter states a conclusion of law as to which no response is required. Insofar as relevant proof of the factual averments giving rise to said legal argument, if applicable, are demanded at time of trial.

28. Denied. On the contrary it is averred that Paragraph 28 of Defendant's New Matter states a conclusion of law as to which no response is required. Insofar as relevant proof of the factual averments giving rise to said legal argument, if applicable, are demanded at time of trial.

29. Denied. On the contrary it is averred that after reasonable investigation, Plaintiff is without knowledge sufficient to form a belief as to the truth of the averment set forth herein and insofar as relevant, proof thereof is demanded at time of trial.

30. Denied. On the contrary it is averred that Paragraph 30 of Defendant's New Matter states a conclusion of law as to which no response is required. Insofar as relevant proof of the factual

averments giving rise to said legal argument, if applicable, are demanded at time of trial.

31. Denied. On the contrary it is averred that Paragraph 31 of Defendant's New Matter states a conclusion of law as to which no response is required. Insofar as relevant proof of the factual averments giving rise to said legal argument, if applicable, are demanded at time of trial. By way of further answer it is averred that the alleged incident and/or injury sustained by the Plaintiff are of a continuing nature and notice was provided to the defendant Township by virtue of the filing of this action which is a reasonable and proper manner of notification notwithstanding the provisions of 42 P.S. §55.22.

WHEREFORE, Plaintiff demands that judgment be entered in favor of the Plaintiff and against the Defendant, Bigler Township consistent with the averments and prayer of her Complaint, the provisions of which are incorporated herein by reference as fully as though set forth at length.

32. The averments of Paragraphs 1 through 31 of Defendant's Answer are in response to, and place at issue for purposes of trial the averments and cause of action set forth in Plaintiff's complaint, the factual averments of which are incorporated herein by reference as fully as though set forth at length.

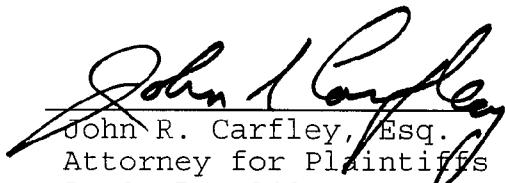
33. Denied. On the contrary it is averred that Paragraph 33 of Defendant's New Matter states facts and asserts matters against an answering party other than the plaintiff as a result of which no response is due or can be formulated by the plaintiff hereto.

34. Denied. On the contrary it is averred that Paragraph 34

of Defendant's New Matter states facts and asserts matters against an answering party other than the plaintiff as a result of which no response is due or can be formulated by the plaintiff hereto.

35. Denied. On the contrary it is averred that Paragraph 35 of Defendant's New Matter states facts and asserts matters against an answering party other than the plaintiff as a result of which no response is due or can be formulated by the plaintiff hereto.

WHEREFORE, Plaintiff demands that judgment be entered in favor of Plaintiff and against the Defendant, Bigler Township, consistent with the averments and prayer of her Complaint, the provisions of which are incorporated herein by reference as fully as though set forth at length.



John R. Carfley, Esq.
Attorney for Plaintiffs
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

Dated: October 28, 2003

VERIFICATION

I hereby verify that the statements made in this instrument 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.

Elaine M. Eckberg

Dated: October 28, 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

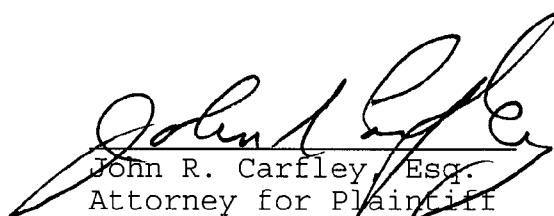
ELAINE ECKBERG :
Plaintiff
vs. : No. 2003-648-CD
JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife,
and BIGLER TOWNSHIP, :
Defendants :
:

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of Plaintiff's Answer to Defendant, Bigler Township's New Matter by depositing the same in the United States mail on October 28, 2003, to the following parties of record:

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
(Attorney for Bigler Township)
US Steel Tower, Suite 2900
600 Grant Street
Pittsburgh, Pa., 15219

Mr. & Mrs. James H. Travis
P. O. Box 563
Madera, Pa., 16661


John R. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

FILED

OCT 28 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CRIMINAL DIVISION)

ELAINE ECKBERG, :
Plaintiff, :
vs. : No. 03 - 648 - C.D.
JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife, and BIGLER :
TOWNSHIP SEWER AUTHORITY, :
Defendants. :
: Type of case: Civil
: Type of pleading: Entry of Appearance
: Filed on behalf of: Defendants,
: James H. Travis and Mildred Travis
: Counsel for Defendants:
: Frederick M. Neiswender, Esquire
: Supreme Court No. 74456
: 501 East Market Street, Suite 3
: Clearfield, Pennsylvania 16830
: (814) 765-6500

FILED

NOV 14 2003

*William A. Shaw
Prothonotary/Clerk of Courts*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CRIMINAL DIVISION)

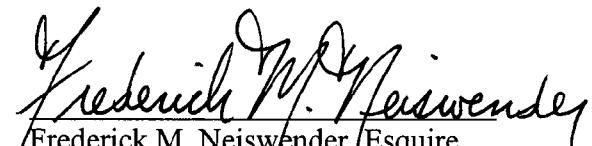
ELAINE ECKBERG, :
Plaintiff, :
vs. : No. 03 - 648 - C.D.
JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife, and BIGLER :
TOWNSHIP SEWER AUTHORITY, :
Defendants. :

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance as attorney of record for the Defendants, James H. Travis and Mildred Travis in the above captioned matter.

Date: Nov. 14, 2003


Frederick M. Neiswender, Esquire
Supreme Court No. 74456
501 East Market Street, Suite 3
Clearfield, Pennsylvania 16830
(814) 765-6500

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CRIMINAL DIVISION)

ELAINE ECKBERG,

Plaintiff,

vs.

No. 03 - 648 - C.D.

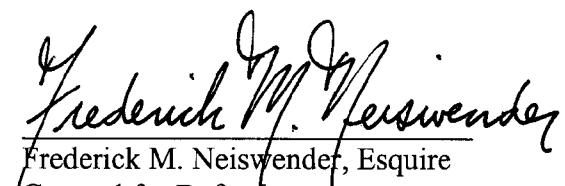
JAMES H. TRAVIS and MILDRED
TRAVIS, Husband and Wife, and BIGLER
TOWNSHIP SEWER AUTHORITY,
Defendants.

CERTIFICATE OF SERVICE

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Entry of Appearance was made on November 14, 2003, by mailing, first class, postage prepaid, a true copy to the following persons, at the following addresses:

John R. Carfley, Esquire
P.O. Box 249
Philipsburg, Pennsylvania 16866

Christian D. Marquis, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
US Steel Tower, Suite 2900
600 Grant Street
Pittsburgh, Pennsylvania 15219



Frederick M. Neiswender, Esquire
Counsel for Defendants,
James H. Travis and Mildred Travis
501 East Market Street, Suite 3
Clearfield, Pennsylvania 16830

CR

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

ELAINE ECKBERG,) CIVIL DIVISION
)
 Plaintiff,) No: 2003-648
)
 v.)
) MOTION TO COMPEL
 JAMES H. TRAVIS and MILDRED)
 TRAVIS, Husband and Wife, and BIGLER)
 TOWNSHIP,) Filed on behalf of:
) Defendant, Bigler Township
 Defendants.)
)
) Counsel of Record:
)
) CHRISTIAN D. MARQUIS, ESQUIRE
) PA ID # 85070
)
) MARSHALL, DENNEHEY, WARNER,
) COLEMAN & GOGGIN
) US Steel Tower, Suite 2900
) 600 Grant Street
) Pittsburgh, PA 15219
) (412) 803-1140
)
) JURY TRIAL DEMANDED

\12_A\LIAB\CBM\LLPG\310530\TKC\05130\00469

FILED

MAR 24 2004
m/10:35 am
William A. Shaw
Prothonotary/Clerk of Courts
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**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA**

ELAINE ECKBERG,) CIVIL DIVISION
)
 Plaintiff,) No: 2003-648
 v.)
)
 JAMES H. TRAVIS and MILDRED)
 TRAVIS, Husband and Wife, and BIGLER)
 TOWNSHIP,) **JURY TRIAL DEMANDED**
)
 Defendants.)

MOTION TO COMPEL

AND NOW, comes Defendant, Bigler Township, by and through its attorneys, CHRISTIAN D. MARQUIS, ESQUIRE, and MARSHALL, DENNEHEY, WARNER, COLEMAN AND GOGGIN and files the within Motion to Compel, and states in support thereof the following:

1. On or about November 10, 2003, counsel for Defendant Bigler Township served upon counsel for Plaintiff, Defendant Bigler Township's Interrogatories Directed to Plaintiff and Defendant Bigler Township's Request for Production of Documents Directed to Plaintiff. (A copy of the letter of transmission serving the same is attached hereto as Exhibit "A".)
2. On December 17, 2003, after not receiving Plaintiff's answers and responses to Defendant Bigler Township's discovery requests, counsel for Defendant sent a letter to counsel for Plaintiff requesting when he could anticipate receipt of the same. (A copy of the December 17, 2003 letter is attached hereto as Exhibit "B".)
3. After still not receiving the same, counsel for Defendant again on January 28, 2004 sent a letter to counsel for Plaintiff requesting when he would be serving Plaintiff's answers and

responses to Defendant Bigler Township's discovery requests. (A copy of the January 28, 2004 letter is attached hereto as Exhibit "C".)

4. Although that is the case, Plaintiff's answers and responses to Defendant Bigler Township's discovery requests have yet to be served.

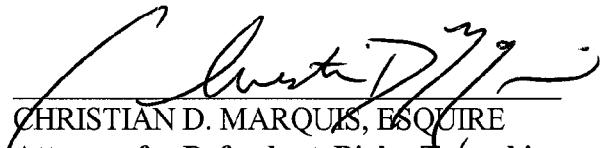
5. Defendant Bigler Township needs the requested information in order to prepare for trial and will be prejudiced without the same.

WHEREFORE, Defendant, Bigler Township, respectfully requests that this Honorable Court grant the within Motion to Compel and enter the attached Order.

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

By:


CHRISTIAN D. MARQUIS, ESQUIRE
Attorney for Defendant, Bigler Township
PA I.D. #85070
2900 US Steel Tower, 600 Grant Street
Pittsburgh, PA 15219
(412) 803-1140

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MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN

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DELAWARE
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 Ft. Lauderdale
 Orlando
 Tampa



Direct Dial: 412-803-1142
Email: cmarquis@mdwgc.com

November 10, 2003

John R. Carfley, Esquire
 P.O. Box 249
 Philipsburg, PA 16866

RE: Elaine Eckberg vs. Bigler Township Sewer Authority, et al.
No. 2003-648 (Clearfield County)
Our File: 05130.00469

Dear Mr. Carfley:

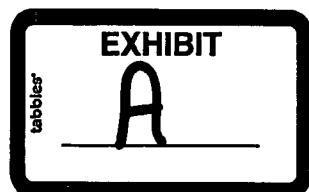
In reference to the above-noted matter, please find enclosed an original and one copy of Defendant Bigler Township's Interrogatories Directed to Plaintiff and Defendant Bigler Township's Request for Production of Documents Directed to Plaintiff.

Thank you for your attention to this matter. Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

Christian D. Marquis

CDM/tkc
 Enclosures
 cc: James H. Travis and Mildred Travis (w/ Enc.)
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DELAWARE
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OHIO
 Akron

FLORIDA
 Ft. Lauderdale
 Orlando
 Tampa



December 17, 2003

John R. Carfley, Esquire
 P.O. Box 249
 Philipsburg, PA 16866

RE: Elaine Eckberg vs. Bigler Township Sewer Authority, et al.
No. 2003-648 (Clearfield County)
Our File: 05130.00469

Dear Mr. Carfley:

As you know, on November 10, 2003, I served upon you as counsel of record for the Plaintiff, a First Set of Discovery Requests. As of this date, I have yet to receive your client's Answers and Responses to the same. I would appreciate your contacting me to provide me with information as to when I can anticipate receipt of your client's Answers and Responses.

Thank you for your attention to this matter. I look forward to hearing from you soon in this regard.

Very truly yours,

Christian D. Marquis

CDM/hls

cc: Frederick M. Neiswender, Esquire
 \12_ALIAB\CBM\STAT\298232\HXS\05130\00469



MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN

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Direct Dial: (412) 803-1142
Email: cmarquis@mdwcg.com

January 28, 2004

John R. Carfley, Esquire
 P.O. Box 249
 Philipsburg, PA 16866

RE: Elaine Eckberg vs. Bigler Township Sewer Authority, et al.
No. 2003-648 (Clearfield County)
Our File: 05130.00469

Dear Mr. Carfley:

As of this time, I have yet to receive your client's answers and responses to our First Set of Discovery Requests that were served on November 10, 2003, upon you as counsel of record for the Plaintiff. In this regard, I informed you via letter of December 17, 2003, that your answers and responses were then overdue. Please provide me with your client's answers and responses within ten (10) days of the date of this letter, or advise me within that time frame as to when I can anticipate receipt of the same.

I am also in receipt of various documents from the Commonwealth of Pennsylvania Department of Environmental Protection regarding an investigation that it performed on your client's residence. I am therefore enclosing herewith a copy of this document.

Thank you for your attention to these matters. I look forward to hearing from you soon regarding your responses to our discovery requests.

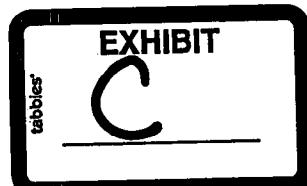
Very truly yours,

Christian D. Marquis

CDM/hls

Enclosures

cc: Frederick M. Neiswender, Esquire (w/ Enc.)
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

ELAINE ECKBERG,) CIVIL DIVISION
)
 Plaintiff,) No: 2003-648
 v.)
)
 JAMES H. TRAVIS and MILDRED)
 TRAVIS, Husband and Wife, and BIGLER)
 TOWNSHIP,) **JURY TRIAL DEMANDED**
)
 Defendants.)

ORDER OF COURT

AND NOW, this 25th day of March, 2004, upon
consideration of Defendant Bigler Township's Motion to Compel, it is hereby ORDERED,
ADJUDGED and DECREED that said Motion is GRANTED. It is further ORDERED that the
Plaintiff shall serve full, complete and verified answers and responses to Defendant Bigler
Township's Interrogatories Directed to Plaintiff and Defendant Bigler Township's Request for
Production of Documents Directed to Plaintiff within twenty (20) days of the date of this Order
or shall be subject to sanctions upon an additional Motion to this Court.

BY THE COURT:

 J.

FILED

MAR 25 2004

William A. Shaw
Prothonotary/Clerk of Courts

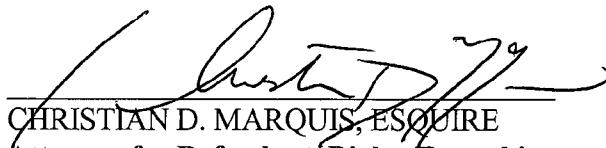
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **MOTION TO COMPEL** has been served upon the following known counsel of record this 22 day of March, 2004, via United States First-Class Mail, postage prepaid:

John R. Carfley, Esquire
P.O. Box 249
Philipsburg, PA 16866
(Counsel for Plaintiff)

Frederick M. Neiswender, Esquire
501 East Market Street, Suite 3
Clearfield, PA 16830
(Counsel for Defendants James H. Travis and Mildred Travis)

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

By: 

CHRISTIAN D. MARQUIS, ESQUIRE
Attorney for Defendant, Bigler Township
Sewer Authority

\12_A\LIAB\CBM\LLPG\310530\TKC\05130\00469

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

ELAINE ECKBERG,

) CIVIL DIVISION

Plaintiff,) No: 2003-648

v.

JAMES H. TRAVIS and MILDRED
TRAVIS, Husband and Wife, and BIGLER
TOWNSHIP,

Defendants.)

) NOTICE OF INTENT TO SERVE
) SUBPOENA TO PRODUCE
) DOCUMENTS AND THINGS FOR
) DISCOVERY PURSUANT TO RULE
4009.22

) FILED ON BEHALF OF:
Defendant, Bigler Township

) COUNSEL OF RECORD FOR THIS
PARTY:

) CHRISTIAN D. MARQUIS, ESQUIRE
Pa. I.D. No. 85070

) Marshall, Dennehey, Warner, Coleman &
Goggin, P.C.
2900 US Steel Tower
Pittsburgh, PA 15219
412-803-1140
412-803-1188 (Fax)

) JURY TRIAL DEMANDED **FILED**
)

MAY 10 2004

\12_A\LIAB\CBM\DISC\317305\TKC\05130\00469

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

ELAINE ECKBERG,) CIVIL DIVISION
Plaintiff,) No: 2003-648
v.)
JAMES H. TRAVIS and MILDRED)
TRAVIS, Husband and Wife, and BIGLER)
TOWNSHIP,) JURY TRIAL DEMANDED
Defendants.)

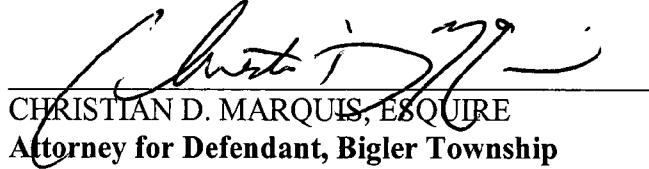
**NOTICE OF INTENT TO SERVE SUBPOENA TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.22**

Defendant, Bigler Township, intends to serve a subpoena identical to the subpoena attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

BY:


CHRISTIAN D. MARQUIS, ESQUIRE
Attorney for Defendant, Bigler Township

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Elaine Eckberg

*

Plaintiff(s)

Vs.

*

No. 2003-00648-CD

James Travis

*

Mildred Travis

Bigler Township Sewer Authority

Defendant(s)

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: Richard T. Hughes, P.E., 506 Krebs Avenue, Clearfield, PA 16830
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: A copy of all documents, including but not limited to, notes, letters, reports and a copy of any photographs and videotapes in your possession concerning your investigation at the residence of Elaine Eckberg located at P.O. Box 353, Madera, PA 16661.

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Christian D. Marquis, Esquire

ADDRESS: 2900 U.S. Steel Tower, 600 Grant Street

Pittsburgh, PA 15219

TELEPHONE: (412) 803-1142

SUPREME COURT ID # 85070

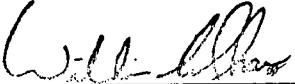
ATTORNEY FOR: Defendant, Bigler Township

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Thursday, May 06, 2004

Seal of the Court


William A. Shaw
Deputy

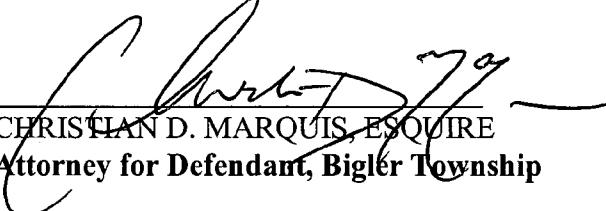
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Defendant Bigler Township's **NOTICE OF INTENT TO SERVE SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.22** in the above-captioned matter this 7th day of May, 2004, via United States First Class mail, postage pre-paid.

John R. Carfley, Esquire
P.O. Box 249
Philipsburg, PA 16866
(Counsel for Plaintiff)

Frederick M. Neiswender, Esquire
501 East Market Street, Suite 3
Clearfield, PA 16830
(Counsel for Defendants James H. Travis and Mildred Travis)

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

By: 

CHRISTIAN D. MARQUIS, ESQUIRE
Attorney for Defendant, Bigler Township

\12_A\LIAB\CBM\DISC\317305\TKC\05130\00469

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ELAINE ECKBERG :
Plaintiff
vs. : No. 2003-648-CD
JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife,
and BIGLER TOWNSHIP, :
Defendants :
:

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of a Petition to Withdraw on behalf of Plaintiff by depositing the same in the United States mail on June 11, 2004, to the following parties of record:

Elaine Eckberg
P. O. Box 353
Madera, Pa., 16661

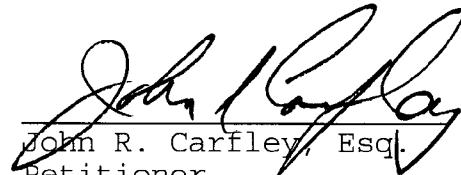
Christian D. Marquis, Esq.
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
(Attorney for Bigler Township)
US Steel Tower, Suite 2900
600 Grant Street
Pittsburgh, Pa., 15219

Frederick M. Neiswender, Esq.
(Attorney for Mr. & Mrs. James H. Travis)
501 E. Market Street, Suite 3
Clearfield, Pa., 16830

FILED

JUN 11 2004

William A. Shaw
Prothonotary/Clerk of Courts


John R. Carfley, Esq.
Petitioner
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ELAINE ECKBERG :
Plaintiff
vs. : No. 2003-648-CD
JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife, :
and BIGLER TOWNSHIP, :
Defendants :
AND NOW, this 17th day of June, 2004, upon consideration

FILED

JUN 17 2004

William A. Shaw
Prothonotary/Clerk of Courts

RULE

of the foregoing Petition to Withdraw, a rule is hereby issued upon Plaintiff to Show Cause why the Petition should not be granted. Rule returnable the 14 day of July, 2004, in Courtroom Number 1 10:30AM Clearfield County Courthouse, Clearfield, Pennsylvania, for Hearing thereon.

NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING MOTION, YOU MUST TAKE ACTION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE MOVANT. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

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

COURT ADMINISTRATOR
COURTHOUSE
CLEARFIELD, PENNSYLVANIA, 16830
(814) 765-2641

BY THE COURT:

Paula Cherry

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ELAINE ECKBERG :
Plaintiff
vs. : No. 2003-648-CD
JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife, :
and BIGLER TOWNSHIP, :
Defendants :
:

FILED

JUN 11 2004

William A. Shaw
Prothonotary/Clerk of Courts

PETITION TO WITHDRAW

AND NOW comes your petitioner, John R. Carfley, Esquire, who moves this court for leave to withdraw as counsel for defendant in the above matter and in support thereof avers as follows:

1. Your petitioner on or about the 15th day of January, 2002, undertook the representation of the above named plaintiff in this action.

2. Petitioner represented the said plaintiff throughout this case providing adequate legal representation during said period of time.

3. On or about April 14, 2004, Petitioner was retained as solicitor and undertook the representation of Muddy Run Regional Sewer Authority, which Authority is made up of various townships and boroughs, included but not limited to Bigler Township, one of the defendants named in plaintiff's pending suit..

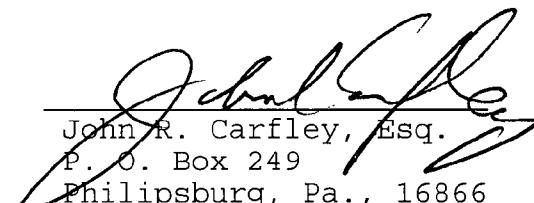
4. Because of Petitioner's representation of Muddy Run an irreconcilable conflict of interest exists regarding the above plaintiff and therefore, Petitioner requested Plaintiff to seek other representation, a copy of said letter to Plaintiff being attached hereto and marked Petitioner's Exhibit A.

5. It is believed that Plaintiff has sought and secured

alternate representation in this case.

6. Your petitioner has also responded to all outstanding discovery requests and the matter is now in a posture where plaintiff's rights are protected to the extent that the matter can proceed to jury selection, or a non jury trial absent any settlement.

WHEREFORE, Petitioner requests this Honorable Court to issue a rule directed to plaintiff to show cause why your petitioner should not be permitted to withdraw as counsel from any further active representation of this plaintiff.



John R. Carfley, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: June 11, 2004

April 27, 2004

Elaine Eckberg
P. O. Box 353
Madera, Pa., 16661

RE: Eckberg v. Bigler Township et. al.

Dear Elaine:

I would like you to be made aware of the fact that Pete and I have been retained as legal counsel for the Muddy Run Regional Authority which includes Bigler Township as one of its constituent parts. We will be actively involved in soliciting conventional funding and acquiring rights-of-way for Bigler Township as well as a number of other townships in the Muddy Run Service area. The retention of this client now makes it virtually impossible for us to continue to represent you in your action against Bigler Township and your neighbors.

I would be more than happy to assist you in securing alternate counsel, however, we should begin to address this issue as soon as possible so as to adequately protect your rights in this regard.

Very truly yours,

JOHN R. CARFLEY

JRC:sm

V A "

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

ELAINE ECKBERG,) CIVIL DIVISION
v.)
Plaintiff,) No: 2003-648
JAMES E. TRAVIS and MILDRED)
TRAVIS, Husband and Wife, and BIGLER) CERTIFICATE PREREQUISITE TO
TOWNSHIP,) SERVICE OF SUBPOENA PURSUANT
Defendants.) TO RULE 4009.22
)
) FILED ON BEHALF OF:
) **Defendant, Bigler Township**
)
) COUNSEL OF RECORD FOR THIS
) PARTY:
)
) CHRISTIAN D. MARQUIS, ESQUIRE
) Pa. I.D. No. 85070
)
) **Marshall, Dennehey, Warner, Coleman &**
) **Goggin, P.C.**
) 2900 US Steel Tower
) Pittsburgh, PA 15219
) 412-803-1140
) 412-803-1188 (Fax)
)
) **JURY TRIAL DEMANDED**
)

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FILED

JUN 17 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

ELAINE ECKBERG,) CIVIL DIVISION
)
 Plaintiff,) No: 2003-648
 v.)
)
 JAMES H. TRAVIS and MILDRED)
 TRAVIS, Husband and Wife, and BIGLER)
 TOWNSHIP,)
)
 Defendants.)
)
)
)
)
)
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)
)
)

CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENA
PURSUANT TO RULE 4009.22

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant Bigler Township certifies that:

1. A Notice of Intent to Serve the Subpoena with a copy of the Subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the Subpoena is sought to be served;
2. A copy of the Notice of Intent, including the proposed Subpoena, is attached to this certificate;
3. No objection to the Subpoena has been received; and
4. The Subpoena which will be served is identical to the Subpoena which is attached to the Notice of Intent to Serve the Subpoena.

Date: 6/15/04

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

BY:


CHRISTIAN D. MARQUIS, ESQUIRE
PA ID #85070

Attorney for Defendant, Bigler Township

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

ELAINE ECKBERG,

) CIVIL DIVISION

)

Plaintiff,) No: 2003-648

)

v.)

JAMES H. TRAVIS and MILDRED
TRAVIS, Husband and Wife, and BIGLER
TOWNSHIP,

) NOTICE OF INTENT TO SERVE

) SUBPOENA TO PRODUCE

) DOCUMENTS AND THINGS FOR

) DISCOVERY PURSUANT TO RULE

) 4009.22

Defendants.)

)

) FILED ON BEHALF OF:

) Defendant, Bigler Township

)

) COUNSEL OF RECORD FOR THIS

) PARTY:

)

) CHRISTIAN D. MARQUIS, ESQUIRE

) Pa. I.D. No. 85070

)

) Marshall, Dennehey, Warner, Coleman &

) Goggin, P.C.

) 2900 US Steel Tower

) Pittsburgh, PA 15219

) 412-803-1140

) 412-803-1188 (Fax)

)

) JURY TRIAL DEMANDED

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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

ELAINE ECKBERG,

) CIVIL DIVISION

)

Plaintiff,) No: 2003-648

)

v.

)

JAMES H. TRAVIS and MILDRED
TRAVIS, Husband and Wife, and BIGLER
TOWNSHIP,

) NOTICE OF INTENT TO SERVE

) SUBPOENA TO PRODUCE

) DOCUMENTS AND THINGS FOR

) DISCOVERY PURSUANT TO RULE

) 4009.22

Defendants.)

)

) FILED ON BEHALF OF:

) **Defendant, Bigler Township**

)

) COUNSEL OF RECORD FOR THIS

) PARTY:

)

) CHRISTIAN D. MARQUIS, ESQUIRE

) Pa. I.D. No. 85070

)

) Marshall, Dennehey, Warner, Coleman &

) Goggin, P.C.

) 2900 US Steel Tower

) Pittsburgh, PA 15219

) 412-803-1140

) 412-803-1188 (Fax)

)

) **JURY TRIAL DEMANDED**

)

)

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

ELAINE ECKBERG,) CIVIL DIVISION
v.)
Plaintiff,) No: 2003-648
)
JAMES H. TRAVIS and MILDRED)
TRAVIS, Husband and Wife, and BIGLER)
TOWNSHIP,) JURY TRIAL DEMANDED
)
Defendants.)

**NOTICE OF INTENT TO SERVE SUBPOENA TO PRODUCE
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.22**

Defendant, Bigler Township, intends to serve a subpoena identical to the subpoena attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

BY:

CHRISTIAN D. MARQUIS, ESQUIRE
Attorney for Defendant, Bigler Township

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Elaine Eckberg

*

Plaintiff(s)

Vs.

*

No. 2003-00648-CD

James Travis

*

Mildred Travis

Bigler Township Sewer Authority

Defendant(s)

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: Richard T. Hughes, P.E., 506 Krebs Avenue, Clearfield, PA 16830
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things: A copy of all documents, including but not limited to, notes, letters, reports and a copy of any photographs and videotapes in your possession concerning your investigation at the residence of Elaine Eckberg located at P.O. Box 353, Madera, PA 16661.

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Christian D. Marquis, Esquire

ADDRESS: 2900 U.S. Steel Tower, 600 Grant Street

Pittsburgh, PA 15219

TELEPHONE: (412) 803-1142

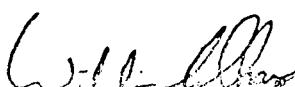
SUPREME COURT ID # 85070

ATTORNEY FOR: Defendant, Bigler Township

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division



Deputy

DATE: Thursday, May 06, 2004

Seal of the Court

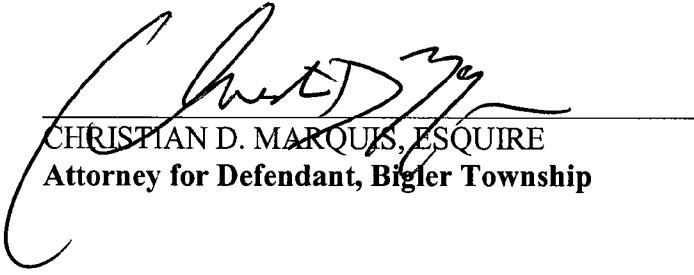
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Defendant Bigler Township's **CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENA PURSUANT TO RULE 4009.22** in the above-captioned matter this 15th day of June, 2004, via United States First Class mail, postage pre-paid.

John R. Carfley, Esquire P.O. Box 249 Philipsburg, PA 16866 (Counsel for Plaintiff)	Frederick M. Neiswender, Esquire 501 East Market Street, Suite 3 Clearfield, PA 16830 (Counsel for Defendants, James H. Travis and Mildred Travis)
---	--

MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN

BY:


CHRISTIAN D. MARQUIS, ESQUIRE
Attorney for Defendant, Bigler Township

\12_A\LIAB\TME\DISC\322097\TME\05130\00469

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

ELAINE ECKBERG :
VS. : NO. 03-648-CD
JAMES H. TRAVIS, al :
A

O R D E R

NOW, this 14th day of July, 2004, this being the date set for hearing on a Petition to Withdraw filed by John Carfley, Esquire, counsel for Plaintiff, Elaine Eckberg; the Court noting that Plaintiff has not appeared, as well as any of the Defendants, it is the ORDER of this Court that John R. Carfley, Esquire, and his law firm are hereby permitted to withdraw as counsel for Plaintiff and from any further representation of said Plaintiff.

BY THE COURT:


Paul E. Cherry
Judge

FILED

JUL 14 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

CC
JUL 14 2004

Attn: Carly, Neswender, Margueris

William A. Shaw
Prothonotary/Clerk of Courts

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

ELAINE ECKBERG,

) CIVIL DIVISION

v.

))

Plaintiff,) No: 2003-648

)

)

JAMES H. TRAVIS and MILDRED
TRAVIS, Husband and Wife, and BIGLER
TOWNSHIP,

) BRIEF IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT

)

) Filed on Behalf of:

Defendants.) Defendant Bigler Township

)

) CHRISTIAN D. MARQUIS, ESQUIRE

) Pa. I.D. No. 85070

)

) Marshall, Dennehey, Warner, Coleman &
Goggin, P.C.

) 600 Grant Street

) US Steel Tower - Suite 2900

) Pittsburgh, PA 15219

)

) 412/803-1140

) 412/803-1188 - Fax

)

)

) JURY TRIAL DEMANDED

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COURT ADMINISTRATOR'S
OFFICE

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

ELAINE ECKBERG,) CIVIL DIVISION
)
 Plaintiff,) No: 2003-648
)
 v.)
)
 JAMES H. TRAVIS and MILDRED)
 TRAVIS, Husband and Wife, and BIGLER)
 TOWNSHIP,)
)
 Defendants.)

BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

AND NOW comes the Defendant, BIGLER TOWNSHIP, by and through its counsel, Christian D. Marquis, Esquire and Marshall, Dennehey, Warner, Coleman & Goggin, P.C. and files its Brief in Support of Motion for Summary Judgment and states in support thereof the following:

STATEMENT OF THE CASE

On or about April 29, 2003 Plaintiff commenced the within action via the filing of a Complaint. Plaintiff sets forth in her Complaint that she sustained various property damages to her residence and property that she claims to have owned at the time of filing and that is located at the corner of Second Street and Lynn Street, P.O. Box 353, Madera, Bigler Township, Clearfield County, Pennsylvania, 16661 as the result of an allegedly defective sewer pipe that services the property of Defendant James and Mildred Travis. (*See* Plaintiff's Complaint in Civil Action at ¶¶ 4,6 a copy of which is attached to the Motion for Summary Judgment as Exhibit "1"). At time the Complaint was filed, Plaintiff claimed that she was the owner of the aforementioned property. (*See* Exhibit "1" at ¶ 4). As aforementioned, Plaintiff claims that she

sustained damages to her property from water or sewage that emanated from an alleged collapsed or defective sewer pipe, which ran beneath her property. (*See Exhibit "1" at ¶14*).

Pursuant to deed of record, Plaintiff purchased the subject property and residence in 1995 for \$59,000 and received a deed dated June 29, 1995. (*See Plaintiff's Deed ¶ 4*, a copy of which is attached to the Motion for Summary Judgment at Exhibit "2"). Regarding the specifics of her Complaint, Plaintiff alleges that in or about December of 1998, Plaintiff claims that she first noticed discharges of water, which appeared to be disrupting her driveway and causing an offset of the macadam portion of that structure. (*See Exhibit "1" at ¶ 5*). She thereafter claims that also in or about December 1998, that she first noticed discharges and accumulations of what appeared to be sewage in her crawlspace and in her backyard. (*See Exhibit "1" at ¶ 6*). Plaintiff claims that in the summer of 2000, the Travis Defendants had an obstructed sewer pipe, and called Roto-Rooter. (*See Exhibit "1" at ¶ 7*). Plaintiff claims that the obstructed sewer pipe, which carried waste from the Travis residence ran underneath Plaintiff's driveway and emptied into the stream behind her house and, that during its inspection, Roto-Rooter discovered the sewer pipe had collapsed under Plaintiff's driveway. (*See Exhibit "1" at ¶ 8*).

On October 15, 2003 First Commonwealth Bank, formerly NBOC Bank (hereinafter "First Commonwealth Bank") filed a complaint in Mortgage Foreclosure against Plaintiff. First Commonwealth Bank averred in their complaint that the mortgage on the property at the corner of Lynn and Second Streets was in default because the principal payments were overdue and in default for more than thirty days. (*See First Commonwealth Bank's Complaint ¶¶ 7, 8*, a copy of which is attached to the Motion for Summary Judgment as Exhibit "3"). Default Judgment was entered in favor of First Commonwealth Bank, on April 12, 2004. (*See Clearfield County General Docket for this case*, a copy of which is attached to the Motion for Summary Judgment

at Exhibit "4"). In addition, a Sheriff's Sale was scheduled for October 1, 2004. (*See* Notice of Sheriff's Sale, a copy of which is attached the Motion for Summary Judgment as Exhibit "5"). According to documentation received from the Clearfield County Recorder of Deeds, a deed executed on January 14, 2005 lists First Commonwealth Bank as the owner of the property located at the corner of Second Street and Lynn Street. (*See* Deed, a copy of which is attached to the Motion for Summary Judgment as Exhibit "6").

The foregoing record supports the contention that Plaintiff is no longer the owner of the property located at the corner of Lynn Street and Second Street. Accordingly, Plaintiff lacks the standing to sue for damage to a property that she does not own, and her claim seeking damages for a property she no longer owns is moot. Therefore, Bigler Township has filed its Motion for Summary Judgment. The within document is Bigler Township's Brief in Support of its Motion for Summary Judgment.

STATEMENT OF QUESTIONS PRESENTED

- (1) Whether Summary Judgment should be entered in favor of Defendant Bigler Township's as a matter of law as because Plaintiff lacks the standing to bring suit?

Suggested Answer. Yes.

- (2) Whether Summary Judgment should be entered in favor of Defendant Bigler Township as a matter of law because Plaintiff's claim is moot?

Suggested Answer. Yes.

STANDARD FOR GRANTING SUMMARY JUDGMENT

Pennsylvania Rule of Civil Procedure 1035.2 provides that, any party may move for summary judgment whenever there is no genuine issue of any material fact as to a necessary

element of the cause of action, which could be established, by additional discovery or expert report. Pa. R.Civ.P. 1035.2(1). Summary judgment is appropriate "when the pleadings, depositions and answers to interrogatories, and admissions on file, together with any affidavits, show that there is no genuine issue of material facts and that the moving party is entitled to judgment as a matter of law." McConnaughey v. Building Components, Inc., 637 A.2d 1331, 1333 (Pa. 1994).

In passing upon a motion for summary judgment, the court must examine the record in the light most favorable to the non-moving party. Schrivener v. Mazziotti, 638 A.2d 224 (Pa. Super. 1994), *appeal denied* 650 A.2d 52 (Pa. 1994).

However, if there are no materials issues of fact, or if the non-moving party has failed, in the first instance, to allege facts sufficient to make out a *prima facie* case, then summary judgment may be granted properly, even if the moving party has only set forth the pleading and depositions of his witnesses in support thereof.

Dudley v. USX Corp., 606 A.2d 916, 920 (Pa. Super. 1992), *appeal denied* 616 A.2d 985 (Pa. 1992). The movant's right to summary judgment must be clear and no doubt as a genuine issue of fact must exist. Musser v. Vilsmeier Option Company, Inc., 562 A.2d 279 (Pa. 1989).

When faced with a defendant's motion for summary judgment, a plaintiff may not simply rely on the allegations of his pleadings, but must file a response identifying one or more issues of fact arising from evidence in the record, which controverts the evidence cited in support of the motion. Pa. R.Civ.P. 1035.3. This is because "a plaintiff cannot survive a motion for summary judgment solely on the basis of conclusory allegations made in the complaint" Delate v. Kolle, 667 A.2d 1218, 1221 (Pa. Commw. 1995), *appeal denied* 678 A.2d 367 (Pa. 1996).

ARGUMENT

(1) Because There Is No Genuine Issue As To A Material Fact That Plaintiff Lacks Standing to Sue, Summary Judgment Should Be Granted In Favor Of Defendant Bigler Township As A Matter Of Law.

The concept of standing is based on the notion that an individual must establish, as a prerequisite to obtaining judicial resolution of a dispute, that he or she is aggrieved by the challenged order or action. Empire Coal Mining and Development, Inc. v. Dept. of Environmental Resources, 623 A.2d 897, 899 (Pa. Commw. 1993), *appeal denied* 629 A.2d 1384 (Pa. 1993). In Empire Coal, the court found petitioner, a mining company, lacked the standing needed to assert a cause of action because they were not directly or immediately injured by an order, which caused the closing of a landfill near its mining operation. Empire Coal, 623 A.2d at 303. The Empire Coal decision noted that

To have standing a party must show that it (1) has a substantial interest in the subject matter of the particular litigation, (2) the asserted interest must be direct, and (3) the interest must be immediate and not a remote consequence. A substantial interest in the outcome of a dispute is an interest, which surpasses the common interest of all citizens in seeking obedience to the law. A party has a direct interest in a dispute if he or she was harmed by the challenged action or order. Further, a party's interest is immediate if there is causal connection between the action or order complained of and the injury suffered by the party asserting standing.

Empire Coal, 623 A.2d at 303 (citations omitted).

In accordance with the above, although she may have had at one point, Plaintiff now does not have a substantial interest in the subject matter of the litigation because the subject matter or property and residence at issue is now the property of First Commonwealth Bank. There can be no direct interest of the Plaintiff because there is now no interest at all. Furthermore, the interest is not immediate because regardless of the past harm to the property, she cannot show how the

injury affects her now, or how receipt of payment for damages to property owned by someone else is appropriate.

In 1000 Grandview Assoc. v. Mt. Washington Associates, 434 A.2d 796 (Pa. Super. 1981), a condominium association was held to have standing to sue on behalf of its members. The Court in Grandview noted the basic principles of standing as were set forth by Mr. Justice Roberts in Wm. Penn. Parking Garage, Inc. v. City of Pittsburgh, 346 A.2d 269 (Pa. 1975) who wrote: "The 'core concept' in standing questions is whether the person is adversely affected or 'aggrieved' in any way by the matter, which he seeks to challenge through the judicial process." Grandview, 434 A.2d at 797, *citing* Wm. Penn., 346 A.2d at 281. The Court in Wm. Penn., reasoned that a person who is not adversely affected in any way by the matter he seeks to challenge is not "aggrieved" thereby and has no standing to obtain a judicial resolution of his challenge Wm. Penn., 346 A.2d at 281. At the time Plaintiff filed suit against Defendant Bigler Township, it appears as if she was the owner of the property at the corner of Second Street and Lynn Street. Now however and which is undisputed is that Plaintiff no longer owns the property at the corner of Second Street and Lynn Street. Accordingly, because the Plaintiff does not now own the property, she is no longer aggrieved.

In Pierce v. Potter, 7 Watts 475 (Pa. 1838), the Supreme Court of Pennsylvania was faced with the question of whether a mortgagor who lost his property at a sheriff's sale was entitled to sue under the requisition act of May 27, 1715¹ which was the predecessor to 21 P.S. §681², 682³.

¹ The Act of May 28, 1715 was "the predecessor to 21 P.S. §§ 681,682, [and was intended] to prevent uncertainties in title. The act sought to make recordation of mortgage satisfaction pieces a prerequisite to the ability to pass good title to subsequent purchasers. As such, the aim of the statute was to provide those in possession of land with a mechanism by which to compel a mortgagee to enter satisfaction on a previously paid mortgage, thereby clearing any clouds on the title." Noel v. First Fin. Bank, 855 A.2d 90, 95 (Pa. Super. 2004).

² 21 P.S. §681 reads "Any mortgagee of any real or personal estates in the Commonwealth having received full satisfaction and payment of all such sum and sums of money as are really due to him by such mortgage shall, at the request of the mortgagor, enter satisfaction upon the margin of the record of such mortgage recorded in the said

Pierce 7 Watts at 476. The court in Pierce stated of the plaintiff that, "he is not the owner now of the mortgaged land and has no right or interest in it whatever... He therefore cannot be said to be aggrieved by any neglect or refusal on the part of the defendant to enter such satisfaction..." Pierce 7 Watts at 479.

Despite the fact that the Pierce decision was handed down nearly 165 years ago, the Superior Court in the recent case of Noel v. First Financial Bank, 855 A.2d 90 (Pa. Super. 2004) found the decision was still good law and found the reasoning persuasive. Noel, 855 A.2d at 95, 96. Although in Noel the Superior Court ultimately overruled the trial court which granted a bank's motion for summary judgment on the basis that the former property owners lacked standing to sue, in its reversal, the court distinguished the facts in Noel from those in Pierce. In Noel, the court found that the plaintiffs who had fulfilled their mortgage obligation at the sale of their condominium had standing to sue. Noel, 855 A.2d at 96. Whereas in Pierce, the plaintiffs' property was foreclosed and sold at a sheriff's sale. In Pierce, the plaintiffs had not fulfilled their mortgage obligation, and therefore lost all rights connected to the property when it was resold. Pierce, 7 Watts at 478. The Noel court agreed that the Pierce decision is limited to situations in which the land was the subject of a sheriff's sale, and that it does not extend to situations in which a mortgagor tenders full payment in satisfaction of the mortgage. Noel, 855 A.2d at 95.

In the present matter, Plaintiff had her property foreclosed and the property was resold at a sheriff's sale. Accordingly, and in line with the reasoning in Pierce, Plaintiff no longer has any interest in the property. She therefore lacks the standing to continue the lawsuit that she

office or by means of a satisfaction piece, which shall forever thereafter discharge, defeat and release the same, and shall, likewise, bar all actions brought or to be brought thereupon."

³ Section 681, 21 P.S. §§ 681 and 682 have been repealed to the extent that they are inconsistent with the Mortgage Satisfaction Act of 2002, effective February 7, 2003. However, the Mortgage Satisfaction Act applies to all Mortgages on real property, which have not been satisfied prior to the effective date of the Act. Noel, 855 A.2d at 93.

originally initiated while she was still the owner of the property. As a result thereof, summary judgment must be entered in Defendant Bigler Township's favor as a matter of law.

(2) Because There Is No Genuine Issue As To A Material Fact That Plaintiff's Claim Is Moot, Summary Judgment Should Be Granted In Favor Of Defendant Bigler Township As A Matter Of Law.

As stated by the Commonwealth Court,

A case will be dismissed as moot if there exists no actual case or controversy. The existence of a case or controversy requires '(1) a legal controversy that is real and not hypothetical, (2) a legal controversy that affects an individual in a concrete manner so as to provide the factual predicate for a reasoned adjudication, and (3) a legal controversy with sufficiently adverse parties so as to sharpen the issues for judicial resolution.' A controversy must continue through all stages of judicial proceedings, trial and appellate, and the parties must continue to have a 'personal stake in the outcome' of the lawsuit.

Mistich v. Commonwealth, 863 A.2d 116, 119 (Pa. Cmwlth. 2004) (citations omitted). Mistich involved a prisoner who petitioned for a writ of mandamus, and his claim was dismissed as moot. In that case, the court ruled that the petitioner could not satisfy the case or controversy requirement because petitioner, who initially was complaining about his incarceration, could not receive any relief because he had already served his sentence and had already been released from prison. Mistich, 863 A.2d at 120. The court stated that the change in circumstances forestalled any relief, and dismissed the claim as moot. Mistich, 863 A.2d at 121.

Here, there is no legal controversy because Plaintiff is no longer the owner of the property she claims was damaged by the broken pipe. Plaintiff's lack of ownership of the property located at the corner of Second and Lynn Streets preclude this Honorable Court from making a reasoned decision on the merits of the case. Plaintiff is no longer an adverse party to

Defendant Bigler Township because the property she claims was damaged was foreclosed and now is owned by First Commonwealth Bank. The Mistich court stated "a controversy must continue through all stages of judicial proceedings, trial and appellate, and the parties must continue to have a 'personal stake in the outcome' of the lawsuit. Courts will not enter judgments or decrees to which no effect can be given." Mistich, 863 A.2d at 119 (citations omitted). Applied to this matter, the Plaintiff does not now have a personal stake in the outcome of this case.

The case of In re Gross, 382 A.2d 116 (Pa. 1978) is also instructive on the issue of mootness. In re Gross involved a mental patient who sought injunctive relief against a psychiatric facility where he was committed in order to prevent the administration of medication against his will. At some point following the initiation of suit, the petitioner mental patient was released from his confinement in the facility and the court noted that the release changed the factual posture of the case. The court discussed how an issue can become moot due to intervening changes that remove the possibility of any continuing harm. In that regard, our Supreme Court explained the circumstances that invoke the doctrine of mootness as follows:

The cases presenting mootness problems involve litigants who clearly had standing to sue at the outset of the litigation. The problems arise from events occurring after the lawsuit has gotten underway-changes in the facts or in the law-which allegedly deprive the litigant of the necessary stake in the outcome. The mootness doctrine requires that 'an actual controversy must be extant at all stages of review, not merely at the time the complaint is filed.'

In re Gross, 382 A.2d at 119 (quoting G. Gunther, Constitutional Law 1578 (9th ed. 1975)).

However, as the court in Mistich explained, there are certain circumstances that warrant a court to address a moot claim. "An exception to mootness will be found where (1) the conduct complained of is capable of repetition yet likely to evade judicial review; (2) the case involves

issues of great public importance; or (3) one party will suffer a detriment in the absence of a court determination." Mistich, 863 A.2d at 119. The capable of repetition, yet evading review exception to mootness applies only when there is a reasonable expectation that the same complaining party would be subjected to the same action again. Mistich 863 A.2d at 121.

For example, in In Re Maria Isabel Duran, 769 A.2d 497 (Pa. Super. 2001), a woman who was a Jehovah's Witness in accordance with her religious beliefs executed a durable power of attorney requesting that she not be given a blood transfusion while she underwent a liver transplant. There were complications related to the rejection of her second liver transplant and it was necessary that she receive a transfusion in order to survive. Her husband petitioned the court to be appointed emergency guardian for his wife in order to consent to a blood transfusion. In Re Maria Isabel Duran, 769 A.2d at 501. In that case, although the woman ultimately died and the husband's petition was withdrawn, the court nonetheless decided to address the merits even though the claim was moot because the issue was capable of repetition by other Jehovah's Witnesses. In Re Maria Isabel Duran, 769 A.2d at 502. The court decided the right to privacy and bodily integrity were matters of public importance, that were capable of repetition, and that the circumstances involved in appeals of that nature would make timely review virtually impossible in almost every instance. In Re Maria Isabel Duran, 769 A.2d at 502,503.

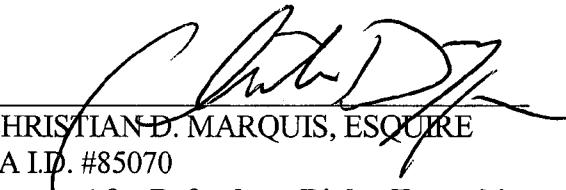
In contrast, the instant matter does not fit into any category of recognized exceptions to the notion of mootness because it does not present an issue that could be a recurring problem and does not fulfill the great public importance test. During the litigation, the property once owned by Plaintiff was foreclosed and subsequently sold. Accordingly, Plaintiff's claim is moot, because she is no longer the owner of the residence, which she claims suffered damages from a broken sewer pipe and has no continuing interest in the property.

CONCLUSION

Based on the foregoing, there is no genuine issue as to a material fact that the Plaintiff is no longer the record owner of her property and residence. As a result thereof and as a result of Plaintiff's failure to meet her burden to prove that she is entitled to relief, summary judgment should be entered in favor of Defendant Bigler Township as a matter of law because of the lack of standing and/or because of mootness.

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN, P.C.**

By: 

CHRISTIAN D. MARQUIS, ESQUIRE
PA I.D. #85070

Attorney for Defendant, Bigler Township.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded to all counsel of record by:

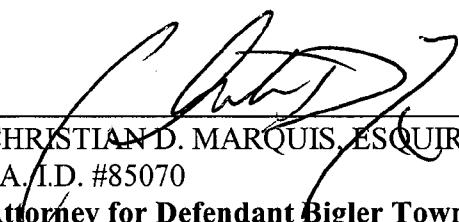
Hand Delivery
 U.S. First Class Mail, Postage Prepaid
 Certified Mail, Return Receipt Requested
 Facsimile Transmittal

at the following address:

Elaine Eckberg
P.O. Box 353
Madera, PA 16661
(Plaintiff, pro se)

Frederick M. Neiswender, Esq.
501 East Market Street Suite 3
Clearfield, PA 16830
(Counsel for Defendants James and Mildred
Travis)

**MARSHALL, DENNEHEY, WARNER
COLEMAN & GOGGIN, P.C.**

BY: 

CHRISTIAN D. MARQUIS, ESQUIRE
PA. I.D. #85070
Attorney for Defendant Bigler Township.

Date: 9/22/05

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

ELAINE ECKBERG,

) CIVIL DIVISION

)

Plaintiff,) No: 2003-648

)

v.

)

) **PROPOSED SCHEDULING ORDER**

JAMES H. TRAVIS and MILDRED
TRAVIS, Husband and Wife, and BIGLER
TOWNSHIP,

)

) Filed on behalf of:

) Defendant Bigler Township

Defendants.)

)

) Counsel of Record:

)

) CHRISTIAN D. MARQUIS, ESQUIRE

) PA ID # 85070

)

) **MARSHALL, DENNEHEY, WARNER,**

) **COLEMAN & GOGGIN**

) US Steel Tower, Suite 2900

) 600 Grant Street

) Pittsburgh, PA 15219

) (412) 803-1140

)

) **JURY TRIAL DEMANDED**

FILED ⁶⁴
04/02/2005 2:00 PM
APR 29 2005
Atty Marquis

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

ELAINE ECKBERG,) CIVIL DIVISION
)
 Plaintiff,) No: 2003-648
)
 v.)
)
 JAMES H. TRAVIS and MILDRED)
 TRAVIS, Husband and Wife, and BIGLER)
 TOWNSHIP,)
)
 Defendants.)

PROPOSED SCHEDULING ORDER

AND NOW this 29th day of April, 2005, Defendant Bigler
Township has filed its Motion for Summary Judgment and Supporting Brief. Any and all responses
and briefs in opposition shall be filed within _____ days of the date of this Order. Oral argument
shall be scheduled before the Honorable Cherry on May 25,
2005 in Courtroom No. 2 at 1:30p m.

BY THE COURT:

Paul E Cherry

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded to all counsel of record by:

Hand Delivery
 U.S. First Class Mail, Postage Prepaid
 Certified Mail, Return Receipt Requested
 Facsimile Transmittal

at the following address:

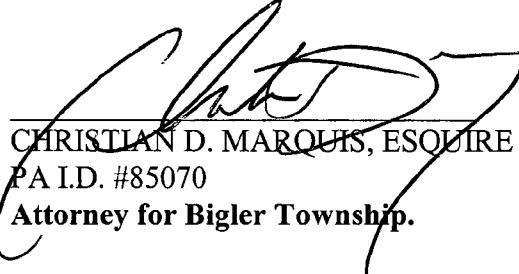
Elaine Eckberg
P.O. Box 353
Madera, PA 16661
(Plaintiff, pro se)

Frederick M. Neiswender, Esq.
501 East Market Street Suite 3
Clearfield, PA 16830
(Counsel for Defendants James and Mildred
Travis)

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN, P.C.**

By:


CHRISTIAN D. MARQUIS, ESQUIRE
PA I.D. #85070
Attorney for Bigler Township.

DATE: 4/22/05

\12_A\LIAB\CBM\LLPG\363478\TMS\05130\00469

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

ELAINE ECKBERG,) CIVIL DIVISION
Plaintiff,)) No: 2003-648
v.))
JAMES H. TRAVIS and MILDRED) PRAECLICE FOR ARGUMENT
TRAVIS, Husband and Wife, and BIGLER)
TOWNSHIP,) Filed on behalf of:
Defendants.)) Defendant Bigler Township
)) Counsel of Record:
)) CHRISTIAN D. MARQUIS, ESQUIRE
) PA ID # 85070
)) MARSHALL, DENNEHEY, WARNER,
) COLEMAN & GOGGIN
) US Steel Tower, Suite 2900
) 600 Grant Street
) Pittsburgh, PA 15219
) (412) 803-1140
)) JURY TRIAL DEMANDED

FILED ^{No}
cc
01/10/4584
APR 25 2005 (GN)

William A. Shaw
Prothonotary/Clerk of Courts

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

ELAINE ECKBERG,) CIVIL DIVISION
)
 Plaintiff,) No: 2003-648
 v.)
)
 JAMES H. TRAVIS and MILDRED)
 TRAVIS, Husband and Wife, and BIGLER)
 TOWNSHIP,)
)
 Defendants.)

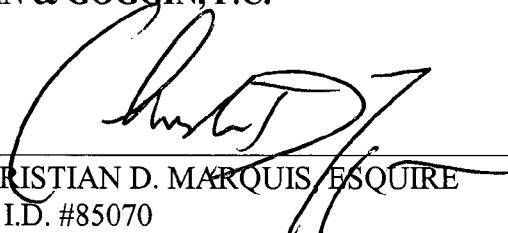
PRAECIPE FOR ARGUMENT

TO PROTHONOTARY AND COURT ADMINISTRATOR:

Defendant, Bigler Township requests that argument be scheduled on its Motion for Summary Judgment.

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN, P.C.**

By: 

CHRISTIAN D. MARQUIS, ESQUIRE

PA I.D. #85070

Attorney for Bigler Township.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded to all counsel of record by:

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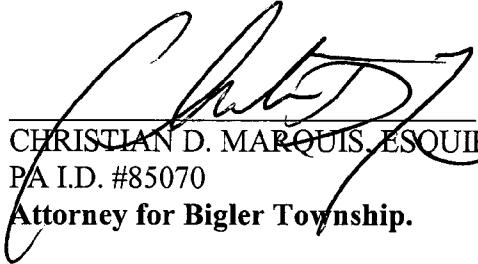
Elaine Eckberg
P.O. Box 353
Madera, PA 16661
(*Plaintiff, pro se*)

Frederick M. Neiswender, Esq.
501 East Market Street Suite 3
Clearfield, PA 16830
(*Counsel for Defendants James and Mildred Travis*)

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN, P.C.**

By:


CHRISTIAN D. MARQUIS, ESQUIRE
PA I.D. #85070
Attorney for Bigler Township.

DATE: 4/22/05

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

ELAINE ECKBERG,) CIVIL DIVISION
v.)
Plaintiff,) No: 2003-648
)
)
)
) MOTION FOR SUMMARY JUDGMENT
JAMES H. TRAVIS and MILDRED)
TRAVIS, Husband and Wife, and BIGLER)
TOWNSHIP,) Filed on behalf of:
) Defendant Bigler Township
Defendants.)
)
) Counsel of Record:
)
) CHRISTIAN D. MARQUIS, ESQUIRE
) PA ID # 85070
)
) MARSHALL, DENNEHEY, WARNER,
) COLEMAN & GOGGIN
) US Steel Tower, Suite 2900
) 600 Grant Street
) Pittsburgh, PA 15219
) (412) 803-1140
)
) JURY TRIAL DEMANDED

FILED 2cc
MAY 4 2005 Atty Marquis
APR 25 2005 (60)

William A. Shaw
Prothonotary/Clerk of Courts

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

ELAINE ECKBERG,) CIVIL DIVISION
)
 Plaintiff,) No: 2003-648
 v.)
)
 JAMES H. TRAVIS and MILDRED)
 TRAVIS, Husband and Wife, and BIGLER)
 TOWNSHIP,)
)
 Defendants.)

MOTION FOR SUMMARY JUDGMENT

AND NOW, comes Defendant, Bigler Township, by and through its attorneys, CHRISTIAN D. MARQUIS, ESQUIRE, and MARSHALL, DENNEHEY, WARNER, COLEMAN AND GOGGIN, P.C., and files the within Motion For Summary Judgment, and states in support thereof the following:

1. On or about April 29, 2003, Plaintiff commenced the within action against the above named Defendants, including Defendant Bigler Township, via the filing of a Complaint.
2. Plaintiff's Complaint alleges that she is the owner of a residence and property located at the corner of Second Street and Lynn Street, P.O. Box 353, Madera, Bigler Township, Clearfield County, Pennsylvania 16661. (See Plaintiff's Complaint in Civil Action at ¶ 4, a copy of which is attached hereto as Exhibit "1" and Plaintiff's Deed to her residence and property, a copy of which is attached hereto as Exhibit "2").
3. Plaintiff alleges in her Complaint that in 1998 she first notice accumulation of what appeared to be sewage in the crawlspace of her home and backyard and further that the sewage seeped through cracks in her driveway and caused an offset in the Macadam portion. She also alleges that water seeped through cracks in her garage floor slab. She thereafter alleges that a sewer

pipe accessing the Co-Defendants' property became obstructed and collapsed underneath the Plaintiff's driveway running beneath her residence and property and that through dye penetrations it was determined that sewage was seeping through her driveway. (*See Exhibit "1" at ¶¶ 6-8*).

4. Plaintiff alleges that her property damages to the residence at Second and Lynn Streets total \$38,600 (*See Exhibit "1" at ¶14*).

5. While the instant suit was pending, a foreclosure action by NBOC Bank now First Commonwealth Bank (hereinafter "First Commonwealth Bank") was commenced on or about October 15, 2003 because Plaintiff defaulted on her mortgage payments. (*See Exhibit "3" First Commonwealth Bank's Complaint in Mortgage Foreclosure ¶ 8*, a copy of which is attached hereto as Exhibit "3").

6. Default Judgment was entered against Plaintiff on April 12, 2004. (*See Clearfield County General Docket*, a copy of which is attached hereto as Exhibit "4").

7. The Plaintiff's residence and property at Second and Lynn Street was scheduled to be sold October 1, 2004 at a Sheriff's Sale. (*See Notice of Sheriff's Sale*, a copy of which is attached hereto as Exhibit "5").

8. First Commonwealth Bank is now the record owner of the property according to a deed issued on January 14, 2005 (*See First Commonwealth Bank's Deed*, a copy of which is attached hereto as Exhibit "6").

9. Plaintiff is no longer the owner of the residence and property that is the subject of this litigation. (*See Exhibit "6"*).

10. As a result, Plaintiff now lacks the standing to sue and Plaintiff's claims are now moot.

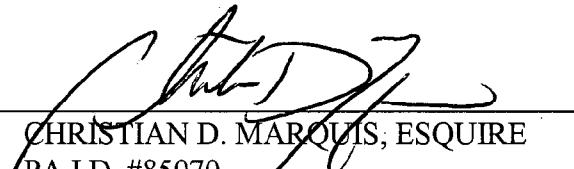
11. Accordingly, summary Judgment should be granted in Defendant Bigler Township's favor as a matter of law.

12. Defendant Bigler Township is therefore filing the within Motion for Summary Judgment. The Brief in Support of this Motion for Summary Judgment that also contains cites to the applicable portions of the record has been filed in unison with this Motion for Summary Judgment and is incorporated herein by reference as if fully set forth at length herein.

WHEREFORE, for the foregoing reasons and as more fully set forth in the Brief in Support of this Motion for Summary Judgment which is incorporated herein by reference, Defendant Bigler Township respectfully requests that this Honorable Court grant the within Motion for Summary Judgment and enter judgment in its favor as a matter of law.

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN, P.C.**

By: 

CHRISTIAN D. MARQUIS, ESQUIRE

PA I.D. #85070

Attorney for Bigler Township.

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ELAINE ECKBERG
Plaintiff

vs.

JAMES H. TRAVIS and MILDRED
TRAVIS, Husband and Wife,
and BIGLER TOWNSHIP SEWER
AUTHORITY,

Defendant

: No. 2003- 648-LD

: Document Filed: COMPLAINT

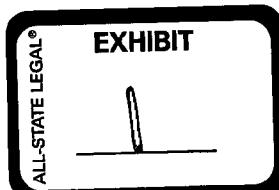
: Filed on behalf of:
PLAINTIFF

: Counsel for this Party:
John R. Carfley, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

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

APR 29 2003

Attest.


William L. Lohr
Prothonotary/
Clerk of Courts


IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ELAINE ECKBERG
Plaintiff

vs. : No. 2003-

JAMES H. TRAVIS and MILDRED
TRAVIS, Husband and Wife,
and BIGLER TOWNSHIP SEWER
AUTHORITY,
Defendant :

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 claims or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

COURT ADMINISTRATOR
COURTHOUSE
CLEARFIELD, PA., 16830
(814) 765-2641 - Extension 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ELAINE ECKBERG :
Plaintiff :
vs. : No. 2003-
JAMES H. TRAVIS and MILDRED :
TRAVIS, Husband and Wife, :
and BIGLER TOWNSHIP, :
Defendants :

COMPLAINT

AND NOW comes the plaintiff, ELAINE ECKBERG, who by and through her attorney, John R. Carfley, Esquire, sets forth the following claim against the Defendants, JAMES H. TRAVIS and MILDRED TRAVIS, husband and wife, and BIGLER TOWNSHIP and in support for said claims sets forth the following factual averments:

1. Plaintiff Elaine Eckberg is an adult individual residing at P. O. Box 353, Madera, Clearfield County, Pennsylvania.
2. Defendants James H. Travis and Mildred Travis, husband and wife, are adult individuals currently residing at P. O. Box 563, Madera, Pennsylvania, 16661.
3. Defendant Bigler Township is a political subdivision, whose principal office is located at Madera, Pennsylvania and whose day to day operations are managed by three (3) supervisors duly elected to said positions as provided by the Township Code.
4. Plaintiff is the owner of a piece or parcel of land located at the corner of Second Street and Lynn Street, Madera, Bigler Township, Clearfield County, Pennsylvania, with improvements thereon, consisting of a dwelling, which property is more particularly described in Deed Book 1686, Page 7, attached hereto as Exhibit "A".
5. In or about December of 1998, Plaintiff first noticed

discharges of water which appeared to be disrupting her driveway and causing an offset of the macadam portion of that structure.

6. In or about December of 1998, Plaintiff first noticed discharges and accumulations of what appeared to be sewage in her crawlspace and in her back yard although the exact definition of these discharges and accumulations was not verified until the Department of Environmental Protection conducted an onsite inspection and analysis during the summer of 2000. At this time water continued to seep through cracks in the driveway and in the garage floor slab which were believed to have been created through the actions of the defendants as hereinafter set forth.

7. In the summer of 2000, Defendants James H. and Mildred Travis experienced an obstruction of their sewer pipe accessing their property and as a result contracted the Roto-Rooter Company to clean out any obstructions within the line.

8. Upon Roto-Rooter's inspection it was determined that the sewer pipe accessing the Travis' residence had collapsed underneath the Plaintiff's driveway. In addition, it was determined by the Plaintiff through the dye penetrations used by her expert that the seepage identified at that time as sewage was occurring up into her driveway.

COUNT I vs. Defendant Bigler Township Supervisors

9. Plaintiff incorporates Paragraphs 1 through 8 inclusive as though set forth at length.

10. At all times referred to herein, Defendant Bigler Township was the owner, operator and had exclusive access to a sewer collection system, which provided sewage collection service,

storm water, gray water and all other liquid collectors within the Township of Bigler, Clearfield County, Pennsylvania, generally and specifically to the Plaintiff's property described in Exhibit A.

11. In or about the summer of 2001, Plaintiff contacted the Defendants about the sewage problems permeating her property.

12. Defendant, despite its knowledge of the condition of the sewage collection system as well as the knowledge of the back-up on Plaintiff's property took no steps and as of this date have still taken no steps to remedy the defective condition.

13. Plaintiff believes and therefore avers that the defect that caused the sewage backup was the result of a blockage in a collection line constructed across Plaintiff's property and within the exclusive control of the Defendant.

14. As a direct result of the defective condition within the sewer line and the resulting sewer backup, Plaintiff's property was damaged in an amount totalling \$38,600.00 as set forth in the estimate of Bowman Masonry attached hereto as Exhibit "B".

WHEREFORE, Plaintiff demands that judgment be entered against Defendants individually and severally for a sum in excess of \$38,600.00, delay damages, plus costs and interest.

COUNT II vs. Defendants James H. and Mildred Travis

15. Plaintiff incorporates Paragraphs 1 through 14 inclusive as though set forth herein at length.

16. At some time in the summer of 2002, Defendant James Travis hired the Roto-Rooter Company to inspect and clear a potential obstruction in the sewer line accessing his property on Lynn Street directly across the street from Plaintiff's property.

17. Through the tests run by Roto-Rooter, it was determined that the sewer pipe underneath Plaintiff's driveway that accessed the Defendants' property had collapsed.

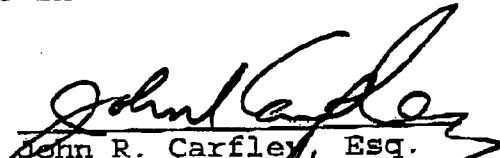
18. Shortly thereafter, Defendant James Travis attempted to cure his sewage problems by replacing the collapsed pipe himself without the assistance of Bigler Township Sewer Authority or the consent of the Plaintiff.

19. Defendant James Travis rerouted his deteriorated and obstructed sewer line to an adjacent yard and driveway in an attempt to drain the sewage into Alexander Run Stream, which runs directly behind Plaintiff's home.

20. In the course of his replacement and diversion of the sewer line, Defendant James Travis dug up approximately 20 feet of driveway and lawn on Plaintiff's property, which has yet to be fixed or replaced.

21. As a result of Defendant's lack of maintenance of his sewer line and the careless rerouting of the existing line, Plaintiff's property has been damaged in an amount in excess of \$38,600.00 as set forth in Exhibit B.

WHEREFORE, Plaintiff demands that judgment be entered against Defendants individually and severally for a sum in excess of \$38,600.00 plus delay damages, costs and interest.


John R. Carfley, Esq.
Attorney for Plaintiff
222 Presqueisle Street
Philipsburg, Pa., 16866
(814) 342-5581
Pa. ID# 17621

Dated: April 25, 2003

VERIFICATION

I hereby verify that the statements made in this instrument 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.



Dated: April 25, 2003

County Parcel No. 103-K4-486-59This Deed,

MADE the 29th day of June
in the year nineteen hundred and — ninety-five.

BETWEEN WESLEY G. SHAMP, SR., and ANDREA L. SHAMP, his wife, both of Eight
Highland Drive, Union City, Pennsylvania 16438, Grantors and Parties of the
First Part,

AND

ELAINE ECKBERG, single, of 712 Mary Street, Houtzdale, Clearfield County,
Pennsylvania 16651, Grantee and Party of the Second Part.

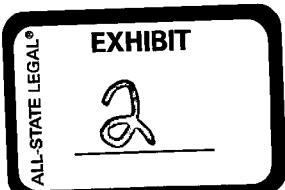
WITNESSETH, That in consideration of

FIFTY-NINE THOUSAND AND 00/100 (\$59,000.00) DOLLARS ————— Dollars,
in hand paid, the receipt whereof is hereby acknowledged. the said grantors — do hereby grant
and convey to the said grantee — her heirs and assigns. —

ALL those certain lots or pieces of ground situate in Madera, Bigler Township,
Clearfield County, Pennsylvania, bounded and described as follows:

THE FIRST THEREOF: BEGINNING at an iron pipe on the West side of Second Street,
and the North bank of Alexander Run, being the Southeast corner of the property
herein described; thence along the North Bank of Alexander Run North Eighty
degrees Sixteen minutes West (N 80° 16' W) One Hundred Sixty-five and Five tenths
(165.5') feet to an iron pipe; thence through residue of land now or formerly of
W. I. Swoope North Thirteen degrees Seventeen minutes East (N 13° 17' E) One
Hundred Eighteen (118') feet to an iron pipe on the South side of Lynn Street;
thence along the South side of Lynn Street South Sixty-eight degrees Forty-nine
minutes East (S 68° 49' E) to a point on the West side of Second Street; thence
along the West side of Second Street South Twelve degrees Thirty minutes East (S
12° 30' E) One Hundred (100') feet to an iron pipe and the place of beginning.
CONTAINING 0.421 acres.

THE SECOND THEREOF: BEGINNING at an existing iron pipe corner on the South side
of Lynn Street which said point is also the Northwestern corner of an adjoining
parcel of land now or formerly of Charles W. and Grace W. Shoff; thence along
said land, South Thirteen degrees Thirty minutes West (S 13° 30' W) One Hundred
Seventeen and One tenth (117.1') feet to an existing iron pipe corner on the
North bank of Alexander Run; thence South Eighty-nine degrees Forty-five minutes
West (S 89° 45' W) Thirty-nine and Zero tenths (39.0') feet to an iron pipe



Deed Book 1686, Page 7

EXHIBIT A

corner and land now or formerly of Daniel L. Rebo and Beverly Rebo, his wife; thence along said land North Nineteen degrees Thirty-two minutes East (N 19° 32' E) One Hundred Thirty and Four tenths (130.4') feet to an iron pipe corner on the South side of Lynn Street; thence along the South side of Lynn Street, South Sixty-eight degrees Thirty-six minutes East (S 68° 36' E) Twenty-four and Four tenths (24.4') feet to an existing iron pipe corner and place of beginning. Consisting of Eighty-seven thousandths (0.087) acres.

BEING the same premises as were granted and conveyed unto the Grantors herein by deed of Charles W. Shoff, et ux, dated March 26, 1986, and entered for record in the Office for the Recording of Deeds of Clearfield County, Pennsylvania, in Deeds and Records Volume 1072, Page 529, on April 1, 1986.

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

Ronald C. Parker *Elaine Eckberg*
Elaine Eckberg

This 29th day of June 1995

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 253, approved September 10, 1985, as amended.)

State of } ss.
 County of

On this, the day of 19 , before me

the undersigned officer, personally appeared
 known to me (or satisfactorily proven) to be the person whose name subscribed to the within
 instrument, and acknowledged that executed the same for the purpose therein
 contained.

IN WITNESS WHEREOF, I have hereunto set my hand and

seal.

My Commission Expires

Commonwealth of Pennsylvania } ss.
 County of

RECORDED in the Office for Recording of Deeds, etc., in and for the said
 County, in Deed Book No. , Page
 WITNESS my hand and official seal this day of , 19

Recorder of Deeds

Deed

WARRANTY DEED
 The Plankinton Co., Williamsport, Pa.

WESLEY G. SHARP, SR. et ux,
 Grantors and Parties of the
First Part, AND
ELAINE ECKERBERG, single,
 Grantee and Party of the
Second Part.

Dated
 For premises in Bigler...
 Township, Clearfield County, Pa.,
 Pennsylvania
 Consideration \$59,000.00
 Recorded
 Entered for Record in the Recorder's
 Office of day of May, 19
 County, the day of May, 19
 fees, \$
 Recorder

RONALD E. ARCHER
 ATTORNEY AT LAW
 MOUTZDALE, PENNSYLVANIA

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

NBOC BANK, now FIRST
COMMONWEALTH BANK,

NO. 03-¹⁵⁵² C.D.

PLAINTIFF

TYPE OF CASE: MORTGAGE
FORECLOSURE

VS.

ELAINE ECKBERG,

TYPE OF PLEADING: COMPLAINT

DEFENDANT

FILED ON BEHALF OF: PLAINTIFF

COUNSEL OF RECORD:
CHRISTOPHER E. MOHNEY, ESQUIRE

SUPREME COURT NO.: 63494

90 BEAVER DRIVE, SUITE 201A
DUBOIS, PA 15801
(814) 375-1044

FILED
OCT 15 2003
William A. Shaw
Prothonotary/Clerk of Courts



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

NBOC BANK, now FIRST COMMONWEALTH BANK,	:	NO. 03 - C.D.
PLAINTIFF	:	TYPE OF CASE: MORTGAGE FORECLOSURE
VS.	:	
ELAINE ECKBERG,	:	
DEFENDANT	:	

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 CLAIM SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

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

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
1 NORTH SECOND STREET
CLEARFIELD, PA 16830
(814) 765-2641

Current Balance -	\$32,587.83
Interest payoff (as of 8/15/03) -	\$ 2,002.90
Late Fees -	<u>\$ 203.28</u>
TOTAL:	\$34,794.01

WHEREFORE, Plaintiff demands judgment in the amount of \$34,794.01, plus interest thereon at a per diem rate of \$6.9193 on unpaid principal balance from August 15, 2003, and any escrows, late fees and costs, and for foreclosure and sale of the mortgaged property against the Defendant **ELAINE ECKBERG**.

Respectfully submitted,

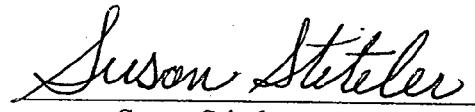
BY: 

Christopher E. Mohney, Esquire
Attorney for the Plaintiff
90 Beaver Drive, Suite 201A
DuBois, PA 15801
(814) 375-1044

VERIFICATION

I, SUSAN STITELER, Assistant Vice President of NBOC BANK, now FIRST COMMONWEALTH BANK, being duly authorized to make this verification, have read the foregoing Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.



Susan Stiteler

Date: 12/16/2004

Time: 11:10 AM

Page 1 of 1

Clearfield County Court of Common Pleas

User: BANDERSON

ROA Report

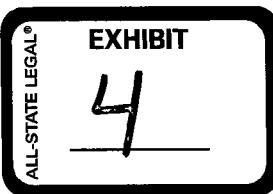
Case: 2004-01603-CD

Current Judge: No Judge

NBOC Bank, First Commonwealth Bank vs. Elaine Eckberg

Mortgage Foreclosures

Date	Judge
10/14/2004 [Filing: Civil Complaint Paid by: Mohney, Christopher E. (attorney for First Commonwealth Bank) Receipt number: 1888424 Dated: 10/14/2004 Amount: \$85.00 (Check) 3 CC to Shiff.	No Judge
11/02/2004 [Sheriff Return, Now Oct. 20, 2004 served the Mortgage Foreclosure on Elaine Eckberg, Defendant at employment. So Answers, Chester A. Hawkins, Sheriff by s/ Marilyn Hamm.	No Judge



Date: 12/16/2004

Time: 11:11 AM

Page 1 of 1

Clearfield County Court of Common Pleas

User: BANDERSON

ROA Report

Case: 2003-01552-CD

Current Judge: No Judge

NBOC Bank, First Commonwealth Bank vs. Elaine Eckberg

Mortgage Foreclosures

Date		Judge
10/15/2003	Filing: Civil Complaint Paid by: NBOC Bank (plaintiff) Receipt number: 1867628 Dated: 10/15/2003 Amount: \$85.00 (Check) Property located at Lynn and Second St. Madera. 1 CC to Atty. 1 CC to Shff.	No Judge
10/22/2003	Sheriff Returns, Complaint on Defendant, So Answers Chester A. Hawkins by s/Marilyn Hamm \$43.49 paid by Plaintiff	No Judge
04/12/2004	Filing: Judgment Paid by: First Commonwealth Bank (plaintiff) Receipt number: 1877105 Dated: 04/12/2004 Amount: \$20.00 (Check)	No Judge
	Filing: Writ of Execution / Possession Paid by: First Commonwealth Bank (plaintiff) Receipt number: 1877105 Dated: 04/12/2004 Amount: \$20.00 (Check)	No Judge
	Praeclipe For Default Judgment In Favor Of The Plaintiff And Against The Defendant In the Amount Of \$34,794.01. filed by, s/Christopher E. Mohney, Esquire Notice to Defendant Statement to Atty Mohney	No Judge
04/13/2004	Praeclipe For Writ of Execution In The Amount Of \$34,794.01. s/Christopher E. Mohney, Esquire 1 cc & 6 Writs w/prop. descr.	No Judge
08/18/2004	Filing: Reissue Writ/Complaint Paid by: Mohney, Christopher E. (attorney for NBOC Bank) Receipt number: 1884877 Dated: 08/18/2004 Amount: \$7.00 (Check) No Cert. copies. Issued 6 writs to sheriff.	No Judge
09/17/2004	Affidavit Pursuant to Rule 3129.2 Mortgage Foreclosure, filed by s/ Christopher E. Mohney, Esquire. No CC	No Judge
09/27/2004	Sheriff Return, Now, September 27, 2004, return the Writ of Execution not served "Time Expired". Attorney did not furnish corrected property description before writ expired. So Answers Chester A. Hawkins, Sheriff, by s/ Cynthia Butler - Aughenbaugh.	No Judge

there will be exposed to public sale in the Sheriff's Office in the Court House in the Borough of Clearfield on **FRIDAY, OCTOBER 1, 2004 at 10:00 A.M.**

THE FOLLOWING DESCRIBED PROPERTY TO WIT: (SEE ATTACHED DESCRIPTION) TERMS OF SALE

The Price of sum at which the property shall be struck off must be paid at the time of sale or such other arrangements made as will be approved, otherwise the property will be immediately put up and sold again at the expense and risk of the person to whom it was struck off and who in case of deficiency of such resale shall make good for the same and in no instance will the deed be presented for confirmation unless the money is actually paid to the Sheriff.

TO all parties in interest and claimants: A schedule of distribution will be filed by the Sheriff in his office the first Monday following the date of the sale and distribution will be made in accordance with the schedule unless exceptions are filed within ten (10) days thereafter.

ALL that certain piece or parcel of land with a residential dwelling and improvements thereon, situate in the City of DuBois, (Fourth Ward) Clearfield County, Pennsylvania, being bounded and described as follows, to-wit:

BEGINNING at a post on South Brady Street; thence South 59-1/4 degrees East, approximately 125 feet to a post or pin in a line run exactly midway between the cellar walls of the two frame houses built on a lot of which this is a part, which said line is at all points equally distant from the said walls of said houses; thence by said line a distance of 50 feet Southerly to line of lands now or formerly of Henry Knarr; thence by the lot now or formerly of Knarr, westerly a distance of approximately 125 feet to line of South Brady Street; thence by line of South Brady Street, 50 feet to the place of beginning. Being part of Lot No. 1, of the Henry Knarr's First Addition to DuBois.

EXCEPTING AND RESERVING the following parcel previously conveyed by Floryan F. Godeck and Merry Godeck and Joseph Bojalad and Brenda Bojalad to Jaymee Company, by Deed dated November 2, 1989, and recorded in Clearfield County Deeds and Records Book 1321, Page 436.

BEGINNING at an iron pipe at the Northwest corner of Lot No. 2, on a DuBois Plan of Lots, and being a common corner with other lands of the Jaymee Company and on the Southeast right-of-way, of Brady Street, a 50 foot wide street at this particular location; thence by line of Lot No. 2, and other lands of the Jaymee Company, South 52 degrees 14 minutes 41 seconds East

86.07 feet to an iron pipe in a sloping embankment on corner of lands now or formerly of Joseph Bojalad; thence by same parallel to a dwelling to the right and 10.50 feet therefrom North 35 degrees 22 minutes 11 seconds East, 50.00 feet to the southwestern right of way of Shaffer Street having a 50 foot width roadway; thence by said right-of-way, **PARALLEL TO CENTERLINE OF Shaffer Street and 25.00 feet therefrom North 52 degrees 15 minutes 07 seconds West, 86.32 feet to a point in the Southeast right-of-way line of Brady Street; thence by same running parallel to the centerline of Brady Street and 25.00 feet therefrom South 35 degrees 05 minutes 05 seconds West 50.00 feet to the place of beginning. Containing 4,300 sq. ft. or 0.0987 acre by calculation. Being a part of Lot No. 1, of the Fourth Ward of the DuBois Plan of Lots; also referred to as Lot No. 1, of the Henry Knarr First Addition to DuBois.**

HAVING THEREON ERECTED A DWELLING HOUSE KNOWN AS: 6 SHAFFER AVENUE, DUBOIS, PA 15801

BEING THE SAME PREMISES WHICH Arlee G. Kitchel, by Deed dated 2/10/99 and recorded 12/13/99 as Clearfield County Instrument Number 199920319, granted and conveyed unto Edward Dworetzky and Kathleen Dworetzky. Assessment #7.4-011-3001.

SEIZED, taken in execution to be sold as the property of EDWARD DWORETZKY, KATHLEEN DWORETZKY, AND MELISSA M. SCHUAUGHNESSY, at the suit of BANKONE, NATIONAL ASSOCIATION TRUSTEE. JUDGEMENT NO. 03-788-CD.

Chester A. Hawkins Sheriff.
Adv: September 3rd, 10th, 17th, 2004.

**SHERIFF'S SALE
OF VALUABLE REAL ESTATE**

BY VIRTUE OF: Execution issued out of the Court of Common Pleas of Clearfield County, Pennsylvania and to me directed, there will be exposed to public sale in the Sheriff's Office in the Court House in the Borough of Clearfield on **FRIDAY, OCTOBER 1, 2004 at 10:00 A.M.**

THE FOLLOWING DESCRIBED PROPERTY TO WIT: (SEE ATTACHED DESCRIPTION) TERMS OF SALE

The Price of sum at which the property shall be struck off must be paid at the time of sale or such other arrangements made as will be approved, otherwise the property will be immediately put up and sold again at the expense and risk of the person to whom it

EXHIBIT

5

was struck off and who in case of deficiency of such resale shall make good for the same and in no instance will the deed be presented for confirmation unless the money is actually paid to the Sheriff.

TO all parties in interest and claimants: A schedule of distribution will be filed by the Sheriff in his office the first Monday following the date of the sale and distribution will be made in accordance with the schedule unless exceptions are filed within ten (10) days thereafter.

ALL those certain lots or pieces of ground situate in Madera, Bigler Township, Clearfield County, Pennsylvania, bounded and described as follows:

THE FIRST THEREOF: BEGINNING at an iron pipe on the West side of Second Street, and the North bank of Alexander Run, being the Southeast corner of the property herein described; thence along the North Bank of Alexander Run North Eighty degrees Sixteen minutes West (N 80° 16' W) One Hundred Sixty-five and Five tenths (165.5') feet to an iron pipe; thence through residue of land now or formerly of W. I. Swoope North Thirteen degrees Seventeen minutes East (N 13° 17' E) One Hundred Eighteen (118') feet to an iron pipe on the South side of Lynn Street; thence along the South side of Lynn Street South Sixty-eight degrees Forty-nine minutes East (S 68° 49' E) to a point on the West side of Second Street; thence along the West side of Second Street South Twelve degrees Thirty minutes East (S 12° 30' E) One Hundred (100') feet to an iron pipe and place of beginning. CONTAINING 0.421 acres.

THE SECOND THEREOF: BEGINNING at an existing iron pipe corner on the South side of Lynn Street which said point is also the Northwestern corner of an adjoining said land, South Thirteen degrees Thirty minutes West (S 13° 30' W) One Hundred Seventeen and One tenth (117.1') feet to an existing iron pipe corner on the North bank of Alexander Run; thence South Eighty-nine degrees Forty-five minutes West (S 89° 45' W) Thirty-nine and Zero tenths (39.0') feet to an iron pipe corner of land now or formerly of Daniel L. Rebo and Beverly Rebo, his wife; thence along said land North Nineteen degrees Thirty-two minutes East (19° 32' E) One Hundred Thirty and Four tenths (130.4') feet to an iron pipe corner on the South side of Lynn Street; thence along the South side of Lynn Street, South Sixty-eight degrees Thirty-six minutes East (S 68° 36' E) Twenty-four and Four tenths (24.4') feet to an existing iron pipe corner and place of beginning. Consisting of Eighty-seven thousandths (0.087) acres.

BEING the same premises as were granted and conveyed unto the Mortgagor

herein by deed of Wesley G. Shamp, Sr., et ux, and entered for record in the Office for the Recording of Deeds of Clearfield County, Pennsylvania, in Clearfield County, Pennsylvania, in Deeds and Records Volume 1686, Page 7.

SEIZED, taken in execution to be sold as the property of ELAINE ECKBERG, at the suit of NBOC BANK, now FIRST COMMONWEALTH BANK. JUDGEMENT NO. 03-1552-CD.

Chester A. Hawkins Sheriff.
Adv: September 3rd, 10th, 17th, 2004.

SHERIFF'S SALE OF VALUABLE REAL ESTATE

BY VIRTUE OF: Execution issued out of the Court of Common Pleas of Clearfield County, Pennsylvania and to me directed, there will be exposed to public sale in the Sheriff's Office in the Court House in the Borough of Clearfield on FRIDAY, OCTOBER 1, 2004 at 10:00 A.M.

THE FOLLOWING DESCRIBED PROPERTY TO WIT: (SEE ATTACHED DESCRIPTION) TERMS OF SALE

The Price of sum at which the property shall be struck off must be paid at the time of sale or such other arrangements made as will be approved, otherwise the property will be immediately put up and sold again at the expense and risk of the person to whom it was struck off and who in case of deficiency of such resale shall make good for the same and in no instance will the deed be presented for confirmation unless the money is actually paid to the Sheriff.

TO all parties in interest and claimants: A schedule of distribution will be filed by the Sheriff in his office the first Monday following the date of the sale and distribution will be made in accordance with the schedule unless exceptions are filed within ten (10) days thereafter.

ALL those certain piece or parcel of land situate in the Jo-Lin Acres Development, Pike Township, Clearfield County, Pennsylvania bounded and described as follows:

BEGINNING at a 3/8 inch rebar set in the Southern right-of-way line of Michlin Street, a fifty (50) foot wide street, said rebar also being the Northwestern corner of the Lot herein described; thence by the Southern right-of-way line of said Michlin Street North forty-five (45) degrees fourteen (14') minutes forty (40") seconds East one hundred and zero hundredths (100.00) feet to a 3/8 inch rebar set in the Western right-of-way line of Third Street, a fifty (50)

CLEARFIELD COUNTY RECORDER OF DEEDS

Karen L. Starck, Recorder
Maurene Inlow - Chief Deputy
P.O. Box 361
1 North Second Street, Suite 103
Clearfield, Pennsylvania 16830

Instrument Number - 200500703

Recorded On 1/14/2005 At 3:14:23 PM

***Instrument Type - DEED**

***Total Pages - 5**

Invoice Number - 123475

***Grantor - CLEARFIELD CO SHERIFF**

***Grantee - FIRST COMMONWEALTH BANK**

***Customer - CLEARFIELD CO SHERIFF**

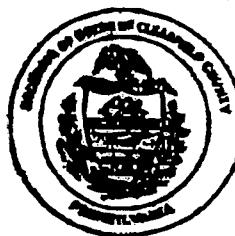
***RETURN DOCUMENT TO:**
CLEARFIELD CO SHERIFF

AFFIDAVIT NO. 38050

***FEES**

STATE WRIT TAX	\$0.50
JCS/ACCESS TO JUSTICE	\$10.00
RECORDING FEES -	\$13.00
RECORDER	
RECORDER IMPROVEMENT FUND	\$3.00
COUNTY IMPROVEMENT FUND	\$2.00
TOTAL	\$28.50

I hereby CERTIFY that this document is recorded in the Recorder's Office of Clearfield County, Pennsylvania.



Karen L. Starck

Karen L. Starck
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

EXHIBIT

6

SHERIFF'S DEED
-ACT OF 1905**Know all Men by these Presents,**

That I, Chester A. Hawkins, High Sheriff of the County of Clearfield, in the State of Pennsylvania, for and in consideration of the sum of \$1.00 plus costs, to me in hand, do hereby grant and convey to FIRST COMMONWEALTH BANK, FROMERLY NBOC BANK, the following described property, to wit:

ALL those certain lots or pieces of ground situate in Madera, Bigler Township, Clearfield County, Pennsylvania, bounded and described as follows:

THE FIRST THEREOF: BEGINNING at an iron pipe on the West side of Second Street, and the North bank of Alexander Run, being the Southeast corner of the property herein described; thence along the North Bank of Alexander Run North Eighty degrees Sixteen minutes West (N 80° 16' W) One Hundred Sixty-five and Five tenths (165.5') feet to an iron pipe; thence through residue of land now or formerly of W. I. Swoope North Thirteen degrees Seventeen minutes East (N 13° 17' E) One Hundred Eighteen (118') feet to an iron pipe on the South side of Lynn Street; thence along the South side of Lynn Street South Sixty-eight degrees Forty-nine minutes East (S 68° 49' E) to a point on the West side of Second Street; thence along the West side of Second Street South Twelve degrees Thirty minutes East (S 12° 30' E) One Hundred (100') feet to an iron pipe and the place of beginning. **CONTAINING 0.421 acres.**

THE SECOND THEREOF: BEGINNING at an existing iron pipe corner on the South side of Lynn Street which said point is also the Northwestern corner of an adjoining parcel of land now or formerly of Charles W. and Grace W. Shoff; thence along said land, South Thirteen degrees Thirty minutes West (S 13° 30' W) One Hundred Seventeen and One tenth (117.1') feet to an existing iron pipe corner on the North bank of Alexander Run; thence South Eighty-nine degrees Forty-five minutes West (S 89° 45' W) Thirty-nine and Zero tenths (39.0') feet to an iron pipe corner and land now or formerly of Daniel L. Rebo and Beverly Rebo, his wife; thence along said land North Nineteen degrees Thirty-two minutes East (N 19° 32' E) One Hundred Thirty and Four tenths (130.4') feet to an iron pipe corner on the South side of Lynn Street; thence along the South side of Lynn Street, South Sixty-eight degrees Thirty-six minutes East (S 68° 36' E) Twenty-four and Four tenths (24.4') feet to an existing iron pipe corner and place of beginning. **Consisting of Eighty-seven thousandths (0.087) acres.**

BEING the same premises as were granted and conveyed unto the Mortgagor herein by deed of Wesley G. Shamp, Sr., et ux, and entered for record in the Office for the Recording of Deeds of Clearfield County, Pennsylvania, in Clearfield County, Pennsylvania, in Deeds and Records Volume 1684, Page 7

SEIZED, taken in execution and sold as the property of ELAINE ECKBERG, at the suit of NBOC BANK, NOW FIRST COMMONWEALTH BANK. JUDGMENT NO. 03-1552-CD.

Schedule "A"

Now, January 14, 2005 the same having been sold by me to the said grantee on October 01, 2004 after due advertisement according to law, under and by virtue of writ of execution issued on August 18, 2004 out of the Court of Common Pleas of said County of Clearfield as of case number 03-1552-CD at the suit of

NBOC BANK, NOW FIRST COMMONWEALTH BANK

against

ELAINE ECKBERG

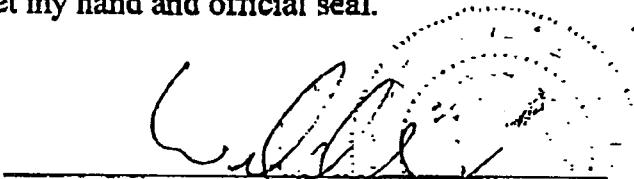
IN WITNESS WHEREOF, I have hereunto affixed by signature the day January 14, 2005


John H. Hause, Sheriff
CLEARFIELD COUNTY, PA
SEAL

**State of Pennsylvania
County of Clearfield**

On January 14, 2005 before me a Prothonotary, the undersigned officer personally appeared, **Chester A. Hawkins**, High Sheriff of the State of Pennsylvania known to me, (or satisfactory proven) to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity reinstated and for the purposes therein contained.

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

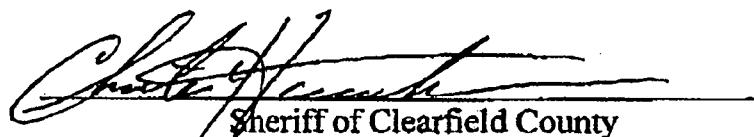


Prothonotary, Title of Officer

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

CERTIFICATE OF RESIDENCE

"I hereby Certify that the percise Residence of the Grantee or Grantees is,



Sheriff of Clearfield County

FIRST COMMONWEALTH BANK, FORMERLY NBOC BANK
2 EAST LONG AVENUE
DUBOIS, PA 15801

Deed - Poll.

No.

Chester A. Hawkins
High Sheriff of Clearfield County
TO

FIRST COMMONWEALTH BANK, FROMERLY NBOC BANK
2 EAST LONG AVENUE
DUBOIS, PA 15801

SHERIFF DEED

Dated January 14, 2005

For \$1.00 + COSTS

Sold as the property of

ELAINE ECKBERG

Sold on 03-1552-CD

County Parcel No. 103-K14-486-59This Deed,29thMADE the 29th day of June
in the year nineteen hundred and — ninety-five. —BETWEEN WESLEY G. SHAMP, SR., and ANDREA L. SHAMP, his wife, both of Eight
Highland Drive, Union City, Pennsylvania 16438, Grantors and Parties of the
First Part, —

— AND —

ELAINE ECKBERG, single, of 712 Mary Street, Houtzdale, Clearfield County,
Pennsylvania 16651, Grantee and Party of the Second Part. —

WITNESSETH, That in consideration of

FIFTY-NINE THOUSAND AND 00/100 (\$59,000.00) DOLLARS ————— Dollars,
in hand paid, the receipt whereof is hereby acknowledged, the said grantors — do hereby grant
and convey to the said grantee — her heirs and assigns. —ALL those certain lots or pieces of ground situate in Madera, Bigler Township,
Clearfield County, Pennsylvania, bounded and described as follows: —THE FIRST THEREOF: BEGINNING at an iron pipe on the West side of Second Street,
and the North bank of Alexander Run, being the Southeast corner of the property
herein described; thence along the North Bank of Alexander Run North Eighty
degrees Sixteen minutes West (N 80° 16' W) One Hundred Sixty-five and Five tenths
(165.5') feet to an iron pipe; thence through residue of land now or formerly of
W. I. Swoope North Thirteen degrees Seventeen minutes East (N 13° 17' E) One
Hundred Eighteen (118') feet to an iron pipe on the South side of Lynn Street;
thence along the South side of Lynn Street South Sixty-eight degrees Forty-nine
minutes East (S 68° 49' E) to a point on the West side of Second Street; thence
along the West side of Second Street South Twelve degrees Thirty minutes East (S
12° 30' E) One Hundred (100') feet to an iron pipe and the place of beginning.
CONTAINING 0.421 acres.THE SECOND THEREOF: BEGINNING at an existing iron pipe corner on the South side
of Lynn Street which said point is also the Northwestern corner of an adjoining
parcel of land now or formerly of Charles W. and Grace W. Shoff; thence along
said land, South Thirteen degrees Thirty minutes West (S 13° 30' W) One Hundred
Seventeen and One tenth (117.1') feet to an existing iron pipe corner on the
North bank of Alexander Run; thence South Eighty-nine degrees Forty-five minutes
West (S 89° 45' W) Thirty-nine and Zero tenths (39.0') feet to an iron pipe

corner and land now or formerly of Daniel L. Rebo and ~~Beth~~ Ely Rebo, his wife; thence along said land North Nineteen degrees Thirty-two minutes East (N 19° 32' E) One Hundred Thirty and Four tenths (130.4') feet to an iron pipe corner on the South side of Lynn Street; thence along the South side of Lynn Street, South Sixty-eight degrees Thirty-six minutes East (S 68° 36' E) Twenty-four and Four tenths (24.4') feet to an existing iron pipe corner and place of beginning. Consisting of Eighty-seven thousandths (0.087) acres.

BEING the same premises as were granted and conveyed unto the Grantors herein by deed of Charles W. Shoff, et ux, dated March 26, 1986, and entered for record in the Office for the Recording of Deeds of Clearfield County, Pennsylvania, in Deeds and Records Volume 1072, Page 529, on April 1, 1986.

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

Elaine Eckberg
Elaine Eckberg

Ronald C. Parker

This 29th day of June 1995

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is not for ~~and~~ per
mit to Act No. 255, approved September 10, 1985, as amended.)

AND the said grantors will ~~SP~~ ALLY - WARRANT AND FORE~~R~~ DEFEND the property hereby conveyed.

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

Sealed and delivered in the presence of

Ronald E. Archer
as to both



Wesley G. Shamp, Sr. [Seal]
Andrea L. Shamp [Seal]
[Seal]
[Seal]
[Seal]
[Seal]

CERTIFICATE OF RESIDENCE
will be

I hereby certify, that the precise residence of the grantee ~~is~~ is as follows:

Lynn and Second Streets
Madera, PA. 16661

Ronald E. Archer
Attorney or Agent for Grantee

Commonwealth of Pennsylvania

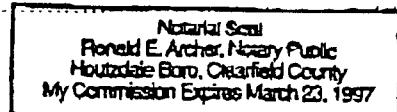
County of Clearfield } ss.

On this, the 29th day of June 1995, before me, a Notary Public, the undersigned officer, personally appeared WESLEY G. SHAMP, SR., and ANDREA L. SHAMP 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 purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial

seal.

My Commission Expires



Ronald E. Archer

State of }
County of } ss.

四三

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

My Commission Expires

Commonwealth of Pennsylvania

County of

RECORDED in the Office for Recording of Deeds, etc., in and for the said
County, in Deed Book No. , Page

WITNESS my hand and official seal this _____ day of _____, 19____

Recorder of Deeds

四百

WARRANTY INFORMATION

The Plankinton Co., Williamsport, Pa.

WESLEY G. SHAMP, SR., et ux,
Grantors and Parties of the
First Part, _____ AND _____
ELAINE ECKERBERG, single,
Grantee and Party of the
Second Part

Dated..... For premises in Bister

For prerequisites, see [Bigler](#).

Township... Clearfield... County...
Pennsylvania

Consideration \$ 59,000.00

Recorded

For a detailed description of the data and methods used in this study, see the Data and Methods section.

Office of
County, the day of Mar. 19 19 fees, \$
Recorder

Recorder

RONALD E. ARCHER
ATTORNEY AT LAW
HOOTZDALE, PENNSYLVANIA

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

ELAINE ECKBERG,) CIVIL DIVISION
)
 Plaintiff,) No: 2003-648
 v.)
)
 JAMES H. TRAVIS and MILDRED)
 TRAVIS, Husband and Wife, and BIGLER)
 TOWNSHIP,)
)
 Defendants.)

ORDER OF COURT

AND NOW, this _____ day of _____, 2005, upon consideration of the Motion for Summary Judgment filed on behalf of Defendant Bigler Township and any responses thereto, it is hereby ORDERED, ADJUDGED and DECREED that said Motion is GRANTED. It is further ordered that judgment is entered in favor of Defendant Bigler Township and that it is dismissed from this action with prejudice.

BY THE COURT:

J.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded to all counsel of record by:

Hand Delivery
 U.S. First Class Mail, Postage Prepaid
 Certified Mail, Return Receipt Requested
 Facsimile Transmittal

at the following address:

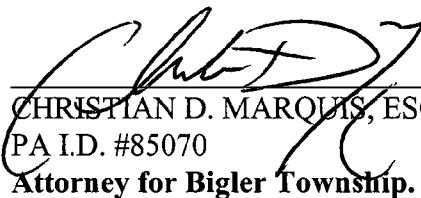
Elaine Eckberg
P.O. Box 353
Madera, PA 16661
(*Plaintiff, pro se*)

Frederick M. Neiswender, Esq.
501 East Market Street Suite 3
Clearfield, PA 16830
(*Counsel for Defendants James and Mildred Travis*)

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN, P.C.**

By:


CHRISTIAN D. MARQUIS, ESQUIRE
PA I.D. #85070
Attorney for Bigler Township.

DATE: 4/22/05

CIVIL CONTINUANCE REQUEST

FILED

CAPTION

ELAINE ECKBERG

CASE NO. 2003-648

This case is presently
Scheduled

Date: 5-25-05

Time: 1:30 PM

Courtroom #2

TYPE OF HEARING:

Motions Court Hearing
 Arbitration Trial
 Conciliation Conference
 Other (please specify)

MAY 20 2005

01:50 AM
William A. Shaw
Prothonotary/Clerk of Courts6 CENTS TO REFL.
(return only)VS
JAMES H TRAVIS Husband
MILDRED TRAVIS Wife
BIGLER TOWNSHIP

Reason for request (Attach extra sheet, if necessary)

MY ATTORNEY WAS EXCUSED FROM REPRESENTING ME,
 DUE TO REPRESENTING BIGLER TOWNSHIP. I
 HAVE NOT OBTAINED A NEW ATTORNEY YET. BUT MOST
 IMPORTANT - NBC WILL NOW BE INVOLVED WITH
 THIS LAWSUIT AND THEY WILL NEED TIME TO REVIEW
 ALL OF MY INFORMATION, DUE TO BEING THE NEW OWNER.

If less than 10 days, reason for untimely filing

I GOT THE RUN AROUND OF HOW TO FILE FOR
 A CONTINUANCE AND WAS WAITING TO HEAR BACK FROM NBC.

Number of prior continuances 0 By the plaintiff By the

Defendant

Requesting party (Attorney or Pro Se party)

(Print) _____ for _____

(sign) _____ Name of Client _____

Opposing Party (attorney or Pro Se party)

(Print) _____ agrees/objects to the request

(sign) Elaine Eckberg (reason-attach a separate sheet)

ORDER

AND NOW this 23rd day of May, 2005, the above civil
continuance request is hereby granted/deniedRescheduled for the _____ day of _____, 2005 at _____
O'clock ___. M., Courtroom _____, Judge _____

Cc: Original - Prothonotary

BY THE COURT:

All parties listed

Court Administrator file

Paul E. Cheaney

FILED

01:50 AM E. Eckberg
MAY 23 2005 (60)William A. Shaw
Prothonotary/Clerk of Courts

(A)

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

ELAINE ECKBERG

-vs-

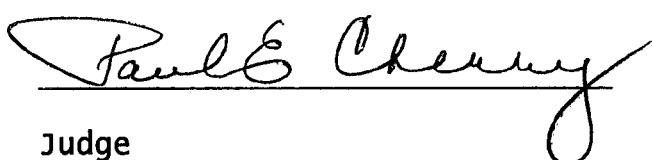
No. 03-648-CD

JAMES H. TRAVIS and
MILDRED TRAVIS, husband
and wife, and BIGLER
TOWNSHIP

O R D E R

NOW, this 25th day of May, 2005, this being the date set for argument on Motion for Summary Judgment filed on behalf of Defendant Bigler Township; upon presentation of the issues before the Court, the Court is satisfied that Plaintiff, Elaine Eckberg, is no longer the owner of the subject premises and, therefore, has lost standing to continue with this lawsuit, it is the ORDER of this Court that said Motion be and is hereby granted.

BY THE COURT,


Paul E. Cheaney
Judge

FILED

013:32 PM
MAY 26 2005

William A. Shaw
Prothonotary/Clerk of Courts

ICC Piff-
PO Box 353
Second & Lynn St.
Madera, PA 16661
ICC Atty Neiswender
ICC Atty Marquis