

03-1760-CD
PAUL RIGHENAU, et al. vs. RICHARD C. MYERS, et al.

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

PAUL RIGHTENAUR and WILLIAM B. : No. 03-1760-CD
REILLY, t/a/d/b/a KEYSTON LAND :
AND TIMBER COMPANY, : Type of Pleading: Defendants Answer
Plaintiffs : and New Matter to Complaint in Action
vs. : to Quiet Title
: Filed on behalf of: Defendants
RICHARD C. MYERS and JOAN M. :
MYERS, : Counsel of Record For This Party:
Defendants : Kim C. Kesner, Esquire
: Supreme Ct. I.D. #28307
: 23 North Second Street
: Clearfield, PA 16830
: 814-765-1706
: Other Counsel of Record:
: David R. Thompson, Esquire
: Supreme Ct. I.D. #73053
: P.O. Box 587
: 308 Walton Street, Suite 4
: Philipsburg, PA 16866
: (814) 342-4100
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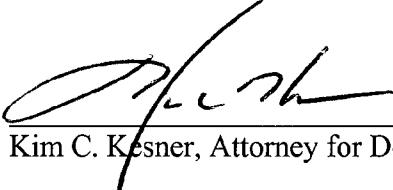
William A. Shaw
Prothonotary/Clerk of Courts

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

PAUL RIGHTENAUR and WILLIAM B. : No. 03-1760-CD
REILLY, t/a/d/b/a KEYSTON LAND :
AND TIMBER COMPANY, :
Plaintiffs :
:
vs. :
:
RICHARD C. MYERS and JOAN M. :
MYERS, :
Defendants :
:

NOTICE TO PLEAD

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



Kim C. Kesner, Attorney for Defendants

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

PAUL RIGHTENAUER and WILLIAM B. : No. 03-1760-CD
REILLY, t/a/d/b/a KEYSTON LAND :
AND TIMBER COMPANY, :
Plaintiffs :
: :
vs. :
: :
RICHARD C. MYERS and JOAN M. :
MYERS, :
Defendants :
:

DEFENDANTS' ANSWER AND NEW MATTER
TO COMPLAINT IN ACTION
TO QUIET TITLE

AND NOW COMES, the Defendants, Richard C. Myers and Joan M. Myers, by their counsel Kim C. Kesner, Esquire, who file the following responsive pleadings to Plaintiffs' Complaint in Action to Quiet Title.

Answer

1. Admitted.

2. Admitted.

3. It is admitted that Keystone Land & Timber Co. is the Grantee in a Deed dated November 19, 2001 from the Clearfield County Tax Claim Bureau. While Defendants by their counsel have done some investigation of Plaintiffs' title, because Plaintiffs' title admittedly derives through a tax sale, Defendants are without sufficient knowledge or information to form a definitive belief as to whether Plaintiffs are the owners of the real property described in Paragraph 3 of Plaintiffs' Complaint.

4. It is admitted that Keystone Land & Timber Co. is the Grantee in a Deed dated November 19, 2001 from the Clearfield County Tax Claim Bureau. While Defendants by their counsel have done some investigation of Plaintiffs' title, because Plaintiffs' title admittedly

derives through a tax sale, Defendants are without sufficient knowledge or information to form a definitive belief as to whether Plaintiffs are the owners of the real property described in Paragraph 3 of Plaintiffs' Complaint. By way of further Answer, matters of record recited in Paragraph 4 of Plaintiffs' Complaint are admitted.

5. Matters of record recited in Paragraph 5 of Plaintiffs' Complaint are admitted.

6. Matters of record recited in Paragraph 6 of Plaintiffs' Complaint are admitted. By way of further answer, certain averments contained in Paragraph 6 constitute contentions or conclusions to which no response is required. To the extent that a response is required and is relevant, such averments are specifically denied.

7. Matters of record recited in Paragraph 7 of Plaintiffs' Complaint are admitted. By way of further answer, certain averments contained in Paragraph 7 constitute contentions or conclusions to which no response is required. To the extent that a response is required and is relevant, such averments are specifically denied.

8. Matters of record recited in Paragraph 8 of Plaintiffs' Complaint are admitted. By way of further answer, certain averments contained in Paragraph 8 constitute contentions or conclusions to which no response is required. To the extent that a response is required and is relevant, such averments are specifically denied.

9. Matters of record recited in Paragraph 9 of Plaintiffs' Complaint are admitted. By way of further answer, certain averments contained in Paragraph 9 constitute contentions or conclusions to which no response is required. To the extent that a response is required and is relevant, such averments are specifically denied.

10. Matters of record recited in Paragraph 10 of Plaintiffs' Complaint are admitted. By way of further answer, certain averments contained in Paragraph 10 constitute contentions or

conclusions to which no response is required. To the extent that a response is required and is relevant, such averments are specifically denied.

11. Matters of record recited in Paragraph 11 of Plaintiffs' Complaint are admitted. By way of further answer, certain averments contained in Paragraph 11 constitute contentions or conclusions to which no response is required. To the extent that a response is required and is relevant, such averments are specifically denied.

12. Matters of record recited in Paragraph 12 of Plaintiffs' Complaint are admitted. By way of further answer, certain averments contained in Paragraph 12 constitute contentions or conclusions to which no response is required. To the extent that a response is required and is relevant, such averments are specifically denied.

13. Matters of record recited in Paragraph 13 of Plaintiffs' Complaint are admitted. By way of further answer, certain averments contained in Paragraph 13 constitute contentions or conclusions to which no response is required. To the extent that a response is required and is relevant, such averments are specifically denied.

14. Defendants are without sufficient knowledge or information to form a belief as to whether Plaintiffs have obtained access rights under any unrecorded instruments or agreements with adjoining land owners other than Defendants. Defendants believe and therefore aver that access to the parcel more fully shown on Exhibit C to Plaintiffs' Complaint has been historically gained over and through property now or formerly owned by David E. Prout and David J. Prout. The balance of the averments contained in Paragraph 14 of Plaintiffs' Complaint constitute contentions or conclusions to which no response is required.

15. It is admitted that there is no existing opened and maintained road across the real property of Defendants near its eastern boundary line with lands now or formerly of George R. Finney and Velma M. Finney. It is specifically denied that there exists a "12.10 foot mud grade

road across the real property of Defendants..." To the contrary, no definite or discernible road exists on or about the location(s) described by Plaintiffs' Complaint.

16. The averments contained in Paragraph 16 of Plaintiffs' Complaint constitute contentions or conclusions to which no response is required. To the extent that a response is required and is relevant, it is specifically denied that Plaintiffs have enforceable rights to a servitude or easement across the real property of Defendants.

17. Matters of record recited in Paragraph 17 of Plaintiffs' Complaint are admitted. By way of further answer, certain averments contained in Paragraph 17 constitute contentions or conclusions to which no response is required. To the extent that a response is required and is relevant, such averments are specifically denied.

18. The averments contained in Paragraph 18 of Plaintiffs' Complaint constitute contentions or conclusions to which no response is required.

19. It is specifically denied that subjecting Defendants real property to a continuous servitude or easement in favor of the real property described in Paragraph 3 of Plaintiffs' Complaint is "absolutely necessary". To the extent, that said property has no means of access, Plaintiffs may pursue rights under 36 P.S. §2731 over an adjoining property, including but not limited to Defendants property, after payment of just compensation.

20. The averments contained in Paragraph 20 of Plaintiffs' Complaint constitute conclusions of law to which no response is required. By way of further Answer, Defendants are without sufficient knowledge or information as to what rights of access Plaintiffs may have under unrecorded instruments or agreements. Otherwise, Plaintiffs can obtain a means of access under 36 P.S. §2731.

21. It is admitted that Plaintiffs have requested an easement from Defendants and that negotiations to date have not produced an easement grant. The averments contained in

Paragraph 21 of Plaintiffs' Complaint confirm that Plaintiffs must claim an easement by consent not by right.

WHEREFORE, Defendants respectfully request this Honorable Court to enter an Order in their favor dismissing Plaintiffs' Complaint.

New Matter

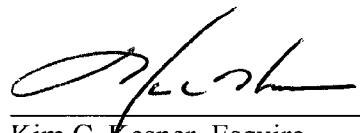
22. Defendants demur to Plaintiffs' Complaint. Plaintiffs' Complaint fails to state a cause of action upon which the relief requested can be granted. Specifically, Plaintiffs' Complaint fails to plead sufficient facts supporting a cognizable claim for an easement by implication. Plaintiffs' Complaint contains no averments that 1) there was an obvious and continued road servitude at or before the separation of title; and 2) that the servitude has been continuous and self-acting.

23. Plaintiffs' Complaint avers that the separation in title occurred in 1926. Any present claim of easement by implication is barred by the Doctrine of Laches.

24. Any servitude created at or before separation of title was abandoned by Plaintiffs' predecessors in title.

WHEREFORE, Defendants' respectfully request this Honorable Court to enter an Order in their favor dismissing Plaintiffs' Complaint.

Respectfully submitted:

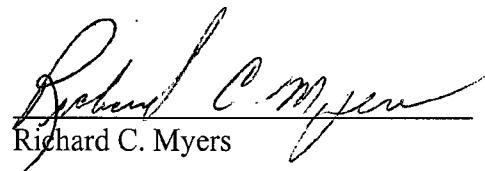


Kim C. Kesner, Esquire
Supreme Ct. I.D. #28307

Commonwealth Of Pennsylvania :
: S. S.
County Of Clearfield :

On this the 8th day of January, 2004, before me the undersigned authority personally appeared, RICHARD C. MYERS, who acknowledged himself and according to law deposes and says that the facts and averments set forth in the foregoing Answer and New Matter are true and correct to the best of his knowledge, information, and belief.

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



Richard C. Myers

Sworn to and subscribed before me this 8th day of January, 2004.



Kristen L. Zurat
Notary Public

My Commission Expires:

NOTARIAL SEAL KRISTEN L ZURAT, NOTARY PUBLIC CLEARFIELD BORO, CLEARFIELD CO., PA MY COMMISSION EXPIRES MAY 7, 2005

Commonwealth Of Pennsylvania

:

: S. S.

County Of Clearfield

:

On this the 8th day of January, 2004, before me the undersigned authority personally appeared, JOAN M. MYERS, who acknowledged herself and according to law deposes and says that the facts and averments set forth in the foregoing Answer and New Matter are true and correct to the best of her knowledge, information, and belief.

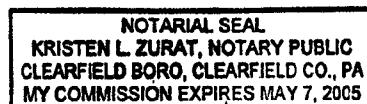
IN WITNESS WHEREOF, I have hereunto subscribed my hand and official seal.

Joan M. Myers
Joan M. Myers

Sworn to and subscribed before me this 8th day of January, 2004.

Kristen L. Zurat
Notary Public

My Commission Expires:

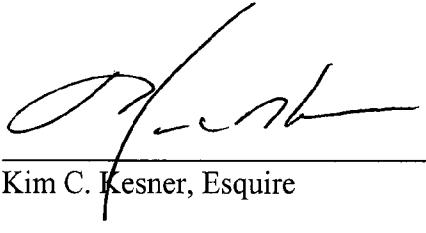


CERTIFICATE OF SERVICE

AND NOW, I do hereby certify that on the 8th day of January, 2004, I caused to be served a true and correct copy of the Defendants' Answer and New Matter to Complaint in Action to Quiet Title on the following by U.S. First Class Mail, Postage Prepaid:

David R. Thompson, Esquire
P.O. Box 587
308 Walton Street, Suite 4
Philipsburg, PA 16866

Date: January 8, 2004



Kim C. Kesner, Esquire

FILED

3CC

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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION-LAW

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William A. Shaw
Prothonotary/Clerk of Courts

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

CIVIL ACTION - LAW

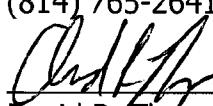
PAUL RIGHTENAUR and WILLIAM B. REILLY,	*
t/a/d/b/a KEYSTONE LAND AND TIMBER	*
COMPANY,	*
Plaintiffs	*
	*
vs.	*
	*
RICHARD C. MYERS and JOAN M. MYERS,	*
his wife,	*
Defendants	*
	*
	*
	*

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 against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

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



David R. Thompson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

PAUL RIGHTENAUR and WILLIAM B.	*
REILLY, t/a/d/b/a KEYSTONE LAND	*
AND TIMBER COMPANY,	*
Plaintiffs	*
	*
V.	*
	*
	*
RICHARD C. MYERS and JOAN	*
M. MYERS, his wife,	*
Defendants	*
	*

ACTION TO QUIET TITLE

AND NOW comes the Plaintiffs, by and through their attorney David R. Thompson, Esquire, who files the following Action to Quiet Title, alleging the following allegations of fact:

1. The Plaintiffs are Paul Rightenaur and William B. Reilly, who trade and do business under the partnership Keystone Land and Timber Company, which has a business mailing address of 1540 Dry Run Road, Duncansville, Pennsylvania, 16635.
2. The Defendants are Richard C. Myers and Joan M. Myers, husband and wife, who have a mailing address of 170 Red School House Road, Osceola Mills, Pennsylvania, 16666.
3. The Plaintiffs are the owners of a certain tract of real property located in Decatur Township, Clearfield County, Pennsylvania, known as Tax Parcel Number 112. N12-000-00071, containing five (5) acres.
4. The Plaintiffs received title to the said parcel by virtue of deed of the Tax Claim Bureau of Clearfield County, Pennsylvania, Trustee, under the provisions of the Act of July 7, 1947, P.L.

1368, and amendments thereto, dated November 19, 2001, and recorded in the Clearfield County Recorder's Office as Instrument Number 200118673. By way of further pleading, the said real property was sold at public sale for delinquent taxes in accordance with the provisions of the Act of Assembly hereinbefore recited under Tax Claim No. 99-4254 as the property of Harry Finberg et. al., as conveyed to him in Deed Book 198 Page 297.

5. Instrument Number 200118673 describes the real property as follows:

Decatur Township
#112. N12-000-00071
5 A

(A true and correct copy of said deed is attached hereto and marked as Exhibit "A").

6. Plaintiff's said real property was a portion of the that premises conveyed to Louis Finberg and Issac Finberg, by deed of Thos J. Lowell, Sheriff of Clearfield County, dated December 9, 1925, and recorded in the Clearfield County Recorder's Office in Deed Book Volume 198 at Page 297.

7. Thereafter, by virtue of deed dated February 6, 1926, and recorded in the Clearfield County Recorder's Office in Deed Book Volume 277 at Page 436, Isaac Finberg, and Edith Finberg, his wife, and Louis Finberg, and Annie Finberg, his wife, conveyed a portion of the real property received in Deed Book Volume 198 at Page 297 to General Refractories Company, excepting and reserving to themselves from the conveyance, a five (5) acre tract. The real property conveyed and excepted and reserved, respectively, in that deed is described as follows:

Beginning at a post by pins stump on the west side of Township road, thence by lands of G.W. Kephart (formerly) S. 89° 44' E. 638.3 feet to post and stones on east side of small run, thence N. 0° 45' W. 600.6 feet to post and stones, thence by lands of Philipsburg Coal and Land Company N. 0° 53' W. 853.8 feet to post in stones; thence N. 89° 03' E. 1311.4 feet to post and stones, thence S. 1° 19' E. 4981.5 feet to white pine stump in line of lands of Kittanning Coal Company, thence by lands of said Kittanning Coal Company N. 89° 13' W. 1258.1 feet to cut stone, corner to lands of Reading Richey and Wallace; thence along lands of Reading Richey and Wallace N. 49° 13' W. 2180.8 feet to post and stones; thence, N. 88° 22' E. 883.7 feet to post and stones; thence, N. 0° 28' W. 2041.4 feet to post and place of beginning; containing 206.05 acres.

Being the same premises conveyed to the Grantors herein by Thomas J. Lowell, Sheriff, by deed dated December 9, 1925, which deed is recorded at Clearfield, Pennsylvania, in deed book 198, page 297.

RESERVING, however, unto the parties of the first part (Finberg) a certain portion together with the timber thereon, bounded and described as follows:

BEGINNING at a stone, the common corner between lands of the Kitanning Coal Co., Reading, Richey & Wallace and Isaac and Louis Finberg; thence along line between Reading, Richey & Wallace and Isaac and Louis Finberg N. 471/2 W. 382 feet to an iron post; thence N. 421/2 E. 570 feet to an iron post, S. 471/2 E. 382 feet to an iron post; thence S. 421/2 W. 570 feet to stone corner and beginning. Containing five acres.

8. Plaintiffs aver that the excepted and reserved parcel particularly described in paragraph 7 herein from deed book volume 277, page 436 is the parcel owned by them as listed in paragraphs 3, 4, and 5 herein.

9. By virtue of deed dated April 6, 1993, and recorded in the Clearfield County Recorder's Office in Deed Book Volume 1526 at Page 24, General Refractories Company conveyed its parcel excepting and reserving the five acre tract to William L. Dittmar and Sharon K. Dittmar, husband and wife.

10. By virtue of deed dated September 13, 1993, and recorded in the Clearfield County Recorder's Office in Deed Book Volume 1560 at Page 383, William L. Dittmar and Sharon K. Dittmar, husband and wife conveyed its parcel excepting and reserving the five acre tract to Pine Creek Lumber, Inc.

11. By virtue of deed dated December 24, 1996, and recorded in the Clearfield County Recorder's Office in Deed Book Volume 1798 at Page 01, Pine Creek Lumber, Inc. conveyed a portion of its parcel, containing 181 plus or minus acres, excepting and reserving the five acre tract, to Michael A. Scott, and Zane E. Harris and Jane Harris his wife.

12. By virtue of deed dated January 14, 1997, and recorded in the Clearfield County

Recorder's Office in Deed Book Volume 1816 at Page 436, Michael A. Scott, and Zane E. Harris and Jane Harris his wife, conveyed their parcel, containing 181 plus or minus acres, excepting and reserving the five acre tract, to Richard C. Myers and Joan M. Myers, his wife, Defendants herein. (A true and correct copy of said deed is attached hereto and marked as Exhibit "B").

13. Defendant's real property is contiguous to three sides of Plaintiffs real property. Specifically, Defendants' real property borders Plaintiffs' entire southern and eastern lines, and a portion of Plaintiffs' northern line. The remaining portion of Plaintiffs' northern property line is bordered by real property now or formerly owned by George R. Finney and Velma M. Finney, as recorded in Deed Book Volume 1598 at page 235. Plaintiffs' western boundary line is bordered by real property now or formerly owned by David E. Prout and David J. Prout, as recorded in Deed Book Volume 1802 at page 115. (A copy of the survey map prepared by Curry & Associates showing Plaintiffs' and a portion of Defendants' real property is attached hereto and marked as Exhibit "C").

14. Plaintiffs' parcel of real property is landlocked and is not accessible by state or township road. By way of further pleading, Pa. S. R. 2007 runs parallel to Plaintiffs' northern boundary line across real property of Defendants and real property owned by George R. Finney and Velma M. Finney, as previously referenced.

15. There exists an unused 12.10 foot mud grade road across the real property of Defendants near the eastern boundary line of George R. Finney and Velma M. Finney that could be used to make Plaintiffs' land accessible to S. R. 2007.

16. Plaintiffs aver that they are entitled to uninterrupted and absolute use of the said 12.10 foot mud grade road across real property of Defendants in the form of an implied easement by necessity.

17. Both titles to the dominant and servient properties were held by Louis Finberg and Isaac Finberg by virtue of the ownership established and averred in paragraph 6 herein.

18. The unity of this common ownership was severed by conveyance of the parcel to General Refractories Company, as averred in paragraph 7 herein.

19. The easement is absolutely necessary in order for Plaintiffs to use their land, and further that said necessity exists now and at the time the severance of title occurred.

20. Plaintiffs have had no part in creating the necessity for the easement, and Plaintiffs cannot access and use their land through other lands of them.

21. Plaintiffs have requested use of the said easement from Defendants, but all requests have been denied.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to enter an Order and Decree granting Plaintiffs the uninterrupted and absolute right to use the said 12.10 foot mud grade road to access their real property due to the existence of an implied easement by necessity.

Respectfully submitted,



David R. Thompson, Esquire
Attorney for Plaintiffs

AFFIDAVIT No. 34832

TAX CLAIM BUREAU DEED

MADE the Nineteenth day of November in the year of our Lord, 2001.

BETWEEN THE TAX CLAIM BUREAU OF CLEARFIELD COUNTY, PENNSYLVANIA, Trustee,
under the provisions of the Act of July 7, 1947, P.L. 1368, and amendments
thereto, hereinafter called the GRANTOR,

AND

KEYSTONE LAND & TIMBER CO.

hereinafter referred to as "GRANTEE"

WHEREAS, the hereinafter described premises were assessed in the name
of HARRY FINBERG ET AL, and taxes levied for the years 1999 thru 2000, which
have not been paid and which are delinquent; and

WHEREAS, the said delinquent taxes against the said property were filed
in the Tax Claim Bureau of Clearfield County, Pennsylvania and became liened;
and

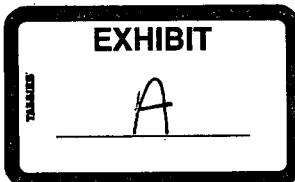
WHEREAS, after proceeding under the provisions of the Act aforesaid,
the Tax Claim Bureau did expose the said premises to public sale on the
Fourteenth day of September 2001; and

WHEREAS, the said premises were sold at said public sale to, KEYSTONE LAND
& TIMBER CO., the sum of One Thousand Seven Hundred Fifty Dollars,
(\$1,750.00), as is more particularly shown in the report and return of said
sale by the Tax Claim Bureau, and at the subsequent confirmation thereof by
the Court of Common Pleas of Clearfield County, Pennsylvania, in 01-1608-CD.

NOW THIS INDENTURE WITNESSETH, that for and in consideration of the sum of
One Thousand Seven Hundred Fifty Dollars, (\$1,750.00), the receipt thereof is
hereby acknowledged. Grantor does hereby grant and convey unto the said
Grantees, their heirs, successors or assigns the following described property
to-wit:.

DECATUR TOWNSHIP
#112. N12-000-00071
5 A

BEING the same property offered for sale for delinquent taxes in accordance
with the provisions of the Act of Assembly hereinbefore recited under Tax
Claim No. 99-4254 as the property of HARRY FINBERG ET AL, AS CONVEYED TO HIM
IN DEED BOOK 198 PAGE 297.



This deed is executed and acknowledged by MARY ANNE WESDOCK, who was duly appointed Director of the Tax Claim Bureau by Resolution of the County Commissioners of Clearfield County, Pennsylvania, dated August 15, 1989.

IN WITNESS WHEREOF, the Grantor has caused this deed to be executed in its name and its official seal to be affixed hereto the day and year first above written.

TAX CLAIM BUREAU OF CLEARFIELD COUNTY, PENNA.

Witness:

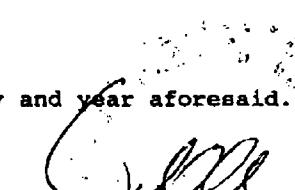
By Jeffrey C. Graham
Jeffrey C. Graham Asst. Director

By Mary Anne Wesdock
Mary Anne Wesdock Director

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF CLEARFIELD)

On this 20th day of Nov., A. D., 2001, before me, the subscriber personally appeared MARY ANNE WESDOCK, Director of the Tax Claim Bureau of Clearfield County, Pennsylvania, who in due form of law acknowledged the foregoing Indenture to be her act and deed and desired that the same might be recorded as such.

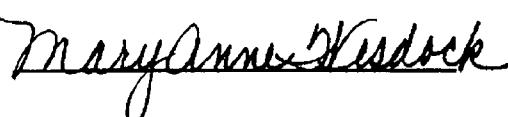
WITNESS my hand and official seal the day and year aforesaid.


(SEAL)
Prothonotary.

My commission expires the first Monday of January, 2002. My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

I CERTIFY that the precise residence address of the grantee in this indenture is

1540 DRY RUN ROAD
DUNCANSVILLE PA
16635


Mary Anne Wesdock

KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY
Pennsylvania

INSTRUMENT NUMBER
200118673
RECORDED ON
Nov 21, 2001
9:46:44 AM
Total Pages: 3

RECORDING FEES - \$13.00
RECORDER
COUNTY IMPROVEMENT \$1.00
FUND
RECORDER \$1.00
IMPROVEMENT FUND
STATE TRANSFER TAX \$16.73
STATE WRIT TAX \$0.50
DECATUR TOWNSHIP \$8.36
PHILIPSBURG-OSEOLA \$8.37
SCHOOLS
TOTAL \$48.96
CUSTOMER
CLEARFIELD COUNTY TAX
CLAIM

SPECIAL WARRANTY DEED

MADE the 14th day of January in the year nineteen hundred and ninety-seven
BETWEEN Michael A. Scott, single, of Altoona, Pennsylvania, as a tenant in common, as to undivided
one-half interest and Zane E. Harris and Jane Harris, his wife, of Altoona, Pennsylvania, as a tenant in
common, as to the remaining undivided one-half interest, herein called Grantors parties of the first part,

-AND-

Richard C. Myers and Joan M. Myers, husband and wife of 308 Shirley Drive, Harleysville,
Pennsylvania, 19438, herein called Grantees, and parties of the second part,

Witnesseth, That said parties of the first part, for and in consideration of the sum of Forty One Thousand
(\$41,000.00) Dollars lawful money of the United States of America, well and truly paid by the said
parties of the second part to the said parties of the first part, at and before the sealing and delivery of
these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold aliened,
enfeoffed, released, conveyed and confirmed, and by these presents do grant, bargain, sell alien, enfeoff,
release, convey and confirm unto the said parties of the second part, their heirs and assigns.

ALL that certain tract of land situate in the Township of Decatur, County of Clearfield, State of
Pennsylvania, being bounded and describe as follows, to wit:

BEGINNING at an iron pin found on the Westerly right-of-way line of State Route 2014, said
being point marking the Westerly most point of the premises herein described; thence following along
and with said State Route 2014, in a Southeasterly direction, a distance of approximately 650 feet to a
point in the center line of said SR2014, said point marking the intersection of the center line of said
SR2014 and the Westerly property line of property now or formally of A & G Enterprise; thence along
and with said property line of A & G Enterprise North 49 degrees 19 minutes 11 seconds East a distance
of 865.68 feet to a point; thence turning and running South 40 degrees 40 minutes 49 seconds East a
distance of 246.03 feet to a point in a center line of State Route 2007; thence along and with State Route
2007 in a Southwesterly direction a distance of 141.64 feet to a point in a center line of said State Route
2007, said point marking a corner for lands now or formally George R. Finney; thence along and with
said lands now or formally of Finney South 40 degrees 00 minutes 03 seconds East a distance of 354.13
feet to a point marking a corner for these lands and lands now or formally of Isaac Fineberg; thence along
and with said Fineberg lands North 49 degrees 19 minutes 26 seconds East a distance of 179.97 feet to an
iron pin; thence turning and running South 40 degrees 40 minutes 34 second East a distance of 382 feet
to an iron pin; thence turning and running South 48 degrees 49 minutes 26 seconds West a distance of
570 feet to a found cut stone; thence turning and running South 79 degrees 23 minutes 35 seconds East a
distance of 1,280.11 feet to a cut stone; thence turning running North 07 degrees 01 minutes 59 seconds

EXHIBIT

B

East a distance of 2,067.59 feet to a cut stone; thence continuing North 08 degrees 42 minutes 49 seconds East a distance 2,915.94 feet to a cut stone; thence turning and running North 81 degrees 25 minutes 34 seconds West a distance of 1,311.09 feet to a cut stone; thence turning and running South 08 degrees 39 minutes 47 seconds West a distance 853.51 feet to a cut stone; thence continuing South 08 degrees 48 minutes 17 seconds West a distance of 600.46 feet to an iron pin; thence turning and running North 82 degrees 31 minutes 16 seconds West a distance of 643.26 feet to an iron pin, said iron pin being located on the Westerly boundary of State Route 2007; thence turning and running South 08 degrees 55 minutes 47 seconds West a distance of 2,020.46 feet to an iron pin; thence turning and running North 81 degrees 37 minutes 15 seconds West a distance of 499.55 feet, home to the point and place of beginning, said to contain 181 plus or minus acres, being the same more or less.

BEING a portion of the premises conveyed to this Grantor by Deed of Pine Creek Lumber, Inc., said Deed being dated October 24, 1996, and being of record in the office of the Recorder of Deeds in and for Clearfield County, Pennsylvania, in Deed Book Volume 1798, page 01.

Subject however to the reservations and exceptions more specifically set forth in the prior Deeds in this chain of Title dated April 6, 1993, and September 13, 1993, and October 24, 1996, and of record in Clearfield County in Deed Book 1526, Page 24, and Deed Book 1560, Page 383, and Deed Book volume 1798, Page 01, respectively.

TOGETHER with all and singular the tenements, hereditaments and appurtenances to the same belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents issues and profits thereof; AND ALSO all the estate, right, title, interest, property, claim and demand whatsoever, both in law and equity, of the said parties of the first part, of in, to or out of the said premises, and every part and parcel thereof.

TO HAVE AND TO HOLD the said premises, with all and singular the appurtenances, unto the said parties of the second part, their heirs and assigns, to and for the only proper use and behoof of said parties of the second part their heirs and assigns forever.

AND the said parties of the first part, their heirs, executors, and administrators, do by these presents, covenant, grant and agree to and with the said parties of the second part, their heirs and assigns, that they the said Grantors, their heirs, all the singular the hereditaments and premises herein above described and granted, or mentioned and intended so to be, with the appurtenances unto the said parties of the second part, their heirs and assigns, against the said parties of the first part and their heirs, and against all and every other person or persons, whomsoever, lawfully claiming or to claim the same or any part thereof, shall and will, by these presents, SPECIAL WARRANT AND SHALL FOREVER DEFEND.

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

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

James C. Shoff

Michael A. Scott

Zane E. Harris

Jane Harris

0 0 4 0 4 0

CERTIFICATE OF RESIDENCE

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

308 Shirley Drive, Harleysville, PA 19438

James C. Shoff

Attorney or Agent for Grantee



COMMONWEALTH OF PENNSYLVANIA

COUNTY OF BLAIR

SS.

On this, the 14th day of January, 1997, before me a Notary Public the undersigned officer, personally appeared, Michael Scott, known to me (or satisfactorily proven) to be the persons whose names subscribed to the within instrument, and acknowledged that he executed the same for the purpose therein contained.

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

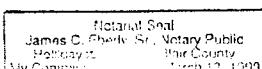
PHILIPSBURG-QUELAMAR SCHOOL DISTRICT
1% REALTY TRANSFER TAX

AMOUNT 410.00

Paid 1-13-97 KAREN L. STANCH
Date Agent

James C. Shoff

My Commission Expires



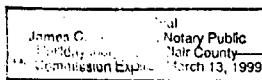
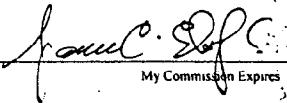
COMMONWEALTH OF PENNSYLVANIA

COUNTY OF BLAIR

SS.

On this, the 14th day of January, 1997, before me a Notary Public the undersigned officer, personally appeared, Zane E. Harris, known to me (or satisfactorily proven) to be the persons whose names subscribed to the within instrument, and acknowledged that he executed the same for the purpose therein contained.

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

My Commission Expires

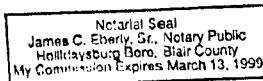
COMMONWEALTH OF PENNSYLVANIA

COUNTY OF BLAIR

SS.

On this, the 14th day of January, 1997, before me a Notary Public the undersigned officer, personally appeared, Jane Harris, known to me (or satisfactorily proven) to be the persons whose names subscribed to the within instrument, and acknowledged that she executed the same for the purpose therein contained.

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




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



Karen L. Starck
Recorder of Deeds

VOL 1816 PAGE 440

State of

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

WARRANTY
SPECIAL
DEED

FEESIMPLE DEED

Michael A. Scott
Zane E. Harris and Jane Harris, his wife

AND

Richard C. Myers and John M. Myers,
his wife

Dated _____
For 181 acres in Decatur Township
Clearfield County, Pennsylvania

Consideration \$1,000.00
Recorded _____
Entered for Record in the Recorder's
Office of _____, _____, _____
County, the _____ day of _____
19 _____
Rec'd, \$ _____
Recorder _____

James C. Gherly, Sr.

ATTORNEY AT LAW
326 Allegheny Street
Hollidaysburg, PA 16648

CLEARFIELD COUNTY
ENTERED OF RECORD

TIME 12:36 AM 1-23-97
BY Debbie Schley
FLLS 1640

Karen L. Starch, Recorder

COMMONWEALTH OF PENNSYLVANIA

County of _____

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

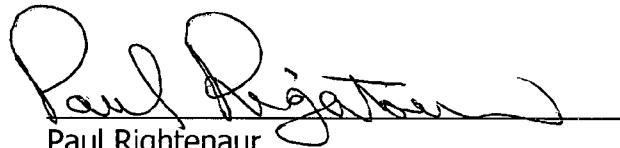
Recorder of Deeds

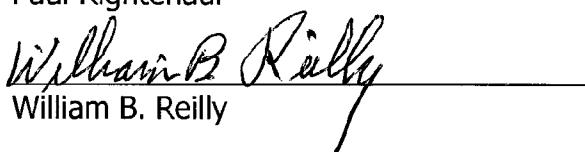
Entered of Record Jan 23 1997, 12:36 Karen L. Starch, Recorder

VERIFICATION

I certify that the facts set forth in the foregoing **ACTION TO QUIET TITLE** are true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of 18 Pa. C. S. § 4904, relating to unsworn falsification to authorities.

Dated: 11/07/03


Paul Rightenaur


William B. Reilly

FILED
NOV 10 2003
NOV 25 2003
Atty pd. 95.00

William A. Shaw
Prothonotary/Clerk of Courts

In The Court of Common Pleas of Clearfield County, Pennsylvania

RIGHTENAU, PAUL

VS.

MYERS, RICHARD C. & JOAN M.

Sheriff Docket # 14872

03-1760-CD

COMPLAINT ACTION TO QUIET TITLE

SHERIFF RETURNS

NOW DECEMBER 4, 2003 AT 9:40 AM SERVED THE WITHIN COMPLAINT ACTION TO QUIET TITLE ON JOAN M. MYERS, DEFENDANT AT RESIDENCE, 170 RED SCHOOL HOUSE ROAD, OSCEOLA MILLS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JOAN MYERS A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT ACTION TO QUIET TITLE AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: MCCLEARY

NOW DECEMBER 4, 2003 AT 9:40 AM SERVED THE WITHIN COMPLAINT ACTION TO QUIET TITLE ON RICHARD C. MYERS, DEFENDANT AT RESIDENCE, 170 RED SCHOOL HOUSE ROAD, OSCEOLA MILLS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JOAN MYERS, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT ACTION TO QUIET TITLE AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: MCCLEARY

Return Costs

Cost	Description
38.77	SHERIFF HAWKINS PAID BY: ATTY CK# 8662
20.00	SURCHARGE PAID BY: ATT Ck# 8663

Sworn to Before Me This

12th Day Of Feb 2004

1-10-04
WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,

*Chester A. Hawkins
by Marley Harris*
Chester A. Hawkins
Sheriff

FILED
13:00 PM
FEB 12 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL ACTION - LAW

PAUL RIGHTENAUR and WILIAM B. REILLY,
t/a/d/b/a KEYSTONE LAND AND TIMBER
COMPANY,

*
*
*
*

Plaintiffs * No. 03-1760-CD

*
*
*

vs.

*
*
*
*

RICHARD C. MYERS and JOAN M. MYERS,

Defendants *

PRAECIPE TO DISCONTINUE

TO THE PROTHONOTARY:

Kindly discontinue the above-captioned matter.

Respectfully submitted,

DATE: 5-14-07



David R. Thompson, Esquire
Attorney for Plaintiff

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

CIVIL DIVISION

**Paul Rightenaur
William B. Reilly
Keystone Land and Timber Company**

Vs. **No. 2003-01760-CD**
Richard C. Myers
Joan M. Myers

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on the 18th Day of May, 2007, marked:

Discontinued

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 18th day of May A.D. 2007.

William A. Shaw, Prothonotary

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

PAUL RIGHTENAUR and WILLIAM B. REILLY, t/a/d/b/a KEYSTONE LAND AND TIMBER COMPANY, Plaintiffs vs. RICHARD C. MYERS and JOAN M. MYERS, Defendants

No. 03-1760-CD

Type of Pleading: Motion for Judgment of Non Pros

Filed on behalf of: Defendants

Counsel of Record For This Party:
Kim C. Kesner, Esquire
Supreme Ct. I.D. #28307
15 North Front Street
Clearfield, PA 16830
814-765-8972

Other Counsel of Record:
David R. Thompson, Esquire
Supreme Ct. I.D. #73053
P.O. Box 587
308 Walton Street, Suite 4
Philipsburg, PA 16866
(814) 342-4100
Counsel for Plaintiffs

FILED 01/10/2014 3CC
SEP 18 2007 Atty
Kesner
William A. Shaw
Notary/Clerk of Courts (CK)

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

PAUL RIGHTENAUR and WILLIAM B.	:	No. 03-1760-CD
REILLY, t/a/d/b/a KEYSTONE LAND	:	
AND TIMBER COMPANY,	:	
Plaintiffs	:	
	:	
vs.	:	
	:	
RICHARD C. MYERS and JOAN M.	:	
MYERS,	:	
Defendants	:	

MOTION FOR JUDGMENT
OF NON PROS

To: THE HONORABLE JUDGES OF SAID COURT

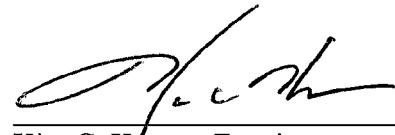
AND NOW comes Defendants, RICHARD C. MYERS and JOAN M. MYERS, by their attorneys Kim C. Kesner, Esquire and Belin, Kubista & Ryan, and in support of this Motion for Judgment of Non Pros aver:

1. This is a Quiet Title Action commenced by Plaintiffs by a Complaint filed on November 25, 2003.
2. On January 8, 2004, Defendants filed their Answer and New Matter to Plaintiffs' Complaint.
3. Plaintiffs have never filed a reply to Defendants New Matter.
4. There has been no docket activity in this case since the Sheriff's Return was filed on February 12, 2004.
5. In excess of three (3) years have elapsed without any prosecution of this matter by Plaintiffs.

6. Defendants have requested that Plaintiffs' counsel voluntarily discontinue this action but the matter remains pending.

WHEREFORE, Defendants respectfully request this Honorable Court to enter a judgment of Non Pros.

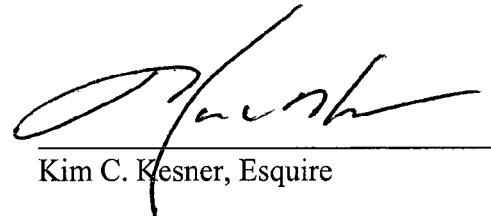
Respectfully submitted,



Kim C. Kesner, Esquire
Attorney for Defendants

VERIFICATION

I, Kim C. Kesner, Attorney for Defendants verify that the statements made in this Motion for Judgment of Non Pros 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. If additional verification is required, one will be provided upon request by the Defendants.



Kim C. Kesner, Esquire

✓
CLEARFIELD, PENNSYLVANIA 16830
P. O. Box 1
15 NORTH FRONT STREET
ATTORNEYS AT LAW
BELLIN, KUBISTA & RYAN

SEP 18 2007
William A. Shaw
Prothonotary/Clerk of Court

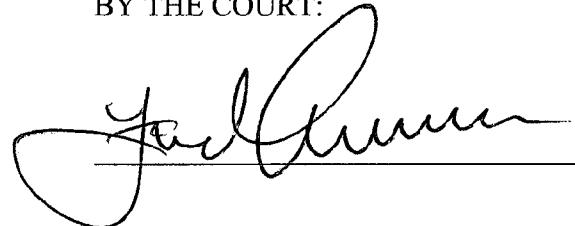
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PAUL RIGHTENAUR and WILLIAM B. : No. 03-1760-CD
REILLY, t/a/d/b/a KEYSTONE LAND :
AND TIMBER COMPANY, :
Plaintiffs :
vs. :
RICHARD C. MYERS and JOAN M. :
MYERS, :
Defendants :
:

ORDER

AND NOW, this 18 day of Sept, 2007, upon consideration of the Motion for Judgment of Non Pros filed by Defendants, it is the Order of this Court that hearing shall be held thereon on the 2nd day of November, 2007, at 3:00 o'clock P m. in Courtroom No. 1.

BY THE COURT:



FILED 3CC
0140081 Atty Kusner
SEP 18 2007
(58)

William A. Shaw
Prothonotary/Clerk of Courts

FILED

SEP 18 2007

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

DATE: 9/18/07

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

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

PAUL RIGHTENAUR and WILLIAM B. REILLY, t/a/d/b/a KEYSTONE LAND AND TIMBER COMPANY, Plaintiffs	:	No. 03-1760-CD
	:	Type of Pleading: Certificate of Service
vs.	:	Filed on behalf of: Defendants
RICHARD C. MYERS and JOAN M. MYERS, Defendants	:	Counsel of Record For This Party: Kim C. Kesner, Esquire Supreme Ct. I.D. #28307 15 North Front Street Clearfield, PA 16830 814-765-8972
	:	Other Counsel of Record: David R. Thompson, Esquire Supreme Ct. I.D. #73053 P.O. Box 587 308 Walton Street, Suite 4 Philipsburg, PA 16866 (814) 342-4100

FILED
03:09 p.m. 6K
SEP 18 2007
NO CC
William A. Shaw
Prothonotary/Clerk of Courts

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

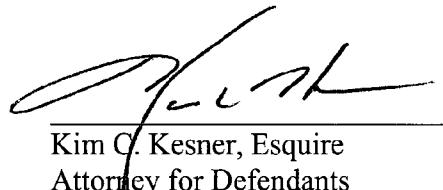
PAUL RIGHTENAUR and WILLIAM B.	:	No. 03-1760-CD
REILLY, t/a/d/b/a KEYSTONE LAND	:	
AND TIMBER COMPANY,	:	
Plaintiffs	:	
vs.	:	
RICHARD C. MYERS and JOAN M.	:	
MYERS,	:	
Defendants	:	

CERTIFICATE OF SERVICE

AND NOW, I do hereby certify that on the 18th day of September, 2007, I caused to be served a certified copy of the Motion for Judgment of Non Pros to be served by U.S. First Class Mail, Postage Prepaid on the following:

David R. Thompson, Esquire
Attorney for Plaintiffs
P.O. Box 587
308 Walton Street, Suite 4
Philipsburg, PA 16866

Date: 9/18/2007



Kim C. Kesner, Esquire
Attorney for Defendants

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

PAUL RIGHTENAUR and WILLIAM B. : No. 03-1760-CD
REILLY, t/a/d/b/a KEYSTONE LAND :
AND TIMBER COMPANY, :
Plaintiffs :
vs. :
Filed on behalf of: Defendants
RICHARD C. MYERS and JOAN M. :
MYERS, :
Defendants :
Counsel of Record For This Party:
Kim C. Kesner, Esquire
Supreme Ct. I.D. #28307
15 North Front Street
Clearfield, PA 16830
814-765-8972
Other Counsel of Record:
David R. Thompson, Esquire
Supreme Ct. I.D. #73053
P.O. Box 587
308 Walton Street, Suite 4
Philipsburg, PA 16866
(814) 342-4100
Counsel for Plaintiffs

FILED
01/10/2007 3:00
OCT 03 2007 Atty Kesner

William A. Shaw
Prothonotary/Clerk of Courts

(68)

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

PAUL RIGHTENAUR and WILLIAM B.	:	No. 03-1760-CD
REILLY, t/a/d/b/a KEYSTONE LAND	:	
AND TIMBER COMPANY,	:	
Plaintiffs	:	
vs.	:	
RICHARD C. MYERS and JOAN M.	:	
MYERS,	:	
Defendants	:	

PRAECIPE TO DISCONTINUE

TO THE PROTHONOTARY:

Kindly mark Defendant's Motion for Judgment of Non Pros withdrawn.

Respectfully submitted,



Kim C. Kesner, Esquire
Attorney for Defendants

CLIFFFIELD, PENNSYLVANIA 16830
P. O. BOX 1
15 NORTH FRONT STREET
ATTORNEYS AT LAW
BELLIN, KUBISTA & RYAN

FILED

OCT 03 2007

William A. Shaw
Prothonotary/Clerk of Courts