

04-253-CD  
TERRY L. THOMAS, et al. vs. FERDIN F. WALLACE, et al.

Terry Thomas et al vs. Ferdin Wallace et al  
2004-253-CD

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

\*

\*

-vs-

\*

Docket No. 04-253 -CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*

\*

Type of pleading:  
COMPLAINT IN EJECTMENT  
AND TRESPASS

Filed on behalf of:  
PLAINTIFFS, Terry L.  
Thomas and Michele L.  
Thomas

Counsel of record for  
this party:

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

FILED

FEB 20 2004 *EW*  
03:10/uy  
William A. Shaw  
Prothonotary/Clerk of Courts  
4 CENT TO ADD

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

\*

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-vs-

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Docket No. 04- -CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*

\*

N O T I C E

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action 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 within twenty (20) days. 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 relief claimed in the complaint by the plaintiff.

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.

DAVID S. MEHOLICK, COURT ADMINISTRATOR  
Clearfield County Courthouse  
Second and Market Streets  
Clearfield, PA 16830  
(814) 765-2641, Ext. 5982

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

\*

\*

-vs-

\*

Docket No. 04- -CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*

\*

COMPLAINT IN EJECTMENT AND TRESPASS

COME NOW, Plaintiffs Terry L. Thomas and Michele L. Thomas, by and through their attorney, Dwight L. Koerber, Jr., Esquire, and file the within Complaint in Ejectment and Trespass against Defendants Ferdin E. Wallace and Sherry S. Wallace. In support thereof, plaintiffs aver and show as follows:

COUNT I  
EJECTMENT

1. Plaintiffs are Terry L. Thomas and Michele L. Thomas, husband and wife, who reside at 3133 Martin Street Extension, Clearfield, PA 16830.

2. Defendants are Ferdin E. Wallace and Sherry S. Wallace, husband and wife, believed to reside at 1117 Old Town Road, Clearfield, PA 16830.

3. Plaintiffs acquired ownership of several parcels of



property located in Lawrence Township, Clearfield County, Pennsylvania, the total consisting of 310.60 acres, as more fully set forth in Deed dated August 13, 2002, filed with the Clearfield County Recorder of Deeds in Instrument No. 200215102, and in Deed dated July 26, 2002 in Instrument No. 200214072.

4. Attached hereto as Exhibit A are true and correct copies of the Deeds covering plaintiffs' property in Lawrence Township, Clearfield County, Pennsylvania.

5. An abstract of the chain of title of plaintiffs to their property, with such property shown in Exhibit A, attached hereto, is as follows:

As it pertains to Parcel Nos. 123-J7-5, 6, 7, 8 and 9, six parcels were shown as being owned jointly by Boulton & Leitzinger, a partnership, as set forth in Clearfield County Deed dated August 30, 1938, recorded at Deed Book Volume 324, page 21.

On August 25, 1953, half interest in the parcels was transferred to Harold J. Boulton at Clearfield County Deed Book Volume 431, page 370; and half interest in the property was transferred to William A. E. Leitzinger at Clearfield County Deed Book Volume 431, page 374.

As it pertains to Parcel No. 15.1, that parcel was conveyed in half interests to Harold J. Boulton by Deed of Evelyn L. Sykes dated January 17, 1957 at Deed Book 456, page 565; and to William A. E. Leitzinger by Deed of Evelyn L. Sykes dated January 17, 1957 at Deed Book 456, page 564.

The half interest in the parcels held by Harold J. Boulton was bequeathed upon his death to his widow, Julia K. Chase Boulton, who in turn upon her death bequeathed her interest to her children, Emily Chase Weaver and William C. Chase, Jr.

The half interest in the parcels held by William A. E. Leitzinger was bequeathed upon his death to his widow, Eugenia U. Leitzinger, and his children, William A. E. Leitzinger, Jr., Clara V. Schoderbek and Barbara L. Woolridge.

Both half interests were conveyed to plaintiffs herein by Deed dated July 26, 2002 at Instrument No. 200214072 and by Deed dated August 13, 2002 at Instrument No. 200215102, respectively, by the heirs of the estate of Julia K. Chase Boulton and the heirs of the estate of William A. E. Leitzinger.

6. In conjunction with acquiring ownership of their property, as set forth in Exhibit A, plaintiffs had a survey performed by Hess & Fisher Engineers.

7. Attached hereto as Exhibit B is a true and correct copy of the survey performed by Hess & Fisher Engineers, dated September 12, 2003.

8. After acquiring ownership of the said premises, plaintiffs examined the boundary lines, as determined by the survey of Hess & Fisher Engineers, and observed that certain vehicles and debris, appearing to be owned at one time by Defendant Ferdin E. Wallace, were located on the property.

9. Attached hereto as Exhibit C is a copy of the survey map of Hess & Fisher Engineers, with "x" marks on it showing the location where the vehicles and debris appearing to have been owned by Defendant Ferdin E. Wallace are located.

10. Plaintiffs spoke directly with Defendant Ferdin E. Wallace, and asked him to take steps to remove the vehicles and

debris from plaintiffs' property.

11. Defendant Ferdin E. Wallace refused to remove the vehicles and debris, and even after receiving correspondence from counsel for plaintiffs, Defendant Ferdin E. Wallace continues to refuse to remove the said vehicles and debris.

12. Plaintiffs hereby claim the right of immediate possession of the land where the vehicles and debris of Defendant Ferdin E. Wallace are located, to the exclusion of defendants.

13. Plaintiffs seek the entry of a court order giving them possession of the subject land where defendants have located certain vehicles and debris and the entry of an order ejecting defendants from their property.

WHEREFORE, plaintiffs demand judgment for possession of the aforesaid premises, consistent with the boundary line designation shown by the survey of Hess & Fisher Engineers, and for ejectment of the defendants.

#### **COUNT II TRESPASS**

Paragraphs 1 through 13 of the within complaint are incorporated by reference as though set forth in full.

14. As a direct result of the actions of Defendant Ferdin E. Wallace, certain vehicles and debris have been placed on the property of plaintiffs, as depicted by Exhibit C, attached hereto.

15. In order to remove the said vehicles and debris from their property, plaintiffs will incur certain towing and land restoration expenses.

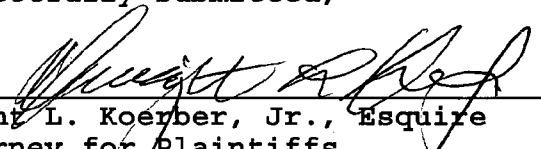
16. The costs of towing and land restoration expenses is estimated by plaintiffs to be the sum of \$4,330.00.

17. Attached hereto as Exhibit D is an itemization of the costs which plaintiffs will incur in removal of the vehicles and debris, including land restoration.

18. Defendants' actions, in failing and refusing to remove the vehicles and debris from plaintiffs' property, constitutes a trespass against the plaintiffs and will cause plaintiffs to incur \$4,330.00 in costs and expenses to remedy the damages caused by defendants' trespass.


WHEREFORE, plaintiffs demand judgment in their favor in the amount of \$4,330.00, plus costs and such other relief as may be deemed just and proper.

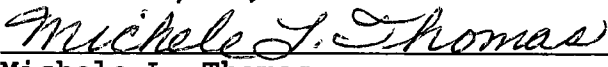
Respectfully submitted,

By:   
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs,  
TERRY L. THOMAS AND  
MICHELE L. THOMAS

VERIFICATION

We verify that the statements made herein are true and correct. We understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

  
Terry L. Thomas  
DATE: 2/18/04

  
Michele L. Thomas  
DATE: 2-18-04

**EXHIBIT A**

Attached hereto is a true and correct copy of the Deeds of Plaintiffs.

# DEED

MADE this 26<sup>th</sup> day of July, 2002, by and between **EUGENIA U. LEITZINGER**, a widow, of 214 South Front Street, Clearfield, PA 16830; **CLARA V. SCHODERBEK**, a single adult, of Route 3, Box 192B-5 Laurel, Delaware, 19956; **WILLIAM LEITZINGER, JR., and SHIRLEY LEITZINGER**, husband and wife, of 1255 Persimmon Tree Lane, Dover, Delaware, 19901; and **ASHLEY WOOLRIDGE and BARBARA L. WOOLRIDGE**, husband and wife of 202 South Front Street, Clearfield, PA, 16830; Heirs of William A. E. Leitzinger; (hereinafter "GRANTORS")

A

N

D

**TERRY L. THOMAS and MICHELE L. THOMAS**, husband and wife, as Tenants by the Entireties, of RR # 1 Box 287, Clearfield, Pennsylvania, 16830; (hereinafter "GRANTEES").

## WITNESSETH:

That in consideration of Seventy Thousand (\$70,000.00) Dollars, the receipt whereof is hereby acknowledged, the said GRANTORS do hereby grant and convey to the said GRANTEES, the following description:

ALL the GRANTORS' interest in those certain pieces or parcels of real state situate in Lawrence Township, Clearfield County, Pennsylvania and Identified by Clearfield Tax Map Numbers 123-J7-5, 123-J7-6, 123-J7-7, 123-J7-8, 123-J7-9, and 123-J7-15.1, which are more particularly described as follows.

### PARCEL NO. 1

Beginning at a post corner of land formerly of A. L. Ogden and on line of property of Mrs. Woods; thence North 4 degrees East 28.4 perches to a post at the South side of the Rockton road; thence in a Northwest direction along said road at several courses and distances to the District line between Lawrence and Pike Townships; thence along said line South 4 degrees 17 minutes West 286 perches to a post being corner of land conveyed by E. D. Reed and others to Joseph Young; thence along said land South 87 degrees East 81 perches to a post; thence by same land North 3 degrees to East 30 perches to a post; South 86 degrees East 170.9 perches to a post; thence by lands of A. L. Ogden aforesaid South 87 degrees 5 minutes East 95.6 perches to point and place of beginning. Containing approximately 264.46 acres.

EXCEPTING AND RESERVING to the Clearfield Water Company, its successors and assigns, the water right set forth in the deeds in this chain of title and also excepting and

KAREN L. STARCK  
REGISTER AND RECORDER  
CLEARFIELD COUNTY  
Pennsylvania

INSTRUMENT NUMBER

200214072

RECORDED ON

Sep 04, 2002

3:18:21 PM

Total Pages: 8

RECORDING FEES - \$23.00  
RECORDER

COUNTY IMPROVEMENT FUND \$2.00

RECORDER IMPROVEMENT FUND \$3.00

STATE TRANSFER TAX \$700.00

STATE WRIT TAX \$0.50

LAWRENCE TOWNSHIP \$350.00

CLEARFIELD AREA SCHOOLS \$350.00

TOTAL \$1,428.50

CUSTOMER

BELIN & KUBISTA

reserving therefrom property conveyed by D. W. Anderson to Joseph Kitko by deed dated April 27, 1914, comprising approximately 100 acres, a deed of which is recorded in Deed Book 203, page 136.

**EXCEPTING AND RESERVING** from the above parcel, the following adverse conveyances of record.

Conveyance to Clearfield Mountain Speedway by deeds dated May 8, 1991, and June 12, 1991, recorded to Deed and Record Book 1405, page 224 and 1405, page 241 respectively.

Conveyance to Laura G. Bender, et al., by deeds dated October 26, 1998 and October 28, 1993 recorded to Clearfield County Deed and Record Book 1986, page 74 and 1986, page 79 respectively.

**PARCEL NO. 2**

Beginning at a white oak on the line of land formerly of Singleton Bell; thence by land of Emma Ogden North 86 degrees 40 minutes West 748.3 feet to a post and stones; thence by lot conveyed to Emma Ogden, North 5 degrees 45 minutes East 557.4 feet to a post and stone on the line of Charles Nelson land; thence by land of Charles Nelson 85 degrees 15 minutes West 1522.5 feet to a post on corner of land of Joseph Young; thence by land of Joseph Young South 4 degrees 52 minutes West 1848 feet to a pine; thence by land of Bella Carns, South 67 degrees 1425 feet to center of Township Road; thence by center of said road North 57 degrees 30 minutes East 77 feet; thence in center of said road North 64 degrees 25 minutes East 213.5 feet to post; thence by lot of Mrs. P. G. Gardner North 4 degrees West 448 feet to a post; thence by said lot and land of R. H. Thompson North 68 degrees 15 minutes East 1815 feet to a post; thence by same North 6 degrees East 168 minutes to white oak, now post; thence by land of Singleton Bell North 5 degrees East 631 feet to post and place of beginning. Containing 90 acres net.

**EXCEPTING AND RESERVING** from the above parcel, the following adverse conveyance of record.

Conveyance to Ashley L. Carns, et al, by deed dated June 6, 1947, recorded to Deed Book 385, page 53.

**PARCEL NO. 3**

Beginning at a post on the line of A. M. Woodward; thence by other land of D. W. Anderson North 4 degrees 2 minutes East 1356 feet to a stake; thence by land of same North 73 degrees 2 minutes West 690 feet to stake on the line of land formerly of Elizabeth Bunchko, now John Leitzinger; thence by land of the said Elizabeth Bunchko; North 5 degrees 20 minutes East 131 feet to a point in the center of Rockton road, thence along said road 73 degrees 2 minutes East 690 feet to a post; thence along said road South 61 degrees 28 minutes East 317 feet to a point; thence along land formerly owned by Susie



Lippert, South 4 degrees West 1356 feet to a stake in the line of A. M. Woodward; thence along land of A. M. Woodward North 87 degrees 35 minutes West 284 feet to a point and place of beginning, Containing 11.55 acres.

**PARCEL NO. 4**

On the South by a public road, on the East by lands of Mary Fox; on the North lands of Lan Ogden; on the West by lands of Edward Reed. Containing one acre, more or less.

**PARCEL NO. 5**

Beginning at the intersection of the Penfield Pike and the Rockton Road; thence North 63 degrees 10 minutes West 388 feet to a post; thence South 4 degrees 30 minutes West 810 feet to a post; thence North 79 degrees 30 minutes East along the land of Anna May Yeager 474 feet to a point on the Penfield Pike; thence North 6 degrees West 552.5 feet to point and place of beginning.

**PARCEL NO. 6**

Beginning at a point on the Western line on a eleven and fifty-five one hundredths (11.55) acres tract and being the Northeastern corner of a ninety acre tract, both formerly owned by D. W. Anderson; thence along the ninety acre tract North eighty-four degrees West seven hundred and forty-eight and three tenths (748.3) feet to a post; thence along same and a two hundred and sixty-four (264) acre tract, formerly of D. W. Anderson North four (4) degrees two (2) minutes East eight hundred and ninety-five (895) feet to a post at the corner of said eleven (11) acre tract; thence by said eleven (11) acre tract South seventy-three (73) degrees two (2) minutes East six hundred and ninety (690) feet to a post and thence by same South four (4) degrees two (2) minutes West seven hundred sixty-four (764) feet to post and place of beginning. Containing approximately fourteen and two-tenths (14.2) acres.

Being the first group of six parcels conveyed to William A. E. Leitzinger by deed dated August 25, 1953 and recorded in Clearfield County Deed Book 431, page 374. The said William A. E. Leitzinger died and estate proceedings were opened for him in Clearfield County Pennsylvania in which the foregoing premises were distributed to the Grantors herein as parcel two by Decree of Court recorded at Clearfield County Record Volume 749, page 30.

**PARCEL NO. 7**

**BEGINNING** at the intersection of the Penfield Road, Legislative Route No. 17041, and the Rockton Pike, Legislative Route No. 17063; thence in a Westerly direction along the South line of the right of way of the Rockton Pike to the Western boundary line of lands of the Grantor and lands of the Commonwealth of Pennsylvania; thence in a Southerly direction along the Western line of lands of the Grantor to other lands of the Grantee; thence in an Easterly direction along the entire length of the lands of the Grantee to the Penfield Road, Legislative Route No. 17041 containing sixty (60) acres more or less.

**EXCEPTING AND RESERVING**, the oil and gas with the full rights to prospect for, remove and transport the same, by any commercially approved method.

**EXCEPTING AND RESERVING** from the above parcel, the following adverse conveyance of record.

Conveyance to J. L. Cozen, Jr. by deeds dated February 6, 1996, and January 29, 1996, recorded to Deed Book 1746, page 304 and 1746, page 309 respectively.

Also identified as Clearfield County Tax Map No. 123-J7-15.1

Being the undivided fifty (50%) percent interest conveyed to Wm. A. E. Leitzinger, also known as William A. E. Leitzinger by deed dated January 17, 1957 and recorded in Clearfield County Deed Book 456, page 565 and distributed to the Grantors herein as parcel three under the Decree recorded in Clearfield County Record Volume 749, page 30.

AND the GRANTORS will SPECIALLY WARRANT AND FOREVER DEFEND the property hereby conveyed.

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.

#### NOTICE

*In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/We, the undersigned, 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 purchase 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 print style contrasting with that in the deed proper and is preceded by the word "notice" printed in large print above.*

Witness:

Shirley Blake

as to both

This 4<sup>th</sup> ~~September~~ day of July, 2002.

Buyer(s):

James T. Thomas

Michelle L. Thomas

IN WITNESS WHEREOF, the GRANTORS have caused these presents to be properly executed on the day and year first written above.

Witness:

Calvin K. Thomas

Bonnie S. Louis

Bonnie S. Louis

Bonnie S. Louis

\_\_\_\_\_

\_\_\_\_\_

Eugene Leitzinger  
Eugenia U. Leitzinger

Clara V. Schoderbek  
Clara V. Schoderbek

William Leitzinger, Jr.  
William Leitzinger, Jr.

Shirley A. Leitzinger  
Shirley Leitzinger

Ashley Woolridge  
Ashley Woolridge

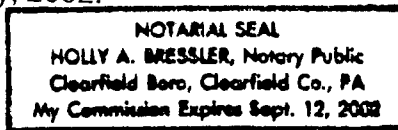
Barbara L. Woolridge  
Barbara L. Woolridge

**ACKNOWLEDGEMENT**

STATE OF PENNSYLVANIA :  
:SS  
COUNTY OF CLEARFIELD :

On this 26<sup>th</sup> day of July, 2002, before me, the unsigned officer, personally appeared **EUGENIA U. LEITZINGER**, a widow, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, and acknowledged that she executed same for the purpose contained therein.

26<sup>th</sup> IN WITNESS WHEREOF, I have hereunto set my hand and official seal this day of July, 2002.



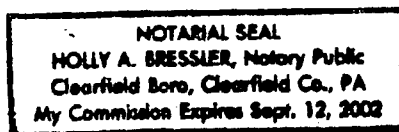
Holly A. Bressler  
Notary Public

**ACKNOWLEDGEMENT**

STATE OF PENNSYLVANIA :  
:SS  
COUNTY OF CLEARFIELD :

On this 26<sup>th</sup> day of July, 2002, before me, the unsigned officers, personally appeared **ASHLEY WOOLRIDGE and BARBARA L. WOOLRIDGE**, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed same for the purpose contained therein.

26<sup>th</sup> IN WITNESS WHEREOF, I have hereunto set my hand and official seal this day of July, 2002.



Holly A. Bressler  
Notary Public

**ACKNOWLEDGEMENT**

STATE OF DELAWARE

:

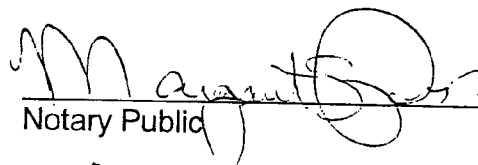
:SS

COUNTY OF Kent

:

On this 8 day of <sup>August</sup>~~July~~, 2002, before me, the unsigned officer, personally appeared **CLARA V. SCHODERBEK**, a single adult, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, and acknowledged that she executed same for the purpose contained therein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 8 day of ~~July~~<sup>August</sup>, 2002.

  
Notary Public

**MARGARET S. PRYOR**  
**NOTARY PUBLIC-DELAWARE**  
My Commission Expires February 5, 2003

**ACKNOWLEDGEMENT**

STATE OF DELAWARE :  
:SS

COUNTY OF Kent :  
: August

On this 8 day of July, 2002, before me, the unsigned officer, personally appeared **WILLIAM LEITZINGER, JR., and SHIRLEY LEITZINGER,** , known to me (or satisfactorily proven) to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed same for the purpose contained therein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this  
8 day of July, 2002.  
August

*Margaret S. Pryor*

**MARGARET S. PRYOR**  
**NOTARY PUBLIC-DELAWARE**  
My Commission Expires February 5, 2003

**CERTIFICATE OF ADDRESS**

I, hereby certify that the correct address of the GRANTEES is as follows:

RR# 1 Box 287  
Clearfield, Pennsylvania, 16830

By: Kimberly K. Kubista, Esquire  
Attorney for the Grantees

County Parcel Nos.:  
123-J7-5, 123-J7-6,  
123-J7-7, 123-J7-8,  
123-J7-9, 123-J7-15.1

## QUITCLAIM DEED

MADE this 13<sup>th</sup> day of August in the year two thousand and two (2002).

BETWEEN WILLIAM C. CHASE, JR., a/k/a WILLIAM C. CHASE and JUDITH G. CHASE, husband and wife, of Mountain View Farm, Stevensburg, Virginia; and EMILY C. WEAVER, single, of 303 W. Market Street, Clearfield, Pennsylvania, parties of the first part, hereinafter referred to as the "GRANTORS";

~~AND~~

TERRY L. THOMAS and MICHELE L. THOMAS, husband and wife, of R.R. 1 Box 287, Clearfield, Pennsylvania, party of the second part, hereinafter referred to as the "GRANTEES".

WITNESSETH, that in consideration of the sum of Seventy Thousand and 00/100 (\$70,000.00) Dollars, in hand paid, the receipt whereof is hereby acknowledged, the said Grantors do hereby release and quitclaim unto the Grantees, their heirs, executors, administrators, and assigns forever,

ALL those certain pieces or parcels of real estate situate in Lawrence Township, Clearfield County, Pennsylvania, and identified by Clearfield Tax Map Numbers 123-J7-5, 123-J7-6, 123-J7-7, 123-J7-8, 123-J7-9, and 123-J7-15.1, which are more particularly bounded and described as follows:

### PARCEL 1

BEGINNING at a post corner of land formerly of A.L. Ogden and on line of property of Mrs. Woods; thence North four (04°) degrees East twenty-eight and four tenths (28.4) perches to a post at the South side of the Rockton road; thence in a Northwest direction along said road at several courses and distances to the District line between Lawrence and Pike Townships; thence along said line South four (04°) degrees seventeen (17') minutes West two hundred eighty-six (286) perches to a post being corner of land conveyed by E.D. Reed and others to Joseph Young; thence along said land South eighty-seven (87°) degrees East eighty-

one (81) perches to a post; thence by same land North (03°) degrees to East thirty (30) perches to a post; thence South eighty-six (86°) degrees East one hundred seventy and nine-tenths (170.9) perches to a post; thence by lands of A.L. Ogden aforesaid South eighty-seven (87°) degrees five (05') minutes East ninety-five and six tenths (95.6) perches to point and place of beginning. Containing approximately 264.46 acres.

EXCEPTING AND RESERVING to the Clearfield Water Company, its successors and assigns, the water right set forth in the deeds in this chain of title and also excepting and reserving therefrom property conveyed by D.W. Anderson to Joseph Kitko by deed dated April 27, 1914, comprising approximately 100 acres, a deed of which is recorded in Deed Book 203, page 136.

EXCEPTING AND RESERVING from the above parcel, the following adverse conveyances of record:

Conveyance to Clearfield Mountain Speedway by deeds dated May 8, 1991, and June 12, 1991, recorded to Deed and Record Book 1405, page 224 and 1405, page 241, respectively.

Conveyance to Laura G. Bender, et al., by deeds dated October 26, 1998 and October 28, 1993, recorded to Clearfield County Deed and Record Book 1986, page 74 and 1986, page 79, respectively.

#### PARCEL 2

BEGINNING at a white oak on the line of land formerly of Singleton Bell; thence by land of Emma Ogden North eighty-six (86°) degrees forty (40') minutes West seven hundred forty-eight and three tenths (748.3) feet to a post and stones; thence by lot conveyed to Emma Ogden, North five (05°) degrees forty-five (45') minutes East five hundred fifty-seven and four tenths (557.4) feet to a post and stone on the line of Charles Nelson land; thence by land of Charles Nelson eighty-five (85°) degrees fifteen (15') minutes West one thousand five hundred twenty-two and five tenths (1,522.5) feet to a post on corner of land of Joseph Young; thence by land of Joseph Young South four (04°) degrees fifty-two (52') minutes West one thousand eight hundred forty-eight (1,848) feet to a pine; thence by land of Bella Carns, South sixty-seven (67°) degrees one thousand four hundred twenty-five (1,425) feet to center of Township Road; thence by center of said road North fifty-seven (57°) degrees thirty (30') minutes East



seventy-seven (77) feet; thence in center of said road North sixty-four (64°) degrees twenty-five (25') minutes East two hundred thirteen and five tenths (213.5) feet to post; thence by lot of Mrs. P.G. Gardner North four (04°) degrees West four hundred forty-eight (448) feet to a post; thence by said lot and land of R.H. Thompson North sixty-eight (68°) degrees fifteen (15') minutes East one thousand eight hundred fifteen (1,815) feet to a post; thence by same North six (06°) degrees East one hundred sixty-eight (168') minutes to white oak, now post; thence by land of Singleton Bell North five (05°) degrees East six hundred thirty-one (631) feet to post and place of beginning. Containing 90 acres net.

EXCEPTING AND RESERVING from the above parcel, the following adverse conveyance of record:

Conveyance to Ashley L. Carns, et al., by deed dated June 6, 1947, recorded to Deed Book 385, page 53.

PARCEL NO. 3

BEGINNING at a post on the line of A.M. Woodward; thence by other land of D.W. Anderson North four (04°) degrees two (02') minutes East one thousand three hundred fifty-six (1,356) feet to a stake; thence by land of same North seventy-three (73°) degrees two (02') minutes West six hundred ninety (690) feet to stake on the line of land formerly of Elizabeth Bunchko, now John Leitzinger; thence by land of the said Elizabeth Bunchko, North five (05°) degrees twenty (20) minutes East one hundred thirty-one (131) feet to a point in the center of Rockton road, thence along said road seventy-three (73°) degrees two (02') minutes East six hundred ninety (690) feet to a post; thence along said road South sixty-one (61°) degrees twenty-eight (28') minutes East three hundred seventeen (317) feet to a point; thence along land formerly owned by Susie Lippert, South four (04°) degrees West one thousand three hundred fifty-six (1,356) feet to a stake in the line of A.M. Woodward; thence along land of A.M. Woodward North eighty-seven (87°) degrees thirty-five (35') minutes West two hundred eighty-four (284) feet to a point and place of beginning. Containing 11.55 acres.

PARCEL NO. 4

ON the South by a public road, on the East by lands of Mary Fox; on the North by lands of Lan Ogden; on the West by lands of Edward Reed. Containing one acre, more or less.

PARCEL NO. 5

BEGINNING at the intersection of the Penfield Pike and the Rockton Road; thence North sixty-three (63°) degrees ten (10') minutes West three hundred eighty-eight (388) feet to a post; thence South four (04°) degrees thirty (30') minutes West eight hundred ten (810) feet to a post; thence North seventy-nine (79°) degrees thirty (30') minutes East along the land of Anna May Yeager four hundred seventy-four (474) feet to a point on the Penfield Pike; thence North six (06°) degrees West five hundred fifty-two and five tenths (552.5) feet to point and place of beginning.

PARCEL NO. 6

BEGINNING at a point on the Western line on a eleven and fifty-five one hundred (11.55) acre tract and being the Northeastern corner of a ninety acre tract, both formerly owned by D.W. Anderson; thence along the ninety acre tract North eighty-four (84°) degrees West seven hundred and forty-eight and three tenths (748.3) feet to a post; thence along same and a two hundred and sixty-four (264) acre tract, formerly of D.W. Anderson North four (04°) degrees two (02') minutes East eight hundred and ninety-five (895) feet to a post at the corner of said eleven (11) acre tract; thence by said eleven (11) acre tract South seventy-three (73°) degrees two (02') minutes East six hundred and ninety (690) feet to a post and thence by same South four (04°) degrees two (02') minutes West seven hundred sixty-four (764) feet to post and place of beginning. Containing approximately fourteen and two-tenths (14.2) acres.

BEING a portion of the same premises conveyed to Harold Boulton by deed dated August 25, 1953, which deed is recorded in the Office of the Recorder of Deeds for Clearfield County to Deed Book 431, page 370.

PARCEL NO. 7

BEGINNING at the intersection of the Penfield Road, Legislative Route No. 17041, and the Rockton Pike,

Legislative Route No. 17063; thence in a Westerly direction along the South line of the right of way of the Rockton Pike to the Western boundary line of lands of the Grantor and lands of the Commonwealth of Pennsylvania; thence in a Southerly direction along the Western line of lands of the Grantor to other lands of the Grantee; thence in an Easterly direction along the entire length of the lands of the Grantee to the Penfield Road, Legislative Route No. 17041. Containing sixty (60) acres more or less.

EXCEPTING AND RESERVING, the oil and gas with the full rights to prospect for, remove and transport the same, by any commercially approved method.

EXCEPTING AND RESERVING from the above parcel, the following adverse conveyance of record:

Conveyance to J.L. Cozen, Jr., by deeds dated February 6, 1996, and January 29, 1996, recorded to Deed Book 1746, page 304 and 1746, page 309, respectively.

EXCEPTING and RESERVING unto the Grantors, their heirs and assigns forever, from all of the above-described property, (Parcel #1 through Parcel #7) all of the oil, gas and other related hydrocarbons and products associated with the production therewith in, under and upon the subject premises, together with all necessary rights to explore for, drill, produce, and transport such oil and gas over, upon and through the same.

BEING a part of the same premises which Julia K. Boulton, deceased, by her Last Will and Testament and Decree of Distribution entered in her Estate in the Court of Common Pleas of Clearfield County, Pennsylvania at No. 95-334, devised unto her children, William C. Chase, Jr. and Emily Chase Weaver, Grantors herein.

TOGETHER with all and singular, the improvements, privileges, hereditaments, and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, property, claim, and demand whatsoever of the said party/ies of the first part, in law, equity, or otherwise, howsoever, of, in, and to the same, and every part thereof.

# NOTICE

Grantee (hereinafter, whether one or more, called "Grantee") hereby states that he knows that he 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 interests in the coal. (THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1996.)

\_\_\_\_\_  
\_\_\_\_\_  
*Terry L. Thomas*  
Terry L. Thomas  
*Michele L. Thomas*  
Michele L. Thomas

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).

IN WITNESS WHEREOF, the said Grantors have set their hand and seal the day and year first above written.

Sealed and Delivered  
in the presence of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*William C. Chase, Jr.* (SEAL)  
William C. Chase, Jr., a/k/a  
*William C. Chase* (SEAL)  
William C. Chase  
*Judith G. Chase* (SEAL)  
Judith G. Chase  
*Emily C. Weaver* (SEAL)  
Emily C. Weaver  
*John S. [unclear]*

STATE OF Virginia :  
COUNTY OF Culpeper : SS.

On this, the 15<sup>th</sup> day of August, 2002, before me, the undersigned authority, personally appeared William C. Chase, Jr., a/k/a William C. Chase, known to me (or satisfactorily proven) to be the person whose name is 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 official seal.

Delnah C. Hoffman  
Notary Public

My Commission Expires:  
December 31, 2004

STATE OF Virginia :  
COUNTY OF Culpeper : SS.

On this, the 15<sup>th</sup> day of August, 2002, before me, the undersigned authority, personally appeared Judith G. Chase, known to me (or satisfactorily proven) to be the person whose name is 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 official seal.

Delnah C. Hoffman  
Notary Public

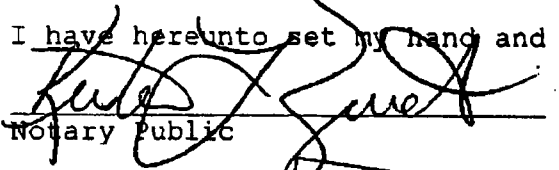
My Commission Expires:  
December 31, 2004

COMMONWEALTH OF PENNSYLVANIA :  
COUNTY OF CLEARFIELD : SS.

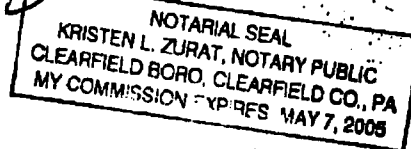
On this, the 13<sup>th</sup> day of August, 2002, before me, the undersigned authority, personally appeared Emily C. Weaver, known to me (or satisfactorily proven) to be the person whose name is

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 official seal.

  
Notary Public

My Commission Expires:

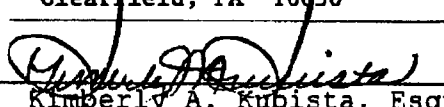


Certificate of Residence

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

R.R. 1, Box 287

Clearfield, PA 16830

  
Kimberly A. Kubista, Esquire  
Attorney for Grantees

KAREN L. STARCK  
REGISTER AND RECORDER  
CLEARFIELD COUNTY  
Pennsylvania

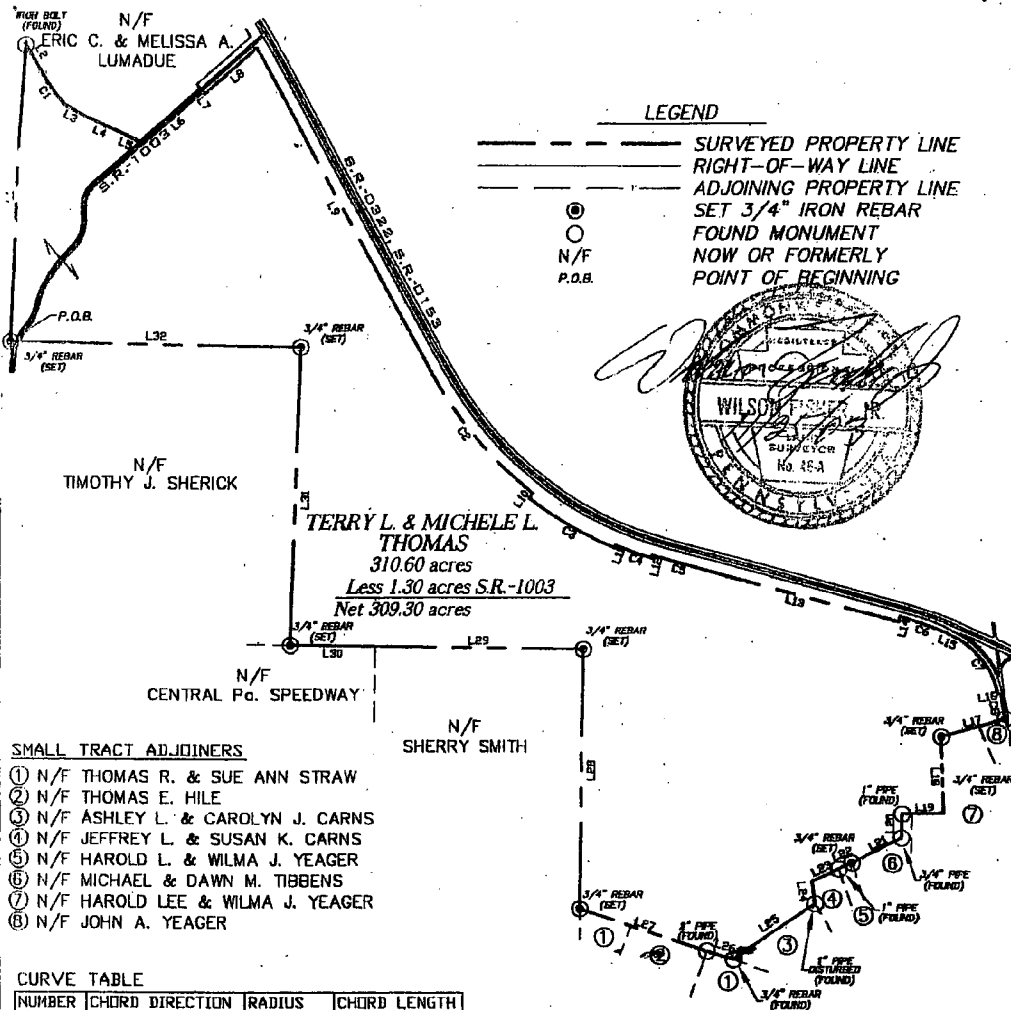
INSTRUMENT NUMBER  
**200215102**

RECORDED ON  
**Sep 20, 2002**  
**3:41:37 PM**  
Total Pages: 8

RECORDING FEES - \$22.00  
RECORDER  
COUNTY IMPROVEMENT \$2.00  
FUND  
RECORDER IMPROVEMENT \$3.00  
FUND  
STATE TRANSFER TAX \$700.00  
STATE WRIT TAX \$0.50  
LAWRENCE TOWNSHIP \$350.00  
CLEARFIELD AREA \$350.00  
SCHOOLS  
TOTAL \$1,427.50  
CUSTOMER  
BELIN & KUBISTA

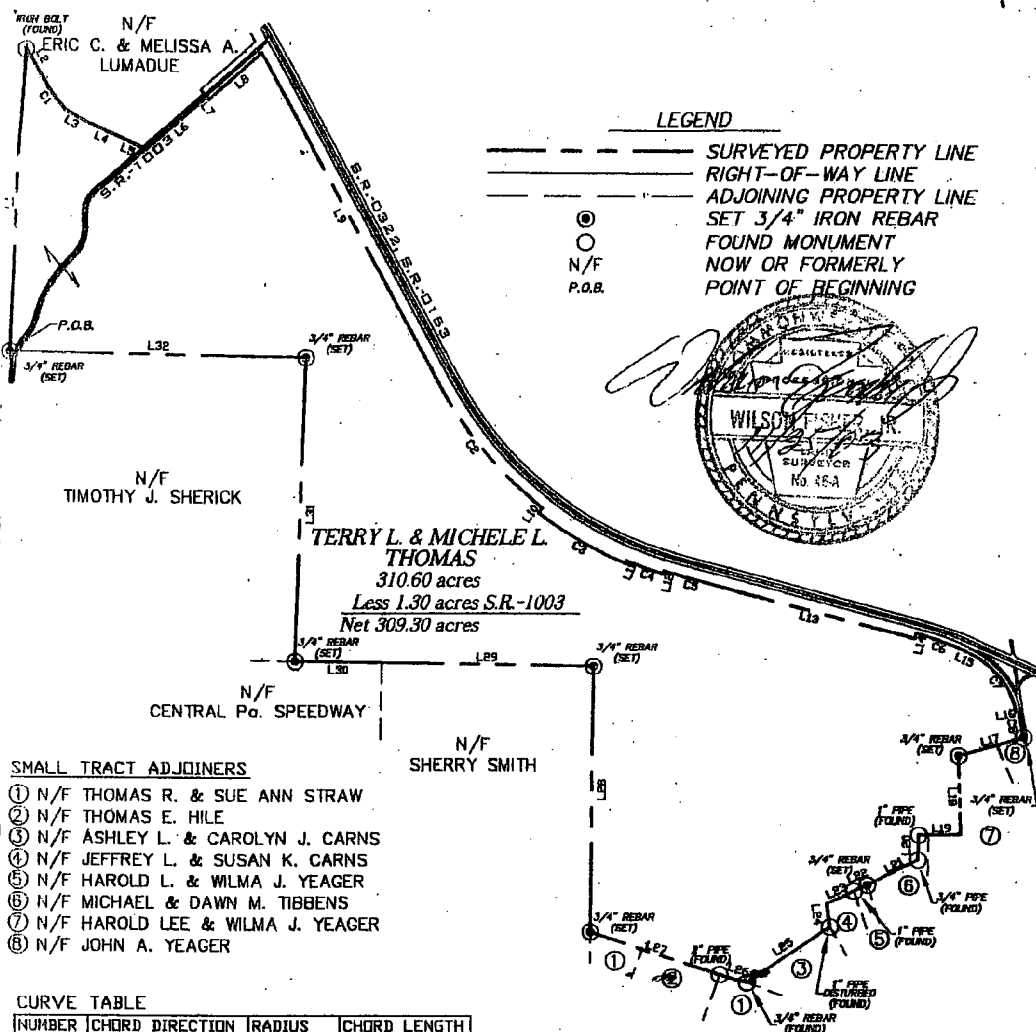
**EXHIBIT B**

Attached hereto is a true and correct copy of the survey of plaintiffs' property performed by Hess & Fisher Engineers on September 12, 2003.



DRAWN BY: RL	FILE NO.:	<b>PLAT OF LANDS OF</b> <b>TERRY L. &amp; MICHELE L. THOMAS</b> <b>LAWRENCE TOWNSHIP, CLEARFIELD COUNTY</b> <b>HESS &amp; FISHER ENGINEERS, INC.</b> CONSULTING ENGINEERS & GEOLOGISTS 36 NORTH SECOND STREET CLEARFIELD, PENNSYLVANIA 16830 814-765-7541
CHECKED BY: WF	JOB NO.:	
DATE: 9/12/03	FB NO.:	
SCALE: 1"=1000'	REVISION	
cadserver/thomas/thomas.dwg		

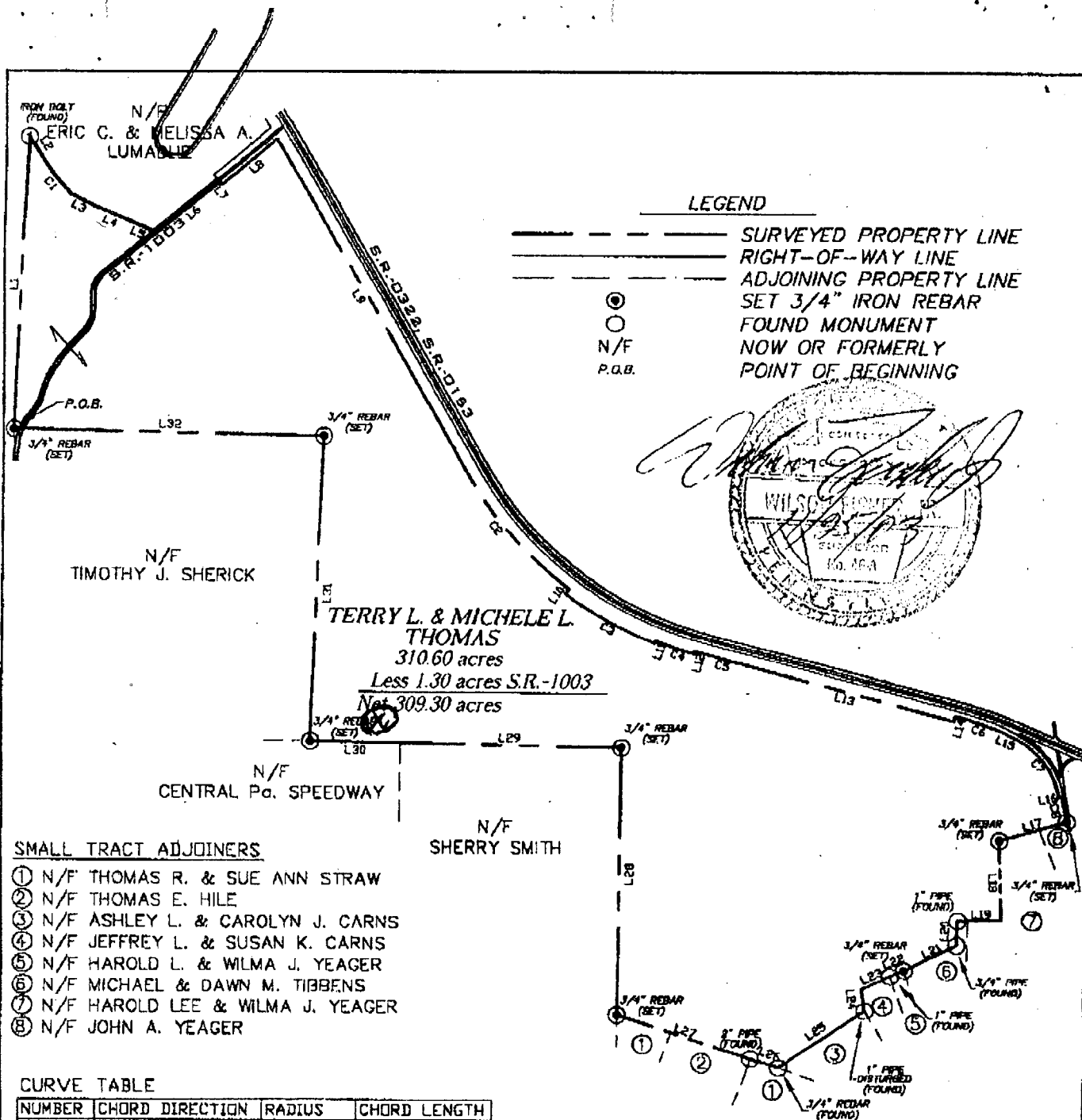




DRAWN BY: RL	FILE NO.:	PLAT OF LANDS OF TERRY L. & MICHELE L. THOMAS LAWRENCE TOWNSHIP, CLEARFIELD COUNTY	
CHECKED BY: WF	JOB NO.:		
DATE: 9/12/03	FB NO.:	<b>HESS &amp; FISHER ENGINEERS, INC.</b> CONSULTING ENGINEERS & GEOLOGISTS 36 NORTH SECOND STREET CLEARFIELD, PENNSYLVANIA 16830 814-765-7541	
SCALE: 1"=1000'	REVISION		
cadservers/thomas/thomas.dwg		BY	

EXHIBIT C

Attached hereto is a survey map of Hess & Fisher Engineers,  
with "x" marks showing where the vehicles and debris are located.



BEARING BASE  
MAGNETIC NORTH  
TAKEN APRIL 14, 2003

EXHIBIT D

Attached hereto is an itemization of the costs plaintiffs will incur in removal of the vehicles and debris from their property and for land restoration.

COSTS FOR REMOVAL OF VEHICLES AND DEBRIS

13 junk cars - rollback (4 miles or less) - \$45.00 each	\$ 585.00
2 tanker trailers and 1 flatbed trailer, \$400 each	\$1,200.00
Approximately 200 tires, average \$4.00 each	\$ 800.00
Garbage, wood, signs, rims	
30 cubic yard dumpster - \$315.00	
10 ton dump fee - \$430.00	
	\$ 745.00
Final clean up labor and equipment	<u>\$1,000.00</u>
TOTAL:	\$4,330.00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA Docket No. 04-        -CD	
TERRY L. THOMAS and MICHELE L. THOMAS, Plaintiffs	
-vs-	
FERDIN E. WALLACE and SHERRY S. WALLACE, Defendants	
COMPLAINT IN EJECTMENT AND TRESPASS	
Dwight L. Koerber, Jr., Esquire 110 North Second Street P. O. Box 1320 Clearfield, PA 16830	

FILED

FEB 20 2004

William A. Shaw,  
Prothonotary/Clerk of Courts

Date: 06/29/2005

Clearfield County Court of Common Pleas

User: BILLSHAW

Time: 02:24 PM

ROA Report

Page 1 of 2

Case: 2004-00253-CD

Current Judge: Fredric Joseph Ammerman

Terry L. Thomas, Michele L. Thomas vs. Ferdin E. Wallace, Sherry S. Wallace

Civil Other

Date		Judge
02/20/2004	X Filing: Civil Complaint in Ejectment and Trespass. Paid by: Koerber, Dwight Receipt number: 1874112 Dated: 02/20/2004 Amount: \$85.00 (Check) 4 Cert. to Atty.	No Judge
03/19/2004	X Answer, New Matter and Counter Claim. filed by, s/Chris A. Pentz, Esquire Verification s/Ferdin Wallace 1 cc Atty Pentz	No Judge
04/07/2004	X Preliminary Objections Directed To Counterclaim. filed by, s/Dwight L. Koerber, Jr., Esquire Certificate of Service 4 cc Atty Koerber	No Judge
05/04/2004	X Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
05/12/2004	X ORDER, AND NOW, htis 12th day of May, 2004, re: Argument on Preliminary Objections scheduled for the 14th day of June, 2004, at 9:30 a.m. in Courtroom No. 1. by the Court, s/FJA, P.J. 2 cc & Service Memo to Atty Koerber	Fredric Joseph Ammerman
06/15/2004	X Order NOW, this 14th day of June, 2004, this being the time and date set for argument on Plaintiffs' Preliminary Objections, it is the ORDER and DECREE of this Court that the Preliminary Objections are hereby sustained. Defendants are hereby allowed a period of thirty days within which to file an amended Counterclaim that conforms with the PA Rules of Civil Procedure. Failure to submit a conforming within that time period shall entitle Plaintiffs to judgment as requested in the complaint. S/FJA 3 CC Atty. Koerber 3 CC Atty. Pentz.	Fredric Joseph Ammerman
07/14/2004	X First Amended Counter Claim, filed by s/Chris A. Pentz, Esq. One CC Attorney Pentz	Fredric Joseph Ammerman
07/16/2004	X Motion for Judgment on Counterclaim, filed by s/Dwight L. Koerber, Jr., Esq. Three CC Attorney Koerber	Fredric Joseph Ammerman
07/19/2004	X Praeipce to Withdraw Motion for Judgment on Counterclaim, filed by s/Dwight L. Koerber, Jr., Esq. No CC	Fredric Joseph Ammerman
08/27/2004	X Answer and New Matter Of Plaintiffs to Counterclaim of Defendants, filed by s/Dwight L. Koerber, Jr., Esq. 3 CC Atty Koerber. Certificate of Service, upon Chris A. Pentz, Esq.	Fredric Joseph Ammerman
09/27/2004	X Reply To New Matter, on behalf of Defendants, filed by s/ Chris A. Pentz, Esq. 1 CC to Atty.	Fredric Joseph Ammerman
12/28/2004	X Certificate of Service, original and 2 copies of the REQUEST FOR ADMISSIONS upon counsel for Defendants, on 28th of Dec., 2004. Filed by s/ Dwight L. Koerber, Jr., Esquire. 3CC Atty Koerber	Fredric Joseph Ammerman
	X Certificate of Service, original and 2 copies of the SET ONE INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS upon counsel for Defendants, on 28th of Dec., 2004. Filed by s/ Dwight L. Koerber, Jr., Esquire. 3CC Atty Koerber	Fredric Joseph Ammerman
01/24/2005	X Certificate of Service, Answers to Request for Admissions upon Dwight L. Koerber, Jr., Esquire, on Jan. 24, 2005. Filed by s/ Chris A. Pentz, Esquire. No CC	Fredric Joseph Ammerman
02/24/2005	X Motion to Compel Answers to Set I Interrogatories and Request for Production of Documents filed by Plaintiffs, filed by s/Dwight L. Koerber, Jr., Esq. Three CC Attorney Koerber	Fredric Joseph Ammerman

## Civil Other

Date		Judge
03/01/2005	X Order, AND NOW, this 1st day of March, 2005, upon consideration of the Motion to Compel filed by Plaintiffs, it is the Order and decree of this Court that defendants show cause why an Order should not be entered compelling them to properly respond to the Set I Interrogatories and Request for Production of Documents. Written response is due 30 days from the date of the entry of this Order. BY THE COURT, Fredric J. Ammerman, President Judge. 3CC to Atty	Fredric Joseph Ammerman
03/02/2005	X Certificate of Service, certified copy of the Motion to Compel and the Rule Returnable Order, on the 1st of March, 2005, upon Chris A. Pentz, Esquire. Filed by s/ Dwight L. Koerber, Jr. 3CC Atty Koerber	Fredric Joseph Ammerman
04/11/2005	X Certificate of Service On March 29, 2005 served Answers to Set One Interrogatories and request for Production of Documents upon Dwight Koerber Jr. Filed by C. Pentz. No cc.	Fredric Joseph Ammerman
04/14/2005	X Certificate of Service, Original and two copies of Set Two Interrogatories and Request for Production of Documents was served upon Defendants Counsel, C. Pentz, Esq. s/ Dwight L. Koerber, Jr. 3 CC to Atty Koerber.	Fredric Joseph Ammerman
05/31/2005	X Motion of Plaintiffs for Summary Judgment, filed by s/ Dwight L Koerber, Jr., Esquire. 3CC Atty Koerber	Fredric Joseph Ammerman
	X Praecipe, filed by s/ Dwight L. Koerber, Jr., Esquire. 3CC Atty. Koerber	Fredric Joseph Ammerman
	X Set I Interrogatories and Request for Production of Documents Directed to Defendants, filed by s/ Dwight L. Koerber, Jr., Esquire. 2CC Atty Koerber	Fredric Joseph Ammerman
	X Answers to Request for Admission, filed by s/ Dwight L. Koerber, Esquire, signed by Def. 2CC Atty Koerber	Fredric Joseph Ammerman
06/01/2005	X Order, AND NOW, this 1st day of June, 2005, upon consideration of the Motion for Summary Judgment filed by the Plaintiffs, it is the ORDER of this Court that this matter shall be disposed of pursuant to the provisions of Pa.R.C.P. 1035, et seq. Argument, with subsequent briefing as determined by the Court, is scheduled for the 23rd day of June, 2005, at 2:30 p.m. in Court Room No. 1. BY THE COURT: /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty Koerber	Fredric Joseph Ammerman
06/02/2005	X Certificate of Service, Order dated June 1, 2005, served upon Chris A. Pentz, Esq. Filed By Dwight L. Koerber, Jr., Esq. 4CC.	Fredric Joseph Ammerman
06/13/2005	X Civil Continuance Request, filed by s/ Chris A. Pentz, Esquire. No CC	Fredric Joseph Ammerman
06/14/2005	X Scheduling Order, this 14th day of June, 2005, upon consideration of the Def.'s Request for Continuance, a hearing is scheduled for the 8th day of July, 2005 at 2:30 p.m. in Court Room No. 1. BY THE COURT: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Pentz	Fredric Joseph Ammerman
06/22/2005	X Order, this 22nd day of June, 2005, it is the Order of the Court that argument on Plaintiffs' Motion For Summary Judgment has been rescheduled from June 23, 2005 to Friday, July 8, 2005 at 2:30 p.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Koerber, Pentz	Fredric Joseph Ammerman



Date: 11/07/2005

Clearfield County Court of Common Pleas

User: LBENDER

Time: 12:19 PM

ROA Report

Page 1 of 1

Case: 2004-00253-CD

Current Judge: Fredric Joseph Ammerman

Terry L. Thomas, Michele L. Thomas vs. Ferdin E. Wallace, Sherry S. Wallace

Civil Other

Date	Selected Items	Judge
07/11/2005	✓ Supplemental Motion of Plaintiffs For Summary Judgment, filed by s/ Dwight L. Koerber, Jr., Esquire. 4CC Atty Koerber	Fredric Joseph Ammerman
	✓ Order, this 8th day of July, 2005, following argument on Plaintiffs' Motion for Summary Judgment, ORDERED that Defs. shall have no more than 20 days from this date in which to file an Answer to Plaintiffs' Motion for Summary Judgment; Counsel for both parties shall have no more than 45 days from this date in which to submit appropriate letter brief to the Court, By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Koerber, Pentz	Fredric Joseph Ammerman
07/13/2005	✓ Order, this 13th day of July, 2005, Supplemental Motion of Plaintiffs for Summary Judgment is accepted for filing and shall be disposed of in accordance with the time table and procedures outlined in the July 8, 2005 Order entered in this matter. /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty Koerber	Fredric Joseph Ammerman
07/18/2005	✓ Certificate of Service, July 14, 2005 copy of Order dated July 13, 2005 served upon Chris A. Pentz, Esq. Filed by Dwight L. Koerber, Jr. Esq. 3 CC.	Fredric Joseph Ammerman
07/25/2005	✓ Motion For Extension/Order, filed by s/ Chris A. Pentz, Esquire. No CC	Fredric Joseph Ammerman
07/27/2005	✓ Order, this 26th day of July, 2005, upon consideration of the Motion for Extension filed on behalf of the Defendants, it is ORDERED that the time for filing the Answer be extended to Aug. 16, 2005. By The Court, /s/ Fredric J. Ammerman, Judge. 2CC Atty Pentz	Fredric Joseph Ammerman
07/28/2005	✓ Answer To Motion For Summary Judgement, filed by s/ Chris Pentz, Esquire 1CC Atty Pentz	Fredric Joseph Ammerman
11/04/2005	✓ Opinion And Order, NOW, this 3rd day of Nov., 2005, after consideration of the Plaintiffs' Motion for Partial Summary Judgment, the Court hereby finds as follows: 1. The Defendants' Counterclaim of Adverse Possession is hereby Dismissed. 2. The Plaintiffs' Claim for Ejectment is Granted. 3. The Court hereby Defers ruling on damages related to the Plaintiffs' Claim for Trespass. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Koerber, Pentz	Fredric Joseph Ammerman

# Fax

**To:** Sharon

**From:** William A. Shaw

**Fax:** 342-0870

**Date:** October 31, 2005

**Phone:**

**Pages:** 4

**Re:** Judgement Report

**CC:**

☐ **Urgent**

☒ **For Review**

☐ **Please Comment**

☐ **Please Reply**

☐ **Please Recycle**

**•Comments:**

William A. Shaw  
Prothonotary/Clerk of Courts

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

vs

No. 2004-253 -CD

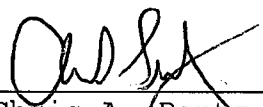
FERDIN WALLACE and  
SHERRY S. WALLACE,  
Defendants

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 days after this answer and Counterclaim 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 the 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.

Office of Court Administrator  
Clearfield County Courthouse  
1 North Second Street  
Clearfield PA 16830  
814 765-2641, Extension 5982

  
Chris A. Pentz  
Attorney for Defendants

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

TERRY L. THOMAS and,  
MICHELLE L. THOMAS  
Plaintiffs

vs

FERDIN WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

No. 04- 253 -CD

ANSWER, NEW MATTER, AND COUNTER CLAIM

COUNT I  
EJECTMENT

1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted in part and denied in part. Paragraph 2 is denied to the extent that the Defendants reside at 273A Nelson Road, Clearfield Pennsylvania 16830.
3. Paragraph 3 is denied. After reasonable investigation, the Defendants are without sufficient knowledge and information to form a belief as to the averment.
4. Paragraph 4 is admitted in part and denied in part. It is admitted that Exhibit A are true and correct copies of deeds to the Plaintiffs. The remainder of the allegation is denied in that after reasonable investigation the Defendants are without sufficient knowledge and information to form a belief as to the averment.
5. Paragraph 5 is denied. After reasonable investigation, the Defendants are without sufficient knowledge and information to form a belief as to the averments.
6. Paragraph 6 is denied. After reasonable investigation, the Defendants are without sufficient knowledge and information to form a belief as to the averment.
7. Paragraph 7 is admitted in part and denied in part. It is admitted that Exhibit B sets forth true and correct copies of the survey performed by Hess & Fisher Engineers dated September 12, 2003. However, Paragraph 7 is denied as to the correctness of the survey in that after reasonable investigation the Defendants are without sufficient knowledge and information to form a belief as to the averments.

8. Paragraph 8 is denied. The Defendants believe and therefore aver that the vehicles in question are located on property which is owned by the Defendants.

9. Paragraph 9 is denied. After reasonable investigation the Defendants are without sufficient knowledge and information to form a belief as to the averment. By way of further answer, the answer set forth in Paragraph 8 above is incorporated herein by reference.

10. Paragraph 10 is admitted in part and denied in part. It is admitted that the Plaintiff requested the Defendant, Ferdin E. Wallace, to remove certain vehicles and other items. However, the Defendants deny that the realty in question is owned by the Plaintiffs.

11. Paragraph 11 is admitted. By way of further answer, the Defendants incorporate the answer set forth in Paragraphs 8 and 10 above.

12. Paragraph 12 is denied. The realty in question is owned by the Defendants.

13. Paragraph 13 - No response required.

WHEREFORE, Defendants demand judgment in their favor and against the Plaintiffs.

## COUNTER II

### **TRESPASS**

Paragraphs 1 through 13 above of this Answer are incorporated herein by reference as though set forth in full.

14. Paragraph 14 is denied. The realty in question on which the vehicles and other items are located is owned by the Defendants.

15. Paragraph 15 is denied. After reasonable investigation the Defendants are without sufficient knowledge and information to form a belief as to the averment.

16. Paragraph 16 is denied. After reasonable investigation the Defendants are without sufficient knowledge and information to form a belief as to the averment.

17. Paragraph 17 is denied. After reasonable investigation the Defendants are without sufficient knowledge and information to form a belief as to the averment.

18. Paragraph 18 - No Answer required.

WHEREFORE, Defendants demand judgment in their favor and against Plaintiffs.

**NEW MATTER**

19. The debris referred to in paragraph 8 of the Complaint was not placed on the property by Defendants.

20. The Defendants believe and therefore aver that person or persons associated with the Clearfield Speedway placed the debris on the property in question.

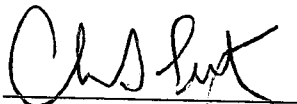
**COUNTER CLAIM**

21. Paragraphs 1 through 18 of this Answer and Counterclaim are incorporated herein by reference.

22. The Plaintiffs on the counterclaim and their predecessors in titled have exercised adverse, continuous, visible, notorious, exclusive, and hostile possession over the premises in question and have continued such possession for a period in excess of twenty-one (21) years.

WHEREFORE, Plaintiffs on the Counter Claim demand judgment in their favor and against the Defendants on the Counter Claim and such other relief as the Court may deem appropriate.

Respectfully submitted this 18 day of March, 2004

  
Chris A. Pentz  
211 1/2 East Locust Street  
P. O. Box 552  
Clearfield PA 16830  
814 765-4000  
Supreme Court # 39232

VERIFICATION

I, FERDIN WALLACE, verify that the statements made in this  
ANSWER, NEW MATTER, and COUNTERCLAIM 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.

3-18-04  
Date

Ferdin Wallace  
Ferdin Wallace



CHRIS A. PENTZ  
ATTORNEY AT LAW  
211 1/2 East Locust Street  
CLEARFIELD, PENNSYLVANIA 16830

Fold Here

FILED 1cc  
MAR 19 2004  
William A. Shaw  
Prothonotary/Clerk of Courts  
CO Amy Pentz

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

-vs-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

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Docket No. 2004-253-CD

Type of Pleading:  
PRELIMINARY OBJECTIONS  
DIRECTED TO COUNTERCLAIM

Filed on behalf of:  
PLAINTIFFS: Terry L. Thomas  
and Michelle L. Thomas

Counsel of Record for  
this Party:

LAW OFFICES OF DWIGHT L.  
KOERBER, JR.

Dwight L. Koerber, Jr., Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED**

**APR 07 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

-vs-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

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Docket No. 2004-253-CD

**PRELIMINARY OBJECTIONS DIRECTED TO COUNTERCLAIM**

COME NOW, the Plaintiffs, by and through their attorney, Dwight L. Koerber, Jr. Esquire, and file the within Preliminary Objections Directed to Counterclaim filed by the Defendants, Ferdin Wallace and Sherry S. Wallace.

**I.  
FAILURE TO CONFORM TO RULE OF LAW**

(1) Pa. R.C.P. 1019 (a) requires that the material facts upon which a cause of action or defense is based shall be set forth in a concise and summary fashion.

Plaintiffs have failed to comply with this requirement as they have set forth no facts of any nature to support alleged defense or cause of action which they have identified as a claim for adverse possession.

(2) Pennsylvania is a fact pleading state and the failure of the Plaintiffs to plead any facts in support of their Counterclaim renders it insufficient, contrary to the requirements of Rule 1019 (a) of the Pennsylvania Rules of Civil Procedure.

(3) The Counterclaim is also contrary to the provisions of Pa. R.C.P. 1019 (f) for

failure to set forth averments of time and place that are relying upon.

(4) A further basis for granting the Preliminary Objections herein is the failure of Plaintiffs to set forth the specific written document that they are relying upon, as required by Rule 1019 (h).

(5) Defendants assert that they hold title to certain property, but have not attached the deed to identify the property and likewise have not attached the deeds of the predecessors in title that they have referred to. The requirement are that Defendants produce these written documents is embodied in Pa. R.C.P. 1019 (h) and Defendants have failed to meet this requirement.

WHEREFORE, Plaintiffs pray that the Preliminary Objections be granted and that the Counterclaim filed by Defendants be dismissed.

## **II.**

### **INSUFFICIENT SPECIFICITY IN THE PLEADING**

(6) Pa. R.C.P. 1028 (a)(3) provides the Preliminary Objections may be filed for insufficient specificity in a pleading.

(7) The Counterclaim filed herein is clearly insufficient in specificity, as it offers no details to demonstrate that any of the five (5) elements of adverse possession have been met.

(8) Due to the lack of specificity, Plaintiffs are unable to set forth a meaningful response to the Counterclaim, as they have no specific facts which can be addressed and replied to.

WHEREFORE, Plaintiffs pray that their Preliminary Objections be granted and that the Counterclaim be stricken due to insufficient specificity.

**III.**  
**DEMURRER**

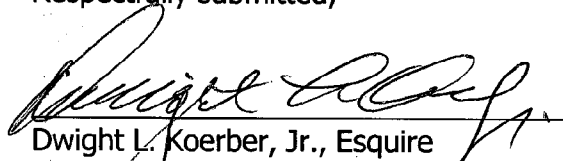
(9) Pa. R. C.P. 1028 (a)(4) provides that Preliminary Objections may be filed in the form of a demurrer when there is a legal insufficiency in the pleading.

(10) In this pleading, the Defendants have failed to allege facts sufficient to establish a cause of action.

(11) Due to the absence of any facts to support a claim of adverse possession or any other cause of action, the demurrer should be granted.

WHEREFORE, the Plaintiffs pray that their Preliminary Objections in the form of demurrer be granted and that the Counterclaim be dismissed for legal insufficiency.

Respectfully submitted,

  
Dwight L. Koerber, Jr., Esquire  
Pa I.D. No. 16332

Law Offices of Dwight L. Koerber, Jr.  
110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

Attorney for Plaintiffs:  
Terry L. Thomas and Michelle L. Thomas  
Michelle L. Thomas

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

-vs-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

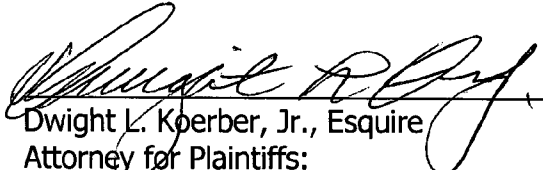
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Docket No. 2004-253-CD

**CERTIFICATE OF SERVICE**

I certify that on the 7<sup>th</sup> day of April, 2004, the undersigned served a true and correct copy of the foregoing Preliminary Objections Directed to Counterclaim in the above-captioned matter upon counsel for the Defendants. Such documents were served via United States First Class Mail upon the following:

Chris A. Pentz, Esquire  
211 1/2 East Locust Street  
P. O. Box 552  
Clearfield, PA 16830

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and Michelle L. Thomas

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
DOCKET NO. 2004-253-CD

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

vs.

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

PRELIMINARY OBJECTIONS DIRECTED  
TO COUNTERCLAIM

4cc

Of 3:02 PM  
APR 07 2004  
Dwight Koerber

By: T. A. S. A.  
P. O. Box 1320, Clearfield, PA 16830

LAW OFFICE  
DWIGHT KOERBER, JR.  
ATTORNEY-AT-LAW  
110 NORTH SECOND STREET  
P. O. BOX 1320  
CLEARFIELD, PENNSYLVANIA 16830

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

THOMAS, TERRY L. & MICHELE L.

VS.

WALLACE, FERDIN E. & SHERRY S.

Sheriff Docket #

15216

04-253-CD

**COMPLAINT IN EJECTMENT AND TRESPASS**

**SHERIFF RETURNS**

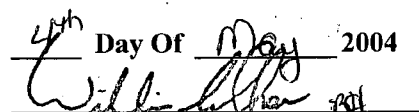
NOW FEBRUARY 24, 2004 AT 10:30 AM SERVED THE WITHIN COMPLAINT IN EJECTMENT AND TRESPASS ON FERDIN E. WALLACE, DEFENDANT AT RESIDENCE, 1117 OLD TOWN ROAD, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO FERDIN E. WALLACE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN EJECTMENT AND TRESPASS AND MADE KNOWN TO HIM THE CONTENTS THEREOF.  
SERVED BY: SHFF. HAWKINS

NOW FEBRUARY 24, 2004 AT 10:32 AM SERVED THE WITHIN COMPLAINT IN EJECTMENT AND TRESPASS ON SHERRY S. WALLACE, DEFENDANT AT RESIDENCE, 1117 OLD TOWN ROAD, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO FERDIN E. WALLACE, HUSBAND A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN EJECTMENT AND TRESPASS AND MADE KNOWN TO HIM THE CONTENTS THEREOF.  
SERVED BY: SHFF. HAWKINS

**Return Costs**

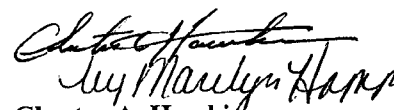
Cost	Description
26.37	SHERIFF HAWKINS PAID BY: ATTY CK# 1809
20.00	SURCHARGE PAID BY: ATTY CK# 1810

**Sworn to Before Me This**

4<sup>th</sup> Day Of May 2004  


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

**So Answers,**

  
Chester A. Hawkins  
Sheriff

**FILED**

013:4084  
MAY 04 2004

William A. Shaw  
Prothonotary/Clerk of Courts



CP

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS

vs.

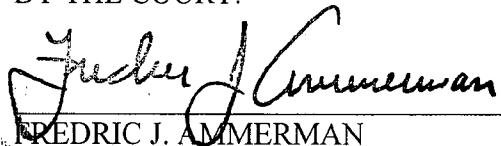
FERDIN WALLACE and  
SHERRY S. WALLACE

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: No. 04-253-CD  
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**ORDER**

AND NOW, this 12th day of May, 2004, upon consideration of Preliminary Objections Directed to Counterclaim, it is the ORDER of the Court that argument on said Preliminary Objections has been scheduled for the 14 day of June, 2004, at 9:30 A.M. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

**FILED**

**MAY 12 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

FILED  
P/3:03 PM  
MAY 12 2004

2009 Service  
memo to Amy Kobes Des

William A. Shaw  
Prothonotary/Clerk of Courts

WAS

2009

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS

-VS-

FERDIN WALLACE and  
SHERRY S. WALLACE

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No. 04-253-CD

O R D E R

NOW, this 14th day of June, 2004, this being the time and date set for argument on Plaintiffs' Preliminary Objections, it is the ORDER and DECREE of this Court that the Preliminary Objections are hereby sustained.

Defendants are hereby allowed a period of thirty (30) days within which to file an amended Counterclaim that conforms with the Pennsylvania Rules of Civil Procedure. Failure to submit a conforming within that time period shall entitle Plaintiffs to judgment as requested in the complaint.

BY THE COURT,



President Judge

FILED

JUN 15 2004

William A. Shaw  
Prothonotary

JUN 15 2004

Prothonotary



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

TERRY L. THOMAS and,  
MICHELLE L. THOMAS  
Plaintiffs

vs

FERDIN WALLACE and  
SHERRY S. WALLACE,  
Defendants

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No. 04- 253 -CD

FIRST AMENDED COUNTER CLAIM

21. Paragraphs 1 through 18 of the Answer are incorporated herein by reference.

22. The Plaintiffs on the Counterclaim claim by deed and adverse possession the land as set forth on Exhibit "A" attached hereto and incorporated herein by reference as though set forth in full.

23. The acts of adverse, continuous, visible, notorious, exclusive and hostile possession over the property in question include as follows:

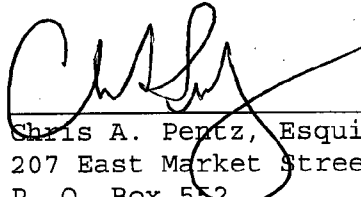
- A. Placing of No Trespassing signs in 1984.
- B. Re-Posting of the No Trespassing signs in 1994.
- C. Blocking access road from Turnpike Avenue in 1972 or 1973.
- D. Removing firewood from the premises from 1974 or 1975 to present.
- E. Directing Plaintiff, Terry Thomas, to remove No Trespassing signs which he posted in 2002.
- F. The building of roads on the property in 1973, 1978 and 1994.
- G. Beginning in 1973 and continuing to present driving automobiles, four-wheelers, dirt bikes and snowmobiles on the roads across the premises in question.
- H. Two water tankers were stored on the premises in 1985 to present.
- I. A tractor and flat bed trailer have been stored on the premises since 1978 or 1998 till present.
- J. Bleacher planks and guard rails were stored on the premises from 1973 or 1974 to present.
- K. A children's play house was constructed on the premises in 1978 through 1980.

- L. In the beginning of 1984, individuals were restricted from hunting on the property which included reporting trespassers to the Lawrence Township Police.

24. The Plaintiffs on the Counterclaim have acquired title to the property set forth in Exhibit "A" of this Counterclaim as a result of the following chain of title:

- A. Deed to Ferdin E. Wallace and Marilyn Wallace from James T. Crissman, Inc. dated January 19, 1982 and recorded in the Office of the Recorder of Deed, Clearfield County in Deed and Record Book Volume 828, page 317;
- B. Deed to James T. Crissman, Inc. from James T. Crissman and Dorothy P. Crissman dated September 19, 1974 and recorded in the Office of the Recorder of Deeds for Clearfield County Deed Book Volume 689, page 525;
- C. Deed to James T. Crissman and Dorothy R. Crissman from Joseph W. Young, Ruth I. Young, Phillip A. Young, and Thelma M. Young dated March 16, 1966 and recorded in the Office of the recorder of deeds for Clearfield County Deed Book Volume 520, page 413.

WHEREFORE, Plaintiffs on the Counterclaim (Defendants) demand judgment in their favor against the Defendants on the Counterclaim (Plaintiffs) and such other relief as the Court may deem appropriate.

  
Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield PA 16830  
814 765-4000  
Supreme Court # 39232

VERIFICATION

I, Ferdin Wallace, verify that the statements made in this **First Amended Counter Claim** 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.

6/13/04  
Date

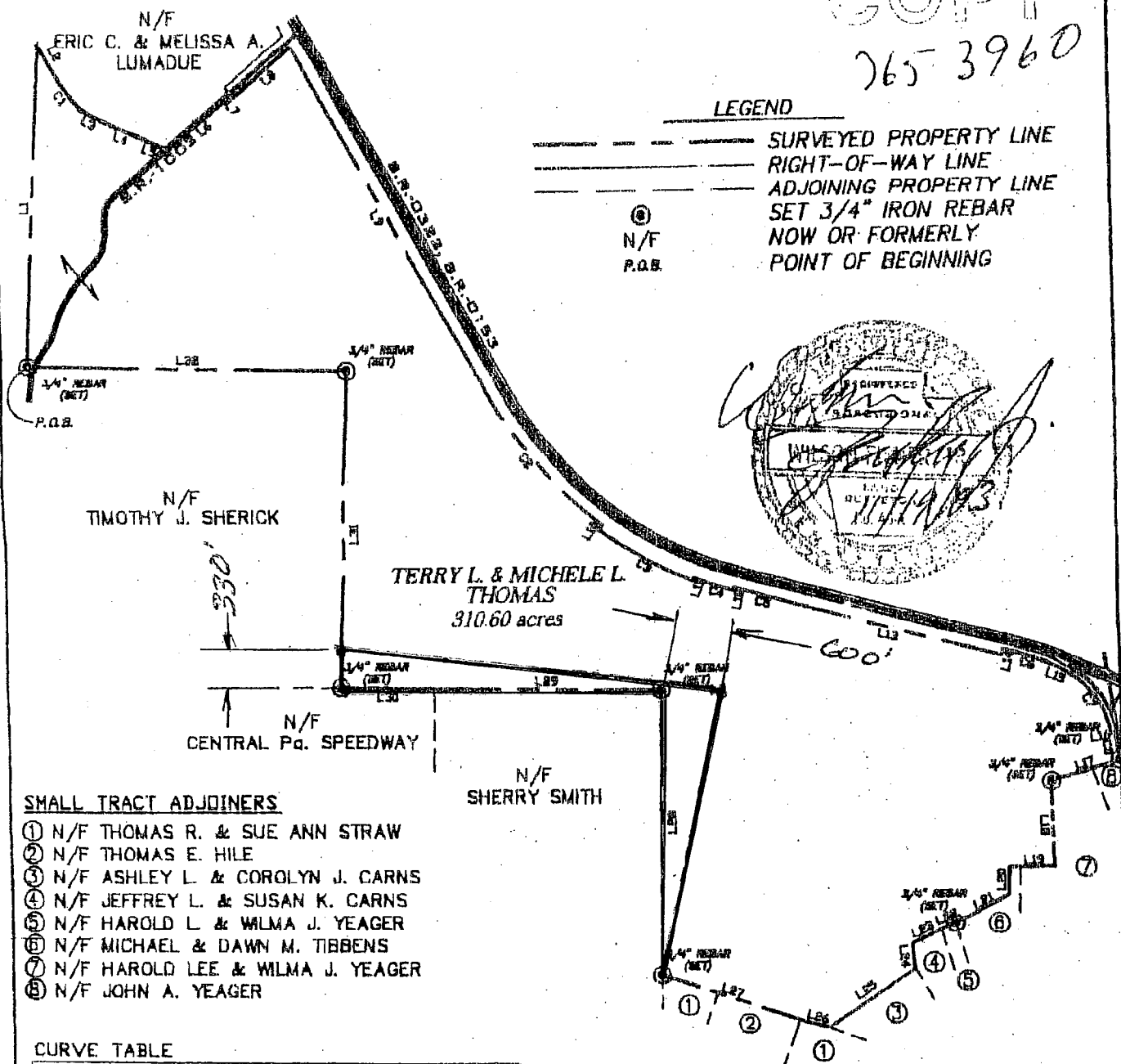
Ferdin Wallace  
Ferdin Wallace



3427099

COPY

765 3960



## CURVE TABLE

NUMBER	CHORD DIRECTION	RADIUS	CHORD LENGTH
C1	S 36°36'23" E	1189.44	304.83
C2	S 38°57'22" E	2782.48	1276.78
C3	S 59°54'33" E	2699.25	694.35
C4	S 70°17'05" E	3255.86	869.62
C5	S 74°13'52" E	13228.00	401.04
C6	S 71°39'39" E	3641.99	299.15
C7	S 35°06'11" E	569.14	488.40
C8	S 09°55'44" E	1932.78	179.44

## LINE TABLE

NUMBER	DIRECTION	DISTANCE	NUMBER	DIRECTION	DISTANCE
L1	N 02°24'06" E	2083.04	L17	S 73°32'04" W	466.70
L2	S 31°37'00" E	192.74	L18	S 01°27'56" E	546.00
L3	S 60°46'46" E	174.78	L19	S 88°39'51" W	292.22
L4	S 66°44'58" E	291.50	L20	S 01°58'01" W	174.69
L5	S 65°04'40" E	171.97	L21	S 62°19'07" W	394.06
L6	N 48°41'43" E	551.35	L22	S 65°53'21" W	101.25
L7	S 41°01'26" E	23.47	L23	S 63°52'12" W	208.09
L8	N 48°49'44" E	492.00	L24	S 07°58'39" E	161.90
L9	S 28°44'08" E	2445.08	L25	S 55°43'51" W	692.72
L10	S 36°22'31" W	40.02	L26	N 72°26'00" W	197.46
L11	N 20°48'07" E	20.02	L27	N 71°23'04" W	941.13
L12	N 14°57'11" E	20.01	L28	N 00°48'51" E	1864.61
L13	S 74°40'25" E	1391.95	L29	N 89°11'09" W	1485.00
L14	N 15°38'48" E	40.65	L30	N 89°08'02" W	601.16
L15	S 62°49'07" E	137.92	L31	N 02°00'52" E	2104.05
L16	N 80°03'51" E	20.70	L32	N 88°59'16" W	2070.75

BEARING BASE  
MAGNETIC NORTH  
TAKEN APRIL 14, 2003

• 2 HAND USED &amp; PART OF

PROPERTY ACCORDING TO J. PRISSMAN

DRAWN BY: RL	FILE NO.:
CHECKED BY: WF	JOB NO.:
DATE: 9/12/03	FB NO.:
SCALE: 1"=1000'	REVISION
cadserver/thomas/thomas.dwg	BY

PLAT OF LANDS OF  
TERRY L. & MICHELE L. THOMAS  
LAWRENCE TOWNSHIP, CLEARFIELD COUNTY

**HESS & FISHER ENGINEERS, INC.**  
CONSULTING ENGINEERS & GEOLOGISTS  
38 NORTH SECOND STREET  
CLEARFIELD, PENNSYLVANIA 16830 814-785-7541

EXHIBIT "A"

CHRIS A. PENTZ  
ATTORNEY AT LAW

CLEARFIELD, PENNSYLVANIA 16830

Fold Here

FILED

JUL 14 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

Vs.

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

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\*

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Docket No. 04-253-CD

Type of Pleading:  
MOTION FOR JUDGMENT ON  
COUNTERCLAIM

Filed on Behalf of:  
Plaintiffs:  
Terry L. Thomas and Michelle L. Thomas

Counsel of Record for  
This Party:

LAW OFFICES OF  
DWIGHT L. KOERBER, JR.

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED**

*3cc*  
*03:26:01*  
JUL 16 2004

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

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

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Docket No. 04-253-CD

Vs.

\*

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

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**MOTION FOR JUDGMENT ON COUNTERCLAIM**

COME NOW, the Plaintiffs, by and through their attorney, Dwight L. Koerber, Jr., Esquire, and file the within Motion seeking judgment on the Counterclaim filed by Defendants.

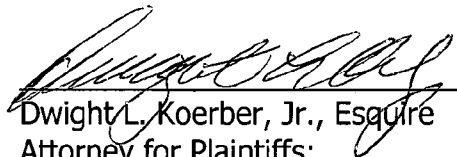
1. On February 20, 2004 Plaintiffs filed a Complaint in Ejectment and Trespass.
2. On February 19, 2004, Defendants filed an Answer, New Matter and Counterclaim.
3. On April 7, 2004, Plaintiffs filed Preliminary Objections to the Counterclaim, due to the total absence of any facts and due to the legal insufficiency of the assertion of adverse possession.
4. On June 14, 2004, argument was held before this Honorable Court and an Order was entered granting the Preliminary Objections, but at the same time giving Defendants 30 days within which to file an Amended Counterclaim that meets the requirements of the Pennsylvania Rules of Civil Procedure.

5. Attached hereto as Appendix A is a true and correct copy of the June 14, 2004 Order entered by this Honorable Court, sustaining the Preliminary Objections and directing that the Amended Counterclaim be filed within 30 days absent which judgment would be entered.

6. Plaintiffs have failed to file an Amended Counterclaim, thereby requiring that the Counterclaim be dismissed with prejudice.

WHEREFORE, Plaintiffs pray that the Counterclaim filed by Defendants in this matter be dismissed with prejudice.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Dwight L. Koerber, Jr.", is written over a horizontal line.

Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and Michelle L. Thomas

## **APPENDIX A**

Attached hereto as Appendix A is a true and correct copy of the June 14, 2004 Order.

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

TERRY L. THOMAS and  
MICHELLE L. THOMAS

-VS-

FERDIN WALLACE and  
SHERRY S. WALLACE

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No. 04-253-CD

O R D E R

NOW, this 14th day of June, 2004, this being the time and date set for argument on Plaintiffs' Preliminary Objections, it is the ORDER and DECREE of this Court that the Preliminary Objections are hereby sustained.

Defendants are hereby allowed a period of thirty (30) days within which to file an amended Counterclaim that conforms with the Pennsylvania Rules of Civil Procedure. Failure to submit a conforming within that time period shall entitle Plaintiffs to judgment as requested in the complaint.

BY THE COURT,

/s/ Fredric J. Ammerman

---

President Judge

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

JUN 15 2004

Attest.

*William H. [Signature]*  
Prothonotary/  
Clerk of Courts

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

\*

\*

Docket No. 04-253-CD

Vs.

\*

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

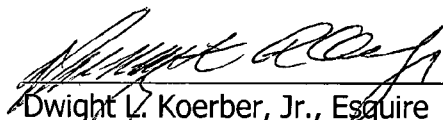
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**CERTIFICATE OF SERVICE**

I certify that on the 16<sup>th</sup> day of July, 2004, the undersigned served a true and correct copy of the foregoing MOTION FOR JUDGMENT ON COUNTERCLAIM in the above-captioned matter by United States First Class Mail upon counsel for Defendants, as follows:

Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and Michelle L. Thomas



IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET NO: 04-253-CD

Terry L. Thomas and  
Michelle L. Thomas

-vs-

Ferdin Wallace and  
Sherry S. Wallace

MOTION FOR JUDGMENT ON COUNTERCLAIM

JUL 16 2004

FILED

LAW OFFICE  
DWIGHT KOERBER, JR.  
ATTORNEY-AT-LAW  
110 NORTH SECOND STREET  
P. O. BOX 1320  
CLEARFIELD, PENNSYLVANIA 16830

2

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

TERRY L. THOMAS and  
MICHELE L. THOMAS

-vs-

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

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Docket No. 2004-253-CD

Type of pleading:  
PRAECIPE TO WITHDRAW  
MOTION FOR JUDGMENT ON  
COUNTERCLAIM

Filed on behalf of:  
PLAINTIFFS, Terry L.  
Thomas and Michele L.  
Thomas

Counsel of record for  
this party:

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

FILED

JUL 19 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

\*

\*

-vs-

\*

Docket No. 2004-253-CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*

\*

PRAECIPE TO WITHDRAW MOTION FOR  
JUDGMENT ON COUNTERCLAIM

TO THE PROTHONOTARY:

I hereby withdraw the Motion for Judgment I filed in this  
matter on July 16, 2004.

Respectfully submitted,

By: 


Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs,  
TERRY L. THOMAS AND  
MICHELE L. THOMAS

DATE: 7/19/04

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of July, 2004,  
a copy of the foregoing pleading was served by United States  
First Class Mail upon counsel for defendants at the following  
name and address:

Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

  
Dwight L. Koerber, Jr., Esquire

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
Docket No. 2004-253-CD

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

-vs-

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

PRAECIPE TO WITHDRAW MOTION FOR  
JUDGMENT ON COUNTERCLAIM

JUL 19 2004

PROCTER & KENNEDY

LAW OFFICE

DWIGHT KOERBER, JR.  
ATTORNEY-AT-LAW  
110 NORTH SECOND STREET  
P. O. BOX 1320  
CLEARFIELD, PENNSYLVANIA 16830

CA

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

Vs.

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

\*

\*

\*

Docket No. 04-253-CD

Type of Pleading:  
ANSWER AND NEW MATTER OF  
PLAINTIFFS TO COUNTERCLAIM OF  
DEFENDANTS

Filed on Behalf of:  
Plaintiffs:  
Terry L. Thomas and Michelle L. Thomas

Counsel of Record for  
This Party:

LAW OFFICES OF  
DWIGHT L. KOERBER, JR.

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

**FILED**  
01/3:20/04  
AUG 27 2004

William A. Shaw  
Prothonotary/Clerk of Courts

110 North Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

\*

\*

Docket No. 04-253-CD

Vs.

\*

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

**NOTICE TO DEFENDANTS**

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE ENCLOSED ANSWER AND NEW MATTER WITHIN TWENTY (20) DAYS FROM SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

\*

\*

Docket No. 04-253-CD

Vs.

\*

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

**ANSWER AND NEW MATTER OF PLAINTIFFS TO  
COUNTERCLAIM OF DEFENDANTS**

COME NOW, Plaintiffs, Terry L. Thomas and Michelle L. Thomas, by and through their attorney, Dwight L. Koerber, Jr., Esquire, and file the within Answer and New Matter to the Counterclaim filed by Defendants.

21. No answer required.

22. Legal conclusion, no answer required. To the extent that factual matters are presented, any express or implied allegations relating to Exhibit A are denied as being incorrect and factually unjustified. Strict proof of same is required at trial. All matters set forth in New Matter are hereby incorporated in support of Plaintiffs' reply to Paragraph 22.

23. All of the allegations set forth in subparagraphs A – L are denied as being factually inaccurate or incorrect. Strict proof of same is required at trial. Furthermore, the legal significance of these facts, even if proven, is hereby disputed for the reasons



set forth in New Matter. All matters set forth in New Matter are hereby incorporated in support of Plaintiffs' reply to Paragraph 23 and the subsections set forth thereunder.

24. Denied, as being a full and correct recital of the Defendants' chain of title. Strict proof of same is required at trial. Also, Plaintiffs incorporate by reference their New Matter, in further support of their response of these allegations.

### **NEW MATTER**

25. In further support of their Answer to the Defendants' Counterclaim, Plaintiffs set forth the within New Matter.

26. In setting forth their Counterclaim and in referring to their alleged chain of title, Defendants have failed to show how the boundary lines set forth in those deeds conflicts with the boundary lines shown in the September 12, 2003 survey of Hess and Fisher Engineers, attached as Exhibit A to the Counterclaim. Accordingly, the Counterclaim is legally insufficient to set forth a cause of action.

27. Defendants have alleged that they engaged in various acts which are intended to assert ownership, but have failed to demonstrate that these actions are continuous in nature or that they comprise the requisite 21-year period of time. This deficiency is a major problem for the following reasons:

a. The chain of title that Defendants have relied upon in Paragraph 24 of their Counterclaim is not brought forward and up to date, and it does not connect Defendants to the chain of title through James T. Crissman, as alleged.

b. Deed dated January 18, 1982, from James T. Crissman, Inc. to Ferdin E. Wallace and Marilyn Wallace is a deed granted to the prior wife of

Ferdin Wallace and not to his present wife, who is Sherry S. Wallace. Attached hereto as Exhibit A is a true and correct copy of the January 18, 1982 deed, which clearly identifies the Grantee as Marilyn Wallace and not Sherry S. Wallace.

c. The ownership interest in the deed which Defendants rely upon, attached hereto as Exhibit A and identified as Deed Book Volume 828, Page 317, was divested from Ferdin E. Wallace and Marilyn Wallace Hummel as a result of the lawsuit of Clearfield Bank & Trust at Docket Number 92-767-CD, of the Court of Common Pleas of Clearfield County, which in turn led to a Writ of Execution at Docket Number 92-59-EX. Attached hereto as Exhibit B is a copy of the Sheriff Deed that specifically recites such divesting and specifically ties into the chain of title of Defendants, such being a Sheriff Deed to Clearfield Bank & Trust Company recorded at Deed Book Volume 1480, Page 127.

d. The aforesaid Sheriff Deed, attached hereto as Exhibit B, covering the subject property formerly owned by Ferdin E. Wallace was subsequently conveyed by Clearfield Bank & Trust Company to Ferdin E. Wallace and Brian F. Wallace, by deed of October 26, 1992, at Deed Book Volume 1494, Page 303. Attached hereto as Exhibit C is a true and correct copy of that deed.

e. After having acquired the aforesaid property from Clearfield Bank & Trust Company, Brian F. Wallace and Ferdin E. Wallace lost ownership of that property as a result of a tax sale, conducted on September 12, 1995, which led to the sale of the said property for delinquent taxes to Richard H. Cornman and Karen L. Cornman. Attached hereto as Exhibit D is a true and correct copy of the deed from the Tax Claim Bureau identifying such property and confirming that it is the same property in the chain of title that Defendants rely upon.

f. After having lost the property to a tax sale in 1995, Defendants Ferdin E. Wallace, and his new wife Sherry Smith Wallace, reacquired the property on December 18, 2000 from Richard H. Cornman and Karen L. Cornman. Attached hereto as Exhibit E is a true and correct copy of such deed.

g. To confirm that the said property that Defendants are relying upon as being assessed in their name and coming from a chain of title that has been interrupted by foreclosure actions and tax sale actions, we are attaching hereto as Exhibit F a true and correct copy of the assessment card covering such property.

28. It is Plaintiffs' position that as a matter of law it is not possible to advance a claim for adverse possession when during the 21-year period of time prior to the filing

of the ejectment action herein, Defendant Ferdin Wallace owned the property with a former wife, owned the property with another Grantee named Brian F. Wallace, lost the property to in a foreclosure action, and lost the property in a tax claim sale.

29. Plaintiffs would also point to the fact that none of the deeds in Defendants' chain of title have a clause that specifically provides for tacking of any prior period of a predecessor in title to the subsequent owner, so as to establish the privity necessary to maintain a cause of action for adverse possession.

30. The only ownership that Defendants are able to assert where they have an exclusive and continuous ownership, adverse to that of Plaintiffs, is their deed of December 18, 2000, when they bought their property from the Cornmans.

31. It is Plaintiffs' position that in presenting their chain of title herein, in a fashion so as to not disclose the fact that Defendant Ferdin Wallace has been divested on multiple occasions on his ownership of the property, so as to not disclose the fact that he has a different wife now, who is co-owner of the property, than what he had when he set forth his claim of adverse possession, that Defendants are engaging in dilatory, obdurate and vexatious conduct during the pendency of this proceeding, so as to entitle Plaintiffs to recover counsel fees, as allowed under 42 Pa. C.S.A. §2503 (7). The specific language which Plaintiffs rely upon is as follows where attorneys fees are allowed:

Any participant who is awarded counsel fees as a sanction against another participant for dilatory, obdurate or vexatious conduct during the pendency of a matter.

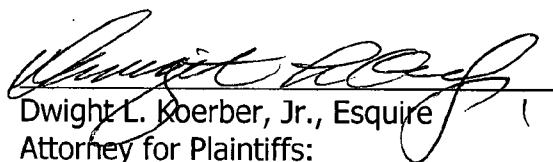
32. As a further basis for seeking counsel fees against Defendants, Plaintiffs submit that Defendants have commenced an action in bad faith by filing a Counterclaim that is totally devoid of merit so as to entitle Plaintiffs to attorneys' fees as provided by 42 Pa. C.S.A. §2503 (9) which allows for an award of attorneys' fees under the following circumstances:

Any participant who is awarded counsel fees because the conduct of another party in commencing the matter otherwise was arbitrary, vexatious or in bad faith.

33. Plaintiffs request that sanctions be awarded in their favor and against Defendants, by awarding Plaintiffs attorneys' fees under 42 Pa. C.S.A. §2503 (7) and (9).

WHEREFORE, Plaintiffs pray that the Counterclaim filed by Defendants be dismissed, that judgment be entered in Plaintiffs' favor, and that Plaintiffs be awarded reasonable counsel fees as part of the taxable costs in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dwight L. Koerber, Jr.", is written over a horizontal line.

Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and Michelle L. Thomas

## VERIFICATION

I certify that the statements made in the foregoing document 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.

  
Terry L. Thomas

**EXHIBIT A**

Attached hereto as Exhibit A is a true and correct copy of the January 19, 1982 deed to Ferdin E. Wallace and Marilyn Wallace.

# This Deed,

MADE the 19th day of January  
in the year nineteen hundred and eighty-two (1982).

BETWEEN JAMES T. CRISSMAN, INC., a corporation, of Lawrence Township,  
Clearfield County, Pennsylvania 16830, party of the first part, "GRANTOR,"

- A N D -

FERDIN E. WALLACE and MARILYN WALLACE, his wife, as tenants by the  
entireties, of Riverview Road, Clearfield, Clearfield County,  
Pennsylvania 16830, parties of the second part, "GRANTEES."

WITNESSETH, That in consideration of the sum of Eighteen Thousand -----

----- (\$18,000.00) ----- Dollars,  
in hand paid, the receipt whereof is hereby acknowledged, the said grantor does hereby grant  
and convey to the said grantees, their heirs, executors, administrators and  
assigns,

ALL that certain parcel or tract of land situate Lawrence Township,  
Clearfield County, Pennsylvania, more particularly bounded and  
described as follows:

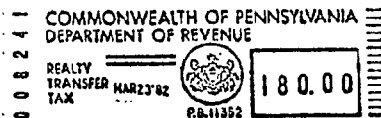
BEGINNING at a two (2") inch iron pipe, said pipe  
being on the northern right-of-way of Township  
Route 519; thence leaving said right-of-way  
along line of lands of Ferdin E. Wallace and  
Dan W. Hummel, Jr., North eight (8°) degrees  
twenty-two (22') minutes East one thousand  
thirty-two and eighty-one hundredths (1,032.81)  
feet to a two (2") inch iron pipe; thence still  
by same North eighty-one (81°) degrees thirty-  
eight (38') minutes West five hundred ninety-  
four (594) feet to a two (2") inch iron pipe;  
thence still by same North eight (8°) degrees  
twenty-two (22') minutes East seven hundred  
ninety (790) feet to a two (2") inch iron  
pipe, said pipe being the northwest corner of  
this lot and the northeast corner of lands of  
Ferdin E. Wallace and Dan W. Hummel, Jr.;  
thence along line of lands of Harold Boulton  
South eighty-one (81°) degrees thirty-eight  
(38') minutes East one thousand four hundred  
eighty-five (1,485) feet to a wood post and  
stones corner; thence still by same South  
eight (8°) degrees twenty-two (22') minutes  
West two thousand three hundred eighteen  
(2,318) feet to a two (2") inch iron pipe,  
said pipe being on the northern right-of-way  
of Township Route 519; thence along said  
right-of-way of Township Route 519, the  
following courses and distances: North seventy-  
one (71°) degrees thirteen (13') minutes  
West one hundred fifty-six and five-tenths  
(156.5) feet to a point; thence by a curve to  
the right, long chord being North forty-eight  
(48°) degrees forty-three (43') minutes West  
four hundred seventy-seven and forty-two

hundredths (477.42) feet to a point; thence by a curve to the left, long chord being North forty-six (46°) degrees four (4') minutes West three hundred thirty-six and three-hundredths (336.03) feet to a point; thence North seventy (70°) degrees fifty (50') minutes West sixty-four and one-tenth (64.1) feet to a two (2") inch iron pipe and place of beginning. Believed to contain 53.6 acres, more or less.

BEING the same property set forth and shaded in red on the survey of Hess & Fisher Engineers, Inc. dated December 17, 1980 prepared for James T. Crissman, a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

BEING a part of the same premises referred to as "The Second Thereof" in that certain deed dated September 19, 1974 from James T. Crissman and Dorothy P. Crissman, his wife, and recorded in Deed Book 689, Page 525 of Clearfield County to James T. Crissman, Inc., Grantor herein.

This Deed is executed and delivered pursuant to Resolution of the Board of Directors of James T. Crissman, Inc. duly adopted at a meeting held on the 19th day of Jan., 1982, whereby the officers of the corporation were duly authorized to execute and deliver this Deed in this form.



## NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantor/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.

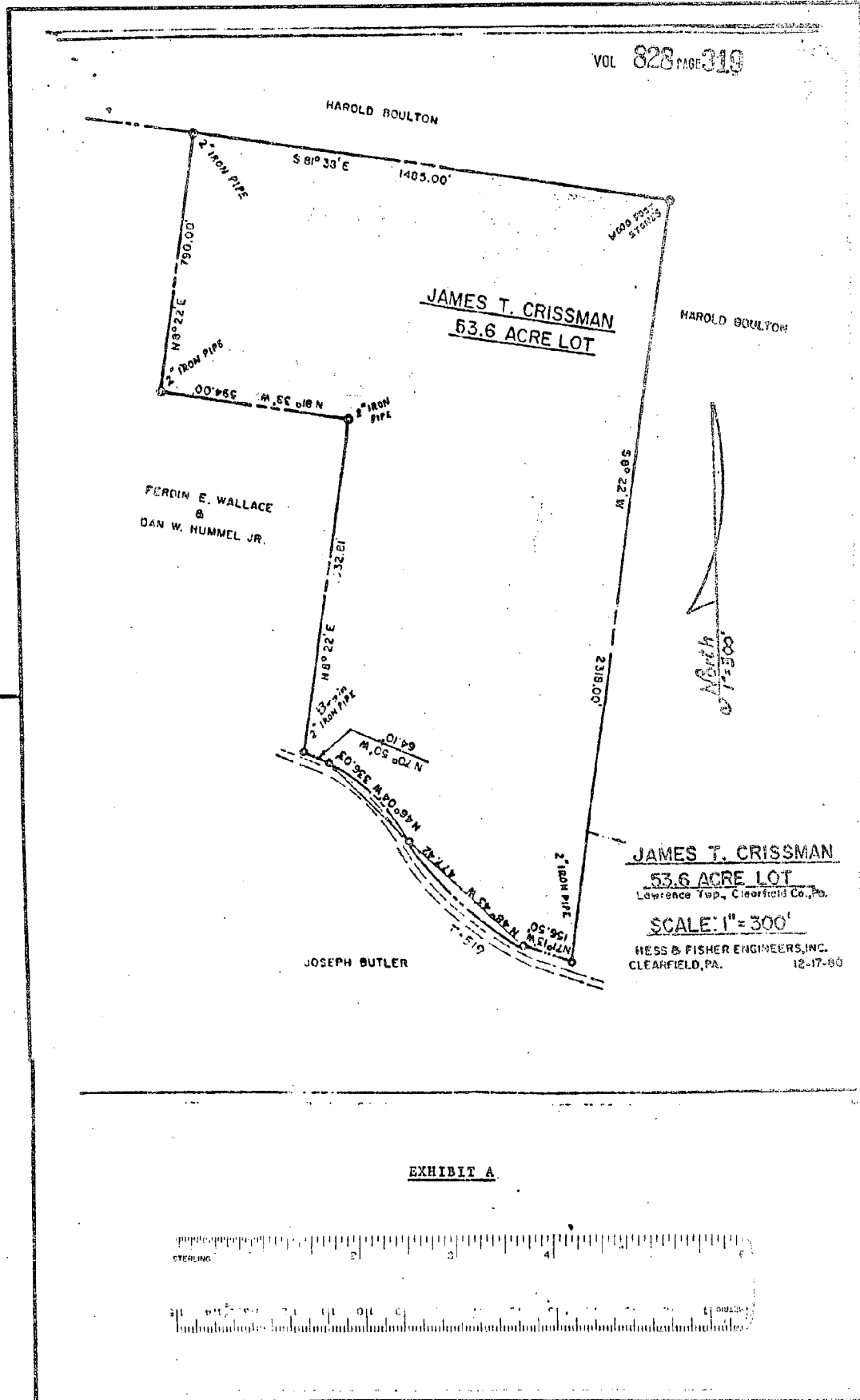
Witness:

Ferdin E. Wallace

Marilyn Wallace

This \_\_\_\_\_ day of \_\_\_\_\_







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

IN WITNESS WHEREOF, the said Grantor has caused this Deed to be signed by its President or a Vice President, and also by its Secretary, or by an Assistant Secretary, or by its Treasurer, or by an Assistant Treasurer, and its Corporate Seal to be hereunto affixed, the day and year first above written.

Attest:

*John D. Crissman*  
John D. Crissman  
Secretary  
Treasurer

JAMES T. CRISSMAN, INC.  
By *Albert M. Evans, Jr.*  
Albert M. Evans, Jr.  
President

CERTIFICATE OF RESIDENCE

I hereby certify, that the precise residence of the grantee, herein is as follows:  
Riverview Road  
Clearfield, PA 16830

*James A. Maddox*  
Notary at Age 60 for Grantor B

Commonwealth of Pennsylvania

County of CLEARFIELD

SS:

On this, the 19th day of January, 1982, before me, the undersigned officer, personally appeared Albert M. Evans, Jr., who acknowledged himself to be the President of James T. Crissman, Inc., the foregoing corporation, and that as such, he, being authorized by such corporation to do so, executed the foregoing deed for the purpose therein contained by signing his name thereon as such.

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

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 3:33 P.M. 3-23-82  
BY *Tim Morgan*  
FELS 9.50  
TIM MORGAN, Recorder

CLEARFIELD COUNTY RECORDS

100 BOUNTY  
AMOUNT 180.00  
PAID 3-23-82 *Tim Morgan*  
Date

*Margaret B. Buzzanca*  
My Commission Expires 11/23

MARGARET B. BUZZANCA, Notary Public  
Clearfield, Clearfield Co., Pa.  
My Commission Expires Nov. 23, 1985

Entered of Record Mar 23 1982, 3:33 p.m. Tim Morgan, Recorder

**EXHIBIT B**

Attached hereto as Exhibit B is a copy of the Sheriff's Deed to Clearfield Bank & Trust Company recorded at Deed Book Volume 1480, Page 127.

**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 + COSTS  
dollars, to me in hand paid, do hereby grant and convey to

CLEARFIELD BANK & TRUST COMPANY, the following described property to wit:  
ALL that certain tract or parcel of land situate in Lawrence Township, Clearfield County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a two (2") inch iron pipe, said pipe being on the northern right-of-way of Township Route 519; thence leaving said right-of-way along line of land of Ferdin E. Wallace and Dan W. Hummel, Jr., North eight (8) degrees twenty-two (22') minutes East one thousand thirty-two and eighty-one hundredths (1,032.81) feet to a two (2") inch iron pipe; thence still by same north eighty-one (81) degrees thirty-eight (38') minutes West five hundred ninety-four (594) feet to a two (2") inch iron pipe; thence still by same North eight (8) degrees twenty-two (22') minutes East seven hundred ninety (790) feet to a two (2") inch iron pipe, said pipe being the northwest corner of this lot and the northeast corner of lands of Ferdin E. Wallace and Dan W. Hummel, Jr.; thence along line of lands of Harold Boulton South eighty-one (81) degrees thirty-eight (38') minutes East one thousand four hundred eighty-five (1,485) feet to a wood post and stones corner; thence still by the same South eight (8) degrees twenty-two (22') minutes West two thousand three hundred eighteen (2,318) feet to a two (2") inch iron pipe, said pipe being on the right-of-way of Township Route 519, the following courses and distances: North seventy-one (71) degrees thirteen (13') minutes West one hundred fifty-six and five-tenths (156.5) feet to a point; thence by a curve to the right, long chord being North forty-eight (48) degrees forty-three (43') minutes West four hundred seventy-seven and forty-two hundredths (477.42) feet to a point; thence by a curve to the left, long chord being North forty-six (46) degrees four (4') minutes West three hundred thirty-six and three-hundredths (336.03) feet to a point; thence North seventy (70) degrees fifty (50') minutes West sixty-four and one-tenth (64.1) feet to a two (2") inch iron pipe and place of beginning. Believed to contain 53.6 acres, more or less.

BEING the same premises conveyed to Ferdin E. Wallace and Marilyn Wallace, now Marilyn Hummel herein by deed of James T. Crissman, Inc. dated January 19, 1982 and recorded in Clearfield County Deed and Records Book Volume 828, page 317.

SEIZED, taken in execution and sold as the property of FERDIN E. WALLACE and MARILYN WALLACE HUMMEL, at the suit of CLEARFIELD BANK & TRUST CO.  
JUDGEMENT NO. 92-767-CD; EXECUTION NO. 92-59-EX.

NOW, August 24, 1992 7th the same having been sold by me to the said grantee on the  
thousand nine hundred and ninety-two day of AUGUST Anno Domini one  
according to law, under and by virtue of a writ of execution after due advertisement  
JUNE issued on the 24th day of  
out of the Court of Common Pleas of said County of Clearfield Anno Domini nineteen hundred and ninety-two  
as of 92-767-CD Term, one thousand  
nine hundred and , Number 92-59-EX , at the  
suit of  
CLEARFIELD BANK & TRUST CO.

against

FERDIN E. WALLACE & MARILYN WALLACE HUMMEL

IN WITNESS WHEREOF, I have hereunto affixed my signature this 24th  
day of AUGUST Anno Domini one thousand  
nine hundred and ninety-two.

Charles A. Hays  
by Charles A. Hays  
Sheriff



State of Pennsylvania  
County of Clearfield

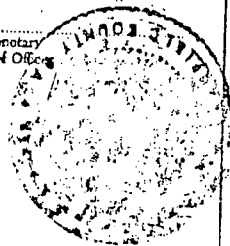
On this the 24 day of August 1992, before me a Prothonotary, the undersigned officer, personally appeared, **CHESTER A. HAWKINS**, High Sheriff of the State of Pennsylvania known to me (or satisfactory proven) to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

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

VOL 1480 PAGE 129

*Allen D. Birtz*

Prothonotary  
PROTHONOTARY Title of Office  
My Commission Expires  
on Monday in Jan. 1994



Commonwealth of Pennsylvania } ss.  
County of Clearfield

Received on the \_\_\_\_\_ day of \_\_\_\_\_ A.D.  
19 \_\_\_\_\_ in the Recorder's office of said County, in  
Deed Book Volume \_\_\_\_\_

page \_\_\_\_\_  
Given under my hand and seal of the said office the day  
and year aforesaid.

Recorder

Thereby Certify that the precise Residence of the Grantee or Grantees is,  
11 N. SECOND ST.  
CLEARFIELD, PA. 16830

*Chester A. Hawkins*  
by *Charles H. Hing*  
Sheriff of Clearfield County

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 2:30 PM 8-24-92  
BY Chester Hawkins, Sheriff  
FEES 12.50  
Karen L. Starck, Recorder

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

**Deed-Null.**

No.

CHESTER A. HAWKINS  
High Sheriff of Clearfield County  
TO

CLEARFIELD BANK & TRUST CO.  
11 N. SECOND ST.  
CLEARFIELD, PA. 16830

**SHERIFF'S DEED**

Dated AUGUST 24, 1992

For \$1.00 + COSTS

Sold as the property of  
FERDIN E. WALLACE &  
MARILYN WALLACE HUMMEL

at the suit of  
CLEARFIELD BANK & TRUST CO.

Sold on Writ of  
EXECUTION  
92-59-EX



**EXHIBIT C**

Attached hereto as Exhibit C is a true and correct copy of the October 26, 1992,  
deed to Ferdin E. Wallace and Brian F. Wallace.

## This Deed,

MADE the 26 day of OCT.  
in the year nineteen hundred and ninety-two (1992).

BETWEEN CLEARFIELD BANK & TRUST COMPANY, a Pennsylvania Banking Corporation, of 11 North Second Street, Clearfield, Clearfield County, Pennsylvania, party of the first part, hereinafter referred to as "Grantor";

AND

BRIAN F. WALLACE and FERDIN E. WALLACE, as joint tenants with the right of survivorship, of 411 S. Missouri Avenue, Clearwater, Florida, parties of the second part, hereinafter referred to as "Grantees".

WITNESSETH, That in consideration of Seven Thousand Five Hundred (\$7,500.00)-----

in hand paid, the receipt whereof is hereby acknowledged, the said grantor does hereby grant and convey to the said grantees, their heirs, executors, administrators and assigns, forever.

ALL that certain tract or parcel of land situate in Lawrence Township, Clearfield County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a two (2") inch iron pipe, said pipe being on the northern right-of-way of Township Route 519; thence leaving said right-of-way along line of land of Ferdin E. Wallace and Dan W. Hummel, Jr., North eight (8) degrees twenty-two (22') minutes East one thousand thirty-two and eighty-one hundredths (1,032.81) feet to a two (2") inch iron pipe; thence still by same north eighty-one (81) degrees thirty-eight (38') minutes West five hundred ninety-four (594) feet to a two (2") inch iron pipe; thence still by same North eight (8) degrees twenty-two (22') minutes East seven hundred ninety (790) feet to a two (2") inch iron pipe, said pipe being the northwest corner of this lot and the northeast corner of lands of Ferdin E. Wallace and Dan W. Hummel, Jr.; thence along line of lands of Harold Boulton South eighty-one (81) degrees thirty-eight (38') minutes East one thousand four hundred eighty-five (1,485) feet to a wood post and stones corner; thence still by the same South eight (8) degrees twenty-two (22') minutes West two thousand three hundred eighteen (2,318) feet to a two (2") inch iron pipe, said pipe being on the northern right-of-way of Township Route 519; thence along said right-of-way of Township Route 519, the following courses and distances: North seventy-one (71) degrees thirteen (13') minutes West one hundred fifty-six and five-tenths (156.5) feet to a point; thence by a curve to the right, long chord being North forty-eight (48) degrees forty-three (43') minutes West four hundred seventy-seven and forty-two hundredths (477.42) feet to a point; thence by a curve to the left, long chord being North forty-six (46) degrees four (4') minutes West three hundred thirty-six and three-

hundredths (336.03) feet to a point; thence North seventy (70) degrees fifty (50') minutes West sixty-four and one-tenth (64.1) feet to a two (2") inch iron pipe and place of beginning. Believed to contain 53.6 acres, more or less.

BEING the same premises which Chester A. Hawkins, Sheriff of Clearfield County granted and conveyed unto Clearfield Bank & Trust Company by deed dated August 24, 1992 and recorded the same date in the office of the Recorder of Deeds of Clearfield County, Pennsylvania in Deeds and Records Book Volume 1480, page 127.

## NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", we, the undersigned grantors/grantees, hereby certify that we know and understand that 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. 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:

*Brian F. Wallace*  
Brian F. Wallace  
*Ferdin E. Wallace*  
Ferdin E. Wallace

This 26 day of Oct 1992

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.)

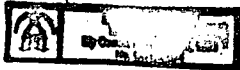
STATE OF FLORIDA

COUNTY OF Duval

On this, the 26 day of October, 1992, before me, the undersigned authority, personally appeared Brian F. Wallace and Ferdin E. Wallace, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

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

*Personally known  
by me*



*[Signature]*  
Notary Public  
My Commission Expires

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

IN WITNESS WHEREOF, the said Grantor has caused this Deed to be signed by its President or a Vice President, and also by its Secretary, or by an Assistant Secretary, or by its Treasurer, or by an Assistant Treasurer, and its Corporate Seal to be hereunto affixed, the day and year first above written.

Attest:

*Denise K. Wooster*  
Secretary



CLEARFIELD BANK & TRUST COMPANY

By *Donald L. Haney*  
President

DUBOIS AREA SCHOOL DISTRICT  
1% REALTY TRANSFER TAX

AMOUNT: 75.00

PAID 11/3/92 KAREN L. STARCH  
Date Agent

#### CERTIFICATE OF RESIDENCE

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

411 S. Missouri Avenue  
Clearwater, FL 34616

*Donald L. Haney*  
Notary Public Agent for Clearfield

Commonwealth of Pennsylvania

County of Clearfield

} ss.

On this, the 3rd day of November, 1992, before me, the undersigned officer, personally appeared Donald L. Haney, who acknowledged himself to be the Vice President of Clearfield Bank & Trust Company, the foregoing corporation, and that as such, he, being authorized by such corporation to do so, executed the foregoing deed for the purpose therein contained by signing his name thereon as such.

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

*Denise K. Wooster*  
My Commission Expires 11/14/95  
NOTARIAL SEAL  
DENISE K. WOOSTER, Notary Public  
CLEARFIELD BORO, CLEARFIELD COUNTY  
MY COMMISSION EXPIRES APRIL 1, 1995

Vol 1494 PAGE 306

Commonwealth of Pennsylvania

County of ..... } ss.

I HEREBY CERTIFY that on this

day of

A.D. 19 , before me, the subscriber, a

Notary Public in and for said Commonwealth and County, personally appeared

, the attorney named in the foregoing Indenture,

and by virtue and in pursuance of the authority therein conferred upon him, acknowledged the said

INDENTURE to be the act and deed of the said

to the intent that the same may be duly recorded.

WITNESS my hand and Notarial Seal the day and year aforesaid.

My Commission Expires .....

Notary Public

I HEREBY CERTIFY, that the precise address of the grantee herein is

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



Karen L. Starck  
Recorder of Deeds

CLEARFIELD COUNTY 11/3/92  
ENTERED OF RECORD  
TIME 3:40 P.M.  
BY *[Signature]*  
FEES 13.50  
Karen L. Starck, Recorder

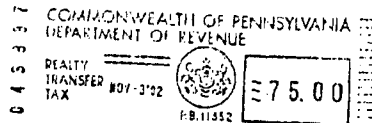
Commonwealth of Pennsylvania

County of ..... } ss.

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 *Vol 3, 1992, 3:40 PM* Karen L. Starck, Recorder

75.00  
32.50  
32.50

*State Tax  
Clt. Fee  
Jury Fee*

**EXHIBIT D**

Attached hereto as Exhibit D is a true and correct copy of the deed from the Tax Claim Bureau to Richard H. Cornman and Karen L. Cornman.

TAX CLAIM BUREAU DEED

MADE the Eighth day of December, in the year of our Lord, 1995,

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

RICHARD H. CORNMAN  
&  
KAREN L. CORNMAN

hereinafter referred to as "GRANTEES"

WHEREAS, the hereinafter described premises were assessed in the name  
of BRIAN F. WALLACE & FERDIN E. WALLACE., and taxes levied 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

WHEREAS, after proceeding under the provisions of the Act aforesaid, the  
Tax Claim Bureau did expose the said premises to public sale on the Twelfth  
day of September, 1995; and

WHEREAS, the said premises were sold at said public sale to, RICHARD H.  
CORNMAN & KAREN L. CORNMAN, for the sum of Two Thousand One Hundred Eight  
Dollars and Two Cents, (\$2,108.02), 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, at Miscellaneous Docket 52, Page 10.

NOW THIS INDENTURE WITNESSETH, that for and in consideration of the sum  
of Two Thousand One Hundred Eight Dollars and Two Cents, (\$2,108.02), 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

LAWRENCE TOWNSHIP  
MAP #123-J07-000-00004  
53.57 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. 93-5587 as the property of BRIAN F. WALLACE & FERDIN E. WALLACE.

VOL 1727 PAGE 130

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:

James E. Bell

By Mary Anne Wesdock  
Mary Anne Wesdock Director

COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF CLEARFIELD ) SS:

On this 11 day of Nov, A. D., 1995, 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.

William H. [Signature] (SEAL)  
Prothonotary.

My commission expires the first Monday of January, 1996.

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

RICHARD H. & KAREN L. CORNMAN  
414 BURGNER RD.  
CARLISLE, PA.  
17013



**EXHIBIT E**

Attached hereto as Exhibit E is a true and correct copy of the December 18, 2000 deed to Ferdin E. Wallace and Sherry Smith Wallace.

DEED

MADE the 11<sup>TH</sup> day of Dec., 2000, between:

RICHARD H. CORNMAN and KAREN L. CORNMAN, his wife, of 414 Burgner Road, Carlisle, Cumberland County, Pennsylvania, 17013, hereinafter referred to as

GRANTORS

And

FERDIN E. WALLACE and SHERRY SMITH WALLACE, his wife, of 1117 Old Town Road, Clearfield, Pennsylvania 16830

GRANTEES

WITNESSETH, that in consideration of TWELVE THOUSAND (\$12,000) Dollars, in hand paid, the receipt whereof is hereby acknowledged, the said Grantors do hereby grant and convey to the said Grantees, their heirs and assigns:

ALL that certain tract of land situate in Lawrence Township, Clearfield County, Pennsylvania, more particularly bounded and described as follows:

LAWRENCE TOWNSHIP MAP #123-J07-000-00004 comprised of 53.57 Acres.

BEING the same premises conveyed by the Tax Claim Bureau of Clearfield County, Pennsylvania, Trustee, to Richard H. Cornman and Karen L. Cornman, his wife, by Tax Claim Bureau Deed having an affidavit No. 22484, dated December 8, 1995, and being recorded in the Clearfield County Court House Recorder of Deeds Office in Volume 1727 page 129.

AND the said Grantors will warrant generally the property hereby conveyed.

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

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

George F. Douglas is

AS TO BOTH

Richard H. Cornman (SEAL)  
Richard H. Cornman

Karen L. Cornman (SEAL)  
Karen L. Cornman

KAREN L. STARCH  
REGISTER AND RECORDER  
CLEARFIELD COUNTY  
Pennsylvania

INSTRUMENT NUMBER

200100298

RECORDED ON

Jan 09, 2001

2:40:09 PM

RECORDING FEES - \$13.00

RECORDER

COUNTY IMPROVEMENT FUND \$1.00

FUND

RECORDER IMPROVEMENT FUND \$1.00

STATE TRANSFER

TAX \$120.00

STATE WRIT TAX \$0.50

LAWRENCE TOWNSHIP

SCHOOLS \$40.00

CLEARFIELD AREA \$60.00

SCHOOLS

TOTAL \$255.50

CUSTOMER

PENTZ, CHRIS

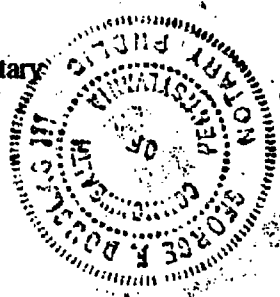
COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF CUMBERLAND ) : SS.,

On this, the 11<sup>th</sup> day of Dec, 2000, before me the undersigned officer, personally appeared Richard H. Cornman and Karen L. Cornman, his wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

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

George F. Douglas III Notary

Notarial Seal  
George F. Douglas III, Notary Public  
Carlisle Boro, Cumberland County  
My Commission Expires June 26, 2003



Certificate of Residence

I hereby certify that the precise residence and complete post office address of the within Grantees is:

1117 Old Town Road  
Clearfield, PA 16830

Dated: 1-9-01

Chris A. Lutz

Attorney for Grantee

**EXHIBIT F**

Attached hereto as Exhibit F a true and correct copy of the assessment card covering the property.



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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

\*

\*

Vs.

\*

Docket No. 04-253-CD

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

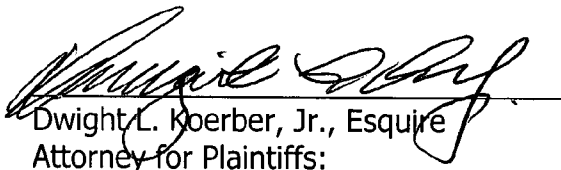
\*

\*

**CERTIFICATE OF SERVICE**

I certify that on the 27<sup>th</sup> day of August, 2004, the undersigned served a true and correct copy of the foregoing ANSWER AND NEW MATTER OF PLAINTIFFS TO COUNTERCLAIM OF DEFENDANTS in the above-captioned matter by United States First Class Mail upon counsel for Defendants, as follows:

Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830



Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and Michelle L. Thomas

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
DOCKET NO: 04-253-CD

Terry L. Thomas and  
Michelle L. Thomas

-vs-

Ferdin Wallace and  
Sherry S. Wallace

ANSWER AND NEW MATTER OF PLAINTIFFS  
TO COUNTERCLAIM OF DEFENDANTS

FILED

AUG 27 2004

William A. Shaw  
Prothonotary/Clerk of Courts

LAW OFFICE  
DWIGHT KOERBER, JR.  
ATTORNEY-AT-LAW  
110 NORTH SECOND STREET  
P. O. BOX 1320  
CLEARFIELD, PENNSYLVANIA 16830

William A. Shaw  
Prothonotary



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

TERRY L. THOMAS and  
MICHELLE L. THOMAS  
Plaintiffs

vs

FERDIN WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*  
\*  
\*  
\*  
\*  
\*  
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\*

No. 04- 253 -CD

REPLY TO NEW MATTER

25. Paragraph 25 does not require a response.

26. Paragraph 26 is denied. Exhibit "A" sets forth in red the area in dispute.

27. Paragraph 27 is denied. The Defendants will establish at trial that their period of adverse, continuous, visible, notorious, exclusive, and hostile possession over the property in question occurred for a period of twenty-one (21) years or more.

28. Paragraph 28 is denied. A claim for adverse possession is not contingent upon record ownership.

29. Paragraph 29 does not require a response. Adverse possession is not based upon record ownership.

30. Paragraph 30 is denied. Adverse possession is not dependent upon record ownership.

31. Paragraph 31 is denied. A claim of adverse possession is not based upon record ownership.

32. Paragraph 32 is denied and the answer set forth in Paragraph 31 is admitted.

33. Paragraph 33 does not require a response.

WHEREFORE, Plaintiffs on the Counterclaim (Defendants) demand judgment in their favor against the Defendants on the Counterclaim (Plaintiffs) as deemed appropriate.

Respectfully submitted this 16 of Sept, 2004.

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

TERRY L. THOMAS and	*	
MICHELLE L. THOMAS	*	
Plaintiffs	*	
	*	
vs	*	No. 04- 253 -CD
	*	
FERDIN WALLACE and	*	
SHERRY S. WALLACE,	*	
Defendants	*	

REPLY TO NEW MATTER

25. Paragraph 25 does not require a response.

26. Paragraph 26 is denied. Exhibit "A" sets forth in red the area in dispute.

27. Paragraph 27 is denied. The Defendants will establish at trial that their period of adverse, continuous, visible, notorious, exclusive, and hostile possession over the property in question occurred for a period of twenty-one (21) years or more.

28. Paragraph 28 is denied. A claim for adverse possession is not contingent upon record ownership.

29. Paragraph 29 does not require a response. Adverse possession is not based upon record ownership.

30. Paragraph 30 is denied. Adverse possession is not dependent upon record ownership.

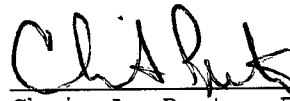
31. Paragraph 31 is denied. A claim of adverse possession is not based upon record ownership.

32. Paragraph 32 is denied and the answer set forth in Paragraph 31 is admitted.

33. Paragraph 33 does not require a response.

WHEREFORE, Plaintiffs on the Counterclaim (Defendants) demand judgment in their favor against the Defendants on the Counterclaim (Plaintiffs) as deemed appropriate.

Respectfully submitted this 16 of Sept, 2004.



---

Chris A. Pentz, Esquire  
Attorney for Defendants:  
Ferdin Wallace and Sherry S.  
Wallace

VERIFICATION

I, FERDIN WALLACE, verify that the statements made in this Reply to New Matter are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

SEPT 16, 2004  
Date

Ferdin Wallace  
Ferdin Wallace

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

Vs.

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

Docket No. 04-253-CD

\*

\*

\*

Type of Pleading:  
CERTIFICATE OF SERVICE

Filed on behalf of:  
Plaintiffs:  
Terry L. Thomas and  
Michele L. Thomas

Counsel of record for this party:

Dwight L. Koerber, Jr.  
PA I.D. No. 16332

110 North Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED** 300  
6K *Pl 3:14 Bth* *Atty*  
DEC 28 2004 *Koerber*  
William A. Shaw  
Prothonotary/Clerk of Courts

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

\*

\*

Docket No. 04-253-CD

Vs.

\*

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

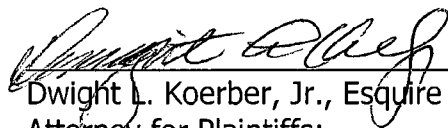
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**CERTIFICATE OF SERVICE**

This is to certify that on the 28<sup>th</sup> day of December 2004, the undersigned served the original and two copies of the REQUEST FOR ADMISSIONS in the above-captioned matter upon counsel for Defendants. Such documents were served via United States First Class Mail upon the following:

Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830



Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and  
Michele L. Thomas

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
DOCKET NO. 04-253-CD

Terry L. Thomas and  
Michele L. Thomas

-vs-

Ferdin Wallace and  
Sherry S. Wallace

CERTIFICATE OF SERVICE

FILED

DEC 28 2004

William A. Straw  
Prothonotary/Clerk of Courts  
LAW OFFICE

DWIGHT KOERBER, JR.  
ATTORNEY-AT-LAW  
110 NORTH SECOND STREET  
P. O. BOX 1320  
CLEARFIELD, PENNSYLVANIA 16830

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

Vs.

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

\*

\*

\*

Docket No. 04-253-CD

Type of Pleading:  
CERTIFICATE OF SERVICE

Filed on behalf of:

Plaintiffs:

Terry L. Thomas and  
Michele L. Thomas

Counsel of record for this party:

Dwight L. Koerber, Jr.  
PA I.D. No. 16332

110 North Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED** 300  
64 013-1361 Amy Koerber  
DEC 28 2004

William A. Shaw  
Prothonotary/Clerk of Courts



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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

Vs.

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

Docket No. 04-253-CD

\*

\*

\*

Type of Pleading:  
CERTIFICATE OF SERVICE

Filed on behalf of:  
Plaintiffs:  
Terry L. Thomas and  
Michele L. Thomas

Counsel of record for this party:

Dwight L. Koerber, Jr.  
PA I.D. No. 16332

110 North Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED** 300  
64 013-1320  
DEC 28 2004  
Att'y Koerber

William A. Shaw  
Prothonotary/Clerk of Courts

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

\*

\*

Docket No. 04-253-CD

Vs.

\*

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

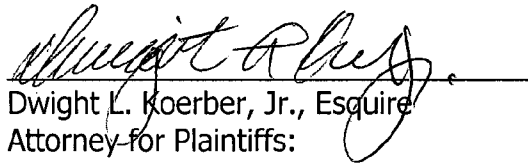
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**CERTIFICATE OF SERVICE**

This is to certify that on the 28<sup>th</sup> day of December 2004, the undersigned served the original and two copies of SET ONE INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS in the above-captioned matter upon counsel for Defendants. Such documents were served via United States First Class Mail upon the following:

Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and  
Michele L. Thomas

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET NO. 04-253-CD

Terry L. Thomas and  
Michele L. Thomas

-VS-

Ferdin Wallace and  
Sherry S. Wallace

CERTIFICATE OF SERVICE

DEC 28 2004

William A. Shaw  
Prothonotary/Clerk of Courts

LAW OFFICE

DWIGHT KOERBER, JR.

ATTORNEY-AT-LAW

110 NORTH SECOND STREET

P. O. BOX 1320

CLEARFIELD, PENNSYLVANIA 16830

William A. Shaw  
Prothonotary/Clerk of Courts

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

vs

FERDIN WALLACE and  
SHERRY S. WALLACE,  
Defendants

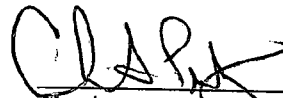
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No. 04-253-C.D.

CERTIFICATE OF SERVICE

This is to certify that on the 24 day of January,  
2005, the undersigned served Answers to Request for Admissions in  
the above captioned matter upon counsel for Plaintiffs. Such  
documents were personally served upon:

Dwight L. Koerber, Jr., Esquire  
110 North Second Street  
Clearfield PA 16830



Chris A. Pentz, Esquire  
Attorney for Defendant

CHRIS A. PENTZ  
ATTORNEY AT LAW  
207 East Market Street  
CLEARFIELD, PENNSYLVANIA 16830

Fold Here

FILED

JAN 24 2005

William A. S. Jr.  
Prothonotary Clerk of Courts

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

Vs.

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

\*

\*

\*

Docket No. 04-253-CD

Type of Pleading:  
MOTION TO COMPEL ANSWERS TO  
SET I INTERROGATORIES AND  
REQUEST FOR PRODUCTION OF  
DOCUMENTS FILED BY PLAINTIFFS

Filed on behalf of:  
PLAINTIFFS:

Terry L. Thomas and  
Michelle L. Thomas

Counsel of record of this party:

Dwight L. Koerber, Jr., Esquire  
PA I.D. No. 16332

**FILED**

01/10/04 Bdl  
FEB 24 2005

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

110 North Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

Vs.

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

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\*

\*

Docket No. 04-253-CD

**ORDER**

AND NOW THIS 1<sup>st</sup> day of March ~~February~~ 2005, upon consideration of the Motion to Compel filed by Plaintiffs, it is the Order and Decree of this Court that Defendants show cause why an Order should not be entered compelling them to properly respond to the Set I Interrogatories and Request for Production of Documents. Written response is due <sup>30 FJA</sup> ~~20~~ days from the date of the entry of this Order.

By the Court,

*Frederick J. Cunningham*

, Judge

**FILED**

① 3-26-04 3 o'clock p.m.

MAR 01 2005

William A. Shaw  
Prothonotary



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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

\*

\*

Docket No. 04-253-CD

Vs.

\*

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

**MOTION TO COMPEL ANSWERS TO SET I INTERROGATORIES AND  
REQUEST FOR PRODUCTION OF DOCUMENTS FILED BY PLAINTIFFS**

COME NOW, Terry L. Thomas and Michelle L. Thomas, Plaintiffs, by and through their attorney, Dwight L. Koerber, Jr., Esquire, and file the within Motion to Compel so as to require Defendants Ferdin Wallace and Sherry S. Wallace, to fully respond to the Set I Interrogatories and Request for Production of Documents that have been filed.

1. On December 28, 2004, Plaintiffs filed Set I Interrogatories and Request for Production of Documents, seeking certain discovery relative to the issues raised in this case. Attached hereto as Appendix A is a true and correct copy of the aforesaid discovery request.

2. Defendants failed to respond within the 30-day period provided by the Pennsylvania Rules of Civil Procedure and on January 31, 2005, counsel for Plaintiffs

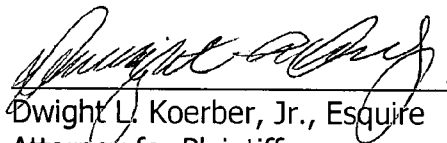
sent a letter to counsel for Defendants requesting that he respond. Attached hereto as Appendix B is a true and correct copy of that letter.

3. Notwithstanding the requirements of the Pennsylvania Rules of Civil Procedure that an Answer be filed within 30 days and notwithstanding the letter of January 31, 2005 requesting compliance, Defendants have failed and refused to respond to the said discovery requests.

4. Through this Motion, Plaintiffs request the Court to enter an Order compelling Defendants to fully and properly answer the Set I Interrogatories and Request for Production of Documents or to suffer sanctions as provided under the Pennsylvania Rules of Civil Procedure.

WHEREFORE, Plaintiffs pray that their Motion to Compel be granted and that Defendants be ordered to fully answer the Set I Interrogatories and Request for Production of Documents or to suffer sanctions for failure to do so.

Respectfully submitted,



Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and Michelle L. Thomas

110 North Second St.  
P.O. Box 1320  
Clearfield, PA 16830  
Attorney ID No. 16332

**APPENDIX A**

Attached hereto as Appendix A is a true and correct copy of Set I Interrogatories and Request for Production of Documents filed by Plaintiff.

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

Vs.

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

Docket No. 04-253-CD

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\*

\*

Type of Pleading:  
SET ONE INTERROGATORIES  
AND REQUEST FOR PRODUCTION  
OF DOCUMENTS

Filed on behalf of:  
Plaintiffs:  
Terry L. Thomas and  
Michele L. Thomas

Counsel of record for this party:

Dwight L. Koerber, Jr.  
PA I.D. No. 16332

110 North Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

\*

\*

Vs.

\*

Docket No. 04-253-CD

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

**SET I**  
**INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS**  
**DIRECTED TO DEFENDANTS**

TO: Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

PLEASE TAKE NOTICE THAT you are hereby required, pursuant to Rule 4005, 4006, and 4009 of the Pennsylvania Rules of Civil Procedure, Pa.R.C.P. 4005, 4006, 4009, to serve upon the undersigned, within thirty (30) days hereof, your answers in writing and under oath to the following interrogatories/request for production of documents. If, between the time of your answers to said interrogatories/request for production of documents and the time of trial of this case, you or anyone acting on your behalf shall learn the identity or whereabouts of any other witnesses not identified in your answers, or if you or anyone acting on your behalf obtains or becomes aware of additional requested information not supplied in your answers, you shall promptly furnish the same to the undersigned by supplemental answers. These interrogatories/request for production of documents are addressed to you as a party to this action and your answers shall be based upon the information known to you, your attorneys, or your representatives. Failure to provide the requested information and/or documents or make objections within the term specified may subject you to sanctions under Rule 4019 of the Pennsylvania Rules of Civil Procedure.

## DEFINITIONS AND INSTRUCTIONS

A. "You, your and/or Defendants" means and includes Ferdin E. Wallace and Sherry S. Wallace and other persons acting, having acted or purporting to act on behalf of Ferdin E. Wallace and Sherry S. Wallace.

B. As used herein, the term "Plaintiffs" refers to Terry L. Thomas and Michele L. Thomas, and the term "Defendants" refers to Ferdin E. Wallace and Sherry S. Wallace.

C. If you claim that the subject matter of a document or oral communication is privileged, you need not set forth a brief statement of the subject of this document, or the substance of the oral communication called for above. You shall, however, otherwise identify such document or oral communication and shall state each ground on which you claim that such document or oral communication is privileged.

D. Whenever you are asked to "identify" a person, the following information shall be given: (1) the name, present address, present employer and position of the person; and (2) whether the person has given any testimony by way of deposition or otherwise in any proceeding related to the present proceeding and/or whether the person has given a statement whether oral, written, or otherwise, and if so, the title and nature of any such proceeding, the date of the testimony, whether you have a copy of the transcript thereof, the name of the person to whom the statement was given, where the statement is presently located if written or otherwise transcribed, and the present location of such transcript or statement if not in your possession.

E. Whenever the term "document" is used herein, it includes (whether or not specifically called for) all printed, typewritten, handwritten, graphic or recorded matter, however produced or reproduced and however formal or informal.

F. Whenever you are asked to "identify" a document or documents, the following information should be given: (1) the identity of each person who wrote, signed, initiated, dictated or otherwise participated in the creation thereof; (2) the date of preparation; (3) its present location; (4) a description of the type of document; (5) the identity of all persons having custody or control thereof; and (7) if the document was, but is no longer, in your possession or control or your agents or representatives, describe the disposition of the document.

G. Whenever you are asked to "identify" an oral communication, the following information should be given: (1) the identity of each person who participated in the making thereof; (2) the date of the communication; (3) the place of the

communication; (4) the identity of each person present when the communication was made; (5) the identity of any document or other form of record made regarding the content of the oral communication; (6) a description of the type of document; (7) the record's present location; and (8) the identity of each person having custody or control of such record.

H. You are hereby requested to produce in accordance with Rule 4009 of the Pennsylvania Rules of Civil Procedure the below listed documents and/or items. These documents can be photocopies and forwarded without any inconvenience or hardship to the parties hereto. The below listed documents and/or items are to be forwarded to the offices of Dwight L. Koerber, Jr., Esquire, 110 North Second Street, P. O. Box 1320, Clearfield, Pa. 16830, within thirty (30) days of the date herein.

Whenever any of the aforesaid items are requested from you, they are to include not only those in your possession, custody or control, but likewise, that of your attorneys, consultants, sureties, indemnitors, adjusters and/or agents, pursuant to the Pennsylvania Rules of Civil Procedure.

This request is deemed to be continuing insofar as if any of the requested documents and/or items are secured subsequent to the date herein for the production of same, said documents and/or items are to be provided to plaintiffs'/defendants' counsel within thirty (30) days of the receipt of same.

1. Set forth the name of all individuals who participated in any fashion in furnishing information so as to answer the within discovery request.

ANSWER:

2. In your First Amended Counterclaim, you have indicated that the Counterclaim is filed on behalf of both Ferdin E. Wallace and Sherry S. Wallace. Please state whether you intend to establish the Counterclaim on behalf of both individuals listed as Defendants, or on behalf of only Ferdin E. Wallace.

ANSWER:

3. With respect to the Answer you gave in Paragraph 22 of your First Amended Counterclaim, and the map you have attached as Exhibit A, please state the following:

(a) Exactly how did you determine the boundary line that you have marked in red and inserted onto Exhibit A?

ANSWER:

(b) Did you have a surveyor assist you in marking that line and if so, furnish the name and address of the surveyor.

ANSWER:



(c) Did you use any tools or equipment or apparatus to assist you in marking the area in red and if so, identify those tools, equipment or apparatus that you used and explain how they were employed in marking the area.

ANSWER:

(d) When did you determine that the area identified in red and marked on Exhibit A to your First Amended Counterclaim would be identified by the lines that you have used to mark it.

ANSWER:

(e) In marking the area in red on the First Amended Counterclaim, Exhibit A, did you attempt to have it integrated to or make reference to any existing deed or any existing boundary line description, and if so, identify the deed or boundary line description and reference and explain why you used it in the manner that you did.

ANSWER:

(f) Furnish the names of all individuals that assisted you in delineating and marking the area identified in red ink on Exhibit A to your First Amended Counterclaim, and explain what roll they played in the marking that was used.

ANSWER:

4. With respect to paragraph 23(A) of your Counterclaim, where you state that you placed no trespassing signs in 1984, please furnish the following:

(a) Exactly where did you place the signs? In this regard, please identify where the signs were placed by making appropriate entries on the survey map which you identified as Exhibit A to your Counterclaim. A copy of such map is also attached hereto as Exhibit A-1 for that purpose.

ANSWER:

(b) What is the name of the individual who placed the no trespassing signs at the location(s) so identified?

ANSWER:

(c) State the name of all individuals that you are aware of that can testify to the fact that they saw the no trespassing signs that you state were placed on the subject property.

ANSWER:

(d) State what material the no trespassing signs were made of.

ANSWER:

(e) State whether any of the no trespassing signs continue to be posted and if so where.

ANSWER:

(f) Explain how you determined where you would place the no trespassing signs.

ANSWER:

5. With respect to Paragraph 23(B) where you state that you reposted no trespassing signs in 1994, state the following:

(a) Exactly where did you place the 1994 signs? In this regard, please identify where the 1994 signs were placed by making appropriate entries on the survey map which you identified as Exhibit A to your Counterclaim. A copy of such map is also attached hereto as Exhibit A-2 for that purpose.

ANSWER:

(b) What is the name of the individual who placed the 1994 no trespassing signs at the location so identified?

ANSWER:

(c) State the name of all individuals that you are aware of that can testify to the fact that they saw the 1994 no trespassing signs that you state were placed on the subject property.

ANSWER:

(d) State what material the 1994 no trespassing signs were made of.

ANSWER:

(e) State whether any of the 1994 no trespassing signs continue to be posted and if so where.

ANSWER:

(f) Explain how you determined where you would place the 1994 no trespassing signs.

ANSWER:

6. With respect to the assertions you made in Paragraph 23(C) of your First Amended Counterclaim, where you indicate that you blocked the access road from Turnpike Avenue in 1972 or 1973, state the following:

(a) Exactly where was the access road located?

ANSWER:

(b) Indicate on Exhibit A to your First Amended Counterclaim, a copy of which is attached hereto as Exhibit A-3, where the blocked access road is located.

ANSWER:

(c) Specifically who blocked the access road in question?

ANSWER:

(d) How long was the access road blocked?

ANSWER:

(e) Explain how the access road relates to the property identified in Exhibit A to your First Amended Counterclaim which you have marked in red ink showing the area that you are claiming through adverse possession.

ANSWER:

(f) Set forth the name, address, and telephone number of all individuals who you are aware of who have knowledge of matters pertaining to the blocking of the access road.

ANSWER:

(g) State to what extent the blocking of the access road has continued.

ANSWER:

(h) State what individuals you were seeking to exclude from using the access road.

ANSWER:

7. With respect to Paragraph 23(D) of your First Amended Counterclaim, where you alleged that you removed firewood from the premises from 1974 or 1975 to present, state the following:

(f) Set forth the name, address, and telephone number of all individuals who you are aware of who have knowledge of matters pertaining to the blocking of the access road.

ANSWER:

(g) State to what extent the blocking of the access road has continued.

ANSWER:

(h) State what individuals you were seeking to exclude from using the access road.

ANSWER:

7. With respect to Paragraph 23(D) of your First Amended Counterclaim, where you alleged that you removed firewood from the premises from 1974 or 1975 to present, state the following:



(f) Set forth the name, address, and telephone number of all individuals who you are aware of who have knowledge of matters pertaining to the blocking of the access road.

ANSWER:

(g) State to what extent the blocking of the access road has continued.

ANSWER:

(h) State what individuals you were seeking to exclude from using the access road.

ANSWER:

7. With respect to Paragraph 23(D) of your First Amended Counterclaim, where you alleged that you removed firewood from the premises from 1974 or 1975 to present, state the following:

(d) Set forth the name and address of all individuals who have knowledge of the removal of firewood as you have alleged.

ANSWER:

8. With respect to Paragraph 23(E) of your First Amended Counterclaim, where you state that you directed Plaintiff Terry Thomas to remove the no trespassing signs in 2002, state the following:

(a) When speaking with Mr. Thomas, state the words that you used, to the best of your knowledge, when you directed him to remove such signs, and indicate his response.

ANSWER:

(b) State the name of any persons who were witness to the discussion you had with Terry Thomas.

ANSWER:

9. Concerning Paragraph 23(F) of your First Amended Counterclaim, where you referred to building roads on the property in 1973, 1978 and 1994, state the following:

(a) Specifically identify on Exhibit A to your First Amended Counterclaim, a copy of which is attached hereto as Exhibit A-5, where the roads are located.

ANSWER:

(b) Indicate the name and address of all individuals who assisted in the building of those roads.

ANSWER:

(c) State the reason for which the roads were built.

ANSWER:

(d) State the name of all individuals that you are aware of that have knowledge of the existence of the roads that you state were built in 1973, 1978, and 1994, and state the specifically what knowledge they have concerning these roads.

ANSWER:

10. With respect to Paragraph 23(G) of your First Amended Counterclaim, state the following:

(a) Give the name and address of the individual who engaged in the activity that you have described and the time period for their involvement.

ANSWER:

(b) State the manner in which these activities show that you had exclusive possession of the property in question.

ANSWER:

(c) Mark on Exhibit A-6, attached hereto, where the activities took place.

ANSWER:

11. With respect to Paragraph 23(H) of your First Amended Counterclaim, pertaining to two water tankers, state the following:

(a) Precisely where on the subject premises are the two water tankers located, and when responding, please specifically mark their location on Exhibit A-7, attached hereto.

ANSWER:

(b) State the name in which each water tanker is titled.

ANSWER:

(c) Furnish a copy of the Certificate of Title for the two water tankers.

ANSWER:

(d) State the name of the person that placed the water tankers on the premises.

ANSWER:

(e) State the name, if any, shown on the water tankers and describe how large the printing is for the names.

ANSWER:

12. With respect to Paragraph 23(I) of your First Amended Counterclaim, pertaining to a tractor and flat bed trailer, furnish the following:

(a) Precisely where on the subject premises are the tractor and flat bed trailer located, and when responding, please specifically mark their location on Exhibit A-8, attached hereto.

ANSWER:

(b) State the name in which the tractor and flat bed trailer are titled.

ANSWER:

(c) Furnish a copy of the Certificate of Title for the tractor and flat bed trailer.

ANSWER:

(d) State the name of the person that placed the tractor and flat bed trailer on the premises.

ANSWER:

(e) State the name shown on the exterior of the tractor and flat bed trailer.

ANSWER:

(f) With respect to your response to these questions pertaining to the tractor and flat bed trailer as identified in Paragraph 23(I) of your First Amended Counterclaim, state the extent to which your response applies to the period of time measured from 1978 versus 1998.

ANSWER:

13. With respect to Paragraph 23(J) of your First Amended Counterclaim, state the following:

(a) Who owns the bleacher planks and guard rails?

ANSWER:

(b) What was their original use?

ANSWER:

(c) Explain how Defendant(s) acquired ownership of the bleacher planks and guard rails.

ANSWER:

(d) Show on the survey map attached as Exhibit A to your First Amended Counterclaim, and now attached as Exhibit A-9, to these Interrogatories, where the bleacher planks and guard rails are located.

ANSWER:



(e) State what action you have taken to identify the bleacher planks and guard rails as being actions that you took in order to demonstrate your possession of the subject premises.

ANSWER:

(f) State whether the bleachers and guard rails were used after being placed on the subject premises, and if so, by who, when and for what purpose.

ANSWER:

14. With respect to Paragraph 23(K) of your First Amended Counterclaim, where you refer to a children's playhouse, please state the following:

(a) Specifically who constructed the playhouse in question?

ANSWER:

(b) Describe the playhouse in question.

ANSWER:

(c) Show on Exhibit A-10, where the playhouse is located.

ANSWER:

(d) Show the manner in which you identified/marked the playhouse so as to show that it was owned by you.

ANSWER:

(e) State the actions you have taken as it relates to the playhouse to show that you have continued to possess it from the time it was constructed through the present time.

ANSWER:

15. With respect to Paragraph 23(L) of your First Amended Counterclaim, where you refer to restricting individuals from hunting on the property, please state the following:

(a) Did you post any no hunting signs on the property that you have identified in red ink on Exhibit A.

ANSWER:

(b) If the answer to the preceding Interrogatory is in the affirmative, name the person who posted the signs and mark on Exhibit A-11, attached hereto, and the precise location on the property where you posted signs.

ANSWER:

(c) Indicate on Exhibit A-12, attached hereto, where the trespassers were located that you reported to Lawrence Township.

ANSWER:

(d) State the name and address of the person(s) who witnessed the trespassing that you state that you reported to Lawrence Township.

ANSWER:

16. In Paragraph 24(A) of your First Amended Counterclaim, you referenced the January 19, 1982 deed from James T. Crissman, Inc. to Ferdin E. Wallace and Marilyn Wallace, at Deed Book Volume 828, Page 317. State specifically the chain of title that connects that deed to your current ownership, and when responding, furnish copies of deeds in the chain of title that you make reference to.

ANSWER:

17. In your Reply to New Matter, specifically Paragraph 27, you state that you will establish ownership of the property in question by adverse possession. When you make that statement, are you agreeing that your chain of title does not trace back to the January 19, 1982 deed from James T. Crissman, Inc.? If you do not agree that

your chain of title does not trace back to that deed, set forth the specifics of your chain of title which in fact does connect to that deed.

ANSWER:

18. Attached as Exhibit B to the Answer and New Matter of Plaintiffs to Counterclaim of Defendants, as filed on August 27, 2004, is a Sheriff's Deed which specifically recites that the ownership interest of Ferdin E. Wallace and Marilyn Wallace Hummel were divested as a result of the lawsuit of Clearfield Bank & Trust at Docket Number 92-767-CD of the Court of Common Pleas of Clearfield County. Do you in any way challenge the correctness of that statement? If so, state the specific facts or conclusions or assertions that you disagree with and in doing so, state the legal basis, if any, that you are relying upon to demonstrate that you continue to have a legal interest in the subject property after the Writ of Execution at Docket Number 92-59-EX was exercised.

ANSWER:

19. Attached as Exhibit D to the Answer and New Matter of Plaintiffs to Counterclaim of Defendants, as filed on August 27, 2004, is a copy of the deed from the Tax Claim Bureau which identifies the real estate that you lost in a tax sale. With respect to that real estate, state the following:

(a) Does the deed marked as Exhibit D, cover the same property that you are upon in the present legal proceeding?

ANSWER:

(b) If you deny it is the same property, state specifically the reasons why you deny it is the same property.

ANSWER:

20. In Exhibit E to the Answer and New Matter of Plaintiffs to Counterclaim of Defendants, as filed on August 27, 2004, a copy of the deed dated December 18, 2000 is attached. Does this deed refer to the same property that you are relying upon in your claim of title ownership in this property, and if you deny that it is, state the specific reasons for doing so.

ANSWER:

21. State your legal basis for denying that the Writ of Execution issued in Docket Number 92-59-EX divested you of all ownership claims, including any claim for adverse possession, that stem from a date prior to the date of that Writ of Execution.

ANSWER:

22. State your legal authority, if any, that is in opposition to the assertion of Plaintiffs that the tax sale conducted on your property on September 12, 1995, as identified in Paragraph 27(e) of the Answer and New Matter of Plaintiffs to Counterclaim of Defendants, as filed on August 27, 2004, divested any claim of ownership that you had to the subject property prior to the time that the tax sale was conducted on September 12, 1995.

ANSWER:

23. Identify the name and address of all witnesses which have information which supports your claim of ownership through adverse possession, as alleged in this proceeding.

ANSWER:

24. Summarize the evidence each witness that you have identified in response to the preceding Interrogatory would present as pertinent to your claim of adverse possession in this proceeding.

ANSWER:

25. During the 21-year period of time that you are claiming for adverse possession, have either of you (Ferdin E. Wallace or Sherry S. Wallace) filed a petition



for relief under the U.S. Bankruptcy Code, and if so, furnish the docket number and the date of filing.

ANSWER:

26. During the 21-year period of time that you are asserting for adverse possession in this proceeding, state the following:

(a) The exact address at which you have resided for the 21-year period of time in question.

ANSWER:

(b) Set forth all mailing addresses that you have used during that 21-year period of time.

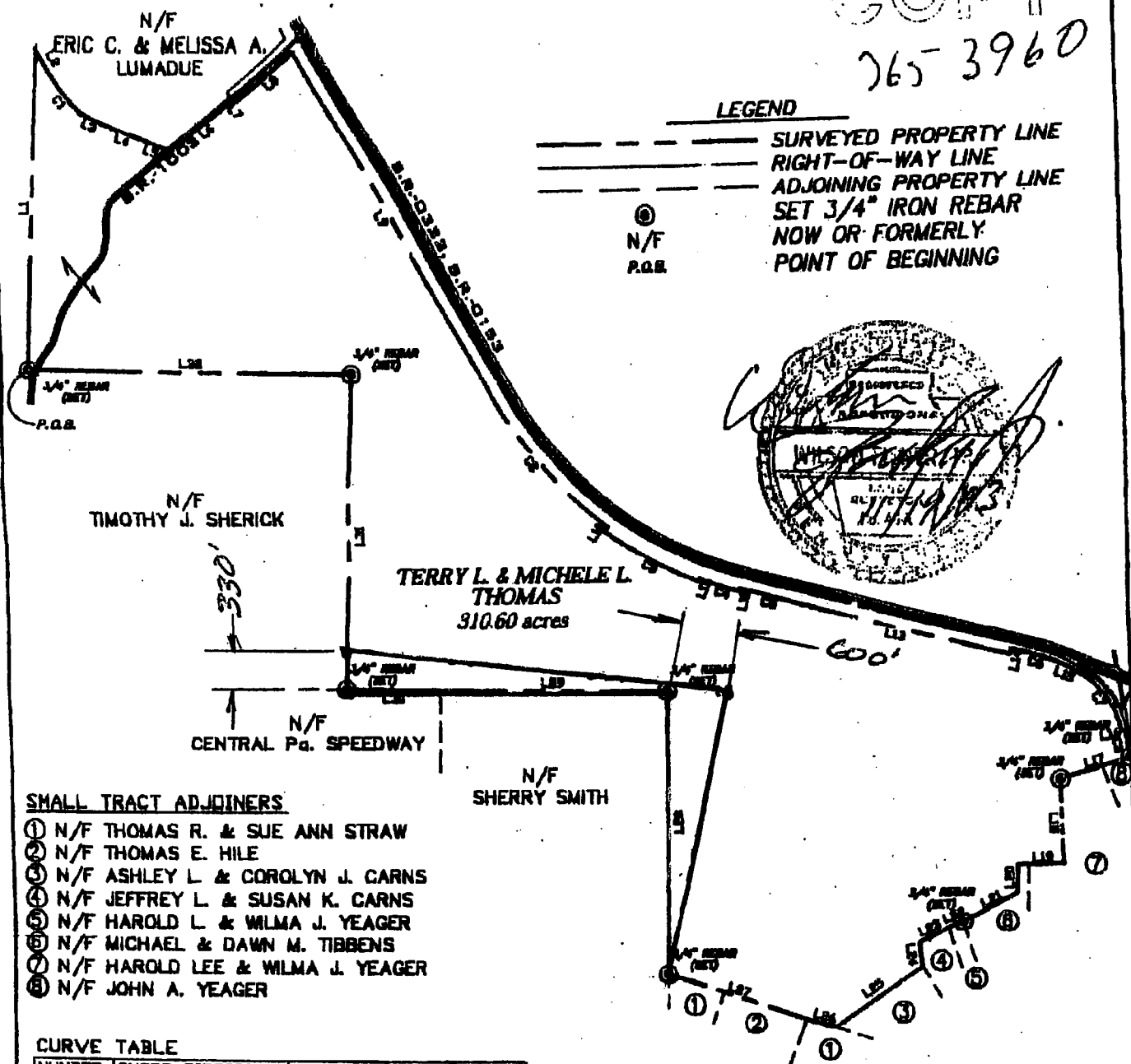
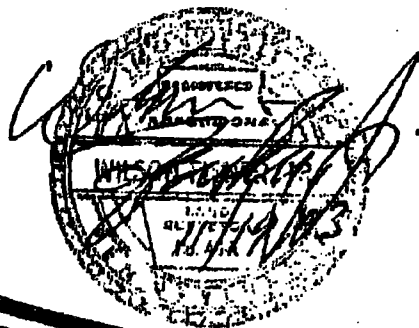
ANSWER:

3427099

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765-3960

## LEGEND

- SURVEYED PROPERTY LINE  
 ----- RIGHT-OF-WAY LINE  
 ----- ADJOINING PROPERTY LINE  
 (N/F) SET 3/4" IRON REBAR  
 (P.O.B.) NOW OR FORMERLY  
 POINT OF BEGINNING



## SMALL TRACT ADJOINERS

- ① N/F THOMAS R. & SUE ANN STRAW
- ② N/F THOMAS E. HILE
- ③ N/F ASHLEY L. & COROLYN J. CARNS
- ④ N/F JEFFREY L. & SUSAN K. CARNS
- ⑤ N/F HAROLD L. & WILMA J. YEAGER
- ⑥ N/F MICHAEL & DAWN M. TIBBENS
- ⑦ N/F HAROLD LEE & WILMA J. YEAGER
- ⑧ N/F JOHN A. YEAGER

## CURVE TABLE

NUMBER	CHORD DIRECTION	RADIUS	CHORD LENGTH
C1	S 36°36'23" E	1189.44	304.83
C2	S 38°57'22" E	2788.48	1276.78
C3	S 59°54'33" E	2699.25	694.35
C4	S 70°17'05" E	3253.86	269.62
C5	S 74°13'52" E	13228.00	401.04
C6	S 71°39'39" E	3641.99	299.15
C7	S 35°06'11" E	569.14	488.40
C8	S 09°53'44" E	1932.78	179.44

## LINE TABLE

NUMBER	DIRECTION	DISTANCE	NUMBER	DIRECTION	DISTANCE
L1	N 02°24'06" E	2083.04'	L17	S 73°32'04" W	466.70'
L2	S 31°37'00" E	192.74'	L18	S 01°27'56" E	546.00'
L3	S 60°48'46" E	174.78'	L19	S 88°39'51" W	292.22'
L4	S 66°44'58" E	291.50'	L20	S 01°58'01" W	174.69'
L5	S 65°04'40" E	171.97'	L21	S 62°19'07" W	394.06'
L6	N 48°41'43" E	551.35'	L22	S 65°53'21" W	101.25'
L7	S 41°01'26" E	23.47'	L23	S 63°52'12" W	208.09'
L8	N 48°49'44" E	492.00'	L24	S 07°58'39" E	161.90'
L9	S 28°44'08" E	2445.08'	L25	S 55°43'51" W	692.72'
L10	S 36°22'31" W	40.02'	L26	N 72°26'00" W	197.46'
L11	N 20°48'07" E	20.02'	L27	N 71°23'04" W	94.13'
L12	N 14°57'11" E	20.01'	L28	N 00°48'51" E	1864.61'
L13	S 74°40'25" E	1391.95'	L29	N 89°11'09" W	1485.00'
L14	N 15°38'48" E	40.65'	L30	N 89°08'02" W	601.16'
L15	S 62°49'07" E	137.92'	L31	N 02°00'52" E	2104.05'
L16	N 80°03'51" E	20.70'	L32	N 88°59'16" W	2070.75'

BEARING BASE  
 MAGNETIC NORTH  
 TAKEN APRIL 14, 2003

DRAWN BY: RL FILE NO.:

CHECKED BY: WF JOB NO.:

DATE: 9/12/03 FB NO.:

SCALE: 1"=1000' REVISION:

cadsverr/thomas/thomas.dwg

PROPERTY ACCORDING TO J. PRUSSMAN

PLAT OF LANDS OF  
 TERRY L. & MICHELE L. THOMAS  
 LAWRENCE TOWNSHIP, CLEARFIELD COUNTY

**HESS & FISHER ENGINEERS, INC.**  
 CONSULTING ENGINEERS & GEOLOGISTS  
 38 NORTH SECOND STREET  
 CLEARFIELD, PENNSYLVANIA 16830 814-785-7541

EXHIBIT "A-1"

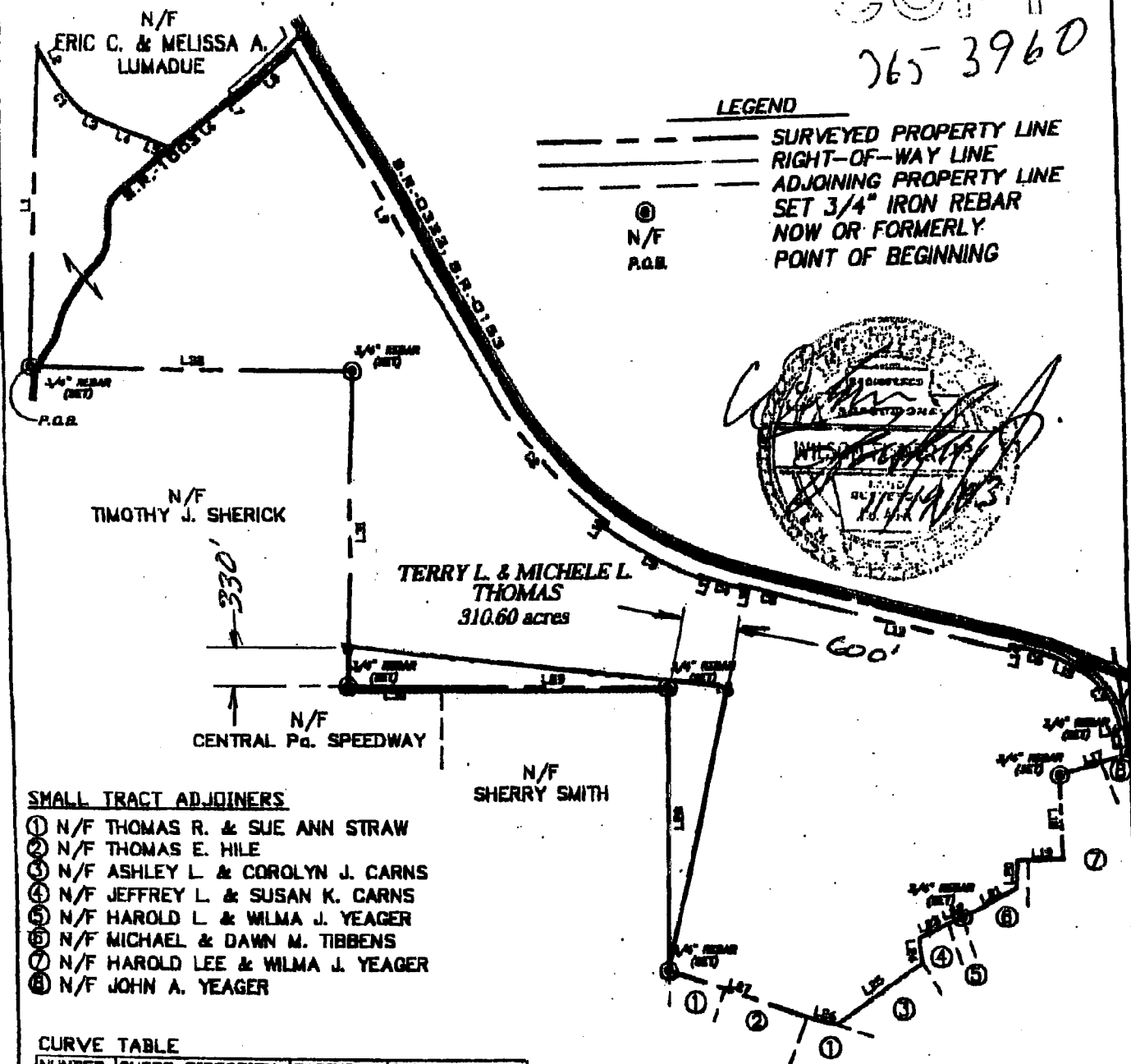
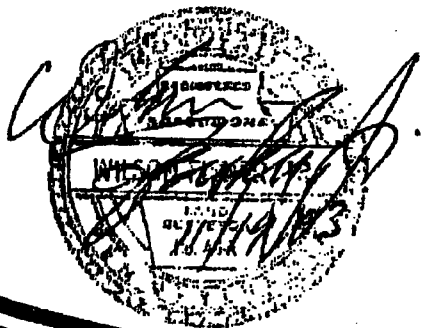
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COPY

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L11	N 20°48'07" E	20.02'	L27	N 71°23'04" W	941.13'
L12	N 14°57'11" E	20.01'	L28	N 00°48'51" E	1864.61'
L13	S 74°40'25" E	1391.95'	L29	N 89°11'09" W	1485.00'
L14	N 15°38'48" E	40.65'	L30	N 89°08'02" W	601.16'
L15	S 62°49'07" E	137.92'	L31	N 02°00'52" E	2104.05'
L16	N 80°03'51" E	20.70'	L32	N 88°59'16" W	2070.75'



BEARING BASE  
MAGNETIC NORTH  
TAKEN APRIL 14, 2003

• 3 HAND USED & PART OF PROPERTY ACCORDING TO J. PRISSMAN

DRAWN BY: RL	FILE NO.:	<b>PLAT OF LANDS OF</b> <b>TERRY L. &amp; MICHELE L. THOMAS</b> <b>LAWRENCE TOWNSHIP, CLEARFIELD COUNTY</b> <b>HESS &amp; FISHER ENGINEERS, INC.</b> <b>CONSULTING ENGINEERS &amp; GEOLOGISTS</b> <b>38 NORTH SECOND STREET</b> <b>CLEARFIELD, PENNSYLVANIA 16830 814-785-7541</b>
CHECKED BY: WF	JOB NO.:	
DATE: 9/12/03	FB NO.:	
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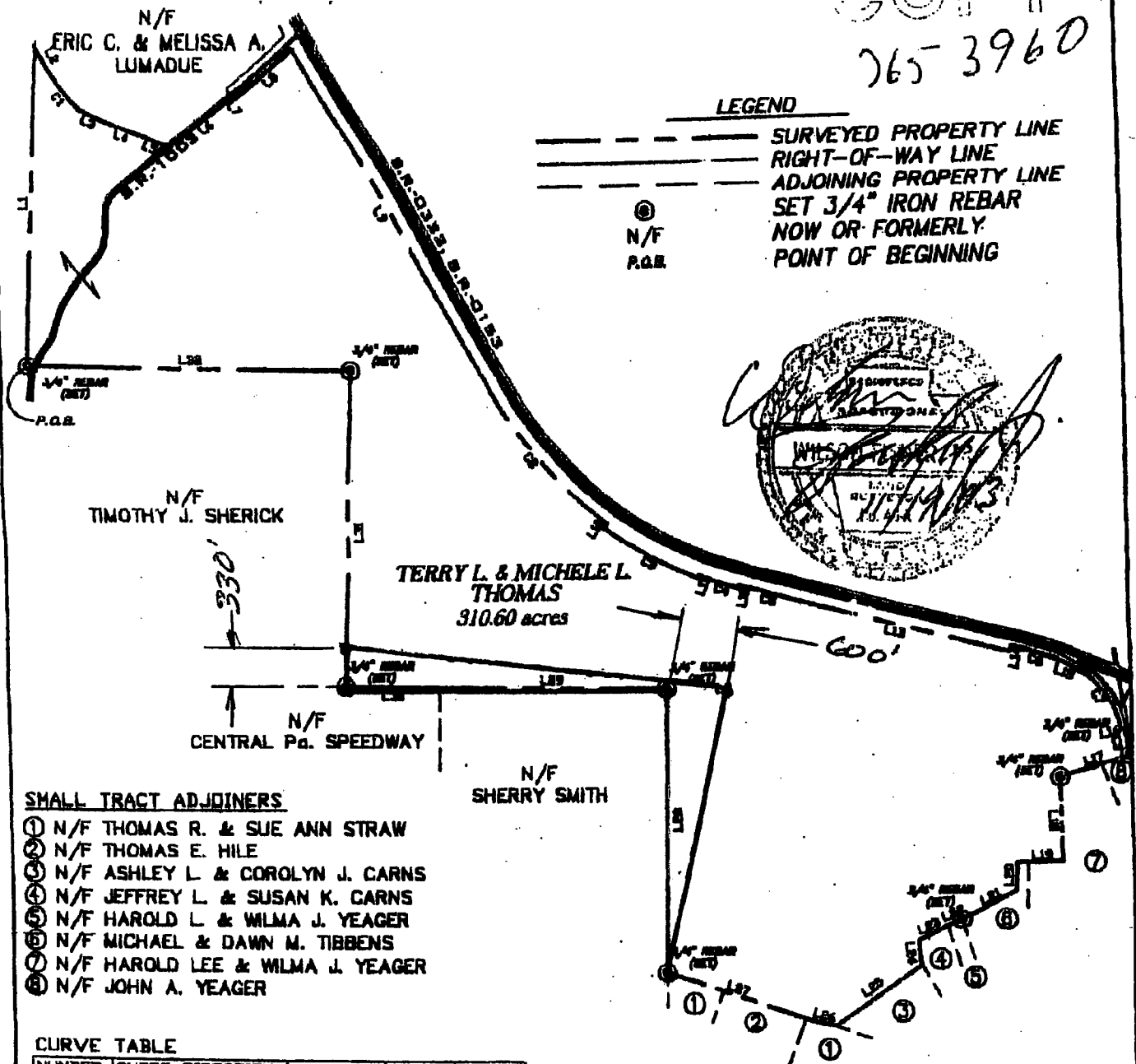
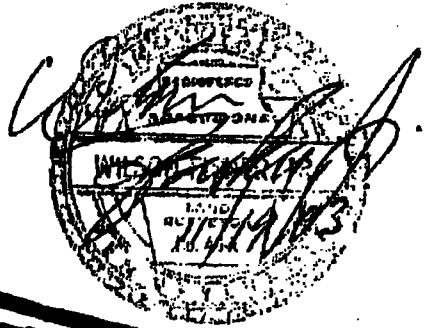
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## LEGEND

- SURVEYED PROPERTY LINE  
 ----- RIGHT-OF-WAY LINE  
 ----- ADJOINING PROPERTY LINE  
 (N/F) SET 3/4" IRON REBAR  
 (P.O.B.) NOW OR FORMERLY  
 POINT OF BEGINNING



## SMALL TRACT ADJOINERS

- ① N/F THOMAS R. & SUE ANN STRAW
- ② N/F THOMAS E. HILE
- ③ N/F ASHLEY L. & COROLYN J. CARNS
- ④ N/F JEFFREY L. & SUSAN K. CARNS
- ⑤ N/F HAROLD L. & WILMA J. YEAGER
- ⑥ N/F MICHAEL & DAWN M. TIBBENS
- ⑦ N/F HAROLD LEE & WILMA J. YEAGER
- ⑧ N/F JOHN A. YEAGER

## CURVE TABLE

NUMBER	CHORD DIRECTION	RADIUS	CHORD LENGTH
C1	S 36°36'23" E	1189.44	304.83
C2	S 38°37'22" E	2782.48	1276.78
C3	S 59°54'33" E	2699.25	694.35
C4	S 70°17'05" E	3255.86	869.62
C5	S 74°13'32" E	13228.00	401.04
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## LINE TABLE

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L6	N 48°41'43" E	551.35'	L22	S 65°53'21" V	101.25'
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L9	S 28°44'08" E	2445.08'	L25	S 55°43'51" W	692.72'
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BEARING BASE  
MAGNETIC NORTH  
TAKEN APRIL 14, 2003

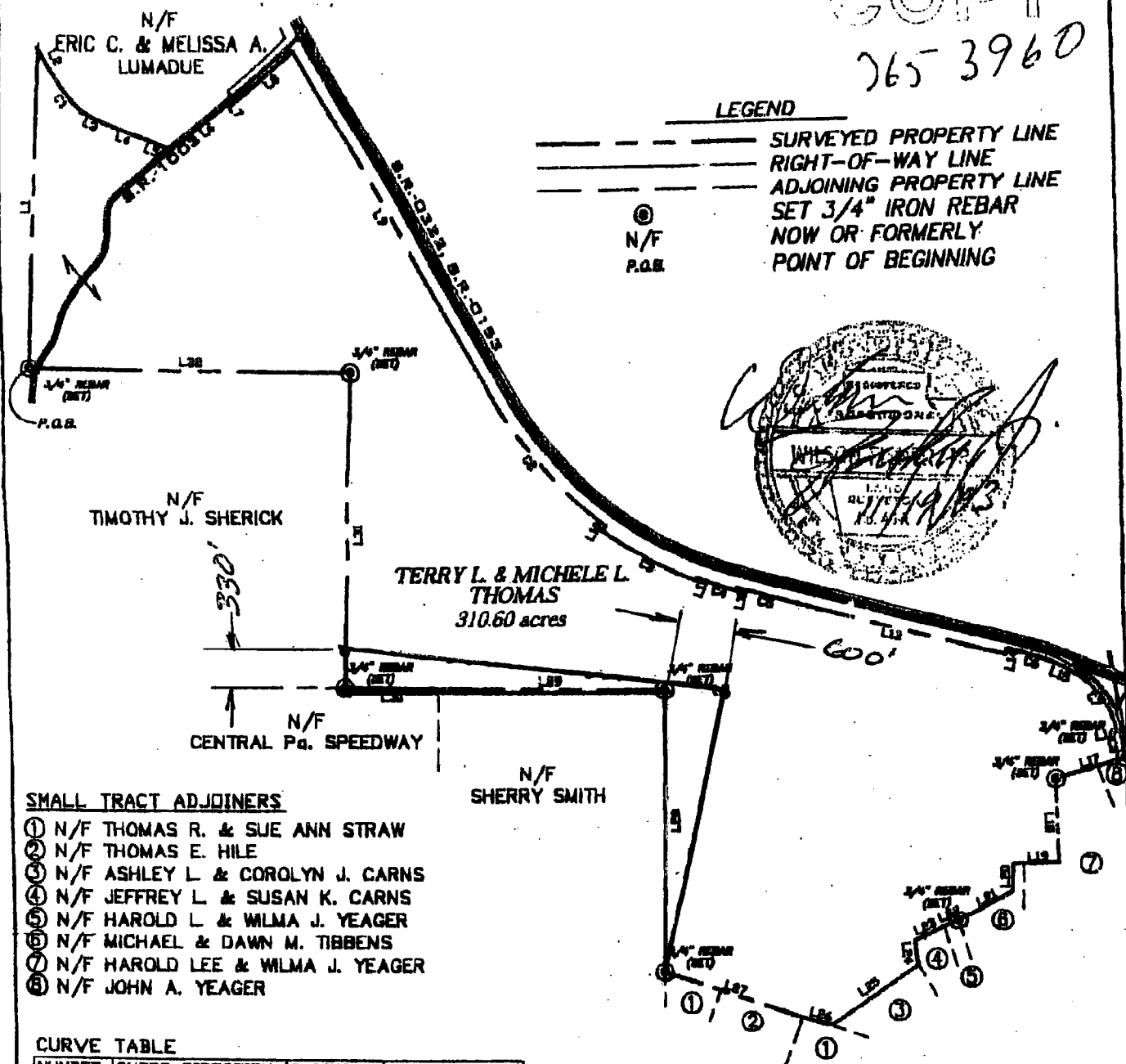
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PROPERTY ACCORDING TO J. PRISMAN

DRAWN BY: RL	FILE NO.	<b>PLAT OF LANDS OF</b> <b>TERRY L. &amp; MICHELE L. THOMAS</b> <b>LAWRENCE TOWNSHIP, CLEARFIELD COUNTY</b> <b>HESS &amp; FISHER ENGINEERS, INC.</b> <b>CONSULTING ENGINEERS &amp; GEOLOGISTS</b> <b>38 NORTH SECOND STREET</b> <b>CLEARFIELD, PENNSYLVANIA 16830 814-785-7541</b>
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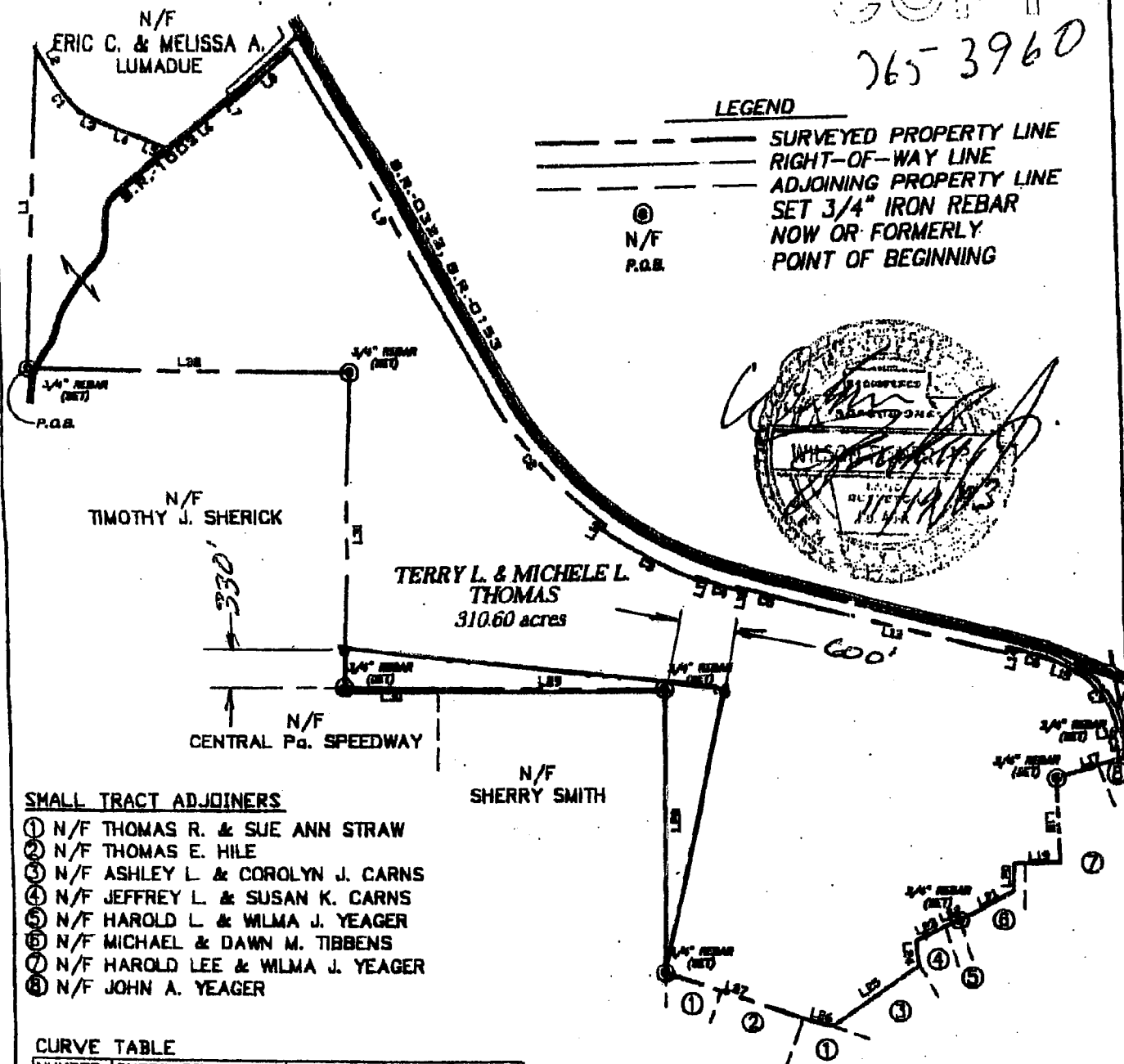
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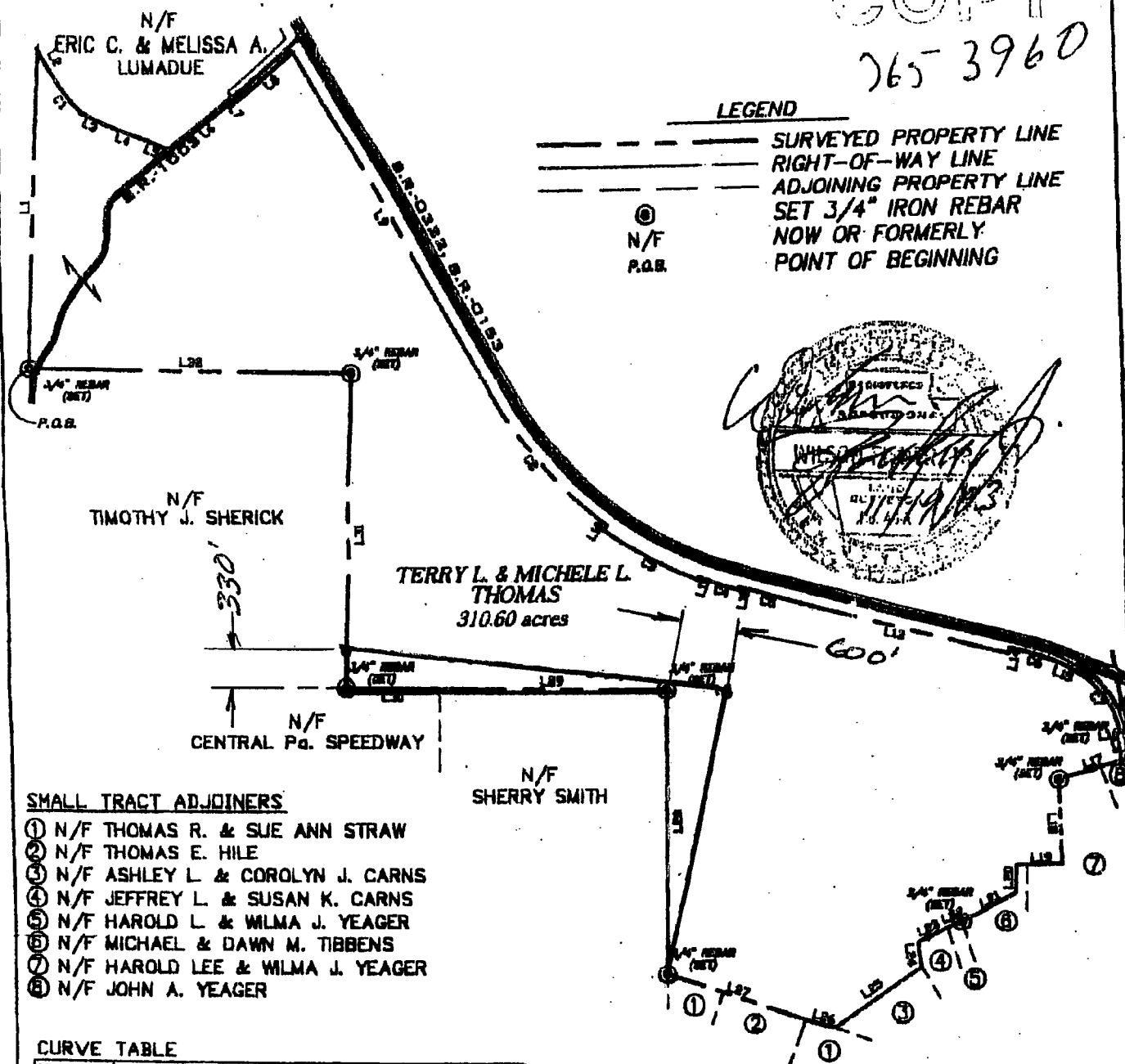
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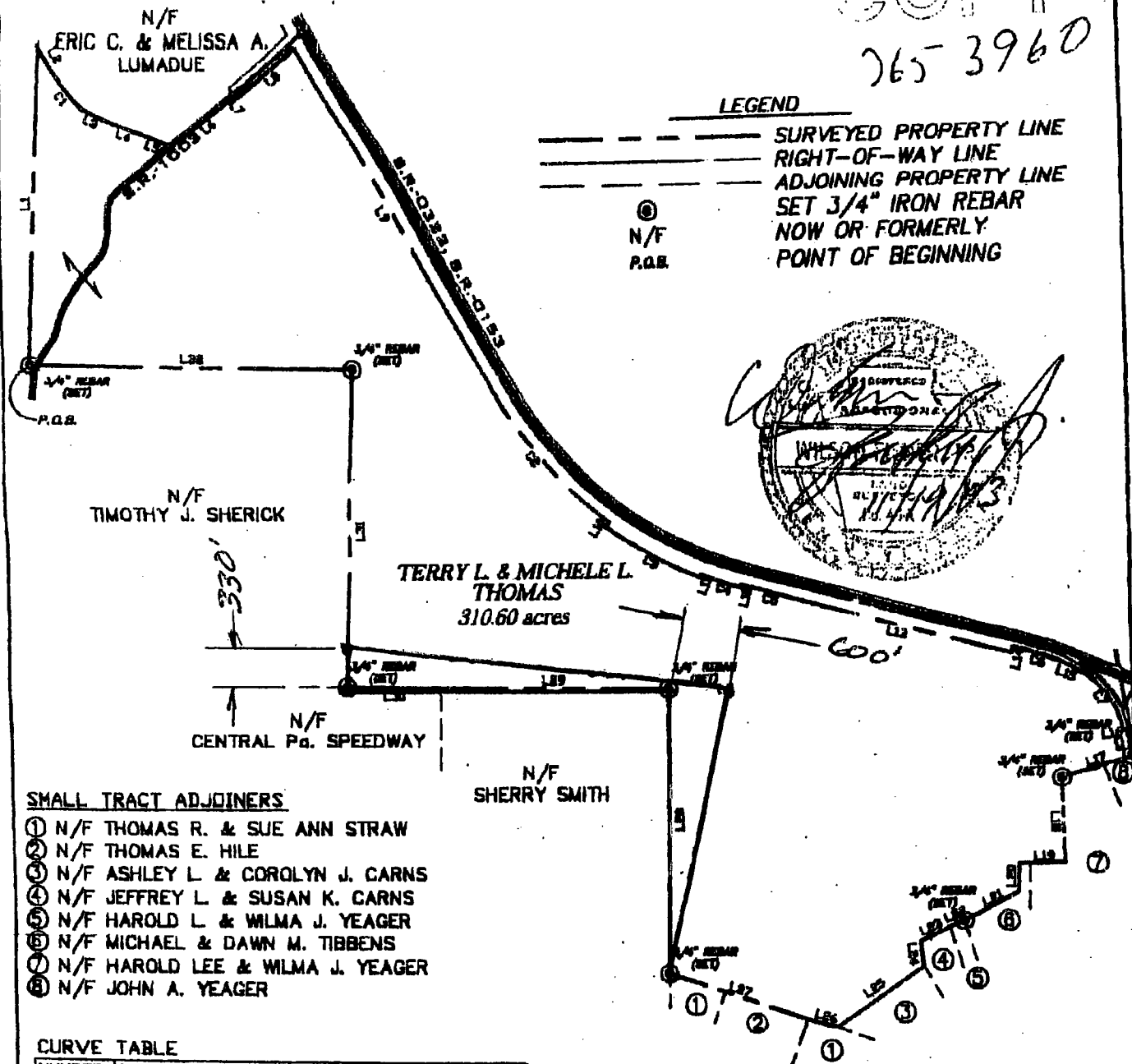
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BEARING BASE  
MAGNETIC NORTH  
TAKEN APRIL 14, 2003

• 3 HAND USED & PART OF PROPERTY ACCORDING TO J. KRISMAN

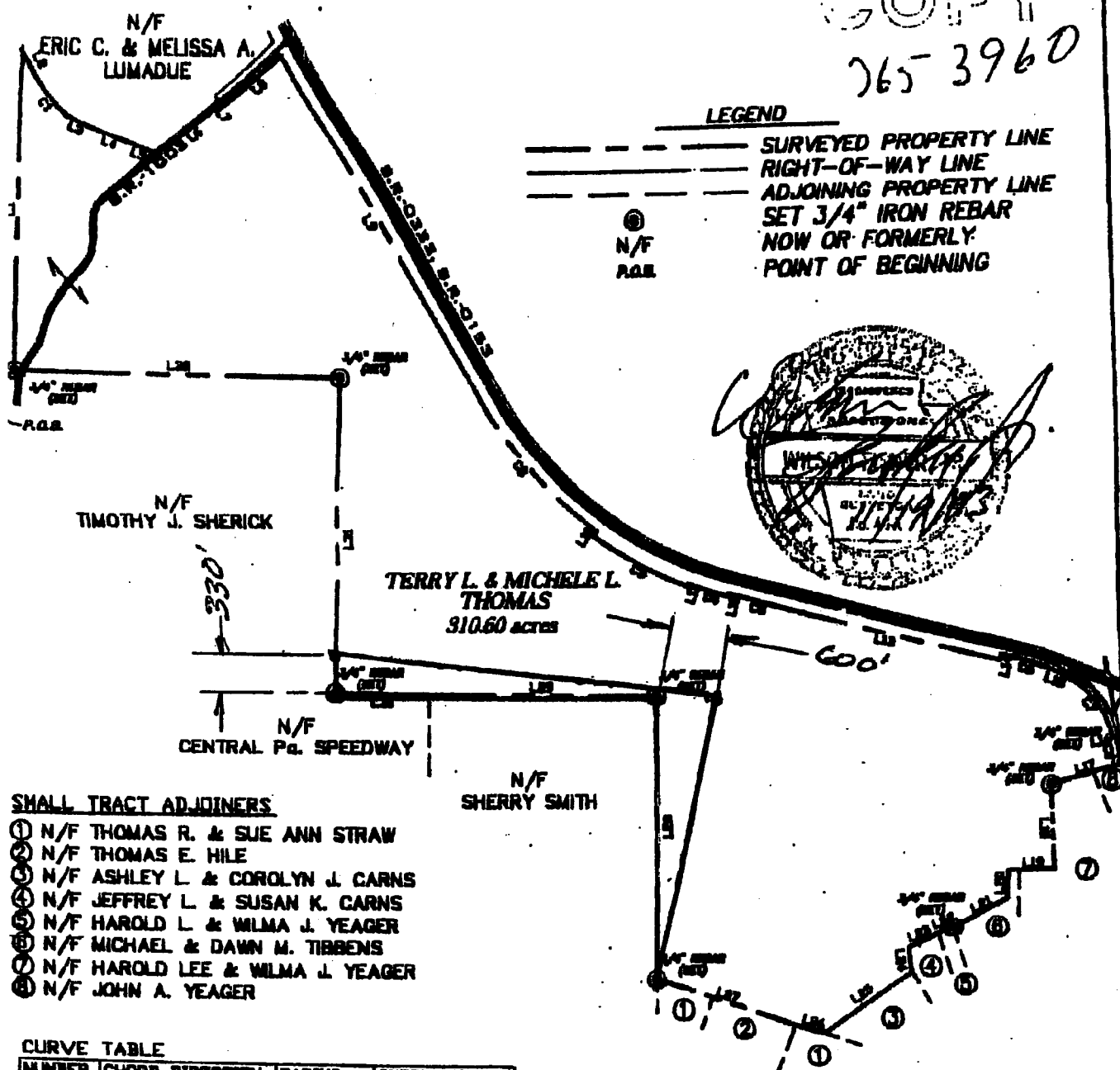
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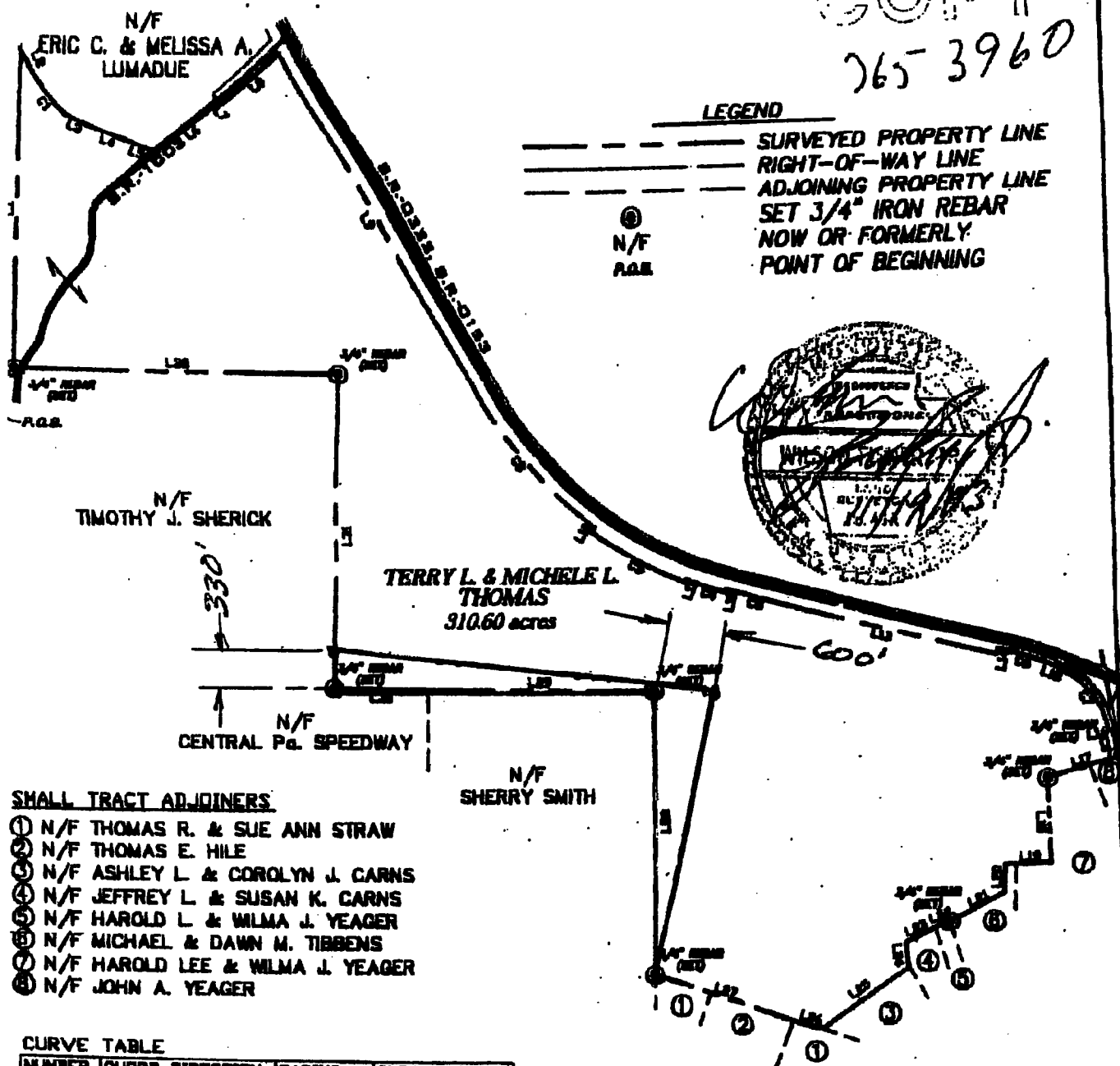
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EXHIBIT "A-8"

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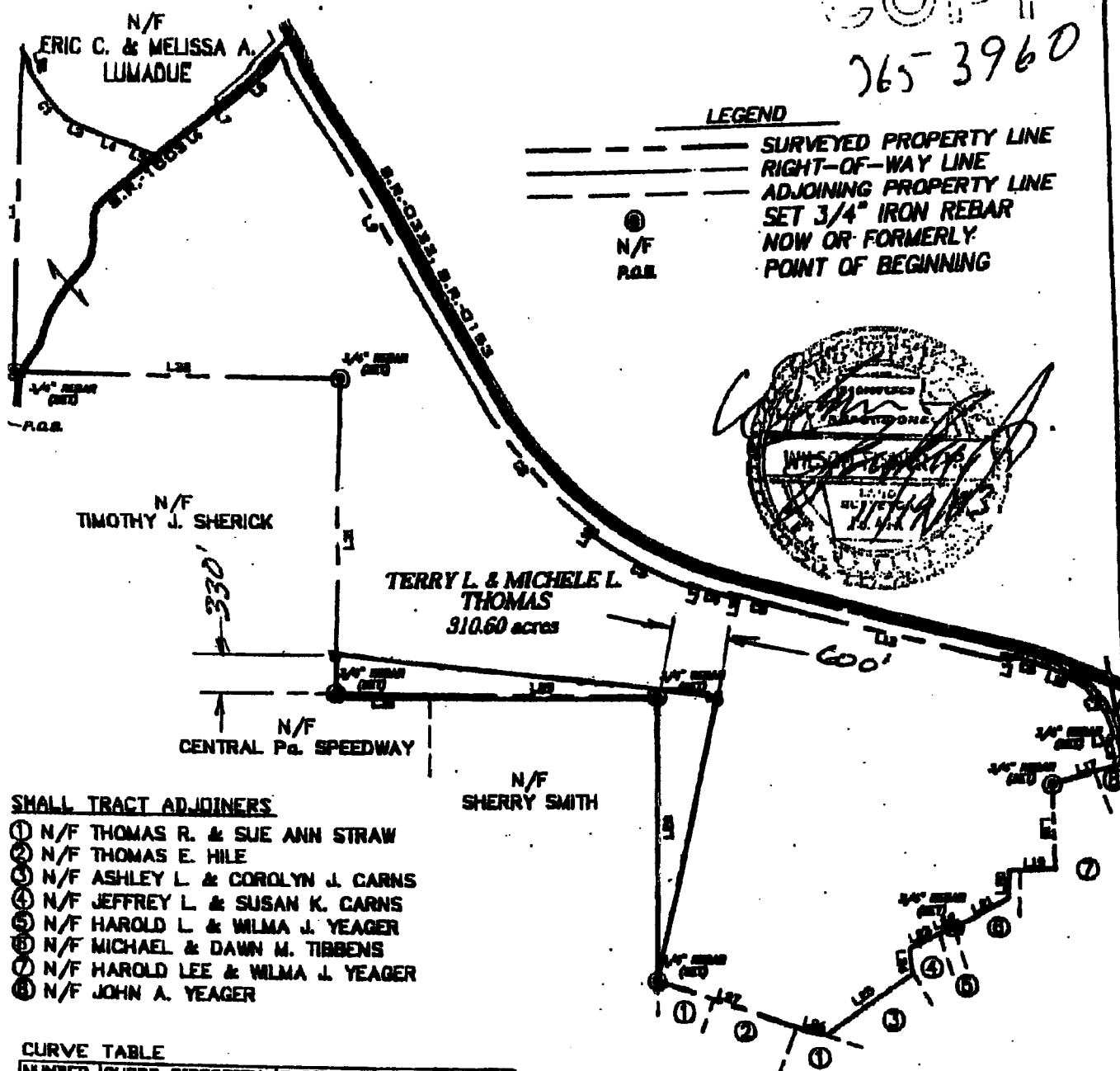
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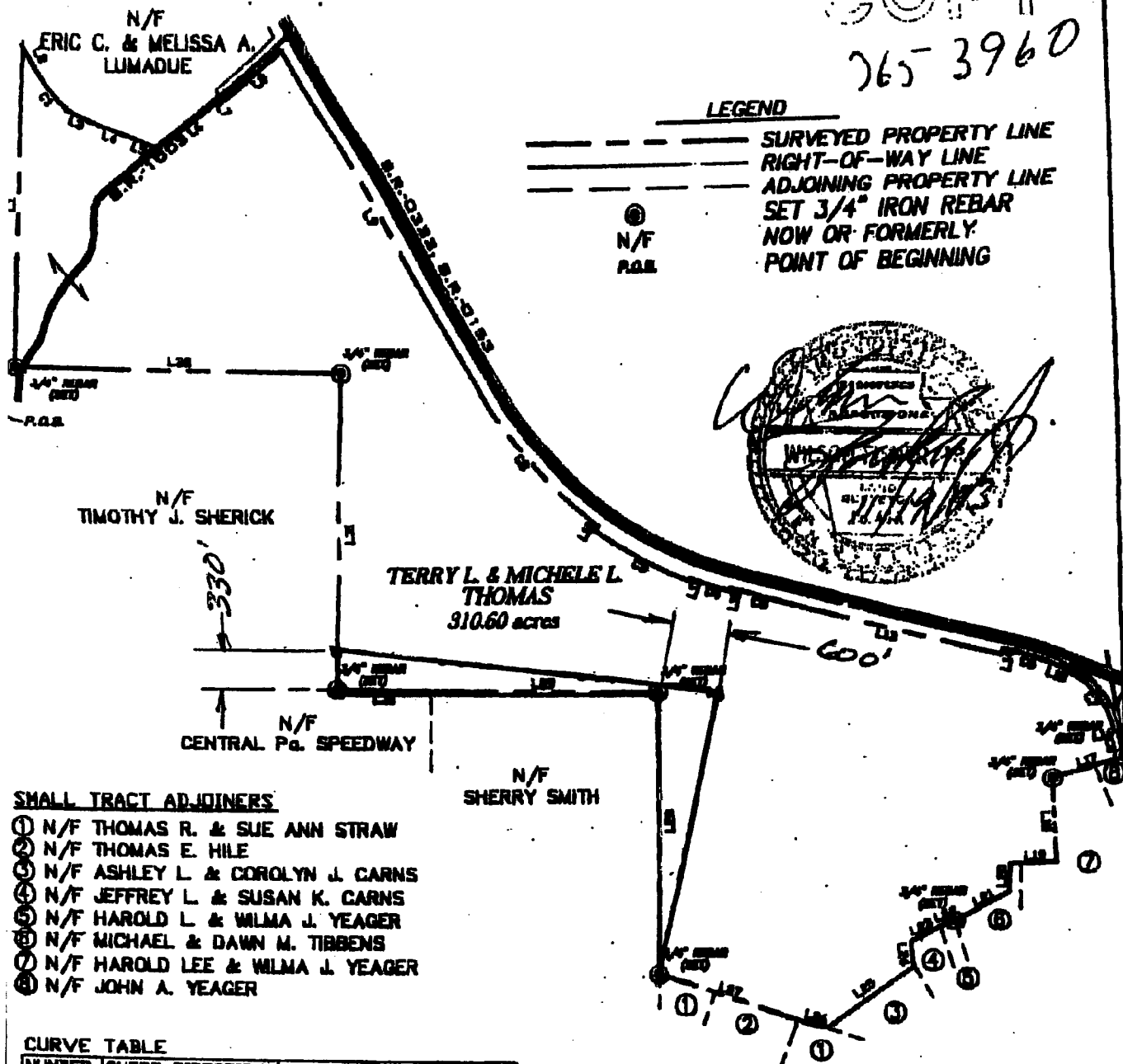
PROPERTY ACCORDING TO J. KRISMAN

DRAWN BY: RL	FILE NO.	<b>PLAT OF LANDS OF</b> <b>TERRY L. &amp; MICHELE L. THOMAS</b> <b>LAWRENCE TOWNSHIP, CLEARFIELD COUNTY</b> <b>HESS &amp; FISHER ENGINEERS, INC.</b> <b>CONSULTING ENGINEERS &amp; GEOLOGISTS</b> <b>38 NORTH SECOND STREET</b> <b>CLEARFIELD, PENNSYLVANIA 16830 814-785-7541</b>
CHECKED BY: WF	JOB NO.	
DATE: 9/12/03	FB NO.	
SCALE: 1"=1000'	REVISION	
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EXHIBIT "A-10"

3427099

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765-3960



BEARING BASE  
MAGNETIC NORTH  
TAKEN APRIL 14, 2003

• 3 HAND USED & PART OF

**DRAWN BY:** RL **FILE NO.:**

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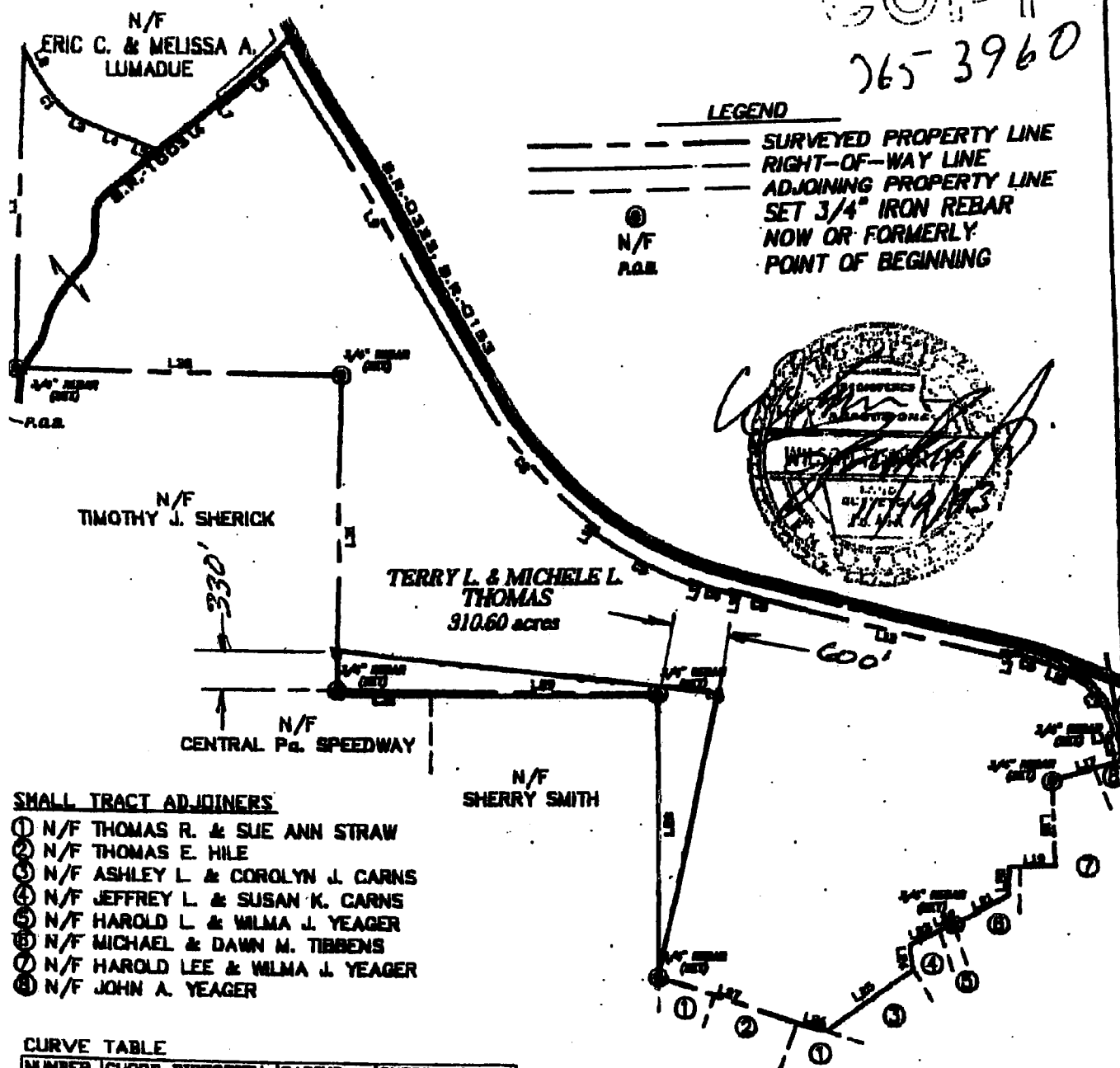
cadserver/thomas/thomas.dwg

**PROPERTY ACCORDING TO J. PRISSMAN**

**PLAT OF LANDS OF**  
**TERRY L. & MICHELE L. THOMAS**  
**LAWRENCE TOWNSHIP, CLEARFIELD COUNTY**

**HESS & FISHER ENGINEERS, INC.**  
**CONSULTING ENGINEERS & GEOLOGISTS**  
**38 NORTH SECOND STREET**  
**CLEARFIELD, PENNSYLVANIA 16830 814-786-7841**

3427099

COPY  
765 3960

## CURVE TABLE

NUMBER	CHORD DIRECTION	RADIUS	CHORD LENGTH
C1	S 36°36'23" E	1189.44	304.83
C2	S 38°37'22" E	2782.48	1276.78
C3	S 59°34'33" E	2499.23	694.35
C4	S 70°17'05" E	3233.86	869.62
C5	S 74°13'32" E	13228.00	401.04
C6	S 71°39'39" E	3641.99	899.15
C7	S 35°06'11" E	569.14	488.40
C8	S 09°55'44" E	1922.78	179.44

## LINE TABLE

NUMBER	DIRECTION	DISTANCE	NUMBER	DIRECTION	DISTANCE
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L2	S 31°37'00" E	192.74	L18	S 01°27'56" E	546.00
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L5	S 65°04'40" E	171.97	L21	S 62°19'07" W	394.06
L6	N 48°41'43" E	551.35	L22	S 65°53'21" W	101.25
L7	S 41°01'26" E	23.47	L23	S 63°52'12" W	208.09
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L16	N 80°03'51" E	20.70	L32	N 88°59'16" W	2070.75



BEARING BASE  
MAGNETIC NORTH  
TAKEN APRIL 14, 2003

DRAWN BY: RL

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CHECKED BY: WF

JOB NO.

DATE: 9/12/03

FB NO.

SCALE: 1"=1000'

REVISION

PROPERTY ACCORDING TO J. KRISMAN

PLAT OF LANDS OF  
TERRY L. & MICHELE L. THOMAS  
LAWRENCE TOWNSHIP, CLEARFIELD COUNTY

**HESS & FISHER ENGINEERS, INC.**  
CONSULTING ENGINEERS & GEOLOGISTS  
38 NORTH SECOND STREET  
CLEARFIELD, PENNSYLVANIA 16830 814-785-7541

EXHIBIT "A-12"

**APPENDIX B**

Attached hereto as Appendix B is a true and correct copy of the letter of January 31, 2005, which counsel for Plaintiffs sent to counsel for Defendants requesting that he respond.

**LAW OFFICES  
OF  
DWIGHT L. KOERBER, JR.**  
*Attorney at Law*  
*110 North Second Street*  
*P. O. Box 1320*  
*Clearfield, PA 16830*

*Dwight L. Koerber, Jr.*  
*Telephone (814) 765-9611*

*Facsimile (814) 765-9503*  
*Email: dkoerber@atlanticbb.net*

January 31, 2005


Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

**Re: Terry L. Thomas and Michele L. Thomas v.  
Ferdin E. Wallace and Sherry S. Wallace  
Docket No. 04-253-CD**

Dear Chris:

Thirty days has passed since I filed the Interrogatories and Request for Production of Documents, these documents dated December 28, 2004. I note that you have responded to the Request for Admissions, doing so apparently because of the automatic sanctions that would apply. So that we can keep this case moving, I will file a Motion to Compel if I have not received your documents by February 10, 2005.

Very truly yours,

  
Dwight L. Koerber, Jr.

DLK/sah

cc:

Mr. Terry L. Thomas

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

-VS-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

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Docket No. 2004-253-CD

Type of Pleading:  
CERTIFICATE OF SERVICE

Filed on behalf of:  
PLAINTIFFS: Terry L. Thomas  
and Michelle L. Thomas

Counsel of Record for  
this Party:

LAW OFFICES OF DWIGHT L.  
KOERBER, JR.

Dwight L. Koerber, Jr., Esquire  
PA I.D. No. 16332

**FILED** 3cc  
6/27/01 3:29/01 Atty Koerber  
MAR 02 2005

William A. Shaw  
Prothonotary/Clerk of Courts

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611



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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

-vs-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

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Docket No. 2004-253-CD

**CERTIFICATE OF SERVICE**

I certify that on the 1<sup>st</sup> day of March, 2005, the undersigned served a certified copy of the Motion to Compel and the Rule Returnable Order in the above-captioned matter upon counsel for the Defendants. Such documents were served via United States First Class Mail upon the following:

Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830



Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:

Terry L. Thomas and Michelle L. Thomas

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

SHELVA J. MICHAELS, :  
Plaintiff : No. 03 - 1206 - CD  
vs. :  
JAMES C. MICHAELS, :  
Defendant :

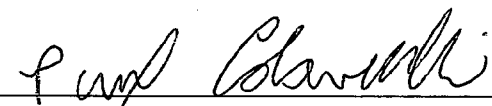
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Brief in Support of Husband's Position on Equitable Distribution and Proposed Order in the above-captioned action was mailed by regular mail, postage prepaid, the 2nd day of March 2005, to the following:

Cynthia B. Stewart  
Attorney at Law  
P.O. Box 1320  
Clearfield, PA 16830

Honorable Paul E. Cherry  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

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

  
PAUL COLAVECCHI, ESQUIRE  
Attorney for Defendant  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830  
814/765-1566

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

FILED <sup>no</sup>  
MAR 03 2005  
cc

William A. Shaw  
Prothonotary/Clerk of Courts

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

VS

FERDIN WALLACE and  
SHERRY S. WALLACE,  
Defendants

No. 04- 253 - CD

Type of Pleading: Certificate of  
Service

Filed on Behalf of: Defendants

Counsel of Record for this Party:  
CHRIS A. PENTZ, Esquire

Supreme Court I.D. # 39232  
207 East Market Street  
P. O. Box 552  
Clearfield PA 16830  
814 765-4000

FILED

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William A. Shaw  
Prothonotary/Clerk of Courts  
No C/C

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

vs

FERDIN WALLACE and  
SHERRY S. WALLACE,  
Defendants

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No. 2004-253-C.D.

CERTIFICATE OF SERVICE

This is to certify that on the 29<sup>th</sup> day of March  
2005, the undersigned served Answers to Set One Interrogatories  
And Request for Production of Documents upon counsel for the  
Plaintiffs. Such documents were personally served upon:

Dwight L. Koerber, Jr., Esquire  
110 North Second Street  
Clearfield PA 16830



Chris A. Pentz, Esquire  
Attorney for Plaintiff

CHRIS A. PENTZ  
ATTORNEY AT LAW  
207 East Market Street  
CLEARFIELD, PENNSYLVANIA 16830

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FILED

APR 11 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

Vs.

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

Docket No. 04-253-CD

\*

\*

\*

Type of Pleading:  
CERTIFICATE OF SERVICE

Filed on behalf of:  
Plaintiffs:  
Terry L. Thomas and  
Michele L. Thomas

Counsel of record for this party:

Dwight L. Koerber, Jr.  
PA I.D. No. 16332

110 North Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

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FILED 3 CC  
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APR 14 2005  
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William A. Shaw  
Prothonotary/Clerk of Courts

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

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Docket No. 04-253-CD

Vs.

\*

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

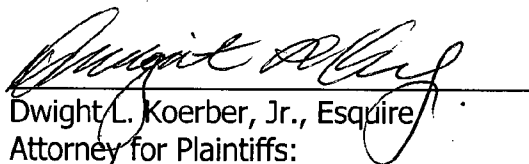
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**CERTIFICATE OF SERVICE**

This is to certify that on the 13<sup>th</sup> day of April 2005, the undersigned served the original and two copies of SET TWO INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS in the above-captioned matter upon counsel for Defendants. Such documents were served via United States First Class Mail upon the following:

Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and  
Michele L. Thomas

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

\*

\*

-vs-

\*

Docket No. 04-253-CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*

\*

Type of pleading:  
MOTION OF PLAINTIFFS FOR  
SUMMARY JUDGMENT

Filed on behalf of:  
PLAINTIFFS, Terry L.  
Thomas and Sherry S.  
Thomas

Counsel of record for  
this party:

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

FILED

01/31/2005  
MAY 31 2005

6K

3cc

Atty Koerber

William A. Shaw  
Prothonotary/Clerk of Courts



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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

\*

\*

-vs-

\*

Docket No. 04-253-CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*

\*

MOTION OF PLAINTIFFS FOR SUMMARY JUDGMENT

COME NOW, Terry L. Thomas and Michele L. Thomas, plaintiffs in the above-captioned matter involving an ejectment and trespass action, and file the within Motion for Summary Judgment. This motion is directed to both Count I of the Complaint involving the ejectment action and to the Counterclaim filed by the defendants.

**MOTION FOR SUMMARY JUDGMENT ON COUNT I (EJECTMENT)  
AND COUNTERCLAIM**

1. PaR.C.P. 1035.2 provides that a motion for summary judgment may be granted where there is no genuine issue of any material fact as to a necessary element of the cause of action that has been filed.

2. Plaintiffs file this Motion for Summary Judgment because there is no material fact in dispute in the ejectment action that they have filed, as set forth in Count I of the Complaint filed

herein, nor in the Counterclaim filed by defendants. In both instances, plaintiffs are entitled to judgment as a matter of law.

3. In support of their complaint for ejectment, plaintiffs have set forth the abstract of their chain of title establishing ownership of a certain parcel of property in Lawrence Township, consisting of 310.60 acres which they acquired by deeds dated August 13, 2002 and July 26, 2002. While defendants initially in their Answer denied the chain of title, they subsequently admitted through their response to Interrogatories that their only defense to the ownership claim of the defendants is the assertion that they have a claim of adverse possession to a certain designated area on the survey map presented by plaintiffs' expert, Hess & Fisher Engineers. Discovery reveals that there is no genuine issue as to the accuracy of the chain of title presented by plaintiffs, because in answer to questions 16 and 21 of Set I Interrogatories and Request for Production of Documents Directed to Defendants, defendants make it clear that their counterclaim, and therefore their defense to the action in ejectment, is not based upon record ownership, but instead is based solely upon a claim of adverse possession.

4. Attached hereto as Appendix A, for ease in reference for the Court when it evaluates the Motion for Summary Judgment, is a copy of the map that defendants presented in support of their counterclaim, where they mark out in red ink that portion of the

land covered by the survey performed by Hess & Fisher Engineers, which they claim is theirs. This map is significant because it shows that defendants have acknowledged the correctness of the survey, and instead claim that they occupied a portion of the land designated in the survey as belonging to the plaintiffs, based upon the statement that when Defendant Ferdin Wallace purchased his property from James Crissman, he claims that James Crissman pointed to the area marked in red on the survey map as being the area which defendant owned. See paragraph 4(f) of defendants' Answer to Set I Interrogatories and Request for Production of Documents.

5. It is plaintiffs' position that as a matter of law, the defendants are unable to establish the requisite five elements and the requisite twenty-one year consecutive period of adverse possession, so as to have any factual or any legal validity to their counterclaim. In support of this, plaintiffs point to the following uncontroverted evidence of record that has been developed through discovery:

(a) In response to Request for Admission 3(a), defendants acknowledge that the boundary line that they are now claiming is that which they thought was represented by the former owner in the chain of title that had owned the property, James Crissman. This is significant because when defendants lost that land through a mortgage foreclosure action and then a tax sale, they had assumed that the land they are now claiming was lost with these legal actions.

(b) Defendants do not deny that they lost the land which was acquired from James Crissman through a sheriff's sale of that property that occurred in 1992 as a result of a

writ of execution filed by Clearfield Bank & Trust Company. Attached hereto as Appendix B is a copy of the sheriff's deed, divesting defendant of ownership of the said property.

(c) Defendants do not deny that after re-acquiring the property, Defendant Ferdin Wallace lost it as a result of a tax sale in 1995, with the property thereafter being acquired by Richard and Karen Cornman. Attached hereto as Appendix C is a true and correct copy of the tax sale deed and as Appendix D is a true and correct copy of the Cornman deed.

(d) In response to Request for Admission No. 1 of Set I, defendants have acknowledged that they are now relying upon the survey map of Hess & Fisher Engineers, dated November 19, 2003, and do not challenge Plaintiffs' abstract showing its chain of title.

(e) In advancing their claim for adverse possession, defendants acknowledge that they have set forth no metes and bounds description of the property they are claiming. See answer 4 to Set I Request for Admissions.

(f) Defendants acknowledge that the only claim of title ownership they have to the subject property is from the September 18, 2000 deed they acquired from Richard H. Cornman and Karen L. Cornman, which is the property these individuals acquired from a tax sale. See answer 11 to Set I Request for Admissions.

(g) Defendants admit that there is no provision in any of the deeds in their alleged chain of title that have a provision specifically concerning tacking of claims relative to adverse possession. See answer 12 to Set I Request for Admissions.

(h) After originally setting forth their alleged chain of title in their counterclaim, defendants have acknowledged at paragraphs 16-21 of their response to Set I Interrogatories that their claim is based solely upon adverse possession and not through a chain of title.

(i) Defendants acknowledge that during the twenty-one year period of time that would cover their claim of adverse possession, that Defendant Ferdin E. Wallace filed a petition in U. S. Bankruptcy Court. See answer to question 25 on Set I Interrogatories.

(j) Defendants have failed to respond to Set I Interrogatory Question No. 25, which requests them to furnish the docket number and the date of their filing under the Bankruptcy Code.

(k) Defendants have not responded to Set II Interrogatories specifically requesting that they furnish a copy of their bankruptcy petition and that they show where, if anywhere, in the bankruptcy petition they purported to have a claim of ownership to the property that they are now claiming to have a claim of adverse possession for.

(l) Defendant Ferdin Wallace has acknowledged that during the twenty-one year period of time that would cover his period of alleged adverse possession, he resided from 1993 to 1995 at 11 Elder Drive in Inman, South Carolina, and that from 1992 to 1993 he lived at New York Avenue, Duneaton, Florida. Defendant Sherry Wallace has also acknowledged that she lived at 11 Elder Drive in Inman, South Carolina from 1993 to 1995, and that prior to that, lived in St. Petersburg, Florida. See answer to question 26(a) of Set I Request for Admissions.

(m) Defendants have acknowledged during the twenty-one year period of time that would have covered their period of alleged adverse possession, that they have had driver licenses in Florida and South Carolina. See answer to question 26(c) in Set I Interrogatories and Request for Production.

(n) It is plaintiffs' position that as a matter of law the sheriff's sale and in 1992 the tax claim sale, both involving the property that he has asserted in opposition in this proceeding has been divested of any claim of adverse possession through the legal actions that have occurred removing defendants' ownership of that property.

(o) It is plaintiffs' position that as a matter of law that during the twenty-one year period of time of alleged adverse possession, that when defendants resided in Inman, South Carolina for a period of two years and in 1992 and 1993 in Florida, that they could not, as a matter of law, meet the five elements necessary to establish adverse possession of the property that they are claiming.

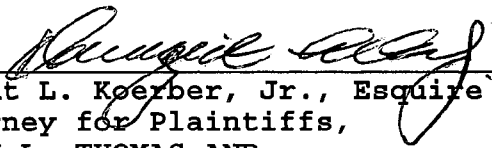
(p) It is plaintiffs' further position that as a matter of law, that when Defendant Ferdin Wallace filed in bankruptcy during the twenty-one year period of alleged adverse possession, and failed to disclose that he had a claim of adverse possession to the subject property, that he should be estopped as a matter of law from making a subsequent claim of ownership of such property.

(q) It is plaintiffs' position that the list of allegations set forth in paragraph 23 of the First Amended Counterclaim of Defendants fails as a matter of law to create an issue of fact that requires a trial, in view of the mortgage foreclosure sale, tax sale, bankruptcy and out-of-state (in South Carolina and Florida) residency of defendants during the twenty-one year period of time.

6. If this Honorable Court finds that the Counterclaim is deficient as a matter of law, so as to not warrant any further proceedings on the Counterclaim, that the Court should also grant summary judgment on Count I of the Complaint filed by plaintiffs, as defendants' only defense to the claims is the allegation that they have acquired title ownership through adverse possession as set forth in the Counterclaim.

WHEREFORE, Plaintiffs move that their Motion for Summary Judgment be granted covering Defendants' Counterclaim and Count I of the Complaint and that Plaintiffs be granted such other relief to which they are entitled.

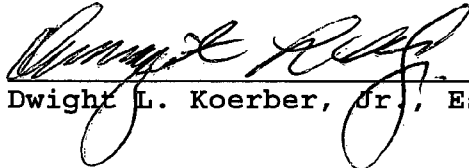
Respectfully submitted,

By:   
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs,  
TERRY L. THOMAS AND  
MICHELE L. THOMAS

CERTIFICATE OF SERVICE

I certify that on this 31st day of May, 2005, a copy of the foregoing pleading was served by United States First Class Mail upon counsel for defendants at the following name and address:

Chris A. Pentz, Esquire  
P. O. Box 552  
Clearfield, PA 16830

  
Dwight L. Koerber, Jr., Esquire

**APPENDIX A**

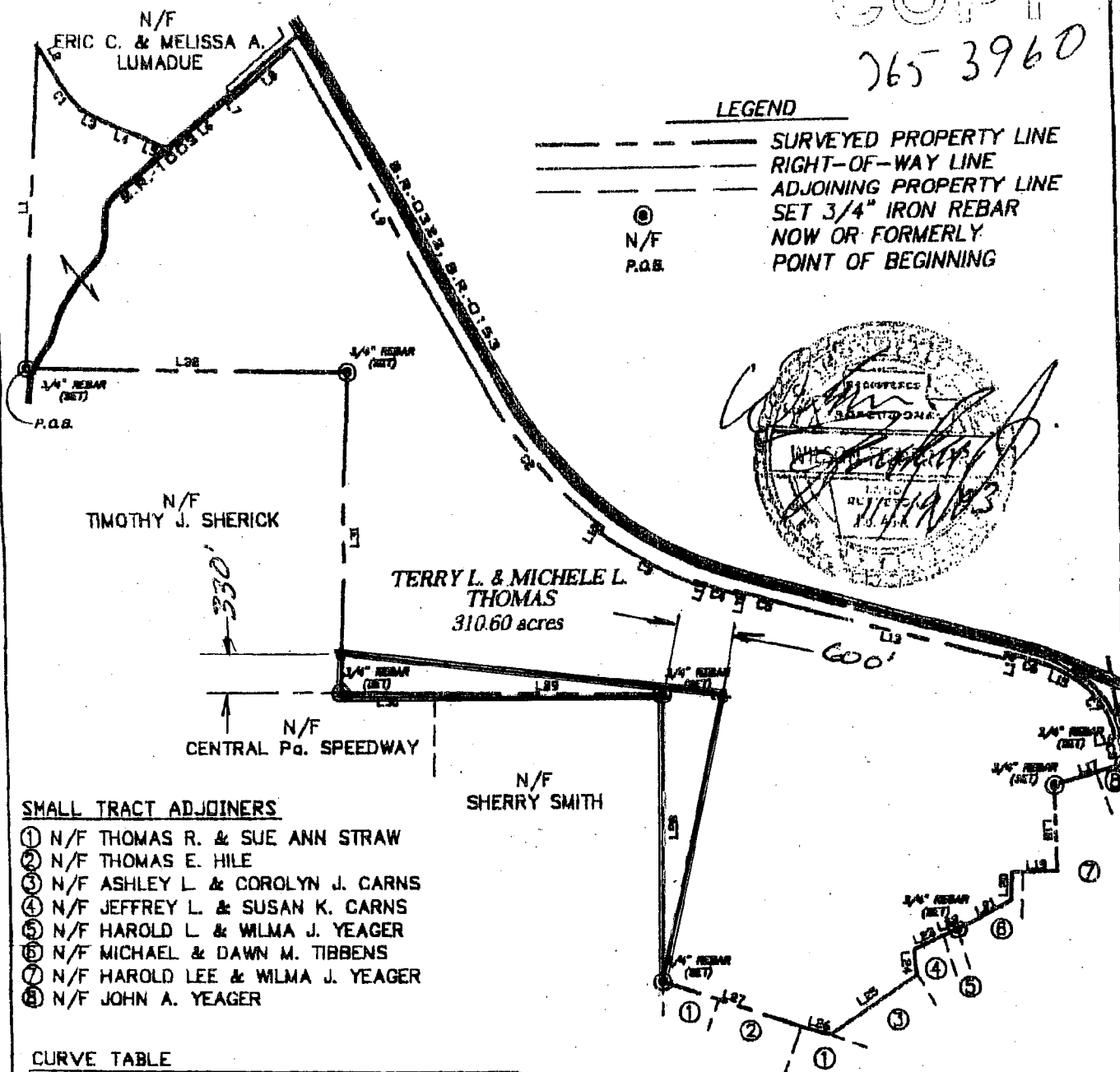
Attached hereto is a copy of the survey map prepared by Hess & Fisher Engineers.



3427099

COPY

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## CURVE TABLE

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L8	N 48°49'44" E	492.00	L24	S 07°58'39" E	161.90
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L16	N 80°03'51" E	20.70	L32	N 88°59'16" W	2070.75

• 3 HAND USED &amp; PART OF

PROPERTY ACCORDING TO J. PRISSMAN

DRAWN BY: RL	FILE NO.:	<b>PLAT OF LANDS OF</b> <b>TERRY L. &amp; MICHELE L. THOMAS</b> <b>LAWRENCE TOWNSHIP, CLEARFIELD COUNTY</b> <b>HESS &amp; FISHER ENGINEERS, INC.</b> <b>CONSULTING ENGINEERS &amp; GEOLOGISTS</b> <b>38 NORTH SECOND STREET</b> <b>CLEARFIELD, PENNSYLVANIA 16830 814-785-7541</b>
CHECKED BY: WF	JOB NO.:	
DATE: 9/12/03	FB NO.:	
SCALE: 1"=1000'	REVISION	
cadserver/thomas/thomas.dwg		

EXHIBIT "A"

**APPENDIX B**

Attached hereto is a copy of the sheriff's deed divesting defendants of ownership of their land.

**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 + COSTS  
dollars, to me in hand paid, do hereby grant and convey to

CLEARFIELD BANK & TRUST COMPANY, the following described property to wit:  
ALL that certain tract or parcel of land situate in Lawrence Township, Clearfield County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a two (2") inch iron pipe, said pipe being on the northern right-of-way of Township Route 519; thence leaving said right-of-way along line of land of Ferdin E. Wallace and Dan W. Hummel, Jr., North eight (8) degrees twenty-two (22') minutes East one thousand thirty-two and eighty-one hundredths (1,032.81) feet to a two (2") inch iron pipe; thence still by same north eighty-one (81) degrees thirty-eight (38') minutes West five hundred ninety-four (594) feet to a two (2") inch iron pipe; thence still by same North eight (8) degrees twenty-two (22') minutes East seven hundred ninety (790) feet to a two (2") inch iron pipe, said pipe being the northwest corner of this lot and the northeast corner of lands of Ferdin E. Wallace and Dan W. Hummel, Jr.; thence along line of lands of Harold Boulton South eighty-one (81) degrees thirty-eight (38') minutes East one thousand four hundred eighty-five (1,485) feet to a wood post and stones corner; thence still by the same South eight (8) degrees twenty-two (22') minutes West two thousand three hundred eighteen (2,318) feet to a two (2") inch iron pipe, said pipe being on the right-of-way of Township Route 519, the following courses and distances: North seventy-one (71) degrees thirteen (13') minutes West one hundred fifty-six and five-tenths (156.5) feet to a point; thence by a curve to the right, long chord being North forty-eight (48) degrees forty-three (43') minutes West four hundred seventy-seven and forty-two hundredths (477.42) feet to a point; thence by a curve to the left, long chord being North forty-six (46) degrees four (4') minutes West three hundred thirty-six and three-hundredths (336.03) feet to a point; thence North seventy (70) degrees fifty (50') minutes West sixty-four and one-tenth (64.1) feet to a two (2") inch iron pipe and place of beginning. Believed to contain 53.6 acres, more or less.

BEING the same premises conveyed to Ferdin E. Wallace and Marilyn Wallace, now Marilyn Hummel herein by deed of James T. Crissman, Inc. dated January 19, 1982 and recorded in Clearfield County Deed and Records Book Volume 828, page 317.

SEIZED, taken in execution and sold as the property of FERDIN E. WALLACE and MARILYN WALLACE HUMMEL, at the suit of CLEARFIELD BANK & TRUST CO.  
JUDGEMENT NO. 92-767-CD; EXECUTION NO. 92-59-EX.

NOW, August 24, 1992 7th the same having been sold by me to the said grantee on the  
thousand nine hundred and ninety-two day of AUGUST Anno Domini one  
according to law, under and by virtue of a writ of execution after due advertisement  
issued on the 24th day of  
JUNE Anno Domini nineteen hundred and ninety-two  
out of the Court of Common Pleas of said County of Clearfield  
as of 92-767-CD Term, one thousand  
nine hundred and , Number 92-59-EX , at the  
suit of  
CLEARFIELD BANK & TRUST CO.

against

FERDIN E. WALLACE & MARILYN WALLACE HUMMEL

IN WITNESS WHEREOF, I have herunto affixed my signature this 24th  
day of AUGUST Anno Domini one thousand  
nine hundred and ninety-two.

Charles A. Hawkins  
by Charles A. Hawkins  
REAL

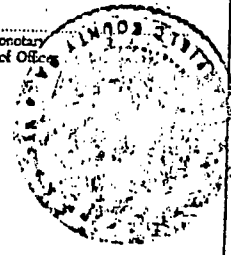
State of Pennsylvania  
County of Clearfield

On this the 24 day of August 1992, 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 thereinstated and for the purposes therein contained.  
In witness whereof, I have hereunto set my hand and official seal.

VOL 1480 PAGE 129

*Allen D. Bick*

Prothonotary  
PROTHONOTARY Title of Office  
My Commission Expires  
1st Monday in Jan. 1994



Commonwealth of Pennsylvania } ss.  
County of Clearfield

Received on the \_\_\_\_\_ day of \_\_\_\_\_ A.D.  
19 \_\_\_\_\_ in the Recorder's office of said County, in  
Deed Book Volume \_\_\_\_\_  
page \_\_\_\_\_  
Given under my hand and seal of the said office the day  
and year aforesaid.

Recorder

I hereby Certify that the precise Residence of the Grantee or Grantees is,  
11 N. SECOND ST.  
CLEARFIELD, PA. 16830

*Chester A. Hawkins*  
by *Charles King*  
Sheriff of Clearfield County.

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 2:30 pm 8-24-92  
BY Chester Hawkins, Sheriff  
FEES 17.50  
Karen L. Starck, Recorder

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

**Deed-Hall**

No.

CHESTER A. HAWKINS  
High Sheriff of Clearfield County

TO

CLEARFIELD BANK & TRUST CO.  
11 N. SECOND ST.  
CLEARFIELD, PA. 16830

**SHERIFF'S DEED**

Dated AUGUST 24, 1992

For \$1.00 + COSTS

Sold as the property of

FERDIN E. WALLACE &  
MARILYN WALLACE HUMMEL

at the suit of

CLEARFIELD BANK & TRUST CO.

Sold on Writ of  
EXECUTION  
92-59-EX

**APPENDIX C**

Attached hereto is a copy of the tax sale deed.

VOL 1727 PAGE 130

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.

AFFIDAVIT No 22484 VOL 1727 PAGE 129

TAX CLAIM BUREAU DEED

MADE the Eighth day of December, in the year of our Lord, 1995,

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

AND

RICHARD H. CORNMAN

&

KAREN L. CORNMAN

hereinafter referred to as "GRANTEES"

WHEREAS, the hereinafter described premises were assessed in the name of BRIAN P. WALLACE & FERDIN E. WALLACE, and taxes levied 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

WHEREAS, after proceeding under the provisions of the Act aforesaid, the Tax Claim Bureau did expose the said premises to public sale on the Twelfth day of September, 1995; and

WHEREAS, the said premises were sold at said public sale to, RICHARD H. CORNMAN & KAREN L. CORNMAN, for the sum of Two Thousand One Hundred Eight Dollars and Two Cents, (\$2,108.02), 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, at Miscellaneous Docket 52, Page 10.

NOW THIS INDENTURE WITNESSETH, that for and in consideration of the sum of Two Thousand One Hundred Eight Dollars and Two Cents, (\$2,108.02), 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

LAWRENCE TOWNSHIP  
MAP #123-J07-000-00004  
53.57 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. 93-5587 as the property of BRIAN P. WALLACE & FERDIN E. WALLACE.



TAX CLAIM BUREAU DEED

MADE the Eighth day of December, in the year of our Lord, 1995,

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

RICHARD H. CORNMAN

&

KAREN L. CORNMAN

hereinafter referred to as "GRANTEES"

WHEREAS, the hereinafter described premises were assessed in the name  
of BRIAN F. WALLACE & FERDIN E. WALLACE, and taxes levied 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

WHEREAS, after proceeding under the provisions of the Act aforesaid, the  
Tax Claim Bureau did expose the said premises to public sale on the Twelfth  
day of September, 1995; and

WHEREAS, the said premises were sold at said public sale to, RICHARD H.  
CORNMAN & KAREN L. CORNMAN, for the sum of Two Thousand One Hundred Eight  
Dollars and Two Cents, (\$2,108.02), 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, at Miscellaneous Docket 52, Page 10.

NOW THIS INDENTURE WITNESSETH, that for and in consideration of the sum  
of Two Thousand One Hundred Eight Dollars and Two Cents, (\$2,108.02), 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

LAWRENCE TOWNSHIP  
MAP #123-J07-000-00004  
53.57 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. 93-5587 as the property of BRIAN F. WALLACE & FERDIN E. WALLACE.

VOL 1727 PAGE 130

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:

James E. Bell

By Mary Anne Wesdock  
Mary Anne Wesdock Director

COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF CLEARFIELD ) SS:

On this 11 day of Dec, A. D., 1995, 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,

William H. [Signature] (SEAL)  
Prothonotary.

My commission expires the first Monday of January, 1998.

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

RICHARD H. & KAREN L. CORNMAN  
414 BURGNER RD.  
CARLISLE, PA.  
17013

APPENDIX D

Attached hereto is a copy of the Cornman deed.

**DEED**

MADE the 11<sup>TH</sup> day of Dec., 2000, between:

RICHARD H. CORNMAN and KAREN L. CORNMAN, his wife, of 414 Burgner Road, Carlisle, Cumberland County, Pennsylvania, 17013, hereinafter referred to as

**GRANTORS**

And

FERDIN E. WALLACE and SHERRY SMITH WALLACE, his wife, of 1117 Old Town Road, Clearfield, Pennsylvania 16830

**GRANTEES**

WITNESSETH, that in consideration of TWELVE THOUSAND (\$12,000) Dollars, in hand paid, the receipt whereof is hereby acknowledged, the said Grantors do hereby grant and convey to the said Grantees, their heirs and assigns:

ALL that certain tract of land situate in Lawrence Township, Clearfield County, Pennsylvania, more particularly bounded and described as follows:

LAWRENCE TOWNSHIP MAP #123-J07-000-00004 comprised of 53.57 Acres.

BEING the same premises conveyed by the Tax Claim Bureau of Clearfield County, Pennsylvania, Trustee, to Richard H. Cornman and Karen L. Cornman, his wife, by Tax Claim Bureau Deed having an affidavit No. 22484, dated December 8, 1995, and being recorded in the Clearfield County Court House Recorder of Deeds Office in Volume 1727 page 129.

AND the said Grantors will warrant generally the property hereby conveyed.

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

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

George F. Douglas is

AS TO BOTH

Richard H. Cornman (SEAL)  
Richard H. Cornman

Karen L. Cornman (SEAL)  
Karen L. Cornman

KAREN L. STARCK  
REGISTER AND RECORDER  
CLEARFIELD COUNTY  
Pennsylvania

INSTRUMENT NUMBER  
200100298

RECORDED ON  
Jan 09, 2001  
2:40:09 PM

RECORDING FEES - \$13.00  
RECORDER

COUNTY IMPROVEMENT FUND \$1.00

RECORDER IMPROVEMENT FUND \$1.00

STATE TRANSFER TAX \$120.00

STATE WRIT TAX \$0.50

LAWRENCE TOWNSHIP \$40.00

CLEARFIELD AREA \$40.00

SCHOOLS \$255.50

TOTAL \$255.50

CUSTOMER  
PENTZ, CHRIS

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CUMBERLAND

)  
: SS:,  
)

On this, the 11<sup>th</sup> day of Dec, 2000, before me the undersigned officer, personally appeared Richard H. Cornman and Karen L. Cornman, his wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

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

George F. Douglas III Notary

Notarial Seal  
George F. Douglas III, Notary Public  
Carlisle Boro, Cumberland County  
My Commission Expires June 28, 2003



Certificate of Residence

I hereby certify that the precise residence and complete post office address of the within Grantees is:

1117 Old Town Road  
Clearfield, PA 16830

Dated: 1-9-01

Chris A. Butz

Attorney for Grantee

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

\*

\*

-vs-

\*

Docket No. 04-253-CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*

\*

Type of pleading:  
PRAECIPE

Filed on behalf of:  
PLAINTIFFS, Terry L.  
Thomas and Michele L.  
Thomas

Counsel of record for  
this party:

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

FILED <sup>6K</sup> 3CC  
013:2081 Ally Koerber  
MAY 31 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

\*

\*

-vs-

\*

Docket No. 04-253-CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*

\*

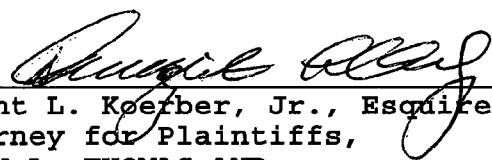
PRAECIPE

TO THE PROTHONOTARY:

Please file in the docket in this proceeding the following original discovery documents, which will be used in conjunction with a Motion for Summary Judgment filed by plaintiffs, pursuant to Pa.R.C.P. 4002.1:

- (1) Answers of Defendants to Set I Interrogatories and Request for Production of Documents.
- (2) Answer to Request for Admissions. /

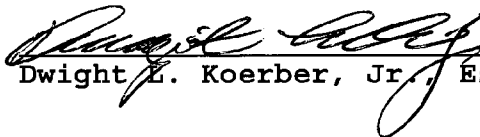
Respectfully submitted,

By:   
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs,  
TERRY L. THOMAS AND  
MICHELE L. THOMAS

CERTIFICATE OF SERVICE

I certify that on this 31st day of May, 2005, a copy of the foregoing pleading was served by United States First Class Mail upon counsel for defendants at the following name and address:

Chris A. Pentz, Esquire  
P. O. Box 552  
Clearfield, PA 16830

  
Dwight L. Koerber, Jr., Esquire



FILED

MAY 31 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

\*

\*

Docket No. 04-253-CD

Vs.

\*

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

**FILED** *acc*  
*of 3-20-04*  
**MAY 31 2005** *Harber*

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

ANSWERS TO

**SET I**

**INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS**  
**DIRECTED TO DEFENDANTS**

TO: Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

PLEASE TAKE NOTICE THAT you are hereby required, pursuant to Rule 4005, 4006, and 4009 of the Pennsylvania Rules of Civil Procedure, Pa.R.C.P. 4005, 4006, 4009, to serve upon the undersigned, within thirty (30) days hereof, your answers in writing and under oath to the following interrogatories/request for production of documents. If, between the time of your answers to said interrogatories/request for production of documents and the time of trial of this case, you or anyone acting on your behalf shall learn the identity or whereabouts of any other witnesses not identified in your answers, or if you or anyone acting on your behalf obtains or becomes aware of additional requested information not supplied in your answers, you shall promptly furnish the same to the undersigned by supplemental answers. These interrogatories/request for production of documents are addressed to you as a party to this action and your answers shall be based upon the information known to you, your attorneys, or your representatives. Failure to provide the requested information and/or documents or make objections within the term specified may subject you to sanctions under Rule 4019 of the Pennsylvania Rules of Civil Procedure.

## **DEFINITIONS AND INSTRUCTIONS**

A. "You, your and/or Defendants" means and includes Ferdin E. Wallace and Sherry S. Wallace and other persons acting, having acted or purporting to act on behalf of Ferdin E. Wallace and Sherry S. Wallace.

B. As used herein, the term "Plaintiffs" refers to Terry L. Thomas and Michele L. Thomas, and the term "Defendants" refers to Ferdin E. Wallace and Sherry S. Wallace.

C. If you claim that the subject matter of a document or oral communication is privileged, you need not set forth a brief statement of the subject of this document, or the substance of the oral communication called for above. You shall, however, otherwise identify such document or oral communication and shall state each ground on which you claim that such document or oral communication is privileged.

D. Whenever you are asked to "identify" a person, the following information shall be given: (1) the name, present address, present employer and position of the person; and (2) whether the person has given any testimony by way of deposition or otherwise in any proceeding related to the present proceeding and/or whether the person has given a statement whether oral, written, or otherwise, and if so, the title and nature of any such proceeding, the date of the testimony, whether you have a copy of the transcript thereof, the name of the person to whom the statement was given, where the statement is presently located if written or otherwise transcribed, and the present location of such transcript or statement if not in your possession.

E. Whenever the term "document" is used herein, it includes (whether or not specifically called for) all printed, typewritten, handwritten, graphic or recorded matter, however produced or reproduced and however formal or informal.

F. Whenever you are asked to "identify" a document or documents, the following information should be given: (1) the identity of each person who wrote, signed, initiated, dictated or otherwise participated in the creation thereof; (2) the date of preparation; (3) its present location; (4) a description of the type of document; (5) the identity of all persons having custody or control thereof; and (7) if the document was, but is no longer, in your possession or control or your agents or representatives, describe the disposition of the document.

G. Whenever you are asked to "identify" an oral communication, the following information should be given: (1) the identity of each person who participated in the making thereof; (2) the date of the communication; (3) the place of the

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

\*

\*

Docket No. 04-253-CD

Vs.

\*

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

Type of Pleading:  
SET ONE INTERROGATORIES  
AND REQUEST FOR PRODUCTION  
OF DOCUMENTS

Filed on behalf of:  
Plaintiffs:  
Terry L. Thomas and  
Michele L. Thomas

Counsel of record for this party:

Dwight L. Koerber, Jr.  
PA I.D. No. 16332

110 North Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

communication; (4) the identity of each person present when the communication was made; (5) the identity of any document or other form of record made regarding the content of the oral communication; (6) a description of the type of document; (7) the record's present location; and (8) the identity of each person having custody or control of such record.

H. You are hereby requested to produce in accordance with Rule 4009 of the Pennsylvania Rules of Civil Procedure the below listed documents and/or items. These documents can be photocopies and forwarded without any inconvenience or hardship to the parties hereto. The below listed documents and/or items are to be forwarded to the offices of Dwight L. Koerber, Jr., Esquire, 110 North Second Street, P. O. Box 1320, Clearfield, Pa. 16830, within thirty (30) days of the date herein.

Whenever any of the aforesaid items are requested from you, they are to include not only those in your possession, custody or control, but likewise, that of your attorneys, consultants, sureties, indemnitors, adjusters and/or agents, pursuant to the Pennsylvania Rules of Civil Procedure.

This request is deemed to be continuing insofar as if any of the requested documents and/or items are secured subsequent to the date herein for the production of same, said documents and/or items are to be provided to plaintiffs'/defendants' counsel within thirty (30) days of the receipt of same.

1. Set forth the name of all individuals who participated in any fashion in furnishing information so as to answer the within discovery request.

ANSWER: Ferdin Wallace  
Sherry S. Wallace

2. In your First Amended Counterclaim, you have indicated that the Counterclaim is filed on behalf of both Ferdin E. Wallace and Sherry S. Wallace. Please state whether you intend to establish the Counterclaim on behalf of both individuals listed as Defendants, or on behalf of only Ferdin E. Wallace.

ANSWER: Both individuals.

3. With respect to the Answer you gave in Paragraph 22 of your First Amended Counterclaim, and the map you have attached as Exhibit A, please state the following:

(a) Exactly how did you determine the boundary line that you have marked in red and inserted onto Exhibit A?

ANSWER: The map represents the boundary lines as related to the Defendant, Ferdin Wallace, by James Crissman, a former owner.

(b) Did you have a surveyor assist you in marking that line and if so, furnish the name and address of the surveyor.

ANSWER: No.

(c) Did you use any tools or equipment or apparatus to assist you in marking the area in red and if so, identify those tools, equipment or apparatus that you used and explain how they were employed in marking the area.

ANSWER: Distance measurement equipment

(d) When did you determine that the area identified in red and marked on Exhibit A to your First Amended Counterclaim would be identified by the lines that you have used to mark it.

ANSWER: April, 2004.

(e) In marking the area in red on the First Amended Counterclaim, Exhibit A, did you attempt to have it integrated to or make reference to any existing deed or any existing boundary line description, and if so, identify the deed or boundary line description and reference and explain why you used it in the manner that you did.

ANSWER: No.

(f) Furnish the names of all individuals that assisted you in delineating and marking the area identified in red ink on Exhibit A to your First Amended Counterclaim, and explain what roll they played in the marking that was used.

ANSWER: Walter Kline, Olanta PA. 236-0391.

4. With respect to paragraph 23(A) of your Counterclaim, where you state that you placed no trespassing signs in 1984, please furnish the following:

(a) Exactly where did you place the signs? In this regard, please identify where the signs were placed by making appropriate entries on the survey map which you identified as Exhibit A to your Counterclaim. A copy of such map is also attached hereto as Exhibit A-1 for that purpose.

ANSWER: The signs were placed along the area marked in red at a distance of approximately fifty (50) feet apart.

(b) What is the name of the individual who placed the no trespassing signs at the location(s) so identified?

ANSWER: Defendant, Ferdin Wallace,



(c) State the name of all individuals that you are aware of that can testify to the fact that they saw the no trespassing signs that you state were placed on the subject property.

ANSWER: John Mahute.  
Brian Wallace, and  
Daniel Royer,  
James Hugill,  
Mark Bailey,  
Ferdin Wallace and

Sherry S. Wallace.  
(d) State what material the no trespassing signs were made of.

ANSWER: Plastic.

(e) State whether any of the no trespassing signs continue to be posted and if so where.

ANSWER: All signs continue to be posted with new signs having been placed where Plaintiff, Terry L. Thomas, had removed the No Trespassing signs.

(f) Explain how you determined where you would place the no trespassing signs.

ANSWER: The boundary lines were explained to Defendant, Ferdin Wallace at the time the property was purchased from James Crissman.

5. With respect to Paragraph 23(B) where you state that you reposted no trespassing signs in 1994, state the following:

(a) Exactly where did you place the 1994 signs? In this regard, please identify where the 1994 signs were placed by making appropriate entries on the survey map which you identified as Exhibit A to your Counterclaim. A copy of such map is also attached hereto as Exhibit A-2 for that purpose.

ANSWER: The 1994 signs were placed at the same locations as the previous No Trespassing signs.

(b) What is the name of the individual who placed the 1994 no trespassing signs at the location so identified?

ANSWER: Defendant, Ferdin Wallace.

(c) State the name of all individuals that you are aware of that can testify to the fact that they saw the 1994 no trespassing signs that you state were placed on the subject property.

ANSWER: Same individuals as provided for prior no trespassing signs.

(d) State what material the 1994 no trespassing signs were made of.

ANSWER: Plastic with a small percentage possibly being cardboard.

(e) State whether any of the 1994 no trespassing signs continue to be posted and if so where.

ANSWER: All signs remain at the originally posted locations. The 1994 signs were placed at the same location that the prior no trespassing signs.

(f) Explain how you determined where you would place the 1994 no trespassing signs.

ANSWER: The 1994 signs were placed at the same locations as the prior no trespassing signs.

6. With respect to the assertions you made in Paragraph 23(C) of your First Amended Counterclaim, where you indicate that you blocked the access road from Turnpike Avenue in 1972 or 1973, state the following:

(a) Exactly where was the access road located?

ANSWER: See map A-3 attached.

(b) Indicate on Exhibit A to your First Amended Counterclaim, a copy of which is attached hereto as Exhibit A-3, where the blocked access road is located.

ANSWER: See map A-3 attached.

(c) Specifically who blocked the access road in question?

ANSWER: Defendant Ferdin Wallace.

(d) How long was the access road blocked?

ANSWER: From 1972 to present.

(e) Explain how the access road relates to the property identified in Exhibit A to your First Amended Counterclaim which you have marked in red ink showing the area that you are claiming through adverse possession.

ANSWER: See map A-3 attached.

(f) Set forth the name, address, and telephone number of all individuals who you are aware of who have knowledge of matters pertaining to the blocking of the access road.

ANSWER: Brian Wallace, West Decatur PA 342-4345  
Daniel L. Royer, Woodland PA 857-7759  
John Mahute, Houtzdale PA 378-5111

(g) State to what extent the blocking of the access road has continued.

ANSWER: The blocking of the access road has been continuous since 1972 to present.

(h) State what individuals you were seeking to exclude from using the access road.

ANSWER: No specific individuals were attempting to be excluded. The public in general was attempting to be excluded. Individuals were using this access road to enter the Clearfield Speedway without paying.

7. With respect to Paragraph 23(D) of your First Amended Counterclaim, where you alleged that you removed firewood from the premises from 1974 or 1975 to present, state the following:

(a) What land are you identifying as "the premises" and in doing so, identify on Exhibit A to your First Amended Counterclaim, a copy of which is attached hereto as Exhibit A-4, the exact location from which you removed the firewood.

ANSWER: See map A-4.

(b) State the name of the persons who removed the firewood.

ANSWER: Defendant Ferdin Wallace  
Brian F. Wallace (Defendant Ferdin Wallace's son)

(c) State the amount of firewood removed and the number of times and the dates upon which the firewood was removed.

ANSWER: Five to seven pick up loads were removed from the premises each year. The firewood was removed generally in the fall of each year.

(d) Set forth the name and address of all individuals who have knowledge of the removal of firewood as you have alleged.

ANSWER: Ferdin Wallace, Clearfield PA  
Brian Wallace, West Decatur, PA  
Sherry S. Wallace, Clearfield PA.  
Katrina Wallace, West Decatur PA

8. With respect to Paragraph 23(E) of your First Amended Counterclaim, where you state that you directed Plaintiff Terry Thomas to remove the no trespassing signs in 2002, state the following:

(a) When speaking with Mr. Thomas, state the words that you used, to the best of your knowledge, when you directed him to remove such signs, and indicate his response.

ANSWER: See September 22, 2003 letter of Attorney Chris A. Pentz to Attorney Kimberly Kubista attached.

(b) State the name of any persons who were witness to the discussion you had with Terry Thomas.

ANSWER: The discussions with Mr. Thomas concerning the no trespassing signs were done through correspondence.

9. Concerning Paragraph 23(F) of your First Amended Counterclaim, where you referred to building roads on the property in 1973, 1978 and 1994, state the following:

(a) Specifically identify on Exhibit A to your First Amended Counterclaim, a copy of which is attached hereto as Exhibit A-5, where the roads are located.

ANSWER: See Exhibit "A-5" attached.

(b) Indicate the name and address of all individuals who assisted in the building of those roads.

ANSWER: Defendant Ferdin Wallace only.

(c) State the reason for which the roads were built.

ANSWER: Access to back of property and used by 4-wheelers, snowmobiles and motorcycles.



(d) State the name of all individuals that you are aware of that have knowledge of the existence of the roads that you state were built in 1973, 1978, and 1994, and state the specifically what knowledge they have concerning these roads.

ANSWER: Brian Wallace, West Decatur PA 342-4345  
Daniel L. Royer, Woodland PA 857-7759  
John Mahute, Houtzdale PA 378-5111

The above individuals have driven motor vehicles upon the roads inquestion.

10. With respect to Paragraph 23(G) of your First Amended Counterclaim; state the following:

(a) Give the name and address of the individual who engaged in the activity that you have described and the time period for their involvement.

ANSWER: See answer set forth in (d) immediately above.

William Wallace, Atlanta GA 770 432-5615

The Defendants gave permission to the above individuals to use the premises in question.

(b) State the manner in which these activities show that you had exclusive possession of the property in question.

ANSWER: Activities were with Defendants' permission.

(c) Mark on Exhibit A-6, attached hereto, where the activities took place.

ANSWER: See attached.

11. With respect to Paragraph 23(H) of your First Amended Counterclaim, pertaining to two water tankers, state the following:

(a) Precisely where on the subject premises are the two water tankers located, and when responding, please specifically mark their location on Exhibit A-7, attached hereto.

ANSWER: See attached.

(b) State the name in which each water tanker is titled.

ANSWER: Unknown.

(c) Furnish a copy of the Certificate of Title for the two water tankers.

ANSWER: Not in Defendant's possession or control.

(c) Mark on Exhibit A-6, attached hereto, where the activities took place.

ANSWER: See attached.

11. With respect to Paragraph 23(H) of your First Amended Counterclaim, pertaining to two water tankers, state the following:

(a) Precisely where on the subject premises are the two water tankers located, and when responding, please specifically mark their location on Exhibit A-7, attached hereto.

ANSWER: See attached.

(b) State the name in which each water tanker is titled.

ANSWER: Unknown.

(c) Furnish a copy of the Certificate of Title for the two water tankers.

ANSWER: Not in Defendant's possession or control.

(d) State the name of the person that placed the water tankers on the premises.

ANSWER: Defendant Ferdin Wallace.

(e) State the name, if any, shown on the water tankers and describe how large the printing is for the names.

ANSWER: No names on the water tankers.

12. With respect to Paragraph 23(I) of your First Amended Counterclaim, pertaining to a tractor and flat bed trailer, furnish the following:

(a) Precisely where on the subject premises are the tractor and flat bed trailer located, and when responding, please specifically mark their location on Exhibit A-8, attached hereto.

ANSWER: See attached.

(b) State the name in which the tractor and flat bed trailer are titled.

ANSWER: Unknown

(c) Furnish a copy of the Certificate of Title for the tractor and flat bed trailer.

ANSWER: Not in Defendant's possession or control.

(d) State the name of the person that placed the tractor and flat bed trailer on the premises.

ANSWER: Defendant Ferdin Wallace.

(e) State the name shown on the exterior of the tractor and flat bed trailer.

ANSWER: None.

(f) With respect to your response to these questions pertaining to the tractor and flat bed trailer as identified in Paragraph 23(I) of your First Amended Counterclaim, state the extent to which your response applies to the period of time measured from 1978 versus 1998.

ANSWER: 1978 is set forth in Paragraph 23-I of the First Amended Counterclaim is erroneous and should read 1997.

13. With respect to Paragraph 23(J) of your First Amended Counterclaim, state the following:

(a) Who owns the bleacher planks and guard rails?

ANSWER: Defendant Ferdin Wallace. The planks and guard rail were originally used for the Clearfield Speedway.

(b) What was their original use?

ANSWER: Bleacher and guard rails.

(c) Explain how Defendant(s) acquired ownership of the bleacher planks and guard rails.

ANSWER: The bleacher planks were purchased at a local saw mill. The guard rails were purchased from various salvage dealers.

(d) Show on the survey map attached as Exhibit A to your First Amended Counterclaim, and now attached as Exhibit A-9, to these Interrogatories, where the bleacher planks and guard rails are located.

ANSWER: See attached.

(e) State what action you have taken to identify the bleacher planks and guard rails as being actions that you took in order to demonstrate your possession of the subject premises.

ANSWER: The bleacher planks and guard rails were stored on the property which the Defendants claim ownership.

(f) State whether the bleachers and guard rails were used after being placed on the subject premises, and if so, by who, when and for what purpose.

ANSWER: The bleachers were not used after being placed on subject premises. The guard rails were used on various occasions by Defendant Ferdin Wallace when it was necessary to repair guard rails at the Clearfield Speedway.

14. With respect to Paragraph 23(K) of your First Amended Counterclaim, where you refer to a children's playhouse, please state the following:

(a) Specifically who constructed the playhouse in question?

ANSWER: Brian Wallace and William Wallace.

(b) Describe the playhouse in question.

ANSWER: The playhouse in question was constructed from bleacher planks and spike nails.

(c) Show on Exhibit A-10, where the playhouse is located.

ANSWER: See Exhibit A-10.

(d) Show the manner in which you identified/marked the playhouse so as to show that it was owned by you.

ANSWER: The playhouse was built by the Defendant Ferdin Wallace's children with his permission on land which he owned.

(e) State the actions you have taken as it relates to the playhouse to show that you have continued to possess it from the time it was constructed through the present time.

ANSWER: The playhouse was built by Defendant 'Ferdin Wallaces's children with his permission on land which he owned.



15. With respect to Paragraph 23(L) of your First Amended Counterclaim, where you refer to restricting individuals from hunting on the property, please state the following:

(a) Did you post any no hunting signs on the property that you have identified in red ink on Exhibit A.

ANSWER: Yes

(b) If the answer to the preceding Interrogatory is in the affirmative, name the person who posted the signs and mark on Exhibit A-11, attached hereto, and the precise location on the property where you posted signs.

ANSWER: Ferdin Wallace. Along the red line marked on Exhibit A-11 approximately every fifty (50) feet.

(c) Indicate on Exhibit A-12, attached hereto, where the trespassers were located that you reported to Lawrence Township.

ANSWER: See attached.

(d) State the name and address of the person(s) who witnessed the trespassing that you state that you reported to Lawrence Township.

ANSWER: Defendant Ferdin Wallace and Defendant Sherry S. Wallace.

16. In Paragraph 24(A) of your First Amended Counterclaim, you referenced the January 19, 1982 deed from James T. Crissman, Inc. to Ferdin E. Wallace and Marilyn Wallace, at Deed Book Volume 828, Page 317. State specifically the chain of title that connects that deed to your current ownership, and when responding, furnish copies of deeds in the chain of title that you make reference to.

ANSWER: Plaintiffs are caliming adverse possession and not through chain of title.

17. In your Reply to New Matter, specifically Paragraph 27, you state that you will establish ownership of the property in question by adverse possession. When you make that statement, are you agreeing that your chain of title does not trace back to the January 19, 1982 deed from James T. Crissman, Inc.? If you do not agree that

(d) State the name and address of the person(s) who witnessed the trespassing that you state that you reported to Lawrence Township.

ANSWER: Defendant Ferdin Wallace and Defendant Sherry S. Wallace.

16. In Paragraph 24(A) of your First Amended Counterclaim, you referenced the January 19, 1982 deed from James T. Crissman, Inc. to Ferdin E. Wallace and Marilyn Wallace, at Deed Book Volume 828, Page 317. State specifically the chain of title that connects that deed to your current ownership, and when responding, furnish copies of deeds in the chain of title that you make reference to.

ANSWER: Plaintiffs are claiming adverse possession and not through chain of title.

17. In your Reply to New Matter, specifically Paragraph 27, you state that you will establish ownership of the property in question by adverse possession. When you make that statement, are you agreeing that your chain of title does not trace back to the January 19, 1982 deed from James T. Crissman, Inc.? If you do not agree that

your chain of title does not trace back to that deed, set forth the specifics of your chain of title which in fact does connect to that deed.

ANSWER: See answer set forth in 16 immediately above.

18. Attached as Exhibit B to the Answer and New Matter of Plaintiffs to Counterclaim of Defendants, as filed on August 27, 2004, is a Sheriff's Deed which specifically recites that the ownership interest of Ferdin E. Wallace and Marilyn Wallace Hummel were divested as a result of the lawsuit of Clearfield Bank & Trust at Docket Number 92-767-CD of the Court of Common Pleas of Clearfield County. Do you in any way challenge the correctness of that statement? If so, state the specific facts or conclusions or assertions that you disagree with and in doing so, state the legal basis, if any, that you are relying upon to demonstrate that you continue to have a legal interest in the subject property after the Writ of Execution at Docket Number 92-59-EX was exercised.

ANSWER: The statement set forth in the referenced deed is a conclusion of law. At all times relevant the Defendants, Ferdin Wallace and Sherry S. Wallace, individually or jointly have continuously and adversely possessed the property in question.

19. Attached as Exhibit D to the Answer and New Matter of Plaintiffs to Counterclaim of Defendants, as filed on August 27, 2004, is a copy of the deed from the Tax Claim Bureau which identifies the real estate that you lost in a tax sale. With respect to that real estate, state the following:

(a) Does the deed marked as Exhibit D, cover the same property that you are upon in the present legal proceeding?

ANSWER: The deed does not cover the same property in question.

(b) If you deny it is the same property, state specifically the reasons why you deny it is the same property.

ANSWER: The description set forth in the deed does not include the properties claimed by adverse possession.

20. In Exhibit E to the Answer and New Matter of Plaintiffs to Counterclaim of Defendants, as filed on August 27, 2004, a copy of the deed dated December 18, 2000 is attached. Does this deed refer to the same property that you are relying upon in your claim of title ownership in this property, and if you deny that it is, state the specific reasons for doing so.

ANSWER: See answers to 19 (a) and (b) above.

21. State your legal basis for denying that the Writ of Execution issued in Docket Number 92-59-EX divested you of all ownership claims, including any claim for adverse possession, that stem from a date prior to the date of that Writ of Execution.

ANSWER: The claim adverse possession is a claim that is not determined by record ownership. Additionally, the land claimed through adverse possession is not set forth in the descriptions of the deeds to which the question refers.

22. State your legal authority, if any, that is in opposition to the assertion of Plaintiffs that the tax sale conducted on your property on September 12, 1995, as identified in Paragraph 27(e) of the Answer and New Matter of Plaintiffs to Counterclaim of Defendants, as filed on August 27, 2004, divested any claim of ownership that you had to the subject property prior to the time that the tax sale was conducted on September 12, 1995.

ANSWER: See answer to paragraph 21 set forth immediately above. The Defendants are not entirely sure as to what question is being asked in this paragraph.

23. Identify the name and address of all witnesses which have information which supports your claim of ownership through adverse possession, as alleged in this proceeding.

ANSWER: All individuals as set forth in the answers to these interrogatories.

24. Summarize the evidence each witness that you have identified in response to the preceding Interrogatory would present as pertinent to your claim of adverse possession in this proceeding.

ANSWER: See responses set forth in these answers. Defendants will supplement prior to trial.

25. During the 21-year period of time that you are claiming for adverse possession, have either of you (Ferdin E. Wallace or Sherry S. Wallace) filed a petition

for relief under the U.S. Bankruptcy Code, and if so, furnish the docket number and the date of filing.

ANSWER: Ferdin E. Wallace

26. During the 21-year period of time that you are asserting for adverse possession in this proceeding, state the following:

(a) The exact address at which you have resided for the 21-year period of time in question.

ANSWER: Ferdin Wallace: 1995 to present-2501 Open Sky Lane, Clearfield PA;  
1993 to 1995-11 Elder Drive, Inman SC; 1992 to 1993-New York Avenue, Dunedon, FL;  
1964 to 1992-1105 Riverview Road, Clearfield PA.  
Sherry S. Wallace; 1995 to present-2501 Open Sky Road, Clearfield PA;  
1993 to 1995-11 Elder Drive, Inman SC; prior to 1993-, St. Petersburg FL.  
1982 to 1983

(b) Set forth all mailing addresses that you have used during that 21-year period of time.

See answer and docket in 26 (a) above.

ANSWER: See answers set forth in 26 (a) above.



(c) State whether you have secured a driver's license in any jurisdiction other than the Commonwealth of Pennsylvania during that 21-year period of time, and if you have, set forth the name of the state and the time period during which you have held a driver's license for some jurisdiction other than Pennsylvania.

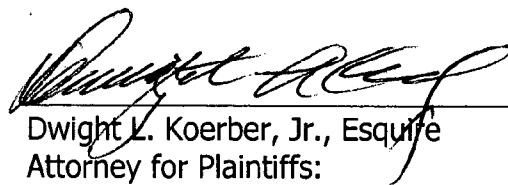
ANSWER: The Defendants have had Pennsylvania, Florida and South Carolina drivers licenses consistent with their answers set forth in 26 above.

(d) At any time during the 21-year period of time that you are asserting for adverse possession in this proceeding, have you registered to vote in any location other than Clearfield County, Commonwealth of Pennsylvania, and if so, state the specific location where you registered to vote and the time period that this pertained to.

ANSWER: Defendant Ferdin Wallace at all times registered to vote only the commonwealth of Pennsylvania. Since 1995, Defendant Sherry S. Wallace has registered to vote in the Commonwealth of Pennsylvania. Defendant Sherry S. Wallace was not registered to vote at any prior time.

These Interrogatories are of a continuing nature. You are hereby directed to supplement your answers within 10 days of the date that you receive updated information or documents.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dwight L. Koerber, Jr.", is written over a horizontal line.

Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and  
Michele L. Thomas

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

\*

\*

Docket No. 04-253-CD

Vs.

\*

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

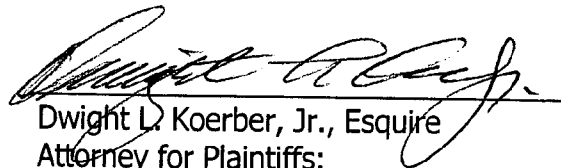
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**CERTIFICATE OF SERVICE**

This is to certify that on the 28<sup>th</sup> day of December 2004, the undersigned served the original and two copies of SET ONE INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS in the above-captioned matter upon counsel for Defendants. Such documents were served via United States First Class Mail upon the following:

Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and  
Michele L. Thomas

CHRIS A. PENTZ  
ATTORNEY AT LAW  
211 1/2 EAST LOCUST STREET  
MARINO BUILDING  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

TELEPHONE  
(814) 765-4000

September 22, 2003

FAX  
(814) 765-8142

Attorney Kimberly Kubista  
15 North Front Street  
Clearfield PA 16830

Re: Lawrence Township Property

Dear Attorney Kubista:

Please be advised that I have been contacted by Mr. Ferdin Wallace in reference to your letter of September 17, 2003. Mr. Wallace is not in agreement with the position that Mr. Thomas is the owner of the property on which the flat bed trailers, tanks and other items are located. I believe that it will be necessary for you to file formal litigation to resolve this matter.

I would suggest that the parties agree to keep a status quo position until there is a formal resolution. I have previously been advised by Mr. Wallace that some individual (which I believe to be your client) has been placing No Trespassing signs on the property in dispute. I have advised Mr. Wallace that he certainly could remove signs placed on what he believed to be his property. I suggested the status quo approach since I do not wish to see this matter escalate into anything other than a determination of the legal owner of the property in question. If you would like me to accept service on behalf of Mr. Wallace, I would be agreeable.

Sincerely,

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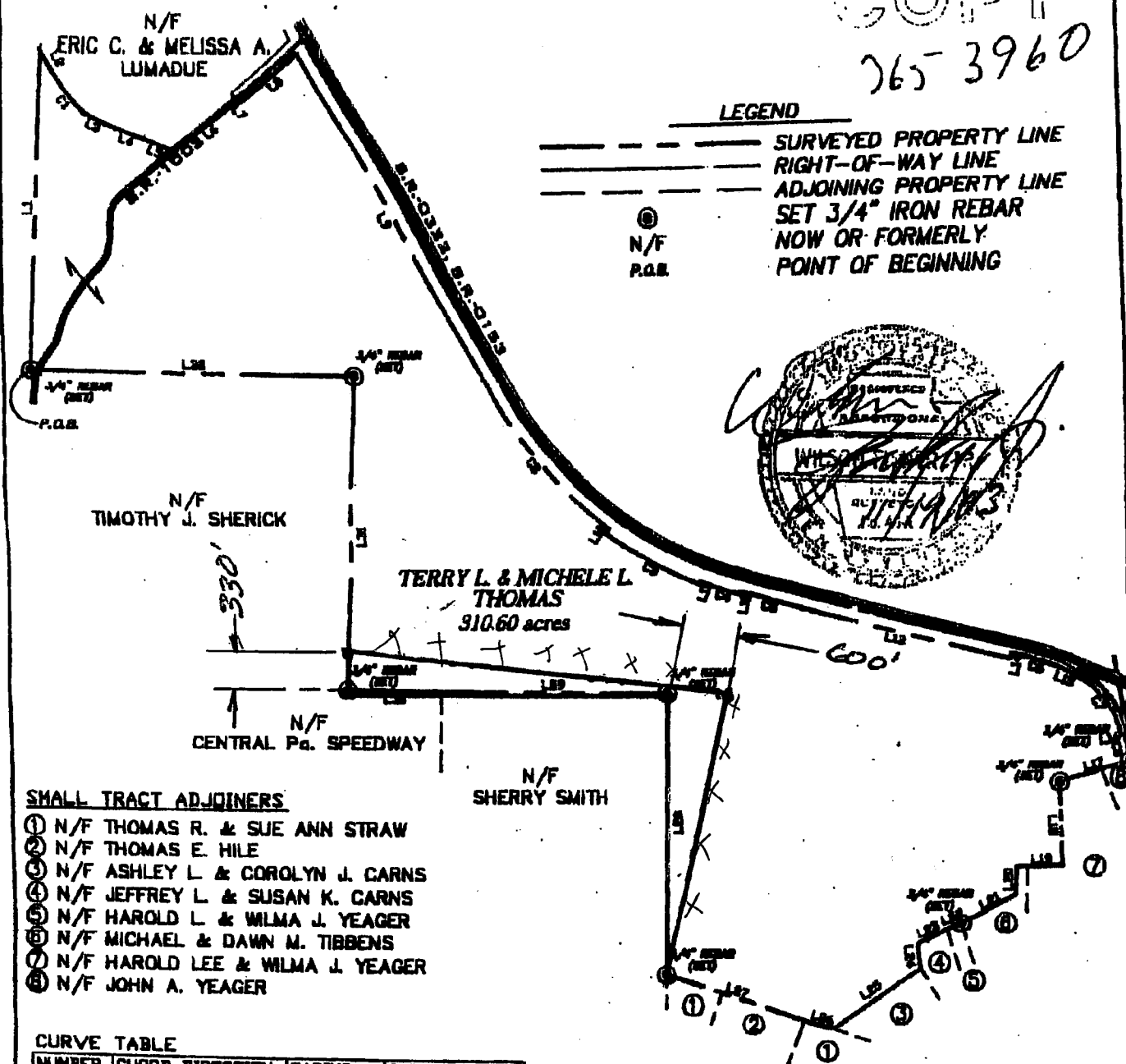
Chris A. Pentz

CAP/jms  
cc: Mr. Ferdin Wallace  
File

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BEARING BASE  
MAGNETIC NORTH  
TAKEN APRIL 14, 2003

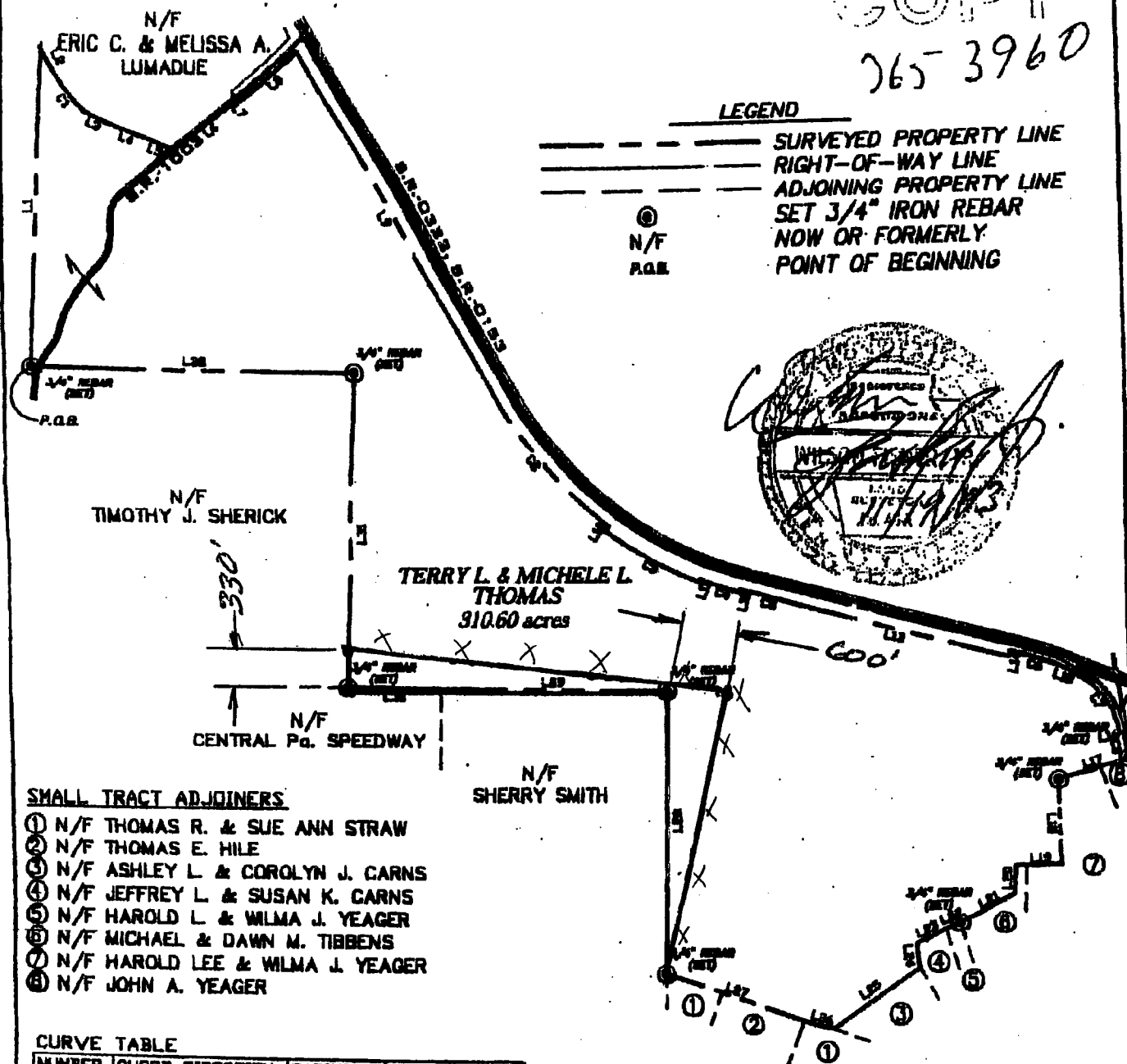
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PROPERTY ACCORDING TO J. PRUSSMAN

DRAWN BY: RL	FILE NO.	<b>PLAT OF LANDS OF</b> <b>TERRY L. &amp; MICHELE L. THOMAS</b> <b>LAWRENCE TOWNSHIP, CLEARFIELD COUNTY</b> <b>HESS &amp; FISHER ENGINEERS, INC.</b> <b>CONSULTING ENGINEERS &amp; GEOLOGISTS</b> <b>36 NORTH SECOND STREET</b> <b>CLEARFIELD, PENNSYLVANIA 16830 814-786-7841</b>
CHECKED BY: WF	JOB NO.	
DATE: 9/12/03	FB NO.	
SCALE: 1"=1000'	REVISION	
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cadserver/thomas/thomas.dwg		

EXHIBIT "A-1"

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PROPERTY ACCORDING TO J. PRISSMAN

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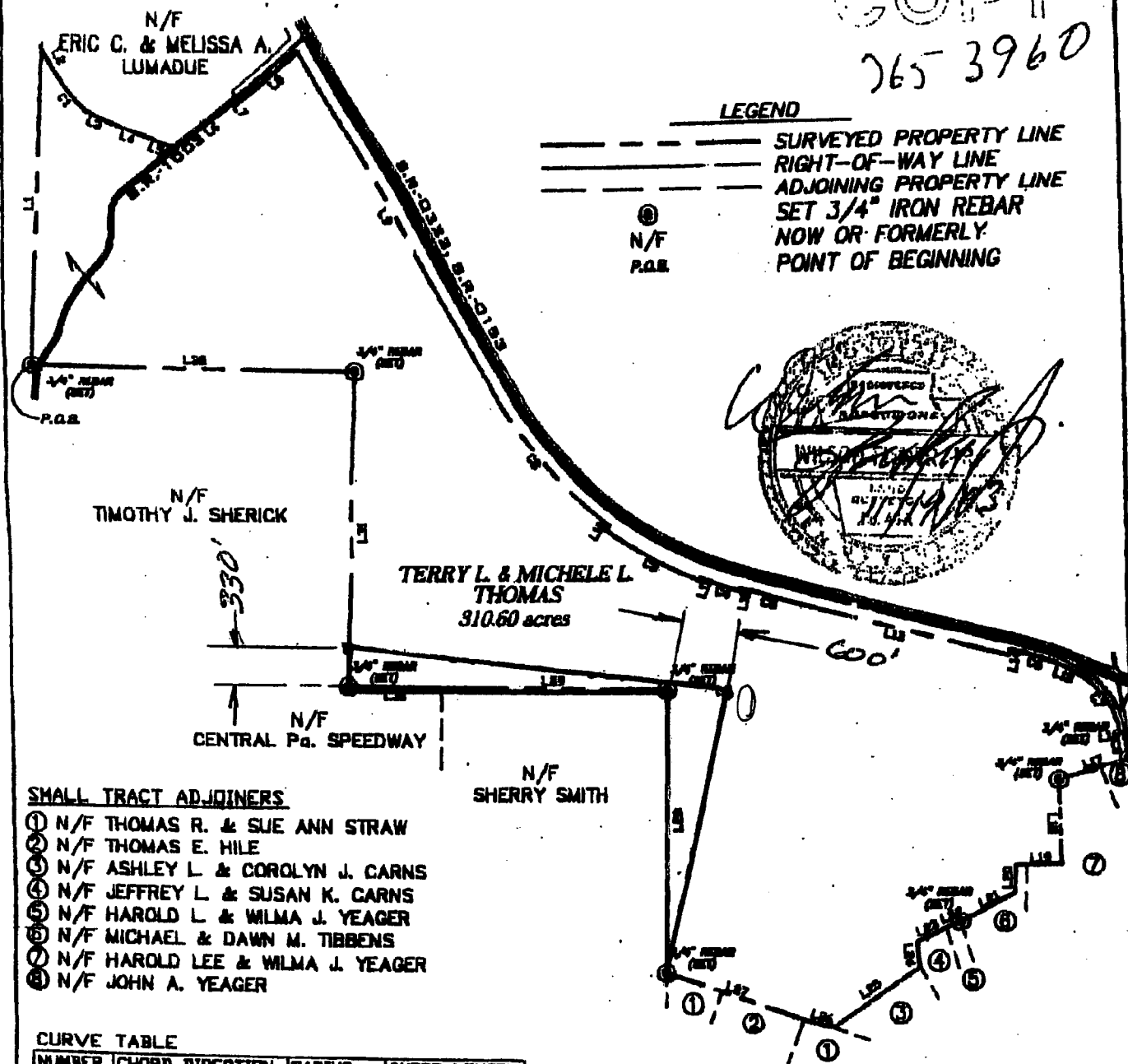
**HESS & FISHER ENGINEERS, INC.**  
CONSULTING ENGINEERS & GEOLOGISTS  
38 NORTH SECOND STREET  
CLEARFIELD, PENNSYLVANIA 16830 814-785-7541

EXHIBIT "A-2"

3427099

COPY

765 3960



## SMALL TRACT ADJOINERS

- ① N/F THOMAS R. & SUE ANN STRAW
- ② N/F THOMAS E. HILE
- ③ N/F ASHLEY L. & COROLYN J. CARNS
- ④ N/F JEFFREY L. & SUSAN K. CARNS
- ⑤ N/F HAROLD L. & WILMA J. YEAGER
- ⑥ N/F MICHAEL & DAWN M. TIBBENS
- ⑦ N/F HAROLD LEE & WILMA J. YEAGER
- ⑧ N/F JOHN A. YEAGER

## CURVE TABLE

NUMBER	CHORD DIRECTION	RADIUS	CHORD LENGTH
C1	S 36°36'23" E	1189.44	304.83
C2	S 38°57'22" E	2782.48	1876.78
C3	S 59°54'33" E	2699.25	694.35
C4	S 70°17'05" E	3255.86	269.62
C5	S 74°13'52" E	13228.00	401.04
C6	S 71°39'39" E	3641.99	299.15
C7	S 35°06'11" E	569.14	488.40
C8	S 09°55'44" E	1932.78	179.44

## LINE TABLE

NUMBER	DIRECTION	DISTANCE	NUMBER	DIRECTION	DISTANCE
L1	N 02°24'06" E	2083.04'	L17	S 73°32'04" W	466.70'
L2	S 31°37'00" E	192.74'	L18	S 01°27'56" E	546.00'
L3	S 60°48'46" E	174.78'	L19	S 88°39'51" W	292.22'
L4	S 66°44'38" E	291.50'	L20	S 01°58'01" W	174.69'
L5	S 65°04'40" E	171.97'	L21	S 62°19'07" W	394.06'
L6	N 48°41'43" E	551.35'	L22	S 65°53'21" W	101.25'
L7	S 41°01'26" E	23.47'	L23	S 63°52'12" W	208.09'
L8	N 48°49'44" E	492.00'	L24	S 07°58'39" E	161.90'
L9	S 28°44'08" E	2445.08'	L25	S 55°43'51" W	692.72'
L10	S 36°22'31" W	40.02'	L26	N 72°26'00" W	197.46'
L11	N 20°48'07" E	20.02'	L27	N 71°23'04" W	941.13'
L12	N 14°57'11" E	20.01'	L28	N 00°48'51" E	1864.61'
L13	S 74°40'25" E	1391.95'	L29	N 89°11'09" W	1485.00'
L14	N 15°38'48" E	40.65'	L30	N 89°08'02" W	601.16'
L15	S 62°49'07" E	137.92'	L31	N 02°00'52" E	2104.05'
L16	N 80°03'51" E	20.70'	L32	N 88°59'16" W	2070.75'

• 3 HAND USED &amp; PART OF

PROPERTY ACCORDING TO J. PRISSMAN

DRAWN BY: RL	FILE NO.:
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PLAT OF LANDS OF  
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LAWRENCE TOWNSHIP, CLEARFIELD COUNTY

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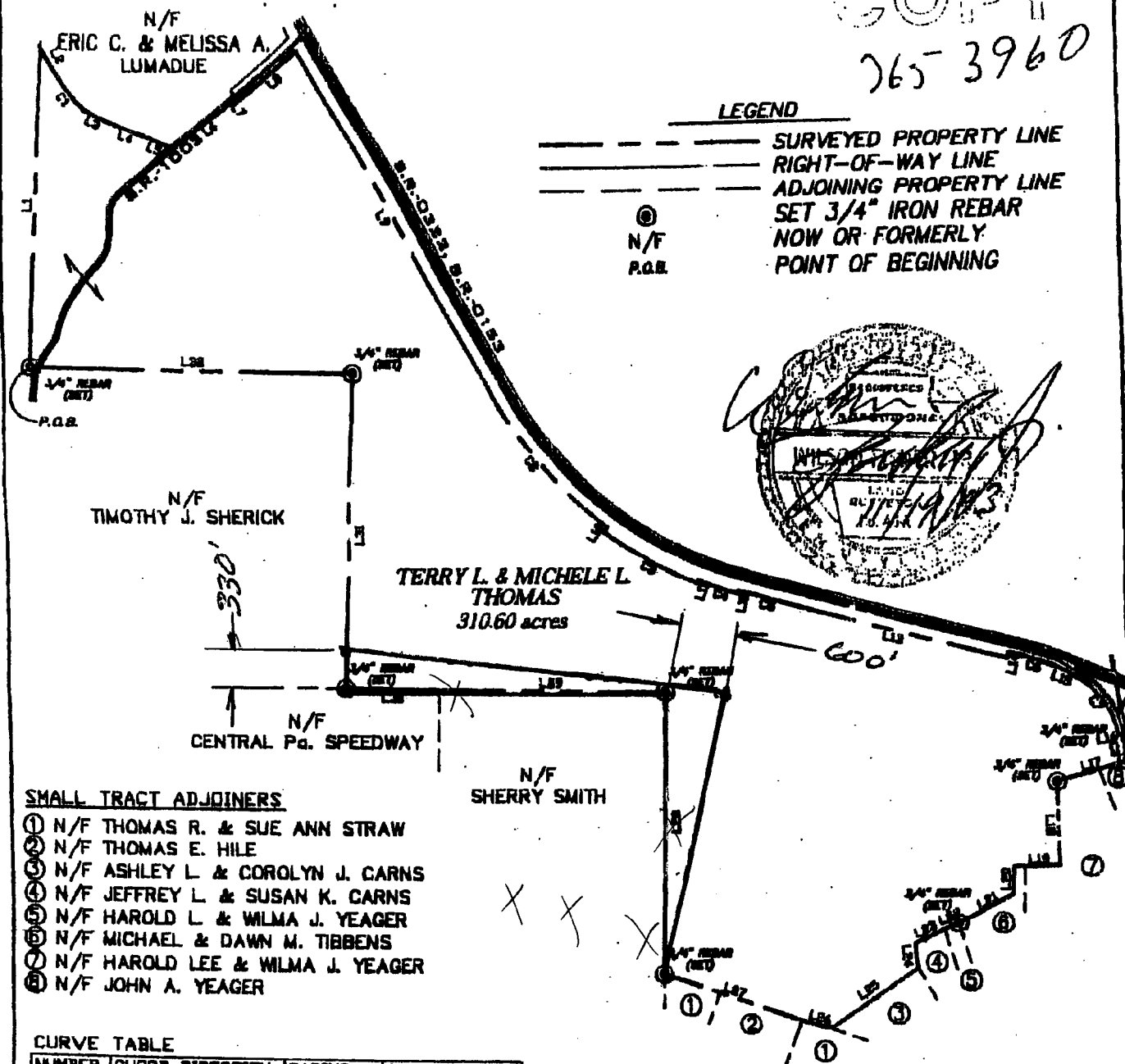


BEARING BASE  
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L4	S 66°44'58" E	291.30'	L20	S 01°58'01" W	174.69'
L5	S 65°04'40" E	171.97'	L21	S 62°19'07" W	394.06'
L6	N 48°41'43" E	551.35'	L22	S 65°53'21" W	101.25'
L7	S 41°01'26" E	23.47'	L23	S 63°52'12" W	208.09'
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L9	S 28°44'08" E	2443.08'	L25	S 55°43'51" W	692.72'
L10	S 36°22'31" W	40.02'	L26	N 72°26'00" W	197.46'
L11	N 20°48'07" E	20.02'	L27	N 71°23'04" W	941.13'
L12	N 14°57'11" E	20.01'	L28	N 08°48'51" E	1864.61'
L13	S 74°40'25" E	1391.95'	L29	N 89°11'09" W	1485.00'
L14	N 15°38'48" E	40.65'	L30	N 89°08'02" W	601.16'
L15	S 62°49'07" E	137.92'	L31	N 02°00'52" E	2104.05'
L16	N 80°03'51" E	20.70'	L32	N 88°59'16" W	2070.75'

• 3 HAND USED &amp; PART OF

PROPERTY ACCORDING TO J. PRISMAN

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PLAT OF LANDS OF  
TERRY L. & MICHELE L. THOMAS  
LAWRENCE TOWNSHIP, CLEARFIELD COUNTY

**HESS & FISHER ENGINEERS, INC.**  
CONSULTING ENGINEERS & GEOLOGISTS  
38 NORTH SECOND STREET  
CLEARFIELD, PENNSYLVANIA 16830 814-785-7541

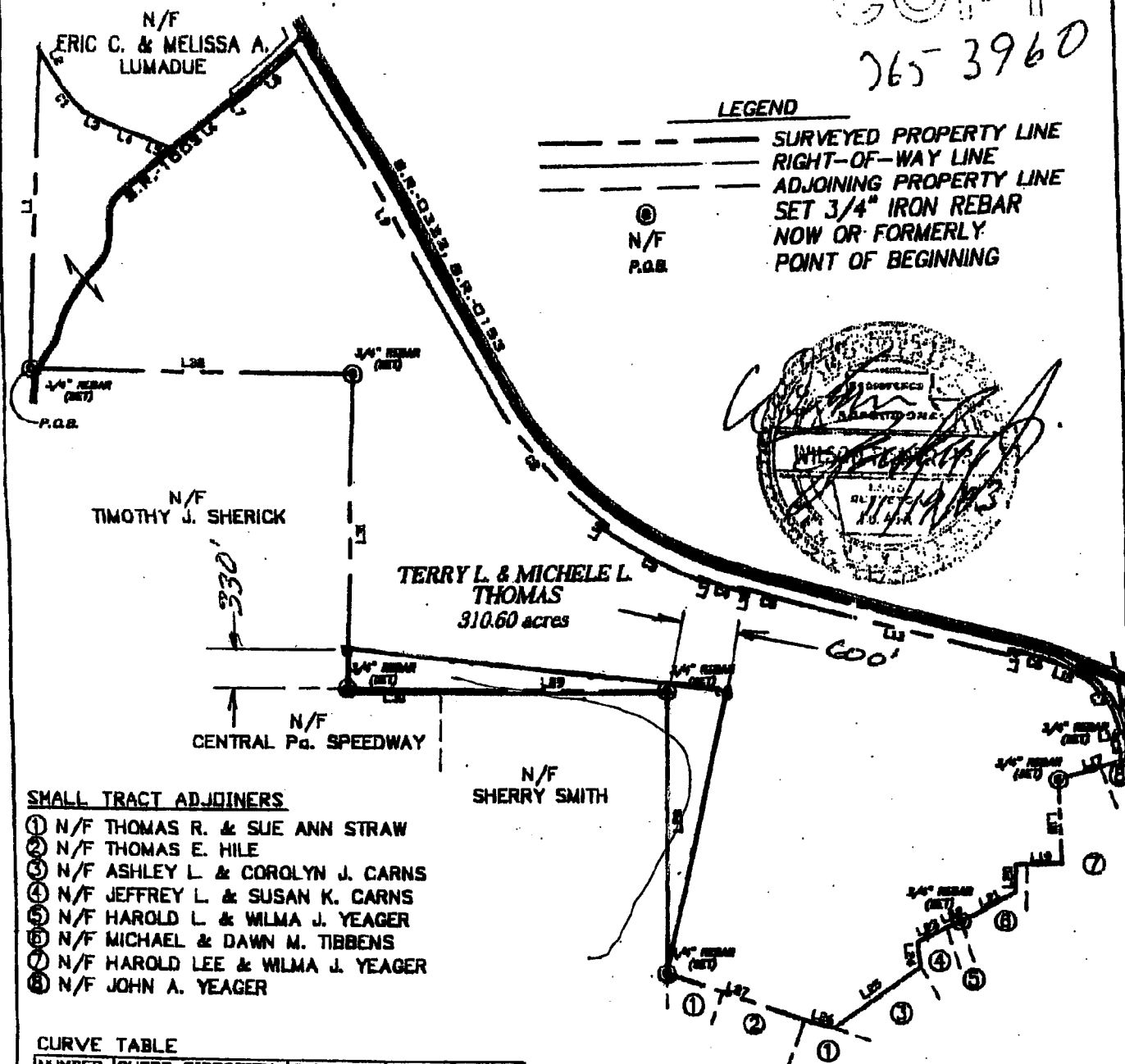
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MAGNETIC NORTH  
TAKEN APRIL 14, 2003



3427099

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## SMALL TRACT ADJOINERS

- ① N/F THOMAS R. & SUE ANN STRAW
- ② N/F THOMAS E. HILE
- ③ N/F ASHLEY L. & COROLYN J. CARNS
- ④ N/F JEFFREY L. & SUSAN K. CARNS
- ⑤ N/F HAROLD L. & WILMA J. YEAGER
- ⑥ N/F MICHAEL & DAWN M. TIBBENS
- ⑦ N/F HAROLD LEE & WILMA J. YEAGER
- ⑧ N/F JOHN A. YEAGER

## CURVE TABLE

NUMBER	CHORD DIRECTION	RADIUS	CHORD LENGTH
C1	S 36°36'23" E	1189.44	304.83
C2	S 38°57'22" E	2782.48	1276.78
C3	S 59°54'33" E	2699.25	694.35
C4	S 70°17'05" E	3255.86	269.62
C5	S 74°13'52" E	13228.00	401.04
C6	S 71°39'39" E	3641.99	299.15
C7	S 35°06'11" E	569.14	488.40
C8	S 09°55'44" E	1932.78	179.44

## LINE TABLE

NUMBER	DIRECTION	DISTANCE	NUMBER	DIRECTION	DISTANCE
L1	N 02°24'06" E	2083.04	L17	S 73°32'04" W	466.70
L2	S 31°37'00" E	192.74	L18	S 01°27'56" E	546.00
L3	S 60°48'46" E	174.78	L19	S 88°39'51" W	292.22
L4	S 66°44'58" E	291.50	L20	S 01°58'01" W	174.69
L5	S 65°04'40" E	171.97	L21	S 62°19'07" W	394.06
L6	N 48°41'43" E	551.35	L22	S 65°53'21" W	101.25
L7	S 41°01'26" E	23.47	L23	S 63°52'12" W	208.09
L8	N 48°49'44" E	492.00	L24	S 07°58'39" E	161.90
L9	S 28°44'08" E	2443.08	L25	S 55°43'51" W	692.72
L10	S 36°22'31" W	40.02	L26	N 72°26'00" W	197.46
L11	N 20°48'07" E	20.02	L27	N 71°23'04" W	941.13
L12	N 14°57'11" E	20.01	L28	N 00°48'51" E	1864.61
L13	S 74°40'25" E	1391.95	L29	N 89°11'09" W	1485.00
L14	N 15°38'48" E	40.65	L30	N 89°08'02" W	601.16
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L16	N 80°03'51" E	20.70	L32	N 88°59'16" W	2070.75

• 3 HAND USED &amp; PART OF

PROPERTY ACCORDING TO J. PRISMAN

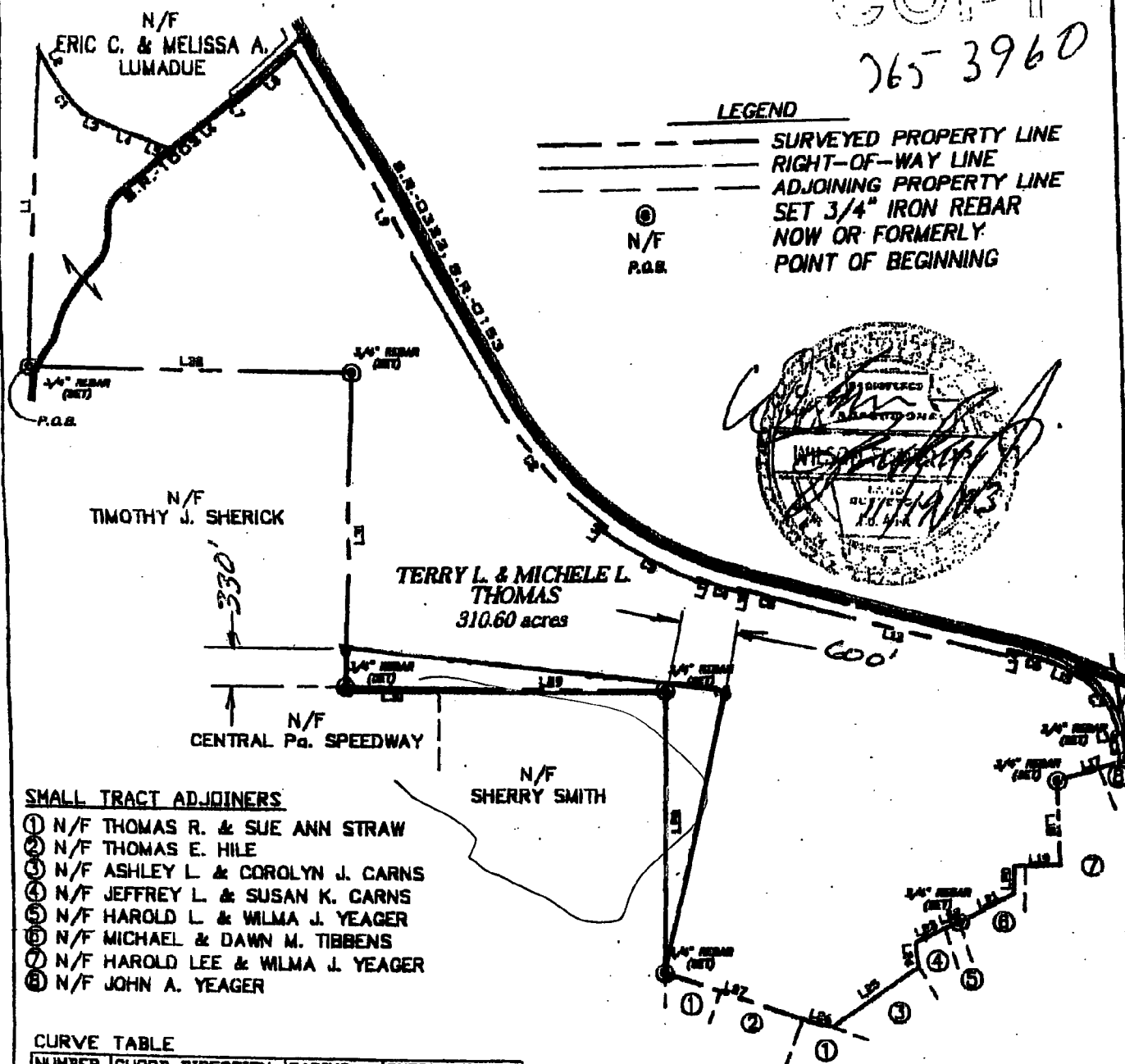
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## CURVE TABLE

NUMBER	CHORD DIRECTION	RADIUS	CHORD LENGTH
C1	S 36°36'23" E	1189.44	304.83
C2	S 38°57'22" E	2782.48	1276.78
C3	S 39°54'33" E	2699.25	694.35
C4	S 70°17'05" E	3255.86	269.62
C5	S 74°13'52" E	13228.00	401.04
C6	S 71°39'39" E	3641.99	299.15
C7	S 35°06'11" E	569.14	488.40
C8	S 09°55'44" E	1932.78	179.44

## LINE TABLE

NUMBER	DIRECTION	DISTANCE	NUMBER	DIRECTION	DISTANCE
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L4	S 66°44'38" E	291.50'	L20	S 01°58'01" W	174.69'
L5	S 65°04'40" E	171.97'	L21	S 62°19'07" W	394.06'
L6	N 48°41'43" E	551.35'	L22	S 65°53'21" W	101.25'
L7	S 41°01'26" E	23.47'	L23	S 63°52'12" W	208.09'
L8	N 48°49'44" E	492.00'	L24	S 07°58'39" E	161.90'
L9	S 28°44'08" E	2445.08'	L25	S 55°43'51" W	692.72'
L10	S 36°22'31" W	40.02'	L26	N 72°26'00" W	197.46'
L11	N 20°48'07" E	20.02'	L27	N 71°23'04" W	941.13'
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L16	N 80°03'51" E	20.70'	L32	N 88°59'16" W	2070.75'

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PLAT OF LANDS OF  
TERRY L. & MICHELE L. THOMAS  
LAWRENCE TOWNSHIP, CLEARFIELD COUNTY

**HESS & FISHER ENGINEERS, INC.**  
CONSULTING ENGINEERS & GEOLOGISTS  
38 NORTH SECOND STREET  
CLEARFIELD, PENNSYLVANIA 16830 814-786-7541

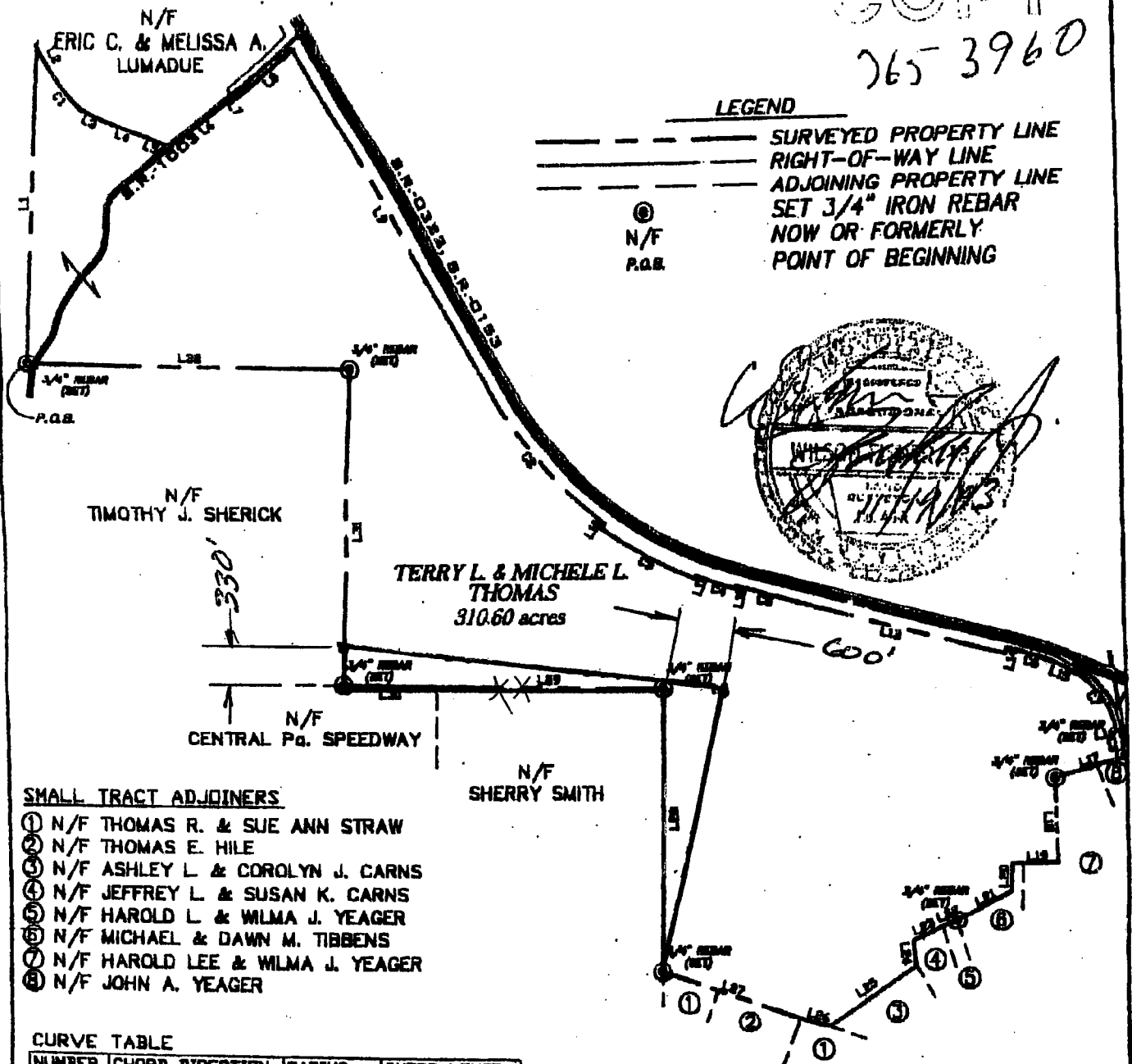


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CURVE TABLE

NUMBER	CHORD DIRECTION	RADIUS	CHORD LENGTH
C1	S 36°36'23" E	1189.44	304.83
C2	S 38°37'22" E	2782.48	1276.78
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LINE TABLE

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L2	S 31°37'00" E	192.74	L18	S 01°27'56" E	546.00
L3	S 60°48'46" E	174.78	L19	S 88°39'51" W	292.22
L4	S 66°44'58" E	291.50	L20	S 01°58'01" W	174.69
L5	S 65°04'40" E	171.97	L21	S 62°19'07" W	394.06
L6	N 48°41'43" E	551.35	L22	S 65°53'21" W	101.25
L7	S 41°01'26" E	23.47	L23	S 63°52'12" W	208.09
L8	N 48°49'44" E	492.00	L24	S 07°58'39" E	161.90
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L10	S 36°22'31" W	40.02	L26	N 72°26'00" W	197.46
L11	N 20°48'07" E	20.02	L27	N 71°23'04" W	941.13
L12	N 14°57'11" E	20.01	L28	N 00°48'51" E	1864.61
L13	S 74°40'25" E	1391.95	L29	N 89°11'09" W	1485.00
L14	N 15°38'48" E	40.65	L30	N 89°08'02" W	601.16
L15	S 62°49'07" E	137.92	L31	N 02°00'52" E	2104.05
L16	N 80°03'51" E	20.70	L32	N 88°59'16" W	2070.75

• = HAND USED &amp; PART OF

PROPERTY ACCORDING TO J. PRISSMAN

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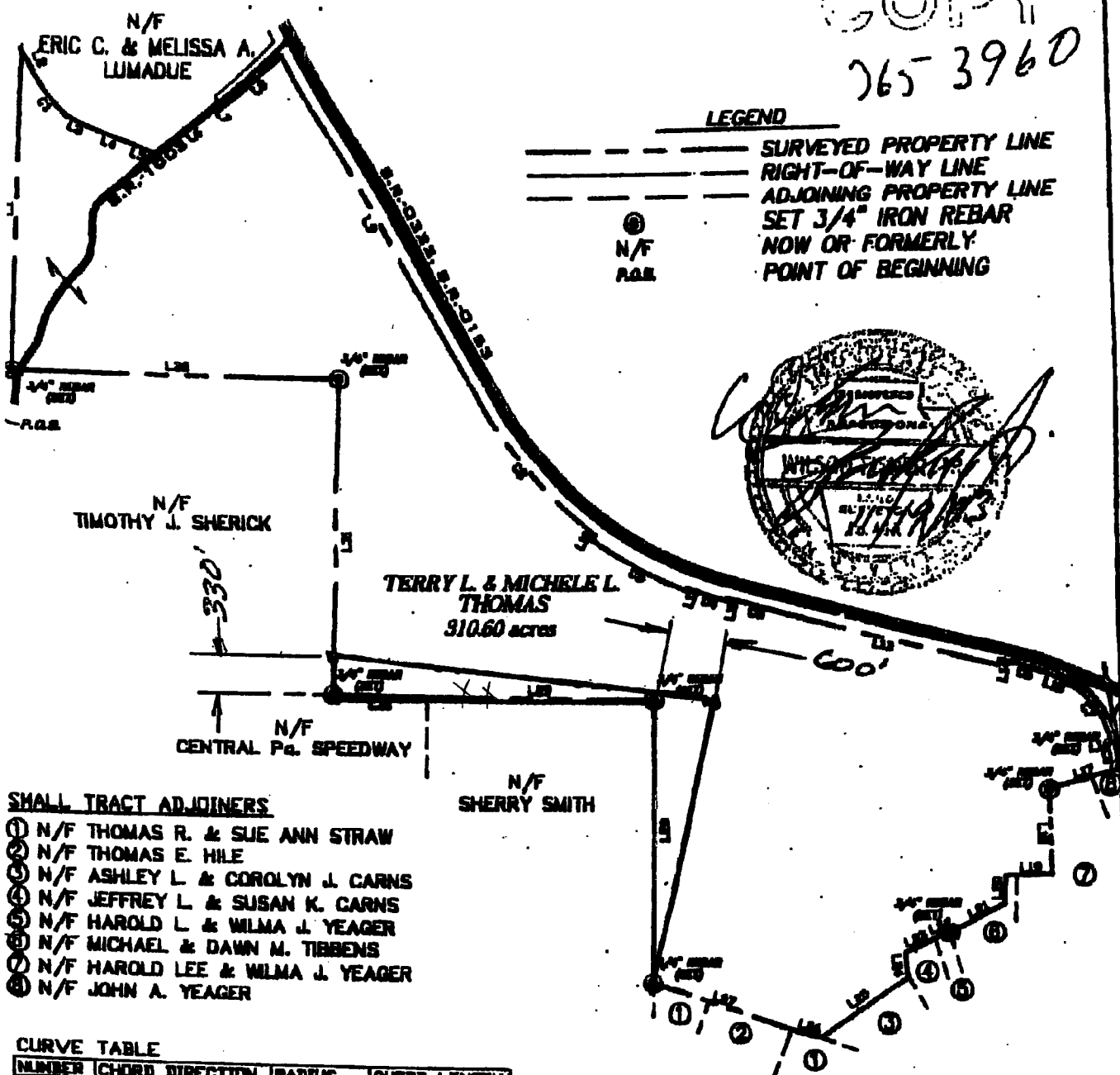
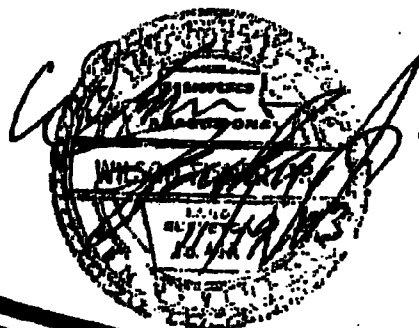
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3427099

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## LEGEND

- SURVEYED PROPERTY LINE  
 ——— RIGHT-OF-WAY LINE  
 - - - ADJOINING PROPERTY LINE  
 ● SET 3/4" IRON REBAR  
 N/F NOW OR FORMERLY  
 P.O.B. POINT OF BEGINNING



## SMALL TRACT ADJOINERS

- ① N/F THOMAS R. & SUE ANN STRAW
- ② N/F THOMAS E. HILE
- ③ N/F ASHLEY L. & COROLYN J. CARNS
- ④ N/F JEFFREY L. & SUSAN K. CARNS
- ⑤ N/F HAROLD L. & WILMA J. YEAGER
- ⑥ N/F MICHAEL & DAWN M. TIBBENS
- ⑦ N/F HAROLD LEE & WILMA J. YEAGER
- ⑧ N/F JOHN A. YEAGER

## CURVE TABLE

NUMBER	CHORD DIRECTION	RADIUS	CHORD LENGTH
C1	S 36°36'23" E	1109.44	304.93
C2	S 38°37'22" E	2708.48	1276.78
C3	S 59°34'33" E	2698.85	624.35
C4	S 70°17'05" E	3285.86	269.62
C5	S 74°13'32" E	13228.00	401.04
C6	S 71°39'39" E	3641.99	299.15
C7	S 35°06'11" E	569.14	488.40
C8	S 09°53'44" E	1022.70	179.44

## LINE TABLE

NUMBER	DIRECTION	DISTANCE	NUMBER	DIRECTION	DISTANCE
L1	N 02°24'06" E	2083.04'	L17	S 73°32'04" W	466.70'
L2	S 31°37'00" E	192.74'	L18	S 01°27'36" E	546.00'
L3	S 60°48'46" E	174.78'	L19	S 88°39'51" W	292.22'
L4	S 66°44'38" E	291.50'	L20	S 01°38'01" W	174.69'
L5	S 65°04'40" E	171.97'	L21	S 62°19'07" W	394.06'
L6	N 48°41'43" E	551.35'	L22	S 65°53'21" W	101.25'
L7	S 41°01'26" E	23.47'	L23	S 63°52'12" W	208.09'
L8	N 48°49'44" E	492.00'	L24	S 07°58'39" E	161.90'
L9	S 28°44'08" E	2445.08'	L25	S 55°43'51" W	692.72'
L10	S 36°22'31" W	40.02'	L26	N 72°26'00" W	197.46'
L11	N 20°48'07" E	20.02'	L27	N 71°23'04" W	941.13'
L12	N 14°57'11" E	20.01'	L28	N 00°48'51" E	1864.61'
L13	S 74°40'25" E	1391.95'	L29	N 89°11'09" W	1485.00'
L14	N 15°38'48" E	40.65'	L30	N 89°08'02" W	601.16'
L15	S 62°49'07" E	137.92'	L31	N 02°00'32" E	2104.05'
L16	N 80°03'51" E	20.70'	L32	N 88°39'16" W	2070.75'



BEARING BASE  
 MAGNETIC NORTH  
 TAKEN APRIL 14, 2003

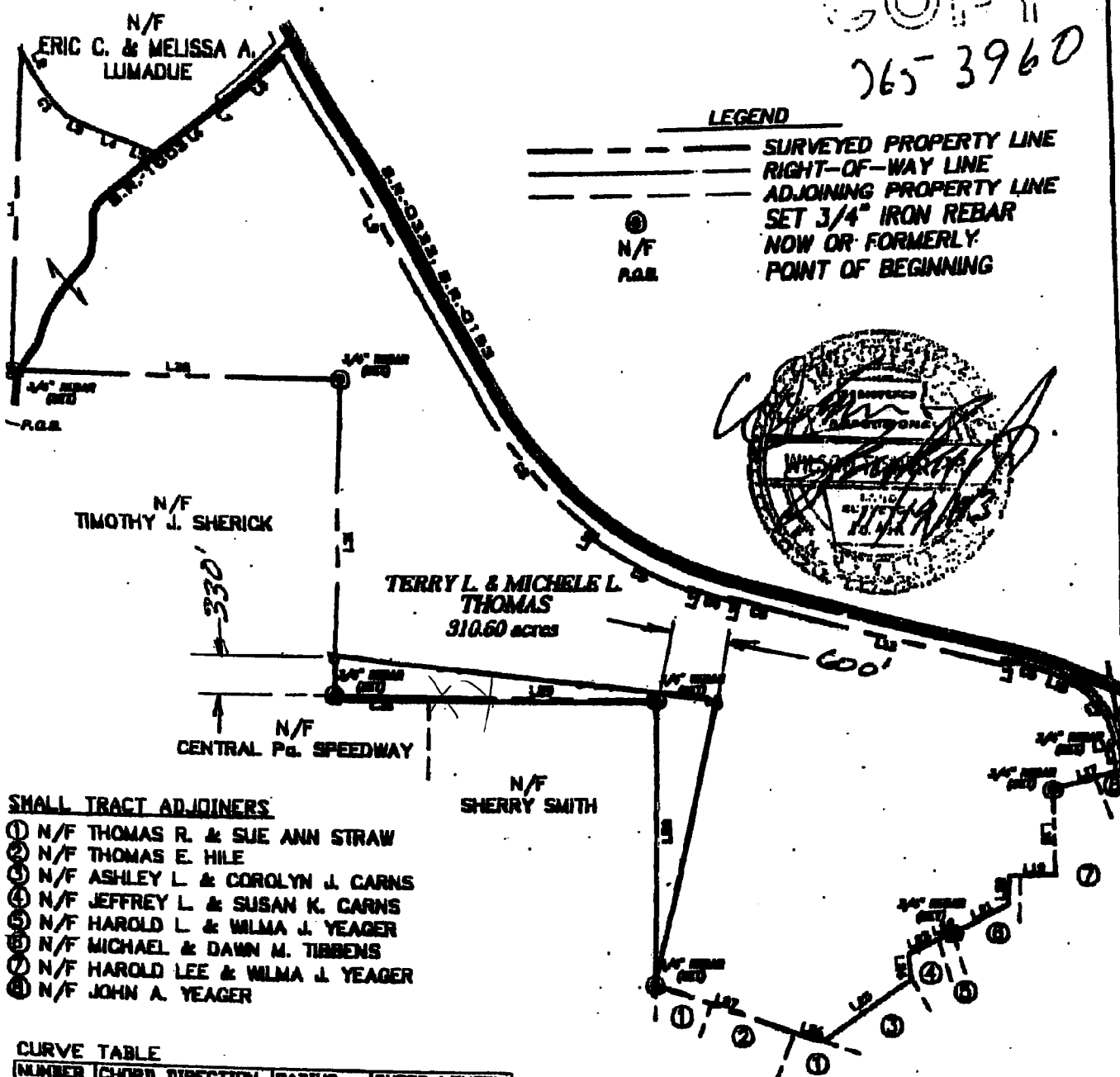
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PROPERTY ACCORDING TO J. KRISMAN

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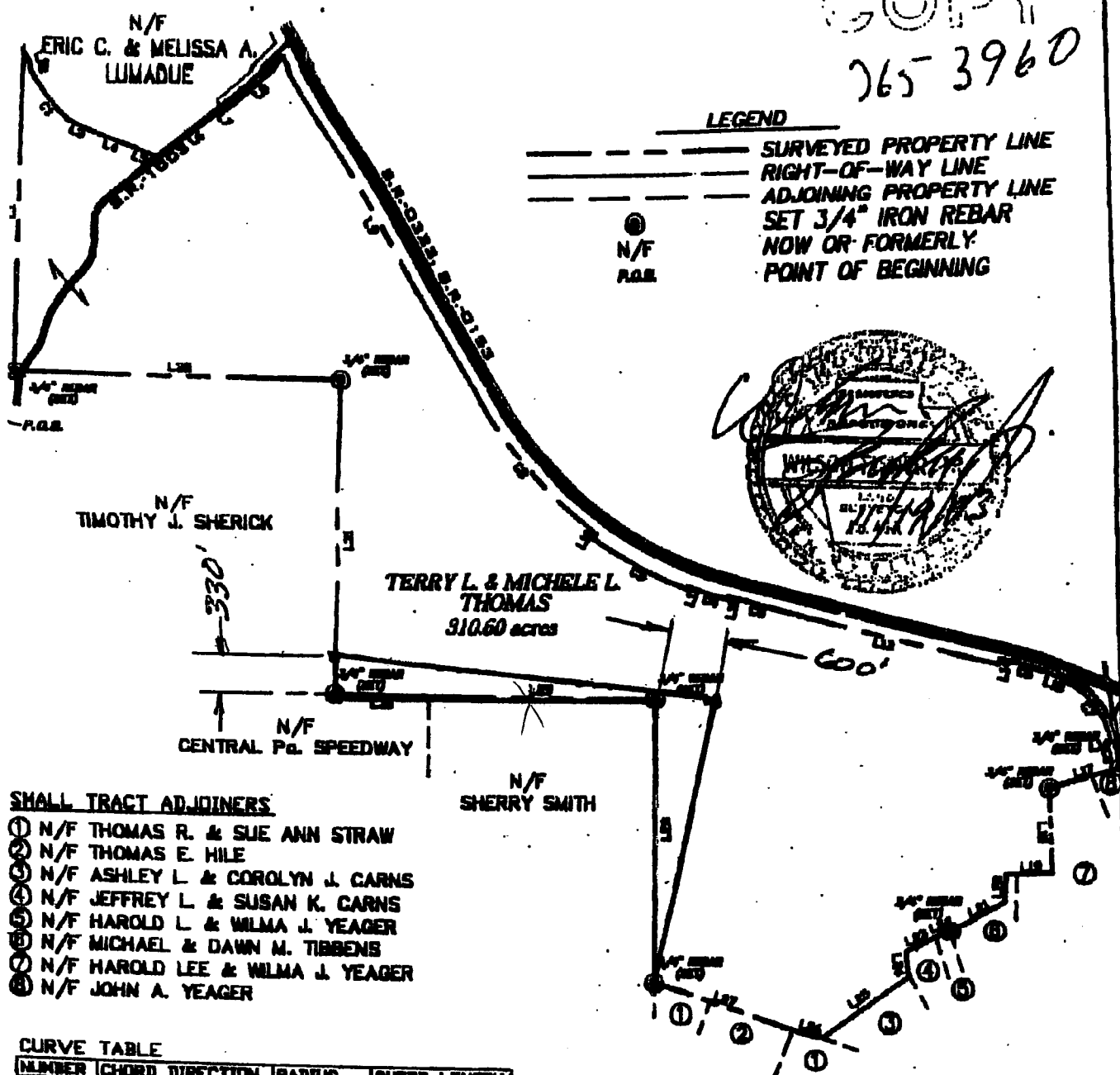
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PROPERTY ACCORDING TO J. PRISSMAN

DRAWN BY: RL	FILE NO:	<b>PLAT OF LANDS OF</b> <b>TERRY L. &amp; MICHELE L. THOMAS</b> <b>LAWRENCE TOWNSHIP, CLEARFIELD COUNTY</b> <b>HESS &amp; FISHER ENGINEERS, INC.</b> <b>CONSULTING ENGINEERS &amp; GEOLOGISTS</b> <b>38 NORTH SECOND STREET</b> <b>CLEARFIELD, PENNSYLVANIA 16830 814-785-7541</b>
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EXHIBIT "A-9"

3427099

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265 3960

## CURVE TABLE

NUMBER	CHORD DIRECTION	RADIUS	CHORD LENGTH
C1	S 36°36'23" E	1189.44	384.83
C2	S 38°57'22" E	2788.48	1876.78
C3	S 59°34'33" E	2699.25	694.35
C4	S 70°17'05" E	3233.86	869.62
C5	S 74°13'32" E	13228.00	401.04
C6	S 71°39'39" E	3641.99	299.15
C7	S 35°06'11" E	569.14	488.40
C8	S 09°53'44" E	1938.78	179.44

## LINE TABLE

NUMBER	DIRECTION	DISTANCE	NUMBER	DIRECTION	DISTANCE
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L6	N 48°41'43" E	551.95'	L22	S 65°53'21" W	101.25'
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TAKEN APRIL 14, 2003

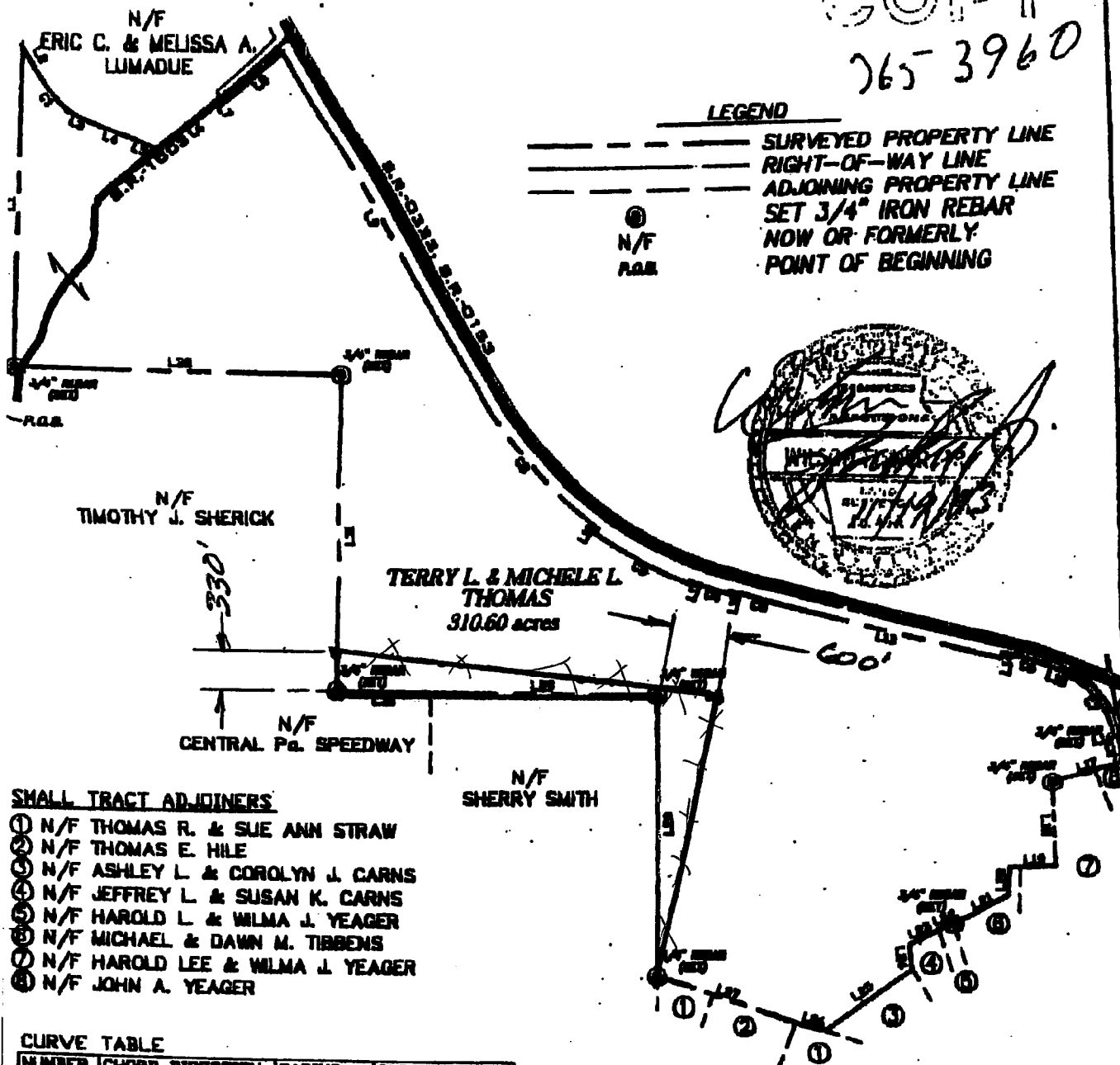
• 3 HAND USED & PARTIAL

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**SMALL TRACT ADJOINERS**

- ① N/F THOMAS R. & SUE ANN STRAW
- ② N/F THOMAS E. HILE
- ③ N/F ASHLEY L. & COROLYN J. CARNS
- ④ N/F JEFFREY L. & SUSAN K. CARNS
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- ⑥ N/F MICHAEL & DAWN M. TIBBENS
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- ⑧ N/F JOHN A. YEAGER

**CURVE TABLE**

NUMBER	CHORD DIRECTION	RADIUS	CHORD LENGTH
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C5	S 74°13'32" E	13228.00	401.04
C6	S 71°39'39" E	3441.99	899.15
C7	S 39°06'11" E	569.14	488.40
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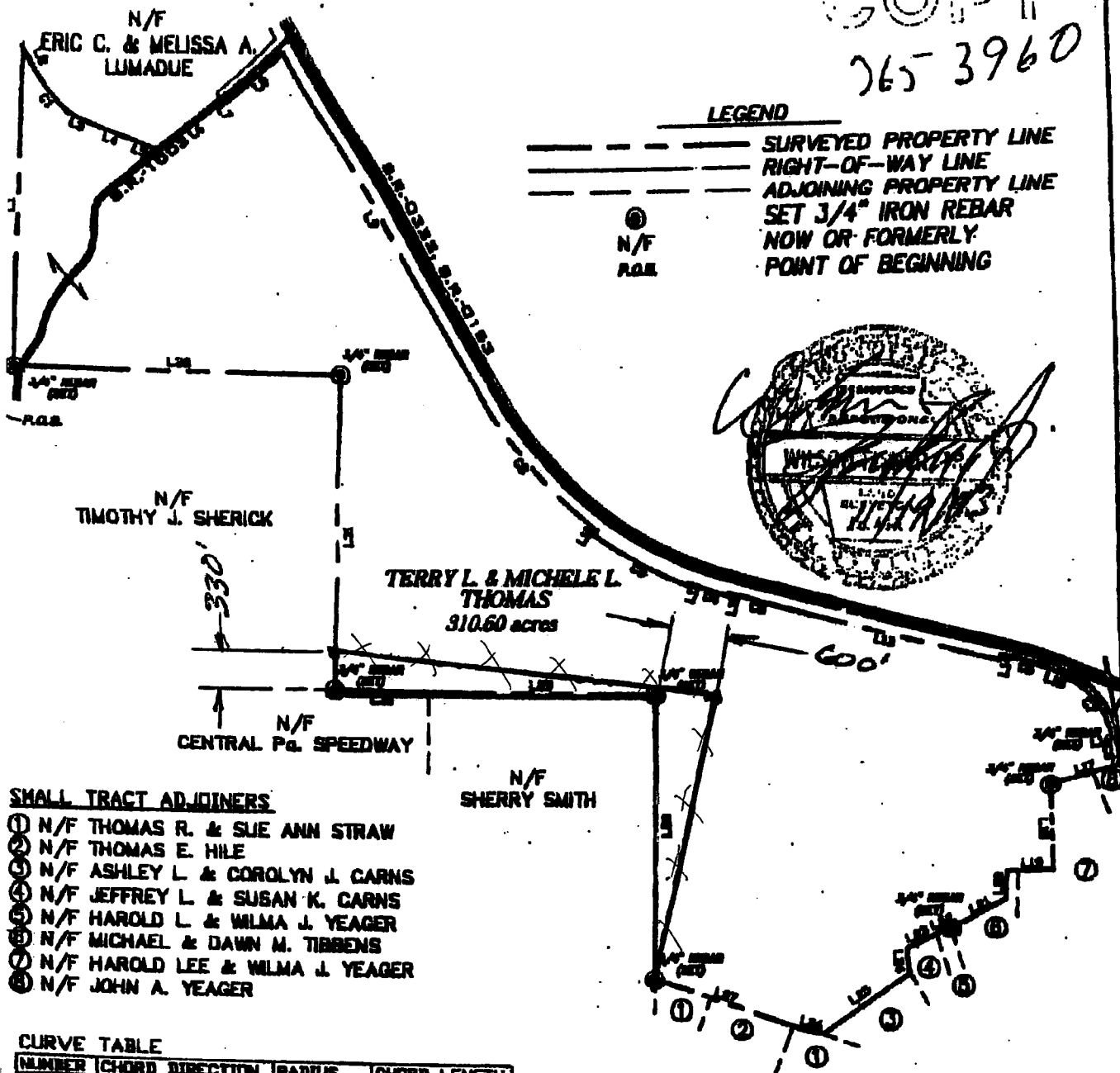
• 3 HAND USED & PART OF

DRAWN BY: RL	FILE NO.	<b>PLAT OF LANDS OF</b> <b>TERRY L. &amp; MICHELE L. THOMAS</b> <b>LAWRENCE TOWNSHIP, CLEARFIELD COUNTY</b> <b>HESS &amp; FISHER ENGINEERS, INC.</b> <b>CONSULTING ENGINEERS &amp; GEOLOGISTS</b> <b>38 NORTH SECOND STREET</b> <b>CLEARFIELD, PENNSYLVANIA 16830 814-786-7841</b>
CHECKED BY: WF	JOB NO.	
DATE: 9/12/03	FB NO.	
SCALE: 1"=1000'	REVISION	

cadserver/thomas/thomas.dwg

3427099

COPY  
765 3960



**SMALL TRACT ADJOINERS**

- ① N/F THOMAS R. & SUE ANN STRAW
- ② N/F THOMAS E. HILE
- ③ N/F ASHLEY L. & COROLYN J. CARNS
- ④ N/F JEFFREY L. & SUSAN K. CARNS
- ⑤ N/F HAROLD L. & WILMA J. YEAGER
- ⑥ N/F MICHAEL & DAWN M. TIBBENS
- ⑦ N/F HAROLD LEE & WILMA J. YEAGER
- ⑧ N/F JOHN A. YEAGER

**CURVE TABLE**

NUMBER	CHORD DIRECTION	RADIUS	CHORD LENGTH
C1	S 36°36'23" E	1189.44	304.83
C2	S 38°37'22" E	2782.48	1276.78
C3	S 59°54'33" E	2699.25	694.35
C4	S 70°17'05" E	3253.86	269.62
C5	S 74°13'52" E	13228.00	401.04
C6	S 71°39'39" E	3441.99	299.15
C7	S 35°06'11" E	569.14	488.40
C8	S 89°55'44" E	1932.78	179.44

**LINE TABLE**

NUMBER	DIRECTION	DISTANCE	NUMBER	DIRECTION	DISTANCE
L1	N 02°24'06" E	2083.04	L17	S 73°32'04" W	466.70
L2	S 31°37'00" E	192.74	L18	S 01°27'56" E	546.00
L3	S 60°48'46" E	174.78	L19	S 88°39'51" W	292.22
L4	S 66°44'38" E	291.50	L20	S 01°58'01" W	174.69
L5	S 63°04'40" E	171.97	L21	S 62°19'07" W	394.06
L6	N 48°41'43" E	551.95	L22	S 65°53'21" W	101.25
L7	S 41°01'26" E	23.47	L23	S 63°52'12" W	208.09
L8	N 48°49'44" E	492.00	L24	S 07°58'39" E	161.90
L9	S 28°44'08" E	2445.08	L25	S 55°43'51" V	692.72
L10	S 36°22'31" V	40.02	L26	N 72°26'00" V	197.46
L11	N 20°48'07" E	20.02	L27	N 71°29'04" V	941.13
L12	N 14°57'11" E	20.01	L28	N 00°48'51" E	1864.61
L13	S 74°40'25" E	1391.93	L29	N 89°11'09" V	1485.00
L14	N 15°38'48" E	40.65	L30	N 89°08'02" V	601.16
L15	S 62°49'07" E	137.92	L31	N 02°00'52" E	2104.05
L16	N 80°03'51" E	20.70	L32	N 88°39'16" W	2070.75



BEARING BASE  
MAGNETIC NORTH  
TAKEN APRIL 14, 2003

• 3 HAND USED & PART OF

DRAWN BY: RL	FILE NO.	PROPERTY ACCORDING TO J. KRISMAN
CHECKED BY: WF	JOB NO.	
DATE: 9/12/03	FB NO.	
SCALE: 1"=1000'	REVISION	
cadserver/thomas/thomas.dwg		BY

PLAT OF LANDS OF TERRY L. & MICHELE L. THOMAS LAWRENCE TOWNSHIP, CLEARFIELD COUNTY	
HESS & FISHER ENGINEERS, INC. CONSULTING ENGINEERS & GEOLOGISTS 38 NORTH SECOND STREET CLEARFIELD, PENNSYLVANIA 16830 814-786-7541	



VERIFICATION

I, Ferdin Wallace, verify that the statements made in these  
ANSWERS 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.

3-29-05  
Date

Ferdin Wallace  
Ferdin Wallace

VERIFICATION

I, Sherry S. Wallace, verify that the statements made in these  
ANSWERS 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.

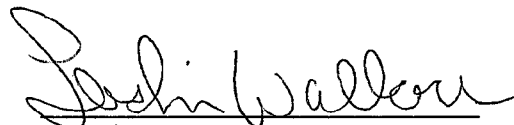
3-29-05  
Date

Sherry Wallace  
Sherry S. Wallace

VERIFICATION

I, **Ferdin Wallace**, verify that the statements made in these  
**ANSWERS** 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.

3-29-05  
Date

  
Ferdin Wallace

VERIFICATION

I, Sherry S. Wallace, verify that the statements made in these  
ANSWERS 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.

3-29-05  
Date

Sherry S. Wallace  
Sherry S. Wallace

William A. Shaw  
Prothonotary/Clerk of Courts

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

\*

\*

Vs.

\*

Docket No. 04-253-CD

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

**REQUEST FOR ADMISSIONS**  
**DIRECTED TO DEFENDANT**

TO: Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

Pursuant to the Pennsylvania Rules of Civil Procedure, you are hereby notified to provide written answers under oath to the following Requests. Your answers must be provided within the later of 45 days from service of the Complaint or 30 days after the service of these Requests upon you. Failure to file answers will result in each Request being admitted. Your answers shall admit or deny the matter or set forth in detail reasons why you cannot truthfully do so. A denial shall fairly meet the substance of the requested admission. If you must qualify an answer or deny only part of the matter of which an admission is requested, you shall specify so much of it as is true and qualify or deny the remainder. You may not give lack of information or knowledge as a reason for failure to admit or deny unless it is stated that reasonable inquiry has been made and that the information known to you or readily obtainable by you is not sufficient to enable you to admit or deny.

## **INSTRUCTIONS**

1. You are reminded that if you do not unequivocally admit to any Request for Admission, you must fully and completely answer the following Interrogatories previously served upon you:

(a) If you do not unequivocally admit any Request for Admission, state, describe and identify:

- (1) All facts, information and matters, including relevant dates, times and places, upon which your denial is based;
- (2) Any statutory, regulatory provision(s) or other legal basis upon which your denial is based;
- (3) Identity by name, address, phone number, and employment title of all persons with information or matters upon which your denial is based;
- (4) A summary of the information or knowledge possessed by each such person; and
- (5) The identity and description of all documents that refer or relate to the facts, information and matters upon which your denial is based.

(b) If your answer to any interrogatory is "unknown", "not applicable" or any similar phrase or answer, state the following:

- (1) Identify each person to whom you inquired about answering said Request for Admission;
- (2) Identify each document which you sought to or did review in order to respond to this Request for Admission;
- (3) Identify the additional steps the answering party took to acquire the information or knowledge that it is presently lacking with respect to the Request for Admission;
- (4) State why the answer to that interrogatory is "unknown";

(5) State the efforts made to obtain answers to the particular interrogatory;  
and

(6) State the name and address of any person who may know the answer.

2. These Requests for Admission and accompanying Interrogatories are directed to the defendant, defendant's officers, employees, agents, servants, assigns, representatives, past and present, and unless privilege is claimed, each and every attorney, past and present, of each and every individual or entity. As used herein, "Defendant", "you" and "your" means the defendant to which these Requests for Admission and accompanying Interrogatories are addressed, its employees, agents, servants, assigns, representatives, past and present, and each and every attorney, past and present, of each and every such individual or entity.

3. These Requests for Admission and accompanying Interrogatories encompass all information, documents and records that are in the possession, control, or custody of defendant or any of its officers, employees, agents, servants, attorneys, and assigns.

4. If any objections are made to any Request for Admission or to the accompanying Interrogatories, the reasons therefore shall be stated.

5. If there is any claim of privilege relating to any Request for Admission or Interrogatory, you shall set forth the basis for the claim of privilege, including the facts upon which you rely to support the claim of privilege in sufficient detail to permit the court to rule on the propriety of the privilege.

6. If your response to any Request is not an unqualified admission, your answer shall specifically deny the matter or set forth in detail the reasons why you cannot truthfully admit or deny the matter.

7. A denial shall fairly meet the substance of the requested admission, and when good faith requires that you qualify your answer or deny only a part of the matter of which an admission is requested, you should specify so much of it as is true and qualify or deny the remainder.

8. You may not give lack of information or knowledge as a reason for failure to admit or deny, unless you state that you have made reasonable inquiry and that the information known to you or readily obtainable by you is insufficient to enable you to admit or deny.

9. These Requests for Admission and Interrogatories are continuous in nature and must



be supplemented promptly if Defendant obtains or learns further or different information between the date of the response and the time of trial by which Defendant knows that a previous response was incorrect when made, or though correct when made, is then no longer true.

10. Unless otherwise indicated, the time period to which these Requests for Admission and Interrogatories are directed is all dates covered by the Complaint and Counterclaim.

11. This Request seeks the admission of the genuineness of various documents. In some cases, there may be printed number and letter codes that run along the bottom of particular documents. In other cases, the word "evidence" and other identification marks may be affixed to the document. Such numbers, letters and identifying words were affixed during the accumulation and copying of the documents for this case and are not to be considered part of the document itself, except for purposes of referencing the document. The Request does not seek Defendant's admission regarding the accuracy and genuineness of those numbers and letters, but only of the document on which those numbers and letters have been placed.

### **DEFINITIONS**

1. All verbs are intended to include all tenses.

2. References to the singular are intended to include the plural and vice versa.

3. "Any" as well as "all" shall be construed to mean "each and every".

4. "And" as well as "or" shall be construed disjunctively as well as conjunctively, as necessary, in order to bring within the scope of these Requests all information that might otherwise be construed to be outside their scope.

5. "Refer to" or "relate to" means constituting, defining, describing, discussing, involving, concerning, containing, embodying, reflecting, identifying, stating, analyzing, mentioning, responding to, referring to, dealing with, commenting upon, or in any way pertaining to.

## REQUEST FOR ADMISSION

1. Admit that you are not relying upon a survey in order to support your claim of ownership as pertinent to your defense in this case.

ANSWER: Admission 1 is denied. Defendants are relying on Hess & Fisher Engineering, Inc. survey of November 19, 2003 and additions thereto. Copy of the map is attached as Exhibit "A."

2. Admit that you are not relying upon a survey in order to support your claim of ownership as pertinent to your Counterclaim in this case.

ANSWER: Request for Admission 2 is denied. See answer set forth in Admission 1 above.

3. Admit that the only description that you have furnished to the land which you are claiming in your Counterclaim is that which is marked in red in Exhibit A attached to your Counterclaim.

ANSWER: Request for Admission 3 is admitted.

4. Admit that you have not set forth a meets and bounds description covering the property that you are claiming in your Counterclaim.

ANSWER: Request for Admission 4 is admitted.

5. Admit that in your Counterclaim that you have not denominated your Counterclaim as either an action in ejectment or an action in quiet title.

ANSWER: Request for Admission 5 is admitted.

6. Admit that the only abstract that you have presented in support of your position is the abstract identified in Paragraph 24 of your Counterclaim.

ANSWER: Request for Admission 6 is admitted.

7. Admit that the abstract that you have presented in Paragraph 24 of your Counterclaim has as the most recent deed in your chain of title a deed dated January 19, 1982, recorded at Deed Book Volume 828, Page 317.

ANSWER: Request for Admission 7 is admitted.

8. Admit that the claim of deed ownership that you have to property in your Counterclaim was divested through the Writ of Execution at Docket Number 92-59-EX, as identified in Exhibit B to the Answer and New Matter of Plaintiffs to Counterclaim of Defendants, filed on August 27, 2004.

ANSWER: Request for Admission 8 is denied. The Plaintiffs have been in adverse continuous visible and notorious, exclusive and hostile possession over the property in question, including tacking of the interest support in Paragraph 24 of the Counterclaim.

9. Admit that the property you are claiming in your Counterclaim was acquired from Clearfield Bank & Trust by deed dated October 26, 1992, to Ferdin E. Wallace and Brian F. Wallace, as identified in Exhibit C to the Answer and New Matter of Plaintiffs to Counterclaim of Defendants, filed on August 27, 2004.

ANSWER: Request for Admission 9 is admitted. By way of further response, the Admission set forth in 8 above is incorporated herein as though set forth in full.

10. Admit that the deed ownership interest of Brian F. Wallace and Ferdin E. Wallace, as acquired by deed dated October 26, 1992, Deed Book Volume 1494, Page 303, was divested from these individuals by tax sale conducted on September 12, 1995.

ANSWER: Request for Admission 10 is denied. The Plaintiffs have been in adverse, continuous, visible and notorious, exclusive and hostile possession over the property in question, including tacking of the interest support in Paragraph 24 of the counterclaim.

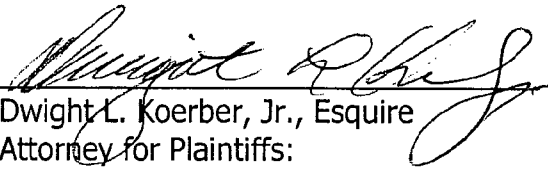
11. Admit that the deed dated September 18, 2000 from Richard H. Cornman and Karen L. Cornman to Defendants Ferdin E. Wallace and Sherry Smith Wallace, attached as Exhibit E to the Answer and New Matter of Plaintiffs to Counterclaim of Defendants, filed on August 27, 2004 is the only deed title ownership that Ferdin E. Wallace and Sherry Smith Wallace have to the real estate that is the subject of the Complaint and Counterclaim in this proceeding.

ANSWER: Admission Request 11 is admitted.

12. Admit that none of the deeds in Defendants' chain of title have a clause that specifically provides for tacking of any prior period of adverse possession by a predecessor in title so as to establish the privity necessary to maintain a cause of action for adverse possession by Defendants herein.

ANSWER: Admission 12 is admitted in part and denied in part. It is admitted that none of the deeds have a provision specifically concerning tacking. The remainder of the Admission is denied in that it is a conclusion of law to which no response is necessary. To the extent that a response is required, the answer set forth in Paragraph 8 above is incorporated herein as though set forth in full.

Respectfully submitted,

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and  
Michele L. Thomas

DATE: December 28, 2004

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

Terry L. Thomas and  
Michelle L. Thomas,  
Plaintiffs

Vs.

Ferdin Wallace and  
Sherry S. Wallace,  
Defendants

\*

\*

\*

\*

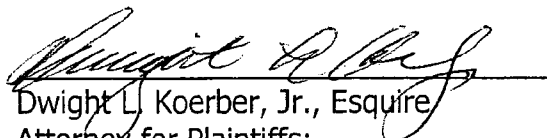
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Docket No. 04-253-CD

**CERTIFICATE OF SERVICE**

This is to certify that on the 28<sup>th</sup> day of December 2004, the undersigned served the original and two copies of the REQUEST FOR ADMISSIONS in the above-captioned matter upon counsel for Defendants. Such documents were served via United States First Class Mail upon the following:

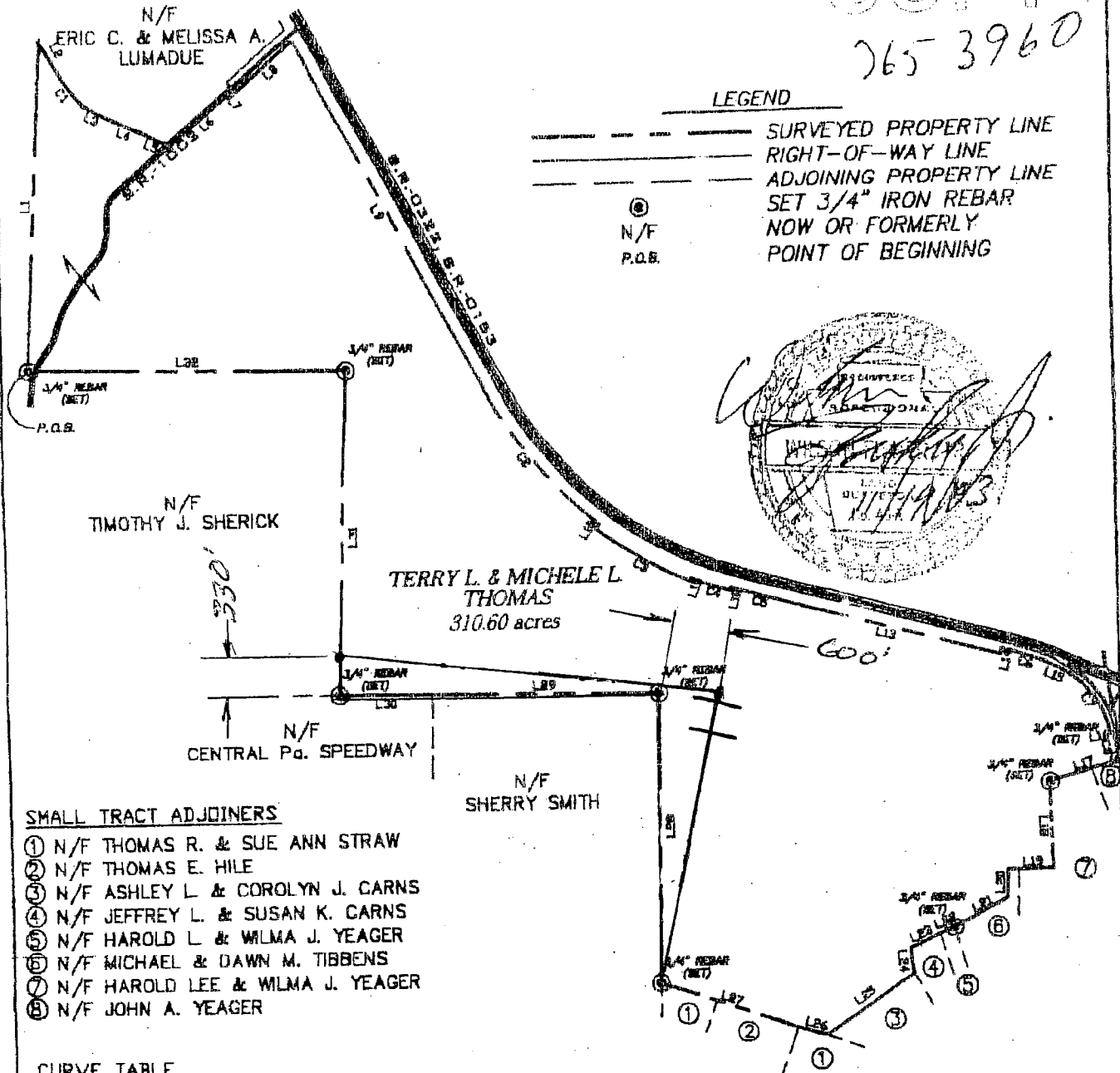
Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and  
Michele L. Thomas

3427099

COPY

765 3960



## SMALL TRACT ADJOINERS

- ① N/F THOMAS R. & SUE ANN STRAW
- ② N/F THOMAS E. HILE
- ③ N/F ASHLEY L. & COROLYN J. CARNS
- ④ N/F JEFFREY L. & SUSAN K. CARNS
- ⑤ N/F HAROLD L. & WILMA J. YEAGER
- ⑥ N/F MICHAEL & DAWN M. TIBBENS
- ⑦ N/F HAROLD LEE & WILMA J. YEAGER
- ⑧ N/F JOHN A. YEAGER

## CURVE TABLE

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BEARING BASE  
MAGNETIC NORTH  
TAKEN APRIL 14, 2003

VERIFICATION

I, Ferdin Wallace, verify that the statements made in this Answers to Admissions 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.

1-18-05  
Date

Ferdin Wallace



VERIFICATION

I, Sherry S. Wallace, verify that the statements made in this Answers to Admissions 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.

1-18-05  
Date

Sherry Wallace

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

\*

\*

-vs-

\*

Docket No. 04-253-CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*

\*

Type of pleading:  
ORDER

Filed on behalf of:  
PLAINTIFFS, Terry L.  
Thomas and Michele L.  
Thomas

Counsel of record for  
this party:

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

FILED

01:10 PM  
JUN 01 2005

4cc  
Atty Koerber  
@K

William A. Shaw  
Prothonotary/Clerk of Courts

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

\*

\*

-vs-

\*

Docket No. 04-253-CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

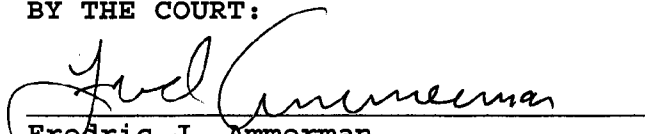
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O R D E R

AND NOW, this 1<sup>ST</sup> day of June, 2005, upon  
consideration of the Motion for Summary Judgment filed by  
plaintiffs, IT IS THE ORDER AND DECREE of this Court that this  
matter shall be disposed of pursuant to the provisions of Pa.R.C.P.  
"1035, et seq. Argument, with subsequent briefing as determined by  
the Court, is scheduled for the 23rd day of June,  
2005, at 2:30 o'clock P.M., in Court Room No. 1 of the  
Court of Common Pleas of Clearfield County, Pennsylvania.

BY THE COURT:

  
Fredric J. Ammerman,  
President Judge

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

-vs-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

Docket No. 2004-253-CD

Type of Pleading:  
CERTIFICATE OF SERVICE

Filed on behalf of:  
PLAINTIFFS: Terry L. Thomas  
and Michelle L. Thomas

Counsel of Record for  
this Party:

LAW OFFICES OF DWIGHT L.  
KOERBER, JR.

Dwight L. Koerber, Jr., Esquire  
PA I.D. No. 16332

*ck* **FILED** *4cc*  
*0/3:13/07 Amy*  
**JUN 02 2005** *Koerber*

William A. Shaw  
Prothonotary/Clerk of Courts

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

-vs-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

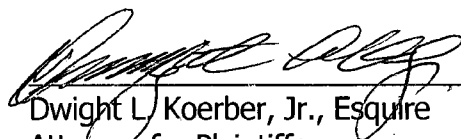
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Docket No. 2004-253-CD

**CERTIFICATE OF SERVICE**

I certify that on the 2<sup>nd</sup> day of June, 2005, the undersigned served a certified copy of the Order dated June 1, 2005 in the above-captioned matter upon counsel for the Defendants. Such documents were served via United States First Class Mail upon the following:

Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830



Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Terry L. Thomas and Michelle L. Thomas

CA

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

Terry L. Thomas and  
Michele L. Thomas  
(Plaintiff)

CIVIL ACTION

3133 Martin Street Extension  
(Street Address)

No. 04-253-CD

Clearfield PA 16830

Type of Case: Civil

(City, State ZIP)

Type of Pleading: Civil Continuance  
Request

Filed on Behalf of: Defendant

VS.

Ferdin E. Wallace and  
Sherry S. Wallace  
(Defendant)

Defendants  
(Plaintiff/Defendant)

250 Open Sky Lane

(Street Address)

Clearfield PA 16830

(City, State ZIP)

Chris A. Pentz, Esquire  
(Filed by)

207 East Market Street  
(Address) Clearfield PA 16830

814 765-4000  
(Phone)

Chris A. Pentz  
(Signature)

FILED <sup>No CC</sup>  
9/10:46 AM  
JUN 13 2005 @

William A. Shaw  
Prothonotary/Clerk of Courts

CIVIL CONTINUANCE REQUEST

TERRY L. THOMAS and

MICHELE L. THOMAS

VS

FERDIN E. WALLACE &

SHERRY S. WALLACE

CASE NO. 04-253-CD

This case is presently

Scheduled for:

Date: June 23, 2005

Time: 2:30 P.M.

Courtroom NO. 1

TYPE OF HEARING:

X Motions Court      Hearing

     Arbitration      Trial

     Conciliation Conference

     Other (please specify)

Reason for request (Attach extra sheet, if necessary)

Chris A. Pentz, Attorney for Defendant, is previously scheduled  
to be out of town for vacation June 23<sup>rd</sup> through 25<sup>th</sup>.

If less than 10 days, reason for untimely filing

Number of prior continuances None By the Plaintiff      By the Defendant     

Requesting party (Attorney or Pro Se party)

(Print) Chris A. Pentz Attorney for Defendants

(sign) Chris A. Pentz Name of Client

Opposing Party (attorney or Pro Se party)

(Print)                                  agrees/objects to the request

(sign)                                  (reason-attach a separate sheet)

ORDER

AND NOW this      day of                 , 2005, the above civil  
continuance request is hereby granted/denied.

Rescheduled for the      day of                 , 2005 at                   
O'clock     . M., Courtroom                 , Judge                 

cc: Original- Prothonotary  
All parties listed  
Court Administrator file

BY THE COURT:

CA

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

vs

No. 2004 - 253- CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

SCHEDULING ORDER

AND NOW, this 14<sup>th</sup> day of June, 2005, upon  
consideration of the Defendants' Request for Continuance filed  
by Chris A. Pentz, Attorney for Defendants, a hearing is hereby  
scheduled for the 8 day of July, 2005, at 2:30 PM.  
in Court Room No. 1 of the Clearfield County Courthouse,  
Clearfield, Pennsylvania.

BY THE COURT:

Frederick J. Cunningham  
Judge

FILED 1cc  
01:30 PM  
JUN 14 2005  
Atty Pentz  
CP

William A. Shaw  
Prothonotary/Clerk of Courts



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

TERRY L. THOMAS and  
MICHELLE L. THOMAS

vs.

FERDIN WALLACE and  
SHERRY S. WALLACE


:  
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:  
: No. 04-253-CD  
:  
:

**ORDER**

AND NOW, this 22<sup>nd</sup> day of June, 2005, it is the ORDER of the Court that argument on Plaintiffs' Motion for Summary Judgment in the above-captioned matter has been rescheduled from June 23, 2005 to **Friday, July 8, 2005 at 2:30 P.M.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

FILED <sup>icc</sup>  
0/3:1347/ <sup>Atty:</sup>  
JUN 22 2005 <sup>Koerber</sup>  
William A. Straw <sup>Pentz</sup>  
Prothonotary/Clerk of Courts

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

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

TERRY L. THOMAS and  
MICHELE L. THOMAS

-VS-

FERDIN E. WALLACE and  
SHERRY S. WALLACE

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No. 04-253-CD

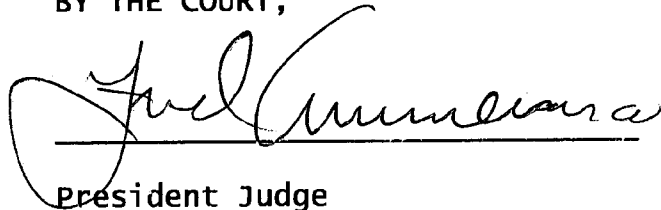
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01/10:54 AM  
JUL 11 2005  
William A. Shaw  
Prothonotary/Clerk of Courts  
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Pente

O R D E R

NOW, this 8th day of July, 2005, following  
argument on Plaintiffs' Motion for Summary Judgment, it is  
the ORDER of this Court as follows:

1. Defendants shall have no more than twenty  
(20) days from this date in which to file an Answer to  
Plaintiffs' Motion for Summary Judgment;
2. Counsel for both parties shall have no more  
than forty-five (45) days from this date in which to submit  
appropriate letter brief to the Court relative the issues,  
with the Court noting the Court is particularly interested  
in the time period from 1992 through 1995 when the  
Defendants agree they resided outside the Commonwealth of  
Pennsylvania.

BY THE COURT,

  
President Judge

6A

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

-vs-

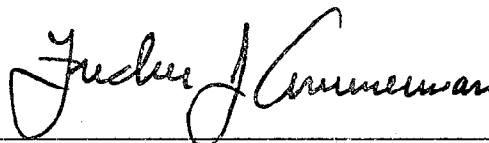
FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

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Docket No. 2004-253-CD

**ORDER**

AND NOW, this 13<sup>th</sup> day of July, 2005, upon consideration of the Supplemental Motion of Plaintiffs for Summary Judgment, it is the ORDER of this Court that the Supplemental Motion is hereby accepted for filing and shall be disposed of in accordance with the time table and procedures outlined in the July 8, 2005 Order entered in this matter.



Fredric J. Ammerman, President Judge

**FILED** <sup>62</sup>  
013:30301 400 Amy  
JUL 13 2005 Koerber

William A. Shaw  
Prothonotary/Clerk of Courts

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

-VS-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

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Docket No. 2004-253-CD

Type of Pleading:  
SUPPLEMENTAL MOTION OF PLAINTIFFS  
FOR SUMMARY JUDGMENT

Filed on behalf of:  
PLAINTIFFS: Terry L. Thomas  
and Michelle L. Thomas

Counsel of Record for  
this Party:

LAW OFFICES OF DWIGHT L.  
KOERBER, JR.

Dwight L. Koerber, Jr., Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED** 400  
013:10674 Atty Koerber  
JUL 11 2005 @

William A. Shaw  
Prothonotary/Clerk of Courts

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

**CIVIL DIVISION**

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

-vs-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

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Docket No. 2004-253-CD

**SUPPLEMENTAL MOTION OF PLAINTIFFS  
FOR SUMMARY JUDGMENT**

COMES NOW, Terry L. Thomas and Michele L. Thomas, Plaintiffs in the above captioned matter involving an ejectment and trespass action and file the within Supplement to the Motion for Summary Judgment they filed with this Honorable Court on June 1, 2005.

**REQUEST TO ACCEPT SUPPLEMENTAL  
MOTION FOR SUMMARY JUDGMENT**

(1) Plaintiffs hereby file this Supplemental Motion for Summary Judgment for the purpose of clarifying that Plaintiffs are seeking to have the Court review Defendant's Answers to Interrogatories/Request for Production of Documents and Request for Admissions for the purpose of determining whether there is sufficient evidence of record that has been developed on discovery so as to support the Defendants claim for adverse possession.

(2) It is Plaintiffs request that the Supplemental Motion for Summary Judgment be processed in accordance with the procedures and time table set forth by this Honorable Court in its Order of July 8, 2005, which Order was entered following oral argument on the Motion for Summary Judgment.

**SUPPLEMENT TO MOTION FOR  
SUMMARY JUDGMENT**

(3) In paragraph 5 of the Motion for Summary Judgment, Plaintiffs set Forth the uncontroverted evidence of record that have been developed through discovery which supports their Motion for Summary Judgment. Plaintiffs hereby supplement paragraph 5 by adding the additional references, as set forth below:

"(5)(r) In Plaintiffs Set I Interrogatories and Request for Production of Documents, Plaintiffs directed Defendants to set forth specific evidence relative to the allegations A-L set forth in paragraph 23 of the first Amended Complaint. It is Plaintiff's position that a review of the specific answers filed to those Interrogatories shows that Defendants fall short, as a matter of law, of being able to identify sufficient evidence so as to show that they have met the elements for adverse possession which they have summarized as follows:

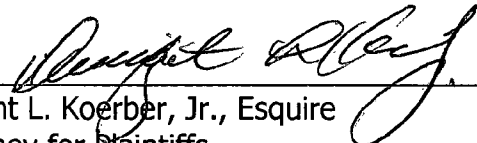
- (1) Adverse
- (2) Continuous
- (3) Visible
- (4) Notorious
- (5) Exclusive and Hostile Possession"

WHEREFORE, Plaintiffs move that this Supplemental Motion for Summary Judgment be processed in conjunction with their June 1, 2005 Motion for Summary Judgment and that this Honorable Court dismiss the Counterclaim of Defendants,

enter judgment in favor of Plaintiffs on Count I of the Complaint and award to the Plaintiffs such other general and further relief to which they are entitled.

Respectfully submitted,

By:

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs,  
TERRY L. THOMAS AND MICHELE L. THOMAS

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

-vs-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

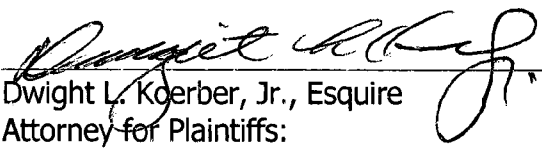
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Docket No. 2004-253-CD

**CERTIFICATE OF SERVICE**

I certify that on the 11<sup>th</sup> day of July, 2005, the undersigned served a certified copy of the Supplemental Motion of Plaintiffs for Summary Judgment in the above-captioned matter upon counsel for the Defendants. Such documents were served via United States First Class Mail upon the following:

Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
TERRY L. THOMAS AND MICHELE L. THOMAS



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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

-vs-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

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Docket No. 2004-253-CD

Type of Pleading:  
CERTIFICATE OF SERVICE

Filed on behalf of:  
PLAINTIFFS: Terry L. Thomas  
and Michelle L. Thomas

Counsel of Record for  
this Party:

LAW OFFICES OF DWIGHT L.  
KOERBER, JR.

Dwight L. Koerber, Jr., Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

CP FILED 3cc  
0/2: 56301 Ally Koerber  
JUL 18 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

-vs-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

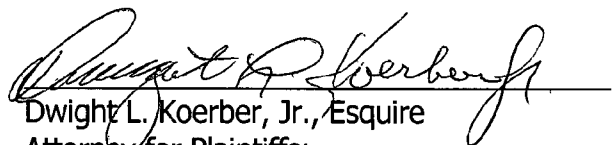
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Docket No. 2004-253-CD

**CERTIFICATE OF SERVICE**

I certify that on the 14<sup>th</sup> day of July, 2005, the undersigned served a certified copy of the Order dated July 13, 2005 in the above-captioned matter upon counsel for the Defendants. Such documents were served via United States First Class Mail upon the following:

Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:

TERRY L. THOMAS AND MICHELE L. THOMAS

FILED

JUL 18 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,

VS

FERDIN E. WALLACE and  
SHERRY E. WALLACE,  
Defendants

No. 04 -253 - CD

Type of Case: Civil

Type of Pleading: Motion  
for Extension/Order

Filed on Behalf of: Defendants

Counsel of Record for this Party:  
CHRIS A. PENTZ, Esquire

Supreme Court I.D. # 39232  
207 East Market Street  
P. O. Box 552  
Clearfield PA 16830  
814 765-4000

Date: 7-25-05

FILED NOCC  
10:51 AM  
JUL 25 2005 @

William A. Shaw  
Prothonotary/Clerk of Courts

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

TERTY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

VS

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

CASE NO. 04-253-CD

This case is presently

Scheduled for:

Date: July 29, 2005

Time: N/A

Courtroom \_\_\_\_\_

TYPE OF HEARING: N/A

\_\_\_\_ Motions Court \_\_\_\_ Hearing

\_\_\_\_ Arbitration \_\_\_\_ Trial

\_\_\_\_ Conciliation Conference

X Other (please specify)

Answer due from Defendants

Reason for request (Attach extra sheet, if necessary)

Counsel for Defendants will be hospitalized in Philadelphia  
from July 26, 2005 until August 2, 2005 and requests the Answer  
Due Date be moved to August 16, 2005

If less than 10 days, reason for untimely filing: Hospital just  
provided admission information on July 21, 2005.

Number of prior continuances None By the Plaintiff \_\_\_\_ By  
the Defendant None

Requesting party (Attorney or Pro Se party)

(Print) Chris A. Pentz for Ferdin and Sherry Wallace

(sign) \_\_\_\_\_ Name of Client

Opposing Party (attorney or Pro Se party)

(Print) \_\_\_\_\_ agrees/objects to the request

(sign) \_\_\_\_\_ (reason-attach a separate sheet)

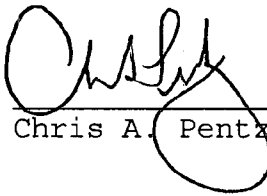
cc: Attorney Dwight Koerber

VERIFICATION

I, Chris A. Pentz, verify that the statements made in this Motion for Continuance 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.

7-25-05  
Date

  
Chris A. Pentz

**FILED**

**JUL 25 2005**

William A. Shaw  
Prothonotary/Clerk of Courts

CA

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

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\*

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Vs

No. 04-253-CD

\*

FERDIN E. WALLACE and  
SHELLY S. WALLACE,  
Defendants

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ORDER

AND NOW, this 26<sup>th</sup> day of July, 2005,  
upon consideration of the Motion for Extension filed on  
behalf of the Defendants, it is hereby ORDERED AND DECREED  
that the time for filing the Answer be extended to extended  
to AUGUST 16, 2005.

BY THE COURT:

Frederick J. Cunningham  
Judge

FILED<sup>60</sup>  
JUL 27 2005  
Pentz

William A. Shaw  
Prothonotary/Clerk of Courts



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

TERRY L. THOMAS and  
MICHELE L. THOMAS,

VS

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

No. 04 -253 - CD

Type of Case: Civil

Type of Pleading: Answer to  
Motion for Summary Judgment

Filed on Behalf of: Defendants

Counsel of Record for this Party:  
CHRIS A. PENTZ, Esquire

Supreme Court I.D. # 39232  
207 East Market Street  
P. O. Box 552  
Clearfield PA 16830  
814 765-4000

Date: 7-28-05

FILED 100  
01/10:30/01 Amy Pentz  
JUL 28 2005 @  
William A. Shaw  
Prothonotary/Clerk of Courts

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

TERRY L. THOMAS and	*	
MICHELLE L. THOMAS	*	
Plaintiffs	*	
	*	
vs	*	No. 04- 253 -CD
	*	
FERDIN WALLACE and	*	
SHERRY S. WALLACE,	*	
Defendants	*	

ANSWER TO MOTION FOR SUMMARY JUDGMENT

1. Paragraph 1 is admitted.
2. Paragraph 2 is a conclusion of law to which no response is required.
3. Paragraph 3 is admitted.
4. Paragraph 4 is admitted.
5. Paragraph 5(a) is admitted in part and denied in part. It is admitted that record ownership of the property in question was divested through a mortgage foreclosure action and a tax sale. It is denied that the Defendants ever lost physical possession of the property.
  - (b) The Answer set forth in Paragraph 5(a) above is incorporated herein by reference as though set forth in full.
  - (c) The Answer set forth above to Paragraph 5(a) is incorporated herein by reference as though set forth in full.
  - (d) Paragraph (d) is admitted in part and denied in part. It is admitted that the Defendants do not challenge the accuracy of the Hess & Fisher Engineering Survey Map dated November 19, 2003 and do not challenge Plaintiffs' abstract showing their chain of title. It is denied that Defendants' ownership relies upon any survey to establish their claim of adverse possession.
  - (e) Paragraph 5(e) is admitted.
  - (f) Paragraph 5(f) is admitted in part and denied in part. It is admitted that the Defendants acquired a deed from Richard H. Corman and Karen L. Corman in September 18, 2000. It is denied that Defendants' only claim of title is through the Corman

deed. Defendants' claim for title is by adverse possession and not record ownership.

Paragraph 5(g) is admitted.

Paragraph 5(h) is admitted.

Paragraph 5(i) is admitted.

Paragraph 5(j) is denied. Subsequent to the filing of the Motion for Summary Judgment, Defendants have provided the requested information concerning the bankruptcy.

Paragraph 5(k) is admitted. The Defendants are not in possession or control of any of the bankruptcy documents and have made reasonable efforts to locate the requested item.

Paragraph 5(l) is admitted. By way of further Answer, the Defendants continuously maintained a residence on an adjoining tract of land at the time in question, being a trailer and one shed on parcel with Clearfield County, Lawrence Township, Map # J07-000-00094. During the relevant time period in question, the Defendants came to the Lawrence Township, Clearfield County properties at least one weekend each month.

Paragraph 5(m) is admitted. By way of further Answer, the Answer set forth in Paragraph 5(l) is incorporated by reference as though set forth in full.

Paragraph 5(n) is a conclusion of law to which no response is required. To the extent that a response is required the actions referred to in this paragraph are actions which affected record ownership not Defendants' adverse possession of the property in question.

Paragraph 5(o) is a conclusion of law to which no response is required. To the extent that a response is required, Paragraph 5(l) above is incorporated herein by reference as though set forth in full.

Paragraph 5(p) is a conclusion of law to which no response is required.

Paragraph 5(q) is a conclusion of law to which no response is required.

6. Paragraph 6 is a conclusion of law to which no response is required.

WHEREFORE, Defendants respectfully request Your Honorable Court to deny the Motion for Summary Judgment filed by Plaintiffs.

Respectfully submitted this 28 of July, 2005.

Chris A. Pentz  
Chris A. Pentz, Esquire  
Attorney for Defendants:  
Ferdin E. Wallace and  
Sherry S. Wallace

VERIFICATION

I, FERDIN E. WALLACE, verify that the statements made in this  
ANSWER 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.

7-27-05  
Date

Ferdin E Wallace  
Ferdin E. Wallace

VERIFICATION

I, SHERRY S. WALLACE, verify that the statements made in this  
ANSWER 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.

7-27-05  
Date

Sherry S. Wallace  
Sherry S. Wallace

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

-VS-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

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Docket No. 2004-253-CD

Type of Pleading:  
CERTIFICATE OF SERVICE

Filed on behalf of:  
PLAINTIFFS: Terry L. Thomas  
and Michelle L. Thomas

Counsel of Record for  
this Party:

LAW OFFICES OF DWIGHT L.  
KOERBER, JR.

Dwight L. Koerber, Jr., Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED**

0/3:30<sup>pm</sup>

MAY 26 2006

3cc Atty  
Koerber

(LM)

William A. Shaw  
Prothonotary

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

TERRY L. THOMAS and  
MICHELLE L. THOMAS,  
Plaintiffs

-vs-

FERDIN WALLACE and  
SHERRY S. WALLACE  
Defendants

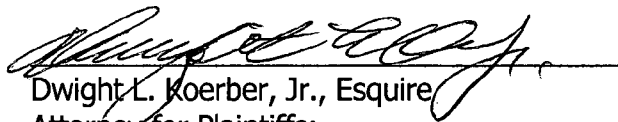
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Docket No. 2004-253-CD

**CERTIFICATE OF SERVICE**

I certify that on the 26<sup>th</sup> day of May, 2006, the undersigned served a certified copy of the Order dated May 24, 2006 in the above-captioned matter upon counsel for the Defendants. Such documents were served via United States First Class Mail upon the following:

Chris A. Pentz, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:

TERRY L. THOMAS AND MICHELE L. THOMAS



FILED

MAY 26 2006

William A. Shaw  
Prothonotary

CA

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

\*

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-vs-

\*

Docket No. 04-253-CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*

\*

Type of pleading:  
JOINT MOTION FOR  
CONFIRMATION OF SURVEY  
AND FOR DISMISSAL OF  
COUNT II OF COMPLAINT

Filed on behalf of:  
PLAINTIFFS, Terry L.  
Thomas and Michele L.  
Thomas

Counsel of record for  
this party:

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED**

0 3:28pm GK

MAY 23 2006

4 cc to Atty

William A. Shaw  
Prothonotary/Clerk of Courts

62

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

\*

\*

-vs-

\*

Docket No. 04-253-CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*

\*

JOINT MOTION FOR CONFIRMATION OF SURVEY  
AND FOR DISMISSAL OF COUNT II OF COMPLAINT

COME NOW, both parties in the above-captioned proceeding, by and through their respective attorneys, and move this Honorable Court to enter an Order confirming the survey of the property of plaintiffs, and dismissing Count II of the Complaint filed in this matter.

1. Plaintiffs herein are Terry L. Thomas and Michele L. Thomas, husband and wife, who are represented by Dwight L. Koerber, Jr., Esquire.

2. Defendants herein are Ferdin E. Wallace and Sherry S. Wallace, husband and wife, who are represented by Chris A. Pentz, Esquire.

3. Both parties, represented by their respective counsel, are movants herein.

4. On February 20, 2004, plaintiffs filed a Complaint in

Ejectment and Trespass in Docket No. 04-253-CD.

5. The Complaint filed by plaintiffs contained Count I (Ejectment), and Count II (Trespass).

6. Plaintiffs had filed the Complaint as a result of a survey performed by Hess & Fisher Engineers, Inc. on behalf of plaintiffs on September 12, 2003, with said survey setting forth the precise boundary lines of plaintiffs' property, as shown in Exhibit B attached to the Complaint.

7. Attached hereto as Appendix A is a copy of the survey map of plaintiffs' property prepared by Hess & Fisher Engineers, Inc.

8. Subsequent to the filing of the Complaint, after progression of the case and filings on behalf of both parties, including a Motion for Partial Summary Judgment by the plaintiffs, on November 3, 2005 this Honorable Court entered an Opinion and Order, dismissing defendants' counterclaim of adverse possession, granting plaintiffs' claim for ejectment, and deferring a ruling on damages. For ease in reference, a copy of the November 3, 2005 Order is attached hereto as Appendix B.

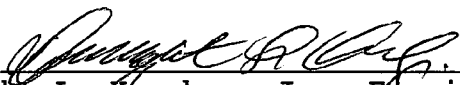
9. The parties have conferred with one another, and have agreed that with the debris being removed from plaintiffs' property by defendants, plaintiffs will no longer seek damages or costs for removal of those items.


10. By agreement of the parties, plaintiffs and defendants

now move this Honorable Court to enter an Order confirming the survey of plaintiffs' property performed by Hess & Fisher Engineers, Inc., and dismissing Count II of the Complaint against defendants for damages.

WHEREFORE, plaintiffs and defendants, through their respective counsel, hereby move this Honorable Court to enter an Order confirming the boundary line of plaintiffs' property, as set forth in Appendix A, attached hereto, and dismissing Count II of the Complaint filed herein.

Respectfully submitted,

By:   
Dwight L. Koberber, Jr., Esquire  
Counsel for Plaintiffs,  
TERRY L. THOMAS AND  
MICHELE L. THOMAS  
DATE: MAY 22, 2006

By:   
Chris A. Pentz, Esquire  
Counsel for Defendants,  
FERDIN E. WALLACE AND  
SHERRY S. WALLACE  
DATE: MAY 18, 2006

**APPENDIX A**

Attached hereto is a reduced copy of the survey map prepared by Hess & Fisher Engineers, Inc. of plaintiffs' property.

LEGEND

--- SURVEYED PROPERTY LINE

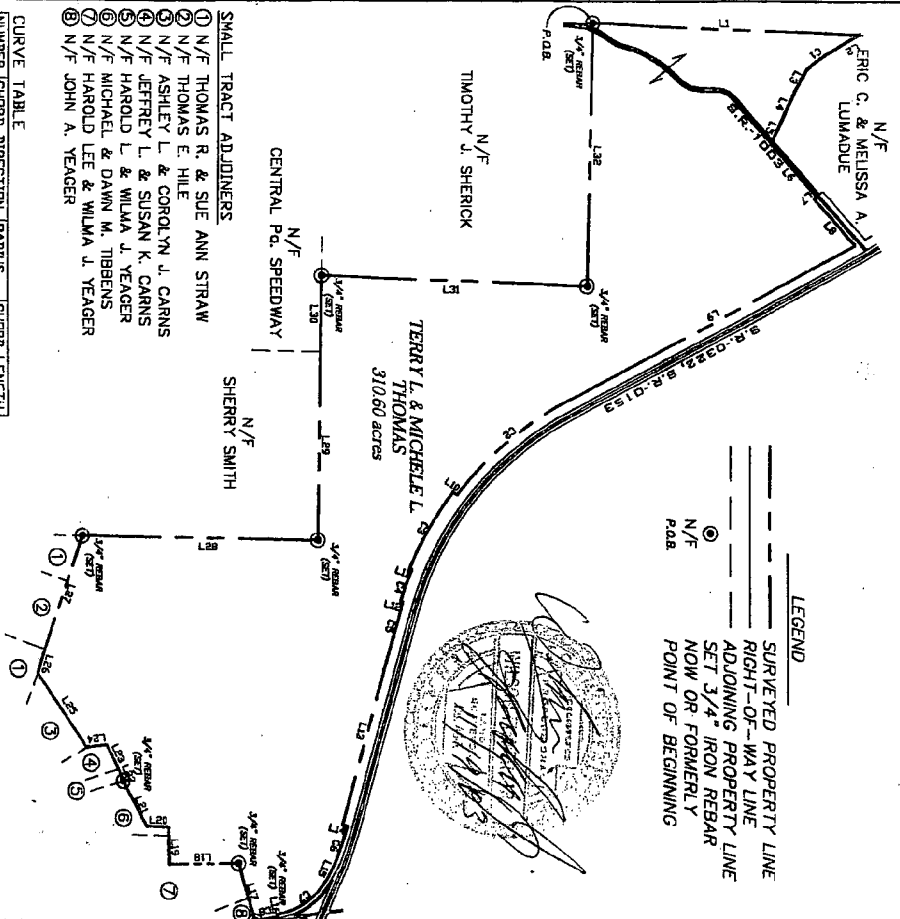
--- RIGHT-OF-WAY LINE

--- ADJOINING PROPERTY LINE

--- SET 3/4" IRON REBAR

--- NOW OR FORMERLY

--- POINT OF BEGINNING



- SMALL TRACT ADDENDERS
- 1 N/F THOMAS R. & SUE ANN STRAW
  - 2 N/F THOMAS E. HILE
  - 3 N/F ASHLEY L. & COROLYN J. CARNS
  - 4 N/F JEFFREY L. & SUSAN K. CARNS
  - 5 N/F HAROLD L. & WILLIAM J. YEAGER
  - 6 N/F MICHAEL & DAWN M. TIBBENS
  - 7 N/F HAROLD LEE & WILLIAM J. YEAGER
  - 8 N/F JOHN A. YEAGER

CURVE TABLE

CURVE	CHORD DIRECTION	RADIUS	CHORD LENGTH
C1	S 36°36'23" E	1189.44	304.83
C2	S 38°57'22" E	2782.48	1276.78
C3	S 59°54'33" E	2689.25	694.35
C4	S 70°17'05" E	3255.86	263.62
C5	S 74°13'52" E	13228.00	401.04
C6	S 71°39'39" E	3641.99	299.15
C7	S 35°06'11" E	569.14	488.40
C8	S 09°55'44" E	1932.78	179.44

LINE TABLE

NUMBER	DIRECTION	DISTANCE	NUMBER	DIRECTION	DISTANCE
L1	N 02°24'06" E	2083.04	L7	S 73°32'04" V	466.70
L2	S 31°37'00" E	192.74	L8	S 01°27'56" E	546.00
L3	S 60°48'46" E	174.78	L9	S 88°39'51" V	292.22
L4	S 66°44'58" E	291.50	L20	S 01°58'01" V	174.69
L5	S 65°04'40" E	171.97	L21	S 62°19'07" V	394.06
L6	N 48°41'43" E	551.35	L22	S 63°53'21" V	101.25
L7	S 41°01'26" E	23.47	L23	S 63°32'12" V	208.09
L8	N 48°49'44" E	492.00	L24	S 07°58'39" E	161.90
L9	S 28°44'08" E	244.08	L25	S 35°43'51" V	692.72
L10	S 36°22'31" V	40.02	L26	N 72°26'00" V	197.46
L11	N 20°48'07" E	20.02	L27	N 71°23'04" V	941.13
L12	N 14°57'11" E	20.01	L28	N 00°48'51" E	186.46
L13	S 74°40'25" E	1391.95	L29	N 89°11'09" V	1485.00
L14	N 15°38'48" E	40.65	L30	N 89°08'02" V	601.16
L15	S 62°49'07" E	137.92	L31	N 02°00'52" E	2104.05
L16	N 80°03'51" E	20.70	L32	N 88°59'16" V	2070.75

BEARING BASE  
MAGNETIC NORTH  
TAKEN APRIL 14, 2003

**APPENDIX B**

Attached hereto is a copy of the November 3, 2005 Opinion and Order of this Honorable Court.



Koerber

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

TERRY L. THOMAS, et al.,  
Plaintiffs,

No. 04-253-CD

v.

FERDIN E. WALLACE, et al.,  
Defendants.

**OPINION**

At issue in this case is the ownership of real property, located in Lawrence Township, Clearfield County, Pennsylvania. Terry L. and Michele L. Thomas (hereinafter Plaintiffs) claim ownership of approximately 310.60 acres. Ferdin E. and Sherry S. Wallace (hereinafter Defendants) contest the Plaintiffs' claim to a portion of the property based upon a claim of adverse possession. The Plaintiffs have filed a Motion for Partial Summary Judgment and maintains that Defendants' adverse possession claim is invalid as a matter of law.

The Plaintiffs acquired title to the affected land by deeds dated July 26, 2002 and August 13, 2002. Thereafter, each deed was recorded in the Clearfield County Register and Recorder's Office. The Plaintiffs then arranged for a survey to be completed by Hess & Fisher Engineers in 2002. Based upon the survey results, the Plaintiffs examined their property and found vehicles and other debris, appearing to belong to the Defendants. The Plaintiffs, through both oral communication and letter from their Counsel, requested that Mr. Wallace remove the items from their property. Mr. Wallace refused and countered that he owns the disputed area.

The Defendants assert ownership exclusively based on an adverse possession theory. From 1972 to the present, the Defendants allege they have possessed the disputed land such that ownership should be awarded to them. Examples in support, which were listed in response to the Plaintiffs' First Set of Interrogatories and Request for Production of Documents, include:

1. Placement of No Trespassing signs in 1984;
2. Replacement of No Trespassing signs in 1994;
3. Blocking of access road to property in 1972 or 1973;
4. Removal of firewood since 1974 or 75 to the present;
5. Directing Plaintiff to remove No Trespassing signs he erected in 2002;
6. Building of roads on the property in 1973, 1978 and 1994;
7. Driving automobiles, four-wheelers, dirt bikes and snowmobiles on roads built across the premises in question;
8. Storing two water tankers on the premises from 1985 to the present;
9. Storing a tractor and flat bed trailer on the premises either from 1978 or 1998 to the present;
10. Storing of bleacher planks and guard rails from 1973 or 1974 to the present;
11. Construction of a children's playhouse from 1978 through 1980;
12. Beginning in 1984, exclusion of hunters from the premises evidenced by reporting trespassers to the Lawrence Township Police Department.

The Court must determine whether Defendants' use of the land satisfies all necessary elements for an adverse possession claim. "It is well settled that a party claiming title to real property by adverse possession must affirmatively prove that he or she had actual, continuous, exclusive, visible, notorious, distinct, and hostile possession of the land for twenty-one years." Conneaut Lake Park, Inc. v. Klingensmith, 362 Pa. 592, 594-95, 66 A.2d 828, 829 (1949). "Each of these elements must exist, otherwise, the possession will not confer title. Id. at 829. "An adverse possessor must intend to hold the land for himself, and that intention must be made manifest by his acts... He must keep his flag flying and present a hostile front to all adverse pretensions." Klos v. Molenda, 355 Pa.Super. 399, 513 A.2d 490 (1986). Adverse possession is even more difficult when claiming ownership of forested areas.

To maintain an actual possession to woodland as such, it is necessary that the person entering take actual possession by residence or cultivation, of a part of the tract to which the woodland belongs *Hole v. Rittenhouse*, 37 Pa. 116 [(1860)]; *Olewine v. Messmore*, 128 Pa. 470 [18 A. 495 (1889)]. Actual possession may be taken by enclosing and cultivating, without residence or by residence without cultivation, under a bona fide claim where there is a designation of the boundaries with the ordinary use of the woodland. This possession accomplishes an ouster, and is entirely different from the occasional or temporary use of the land without an intention to permanently cultivate or reside thereon or use it in some other manner consistent with the condition of the property.

Niles v. Fall Creek Hunting Club, Inc., 545 A.2d 926, 929 (Pa.Super. 1988) (citing Hoover v. Jackson, 524 A.2d 1367, 362 Pa.Super. 532 (1987)). The Court determined further that “occasional timbering and/or hunting, being necessarily sporadic, are themselves inadequate to establish title by adverse possession.” Niles at 929.

The adverse possessor must show he or she has “actual possession of the land in dispute, i.e., exercised dominion over the property.” Brennan v. Manchester Crossings, Inc., 708 A.2d 815, 821 (Pa.Super. 1998). In Seven Springs Farm, Inc. v. King, 344 A.2d 641 (Pa.Super. 1975), the construction of a barb wire fence, hunting, fishing, and picnicking and other use of the land for recreational purposes, the cutting and taking of timber, construction of some roads to facilitate its removal and the removal of stone was deemed to be insufficient to show actual possession.

It is clear to this Court that the evidence alleged by the Defendants is inadequate to meet their burden that they obtained ownership of the property by adverse possession. Many of the Defendants’ acts were on a sporadic basis and were of the type that would not normally be noticed by a reasonable observer. The storing of various items on the property, removal of firewood and driving of four-wheelers and cars are all sporadic acts which occur occasionally and last a relatively short period of time. Furthermore, the other activities relied upon like the placement of no trespassing signs and the blocking of an access road do not meet the burden of actual possession. At best, the acts are temporary; not the type of permanent acts which are

required to establish adverse possession. The Court also notes that the Defendants concede they resided in Florida and South Carolina from 1992 to 1995. As such the Court believes they can make no legitimate claim of residence or continuous possession based upon their necessarily sporadic use of the property.

**ORDER**

NOW, this 3rd day of November 2005, after consideration of the Plaintiffs' Motion for Partial Summary Judgment, the Court HEREBY FINDS AS FOLLOWS:

1. The Defendants' Counterclaim of Adverse Possession is hereby DISMISSED.
2. The Plaintiffs' Claim for Ejectment is hereby GRANTED.
3. The Court hereby DEFERS ruling on damages related to the Plaintiffs' Claim for Trespass.

BY THE COURT:

/s/ Fredric J. Ammerman

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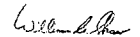
FREDRIC J. AMMERMAN

President Judge

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

NOV 04 2005

Attest.

  
Notary Public/  
Clerk of Courts

LAW OFFICES  
OF  
DWIGHT L. KOERBER, JR.

Dwight L. Koerber, Jr.  
Telephone (814) 765-9611

Attorney at Law  
110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830

Facsimile (814) 765-9503  
Email: dkoerber@atlanticbb.net

May 23, 2006

The Honorable Fredric J. Ammerman,  
President Judge  
COURT OF COMMON PLEAS OF CLEARFIELD  
COUNTY, PENNSYLVANIA  
Clearfield County Courthouse  
Clearfield, PA 16830

BY HAND DELIVERY

RE: TERRY L. THOMAS and  
MICHELE L. THOMAS v.  
FERDIN E. WALLACE and  
SHERRY S. WALLACE  
Docket No. 04-253-CD

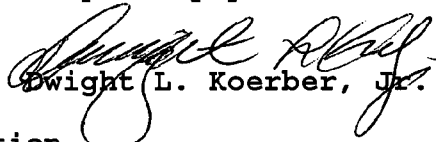
Dear Judge Ammerman:

I represent the plaintiffs, and Chris A. Pentz, Esquire represents the defendants in this case, which is an ejectment action where you have already issued an Order granting partial summary judgment. Through this letter I wish to advise the Court that the parties have reached a settlement in this proceeding.

Enclosed herewith is a Joint Motion which the parties have approved. As you can see, Attorney Pentz and I have joined in the Motion on behalf of our clients.

I would respectfully ask the Court to adopt the Order. If there is a need for further input from counsel, I would be pleased to coordinate a meeting or joint phone conference.

Very truly yours,

  
Dwight L. Koerber, Jr.

Enclosures: Copy of Joint Motion  
Order (orig. & 4 copies)  
cc: Chris A. Pentz, Esquire  
Mr. and Mrs. Terry L. Thomas  
DLK/jsr

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

-vs-

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*  
\*  
\*  
\*  
\*

Docket No. 04-253-CD

Type of pleading:  
ORDER

Filed on behalf of:  
PLAINTIFFS, Terry L.  
Thomas and Michele L.  
Thomas

Counsel of record for  
this party:

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

FILED 4cc  
014:0061 Amy Koerber  
MAY 25 2006

William A. Shaw  
Prothonotary/Clerk of Courts

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

TERRY L. THOMAS and  
MICHELE L. THOMAS,  
Plaintiffs

\*

\*

-vs-

\*

Docket No. 04-253-CD

FERDIN E. WALLACE and  
SHERRY S. WALLACE,  
Defendants

\*

\*

O R D E R

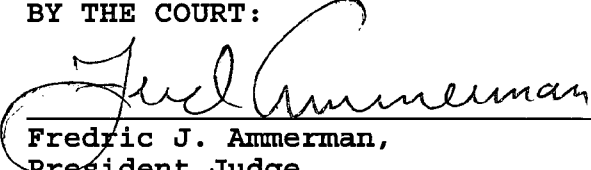
AND NOW, this 24<sup>th</sup> day of May, 2006, upon  
consideration of the Joint Motion of the parties, and in view of  
this Court's Order dated November 3, 2005, IT IS THE ORDER AND  
DECREE of this Court:

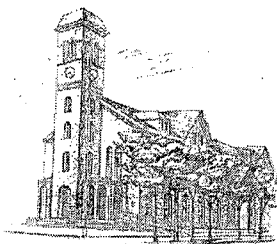
1. That Count II of the Complaint filed herein is dismissed  
against defendants;

2. That the survey map prepared by Hess & Fisher Engineers,  
Inc., on September 12, 2003, is hereby confirmed as a true and  
correct survey of plaintiffs' property, and plaintiffs are the  
sole owners of said property; and

3. That defendants, and all other persons unknown, are  
forever barred from asserting any claim whatsoever in or to said  
land and premises adverse to plaintiffs' ownership.

BY THE COURT:

  
Fredric J. Ammerman,  
President Judge



## Clearfield County Office of the Prothonotary and Clerk of Courts

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

**David S. Ammerman**  
Solicitor

**Jacki Kendrick**  
Deputy Prothonotary

**Bonnie Hudson**  
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw  
Prothonotary

DATE: 5/25/06

X You are responsible for serving all appropriate parties.

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

           Plaintiff(s)/Attorney(s)

           Defendant(s)/Attorney(s)

           Other

           Special Instructions:



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

TERRY L. THOMAS, et al.,  
Plaintiffs,

No. 04-253-CD

v.

FERDIN E. WALLACE, et al.,  
Defendants.

FILED

01/11/01/34  
NOV 04 2005

William A. Shaw  
Prothonotary/Clerk of Courts

2 CC Ays: Koerber  
Pentz

OPINION

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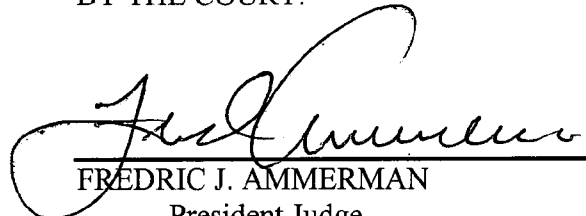
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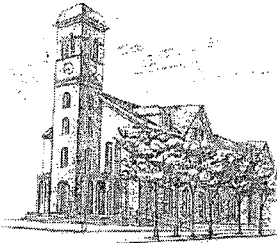
**ORDER**

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3. The Court hereby DEFERS ruling on damages related to the Plaintiffs' Claim for Trespass.

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge



## Clearfield County Office of the Prothonotary and Clerk of Courts

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

**David S. Ammerman**  
Solicitor

**Jacki Kendrick**  
Deputy Prothonotary

**Bonnie Hudson**  
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

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Sincerely,

William A. Shaw  
Prothonotary

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

X \_\_\_\_\_ Plaintiff(s)/Attorney(s)

X \_\_\_\_\_ Defendant(s)/Attorney(s)

\_\_\_\_\_ Other

\_\_\_\_\_ Special Instructions: