

04-256-CD
EDWARD A ANDRASKO et al. vs. CHESTER LOWE, et al.

Edward Andrasko et al vs. Chester Lowe et a
2004-256-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - EQUITY

EDWARD A. ANDRASKO AND
DAWN D. ANDRASKO, HIS WIFE

*
* No. 04- 256 - 4
*

Plaintiffs

*

vs.

*

CHESTER LOW AND KATHRYN LOWE,
HIS WIFE,

* TYPE OF CASE:
* Civil Action - Law
*

Defendants

*

*

*

*

*

*

*

*

*

*

*

*

*

*

*

*

*

*

*

TYPE OF PLEADING:
* Complaint
*

FILED ON BEHALF OF:
* Plaintiffs
*

COUNSEL OF RECORD
* FOR THIS PARTY:
* David R. Thompson, Esquire
* Attorney at Law
* Supreme Court I.D. 73053
* 308 Walton Street, Suite 4
* P.O. Box 587
* Philipsburg PA 16866
* (814) 342-4100

FILED

FEB 23 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION -LAW

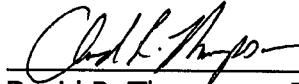
EDWARD A. ANDRASKO, JR., AND	*
DAWN D. ANDRASKO, HIS WIFE	*
	*
Plaintiffs	No. 04-
	*
	*
	*
VS.	*
	*
	*
	*
CHESTER LOWE AND KATHRYN	*
LOWE, HIS WIFE	*
	*
Defendants	*
	*

NOTICE

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

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

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



David R. Thompson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION -LAW

EDWARD A. ANDRASKO, JR., AND	*
DAWN D. ANDRASKO, HIS WIFE	*
	*
Plaintiffs	No. 04-
	*
	*
	*
VS.	*
	*
	*
CHESTER LOWE AND KATHRYN	*
LOWE, HIS WIFE	*
	*
Defendants	*
	*

COMPLAINT

AND NOW, comes the Plaintiffs, Edward A. Andrasko, Jr., and Dawn D. Andrasko, his wife, by and through their attorney David R. Thompson, Esquire, and files the following Complaint as follows:

1. Plaintiffs are Edward A. Andrasko, Jr., and Dawn D. Andrasko, his wife, residing at P.O. Box 84, Hawk Run, Clearfield County, Pennsylvania, 16840.
2. Defendants are Chester Lowe and Kathryn Lowe, his wife, residing at 489 Glastonburg Street, P.O. Box 14, Hawk Run, Clearfield County, Pennsylvania, 16840.
3. Plaintiffs are owners of a parcel of real property located in the Village of Hawk Run, Morris Township, Clearfield County, Pennsylvania, bearing Tax Parcel No. 124-Q11-561-20.
4. Plaintiffs received ownership of this parcel by deed of Edward A. Andrasko, Sr., and Carol M. Andrasko, his wife, dated August 3, 1995, and recorded in Deed Book Volume 1693 Page 591, more particularly described as follows:

ALL those certain pieces or parcels of land situate in the Village of Hawk Run, Township of Morris, County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows:

THE FIRST THEREOF: BEGINNING at a point, the northeast corner of land now or formerly of John Edward Andrasko; thence along line of land now or formerly of John Edward Andrasko and now or formerly of Mike Perow in a westerly direction 40 feet to a point; thence along other land now or formerly of John Edward Andrasko in a southerly direction 16 feet to a point; thence in an easterly direction along other land now or formerly of John Edward Andrasko 40 feet to a point on an alley; thence along said alley in a northerly direction 16 feet to a point, the place of beginning.

THE SECOND THEREOF: BEGINNING at a post corner on the township road 33 feet 6 inches from the corner of William Shields land and at the corner of lot of John Plevjak; thence along the line of said road northeast a distance of 33 feet 6 inches to land of Poskenk; thence along land of Jos. Poskenk a distance of 160 feet to a corner; thence on a line parallel with said road a distance of 33 feet 6 inches to a corner of lot of John Plevjak; thence along the line of same a distance of 160 feet to the line of said township road and the place of beginning.

THE THIRD THEREOF: BEGINNING at a post on line of land of Joseph Beckwith; thence northeast 20 rods to a post; thence southwest 4 rods to corner of Edward Wades line; thence along the line of the said Edward Wades 20 rods to a post; thence northwest 4 rods back to the place of beginning. **CONTAINING** one-half acre of land;

EXCEPTING AND RESERVING, all the coal, fire clay and other minerals underlying the above-described premises and the right to extend under the same any mine which may be begun on any adjoining tract for the purpose of removing said coal, fire clay or other minerals without, in any manner, becoming liable for any damage that may be caused by the falling in of the surface of land above such mines.

THE FOURTH THEREOF: BEGINNING on the centerline of an alley at the common corner of this lot and land of Edward Wade; thence in a northerly direction along the center of said alley a distance of 160 feet to corner; thence in an easterly direction on line parallel with Edward Wade's land a distance of 100 feet 6 inches to line of lot of John Plevjak and Eva Plevjak; thence in a southerly direction by line of same a distance of 160 feet to line of land of Edward Wade; thence in a westerly direction by line of Wade land a distance of 100 feet 6 inches to center of said alley and the place of beginning.

SAVING, EXCEPTING AND RESERVING, nevertheless, along the west side a strip of land four (4) feet wide which shall at all times hereafter remain open as and for an alley for mutual use and accommodation.

THE FIFTH THEREOF: BEGINNING at a post which is the common corner of land owned by John Plevjak, Andrew Smith and Ann Kilpatrick; thence along line of land to Andrew Smith, North 65 1/2 degrees East a distance of 135 feet to post corner of land of James Dickson; thence by line of land of James Dickson, Thomas Dickson and Robert McClimate South 23 3/4 degrees East a distance of 240 feet to a post corner; thence by land of Ann Kilpatrick South 65 1/2 degrees West a distance of 135 feet to post corner on line of land of Mrs. George Miller; thence by line of land of Mrs. George Miller and Andrasko West 23 3/4 degrees North a distance of 240 feet to post corner of John Plevjak, Andrew Smith and Ann Kilpatrick and the place of beginning.

SUBJECT, HOWEVER, to the reservation of all coal and other minerals with mining privileges as heretofore excepted and reserved in previous conveyances of this property, reference thereto being had will more fully and at large appear.

THE SIXTH THEREOF: ALL those certain premises situate in the Township of Morris, County of Clearfield and Commonwealth of Pennsylvania, formerly assessed in the names of Elizabeth Flynn and Mrs. Winifred Forgash described as "L" and assessed in Clearfield County as Map NO. 124-Q11-561-62.

5. By virtue of deed dated January 22, 1972, Edward A. Andrasko, Sr., and Carol M. Andrasko, his wife, received title to the property from John Edward Andrasko. Said deed is recorded in Deed Book Volume 587 at Page 091.

6. By virtue of deed dated September 2, 1948, John Edward Andrasko, received title to the property from John Baptiste Scauflair and Augustine Scauflair, his wife. Said deed is recorded in Deed Book Volume 399 Page 385.

7. Defendants are the owners of real property located within the Village of Hawk Run, Morris Township, Clearfield County, Pennsylvania, bearing Tax Parcel No. 124-Q11-561-35. Said parcel was conveyed to the Defendants by deed dated the 20th day of

October 1952, and is recorded in Deed Book Volume 424 at Page 542. Said parcel is more particularly described as follows:

ALL that certain messuage, tenement and tract of land situate, lying and being in the Village of Hawk Run, Morris Township, Clearfield County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at the corner of Whitman and Sixth Street; thence in a southerly direction along Whitman Street, a distance of one hundred fifty-six (156') feet to line of lot of Thomas Morgan; thence along the line of same in a westerly direction a distance of one hundred four (104') feet to the corner of lot of Elizabeth Davis; thence along the line of same and lot of G. Roberts in a northerly direction a distance of one hundred fifty six (156') feet to Sixth Street; thence along the line of same in a easterly direction a distance of one hundred four (104') feet to the corner of Whitman and Sixth Streets and place of beginning.

8. Both the Plaintiffs' and Defendants' parcels of land lie contiguous to each other.

Located partially on Plaintiffs' property and partially on Defendants' property is a block garage owned and used by the Plaintiffs.

9. The block garage has been in existence and use by the Plaintiffs and their predecessors in title for a period in excess of twenty-one years.

10. The meets and bounds description of the real property of Defendants upon which a portion of the block garage lies, and has remained for a period in excess of twenty-one years is depicted on a survey map prepared by Stephen Norfolk, and is specifically described as follows:

BEGINNING at a point on the westerly wall of a concrete block garage of Edward A. Jr. and Dawn D. Andrasko, and being on line of lands of Andrasko (DB 1693 Page 591, tax parcel no. Q11-561-20) being located for reference N 73° 34' 00" E a distance of 25.56 feet from an iron pin marking the southwest corner of said lands of Andrasko, also being on line of lands now or formerly of Chester and Kathryn Lowe (DB 424, Page 542, tax parcel no. Q11-561-35); thence along the north wall of said garage and along said lands of Andrasko N 73° 34' 00" E a distance of 14.27 feet to a

point on the east wall of said garage; thence along the east wall of said garage and through said lands of Lowe S 15° 50' 34" E a distance of 7.64 feet to the southeast corner of said garage; thence along the south wall of said garage and through said lands of Lowe S 74° 10' 18": W a distance of 14.27 feet to a point marking the southwest corner of said garage; thence along the west wall of said garage N 15° 50' 34" W a distance of 7.46 feet to a point marking the place of beginning.

CONTAINING 107.891 square feet, and being the description of a portion of an existing concrete block garage overlapping onto lands now or formerly of Chester and Kathryn Lowe (DB 424, Page 542, tax parcel no. Q11-561-35), as shown on a plan prepared by Stephen W. Norfolk, PLS, entitled, "Map Showing Garage Overlap for Edward A., Jr., and Dawn D. Andrasko", dated September 19, 2003.

(A true and correct copy of the survey map is attached hereto and marked as Plaintiffs' Exhibit "A").

COUNT 1
ACTION TO QUIET TITLE
TO REAL PROPERTY

Paragraphs 1 through 10 are incorporated by reference, as though the same were set forth at length herein.

11. The Plaintiff and their predecessors in title have exercised dominion, possession and control of the subject premises for a period in excess of twenty-one (21) years, and that said possession has been continuous, open, exclusive and adverse.

12. This Quiet Title action is necessary because of any potential unrecorded conveyances and other irregularities in the chain of title of the property, subject of this action, including possible unrecorded deeds and/or assignments and other documents, incomplete estate records of deceased persons showing a complete chain of title, and

possible adverse interest of named Defendants, their heirs, successors, and assigns, all of which create clouds in the title.

13. It is further averred that the Quiet Title Action is necessary because of irregularities in the chain of title of the property which may affect the rights of the Plaintiffs named.

14. It is further averred that a Quiet Title Action is necessary to determine the validity or discharge of any document, obligation or deed affecting any right, title, and interest in the property, specifically that of Defendants.

15. Defendants have not attempted to secure possession of the said subject premises, nor have they contested the title of the Plaintiff and/or its predecessors in title or assert any interest, adverse to that of the Plaintiff or its predecessors in title by any legal action or by formal acknowledgment thereof.

16. The subject premises herein described in Paragraph (10) ten is the same premises that Plaintiffs and their predecessors in title have been in open, continuous, notorious, hostile and uninterrupted possession for a period in excess of twenty-one (21) years, possession of the said premises having been acquired by the Plaintiffs and their predecessors in title as herein above set forth.

17. It is believed and therefore averred that the said Plaintiffs and their predecessors' title have throughout their occupancy on the said premises maintained the said premises and have further continued in actual uninterrupted exclusive, visible, notorious, distinct and hostile possession of these premises secured by their respective deeds and use hereinbefore set forth.

18. The said Plaintiffs, together with their predecessors in title have, commencing with the year 1948, and continuing up to the present time, made valuable improvements to the said premises, have maintained the same premises, paid all current real estate taxes, and have evidenced a settled intent of excluding all individuals from the use, actual occupation or constructive possession of the premises.

19. At no time have any of the herein named Defendants attempted to secure possession of the said premises, contest the title of the Plaintiff or its predecessors in title or assist in the maintenance, repair or improvement of those premises hereinbefore described nor has any asserted any interest adverse to the Plaintiffs by any legal action.

WHEREFORE, Plaintiffs file this action and respectfully request the following:

(a) That the Defendants, their heirs, administrators, executors, successors and assigns and all other persons having claim to the premises herein described be forever barred from asserting any right, title or interest in the land described herein inconsistent with the interest or title of Plaintiffs unless the Defendants, their heirs, administrators, executors, successors or assigns, or those persons asserting any right, title or interest in said premises being an action of ejectment or other legal or equitable action to establish their claim to the premises described herein or any portion of the same, within the time set by the Court.

(b) That an Order of Court be made declaring the Plaintiff to be the sole owners and to have exclusive possession of the premises described herein by virtue of their open, uninterrupted and hostile possession of the premises for a period in excess of twenty-one years.

(c) Such further Order as may be necessary for the granting of further relief.

COUNT II
COMPLAINT FOR EASEMENT BY
PRESCRIPTION

Paragraphs 1 through 19 are incorporated by reference as though the same were set forth at length herein.

20. The Plaintiffs have used the block garage in existence partially upon their real property and partially upon real property of the Defendants for a period in excess of twenty-one years.

21. In conjunction with accessing the block garage, the doors to said block garage exist on the southern side of the block garage, requiring use of the same to be accessed from real property of the Defendants.

22. Plaintiffs have utilized a portion of Defendants real property in accessing the block garage referenced above. The said utilized portion is specifically described as follows:

BEGINNING at the point of the southwest corner of the block garage described above; thence along southern wall of said garage described above, N 73° 34' 00" E a distance of 16.00 feet to a point on the formerly right of way line of Fifth Street; thence along said street, S 16° 26' 00" E a distance of 54.00 feet to a point, which is at the end of a 12 foot cast underdrain for driveway; thence through said lands of Lowe S 73° 34' 00" W a distance of 16.00 feet to a point; thence through said lands of Lowe N 16° 26' 00" W a distance of 54.00 feet to a point marking the place of beginning.

CONTAINING 864.00 square feet, more or less, and being the description of a parcel of land claimed by Edward A. Jr. and

Dawn D. Andrasko by prolonged use as an easement for right of way from lands now or formerly of Chester and Kathryn Lowe (DB 424, Page 542, tax parcel no. Q11-561-35), as shown on a plan prepared by Stephen W. Norfolk P.L.S., entitled, "Map Showing Prolonged Use Area Outside of Deed Description for Edward A. Jr. and Dawn D. Andrasko", dated September 19, 2003.

23. The Plaintiffs and their predecessors in title have enjoyed use and dominion over the subject premises for a period in excess of twenty-one (21) years, and that said use has been continuous, open, exclusive, hostile and adverse.

24. The Plaintiffs use of the subject premises for purposes of accessing their block garage has been continuous and uninterrupted until on or about July of 2003, when Defendants began engaging in activities to block Plaintiffs' use of the subject premises.

25. The Plaintiffs' use of the subject premises for accessing their block garage has been continuously ongoing since 1948 by Plaintiffs and their predecessors in title.

26. It is further averred that Action in Equity is necessary to determine the validity or discharge of any document, obligation or deed affecting any right, title, and interest in Plaintiffs' use of the subject property, specifically as to that of Defendants.

27. Defendants have recently begun to impede Plaintiffs' use of the subject premises by parking a vehicle on the premises, blocking the entrance to the block garage, and by placing cemented poles within the subject premises, blocking Plaintiffs' ability to use the real property to access their block garage.

28. The subject premises herein described in Paragraph (22) twenty-two is the same premises of which the Plaintiffs and their predecessors in title have been in open, continuous, notorious, hostile and uninterrupted use for a period in excess of twenty-one (21) years.

29. It is believed and therefore averred that the said Plaintiffs and their predecessors in title have by virtue of their use of the said premises to gain access to the block garage have acquired an easement by prescription in the subject premises.

WHEREFORE, Plaintiffs file this action and respectfully request the following:

(a) That an Order of Court be made declaring the Plaintiffs to have an easement by prescription in the premises described herein by virtue of their open, uninterrupted, adverse, exclusive and hostile use of the premises for a period in excess of twenty-one years.

(b) That by virtue of the easement by prescription, the Plaintiffs have uninterrupted use of the subject premises to access their block garage and other real property, and the Defendants be enjoined from hindering said use of the subject premises.

(c) Such further Order as may be necessary for the granting of further relief.

Respectfully submitted,



David R. Thompson, Esquire
Attorney for Plaintiffs

VERIFICATION

Plaintiffs, by and through their attorney, David R. Thompson, Esquire, verifies that the statements made in this ***PETITION FOR TEMPORARY INJUNCTION AND COMPLAINT*** are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

DATE: 12-22-03

Edward A. Andrasko, Jr.
Edward A. Andrasko, Jr.

DATE: 12-22-03

Dawn D. Andrasko
Dawn D. Andrasko

FILED

D 10:50 AM
FEB 23 2004
FEB 23 2004
FEB 23 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - EQUITY

EDWARD A. ANDRASKO AND
DAWN D. ANDRASKO, HIS WIFE

*
* No. 04- 256-C

Petitioners

*

*

*

* TYPE OF CASE:
* Civil Action - Law

*

*

*

*

*

* TYPE OF PLEADING:
* Petition for Temporary
* Injunction

*

*

*

* FILED ON BEHALF OF:
* Plaintiffs

*

*

* COUNSEL OF RECORD
* FOR THIS PARTY:
* David R. Thompson, Esquire
* Attorney at Law
* Supreme Court I.D. 73053
* 308 Walton Street, Suite 4
* P.O. Box 587
* Philipsburg PA 16866
* (814) 342-4100

FILED

FEB 23 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - EQUITY

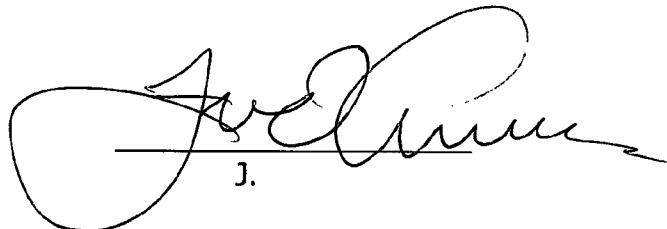
EDWARD A. ANDRASKO AND	*
DAWN D. ANDRASKO, HIS WIFE	* No. 03
* Petitioners	
* vs.	
* CHESTER LOW AND KATHRYN LOWE,	
* HIS WIFE,	
* Respondents	

ORDER

AND NOW, this 23 day of February, 2004, upon consideration of the Petition for Temporary Injunction filed by Plaintiffs in the above-captioned matter it is hereby **ORDERED AND DECREED** that Respondents shall:

1. Remove the cemented poles from the subject property within five (5) days of this order;
2. Petitioners shall have temporary possession of the property and full access to same until the underlying matter is resolved.

BY THE COURT:



J.

FILED

FEB 23 2004

William A. Shaw
Prothonotary

FILED
012-02-002 acts attq.

FEB 23 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - EQUITY

EDWARD A. ANDRASKO AND	*
DAWN D. ANDRASKO, HIS WIFE	* No. 03
* Petitioners	
* vs.	
* CHESTER LOW AND KATHRYN LOWE,	
* HIS WIFE,	
* Respondents *	

PETITION FOR TEMPORARY INJUNCTION

AND NOW, comes the Plaintiffs, by and through their attorney, David R. Thompson, Esquire, and files the following Petition for Temporary Injunction against the Defendant, of which the following are averments of fact:

1. Petitioners Edward A. Andrasko, Jr., and Dawn D. Andrasko, his wife, reside at P.O. Box 84, Hawk Run, Clearfield County, Pennsylvania, 16840.
2. Respondents are Chester Lowe and Kathryn Lowe, his wife, who reside at Hawk Run, Clearfield County, Pennsylvania, 16840.
3. Petitioners have instituted an action in equity making claims for quiet title and easement by prescription of the subject property at issue. Said action filed even date of this filing.
4. Petitioners are the owners of a parcel of real property located in the Village of Hawk Run, Morris Township, Clearfield County, Pennsylvania, bearing Tax Parcel 124-Q11-20.

5. Respondents are the owners of an adjoining parcel of real property located in the Village of Hawk Run, Morris Township, Clearfield County, Pennsylvania, bearing Tax Parcel 124-Q11-35.

6. A block garage is located on the properties lying partially on Petitioner's property and partially on Respondents. By way of further pleading, the garage has been in existence for a period in excess of twenty-one (21) years and Petitioners and their predecessors have used the garage in excess of twenty-one (21) years, up until July of 2003. Further, the subject property is the issue of the underlying action.

7. In or around July of 2003, Respondents began engaging in activities to block Plaintiff's use of the garage. By way of further pleading, Respondents have placed cemented poles within the subject premises, blocking access to the garage while the Petitioners' car is parked inside the garage.

8. Despite Petitioners' requests to Respondents to remove the poles so that they can remove their car from the garage, Respondents have failed to do so.

9. Petitioners' have been without this vehicle since July of 2003.

10. Petitioners have no other legal remedy at law to immediately resolve this problem.

11. Petitioners aver that they will succeed on the merits of the underlying action, as they are requesting the Court to grant a quiet title to the property, as well as an easement by prescription as they and their predecessors in title have maintained and utilized the property in excess of twenty-one (21) years.

15. Petitioners aver that harm is imminent, and immediate temporary injunctive

relief is necessary and appropriate.

WHEREFORE, Petitioners respectfully requests this Honorable Court:

1. Order Respondents to remove the cemented poles from the subject property, and temporarily enjoin them from access to the subject property until the underlying matter is resolved;
2. Grant temporary relief to Petitioners in the form of an Order granting them full access to the property until the underlying matter is resolved;
2. Order any other equitable relief this Honorable Court deems is necessary and appropriate in this instance.

Respectfully submitted,



David R. Thompson, Esquire

VERIFICATION

Plaintiffs, by and through their attorney, David R. Thompson, Esquire, verifies that the statements made in this ***PETITION FOR TEMPORARY INJUNCTION AND COMPLAINT*** are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

DATE: 12-22-03

Edward A. Andrasko, Jr.
Edward A. Andrasko, Jr.

DATE: 12-22-03

Dawn D. Andrasko
Dawn D. Andrasko

FILED

010:55802-007-005

FEB 23 2004

William A. Shaw
Prothonotary

CA

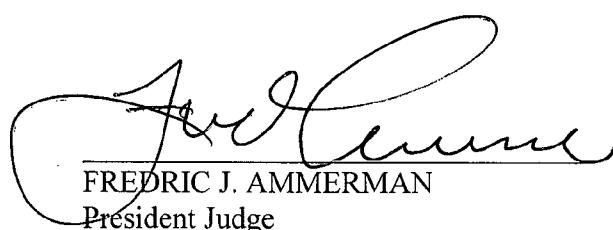
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

EDWARD A. ANDRASKO AND :
DAWN D. ANDRASKO, his wife :
vs. : No. 04-256-CD
CHESTER LOW AND KATHRYN :
LOWE, his wife :
:

ORDER

NOW, this 23 day of February, 2004, upon consideration
of Plaintiffs' Petition for Temporary Injunction, a Rule is hereby issued upon the
Defendants to Appear and Show Cause why the Petition should not be granted.
Argument is scheduled the 24 day of February, 2004, at
10:00 A.M. in Courtroom No. 2, Clearfield County
Courthouse, Clearfield, PA.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED

FEB 23 2004

William A. Shaw
Prothonotary

FILED

0 12-02-00 2000s attorney

FEB 23 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION-LAW

EDWARD A. ANDRASKO AND DAWN
D. ANDRASKO, his wife,
Plaintiffs

*
* No. 04-256-CD
*
*

VS.

CHESTER LOWE AND KATHRYN LOWE,
his wife,

*
* TYPE OF CASE:
* Civil Division - Law
*
*

Defendants

*
* TYPE OF PLEADING:
* Certificate of Service
*
*

*
* FILED ON BEHALF OF:
* Plaintiff
*
*

*
* COUNSEL OF RECORD FOR
* THIS PARTY:

* David R. Thompson, Esquire
* Attorney at Law
* Supreme Court 73053
* P.O. Box 587
* 308 Walton Street, Suite 4
* Philipsburg PA 16866
* (814) 342-4100

FILED

FEB 25 2004

*William A. Shaw
Prothonotary/Clerk of Courts*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL ACTION - LAW

EDWARD A. ANDRASKO AND DAWN	*
D. ANDRASKO, his wife,	*
Plaintiffs	*
	*
vs.	*
	*
CHESTER LOWE AND KATHRYN LOWE,	*
his wife,	*
	*
	*
Defendants	*

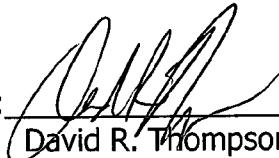
CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

I, DAVID R. THOMPSON, ESQUIRE, do hereby certify that I served a true and correct copy of **PETITION FOR TEMPORARY INJUNCTION** with an Order attached scheduling a Hearing for February 26, 2004 at 10:00 A.M. in Courtroom Number 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania, in the above captioned matter on the following by Prepaid, First Class, United States Mail:

Chester and Kathryn Lowe
489 Glastonburg Street
P.O. Box 14
Hawk Run, PA 16840

DATE: February 23, 2004

BY: 

David R. Thompson, Esquire

FILED

2cc

01/33464
FEB 25 2004
Kathy Thompson

William A. Shaw
Prothonotary/Clerk of Courts

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

EDWARD A. ANDRASKO and :
DAWN D. ANDRASKO, His Wife, :
Plaintiffs :
vs. : No. 04-256-CD
CHESTER LOWE and KATHRYN :
LOWE, His Wife, :
Defendants :

CASE NUMBER: 04-256-CD
TYPE OF CASE: Civil
TYPE OF PLEADING: ENTRY OF APPEARANCE
FILED ON BEHALF OF: Defendants

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
215 East Locust Street
Clearfield, PA 16830
(814) 765-1581

FILED

MAR 02 2004

William A. Shaw
Prothonotary/Clerk of Courts

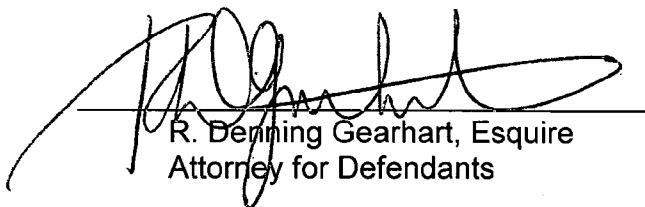
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

EDWARD A. ANDRASKO and :
DAWN D. ANDRASKO, His Wife, :
Plaintiffs :
VS. : No. 04-256-CD
CHESTER LOWE and KATHRYN :
LOWE, His Wife, :
Defendants :
.

ENTRY OF APPEARANCE

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

Please enter my appearance on behalf of the Defendants, CHESTER LOWE
and KATHRYN LOWE, in the above captioned matter.



R. Denning Gearhart, Esquire
Attorney for Defendants

Date: March 1, 2004

FILED NO cc

Op/19/04 C/S
MAR 02 2004 C/S

William A. Shaw
Prothonotary/Clerk of Courts

R. Denning Gearhart

Attorney & Counselor at Law

215 E. Locust Street
Clearfield, PA 16830

814-765-1581

(fax) 814-765-6745
http://www.dgearhartpalaw.com

March 1, 2004

Court Administrator's Office
Court House
230 E. Market Street
Clearfield, PA 16830

(X) / Rees of
3/28/04
3/29/04

Attention: Marcy

Re: Edward A. Andrasko, et. ux. Vs. Chester Lowe, et. ux.
No. 04-256-CD

Dear Marcy:

Enclosed please find a copy of my Entry of Appearance on behalf of the Defendants in the above captioned action. The original was filed concurrent with this letter.

This confirms that the Rule scheduled before Judge Ammerman on February 26, 2004, at 10:00 o'clock A.M. was continued. It is my understanding that it is going to be rescheduled.

I will be back from vacation on March 23, 2004, and I have out of town Court appearances on March 24th and 25th. Therefore, I would appreciate if it could be scheduled after those dates.

If you need anything further, please advise.

Sincerely,


R. Denning Gearhart

RDG:kar
Enclosure
cc: David R. Thompson, Esq.

Will you take this case?
Judge R had it the last time he
was here - can't fit it in his schedule
when he's here in March, & I understand
that Lewon's be presiding here in
April.
Okay Judge R do
Will this

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

EDWARD A. ANDRASKO, JR., and
DAWN D. ANDRASKO, His Wife,
Plaintiffs

vs.

No. 04-256-CD

CHESTER LOWE and KATHRYN
LOWE, His Wife,
Defendants

CASE NUMBER: 04-256-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: ANSWER TO COMPLAINT

FILED ON BEHALF OF: Defendants

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
215 East Locust Street
Clearfield, PA 16830
(814) 765-1581

FILED

MAR 03 2004

William A. Shaw
Prothonotary

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

EDWARD A. ANDRASKO, JR., and
DAWN D. ANDRASKO, His Wife,
Plaintiffs
vs.
CHESTER LOWE and KATHRYN
LOWE, His Wife,
Defendants

No. 04-256-CD

ANSWER TO COMPLAINT

AND NOW, comes the Defendants, CHESTER LOWE and KATHRYN
LOWE, by and through their attorney, R. Denning Gearhart, who aver as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted.
10. Admitted.
11. Denied. The Plaintiffs and their predecessors in title have had use of the
Defendants' ground upon which the garage is situated only with the permission of the
Defendants. Although the garage was constructed overlapping the Defendants' property

by mistake, since the mistake was found, Defendants have continued to allow the garage to be used but with their permission and only until such time as the Plaintiffs began to act angry, rude, and otherwise inhospitable toward the Defendants.

12. Denied. The averment is so vague that the answer thereto can not be made. In particular, the paragraph refers to "clouds in the title", without any foundation for the same. This case is only about a garage that straddles the boundary line and does not involve any unrecorded Deeds and/or assignments and/or other documents and/or incomplete estate records.

13. Denied, for reasons set forth in Paragraph 12 above.

14. Denied, for reasons set forth in Paragraph 12 above.

15. Denied. Defendants and the Plaintiffs have been arguing for several years over the existence of the garage straddling the boundary and have made numerous attempts to settle this through an exchange of land.

16. Denied. As stated earlier, although the garage was built by mistake, once its mistaken location was determined, the Defendants tried to be good neighbors, allowing the garage to exist while discussing an exchange of real estate to correct the problem.

17. Denied, for reasons set forth in Paragraph 16 above.

18. Denied. Defendants have been maintaining their property and paying the taxes—even on that portion that is burdened by the Plaintiffs' garage.

19. Denied, for reasons set forth above.

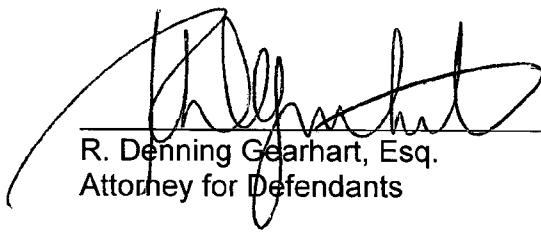
WHEREFORE, Defendants pray your Honorable Court to deny Plaintiff's request.

COUNT II

20. Admitted.
21. Admitted.
22. Admitted.
23. Denied. Plaintiffs have been using this property with the permission of the Defendants.
24. Admitted.
25. Denied. The use has been with the permission of the Defendants.
26. A conclusion of law, no answer required.
27. Admitted.
28. Denied, for reasons set forth above.
29. Calls for a conclusion of law, no answer required.

WHEREFORE, Defendants pray your Honorable Court deny Plaintiffs' prayer.

Respectfully submitted,



R. Denning Gearhart, Esq.
Attorney for Defendants

COMMONWEALTH OF PENNSYLVANIA

SS.

COUNTY OF CLEARFIELD

Before me, the undersigned officer, a Notary Public in and for the above named State and County, personally appeared CHESTER LOWE and KATHRYN LOWE, who being duly sworn according to law deposes and says that the facts set forth in the foregoing Answer to Complaint are true and correct to the best of their knowledge, information and belief.

Chester Lowe
CHESTER LOWE

Kathryn Lowe
KATHRYN LOWE

Sworn to and subscribed
before me, this 3
day of March, 2004.

Kathleen A. Ricotta
Notary Public

NOTARIAL SEAL
KATHLEEN A. RICOTTA, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires June 7, 2005

Leave over margin

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION No. 04-256-CD

EDWARD A. ANDRASKO, JR., and
DAWN D. ANDRASKO, His Wife,
Plaintiffs

vs.

CHESTER LOWE and KATHRYN
LOWE, His Wife,
Defendants

ANSWER TO COMPLAINT

FILED

04-256-CD
MAR 03 2004

cc: [Signature]

William A. Shaw
Prothonotary

R. DENNINING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

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

EDWARD A. ANDRASKO, JR., and :
DAWN D. ANDRASKO, His Wife, :
Plaintiffs :
vs. : No. 04-256-CD
CHESTER LOWE and KATHRYN :
LOWE, His Wife, :
Defendants :
.

CASE NUMBER: 04-256-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: ANSWER TO PETITION FOR INJUNCTION

FILED ON BEHALF OF: Defendants

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
215 East Locust Street
Clearfield, PA 16830
(814) 765-1581

FILED

MAR 03 2004

William A. Shaw
Prothonotary

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

EDWARD A. ANDRASKO, JR., and :
DAWN D. ANDRASKO, His Wife, :
Plaintiffs :
vs. : No. 04-256-CD
CHESTER LOWE and KATHRYN :
LOWE, His Wife, :
Defendants :

ANSWER TO PETITION FOR INJUNCTION

AND NOW, comes the Defendants/Respondents, CHESTER LOWE and KATHRYN LOWE, by and through their attorney, R. Denning Gearhart, who aver as follows:

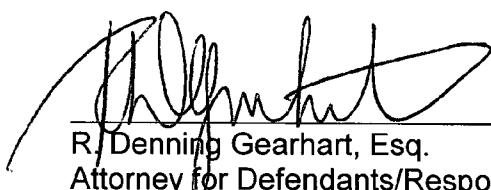
1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
9. Strict proof required at Trial.
10. Calls for a conclusion of law, no answer required.
11. Denied. Although it calls for a conclusion of law, the averment states facts that are rather presumptive. It is averred by the Defendants/Respondents that, for

reasons set forth in the Answer to the Quiet Title Complaint, it is not possible for the Plaintiffs/Petitioners to prevail on the underlying action as their use of the premises in excess of twenty-one years has not been adverse to the Defendants/Respondents but with their permission.

12. Skipped by Petitioner.
13. Skipped by Petitioner.
14. Skipped by Petitioner.
15. Although the averment is so vague as to preclude an answer in that it does not describe the nature of the "imminent harm", it is hard to understand how Plaintiffs/Petitioners can request such an emergency action based on the activity of the Defendants/Respondents that commenced seven months prior. Therefore, it is denied.

WHEREFORE, Respondents respectfully pray your Honorable Court to deny the Plaintiffs/Petitioners' request.

Respectfully submitted,



R. Denning Gearhart, Esq.
Attorney for Defendants/Respondents

COMMONWEALTH OF PENNSYLVANIA

SS.

COUNTY OF CLEARFIELD

Before me, the undersigned officer, a Notary Public in and for the above named State and County, personally appeared CHESTER LOWE and KATHRYN LOWE, who being duly sworn according to law deposes and says that the facts set forth in the foregoing Answer are true and correct to the best of their knowledge, information and belief.

Chester Lowe
CHESTER LOWE

Kathryn Lowe
KATHRYN LOWE

Sworn to and subscribed
before me, this 3
day of March, 2004.

Kathleen A. Ricotta
Notary Public

NOTARIAL SEAL
KATHLEEN A. RICOTTA, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires June 7, 2005

Leave over margin

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION No. 04-256-CD

EDWARD A. ANDRASKO, JR., and
DAWN D. ANDRASKO, His Wife,
Plaintiffs

vs.

CHESTER LOWE and KATHRYN
LOWE, His Wife,
Defendants

ANSWER TO PETITION FOR INJUNCTION

FILED
O 11/3/2004 2 00 AM
MAR 03 2004 *WAT*

William A. Shaw
Prothonotary

R. DENNING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

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

EDWARD A. ANDRASKO and :
DAWN D. ANDRASKO, His Wife, :
Plaintiffs :
VS. : No. 04-256-CD
CHESTER LOWE and KATHRYN :
LOWE, His Wife, :
Defendants :

CASE NUMBER: 04-256-CD
TYPE OF CASE: Civil
TYPE OF PLEADING: ENTRY OF APPEARANCE
FILED ON BEHALF OF: Defendants

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
215 East Locust Street
Clearfield, PA 16830
(814) 765-1581

FILED

MAR 04 2004

William A. Shaw
Prothonotary

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

EDWARD A. ANDRASKO and
DAWN D. ANDRASKO, His Wife,
Plaintiffs

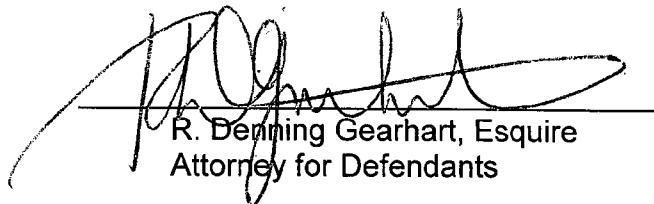
VS. No. 04-256-CD

CHESTER LOWE and KATHRYN
LOWE, His Wife,
Defendants

ENTRY OF APPEARANCE

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

Please enter my appearance on behalf of the Defendants, CHESTER LOWE
and KATHRYN LOWE, in the above captioned matter.



R. Denning Gearhart, Esquire
Attorney for Defendants

Date: March 1, 2004

FILED
O 16.30 MA NOCC
MAR 04 2004 *W.A.S.*

William A. Shaw
Prothonotary

CA

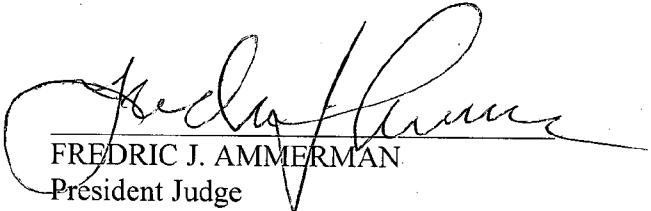
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

EDWARD A. ANDRASKO and :
DAWN D. ANDRASKO :
vs. : No. 04-256-CD
CHESTER LOWE and KATHRYN :
LOWE, his wife :
:

ORDER

AND NOW, this 4 day of March, 2004, it is the ORDER of the Court that hearing on Plaintiffs' Petition for Temporary Injunction in the above matter has been scheduled for **Tuesday, March 30, 2004 at 1:30 P.M.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED

MAR 04 2004

William A. Shaw
Prothonotary

FILED

0 11:30 AM
Matthew Gearhart
100 Abby Thompson

MAR 04 2004

ST

William A. Shaw
Prothonotary

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

EDWARD A. ANDRASKO, JR., and
DAWN D. ANDRASKO, His Wife,
Plaintiffs

vs.

No. 04-256-CD

CHESTER LOWE and KATHRYN
LOWE, His Wife,
Defendants

CASE NUMBER: No. 04-256-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: CERTIFICATE OF SERVICE

FILED ON BEHALF OF: Defendants

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I. D. #26540
215 East Locust Street
Clearfield, PA 16830
(814) 765-1581

FILED

MAR 04 2004

William A. Shaw
Prothonotary

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

EDWARD A. ANDRASKO, JR., and
DAWN D. ANDRASKO, His Wife,
Plaintiffs

vs.

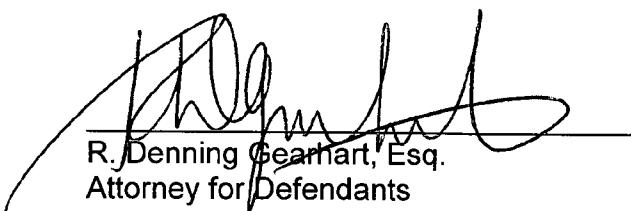
No. 04-256-CD

CHESTER LOWE and KATHRYN
LOWE, His Wife,
Defendants

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a certified copy of the ANSWER TO PETITION FOR INJUNCTION and ANSWER TO COMPLAINT filed in the above captioned matter on the Plaintiffs, through Plaintiffs' attorney, by depositing such documents in the United States Mail postage pre-paid and addressed as follows:

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


R. Denning Gearhart, Esq.
Attorney for Defendants

Dated: March 3, 2004

FILED

01/16/00 NOCC
MAR 04 2004

William A. Shaw
Prothonotary

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

EDWARD A. ANDRASKO, JR. and :
DAWN D. ANDRASKO, His Wife, :
Plaintiffs :
VS. :
CHESTER LOWE and KATHRYN :
LOWE, His Wife, :
Defendants :
.

CASE NUMBER: 04-256

TYPE OF CASE: Civil

TYPE OF PLEADING: CERTIFICATE OF SERVICE

FILED ON BEHALF OF: Defendants

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
215 East Locust Street
Clearfield, PA 16830
(814) 765-1581

FILED

MAR 05 2004

01:05 PM

William A. Shaw

Prothonotary/Clerk of Courts

NO C/C *BS*

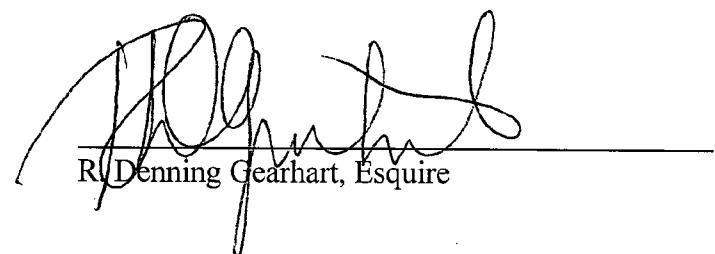
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

EDWARD A. ANDRASKO, JR. and :
DAWN D. ANDRASKO, His Wife, :
Plaintiffs :
vs. : No. 04-256-CD
CHESTER LOWE and KATHRYN :
LOWE, His Wife, :
Defendants :
:

CERTIFICATE OF SERVICE

That I, R. DENNING GEARHART, ESQUIRE, do hereby certify that on the 5 day of March, 2004, I caused a certified copy of the Motion For Contempt Of Court Order to be served on the following by placing the same in the United States Mail, first class, postage prepaid, addressed as follows:

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



R. Denning Gearhart, Esquire

Date: March 5, 2004

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

CIVIL ACTION - LAW

EDWARD A. ANDRASKO AND DAWN
D. ANDRASKO, his wife,
Plaintiffs

*
* No. 04-256-CD
*
*

VS.

CHESTER LOWE AND KATHRYN LOWE,
his wife,

*
* TYPE OF CASE:
* Civil Division - Law
*
*

Defendants

*
* FILED ON BEHALF OF:
* Plaintiffs
*
*
*
* COUNSEL OF RECORD FOR THIS
* PARTY:
*
* David R. Thompson, Esquire
* P.O. Box 587
* Philipsburg, PA 16866
* (814) 342-4100
* I.D. No. 73053

FILED

MAR 08 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

CIVIL ACTION - LAW

EDWARD A. ANDRASKO AND DAWN	*
D. ANDRASKO, his wife,	*
Plaintiffs	No. 04-256-CD
	*
	*
vs.	*
	*
	*
CHESTER LOWE AND KATHRYN LOWE,	*
his wife,	*
	*
	*
Defendants	*

AFFIDAVIT OF SERVICE

I, DAVID R. THOMPSON, Esquire, hereby certify that I have caused to be served upon the Defendant. A certified copy of the **PETITION FOR TEMPORARY INJUNCTION**, in the above captioned matter. I served the same by depositing in the U.S. Mail, postage prepaid, certified mail, return receipt requested, addressed as follows:

Chester and Kathryn Lowe
489 Glastonburg Street
P.O. Box 14
Hawk Run, PA 16840

DATED: February 24, 2004



David R. Thompson, Esquire
Attorney for Plaintiffs

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Chester and Kathryn Lowe
489 Glastonbury Street
P.O. Box 14
Hawk Run, PA 16840

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

CAROL LOWE

B. Date of Delivery

2-24-04

C. Signature

X Carol Lowe

 Agent Addressee

D. Is delivery address different from item 1?

 Yes

If YES, enter delivery address below:

 No

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. 7002 3150 0001 4220 1954

FILED

2 cc

MARK 9 48 2004
08 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

FILED

MAR 30 2004

EDWARD A. ANDRASKO and
DAWN D. ANDRASKO, his wife :

-vs-

No. 04-256-CD

William A. Shaw
Prothonotary

CHESTER LOWE and KATHRYN
LOWE, his wife :

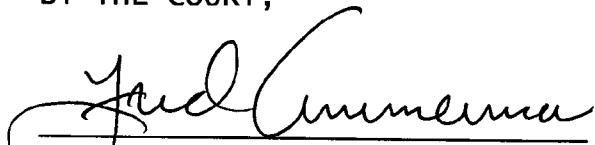
O R D E R

NOW, this 30th day of March, 2004, this being
the date and time of Plaintiffs' Petition for Temporary
Injunction, and the parties having reached an agreement in
regard to the above captioned matter as follows:

1. The parties agree to execute deeds
effectuating correcting the location of Tax Parcel No.
Q11-561-20. The said parcel is 16 feet by 40 feet and is
owned by the Plaintiffs. The parcel was originally
erroneously described in the original deed. The parties
agree to turn the parcel on a 90 degree angle so that the
40 foot line of the parcel borders Fifth Street (T.R. 246)
in the village of Hawk Run. Counsel for Plaintiffs shall
prepare the said necessary deeds to effectuate this
correction.

2. The parties shall complete said corrections
and sign deeds within thirty (30) days of this date.

BY THE COURT,



President Judge

FILED

O 2:28 PM 30 Oct 2004

MAR 30 2004

✓

William A. Shaw
Prothonotary

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

EDWARD and DAWN ANDRASKO,
Plaintiffs

vs.

CHESTER and KATHRYN LOWE,
Defendants

*

*

*

*

*

*

NO. 2004-256-C.D.

O R D E R

NOW, this 4th day of October, 2004, upon consideration of Attorney David R. Thompson's request for a status conference with the Court and counsel for purposes of determining how the parties can move this case forward toward resolution, it is the ORDER of this Court that a status conference be scheduled for the 2 day of November, 2004, in Chambers at 1:30 o'clock p.m. One half hour has been reserved for this conference.

By the Court,

Judge J. Ammerman

HONORABLE FREDRIC J. AMMERMAN
President Judge

FILED

011:20 6A 2cc atty Bechart
2cc atty Thompson

OCT 05 2004

William A. Shaw
Prothonotary



DAVID R. THOMPSON
ATTORNEY AT LAW

P.O. Box 587
308 Walton Street, Ste. 4
Philipsburg, PA 16866
Phone: 814-342-4100 Fax: 814-342-7081
e-mail: drtlaw@hotmail.com

September 28, 2004

Attn: Judy
The Honorable Frederic J. Amerman
Judge's Chambers
CLEARFIELD COUNTY COURTHOUSE
Clearfield PA 16830

Re: Edward and Dawn Andrasko vs. Chester and Kathryn Lowe
No. 04-256-CD

Dear Judy:

Could you kindly schedule a status conference between counsel and the Judge in the above-referenced matter. I would advise that the same will take approximately fifteen minutes.

Thank you for your attention herein. Should you wish to discuss this matter, please feel free to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "David R. Thompson".

David R. Thompson, Esquire

DRT:ad

5

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

CIVIL ACTION - LAW

EDWARD A. ANDRASKO, JR. AND DAWN
D. ANDRASKO, HIS WIFE,

Plaintiff

vs.

CHESTER LOWE AND KATHRYN LOWE,
HIS WIFE,

Defendant

*
*
* No. 04-256

*
* TYPE OF CASE:
* Civil Action - Law

*
*
* Type of Pleading:
* Petition to Set Aside Settlement
* Order & for Equitable Relief*

*
* FILED ON BEHALF OF:
* Plaintiff

*
* COUNSEL OF RECORD FOR
* THIS PARTY:
* David R. Thompson, Esq.
* Attorney at Law
* Supreme Court I.D. 73053
* P.O. Box 587
* 308 Walton Street, Suite 4
* Philipsburg PA 16866
* (814) 342-4100

FILED

01/08/2004
DEC 08 2004

3cc
Aly Thompson
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION -LAW

EDWARD A. ANDRASKO, JR., AND
DAWN D. ANDRASKO, HIS WIFE

*
*
* No. 04-256

Plaintiffs

*

*

*

*

*

*

*

*

VS.

CHESTER LOWE AND KATHRYN
LOWE, HIS WIFE

*

*

*

*

*

*

*

Defendants

*

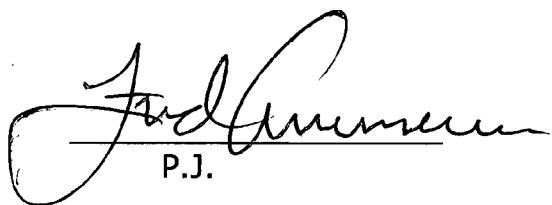
*

*

ORDER

AND NOW, this 9 day of December, 2004, upon
consideration of the Petition to Set Aside Settlement Order and for Equitable
Relief filed by the Plaintiffs herein, an Emergency Hearing is hereby scheduled
for the _____ day of _____, 2004 at _____ o'clock am/pm in
Courtroom No. _____ of the Clearfield County Courthouse, to hear as to why
said relief and injunction should not be granted.

BY THE COURT:



P.J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION -LAW

EDWARD A. ANDRASKO, JR., AND	*
DAWN D. ANDRASKO, HIS WIFE	*
	*
Plaintiffs	No. 04-256
	*
	*
VS.	*
	*
	*
CHESTER LOWE AND KATHRYN	*
LOWE, HIS WIFE	*
	*
Defendants	*
	*

PETITION TO SET ASIDE SETTLEMENT ORDER AND FOR EQUITABLE RELIEF

AND NOW, comes the Plaintiffs, Edward A. Andrasko, Jr., and Dawn D. Andrasko, his wife, by and through their attorney David R. Thompson, Esquire, and files the following Petition as follows:

1. Plaintiffs are Edward A. Andrasko, Jr., and Dawn D. Andrasko, his wife, residing at P.O. Box 84, Hawk Run, Clearfield County, Pennsylvania, 16840.
2. Defendants are Chester Lowe and Kathryn Lowe, his wife, residing at 489 Glastonburg Street, P.O. Box 14, Hawk Run, Clearfield County, Pennsylvania, 16840. By way of further pleading Kathryn Lowe died in August of 2004.
3. Plaintiffs filed a Petition for Injunctive Relief and a Complaint on or about February 23, 2004.
4. On or about February 23, 2004, the Court entered an Order requiring Defendant to remove cement posts and a vehicle blocking the said blocked garage so that Plaintiffs

could have access to the same. Further, the Order granted Plaintiff's temporary possession of the property and full access to same until the underlying matter was resolved. (A true and correct copy of this Order is attached hereto and made a part hereof as Exhibit "A").

5. Because the Complaint was not served by the Sheriff prior to the date of the Order, a hearing was scheduled and then continued until such a time as service could be had and Defendant's counsel could attend.

6. On the 30th day of March, 2004, a hearing was held at which time the Defendants and counsel showed and Plaintiff's counsel appeared. By way of further pleading, Plaintiff's counsel office failed to notify Plaintiffs of the rescheduled date, and no one appeared.

7. At that date and time, Plaintiff's counsel, and Defendant's counsel entered into an agreement in which the real property would be inverted so that the garage was properly owned by the Plaintiffs. (A true and correct copy of the Court Order entered by the Court has been marked as Exhibit "B" attached hereto and made a part hereof.)

8. Counsel for the Plaintiffs acknowledges that this Agreement was made without the consent of the Plaintiffs, and Plaintiffs do not agree to invert the real property.

9. Additionally, the Agreement was made with the understanding that Plaintiffs would have access across Defendants' real property to use the garage.

10. Defendants' counsel has indicated that Defendants will not permit Plaintiffs access to the block garage after the real property is inverted.

11. Defendants have failed to remove the cemented poles and blocking vehicle to permit Plaintiffs access to the property, and use of the block garage.

12. Plaintiffs have a car in the garage which they cannot remove due the Defendants' actions in blocking the area immediately in front of the garage. By way of further pleading, Plaintiff's car has been in the garage since July of 2003.

13. A status conference was held between counsel on November 2, 2004 for the purpose of determining a resolution in this matter. By way of further pleading, Defendant was ordered to again remove the cement poles and vehicle blocking the garage.

14. Counsel for Plaintiffs went to the real property in an attempt to remove the poles from the ground but was confronted by Defendant.

15. Plaintiffs have used this garage continuously by crossing Defendants' real property to access the same for a period well in excess of twenty-one (21) years.

16. Additionally, there exists a disconnected electrical wire running from the garage to a pole on Defendants' real property. Plaintiffs desire limited access to remove said wire from the pole on Defendants' real property.

17. Plaintiffs have filed this action to obtain rightful ownership of their block garage and legal access to use same.

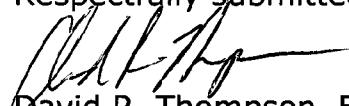
18. Defendants have blocked the use of Plaintiffs' block garage and have continued and fail to allow Plaintiffs use of the same, since July of 2003.

19. Plaintiffs believe that a hearing is necessary to determine the merits of this Petition and to enforce this Court's prior Order requiring Plaintiffs the right to use of the block garage.

WHEREFORE, Plaintiff requests this Honorable Court to schedule an Emergency Hearing with regard to prior Order of the Court and to assure the removal of

the cement poles and vehicle blocking the access to the garage and granting future and existing access in and out of the garage. Further, Plaintiffs request limited access to remove the electrical wire from Defendants' pole on his real property.

Respectfully submitted,



David R. Thompson, Esquire
Attorney for Plaintiffs

VERIFICATION

Petitioners verify that the statements made in this ***PETITION*** 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.

DATE:


Edward A. Andrasko Jr.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - EQUITY

EDWARD A. ANDRASKO AND *
DAWN D. ANDRASKO, HIS WIFE * No. 03
*
Petitioners *
*
*
vs. *
*
*
CHESTER LOW AND KATHRYN LOWE, *
HIS WIFE, *
*
*
Respondents *

ORDER

AND NOW, this 23 day of February, 2004, upon consideration of the Petition for Temporary Injunction filed by Plaintiffs in the above-captioned matter it is hereby **ORDERED AND DECREED** that Respondents shall:

1. Remove the cemented poles from the subject property within five (5) days of this order;
2. Petitioners shall have temporary possession of the property and full access to same until the underlying matter is resolved.

BY THE COURT:

/s/ Freanie J. Ammerman

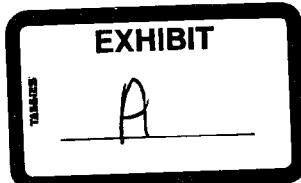
J.

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

Feb 23 2004

Attest.

William L. Ammerman
Prothonotary/
Clerk of Courts



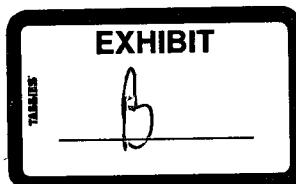
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

EDWARD A. ANDRASKO and :
DAWN D. ANDRASKO, his wife :
-vs- : No. 04-256-CD
CHESTER LOWE and KATHRYN :
LOWE, his wife :
:

O R D E R

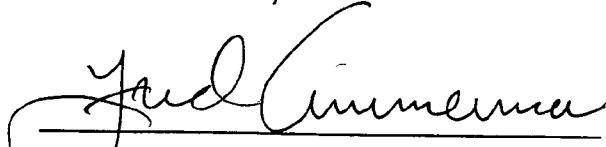
NOW, this 30th day of March, 2004, this being
the date and time of Plaintiffs' Petition for Temporary
Injunction, and the parties having reached an agreement in
regard to the above captioned matter as follows:

1. The parties agree to execute deeds
effectuating correcting the location of Tax Parcel No.
Q11-561-20. The said parcel is 16 feet by 40 feet and is
owned by the Plaintiffs. The parcel was originally
erroneously described in the original deed. The parties
agree to turn the parcel on a 90 degree angle so that the
40 foot line of the parcel borders Fifth Street (T.R. 246)
in the village of Hawk Run. Counsel for Plaintiffs shall
prepare the said necessary deeds to effectuate this
correction.



2. The parties shall complete said corrections and sign deeds within thirty (30) days of this date.

BY THE COURT,



President Judge

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

MAR 30 2004

Attest.


William A. Goss
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION -LAW

EDWARD A. ANDRASKO, JR., AND *
DAWN D. ANDRASKO, HIS WIFE *
* No. 04-256
Plaintiffs *
*
VS. *
*
CHESTER LOWE AND KATHRYN *
LOWE, HIS WIFE *
*
Defendants *
*

CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

I, DAVID R. THOMPSON, ESQUIRE, do hereby certify that I served a true and correct copy of the **PETITION TO SET ASIDE SETTLEMENT ORDER AND FOR EQUITABLE RELIEF**, in the above captioned matter has been served upon the person indicated below, by faxing and placing the same in the United States First Class Mail, postage prepaid and addressed as follows:

R. Denning Gearhart, Esquire
215 E Locust Street
Clearfield PA 16830

DATE: 12-8-04

BY: 
David R. Thompson, Esquire

E6K
FILED No
012004 cc
DEC 08 2004

William A. Shaw
Prothonotary/Clerk of Courts

(A)

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

EDWARD A. ANDRASKO, JR. and :
DAWN D. ANDRASKO, His Wife, :
Plaintiff :
vs. : NO. 04-256-CD
CHESTER LOWE and KATHRYN LOWE, :
His Wife, :
Defendants :

O R D E R

NOW, this 10th day of December, 2004, upon consideration of the Petition to Set Aside Settlement Order & for Equitable Relief filed by the Plaintiffs, it is the ORDER of this Court as follows:

1. The Defendant Chester Lowe is directed to immediately comply with the provisions of this Court's Order of February 23rd, 2004 relative removing the cemented poles from the subject property along with any other obstructions and ensuring that the Plaintiffs have access to the garage and the vehicle contained therein;

2. A hearing on the Petition to Set Aside Settlement Order is hereby scheduled for the 10 day of January, 2005 at 9:30 o'clock in Courtroom #1, Clearfield County Courthouse, Clearfield, Pennsylvania.

FILED
D 3:02 PM 2004
McCatty
Thompson
DEC 16 2004

Judie J. Ammerman
BY THE COURT,
FREDRIC J. AMMERMAN
President Judge

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

EDWARD A. ANDRASKO, et al. : :

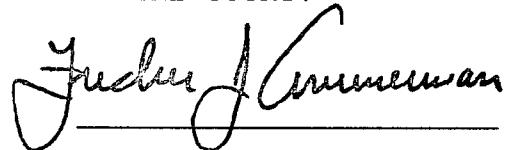
VS. : NO. 04-256-CD

CHESTER LOWE, et al. : :

O R D E R

NOW, this 10th day of January, 2005, this being the date set for hearing on the Petition to Set Aside Settlement and for Equitable Relief; as the record will reflect, the parties having reached a further settlement as was placed on the record this date; in consideration thereof, the Court need not issue any further decision relative the said petition.

BY THE COURT:



President Judge

FILED *rec*
6K 01/24/2005 *Atty. Thompson*
JAN 11 2005 *Geastort*

William A. Shaw
Prothonotary/Clerk of Courts