

2004-1195-CD  
Westover Municipal vs Thomas James

04-1195-CD  
WESTOVER MUNICIPAL AUTHORITY  
VS  
THOMAS JAMES

## COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PA  
JUDICIAL DISTRICT  
46TH

## NOTICE OF APPEAL

FROM

## DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2004-1195-CV

## NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case mentioned below.

NAME OF APPELLANT WESTOVER MUNICIPAL AUTHORITY		MAG. DIST. NO. OR NAME OF D.J. 46-3-04	
ADDRESS OF APPELLANT 687 Mary Street, P.O. Box 186		CITY Westover	STATE PA
DATE OF JUDGMENT July 9, 2004	IN THE CASE OF (Plaintiff) WESTOVER MUNICIPAL AUTHORITY vs. THOMAS JAMES (Defendant)	ZIP CODE 15692	
CLAIM NO. CV LT	0000074-04	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT Ann B. Wood. Ann B. Wood, Esquire	

This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B.

This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.

Signature of Prothonotary or Deputy

If appellant was CLAIMANT (see Pa. R.C.P.J.P. No. 1001(6) in action before District Justice, he MUST FILE A COMPLAINT within twenty (20) days after filing his NOTICE of APPEAL.

## PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee).

## PRAECIPE: To Prothonotary

Enter rule upon \_\_\_\_\_, appellee(s), to file a complaint in this appeal  
Name of appellee(s)

(Common Pleas No. \_\_\_\_\_) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Signature of appellant or his attorney or agent

RULE: To \_\_\_\_\_, appellee(s).  
Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS WILL BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of mailing.

Date: \_\_\_\_\_.

Signature of Prothonotary or Deputy

FILED

AUG 06 2004

0/11:50 (m)

William A. Shaw

Prothonotary/Clerk of Courts

COPY TO ATTY

---

## PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

*(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing the notice of appeal. Check applicable boxes)*

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF \_\_\_\_\_; SS

**AFFIDAVIT:** I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. \_\_\_\_\_, upon the District Justice designated therein on (date of service) \_\_\_\_\_,  by personal service  by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) \_\_\_\_\_, on \_\_\_\_\_  by personal service  by (certified) (registered) mail, sender's receipt attached hereto.

and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on \_\_\_\_\_, \_\_\_\_\_,  by personal service  by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,

*Signature of affiant*

*Signature of official before whom affidavit was made*

*Title of official*

My commission expires on \_\_\_\_\_.

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: CLEARFIELD

Docket No.:

46-3-04

Counsel: Hon.

JAMES L. HAWKINS  
Address: 251 SPRING STREET  
P.O. BOX 362  
HOUTZDALE, PA  
Telephone: (814) 378-7160

16651-0362

### NOTICE OF JUDGMENT/TRANSCRIPT CIVIL CASE

PLAINTIFF:

WESTOVER MUNICIPAL AUTHORITY

NAME and ADDRESS

657 MARY ST

PO BOX 186

WESTOVER, PA 16692

VS.

DEFENDANT:

JAMES, THOMAS

NAME and ADDRESS

5300 S. MAIN ST

WESTOVER, PA 16692

Docket No.: CV-0000074-04  
Date Filed: 6/09/04



WESTOVER MUNICIPAL AUTHORITY  
657 MARY ST  
PO BOX 186  
WESTOVER, PA 16692

## THIS IS TO NOTIFY YOU THAT:

Judgment:

FOR DEFENDANT

Judgment was entered for: (Name) JAMES, THOMAS

Judgment was entered against: (Name) WESTOVER MUNICIPAL AUTHORITY

in the amount of \$ 00 on: (Date of Judgment) 7/09/04

Defendants are jointly and severally liable. (Date & Time) \_\_\_\_\_

Damages will be assessed on: \_\_\_\_\_

This case dismissed without prejudice. \_\_\_\_\_

Amount of Judgment Subject to  
Attachment/42 Pa. C.S. § 8127 \$ \_\_\_\_\_

Portion of Judgment for physical  
damages arising out of residential  
lease \$ \_\_\_\_\_

Amount of Judgment	\$ <u>.00</u>
Judgment Costs	\$ <u>.00</u>
Interest on Judgment	\$ <u>.00</u>
Attorney Fees	\$ <u>.00</u>
Total	\$ <u>.00</u>
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
=====	
Certified Judgment Total	\$ _____

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.  
EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR DISTRICT JUSTICES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE DISTRICT JUSTICE.  
UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE DISTRICT JUSTICE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

7-9-04 Date James L. Hawkins, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

7-23-04 Date James L. Hawkins, District Justice

My commission expires first Monday of January, 2006.

SEAL

## PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD ; SS

**AFFIDAVIT:** I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. 2004-1195-CD, upon the District Justice designated therein on  
(date of service) August 6, 2004  by personal service  by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) Thomas James, on  
August 6, 2004  by personal service  by (certified) (registered) mail, sender's receipt attached hereto.  
 and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on \_\_\_\_\_, \_\_\_\_\_  by personal service  by (certified) (registered) mail, sender's receipt attached hereto.

SIGNED (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS 6th DAY OF August, 2004

Conn B. Wood

Signature of affiant

Nancy M. Smeal

Signature of official before whom affidavit was made

Title of official	NOTARIAL SEAL
	NANCY M. SMEAL, Notary Public Graham Township, Clearfield Co., PA My Commission Expires, May 4, 2006

commission expires on \_\_\_\_\_

FILED NO cc

07/11/04

AUG 09 2004

W.A. Shaw  
Prothonotary/Clerk of Courts

## COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PA  
JUDICIAL DISTRICT  
46TH

## NOTICE OF APPEAL

FROM

## DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2004-1195-C-D

## NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case mentioned below.

NAME OF APPELLANT <b>WESTOVER MUNICIPAL AUTHORITY</b>	MAG. DIST. NO. OR NAME OF D.J. <b>46-3-04</b>
ADDRESS OF APPELLANT <b>657 Mary Street, P.O. Box 186</b>	CITY <b>Westover</b>
STATE <b>PA</b>	ZIP CODE <b>16692</b>
DATE OF JUDGMENT <b>July 9, 2004</b>	IN THE CASE OF (Plaintiff) <b>WESTOVER MUNICIPAL AUTHORITY vs. THOMAS JAMES</b> (Defendant)
CLAIM NO. <b>CV 0000074-04</b>	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT <b>Ann B. Wood. Ann B. Wood, Esquire</b>
<p>This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B. This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p>_____ Signature of Prothonotary or Deputy</p>	
<p>If appellant was CLAIMANT (see Pa. R.C.P.J.P. No. 1001(6) in action before District Justice, he MUST FILE A COMPLAINT within twenty (20) days after filing his NOTICE of APPEAL.</p>	

## PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee).

## PRAECIPE: To Prothonotary

Enter rule upon \_\_\_\_\_, appellee(s), to file a complaint in this appeal  
Name of appellee(s)

(Common Pleas No. \_\_\_\_\_) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Signature of appellant or his attorney or agent

## RULE: To \_\_\_\_\_

Name of appellee(s)

, appellee(s).

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS WILL BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of mailing.

Date: \_\_\_\_\_

Signature of Prothonotary or Deputy

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

AUG 06 2004

Attest.

*William B. Blair*  
Prothonotary/  
Clerk of Courts

2689 7860 0000 0000 3150 7002

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
WESTOVER PA 16692	
Postage	\$ 0.37
Certified Fee	\$ 2.30
Return Receipt Fee (Endorsement Required)	\$ 1.75
Restricted Delivery Fee (Endorsement Required)	\$ 3.50
Total Postage & Fees	\$ 7.72
Sent To Thomas James	
Street, Apt. No. or PO Box No. 5300 S. Main Street	
City, State, ZIP+4 Westover, PA 16692	
PS Form 3800, June 2002	
See Reverse for Instructions	

0830 01 Postmark PA 16692  
AUG 6 08/06/2004

2672 7860 0000 0000 3150 7002

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
HOUTZDALE PA 16651-0362	
Postage	\$ 0.37
Certified Fee	\$ 2.30
Return Receipt Fee (Endorsement Required)	\$ 1.75
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
Total Postage & Fees	\$ 6.42
Sent To James L. Hawkins District Justice 46-3-04	
Street, Apt. No. 251 Spring St., P.O. Box 362	
City, State, ZIP+4 Houtzdale, PA 16651-0362	
PS Form 3800, June 2002	
See Reverse for Instructions	

0830 01 Postmark PA 16651-0362  
AUG 6 08/06/2004

FILED

AUG 09 2004

William A. Shaw  
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

**46-3-04**

DJ Name: Hon.

**JAMES L. HAWKINS**  
Address: **251 SPRING STREET**  
**P.O. BOX 362**  
**HOUTZDALE, PA**  
Telephone: **(814) 378-7160**

**16651-0362**

**JAMES L. HAWKINS**  
**251 SPRING STREET**  
**P.O. BOX 362**  
**HOUTZDALE, PA 16651-0362**

**NOTICE OF JUDGMENT/TRANSCRIPT  
CIVIL CASE**

PLAINTIFF:

**WESTOVER MUNICIPAL AUTHORITY**  
**657 MARY ST**  
**PO BOX 186**  
**WESTOVER, PA 16692**

NAME and ADDRESS

DEFENDANT:

**JAMES, THOMAS**  
**5300 S. MAIN ST**  
**WESTOVER, PA 16692**

NAME and ADDRESS

VS.

Docket No.: **CV-0000074-04**  
Date Filed: **6/09/04**



**2004-1195-C0**

**THIS IS TO NOTIFY YOU THAT:**

Judgment:

**FOR DEFENDANT**

Judgment was entered for: (Name) **JAMES, THOMAS**

Judgment was entered against: (Name) **WESTOVER MUNICIPAL AUTHORITY**

in the amount of \$ **.00** on: (Date of Judgment) **7/09/04**

Defendants are jointly and severally liable. (Date & Time) \_\_\_\_\_

Damages will be assessed on: \_\_\_\_\_

This case dismissed without prejudice.

**FILED**

**AUG 11 2004**

*7/10/04*  
William A. Shaw

Prothonotary/Clerk of Courts

Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ \_\_\_\_\_

Portion of Judgment for physical damages arising out of residential lease \$ \_\_\_\_\_

Amount of Judgment	\$	.00
Judgment Costs	\$	.00
Interest on Judgment	\$	.00
Attorney Fees	\$	.00
<b>Total</b>	\$	<b>.00</b>
Post Judgment Credits		
Post Judgment Costs		
=====		
<b>Certified Judgment Total</b> \$ _____		

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR DISTRICT JUSTICES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE DISTRICT JUSTICE.

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**7-9-04** Date

*James L. Hawkins*

, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

**7-23-04** Date *James L. Hawkins*

, District Justice

My commission expires first Monday of January, **2006**.

SEAL

RECEIVED

PROTHONOTARY

CLERK OF COURTS

RECEIVED

FILED

AUG 11 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

WESTOVER MUNICIPAL AUTHORITY, : NO. 2004-1195-CD  
Plaintiff : Type of Case: Civil Action  
VS. :  
THOMAS JAMES, : Type of Pleading:  
Defendant : CERTIFICATE OF SERVICE  
: Filed on Behalf of:  
: Westover Municipal Authority,  
: Plaintiff  
: Counsel of Record for this  
: Party:  
: Ann B. Wood, Esquire  
: Supreme Court No. 23364  
: Bell, Silberblatt & Wood  
: 318 East Locust Street  
: P.O. Box 670  
: Clearfield, PA 16830  
: (814) 765-5537  
:  
:  
:

(e.g.)  
**FILED**

AUG 11 2004  
0111:35 AM  
William A. Shaw  
Prothonotary/Clerk of Courts

LL C/LL

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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff : No. 2004-1195-CD  
vs. :  
THOMAS JAMES, :  
Defendant :  
:

CERTIFICATE OF SERVICE

I hereby certify that Certified Copy of Notice Of Appeal From District Justice Judgment with reference to the above captioned matter has been served upon the Defendant, Thomas James, and James L. Hawkins, District Justice, by mailing a true and correct copy of same to them by United States First Class Mail, postage prepaid, addressed as follows on August 6, 2004:

Thomas James  
5300 S. Main Street  
Westover, PA 16692

James L. Hawkins  
District Justice 46-3-04  
251 Spring Street  
P.O. Box 362  
Houtzdale, PA 16651-0362

Receipts For Certified Mail having been filed with Affidavit Of Service on August 9, 2004, signed Green Return Receipt Cards are attached hereto for filing.

BELL, SILBERBLATT & WOOD  
By:

Ann B. Wood  
Ann B. Wood, Esquire  
Attorney for Plaintiff

*Restricted Delivery*

**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:

THOMAS JAMES  
5300 S. Main Street  
Westover, PA 16692

2. Article Number

(Transfer from service label)

7002 3150 0000 7860 2689

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*Thomas James*

Agent  
 Addressee

B. Received by (Printed Name)

*Thomas James*

C. Date of Delivery

9 AUG 2001

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

**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:

JAMES L. HAWKINS  
DISTRICT JUSTICE 46-3-04  
251 SPRING STREET  
P.O. BOX 362  
houtzdale, PA 16651-0362

2. Article Number

(Transfer from service label)

7002 3150 0000 7860 2672

PS Form 3811, August 2001

Domestic Return Receipt

102595-02

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*JAMES L. HAWKINS*

Agent  
 Addressee

B. Received by (Printed Name)

*JAMES L. HAWKINS*

C. Date of Delivery

8-9-04

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

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION  
No. 2004-1195-CD

WESTOVER MUNICIPAL AUTHORITY,  
Plaintiff,

vs.

THOMAS JAMES,  
Defendant

CERTIFICATE OF SERVICE

BELL, SILBERBLATT & WOOD  
ATTORNEYS AT LAW  
318 EAST LOCUST STREET  
P. O. BOX 670  
CLEARFIELD, PA. 16830

FILED

AUG 11 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

WESTOVER MUNICIPAL AUTHORITY, : NO. 2004-1195-CD  
Plaintiff : Type of Case: Civil Action  
VS. :  
THOMAS JAMES, : Type of Pleading:  
Defendant : COMPLAINT  
: Filed on Behalf of:  
: Westover Municipal Authority,  
: Plaintiff  
: Counsel of Record for this  
: Party:  
: Ann B. Wood, Esquire  
: Supreme Court No. 23364  
: Bell, Silberblatt & Wood  
: 318 East Locust Street  
: P.O. Box 670  
: Clearfield, PA 16830  
: (814) 765-5537  
:  
:  
:

FILED /cc  
01/31/04 Amy Wood  
AUG 25 2004  
EAS  
William A. Shaw  
Prothonotary/Clerk of Courts

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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff : No. 2004-1195-CD  
vs. :  
THOMAS JAMES, :  
Defendant :  
:

NOTICE TO DEFEND

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

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

COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
2nd & Market Streets  
Clearfield, Pennsylvania 16830  
Telephone (814) 765-2641 Ex. 5982

BELL, SILBERBLATT & WOOD  
By:

Ann B. Wood  
Ann B. Wood, Esquire  
Attorney for Plaintiff,  
Westover Municipal  
Authority

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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff : No. 2004-1195-CD  
VS. :  
THOMAS JAMES, :  
Defendant :  
:

COMPLAINT

AND NOW COMES, the Plaintiff, Westover Municipal Authority, by its attorney, Ann B. Wood, Esquire, and sets forth its Complaint as follows:

1. Westover Municipal Authority is a municipal authority organized in accordance with the laws of the Commonwealth of Pennsylvania, its with principal office located at 657 Mary Street, Westover, Pennsylvania 16692 and a mailing address of P.O. Box 187, Westover, Pennsylvania 16692.

2. Thomas James is an adult individual who resides at 5300 S. Main Street, Westover, Pennsylvania 16692.

3. Thomas James is the owner of certain house located at 52 Hopkins Street, Westover, Westover Borough, Pennsylvania 16692.

4. That on or about January 15, 2002, the Defendant notified the Plaintiff that the subject residence was illegally tapped on to the water service line of another dwelling.

5. At the Westover Municipal Authority meeting of January 15, 2002, Defendant was directed to pay the Five Hundred (\$500.00) Dollar tap fee and billing for the back water bills.

6. That subsequent thereto, on or about March 26, 2003, the Plaintiff agreed to pay the cost of running a new line, which was subsequently done at the expense of the Plaintiff.

7. That pursuant to Ordinance No.72 of the Borough of Westover, as amended, the tap fee to connect a water line is Five Hundred (\$500.00) Dollars.

8. That the Defendant has failed to pay the tap fee for the residence which was originally improperly connected.

9. That the Authority approved proceeding against the Defendant for the unpaid fees at its meeting of April 15, 2004.

WHEREFORE, the Plaintiff requests your Honorable Court to enter judgment in its favor in the amount of Five Hundred (\$500.00) Dollars, plus interest thereon.

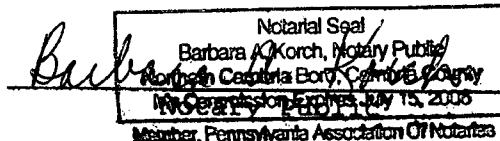
Ann B. Wood  
Ann B. Wood, Attorney For Plaintiff

COMMONWEALTH OF PENNSYLVANIA: : SS.  
COUNTY OF : :

Before me, the undersigned officer, personally appeared  
Gene Hagens, who, being duly sworn according to law,  
deposes and says that he is the SECRETARY / TREASURER of WESTOVER  
MUNICIPAL AUTHORITY, and that as such officer is authorized to make  
this affidavit, and further that the facts set forth in the  
foregoing Complaint are true and correct to the best of his  
knowledge, information and belief.

Stan Hayes

SWORN and SUBSCRIBED before me  
this 24<sup>th</sup> day of August,  
2004.



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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff : No. 2004-1195-CD  
vs. :  
THOMAS JAMES, :  
Defendant :  
: :  
:

CERTIFICATE OF SERVICE

I hereby certify that Certified Copy of a Complaint with reference to the above captioned matter has been served upon the Defendant, Thomas James, by mailing a true and correct copy of same to him by United States First Class Mail, postage prepaid, addressed as follows on August 25, 2004 :

Thomas James  
5300 S. Main Street  
Westover, PA 16692

Ann B. Wood  
Ann B. Wood, Esquire  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION  
No.2004-1195-CD

WESTOVER MUNICIPAL AUTHORITY,  
Plaintiff

vs.

THOMAS JAMES,  
Defendant

Complaint

**FILED**

**AUG 25 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

BELL, SILBERBLATT & WOOD  
ATTORNEYS AT LAW  
318 EAST LOCUST STREET  
P. O. BOX 670  
CLEARFIELD, PA. 16830

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

WESTOVER MUNICIPAL AUTHORITY,  
Plaintiff,

vs.

No. 2004 - 1195 - C.D.

THOMAS JAMES,  
Defendant.

Type of case: Civil

Type of pleading: Answer, New  
Matter and Counterclaim

Filed on behalf of: Defendant,  
Thomas James

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

FILED  
OCT 08 2004  
William A. Shaw  
Prothonotary/Clerk of Courts  
3 cases to attorney

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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff, :  
vs. : No. 2004 - 1195 - C.D.  
: :  
THOMAS JAMES, :  
Defendant. :  
:

**NOTICE TO DEFEND**

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

**YOU SHOULD TAKE THIS PAPER TO YOUR 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  
1 North Second Street  
Clearfield, Pennsylvania 16830  
(814) 765-2641

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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff, :  
vs. : No. 2004 - 1195 - C.D.  
: :  
THOMAS JAMES, :  
Defendant. :  
:

**ANSWER**

NOW, comes the Defendant, THOMAS JAMES, by and through his attorney,  
FREDERICK M. NEISWENDER, ESQUIRE and makes his Answer to Plaintiff's Complaint as  
follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted in part, Denied in part. It is admitted that Defendant was tapped on to another  
residence owned by the Defendant. It is denied that this line was placed illegally.
5. Admitted.
6. Denied. At a special meeting held on March 25, 2003, Plaintiff agreed to pay all costs  
associated with installing an additional water line on Defendant's property as required by  
Plaintiff.
7. Admitted in part, Denied in part. It is admitted that the tap-in fee is Five Hundred Dollars  
(\$500.00). It is denied that Defendant is required to pay the fee under the facts surrounding  
this case.

8. Admitted in part, Denied in part. It is admitted that Defendant has not paid the tap-in fee. It is denied that Defendant is required to pay the fee under the facts surrounding this case.

9. Admitted.

WHEREFORE, Defendant respectfully requests this Court dismiss Plaintiff's Complaint and enter judgment in favor of the Defendant.

**NEW MATTER**

NOW, comes the Defendant, THOMAS JAMES, by and through his attorney, FREDERICK M. NEISWENDER, ESQUIRE and avers as New Matter the following:

10. Defendant restates and incorporates Paragraphs 1 through 9 above as if stated at length herein.

11. Defendant maintains two (2) dwellings at the subject address.

12. Defendant paid a tap-in fee in 1998 when he laid a water line for use at those dwellings.

13. At the time Defendant placed the above-mentioned waterline, he left the line uncovered for inspection as per the Plaintiff's by-laws.

14. No formal inspection was ever performed by the Plaintiff.

15. John Spacht, a member of Plaintiff's Board at the time, installed a meter at one of the dwellings and informed Defendant that the line was in compliance with Plaintiff's specifications.

16. Although Defendant maintained he had done nothing wrong, he paid all back water bills, but refused to pay an additional tap-in fee as requested by Plaintiff on January 15, 2002.

17. At a special meeting held to address this situation on March 25, 2003, Plaintiff agreed to pay all costs associated with installing an additional water line on Defendant's property.

18. Plaintiff's cause of action is barred by the doctrine of accord and satisfaction.
19. Defendant acted with the consent of the Plaintiff.
20. Plaintiff's cause of action is barred by estoppel.
21. Plaintiff's cause of action is barred due to fraud perpetrated by the Plaintiff.
22. Defendant's actions were at all times justified.
23. Plaintiff's cause of action is barred by the doctrine of laches.
24. Defendant acted as a result of license given by the Plaintiff.
25. Plaintiff's cause of action is barred as a result of Defendant's payment.
26. Defendant acted with privilege at all times.
27. Plaintiff's cause of action is barred because Defendant was released from obligation.
28. Plaintiff's cause of action is barred by the statute of frauds.
29. Plaintiff's cause of action is barred by the statute of limitations.
30. Plaintiff's cause of action is barred by the doctrine of truth and waiver.

WHEREFORE, Defendant respectfully requests this Court dismiss Plaintiff's Complaint and enter judgment in favor of the Defendant.

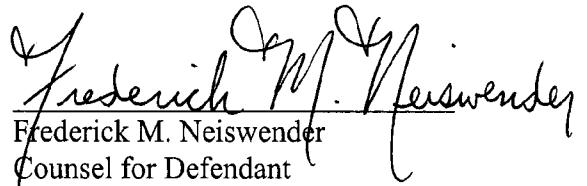
**COUNTERCLAIM**

NOW, comes the Defendant, THOMAS JAMES, by and through his attorney, FREDERICK M. NEISWENDER, ESQUIRE and avers as a Counterclaim the following:

31. Defendant restates and incorporates Paragraphs 1 through 30 above as if stated at length herein.
32. Defendant believes and therefore aver that Plaintiff's Complaint is clearly without basis in fact or law, and was filed by Plaintiff solely for the purpose of causing expense, annoyance and harm to the Defendant.
33. As such, the conduct of Plaintiff in commencing litigation as set forth in their Complaint is arbitrary, vexatious and in bad faith.
34. As a result, Defendant has been forced to retain counsel to defend this action, and is entitled to an award of counsel fees pursuant to 42 Pa. C.S.A. § 2503 (9).

WHEREFORE, Defendant demands judgment in his favor and against the Plaintiff.

Respectfully submitted,

  
\_\_\_\_\_  
Frederick M. Neiswender  
Counsel for Defendant

THOMAS JAMES hereby states that he is the Defendant in this action and that the statements of fact made in the foregoing Answer, New Matter and Counterclaim are true and correct upon personal knowledge. The undersigned understands that the statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

DATE: 10-5-04

  
THOMAS JAMES

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

WESTOVER MUNICIPAL AUTHORITY,  
Plaintiff,

vs.

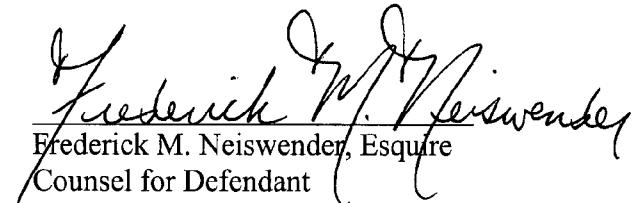
No. 2004 - 1195 - C.D.

THOMAS JAMES,  
Defendant.

**CERTIFICATE OF SERVICE**

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Answer, New Matter and Counterclaim was made upon the Westover Municipal Authority, by hand delivery, a true copy to the office of their attorney of record, Ann B. Wood, Esquire, on October 8, 2004, at the following address:

Ann B. Wood, Esquire  
Bell, Silberblatt & Wood  
318 East Locust Street  
P.O. Box 670  
Clearfield, Pennsylvania 16830

  
Frederick M. Neiswender, Esquire  
Counsel for Defendant  
501 East Market Street, Suite 3  
Clearfield, Pennsylvania 16830



**FREDERICK M. NEISWENDER**

ATTORNEY AND COUNSELLOR AT LAW

501 EAST MARKET STREET • SUITE 3  
CLEARFIELD, PENNSYLVANIA 16830

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

WESTOVER MUNICIPAL AUTHORITY,  
Plaintiff,

vs.

No. 2004 - 1195 - C.D.

THOMAS JAMES,  
Defendant.

Type of case: Civil

Type of pleading: Entry of Appearance

Filed on behalf of: Defendant,  
Thomas James

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

FILED

OCT 08 2004

011:30/6

William A. Shaw

Prothonotary/Clerk of Courts

3 cent to Atty

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

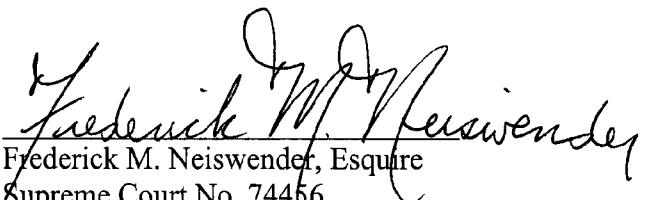
WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff, :  
vs. : No. 2004 - 1195 - C.D.  
: :  
THOMAS JAMES, :  
Defendant. :  
:

**ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Please enter my appearance as attorney of record for the Defendant, Thomas James in the above captioned matter.

Date: 10/08/04

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

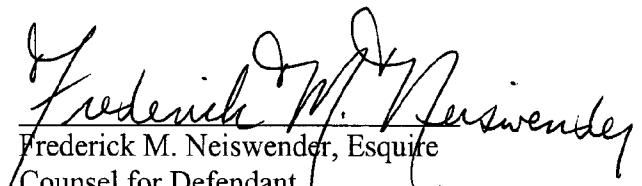
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff, :  
vs. : No. 2004 - 1195 - C.D.  
: :  
THOMAS JAMES, :  
Defendant. :  
:

**CERTIFICATE OF SERVICE**

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Entry of Appearance was made upon the Westover Municipal Authority, by hand delivery, a true copy to the office of their attorney of record, Ann B. Wood, Esquire, on October 8, 2004, at the following address:

Ann B. Wood, Esquire  
Bell, Silberblatt & Wood  
318 East Locust Street  
P.O. Box 670  
Clearfield, Pennsylvania 16830

  
Frederick M. Neiswender, Esquire  
Counsel for Defendant  
501 East Market Street, Suite 3  
Clearfield, Pennsylvania 16830

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

WESTOVER MUNICIPAL AUTHORITY, : NO. 2004-1195-CD  
Plaintiff : Type of Case: Civil Action  
VS. :  
THOMAS JAMES, : Type of Pleading:  
Defendant : ANSWER TO NEW MATTER AND  
: COUNTERCLAIM  
: Filed on Behalf of:  
: Westover Municipal Authority,  
: Plaintiff  
: Counsel of Record for this  
: Party:  
: Ann B. Wood, Esquire  
: Supreme Court No. 23364  
: Bell, Silberblatt & Wood  
: 318 East Locust Street  
: P.O. Box 670  
: Clearfield, PA 16830  
: (814) 765-5537  
:  
:  
:

11/28/2004 ICC  
# 011-2281 Atty Wood  
OCT 28 2004

William A. Shaw  
Prothonotary, Clerk of Courts

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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff : No. 2004-1195-CD  
: :  
vs. : :  
: :  
THOMAS JAMES, : :  
: :  
Defendant : :  
: :

ANSWER TO NEW MATTER AND COUNTERCLAIM

NEW MATTER

NOW COMES the Plaintiff, Westover Municipal Authority, by its attorney, Ann B. Wood, Esquire, and sets forth its Answers to New Matter as follows:

10. Plaintiff incorporates herein by reference its allegations set forth in Paragraphs 1 through 9 of the Complaint as if stated in full herein.

11. Paragraph 11 of the New Matter is denied as stated and on the contrary it is averred that the Defendant maintains one (1) dwelling at 303 West Bridge Street, Westover, Pennsylvania and one (1) dwelling at 52 Hopkins Street, Westover, Pennsylvania.

12. Paragraph 12 of the New Matter is denied as stated and on the contrary it is averred that in 1998 the Defendant paid a tap-in fee for a tap to service 303 West Bridge Street, Westover, Pennsylvania.

13. Paragraph 13 of the New Matter is denied as stated and on the contrary it is averred that when the Defendant installed the water line for use at 303 West Bridge Street, the line was left uncovered for purposes of inspection.

14. Paragraph 14 of the New Matter is denied as stated and on the contrary it is averred that in keeping with the normal practice of the Authority, a Board Member of the Authority did physically check the installation of the 303 West Bridge Street line.

15. Paragraph 15 of the New Matter is denied as stated and on the contrary it is averred that John Spacht, a Member of Plaintiff's Board, did install a meter on the line to service 303 West Bridge Street, which was, at that time, in compliance with Plaintiff's specifications.

16. Paragraph 16 of the New Matter is denied as stated and on the contrary it is averred that after the inspection and installation of the meter at 303 West Bridge Street, the Defendant connected an additional line to the original water line which was connected before the meter installation and ran service to a dwelling at 52 Hopkins Street, Westover, Pennsylvania. It is admitted that the Defendant did pay the back water bills for that additional service; however, it is averred that he has refused to pay the additional tap fee required by the Plaintiff.

17. Paragraph 17 of the New Matter is denied as stated and on the contrary it is averred that at a Special Meeting on March 25, 2003, the Plaintiff agreed to pay all costs associated with the installation of the physical line to service 52 Hopkins Street, but the Plaintiff did not agree to pay for the additional tap fee, which was the responsibility of the Defendant.

18. Paragraph 18 of the New Matter is denied as stated and on the contrary it is averred that Paragraph 18 being a conclusion of law, no answer is required thereto, but if answer is required, it is specifically denied that the Plaintiff's cause of action is barred by the doctrine of accord and satisfaction, as Defendant has failed to pay the Five Hundred (\$500.00) Dollar tap fee.

19. Paragraph 19 of the New Matter is denied as stated and on the contrary it is averred that the Plaintiff never consented to the Defendant's illegal connection of the dwelling at 52 Hopkins Street, Westover, Pennsylvania.

20. Paragraph 20 the New Matter being a conclusion of law, no answer is required thereto, but if answer is required, it is specifically denied that the Plaintiff's cause of action is barred by estoppel.

21. Paragraph 21 of the New Matter denied as stated and on the contrary it is averred that the Plaintiff, in its ordinary course of business, charged the Defendant the normal Five Hundred (\$500.00) Dollar tap-in fee for the additional property.

22. Paragraph 22 of the New Matter is denied as stated and on the contrary it is averred that the Defendant was not justified in illegally tapping the property at 52 Hopkins Street, Westover, Pennsylvania to the waterline for 303 West Bridge Street, Westover, Pennsylvania.

23. Paragraph 23 of the New Matter being a conclusion of law, no answer is required thereto, but if answer should be required, it is specifically denied that the cause of action to collect the Five Hundred (\$500.00) Dollar tap fee is barred by the doctrine of laches.

24. Paragraph 24 of the New Matter is denied as stated and on the contrary it is averred that at no time was the Defendant ever given license to illegally connect the waterline for 52 Hopkins Street to the waterline of 303 West Bridge Street.

25. Paragraph 25 of the New Matter is denied as stated and on the contrary it is averred that while the Defendant did pay the back water bills for the water consumed by the illegal

connection for 52 Hopkins Street, at no time has the Defendant paid the Five Hundred (\$500.00) Dollar tap fee for the proper connection of said line.

26. Paragraph 26 of the New Matter is denied as stated and on the contrary it is averred that at no time did the Defendant have any privilege that allowed him to illegally connect the waterline at 52 Hopkins Street to the waterline of 303 West Bridge Street.

27. Paragraph 27 of the New Matter is denied as stated and on the contrary that at no time was the Defendant ever released from the obligation of paying the additional Five Hundred (\$500.00) Dollar tap fee.

28. Paragraph 28 of the New Matter being a conclusion of law, no answer is required thereto, but if answer is required, it is specifically denied that the Plaintiff's cause of action to collect the Five Hundred (\$500.00) Dollar tap fee is barred by the statute of frauds.

29. Paragraph 29 of the New Matter being a conclusion of law, no answer is required thereto, but if answer is required, it is specifically denied that the Plaintiff's cause of action to collect the Five Hundred (\$500.00) Dollar tap fee is barred by the statute of limitations.

30. Paragraph 30 the New Matter being a conclusion of law, no answer is required thereto, but if specific answer is required, it is denied that the Plaintiff's cause of action to collect the tap fee of Five Hundred (\$500.00) Dollars is barred the doctrine of truth and waiver.

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in favor of the Plaintiff with costs and interest.

COUNTERCLAIM

NOW COMES the Plaintiff, Westover Municipal Authority, by its attorney, Ann B. Wood, Esquire, and puts forth its Answer to the Counterclaim as follows:

31. The Plaintiff incorporates its allegations in the original Complaint to Paragraphs 1 through 9 and its Answers to Paragraphs 10 through 30 as though set forth in full herein.

32. Paragraph 32 of the Counterclaim is denied as stated and on the contrary that the Plaintiff, as the operator of the Westover Water Plant, has an obligation to collect the appropriate tap fee for each and every connection to the municipal line.

33. Paragraph 33 of the Counterclaim is denied as stated and on the contrary it is averred that the Plaintiff's action in

commencing litigation following the Defendant's refusal to pay the tap fee is justified and normal and part of their ordinary course of business when a party fails to pay the required fee.

34. Paragraph 34 of the Counterclaim being a legal conclusion, no answer is required thereto, but if answer is required, it is averred that though Defendant has chosen to retain counsel in this litigation, he is not entitled to any award of counsel fees pursuant to 41 Pa.C.S.A. §2503(9), nor on any other basis.

WHEREFORE, the Plaintiff would request your Honorable Court would dismiss the Counterclaim against the Plaintiff and enter judgment in its favor on the complaint issues.

BELL, SILBERBLATT & WOOD  
BY:

Ann B. Wood  
Ann B. Wood, Esquire  
Attorney For Plaintiff

COMMONWEALTH OF PENNSYLVANIA:  
: SS.  
COUNTY OF CLEARFIELD :  
:

Before me, the undersigned officer, personally appeared GENE HAGENS, who, being duly sworn according to law, deposes and says that he is the Secretary/Treasurer of WESTOVER MUNICIPAL AUTHORITY, and that as such officer is authorized to make this affidavit, and further that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.

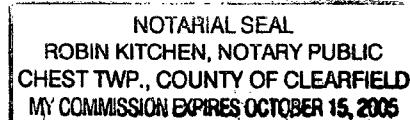


\_\_\_\_\_  
GENE HAGENS

SWORN and SUBSCRIBED before me  
this 26 day of October, 2004.



\_\_\_\_\_  
Notary Public



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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff : No. 2004-1195-CD  
vs. :  
: :  
THOMAS JAMES, :  
Defendant : :  
: :

CERTIFICATE OF SERVICE

I hereby certify that Certified Copy of a Answer To New Matter And Counterclaim with reference to the above captioned matter has been served upon the Attorney for Defendant by mailing a true and correct copy of same to him by United States First Class Mail, postage prepaid, addressed as follows on October 28 :

Frederick M. Neiswender, Esquire  
Attorney and Counsellor At Law  
501 East Market Street, Suite 3  
Clearfield, PA 16830

Ann B. Wood  
Ann B. Wood, Esquire  
Attorney for Plaintiff

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

WESTOVER MUNICIPAL AUTHORITY, : NO. 2004-1195-CD  
Plaintiff : Type of Case: Civil Action  
VS. :  
THOMAS JAMES, : Type of Pleading:  
Defendant : PRAECIPE FOR ARBITRATION  
: Filed on Behalf of:  
: Westover Municipal Authority,  
: Plaintiff  
: Counsel of Record for this  
: Party:  
: Ann E. Wood, Esquire  
: Supreme Court No. 23364  
: Bell, Silberblatt & Wood  
: 318 East Locust Street  
: P.O. Box 670  
: Clearfield, PA 16830  
: (814) 765-5537  
:  
:  
:  
:

**FILED**

0 11:21 6K 1cc Atty Wood  
MAR 24 2005

Atty paid 20.00

William A. Shaw   
Prothonotary

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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff : No. 2004-1195-CD  
vs. :  
THOMAS JAMES, :  
Defendant :  
:

PRAECIPE FOR ARBITRATION

TO: William A. Shaw, Prothonotary, Clerk of Courts,  
Please place the above captioned case on the Arbitration  
List.

BELL, SILBERBLATT & WOOD  
BY:

Ann B. Wood  
Ann B. Wood, Esquire

Date: March 24, 2005

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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff : No. 2004-1195-CD  
vs. :  
: :  
THOMAS JAMES, :  
Defendant : :  
: :

CERTIFICATE OF SERVICE

I hereby certify that Certified Copy of PRAECIPE FOR ARBITRATION with reference to the above captioned matter has been served upon the Attorney for Defendant by mailing a true and correct copy of same to him by United States First Class Mail, postage prepaid, addressed as follows on March 24, 2005 :

Frederick M. Neiswender, Esquire  
Attorney and Counsellor At Law  
501 East Market Street, Suite 3  
Clearfield, PA 16830

*Ann B. Wood*  
\_\_\_\_\_  
Ann B. Wood, Esquire  
Attorney for Plaintiff

FILED

MAR 24 2005

William A. Shaw  
Prothonotary

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

WESTOVER MUNICIPAL AUTHORITY :

vs.

: No. 04-1195-CD

THOMAS JAMES

ORDER

NOW, this 23<sup>rd</sup> day of May, 2005, it is the ORDER of the Court that the above-captioned matter is scheduled for Arbitration on Tuesday, July 19, 2005 at 9:00 A.M. in the Conference/Hearing Room No. 3, 2<sup>nd</sup> Floor, Clearfield County Courthouse, Clearfield, PA. The following have been appointed as Arbitrators:

David P. King, Esquire, Chairman

Blaise Ferraraccio, Esquire

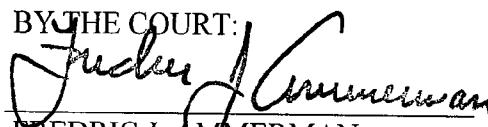
Lea Ann Heltzel, Esquire

Pursuant to Local Rule 1306A, you must submit your Pre-Trial Statement seven (7) days prior to the scheduled Arbitration. The original should be forwarded to the Court Administrator's Office and copies to opposing counsel and each member of the Board of Arbitrators. For your convenience, a Pre-Trial (Arbitration) Memorandum Instruction Form is enclosed as well as a copy of said Local Rule of Court.

FILED  
09:33 AM  
MAY 24 2005  
5CC  
CIA

William A. Shaw  
Prothonotary/Clerk of Courts

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

**FILED**

**MAY 24 2005**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

Westover Municipal Authority

vs.

Thomas James

No. 2004-01195-CD

**OATH OR AFFIRMATION OF ARBITRATORS**

Now, this 19th day of July, 2005, we the undersigned, having been appointed arbitrators in the above case do hereby swear, or affirm, that we will hear the evidence and allegations of the parties and justly and equitably try all matters in variance submitted to us, determine the matters in controversy, make an award, and transmit the same to the Prothonotary within twenty (20) days of the date of hearing of the same.

David P. King, Esq.

*David P. King*  
Chairman

Blaise Ferraraccio, Esq.

*Blaise J. Ferraraccio*

Lea Ann Heltzel, Esq.

*Lea Ann Heltzel*

Sworn to and subscribed before me this  
July 19, 2005

*W. A. Shaw*  
Prothonotary

**FILED**

012:3104  
JUL 19 2005

By William A. Shaw  
Prothonotary/Clerk of Courts

Notices to Attys:

*Wood  
Neiswender*

**AWARD OF ARBITRATORS**

Now, this 19 day of July, 2005, we the undersigned arbitrators appointed in this case, after being duly sworn, and having heard the evidence and allegations of the parties, do award and find as follows:

*on Plaintiff's complaint, Judgment in favor  
of Defendant. On Defendants Counter-Claims for  
Attorney's fee, Judgment in favor of Plaintiff.  
Ferraraccio dissents as to  
Judgment for Defendant.*

*Chairman*

*Lea Ann Heltzel*

*Blaise J. Ferraraccio*

(Continue if needed on reverse.)

**ENTRY OF AWARD**

Now, this 19<sup>th</sup> day of July, 2005, I hereby certify that the above award was entered of record this date in the proper dockets and notice by mail of the return and entry of said award duly given to the parties or their attorneys.

**WITNESS MY HAND AND THE SEAL OF THE COURT**

*W. A. Shaw*  
Prothonotary

By \_\_\_\_\_

**FILED**

**JUL 19 2005**

William A. Shaw  
Prothonotary/Clerk of Courts



Westover Municipal Authority

Vs.

Thomas James

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY  
: No. 2004-01195-CD

NOTICE OF AWARD

TO: FREDERICK M. NEISWENDER

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on July 19, 2005 and have awarded:

On Plaintiff's Complaint, Judgment in favor of Defendant. On Defendant's Counter-claim for Attorney's fee, judgment in favor of Plaintiff. Ferraraccio dissents as to Judgment for Defendant.

William A. Shaw  
Prothonotary  
By \_\_\_\_\_

July 19, 2005

Date

In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.



Westover Municipal Authority

Vs.

Thomas James

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY  
: No. 2004-01195-CD

:

NOTICE OF AWARD

TO: ANN B. WOOD

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on July 19, 2005 and have awarded:

On Plaintiff's Complaint, Judgment in favor of Defendant. On Defendant's Counter-claim for Attorney's fee, judgment in favor of Plaintiff. Ferraraccio dissents as to Judgment for Defendant.

William A. Shaw  
Prothonotary  
By \_\_\_\_\_

July 19, 2005

Date

In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.

Law Offices  
BELL, SILBERBLATT & WOOD  
318 East Locust Street  
P.O. Box 670  
Clearfield, PA 16830  
e-mail: bswlaw @pennswoods.net  
Writer's direct e-mail: annwood@pennswoods.net

Arb 7-19-05-900

RICHARD A. BELL (814) 765-5537  
ANN B. WOOD fax (814) 765-9730  
F. CORTEZ BELL, III

PAUL SILBERBLATT 1954-1985 OF COUNSEL:  
F. CORTEZ BELL, JR. 1954-2002 DANIEL C. BELL

July 8, 2005

RE: Westover Municipal Authority,  
Plaintiff vs. Thomas James,  
Defendant No.-2004-1195-CD

Marcy Kelley  
Deputy Court Administrator  
CLEARFIELD COUNTY COURTHOUSE  
230 East Market Street  
Clearfield, PA 16830

Dear Marcy:

Enclosed please find the original of Plaintiffs' Arbitration Pre-Trial Statement with reference to the above captioned matter.

By copy of this letter, I am forwarding a copy of same to opposing counsel and the Board of Arbitrators.

Very truly yours,

BELL, SILBERBLATT & WOOD

*Ann B. Wood*

Ann B. Wood

ABW/nms  
Enclosures

cc: Frederick M. Neiswender, Esquire w/Encl.  
David P. King, Esquire w/Encl.  
Blaise Ferraraccio, Esquire w/Encl.  
Lea Ann Heltzel, Esquire w/Encl.  
Westover Municipal Authority w/Encl.

RECEIVED

JUL 08 2005

COURT ADMINISTRATOR'S  
OFFICE

HAND DELIVERED

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

WESTOVER MUNICIPAL AUTHORITY, : NO. 2004-1195-CD  
Plaintiff : Type of Case: Civil Action  
VS. :  
THOMAS JAMES, : Type of Pleading:  
Defendant : AREBITRATION PRE-TRIAL STATEMENT  
: Filed on Behalf of:  
: Westover Municipal Authority,  
: Plaintiff  
: Counsel of Record for this  
: Party:  
: Ann B. Wood, Esquire  
: Supreme Court No. 23364  
: Bell, Silberblatt & Wood  
: 318 East Locust Street  
: P.O. Box 670  
: Clearfield, PA 16830  
: (814) 765-5537  
:  
:  
:

RECEIVED

JUL 08 2005

COURT ADMINISTRATOR'S  
OFFICE

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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff : No.2004-1195-CD  
vs. :  
THOMAS JAMES, :  
Defendant :  
:

ARBITRATION PRE-TRIAL STATEMENT

AND NOW COME the Plaintiff, Westover Municipal Authority, and sets forth the following Pre-Trial Statement pursuant to Rule 1306(A) :

A. STATEMENT

Pursuant to Ordinance No.72, as amended, of Westover Borough, a tapping fee of Five Hundred (\$500.00) Dollars is required to be paid to Westover Municipal Authority prior to a water line being connected to the Borough water system. The Defendant, Thomas James, maintains a dwelling at 303 West Bridge Street, Westover, Pennsylvania and a dwelling at 52 Hopkins Street, Westover, Pennsylvania. In 1998, the Defendant paid the tapping fee to tap into service for 303 West Bridge Street property. The line to service that property was constructed and a meter installed by the Authority. Subsequent to that time, the Defendant connected an additional line to the original water line, which connection was before the meter installation, and ran service to the dwelling at 52 Hopkins Street, Westover, Pennsylvania. Subsequently, the Defendant did acknowledge the unmetered service

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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff : No. 2004-1195-CD  
vs. :  
THOMAS JAMES, :  
Defendant :  
:

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Plaintiff's ARBITRATION PRE-TRIAL STATEMENT with reference to the above captioned matter has been served upon the following parties by mailing a true and correct copy of same to them by United States First Class Mail, postage prepaid, addressed as follows on July 8, 2005:

Frederick M. Neiswender, Esquire  
Attorney and Counsellor At Law  
501 East Market Street, Suite 3  
Clearfield, PA 16830

David P. King, Esquire - Arbitrator  
23 Beaver Drive  
P.O. Box 1016  
DuBois, PA 15801

Blaise Ferraraccio, Esquire - Arbitrator  
FERRARACCIO & NOBLE  
301 East Pine Street  
Clearfield, PA 16830

Lea Ann Heltzel, Esquire - Arbitrator  
THE HOPKINS LAW FIRM  
900 Beaver Drive  
DuBois, PA 15801

Ann B. Wood  
Ann B. Wood, Esquire  
Attorney for Plaintiff

Arb 7-19-05

# FREDERICK M. NEISWENDER

ATTORNEY AT LAW

July 12, 2005

Marcy Kelley  
Deputy Court Administrator  
Clearfield County Courthouse  
230 East Market Street, Suite 228  
Clearfield, Pennsylvania 16830      **Hand Delivered**

Re: Westover Municipal Authority v. Thomas James, No. 2004-1195-C.D.

Dear Marcy:

Enclosed please find the Pre-trial Statement submitted on behalf of the Defendant in the above captioned matter.

This matter is scheduled for Arbitration on July 19, 2005. I am forwarding copies of all materials herein to opposing counsel and the Board of Arbitrators. Should you have questions, do not hesitate to contact me.

Very truly yours,

*Frederick M. Neiswender*  
Frederick M. Neiswender  
Attorney at Law

RECEIVED

JUL 12 2005

Enclosure

COURT ADMINISTRATOR'S  
OFFICE

cc: Ann B. Wood, Esquire w/Encl.  
David P. King, Esquire w/Encl.  
Blaise Ferraraccio, Esquire w/Encl.  
Lea Ann Heltzel, Esquire w/Encl.  
Thomas L. James w/Encl.

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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff,

vs. : No. 04-1195-C.D.

THOMAS JAMES, :  
Defendant.

: Type of case: Civil

: Type of pleading: Pre-Trial Statement

: Filed on behalf of: Defendant,  
Thomas James

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

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JUL 12 2005

COURT ADMINISTRATOR'S  
OFFICE

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

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff, :  
: :  
vs. : No. 04-1195-C.D.  
: :  
THOMAS JAMES, :  
Defendant. :  
:

**PRE-TRIAL STATEMENT**

**A. STATEMENT OF THE CASE**

Thomas James [hereinafter, "Defendant"] maintains two (2) dwellings adjacent to one another at 303 West Bridge Street and 52 Hopkins Street in the Borough of Westover, Pennsylvania. Defendant paid a tap-in fee of \$500.00 in 1998 when he laid a water line for use at those dwellings. At the time Defendant placed the above-mentioned waterline, he left the line uncovered for inspection as per the Westover Municipal Authority's [hereinafter, "Plaintiff"] by-laws. However, no formal inspection was ever performed.

John Spacht, a member of Plaintiff's Board at the time, installed a meter at one of the dwellings and informed Defendant that the line was in compliance with Plaintiff's specifications. On January 15, 2002, Plaintiff informed Defendant that the 52 Hopkins Street residence was illegally tapped-on to the water system and required Defendant to pay four (4) years of back water bills. Although Defendant maintained he had done nothing wrong, he paid all back water bills, but refused to pay an additional tap-in fee as was also required by Plaintiff.

At a special meeting held to address this situation on March 25, 2003, Plaintiff agreed to pay all costs associated with installing an additional water line on Defendant's property as

Plaintiff had now decided that Defendant's current water lines were improperly laid. In April 2003, Plaintiff held another meeting and reversed their prior decision finding that Defendant should in fact pay another tap-in fee of \$500.00 for the 52 Hopkins Street property. Defendant refused to pay the fee citing Plaintiff's decision at the earlier meeting. Plaintiffs then filed an action with the District Magistrate in June of 2004, whose decision they subsequently appealed.

**B. CITATION TO APPLICABLE CASE LAW OR STATUTES**

By-laws of Westover Municipal Authority.

**C. LIST OF WITNESSES**

1. Thomas James;
2. Paul C. Smith;
3. Defendant reserves the right to call additional witnesses with notice to counsel for Plaintiff.

**D. EXHIBITS**

1. By-laws of Westover Municipal Authority;
2. March 26, 2003 article from The Progress;
3. Various Invoices sent to Defendant by the Westover Municipal Authority;
4. Invoice sent to Defendant by Frederick M. Neiswender;
5. Defendant reserves the right to offer additional exhibits with notice to counsel for Plaintiff.

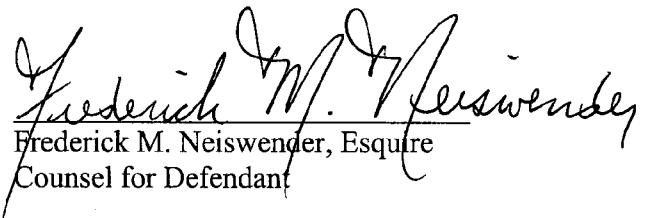
**E. DAMAGES**

Defendant seeks reimbursement of legal fees in the amount of \$1,750.00. *See attached Invoice.*

**F. EVIDENTIARY PROBLEMS**

No evidentiary problems are anticipated.

Respectfully submitted,

  
\_\_\_\_\_  
Frederick M. Neiswender, Esquire  
Counsel for Defendant

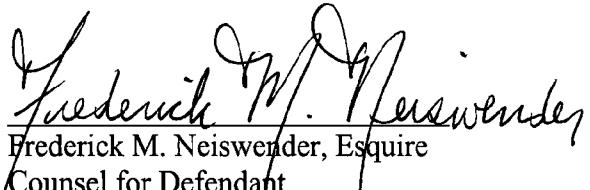
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL DIVISION)

WESTOVER MUNICIPAL AUTHORITY, :  
Plaintiff, :  
vs. : No. 04-1195-C.D.  
THOMAS JAMES, :  
Defendant. :

**CERTIFICATE OF SERVICE**

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Pre-trial Statement was made upon the Westover Municipal Authority, by mailing, first class, postage prepaid, a true copy to the office of their attorney of record, Ann B. Wood, Esquire, on July 12, 2005, at the following address:

Ann B. Wood, Esquire  
Bell, Silberblatt & Wood  
318 East Locust Street  
P.O. Box 670  
Clearfield, Pennsylvania 16830

  
\_\_\_\_\_  
Frederick M. Neiswender, Esquire  
Counsel for Defendant  
501 East Market Street, Suite 3  
Clearfield, Pennsylvania 16830

# FREDERICK M. NEISWENDER

ATTORNEY AT LAW

July 12, 2005

Mr. Thomas L. James  
5300 South Main Street  
Westover, PA 16692

RE: Payment for services rendered in Westover Municipal Authority v. Thomas James,  
No. 2004-1195-CD.

## INVOICE

<u>DATE</u>	<u>ACTIVITY</u>	<u>HOURS</u>	<u>AMOUNT</u>
07/09/04	Hearing before District Judge Hawkins.	N/A	750.00
07/19/05	Arbitration Hearing.	<u>N/A</u>	<u>1,000.00</u>
	<b>Total Fees</b>	N/A	<b>\$1,750.00</b>
	<b>Total Amount This Bill</b>		<b>1,750.00</b>
	Amount Paid		(1,750.00)
	Amount Previously Due		<u>00.00</u>
	<b>Amount Due</b>		<b>\$00.00</b>

**\*\* PAYMENT DUE UPON RECEIPT \*\***