

WOLFGANG

Date: 12/6/2018

Clearfield County Court of Common Pleas

User: JMAINES

Time: 10:10 AM

ROA Report

Page 1 of 4

Case: 2004-01483-CD

Current Judge: Paul E. Cherry

Darrel J. Wolfgang, et alvs.James Calvin Dixon, et al

Equity

Date		Judge
9/28/2004	Filing: Civil Complaint Paid by: Heltzel, Lea Ann (attorney for Wolfgang, Darrel J.) Receipt number: 1887296 Dated: 09/28/2004 Amount: \$85.00 (Check) 2 CC to Atty. Hopkins	No Judge
	Emergency Petition for Special Relief, filed by s/David J. Hopkins, Esq. Two CC Attorney Hopkins	No Judge
	Order Of Court Granting Emergency Petition For Special Relief. AND NOW, this 28th day of September, 2004, it is ORDERED that Defendant and any other individuals are enjoined until hearing on the matter or until further order of Court from prohibiting Plaintiffs from using 15 foot roadway to access a house upon the lands of Plaintiffs (see original for further details)	Paul E. Cherry
	A hearing on Plaintiffs' Emergency Petition for Special Relief is hereby scheduled for October 7, 2004 at 3:00 p.m. in Courtroom No. 2 at the Clfd Co. Courthouse. BY THE COURT, /s/ Paul E. Cherry, Judge. 2 CC Atty Hopkins, copy to C/A	
10/5/2004	Order AND NOW, this 4th day of October, 2004, upon consideration of the Motion for Continuance of hearing scheduled on Oct. 7. 2004, filed by Atty. DuBois, it is the ORDER of this Court that said hearing be and is hereby continued until the 27 day of Oct. 2004 at 3PM. It is further ORDERED that all terms and provision of this Court's Order dated Sept. 28, 2004, shall remain in full force and effect. S/PEC 2 CC to Atty. DuBois	Paul E. Cherry
10/8/2004	Sheriff Return, Now, September 29, 2004 served the within Complaint in Equity; Emergency Petition for Special Relief & Order of Court granting Emergency Petition for Special Relief on J. Calvin Dixon, defendant at Residence, by handing to Norma Dixon, wife. So Answers, Chester A. Hawkins, Sheriff, by s/Marilyn Hamm. No CC.	Paul E. Cherry
	Order, AND NOW, this 8th day of October, 2004, it is the ORDER of this Court that hearing scheduled on October 27, 2004 at 3:00 P. M. be and is hereby continued until the 29th day of October, 2004, at 2:30 p.m. in Courtroom 2 of the Clfd. Co. Courthouse. It is the further ORDER of this Court that all terms and provision of this Court's Order dated September 28, 2004, shall remain in full force and effect. No further continuances with regard to his matter will be granted. BY THE COURT /s/ Paul E. Cherry, Judge. 1 CC Atty DuBois, 1 CC Atty Hopkins.	Paul E. Cherry
11/2/2004	NOW, this 29th day of October, 2004, this being the date set for hearing on Emergency Petition for Special Relief, the Court being advised that the parties have reached an agreement to the same, it is the ORDER of this Court that Def. j. Calvin Dixon, his agents, servants, employees, successors and assigns, and any other individual entity within his control or supervision an all other persons or entities acting in concert or on his behalf are enjoined, directly or indirectly, from prohibiting Plaintiffs and Plaintiffs' agents, servants, independent contractors, lessees, sucvcessors or assigns from utilizing a fifteen foot roadway to access a house upon the lands of Plffs provided that plffs or their agents, servants, independent contractors, lessees, successors or assigns use only the fifteen foot roadway to gain access to the house upon the lands of Plffs and shall not go off the said roadway for any reason whatsoever. It is the further ORDER of the Court that Def. and Plff shall not intentionally and knowingly harass one another at any time. s/PEC 4 CC to Atty. Hopkins.	Paul E. Cherry
1/2/2018	Petition to HOld defendant in contempt, filed by 1cc aty. Blakley,III.	Paul E. Cherry

Date: 12/6/2018

Clearfield County Court of Common Pleas

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Case: 2004-01483-CD

Current Judge: Paul E. Cherry

Darrel J. Wolfgang, et alvs.James Calvin Dixon, et al

Equity

Date		Judge
1/3/2018	Notice and Order to Appear, You are ordered to appear 1 March 2018 at 10am in ctrm 2. s/PEC,J. 1cc aty. Blakley	Paul E. Cherry
1/12/2018	Certificate of Service A certificate of service of the Notice and Order to Appear was sent to J. Calvin Dixon, c/o Duane C. Dixon on January 9, 2018 via first-class U.S. Mail. Filed by Benjamin S. Blakely, III, Esq 1 cc Atty Blakely	Paul E. Cherry
2/21/2018	Motion for continuance of hearing. Filed by s/Matthew Zwick, esquire. 2cc Atty Zwick Praecipe for Entry of Appearance, Matthew R. Zwick, Esq. and firm entered as counsel for Deft. Filed by Matthew R. Zwick 2cc Atty M. Zwick	Paul E. Cherry
2/22/2018	Order of Court, 21 Feb. 2018 considering Motionfor continuance; petition is granted hearing is rescheduled for 8 May 2018 at 1:30 pm in ctrm 2. BY THE COURT:S/ PEC,J. 3cc aty. Hopkins, 2cc aty. C.J. Zwick.	Paul E. Cherry
4/20/2018	Amended Petition to Hold Defendants in Contempt Filed on behalf of the plaintiffs Filed by Ben Blakley, ESQ 1 cc to atty Blakley	Paul E. Cherry
4/23/2018	Response in opposition of plff's petition to hold deff in contempt and counterclaim. Filed by Atty Zwick 2cc Atty Zwick	Paul E. Cherry
4/27/2018	Praecipe to attach notice to defend to plff's amended petition to hold deff's in contempt. Filed by Atty Blakely 3cc Atty Blakely	Paul E. Cherry
4/30/2018	Answer to counterclaim Filed by Atty Blakely 1cc Atty Blakely	Paul E. Cherry
5/3/2018	Affidavit of Service filed.Benjamin S. Blakley, III, Atty for Plff, served Nicholas Thomas Poulos, Def, with a certified copy of the Amended Petition to Hold Def.s in Contempt, by Certified MAil, Return Receipt Requested, on April 28, 2018. Filed by Benjamin S. Blakley, III, Atty 1cc Atty Blakley	Paul E. Cherry
	Order, Now, this 3rd day of MAY, 2018, it is the Order of this Court that the hearing on Plff's Petition for Contempt , previously scheduled for May 8, 2018, is rescheduled to the 4th day of June, 2018, at 1:30pm in Courtroom #2. One half day has been reserved for this proceeding. /s/PEC, J. 2cc Atty Blakley 1cc Atty Zwick	Paul E. Cherry
5/4/2018	Motion to Amend Plff's Petition to Hold Def. in Contempt. Filed by Benjamin S. Blakley, Esq 1cc Atty Blakley	Paul E. Cherry

Date: 12/6/2018

Clearfield County Court of Common Pleas

User: JMAINES

Time: 10:10 AM

ROA Report

Page 3 of 4

Case: 2004-01483-CD

Current Judge: Paul E. Cherry

Darrel J. Wolfgang, et alvs.James Calvin Dixon, et al

Equity

Date		Judge
5/4/2018	Amended Affidavit of Service Benjamin S. Blakley, III, Atty for Plff's, served Duane C. Dixon, Def., with a certified copy of the Amended Petition to Hold Def. in Contempt by certified mail, return receipt requested, on May 4, 2018. Filed by Benjamin S. Blakley, III, Esq 1cc Atty Blakley	Paul E. Cherry
5/8/2018	Order, and now this 8th day of May 2018 upon consideration of Plff's motion to amend plff's petition to hold in contempt, it is the order of this court that said motion is hereby granted, and plff's are granted leave to amend their petition to hold deff in contempt so as to add Duane C. Dixon as an additional Deff to said pleading. By the Court PEC 4cc Atty Blakely	Paul E. Cherry
5/25/2018	Praecipe for self representation (pro se) Filed by Duane Dixon. 2cc D. Dixon defendant.	Paul E. Cherry
5/29/2018	Motion to request new judge. filed by s/Duane Dixon 3cc D. Dixon	Paul E. Cherry
	Answer and Counter claim filed by s/Duane Dixon 3cc D. Dixon	Paul E. Cherry
5/30/2018	Motion for continuance of hearing. filed by s/Matthew R Zwick, esquire. 2cc Atty Zwick	Paul E. Cherry
	Order, Now this 29th day of May, 2018, upon consideration of the Motion to Request New Judge filed by Def., Duane C. Dixon; the Court is satisfied that the Court can be fair and unbiased in this matter, and it is the Order of this Court that the Motion to Request a New Judge is DENIED. /s/PEC, J. 2cc Atty Blakley 1cc Atty Zwick 1cc Def.	Paul E. Cherry
5/31/2018	Order of court. And now this 30th day of May 2018 upon consideration of the foregoing second motion for continuance of hearing, which plff's do not oppose, it is hereby ordered, adjudged and decreed that said motion is granted. It is further order that a hearing of Plff's petition to hold deff in contempt is hereby rescheduled for the 27th day of August 2018 at 9:00am in Courtroom2. By the Court PEC 4cc Atty Zwick	Paul E. Cherry
6/18/2018	Plaintiffs' answer to Duane C. Dixon's Counterclaim. filed by s/Benjamin S Blakley III. 1cc Atty Blakley	Paul E. Cherry
8/6/2018	Third motion for continuance of hearing filed by s/Matthew R Zwick, esquire 2cc Atty Zwick.	Paul E. Cherry

Date: 12/6/2018

Clearfield County Court of Common Pleas

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Time: 10:10 AM

ROA Report

Page 4 of 4

Case: 2004-01483-CD

Current Judge: Paul E. Cherry

Darrel J. Wolfgang, et alvs.James Calvin Dixon, et al

Equity

Date	Judge
8/15/2018	Paul E. Cherry
Order of Court. And now this 1th day of August 2018 upon consideration of the foregoing Third Motion for Continuance of Hearing, it is hereby ordered, adjudged and decreed that said Motion is Granted. It is further order that a hearing on Plff's PEtition to Hold Deff in Contempt is hereby rescheduled for the 13th day of November 2018 at 1:30pm in Courtroom2. By the Court PEC 2cc Atty Zwick	
11/16/2018	Paul E. Cherry
Order, now this 13th day of November 2018 following hearing on PETition for Contempt, with insufficient time remaining to complete the same, it is the order of this Court that the matter shall be and is hereby continued until 9:00am on Friday, December 14, 2018 in Courtroom2. By the Court PEC 2cc Atty Zwick 2cc Atty Blakely 1cc D. Dixon	

William A. Shaw
Prothonotary/Clerk of Courts

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

DARREL J. WOLFGANG and,	:	
KATHY M. WOLFGANG,	:	
Plaintiffs	:	IN EQUITY
	:	
vs.	:	No.
	:	
J. CALVIN DIXON,	:	
Defendant	:	

NOTICE

TO: Defendant

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 Amended Complaint is 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.

Office of the Court Administrator
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830
(814) 765-2641 (ext. 5982)

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

DARREL J. WOLFGANG and,	:	
KATHY M. WOLFGANG,	:	
Plaintiffs	:	IN EQUITY
	:	
vs.	:	No.
	:	
J. CALVIN DIXON,	:	
Defendant	:	

COMPLAINT IN EQUITY

AND NOW, comes Plaintiffs, Darrel J. Wolfgang and Kathy M. Wolfgang, husband and wife, by and through their attorneys, Hopkins Heltzel LLP, and says as follows:

1. Plaintiffs, Darrel J. Wolfgang and Kathy M. Wolfgang, are husband and wife, who reside at 7 Don Street, DuBois, Clearfield County, Pennsylvania 15801.

2. Defendant is J. Calvin Dixon who resides at R.R. #2, Box 394, DuBois, Clearfield County, Pennsylvania 15801.

3. This Complaint in Equity concerns the use of a fifteen (15') foot non-exclusive right of way of a private road described in a Deed dated March 20, 1952 from Martha Smith to J. Sherman Smith. The Deed is recorded in the Office of the Recorder of Deeds of Clearfield County in Volume 419, at page 484.

4. The relevant portion of the aforesaid Deed states:

The grantor [Martha Smith] does hereby grant and convey unto the said grantees [J. Sherman Smith and Mayva Smith], their heirs and assigns, the free perpetual easement and right of ingress, egress and regress and the uninterrupted use, liberty and privilege of passing in, over, upon and along a certain private roadway fifteen (15) feet in width, at the present location thereof, over and across other lands of grantor [Martha Smith] and the land

to be conveyed concurrently herewith to Jennie G. Dixon and Marha Smith as joint tenants with right of survivorship, said private roadway extending to the lands hereby conveyed from the Township road known as the Pine Grove School Road leading in a northeasterly direction from State Highway Route #255 to the Sabula - Brockway Road.

5. By Deed dated March 20, 1952 and recorded in the Office of the Recorder of Deeds of Clearfield County in Volume 419, at page 486, Martha Smith conveyed real property to Jennie C. Dixon and Martha Smith, as joint tenants with the right of survivorship. Therein, the Grantor, Martha Smith, reserved the fifteen (15') foot roadway as follows:

The premises hereby conveyed are conveyed subject to the easement relating to the use of a private roadway . . . over and across the above described premises, which easements were granted and conveyed by the grantor [Martha Smith] herein to J. Sherman Smith and Mayva Smith, his wife, by deed dated concurrently herewith, in which such easements are more fully described.

6. Plaintiffs purchased the property from Daniel R. Duttry and Robin M. Duttry, husband and wife, by Deed dated May 18, 2004 and recorded in the Office of the Recorder of Deeds of Clearfield County as Instrument No. 2004-08665.

7. By Deed dated February 25, 1999 and recorded in the Office of the Recorder of Deeds of Clearfield County as Instrument No. 1999-02894, Daniel R. Duttry acquired the property from Open Flow Gas Supply Corporation.

8. By Deed dated June 15, 1998 and recorded in the Office of the Recorder of Deeds of Clearfield County in Volume 1941, at page 599, Open Flow Gas Supply Corporation acquired the property from Marion LaVern Bechtel Sr. and Sandra May Bechtel.

9. By Deed dated August 18, 1994 and recorded in the Office of the Recorder of Deeds of Clearfield County in Volume 1627 at page 143, Marion LaVern

Bechtel Sr. and Sandra May Bechtel acquired the property from the Estate of Mayva J. Smith.

10. Defendant in this action acquired the property from Jennie G. Dixon by Deed dated October 16, 1992 and recorded in the Office of the Recorder of Deeds in Volume 1517, at page 474.

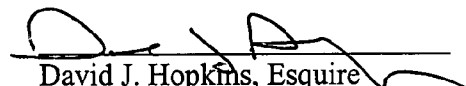
11. Plaintiffs' lands and Defendant's lands are contiguous.

12. Defendant has prohibited Plaintiffs from utilizing said roadway to access a house upon the lands of Plaintiffs.

13. Plaintiffs proposes to rent the property to a man of black skin and to the best knowledge, information and belief, the proposed rental of the property to a man of color has caused Defendant to act in contradiction to the express terms of the source deed right of way from Martha Smith and further in violation of the laws of the United States of America and Commonwealth of Pennsylvania.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to issue an Order prohibiting Defendant from stopping Plaintiffs or Plaintiffs' heirs, successors, assigns or renters from utilizing the aforesaid fifteen (15') foot roadway, for attorney fees for Defendant's violation of the laws of the Commonwealth of Pennsylvania and United States of America, cost of suit and such other and further relief as the Court deems fair, just and equitable.

Respectfully submitted,

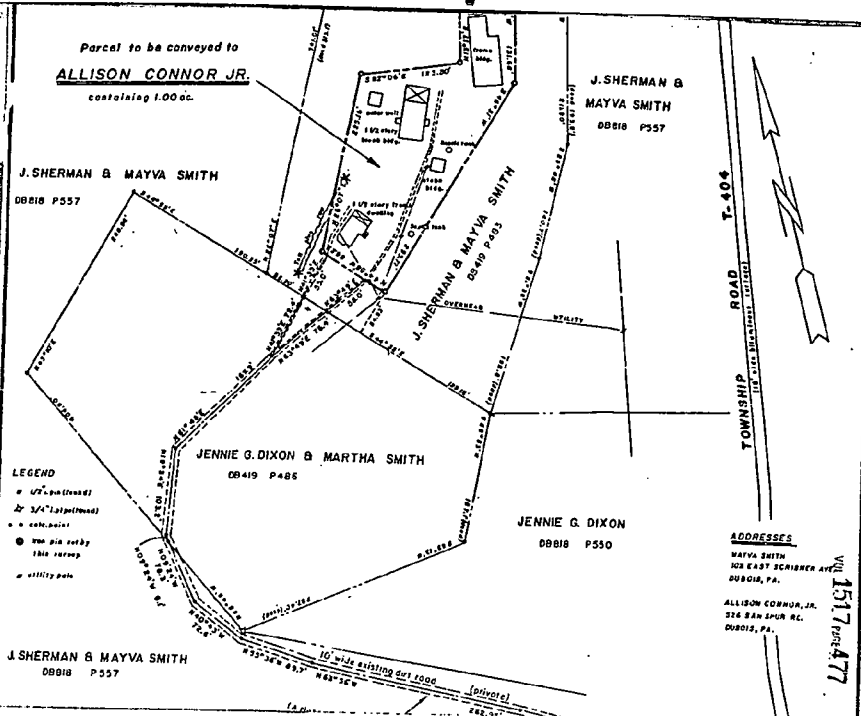

David J. Hopkins, Esquire
Attorney for Plaintiffs

ALL that certain piece or parcel of land located in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows:

A map or plat of the said premises is attached hereto and made part hereof.

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

Karen L. Starck
Recorder of Deeds



VERIFICATION

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.


Darrel J. Wolfgang

FILED

SEP 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

DARREL J. WOLFGANG and,
KATHY M. WOLFGANG,
Plaintiffs

vs.

J. CALVIN DIXON,
Defendant

No. 04-1483-CD

Type of Pleading: Emergency
Petition for Special Relief

Filed on behalf of: Darrel J. Wolfgang,
and Kathy M. Wolfgang, Plaintiffs

Counsel of Record for this party:

THE HOPKINS LAW FIRM

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED

SEP 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

DARREL J. WOLFGANG and,	:	
KATHY M. WOLFGANG,	:	
Plaintiffs	:	IN EQUITY
	:	
vs.	:	No.
	:	
J. CALVIN DIXON,	:	
Defendant	:	

NOTICE

TO: Defendant

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 Amended Complaint is 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.

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
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DARREL J. WOLFGANG and,	:	
KATHY M. WOLFGANG,	:	
Plaintiffs	:	IN EQUITY
	:	
vs.	:	No.
	:	
J. CALVIN DIXON,	:	
Defendant	:	

EMERGENCY PETITION FOR SPECIAL RELIEF

AND NOW, comes Plaintiffs, Darrel J. Wolfgang and Kathy M. Wolfgang, husband and wife, by and through their attorneys, Hopkins Heltzel LLP, and files the within Emergency Petition for Special Relief and in support thereof says as follows:

1. Plaintiffs, Darrel J. Wolfgang and Kathy M. Wolfgang, are husband and wife, who reside at 7 Don Street, DuBois, Clearfield County, Pennsylvania 15801.

2. Defendant is J. Calvin Dixon who resides at R.R. #2, Box 394, DuBois, Clearfield County, Pennsylvania 15801.

3. This Complaint in Equity concerns the use of a fifteen (15') foot non-exclusive right of way of a private road described in a Deed dated March 20, 1952 from Martha Smith to J. Sherman Smith. The Deed is recorded in the Office of the Recorder of Deeds of Clearfield County in Volume 419, at page 484.

4. The relevant portion of the aforesaid Deed states:

The grantor [Martha Smith] does hereby grant and convey unto the said grantees [J. Sherman Smith and Mayva Smith], their heirs and assigns, the free perpetual easement and right of ingress, egress and regress and the uninterrupted use, liberty and privilege of passing in, over, upon and along a certain private roadway fifteen (15) feet in width, at the present location

therof, over and across other lands of grantor [Martha Smith] and the land to be conveyed concurrently herewith to Jennie G. Dixon and Marha Smith as joint tenants with right of survivorship, said private roadway extending to the lands hereby conveyed from the Township road known as the Pine Grove School Road leading in a northeasterly direction from State Highway Route #255 to the Sabula - Brockway Road.

5. By Deed dated March 20, 1952 and recorded in the Office of the Recorder of Deeds of Clearfield County in Volume 419, at page 486, Martha Smith conveyed real property to Jennie C. Dixon and Martha Smith, as joint tenants with the right of survivorship. Therein, the Grantor, Martha Smith, reserved the fifteen (15') foot roadway as follows:

The premises hereby conveyed are conveyed subject to the easement relating to the use of a private roadway . . . over and across the above described premises, which easements were granted and conveyed by the grantor [Martha Smith] herein to J. Sherman Smith and Mayva Smith, his wife, by deed dated concurrently herewith, in which such easements are more fully described.

6. Plaintiffs' lands and Defendant's lands are contiguous.


7. Defendant has prohibited Plaintiffs from utilizing said roadway to access a house upon the lands of Plaintiffs.

8. Plaintiffs proposes to rent the property to a man of black skin and to the best knowledge, information and belief, the proposed rental of the property to a man of color has caused Defendant to act in contradiction to the express terms of the source deed right of way from Martha Smith and further in violation of the laws of the United States of America and Commonwealth of Pennsylvania.

9. Plaintiffs will suffer irreparable harm should the Court not grant this Petition inasmuch as Plaintiffs are denied access to their property and the ability to care and maintain for the property.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to issue an Order prohibiting Defendant from stopping Plaintiffs or Plaintiffs' heirs, successors, assigns or renters from utilizing the aforesaid fifteen (15') foot roadway and for such further relief as the Court deems fair, just and equitable.

Respectfully submitted,


David J. Hopkins, Esquire
Attorney for Plaintiffs

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All that certain piece or parcel of land located in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pipe, said iron pipe being at the northeasterly corner of other lands of the grantor, Jennie G. Dixon, deceased, and to her by deed of J. Sherman Smith, Executor of the Estate of J. Sherman Smith, also known as Mattie O. Smith, dated July 26, 1981, recorded in Clearfield County Deed Book 818, page 350; thence by said lands of J. Sherman Smith, South 28° 53' West 137.1 feet to an iron pipe; thence still Dixon, South 28° 53' West 137.1 feet to an iron pipe; thence to a point on line of land of J. Sherman Smith and Mayva Smith, West 40° 30' to a point; thence by land of J. Sherman Smith, North 43° 10' East 248.46 feet to a point; thence still by land of J. Sherman Smith and Mayva Smith, South 44° 58' East 248.46 feet to an iron pipe at the Northeast corner of other lands of Jennie G. Dixon, the place of beginning. Containing 3.8 acres, more or less.

A map or plat of the said premises is attached hereto and made a part hereof.

EXHIBIT "A"

I, Henry C. Kline, Jr., County Clerk, do hereby certify that this document is recorded in the Recorder's Office of Clearfield County, Pennsylvania.

Henry C. Kline, Jr.
 Karen L. Shank
 Recorder of Deeds

Parcel to be conveyed to
ALLISON CONNOR JR.
 containing 1.00 ac.

J. SHERMAN & MAYVA SMITH
 DB818 P557

J. SHERMAN &
 MAYVA SMITH
 DB818 P557

JENNIE G. DIXON & MARTHA SMITH
 DB419 P486

JENNIE G. DIXON
 DB818 P550

J. SHERMAN & MAYVA SMITH
 DB818 P557

LEGEND
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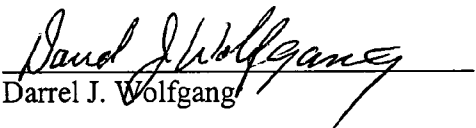
ROAD 404

ADDRESSES
 MAYVA SMITH
 802 EAST SCRIBNER AVE.
 DUBOIS, PA.
 ALLISON CONNOR, JR.
 326 SAN SPUR RD.
 DUBOIS, PA.

Vol 1517 p 477

VERIFICATION

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.


Darrel J. Wolfgang

FILED

SEP 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

DARREL J. WOLFGANG and,
KATHY M. WOLFGANG,
Plaintiffs

vs.

J. CALVIN DIXON,
Defendant

No. 04-1483-C2

**ORDER OF COURT GRANTING
EMERGENCY PETITION FOR SPECIAL RELIEF**

AND NOW, this 28th day of September 2004, upon consideration of Plaintiffs' Emergency Petition for Special Relief and having determined that Plaintiffs will suffer immediate and irreparable harm; it is hereby ORDERED, ADJUDGED and DECREED that Defendant and his agents, servants, employees, successors and assigns, and any other individual or entity within his control or supervision and all other persons or entities acting in concert or on his behalf are enjoined until hearing on the matter or until further order of Court from, directly or indirectly prohibiting Plaintiffs and Plaintiffs agents, servants, independent contractors, lessees, successors or assigns from utilizing a fifteen (15') foot roadway to access a house upon the lands of Plaintiffs.

A hearing on Plaintiffs' Emergency Petition for Special Relief is hereby scheduled for October, 2004 at 3:00 P.m., in Courtroom No. 2 at the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,


JUDGE

FILED ^{EGK}
^{2cc}
^{012:09:201} ^{Atty Hopkins}
SEP 28 2004
William A. Shaw
Prothonotary Clerk of Courts ^{copy to CIA}

FILED

SEP 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

CA

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG

V.

NO. 04-1483-CD

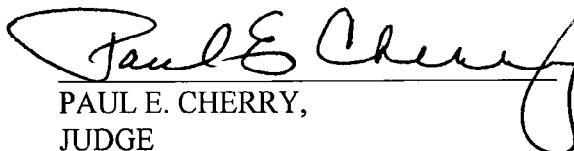
J. CALVIN DIXON

ORDER

AND NOW, this 4th day of October, 2004, upon consideration of the Motion for Continuance of hearing scheduled on October 7, 2004, filed by Jeffrey S. DuBois, Esquire, counsel for Defendant, it is the ORDER of this Court that said hearing be and is hereby continued until the 27 day of October, 2004, at 2:00 o'clock P.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

It is the further ORDER of this Court that all terms and provision of this Court's Order dated September 28, 2004, shall remain in full force and effect.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED

OCT 11 11:13 AM

2cc atty DuBois

OCT 05 2004

WILLIAM H. DAW
PROSECUTOR

In The Court of Common Pleas of Clearfield County, Pennsylvania

WOLFGANG, DARREL J. & KATHY M.

Sheriff Docket # 16354

VS.

04-1483-CD

DIXON, J. CALVIN

**COMPLAINT IN EQUITY; EMERGENCY PETITION FOR SPEICAL R
ING EMERGENCY PETITIONFOR SPECIAL RELIEF**

SHERIFF RETURNS

NOW SEPTEMBER 29, 2004 AT 10:15 AM SERVED THE WITHIN COMPLAINT IN EQUITY;
EMERGENCY PETITION FOR SPECIAL RELIEF & ORDER OF COURT GRANTING
EMERGENCY PETITION FOR SPECIAL RELIEF ON J. CALVIN DIXON, DEFENDANT AT
RESIDENCE, RR#2 BOX 394, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY
HANDING TO NORMA DIXON, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL
COMPLAINT IN EQUITY etc. AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: COUDRIET

Return Costs

Cost	Description
32.62	SHERIFF HAWKINS PAID BY: ATTY CK# 14709
10.00	SURCHARGE PAID BY: ATTY CK# 14710

Sworn to Before Me This

8 Day Of October 2004
William A. Shaw

So Answers,

Chester A. Hawkins
My Marlynn
Chester A. Hawkins
Sheriff

FILED

© 3:11. 2004
OCT 08 2004 *EBK*

William A. Shaw
Notary

CA

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG

V.

J. CALVIN DIXON

NO. 04-1483-CD

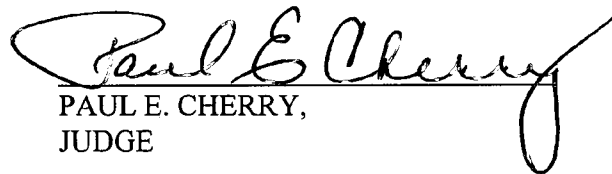
ORDER

AND NOW, this 8th day of October, 2004, it is the ORDER of this Court that hearing scheduled on October 27, 2004, at 3:00 P.M. be and is hereby continued until the 29th day of October, 2004, at 2:30 o'clock P.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

It is the further ORDER of this Court that all terms and provision of this Court's Order dated September 28, 2004, shall remain in full force and effect.

No further continuances with regard to this matter will be granted.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

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100 atty Hurborn
OCT 08 2004

William A. Shaw
Prothonotary

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

DARRELL J. WOLFGANG and
KATHY M. WOLFGANG

-VS-

J. CALVIN DIXON

No. 04-1483-CD

FILED

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William A. Shaw
Prothonotary

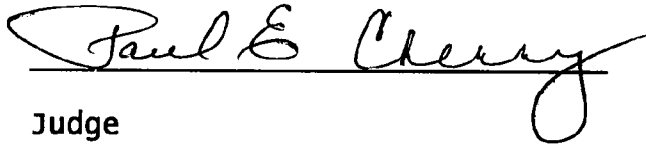
O R D E R

NOW, this 29th day of October, 2004, this being the date set for hearing on Emergency Petition for Special Relief; the Court being advised that the parties have reached an agreement to the same, it is the ORDER of this Court that Defendant, J. Calvin Dixon, his agents, servants, employees, successors and assigns, and any other individual entity within his control or supervision and all other persons or entities acting in concert or on his behalf are enjoined, directly or indirectly, from prohibiting Plaintiffs and Plaintiffs' agents, servants, independent contractors, lessees, successors or assigns from utilizing a fifteen (15) foot roadway to access a house upon the lands of Plaintiffs provided that Plaintiffs or their agents, servants, independent contractors, lessees, successors or assigns use only the fifteen (15) foot roadway to gain access to the house upon the lands of Plaintiffs and shall not go off the said roadway for any

reason whatsoever. It is the further ORDER of this Court that Defendant, J. Calvin Dixon, his agents, servants, employees, successors or assigns, nor Plaintiffs' lessees shall not intentionally and knowingly harass one another at any time.

This Order shall remain in full force and effect until further Order of Court.

BY THE COURT,


Judge

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiff,

vs.

J. CALVIN DIXON,

Defendant.

: NO. 04 - 1483 - C.D.

:
: Type of Case: CIVIL ACTION

:
: Type of Pleading: PETITION TO HOLD
: DEFENDANT IN CONTEMPT

:
: Filed on Behalf of:
: PLAINTIFFS

:
: Counsel of Record:
: BENJAMIN S. BLAKLEY, III
: Supreme Court No. 26331

:
: BLAKLEY & JONES
: 90 Beaver Drive, Suite 104A
: DuBois PA 15801
: (814) 371-2730
: (814) 375-1082-fax
:
:

S **FILED**
01/03/2018
JAN - 2 2018
1cc Atty. Blakley III
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

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

DARREL J. WOLFGANG and KATHY	)	NO. 04 - 1483 - C.D.
M. WOLFGANG,)	
)	
Plaintiff,)	
)	
vs.)	
)	
J. CALVIN DIXON,)	
)	
Defendant.)	

PETITION TO HOLD DEFENDANT IN CONTEMPT

AND NOW comes Petitioners, **DARREL J. WOLFGANG and KATHY M.**

WOLFGANG, by and through his undersigned attorneys, **BLAKLEY & JONES**, and petitions this Honorable Court to hold Defendant, **J. CALVIN DIXON**, in contempt of this Honorable Court's Order of October 29, 2004, in the above-captioned matter, and in support thereof, the following is averred:

1. Petitioners, **DARREL J. WOLFGANG and KATHY M. WOLFGANG**, are adult individuals residing at 128 Don Street, DuBois, Clearfield County, Pennsylvania, 15801.
2. Respondent, **J. CALVIN DIXON**, is an adult individual residing at 243 Hungry Hollow Road, DuBois, Clearfield County, Pennsylvania, 15801.
3. At all times material hereto, the Plaintiffs were the owners of real property located on Hungry Hollow Road, Sandy Township, DuBois, Clearfield County, Pennsylvania, said property existing contiguous to the lands of the Defendant, with said lands of Plaintiffs being accessed by a 15' nonexclusive right-of-way traversing the lands of the Defendant as described in

a deed dated March 20, 1952, from Martha Smith to J. Sherman Smith, and recorded in Clearfield County Deed and Record Book 419, page 483.

4. Previously, the Defendant had prohibited the Plaintiffs from utilizing the said right-of-way to access the house located on the land of the Plaintiffs and as such, was the subject of an Emergency Petition for Special Relief filed on September 28, 2004, No 04-1483-CD, said petition seeking an order prohibiting the Defendant from stopping the Plaintiffs or Plaintiffs' heirs, successors, assigns or renters from utilizing the 15' right-of-way. A copy of said Emergency Petition for Special Relief is attached hereto and marked Exhibit A.

5. October 29, 2004, the day and date set for the hearing on the Emergency Petition for Special Relief, the parties entered into a stipulated Order enjoining the Defendant, his agents, servants, employees, successors and assigns, and any other individual entity within his control or supervision, and all other persons or entities acting in concert or on his behalf, directly or indirectly, from prohibiting the Plaintiffs, Plaintiffs' agents, servants, independent contractors, lessees, successors or assigns from utilizing the 15' right-of-way accessing the lands of the Plaintiffs as long as the Plaintiffs used only the 15' right-of-way to gain access to the house on the lands of the Plaintiffs. A copy of said stipulated Order is attached hereto and marked Exhibit B.

6. Since the date of said Order, the Defendant has engaged in a course of conduct which has prohibited the Plaintiffs from accessing the house on the lands contiguous to the Defendant's lands by building a structure upon the aforesaid right-of-way, thereby causing the Plaintiffs to have no access to their property using the aforesaid right-of-way and compelling the Plaintiffs to construct an additional access to their real property.

7. The Plaintiffs believe, and therefore aver, that the actions of the Defendant in constructing the structure upon the 15' right-of-way, thereby prohibiting the Plaintiffs, Plaintiffs' agents, servants, independent contractors, lessees, successors or assigns from utilizing the 15' right-of-way to access the lands of the Plaintiffs is a direct contravention of this Court's Order of October 29, 2004.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to find Defendant J. Calvin Dixon in contempt of this Court's Order of October 29, 2004, and order:

- a. that Defendant J. Calvin Dixon be found in contempt of this Honorable Court's Order of October 29, 2004;
- b. that the Defendant remove the structure placed upon the 15' foot right-of-way leading to the Plaintiffs' real property and remove any other obstacle which might impede the Plaintiffs in their attempts to reach their real property, thereby restoring the 15' right-of-way to its condition as it existed at or before October 29, 2004;
- c. the Defendant to reimburse the Plaintiffs' overall expenses incurred in constructing a new right-of-way to the Plaintiffs real property caused by the Defendant's blocking of the 15' right-of-way which is the subject of the Court's order of October 29, 2004;
- c. a civil penalty to be imposed against the Defendant in such an amount that is deemed appropriate by this Honorable Court;

- e. that Defendant pay to Plaintiffs the sum of \$2,500.00 for the bringing of this petition, along with any costs incurred by the Plaintiffs in the bringing of this petition; and
- f. such other relief as this Court deems appropriate.

Respectfully submitted,

BLAKLEY & JONES

A handwritten signature in black ink, appearing to be 'Benjamin S. Blakley, III', written over a horizontal line.

Benjamin S. Blakley, III
Attorney for Plaintiffs/Petitioners

VERIFICATION

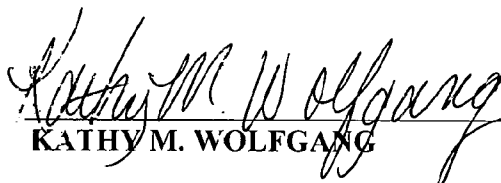
We, **DARREL J. WOLFGANG** and **KATHY M. WOLFGANG**, hereby state that we are the Plaintiffs in this action and verify that the statements made in the foregoing Petition to Hold Defendant in Contempt are true and correct to the best of my knowledge, information, and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: 12-27-17



DARREL J. WOLFGANG

Dated: 12-27-17

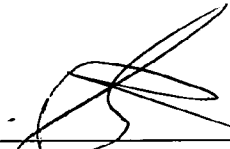


KATHY M. WOLFGANG

CERTIFICATE OF SERVICE

This will certify that the undersigned served a copy of the foregoing Petition to Hold Defendant in Contempt in the above-captioned matter on the following parties at the addresses shown below by first-class U.S. Mail on the 28th day of December, 2017:

J. Calvin Dixon
c/o Duane C. Dixon
243 Hungry Hollow Road
DuBois PA 15801



Benjamin S. Blakley, III

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

DARREL J. WOLFGANG and,
KATHY M. WOLFGANG,
Plaintiffs

vs.

J. CALVIN DIXON,
Defendant

No. 04-1483-CD

Type of Pleading: Emergency
Petition for Special Relief

Filed on behalf of: Darrel J. Wolfgang,
and Kathy M. Wolfgang, Plaintiffs

Counsel of Record for this party:

THE HOPKINS LAW FIRM

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED ^{EGK} 2cc

SEP 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

EXHIBIT

A

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

DARREL J. WOLFGANG and,	:	
KATHY M. WOLFGANG,	:	
Plaintiffs	:	IN EQUITY
	:	
vs.	:	No.
	:	
J. CALVIN DIXON,	:	
Defendant	:	

NOTICE

TO: Defendant

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 Amended Complaint is 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.

Office of the Court Administrator
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830
(814) 765-2641 (ext. 5982)

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

DARREL J. WOLFGANG and,	:	
KATHY M. WOLFGANG,	:	
Plaintiffs	:	IN EQUITY
	:	
vs.	:	No.
	:	
J. CALVIN DIXON,	:	
Defendant	:	

EMERGENCY PETITION FOR SPECIAL RELIEF

AND NOW, comes Plaintiffs, Darrel J. Wolfgang and Kathy M. Wolfgang, husband and wife, by and through their attorneys, Hopkins Heltzel LLP, and files the within Emergency Petition for Special Relief and in support thereof says as follows:

1. Plaintiffs, Darrel J. Wolfgang and Kathy M. Wolfgang, are husband and wife, who reside at 7 Don Street, DuBois, Clearfield County, Pennsylvania 15801.
2. Defendant is J. Calvin Dixon who resides at R.R. #2, Box 394, DuBois, Clearfield County, Pennsylvania 15801.
3. This Complaint in Equity concerns the use of a fifteen (15') foot non-exclusive right of way of a private road described in a Deed dated March 20, 1952 from Martha Smith to J. Sherman Smith. The Deed is recorded in the Office of the Recorder of Deeds of Clearfield County in Volume 419, at page 484.
4. The relevant portion of the aforesaid Deed states:

The grantor [Martha Smith] does hereby grant and convey unto the said grantees [J. Sherman Smith and Mayva Smith], their heirs and assigns, the free perpetual easement and right of ingress, egress and regress and the uninterrupted use, liberty and privilege of passing in, over, upon and along a certain private roadway fifteen (15) feet in width, at the present location

therof, over and across other lands of grantor [Martha Smith] and the land to be conveyed concurrently herewith to Jennie G. Dixon and Marha Smith as joint tenants with right of survivorship, said private roadway extending to the lands hereby conveyed from the Township road known as the Pine Grove School Road leading in a northeasterly direction from State Highway Route #255 to the Sabula - Brockway Road.

5. By Deed dated March 20, 1952 and recorded in the Office of the Recorder of Deeds of Clearfield County in Volume 419, at page 486, Martha Smith conveyed real property to Jennie C. Dixon and Martha Smith, as joint tenants with the right of survivorship. Therein, the Grantor, Martha Smith, reserved the fifteen (15') foot roadway as follows:

The premises hereby conveyed are conveyed subject to the easement relating to the use of a private roadway . . . over and across the above described premises, which easements were granted and conveyed by the grantor [Martha Smith] herein to J. Sherman Smith and Mayva Smith, his wife, by deed dated concurrently herewith, in which such easements are more fully described.

6. Plaintiffs' lands and Defendant's lands are contiguous.


7. Defendant has prohibited Plaintiffs from utilizing said roadway to access a house upon the lands of Plaintiffs.

8. Plaintiffs proposes to rent the property to a man of black skin and to the best knowledge, information and belief, the proposed rental of the property to a man of color has caused Defendant to act in contradiction to the express terms of the source deed right of way from Martha Smith and further in violation of the laws of the United States of America and Commonwealth of Pennsylvania.

9. Plaintiffs will suffer irreparable harm should the Court not grant this Petition inasmuch as Plaintiffs are denied access to their property and the ability to care and maintain for the property.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to issue an Order prohibiting Defendant from stopping Plaintiffs or Plaintiffs' heirs, successors, assigns or renters from utilizing the aforesaid fifteen (15') foot roadway and for such further relief as the Court deems fair, just and equitable.

Respectfully submitted,


David J. Hopkins, Esquire
Attorney for Plaintiffs

VERIFICATION

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.



Darrel J. Wolfgang

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

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

CIVIL DIVISION

NOV 02 2004

DARRELL J. WOLFGANG and
KATHY M. WOLFGANG

Attes.:

William B. R.
Prothonotary/
Clerk of Courts

-VS-

No. 04-1483-CD

J. CALVIN DIXON

O R D E R

NOW, this 29th day of October, 2004, this being the date set for hearing on Emergency Petition for Special Relief; the Court being advised that the parties have reached an agreement to the same, it is the ORDER of this Court that Defendant, J. Calvin Dixon, his agents, servants, employees, successors and assigns, and any other individual entity within his control or supervision and all other persons or entities acting in concert or on his behalf are enjoined, directly or indirectly, from prohibiting Plaintiffs and Plaintiffs' agents, servants, independent contractors, lessees, successors or assigns from utilizing a fifteen (15) foot roadway to access a house upon the lands of Plaintiffs provided that Plaintiffs or their agents, servants, independent contractors, lessees, successors or assigns use only the fifteen (15) foot roadway to gain access to the house upon the lands of Plaintiffs and shall not go off the said roadway for any

EXHIBIT

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reason whatsoever. It is the further ORDER of this Court that Defendant, J. Calvin Dixon, his agents, servants, employees, successors or assigns, nor Plaintiffs' lessees shall not intentionally and knowingly harass one another at any time.

This Order shall remain in full force and effect until further Order of Court.

BY THE COURT,

/s/ Paul E. Cherry

Judge

FILED

JAN -2 2018

**BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS**

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiff,

vs.

J. CALVIN DIXON,

Defendant.

: NO. 04 - 1483 - C.D.
:
: Type of Case: CIVIL ACTION
:
: Type of Pleading:
: CERTIFICATE OF SERVICE
:
: Filed on Behalf of:
: PLAINTIFFS
:
: Counsel of Record:
: BENJAMIN S. BLAKLEY, III
: Supreme Court No. 26331
:
: BLAKLEY & JONES
: 90 Beaver Drive, Suite 104A
: DuBois PA 15801
: (814) 371-2730
: (814) 375-1082-fax
:
:

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JAN 12 2018

ERIAN M. SPENCER
PROTHONOTARY & CLERK OF COURTS

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiff,

vs.

J. CALVIN DIXON,

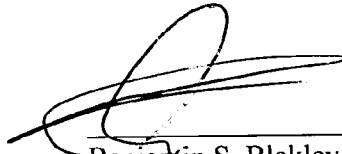
Defendant.

) NO. 04 - 1483 - C.D.
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CERTIFICATE OF SERVICE

This will certify that the undersigned served a copy of the Notice and Order to Appear which was entered on January 3, 2017, in the above-captioned matter on the following parties at the addresses shown below by first-class U.S. Mail on the 9th day of January, 2018:

J. Calvin Dixon
c/o Duane C. Dixon
243 Hungry Hollow Road
DuBois PA 15801



Benjamin S. Blakley, III

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON,

Defendant.

AC
FILED
0/10:57am IAR
FEB 21 2018
200 Atty Zwick.
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

) CIVIL ACTION

)

) No. 2004-1483-C.D.

)

) Type of Pleading: **MOTION FOR**
) **CONTINUANCE OF HEARING**

)

) Filed on Behalf of: **DEFENDANT, J.**
) **CALVIN DIXON**

)

)

) Counsel of Record for this Party:

)

) **MATTHEW R. ZWICK, ESQUIRE**

) PA I.D. No.: 313839

)

) **C.J. ZWICK, ESQUIRE**

) PA I.D. No.: 306554

)

) **ZWICK & ZWICK LLP**

) 171 Beaver Drive

) P.O. Box 1127

) DuBois, PA 15801

) (814) 371-6400

)

)

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON,

Defendant.

) CIVIL DIVISION

) No. 2004-1483-C.D.

MOTION FOR CONTINUANCE OF HEARING

AND NOW, comes Defendant, J. CALVIN DIXON, by and through his counsel, Zwick & Zwick LLP, and files the following Motion for Continuance of Hearing, and in support thereof states as follows:

1. A hearing on Plaintiffs' Petition to Hold Defendant in Contempt is currently scheduled in the instant matter on March 1, 2018, at 10:00 A.M., in Courtroom 2 of the Clearfield County Courthouse.
2. Filed contemporaneously herewith, Counsel for Defendant has entered his appearance for Defendant in this matter.
3. Upon undertaking representation of Defendant, counsel for Defendant and counsel for Plaintiffs conferred regarding the nature and scope of the present dispute, and, to facilitate a potential amicable resolution of this matter, counsel for Defendant and counsel for Plaintiff have agreed that an inspection of the property at issue would be in the best interests of both parties.
4. Due to health reasons, counsel for Plaintiffs is not able to attend an inspection of the party until after March 1, 2018, which is the date set for hearing in this case.

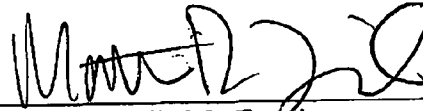
5. In addition, due to the inclement winter weather, an inspection of the subject property would not be effective to facilitate a resolution of the instant dispute.

6. Counsel for Plaintiffs does not oppose Defendant's instant request for a continuance of the aforesaid hearing on Plaintiffs' Petition to Hold Defendant in Contempt for a period of at least sixty (60) days. (See e-mail correspondence from counsel for Plaintiffs to counsel for Defendant dated February 12, 2018, affixed hereto as **Exhibit A.**)

WHEREFORE, Defendant, J. Calvin Dixon, respectfully request that this Honorable Court grants his Motion for Continuance of Hearing.

Respectfully submitted,

ZWICK & ZWICK LLP

A handwritten signature in black ink, appearing to read 'Matthew R. Zwick', written over a horizontal line.

Matthew R. Zwick, Esquire
C.J. Zwick, Esquire

Subject: Wolfgang v. Dixon

Date: Monday, February 12, 2018 at 11:11:21 AM Eastern Standard Time

From: Gretchen Bloomer

To: Matthew R. Zwick

Matt,

This will confirm our telephone conversation of this morning. Ben has no objection to a continuance of the hearing which is presently scheduled for March 1st at 10:00 a.m.

Gretchen Bloomer

Paralegal / Office Manager

BLAKLEY & JONES

90 Beaver Drive, Box 6

DuBois PA 15801

(814) 371-2730

Fax: (814) 375-1082

gretchen.bloomer@verizon.net

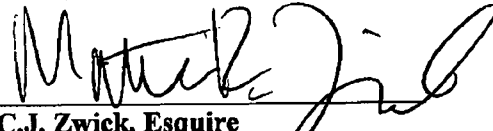
This e-mail is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this e-mail in error, please destroy it and notify us immediately.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **MOTION FOR CONTINUANCE OF HEARING**, filed on behalf of Defendant, J. Calvin Dixon, was forwarded on the 16th day of February, 2018, by U.S. Mail, postage prepaid, to:

Benjamin S. Blakely, III, Esquire
Blakely & Jones
90 Beaver Drive, Suite 104A
DuBois, PA 15801
Counsel for Plaintiff

ZWICK & ZWICK LLP

A handwritten signature in black ink, appearing to read "Matthew R. Zwick", is written over a horizontal line.

C.J. Zwick, Esquire
Matthew R. Zwick, Esquire

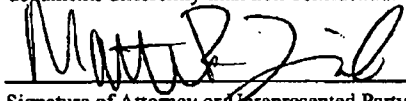
**CONFIDENTIAL
INFORMATION
FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

Additional page(s) attached. 8 total pages are attached to this filing.

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.



Signature of Attorney or Unrepresented Party

2/16/2018

Date

Name: Matthew R. Zwick

Attorney Number: (if applicable) 313839

Address: 171 Beaver Drive

Telephone: (814) 371-6400

DuBois, PA 15801

Email: mrz@zwick-law.com

NOTE: Parties and attorney of record in a case will have access to this Confidential Information Form. Confidentiality of this information must be maintained.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON,

Defendant.

) CIVIL DIVISION

) No. 2004-1483-C.D.

ORDER OF COURT

AND NOW, to wit, this _____ day of _____, 2018, upon consideration of the foregoing **MOTION FOR CONTINUANCE OF HEARING**, which Plaintiffs do not oppose, it is hereby ORDERED, ADJUDGED and DECREED that said Motion is GRANTED.

It is further ORDER that a hearing on Plaintiffs' **PETITION TO HOLD DEFENDANT IN CONTEMPT** is hereby rescheduled for the ____ day of _____, 2018 at _____ o'clock _____.M., in Courtroom ____ of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

J.

BY THE COURT:

BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON,

Defendant.

) CIVIL ACTION - LAW

)

) No. 2004-1483-C.D.

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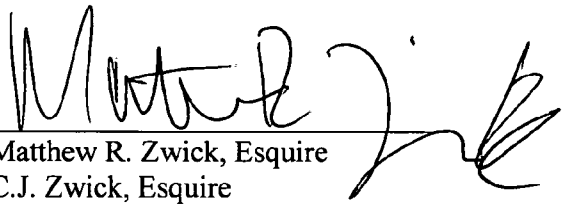
)

TO THE PROTHONOTARY:

PRAECIPE TO ENTER APPEARANCE

Please enter my firm as counsel for Defendant, J. Calvin Dixon, in the above-referenced matter.

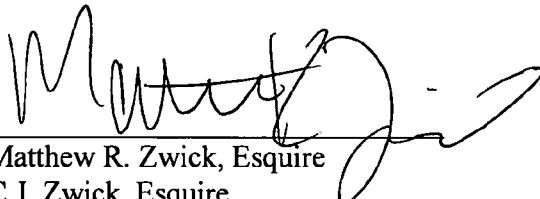
Date: 2-16-2013


Matthew R. Zwick, Esquire
C.J. Zwick, Esquire

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **Praecipe for Entry of Appearance** was served, on the 16th day of February, 2018, by U.S. First Class Mail, postage prepaid, to the following parties:

Benjamin S. Blakely, III, Esquire
Blakely & Jones
90 Beaver Drive, Suite 104A
DuBois, PA 15801
Counsel for Plaintiff


Matthew R. Zwick, Esquire
C.J. Zwick, Esquire

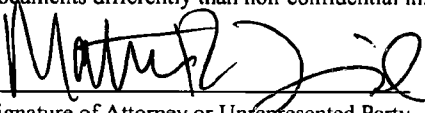
**CONFIDENTIAL
INFORMATION
FORM**



**APPELLATE/TRIAL COURT
CASE RECORDS**

Additional page(s) attached. 3 total pages are attached to this filing.

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.


Signature of Attorney or Unrepresented Party

2/16/2018

Date

Name: Matthew R. Zwick

Attorney Number: (if applicable) 313839

Address: 171 Beaver Drive

Telephone: (814) 371-6400

DuBois, PA 15801

Email: mrz@zwick-law.com

NOTE: Parties and attorney of record in a case will have access to this Confidential Information Form. Confidentiality of this information must be maintained.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON,

Defendant.

CIVIL DIVISION

No. 2004-1483-C.D.

COPY

ORDER OF COURT

AND NOW, to wit, this 21ST day of February, 2018, upon consideration of the foregoing **MOTION FOR CONTINUANCE OF HEARING**, which Plaintiffs do not oppose, it is hereby ORDERED, ADJUDGED and DECREED that said Motion is GRANTED.

It is further ORDER that a hearing on Plaintiffs' **PETITION TO HOLD DEFENDANT IN CONTEMPT** is hereby rescheduled for the 8th day of May, 2018 at 1:30 o'clock P.M., in Courtroom 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

FILED
01 3:30 PM
FEB 22 2018
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS
3cc Atty Hopkins
2cc Atty
C.S. Zwick

Paul E. Curry

J.

5

ON

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON and
DUANE C. DIXON

Defendants.

: NO. 04 - 1483 - C.D.
:
: Type of Case: CIVIL ACTION
:
: Type of Pleading: AMENDED PETITION TO
: HOLD DEFENDANTS IN CONTEMPT
:
: Filed on Behalf of:
: PLAINTIFFS
:
: Counsel of Record:
: BENJAMIN S. BLAKLEY, III
: Supreme Court No. 26331
:
: BLAKLEY & JONES
: 90 Beaver Drive, Suite 104A
: DuBois PA 15801
: (814) 371-2730
: (814) 375-1082-fax
:
:

M/MH (M6)
FILED
10:47AM
APR 20 2018

BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURT
ICC Att: Blakley

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

DARREL J. WOLFGANG and KATHY	)	NO. 04 - 1483 - C.D.
M. WOLFGANG,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
J. CALVIN DIXON and)	
DUANE C. DIXON)	

Defendants.

AMENDED PETITION TO HOLD DEFENDANTS IN CONTEMPT

AND NOW comes Petitioners, **DARREL J. WOLFGANG and KATHY M. WOLFGANG**, by and through his undersigned attorneys, **BLAKLEY & JONES**, and petitions this Honorable Court to hold Defendants, **J. CALVIN DIXON and DUANE C. DIXON**, in contempt of this Honorable Court's Order of October 29, 2004, in the above-captioned matter, and in support thereof, the following is averred:

1. Petitioners, **DARREL J. WOLFGANG and KATHY M. WOLFGANG**, are adult individuals residing at 128 Don Street, DuBois, Clearfield County, Pennsylvania, 15801.
2. Respondent, **J. CALVIN DIXON**, is an adult individual residing at 89 Hungry Hollow Road, DuBois, Clearfield County, Pennsylvania, 15801.
3. Respondent, **DUANE C. DIXON**, is an adult individual residing at 243 Turkey Farm Road, DuBois, Clearfield County, Pennsylvania, 15801.
4. At all times material hereto, the Plaintiffs were the owners of real property located on Hungry Hollow Road, Sandy Township, DuBois, Clearfield County, Pennsylvania, said property existing contiguous to the lands of the Defendant, with said lands of Plaintiffs being

accessed by a 15' nonexclusive right-of-way traversing the lands of the Defendants as described in a deed dated March 20, 1952, from Martha Smith to J. Sherman Smith, and recorded in Clearfield County Deed and Record Book 419, page 483.

5. Previously, the Defendant, **J. CALVIN DIXON**, had prohibited the Plaintiffs from utilizing the said right-of-way to access the house located on the land of the Plaintiffs and as such, was the subject of an Emergency Petition for Special Relief filed on September 28, 2004, No 04-1483-CD, said petition seeking an order prohibiting the Defendant from stopping the Plaintiffs or Plaintiffs' heirs, successors, assigns or renters from utilizing the 15' right-of-way. A copy of said Emergency Petition for Special Relief is attached hereto and marked Exhibit A.

6. On October 29, 2004, the day and date set for the hearing on the Emergency Petition for Special Relief, the parties entered into a stipulated Order enjoining the Defendant, his agents, servants, employees, successors and assigns, and any other individual entity within his control or supervision, and all other persons or entities acting in concert or on his behalf, directly or indirectly, from prohibiting the Plaintiffs, Plaintiffs' agents, servants, independent contractors, lessees, successors or assigns from utilizing the 15' right-of-way accessing the lands of the Plaintiffs as long as the Plaintiffs used only the 15' right-of-way to gain access to the house on the lands of the Plaintiffs. A copy of said stipulated Order is attached hereto and marked Exhibit B.

7. Subsequent to the entry of the aforesaid Order, Defendant, **J. CALVIN DIXON** and his wife, **NORMA LEE DIXON**, did convey the subject property to the Defendant, **J. CALVIN DIXON** and Defendant, **DUANE C. DIXON** as joint tenants with the right of survivorship by Deed dated September 23, 2008, and recorded in the office of Recorder of Deeds

of Clearfield County at Instrument Number 200815559. A copy of said Deed is attached hereto Exhibit C.

8. Since the date of this Honorable Court's Order of October 29, 2004, the Defendant, **J. CALVIN DIXON**, and Defendant, **DUANE C. DIXON**, have engaged in a course of conduct which has prohibited the Plaintiffs from accessing the house on the lands contiguous to the Defendants' lands upon the right-of-way which was the subject of this Honorable Court's Order of October 29, 2004, by building a structure upon the aforesaid right-of-way, thereby causing the Plaintiffs to have no access to their property using the aforesaid right-of-way and further erecting gates and other obstacles limiting the Plaintiffs access to their real property.

9. The Plaintiffs believe, and therefore aver, that the actions of the Defendants in constructing the structure and other obstacles upon the 15' right-of-way, thereby prohibiting the Plaintiffs, Plaintiffs' agents, servants, independent contractors, lessees, successors or assigns from utilizing the 15' right-of-way to access the lands of the Plaintiffs is a direct contravention of this Court's Order of October 29, 2004.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court to find Defendants, **J. CALVIN DIXON and DUANE C. DIXON** in contempt of this Honorable Court's Order of October 29, 2004, and order:

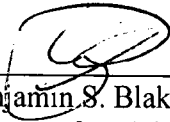
- a. that Defendants, **J. CALVIN DIXON and DUANE C. DIXON**, be found in contempt of this Honorable Court's Order of October 29, 2004;
- b. that the Defendants remove the structure placed upon the 15' foot right-of-way leading to the Plaintiffs' real property and remove any other obstacle which might impede the Plaintiffs in their attempts to reach their real

property, thereby restoring the 15' right-of-way to its condition as it existed at or before October 29, 2004;

- c. the Defendants to reimburse the Plaintiffs' overall expenses incurred in constructing a new right-of-way to the Plaintiffs real property caused by the Defendants' blocking of the 15' right-of-way which is the subject of the Court's order of October 29, 2004;
- d. a civil penalty to be imposed against the Defendants in such an amount that is deemed appropriate by this Honorable Court;
- e. that Defendants pay to Plaintiffs the sum of \$2,500.00 for the bringing of this petition, along with any costs incurred by the Plaintiffs in the bringing of this petition; and
- f. such other relief as this Court deems appropriate.

Respectfully submitted,

BLAKLEY & JONES



Benjamin S. Blakley, III
Attorney for Plaintiffs/Petitioners

VERIFICATION

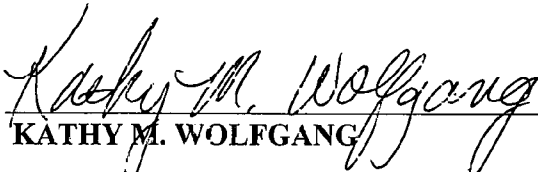
We, **DARREL J. WOLFGANG** and **KATHY M. WOLFGANG**, hereby state that we are the Plaintiffs in this action and verify that the statements made in the foregoing Petition to Hold Defendant in Contempt are true and correct to the best of my knowledge, information, and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: 4-12-18



DARREL J. WOLFGANG

Dated: 4-12-18



KATHY M. WOLFGANG

CERTIFICATE OF SERVICE

This will certify that the undersigned served a copy of the foregoing Petition to Hold Defendant in Contempt in the above-captioned matter on the following parties at the addresses shown below by first-class U.S. Mail on the 15th day of April, 2018:

Matthew R. Zwick, Esquire
Zwick & Zwick LLP
171 Beaver Drive
P.O. Box 1127
DuBois, PA 15801



Benjamin S. Blakley, III

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

DARREL J. WOLFGANG and,
KATHY M. WOLFGANG,
Plaintiffs

vs.

J. CALVIN DIXON,
Defendant

No. 04-1483-CD

Type of Pleading: Emergency
Petition for Special Relief

Filed on behalf of: Darrel J. Wolfgang,
and Kathy M. Wolfgang, Plaintiffs

Counsel of Record for this party:
THE HOPKINS LAW FIRM

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED

SEP 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

EXHIBIT

A

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

DARREL J. WOLFGANG and,	:	
KATHY M. WOLFGANG,	:	
Plaintiffs	:	IN EQUITY
	:	
vs.	:	No.
	:	
J. CALVIN DIXON,	:	
Defendant	:	

NOTICE

TO: Defendant

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 Amended Complaint is 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.

Office of the Court Administrator
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830
(814) 765-2641 (ext. 5982)

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

DARREL J. WOLFGANG and,	:	
KATHY M. WOLFGANG,	:	
Plaintiffs	:	IN EQUITY
	:	
vs.	:	No.
	:	
J. CALVIN DIXON,	:	
Defendant	:	

EMERGENCY PETITION FOR SPECIAL RELIEF

AND NOW, comes Plaintiffs, Darrel J. Wolfgang and Kathy M. Wolfgang, husband and wife, by and through their attorneys, Hopkins Heltzel LLP, and files the within Emergency Petition for Special Relief and in support thereof says as follows:

1. Plaintiffs, Darrel J. Wolfgang and Kathy M. Wolfgang, are husband and wife, who reside at 7 Don Street, DuBois, Clearfield County, Pennsylvania 15801.
2. Defendant is J. Calvin Dixon who resides at R.R. #2, Box 394, DuBois, Clearfield County, Pennsylvania 15801.
3. This Complaint in Equity concerns the use of a fifteen (15') foot non-exclusive right of way of a private road described in a Deed dated March 20, 1952 from Martha Smith to J. Sherman Smith. The Deed is recorded in the Office of the Recorder of Deeds of Clearfield County in Volume 419, at page 484.

4. The relevant portion of the aforesaid Deed states:

The grantor [Martha Smith] does hereby grant and convey unto the said grantees [J. Sherman Smith and Mayva Smith], their heirs and assigns, the free perpetual easement and right of ingress, egress and regress and the uninterrupted use, liberty and privilege of passing in, over, upon and along a certain private roadway fifteen (15) feet in width, at the present location

therof, over and across other lands of grantor [Martha Smith] and the land to be conveyed concurrently herewith to Jennie G. Dixon and Marha Smith as joint tenants with right of survivorship, said private roadway extending to the lands hereby conveyed from the Township road known as the Pine Grove School Road leading in a northeasterly direction from State Highway Route #255 to the Sabula - Brockway Road.

5. By Deed dated March 20, 1952 and recorded in the Office of the Recorder of Deeds of Clearfield County in Volume 419, at page 486, Martha Smith conveyed real property to Jennie C. Dixon and Martha Smith, as joint tenants with the right of survivorship. Therein, the Grantor, Martha Smith, reserved the fifteen (15') foot roadway as follows:

The premises hereby conveyed are conveyed subject to the easement relating to the use of a private roadway . . . over and across the above described premises, which easements were granted and conveyed by the grantor [Martha Smith] herein to J. Sherman Smith and Mayva Smith, his wife, by deed dated concurrently herewith, in which such easements are more fully described.

6. Plaintiffs' lands and Defendant's lands are contiguous.

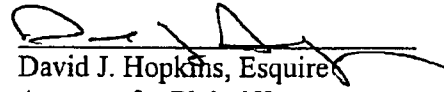
7. Defendant has prohibited Plaintiffs from utilizing said roadway to access a house upon the lands of Plaintiffs.

8. Plaintiffs proposes to rent the property to a man of black skin and to the best knowledge, information and belief, the proposed rental of the property to a man of color has caused Defendant to act in contradiction to the express terms of the source deed right of way from Martha Smith and further in violation of the laws of the United States of America and Commonwealth of Pennsylvania.

9. Plaintiffs will suffer irreparable harm should the Court not grant this Petition inasmuch as Plaintiffs are denied access to their property and the ability to care and maintain for the property.

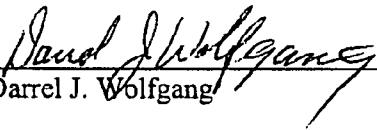
WHEREFORE, Plaintiffs respectfully request this Honorable Court to issue an Order prohibiting Defendant from stopping Plaintiffs or Plaintiffs' heirs, successors, assigns or renters from utilizing the aforesaid fifteen (15') foot roadway and for such further relief as the Court deems fair, just and equitable.

Respectfully submitted,


David J. Hopkins, Esquire
Attorney for Plaintiffs

VERIFICATION

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.



Darrel J. Wolfgang

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

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

CIVIL DIVISION

NOV 02 2004

DARRELL J. WOLFGANG and
KATHY M. WOLFGANG

Attest:

John B. [Signature]
Prothonotary/
Clerk of Courts

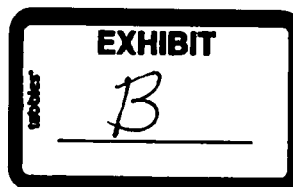
-VS-

No. 04-1483-CD

J. CALVIN DIXON

O R D E R

NOW, this 29th day of October, 2004, this being the date set for hearing on Emergency Petition for Special Relief; the Court being advised that the parties have reached an agreement to the same, it is the ORDER of this Court that Defendant, J. Calvin Dixon, his agents, servants, employees, successors and assigns, and any other individual entity within his control or supervision and all other persons or entities acting in concert or on his behalf are enjoined, directly or indirectly, from prohibiting Plaintiffs and Plaintiffs' agents, servants, independent contractors, lessees, successors or assigns from utilizing a fifteen (15) foot roadway to access a house upon the lands of Plaintiffs provided that Plaintiffs or their agents, servants, independent contractors, lessees, successors or assigns use only the fifteen (15) foot roadway to gain access to the house upon the lands of Plaintiffs and shall not go off the said roadway for any



reason whatsoever. It is the further ORDER of this Court that Defendant, J. Calvin Dixon, his agents, servants, employees, successors or assigns, nor Plaintiffs' lessees shall not intentionally and knowingly harass one another at any time.

This Order shall remain in full force and effect until further Order of Court.

BY THE COURT,

/s/ Paul E. Cherry

Judge

CLEARFIELD COUNTY RECORDER OF DEEDS

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

***RETURN DOCUMENT TO:**

HANAK, GUIDO, AND TALADAY
P.O. BOX 487
DUBOIS, PA 15801

Instrument Number - 200815559

Recorded On 9/25/2008 At 11:11:59 AM

* Instrument Type - DEED

* Total Pages - 5

Invoice Number - 193030

* Grantor - DIXON, J CALVIN

* Grantee - DIXON, J CALVIN

* Customer - HANAK, GUIDO, AND TALADAY

*** FEES**

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

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



Maurene E. Inlow

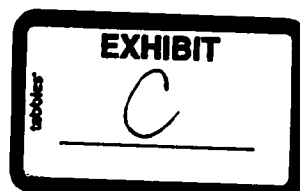
Maurene E. Inlow
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

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



Warranty Deed
County Parcel No. _____

THIS DEED

MADE the 23 day of September in the year two thousand eight (2008).

BETWEEN J. CALVIN DIXON and NORMA LEE DIXON, his wife, of Sandy Township, Clearfield County, Pennsylvania, Parties of the First Part and GRANTORS,

and

J. CALVIN DIXON, an individual, of Sandy Township, Clearfield County, Pennsylvania, and **DUANE C. DIXON**, son of the Grantors, an individual, of Sandy Township, Clearfield County, Pennsylvania, as tenants with the right of survivorship, Parties of the Second Part and GRANTEES;

WITNESSETH, That in consideration of the sum of One (\$1.00) Dollar, the said Grantors do hereby grant and convey to the said Grantees, as tenants with right of survivorship,

ALL that certain piece or parcel of land located in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pipe, said pipe being the southeasterly corner of land now or formerly of J. Sherman Smith and Mayva Smith, his wife; thence by land now or formerly of Jennie G. Dixon, South 26° 53' West 157.1 feet to an iron pipe; thence by land now or formerly of Jennie G. Dixon, South 83° 13' West 287.4 feet to a point; thence by land now or formerly of Jennie G. Dixon, North 45° 10' East 433.2 feet to a point; thence by land now or formerly of Jennie G. Dixon, North 45° 10' East 259 feet, more or less, to a point; thence by land now or formerly of Jennie G. Dixon, South 44° 50' East 33 feet to an iron pipe; thence by land now or formerly of Jennie G. Dixon and by land now or formerly of J. Sherman Smith and Mayva Smith, his wife, South 44° 50' East 480.1 feet to an iron pipe, the place of beginning. CONTAINING 3.8 acres, more or less, and having thereon erected a dwelling house.

The premises hereby conveyed are conveyed subject to the easements relating to the use of a private roadway and to the maintaining, repair and replacing of a water line in, on, over and across the above described premises, which easements were granted and conveyed by separate instruments of conveyance which were intended to be recorded.

The above premises are more accurately bounded and described as follows:

BEGINNING at an iron pipe, said iron pipe being at the northwesterly corner of lands now or formerly of Jennie G. Dixon, as conveyed to her by deed of J. Sherman Smith, Executor of the Estate of Martha Smith, a/k/a Mattie O. Smith, dated July 24, 1981, recorded in Clearfield County Deed Book 818, page 550; thence by said lands now or formerly of Jennie G. Dixon, South 26° 53' West 157.1 feet to an iron pipe; thence still by land now or formerly of Jennie G. Dixon, South 83° 13' West 287.40 feet to a point on line of land now or formerly of J. Sherman Smith and Mayva Smith; thence by land now or formerly of J. Sherman Smith and Mayva Smith, North 26° 48' West 404.90 feet to a point; thence by land now or formerly of J. Sherman Smith and Mayva Smith, North 45° 10' East 248.96 feet to a point; thence still by land now or formerly of J. Sherman Smith and Mayva Smith, South 44° 58' East 434.71 feet to an iron pipe at the Northwest corner of other lands now or formerly of Jennie G. Dixon, the place of beginning. Containing 3.8 acres, more or less.

BEING the same premises conveyed to J. Calvin Dixon by deed of Jennie G. Dixon, dated October 16, 1992, recorded March 9, 1993, in Deeds & Records Book 1517, page 474.

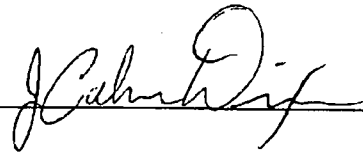
EXCEPTING AND RESERVING therefrom all of the oil and gas to the Grantor, J. Calvin Dixon, singularly, which is not part of the survivorship title conveyed herein.

It is hereby affirmed for purposes of the Commonwealth of Pennsylvania Realty Transfer Tax Act that this is a parent to parent and child transfer and therefore is exempt for tax purposes.

NOTICE

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

Witness:



This 23 day of September, 2008.


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

CERTIFICATE OF RESIDENCE

I/we hereby certify, that the precise residence for the Grantee herein is as follows:

J. Calvin Dixon - 89 Hungry Hollow Road, DuBois, PA 15801

Duane C. Dixon - 243 TurkeyFarm Road, DuBois, PA 15801



Attorney or Agent for Grantee

AND the said Grantors will GENERALLY WARRANT AND FOREVER DEFEND the property hereby conveyed.

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

Sealed and delivered in the presence of:

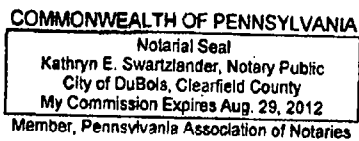
J. Calvin Dixon (SEAL)
Calvin Dixon
Norma Lee Dixon (SEAL)
Norma Lee Dixon

Commonwealth of Pennsylvania :
County of Clearfield : SS

On this, the 23 day of September, 2008, before me the undersigned officer, a notary public, personally appeared J. CALVIN DIXON and NORMA LEE DIXON, husband and wife, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purpose therein contained.

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

Kathryn E. Swartzlander
Notary Public



COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON,

Defendant.

) CIVIL ACTION

)

) No. 2004-1483-C.D.

)

) Type of Pleading: **RESPONSE IN
OPPOSITION OF PLAINTIFFS'**

) **PETITION TO HOLD DEFENDANT IN
CONTEMPT AND COUNTERCLAIM**

)

) Filed on Behalf of: **DEFENDANT**

)

)

) Counsel of Record for this Party:

)

) **MATTHEW R. ZWICK, ESQUIRE**

) PA I.D. No.: 313839

) E-mail: mrz@zwick-law.com

)

) **C.J. ZWICK, ESQUIRE**

) PA I.D. No.: 306554

) E-mail: cjz@zwick-law.com

)

) **ZWICK & ZWICK LLP**

) 171 Beaver Drive

) P.O. Box 1127

) DuBois, PA 15801

) (814) 371-6400

)

)

)

)

COPY

FILED
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APR 23 2018
rec by Zwick
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

1. Upon information and belief, admitted.
2. Denied. To the contrary, Defendant-Respondent J. Calvin Dixon resides at 89 Hungry Hollow Road, DuBois, Pennsylvania 15801.
3. Denied. The corresponding paragraph of Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt states conclusions of law to which no answer is required. To the extent an answer may be necessary, the same is denied and strict proof thereof is hereby demanded. By way of further response, through no fault of Defendant-Respondent, Plaintiffs-Petitioners and their agents, servants, independent contractors, lessees, successors and assigned have not utilized the purported "15' nonexclusive right-of-way" to access their real property, or for any other lawful purpose, for at least the last thirteen (13) to fourteen (14) years. By way of further response, as of the date of the filing of this Response, Defendant-Respondent no longer owns the real property referred to within the corresponding paragraph of Plaintiffs-Petitioners' Petition to

Hold Defendant in Contempt; to the contrary, Defendant-Respondent's son and grandson currently hold title to the aforesaid real property, which is contiguous to lands of Plaintiffs-Petitioners. By way of further response, Defendant-Respondent has acted lawfully, prudently and properly at all relevant and material times hereto.

4. Denied. The corresponding paragraph of Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt states conclusions of law to which no answer is required. To the extent an answer may be necessary, the same is denied and strict proof thereof is hereby demanded. By way of further response, the corresponding paragraph of Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt refers to a written document, which is attached to Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt as Exhibit A, and which speaks best for itself. To the extent that the averments contained within the corresponding paragraph of Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt are in any way inconsistent or at variance with the referenced written document, said averments are expressly denied and strict proof thereof is hereby demanded. By way of further response, Defendant-Respondent has acted lawfully, prudently and properly at all relevant and material times hereto.

5. Denied. The corresponding paragraph of Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt states conclusions of law to which no answer is required. To the extent an answer may be necessary, the same is denied and strict proof thereof is hereby demanded. By way of further response, the corresponding paragraph of Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt refers to a written document, which is attached to Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt as Exhibit B, and which speaks best for itself. To the extent that the averments contained within the corresponding paragraph of Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt are in any way inconsistent or at variance with the referenced written document, said averments are expressly denied and strict proof thereof is

hereby demanded. By way of further response, the averments within the corresponding paragraph of Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt misconstrue, mischaracterize, and misstate the mandates of the referenced Court Order dated October 29, 2004. By way of further response, Defendant-Respondent J. Calvin Dixon was not present at the October 29, 2004 hearing, and he did not authorize or permit anyone to enter into a stipulated agreement or Order on his behalf, as is referenced within the corresponding paragraph of Plaintiffs-Petitioners' Petition to Hold-Defendant in Contempt. By way of further response, since at least the end of 2004, neither Plaintiffs-Petitioners nor Plaintiffs-Petitioners' agents, servants, independent contractors, lessees, successors or assigned utilized the aforesaid "15' right-of-way" to gain access to the house upon the lands of Plaintiffs-Petitioners, or for any other lawful purpose. By way of further response, the Court's October 29, 2004 Order provides that Defendant-Respondent shall not prohibit, directly or indirectly, Plaintiffs and/or Plaintiffs' agents, servants, independent contractors, lessees, successors or assigns from utilizing the fifteen (15) foot roadway to access a house upon the lands of Plaintiffs, **"provided that Plaintiffs . . . use only the fifteen (15) foot roadway to gain access to the house . . ."** By way of further response, Plaintiffs-Petitioners and their agents, servants, independent contractors, lessees, successors or assigned have not utilized the aforesaid fifteen (15) foot roadway to access the house upon the lands of Plaintiffs since, at the very latest, late 2004, when Plaintiffs-Petitioners willingly and voluntarily completed construction and installation of a private driveway that traverses lands that are owned by Plaintiffs-Petitioners, exclusively, and which served the aforesaid house, exclusively. By way of further response, Defendant-Respondent has acted lawfully, prudently and properly at all relevant and material times hereto.

6. Denied. The corresponding paragraph of Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt states conclusions of law to which no answer is required. To the extent

an answer may be necessary, the same is denied and strict proof thereof is hereby demanded. By way of further response, the corresponding paragraph of Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt refers to a written document, which is attached to Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt as Exhibit B, and which speaks best for itself. To the extent that the averments contained within the corresponding paragraph of Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt are in any way inconsistent or at variance with the referenced written document, said averments are expressly denied and strict proof thereof is hereby demanded. By way of further response, since at least the end of 2004, through no fault of Defendant-Respondent, neither Plaintiffs-Petitioners nor Plaintiffs-Petitioners' agents, servants, independent contractors, lessees, successors or assigned utilized the aforesaid fifteen (15) foot right-of-way (i.e., roadway) to gain access to the house upon the lands of Plaintiffs-Petitioners, or for any other lawful purpose. By way of further response, the Court's October 29, 2004 Order provides that Defendant-Respondent shall not prohibit, directly or indirectly, Plaintiffs and/or Plaintiffs' agents, servants, independent contractors, lessees, successors or assigns from utilizing the fifteen (15) foot roadway to access a house upon the lands of Plaintiffs, **"provided that Plaintiffs . . . use only the fifteen (15) foot roadway to gain access to the house . . ."** By way of further response, through no fault of Defendant-Respondent, Plaintiffs-Petitioners and their agents, servants, independent contractors, lessees, successors or assigned have **not** utilized the aforesaid fifteen (15) foot roadway to access the house upon the lands of Plaintiffs since, at the very latest, late 2004, when Plaintiffs-Petitioners unilaterally and voluntarily completed construction and installation of a private driveway that traverses lands that are owned by Plaintiffs-Petitioners, exclusively, and which serves the aforesaid house, exclusively. By way of further response, Plaintiffs-Petitioners' averment that Defendant-Respondent has **"caus[ed] the Plaintiffs to have no access to their property using the aforesaid right-of-way**

and compelling the Plaintiffs to construct an additional access to their real property” is completely without merit, and is set forth by Plaintiffs-Petitioners in bad faith and for the sole purpose of harassing Defendant-Respondent. By way of further response, Defendant-Respondent has acted lawfully, prudently and properly at all relevant and material times hereto.

7. Denied. The corresponding paragraph of Plaintiffs-Petitioners’ Petition to Hold Defendant in Contempt states conclusions of law to which no answer is required. To the extent an answer may be necessary, the same is denied and strict proof thereof is hereby demanded. By way of further response, the corresponding paragraph of Plaintiffs-Petitioners’ Petition to Hold Defendant in Contempt refers to a written document, which is attached to Plaintiffs-Petitioners’ Petition to Hold Defendant in Contempt as Exhibit B, and which speaks best for itself. To the extent that the averments contained within the corresponding paragraph of Plaintiffs-Petitioners’ Petition to Hold Defendant in Contempt are in any way inconsistent or at variance with the referenced written document, said averments are expressly denied and strict proof thereof is hereby demanded. By way of further response, since at least the end of 2004, through no fault of Defendant-Respondent, neither Plaintiffs-Petitioners nor Plaintiffs-Petitioners’ agents, servants, independent contractors, lessees, successors or assigned utilized the aforesaid fifteen (15) foot right-of-way (i.e., roadway) to gain access to the house upon the lands of Plaintiffs-Petitioners, or for any other lawful purpose. By way of further response, the Court’s October 29, 2004 Order provides that Defendant-Respondent shall not prohibit, directly or indirectly, Plaintiffs and/or Plaintiffs’ agents, servants, independent contractors, lessees, successors or assigns from utilizing the fifteen (15) foot roadway to access a house upon the lands of Plaintiffs, **“provided that Plaintiffs . . . use only the fifteen (15) foot roadway to gain access to the house”** By way of further response, through no fault of Defendant-Respondent, Plaintiffs-Petitioners and their agents, servants, independent contractors, lessees, successors or assigned have **not** utilized the

aforesaid fifteen (15) foot roadway to access the house upon the lands of Plaintiffs since, at the very latest, late 2004, when Plaintiffs-Petitioners unilaterally and voluntarily completed construction and installation of a private driveway that traverses lands that are owned by Plaintiffs-Petitioners, exclusively, and which serves the aforesaid house, exclusively. **By way of further response, Plaintiffs-Petitioners' averment that the actions of Defendant-Respondent have "prohibit[ed] the Plaintiffs . . . from utilizing the 15 right-of-way to access the lands of the Plaintiffs is a direct contravention of this Courts Order" is completely without merit, and set forth by Plaintiffs-Petitioners in bad faith and for the sole purpose of harassing Defendant-Respondent.** By way of further response, Defendant-Respondent has acted lawfully, prudently and properly at all relevant and material times hereto.

WHEREFORE, Defendant-Respondent, J. Calvin Dixon, respectfully request that this Honorable Court enter judgment in favor of Defendant-Respondent and against Plaintiffs-Petitioners, as follows:

A. That the Court dismiss Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt, with prejudice;

B. That the Court enter judgment in favor of Defendant-Respondent for injuries, losses, and damages as determined to have been sustained by Defendant-Respondent, plus costs together with interest;

C. That the Court order Plaintiffs-Petitioners to pay Defendant-Respondent's attorney's fees associated with his defense of the instant Petition, which was instituted by Plaintiffs-Petitioners arbitrarily, vexatiously and in bad faith, as described and set forth herein; and

D. That the Court grant Defendant-Respondent such other and further relief as the Court deems fair, just, and equitable.

COUNTERCLAIM

Attorney's Fees

8. Defendant-Respondent hereby reasserts and incorporates the averments in all preceding paragraphs as if the same were fully set forth herein.

9. The instant Petition to Hold Defendant in Contempt filed by Plaintiffs-Petitioners contains averments of fact that are patently false, misleading and intentionally deceptive, and Plaintiffs-Petitioners knew that such averments were patently false, misleading and intentionally deceptive when executing the verification affixed to and filing said Petition.

10. As will be established at hearing in this matter, the conduct of Plaintiffs-Petitioners in recommencing the instant action against Defendant-Respondent with the filing of their Petition to Hold Defendant in Contempt was unreasonable, arbitrary, vexatious and done in utter bad faith.

11. In particular, Defendant-Respondent hereby submits that the following averments of material fact are patently false and set forth and verified by Plaintiffs-Petitioners in utter bad faith to harass Defendant-Respondent:

a. "the Defendant has engaged in a course of conduct which has **prohibited the Plaintiffs from accessing the house on the lands contiguous to the Defendant's lands by building a structure upon the aforesaid right-of-way . . .**" (See Petition to Hold Defendant in Contempt, ¶ 6.); and

b. "thereby causing the Plaintiffs to have no access to their property using the aforesaid right-of-way and compelling the Plaintiffs to construct an additional access to their real property." (Id.)

12. As a result of the foregoing, due to Plaintiffs-Petitioners' arbitrary, vexatious, and bad faith conduct in recommencing the instant action against him, Defendant-Respondent

requests that Plaintiffs-Petitioners be ordered and required to pay all costs, expenses and attorney's fees incurred by Defendant-Respondent in this matter. See 42 Pa.C.S.A. § 2503(9).

WHEREFORE, Defendant-Respondent, J. Calvin Dixon, respectfully request that this Honorable Court enter judgment in favor of Defendant-Respondent and against Plaintiffs-Petitioners, as follows:

A. That the Court dismiss Plaintiffs-Petitioners' Petition to Hold Defendant in Contempt, with prejudice;


B. That the Court enter judgment in favor of Defendant-Respondent for injuries, losses, and damages as determined to have been sustained by Defendant-Respondent, plus costs together with interest;

C. That the Court order Plaintiffs-Petitioners to pay Defendant-Respondent's attorney's fees associated with his defense of the instant Petition, which was instituted by Plaintiffs-Petitioners arbitrarily, vexatiously and in bad faith, as described and set forth herein, and

D. That the Court grant Defendant-Respondent such other and further relief as the Court deems fair, just, and equitable.

Respectfully submitted,

ZWICK & ZWICK LLP


Matthew R. Zwick, Esquire
C.J. Zwick, Esquire

VERIFICATION

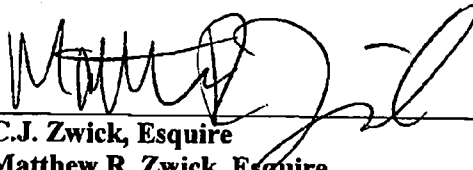
I, J. CALVIN DIXON, verify that the statements made in this document are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.

DATE: 4-18-18

J. Calvin Dixon
J. CALVIN DIXON

CERTIFICATE OF COMPLIANCE

I hereby certify that, on this 18th day of April, 2018, this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing of confidential information and documents differently than non-confidential information and documents.

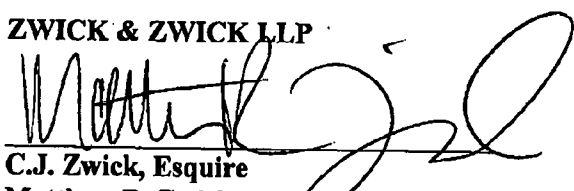

C.J. Zwick, Esquire
Matthew R. Zwick, Esquire

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the instant **RESPONSE IN OPPOSITION OF PLAINTIFFS' PETITION TO HOLD DEFENDANT IN CONTEMPT** was served, on the 18th day of April, 2018, by U.S. First Class Mail, postage prepaid, to the following parties:

Benjamin S. Blakely, III, Esquire
Blakely & Jones
90 Beaver Drive, Suite 104A
DuBois, PA 15801
Counsel for Plaintiff

ZWICK & ZWICK LLP


C.J. Zwick, Esquire
Matthew R. Zwick, Esquire
Attorneys for Defendant-Respondent

5.

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiff,

vs.

J. CALVIN DIXON and
DUANE C. DIXON,

Defendants.

: NO. 04 - 1483 - C.D.
:
: Type of Case: CIVIL ACTION
:
: Type of Pleading: PRAECIPE TO ATTACH
: NOTICE TO DEFEND TO PLAINTIFF'S
: AMENDED PETITION TO HOLD
: DEFENDANTS IN CONTEMPT
:
: Filed on Behalf of:
: PLAINTIFFS
:
: Counsel of Record:
: BENJAMIN S. BLAKLEY, III
: Supreme Court No. 26331
:
: BLAKLEY & JONES
: 90 Beaver Drive, Suite 104A
: DuBois PA 15801
: (814) 371-2730
: (814) 375-1082-fax

FILED
0/um

APR 27 2018

BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURT
3cc Atty Blakely

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

DARREL J. WOLFGANG and	)	NO. 04 - 1483 - C.D.
KATHY M. WOLFGANG,)	
)	
Plaintiff,)	
)	
vs.)	
)	
J. CALVIN DIXON and)	
DUANE C. DIXON,)	
)	
Defendants.)	

**PRAECIPE TO ATTACH NOTICE TO DEFEND
TO PLAINTIFF'S AMENDED PETITION TO HOLD DEFENDANTS IN CONTEMPT**

TO THE PROTHONOTARY:

Please attach the Notice to Defend which is attached hereto to the Plaintiff's Amended
Petition to Hold Defendants in Contempt which was filed on April 20, 2018.

BLAKLEY & JONES



Benjamin S. Blakley, III

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

DARREL J. WOLFGANG and	)	NO. 04 - 1483 - C.D.
KATHY M. WOLFGANG,)	
)	
Plaintiff,)	
)	
vs.)	
)	
J. CALVIN DIXON and)	
DUANE C. DIXON,)	
)	
Defendants.)	

NOTICE

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

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

F. Cortez Bell, Court Administrator
Clearfield County Courthouse
230 east Market Street
Clearfield PA 16830
(814) 765-2641, Ext. 5982

5

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiff,

vs.

J. CALVIN DIXON,

Defendant.

: NO. 04 - 1483 - C.D.
:
: Type of Case: CIVIL ACTION
:
: Type of Pleading:
: ANSWER TO COUNTERCLAIM
:
: Filed on Behalf of:
: PLAINTIFFS
:
: Counsel of Record:
: BENJAMIN S. BLAKLEY, III
: Supreme Court No. 26331
:
: BLAKLEY & JONES
: 90 Beaver Drive, Suite 104A
: DuBois PA 15801
: (814) 371-2730
: (814) 375-1082-fax
:
:

FILED
m/jm/jm

APR 30 2018

RECEIVED
CLERK OF COURT

cc Atty Blakley.

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

DARREL J. WOLFGANG and	)	NO. 04 - 1483 - C.D.
KATHY M. WOLFGANG,)	
)	
Plaintiff,)	
)	
vs.)	
)	
J. CALVIN DIXON,)	
)	
Defendant.)	

ANSWER TO COUNTERCLAIM

AND NOW comes Plaintiffs, **DARREL J. WOLFGANG and KATHY M. WOLFGANG**, by and through their undersigned attorneys, **BLAKLEY & JONES**, and answers Defendant's Counterclaim for attorney's fees in the above-captioned matter, and in support thereof, the following is averred:

8. Requires no answer.

9. It is denied that Plaintiffs' Petition to Hold Defendant in Contempt contains averments that are patently false, misleading and intentionally deceptive and that Plaintiffs knew that such averments were patently false, misleading and intentionally deceptive, and on the contrary, it is averred that all such averments were made to the best of Plaintiffs' knowledge, information and belief.

10. It is denied that the Plaintiffs' commencement of the instant action against Defendant was unreasonable, arbitrary, vexatious and done in utter bad faith, and on the contrary, it is averred that the commencement of the action against the Defendant was done because of the contemptuous actions of the Defendant.


11. It is denied that the averments made by the Plaintiffs in their Petition were made in bad faith to harass the Defendant, as the Defendant has prohibited the Plaintiffs from using the subject right-of-way to access their house and the lands contiguous to the Defendant's land by building a structure on the aforesaid right-of-way, and the Plaintiffs have no access to their property using the aforesaid right-of-way, thereby necessitating the construction of an additional access to their real property.

12 The averments contained within Paragraph 12 of Defendant's Counterclaim are denied, and strict proof thereof is demanded at trial.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to deny Defendant's request for attorney's fees, costs and expenses.

Respectfully submitted,

BLAKLEY & JONES


Benjamin S. Blakley, III
Attorney for Plaintiffs

VERIFICATION

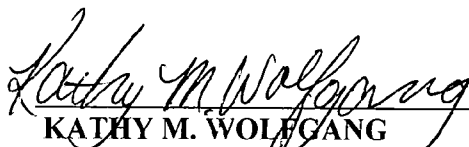
We, **DARREL J. WOLFGANG** and **KATHY M. WOLFGANG**, hereby state that we are the Plaintiffs in this action and verify that the statements made in the foregoing Answer to Counterclaim are correct to the best of our knowledge, information, and belief. We understand that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: 4-26-18



DARREL J. WOLFGANG

Dated: 4-26-18




KATHY M. WOLFGANG

CERTIFICATE OF SERVICE

This will certify that the undersigned served a copy of the foregoing Answer to Counterclaim in the above-captioned matter on the following parties at the addresses shown below by first-class U.S. Mail on the 27th day of April, 2018:

Matthew R. Zwick, Esquire
Zwick & Zwick LLP
171 Beaver Drive
P O Box 1127
DuBois PA 15801



Benjamin S. Blakley, III

9 . . .
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON and DUANE C.
DIXON,

Defendants.

: NO. 04 - 1483 - C.D.

:

: Type of Case: CIVIL ACTION

:

: Type of Pleading:

: AFFIDAVIT OF SERVICE

:

: Filed on Behalf of:

: PLAINTIFFS

:

: Counsel of Record:

: BENJAMIN S. BLAKLEY, III

: Supreme Court No. 26331

:

: BLAKLEY & JONES

: 90 Beaver Drive, Suite 104A

: DuBois PA 15801

: (814) 371-2730

: (814) 375-1082-fax

:

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FILED

m/cas 9:00am lcc

MAY 03 2018

Blakley

BRIAN K. SPENCER
PROTHONOTARY & CLERK

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


DARREL J. WOLFGANG and	)	NO. 04 - 1483 - C.D.
KATHY M. WOLFGANG,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
J. CALVIN DIXON and DUANE C.)	
DIXON,)	
)	
Defendants)	

AFFIDAVIT OF SERVICE

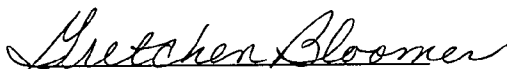
COMMONWEALTH OF PENNSYLVANIA :
: **SS.**
COUNTY OF CLEARFIELD :

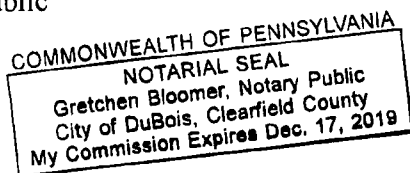
BENJAMIN S. BLAKLEY, III, being duly sworn according to law, deposes and says
that as attorney for Plaintiffs, he did on, April 28, 2018, serve **NICHOLAS THOMAS**
POULOS, Defendant, with a certified copy of the Amended Petition to Hold Defendants in
Contempt by Certified Mail, Return Receipt Requested, said return receipt is being attached
hereto.

Sworn to and Subscribed
before me this 1st day
of May, 2018.



Benjamin S. Blakley, III


Notary Public



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- 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:

Mr. Duane C. Dixon
243 Turkey Farm Road
DuBois, PA 15801



9590 9403 0594 5183 6644 22

2. Article Number (Transfer from service label)

7015 1730 0000 6594 4709

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Handwritten Signature]

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

[Handwritten Date: 1/4/88]

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes
☒ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery

- ☒ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

☐ Mail Restricted Delivery

Domestic Return Receipt

CA

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG

Plaintiffs

Vs.

JAMES CALVIN DIXON

Defendant

NO. 2004-1483-CD

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MAY 03 2018

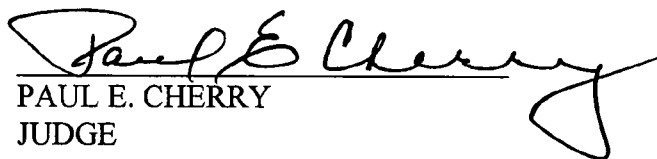
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS
2cc AH & Blakely
1cc AH & Zwick

ORDER

NOW, this 3rd day of May, 2018, after discussion with Counsel for both parties, it is the ORDER of this Court that the hearing on Plaintiff's *Petition for Contempt* in the above captioned case, previously scheduled for May 8, 2018, shall be and is hereby **rescheduled** to the **4th day of June, 2018, at 1:30 PM**, in Courtroom #2, 2nd Floor of the Clearfield County Courthouse, Clearfield, PA 16830.

One half day has been reserved for this proceeding.

BY THE COURT:


PAUL E. CHERRY
JUDGE

5

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiff,

vs.

J. CALVIN DIXON,

Defendant.

: NO. 04 - 1483 - C.D.
:
: Type of Case: CIVIL ACTION
:
: Type of Pleading: MOTION TO AMEND
: PLAINTIFF'S PETITION TO HOLD
: DEFENDANT IN CONTEMPT
:
: Filed on Behalf of:
: PLAINTIFFS
:
: Counsel of Record:
: BENJAMIN S. BLAKLEY, III
: Supreme Court No. 26331
:
: BLAKLEY & JONES
: 90 Beaver Drive, Suite 104A
: DuBois PA 15801
: (814) 371-2730
: (814) 375-1082-fax
:

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dgs 3:31pm Atty
MAY 04 2018 Blakley

BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

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

DARREL J. WOLFGANG and KATHY	)	NO. 04 - 1483 - C.D.
M. WOLFGANG,)	
)	
Plaintiff,)	
)	
vs.)	
)	
J. CALVIN DIXON,)	
)	
Defendant.)	

MOTION TO AMEND
PLAINTIFF'S PETITION TO HOLD DEFENDANT IN CONTEMPT

AND NOW come Plaintiffs, **DARREL J. WOLFGANG and KATHY M. WOLFGANG**, by and through their undersigned attorneys, **BLAKLEY & JONES**, and moves this Honorable Court to amend their Petition to Hold Defendant in Contempt in the above-captioned matter, and in support thereof, the following is averred:

1. Plaintiffs, **DARREL J. WOLFGANG and KATHY M. WOLFGANG**, by Petition filed on January 2, 2018, did bring an action seeking to hold the Defendant, **J. CALVIN DIXON**, in contempt of this Honorable Court's Order of October 29, 2004, which enjoined the Defendant, his agents, servants, employees, successors and assigns, and any other individual entity within his control or supervision and all other persons or entities acting in concert or on his behalf from prohibiting Plaintiffs and Plaintiffs' agents, servants independent contractors, lessees, successors or assigns from utilizing a fifteen foot right-of-way, which is located on the lands of the Defendant, to gain access to the property of the Plaintiffs, which is located adjacent to the Defendant's property located in Sandy Township, Clearfield County, Pennsylvania.

2. Subsequent to the filing of the Plaintiffs' Petition, it was learned that the Defendant had conveyed a one-half interest in the said real property to his son, Duane C. Dixon. Further, it was learned that the said Duane C. Dixon had previously appeared on behalf of his father at the time of the entry of the Order on October 29, 2004, and had participated in the negotiation of a stipulation leading to the Court's entry of the October 29, 2004, Order.


3. It is believed that, because of the addition of Duane C. Dixon as owner of the real property which is burdened by the fifteen-foot right-of-way leading to the Plaintiffs' property, the said Duane C. Dixon should be added as an additional Defendant to the Petition, as he is a successor and/or an assignee of Defendant J. Calvin Dixon with regard to the ownership interest in and to the Dixon real property.

4. Pa. R.C.P. 1033(a) permits an amendment to a pleading to add a person as a party by leave of Court.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant their Motion and grant the Plaintiffs leave to amend their Petition to Hold Defendant in Contempt, so as to add Duane C. Dixon as an additional Defendant to said action.

Respectfully submitted,

BLAKLEY & JONES



Benjamin S. Blakley, III
Attorney for Plaintiffs

VERIFICATION

I, **BENJAMIN S. BLAKLEY, III**, hereby state that I am counsel for the Plaintiffs in this action and verify that the statements made in the foregoing Motion to Amend Plaintiffs' Petition to Hold Defendant in Contempt are true and correct to the best of my knowledge, information, and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: _____




BENJAMIN S. BLAKLEY, III

CERTIFICATE OF SERVICE

This will certify that the undersigned served a copy of the foregoing Motion to Amend Plaintiffs' Petition to Hold Defendant in Contempt in the above-captioned matter on the following parties at the addresses shown below by first-class U.S. Mail on the 4th day of May, 2018:

Duane C. Dixon
243 Turkey Farm Road
DuBois PA 15801

Matthew R. Zwick, Esquire
Zwick & Zwick LLP
171 Beaver Drive
P.O. Box 1127
DuBois, PA 15801



Benjamin S. Blakley, III

5, -

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON and DUANE C.
DIXON,

Defendants.

: NO. 04 - 1483 - C.D.
:
: Type of Case: CIVIL ACTION
:
: Type of Pleading:
: AMENDED AFFIDAVIT OF SERVICE
:
: Filed on Behalf of:
: PLAINTIFFS
:
: Counsel of Record:
: BENJAMIN S. BLAKLEY, III
: Supreme Court No. 26331
:
: BLAKLEY & JONES
: 90 Beaver Drive, Suite 104A
: DuBois PA 15801
: (814) 371-2730
: (814) 375-1082-fax
:
:

FILED
O/GS 3:25 pm
MAY 04 2018
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS
ICC
Att
Blakley

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

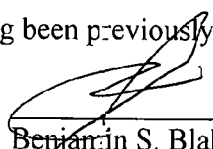
DARREL J. WOLFGANG and	)	NO. 04 - 1483 - C.D.
KATHY M. WOLFGANG,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
J. CALVIN DIXON and DUANE C.)	
DIXON,)	
)	
Defendants)	

AMENDED AFFIDAVIT OF SERVICE

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

BENJAMIN S. BLAKLEY, III, being duly sworn according to law, deposes and says that as attorney for Plaintiffs, he did on, April 28, 2018, serve **DUANE C. DIXON**, Defendant, with a certified copy of the Amended Petition to Hold Defendants in Contempt by Certified Mail, Return Receipt Requested, said return receipt having been previously filed with the Court.

Sworn to and Subscribed
before me this 4th day
of May, 2018.


Benjamin S. Blakley, III


Gretchen Bloomer
Notary Public

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

DARREL J. WOLFGANG and KATHY)
M. WOLFGANG,)

Plaintiff,)

vs.)

J. CALVIN DIXON,)

Defendant.)

NO. 04 - 1483 - C.D.

5
FILED JM
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MAY 08 2018

BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURT
4CC ATTY Bbley

ORDER

AND NOW, this 8th day of May, 2018, upon consideration of Plaintiffs' Motion to Amend Plaintiffs' Petition to Hold Defendant in Contempt, it is the ORDER of this Court that said Motion is hereby granted, and Plaintiffs are granted leave to amend their Petition to Hold Defendant in Contempt so as to add Duane C. Dixon as an additional Defendant to said pleading.

BY THE COURT,

Paul E. Cherry J.

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

COPY

WOLFGANG

Plaintiff(s)

NO. 2004-1483 ED

VS.

J. CALVIN DIXON / DUANE DIXON

Defendant(s)



FILED
012:47pm APR
MAY 25 2018

2cc: D. Dixon
BRIAN K. SPENCER

PROTHONOTARY & CLERK OF COURTS

PRAECIPE FOR SELF-REPRESENTATION [PRO-SE]

I, DUANE DIXON, Plaintiff or Defendant (circle one), represent myself in the within action.

WITHDRAW OR REMOVE COUNSEL OF RECORD (If Applicable)

____ Withdraw my appearance for the filing party.

____ Esq. (Print name) ID# _____

____ Signature DATE: _____

____ Remove _____, Esq., as my attorney of record.

I understand that I am under a continuing obligation to provide current contact information to the court, to other self-represented parties, and to attorneys of record.

All pleadings and legal papers can be served on me at the address listed below:

DUANE DIXON

Print Name

Duane Dixon

Signature

814-375-2278

Telephone number

243 TURKEY FARM ROAD

Address

FAX _____

DuBois PA 15801

City, State, Zip Code

MAY 25, 2018

Date

THE PARTY FILING THIS PRAECIPE MUST PROVIDE NOTICE BY SENDING A COPY TO ALL PARTIES AND ATTORNEYS, INCLUDING ATTORNEY REMOVED FROM THE CASE.

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

DARREL J. WOLFGANG and
KATHY M WOLFGANG,

Plaintiffs,
vs.

J. CALVIN DIXON AND
DUANE C. DIXON

Defendants.

) No. 2004-1483-C.D.
)
) Type of Case:
)
) Type of Pleading: MOTION TO REQUEST
) NEW JUDGE
)
) DUANE C. DIXON REPRESENTING SELF
) PRO SE
)
) Duane C. Dixon
) 243 Turkey Farm Rd.
) Du Bois PA 15801
) (814) 375-2278
)
)
)

S

FILED
019:34am/RR
MAY 29 2018
3cc D.Dix
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

3. From the very first actions in 2004, and now in the present action, the whole case has been full of improprieties outside normal court procedures, e.g., improper ruling, improper service, improper notification(s) and manufactured evidence. Because the same Judge ruled in a case with so many abnormal and improper elements, I have grave concerns that we can receive a fair Hearing. I also

believe that the Judge may have a personal relationship with the Plaintiffs and have concerns regarding his loyalties and therefore, his ability to be impartial. I respectfully request the Judge and the Court grant this motion and give this case a new and fresh perspective. See 207 Pa. Code Rule 2.11

4. I also had previously hired Judge Cherry as an attorney and was extremely dissatisfied with his representation.

Wherefore, I request that Judge Cherry recuse himself and appoint a new Judge.

Respectfully submitted,

5-29-18
Date


DUANE C. DIXON

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

DARREL J. WOLFGANG and
KATHY M WOLFGANG,

Plaintiffs,
vs.

J. CALVIN DIXON AND
DUANE C. DIXON

Defendants.

) No. 2004-1483-C.D.
)
) Type of Case:
)
) Type of Pleading: Defendant-Respondent
) ANSWER AND COUNTERCLAIM
)
) DUANE C. DIXON REPRESENTING SELF
) PRO SE
)
) Duane C. Dixon
) 243 Turkey Farm Rd.
) Du Bois PA 15801
) (814) 375-2278
)
)
)

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0/9:34am/AK
MAY 29 2018
BCC D. Dixon
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

Building construction on Defendants-Respondents' property proceeded lawfully throughout summer

months of 2016. The Plaintiffs-Petitioners frequented properties that adjoins Defendant-Respondent's property on a continual basis and were fully aware of the ongoing construction of the 40' x 60' building over a period of 6 to 8 weeks. The building stands less than 50 yards from Plaintiffs-Petitioners' rental premises and in direct line of sight of their private driveway. If Plaintiffs-Petitioners had concerns that a right of passage was being violated, they neglected to step forward then, at time of construction, to announce those concerns. Plaintiffs-Petitioners waited 17 months after building's construction to proclaim a violation. By way of further response to Plaintiffs' Petition, Defendant-Respondent has acted lawfully, prudently, and properly at all relevant and material times hereto.

WHEREFORE, Defendant-Respondent, Duane C. Dixon, respectfully requests that this Honorable Court enter judgment in favor of Defendant-Respondent and against Plaintiffs-Petitioners, as follows:

- a. That the Court dismiss Plaintiffs-Petitioners' Petition to hold Defendant-Respondent in contempt of October 29, Court Order, with prejudice;
- b. That the Court find that the '04 Court Order was obtained by the Plaintiffs-Petitioners through fraudulent means; and, as such, vacate the Oct. 29, 2004 Order, with prejudice;
- c. That the Court find the Plaintiffs have no legal right-of-way across Defendant-Respondents' land and dismiss Plaintiffs-Petitioners' Contempt Petition and vacate 2004 Order;
- d. That the Court find that had Plaintiffs-Petitioners legal right-of-way across Defendants-Respondents' land, the doctrine of laches would be applicable; and therefore, dismiss the Plaintiffs-Petitioners' Petition for Contempt;
- e. That the court find for the Defendant-Respondent and deny Plaintiffs-Petitioners' request for removal of any structure on Defendant-Respondents' property;
- f. That the Court find that Plaintiffs-Petitioners' request for reimbursed expenses

for a new right-of-way is deceptive, vexatious and unjust and therefore deny such request;

g. That the Court deny Plaintiffs-Petitioners' request to impose civil penalty upon Defendant-Respondent; and conversely impose a civil penalty upon Plaintiffs-Petitioners for their willful and blatant abuse of Civil Procedure;

h. That the Court deny Plaintiffs-Petitioners' request for the sum of \$2500.00 for the bringing of this petition, and further order the Plaintiffs-Petitioners pay to Defendants-Respondents the sum of \$2500.00 for the burden of defending against this Petition;

i. That the Court find for and enter judgment in favor of Defendant-Respondent for injuries, losses, and damages as determined have been sustained by Defendant-Respondent, plus costs together with interest.

COUNTERCLAIM

10. On Nov. 14, 2017, Plaintiffs-Petitioners' attorney, **Blakley**, sent a certified letter mailed to Duane C. Dixon with contents addressed to father, **J. Calvin Dixon**, and himself. The letter demanded \$10,000.00 *in lieu* of the Plaintiffs-Petitioners proceeding forward with a contempt charge against **J. Calvin Dixon**. It also demanded that they/**Dixons** prepare and record a deed giving Plaintiffs-Petitioners a new right-of-way across **Dixon** property onto their/**Wolfgang's** "other lands."

11. On Nov. 21, 2017, Defendant responded to Plaintiffs' demand letter by certified mail to Plaintiffs' attorney, **Blakley**. Defendant responded: that there had been no issue or concern regarding property for almost 14 years; that **Blakley's** clients were not being forthright with him regarding the facts; that his clients have been accessing their premises for 14 years via a private driveway they voluntarily built in 2004; that the **Dixons** were confused as to why the **Wolfgangs** would threaten an action of extortion; and further asked, what was his clients' necessity for a right-of-way across **Dixon** property?

12. Despite direct and specific foreknowledge to the contrary, Plaintiffs-Petitioners deliberately moved forward, on January 2, 2018, with a Contempt Petition against Defendant's father, **J. Calvin Dixon**. In their complaint, Plaintiffs-Petitioners falsely stated **J. Calvin Dixon** constructed a building causing the Plaintiffs-Petitioners to have no access to their property.

13. After receiving answers to their Contempt Petition from **J. Calvin Dixon** on April 23rd, Plaintiffs-Petitioners filed an amended complaint to add **Duane C. Dixon** to the Petition for Contempt. Instead of giving proper notification of the Amended Petition, Plaintiff-Petitioners mailed Defendant-Respondent on May 8th an Affidavit Of Service Notice made out to **NICHOLAS THOMAS POULOS**

14. On May 14, 2018, Defendant-Respondent personally approached the Prothonotary three times in all to obtain all documents pertaining to being added as a defendant to Plaintiffs-Petitioners'

Petition for Contempt action. Prothonotary Office Assistant (who is believed to be A. Richards) told Defendant-Respondent the case file was unavailable because it was on the Judge's desk. When another clerk volunteered to go and retrieve the file, Richards followed behind her. When they returned, Richards handed Defendant-Respondent the file and asserted several times that Defendant-~~Plaintiff~~ was not added to the Contempt Petition and that, although Petitioners' Amended Petition was filed, the Judge had not yet ruled on it. Several times Richards adamantly stated "Don't worry about it, you haven't been added." and "The Judge has not cut an order adding you." But combing page by page through the case file, Defendant-Respondent found Judge Cherry's Order dated May 8th granting amended order to add **Duane C. Dixon** to the Petition.

15. The Plaintiffs-Petitioners perpetuate the same bad faith actions in this contempt action that they pursued in the 2004 Emergency Petition. In this Contempt Petition they once again; aver to false statements; submit false material(s); intentionally conceal true and applicable documents; mislead the Court as to the true facts of recorded Instruments; all to manufacture a case and manipulate the Court into granting a ruling against the Defendants-Respondents.

Violations of 18 Pa. C.S.A §4904 (a) (b) (c) and 18 Pa. C.S.A § 4902 (a) (b) (c) (e).

16. Upon completion of a private driveway to their leased premises in 2004, Plaintiffs-Petitioners, leasees, assigns, etc., **ALL** who entered leased premises from Hungry Hollow Road, used only that driveway.

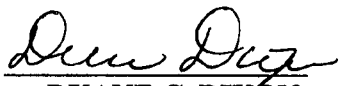
17. Plaintiffs-Petitioners have acted in a brazen, unjust, and harassing manner in filing this Petition against Defendants-Respondents. They have caused Defendants undue aggravation and emotional distress initiated in 2004 and revived in Nov. 2017 with the mailing of a threatening, extortion letter. Plaintiffs-Petitioners now proceed further with egregious intent to force Defendant-Respondent to defend himself against a fraudulent, unwarranted, bad faith case first initiated against **J. Calvin Dixon** in the 2004 Emergency Petition.

WHEREFORE, Defendant-Respondent, **Duane C. Dixon**, respectfully requests that this

Honorable Court enter judgment in favor of Defendant-Respondent and against Plaintiffs-Petitioners, as follows:

- a. That the Court find that Plaintiffs-Petitioners filed false material(s) and testimony in the 2004 Emergency Petition and therefore dismiss Plaintiffs-Petitioners' Petition to Hold Defendant-Respondent in Contempt, with prejudice and vacate the 2004 Court Order;
- b. That the Court enter judgment against the Plaintiffs-Petitioners and order they compensate Defendant's father – **J. Calvin Dixon** the sum of \$1000.00 for undue harassment;
- c. That the Court order the Plaintiffs-Petitioners pay the Defendant-Respondent the sum of \$2500.00 for the defending against Plaintiffs-Respondents' false and vexatious claims;
- d. That the Court find that the Plaintiffs-Petitioners have brought forth an unjust, bad faith case without merit and without cause which constitutes an act of harassment against the Defendant-Respondent; and further order the Plaintiffs-Petitioners pay Defendant-Respondent the sum of \$1000.00 in compensation for harassment and order Petitioners cease any/all harassment;
- e. That the Court find that Plaintiffs-Petitioners willfully violated Rules of Civil Procedure and they have violated Rules and Regulations as are listed in 18 Pa. C.S.A §4904 (a) (b) (c) and 18 Pa. C.S.A § 4902 (a) (b) (c) (e) and therefore, impose applicable penalty and fines on Plaintiffs-Petitioners for each violation.

Respectfully submitted,


DUANE C. DIXON
5-29-18

VERIFICATION

I, **Duane C. Dixon**, verify that the statements made in this document are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A Section 4904, relating to unsworn falsification to authorities.

DATE: 5-29-18


DUANE C. DIXON

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON,

Defendant.

) CIVIL ACTION

)

) No. 2004-1483-C.D.

)

) Type of Pleading: **MOTION FOR**
) **CONTINUANCE OF HEARING**

)

) Filed on Behalf of: **DEFENDANT, J.**
) **CALVIN DIXON**

)

)

) Counsel of Record for this Party:

)

) **MATTHEW R. ZWICK, ESQUIRE**

) PA I.D. No.: 313839

)

) **C.J. ZWICK, ESQUIRE**

) PA I.D. No.: 306554

)

) **ZWICK & ZWICK LLP**

) 171 Beaver Drive

) P.O. Box 1127

) DuBois, PA 15801

) (814) 371-6400

)

)

FILED
019:07AM 12R
MAY 30 2018
2cc Amy Zwick
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DARREL J. WOLFGANG and	)	CIVIL DIVISION
KATHY M. WOLFGANG,)	
	)	No. 2004-1483-C.D.
Plaintiffs,)	
vs.)	
)	
J. CALVIN DIXON,)	
)	
Defendant.)	

SECOND MOTION FOR CONTINUANCE OF HEARING

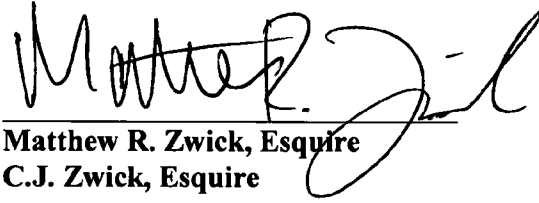
AND NOW, comes Defendant, J. CALVIN DIXON, by and through his counsel, Zwick & Zwick LLP, and files the following Second Motion for Continuance of Hearing, and in support thereof states as follows:

1. A rescheduled hearing on Plaintiffs' Petition to Hold Defendant in Contempt is currently scheduled in the instant matter on June 4, 2018, at 1:30 P.M., in Courtroom 2 of the Clearfield County Courthouse.
2. Due to health concerns and complications of a previous medical procedure, Defendant, J. Calvin Dixon, is not able to attend the aforesaid rescheduled hearing on June 4, 2018.
3. Counsel for Plaintiffs does not oppose Defendant's instant request for a continuance of the aforesaid hearing on Plaintiffs' Petition to Hold Defendant in Contempt for a period of at least sixty (60) days. (See correspondence from counsel for Plaintiffs to counsel for Defendant dated May 23, 2018, affixed hereto as **Exhibit A.**)

WHEREFORE, Defendant, J. Calvin Dixon, respectfully request that this Honorable Court grants his Motion for Continuance of Hearing.

Respectfully submitted,

ZWICK & ZWICK LLP

A handwritten signature in black ink, appearing to read "Matthew R. Zwick", written over a horizontal line. The signature is stylized with a large, sweeping "Z" at the end.

Matthew R. Zwick, Esquire

C.J. Zwick, Esquire

Exhibit A

LAW OFFICES OF
BLAKLEY & JONES
90 Beaver Drive, Suite 104A
DuBois, Pennsylvania 15801
Web: www.blakleyjoneslaw.com

Telephone (814) 371-2730
Fax (814) 375-1082

Benjamin S. Blakley, III
Email: bj_law@verizon.net

May 23, 2018

VIA FAX

Matthew R. Zwick, Esquire
Zwick & Zwick LLP
171 Beaver Drive
P.O. Box 1127
DuBois, PA 15801

Re: Darrel J. & Kathy M. Wolfgang v. J. Calvin Dixon
No. 04-1483-CD

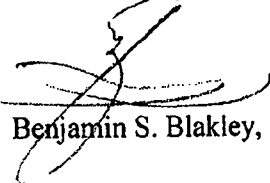
Dear Matt:

This will acknowledge receipt of your telephone call of May 23rd at which time you indicated that Calvin Dixon was going to be hospitalized during the period scheduled for a hearing on our motion to hold him and his son in contempt and that after hospitalization, Mr. Dixon would be confined to a nursing home for a period of rehabilitation. Based upon on these representations, I would have no opposition to request for a continuance of the June 4th hearing.

If anything further is needed, please feel free to contact me.

Very truly yours,

BLAKLEY & JONES



Benjamin S. Blakley, III

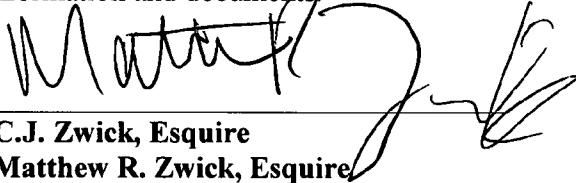
BSB/sm

cc: Mr. & Mrs. Darrel J. Wolfgang



CERTIFICATE OF COMPLIANCE

I hereby certify that, on this 30th day of May, 2018, this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing of confidential information and documents differently than non-confidential information and documents.

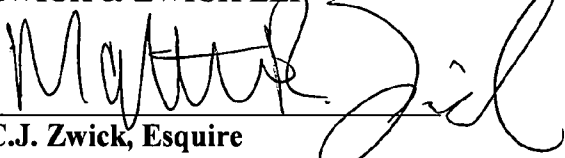

C.J. Zwick, Esquire
Matthew R. Zwick, Esquire

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **SECOND MOTION FOR CONTINUANCE OF HEARING**, filed on behalf of Defendant, J. Calvin Dixon, was forwarded on the 30th day of May, 2018, by U.S. Mail, postage prepaid, to:

Benjamin S. Blakely, III, Esquire
Blakely & Jones
90 Beaver Drive, Suite 104A
DuBois, PA 15801
Counsel for Plaintiff

ZWICK & ZWICK LLP


C.J. Zwick, Esquire
Matthew R. Zwick, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON,

Defendant.

) CIVIL DIVISION
)
) No. 2004-1483-C.D.
)
)
)
)
)

ORDER OF COURT

AND NOW, to wit, this _____ day of _____, 2018, upon consideration of the foregoing **SECOND MOTION FOR CONTINUANCE OF HEARING**, which Plaintiffs do not oppose, it is hereby ORDERED, ADJUDGED and DECREED that said Motion is GRANTED.

It is further ORDER that a hearing on Plaintiffs' **PETITION TO HOLD DEFENDANT IN CONTEMPT** is hereby rescheduled for the ____ day of _____, 2018 at _____ o'clock ____ .M., in Courtroom ____ of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

_____. J.

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

DARREL J. WOLFGANG and)

KATHY M. WOLFGANG)

VS.)

NO. 2004-1483-CD)

JAMES CALVIN DIXON)

O R D E R

NOW this 29th day of May, 2018, upon consideration of the Motion to Request New Judge filed by Defendant, Duane C. Dixon; upon consideration of same, the Court is satisfied that the Court can be fair and unbiased in this matter, and it is the ORDER of this Court that the Motion to Request a New Judge shall be and is hereby DENIED.

BY THE COURT,


Judge


FILED
MAY 30 2018

BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS
2cc Atty Bakely
1cc Atty Zwick
1cc Deff - D. Dixon

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON,

Defendant.

) CIVIL DIVISION

)
) No. 2004-1483-C.D.

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11:15
MAY 31 2018

BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS
4cc Atty Zwick

ORDER OF COURT

AND NOW, to wit, this 30th day of May, 2018, upon consideration of the foregoing **SECOND MOTION FOR CONTINUANCE OF HEARING**, which Plaintiffs do not oppose, it is hereby ORDERED, ADJUDGED and DECREED that said Motion is GRANTED.

It is further ORDER that a hearing on Plaintiffs' **PETITION TO HOLD DEFENDANT IN CONTEMPT** is hereby rescheduled for the 27th day of August, 2018 at 9:00 o'clock A.M., in Courtroom 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

Paul E Cherry

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,


Plaintiff,

vs.

J. CALVIN DIXON and
DUANE C. DIXON

Defendant.

: NO. 04 - 1483 - C.D.
:
: Type of Case: CIVIL ACTION
:
: Type of Pleading: PLAINTIFFS' ANSWER TO
: DUANE C. DIXON'S COUNTERCLAIM
:
: Filed on Behalf of:
: PLAINTIFFS
:
: Counsel of Record:
: BENJAMIN S. BLAKLEY, III
: Supreme Court No. 26331
:
: BLAKLEY & JONES
: 90 Beaver Drive, Suite 104A
: DuBois PA 15801
: (814) 371-2730
: (814) 375-1082-fax
:
:

 **FILED**
0/11:15am / AR
JUN 18 2018
ICC Atty Blakley
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

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

DARREL J. WOLFGANG and	)	NO. 04 - 1483 - C.D.
KATHY M. WOLFGANG,)	
)	
Plaintiff,)	
)	
vs.)	
)	
J. CALVIN DIXON,)	
)	
Defendant.)	

PLAINTIFFS' ANSWER TO DUANE C. DIXON'S COUNTERCLAIM

AND NOW comes Plaintiffs, **DARREL J. WOLFGANG and KATHY M.**

WOLFGANG, by and through their undersigned attorneys, **BLAKLEY & JONES**, and answers Defendant, Duane C. Dixon's Counterclaim, more properly Counterpetition, as follows:

10. Admitted.

11. Admitted.

12. Admitted; however, it is denied that any statement made within the Plaintiffs-Petitioners' Petition falsely stated that Defendant, J. Calvin Dixon, constructed a building causing the Plaintiffs-Petitioners to have no access to their property, and on the contrary, it is averred that such building was in fact constructed.

13. It is admitted that an Amended Petition to Hold Defendant in Contempt was filed by the Plaintiffs-Petitioners adding Duane C. Dixon as a party to the Petition for Contempt. It is denied, however, that proper notification was not given to the Defendant, Duane C. Dixon and on the contrary, it is averred that proper notification was given to Defendant, Duane C. Dixon as shown by his Answer to the said Petition. It is admitted that the Affidavit of Service mistakenly stated that the Amended Petition was served on an unrelated individual; however, an Amended

Affidavit of Service indicating service on Defendant, Duane C. Dixon was filed on May 4, 2018.

A copy of said Amended Affidavit of Service is attached hereto and made a part hereof.

14. Requires no answer.

15. The allegations contained within Paragraph 15 of Defendant's Counterclaim are hereby denied and on the contrary, it is averred that all allegations contained within the said Contempt Petition contain factual statements.

16. After reasonable investigation, Plaintiffs are unable to determine the truth or falsity of the allegations contained within Paragraph 16 of Defendant's Counterclaim and therefore, denies the same and demands strict proof thereof at trial.

17. It is denied that the Plaintiffs have acted in any improper manner in the filing of this Petition where they have caused the Defendants any undue distress, or that any claim of the Plaintiffs are fraudulent, unwarranted, and made in bad faith.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to deny the Counterclaim of Defendant, Duane C. Dixon.

Respectfully submitted,

BLAKLEY & JONES



Benjamin S. Blakley, III
Attorney for Plaintiffs

VERIFICATION

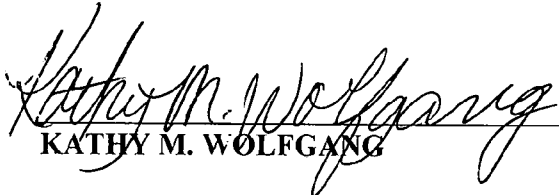
We, **DARREL J. WOLFGANG and KATHY M. WOLFGANG**, hereby state that we are the Plaintiffs in this action and verify that the statements made in the foregoing Plaintiffs' Answer to Duane C. Dixon's Counterclaim are correct to the best of our knowledge, information, and belief. We understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: 6-11-18



DARREL J. WOLFGANG

Dated: 6-11-18



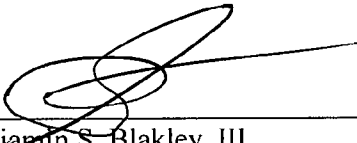
KATHY M. WOLFGANG

CERTIFICATE OF SERVICE

This will certify that the undersigned served a copy of the foregoing Plaintiffs' Answer to Duane C. Dixon's Counterclaim in the above-captioned matter on the following parties at the addresses shown below by first-class U.S. Mail on the 14th day of June, 2018:

Matthew R. Zwick, Esquire
Zwick & Zwick LLP
171 Beaver Drive
P O Box 1127
DuBois PA 15801

Duane C. Dixon
243 Turkey Farm Road
DuBois PA 15801



Benjamin S. Blakley, III

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG.

Plaintiffs.

vs.

J. CALVIN DIXON and DUANE C.
DIXON.

Defendants.

: NO. 04 - 1483 - C.D.

: Type of Case: CIVIL ACTION

: Type of Pleading:

: AMENDED AFFIDAVIT OF SERVICE

: Filed on Behalf of:

: PLAINTIFFS

: Counsel of Record:

: BENJAMIN S. BLAKLEY, III

: Supreme Court No. 26331

: BLAKLEY & JONES

: 90 Beaver Drive, Suite 104A

: DuBois PA 15801

: (814) 371-2730

: (814) 375-1082-fax

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

MAY 04 2018

A TRUE COPY

ATTEST: Ben S. Blakley III
PROTHONOTARY CLERK

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

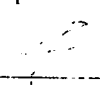
DARREL J. WOLFGANG and	)	NO. 04 - 1483 - C.D.
KATHY M. WOLFGANG,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
J. CALVIN DIXON and DUANE C.)	
DIXON,)	
)	
Defendants)	

AMENDED AFFIDAVIT OF SERVICE

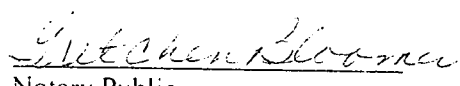
COMMONWEALTH OF PENNSYLVANIA :
: **SS.**
COUNTY OF CLEARFIELD :

BENJAMIN S. BLAKLEY, III. being duly sworn according to law, deposes and says
that as attorney for Plaintiffs, he did on, April 28, 2018, serve **DUANE C. DIXON**, Defendant,
with a certified copy of the Amended Petition to Hold Defendants in Contempt by Certified Mail,
Return Receipt Requested, said return receipt having been previously filed with the Court.

Sworn to and Subscribed
before me this 4th day
of May, 2018.



Benjamin S. Blakley, III



Notary Public

24

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON,

Defendant.

) CIVIL ACTION
)
) No. 2004-1483-C.D.
)
) Type of Pleading: **THIRD MOTION FOR**
) **CONTINUANCE OF HEARING**
)
) Filed on Behalf of: **DEFENDANT, J.**
) **CALVIN DIXON**
)
)
) Counsel of Record for this Party:
)
) **MATTHEW R. ZWICK, ESQUIRE**
) PA I.D. No.: 313839
)
) **C.J. ZWICK, ESQUIRE**
) PA I.D. No.: 306554
)
) **ZWICK & ZWICK LLP**
) 171 Beaver Drive
) P.O. Box 1127
) DuBois, PA 15801
) (814) 371-6400
)
)

OK

FILED
8/3:00pm
AUG 08 2018
2cc HSY Zwick
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DARREL J. WOLFGANG and	)	CIVIL DIVISION
KATHY M. WOLFGANG,)	
	)	No. 2004-1483-C.D.
Plaintiffs,)	
vs.)	
)	
J. CALVIN DIXON,)	
)	
Defendant.)	

THIRD MOTION FOR CONTINUANCE OF HEARING

AND NOW, comes Defendant, J. CALVIN DIXON, by and through his counsel, Zwick & Zwick LLP, and files the following Third Motion for Continuance of Hearing, and in support thereof states as follows:

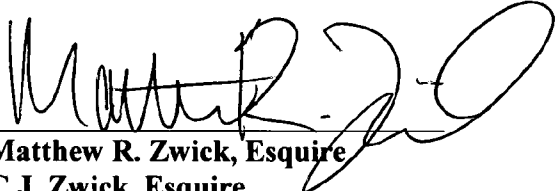
1. A rescheduled hearing on Plaintiffs' Petition to Hold Defendant in Contempt is currently scheduled in the instant matter on August 27, 2018, at 9:00 A.M., in Courtroom 2 of the Clearfield County Courthouse.
2. Due to continuing health concerns and complications, Defendant, J. Calvin Dixon, is currently receiving inpatient medical treatment and care in Brookville, Pennsylvania.
3. Defendant, J. Calvin Dixon, does not expect to be discharged from his current inpatient placement until, at the very earliest, August 29, 2018, which is after the aforesaid rescheduled hearing.
4. As a result of the foregoing, Defendant, J. Calvin Dixon, is unavailable and, thus, unable to attend the rescheduled hearing on August 27, 2018.
5. As such, Defendant, J. Calvin Dixon, requests a continuance of the aforesaid hearing on Plaintiffs' Petition to Hold Defendant in Contempt for a period of at least forty-five

(45) days, which will provide sufficient time for Defendant's discharge from his inpatient placement in Brookville, Pennsylvania.

WHEREFORE, Defendant, J. Calvin Dixon, respectfully request that this Honorable Court grants his Motion for Continuance of Hearing.

Respectfully submitted,

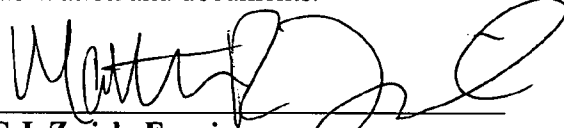
ZWICK & ZWICK LLP



Matthew R. Zwick, Esquire
C.J. Zwick, Esquire

CERTIFICATE OF COMPLIANCE

I hereby certify that, on this 3rd day of August, 2018, this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing of confidential information and documents differently than non-confidential information and documents.

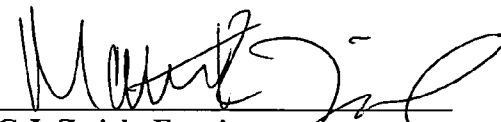

C.J. Zwick, Esquire
Matthew R. Zwick, Esquire

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **THIRD MOTION FOR CONTINUANCE OF HEARING**, filed on behalf of Defendant, J. Calvin Dixon, was forwarded on the 3rd day of August, 2018, by U.S. Mail, postage prepaid, to:

Benjamin S. Blakely, III, Esquire
Blakely & Jones
90 Beaver Drive, Suite 104A
DuBois, PA 15801
Counsel for Plaintiffs

ZWICK & ZWICK LLP


C.J. Zwick, Esquire
Matthew R. Zwick, Esquire

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

VS.

J. CALVIN DIXON,

Defendant.

CIVIL DIVISION

No. 2004-1483-C.D.

ORDER OF COURT

AND NOW, this ____ day of _____, 2018, upon consideration of Defendant J. Calvin Dixon's **THIRD MOTION FOR CONTINUANCE OF HEARING**, it is hereby ORDERED and ADJUDGED that a hearing is hereby scheduled for the ____ day of _____, 2018 at _____ o'clock ____M., in Courtroom ____ of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

J.

5

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON,

Defendant.

) CIVIL DIVISION
)
)
) No. 2004-1483-C.D.
)
)
)
)

FILED
019am/AR
AUG 15 2018

BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS
DCC ATTY ZWICK

ORDER OF COURT

AND NOW, to wit, this 14th day of August, 2018, upon consideration of the foregoing **THIRD MOTION FOR CONTINUANCE OF HEARING**, it is hereby ORDERED, ADJUDGED and DECREED that said Motion is GRANTED.

It is further ORDER that a hearing on Plaintiffs' **PETITION TO HOLD DEFENDANT IN CONTEMPT** is hereby rescheduled for the 13th day of November, 2018 at 1:30 o'clock P.M., in Courtroom 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

Paul E Cherry

5

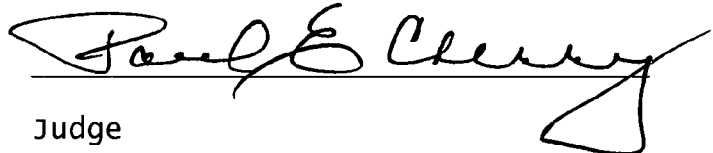
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DARREL J. WOLFGANG and :
KATHY M. WOLFGANG, :
Plaintiffs :
-vs- : No. 2004-1483-CD
JAMES CALVIN DIXON :
Defendant :
-vs- :
DUANE C. DIXON, :
Additional Defendant :

O R D E R

AND NOW, this 13th day of November, 2018,
following hearing on Petition for Contempt, with insufficient
time remaining to complete the same, it is the ORDER of this
Court that the matter shall be and is hereby CONTINUED until
9:00 a.m. on Friday, December 14, 2018, Courtroom No. 2,
Clearfield County Courthouse, Clearfield, PA.

BY THE COURT,


Judge

0/11am/12
FILED
100 D. Dixon
NOV 16 2018
200 Atty Zwick
BRIAN E. SPENCER
PROTHONOTARY & CLERK OF COURTS
200 Atty Blakey

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,
Plaintiffs

-vs-

JAMES CALVIN DIXON
Defendant

-vs-

DUANE C. DIXON,
Additional Defendant

No. 2004-1483-CD

S O/MMA (G)

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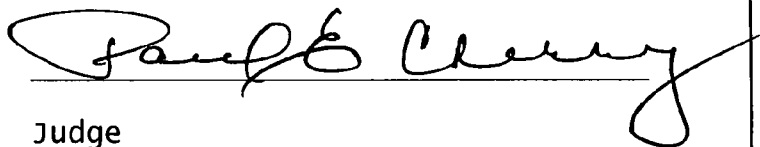
3cc Atty Blaney
2cc Atty Bice
2cc def. Dixon

BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

O R D E R

AND NOW, this 14th day of December, 2018,
following conclusion of hearing on the Petition to Hold
Defendants in Contempt, it is the ORDER of this Court that
counsel for Plaintiffs, counsel for Defendant, James Calvin
Dixon, and Additional Defendant, Duane Dixon, file letter
brief and proposed Order within no more than thirty (30) days
following receipt of transcript. The parties shall have
fifteen (15) days thereafter to file a responsive brief, if
they so choose.

BY THE COURT,


Judge

PAUL E. CHERRY,
JUDGE

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,
Plaintiffs

-vs-

JAMES CALVIN DIXON
Defendant

-vs-

DUANE C. DIXON,
Additional Defendant

No. 2004-1483-CD

ORIGINAL

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FILED
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MAR 13 2019

BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

TRANSCRIPT OF PROCEEDINGS
1 OF 2

PROCEEDINGS: Hearing on Plaintiffs'
Petition for Contempt

BEFORE: HONORABLE PAUL E. CHERRY
Judge

DATE: Tuesday, November 13, 2018

PLACE: Clearfield County Courthouse
Courtroom No. 2
Clearfield, Pennsylvania

REPORTED BY: Thomas D. Snyder, RPR
Official Court Reporter

APPEARANCES:

BENJAMIN S. BLAKLEY, III, ESQUIRE
Blakley & Jones
For - Plaintiffs

MATTHEW R. ZWICK, ESQUIRE
Zwick Law
For - Defendant

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ORIGINAL

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,
Plaintiffs

-VS-

No. 2004-1483-CD

JAMES CALVIN DIXON
Defendant

-VS-

DUANE C. DIXON,
Additional Defendant

TRANSCRIPT OF PROCEEDINGS
2 OF 2

PROCEEDINGS: Hearing on Plaintiffs'
Petition for Contempt

BEFORE: HONORABLE PAUL E. CHERRY
Judge

DATE: Friday, December 14, 2018

PLACE: Clearfield County Courthouse
Courtroom No. 2
Clearfield, Pennsylvania

REPORTED BY: Thomas D. Snyder, RPR
Official Court Reporter

APPEARANCES:

BENJAMIN S. BLAKLEY, III, ESQUIRE
Blakley & Jones
For - Plaintiffs

MATTHEW R. ZWICK, ESQUIRE
Zwick Law
For - Defendant

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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,


Plaintiffs,

vs.

J. CALVIN DIXON and,
DUANE C. DIXON

Defendants.

: NO. 04 - 1483 - C.D.
:
: Type of Case: CIVIL ACTION
:
: Type of Pleading:
: CERTIFICATE OF SERVICE
:
: Filed on Behalf of:
: PLAINTIFFS
:
: Counsel of Record:
: BENJAMIN S. BLAKLEY, III
: Supreme Court No. 26331
:
: BLAKLEY & JONES
: 90 Beaver Drive, Suite 104A
: DuBois PA 15801
: (814) 371-2730_
: (814) 375-1082-fax
:
:

 **FILED**
m. j. m. clem
APR 03 2019
cc Amy Blakely
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

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

DARREL J. WOLFGANG and	)	NO. 04 - 1483 - C.D.
KATHY M. WOLFGANG,)	
)	
Plaintiff,)	
)	
vs.)	
)	
J. CALVIN DIXON and)	
DUANE C. DIXON)	
)	
Defendants.		

CERTIFICATE OF SERVICE

This will certify that the undersigned served a copy of the Plaintiffs' Brief in support of Plaintiffs' Petition in the above-captioned matter on the following parties at the addresses shown below by first-class U.S. Mail on the 29th day of March, 2019:

Mr. Duane C. Dixon
243 Turkey Farm Road
DuBois PA 15801

CERTIFICATE OF SERVICE

This will certify that the undersigned served a copy of the Plaintiffs' Brief in support of Plaintiffs' Petition in the above-captioned matter on the following parties at the addresses shown below via Hand Delivery on the 29th day of March, 2019:

Matthew R. Zwick, Esquire
Zwick & Zwick LLP
171 Beaver Drive
P.O. Box 1127
DuBois, PA 15801


Benjamin S. Blakley, III

CA

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

DARREL J. WOLFGANG and KATHY) NO. 2004 - 1483 - C.D.
M. WOLFGANG,)

Plaintiffs,)

vs.)

J. CALVIN DIXON,)

Defendant,)

vs.)

DUANE C. DIXON,)

Additional Defendant)

FILED
JUL 02 2019
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS

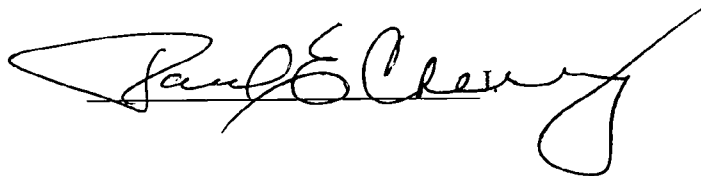
AND NOW, this 28th day of JUNE, 2019, upon consideration of the

Plaintiff's Motion for Reconsideration of Order, a hearing thereon is hereby scheduled for the

5th day of August, 2019, at 1:30 o'clock P.M., in Courtroom No. 2,

Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,



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

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,

Plaintiffs,

vs.

J. CALVIN DIXON,

Defendant,

vs.

DUANE C. DIXON,

Additional Defendant.

: NO. 2004 - 1483 - C.D.
:
: Type of Case: CIVIL ACTION
:
: Type of Pleading: MOTION FOR
: RECONSIDERATION OF ORDER
:
: Filed on Behalf of:
: PLAINTIFFS
:
: Counsel of Record:
: BENJAMIN S. BLAKLEY, III
: Supreme Court No. 26331
:
: BLAKLEY & JONES
: 90 Beaver Drive, Suite 104A
: DuBois PA 15801
: (814) 371-2730
: (814) 375-1082-fax
:
:

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(JWW) FILED
01/AR/120M
JUN 27 2019
Sec. Att'y Blakley
BRIAN K. SPENCER
NOTARY & CLERK OF COURTS

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

DARREL J. WOLFGANG and KATHY	)	NO. 2004 - 1483 - C.D.
M. WOLFGANG,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
J. CALVIN DIXON,)	
)	
Defendant,)	
)	
vs.)	
)	
DUANE C. DIXON,)	
)	
Additional Defendant)	

ORDER

AND NOW, this _____ day of _____, 2019, upon consideration of the
Plaintiff's Motion for Reconsideration of Order, a hearing thereon is hereby scheduled for the
____ day of _____, 2019, at ____ o'clock ____ M., in Courtroom No. _____,
Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

_____. J.

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

DARREL J. WOLFGANG and KATHY	)	NO. 2004 - 1483 - C.D.
M. WOLFGANG,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
J. CALVIN DIXON,)	
)	
Defendant,)	
vs.)	
)	
DUANE C. DIXON,)	
)	
Additional Defendant.)	

MOTION FOR RECONSIDERATION OF ORDER

AND NOW come Plaintiffs, **DARREL J. WOLFGANG and KATHY M.**

WOLFGANG, by and through their undersigned attorneys, **BLAKLEY & JONES**, and move this Honorable Court for reconsideration of its Order entered on June 19, 2019, in the above-captioned matter, and in support thereof, the following is averred:

1. This Honorable Court erred in entering its Order in finding that the Plaintiffs did not meet their burden and show that the Defendants failed to comply with the Court's Order of September 28, 2004, and, therefore, were in contempt of said Order.

2. This Honorable Court erred in its Order of June 14, 2019, in finding that the September 28, 2004, Order of this Court addressed the necessity of the use of an easement across the Defendants' property when said Order specifically forbade the Defendants from interfering with Plaintiffs' use of the subject right-of-way and prohibited the interference by Defendants of the use of said right-of-way by Plaintiffs and their renters.

3. This Honorable Court erred in finding that the elements necessary to support a finding of civil contempt as set forth in *Marion Shop v. Baird*, 448 Pa.Super. 52, 670 A.2d 671, 673 (1996) were not satisfied by the Plaintiffs.

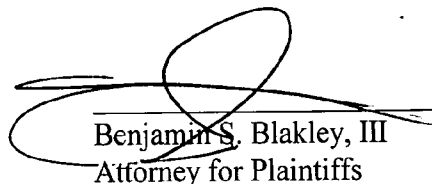
4. This Honorable Court erred in finding that Plaintiffs created a new road to be utilized by themselves and renters, as no testimony was presented at either the November 13, 2018, or the December 14, 2018, hearings establishing that the Plaintiffs constructed a new road to be utilized by themselves and their renters in order to access the Plaintiffs' rental property.

5. This Honorable Court erred in its finding that its Order of December 28, 2004, was either ended or suspended by the non-use of the subject easement by the Plaintiffs and/or their renters, as the 2004 Order did not place a period of time for which the Order was to be in effect, and the Defendants took no action whatsoever to set aside this Court's Order before taking action to completely block the access of the Plaintiffs and their renters to the subject property over the existing right-of-way established in prior deeds of conveyance.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court reconsider its Order of June 14, 2019, and grant Petitioners' Petition to hold the Defendants in Contempt of the September 28, 2004, Order.

Respectfully submitted,

BLAKLEY & JONES


Benjamin S. Blakley, III
Attorney for Plaintiffs

VERIFICATION

I, **BENJAMIN S. BLAKLEY, III**, hereby state that I am counsel for the Plaintiffs in this action and verify that the statements made in the foregoing Motion for Reconsideration of Order are true and correct to the best of my knowledge, information, and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: June 27, 2019




BENJAMIN S. BLAKLEY, III

CERTIFICATE OF SERVICE

This will certify that the undersigned served a copy of the Motion for Reconsideration of Order in the above-captioned matter on the following parties at the addresses shown below by first-class U.S. Mail on the 27th day of June, 2019:

Duane C. Dixon
243 Turkey Farm Road
DuBois PA 15801

Matthew R. Zwick, Esquire
Zwick & Zwick LLP
171 Beaver Drive
P.O. Box 1127
DuBois, PA 15801


Benjamin S. Blakley, III

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

DARREL J. WOLFGANG and KATHY :
M. WOLFGANG, :
Plaintiffs, : No. 2004-1483-CD
v. :
JAMES CALVIN DIXON, :
Defendant, :
v. :
DUANE C. DIXON, :
Additional Defendant. :

FILED
JUN 19 2019
BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS
ICC D. Dixon

OPINION and ORDER

I. *Summary of Facts and Procedural History*

Darrel J. Wolfgang and Kathy M. Wolfgang (hereinafter collectively referred to as "Plaintiffs") filed a Complaint in Equity on September 28, 2004, wherein it was alleged that James Calvin Dixon and Duane C. Dixon (hereinafter "Defendants"), prohibited Plaintiffs from utilizing a fifteen (15) foot non-exclusive right of way (hereinafter "Easement") conveyed by way of deed. The present matter before the Court is Plaintiffs' Petition to Hold Defendant in Contempt, filed January 2, 2018, and arising from this Court's Order dated October 29, 2004 ("2004 Order"). In pertinent part, said Order states the following:

"It is the ORDER of this Court that Defendant, J. Calvin Dixon, his agents, servants, employees, successors and assigns...are enjoined, directly or indirectly, from prohibiting Plaintiffs and Plaintiff's agents, servants, independent contractors, lessees, successors or assigns from utilizing a fifteen (15) foot roadway to access a house upon the lands of Plaintiffs **provided that Plaintiffs...use only the fifteen (15) foot**

roadway to gain access to the house upon the lands of Plaintiffs and shall not go off the said roadway for any reason whatsoever.”¹

Within Plaintiff’s Petition, it is alleged that Defendant “has engaged in a course of conduct which prohibited the Plaintiff’s from accessing the house on the lands contiguous to the Defendants’ land by building a structure upon the aforesaid right-of-way *and compelling the Plaintiffs to construct an additional access to their real property.*”²

A hearing was held on November 13, 2018 and December 14, 2018, during which testimony was provided by Plaintiff himself indicating that he took action to build an alternate roadway (hereinafter, “New Road”) to a rental home located on his property as early as 2004 or 2005. Further testimony revealed that Plaintiff, along with his renters, used nearly exclusively the New Road to gain access to the home. It was not until 2016 that Defendant built the structure along the Easement, at least eleven (11) years after Plaintiff began to gain access to the home by way of the New Road.³

II. *Analysis*

First and foremost, it should be noted that the sole issue before the Court is that of civil contempt of the 2004 Order. In neither Plaintiffs’ nor Defendants’ complaints is the issue regarding abandonment of the easement raised. Therefore, since that issue is not before this Court, no decision regarding the easement will be made at this time. If counsel for either party wishes to have that issue heard before this Court, they will need to file the appropriate documents with the Court.

This Court must first examine the 2004 Order itself and must then ascertain whether the movants sustained their burden of proving that the non-movants failed to comply with the Court’s Order. *Wood v. Geisenhemer-Shaulis*, 827 A.2d 1204, 1208 (Pa.Super.2003). Here, the Plaintiffs’ have not met this burden as they have failed to prove that the New Road was constructed *specifically* due to the creation of the new structure along the Easement. In fact, the new structure was created at least eleven years after the Plaintiffs’ constructed their New Road.

¹ Court Order, October 29, 2004, filed November 2, 2004.

² Plaintiff’s Petition to Hold Defendant in Contempt, ¶ 6. Emphasis added.

³ Transcript of Proceedings, November 13, 2018, p. 47, ll. 21 – p. 49, ll. 7.

The claim that Defendants' have "engaged in a course of conduct which prohibited the Plaintiff's from accessing the house on the lands contiguous to the Defendants' land by building a structure upon the aforesaid right-of-way *and compelling the Plaintiffs to construct an additional access to their real property*" is not credible to this Court.⁴ While there is currently a structure blocking the easement, this structure was created after years of non-use, a significant encroachment of brush, including a substantial tree blocking the Easement, and the creation of the New Road.

Additionally, the Order forming the basis for contempt finding must be definite, clear, and specific, leaving no doubt or uncertainty regarding the prohibited conduct. *Lachat v. Hinchliffe*, 769 A.2d 481, 490 (Pa.Super.2001). Again, the prohibited conduct in the 2004 Order addressed the necessity of the use of the Easement in order for Plaintiffs' and their future renters to be able to access their property. But, as has been established through testimony before this Court, no necessary, or even convenient use of the Easement by Plaintiffs' has been utilized in many years. Therefore, this Court does not see a definite, clear and specific basis for contempt.

Finally, "it is well-settled that there are certain elements necessary to support a finding of civil contempt, namely: that the contemnor had notice of the specific order or decree which he disobeyed; that the act constituting the contemnor's violation was volitional; and that the contemnor acted with wrongful intent." *Marian Shop v. Baird*, 448 Pa.Super. 52, 670 A.2d 671, 673 (1996) (citations omitted). While the first two elements are satisfied here, this Court finds that there is not sufficient proof to establish wrongful intent. This Court finds the testimony of J. Calvin Dixon and Duane C. Dixon credible regarding the facts that led to Defendants' belief that Plaintiffs' abandoned their Easement. While this Court is not deciding the current status of the Easement, it is clear to this Court that Plaintiffs' did not use their Easement for at least an eleven year period; that Plaintiffs' allowed fences to be put up blocking the Easement; that Plaintiffs' allowed brush to grow and a substantial sized tree to block a portion of the Easement pathway; and that Plaintiffs' created a New Road to be utilized by themselves and renters. While this Court acknowledges that these facts would not necessarily lead to a ruling of the abandonment of the Easement, these facts do persuade the Court that the contemnor did not act with wrongful intent, as Defendants reasonably believed that Plaintiffs were no longer using or planning to use the Easement.

⁴ Plaintiff's Petition to Hold Defendant in Contempt, ¶ 6. Emphasis added.

III. *Conclusion*

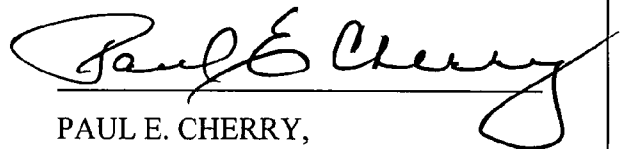
Based upon the foregoing, this Court believes that Plaintiffs have not met their burden of proof. Additionally, this Court does not see a definite, clear and specific basis for contempt as the New Road has already been established and in use for many years prior to the building of the structure blocking the Easement. Finally, this Court does not find that Defendants acted with wrongful intent due to their reasonable reliance upon Plaintiffs' affirmative action of constructing a new road, in addition to Plaintiffs' disregard for the brush and tree blocking the Easement and their non-use of the Easement for a significant period of time.

Based upon the foregoing, the Court enters the following:

ORDER

AND NOW, this 14 day of June, 2019, upon consideration of Plaintiffs' Petition to Hold Defendant in Contempt, a review of the record, the taking of testimony and the timely receipt of letter briefs from all parties in support of their respective positions, it is the **ORDER** of this Court that Plaintiffs' Petition to Hold Defendant in Contempt shall be and is hereby **DISMISSED**.

BY THE COURT,

A handwritten signature in black ink, appearing to read "Paul E. Cherry", is written over a horizontal line.

PAUL E. CHERRY,

JUDGE

CA

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9:24
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BRIAN K. SPENCER
PROTHONOTARY & CLERK OF COURTS
ICC *Blakley*

DARREL J. WOLFGANG and
KATHY M. WOLFGANG,


Plaintiff,

vs.

J. CALVIN DIXON and
DUANE C. DIXON,

Defendants.

: NO. 2004 - 1483 - C.D.
:
: Type of Case: CIVIL ACTION
:
: Type of Pleading: PRAECIPE TO
: WITHDRAW MOTION FOR
: RECONSIDERATION OF ORDER
:
: Filed on Behalf of:
: PLAINTIFFS
:
: Counsel of Record:
: BENJAMIN S. BLAKLEY, III
: Supreme Court No. 26331
:
: BLAKLEY & JONES
: 90 Beaver Drive, Suite 104A
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:


Benjamin S. Blakley, III
Attorney for Plaintiffs

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

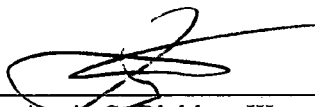
DARREL J. WOLFGANG and	)	NO. 2004 - 1483 - C.D.
KATHY M. WOLFGANG,)	
)	
Plaintiff,)	
)	
vs.)	
)	
J. CALVIN DIXON and)	
DUANE C. DIXON,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

This will certify that the undersigned served a copy of the Praecipe to Withdraw Motion for Reconsideration of Order in the above-captioned matter on the following parties at the addresses shown below by first-class U.S. Mail on the 8th day of July, 2019:

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DuBois PA 15801

Matthew R. Zwick, Esquire
Zwick & Zwick LLP
171 Beaver Drive
P.O. Box 1127
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Benjamin S. Blakley, III