

05-81-CD

J. Luther et al vs D. Fezell et al

FEZELL,  
et al.

Janet Luther et al v. Donald Fezell et al  
2005-081-CD

Donald Cochran

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

No. 05-81-cd

Plaintiffs,

vs.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL  
ENTERPRISES VII, INC.; DUBOIS REALTY  
PARTNERS, L.P.; MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL JOSEPH LIMITED  
PARTNERSHIP #2,

Defendants.

**PRAECIPE FOR WRIT OF  
SUMMONS**

Filed on behalf of Plaintiffs

Jonathan B. Mack, Esquire  
Counsel for Plaintiffs  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602  
Sup. Ct. ID 38970

**FILED** 1cc Atty  
10/2/2005 3cc & 14 wccs  
JAN 18 2005 to Shff

William A. Shaw Atty pd. 85.00  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

No.

Plaintiffs,

vs.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL  
ENTERPRISES VII, INC.; DUBOIS REALTY  
PARTNERS, L.P.; MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL JOSEPH LIMITED  
PARTNERSHIP #2,

Defendants.

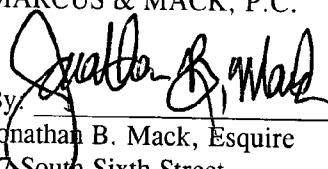
**PRAECIPE FOR WRIT OF SUMMONS**

TO THE PROTHONOTARY OF SAID COURT:

Please issue a Writ of Summons in the above-captioned action.

Respectfully submitted,

MARCUS & MACK, P.C.

By:   
Jonathan B. Mack, Esquire  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602  
Sup. Ct. ID #38970

January 14, 2005

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

*COPY*

**SUMMONS**

**Janet Luther and  
James Luther, her husband**

**Vs.**

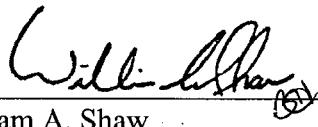
**NO.: 2005-00081-CD**

**Donald R. Fezell, i/t/d/b/a Fezell Shop 'N Save and  
Shop 'N Save; Fezell Enterprises, Inc.; Fezell Enterprises II, Inc.;  
Fezell Enterprises III, Inc.; Fezell Enterprises IV, Inc.;  
Fezell Enterprises V, Inc.; Fezell Enterprises VI, Inc.;  
Fezell Enterprises VII, Inc.; Dubois Realty Partners, L.P.;  
Michael Joseph Development Corporation; Michael Joseph  
Acquisition Corporation; Michael Joseph Limited  
Partnership #1; and Michael Joseph Limited Partnership #2**

**TO: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE  
and SHOP 'N SAVE; FEZELL ENTERPRISES, INC.;  
FEZELL ENTERPRISES II, INC.; FEZELL ENTERPRISES III,  
INC.; FEZELL ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL ENTERPRISES VII,  
INC.; DUBOIS REALTY PARTNERS, L.P.; MICHAEL JOSEPH  
DEVELOPMENT CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED PARTNERSHIP #1; and  
MICHAEL JOSEPH LIMITED PARTNERSHIP #2**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 01/18/2005

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

Issuing Attorney:  
Jonathan B. Mack  
57 South 6th Street  
Indiana, PA 15701

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

Plaintiffs,

-vs-

DONALD R. FEZELL, i/t/d/b/a  
FEZELL SHOP 'N SAVE and SHOP 'N  
SAVE; FEZELL ENTERPRISES, INC.;  
FEZELL ENTERPRISES II, INC.;  
FEZELL ENTERPRISES III, INC.;  
FEZELL ENTERPRISES IV, INC.;  
FEZELL ENTERPRISES V, INC.;  
FEZELL ENTERPRISES VI, INC.;  
DUBOIS REALTY PARTNERS, L.P.;  
MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH  
ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL  
JOSEPH LIMITED PARTNERSHIP #2,

Defendants.

CIVIL DIVISION

No.: 2005-00081-CD

**PRAECIPE FOR ENTRY OF  
APPEARANCE**

Filed on behalf of:  
Defendants.

Counsel of Record for this Party:

Edmond R. Joyal, Jr., Esquire  
Pa. I.D. 65907

LAW OFFICE OF JOSEPH S. WEIMER

975 Two Chatham Center  
Pittsburgh, PA 15219

(412) 338-3184

**FILED**  
66 M 200 800 NOV  
FEB 22 2005

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

CIVIL DIVISION

No.: 2005-00081-CD

Plaintiffs,

-vs-

DONALD R. FEZELL, i/t/d/b/a  
FEZELL SHOP 'N SAVE and SHOP 'N  
SAVE; FEZELL ENTERPRISES, INC.;  
FEZELL ENTERPRISES II, INC.;  
FEZELL ENTERPRISES III, INC.;  
FEZELL ENTERPRISES IV, INC.;  
FEZELL ENTERPRISES V, INC.;  
FEZELL ENTERPRISES VI, INC.;  
DUBOIS REALTY PARTNERS, L.P.;  
MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH  
ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL  
JOSEPH LIMITED PARTNERSHIP #2,

Defendants.

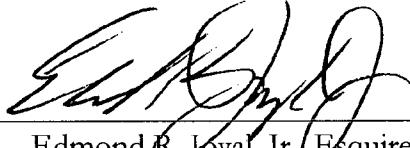
**PRAECIPE FOR ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Kindly enter the appearance of Edmond R. Joyal, Jr., Esquire and the Law  
Offices of Joseph S. Weimer, on behalf of Defendants, Dubois Realty Partners, L.P.,  
Michael Joseph Development Corporation, Michael Joseph Acquisition Corporation,

Michael Joseph Limited Partnership #1 and Michael Joseph Limited Partnership #2.,  
concerning the above-captioned action.

LAW OFFICE OF JOSEPH S. WEIMER

BY: 

Edmond R. Joyal, Jr., Esquire  
Attorney for Dubois Realty Partners,  
Michael Joseph Development Corp.

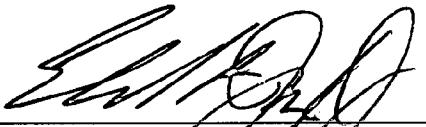
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Praeclipe for Entry of Appearance has been served by First Class Mail, postage pre-paid, upon the following parties on this 17 day of February, 2005.

Jonathan B. Mack, Esquire  
57 South 6<sup>th</sup> Street  
Indiana, PA 15701

Donald R. Fezell  
i/t/d/b/a Fezell Shop 'N Save  
200 Commons Drive  
Dubois, PA 15901

LAW OFFICE OF JOSEPH S. WEIMER

BY: 

Edmond R. Loyal, Jr., Esquire  
Attorney for Dubois Realty Partners,  
Michael Joseph Development Corp.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

Plaintiffs,

-vs-

DONALD R. FEZELL, i/t/d/b/a  
FEZELL SHOP 'N SAVE and SHOP 'N  
SAVE; FEZELL ENTERPRISES, INC.;  
FEZELL ENTERPRISES II, INC.;  
FEZELL ENTERPRISES III, INC.;  
FEZELL ENTERPRISES IV, INC.;  
FEZELL ENTERPRISES V, INC.;  
FEZELL ENTERPRISES VI, INC.;  
DUBOIS REALTY PARTNERS, L.P.;  
MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH  
ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL  
JOSEPH LIMITED PARTNERSHIP #2,

Defendants.

CIVIL DIVISION

No.: 2005-00081-CD

**PRAECIPE FOR RULE TO FILE  
COMPLAINT**

Filed on behalf of:  
Defendants.

Counsel of Record for this Party:

Edmond R. Joyal, Jr., Esquire  
Pa. I.D. 65907

LAW OFFICE OF JOSEPH S. WEIMER

975 Two Chatham Center  
Pittsburgh, PA 15219

(412) 338-3184

**FILED**

6K FEB 22 2005  
m 2-023-182 NOCC

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband, CIVIL DIVISION

Plaintiffs, No.: 2005-00081-CD

-vs-

DONALD R. FEZELL, i/t/d/b/a  
FEZELL SHOP 'N SAVE and SHOP 'N  
SAVE; FEZELL ENTERPRISES, INC.;;  
FEZELL ENTERPRISES II, INC.;  
FEZELL ENTERPRISES III, INC.;  
FEZELL ENTERPRISES IV, INC.;  
FEZELL ENTERPRISES V, INC.;  
FEZELL ENTERPRISES VI, INC.;  
DUBOIS REALTY PARTNERS, L.P.;  
MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH  
ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL  
JOSEPH LIMITED PARTNERSHIP #2,

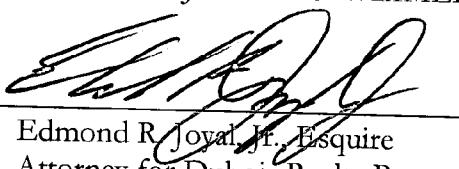
Defendants.

**PRAECIPE FOR RULE TO FILE COMPLAINT**

TO THE PROTHONOTARY:

Kindly issue a Rule to File Complaint upon Plaintiffs concerning the above-captioned action.

LAW OFFICE OF JOSEPH S. WEIMER

BY: 

Edmond R. Joyal, Jr., Esquire  
Attorney for Dubois Realty Partners,  
Michael Joseph Development Corp.

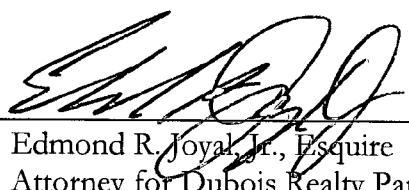
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Praeclipe for Rule to File Complaint has been served by First Class Mail, postage pre-paid, upon the following parties on this 17 day of February, 2005.

Jonathan B. Mack, Esquire  
57 South 6<sup>th</sup> Street  
Indiana, PA 15701

Donald R. Fezell  
i/t/d/b/a Fezell Shop 'N Save  
200 Commons Drive  
Dubois, PA 15901

LAW OFFICE OF JOSEPH S. WEIMER

BY: 

Edmond R. Joyal, Jr., Esquire  
Attorney for Dubois Realty Partners,  
Michael Joseph Development Corp.

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

Janet Luther  
James Luther

Vs.

Case No. 2005-00081-CD

Donald R. Fezell  
Fezell Shop 'N Save  
Shop 'N Save  
Fezell Enterprises, Inc.  
Fezell Enterprises II, Inc.  
Fezell Enterprises III, Inc.  
Fezell Enterprises IV, Inc.  
Fezell Enterprises V, Inc.  
Fezell Enterprises VI, Inc.  
Fezell Enterprises VII, Inc.  
Dubois Realty Partners, L.P.  
Michael Joseph Development Corporation  
Michael Joseph Acquisition Corporation  
Michael Joseph Limited Partnership #1  
Michael Joseph Limited Partnership #2

RULE TO FILE COMPLAINT

TO: Janet Luther and James Luther

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within twenty (20) days from service hereof, or a judgment of non pros may be entered against you.

---

William A. Shaw, Prothonotary

Dated: February 22, 2005

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

No. 05-81-CD

Plaintiffs,

vs.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL  
ENTERPRISES VII, INC.; DUBOIS REALTY  
PARTNERS, L.P.; MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL JOSEPH LIMITED  
PARTNERSHIP #2,

Defendants.

PRAECIPE TO REISSUE  
WRIT OF SUMMONS

Filed on behalf of Plaintiffs

Jonathan B. Mack, Esquire  
Counsel for Plaintiffs  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602  
Sup. Ct. ID 38970

File No CC  
m/3/45.61 Atty ad. 7.00  
MAR 14 2005

William A. Show 4wnts to Sheriff  
Prothonotary/Clerk of Courts (6k)

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

No. 05-81-CD

Plaintiffs,

vs.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL  
ENTERPRISES VII, INC.; DUBOIS REALTY  
PARTNERS, L.P.; MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL JOSEPH LIMITED  
PARTNERSHIP #2,

Defendants.

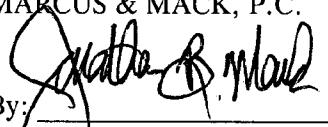
**PRAECIPE TO REISSUE WRIT OF SUMMONS**

TO THE PROTHONOTARY OF SAID COURT:

Please reissue a Writ of Summons in the above-captioned action.

Respectfully submitted,

MARCUS & MACK, P.C.

By:   
Jonathan B. Mack, Esquire  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602  
Sup. Ct. ID #38970

March 9, 2005

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

*COPY*

**SUMMONS**

**Janet Luther and  
James Luther, her husband**

**Vs.**

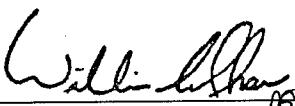
**NO.: 2005-00081-CD**

**Donald R. Fezell, i/t/d/b/a Fezell Shop 'N Save and  
Shop 'N Save; Fezell Enterprises, Inc.; Fezell Enterprises II, Inc.;  
Fezell Enterprises III, Inc.; Fezell Enterprises IV, Inc.;  
Fezell Enterprises V, Inc.; Fezell Enterprises VI, Inc.;  
Fezell Enterprises VII, Inc.; Dubois Realty Partners, L.P.;  
Michael Joseph Development Corporation; Michael Joseph  
Acquisition Corporation; Michael Joseph Limited  
Partnership #1; and Michael Joseph Limited Partnership #2**

**TO: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE  
and SHOP 'N SAVE; FEZELL ENTERPRISES, INC.;  
FEZELL ENTERPRISES II, INC.; FEZELL ENTERPRISES III,  
INC.; FEZELL ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL ENTERPRISES VII,  
INC.; DUBOIS REALTY PARTNERS, L.P.; MICHAEL JOSEPH  
DEVELOPMENT CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED PARTNERSHIP #1; and  
MICHAEL JOSEPH LIMITED PARTNERSHIP #2**

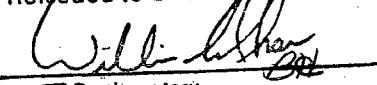
To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 01/18/2005

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

Issuing Attorney:  
Jonathan B. Mack  
57 South 6th Street  
Indiana, PA 15701

3-14-05 Document  
Reinstate/Reissued to Sheriff/Attorney  
for service.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 1 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband

VS.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

NOW, January 21, 2005 AT 11:30 AM SERVED THE WITHIN SUMMONS ON DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE DEFENDANT AT 1000 S. BRADY ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DON FEZELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / DEHAVEN

FILED  
01/30/2005  
MAR 15 2005  
GR

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 2 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband

vs.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

---

NOW, January 21, 2005 AT 11:30 AM SERVED THE WITHIN SUMMONS ON SHOP 'N SAVE DEFENDANT AT 1000 S. BRADY ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DON FEZELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / DEHAVEN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 3 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband

vs.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

---

NOW, January 21, 2005 AT 11:30 AM SERVED THE WITHIN SUMMONS ON FEZELL ENTERPRISES, INC. DEFENDANT AT 1000 S. BRADY ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DON FEZELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / DEHAVEN

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

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 4 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband

vs.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

---

NOW, January 19, 2005, SHERIFF OF JEFFERSON COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS ON FEZELL ENTERPRISES II, INC..

NOW, January 24, 2005 AT 11:10 AM SERVED THE WITHIN SUMMONS ON FEZELL ENTERPRISES II, INC.,  
DEFENDANT. THE RETURN OF JEFFERSON COUNTY IS HERETO ATTACHED AND MADE PART OF THIS  
RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 5 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband  
vs.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

---

NOW, January 21, 2005 AT 11:30 AM SERVED THE WITHIN SUMMONS ON FEZELL ENTERPRISES III, INC. DEFENDANT AT 1000 S. BRADY ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DON FEZELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / DEHAVEN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 6 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband  
vs.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

---

NOW, January 21, 2005 AT 11:30 AM SERVED THE WITHIN SUMMONS ON FEZELL ENTERPRISES IV, INC.  
DEFENDANT AT 1000 S. BRADY ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DON  
FEZELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE  
CONTENTS THEREOF.

SERVED BY: COUDRIET / DEHAVEN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 7 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband  
vs.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

---

NOW, January 21, 2005 AT 11:30 AM SERVED THE WITHIN SUMMONS ON FEZELL ENTERPRISES V, INC. DEFENDANT AT 1000 S. BRADY ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DON FEZELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / DEHAVEN

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

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 8 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband  
vs.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

---

NOW, January 21, 2005 AT 11:30 AM SERVED THE WITHIN SUMMONS ON FEZELL ENTERPRISES VI, INC. DEFENDANT AT 1000 S. BRADY ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DNO FEZELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / DEHAVEN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 9 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband  
vs.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

---

NOW, January 21, 2005 AT 11:30 AM SERVED THE WITHIN SUMMONS ON FEZELL ENTERPRISES VII, INC. DEFENDANT AT 1000 S. BRADY ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DON FEZELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / DEHAVEN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 10 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband  
vs.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

---

NOW, January 19, 2005, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS ON DUBOIS REALTY PARTNERS, L.P..

NOW, January 25, 2005 AT 1:50 PM SERVED THE WITHIN SUMMONS ON DUBOIS REALTY PARTNERS, L.P.,  
DEFENDANT. THE RETURN OF ALLEGHENY COUNTY IS HERETO ATTACHED AND MADE PART OF THIS  
RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 11 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband  
vs.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

NOW, January 19, 2005, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS ON MICHAEL JOSEPH DEVELOPMENT  
CORPORATION.

NOW, January 25, 2005 AT 1:50 PM SERVED THE WITHIN SUMMONS ON MICHAEL JOSEPH DEVELOPMENT  
CORPORATION, DEFENDANT. THE RETURN OF ALLEGHENY COUNTY IS HERETO ATTACHED AND MADE PART  
OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 12 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband  
vs.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

NOW, January 19, 2005, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS ON MICHAEL JOSEPH ACQUISITION  
CORPORATION.

NOW, January 25, 2005 AT 1:50 PM SERVED THE WITHIN SUMMONS ON MICHAEL JOSEPH ACQUISITION  
CORPORATION, DEFENDANT. THE RETURN OF ALLEGHENY COUNTY IS HERETO ATTACHED AND MADE PART  
OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 13 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband  
VS.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

---

NOW, January 19, 2005, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS ON MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1.

NOW, January 25, 2005 ATTEMPTED TO SERVE THE WITHIN SUMMONS ON MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1, DEFENDANT. THE RETURN OF ALLEGHENY COUNTY IS HERETO ATTACHED AND MADE  
PART OF THIS RETURN MARKED "NOT FOUND".

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100154  
NO: 05-81-CD  
SERVICE # 14 OF 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband  
VS.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

---

NOW, January 19, 2005, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS ON MICHAEL JOSEPH LIMITED  
PARTNERSHIP #2.

NOW, January 25, 2005 AT SERVED THE WITHIN SUMMONS ON MICHAEL JOSEPH LIMITED PARTNERSHIP #2,  
DEFENDANT. THE RETURN OF ALLEGHENY COUNTY IS HERETO ATTACHED AND MADE PART OF THIS  
RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100154  
NO: 05-81-CD  
SERVICES 14  
SUMMONS

PLAINTIFF: JANET LUTHER and JAMES LUTHER, her husband  
vs.

DEFENDANT: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SHERIFF RETURN**

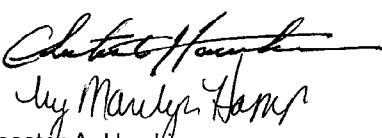
**RETURN COSTS**

| Description     | Paid By     | CHECK # | AMOUNT |
|-----------------|-------------|---------|--------|
| SURCHARGE       | MARCUS&MACK | 32725   | 140.00 |
| SHERIFF HAWKINS | MARCUS&MACK | 32725   | 110.00 |
| JEFFERSON CO.   | MARCUS&MACK | 32723   | 37.82  |
| ALLEGHENY CO.   | MARCUS&MACK | 32726   | 100.00 |
| ALLEGHENY CO.   | MARCUS&MACK | 32727   | 75.00  |
| O'BRIEN, NOTARY | MARCUS&MACK | 32729   | 3.00   |
| O'BRIEN, NOTARY | MARCUS&MACK | 32730   | 3.00   |
| SHERIFF HAWKINS | MARCUS&MACK | 33324   | 20.39  |

Sworn to Before Me This

So Answers,

\_\_\_\_ Day of \_\_\_\_\_ 2005

  
Chester A. Hawkins  
Sheriff

100154

No. 2005-00081-C.D.

Personally appeared before me, Brian Henretta, Deputy for Thomas A. Demko, Sheriff of Jefferson County, Pennsylvania, who according to law deposes and says that on January 24, 2005 at 11:10 o'clock A.M. served the Writ of Summons upon FEZELL ENTERPRISES, II, INC., defendant, at their place of business located at 201 Hampton Avenue, Borough of Punxsutawney, County of Jefferson, State of Pennsylvania, by handing to Denise Smith, Cash Office Manager and adult person in charge at time of service, one true copy of the Writ and by making known to her the contents thereof.

|                         |            |
|-------------------------|------------|
| Advance Costs Received: | \$125.00   |
| My Costs:               | 35.82 Paid |
| Prothy:                 | 2.00       |
| Total Costs:            | 37.82      |
| REFUNDED:               | \$ 87.18   |

Sworn and subscribed

to before me this

27th

day of

Jan. 2005

By

Brian Henretta

My Commission Expires The  
First Monday January 2006

So Answers,

Brian Henretta Deputy

Thomas A. Demko Sheriff  
JEFFERSON COUNTY, PENNSYLVANIA

PETER R. DEFAZIO  
Sheriff

ALLEGHENY COUNTY SHERIFF'S DEPARTMENT  
436 GRANT STREET  
PITTSBURGH, PA 15219-2496  
PHONE (412) 350-4700

DENNIS SKOSNIK  
Chief Deputy

PLAINTIFF JANET & JAMES LUTHER

VS.

DEFT. DONALD R. FEZELL 1/t/d/b/a

ADD. DEFT. SERVE: DUBOIS REALTY PARTNERS, B.P.

ADD. DEFT. 105 Bradford Road, Suite 310, Wexford 15090

GARNISHEE

ADDRESS Shelia P. O'Brien

MUNICIPALITY or CITY WARD

ATTY.

MARCUS & MACK

DATE: 19

ADDRESS

ATTY'S Phone

INDICATE TYPE OF SERVICE:  PERSONAL  PERSON IN CHARGE  DEPUTIZE  CERT. MAIL  POSTED  OTHER  LEVY  SEIZED & STORE

Now, Jan. 19, 2005 19, I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby depose the Sheriff of

ALLEGHENY

County to execute this Writ and make return thereof according to law

NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person or attachment without liability on the part of such deputy herein for any loss, destruction or removal of any property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at:

| MAKE | MODEL | MOTOR NUMBER | SERIAL NUMBER | LICENSE NUMBER |
|------|-------|--------------|---------------|----------------|
|      |       |              |               |                |
|      |       |              |               |                |
|      |       |              |               |                |

SHERIFF'S OFFICE USE ONLY

I hereby CERTIFY AND RETURN that on the 25th day of Jan., 1905 at 1:00 o'clock A.M./P.M. Address Above/Address Below. County of Allegheny, Pennsylvania

I have served in the manner described below:

- Defendant(s) personally served.
- Adult family member with whom said Defendant(s) reside(s). Name & Relationship \_\_\_\_\_
- Adult in charge of Defendant's residence who refused to give name or relationship \_\_\_\_\_
- Manager/Clerk of place of lodging in which Defendant(s) reside(s) \_\_\_\_\_
- Agent or person in charge of Defendant(s) office or usual place of business. Dennis H. H.
- Other \_\_\_\_\_
- Property Posted \_\_\_\_\_

Defendant not found because:  Moved  Unknown  No Answer  Vacant  Other \_\_\_\_\_

Certified Mail  Receipt \_\_\_\_\_  Envelope Returned \_\_\_\_\_  Neither receipt or envelope returned: writ expired \_\_\_\_\_

Regular Mail Why \_\_\_\_\_

You are hereby notified that on \_\_\_\_\_, 19\_\_\_\_\_, levy was made in the case of \_\_\_\_\_  
Possession/Sale has been set for \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock.

**YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.**

ATTEMPTS \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ /

**PETER R. DEFAZIO, Sheriff**

By \_\_\_\_\_

District \_\_\_\_\_

**JERRY E. HANLON, Esq.**  
ALLEGHENY CO.  
SHERIFF'S DEPARTMENT

Additional Costs Due \$ \_\_\_\_\_, This is placed  
on writ when returned to Prothonotary. Please check before  
satisfying case.



CHESTER A. HAWKINS  
SHERIFF

# Sheriff's Office Clearfield County

OFFICE (814) 765-2641 EXT. 5986  
AFTER 4:00 P.M. (814) 765-1533  
FAX (814) 765-5915

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

ROBERT SNYDER  
CHIEF DEPUTY

CYNTHIA AUGHENBAUGH  
OFFICE MANAGER

MARILYN HAMM  
DEPT. CLERK

PETER F. SMITH  
SOLICITOR

## DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
PAGE 100154

JANET LUTHER and JAMES LUTHER, her husband

TERM & NO. 05-81-CD

vs.

SUMMONS

DONALD R. FEZELL, i/t/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

SERVE BY: 02/17/05

**MAKE REFUND PAYABLE TO MARCUS & MACK, ESQ.**

**SERVE:** DUBOIS REALTY PARTNERS, L.P.

**ADDRESS:** 105 BRADFORD ROAD, SUITE 310, WEXFORD, PA 15090

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF ALLEGHENY COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, January 19, 2005.

RESPECTFULLY,

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA





CHESTER A. HAWKINS  
SHERIFF

# Sheriff's Office Clearfield County

OFFICE (814) 765-2641 EXT. 5986  
AFTER 4:00 P.M. (814) 765-1533  
FAX (814) 765-5915

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

ROBERT SNYDER  
CHIEF DEPUTY

CYNTHIA AUGHENBAUGH  
OFFICE MANAGER

MARILYN HAMM  
DEPT. CLERK  
PETER F. SMITH  
SOLICITOR

## DEPUTATION

PAGE 100154  
**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**

JANET LUTHER and JAMES LUTHER, her husband

TERM & NO. 05-81-CD

vs.

SUMMONS

DONALD R. FEZELL, i/t/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SERVE BY: 02/17/05**

## MAKE REFUND PAYABLE TO MARCUS & MACK, ESQ.

**SERVE:** MICHAEL JOSEPH DEVELOPMENT CORPORATION

**ADDRESS:** 105 BRADFORD ROAD, SUITE 310, WEXFORD, PA 15090

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF ALLEGHENY COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, January 19, 2005.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

PETER R. DEFAZIO  
Sheriff

**ALLEGHENY COUNTY SHERIFF'S DEPARTMENT**

436 GRANT STREET  
PITTSBURGH, PA 15219-2496  
PHONE (412) 350-4700

DENNIS SKOSNIK  
Chief Deputy

PLAINTIFF JANET & JAMES LUTHER

VS.

DEFT. DONALD R. FEZELL i/t/d/b/a

ADD. DEFT. SERVE: MICHAEL JOSEPH ACQUISITION CORPORATION

ADD. DEFT. 105 Bradford Road, Suite 310, Wexford, 15090

GARNIShee JAN 28 2005

ADDRESS Sheila R. O'Brien

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal  
Sheila R. O'Brien, Notary Public ATTY.  
City of Pittsburgh, Allegheny County  
My Commission Expires June 19, 2008 ADDRESS

MUNICIPALITY or CITY WARD

DATE:

ATTY'S Phone

Member, Pennsylvania Association of Notaries

INDICATE TYPE OF SERVICE:  PERSONAL  PERSON IN CHARGE  DEPUTIZE  CERT. MAIL  POSTED  OTHER  LEVY  SEIZED & STORE

Now. Jan. 19, 2005 19X I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby depelize the Sheriff of

NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomsoever is found in possession, after notifying person or attachment without liability on the part of such deputy herein for any loss, destruction or removal of any property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at: \_\_\_\_\_

| MAKE  | MODEL | MOTOR NUMBER | SERIAL NUMBER | LICENSE NUMBER |
|-------|-------|--------------|---------------|----------------|
| _____ | _____ | _____        | _____         | _____          |
| _____ | _____ | _____        | _____         | _____          |
| _____ | _____ | _____        | _____         | _____          |

**SHERIFF'S OFFICE USE ONLY**

I hereby CERTIFY AND RETURN that on the 25th day of Jan at 10:00 o'clock A.M. M. Address Above/Address Below. County of Allegheny, Pennsylvania

I have served in the manner described below:

- Defendant(s) personally served.
- Adult family member with whom said Defendant(s) reside(s). Name & Relationship \_\_\_\_\_
- Adult in charge of Defendant's residence who refused to give name or relationship \_\_\_\_\_
- Manager/Clerk of place of lodging in which Defendant(s) reside(s). \_\_\_\_\_
- Agent or person in charge of Defendant(s) office or usual place of business. X Dennis Vith - managing partner
- Other \_\_\_\_\_
- Property Posted \_\_\_\_\_

Defendant not found because:  Moved  Unknown  No Answer  Vacant  Other \_\_\_\_\_

Certified Mail  Receipt \_\_\_\_\_  Envelope Returned \_\_\_\_\_  Neither receipt or envelope returned: writ expired \_\_\_\_\_

Regular Mail Why \_\_\_\_\_

You are hereby notified that on \_\_\_\_\_, 19\_\_\_\_\_, levy was made in the case of \_\_\_\_\_  
Possession/Sale has been set for \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock.

**YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.**

ATTEMPTS \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**PETER R. DEFAZIO, Sheriff**

By \_\_\_\_\_

*JERRY E. MANNION, Jr.*  
ALLEGHENY COUNTY DEPUTY SHERIFF

District \_\_\_\_\_

Additional Costs Due \$ \_\_\_\_\_, This is placed  
on writ when returned to Prothonotary. Please check before  
satisfying case.

White Copy - Sheriff

Yellow - Sheriff

Pink Copy - Attorney



CHESTER A. HAWKINS  
SHERIFF

**Sheriff's Office  
Clearfield County**

OFFICE (814) 765-2641 EXT. 5986  
AFTER 4:00 P.M. (814) 765-1533  
FAX (814) 765-5915

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

ROBERT SNYDER  
CHIEF DEPUTY

CYNTHIA AUGHENBAUGH  
OFFICE MANAGER

MARILYN HAMM

DEPT. CLERK

PETER F. SMITH  
SOLICITOR

**DEPUTATION**

PAGE 100154 **IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**

JANET LUTHER and JAMES LUTHER, her husband TERM & NO. 05-81-CD

vs. SUMMONS

DONALD R. FEZELL, i/t/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SERVE BY: 02/17/05**

**MAKE REFUND PAYABLE TO MARCUS & MACK, ESQ.**

**SERVE:** MICHAEL JOSEPH ACQUISITION CORPORATION

**ADDRESS:** 105 BRADFORD ROAD, SUITE 310, WEXFORD, PA 15090

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF ALLEGHENY COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, January 19, 2005.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

PETER R. DEFAZIO  
Sheriff

ALLEGHENY COUNTY SHERIFF'S DEPARTMENT

436 GRANT STREET  
PITTSBURGH, PA 15219-2496  
PHONE (412) 350-4700

DENNIS SKOSNIK  
Chief Deputy

PLAINTIFF JANET & JAMES LUTHER

VS.

DEFT. DONALD R. FEZELL i/t/d/b/a

ADD. DEFT. SERVE: MICHAEL JOSEPH LIMITED PARTNERSHIP #1  
JAN 25 8 2005 1 Road, Pittsburgh, Pa. 15235

GARNIShee JAN 28 2005

ADDRESS Sheila R. O'Brien

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal  
Sheila R. O'Brien, Notary Public  
City of Pittsburgh, Allegheny County  
My Commission Expires June 19, 2008

MUNICIPALITY or CITY WARD

DATE:

ATTY'S Phone

Member, Pennsylvania Association of Notaries

ATTY.

MARCUS & MACK

ADDRESS

8851  
CASE# 05-81-CD  
EXPIRES 2/17/05

SUMMONS/PRAECIPE  
 SEIZURE OR POSSESSION  
 NOTICE AND COMPLAINT  
 REVIVAL of SCI FA  
 INTERROGATORIES  
 EXECUTION - LEVY OR GARNIShee  
 OTHER

INDICATE TYPE OF SERVICE:  PERSONAL  PERSON IN CHARGE  DEPUTIZE  CERT MAIL  POSTED  OTHER  LEVY  SEIZED & STORE

Now.

Jan. 19, 2005

xx

CLEARFIELD

I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby depose the Sheriff of

County to execute this Writ and make return thereof according to law

NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person or attachment without liability on the part of such deputy herein for any loss, destruction or removal of any property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at:

MAKE

MODEL

MOTOR NUMBER

SERIAL NUMBER

LICENSE NUMBER

SHERIFF'S OFFICE USE ONLY

I hereby CERTIFY AND RETURN that on the 25 day of JAN, 192005 at 12:32 o'clock A.M./P.M. Address Above/Address Below. County of Allegheny, Pennsylvania

I have served in the manner described below:

Defendant(s) personally served.  
 Adult family member with whom said Defendant(s) reside(s). Name & Relationship \_\_\_\_\_  
 Adult in charge of Defendant's residence who refused to give name or relationship \_\_\_\_\_  
 Manager/Clerk of place of lodging in which Defendant(s) reside(s). \_\_\_\_\_  
 Agent or person in charge of Defendant(s) office or usual place of business.  
 Other \_\_\_\_\_ NOT AT HOME

Property Posted

Defendant not found because:  Moved  Unknown  No Answer  Vacant  Other \_\_\_\_\_

Certified Mail  Receipt \_\_\_\_\_  Envelope Returned \_\_\_\_\_

Neither receipt or envelope returned: writ expired \_\_\_\_\_

Regular Mail Why \_\_\_\_\_

You are hereby notified that on \_\_\_\_\_, 19\_\_\_\_\_, levy was made in the case of \_\_\_\_\_  
Possession/Sale has been set for \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock.

**YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.**

ATTEMPTS \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Additional Costs Due \$\_\_\_\_\_, This is placed  
on writ when returned to Prothonotary. Please check before  
satisfying case.

PETER R. DEFAZIO, Sheriff

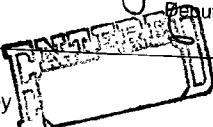
By Tom Glees Deputy

District \_\_\_\_\_

Pink Copy - Attorney

White Copy - Sheriff

Yellow - Sheriff





**Sheriff's Office  
Clearfield County**

OFFICE (814) 765-2641 EXT. 5986  
AFTER 4:00 P.M. (814) 765-1533  
FAX (814) 765-5915

CHESTER A. HAWKINS  
SHERIFF

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

ROBERT SNYDER  
CHIEF DEPUTY

CYNTHIA AUGHENBAUGH  
OFFICE MANAGER

MARILYN HAMM  
DEPT. CLERK

PETER F. SMITH  
SOLICITOR

**DEPUTATION**

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**  
PAGE 100154

JANET LUTHER and JAMES LUTHER, her husband

TERM & NO. 05-81-CD

vs.

SUMMONS

DONALD R. FEZELL, i/t/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SERVE BY: 02/17/05**

**MAKE REFUND PAYABLE TO MARCUS & MACK, ESQ.**

**SERVE:** MICHAEL JOSEPH LIMITED PARTNERSHIP #1

**ADDRESS:** 559 RODI ROAD, PITTSBURGH, PA 15235

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF ALLEGHENY COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, January 19, 2005.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

PETER R. DEFAZIO  
Sheriff

**ALLEGHENY COUNTY SHERIFF'S DEPARTMENT**  
436 GRANT STREET  
PITTSBURGH, PA 15219-2496  
PHONE (412) 350-4700

DENNIS SKOSNIK  
Chief Deputy

PLAINTIFF JANET & JAMES LUTHER

VS.

DEFT. DONALD R. FEZELL i/t/d/b/a

ADD. DEFT. SERVE: MICHAEL JOSEPH LIMITED PARTNERSHIP #2

ADD. DEFT. 558 Rodi Road, Pittsburgh, Pa. 15235  
GARNIShee JAN 28 2005

ADDRESS Sheila R. O'Brien

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

MUNICIPALITY or CITY WARD

Sheila R. O'Brien, Notary Public

DATE

City of Pittsburgh, Allegheny County

ATTY. Marcus & Mack

My Commission Expires June 19, 2008

ADDRESS

ATTY'S Phone

Member, Pennsylvania Association of Notaries

INDICATE TYPE OF SERVICE:  PERSONAL  PERSON IN CHARGE  DEPUTIZE  CERT. MAIL  POSTED  OTHER  LEVY  SEIZED & STORE

Now. Jan. 19, 2005

CLEARFIELD

X I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby depose the Sheriff of

County to execute this Writ and make return thereof according to law

NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomsoever is found in possession, after notifying person or attachment without liability on the part of such deputy herein for any loss, destruction or removal of any property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at:

| MAKE | MODEL | MOTOR NUMBER | SERIAL NUMBER | LICENSE NUMBER |
|------|-------|--------------|---------------|----------------|
|      |       |              |               |                |
|      |       |              |               |                |

**SHERIFF'S OFFICE USE ONLY**

I hereby CERTIFY AND RETURN that on the 25 day of JAN, 19 2005 at 12:32 o'clock A.M./P.M. Address Above/Address Below. County of Allegheny, Pennsylvania

I have served in the manner described below:

- Defendant(s) personally served.
- Adult family member with whom said Defendant(s) reside(s). Name & Relationship \_\_\_\_\_
- Adult in charge of Defendant's residence who refused to give name or relationship \_\_\_\_\_
- Manager/Clerk of place of lodging in which Defendant(s) reside(s). \_\_\_\_\_
- Agent or person in charge of Defendant(s) office or usual place of business. \_\_\_\_\_
- Other \_\_\_\_\_ NOT AT GIVEN ADDRESS
- Property Posted \_\_\_\_\_

Defendant not found because:  Moved  Unknown  No Answer  Vacant  Other \_\_\_\_\_

Certified Mail  Receipt \_\_\_\_\_  Envelope Returned \_\_\_\_\_  Neither receipt or envelope returned: writ expired \_\_\_\_\_

Regular Mail Why \_\_\_\_\_

You are hereby notified that on \_\_\_\_\_, 19 \_\_\_\_\_, levy was made in the case of \_\_\_\_\_  
Possession/Sale has been set for \_\_\_\_\_, 19 \_\_\_\_\_ at \_\_\_\_\_ o'clock.

**YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.**

ATTEMPTS \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**PETER R. DEFAZIO, Sheriff**

By \_\_\_\_\_

Deputy

District \_\_\_\_\_

Additional Costs Due \$ \_\_\_\_\_ This is placed  
on writ when returned to Prothonotary. Please check before  
satisfying case.

White Copy - Sheriff

Yellow - Sheriff

Pink Copy - Attorney



CHESTER A. HAWKINS  
SHERIFF

**Sheriff's Office  
Clearfield County**

OFFICE (814) 765-2641 EXT. 5986  
AFTER 4:00 P.M. (814) 765-1533  
FAX (814) 765-5915

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

ROBERT SNYDER  
CHIEF DEPUTY

CYNTHIA AUGHENBAUGH  
OFFICE MANAGER

MARILYN HAMM  
DEPT. CLERK

PETER F. SMITH  
SOLICITOR

**DEPUTATION**

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**  
PAGE 100154

JANET LUTHER and JAMES LUTHER, her husband

TERM & NO. 05-81-CD

vs.

DONALD R. FEZELL, i/t/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE et al

**SERVE BY: 02/17/05**

**MAKE REFUND PAYABLE TO MARCUS & MACK, ESQ.**

**SERVE:** MICHAEL JOSEPH LIMITED PARTNERSHIP #2

**ADDRESS:** 559 RODI ROAD, PITTSBURGH, PA 15235

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF ALLEGHENY COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, January 19, 2005.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

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

SUMMONS

**Janet Luther and  
James Luther, her husband**

**Vs.**

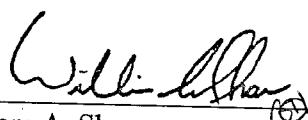
**NO.: 2005-00081-CD**

**Donald R. Fezell, i/t/d/b/a Fezell Shop 'N Save and  
Shop 'N Save; Fezell Enterprises, Inc.; Fezell Enterprises II, Inc.;  
Fezell Enterprises III, Inc.; Fezell Enterprises IV, Inc.;  
Fezell Enterprises V, Inc.; Fezell Enterprises VI, Inc.;  
Fezell Enterprises VII, Inc.; Dubois Realty Partners, L.P.;  
Michael Joseph Development Corporation; Michael Joseph  
Acquisition Corporation; Michael Joseph Limited  
Partnership #1; and Michael Joseph Limited Partnership #2**

**TO: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE  
and SHOP 'N SAVE; FEZELL ENTERPRISES, INC.;  
FEZELL ENTERPRISES II, INC.; FEZELL ENTERPRISES III,  
INC.; FEZELL ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL ENTERPRISES VII,  
INC.; DUBOIS REALTY PARTNERS, L.P.; MICHAEL JOSEPH  
DEVELOPMENT CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED PARTNERSHIP #1; and  
MICHAEL JOSEPH LIMITED PARTNERSHIP #2**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 01/18/2005



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

Issuing Attorney:  
Jonathan B. Mack  
57 South 6th Street  
Indiana, PA 15701

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

SUMMONS

**Janet Luther and  
James Luther, her husband**

Vs.

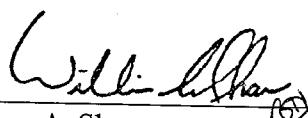
NO.: 2005-00081-CD

**Donald R. Fezell, i/t/d/b/a Fezell Shop 'N Save and  
Shop 'N Save; Fezell Enterprises, Inc.; Fezell Enterprises II, Inc.;  
Fezell Enterprises III, Inc.; Fezell Enterprises IV, Inc.;  
Fezell Enterprises V, Inc.; Fezell Enterprises VI, Inc.;  
Fezell Enterprises VII, Inc.; Dubois Realty Partners, L.P.;  
Michael Joseph Development Corporation; Michael Joseph  
Acquisition Corporation; Michael Joseph Limited  
Partnership #1; and Michael Joseph Limited Partnership #2**

TO: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE  
and SHOP 'N SAVE; FEZELL ENTERPRISES, INC.;  
FEZELL ENTERPRISES II, INC.; FEZELL ENTERPRISES III,  
INC.; FEZELL ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL ENTERPRISES VII,  
INC.; DUBOIS REALTY PARTNERS, L.P.; MICHAEL JOSEPH  
DEVELOPMENT CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED PARTNERSHIP #1; and  
MICHAEL JOSEPH LIMITED PARTNERSHIP #2

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 01/18/2005



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

Issuing Attorney:  
Jonathan B. Mack  
57 South 6th Street  
Indiana, PA 15701

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,  
Plaintiffs,

CIVIL DIVISION  
NO. 2005-00081-CD

**COMPLAINT**

v.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

Defendants.

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Jonathan B. Mack, Esquire  
Pa. ID #38970

Marcus & Mack, P.C.  
57 S. 6<sup>th</sup> Street  
Indiana, PA 15701  
(724) 349-5602

FILED  
m/15461 NO  
MAR 21 2005

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

CIVIL DIVISION

Plaintiffs,

NO. 2005-00081-CD

**COMPLAINT**

v.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.,; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.; FEZELL  
ENTERPRISES VII, INC.; DUBOIS REALTY PARTNERS,  
L.P.; MICHAEL JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISTION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

Defendants.

**NOTICE TO PLEAD**

TO: All Defendants

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering 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.

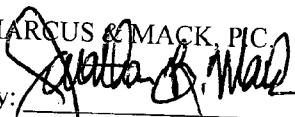
YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT REDUCED FEE OR NO FEE.

Clearfield County Court Administrator  
2230 East Market Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641

Respectfully submitted,

MARCUS & MACK, P.C.

By: 

Jonathan B. Mack, Esquire  
Marcus & Mack, P.C.  
Grant Building, Suite 2220  
310 Grant Street  
Pittsburgh, PA 15219  
Pa. ID #38970  
Telephone: 724-349-5602

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

CIVIL DIVISION

Plaintiffs,

NO. 2005-00081-CD

**COMPLAINT**

v.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISTION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

Defendants.

**COMPLAINT**

1. The Plaintiffs are adult, married individuals who reside in Dubois, Clearfield County, Pennsylvania.
2. The Defendant, Donald R. Fezell, i/t/d/b/a Fezell Shop 'N Save and Shop 'N Save (hereinafter "Defendant Shop 'N Save") is a Pennsylvania corporation with offices located at 1000 S. Brady Street, DuBois, Clearfield County, Pennsylvania.
3. The Defendant, Fezell Enterprises, Inc. is a Pennsylvania corporation with offices located at 1000 S. Brady Street, DuBois, Clearfield County, Pennsylvania.

4. The Defendant Fezell Enterprises II, Inc. is a Pennsylvania corporation with offices located at 201 Hampton Avenue, Groundhog Plaza, Punxsutawney, Jefferson County, Pennsylvania.
5. The Defendant Fezell Enterprises III, Inc. is a Pennsylvania corporation with offices located at 1000 S. Brady Street, DuBois, Clearfield County, Pennsylvania.
6. The Defendant Fezell Enterprises IV, Inc. is a Pennsylvania corporation with offices located at 1000 S. Brady Street, DuBois, Clearfield County, Pennsylvania.
7. The Defendant Fezell Enterprises V, Inc. is a Pennsylvania corporation with offices located at 1000 S. Brady Street, DuBois, Clearfield County, Pennsylvania.
8. The Defendant Fezell Enterprises VI, Inc. is a Pennsylvania corporation with offices located at 1000 S. Brady Street, DuBois, Clearfield County, Pennsylvania.
9. The Defendant Fezell Enterprises VII, Inc. is a Pennsylvania corporation with offices located at 1000 S. Brady Street, DuBois, Clearfield County, Pennsylvania.
10. The Defendant DuBois Realty Partners, L.P. is a Pennsylvania business with offices located at 105 Bradford Road, Suite 310, Wexford, Allegheny County, Pennsylvania.
11. The Defendant Michael Joseph Development Corporation is a Pennsylvania corporation with offices located at 105 Bradford Road, Suite 310, Wexford, Allegheny County, Pennsylvania.
12. The Defendant Michael Joseph Acquisition Corporation is a Pennsylvania corporation with offices located at 105 Bradford Road, Suite 310, Wexford, Allegheny County, Pennsylvania.
13. The Defendant Michael Joseph Limited Partnership #1 is a Pennsylvania business with offices located at 105 Bradford Road, Suite 310, Wexford, Allegheny County, Pennsylvania.
14. The Defendant Michael Joseph Limited Partnership #2 is a Pennsylvania business with offices located at 105 Bradford Road, Suite 310, Wexford, Allegheny County, Pennsylvania.
15. At all times relevant, the Defendants had under their exclusive care, control, custody, maintenance and supervision, an employee parking lot located at the Shop 'N Save store in DuBois, Clearfield County, Pennsylvania.

16. At all times relevant, the Defendants were acting by and through their authorized agents, servants and employees who were then and there acting within the course of their employment and the scope of their authority.

17. On or about February 3, 2003, Plaintiff Janet Luther parked her vehicle in the lot designated for employee parking at the Shop 'N Save in DuBois, Clearfield County, Pennsylvania. Plaintiff exited her vehicle and was walking in a normal, prudent and careful manner around her vehicle when she unknowingly encountered an area of ice on the parking lot, which caused her to slip and fall, severely injuring her right ankle.

18. At all times relevant, the Defendants had actual knowledge and/or constructive knowledge of the icy conditions which caused the Plaintiff to fall.

19. The aforesaid accident was caused by the negligence of the Defendants in general and in the following particulars:

a. In failing to maintain a safe and sanitary condition of the parking lot which was used by store employees;

b. In failing to remove and/or properly treat the icy conditions on the parking lot;

c. In failing to remove and/or properly treat the icy conditions when the Defendants knew or should have known of the danger such condition created to the Plaintiff;

d. In failing to inspect and/or properly inspect the premises so as to discover the icy conditions of the parking lot;

e. In failing to warn or adequately warn the Plaintiff of the dangerous condition existing on the premises caused by the icy conditions, when the Defendants knew, or should have known, of the danger that such condition presented to Plaintiff and that the Plaintiff would not discover the condition;

f. In maintaining the parking lot in such a manner as to constitute a danger to persons lawfully thereon; and,

g. In maintaining the parking lot in an improper manner and/or in employing personnel who were not sufficiently qualified to maintain the parking lot in a proper manner.

20. As a result of the aforesaid accident, the Plaintiff Janet Luther suffered, among other things, the following injuries:

- a. Trimalleolar fracture and dislocation of the right ankle requiring open reduction and internal fixation surgical repair;
  - b. Deep venous thrombosis, right lower extremity, secondary to the right ankle fracture and subsequent surgery; and,
  - c. Generalized trauma and injury to the muscles, tissues, tendons, and ligaments of right lower extremity.
21. As a result of the aforesaid accident, the Plaintiff Janet Luther, suffered, among other things, the following damages:
  - a. She has incurred in the past, and will incur in the future, substantial medical expense;
  - b. She has sustained in the past, and will sustain in the future, substantial economic loss;
  - c. She has suffered in the past, and will suffer in the future, substantial pain, suffering, and inconvenience and the loss of certain ordinary pleasures of life;
  - d. She has sustained in the past, and will sustain in the future, substantial scarring and disfigurement; and,
  - e. She has sustained in the past, and will sustain in the future, other emotional, economic and physical harm.

WHEREFORE, the Plaintiff Janet Luther demands judgment against Defendants in an amount in excess of the jurisdictional limits of a Board of Arbitrators of this Court.

JURY TRIAL DEMANDED.

**COUNT II - LOSS OF CONSORTIUM**

22. Each of the above paragraphs is incorporated herein by reference.
23. As a result of the injuries to his spouse, the husband-plaintiff, James Luther, has lost the society, comfort, and services of his spouse.

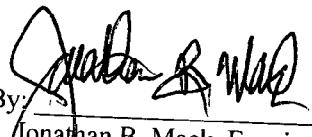
WHEREFORE, the husband-plaintiff, James Luther, demands judgment against all corporate Defendants in an amount in excess of the jurisdictional limits of a Board of Arbitrators of this Court.

JURY TRIAL DEMANDED.

Respectfully submitted,

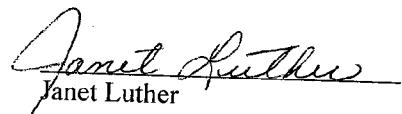
MARCUS & MACK, P.C.

By:

  
Jonathan B. Mack, Esquire  
Sup. Ct. ID 38970  
Marcus & Mack, P.C.  
57 S. 6<sup>th</sup> Street  
Indiana, PA 15701  
(724) 349-5602

**VERIFICATION**

I, Janet Luther, verify that the averments of the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.



Janet Luther

VERIFICATION

I, James Luther, verify that the averments of the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

James Luther  
James Luther

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

CIVIL DIVISION

Plaintiffs,

NO. 2005-00081-CD

v.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISTION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

FILED  
M 11 54 AM NOC  
MAR 21 2005

William A. Shaw  
Prothonotary/Clerk of Courts

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **COMPLAINT** was mailed,  
U.S. First Class mail, to the following this 18th day of March, 2005:

Edmond R.Joyal, Jr.  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219

Candy A. Shaw

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

JANET LUTHER and JAMES LUTHER, her  
husband,

CIVIL DIVISION

Plaintiffs,

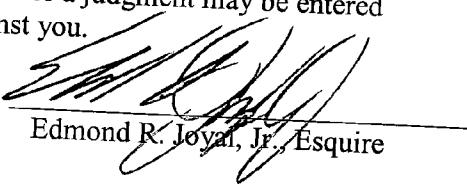
No.: 2005-00081-CD

-vs-

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE;  
FEZELL ENTERPRISES, INC.;, FEZELL  
ENTERPRISES II, INC.; FEZELL  
ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL  
ENTERPRISES V, INC.; FEZELL  
ENTERPRISES VI, INC.; DUBOIS REALTY  
PARTNERS, L.P.; MICHAEL JOSEPH  
DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH  
LIMITED PARTNERSHIP #1; and  
MICHAEL JOSEPH LIMITED  
PARTNERSHIP #2,

Defendants.

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

By: 

Edmond R. Joyal, Jr., Esquire

**ANSWER AND NEW MATTER**

Filed on behalf of Defendants:

Dubois Realty Partners, L.P.; Michael Joseph  
Development Corporation; Michael Joseph  
Acquisition Corporation; Michael Joseph  
Limited Partnership #1; and Michael Joseph  
Limited Partnership #2

Counsel of Record for this Party:

Edmond R. Joyal, Jr., Esquire  
Pa. I.D. 65907

LAW OFFICE OF JOSEPH S. WEIMER  
Firm #301

975 Two Chatham Center  
Pittsburgh, PA 15219

(412) 338-3184

60  
FILED  
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APR 14 2005  
NO CC

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

JANET LUTHER and JAMES LUTHER, her husband, CIVIL DIVISION

Plaintiffs,

No.: 2005-00081-CD

-vs-

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE;  
FEZELL ENTERPRISES, INC.;, FEZELL  
ENTERPRISES II, INC.; FEZELL  
ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL  
ENTERPRISES V, INC.; FEZELL  
ENTERPRISES VI, INC.; DUBOIS REALTY  
PARTNERS, L.P.; MICHAEL JOSEPH  
DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISTION  
CORPORATION; MICHAEL JOSEPH  
LIMITED PARTNERSHIP #1; and  
MICHAEL JOSEPH LIMITED  
PARTNERSHIP #2,

Defendants.

ANSWER AND NEW MATTER

AND NOW, comes the Defendants, DuBois Realty Partners, L.P.; Michael Joseph Development Corporation; Michael Joseph Acquisition Corporation; Michael Joseph Limited Partnership #1; and Michael Joseph Limited Partnership #2, by and through their attorneys, Law Office of Joseph S. Weimer, by Edmond R. Joyal, Jr., Esquire, and files the following Answer and New Matter to Plaintiffs' Complaint averring as follows:

1. After reasonable investigation, the Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 1 and the same are therefore denied.

2. The averments of paragraph 2 of Plaintiffs' Complaint are directed to a Defendant other than these Defendants. Therefore no response is required of these Defendants.

3. The averments of paragraph 3 of Plaintiffs' Complaint are directed to a Defendant other than these Defendants. Therefore no response is required of these Defendants.

4. The averments of paragraph 4 of Plaintiffs' Complaint are directed to a Defendant other than these Defendants. Therefore no response is required of these Defendants.

5. The averments of paragraph 5 of Plaintiffs' Complaint are directed to a Defendant other than these Defendants. Therefore no response is required of these Defendants.

6. The averments of paragraph 6 of Plaintiffs' Complaint are directed to a Defendant other than these Defendants. Therefore no response is required of these Defendants.

7. The averments of paragraph 7 of Plaintiffs' Complaint are directed to a Defendant other than these Defendants. Therefore no response is required of these Defendants.

8. The averments of paragraph 8 of Plaintiffs' Complaint are directed to a Defendant other than these Defendants. Therefore no response is required of these Defendants.

9. The averments of paragraph 9 of Plaintiffs' Complaint are directed to a Defendant other than these Defendants. Therefore no response is required of these Defendants.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. The averments of paragraph 15 constitute conclusions of law to which no response is required.

16. The averments of paragraph 16 constitute conclusions of law to which no response is required. To the extent that a response may be required, the averments are denied.

17. The averments of paragraph 17 constitute conclusions of law to which no response is required. To the extent that a response may be required, the Defendants answer as follows: Upon reasonable investigation, these Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 17 and the same are therefore denied.

18. The averments of paragraph 18 constitute conclusions of law to which no response is required. To the extent that a response may be required, the averments of paragraph 18 are denied.

19. The averments of paragraph 19 and all of its sub-paragraphs constitute conclusions of law to which no response is required. To the extent that a response may be required, the averments of paragraph 19 are denied.

20. The averments of paragraph 20 and all of its sub-paragraphs constitute conclusions of law to which no response is required. To the extent that a response may be required, the averments of paragraph 20 are denied.

21. The averments of paragraph 21 and all of its sub-paragraphs constitute conclusions of law to which no response is required. To the extent that a response may be required, the averments of paragraph 21 are denied.

WHEREFORE, Defendants deny liability to the Plaintiffs and request judgment in their favor and against Plaintiffs, together with the costs of defending this lawsuit.

**COUNT II**

**LOSS OF CONSORTIUM**

22. The Defendants repeat and incorporate by reference their responses to paragraphs 1 through 21 as if fully restated at length herein.

23. The averments of paragraph 23 constitute conclusions of law to which no response is required. To the extent that a response may be required, the averments of paragraph 23 are denied.

**NEW MATTER**

24. Plaintiffs Complaint fails to state a claim against these Defendants upon which relief can be granted and therefore should be dismissed.

25. Plaintiffs' cause of action is barred by the applicable statute of limitations.

26. Plaintiffs' injuries and damages, if any, were caused by other parties, forces, persons and/or entities over which these Defendants had no control or responsibility.

27. These Defendants believe and therefore aver that Wife-Plaintiff was negligent in general and in the following particulars:

- (a) In failing to exercise the degree of care required to assure her own safety under the circumstances then and there existing;
- (b) In failing to notice open and obvious conditions of the premises;

- (c) In failing to keep an appropriate lookout; and
- (d) In failing to pay adequate attention to her surroundings at all times relevant hereto.

28. These Defendants believe and therefore aver that Wife-Plaintiff's negligence is the sole and proximate result of Plaintiffs' alleged injuries and damages and therefore claim the Pennsylvania Comparative Negligence Act as a complete and total defense to Plaintiffs' allegations.

29. Plaintiffs' claims for relief are barred by the Wife-Plaintiff's contributory negligence and/or assumption of the risk of her injuries.

30. Plaintiffs' injuries and damages, if any, are the result of the prior and/or subsequent accidents and/or injuries and are not the proximate result of the incident in question.

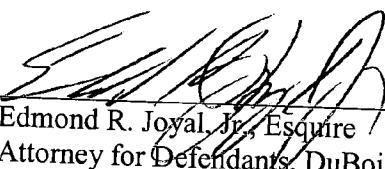
31. These Defendants assert the Hills and Ridges Doctrine concerning the presence of snow and ice as an affirmative defense in this matter.

32. These Defendants have no knowledge concerning the specific location of the alleged incident. However, based on information available to date, these Defendants did not maintain, or have any responsibility or control over the area where Plaintiff allegedly fell at any time relevant hereto.

WHEREFORE, Defendants DuBois Realty Partners, L.P.; Michael Joseph Development Corporation; Michael Joseph Acquisition Corporation; Michael Joseph Limited Partnership #1; and Michael Joseph Limited Partnership #2, request judgment in their favor and against Plaintiffs, together with the costs of defending this lawsuit.

JURY TRIAL DEMANDED

LAW OFFICE OF JOSEPH S. WEIMER

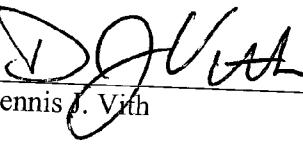
BY: 

Edmond R. Joyal, Jr., Esquire  
Attorney for Defendants, DuBois Realty  
Partners, L.P.; Michael Joseph Development  
Corporation; Michael Joseph Acquisition  
Corporation; Michael Joseph Limited  
Partnership #1; and Michael Joseph  
Limited Partnership #2

VERIFICATION

I, Dennis J. Vith of Michael Joseph Development Corporation, Defendant in the within matter, verify that the statements contained in the within Answer and New Matter are true and correct to the best of my knowledge, information and belief.

I understand that false statements are made subject to penalty of Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

BY:   
Dennis J. Vith

DATE: 4-11-05

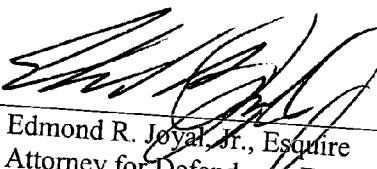
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Answer and New Matter has been served by First Class Mail, postage pre-paid, upon the following parties on this 12 day of April, 2005.

Jonathan B. Mack, Esquire  
57 South 6<sup>th</sup> Street  
Indiana, PA 15701

Donald R. Fezell  
i/t/d/b/a Fezell Shop 'N Save  
200 Commons Drive  
Dubois, PA 15901

LAW OFFICE OF JOSEPH S. WEIMER

BY: 

Edmond R. Joyal, Jr., Esquire  
Attorney for Defendants, DuBois Realty  
Partners, L.P.; Michael Joseph Development  
Corporation; Michael Joseph Acquisition  
Corporation; Michael Joseph Limited  
Partnership #1; and Michael Joseph  
Limited Partnership #2

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100304  
NO: 05-81-CD  
SERVICE # 1 OF 2  
SUMMONS

PLAINTIFF: JANET LUTHER & JAMES LUTHER  
vs.

DEFENDANT: DONALD R. FEZELL i/t/d/b/a FEZELL SHOP 'N SAVE al

**SHERIFF RETURN**

NOW, March 16, 2005, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS ON MICHAEL JOSEPH LIMITED PARTNERSHIP #1.

NOW, March 18, 2005 AT 2:10 PM SERVED THE WITHIN SUMMONS ON MICHAEL JOSEPH LIMITED PARTNERSHIP #1, DEFENDANT. THE RETURN OF ALLEGHENY COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

FILED  
04/19/2005  
APR 19 2005

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100304  
NO: 05-81-CD  
SERVICE # 2 OF 2  
SUMMONS

PLAINTIFF: JANET LUTHER & JAMES LUTHER  
vs.

DEFENDANT: DONALD R. FEZELL i/t/d/b/a FEZELL SHOP 'N SAVE al

**SHERIFF RETURN**

NOW, March 16, 2005, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN SUMMONS ON MICHAEL JOSEPH LIMITED PARTNERSHIP #2.

NOW, March 18, 2005 AT 2:10 PM SERVED THE WITHIN SUMMONS ON MICHAEL JOSEPH LIMITED PARTNERSHIP #2, DEFENDANT. THE RETURN OF ALLEGHENY COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100304  
NO: 05-81-CD  
SERVICES 2  
SUMMONS

PLAINTIFF: JANET LUTHER & JAMES LUTHER  
vs.

DEFENDANT: DONALD R. FEZELL i/t/d/b/a FEZELL SHOP 'N SAVE al

**SHERIFF RETURN**

**RETURN COSTS**

| Description         | Paid By | CHECK # | AMOUNT |
|---------------------|---------|---------|--------|
| SURCHARGE           | MARCUS  | 33328   | 20.00  |
| SHERIFF HAWKINS     | MARCUS  | 33328   | 24.00  |
| ALLEGHENY CO.       | MARCUS  | 33329   | 75.00  |
| SHELIA O'BRIEN, NOT | MARCUS  | 33330   | 3.00   |

Sworn to Before Me This

\_\_\_\_ Day of \_\_\_\_\_ 2005

So Answers,

*Chester A. Hawkins  
by Marilyn Hays*  
Chester A. Hawkins  
Sheriff

**ALLEGHENY COUNTY SHERIFF'S DEPARTMENT**

436 GRANT STREET  
PITTSBURGH, PA 15219-2496  
PHONE (412) 350-4700  
FAX (412) 350-6388

10:304

*PD*  
**PETER R. DEFAZIO**  
Sheriff

PLAINTIFF: Janet Luther and James Luther, her husband,

DEFT.: Donald R. Fezell i/t/d/b/a

VS.

*88151*  
DEFT.: SERVE: Michael Joseph Limited Partnership #2

DEFT.: \_\_\_\_\_

GARNISHEE: \_\_\_\_\_

ADDRESS: 105 Bradford Road, Suite 310, Wexford, PA 15090

**DENNIS SKOSNIK**  
Chief Deputy

CASE#: 05-81-CD

EXPIRES: \_\_\_\_\_

 SUMMONS/PRAEPIPE SEIZURE OR POSSESSION NOTICE AND COMPLAINT REVIVAL OR SCI FA INTERROGATORIES EXECUTION • LEVY OR GARNISHEE OTHER \_\_\_\_\_

MUNICIPALITY OR CITY WARD: \_\_\_\_\_

ATTY: Jonathan B. Mack, Esquire/Marcus & Mack, P.C.DATE: 20ADDRESS: 57 S. 6th Street, P. O. Box 1107  
Indiana, PA 15701ATTY'S PHONE: (724) 349-5602INDICATE TYPE OF SERVICE:  PERSONAL  PERSON IN CHARGE  DEPUTIZE  MAIL  POSTED  OTHER  LEVY  SEIZED & STOREDNOW: March 162005

*Clerk/for*  
I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby depose the Sheriff of  
County to execute this Writ and make return thereof according to law

**NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN** - Any deputy sheriff levying upon or attaching any property under  
the part of such deputy herein for any loss, destruction or removal of any such property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at:

MAKE \_\_\_\_\_

MODEL \_\_\_\_\_

MOTOR NUMBER \_\_\_\_\_

SERIAL NUMBER \_\_\_\_\_

LICENSE NUMBER \_\_\_\_\_

**SHERIFF'S OFFICE USE ONLY**I hereby CERTIFY and RETURN that on the 18th day of March, at 2005

o'clock, A.M./P.M. Address Above/ Address Below, County of Allegheny, Pennsylvania

I have served in the manner Described below:

Defendant(s) personally served.  
 Adult family member with whom said Defendant(s) reside(s). Name & Relationship \_\_\_\_\_  
 Adult in charge of Defendant's residence who refused to give name or relationship \_\_\_\_\_  
 Manager/other person authorized to accept deliveries of United States Mail \_\_\_\_\_  
 Agent or person in charge of Defendant(s) office or usual place of business.

*Barbara Deason*  
 Other \_\_\_\_\_ Property Posted \_\_\_\_\_Defendant not found because:  Moved  Unknown  No Answer  Vacant  Other \_\_\_\_\_ Certified Mail  Receipt \_\_\_\_\_  Envelope Returned \_\_\_\_\_  Neither receipt or envelope returned: writ expired \_\_\_\_\_ Regular Mail Why \_\_\_\_\_You are hereby notified that on \_\_\_\_\_, \_\_\_\_\_, levy was made in the case of \_\_\_\_\_  
Possession/Sale has been set for \_\_\_\_\_

, 20 \_\_\_\_\_ at \_\_\_\_\_ o'clock

**YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.**

ATTEMPTS \_\_\_\_\_

Additional Costs Due \$ \_\_\_\_\_, This is  
placed on writ when returned to Prothonotary. Please check  
before satisfying case.

Affirmed and subscribed before me

this \_\_\_\_\_ day of APR 04 2005*Sheila R O'Brien*

Notary

COMMONWEALTH OF PENNSYLVANIA

|                                      |  |
|--------------------------------------|--|
| Notarial Seal                        |  |
| Sheila R. O'Brien, Notary Public     |  |
| City of Pittsburgh, Allegheny County |  |
| My Commission Expires June 19, 2008  |  |

Member, Pennsylvania Association of Notaries

**PETER R. DEFAZIO, Sheriff**BY: *JERRY E. HANLON SR.*

ALLEGHENY COUNTY SHERIFF'S DEPARTMENT

JERRY E. HANLON SR.

DISTRICT: \_\_\_\_\_

White Copy - Sheriff

Pink Copy - Attorney

# ALLEGHENY COUNTY SHERIFF'S DEPARTMENT

436 GRANT STREET  
PITTSBURGH, PA 15219-2496  
PHONE (412) 350-4700  
FAX (412) 350-6388

PETER R. DEFAZIO  
Sheriff

PLAINTIFF: Janet Luther and James Luther, her husband,

DEFT.: Donald R. Fezell i/t/d/b/a VS.

DEFT.: SERVE: Michael Joseph Limited Partnership #1

DEFT.: \_\_\_\_\_

GARNIShee: \_\_\_\_\_

ADDRESS: 105 Bradford Road, Suite 310, Wexford, PA 15090

MUNICIPALITY OR CITY WARD: \_\_\_\_\_ ATTY: Jonathan B. Mack, Esquire/Marcus & Mack, P.C.

DATE: 20 \_\_\_\_\_

ATTY'S PHONE: xx(724) 349-5602

ADDRESS: 57 S. 6th Street, P. O. Box 1107  
Indiana, PA 15701

INDICATE TYPE OF SERVICE:  PERSONAL  PERSON IN CHARGE  DEPUTIZE  MAIL  POSTED  OTHER  LEVY  SEIZED & STORED

NOW: March 16

2005

Allegeny

Clerk and

I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby depose the Sheriff of County to execute this Writ and make return thereof according to law

NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, with out liability on the part of such deputy herein for any loss, destruction or removal of any such property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at:

MAKE

MODEL

MOTOR NUMBER

SERIAL NUMBER

LICENSE NUMBER

## SHERIFF'S OFFICE USE ONLY

I hereby CERTIFY and RETURN that on the 18<sup>th</sup> day of

March 20, 2005

at 20 o'clock, A.M./P.M. Address Above/ Address Below, County of Allegheny, Pennsylvania

I have served in the manner Described below:

Defendant(s) personally served.  
 Adult family member with whom said Defendant(s) reside(s). Name & Relationship \_\_\_\_\_  
 Adult in charge of Defendant's residence who refused to give name or relationship \_\_\_\_\_  
 Manager/other person authorized to accept deliveries of United States Mail \_\_\_\_\_  
 Agent or person in charge of Defendant(s) office or usual place of business.  
 BARBARA DRAA  
 Other \_\_\_\_\_  
 Property Posted \_\_\_\_\_

Defendant not found because:  Moved  Unknown  No Answer  Vacant  Other \_\_\_\_\_  
 Certified Mail  Receipt \_\_\_\_\_  Envelope Returned \_\_\_\_\_  Neither receipt or envelope retuned: writ expired \_\_\_\_\_  
 Regular Mail Why \_\_\_\_\_

You are hereby notified that on \_\_\_\_\_, \_\_\_\_\_, levy was made in the case of \_\_\_\_\_  
 Possession/Sale has been set for \_\_\_\_\_, 20 \_\_\_\_\_ at \_\_\_\_\_ o'clock

**YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.**

ATTEMPTS \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Additional Costs Due \$ \_\_\_\_\_, This is  
 placed on writ when returned to Prothonotary. Please check  
 before satisfying case.

**PETER R. DEFAZIO, Sheriff**

BY: \_\_\_\_\_

(DEPUTY)

JERRY E. MANLON SR.  
ALLEGHENY CO.  
SHERIFF'S DEPARTMENT

COMMONWEALTH OF PENNSYLVANIA  
 Notarial Seal  
 Sheila R. O'Brien, Notary Public  
 City of Pittsburgh, Allegheny County  
 My Commission Expires Jan 19, 2008

Member, Pennsylvania Notaries

of Notaries

White Copy - Sheriff

Pink Copy - Attorney



CHESTER A. HAWKINS  
SHERIFF

Sheriff's Office  
Clearfield County

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641 EXT. 5986  
AFTER 4:00 P.M. (814) 765-1533

FAX (814) 765-5915

ROBERT SNYDER  
CHIEF DEPUTY

MARILYN HAMM  
DEPT. CLERK

CYNTHIA AUGHENBAUGH  
OFFICE MANAGER

PETER F. SMITH  
SOLICITOR

DEPUTATION

PAGE 100304  
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER & JAMES LUTHER

TERM & NO. 05-81-CD

vs.

SUMMONS

DONALD R. FEZELL i/t/d/b/a FEZELL SHOP 'N SAVE al

SERVE BY: 04/13/05

MAKE REFUND PAYABLE TO MARCUS & MACK, ESQ.

SERVE: MICHAEL JOSEPH LIMITED PARTNERSHIP #1

ADDRESS: 105 BRADFORD ROAD, SUITE 310, WEXFORD, PA 15090

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF ALLEGHENY COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, March 16, 2005.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA



CHESTER A. HAWKINS  
SHERIFF

Sheriff's Office  
Clearfield County

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641 EXT. 5986  
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ROBERT SNYDER  
CHIEF DEPUTY

MARILYN HAMM  
DEPT. CLERK

CYNTHIA AUGHENBAUGH  
OFFICE MANAGER

PETER F. SMITH  
SOLICITOR

**DEPUTATION**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
PAGE 100304

JANET LUTHER & JAMES LUTHER TERM & NO. 05-81-CD

VS. SUMMONS

DONALD R. FEZELL i/t/d/b/a FEZELL SHOP 'N SAVE al

**SERVE BY: 04/13/05**

**MAKE REFUND PAYABLE TO MARCUS & MACK, ESQ.**

**SERVE:** MICHAEL JOSEPH LIMITED PARTNERSHIP #2

**ADDRESS:** 105 BRADFORD ROAD, SUITE 310, WEXFORD, PA 15090

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF ALLEGHENY COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, March 16, 2005.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

No. 05-81-CD

Plaintiffs,

vs.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL  
ENTERPRISES VII, INC.; DUBOIS REALTY  
PARTNERS, L.P.; MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL JOSEPH LIMITED  
PARTNERSHIP #2,

Defendants.

**SHERIFF'S DIRECTIONS**

TO THE SHERIFF OF ALLEGHENY COUNTY:

Please serve Writ of Summons on Defendant, Michael Joseph Limited Partnership #2, at 105  
Bradford Road, Suite 310, Wexford, Allegheny County, Pennsylvania 15090.

**Please return proof of service.**

Jonathan B. Mack, Esquire  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602  
Sup. Ct. ID #38970

March 9, 2005

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

No. 05-81-CD

Plaintiffs,

vs.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL  
ENTERPRISES VII, INC.; DUBOIS REALTY  
PARTNERS, L.P.; MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL JOSEPH LIMITED  
PARTNERSHIP #2,

Defendants.

**SHERIFF'S DIRECTIONS**

TO THE SHERIFF OF ALLEGHENY COUNTY:

Please serve Writ of Summons on Defendant, Michael Joseph Limited Partnership #1, at 105  
Bradford Road, Suite 310, Wexford, Allegheny County, Pennsylvania 15090.

**Please return proof of service.**

Jonathan B. Mack, Esquire  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602  
Sup. Ct. ID #38970

March 9, 2005

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

**COPY**

**SUMMONS**

**Janet Luther and  
James Luther, her husband**

**Vs.**

**NO.: 2005-00081-CD**

**Donald R. Fezell, i/t/d/b/a Fezell Shop 'N Save and  
Shop 'N Save; Fezell Enterprises, Inc.; Fezell Enterprises II, Inc.;  
Fezell Enterprises III, Inc.; Fezell Enterprises IV, Inc.;  
Fezell Enterprises V, Inc.; Fezell Enterprises VI, Inc.;  
Fezell Enterprises VII, Inc.; Dubois Realty Partners, L.P.;  
Michael Joseph Development Corporation; Michael Joseph  
Acquisition Corporation; Michael Joseph Limited  
Partnership #1; and Michael Joseph Limited Partnership #2**

**TO: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE  
and SHOP 'N SAVE; FEZELL ENTERPRISES, INC.;  
FEZELL ENTERPRISES II, INC.; FEZELL ENTERPRISES III,  
INC.; FEZELL ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL ENTERPRISES VII,  
INC.; DUBOIS REALTY PARTNERS, L.P.; MICHAEL JOSEPH  
DEVELOPMENT CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED PARTNERSHIP #1; and  
MICHAEL JOSEPH LIMITED PARTNERSHIP #2**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

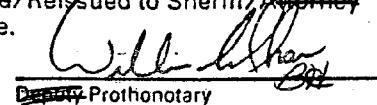
Date: 01/18/2005



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

Issuing Attorney:  
Jonathan B. Mack  
57 South 6th Street  
Indiana, PA 15701

*3-14-05* Document  
Reinstated/Reissued to Sheriff/Attorney  
for service.

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

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

COPY

SUMMONS

Janet Luther and  
James Luther, her husband

Vs.

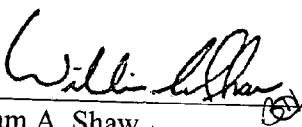
NO.: 2005-00081-CD

Donald R. Fezell, i/t/d/b/a Fezell Shop 'N Save and  
Shop 'N Save; Fezell Enterprises, Inc.; Fezell Enterprises II, Inc.;  
Fezell Enterprises III, Inc.; Fezell Enterprises IV, Inc.;  
Fezell Enterprises V, Inc.; Fezell Enterprises VI, Inc.;  
Fezell Enterprises VII, Inc.; Dubois Realty Partners, L.P.;  
Michael Joseph Development Corporation; Michael Joseph  
Acquisition Corporation; Michael Joseph Limited  
Partnership #1; and Michael Joseph Limited Partnership #2

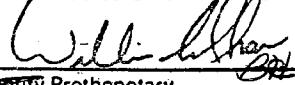
TO: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE  
and SHOP 'N SAVE; FEZELL ENTERPRISES, INC.;  
FEZELL ENTERPRISES II, INC.; FEZELL ENTERPRISES III,  
INC.; FEZELL ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL ENTERPRISES VII,  
INC.; DUBOIS REALTY PARTNERS, L.P.; MICHAEL JOSEPH  
DEVELOPMENT CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED PARTNERSHIP #1; and  
MICHAEL JOSEPH LIMITED PARTNERSHIP #2

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 01/18/2005

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

Issuing Attorney:  
Jonathan B. Mack  
57 South 6th Street  
Indiana, PA 15701

3-14-05 Document  
Reinstated/Reissued to Sheriff/Attorney  
for service.  
  
\_\_\_\_\_  
William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

CIVIL DIVISION

Plaintiffs,

NO. 2005-00081-CD

v.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.,; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

Defendants.

FILED *cc*  
M 12:58 P.M.  
APR 19 2005

William A. Shaw  
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **REPLY TO NEW MATTER**  
was mailed, U.S. First Class mail, to the following this 15<sup>th</sup> day of April, 2005:

Edmond R. Joyal, Jr.  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219

*Andy A. Shaw*

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

Plaintiffs,

v.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.,; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISTION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

CIVIL DIVISION  
NO. 2005-00081-CD

**PLAINTIFFS' REPLY TO  
NEW MATTER**

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

Jonathan B. Mack, Esquire  
Pa. ID #38970

Marcus & Mack, P.C.  
57 S. 6<sup>th</sup> Street  
Indiana, PA 15701  
(724) 349-5602

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

CIVIL DIVISION

Plaintiffs,

NO. 2005-00081-CD

v.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

Defendants.

**REPLY TO NEW MATTER**

AND NOW come the Plaintiffs, Janet Luther and James Luther, her husband, by their  
attorneys, MARCUS & MACK and Jonathan B. Mack, Esquire, and in reply to the Defendants  
Dubois Realty Partners, L.P., Michael Joseph Development Corporation, Michael Joseph Acquisition  
Corporation, Michael Joseph Limited Partnership #1 and Michael Joseph Limited Partnership #2's  
New Matter states as follows:

24. Denied. All the averments set forth in Paragraph 24 are denied as conclusions of law  
which require no response.

25. Denied. All the averments set forth in Paragraph 25 are denied as conclusions of law which require no response. By way of further answer, Plaintiffs filed their action via Writ of Summons on January 18, 2005, which was within the applicable Statute of Limitations.

26. Denied. All the averments set forth in Paragraph 26 are denied as conclusions of law which require no response. By way of further answer, Plaintiffs' injuries and damages were caused by the sole and/or joint negligence of the Defendants.

27. Denied. All the averments set forth in Paragraph 27 are denied as conclusions of law which require no response. By way of further answer, it is denied that Wife-Plaintiff:

- a. Failed to exercise the degree of care required to assure her own safety under the circumstances then and there existing;
- b. Failed to notice open and obvious conditions of the premises;
- c. Failed to keep an appropriate lookout; and,
- d. Failed to pay adequate attention to her surroundings at all times relevant hereto.

28. Denied. All the averments set forth in Paragraph 28 are denied as conclusions of law which require no response.

29. Denied. All the averments set forth in Paragraph 29 are denied as conclusions of law which require no response.

30. Denied. It is specifically denied that Plaintiffs' injuries and damages are the result of any prior and/or subsequent accidents and/or injuries. To the contrary, Plaintiffs' injuries and damages were caused solely and/or jointly by the Defendants.

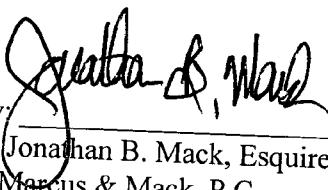
31. Denied. All the averments set forth in Paragraph 31 are denied as conclusions of law which require no response.

32. Denied. It is denied that the subject Defendants had no knowledge concerning the specific location of the incident. All the remaining averments set forth in Paragraph 32 are denied as conclusions of law which require no response.

WHEREFORE, Plaintiffs request that judgment be entered in their favor against the Defendants, Dubois Realty Partners, L.P., Michael Joseph Development Corporation, Michael Joseph Acquisition Corporation, Michael Joseph Limited Partnership #1 and Michael Joseph Limited Partnership #2.

Respectfully submitted,

MARCUS & MACK, P.C.

By: 

Jonathan B. Mack, Esquire  
Marcus & Mack, P.C.  
57 S. 6<sup>th</sup> Street  
Indiana, PA 15701  
Pa. ID #38970  
Telephone: 724-349-5602

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,  
Plaintiffs,

v.

CIVIL DIVISION  
NO. 2005-00081-CD

**NOTICE OF PRAECIPE TO  
ENTER JUDGMENT BY DEFAULT**

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISTION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

Jonathan B. Mack, Esquire  
Pa. ID #38970

Marcus & Mack, P.C.  
57 S. 6<sup>th</sup> Street  
Indiana, PA 15701  
(724) 349-5602

FILED <sup>NO</sup>  
<sup>cc</sup>  
3/13/05  
JUN 13 2005 (6)

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

CIVIL DIVISION

Plaintiffs,

NO. 2005-00081-CD

v.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISTION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

Defendants.

**NOTICE OF PRAECIPE TO ENTER  
JUDGMENT BY DEFAULT**

**TO: DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N SAVE,  
FEZELL ENTERPRISES, INC.; FEZELL ENTERPRISES II, INC; FEZELL  
ENTERPRISES III, INC; FEZELL ENTERPRISES IV, INC; FEZELL  
ENTERPRISES V, INC; FEZELL ENTERPRISES VI, INC.; FEZELL  
ENTERPRISES VII, INC.**

**Date of Notice: June 9, 2005**

**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN  
APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE  
COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU.  
UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT  
MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR  
PROPERTY OR OTHER IMPORTANT RIGHTS.

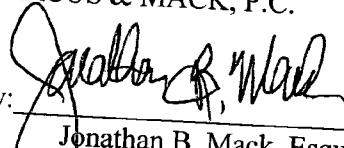
YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCE FEE OR NO FEE.

Clearfield County Court Administrator  
2230 East Market Street  
Clearfield, PA 16830  
Telephone: (814) 765-2641

Respectfully submitted,

MARCUS & MACK, P.C.

By: 

Jonathan B. Mack, Esquire  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602  
Sup. Ct. ID 38970

1

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

JANET LUTHER and JAMES LUTHER,  
her husband,

Plaintiffs,

-vs-

DONALD R. FEZELL, i/t/d/b/a  
FEZELL SHOP 'N SAVE and SHOP 'N  
SAVE; FEZELL ENTERPRISES, INC.;  
FEZELL ENTERPRISES II, INC.;  
FEZELL ENTERPRISES III, INC.;  
FEZELL ENTERPRISES IV, INC.;  
FEZELL ENTERPRISES V, INC.;  
FEZELL ENTERPRISES VI, INC.;  
DUBOIS REALITY PARTNERS, L.P.;  
MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH  
ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL  
JOSEPH LIMITED PARTNERSHIP #2,

Defendants:

CIVIL DIVISION

No.: 2005-00081-CD

**PRAECIPE FOR ENTRY OF  
APPEARANCE**

Filed on behalf of:  
Defendants

Counsel of Record for this Party:

Richard R. Tarantine, Esquire  
Pa. I.D. 49082

527 Court Place  
Pittsburgh, Pa 15219

(412) 690-24636

FILED NO CC  
M/10:31PM JUN 15 2005 (6P)  
William A. Shaw  
Prothonotary/Clerk of Courts

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

JANET LUTHER and JAMES LUTHER,  
her husband,

CIVIL DIVISION

Plaintiffs,

No.: 2005-00081-CD

-VS-

DONALD R. FEZELL, i/t/d/b/a  
FEZELL SHOP 'N SAVE and SHOP 'N  
SAVE; FEZELL ENTERPRISES, INC.;  
FEZELL ENTERPRISES II, INC.;  
FEZELL ENTERPRISES III, INC.;  
FEZELL ENTERPRISES IV, INC.;  
FEZELL ENTERPRISES V, INC.;  
FEZELL ENTERPRISES VI, INC.;  
DUBOIS REALITY PARTNERS, L.P.;  
MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH  
ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL  
JOSEPH LIMITED PARTNERSHIP #2,

Defendants:

**PRAECIPE FOR ENTRY OF APPEARANCE**

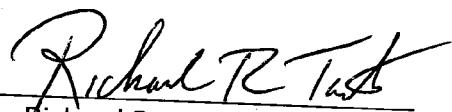
TO THE PROTHONOTARY:

Kindly enter the appearance of Richard R. Tarantine, Esquire on behalf of  
the following Defendants:

1. DONALD R. FEZELL, i/t/d/b/a FEZELL SHOP 'N SAVE and SHOP 'N  
SAVE

2. FEZELL ENTERPRISES, INC.
3. FEZELL ENTERPRISES II, INC.
4. FEZELL ENTERPRISES III, INC.
5. FEZELL ENTERPRISES IV, INC.
6. FEZELL ENTERPRISES V, INC.
7. FEZELL ENTERPRISES VI, INC.

By:



Richard R. Tarantine  
Richard R. Tarantine, Esquire

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Praeclipe for Entry of Appearance has been served by First Class Mail, postage pre-paid, upon the following parties on this 13th day of June, 2005.

Jonathan B. Mack, Esquire  
57 South 6<sup>th</sup> Street  
Indiana, PA 15701

Edmond R. Joyal, Jr., Esquire  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, Pa 15219

By: Richard R. Tarantine  
Richard R. Tarantine, Esquire

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,  
882 Treasure Lake  
Dubois, PA 15801

CIVIL ACTION

NO. 2005-00081-CD

Plaintiffs,

VS.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE;  
FEZELL ENTERPRISES, INC.; FEZELL  
ENTERPRISES II, INC.;  
201 Hampton Avenue  
Punxsutawney, PA 15767

Type of case: CIVIL DIVISION

Type of Pleading: PLAINTIFF'S  
ANSWERS TO INTERROGATORIES

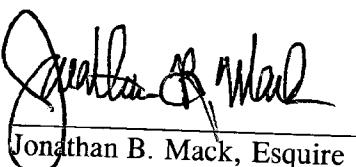
FILED ON BEHALF OF:

JANET LUTHER and JAMES LUTHER,  
her husband.

COUNSEL OF RECORD FOR THIS  
PARTY:

Jonathan B. Mack, Esquire  
Pa. ID #38970  
MARCUS & MACK, P.C.  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701

Telephone: (724) 349-5602

  
\_\_\_\_\_  
Jonathan B. Mack, Esquire

MICHAEL JOSEPH DEVELOPMENT  
CORPORATION;  
105 Bradford Road, Suite 310  
Wexford, PA 15090

MICHAEL JOSEPH ACQUISITION  
CORPORATION;  
105 Bradford Road, Suite 310  
Wexford, PA 15090

MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL  
JOSEPH LIMITED PARTNERSHIP #2,  
105 Bradford Road, Suite 310  
Wexford, PA 15090

Defendants.

FILED NO CC  
m11:43:01  
JUL 28 2005  
wm

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

Plaintiffs,

v.

CIVIL DIVISION  
NO. 2005-00081-CD

**PLAINTIFF JANET LUTHER'S  
ANSWERS TO  
INTERROGATORIES**

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISTION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

Jonathan B. Mack, Esquire  
Pa. ID #38970

Marcus & Mack, P.C.  
57 S. 6<sup>th</sup> Street  
Indiana, PA 15701  
(724) 349-5602

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

CIVIL DIVISION

Plaintiffs,

NO. 2005-00081-CD

v.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **PLAINTIFF JANET  
LUTHER'S ANSWER TO DEFENDANT'S INTERROGATORIES**

was mailed, U.S. First Class mail, to the following this 27<sup>th</sup> day of July, 2005:

Edmond R. Joyal, Jr.  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219

Kathryn M. Willis

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,  
882 Treasure Lake  
Dubois, PA 15801

CIVIL ACTION

NO. 2005-00081-CD

Plaintiffs,

VS.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE;  
FEZELL ENTERPRISES, INC.; FEZELL  
ENTERPRISES II, INC.;  
201 Hampton Avenue  
Punxsutawney, PA 15767

FEZELL ENTERPRISES III, INC.;  
FEZELL ENTERPRISES IV, INC.;  
FEZELL ENTERPRISES V, INC.;  
FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
1000 S. Brady Street  
DuBois, PA 15801

DUBOIS REALTY PARTNERS, L.P.;  
105 Bradford Road, Suite 310  
Wexford, PA 15090

MICHAEL JOSEPH DEVELOPMENT  
CORPORATION;  
105 Bradford Road, Suite 310  
Wexford, PA 15090

MICHAEL JOSEPH ACQUISITION  
CORPORATION;  
105 Bradford Road, Suite 310  
Wexford, PA 15090

MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL  
JOSEPH LIMITED PARTNERSHIP #2,  
105 Bradford Road, Suite 310  
Wexford, PA 15090

Defendants.

Type of case: CIVIL DIVISION

Type of Pleading: PLAINTIFF'S  
RESPONSE TO DEFENDANT'S  
REQUEST FOR PRODUCTION OF  
DOCUMENTS

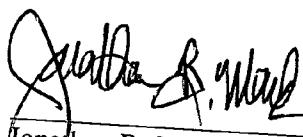
FILED ON BEHALF OF:

JANET LUTHER and JAMES LUTHER,  
her husband.

COUNSEL OF RECORD FOR THIS  
PARTY:

Jonathan B. Mack, Esquire  
Pa. ID #38970  
MARCUS & MACK, P.C.  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701

Telephone: (724) 349-5602



Jonathan B. Mack, Esquire

FILED NO  
M 11 4 3 51  
JUL 28 2005  
m

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

Plaintiffs,

v.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

CIVIL DIVISION  
NO. 2005-00081-CD

**PLAINTIFFS' RESPONSE TO  
DEFENDANT'S REQUEST  
FOR PRODUCTION OF  
DOCUMENTS**

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

Jonathan B. Mack, Esquire  
Pa. ID #38970

Marcus & Mack, P.C.  
57 S. 6<sup>th</sup> Street  
Indiana, PA 15701  
(724) 349-5602

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

CIVIL DIVISION

Plaintiffs,

NO. 2005-00081-CD

v.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
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V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **RESPONSE TO  
DEFENDANT'S REQUEST FOR PRODUCTION OF DOCUMENTS**

was mailed, U.S. First Class mail, to the following this 27th day of July, 2005:

Edmond R. Joyal, Jr.  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219

Kathy M. Miller

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

CIVIL DIVISION

Plaintiffs,

NO. 2005-00081-CD

v.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

Defendants.

FILED

OCT 12 2005  
11:45 AM  
William A. Shaw  
Prothonotary/Clerk of Court  
1 Cents to Answer

NOTICE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **PLAINTIFFS'**  
**REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANTS** were mailed, U.S.

First Class mail, to the following this 11th day of October, 2005:

Edmond R. Joyal, Jr.  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219

Joseph S. Weimer

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

CIVIL DIVISION

Plaintiffs,

NO. 2005-00081-CD

v.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES  
V, INC.; FEZELL ENTERPRISES VI, INC.;  
FEZELL ENTERPRISES VII, INC.;  
DUBOIS REALTY PARTNERS, L.P.; MICHAEL  
JOSEPH DEVELOPMENT CORPORATION;  
MICHAEL JOSEPH ACQUISITION CORPORATION;  
MICHAEL JOSEPH LIMITED PARTNERSHIP #1;  
and MICHAEL JOSEPH LIMITED PARTNERSHIP #2,

Defendants.

FILED

OCT 12 2005

W/11:45 AM  
William A. Shaw Jr.  
Prothonotary/Clerk of Courts  
L Cen to Attn

NOTICE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **PLAINTIFFS'**  
**INTERROGATORIES TO DEFENDANTS** were mailed, U.S. First Class mail, to the following  
this 14th day of October, 2005:

Edmond R. Joyal, Jr.  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219

James Mather

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and  
JAMES LUTHER, her husband,

Plaintiffs,

882 Treasure Lake  
Dubois, PA 15801

vs.

DONALD R. FEZELL, I/T/D/B/A  
FEZELL SHOP 'N SAVE AND SHOP  
'N SAVE, ET AL.,

Defendants.

Edmond R. Joyal, Jr.  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219

CIVIL DIVISION

NO. 2005-00081-CD

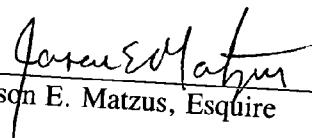
Type of Case: CIVIL

Type of Pleading: NOTICE OF  
DEPOSITION

Filed on behalf of:  
JANET LUTHER and JAMES  
LUTHER, her husband.

Filed by:

Jason E. Matzus, Esquire  
Pa. ID #76229  
Marcus & Mack, P.C.  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602

  
\_\_\_\_\_  
Jason E. Matzus, Esquire

FILED NOCC  
M 10:43 AM  
OCT 31 2005  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES  
LUTHER, her husband,

CIVIL ACTION NO. 2005-00081-CD

Plaintiffs,

v.

**DONALD R. FEZELL, I/T/D/B/A  
FEZELL SHOP 'N SAVE AND SHOP  
'N SAVE, ET AL.,**

Defendants.

NOTICE OF DEPOSITION  
PURSUANT TO PA. R.C.P. 4007.1

Notice is given that, pursuant to Pa. R.C.P. No. 4007.1, the deposition of **DENNIS VITH**, will be taken on oral examination at the **Law offices of Marcus & Mack, 57 South 6<sup>th</sup> Street, Indiana, PA**, on **December 6, 2005**, at 11:00 a.m. and at any and all adjournments thereof.

MARCUS & MACK, P.C.

By Jason E. Matzus  
Jason E. Matzus, Esquire  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: (724) 349-5602  
Sup. Ct. ID 76229

Dated: *October 26, 2005*

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES  
LUTHER, her husband,

vs.

Plaintiff,

DONALD R. FEZELL, I/T/D/B/A  
FEZELL SHOP 'N SAVE AND SHOP  
'N SAVE, ET AL.,

Defendants.

No. 2005-00081-CD

**NOTICE OF DEPOSITION OF DENNIS  
VITH**

Filed on behalf of Plaintiff

**Counsel of Record for this Party:**

Jason E. Matzus, Esquire  
Sup. Ct. ID 76229

Marcus & Mack, P.C.  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701

**NOTICE OF SERVICE**

Please take note that the undersigned has served **NOTICE OF DEPOSITION OF  
DENNIS VITH** to Counsel for Defendant, Edmond R. Joyal, Jr., Esquire, 975 Two Chatham  
Center, Pittsburgh, PA 15219 on behalf of the Plaintiff in the above-captioned action.

Respectfully submitted,

MARCUS & MACK, P.C.

By: Jason E. Matzus  
Jason E. Matzus, Esquire  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602  
Sup. Ct. ID 76229

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

vs.

Plaintiffs,

DONALD R. FEZELL, I/T/D/B/A  
FEZELL SHOP 'N SAVE AND SHOP 'N  
SAVE, ET AL.,

Defendants.

No. 2005-00081-CD

NOTICE OF DEPOSITION OF DENNIS  
VITH

Filed on behalf of Plaintiff

Counsel of Record for this Party:

Jason E. Matzus, Esquire  
Sup. Ct. ID 76229

Marcus & Mack, P.C.  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing NOTICE OF  
DEPOSITION was served by U.S. First Class Mail, postage prepaid this 26<sup>th</sup> day of  
October, 2005, upon the following:

Edmond R. Joyal, Jr., Esquire  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219  
(412) 338-3103

Valeri Lazor Court Reporting  
1495 Indian Springs Road  
Indiana, PA 15701  
(724) 349-8777

Jason E. Matzus

Date: 10/11/2005

Time: 01:52 PM

Page 1 of 2

**Clearfield County Court of Common Pleas**

ROA Report

Case: 2005-00081-CD

User: LBENDER

Current Judge: No Judge

**Civil Other**

| Date       |  | Judge    |
|------------|--|----------|
| 01/18/2005 | New Case Filed.  | No Judge |
|            | Filing: Writ of Summons Paid by: Mack, Jonathan B. (attorney for Luther, Janet) Receipt number: 1893976 Dated: 01/18/2005 Amount: \$85.00 (Check) 1 CC to Atty. 3 CC and 14 Writs to Shff.   | No Judge |
| 02/22/2005 | ✓ Praeclipe For Entry of Appearance, filed. Kindly enter the appearance of Edmond R. Joyal, Jr., Esquire and the Law Offices of Joseph S. Weimer, on behalf of Defendants, DuBois Realty Partners, LP, Michael Joseph Development Corporation, Michael Joseph Acquisition Corporation, Michael Joseph Limited Partnership #1 and Michael Joseph Limited Partnership #2., concerning the above-captioned action. Filed by s/ Edmond R. Joyal, Jr., Esquire. No CC | No Judge |
|            | Praeclipe For Rule to File Complaint, filed by s/ Edmond R. Joyal, Jr., Esquire. No CC   | No Judge |
| 03/14/2005 | ✓ Filing:Praeclipe To Reissue Writ/Complaint Paid by: Mack, Jonathan B. (attorney for Luther, Janet) Receipt number: 1897561 Dated: 03/14/2005 Amount: \$7.00 (Check) 4 Writs to Sheriff   | No Judge |
| 03/15/2005 | ✓ Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm   | No Judge |
| 03/21/2005 | ✓ Complaint, filed by s/ Jonathan B. Mack, Esquire. No CC  | No Judge |
|            | Certificate of Service, copy of Complaint, to Edmond R. Joyal, Jr., on March 18, 2005.   | No Judge |
| 04/14/2005 | ✓ Answer and New Matter filed. By s/ Edmond R. Joyal, Jr., Esquire. No CC  | No Judge |
| 04/19/2005 | ✓ Sheriff Return,On March 16, 2005, Summons served on Michael Joseph Limited Partnership # 1 and Michael Joseph Limited Partnership #2, Defendant. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm   | No Judge |
|            | ✓ Plaintiff's Reply To New Matter and Certificate of Service, filed by s/ Jonathan B. Mack, Esquire. No CC   | No Judge |
| 06/13/2005 | ✓ Notice of Praeclipe to Enter Judgment by Default, filed by s/ Jonathan B. Mack, Esquire. No CC   | No Judge |
| 06/15/2005 | ✓ Praeclipe For Entry of Appearance, filed on behalf of the following Defendants:<br>Donald R. Fezell, I/t/d/b/a Fezell Shop 'N Save and Shop 'N Save Fezell Enterprises, Inc.<br>Fezell Enterprises, II, Inc<br>Fezell Enterprises, III, Inc<br>Fezell Enterprises, IV, Inc<br>Fezell Enterprises, V, Inc<br>Fezell Enterprises, VI, Inc<br>filed by s/ Richard R. Tarantine, Esquire. No CC  | No Judge |

Date: 10/11/2005

Time: 01:52 PM

Page 2 of 2

**Clearfield County Court of Common Pleas**

ROA Report

Case: 2005-00081-CD

User: LBENDER

Current Judge: No Judge

**Civil Other**

Date

Judge

|            |  |          |
|------------|--|----------|
| 07/28/2005 | ✓ Certificate of Service, filed. Certify that a true and correct copy of the forgoing Response to Defendant's Request for Production of Documents were mailed to Edmond R. Joyal Jr Esquire on July 27, 2005 filed by s/ Kathryn M. Wells Esquire. No CC.    | No Judge |
|            | ✓ Certificate of Service, filed. Certify that a true and correct copy of the forgoing Plaintiff Janet Luther's Answer to Defendant's Interrogatories were mailed on July 27, 2005 to Edmond R. Joyal Jr Esquire filed by s/ Kathryn M. Wells Esquire. No CC. |          |

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

No. 05-81-CD

Plaintiffs,

vs.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL  
ENTERPRISES VII, INC.; DUBOIS REALTY  
PARTNERS, L.P.; MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL JOSEPH LIMITED  
PARTNERSHIP #2,

Defendants.

**PRAECIPE TO DISCONTINUE**

Filed on behalf of Plaintiffs

Jonathan B. Mack, Esquire  
Counsel for Plaintiffs  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602  
Sup. Ct. ID 38970

William A. Shaw  
Prothonotary

FILED  
m | 1.50cm disc issued  
JUN 12 2008 to Atty Mack  
WM

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

JANET LUTHER and JAMES LUTHER,  
her husband,

No. 05-81-CD

Plaintiffs,

vs.

DONALD R. FEZELL, i/t/d/b/a FEZELL  
SHOP 'N SAVE and SHOP 'N SAVE; FEZELL  
ENTERPRISES, INC.; FEZELL ENTERPRISES II,  
INC.; FEZELL ENTERPRISES III, INC.; FEZELL  
ENTERPRISES IV, INC.; FEZELL ENTERPRISES V,  
INC.; FEZELL ENTERPRISES VI, INC.; FEZELL  
ENTERPRISES VII, INC.; DUBOIS REALTY  
PARTNERS, L.P.; MICHAEL JOSEPH DEVELOPMENT  
CORPORATION; MICHAEL JOSEPH ACQUISITION  
CORPORATION; MICHAEL JOSEPH LIMITED  
PARTNERSHIP #1; and MICHAEL JOSEPH LIMITED  
PARTNERSHIP #2,

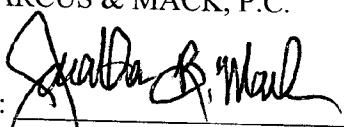
Defendants.

**PRAECLYPE TO DISCONTINUE**

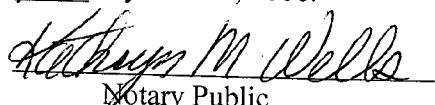
TO THE PROTHONOTARY OF SAID COURT:

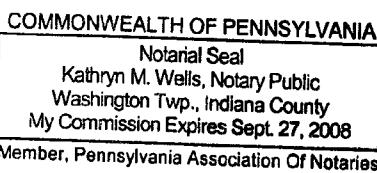
Please mark the above-captioned action settled and forever discontinued of record.

MARCUS & MACK, P.C.

By:   
Jonathan B. Mack, Esquire  
57 South Sixth Street  
P.O. Box 1107  
Indiana, PA 15701  
Telephone: 724-349-5602  
Sup. Ct. ID #38970

Sworn and subscribed  
to before me this  
9th day of June, 2006.

  
Kathryn M. Wells  
Notary Public



# MARCUS & MACK

Attorneys at Law

A PROFESSIONAL CORPORATION

1-(800) 488-0338  
www.marcusandmack.com

The Mitchell House ■ 57 South 6th Street ■ P.O. Box 1107 ■ Indiana, PA 15701

(724) 349-5602  
(724) 349-8362 (Fax)

June 9, 2006

William Shaw, Prothonotary  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

**RE: *Janet Luther and James Luther, her husband, vs.  
Donald R. Fezell, i/t/d/b/a Fezell Shop 'N Save and  
Shop 'N Save, et al.; No. 05-81-CD***

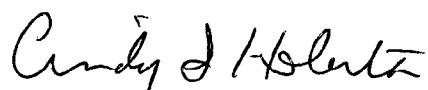
Dear Mr. Shaw:

Enclosed please find an original and one copy of Plaintiffs' Praecipe to Discontinue regarding the above-captioned matter. Please file the original, time-stamp the copy and return the copy and a discontinuance slip to me in the enclosed envelope. It is our understanding that there is no fee for filing the enclosed or for the discontinuance slip.

Please do not hesitate to contact me should you have any questions or problems in this regard.

Sincerely yours,

MARCUS & MACK, P.C.



By Cindy S. Holuta  
Paralegal

Enclosures

cc: Edmond R. Joyal, Jr., Esquire (w/ enc.)

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Janet Luther  
James Luther

Vs.

Donald R. Fezell, Fezell Shop 'N Save  
Shop 'N Save, Fezell Enterprises, Inc.  
Fezell Enterprises II, Inc., Fezell Enterprises III, Inc.  
Fezell Enterprises IV, Inc., Fezell Enterprises V, Inc.  
Fezell Enterprises VI, Inc., Fezell Enterprises VII, Inc.  
Dubois Realty Partners, L.P., Michael Joseph Development Corporation  
Michael Joseph Acquisition Corporation  
Michael Joseph Limited Partnership #1  
Michael Joseph Limited Partnership #2

No. 2005-00081-CD

CERTIFICATE OF DISCONTINUATION

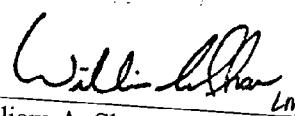
Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County  
and Commonwealth aforesaid do hereby certify that the above case was on June 12, 2006,  
marked:

Settled and forever discontinued

Record costs in the sum of \$92.00 have been paid in full by Jonathan B. Mack Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at  
Clearfield, Clearfield County, Pennsylvania this 12th day of June A.D. 2006.

  
\_\_\_\_\_  
William A. Shaw, Prothonotary