

05-266-CD
Brady Trust et al vs. Pristine et al



James Brady et al v. Pristine Property et al
2005-266-CD

Date: 08/24/2005

Clearfield County Court of Common Pleas

User: LBENDER

Time: 10:44 AM

ROA Report

Page 1 of 2

Case: 2005-00266-CD

Current Judge: Fredric Joseph Ammerman

James G. Brady, James Brady vs. Pristine Property Holdings, David P. King, Donald Aravich

Civil Other

Date		Judge
02/28/2005	New Case Filed.	No Judge
	Filing: Civil Complaint Paid by: Hopkins, David J. (attorney for Brady, James G.) Receipt number: 1896503 Dated: 02/28/2005 Amount: \$85.00 (Check) 3 CC to Atty. Hopkins	No Judge
03/21/2005	Petition With Rule Returnable, filed by s/ David P. King, Esquire. 2CC Atty King	Fredric Joseph Ammerman
	Rule, AND NOW, this 21st day of March, 2005, Rule returnable the 18th of April, 2005. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 2CC Atty King	Fredric Joseph Ammerman
03/30/2005	Preliminary Objections of Donald Aravich, filed by s/ Paul J. Malizia, Esquire. No CC	Fredric Joseph Ammerman
	Answer, New Matter and Counterclaim of Pristine Property Holdings, filed by s/Paul J. Malizia, Esq. No CC	Fredric Joseph Ammerman
04/11/2005	Sheriff Return, Complaint served on Pristine Property Holdings & Donald Aravich. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	Fredric Joseph Ammerman
04/14/2005	Acceptance of Service, David P. King, Esquire, accepts service of the Complaint this 8th day of March, 2005. Filed by s/ David P. King, Esquire. 1CC Atty. Hopkins	Fredric Joseph Ammerman
04/21/2005	Answer To Preliminary Objections of Donald Aravich, filed by s/ Lea Ann Heltzel, Esquire. 2CC to Atty Heltzel	Fredric Joseph Ammerman
04/26/2005	Answer To New Matter and Counterclaim of Pristine Property Holdings and New Matter, filed by s/ David J Hopkins, Esquire. 3CC Atty Hopkins	Fredric Joseph Ammerman
05/09/2005	Order, AND NOW, this 5th day of May, 2005, upon consideration of Atty Malizia's Preliminary Objections, it is the Order of the Court that argument has been scheduled for the 2nd day of June, 2005, at 10:00 A.M. By the Court, Fredric J. Ammerman, 3CC Atty Malizia w/Service Memo	Fredric Joseph Ammerman
05/12/2005	Certificate of Service, Copy of the foregoing Order of Court scheduling Argument on Preliminary Objections for June 2, 2005 at 10:00 a.m. served upon Hopkins Heltzel, LLP. Filed By Paul J. Malizia, Esq. No CC.	Fredric Joseph Ammerman
05/16/2005	Defendants' Reply to Plaintiff's New Matter, filed by s/ Paul J. Malizia, Esquire. No CC	Fredric Joseph Ammerman
06/01/2005	Order, NOW, this 2nd day of June, 2005, following argument on Def.'s Preliminary Objections, it is the ORDER of this Court that counsel supply the Court with appropriate letter brief within no more that 15 days from this date. BY THE COURT, /s/ Fredric J. Ammerman, Pres. Judge. CC to Attys Hopkins, Malizia, King	Fredric Joseph Ammerman
06/06/2005	Motion For Summary Judgment, filed by s/ David J. Hopkins, Esquire. 3CC Atty Hopkins	Fredric Joseph Ammerman
06/17/2005	Scheduling Order: AND NOW, this 17th day of June, 2005, upon consideration of the Motion for Summary Judgment, it is Ordered that: Rule is issued upon Respondent, Respondent shall file an Answer to the Motion within 20 days of this date; motion shall be decided under Pa.R.C.P. 206.7; Argument shall be held on the 14th day of July, 2005 at 11:00 a.m. in Courtroom No. 1.; Notice of the entry of this Order shall be provided to all parties by the moving party. BY THE COURT: /s/ Fredric J. Ammerman, Judge. 1CC To Atty	Fredric Joseph Ammerman

Date: 07/07/2005

Clearfield County Court of Common Pleas

User: LBENDER

Time: 11:01 AM

ROA Report

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Case: 2005-00266-CD

Current Judge: Fredric Joseph Ammerman

James G. Brady, James Brady vs. Pristine Property Holdings, David P. King, Donald Aravich

Civil Other

Date		Judge
✓ 06/22/2005	Order, this 22nd day of June, 2005, it is the ORDER of this court that the Preliminary Objections filed on behalf of Defendant Donald Aravich be and are hereby dismissed, without prejudice to the said Defendant to re-raise the issues in the form of a Motion for Summary Judgment upon completion of discovery. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1CC AAttys: Hopkins, Malizia, King	Fredric Joseph Ammerman
✓ 06/24/2005	Certificate of Service, copy of the Scheduling Order dated June 17, 2005, on June 22, 2005 to Paul J. Malizia, Esquire. and David P. King, Esquire. Filed by s/ David J. Hopkins, Esquire. 1CC Atty Hopkins	Fredric Joseph Ammerman

Date: 08/24/2005

Clearfield County Court of Common Pleas

User: LBENDER

Time: 10:44 AM

ROA Report

Page 2 of 2

Case: 2005-00266-CD

Current Judge: Fredric Joseph Ammerman

James G. Brady, James Brady vs. Pristine Property Holdings, David P. King, Donald Aravich

Civil Other

Date		Judge
06/22/2005	XX Order, this 22nd day of June, 2005, it is the ORDER of this court that the Preliminary Objections filed on behalf of Defendant Donald Aravich be and are hereby dismissed, without prejudice to the said Defendant to re-raise the issues in the form of a Motion for Summary Judgment upon completion of discovery. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1CC AAttys: Hopkins, Malizia, King	Fredric Joseph Ammerman
06/24/2005	XX Certificate of Service, copy of the Scheduling Order dated June 17, 2005, on June 22, 2005 to Paul J. Malizia, Esquire. and David P. King, Esquire. Filed by s/ David J. Hopkins, Esquire. 1CC Atty Hopkins	Fredric Joseph Ammerman
07/15/2005	XX Order, NOW, this 14th day of July, 2005, plaintiff's Motion for Partial Summary Judgment it is ORDERED as follows; (see original). By The Court, /s/ Fredric J. Ammerman, Pres Judge. 1CC Attys: Hopkins, King, Malizia	Fredric Joseph Ammerman
07/20/2005	XX Defendants' Answer To Plaintiff's Motion For Summary Judgment, filed by s/ Paul J. Malizia, Esquire. No CC	Fredric Joseph Ammerman

8-24-05 ~~XX~~ Opinion

11-21-05 ~~XX~~ Praecipe for trial.

1-20-06 ~~XX~~ order, dated 1-19-06

1-23-06 ~~XX~~ Meta

1-27-06 ~~XX~~ Order

Civil Other

Date		Judge
✓ 02/28/2005	New Case Filed.	No Judge
	✓ Filing: Civil Complaint Paid by: Hopkins, David J. (attorney for Brady, James G.) Receipt number: 1896503 Dated: 02/28/2005 Amount: \$85.00 (Check) 3 CC to Atty. Hopkins	No Judge
✓ 03/21/2005	✓ Petition With Rule Returnable, filed by s/ David P. King, Esquire. 2CC Atty King	Fredric Joseph Ammerman
✓	✓ Rule, AND NOW, this 21st day of March, 2005, Rule returnable the 18th of April, 2005. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 2CC Atty King	Fredric Joseph Ammerman
✓ 03/30/2005	✓ Preliminary Objections of Donald Aravich, filed by s/ Paul J. Malizia, Esquire. No CC	Fredric Joseph Ammerman
✓	✓ Answer, New Matter and Counterclaim of Pristine Property Holdings, filed by s/Paul J. Malizia, Esq. No CC	Fredric Joseph Ammerman
✓ 04/11/2005	✓ Sheriff Return, Complaint served on Pristine Property Holdings & Donald Aravich. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	Fredric Joseph Ammerman
✓ 04/14/2005	✓ Acceptance of Service, David P. King, Esquire, accepts service of the Complaint this 8th day of March, 2005. Filed by s/ David P. King, Esquire. 1CC Atty. Hopkins	Fredric Joseph Ammerman
✓ 04/21/2005	✓ Answer To Preliminary Objections of Donald Aravich, filed by s/ Lea Ann Heltzel, Esquire. 2CC to Atty Heltzel	Fredric Joseph Ammerman
✓ 04/26/2005	✓ Answer To New Matter and Counterclaim of Pristine Property Holdings and New Matter, filed by s/ David J Hopkins, Esquire. 3CC Atty Hopkins	Fredric Joseph Ammerman
✓ 05/09/2005	✓ Order, AND NOW, this 5th day of May, 2005, upon consideration of Atty Malizia's Preliminary Objections, it is the Order of the Court that argument has been scheduled for the 2nd day of June, 2005, at 10:00 A.M. By the Court, Fredric J. Ammerman, 3CC Atty Malizia w/Service Memo	Fredric Joseph Ammerman
✓ 05/12/2005	✓ Certificate of Service, Copy of the foregoing Order of Court scheduling Argument on Preliminary Objections for June 2, 2005 at 10:00 a.m. served upon Hopkins Heltzel, LLP. Filed By Paul J. Malizia, Esq. No CC.	Fredric Joseph Ammerman
✓ 05/16/2005	✓ Defendants' Reply to Plaintiff's New Matter, filed by s/ Paul J. Malizia, Esquire. No CC	Fredric Joseph Ammerman
✓ 06/01/2005	✓ Order, NOW, this 2nd day of June, 2005, following argument on Def.'s Preliminary Objections, it is the ORDER of this Court that counsel supply the Court with appropriate letter brief within no more that 15 days from this date. BY THE COURT, /s/ Fredric J. Ammerman, Pres. Judge. CC to Attys Hopkins, Malizia, King	Fredric Joseph Ammerman
✓ 06/06/2005	✓ Motion For Summary Judgment, filed by s/ David J. Hopkins, Esquire. 3CC Atty Hopkins	Fredric Joseph Ammerman
✓ 06/17/2005	✓ Scheduling Order: AND NOW, this 17th day of June, 2005, upon consideration of the Motion for Summary Judgment, it is Ordered that: Rule is issued upon Respondent, Respondent shall file an Answer to the Motion within 20-days of this date; motion shall be decided under Pa.R.C.P. 206.7; Argument shall be held on the 14th day of July, 2005 at 11:00 a.m. in Courtroom No. 1.; Notice of the entry of this Order shall be provided to all parties by the moving party. BY THE COURT: /s/ Fredric J. Ammerman, Judge. 1CC To Atty	Fredric Joseph Ammerman

Date: 03/02/2006

Clearfield County Court of Common Pleas

User: LBENDER

Time: 01:54 PM

ROA Report

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Case: 2005-00266-CD

Current Judge: Paul E. Cherry

James G. Brady, James Brady vs. Pristine Property Holdings, David P. King, Donald Aravich

Civil Other

Date	Selected Items	Judge
02/01/2006	<input checked="" type="checkbox"/> Certificate of Service, filed. That a true and correct copy of the Petition/Interpleader, as filed by the undersigned, DAVID P. KING, was served upon all the other parties in this matter, as was a certified copy of the Court's Rule Returnable on March 21, 2005 on the 21st day of March, 2005 to Paul J. Malizia Esq., Donald Aravich, and David J. Hopkins Esq., filed by s. David P. King Esq. No CC.	Paul E. Cherry
	<input checked="" type="checkbox"/> Order, this 1st day of Feb., 2006, Ordered that: David P. King, shall deposit into the Office of the Prothon. the sum of \$20,000.00, as it is being held in escrow by him. Def., upon deposit of such monies, is discharged from all liability in this case (see original). 4CC to Atty.	Paul E. Cherry
02/03/2006	<input checked="" type="checkbox"/> Petition to Strike David Hopkins, Esquire, from Witness List of Defendants, filed by s/ David J. Hopkins, Esquire. 2CC Atty. Hopkins	Paul E. Cherry
	<input checked="" type="checkbox"/> Answer To Defendants' Motion in limine, filed by s/ David J. Hopkins, Esquire. 2CC Atty. Hopkins	Paul E. Cherry
02/07/2006	<input checked="" type="checkbox"/> Order of Court, NOW, this 3rd day of Feb., 2006, following argument on Defendant's Motion in Limine, Ordered that counsel provide the Court with appropriate briefs by no later than Feb. 21, 2006. By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, King, Malizia	Paul E. Cherry
	<input checked="" type="checkbox"/> Order of Court, NOW, this 3rd day of Feb., 2006, following argument on Petition to Strike David Hopkins, Esquire from defendant's witness list, upon representation of Paul Malizia, Esquire that he is withdrawing said name from his witness list, It is the Order of this Court that said name shall be and is hereby stricken. By The Court, /s/ Paul E. Cherry, judge. 1CC Attys: Hopkins, Malizia, King	Paul E. Cherry
02/09/2006	Received check in the amount of \$20,000.00 from David P. King, Esq. to be placed in Escrow Account. \$220.00 Poundage to County and \$19,780 placed in Escrow Account at Clerfield Bank & Trust account # 81151928	Paul E. Cherry
	Filing: Poundage Paid by: Prothonotary (Atty. King) Receipt number: 1912414 Dated: 2/9/2006 Amount: \$220.00 (Check) From \$20,000.00 Deposit.	Paul E. Cherry
02/13/2006	<input checked="" type="checkbox"/> Praecipe to Withdraw Complaint Against one defendant, filed. Pleas withdraw our Complaint against the nominal Defendant, David P. King, Esquire, only, in the above captioned matter, filed by s/ David J. Hopkins Esq. 2CC Atty King (mailed from Atty King)	Paul E. Cherry
02/21/2006	<input checked="" type="checkbox"/> Prerequisite to Service of a Subpoena pursuant to Rule 4009.22, filed by s/ Paul J. Malizia Esq. No CC.	Paul E. Cherry

Clearfield County Court of Common Pleas

User: LBENDER

Civil Disposition Report

CT COMMON PLEAS,

All Case Types

From 01/30/2006 to 02/03/2006

All Judgment Types

Case	Parties	Filing date	Judgment	Disposition	Date
2005-01521-CD	Mortgage Electronic Registr Plaintiff Richardson, John C. Defendant Richardson, Julia K.	02/02/2006	Default Judgment In favor of: Plaintiff Judgment amount or comment: \$37,848.64 Judgment Amount	Open	02/02/2006
2005-01877-CD	Centex Home Equity Comp Plaintiff Centex Home Equity Corp. Plaintiff Meholick, Mary Jo Defendant	02/03/2006	Default Judgment In favor of: Plaintiff Judgment amount or comment: \$33,394.94 Judgment Amount	Open	02/03/2006
2006-00150-CD	Internal Revenue Service Plaintiff Pentz, Chris A. Defendant	01/30/2006	IRS Lien In favor of: Plaintiff Judgment amount or comment: \$1,726.81	Open	01/30/2006
2006-00151-CD	Ingros, Dennis Q. Defendant Ingros, Mary A. Defendant	01/30/2006	IRS Lien In favor of: Plaintiff Judgment amount or comment: \$106,328.43	Open	01/30/2006
2006-00153-CD	George A. Simcox Inc. Plaintiff Internal Revenue Service Defendant	01/30/2006	IRS Lien In favor of: Plaintiff Judgment amount or comment:	Open	01/30/2006
2006-00154-CD	Helisel, Richard A. Plaintiff Internal Revenue Service Defendant	01/30/2006	IRS Lien In favor of: Plaintiff Judgment amount or comment: \$81,112.95	Open	01/30/2006
2006-00157-CD	Aughenbaugh, Fred L. Plaintiff Internal Revenue Service Defendant	01/30/2006	DJ Transcript Judgme In favor of: Plaintiff Judgment amount or comment: \$72,193.54	Open	01/30/2006
2006-00163-CD	Ferrance, Metro Plaintiff Hudson & Keyse, LLC Plaintiff	02/01/2006	DJ Transcript Judgme In favor of: Plaintiff Judgment amount or comment: 3,812.65	Open	02/01/2006
2006-00166-CD	Oswalt, Preston Plaintiff Devers, Robert B. Defendant Devers, Tammy L. Defendant Northwest Savings Bank Plaintiff	02/01/2006	DJ Transcript Judgme In favor of: Plaintiff Judgment amount or comment: \$880.82	Open	02/01/2006

Date: 05/17/2006

Clearfield County Court of Common Pleas

User: LMILLER

Time: 10:40 AM

ROA Report

Page 1 of 1

Case: 2005-00266-CD

Current Judge: Paul E. Cherry

James G. Brady, James Brady vs. Pristine Property Holdings, David P. King, Donald Aravich

Civil Other

Date	Selected Items	Judge
03/01/2006	✓ Order NOW, this 28th day of February 2006, following argument on the Motion in Limine filed on behalf of Defendants, Pristine Property Holding, et al. and upon consideration of the same, the Court HEREBY FINDS AS FOLLOWS: 1. The Plaintiff shall be precluded from introducing any evidence related to alleged unmarketable title as a result of the Internal Revenue Tax Lien. The Opinion entered by Judge Ammerman, dated August 24, 2005, established as a matter of law that the I.R.S. tax lien was not enforceable against the property in question. 2. The Plaintiff shall be precluded from alleging that Susan D. Andres violated the Uniform Fraudulent Conveyance Act when conveying the property in question. The Uniform Fraudulent Conveyance Act expressly provides a creditor only may proceed under the Act. As such, the Plaintiff cannot rely upon the Act to illustrate how the various conveyances may be susceptible to potential creditors. BY THE COURT: /s/ Paul E. Cherry, Judge. 2CC Attys: Hopkins and Malizia.	Paul E. Cherry
03/14/2006	✓ Order, NOW, this 13th day of March, 2006, Plff's Request for continuance shall be granted and the trial scheduled for March 15, 16, 2006 shall be and is hereby continued until May 17 and 18, 2006, at 9:00 a.m. By The Court, /s/ Paul E. Cherry, Judge. 2CC Attys: Hopkins, Malizia	Paul E. Cherry
03/15/2006	✓ Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.22, filed by s/ Paul Malizia Esq. No CC.	Paul E. Cherry
03/17/2006	✓ Defendants' Consent To Amendment of New Matter, filed by s/ Paul J. Malizia, Esquire. No CC	Paul E. Cherry
03/27/2006	✓ Amended New Matter, filed by s/ David J. Hopkins Esq. 1CC Atty Hopkins.	Paul E. Cherry
03/30/2006	✓ Defendants Pristine Property Holdings and Donald Aravich's Reply to New Matter, filed by s/ Paul J. Malizia Esq. No CC.	Paul E. Cherry
05/05/2006	✓ Notice to Attend, filed by Paul J. Malizia Esq. No CC.	Paul E. Cherry

Date: 03/02/2006

Time: 01:54 PM

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Clearfield County Court of Common Pleas

ROA Report

Case: 2005-00266-CD

Current Judge: Paul E. Cherry

James G. Brady, James Brady vs. Pristine Property Holdings, David P. King, Donald Aravich

User: LBENDER

Civil Other

Date	Selected Items	Judge
03/01/2006	<p>✓ Order NOW, this 28th day of February 2006, following argument on the Motion in Limine filed on behalf of Defendants, Pristine Property Holding, et al. and upon consideration of the same, the Court HEREBY FINDS AS FOLLOWS:</p> <ol style="list-style-type: none">1. The Plaintiff shall be precluded from introducing any evidence related to alleged unmarketable title as a result of the Internal Revenue Tax Lien. The Opinion entered by Judge Ammerman, dated August 24, 2005, established as a matter of law that the I.R.S. tax lien was not enforceable against the property in question.2. The Plaintiff shall be precluded from alleging that Susan D. Andres violated the Uniform Fraudulent Conveyance Act when conveying the property in question. The Uniform Fraudulent Conveyance Act expressly provides a creditor only may proceed under the Act. As such, the Plaintiff cannot rely upon the Act to illustrate how the various conveyances may be susceptible to potential creditors. BY THE COURT: /s/ Paul E. Cherry, Judge. 2CC Attys: Hopkins and Malizia.	Paul E. Cherry

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

No. 05-266-CD

Type of Pleading: Complaint

Filed on behalf of: James G. Brady Trust
and James Brady as Trustee, Plaintiffs

Counsel of Record for this party:

HOPKINS HELTZEL LLP

DAVID J. HOPKINS, ESQUIRE

Attorney at Law

Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE

Attorney at Law

Supreme Court No. 83998

900 Beaver Drive

DuBois, Pennsylvania 15801

(814) 375-0300

FILED

01/11/29/2005
FEB 28 2005

William A. Shaw
Prothonotary/Clerk of Courts

300
Atty Hopkins
Atty pd
85.00

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

JAMES G. BRADY TRUST and :
JAMES BRADY, as Trustee, :
Plaintiff :
 :
vs. : No.
 :
PRISTINE PROPERTY HOLDINGS, :
DAVID P. KING and DONALD ARAVICH, :

TO: 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 Amended Complaint is served, by entering a written appearance personally or by Attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

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

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiffs

vs.

No.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,

COMPLAINT

COUNT I

AND NOW, comes the James G. Brady Living Trust by and through its attorneys,
Hopkins Heltzel, LLP, and says as follows:

1. Plaintiff is the James G. Brady Trust, James Brady Trustee, who maintains
a principal business address at 10901 Burnt Mill Road, Number 504, Jacksonville,
Florida 32256.

2. Defendant Pristine Property Holdings, an international business trust
whose address is 215 Treasure Lake, DuBois 15801 (hereinafter "Pristine").

3. Defendant Donald Aravich, is an adult individual whose address is
DuBois, Pennsylvania.

4. Defendant David P. King is named herein as a Defendant inasmuch as he
is holding the escrow account at issue. The address of David P. King is 23 Beaver Drive,
DuBois, Pennsylvania 15801 (hereinafter "King").

5. On or about October 25, 2004, Plaintiff and Defendant Pristine executed a document titled "Offer to Purchase." The Offer to Purchase is attached hereto as Exhibit "A" and incorporated as set forth at length.

6. The Offer to Purchase involves vacant real property known as Section Two, Lots 107 and 108 of the Treasure Lake Subdivision, Sandy Township, Clearfield County, Pennsylvania (hereinafter Lots 107 and 108).

7. The Offer to Purchase required Plaintiff deposit \$20,000.00 in the escrow account of Defendant King. Plaintiff deposited said money and the funds are currently in the escrow account of Defendant King.

8. The Offer to Purchase required closing to take place on or before December 15, 2004.

9. The Offer to Purchase required Defendant Pristine to deliver a deed of general warranty.

10. The Offer to Purchase states:

[Seller] are to deliver to [Buyer] or [Buyer's] attorney, at least five (5) days before closing, a forty year abstract of title and ten year search or tax receipts showing the property free and clear of all liens and encumbrances, except as herein set forth, and except building and use restrictions, pole and wire easements of record, and subject to zoning ordinance and to any taxes or local improvements not now completed.

11. The contract identifies Defendant Pristine's address to be 215 Treasure Lake, DuBois, Pennsylvania 15801. 215 Treasure Lake, DuBois, Pennsylvania 15801 is the address of William and Susan Andres.

12. The Offer to Purchase is signed on behalf of Defendant Pristine by William J. Andres and Susan D. Andres.

13. The contract is void inasmuch as William J. Andres and Susan D. Andres do not hold an ownership interest or a management interest in Defendant Pristine and did not have the authority to execute the "Offer to Purchase."

WHEREFORE, Plaintiff requests this Honorable Court declare and offer to purchase void and order Defendants to return Plaintiff's deposit of \$20,000.00 to Plaintiff together with attorney's fees, costs of suit and such other and further relief as the Court deems fair, just and equitable.

Count II

14. Plaintiff repeats each and every allegation set forth in Count I of the Complaint as is set forth at length herein.

15. Defendant Pristine is in default because Defendant Pristine failed to provide a forty-year abstract of title and ten year search or tax receipts on or before December 15, 2004.

16. Defendant Pristine is in default inasmuch as it does not possess good and marketable title nor is Defendant Pristine able to provide a deed of general warranty with good and marketable title to Plaintiff. In support thereof Plaintiff states as follows:

A. William and Susan Andres acquired title to Lots 107 and 108 from Recreational Land Corporation by deed dated May 26, 1994. The Andres took title as William J. Andres and Susan D. Andres – D.B.A. Coral Cove Project. The certificate of residence lists the precise residence of the Andres to be 215 Treasure Lake, DuBois, Pennsylvania 15801.

B. On March 30, 1999, William J. Andres and Susan D. Andres mortgaged Lots 107 and 108 to Northwest Savings Bank to secure \$160,000.00.

C. On August 12, 2002, the United States Treasury filed an Internal Revenue Service lien against Susan Diane Andres in the amount of \$48,066.08.

D. By General Warranty Deed dated December 3, 2002, William J. Andres and Susan D. Andres conveyed Lots 107 and 108 to "The K&G Trust." The certificate of residence lists the precise address of The K&G Trust to be 215 Treasure Lake, DuBois, Pennsylvania 15801. The same address as the Andres.

E. The "coal clause" to the deed identifies William J. Andres and Susan D. Andres as grantor of The K&G Trust.

F. The recorder of deed time stamp indicates William J. Andres recorded the deed to The K&G Trust.

G. The notary to the deed from Andres to the K & G Trust was not stamped.

H. Northwest Savings Bank did not release its mortgage when Lots 107 and 108 were transferred from William and Susan Andres to The K&G Trust.

I. By undated deed, The K&G Trust conveyed Lots 107 and 108 to Defendant Pristine Property Holdings, an international business trust. The deed was recorded in the Office of the Recorder of Deeds on October 29, 2003 as Instrument Number 2003-19675. The certificate of residence identifies the address of Defendant Pristine Property Holdings to be 215 Treasure Lake, DuBois, Pennsylvania 15801. The same address as the Andres and The K&G Trust.

J. The Office of the Recorder of Deeds recording information indicates that the deed was to be returned to:

Pristine Property Holdings
215 Treasure Lake

DuBois, Pennsylvania 15801
Attn: [Susan] Diane Andres

K. Attorney for the Defendant advised Plaintiff's counsel that Northwest Savings Bank would release Lots 107 and 108 for the sum of \$9,000.00. See Exhibit "B".

L. Attorney for the seller advised Plaintiff's counsel the proceeds check should be made payable to the "Coral Cove Committee Partnership." See Exhibit "C".

17. William J. Andres died in 2004.

18. Defendant Pristine has refused to satisfy the United States Department of Treasury Internal Revenue Service lien. In addition thereto, Susan D. Andres has been identified as a defendant in additional legal proceedings that may result in judgments against Susan D. Andres prior to the completion of this action.

19. Plaintiff attempted to obtain title insurance from Penn Attorney Title Insurance Company. A copy of Plaintiff's attorney's memorandum to Penn Attorneys is attached hereto as Exhibit "D".

20. Penn Attorneys Title Insurance Company has refused to insure the title to Lots 107 and 108 over the Internal Revenue Service lien.

21. Lots 107 and 108 do not possess good and marketable title and Defendant Pristine is unable to convey good and marketable title by general warranty deed.

22. Plaintiff has requested a return of its \$20,000.00 deposit and Defendants Pristine and King have refused to deliver the deposit.

WHEREFORE, Plaintiff demands judgment in the amount of \$20,000.00 against Defendant Pristine Property Holdings, an international business trust in the amount of

\$20,000.00 together with attorney's fees, costs of suit and such other and further relief as the Court deems fair, just and equitable. As to Defendant David P. King, Plaintiff respectfully requests this Honorable Court enter an Order obligating Defendant David P. King to transfer the \$20,000.00 in his escrow account to Plaintiff.

Count III

23. Plaintiff repeats each and every allegation set forth in Count I and Count II of the Complaint as is set forth at length herein

24. At all material times hereto, Defendant Pristine knew it did not possess good and marketable title to the property and never had an intention to satisfy the United States Department of Treasury Internal Revenue Service lien.

25. Nevertheless, Plaintiff has incurred significant expenses in an attempt to ascertain whether Defendant Pristine possessed good and marketable title.

26. The actions of the Defendant Pristine constitutes fraud entitling Plaintiff to an award of punitive damages and attorney's fees.

WHEREFORE, Plaintiff respectfully requests this Honorable Court grant judgment in favor of the Plaintiff and against the Defendant in the amount of \$20,000.00 together with attorney's fees as set forth herein, cost of suit and such other and further relief as the Court deems fair, just and equitable.

Count IV

27. Plaintiff repeats each and every allegation set forth in Count I, Count II and Count III as if set forth at length herein.

28. Plaintiff was introduced to Lots 107 and Lots 108 by Defendant Donald Aravich.

29. At all material times, Defendant Aravich held himself out as a partner in the ownership of Lots 107 and 108.

30. At all material times, Defendant Aravich represented that he could convey good and marketable title to the property.

31. In the course of obtaining an abstract of the property, it has been learned Defendant Aravich does not have an ownership interest in Lots 107 and 108.

32. All allegations by Defendant Aravich that he held an ownership interest in Lots 107 and 108 are false.

33. Defendant Aravich made said statements regarding his ownership interest in Lots 107 and 108 with a specific purpose of inducing Plaintiff to trust Defendant Aravich and purchase the lots and placed a \$20,000.00 down payment for the lots.

34. Plaintiff detrimentally relied upon the statements of Defendant Aravich believing same to be true.

35. The actions of Defendant Aravich constitute common law fraud.

36. The actions of Defendant Aravich are so egregious and outrageous as to entitle Plaintiff to an award of punitive damages.

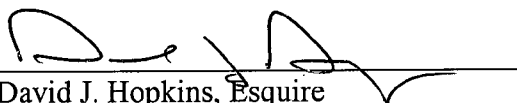
37. The actions of Defendant Aravich are so egregious and outrageous as to entitle Plaintiff to an award of counsel fees.

38. The action of Defendant Aravich constitute consumer fraud and a violation of the Unfair Trade Practices Act entitling Plaintiff to treble damages and attorney fees and such other relief as the Court deems fair, just and equitable.

WHEREFORE Plaintiff respectfully requests this Honorable Court grant judgment in favor of the Plaintiff and against the Defendant in the amount of \$20,000.00

and award treble damages, punitive damages, attorneys fees, cost of suit and such other further relief as the Court deems fair, just and equitable.

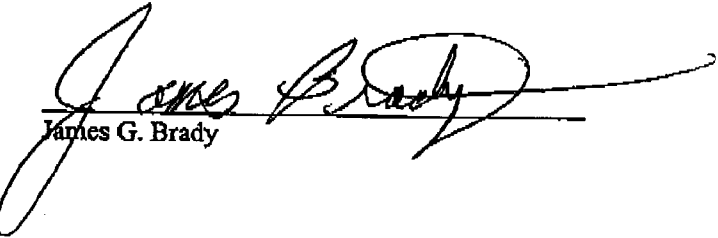
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. J. Hopkins', is written over a horizontal line.

David J. Hopkins, Esquire
Attorney for Plaintiff

VERIFICATION

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


James G. Brady



This is a legally binding document. Consult your lawyer if you do not understand any part of it.

OFFER TO PURCHASE

TO THE OWNER OR PERSON WHO HAS THE RIGHT TO SELL THE PROPERTY DESCRIBED BELOW:

Property

I (We) agree to purchase the following property situated in the Township of Sandy
County of Clearfield, State of PA known as Lots 107 & 108
being a Section 2, Treasure Lake

(for a more detailed description of the property reference is hereby made to the deed thereof) together with all lighting, heating and plumbing fixtures, window shades, screen and storm doors and windows, if any, water heater, water meter and all fixtures and fittings belonging to or used in the operation of the property and owned by you.

Price

AT THE PRICE OF One hundred and fifteen thousand dollars \$115,000.00

Dollars, payable as follows:

Deposit

\$20,000 cash deposited with Attorney David King Escrow Account to be held until this offer is accepted, at which time it shall become part of the purchase price, or returned if not accepted.

Balance

\$95,000.00 cash on or before December 15, 2004 *(See Note) on passing of deed.

* Note: Buyer agrees to pay all closing costs related to Attorney fees, state fees or taxes related to purchase of lots, county fees and local fees related to purchase. This includes all deed preparation and notary fees. This also includes all required transfer fees of the Treasure Lake Property Owner Association. The seller will receive a total of \$115,000.00 minus or plus any pro-rated yearly taxes. The END

Searches,
Taxes,
Easements,
Restrictions,
Zoning, etc.

You are to deliver to me or my attorney, at least five (5) days before closing, a forty year abstract of title and ten year search or tax receipts showing the property free and clear of all liens and encumbrances, except as herein set forth, and except building and use restrictions, pole and wire easements of record, and subject to zoning ordinance and to any taxes for local improvements not now completed.

Closing

Transfer is to be completed at the office of Attorney David King, 23 Beaver Dr., Du Bois, PA 15801 814-371-3760

Deed

on or before December 15, 2004 or as soon thereafter as the abstracts can be brought to date. At that time you are to convey to me by General Warranty deed, good title to the property free of all liens and encumbrances, except as above set forth, subject to rights of tenants, if any.

Adjustments

Interest, insurance premiums, rents, and taxes shall be pro-rated and adjusted as of date of closing, 19

City, State and County Taxes shall be adjusted and apportioned on a calendar year beginning Jan. 1, and ending Dec. 31. School Taxes outside the city shall be adjusted and apportioned for the fiscal year beginning July 1st and ending the following June 30th, and Village Taxes shall be adjusted and apportioned for the fiscal year beginning June 1st and ending the last day of May following or as otherwise provided by law.

Possession

Possession of premises shall be delivered on or before December 15, 2004 19 on passing of deed

Mortgage
Expenses

Upon any purchase money mortgage given, I (We) agree to pay the usual mortgage tax and recording fee and Revenue stamps on bond where required.

Assignment

This offer may be assigned to an individual or corporation for the purpose of holding title thereto. However, I (We) shall remain responsible for the faithful performance of the contract.

Risk of Loss

The risk of loss or damage to the property by fire or other causes until the delivery of the deed is assumed by you.

Broker

I (We) represent that is the broker in this transaction and that no other real estate broker or agent has helped to bring about this sale.

Persons
Bound

This offer, when accepted shall be a binding contract. It shall bind the parties hereto and their respective executors, administrators, distributees, successors and assigns.

Dated 10/25/04 19

Pristine Property Holding, CO 215
Treasure Lake, Du Bois, PA (T. S.)
(Signed) Wm. J. Andres

Witness Donald E. [Signature]

(Signed) William J. Andres (L. S.)

James Earl [Signature]
James G. Andres, Director

WILLIAM AND S. DIANE ANDRES

PURCHASE OFFER

PROPERTY

Treasure Lake, Sandy Twp.

- Clearfield County, PA

Lots 107 & 108, Section 2

Pristine Property Holdings

Seller

814-

Phone

Attorney David King

Phone

814-371-3760

TO

Purchaser

James Brady

904-645-8704 (H)

Phone

904-928-4099 (W)

Attorney

Phone

Dated 10/25/04 19

To be closed 12/15/04 19

ACCEPTANCE

The undersigned hereby accepts this offer, agrees to sell on the terms and conditions set forth, and agrees to pay

the authorized agent, commission.

The deposit made or as much as covers the commission may be applied to payment of the commission.

Dated 19

(Signed) (L. S.)

Witness (Signed) (L. S.)

Salesmen are not permitted to change the regular rates of commission.



NORTHWEST SAVINGS BANK

DISTRICT HEADQUARTERS - 39 SOUTH ST. MARYS STREET - P. O. BOX 347 - ST. MARYS, PENNSYLVANIA 15857
(814) 781-1354 - FAX: (814) 781-7892

Via Fax and U.S. Mail

November 29, 2004

Attorney David P. King
23 Beaver Dr.
P O Box 1016
DuBois, PA 15801

Re: Andres & Aravich
Lot 107 & 108
Section No. 2 Coral Cove

Dear Attorney King,

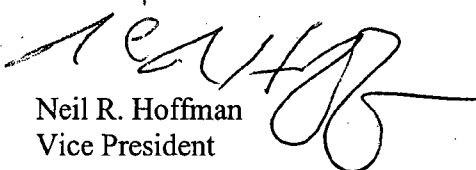
Please be advised that Northwest Savings Bank will release Lots 107 & 108 from the Bank's mortgage dated March 30, 1999 as recorded in Clearfield County Instrument Number 199904838, in exchange for \$9,000 payable to the Bank.

You can remit the check and release to my attention at:

Northwest Savings Bank
P O Box 347
St. Marys, PA 15857

If you have any questions regarding this matter, please call me at 781-1354.

Sincerely,


Neil R. Hoffman
Vice President

cc: Susan D. Andres

EXHIBIT "B"

Law Offices
DAVID P. KING
P.O. Box 1016
23 Beaver Drive
DuBois, PA 15801

David P. King, Esq.

November 19, 2004

Phone (814) 371-3760
Telecopier (814) 371-4874

Hopkins Heltzel LLP
900 Beaver Drive
DuBois, PA 15801

Attention: Jackie

Re: Pristine Property Holdings to The James G. Brady Living Trust
Treasure Lake Lots 107 and 108, Section 2

Dear Jackie:

In reference to the above, please find enclosed the original of the Deed executed by Pristine Property Holdings' Trustee, Joseph Ruben Hill, to your client's Trust as directed. This Deed is delivered to you with the understanding that you will not record it or otherwise release it until you have secured all the necessary funds to close this transaction.

I have also enclosed a Statement from the Trustee that the net proceeds check should be made payable to the "Coral Cove Committee Partnership". The Tax ID Number is so stated on that assignment. When this closes, please forward that check to my office. Of course, as is normal, we would like to review the HUD Settlement Statement prior to that.

Keep in mind that back in October, we deposited in trust a check for \$20,000.00 from your client made payable to us pursuant to the Sales Agreement. Make sure that you reflect this on your HUD.

Also, I have enclosed a copy of the Pristine Property Holdings Trust document showing in Article Six that the Managing Fiduciary/Trustee has the authority to sell, and also reflecting on the last page that Mr. Hill is in that capacity.

The recital on the Deed shows that Pristine Property Holdings acquired this from The K & G Trust. Thus, we have also required a copy of The K & G Trust document which is enclosed showing that Mr. Mains was the Trustee and also had the authority to sell.

Please note on the Sales Agreement, copy enclosed, that your clients are paying all of the legal fees and costs, including transfer taxes, TLPOA Re-Sale Certificate and Transfer Fee. The only thing that your clients are not paying is my Attorney's fees which were omitted by agreement of the parties.

The only exception to this is that the taxes and the Property Owners assessment should be prorated as of the date of closing.

EXHIBIT "C"

November 19, 2004

I have also enclosed the Re-Sale Certificate from the Treasure Lake Property Owners Association showing the status of the assessment situation.

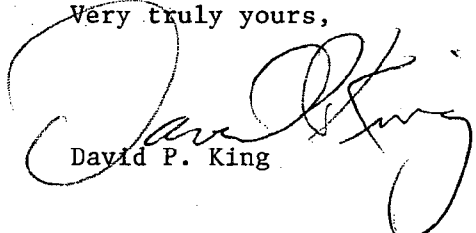
I do not have a copy of the recent Tax Statements from Sandy Township. As is normal, though, I am assuming that you will obtain that information directly from Lee Ann Collins.

As far as my legal fees, we will bill these directly outside of the closing.

Please fax to us a copy of the HUD Settlement Agreement prior to closing. I will be signing that on behalf of the seller after it is reviewed.

Trusting everything is in order then, I remain,

Very truly yours,



David P. King

DPK:pp
Enclosures

cc: Mr. and Mrs. Donald E. Aravich
Mrs. Susan D. Andres

HOPKINS HELTZEL LLP

900 Beaver Drive • DuBois, PA 15801

David J. Hopkins
Licensed in PA & NJ
Masters in Taxation

Lea Ann Heltzel
Licensed in PA

- Voice: (814) 375 - 0300
- Fax: (814) 375 - 5035
- Email: hopkinslaw@adelphia.net

MEMORANDUM

TO: Penn Attorneys Title Insurance Company – Shirley

FROM: David Hopkins

DATE: January 20, 2005

RE: Pristine Property Holdings to James G. Brady Living Trust

Dear Shirley:

Pursuant to our telephonic conversation of earlier today, enclosed herewith please find the following documents:

1. Deed from William and Susan Andres to K and G Trust;
2. Deed from K and G Trust to Pristine Property Holdings;
3. Proposed deed from Pristine Property Holdings to the James G. Brady Living Trust;
4. Authorization from Pristine Property Holdings to pay a portion of the sale proceeds to "Coralco Committee Partnership";
5. Offer to Purchase dated October 25, 2004 signed by William and Susan Andres under the name Pristine Property Holdings;
6. December 14, 2004 correspondence from Joseph Rubin Hill – Managing Fiduciary Party – Pristine Property Holdings;
7. Trust document of Pristine Property Holdings;
8. Trust document of K and G Trust;
9. Notes of courthouse abstract showing three judgments against the Andres.

Would you please review and advise if Penn Attorneys will insure title to this property for the contract price, \$115,000.00, and will also later issue a policy for the construction of a new home on the property that you can expect will be in the neighborhood of \$300,000.00.

I look forward to hearing from you.

Very truly yours,

David J. Hopkins
Attorney at Law

DJH/cs

Enclosures

cc: James Brady (w/encls.)

900 State Street, Suite 320
Erie, PA 16501-1427
PHONE (814) 454-8278
(800) 352-2216
FAX (814) 453-5983
FAX (800) 234-2352



Eastern Pennsylvania Regional Office
New Bridge Center, Suite 317
480 Pierce Street
Kingston, PA 18704
PHONE (570) 288-1108
(800) 929-4024
FAX (570) 288-1233
FAX (800) 929-3877
e-mail: epro@pennattorneys.com

e-mail: erie@pennattorneys.com

www.pennattorneys.com

January 24, 2005

FEB - 2

David J. Hopkins, Esq.
900 Beaver Drive
DuBois, PA 15801


RE: THE JAMES G. BRADY LIVING TRUST
FILE NO. 131807

Dear Attorney Hopkins:

With regard to the above caption file, and the problem of the Federal Tax lien, we have reviewed the documentation provided and have found we cannot insure without an exception to the policy for this lien.

If you have any questions, please call.

Sincerely,


Shirley Crozier
Authorized Signatory

CA

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

NO. 05-266-C.D.

Type of Case: Civil

Type of Pleading: Petition with Rule
Returnable

Filed on behalf of: David P. King

Counsel of Record for this Party:
David P. King, Esquire
23 Beaver Drive
P. O. Box 1016
DuBois, PA 15801
(814) 371-3760

Supreme Court No. 22980

FILED 200
0/11:25 AM
MAR 21 2005
Atty King
CR

William A. Shaw
Prothonotary/Clerk of Courts

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

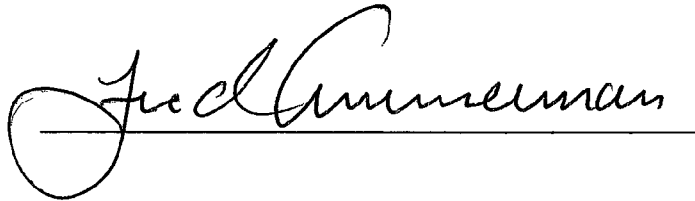
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NO. 05-266-C.D.

RULE

AND NOW, this 21ST day of March, 2005, in consideration of the Petition of nominal Defendant, DAVID P. KING, a Rule is issued upon the Plaintiff to show cause, why if any, the relief requested in said Petition should not be granted. Rule is returnable the 18 day of April, 2005, for the purpose of filing an Answer or other Response to the Petition, if any. In the event that an Answer or other Response is filed, a Hearing will be scheduled by the Court. In absence of the filing of an Answer or Response, an appropriate Order will be entered by the Court in accordance with Defendant's request.

BY THE COURT:



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of 11:25 AM
MAR 21 2005
CK

William A. Shaw
Prothonotary/Clerk of Courts

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

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NO. 05-266-C.D.

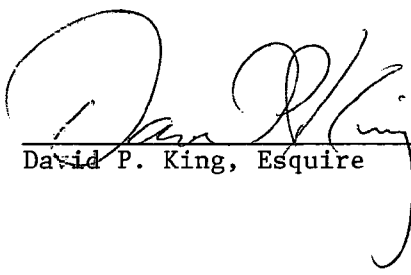
PETITION/INTERPLEADER

AND NOW, comes DAVID P. KING, Defendant named in the above action, and interpleads the Plaintiff in accordance with the applicable Rules of Civil Procedure, and in support of this Petition avers as follows:

1. The Petition is filed in good faith, and not in collusion with the Plaintiff.
2. That there are no claimants in this matter known to your Petitioner who are not a party of record.
3. The dispute in this matter is in reality between the Plaintiff and the other named Defendants, and involves a Contract for the sale and purchase of certain real estate as described in the Complaint.
4. Your Petitioner was named as Defendant, as Petitioner was acting as escrow agent, and the Plaintiff had deposited with your Petitioner the sum of \$20,000.00, pursuant to the Agreement of Sale for Real Estate which is appended to Plaintiff's Complaint.
5. Your Petitioner claims no interest in the escrow money or property in controversy, and desires to pay into the Court, the escrow funds above mentioned which the Plaintiff has demanded in its Complaint.

6. Your Petitioner also wishes to be discharged from all liability or any costs accruing in this matter, and further that the Complaint against your Petitioner be withdrawn and properly docketed of record.

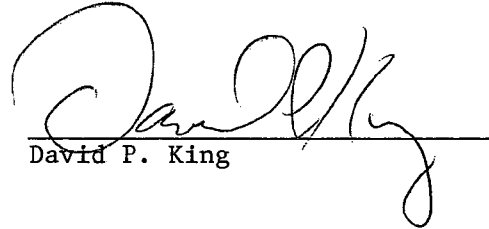
WHEREFORE, Petitioner prays your Honorable Court to enter an appropriate Order in the form of the suggested Order which is attached hereto and marked as Petitioner's Exhibit "1", and he will so ever pray.



David P. King, Esquire

I verify that the statements made in this Petition/Interpleader are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Date: March 8, 2005



David P. King

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

JAMES G. BRADY TRUST and	:	
JAMES BRADY, as Trustee,	:	
Plaintiff	:	
	:	
vs.	:	NO. 05-266-C.D.
	:	
PRISTINE PROPERTY HOLDINGS,	:	
DAVID P. KING and DONALD ARAVICH,	:	
Defendants	:	

ORDER

AND NOW, this _____ day of _____, 2005, in consideration of the Petition of David P. King, nominal Defendant in the above matter, and after a Rule Returnable date having been set for the filing of a Response thereto, and with no Response having been filed, it is the Order of this Court as follows:

- (a) That the nominal Defendant, DAVID P. KING, shall deposit into the Office of the Prothonotary the sum of \$20,000.00, as it is being held in escrow by him.
- (b) The nominal Defendant, DAVID P. KING, upon the deposit of such monies, is hereby discharged from all liability in this case, as well as for any costs accruing therein.
- (c) The Plaintiff, or Plaintiff's Attorney, shall immediately file a Praecipe with the Prothonotary reflecting that the Complaint has been withdrawn as to the nominal Defendant, DAVID P. KING.
- (d) Such Praecipe as referenced above shall be filed by the Plaintiff or Plaintiff's Attorney within ten (10) days.

BY THE COURT:

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

VS. :

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

NO. 05-266 CD

Type of Pleading: PRELIMINARY
OBJECTIONS OF DONALD ARAVICH

Filed on Behalf of Defendants

Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111]
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950

Counsel of Record for Opposing Party:
HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
Lea Ann Heltzel, Esquire
900 Beaver Drive
DuBois, PA 15801

FILED ^{NO} _{CC}
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MAR 30 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

NO. 05-266 CD

**Type of Pleading: PRELIMINARY
OBJECTIONS**

**PRELIMINARY OBJECTIONS OF
DONALD ARAVICH**

COUNT I

DEMURRER

1. Plaintiff has filed the above lawsuit against three Defendants, Pristine Property Holdings, David P. King and Donald Aravich.
2. The gravamen of the Plaintiff's Complaint is that Defendant Pristine Property Holdings agreed to sell Lots 107 and 108 of the Treasure Lake Subdivision, Sandy Township, Clearfield County, Pennsylvania, to Plaintiffs, and that the Defendants breached the Agreement of Sale, entitling Plaintiff to the return of the deposit in the amount of \$20,000.
3. The property is titled in the name of Pristine Property Holdings, who holds fee simple title to the property in accordance with Paragraph 16I.
4. Plaintiff alleges in Paragraphs 28-31 that Defendant Donald Aravich introduced the Plaintiff to the property in question; held himself out as a partner in the ownership of said property; and represented that he could convey good and marketable title to the property.
5. Plaintiff also alleges in Paragraph 31 that "In the course of obtaining an abstract of

the property, it has been learned that Defendant Aravich does not have an ownership interest in Lots 107 and 108.”

6. Paragraph 32 of Plaintiff’s Complaint further alleges that “All allegations by Defendant Aravich that he had an ownership interest in Lots 107 and 108 are false.”

7. Any monies paid by the Plaintiffs were in furtherance of a contract for the Agreement of Sale between said Plaintiffs, as buyers, and Pristine Property Holdings as sellers.

8. Defendant Aravich cannot be legally responsible for a down payment involving property he did not own.

WHEREFORE, Defendant Donald Aravich requests that Plaintiff’s Complaint be dismissed.

COUNT II

MOTION TO STRIKE

9. Paragraphs 1-8 are incorporated herein by reference as though fully set forth.

10. The allegations contained in Paragraphs 28-30, and 33, are insufficient to constitute fraud.

WHEREFORE, Defendant Aravich requests that Plaintiff’s Complaint be dismissed.

COUNT III

MOTION TO STRIKE

11. Paragraphs 1-10 are incorporated herein by reference as though fully set forth.

12. The allegations of Plaintiff’s Complaint as against Defendant Aravich, even if true, do not entitle Plaintiff of an award of punitive damages as a matter of law.

WHEREFORE, Defendant Aravich requests that Plaintiff’s Complaint be dismissed.

COUNT IV

MOTION FOR MORE SPECIFIC PLEADING

13. Paragraphs 1-12 are incorporated herein by reference as though fully set forth.

14. Plaintiff alleges in Paragraph 38 that the Defendant's actions constitute "consumer fraud and a violation of the Unfair Trade Practices Act entitling Plaintiff to treble damages and attorney's fees".

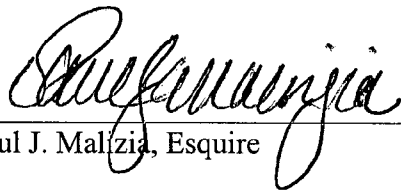
15. Plaintiff does not allege the specific facts in relation to the application of the Unfair Trade Practices Act, which would entitle Plaintiff to treble damages or attorney's fees.

WHEREFORE, Defendant requests that the Plaintiff be ordered to supply a more specific pleading regarding the sections of the Unfair Trade Practices Act to which Defendant Aravich allegedly violated.

Respectfully submitted,

MALIZIA & MALIZIA, P.C.

By: _____


Paul J. Malizia, Esquire

Dated: _____

3/29/05

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

NO. 05-266 CD

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

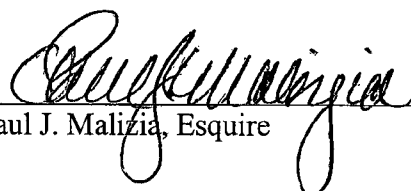
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Preliminary Objections of Defendant Donald Aravich were forwarded via first class mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this 07th day of March, 2005, addressed to:

HOPKINS HELTZEL LLP
900 Beaver Drive
DuBois, PA 15801

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

NO. 05-266 CD

**Type of Pleading: Answer, New
Matter and Counterclaim
Of Pristine Property Holdings**

Filed on Behalf of Defendants

**Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111]
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950**

**Counsel of Record for
Opposing Party:**

**HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
Lea Ann Heltzel, Esquire
900 Beaver Drive
DuBois, PA 15801**

FILED *NO CC*
10:48 AM
MAR 30 2005
WAS
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :


VS. :

NO. 05-266 CD

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

NOTICE TO PLEAD

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


Paul J. Malizia, Esquire

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

JAMES G. BRADY TRUST AND :	:	
JAMES BRADY, As Trustee, :	:	
Plaintiff :	:	
	:	NO. 05-266 CD
VS. :	:	
	:	
PRISTINE PROPERTY :	:	
HOLDINGS, DAVID P. KING :	:	
AND DONALD ARAVICH, :	:	
Defendants :	:	
	:	

**ANSWER, NEW MATTER AND COUNTERCLAIM OF
DEFENDANT PRISTINE PROPERTY HOLDINGS**

AND NOW, comes Pristine Property Holdings, and by its attorney, Paul J. Malizia, files this its Answer and New Matter to Plaintiff's Complaint, as follows:

COUNT I

1. Admitted.
2. Denied that the address of Pristine Property Holdings is 215
Treasure Lake, DuBois, 15801 and on the contrary, said address is that of the agents of
Pristine Property Holdings, Susan D. and William J. Andres. Pristine Property Holdings is
an international business trust with an address of 1903 South Greeley Highway, Unit No.
170, Cheyenne, WY 82007.
3. This allegation is not addressed to answering Defendant.
4. This allegation is not addressed to the answering Defendant.
5. Admitted.
6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted, and by way of further response, Defendant incorporates

Herein the allegation set forth hereinafter under New Matter, as though fully set forth.

11. Denied that the contract identifies Defendant Pristine's address t

be 215 Treasure Lake, DuBois, PA 15801, and on the contrary, the contract identifies the agents of Pristine as being William and Susan Andres, whose address is 215 Treasure Lake, DuBois, PA 15801.

12. Admitted.

13. Denied that William J. and Susan D. Andres did not have the

authority to execute the "offer to purchase", for reasons set forth hereinafter under New Matter, incorporated herein by reference as though fully set forth.

WHEREFORE, Defendant Pristine Property Holdings request that Plaintiff's Complaint be dismissed.

COUNT II

14. Answers to Paragraphs 1-13 are incorporated herein by reference

as though fully set forth.

15. Denied that Defendant Pristine is in default for failure to provide a

40 year abstract of title and 10 year search or tax receipts on or before December 15, 2004, for reasons set forth hereinafter under New Matter, incorporated herein by reference as though fully set forth.

16. Denied that Defendant Pristine is in default as it does not posses

good and marketable title, or because it is not able to provide a deed of general warranty with good and marketable title to Plaintiff for the reasons set forth hereinafter under New Matter, incorporated herein by reference as though fully set forth.

A.-B. Admitted.

C. It is denied that the United States Treasury filed an Internal Revenue Service lien against Susan Diane Andres on August 12, 2002, and on the contrary, said lien was filed against Diane Andres on March 3, 2004.

D.-F. Admitted.

G. Denied for the reason that answering Defendant is without knowledge or information sufficient to form a belief as to the truth of said averment, and strict proof is demanded at time of trial.

H.-L. Admitted.

17. Admitted.

18. Admitted, as said lien was not entered of record in the Clearfield County Courthouse until March 3, 2004, at which time Defendant Diane Andres, against whom the lien was entered, no longer owned the real estate. By way of further response, it is denied that Susan Andres has been identified as a Defendant in additional legal proceedings that would in any way affect the title to the property in question.

19. Admitted.

20. Admitted.

21. It is denied that Lots 107 and 108 do not possess good and

marketable title or that Defendant Pristine is able to convey good and marketable title by general warranty deed and on the contrary, at all times material hereto, Defendant Pristine stands ready, willing and able to convey good and marketable title by general warranty deed, free and clear of all liens and encumbrances.

22. Admitted.

WHEREFORE, Defendant requests the Plaintiff's Complaint be dismissed.

COUNT III

23. Answers to Paragraphs 1-22 are incorporated herein by reference as though fully set forth.

24. Denied that Defendant Pristine knew it did not possess good and marketable title for the reason that there are no liens and encumbrances whatsoever on the property in question, as the United States Department of Treasury Internal Revenue lien was entered of record in Clearfield County approximately five months after the real estate was titled in the name of Defendant Pristine Property Holdings.

25. Denied for the reason that Defendant is without knowledge or information sufficient to form a belief as to the truth of said averment, and strict proof is demanded at time of trial.

26. Said allegation is a conclusion of law to which no response is required, however, to the extent a response is required then it is denied that the actions of the Defendant Pristine constitute fraud for the reason that at all times, it held good and marketable title.

WHEREFORE, Defendant request that Plaintiff's Complaint be

dismissed.

COUNT IV

27-38. Said allegations are directed Defendant Aravich and not to the answering Defendant, and therefore require no response.

WHEREFORE, Defendant Pristine request that Plaintiff's Complaint be dismissed.

NEW MATTER

39. Answers to Paragraphs 1-26 are incorporated herein by reference as though fully set forth.

40. At all times material hereto, Defendant Pristine Property Holdings held good and marketable title to the premises described in instrument no. 2003-19675, as recorded in the Recorder of Deeds Office, Clearfield County, Pennsylvania, on October 29, 2003.

41. An Internal Revenue Service lien filed against Diane Andres five months after the transfer of the above property, on March 3, 2004, is not a lien against Defendant Pristine Property Holdings real estate described in said instrument no. 2003-19675.

42. The only lien against the property is in favor of Northwest Savings Bank, who agreed to settle and satisfy the same as against the property in question at time of closing for a lump sum payment of \$9,000.00, pursuant to Exhibit "1" attached hereto.

43. At all times material hereto, Susan Diane Andres and William J. Andres acted as agents of Joseph Ruben Hill, managing fiduciary party for Pristine Property Holdings, with full authority to execute an agreement of sale, all of which was fully disclosed to Plaintiff's counsel by letter dated December 14, 2004 pursuant to Exhibit "2" attached hereto.

44. In furtherance of the agreement of sale, and by letter of November 19, 2004, Attorney David P. King, acting on behalf of Defendant Pristine Property Holdings, forwarded a fully executed and notarized deed to Plaintiff's counsel, a true and correct copy is attached hereto and marked Exhibit "3".

45. The provision of the Offer to Purchase, which is attached to Plaintiff's Complaint as Exhibit "A" requiring seller to deliver a 40 year abstract of title and 10 year search or tax receipts showing the property free and clear of all liens was waived by the following:

- A. The custom and ordinary practice in the County of Clearfield is for the buyer's attorney to obtain a title search, and where necessary for a lender, an abstract;
- B. Attorney Hopkins proceeded in furtherance of the Clearfield County custom and ordinary practice by securing a title search on the property from one Ms. Becky Latimer, confirmed in Plaintiff's counsel's letter dated November 23, 2004, attached hereto and marked Exhibit "4";
- C. Attorney Hopkins, on behalf of Plaintiff, did in fact secure a title search and 40 year abstract of title;
- D. Attorney Hopkins, as attorney for buyer, did not demand or enforce the requirement as set forth in the Offer to Purchase, that seller prepare a title search and 40 year abstract.

46. The fact that seller requested that the proceeds of the sale be made payable to "Coral Cove Committee Partnership" was waived by Plaintiff's counsel's letter of

November 23, 2004, wherein he stated clearly that "I have no objection to writing the check."

47. The fact that buyer's attorney did not obtain a title insurance policy on the premises in question without listing the IRS lien against Susan Diane Andres as an exception was the result of Plaintiff's counsel incorrectly reporting that said lien was entered in the Clearfield County Courthouse on August 12, 2002, when in fact, said lien was not listed until five months after Pristine Property Holdings obtained title to the premises in question, or on March 3, 2004.

WHEREFORE, Defendant Pristine Property Holdings request that Plaintiff's Complaint be dismissed.

COUNTERCLAIM

COUNT I

48. Paragraphs 1-47 are incorporated herein by reference as though fully set forth.

49. On October 25, 2004, Plaintiff and Defendant Pristine Property Holdings entered into a written agreement signed and delivered by Defendant to Plaintiff, for the sale of the premises described in Paragraph 16I of Plaintiff's Complaint, incorporated herein by reference as though fully set forth, by Defendant to Plaintiff for the sum of \$115,000.00.

50. Since the execution of the Agreement of Sale, Defendant has always been, and now is, ready and willing to comply with all and singular the clauses in the Agreement of Sale on its part to be kept and performed, or in lieu thereof, Plaintiff has waived said conditions, as hereinbefore set forth.

51. In anticipation of completing performance under the Agreement of Sale, Defendant delivered a duly executed and notarized deed to buyer's attorney under cover of letter dated November 18, 2004, and complied with all of Plaintiff's requests which would affect title.

52. Plaintiff has wholly failed to keep or perform its part of the Agreement of Sale.

53. Although Defendant was ready, willing and able to complete the sale on or before December 15, 2004, the day fixed for settlement, Plaintiff refused to accept the deed and pay the balance of the purchase price.

54. As a result of the breach of agreement by the Plaintiff, Plaintiff has forfeited its right of the down payment of \$20,000.00 returned.

WHEREFORE, Defendant Pristine Property Holdings demands judgment against Plaintiff in the amount of \$20,000.00.

COUNT II

55. Paragraphs 1-54 are incorporated herein by reference as though fully set forth.

56. As a result of Plaintiff's breach of contract, Defendant is entitled to the balance of the purchase price of \$95,000.00.

WHEREFORE, Defendant demands judgment against Plaintiff in the amount of \$95,000.00, together with interest.

COUNT III

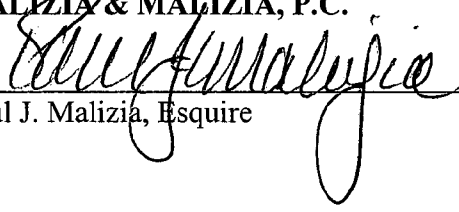
57. Paragraphs 1-56 are incorporated herein by reference as though fully set forth.

58. Defendant has expended significant sums for attorneys fees in furtherance of the agreement to sell the real estate.

WHEREFORE, Defendant demands judgment against Plaintiff in the amount of the attorneys fees expended in furtherance of the agreement.

Respectfully submitted,
MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

VERIFICATION

I, Joseph Hill verify that the statements made in the foregoing Answer, New Matter and Counterclaim are true and correct. I understand that false statements hereunder made subject to the penalties of 18 Pa.C.S.A. §4904 relating to Unsworn Falsification to Authorities.



Joseph HillDATED: 03/29/2005



NORTHWEST SAVINGS BANK

DISTRICT HEADQUARTERS - 38 SOUTH ST. MARYS STREET - P. O. BOX 347 - ST. MARYS, PENNSYLVANIA 15857
(814) 781-1354 - FAX: (814) 781-7832

Via Fax and U.S. Mail

November 29, 2004

Attorney David P. King
23 Beaver Dr.
P O Box 1016
DuBois, PA 15801

Re: Andres & Aravich
Lot 107 & 108
Section No. 2 Coral Cove

Dear Attorney King,

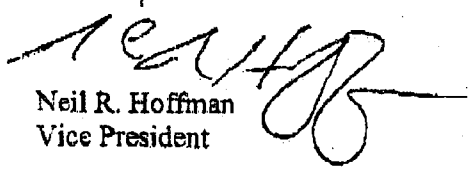
Please be advised that Northwest Savings Bank will release Lots 107 & 108 from the Bank's mortgage dated March 30, 1999 as recorded in Clearfield County Instrument Number 199904838, in exchange for \$9,000 payable to the Bank.

You can remit the check and release to my attention at:

Northwest Savings Bank
P O Box 347
St. Marys, PA 15857

If you have any questions regarding this matter, please call me at 781-1354.

Sincerely,


Neil R. Hoffman
Vice President

cc: Susan D. Andres

Pristine Property Holdings
c/o 215 Treasure Lake
DuBois, Pennsylvania 15801

12/14/2004

David J. Hopkins
HOPKINS HELTZEL, L.L.P.
900 Beaver Drive
DuBois, PA 15801

Re: Treasure Lake Lots 107 and 108

Dear Mr. Hopkins,

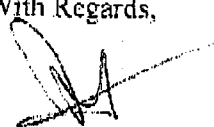
In reference to your letter to David King, dated December 7, 2004, you noted that Penn Attorneys Title Insurance Company has requested disclosure as to Susan Andres' or William Andres' interest in Pristine Property Holdings, an International Business Trust.

As the Managing Fiduciary Party (trustee) of Pristine Property Holdings since its inception, I can definitely say that both Susan Andres and William Andres currently does not hold nor has ever held, any interest in Pristine Property Holdings, an International Business Trust. Susan Diane Andres is assisting me as my Agent within Pennsylvania for Pristine Property Holdings.

Also in said letter, you noted that Penn Attorneys Title Insurance Company will require a Pennsylvania Tax Clearance Certificate from the seller. I have completed the Application For Tax Clearance Certificate on behalf of Pristine Property Holdings to the best of my ability, but I want to state that I do not find any statutory requirement within the Pennsylvania Statutes that a foreign business trust, not registered with the Commonwealth of Pennsylvania nor required to, has any requirement or reason to submit said Application in this instance.

Nonetheless, I have enclosed said Application, again completed to the best of my ability, in the spirit of satisfying the requirements of Penn Attorneys Title Insurance Company for the issuance of a title insurance policy for your clients on the subject real property.

With Regards,



Joseph Ruben Hill
Managing Fiduciary Party
Pristine Property Holdings

JRH
enclosures
cc: David King

Exhibit "2"

County Parcel No. _____

This Deed,MADE the 18th day of November

in the year two thousand four (2004)

BETWEEN PRISTINE PROPERTY HOLDINGS, an International Business Trust,

Grantor

AND The JAMES G. BRADY LIVING TRUST, JAMES G. BRADY, Trustee,

Grantee

WITNESSETH, That in consideration of

One Hundred Fifteen Thousand (\$115,000.00) ----- Dollars,
in hand paid, the receipt whereof is hereby acknowledged, the said grantor does hereby grant
and convey to the said grantee ,

ALL those certain tracts of land designated as Lot No. 107 and Lot No. 108,
Section No. 2, in the Treasure Lake Subdivision in Sandy Township, Clearfield County,
Pennsylvania, recorded in the Recorder's Office in Misc. Docket Map File No. 25.
Excepting and reserving therefrom and subject to:

1. All easements, rights of way, reservations, restrictions and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.
2. The Declaration of Restrictions, Treasure Lake of Pennsylvania, Inc., recorded in Misc. Book Vol. 146, Page 476; all of said restrictions being covenants which run with the land.
3. All minerals and mining rights of every kind and nature.
4. A lien for all unpaid charges or assessments as may be made by Developer or Treasure Lake Property Owners Association, Inc.; which lien shall run with the land and be an encumbrance against it.
5. The right of owner and/or operator of any recreational facilities within the said Treasure Lake Subdivision to assess fees and charges against Grantees, their heirs, administrators, executors, successors and assigns for the use and/or maintenance of any such facilities which if unpaid, shall become a lien upon the land and be an encumbrance against it.

Lot No. 107 BEING the same premises conveyed to the Grantor herein by Deed of The K & G Trust, dated the 7th day of October, 2003, and as recorded on October 29, 2003, in the Office of the Recorder of Deeds of Clearfield County, PA, as Instrument Number 200319675.

Lot No. 108 BEING the same premises conveyed to the Grantor herein by Deed of The K & G Trust, dated the 7th day of October, 2003, and as recorded on the 29th day of October, 2003, in the Office of the Recorder of Deeds of Clearfield County, PA, as Instrument Number 200319676.

NOTICE

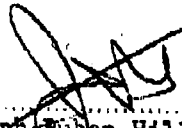
Grantee (hereinafter, whether one or more, called "Grantee") hereby states that he knows that he may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interests in the coal. (THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1996.)

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1985, as amended.)

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

IN WITNESS WHEREOF, said grantor has hereunto set his hand and seal, the day and year first above-written.

Sealed and delivered in the presence of


..... [Seal]
Joseph Ruben Hill, Managing Fiduciary
Party/Trustee of Pristine Property [Seal]
Holdings

..... [Seal]

..... [Seal]

..... [Seal]

..... [Seal]

CERTIFICATE OF RESIDENCE

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

.....
Attorney or Agent for Grantee

STATE OF WYOMING

~~County of Laramie~~

County of Laramie } ss.

On this, the 18 day of November, 2004, before me Shelley J. Carruthers

the undersigned officer, personally appeared Joseph Ruben Hill, Managing Fiduciary Party/
Trustee of Pristine Property Holdings,

known to me (or satisfactorily proven) to be the person whose name is subscribed to the within

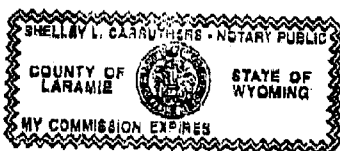
instrument, and acknowledged that he executed the same for the purpose therein

contained, with authority to do so in accordance with the Trust provisions of Pristine
Property Holdings.

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

My Commission Expires 2-14-08

Shelley J. Carruthers



HOPKINS HELTZEL LLP

900 Beaver Drive • DuBois, PA 15801

David J. Hopkins
Licensed in PA & NJ
Masters in Taxation

Lea Ann Heltzel
Licensed in PA

- Voice: (814) 375 - 0300
- Fax: (814) 375 - 5035
- Email: hopkinslaw@adelphia.net

November 23, 2004

By Facsimile: (814) 371-4874

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

Re: Pristine Property Holdings to the James G. Brady Living Trust

Dear Mr. King:

I reviewed the deed and trust document you were kind enough to provide to me. I also have the Courthouse search from Becky Latimer. Needless to say, I have significant concerns regarding whether Pristine Property Holdings can convey good and marketable title to the James G. Brady Living Trust.

With reference to Pristine Property Holdings, you sent me pages 4 through 19 of the trust document. Would you be so kind as to forward the first four pages to me for review.

I also believe Mr. and Mrs. Andres filed for the protection of the United States Bankruptcy Court. Would you be so kind as to forward to me a copy of their Petition, Discharge, and any litigation or settlements that took place within their bankruptcy. Once I am in receipt of that information, I will be in a better position to evaluate the title.

With reference to paying over the proceeds to the Coral Cove Committee Partnership, I have no objection to writing the check. However, I believe the rules promulgated by the Internal Revenue Code obligate me to send a 1099 to the entity that is selling the property, that being Pristine Property Holdings. Consequently, I will need that entity's federal identification number.

David P. King, Esquire

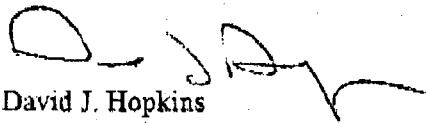
November 23, 2004

Page two

Also enclosed is a release of mortgage information. Would you please have Mrs. Andres execute and return to my office.

Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "D. J. Hopkins", with a stylized flourish at the end.

David J. Hopkins
Attorney at Law

DJH/bjt

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

NO. 05-266 CD

VS.

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

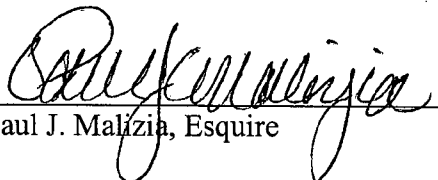
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Answer, New Matter and Counterclaim were forwarded via first class mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 27th day of March, 2005, addressed to:

HOPKINS HELTZEL LLP
900 Beaver Drive
DuBois, PA 15801

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100284
NO: 05-266-CD
SERVICE # 1 OF 2
COMPLAINT

PLAINTIFF: JAMES G. BRADY TRUST and JAMES BRADY as Trustee
vs.

DEFENDANT: PRISTINE PROPERTY HOLDINGS, DAVID P. KING and DONALD ARAVICH

SHERIFF RETURN

NOW, March 16, 2005 AT 1:30 PM SERVED THE WITHIN COMPLAINT ON PRISTINE PROPERTY HOLDINGS DEFENDANT AT c/o Susan Andres, Treasure Lake Road, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO SUSAN ANDRES, FOR DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / DEHAVEN

ESW
FILED
0/9:30/sw
APR 11 2005 *[Signature]*

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100284
NO: 05-266-CD
SERVICE # 2 OF 2
COMPLAINT

PLAINTIFF: JAMES G. BRADY TRUST and JAMES BRADY as Trustee
vs.

DEFENDANT: PRISTINE PROPERTY HOLDINGS, DAVID P. KING and DONALD ARAVICH

SHERIFF RETURN

NOW, March 11, 2005 AT 1:45 PM SERVED THE WITHIN COMPLAINT ON DONALD ARAVICH DEFENDANT AT SEC 15 LOT 498 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DONALD ARAVICH, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100284
NO: 05-266-CD
SERVICES 2
COMPLAINT

PLAINTIFF: JAMES G. BRADY TRUST and JAMES BRADY as Trustee

vs.

DEFENDANT: PRISTINE PROPERTY HOLDINGS, DAVID P. KING and DONALD ARAVICH

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	HOPKINS	15181	20.00
SHERIFF HAWKINS	HOPKINS	15180	55.15

Sworn to Before Me This

_____ Day of _____ 2005

So Answers,



Chester A. Hawkins
Sheriff

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

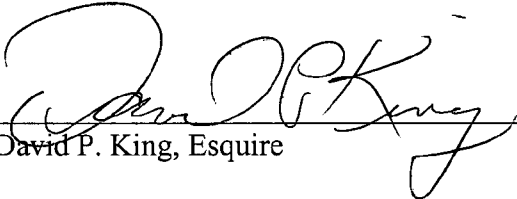
vs.

No. 05-266 C.D.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

ACCEPTANCE OF SERVICE

I, David P. King, Esquire, hereby accept service of the Complaint filed in the above captioned matter, on behalf of myself, this 8th day of March, 2005.


David P. King, Esquire

FILED ⁶²icc
01:27:51 Amy Hopkins
APR 14 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

No. 05-266 C.D.

Type of Pleading: Answer to
Preliminary Objections of Donald
Aravich

Filed on behalf of: James G. Brady Trust
and James Brady as Trustee, Plaintiffs

Counsel of Record for this party:
HOPKINS HELTZEL LLP

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

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

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED ^{CK}
01/11/2005 2cc
APR 21 2005 Amy Helzel

William A. Shaw
Prothonotary/Clerk of Courts

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

No. 05-266 C.D.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,

ANSWER TO PRELIMINARY OBJECTIONS OF DONALD ARAVICH

AND NOW, comes the James G. Brady Living Trust and James Brady, as Trustee, by and through its attorneys, Hopkins Heltzel, LLP, and states as follows:

COUNT I
DEMURRER

1. Admitted.
2. Denied. Plaintiff's Complaint includes four separate counts, and speaks for itself. No further response is necessary.
3. Denied. Lots 107 and 108 were purportedly conveyed to Pristine Property Holdings by an undated deed recorded in the Office of the Recorder of Deeds on October 29, 2003. Whether The K&G Trust, the conveyor of the property, had title to convey is presently at issue; as such, it is unclear whether Pristine Property Holdings received fee simple title to the property.
4. Admitted.
5. Admitted.
6. Admitted.

7. Admitted in part, denied in part. While the down payment of \$20,000 was given in connection with potential purchase of Lots 107 and 108, Plaintiff's decision to make the down payment and pursue the purchase was based upon Plaintiff's reliance upon and belief in Defendant Aravich's statements at the time that he in fact had an interest in the property and could convey good and marketable title to the property.

8. Denied. Plaintiff detrimentally relied upon statements made by Defendant Aravich regarding his interest in the lots and his ability to convey good and marketable title to the lots. Plaintiff believed the statements made by Defendant Aravich, and as a result of Plaintiff's reliance on Defendant's false statements, Plaintiff placed a \$20,000 down payment on such property. As such, Defendant Aravich is liable for common law fraud/or consumer fraud in violation of the Unfair Trade Practices Act.

WHEREFORE, Plaintiff requests that this Honorable Court overrule Defendant Aravich's Preliminary Objection and enter judgment in its favor; in the alternative, should this Court grant Defendant's Demurrer, Plaintiff reserves the right to amend the Complaint.

COUNT II
MOTION TO STRIKE

9. Paragraphs 1-8 are incorporated herein by reference as though fully set forth herein.

10. Denied. In Paragraphs 27-34 of Plaintiff's Complaint, Plaintiff avers that Defendant Aravich made material representations to Plaintiff regarding his interest in the subject property; such statements were false and were made with a reckless disregard of the truth; such statements were made with the intention of misleading Plaintiff into purchasing said lots; and Plaintiff justifiable relied upon such statements and made the

down payment on the property. As a result of this reliance, Plaintiff has suffered the injuries set forth in the Complaint. These averments clearly establish a claim for common law fraud. *See Skurnowicz v. Lucci*, 798 A.2d 788, 793 (Pa. Super. 2002).

WHEREFORE, Plaintiff respectfully requests that this Honorable Court deny Defendant Aravich's Motion to Strike and enter judgment in its favor; in the alternative, should this Court grant Defendant's Motion, Plaintiff reserves the right to amend the Complaint.

COUNT III
MOTION TO STRIKE

11. Paragraphs 1-10 are incorporated herein by reference as though fully set forth herein.

12. Denied. Under Pennsylvania law, punitive damages are recoverable where Plaintiff has alleged that Defendant's fraud was willful, malicious, wanton, reckless or oppressive. *See Delahanty v. First Pennsylvania Bank, N.A.*, 464 A.2d 1243, 1263 (Pa. Super. 1983).

WHEREFORE, Plaintiff respectfully requests that this Honorable Court deny Defendant Aravich's Motion to Strike and enter judgment in its favor; in the alternative, should this Court grant Defendant's Motion, Plaintiff reserves the right to amend the Complaint.

COUNT IV
MOTION FOR MORE SPECIFIC PLEADING


13. Paragraphs 1-12 are incorporated herein by reference as though fully set forth herein.

14. Denied. A Plaintiff will state a viable cause of action under the Unfair Trade Practices and Consumer Protection Law (UTCPL) where Plaintiff establishes all of the elements of a common law fraud. Toy v. Metropolitan Life Ins. Co., 863 A.2d 1, 9 (Pa. Super. 2004). As set forth in Paragraphs 9 and 10 herein, Plaintiff has set forth the elements of such a claim.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court deny Defendant Aravich's Motion for More Specific Pleading and enter judgment in its favor; in the alternative, should this Court grant Defendant's Motion, Plaintiff reserves the right to amend the Complaint.

Respectfully submitted,

HOPKINS HELTZEL LLP



Lea Ann Heltzel, Esquire
Attorney for Plaintiff

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

No. 05-266 C.D.

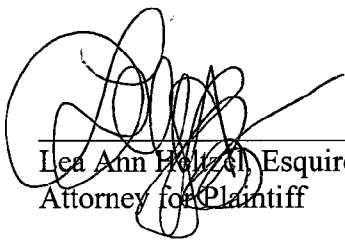
PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Answer to Preliminary Objections of Donald Aravich, filed on behalf of Plaintiffs, James G. Brady Trust and James Brady, as Trustee, was forwarded by first class mail, postage prepaid, on the 21st day of April, 2005, to all counsel of record, addressed as follows:

Paul J. Malizia, Esquire
Malizia & Malizia, P.C.
25 East Fourth Street
P.O. Box 111
Emporium, PA 15834

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



Lea Ann Holtz, Esquire
Attorney for Plaintiff

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

No. 05-266 C.D.

Type of Pleading: Answer to New
Matter and Counterclaim of Pristine
Property Holdings and New Matter

Filed on behalf of: James G. Brady Trust
and James Brady as Trustee, Plaintiffs

Counsel of Record for this party:
HOPKINS HELTZEL LLP

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

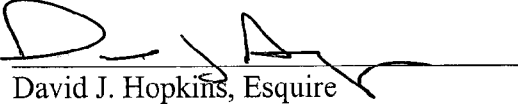
LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

NOTICE TO PLEAD

You are hereby notified to plead
to the within pleading within
twenty (20) days of service thereof
or default judgment may be entered
against you.


David J. Hopkins, Esquire
Attorney for Plaintiff

FILED ^{GW}
012:23 PM 3cc
APR 26 2005 *Att Hopkins*

William A. Shaw
Prothonotary/Clerk of Courts

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiffs

vs.

No. 05-266 C.D.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

**ANSWER TO NEW MATTER AND COUNTERCLAIM OF PRISTINE
PROPERTY HOLDINGS AND NEW MATTER**

AND NOW, comes Plaintiffs James G. Brady Living Trust and James Brady, as Trustee, by and through its attorneys, Hopkins Heltzel, LLP, and answers the New Matter and Counterclaim of Pristine Property Holdings as follows:

ANSWER TO NEW MATTER

39. No answer is required of this paragraph.

40. Denied. Defendant Pristine Property does not hold good and marketable title for all of the reasons set forth in Plaintiff's Complaint.

41. Denied. Susan Diane Andres knew or should have known of the United States Department Treasury lien; the transfer of the property to avoid said lien constituted a fraudulent conveyance within the meaning of the Pennsylvania Fraudulent Conveyance Act.

42. Denied. Liens against the property include the Internal Revenue Service as well as other judgments against Susan Diane Andres and/or William Andres.

43. Denied. The trust agreement does not grant Susan Diane Andres nor William J. Andres authority to act as the agent for Pristine Property Holdings, neither did Susan Andres or William Andres disclose they were acting as the agent for Pristine Property Holdings. The letter of December 14, 2004 was delivered subsequent to the execution of the contract.

44. Admitted.

45. Denied as set forth below:

A. Denied. While it may be the custom and ordinary practice in Clearfield County for a Buyer's attorney to obtain a title search, said custom and ordinary practice does not override the express terms of a written contract that obligated Seller to deliver a forty (40) year abstract of title and ten (10) year search or tax receipts.

B. Denied. Attorney Hopkins' own search of the property was good and prudent practice as shown in this case. Plaintiff's prudence does not relieve Defendant of its obligation to deliver a forty (40) year abstract of title and ten (10) year search or tax receipts.

C. Admitted.

D. Denied. Plaintiff was not required to demand or enforce any provisions of the written contract. The written contract speaks for itself and Seller was under an obligation to provide the forty (40) year abstract of title and ten (10) year search or tax receipts prior to closing that it failed to do.

46. Denied. No provisions of the contract of sale were waived.

47. Denied. Buyer's title insurance company was supplied with the federal tax lien that shows the assessment date of August 12, 2002 with a recording date of March 3, 2004. This information was also specifically identified to the title insurance company.

WHEREFORE, Plaintiff respectfully request Defendant's New Matter be dismissed with prejudice.

REPLY TO COUNTERCLAIM

COUNT I

48. No answer is required of this paragraph.

49. Denied. Plaintiff Brady signed a document dated October 25, 2004 reportedly for the purchase of Section 2, Lot 107 and Lot 108 of the Treasure Lake Subdivision, Sandy Township, Clearfield County. Plaintiff Brady denies same was a valid contract inasmuch as it was executed by William and Susan Andres who have no interest in Pristine Property Holdings.

50. Denied. If a contract did exist, Plaintiff Brady has not waived any conditions of said contract notwithstanding Defendant Pristine tendering a Deed, title to the property is not good and marketable, and otherwise fails to conform with the terms of the contract, if in fact the contract does exist.

51. Denied. Defendant's Deed fails to provide good and marketable title. Defendant Pristine has failed to rectify the title issues or make provisions for the payment

of federal tax liens and other judgments existing against Susan Andres and/or William Andres.

52. Denied. At all material times, Plaintiff Brady has been prepared to close on this transaction, provided that Defendant Pristine Property Holdings pay the federal tax lien and other judgments existing against Susan Andres and/or William Andres.

53. Denied. At all material times, Plaintiff Brady has been prepared to close on this transaction, provided Defendant Pristine Property Holdings pay the federal tax lien and other judgments existing against Susan Andres and/or William Andres.

54. Denied. Plaintiff Brady has not breached the contract nor has Plaintiff Brady forfeited its down payment of \$20,000.00.

WHEREFORE, Plaintiff/Defendant on the Counterclaim, James G. Brady Trust and James Brady, as Trustee demands judgment dismissing Pristine Property Holdings' Counterclaim with prejudice.

COUNT II

55. No answer is required of this paragraph.

56. Denied. Plaintiff Brady has not breached the contract of sale. The law of the Commonwealth of Pennsylvania does not provide a remedy for the full purchase price. Defendant Pristine is not entitled to the balance of the purchase price.

WHEREFORE, Plaintiff/Defendant on the Counterclaim, James G. Brady Trust and James Brady, as Trustee demands judgment dismissing Pristine Property Holdings' Counterclaim with prejudice.

COUNT III

57. No answer is required of this paragraph.

58. Neither admitted nor denied. Plaintiff Brady is without sufficient knowledge to admit or deny the amount, if any, of attorneys fees expended in furtherance of the agreement to sell real estate. By way of further answer, Defendant is not entitled to reimbursement of attorneys fees.

WHEREFORE, Plaintiff/Defendant on the Counterclaim, James G. Brady Trust and James Brady, as Trustee demands judgment dismissing Pristine Property Holdings' Counterclaim with prejudice.

NEW MATTER

59. Plaintiff incorporates paragraphs 48 through 58 as if set forth at length herein.

60. Defendant's Counterclaims are barred inasmuch as Defendant Pristine is unable to convey good and marketable title.

62. Defendant's Counterclaims are barred inasmuch as a contract does not exist between Plaintiff and Defendant.


63. Defendant's Counterclaims are barred inasmuch as Defendant had failed to provide for the payment of a federal tax lien against Susan Andres.

64. Defendant's Counterclaims are barred inasmuch as Defendant has failed to make provisions for the payment of judgments against Susan Andres and/or William Andres.

65. Defendant's Counterclaims are barred inasmuch as Defendant failed to provide a forty (40) year abstract of title and ten (10) year search or tax receipts showing the property free and clear by liens and encumbrances prior to closing.

Respectfully submitted,

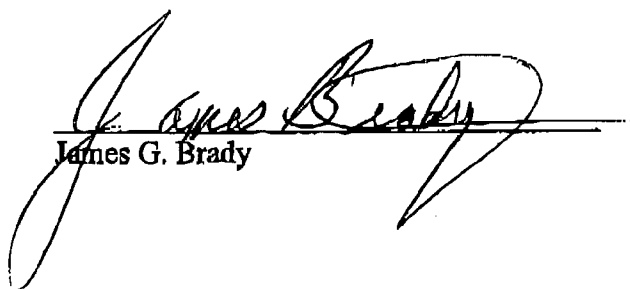
HOPKINS HELTZEL, LLP



David J. Hopkins, Esquire
Attorney for Plaintiff

VERIFICATION

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



James G. Brady

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

No. 05-266 C.D.


PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Answer to New Matter and Counterclaim of Pristine Property Holdings and New Matter, filed on behalf of Plaintiffs, James G. Brady Trust and James Brady, as Trustee, was forwarded by first class mail, postage prepaid, on the 26th day of April, 2005, to all counsel of record, addressed as follows:

Paul J. Malizia, Esquire
Malizia & Malizia, P.C.
25 East Fourth Street
P.O. Box 111
Emporium, PA 15834

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


David J. Hopkins, Esquire
Attorney for Plaintiff

CP

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

JAMES G. BRADY TRUST AND
JAMES BRADY, as Trustee

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING AND DONALD
ARAVICH

:
:
:
: No. 05-266-CD
:
:

ORDER

AND NOW, this 5th day of May, 2005, upon consideration of Attorney Malizia's Preliminary Objections filed in the above matter, it is the Order of the Court that argument has been scheduled for the 2nd day of June, 2005, at 10:00 A.M, in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:



FREDRIC J. AMMERMAN
President Judge

FILED

30c
018:3061 Amy Malizia
MAY 09 2005 w/service memo

William A. Shaw
Prothonotary/Clerk of Courts



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

MEMO: To all parties filing Petitions/Motions in Clearfield County:

Please make note of the following:

Rule 206(f) The party who has obtained the issuance of a Rule to Show Cause shall forthwith serve a true and correct copy of both the Court Order entering the Rule and specifying a return date, and the underlying Petition or Motion, upon every other party to the proceeding in the manner prescribed by the Pennsylvania Rules of Civil Procedure (see PA. R.C.P. 440) and upon the Court Administrator.

Rule 206(g) The party who has obtained the issuance of a Rule to Show Cause shall file with the Prothonotary, within seven (7) days of the issuance of the Rule, an Affidavit of Service indicating the time, place and manner of service. Failure to comply with this provision may constitute sufficient basis for the Court to deny the prayer of the Petition or Motion.

***** Please note: This also includes service of scheduling orders obtained as the result of the filing of any pleading.**

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

VS. :

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

NO. 05-266 CD

Type of Pleading: CERTIFICATE
OF SERVICE

Filed on Behalf of Defendants

Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111]
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950

Counsel of Record for Opposing Party:
HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
Lea Ann Heltzel, Esquire
900 Beaver Drive
DuBois, PA 15801

FILED ^{NO}cc
MAY 11 07 04
MAY 12 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

VS. :

NO. 05-266 CD

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**


CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order of Court scheduling Argument on Preliminary Objections for June 2, 2005 at 10:00 a.m. have been forwarded via first class mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 10th day of May, 2005, addressed to:

HOPKINS HELTZEL LLP
900 Beaver Drive
DuBois, PA 15801

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

pristineANSWER

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

**JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff**

VS.

**PRISTINE PROPERTY HOLDINGS,
DAVID P. KING, and DONALD
ARAVICH.**

Defendants

CIVIL DIVISION – LAW

NO. 05-266 C.D.

**Type of Pleading: DEFENDANTS'
REPLY TO PLAINTIFF'S NEW
MATTER**

Filed on Behalf of: DEFENDANTS

**Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 E. Fourth St., P.O. Box 111
Emporium, PA 15834
(814) 486-1181
Supreme Court I.D. 35950**

**Counsel of Record for Opposing Party:
HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
Supreme Court I.D. 42519**

**Lea Ann Heltzel, Esquire
Supreme Court I.D. 83998**

**900 Beaver Drive
DuBois, PA 15801
(814) 375-0300**

FILED

MAY 16 2005 (62)

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William A. Shaw
Prothonotary
no 40

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

**JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff**

:
:
:
:
:
:
:
:

CIVIL DIVISION – LAW

NO. 05-266 C.D.

VS.

**PRISTINE PROPERTY HOLDINGS,
DAVID P. KING, and DONALD
ARAVICH.**

**Type of Pleading: DEFENDANTS'
REPLY TO PLAINTIFF'S NEW
MATTER**

Defendants

Filed on Behalf of: DEFENDANTS

**DEFENDANT PRISTINE PROPERTY HOLDINGS
REPLY TO PLAINTIFF'S NEW MATTER**

AND NOW, comes Pristine Property Holdings, and by its attorney, Malizia & Malizia, P.C., files this its Reply to Plaintiff's New Matter, as follows:

59. Answers to Paragraphs 1-38, and allegations set forth in Paragraphs 39-58 are incorporated herein by reference as though fully set forth.

60. Said allegation is a conclusion of law to which no response is required, however, if a response is required then it is denied that Defendant Pristine Property Holdings is unable to convey good and marketable title and on the contrary, Defendant Pristine Property Holdings at all times material hereto, held good and marketable title to the premises with the exception of one mortgage, which Plaintiff's counsel had arranged to be paid in full at time of closing.

61. [No allegation contained in this paragraph].

62. Said allegation is a conclusion of law to which no response is required, however, if a response is required then it is denied that a contract does not exist for the reason that a valid and legal contract existed, which contained an offer, acceptance and consideration.

63. Said allegation is a conclusion of law to which no response is required, however, if a response is required then it is denied that Pristine Property Holdings' counterclaims are barred for Pristine's refusal to pay the federal tax lien against a predecessor in title, Susan Andres, as the said Susan Diane Andres did not own the real estate in question for well over a year prior to the entry of an Internal Revenue Service lien against her, the latter of which occurred on March 3, 2004.

64. Said allegation is a conclusion of law to which no response is required, however if a response is required then it is denied that Defendant has failed to make provisions for the payment of judgments against Susan and/or William Andres for the reason that Defendant Pristine agreed to pay at time of closing, and Plaintiff's counsel agreed to arrange to make the payment of the one and only mortgage against the premises pursuant to Exhibits 1 and 4 attached to Defendant Pristine's Answer, New Matter and Counterclaim, all of which is incorporated herein by reference as though fully set forth.


65. Said allegation is a conclusion of law to which no response is required however if a response is required, then it is denied that Defendant was required to provide a forty-year abstract of title and a ten-year search or tax receipt showing the property free and clear of liens and encumbrances prior to closing for the reason that said contractual requirement was waived by virtue of the custom in Clearfield County for the buyer's attorney to provide the title search, which in fact, Plaintiff's counsel arranged pursuant to Exhibit 4 of Pristine Property Holdings' Answer, New Matter and Counterclaim, incorporated herein by reference as though fully set forth.

WHEREFORE, Defendant Pristine Property Holdings respectfully request that
Plaintiff's New Matter be dismissed.

Respectfully submitted,

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

Dated:

5/12/05

VERIFICATION

Now, comes Joseph R. Hill and swears the facts set forth in the foregoing Reply to New Matter are true and correct to the best of his information, knowledge and belief.



Joseph R. Hill

DATED: 05/06/2005

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

VS. :

NO. 05-266 CD

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

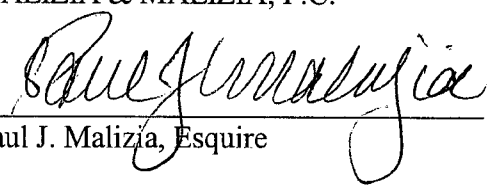
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Defendant Pristine Property Holdings' Reply to Plaintiff's New Matter was forwarded via first class mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 12th day of May, 2005, addressed to:

HOPKINS HELTZEL LLP
900 Beaver Drive
DuBois, PA 15801

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

CA

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

JAMES G. BRADY TRUST and :
JAMES G. BRADY, as Trustee :

-VS-

No. 05-266-CD

PRISTINE PROPERTY HOLDINGS, :
DAVID P. KING and DONALD :
ARAVICH :

O R D E R

NOW, this 2nd day of June, 2005, following
argument on Defendant's Preliminary Objections, it is the
ORDER of this Court that counsel supply the Court with
appropriate letter brief within no more than fifteen (15)
days from this date.

BY THE COURT,



President Judge

FILED

JUN 03 2005

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William A. Snav

Prothonotary/Clerk of Courts

SENT TO HARRIS
ATTY'S MALIZIA
KING.

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH
Defendants

No. 05-266-C.D.

Type of Pleading: Motion for
Summary Judgment

Filed on behalf of: James G. Brady Trust
and James Brady, as Trustee, Plaintiff.

Counsel of Record for this party:
HOPKINS HELTZEL LLP

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

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

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED 3cc
01:31 PM Amy Hopkins
JUN 07 2005 @

William A. Shaw
Prothonotary/Clerk of Courts

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

No. 05-266-C.D.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH
Defendants

MOTION FOR SUMMARY JUDGMENT

AND NOW, comes Plaintiff, James G. Brady Trust and James Brady, as Trustee, by and through its attorneys, Hopkins Heltzel LLP, and files the within Motion for Summary Judgment and says as follows:

1. Petitioner is the James G. Brady Trust, James Brady, Trustee, who maintains a principal business address at 10901 Burnt Mill Road, Number 504, Jacksonville, Florida 32256.

2. Respondent Pristine Property Holdings, is an international business trust whose address is 215 Treasure Lake, DuBois 15801 (hereinafter "Pristine").

3. Respondent David P. King, Esquire is the escrow agent.

COUNT I

Plaintiff is entitled to summary judgment as a matter of law because Mr. and Mrs. Andres had no authority to execute the Offer to Purchase on Behalf of Pristine.

4. On or about October 25, 2004, Plaintiff and Defendant Pristine executed a document titled "Offer to Purchase," that involved certain vacant real property known as Section Two, Lots 107 and 108 of the Treasure Lake Subdivision, Sandy Township, Clearfield County, Pennsylvania (hereinafter Lots 107 and 108).

5. The Offer to Purchase required Plaintiff deposit \$20,000.00 in the escrow account of Defendant King. Plaintiff deposited said money and the funds are currently in the escrow account of Defendant King.

6. The Offer to Purchase required Defendant Pristine to deliver a deed of general warranty, and is signed on behalf of Defendant Pristine by William J. Andres and Susan D. Andres.

7. Defendant Pristine is an "International Business Trust".

8. The Offer to Purchase is void inasmuch as William J. Andres and Susan D. Andres do not hold an ownership interest or a management interest in Defendant Pristine and did not have the authority to execute the "Offer to Purchase."

WHEREFORE, Petitioner, James G. Brady Trust, James Brady, Trustee, prays this Honorable Court to grant its Motion for Summary Judgment and Order David P. King, Esquire to return Petitioner's deposit and dismiss the counterclaim of Respondent Pristine Property Holdings.

COUNT II

Defendant Pristine is in default of the terms of the offer to purchase, and is entitled to judgment as a matter of law.

9. Petitioner repeats the allegations set forth in Paragraphs 1 through 8.
10. The contract required Defendant Pristine to provide Petitioner a forty-year abstract of title and ten year search or tax receipts prior to closing - December 15, 2004.
11. Defendant Pristine failed to provide a forty-year abstract of title and ten year search or tax receipts prior to the scheduled closing date - December 15, 2004.
12. Defendant Pristine is in default because Defendant Pristine failed to provide a forty-year abstract of title and ten year search or tax receipts on or before December 15, 2004.

WHEREFORE, Petitioner, James G. Brady Trust, James Brady, Trustee, prays this Honorable Court to grant its Motion for Summary Judgment and Order David P. King, Esquire to return Petitioner's deposit and dismiss the counterclaim of Respondent Pristine Property Holdings.

COUNT III

Defendant Pristine is in default of the terms of the offer to purchase, and is entitled to judgment as a matter of law.

10. Petitioner repeats the allegations set forth in Paragraphs 1 through 12.

11. Defendant Pristine is in default inasmuch as it does not possess good and marketable title nor is Defendant Pristine able to provide a deed of general warranty with good and marketable title to Plaintiff.

12. William and Susan Andres acquired title to Lots 107 and 108 from Recreational Land Corporation by deed dated May 26, 1994. The Andres took title as William J. Andres and Susan D. Andres – D.B.A. Coral Cove Project. The certificate of residence lists the precise residence of the Andres to be 215 Treasure Lake, DuBois, Pennsylvania 15801.

13. On March 30, 1999, William J. Andres and Susan D. Andres mortgaged Lots 107 and 108 to Northwest Savings Bank to secure \$160,000.00.

14. On August 12, 2002, the United States Treasury assessed an Internal Revenue Service lien against Susan Diane Andres in the amount of \$48,066.08. See Exhibit "A".

15. By General Warranty Deed dated December 3, 2002, William J. Andres and Susan D. Andres conveyed Lots 107 and 108 to "The K&G Trust." The certificate of residence lists the precise address of The K&G Trust to be 215 Treasure Lake, DuBois, Pennsylvania 15801. The same address as the Andres.

16. The "coal clause" to the deed identifies William J. Andres and Susan D. Andres as grantor of The K&G Trust.

18. The notary to the deed from Andres to the K & G Trust was not stamped.

19. Northwest Savings Bank did not release its mortgage when Lots 107 and 108 were transferred from William and Susan Andres to The K&G Trust.

20. By undated deed, The K&G Trust conveyed Lots 107 and 108 to Defendant Pristine Property Holdings, an international business trust. The deed was recorded in the Office of the Recorder of Deeds on October 29, 2003 as Instrument Number 2003-19675. The certificate of residence identifies the address of Defendant Pristine Property Holdings to be 215 Treasure Lake, DuBois, Pennsylvania 15801. The same address as the Andres and The K&G Trust.

21. The Office of the Recorder of Deeds recording information indicates that the deed was to be returned to: Pristine Property Holdings, 215 Treasure Lake, DuBois, Pennsylvania 15801, Attn: [Susan] Diane Andres.

22. Attorney for the Defendant advised Plaintiff's counsel that Northwest Savings Bank would release Lots 107 and 108 for the sum of \$9,000.00.

23. Attorney for the seller advised Plaintiff's counsel the proceeds check should be made payable to the "Coral Cove Committee Partnership."

24. William J. Andres died in 2004.

25. Defendant Pristine has refused to satisfy the United States Department of Treasury Internal Revenue Service lien. In addition thereto, Susan D. Andres has been identified as a defendant in additional legal proceedings that may result in judgments against Susan D. Andres prior to the completion of this action.

26. Plaintiff attempted to obtain title insurance from Penn Attorney Title Insurance Company.

27. Penn Attorneys Title Insurance Company has refused to insure the title to Lots 107 and 108 over the Internal Revenue Service lien.

28. Defendant Pristine is unable to convey good and marketable title by general warranty deed to Lots 107 and 108.

WHEREFORE, Petitioner, James G. Brady Trust, James Brady, Trustee, prays this Honorable Court to grant its Motion for Summary Judgment and Order David P. King, Esquire to return Petitioner's deposit and dismiss the counterclaim of Respondent Pristine Property Holdings.

Respectfully submitted,

HOPKINS HELTZEL LLP


David J. Hopkins, Esquire

Notice of Federal Tax Lien

04-312-CD

Area:

SMALL BUSINESS/SELF EMPLOYED AREA #3
Lien Unit Phone: (412) 395-5265

Serial Number

158734704

For Optional Use by Recording Office

As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer SUSAN D ANDRES

Residence

TREASURE LAKE BOX 215
DUBOIS, PA 15801-9001

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
6672	09/30/2001	203-42-1483	08/12/2002	09/11/2012	940.88
6672	12/31/2001	203-42-1483	08/12/2002	09/11/2012	47125.20
FILED MAR 03 2004 William A. Shaw Prothonotary					
Place of Filing Clearfield Prothonotary Clearfield County Clearfield, PA 16830					Total \$ 48066.08

This notice was prepared and signed at PHILADELPHIA, PA , on this,

the 23rd day of February, 2004.

Signature
for DANIEL L KAPP

Title
REVENUE OFFICER
(4) 368-4166

23-11-2136

(NOTE: Certificate of officer authorized by
Rev. Rul. 71-466, 1971 - 2 C.B. 409)

EXHIBIT

is not essential to the validity of Notice of Federal Tax Lien

Office

Form 668(Y)(c) (Rev. 2-2004)
CAT. NO 60025X

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

No. 05-266-C.D.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH
Defendants

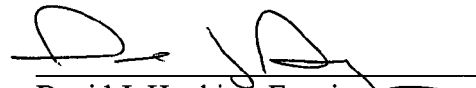
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Motion for Summary Judgment, filed on behalf of Plaintiffs, James G. Brady Trust and James Brady, as Trustee, was forwarded by first class mail, postage prepaid, on the 7th day of June, 2005, to all counsel of record, addressed as follows:

Paul J. Malizia, Esquire
Malizia & Malizia, P.C.
25 East Fourth Street
P.O. Box 111
Emporium, PA 15834

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

HOPKINS HELTZEL LLP


David J. Hopkins, Esquire
Attorney for Plaintiff

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

No. 05-266-C.D.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH
Defendants

FILED

JUN 17 2005

William A. Shaw

Prothonotary/Clerk of Courts

1 cent to Arry

SCHEDULING ORDER

AND NOW, this 17th day of June, 2005, upon consideration of the Motion
for Summary Judgment, it is hereby ORDERED that:

1. A Rule is issued upon Respondent to show cause why the moving party is
not entitled to the relief requested.

2. The Respondent shall file an Answer to the Motion within 20 days of
this date;

3. The Motion shall be decided under Pa.R.C.P. §206.7;

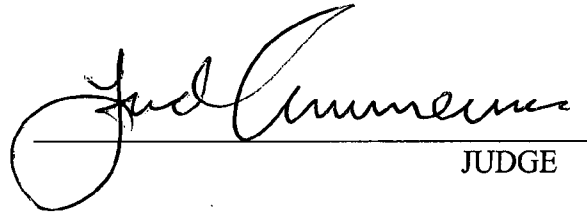
4. Depositions and all other discovery shall be completed within ____ days
of this date;

5. An Evidentiary Hearing on disputed issues of material fact shall be held
on the ____ day of _____, 2005, at ____ o'clock ____ M., in
Courtroom No. ____ of the Clearfield County Courthouse, Clearfield, Pennsylvania;

6. Argument shall be held on the 14th day of July,
2005 at 11:00 o'clock A.M., in Courtroom No. 1 of the Clearfield
County Courthouse, Clearfield, Pennsylvania; and

7. Notice of the entry of this Order shall be provided to all parties by the moving party.

BY THE COURT,


JUDGE

GA

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

JAMES G. BRADY TURST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

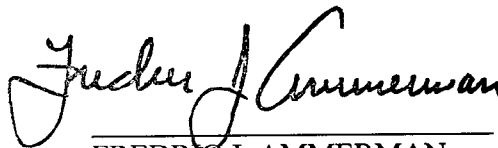
NO. 05-266-CD

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

ORDER

NOW, this 22nd day of June, 2005, it is the ORDER of this Court that the Preliminary Objections filed on behalf of Defendant Donald Aravich be and are hereby dismissed, without prejudice to the said Defendant to re-raise the issues in the form of a Motion for Summary Judgment upon completion of discovery.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED

01/31/05
JUN 22 2005

William A. Shaw
Prothonotary/Clerk of Courts

cc Atty's:
Hopkins
Malizia
King

OK

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

No. 05-266 C.D.


PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Scheduling Order dated June 17, 2005, filed on behalf of Plaintiffs, James G. Brady Trust and James Brady, as Trustee, was forwarded by first class mail, postage prepaid, on the 22nd day of June, 2005, to all counsel of record, addressed as follows:

Paul J. Malizia, Esquire
Malizia & Malizia, P.C.
25 East Fourth Street
P.O. Box 111
Emporium, PA 15834

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


David J. Hopkins, Esquire
Attorney for Plaintiff

FILED
01/20/2005
JUN 24 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

JAMES G. BRADY TRUST and :

JAMES BRADY, as trustee :

VS. :

PRISTINE PROPERTY HOLDINGS, :

DAVID P. KING and DONALD ARAVICH:

NO. 05-266-CD

FILED

019:5761
JUL 15 2005

William A. Shaw
Prothonotary/Clerk of Courts

Attys:
Hopkins
King
Matzka

O R D E R

NOW, this 14th day of July, 2005, following argument on the Plaintiff's Motion for Partial Summary Judgment, it is the ORDER of this Court as follows:

1. Count I of the Plaintiff's Motion for Partial Summary Judgment is hereby dismissed;

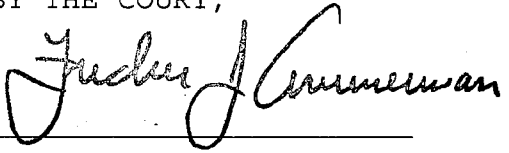
2. The Defendant Pristine Property shall have no more than fifteen (15) days from this date in which to file an answer to the remaining allegations as set forth in the Motion for Partial Summary Judgment;

3. The Plaintiff shall have no more than twenty (20) days from this date in which to supply the Court with a supplemental brief relative the Internal Revenue Service issues that were discussed during time of argument;

4. The Defense shall have no more than thirty-five (35) days from this date in which to supply the Court with

appropriate brief.

BY THE COURT,

A handwritten signature in cursive script, reading "Frederick J. Crumman", written over a horizontal line.

President Judge

pristineANSWERS7/14/05

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

NO. 05-266 CD

**Type of Pleading: DEFENDANTS' ANSWER
TO PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT
Filed on Behalf of Defendants**

**Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950**

**Counsel of Record for Opposing Party:
HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
Lea Ann Heltzel, Esquire
900 Beaver Drive
DuBois, PA 15801**

FILED *NR*
7/13/05
JUL 20 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

VS. :

NO. 05-266 CD

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

**DEFENDANTS' ANSWER TO PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

AND NOW, comes the Defendants, and by their attorney, Paul J. Malizia, file this their Answer to Plaintiff's Motion for Summary Judgment, as follows:

1. Admitted.
2. Denied that the address of respondent Pristine Property Holdings is 215 Treasure Lake, DuBois, PA 15801, and on the contrary said address is that of the agent of Pristine Property Holdings, Susan D. Andres. Pristine Property Holdings is an international business trust with an address of 1903 South Greelely Highway, Unit No. 170, Cheyenne Wyoming 82007, all of which is set forth in Defendants' Answer, New Matter and Counterclaim.

3. Admitted.

WHEREFORE, Defendants request that Plaintiff's Motion for Summary Judgment be dismissed.

COUNT I

4. Paragraphs 1-3 are incorporated herein by reference as though fully set forth.
5. Admitted.
6. Admitted.

7. Admitted.

8. Admitted.

9. Denied that the offer to purchase is void because William J. and Susan D. Andres do not hold an ownership interest or management interest in Defendant Pristine and does not have the authority to execute the "Offer to Purchase", for the reason that Defendant Pristine Property Holdings gave a Power of Attorney to Susan D. Andres, a copy of which is attached hereto and marked Exhibit "A", all of which is set forth in Paragraph 43 of Defendants' New Matter.

WHEREFORE, Defendants request that Plaintiff's Motion for Summary Judgment be dismissed.

COUNT II

10. Paragraphs 1-8 are incorporated herein by reference as though fully set forth.

11. Admitted that the contract required Defendant Pristine to provide Petitioner a 40-year abstract of title and a 10-year search of tax receipts prior to closing however, as set forth in Paragraph 65 of the Defendants' New Matter, said allegation was waived by virtue of the custom in Clearfield County for the buyer's attorney to provide the title search, which in fact, Plaintiff's counsel arranged pursuant to Exhibit 4 of Pristine Property Holdings' Answer, New Matter and Counterclaim, incorporated herein by reference as though full set forth.

12. Admitted for the reasons set forth in Paragraph 11, incorporated herein by reference as though fully set forth.

13. Denied for the reasons set forth in Answer to Paragraph 11, incorporated herein by reference as though fully set forth.

WHEREFORE, Defendants request that Plaintiff's Motion for Summary Judgment be

dismissed.

COUNT III

10.(sic) Paragraphs 1-13 are incorporated herein by reference as though fully set forth.

11.(sic) It is denied that Defendant Pristine is in default inasmuch as it does not possess good title and cannot provide a deed of general warranty, and on the contrary, at all times, stood ready, willing and able to produce good title by having all liens paid at closing.

12. (sic) Admitted.

13. (sic) Admitted.

14. It is denied that the Internal Revenue Service assessed the lien on August 12, 2002. The lien was filed on March 3, 2004, and indicates that it was "assessed" on said lien, on August 12, 2002. The IRS lien did not affect the marketability of title to the premises.

15. Admitted.

16. Admitted.

17. Admitted.

18. Admitted.

19. Admitted.

20. Denied the deed from K&G Trust to Defendant Pristine Property Holdings was undated and on the contrary, was dated October 7, 2003.

21. Admitted.

22. Admitted.

23. Admitted.

24. Admitted.

25. Denied, as said United States Department of Treasury Internal Revenue Service lien is in fact, satisfied, pursuant to Exhibit "B" attached hereto. The balance of the allegation requires no response, as it is conclusory. To the extent a response is required, all judgments against Susan Diane Andres have been satisfied.

26. Admitted.

27. Admitted.

28. It is denied that Pristine is unable to convey good and marketable title by general warranty deed to Lots 107 and 108, as title to the premises is free and clear of all liens and encumbrances.

WHEREFORE, Defendant requests that Plaintiff's Motion for Summary Judgment be denied.

Respectfully submitted,

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

Dated:

July 18, 2005

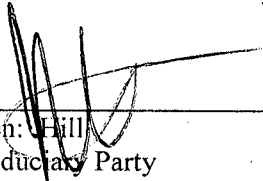
Pristine Property Holdings

Susan-Diane: Andres, Managing Agent for the Managing Fiduciary Party Powers and Authority

At a Special Meeting of the Managing Fiduciary Party(s) of Pristine Property Holdings, an International Business Trust, and in view of the powers of the undersigned Managing Fiduciary Party of delegating authority, a decision was made appointing Susan-Diane: Andres as Managing Agent and consultant for specific business to be entertained in any political or geographic location of the world.

Susan-Diane: Andres, as Managing Agent for Pristine Property Holdings, has the full authority and power of executing agreements and or contracts, conducting any business, and endorsing checks or drafts payable of Pristine Property Holdings the same as if the Managing Fiduciary Party(s) were doing such things themselves for Pristine Property Holdings. Susan-Diane: Andres shall report to the Managing Fiduciary Party(s) and provide ample proof of such duties done on behalf of Pristine Property Holdings. Susan-Diane: Andres shall be reimbursed by Pristine Property Holdings of any costs pertaining for performance of such contractual duties. Susan-Diane: Andres, with said appointment as Managing Agent, shall have no due influence or affect on the decisions of the Managing Fiduciary Party(s), whom shall always act in the best interest of Pristine Property Holdings as prescribed by its' DECLARATION OF CREATION AND CONTRACT.

Agreed upon and done this third day of the seventh month, in the year Two thousand three by:

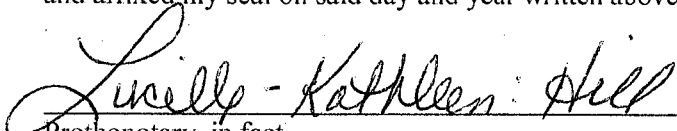


Joseph-Ruben: Hill
Managing Fiduciary Party


PROTHONOTARY STATEMENT

Wyoming Republic, orig. juris.)
) affirmed and attested under the Laws of True God
Laramie county, orig. juris.)

On this 29th day of the 7th month, in the year Two thousand three, before me, Lucille-Kathleen: Hill, a Prothonotary, in fact, on and for the people of said Republic, Joseph-Ruben: Hill is present before me, is known or has been identified by me as being the one whose appellation/name is subscribed onto said Document, and witnessed by me that they executed the same. In Witness Whereof, I as Prothonotary, in fact, have hereunto set my hand, placed my mark and affixed my seal on said day and year written above.



Prothonotary, in fact



Pristine Property Holdings

Susan-Diane: Andres, Managing Agent for the Managing Fiduciary Party
Powers and Authority

Continued:

And:



Susan-Diane: Andres

Managing Agent for the Managing Fiduciary Party

PROTHONOTARY STATEMENT

Pennsylvania Republic, orig. juris.)

) affirmed and attested under the Laws of True God

Clearfield county, orig. juris.)

On this tenth day of the eighth month, in the year Two thousand three, before me, John-Samuel Manning, a Prothonotary, in fact, on and for the people of said Republic, Susan-Diane: Andres is present before me, is known or has been identified by me as being the one whose appellation/name are subscribed onto said Document, and witnessed by me that they executed the same.

In Witness Whereof, I as Prothonotary, in fact, have hereunto set my hand, placed my mark and affixed my seal on said day and year written above.

John Samuel Manning
Notary Public, in fact

Seal

Form 668 (Z) (Rev. 10-2000)		1872 Department of the Treasury - Internal Revenue Service Certificate of Release of Federal Tax Lien			
Area: SMALL BUSINESS/SELF EMPLOYED AREA #3 Lien Unit Phone: (800) 913-6050		Serial Number 158734704		For Use by Recording Office	
I certify that the following-named taxpayer, under the requirements of section 6325 of the Internal Revenue Code has satisfied the taxes listed below and all statutory additions. Therefore, the lien provided by Code section 6321 for these taxes and additions has been released. The proper officer in the office where the notice of internal revenue tax lien was filed on <u>March 03</u> , <u>2004</u> , is authorized to note the books to show the release of this lien for these taxes and additions. Name of Taxpayer SUSAN D ANDRES Residence TREASURE LAKE BOX 215 DUBOIS, PA 15801-9001					
COURT RECORDING INFORMATION: Liber Page UCC No. Serial No. n/a n/a n/a 04-312-CD					
Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
6672	09/30/2001	203-42-1483	08/12/2002	09/11/2012	940.88
6672	12/31/2001	203-42-1483	08/12/2002	09/11/2012	47125.20

Place of Filing Clearfield Prothonotary Clearfield County Clearfield, PA 16830					Total 48066.08

This notice was prepared and signed at PHILADELPHIA, PA, on this,

the 06th day of July, 2005

Signature <i>Chenwood</i>	Title Director, Payment Compliance
---------------------------	--

(NOTE: Certificate of officer authorized by law to take acknowledgements is not essential to the validity of Certificate of Release of Federal Tax Lien
Rev. Rul. 71-466, 1971-2 C.B. 408)

Part 2 - Taxpayer's Copy

Form 668 (Z) (Rev. 10-2000)
CAT. NO 600261

EXHIBIT "B"

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

VS. :

NO. 05-266 CD

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

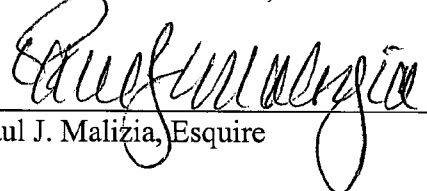
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Defendant Pristine Property Holdings' Answer to Plaintiff's Motion for Summary Judgment was forwarded via first class mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 18th day of July, 2005, addressed to:

HOPKINS HELTZEL LLP
900 Beaver Drive
DuBois, PA 15801

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

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

JAMES G. BRADY TRUST and
James Brady, as Trustee
Plaintiff,

v.

PRISTINE PROPERTY HOLDINGS, et al.,
Defendants.

Case No. 05-266-C.D.

FILED

019:00/01
AUG 24 2005

William A. Shaw
Prothonotary/Clerk of Courts

D. Mikesell

OPINION

At issue in this case is the sale of real property, known as Lots 107 and 108 of the Treasure Lake Subdivision in Sandy Township, Clearfield County, from Pristine Property Holdings ("Defendant" or "Pristine") to the James G. Brady Trust, et al. ("Plaintiff" or "Trust"). The Plaintiff has filed a Motion for Partial Summary Judgment and maintains that Pristine breached the document entitled "Offer to Purchase" relating to the potential sale of the lots by

1. Failing to possess good and marketable title and being unable to deliver a general warranty deed conveying good title to the property free and clear of all liens and encumbrances on or before December 15, 2004;
2. Failing to provide a 40 year abstract of title or ten years of tax receipts showing the property free of all liens and encumbrances; and
3. The various conveyances from the Andres to K & G Trust and then to Pristine violate the Fraudulent Conveyance Act.

Susan and William Andres acquired title to Lots 107 and 108 by deed dated May 26, 1994. On March 30, 1999, a mortgage on both lots was used to secure a loan from Northwest Savings Bank for One Hundred Sixty Thousand Dollars (\$160,000).

Thereafter, on December 3, 2002, the Andres conveyed both lots to K & G Trust.

Northwest Savings Bank did not release the mortgage before the conveyance to K & G Trust. K & G Trust then conveyed both parcels to Pristine by deed recorded on October 29, 2003.

The parties entered into a contract entitled "Offer to Purchase." The contract was dated October 25, 2004, and provided for a Twenty Thousand Dollar (\$20,000.00) down payment for Lots 107 and 108. Plaintiff paid the down payment to Attorney David King, who held the amount in escrow. As a result of a title search, the Trust determined there was an I.R.S. tax lien entered against Susan Andres. The existence of the I.R.S. lien apparently resulted in the Trust being unable to obtain title insurance necessary to obtain financing. The Trust then claimed Pristine could not convey good title, that the federal tax lien makes title to the property unmarketable, and demanded return of the down payment. Pristine refused and the Trust filed this lawsuit.

The Internal Revenue Service assessed a lien against Susan Andres on August 12, 2002 for failing to pay over Forty-eight Thousand Dollars (\$48,000.00) in back taxes. However, the lien was not filed in the Prothonotary's Office of Clearfield County until March 3, 2004, well after Ms. Andres conveyed her interest in the property to K & G Trust on December 3, 2002. As such, the Court concludes the tax lien is not enforceable against the real estate in question.

Section 6321 of the Internal Revenue Code allows the government to assess a lien against a delinquent taxpayer's property. However, the tax lien is not effective until filed in accordance with Section 6323 of the Internal Revenue Code. Section 6323 prevents a lien's enforcement until notice is established in compliance with Section 6323(f).

Specifically, section 6323(f)(1)(A)(i) provides the required notice “shall be filed, in the case of real property, in one office within the State (or the county...) as designated by the laws of such state, in which the property subject to the lien is located.” United States v. Estate of Romani, 523 U.S. 517, 521 (1998). The relevant Pennsylvania statute “provides that a judgment shall create a lien against real property when it is recorded in the county where the property is located. 42 Pa Cons.Stat. § 4303....” Id.

Accordingly, Pristine, as purchaser, benefits from the protection of section 6323. Pristine acquired the property in a subsequent conveyance from K & G Trust in October 2003. Pristine cannot be held responsible for a lien whose notice was filed well after it purchased the property. This conclusion is supported by a policy of “strong condemnation of secret liens, which...frustrate the needs of our citizens for certainty and convenience in the legal rules governing their commercial dealings.” Estate of Romani, *supra*. Therefore, the lien is not enforceable against the property in question and did not make title to Lots 107 and 108 unmarketable.

Additionally, Plaintiff asserts the title was unmarketable based upon an existing mortgage in favor of Northwest Savings Bank. Defendant’s counsel maintains the mortgage held by Northwest Savings Bank could be satisfied for a payment of Nine Thousand Dollars (\$9,000.00). On the date of closing, accepted commercial practices allow for the parties to allocate funds from the purchase price to satisfy existing liabilities. In other words, the monies needed to satisfy the mortgage would have been deducted from the amount payable to the seller.

The Plaintiff claims the Defendant breached an express condition of the “Offer to Purchase” by not delivering an abstract of title or providing tax receipts showing the

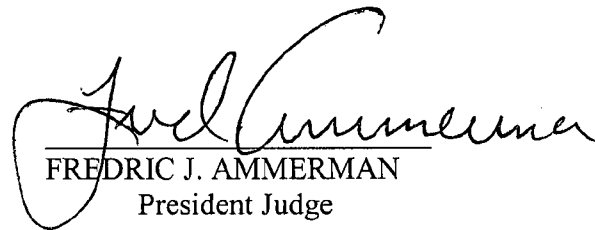
property to be free and clear of all liens and encumbrances. Notwithstanding the express condition of the contract, Defendant alleges the Plaintiff waived the condition by its own conduct. Allegedly, Plaintiff did perform a title search and secured an abstract of title. Therefore, there remains a genuine issue of fact whether the condition was waived.

Finally, Plaintiff maintains that the various conveyances violate the Fraudulent Conveyance Act. The record does not contain sufficient evidence to establish fraud such that the Court could grant the Motion for Partial Summary Judgment on this issue. The question of fraudulent activity must be developed more fully.

ORDER

Now, this 23rd day of August, 2005, it is the Order of this Court that the Plaintiff's Motion for Partial Summary Judgment be and is hereby DENIED.

By the Court:


FREDRIC J. AMMERMAN
President Judge

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

VS. :

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

NO. 05-266 CD

Type of Pleading: PRAECIPE FOR TRIAL

Filed on Behalf of Defendants

Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950

Counsel of Record for Opposing Party:
HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
Lea Ann Heltzel, Esquire
900 Beaver Drive
DuBois, PA 15801

FILED ^{NO} ^{CC}
m 19:50 ^{OK}
NOV 21 2005 ^{GR}

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

VS. :

NO. 05-266 CD

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

PRAECIPE FOR TRIAL

TO THE PROTHONOTARY:

Please list the above captioned matter ready for trial. This is to certify that all discovery is complete; there are no outstanding motions before the Court; no demand has been made for a jury trial; and Defendant anticipates one-half day for a non-jury trial.

Respectfully submitted,

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

Dated: November 17, 2005

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

NO. 05-266 CD

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

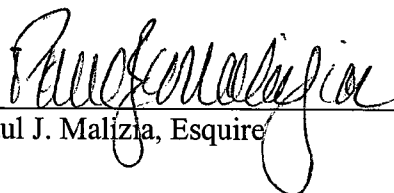
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Defendant Pristine Property Holdings' Praecept for Trial was forwarded via first class mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 17th day of November, 2005, addressed to:

David Hopkins, Esquire
HOPKINS HELTZEL LLP
900 Beaver Drive
DuBois, PA 15801

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

CA

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

JAMES G. BRADY TRUST and
James Brady, as Trustee,
Plaintiff

NO. 05-266-CD

V.

PRISTINE PROPERTY HOLDINGS,
et al.,
Defendant

FILED

JAN 20 2006

William A. Shaw
Prothonotary/Clerk of Courts

ICC
Atty's: Hopkins
King
Malizia

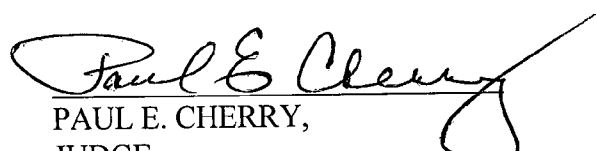
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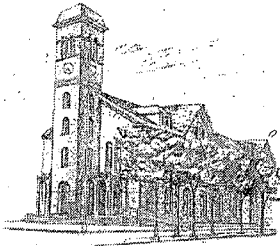
ORDER

AND NOW, this 19th day of January, 2006, following Pre-Trial Conference, it is
the ORDER of this Court as follows:

- 1 Trial in this matter is scheduled for March 15 and 16, 2006, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. The deadline for providing any and all outstanding discovery shall be by and no later than thirty (30) days prior to the commencement of trial.
3. Counsel for the parties, if they so desire, may submit a Trial Brief to the Court no more than seven (7) days prior to the commencement of trial.
4. The deadline for submitting any and all Motions shall be by and no later than ten (10) days from this date.
5. Points for Charge shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.
6. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,


PAUL E. CHERRY,
JUDGE



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 11/20/06

_____ You are responsible for serving all appropriate parties.

X _____ The Prothonotary's office has provided service to the following parties:

X _____ Plaintiff(s)/Attorney(s)

X _____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

VS. :

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

NO. 05-266 CD

Type of Pleading: DEFENDANTS'
MOTION IN LIMINE

Filed on Behalf of Defendants

Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111]
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950

Counsel of Record for Opposing Party:
HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
Lea Ann Heltzel, Esquire
900 Beaver Drive
DuBois, PA 15801

FILED NO
M/10:35/01 CC
JAN 23 2006 @

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

JAMES G. BRADY TRUST AND	:	
JAMES BRADY, As Trustee,	:	
Plaintiff	:	
	:	NO. 05-266 CD
VS.	:	
	:	
PRISTINE PROPERTY	:	
HOLDINGS, DAVID P. KING	:	
AND DONALD ARAVICH,	:	
Defendants	:	Type of Pleading: DEFENDANTS'
	:	MOTION IN LIMINE

DEFENDANTS' MOTION IN LIMINE

AND NOW, comes the Defendants and files this their Motion in Limine, as follows:

1. Plaintiff filed a Motion for Summary Judgment alleging in Count III that judgment should be entered in favor of Plaintiff because Defendant was unable to deliver "a good title to the property free of all liens and encumbrances", upon the theory that the Internal Revenue Service tax lien against Defendants' predecessor in title, Susan Diane Andres, constituted a lien on title.
2. Plaintiff alleged, in Count IV of said Summary Judgment Motion, that it was entitled to judgment in its favor based upon the Fraudulent Conveyance Act.
3. Following argument and submission of briefs, Honorable Fredric J. Ammerman, P.J., entered an Opinion, filed on August 24, 2005 which determined that the facts of record were as follows:
 - A. On December 21, 2002, Susan Diane Andres *et vir* conveyed both lots to K&G Trust;
 - B. October 29, 2003, K&G Trust conveyed both parcels to Defendant, Pristine Property Holdings;

- C. On August 12, 2002, the IRS assessed a lien against Susan D. Andres;
- D. On March 3, 2004, the IRS entered a lien in the Prothonotary's Office of Clearfield County against Ms. Andres, as the Court stated "Well after Ms. Andres conveyed her interest in the property to K&G Trust on December 3, 2002."

4. The Court denied Plaintiff's Motion for Summary Judgment and ruled that: "As such, the Court concludes the tax lien is not enforceable against the real estate in question."

... Therefore, the lien is not enforceable against the property in question and did not make title to lots 107 and 108 unmarketable."

5. Judge Ammerman did not make a ruling on the Fraudulent Conveyance Act argument.

I.

PLAINTIFF SHOULD BE PRECLUDED FROM PRODUCING ANY EVIDENCE WHATSOEVER TO THE EFFECT THAT THE INTERNAL REVENUE SERVICE LIEN ENTERED OF RECORD IN CLEARFIELD COUNTY ON MARCH 3, 2004 CREATED A CLOUD ON THE TITLE.

The identical issue arose in the context of a partial Motion for Summary Judgment filed by Plaintiff. In accordance with the "law of the case doctrine", Judge Ammerman's denial of Motion for Summary Judgment, as set forth in his Court Order entered August 24, 2005 should not be attacked collaterally by Plaintiff with another Judge in the same county. Commonwealth v. Starr, 541 Pa. 564, 664 A.2d 1326 (1995).

Additionally, the issue of whether or not the Internal Revenue Service lien creates a "cloud" on title is a matter for expert opinion. No expert witness has been listed in the Plaintiff's Pre-Trial Narrative, and no expert witness report has been attached to the Pre-Trial, in accordance with the Local Rules.

WHEREFORE, Defendant requests that this Honorable Court enter an Order precluding Plaintiff from entering any evidence contrary to the Court's Order and finding that the Internal Revenue Service lien did not create an encumbrance on the real estate in question.

II.

**PLAINTIFF SHOULD BE PRECLUDED FROM SUBMITTING ANY EVIDENCE
ON THE ISSUE OF WHETHER OR NOT SUSAN DIANE ANDRES VIOLATED
THE FRAUDULENT CONVEYANCE ACT.**

Most notably, Susan Diane Andres is not a defendant in the above captioned action. A close reading of the Act makes it clear that the only party who would be able to assert a fraudulent conveyance would be the Internal Revenue Service, and not the Plaintiff, James G. Brady. The Fraudulent Conveyance Act is designed to set aside transfers by a debtor which are surreptitiously designed to defeat a creditor's claim. Plaintiff has no standing to assert a claim under the Fraudulent Conveyance Act., or to use the Act as a sword in the present cause of action against Pristine Property Holdings and Donald Aravich. Plaintiff is not a "creditor" under the Act.

This a breach of contract action between the Plaintiff and Pristine Property Holdings for the return of a down payment. The alleged breach of contract has nothing to do with the Fraudulent Conveyance Act, 12 Pa. C.S.A. §5101, et seq. Defendant did not fraudulently transfer the down payment of \$20,000.00 so as to prevent Plaintiff's recovery thereof. To the contrary, the down payment has been paid into court.

The remedies provided under the Fraudulent Conveyance Act are set forth in Section 5107, and reference to three remedies provided therein make it clear that the Act is not available to the Plaintiff in this cause of action for return of a down payment. Those remedies include:

- (1). Avoidance of the transfer or obligation *to the extent necessary to satisfy the creditor's claim.*
- (2). An attachment or other provisional remedy against the asset transferred or other property of the transferee in accordance with the procedure prescribed by applicable law.
- (3). Subject to applicable principles of equity and in accordance with applicable Rules of Civil Procedure:
 - (i) An injunction against further disposition by the debtor or transferee, or both, of the asset transferred or of other properties;
 - (ii) Appointment of a receiver to take charge of the asset transferred or of other property of the transferee;
 - (iii) Any other relief that circumstances may require.

It is clear from the above remedies, none of which the Plaintiff has requested in this case, that they are not applicable to the present factual situation where the Prothonotary is holding a \$20,000.00 down payment alleged to be. Plaintiff has no standing to set aside a transfer from Susan Diane Andres, not a party to this action, to the K&G Trust, or a subsequent transfer from the K&G Trust to the current Defendant, Pristine Property Holdings. The issue in this case is whether or not the IRS lien entered in the courthouse on March 3, 2004 prevented the Defendant Pristine Property Holdings from transferring the title to the Plaintiff free and clear of all liens and encumbrances. Arguably, the Fraudulent Conveyance Act would apply if, for instance, Pristine Property Holdings accepted the \$20,000.00 down payment from the Plaintiff; transferred the real estate (its only asset) to a third party, and refused to refund the down payment.

A similar situation arose in the case of De Armond's Estate, 55 Pa. D&C 71 (1945),

where a purchaser intended to invoke the Fraudulent Conveyance Act was held not to have standing to contest or object to a sale of real estate:

"It is also urged that the decedent's conveyance, having been made without consideration, while insolvent, was void under the Uniform Fraudulent Conveyance Act, and that the agreement of sale subsequently entered into was therefore a nullity. Assuming that the conveyance would come within that Act, the only persons entitled to attack its validity were creditors. No creditor has seen fit to assert such a remedy, and certainly the intending purchaser cannot." Id at 76.

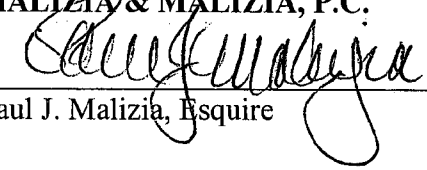
In conclusion, the case before the Court involves the narrow issue of whether or not a down payment, which has already been paid into Court, should be returned to the Plaintiff, because the Defendant allegedly breached a contract by failing to provide good and marketable title. There is also the issue of whether the Defendant breached a contract by failing to provide a forty-year abstract, or whether that issue has been waived by Plaintiff in securing its own title search. The question of whether or not Susan Diane Andres and her late husband made a fraudulent conveyance with respect to an IRS lien (which parenthetically, has since been paid in full) is entirely irrelevant to the issues before the Court.

Wherefore, Defendant respectfully requests that this Honorable Court preclude Plaintiff from entering any evidence or advancing any arguments along the lines that Susan Diane Andres, not a party to this action, violated the Fraudulent Conveyance Act.

Respectfully submitted,

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

Dated: 1/20/2006

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

NO. 05-266 CD

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

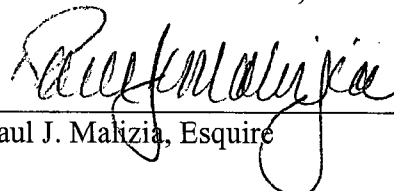
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Defendants' Motion in Limine was forwarded via first class mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 20th day of January, 2006, addressed to:

**David Hopkins, Esquire
HOPKINS HELTZEL LLP
900 Beaver Drive
DuBois, PA 15801**

MALIZIA & MALIZIA, P.C.

By: _____


Paul J. Malizia, Esquire

CA

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

JAMES G. BRADY TRUST AND
JAMES BRADY, as Trustee

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING AND DONALD
ARAVICH

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:
: No. 05-266-CD
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:

ORDER

AND NOW, this 25th day of January, 2006, upon consideration of Defendants' Motion in Limine filed in the above matter, it is the Order of the Court that argument via telephone conference call has been scheduled for the 3rd day of February, 2006, at 10:00 A.M, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


PAUL E. CHERRY
Judge

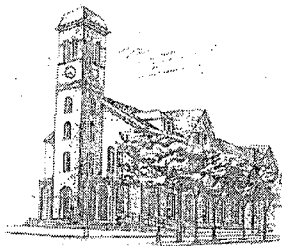
FILED

9/10:34 am

JAN 27 2006

William A. Shaw
Prothonotary

cc to Atty's:
D. Hopkins
P. Malizia
- def. D. King at
23 Beaver Dr.
PO Box 1016
Dubois PA 15801



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

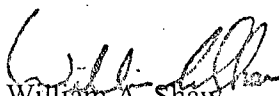
Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,


William A. Shaw
Prothonotary

DATE: 01-27-2006

_____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

X Plaintiff(s)/Attorney(s)

X Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

NO. 05-266-C.D.

Type of Case: Civil

Type of Pleading: Certificate of
Service

Filed on behalf of: David P. King

Counsel of Record for this Party:
David P. King, Esquire
23 Beaver Drive
P. O. Box 1016
DuBois, PA 15801
(814) 371-3760

Supreme Court No. 22980

FILED ^{NO} ^{CC}
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William A. Shaw
Prothonotary/Clerk of Courts

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

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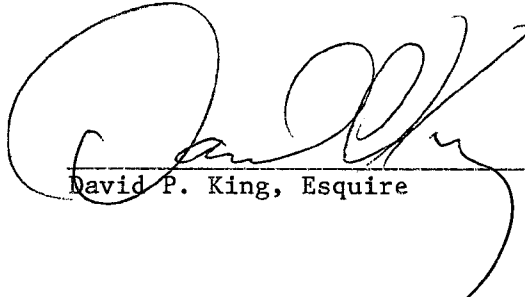
CERTIFICATE OF SERVICE

The undersigned, DAVID P. KING, does hereby certify that a true and correct copy of the Petition/Interpleader, as filed by the undersigned, DAVID P. KING, was served upon all the other parties in this matter, as was a certified copy of the Court's Rule Returnable on March 21, 2005, the same forwarded via first class mail, postage prepaid, in the United States Post Office in DuBois, PA, on the 21st day of March, 2005, and addressed to the following:

Paul J. Malizia, Esquire
Malizia & Malizia, P.C.
P. O. Box 111
Emporium, PA 15834

Donald Aravich
1160 Treasure Lake
DuBois, PA 15801

David J. Hopkins, Esquire
Hopkins Heltzel LLP
900 Beaver Drive
DuBois, PA 15801


David P. King, Esquire

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

NO. 05-266-C.D.

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William A. Shaw
Prothonotary/Clerk of Courts
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ORDER

AND NOW, this 15th day of February, 2006, in consideration of the Petition of David P. King, nominal Defendant in the above matter, and after a Rule Returnable date having been set for the filing of a Response thereto, and with no Response having been filed, it is the Order of this Court as follows:

- (a) That the nominal Defendant, DAVID P. KING, shall deposit into the Office of the Prothonotary the sum of \$20,000.00, as it is being held in escrow by him.
- (b) The nominal Defendant, DAVID P. KING, upon the deposit of such monies, is hereby discharged from all liability in this case, as well as for any costs accruing therein.
- (c) The Plaintiff, or Plaintiff's Attorney, shall immediately file a Praecipe with the Prothonotary reflecting that the Complaint has been withdrawn as to the nominal Defendant, DAVID P. KING.
- (d) Such Praecipe as referenced above shall be filed by the Plaintiffs within ten (10) days of Notice of the deposit of such funds with the Prothonotary as per paragraph (a) above.

BY THE COURT:

Paul E. Cherry

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

No. 05-266 C.D.

Type of Pleading: Petition to Strike
David Hopkins, Esquire, from
Witness List of Defendants

Filed on behalf of: James G. Brady Trust
and James Brady as Trustee, Plaintiffs

Counsel of Record for this party:
HOPKINS HELTZEL LLP

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

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

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED
017:5561
FEB 03 2006

William A. Shaw
Prothonotary/Clerk of Courts

2cc
Atty Hopkins
C

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiffs

vs.

No. 05-266 C.D.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

PETITION TO STRIKE DAVID HOPKINS, ESQUIRE,
FROM WITNESS LIST OF DEFENDANTS

AND NOW, comes Plaintiffs, the James G. Brady Living Trust and James Brady, as Trustee, by and through his attorneys, Hopkins Heltzel, LLP, and files the within Petition to Strike David Hopkins, Esquire, from the Witness List of Defendants.

1. Petitioners are the James G. Brady Living Trust and James Brady as Trustee.
2. Respondents are Pristine Property Holdings and Donald Aravich.
3. On or about January 24, 2006, Respondents filed a Supplemental Pre-Trial Narrative naming David Hopkins, Esquire, as a liability and damages witness.
4. David Hopkins, Esquire, should be stricken from the Defendants' Witness List inasmuch as all knowledge David Hopkins has acquired in this case has been as a result of representation of Plaintiffs.
5. Pennsylvania Rules of Professional Conduct 3.7 prohibit a lawyer as acting as a witness.

6. The alleged reason Respondents named Hopkins as a witness is to ascertain the motives of Plaintiffs following the execution of the real estate contract between Plaintiffs and Defendants. All such information is subject to the attorney/client privilege and is not discoverable in Pre-Trial discovery or at Trial.

7. The Petitioners believe the actions of Defendants in naming David Hopkins, Esquire as a witness is merely for the purpose of causing Plaintiffs to obtain additional counsel.

8. In the event the Court does not strike David Hopkins, Esquire, from the Witness List of Defendants, Plaintiffs respectfully requests this case be removed from the Trial List until such time as Plaintiffs can obtain additional counsel.

Respectfully submitted,

HOPKINS HELTZEL, LLP


David J. Hopkins, Esquire
Attorney for Plaintiff

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.


No. 05-266 C.D.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Petition to Strike David Hopkins, Esquire, from Witness List of Defendant, filed on behalf of Plaintiffs, James G. Brady Trust and James Brady, as Trustee, was forwarded by facsimile and first class mail, postage prepaid, on the 3rd day of February, 2006, to all counsel of record, addressed as follows:

Paul J. Malizia, Esquire
Malizia & Malizia, P.C.
25 East Fourth Street
P.O. Box 111
Emporium, PA 15834


David J. Hopkins, Esquire
Attorney for Plaintiff

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

No. 05-266 C.D.

Type of Pleading: Answer to
Defendants' Motion in Limine

Filed on behalf of: James G. Brady Trust
and James Brady as Trustee, Plaintiffs

Counsel of Record for this party:
HOPKINS HELTZEL LLP

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

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

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED
FEB 03 2006

2 cc
Atty Hopkins
GR

William A. Shaw
Prothonotary/Clerk of Courts

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiffs

vs.

No. 05-266 C.D.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

ANSWER TO DEFENDANTS' MOTION IN LIMINE

AND NOW, comes Plaintiffs, James G. Brady Living Trust and James Brady, as Trustee, by and through their attorneys, Hopkins Heltzel, LLP, and answers Defendants' Motion in Limine as follows:

1. Admitted in part and denied in part. Plaintiffs admit filing a Motion for Summary Judgment. Plaintiffs deny the sole theory was that the Internal Revenue Service tax lien against Defendants' predecessor in title, Susan Diane Andres, constituted a lien on title. Rather, Plaintiffs' theory is that in viewing the totality of the circumstances, the Defendants' title was not good and marketable and not insurable by a title insurance company.

2. Admitted.

3. Denied. Judge Ammerman did not make any findings of facts on the record.

4. Admitted.

5. Admitted.

I.

SHOULD PLAINTIFFS BE PRECLUDED FROM PRODUCING ANY EVIDENCE WHATSOEVER TO THE EFFECT THAT THE INTERNAL REVENUE SERVICE LIEN ENTERED OF RECORD IN CLEARFIELD COUNTY ON MARCH 3, 2004 CREATED A CLOUD ON THE TITLE.

Suggested Answer: No.

The issue of what constitutes good and marketable title is one of the key points in the case to be presented at trial. It is generally accepted that good and marketable title constitutes insurable title.

Evidence will be shown at trial that the transfers from Susan Diane Andres to K & G Trust to Pristine Property Holdings was presented to a title insurance company who thereafter rejected the title to the property. Included in the analysis of what constituted good and marketable title was the federal tax lien and its relationship with the Fraudulent Conveyance Act. In the case at bar, Plaintiffs will prove through Penn Attorneys Title Insurance Company that as a result of the numerous and economically senseless transfers, that the property is subject to the federal tax lien regardless of when it was filed.

The title insurance company will testify that ability of creditors of Susan Diane Andres to attack the transfers of the property as being a fraudulent conveyance causes the property to nevertheless be subject to the federal tax lien. Consequently, the issue of the existence of the federal tax lien was an important consideration by the title insurance company not to insure title to the property.

WHEREFORE, Plaintiffs should not be precluded from introducing evidence of the federal tax lien.

II.

SHOULD PLAINTIFFS BE PRECLUDED FROM SUBMITTING ANY EVIDENCE ON THE ISSUE OF WHETHER OR NOT SUSAN DIANE ANDRES VIOLATED THE FRAUDULENT CONVEYANCE ACT.

Suggested Answer: No.

Initially, the Court should recognize that Judge Ammerman in his Order on Partial Summary Judgment states the issue of fraudulent activities must be developed more fully.

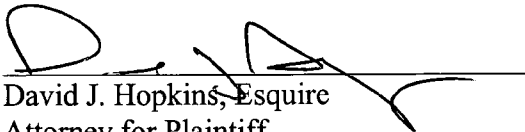
Plaintiffs present the theory of fraudulent conveyance by Susan Diane Andres for the purpose of showing that other creditors of Susan Diane Andres may present similar arguments that would be successful if a creditor successfully argued the Fraudulent Conveyance Act was appropriate, title to the property would be undetermined. Consequently, in determining whether Pristine Property Holdings maintain good and marketable title, it is necessary to determine whether a creditor could present an action under the Fraudulent Conveyance Act. If a creditor could present such an argument, then title is not good and marketable until such time as the Statute of Limitations for such action had expired. The issue of a fraudulent conveyance is further warranted inasmuch as the fraudulent conveyance issue was a consideration by the title insurance company in refusing to insure title.

In conclusion, it is not the purpose of Plaintiffs to re-establish title in the name of Susan Diane Andres, but rather, for the purpose of showing that Pristine Property Holdings did not hold good and marketable title such as was insurable.

WHEREFORE, Plaintiffs should be permitted to present evidence of Susan Diane Andres' violation of the Fraudulent Conveyance Act.

Respectfully submitted,

HOPKINS HELTZEL, LLP



David J. Hopkins, Esquire
Attorney for Plaintiff

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

No. 05-266 C.D.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Answer to Motion in Limine, filed on behalf of Plaintiffs, James G. Brady Trust and James Brady, as Trustee, was forwarded by facsimile and first class mail, postage prepaid, on the 3rd day of February, 2006, to all counsel of record, addressed as follows:

Paul J. Malizia, Esquire
Malizia & Malizia, P.C.
25 East Fourth Street
P.O. Box 111
Emporium, PA 15834


David J. Hopkins, Esquire
Attorney for Plaintiffs

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

JAMES G. BRADY and
JAMES BRADY TRUSTEE,
Plaintiff,

vs.

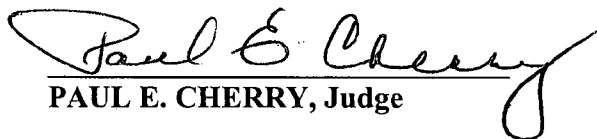
PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and
DONALD ARAVICH,
Defendant.

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No. 05 - 266 - CD
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ORDER OF COURT

AND NOW, this 3rd day of February, 2006, following argument on Defendant's Motion in Limine, **IT IS THE ORDER OF THIS COURT** that counsel provide the Court with appropriate briefs by no later than February 21, 2006.

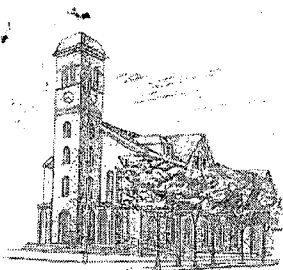
BY THE COURT:


PAUL E. CHERRY, Judge

FILED
01/07/2006
FEB 07 2006

William A. Shaw
Prothonotary/Clerk of Courts

icc Atty's:
Hopkins
King
Mazzia
G



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 2/7/06

_____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

X Plaintiff(s)/Attorney(s)

X Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

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

JAMES G. BRADY and
JAMES BRADY TRUSTEE,
Plaintiff,

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and
DONALD ARAVICH,
Defendant.

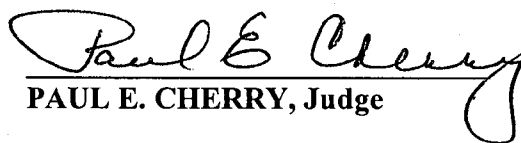
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No. 05 - 266 - CD

ORDER OF COURT

AND NOW, this 3rd day of February, 2006, following argument on Petition to Strike David Hopkins, Esquire from defendant's witness list, upon representation of Paul Malizia, Esquire that he is withdrawing said name from his witness list, **IT IS THE ORDER OF THIS COURT** that said name shall be and is hereby stricken.

BY THE COURT:

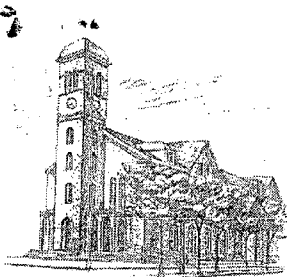

PAUL E. CHERRY, Judge

FILED
10/10/08
FEB 07 2006

William A. Shaw
Prothonotary/Clerk of Courts

icc Atlys:
Hopkins
malizia
King

GP



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 2/7/06

____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

X Plaintiff(s)/Attorney(s)

X Defendant(s)/Attorney(s)

____ Other

____ Special Instructions:

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

NO. 05-266-C.D.

Type of Case: Civil


Type of Pleading: Praeipue to
Withdraw Complaint Against One
Defendant

Filed on behalf of: Plaintiff

Counsel of Record for this Party:
David J. Hopkins, Esquire
Hopkins Heltzel LLP
900 Beaver Drive
DuBois, PA 15801

Supreme Court No. 42519

FILED 2cc
10:44 AM
FEB 13 2006
mailed from
William A. Shaver
Prothonotary/Clerk of Courts
Any King


David J. Hopkins, Esquire
Attorney for Plaintiffs

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

NO. 05-266 CD

**Type of Pleading: PREREQUISITE TO
SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.22**

Filed on Behalf of Defendants

**Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950**

**Counsel of Record for Opposing Party:
HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
Lea Ann Heltzel, Esquire
900 Beaver Drive
DuBois, PA 15801**

FILED

FEB 17 2006

m/10:45/UPM
William A. Shaw
Prothonotary/Clerk of Courts

no e/c

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

VS. :

NO. 05-266 CD

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

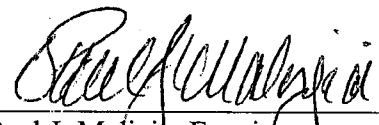
**PREREQUISITE TO SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- (1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served;
- (2) a copy of the notice of intent, including the proposed subpoena, is attached to this certificate;
- (3) no objection to the subpoena has been received, and
- (4) the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Date:

2/15/2006


Paul J. Malizia, Esquire
Attorney for Defendants

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

NO. 05-266 CD

**Type of Pleading: NOTICE OF INTENT
TO SERVE SUBPOENA TO PRODUCE
DOCUMENTS FOR DISCOVERY
PURSUANT TO RULE 4009.21**

Filed on Behalf of Defendants

**Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950**

**Counsel of Record for Opposing Party:
HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
Lea Ann Heltzel, Esquire
900 Beaver Drive
DuBois, PA 15801**

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

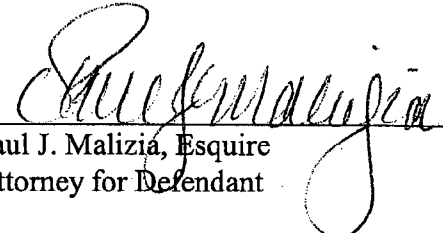
VS. :

NO. 05-266 CD

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

NOTICE OF INTENT TO SERVE SUBPOENA TO
PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.21

Plaintiff intends to serve subpoena identical to the one attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.


Paul J. Malizia, Esquire
Attorney for Defendant

Dated: 1-25-2006

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

James G. Brady
James Brady
Plaintiff(s)

Vs.

Pristine Property Holdings
David P. King
Donald Aravich
Defendant(s)

No. 2005-00266-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: David J. Hopkins, Esquire
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

Copies of all correspondence to and from the law firm of Hopkins Heltzel, LLP and Penn Attorneys Title Insurance Co. in connection with the application for title insurance on behalf of Plaintiff, James Brady Trust, and James Brady.
(Address)

MALIZIA & MALIZIA, P.C.S., 25 E. Fourth St., Emporium, PA 15834
You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Paul J. Malizia, Esquire
ADDRESS: 25 E. Fourth St.
Emporium, PA 15834
TELEPHONE: 814-486-1181
SUPREME COURT ID # 35950
ATTORNEY FOR: Defendants

DATE: Monday, January 23, 2006
Seal of the Court

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division
WILLIAM A. SHAW
Prothonotary

My Commission Expires
1st Monday in Jan. 2010
Clearfield Co. Clearfield, PA
Deputy

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

NO. 05-266 CD

VS.

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Notice of Intent to Serve a Subpoena to Produce Documents for Discovery was forwarded via first class mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 25th day of January ____, 2006, addressed to the following:

**David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801**

MALIZIA & MALIZIA, P.C.

BY:


Paul J. Malizia, Esquire

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

NO. 05-266 CD

**Type of Pleading: NOTICE OF INTENT
TO SERVE SUBPOENA TO PRODUCE
DOCUMENTS FOR DISCOVERY
PURSUANT TO RULE 4009.21**

Filed on Behalf of Defendants

**Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950**

**Counsel of Record for Opposing Party:
HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
Lea Ann Heltzel, Esquire
900 Beaver Drive
DuBois, PA 15801**

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

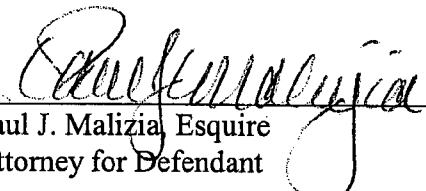
VS. :

NO. 05-266 CD

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

**NOTICE OF INTENT TO SERVE SUBPOENA TO
PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.21**

Plaintiff intends to serve subpoena identical to the one attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.


Paul J. Malizia Esquire
Attorney for Defendant

Dated: 1/25/2006

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

James G. Brady
James Brady
Plaintiff(s)

Vs.

Pristine Property Holdings
David P. King
Donald Aravich
Defendant(s)

No. 2005-00266-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: Penn Attorneys Title Insurance

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

Copies of all correspondence between Attorney David J. Hopkins and Penn Attorneys Title Insurance Company with respect to the "James G. Brady Trust" file, file no. 131807.

(Address)

MALIZIA & MALIZIA, P.C., 25 E. Fourth St., Emporium, PA 15834

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Paul J. Malizia, Esquire

ADDRESS: 25 E. Fourth St.

Emporium, PA 15834

TELEPHONE: 814-486-1181

SUPREME COURT ID # 35950

ATTORNEY FOR: Defendants.

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division
WILLIAM A. SHAW
Prothonotary

My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

DATE: Monday, January 23, 2006

Seal of the Court

Deputy

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

VS. :

NO. 05-266 CD

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :


CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Notice of Intent to Serve a Subpoena to Produce Documents for Discovery was forwarded via first class mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 25th day of January ____, 2006, addressed to the following:

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

MALIZIA & MALIZIA, P.C.

BY:


Paul J. Malizia, Esquire

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

NO. 05-266 CD

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

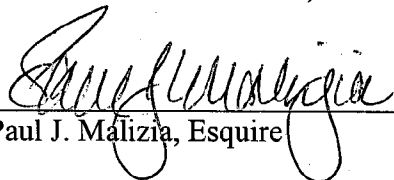
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22 was forwarded via first class mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 15th day of February, 2006, addressed to:

David Hopkins, Esquire
HOPKINS HELTZEL LLP
900 Beaver Drive
DuBois, PA 15801

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiff,

No. 05-266-C.D.

v.


PRISTINE PROPERTY HOLDINGS, et al.,
Defendants.

ORDER

NOW, this 28th day of February 2006, following argument on the Motion in Limine filed on behalf of Defendant, Pristine Property Holdings, et al. and upon consideration of the same, the Court HEREBY FINDS AS FOLLOWS:

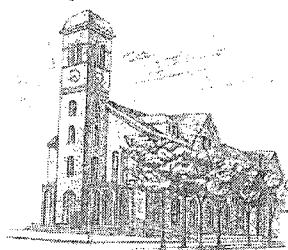
1. The Plaintiff shall be precluded from introducing any evidence related to alleged unmarketable title as a result of the Internal Revenue Service Tax Lien. The Opinion entered by Judge Ammerman, dated August 24, 2005, established as a matter of law that the I.R.S. tax lien was not enforceable against the property in question.
2. The Plaintiff shall be precluded from alleging that Susan D. Andres violated the Uniform Fraudulent Conveyance Act when conveying the property in question. The Uniform Fraudulent Conveyance Act expressly provides a creditor only may proceed under the Act. As such, the Plaintiff cannot rely upon the Act to illustrate how the various conveyances may be susceptible to potential creditors.

BY THE COURT,


PAUL E. CHERRY
Judge

FILED 2cc Anyis:
012:42371 Hopkins
MAR 01 2006 Malizia

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 3/1/06

 You are responsible for serving all appropriate parties.

 X The Prothonotary's office has provided service to the following parties:

 X Plaintiff(s)/Attorney(s)

 X Defendant(s)/Attorney(s)

 Other

 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

JAMES G. BRADY TRUST and :

JAMES BRADY, as Trustee :

VS. : NO. 05-266-CD

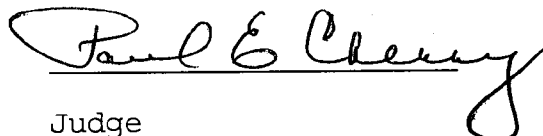
PRISTINE PROPERTY HOLDINGS, :

DAVID P. KING and DONALD ARAVICH:

O R D E R

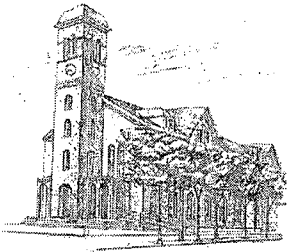
AND NOW, this 13th day of March, 2006, the Court being in receipt of a statement from Maria Gina Tiomico-Trahan, M.D., indicating that it is medically necessary that Plaintiff, James Brady, not go out of town until his medical issues stabilize, it is the ORDER of this Court that Plaintiff's Request for continuance shall be an is hereby granted and the trial scheduled for March 15 and 16, 2006, shall be and is hereby continued until May 17 and 18, 2006, at 9:00 a.m.

BY THE COURT,


Judge

FILED ^{2cc}
01/10/28/01
MAR 14 2006
Atty's Hopkins
Malizia
CR

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 3/14/06

 You are responsible for serving all appropriate parties.

 X The Prothonotary's office has provided service to the following parties:

 X Plaintiff(s)/Attorney(s)

 X Defendant(s)/Attorney(s)

 Other

 Special Instructions:

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

VS. :

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

NO. 05-266 CD

Type of Pleading: PREREQUISITE TO
SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.22

Filed on Behalf of Defendants

Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950

Counsel of Record for Opposing Party:
HOPKINS WELTZEL, LLP
David J. Hopkins, Esquire
Lea Ann Heltzel, Esquire
900 Beaver Drive
DuBois, PA 15801

FILED
MAR 15 2006
William A. Shaw
Prothonotary/Clerk of Courts

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

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

NO. 05-266 CD

VS. :

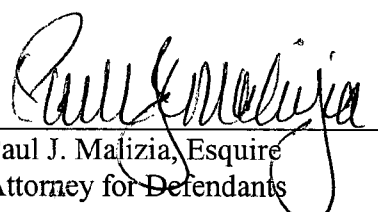
PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

**PREREQUISITE TO SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- (1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served;
- (2) a copy of the notice of intent, including the proposed subpoena, is attached to this certificate;
- (3) no objection to the subpoena has been received, and
- (4) the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Date: 3/8/2006


Paul J. Malizia, Esquire
Attorney for Defendants

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

NO. 05-266 CD

**Type of Pleading: NOTICE OF INTENT
TO SERVE SUBPOENA TO PRODUCE
DOCUMENTS FOR DISCOVERY
PURSUANT TO RULE 4009.21**

Filed on Behalf of Defendants

**Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950**

**Counsel of Record for Opposing Party:
HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
Lea Ann Heltzel, Esquire
900 Beaver Drive
DuBois, PA 15801**

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

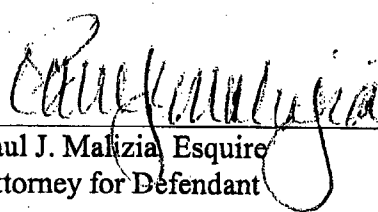
VS. :

NO. 05-266 CD

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

**NOTICE OF INTENT TO SERVE SUBPOENA TO
PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.21**

Plaintiff intends to serve subpoena identical to the one attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.


Paul J. Malizia Esquire
Attorney for Defendant

Dated: 2/15/06

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

James G. Brady
James Brady
Plaintiff(s)

Vs.

Pristine Property Holdings
David P. King
Donald Aravich
Defendant(s)

No. 2005-00266-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: Rebecca Latimer 100 Rainey Lane, Mahaffey, PA 15757
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

Copies of all correspondence to and from the law firm of Hopkins, Heltzel, LLP and Rebecca Latimer, in connection with the title search you performed on real estate owned by Pristine Property Holdings.

(Address)

MALIZIA LAW OFFICES, 25 E. Fourth St., Emporium, PA 15834

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Paul J. Malizia, Esq.

ADDRESS: 25 E. Fourth St.

Emporium, PA 15834

TELEPHONE: 814-48601181

SUPREME COURT ID # 35950

ATTORNEY FOR: Defendants

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil

WILLIAM A. SHAW
Prothonotary

My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

DATE: Wednesday, February 01, 2006
Seal of the Court

Deputy

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

NO. 05-266 CD

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

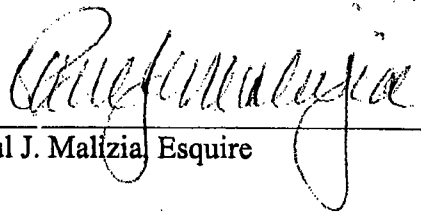
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Notice of Intent to Serve a Subpoena to Produce Documents for Discovery was forwarded via first class mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 15th day of February, 2006, addressed to the following:

**David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801**

MALIZIA & MALIZIA, P.C.

BY:


Paul J. Malizia, Esquire

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

NO. 05-266 CD

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

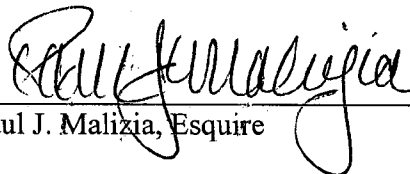
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22 was forwarded via first class mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 8th day of MARCH, 2006, addressed to:

David Hopkins, Esquire
HOPKINS HELTZEL LLP
900 Beaver Drive
DuBois, PA 15801

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

pristineCONSENT/3/15/06

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

VS. :

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

NO. 05-266 CD

Type of Filing: Defendants' Consent
To Amendment of New Matter

Filed on Behalf of Defendants

Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950

Counsel of Record for Opposing Party:
HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
Lea Ann Heltzel, Esquire
900 Beaver Drive
DuBois, PA 15801

FILED NO
MAR 17 2006 CC

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

VS. :

NO. 05-266 CD

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

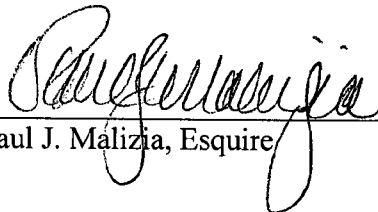
CONSENT TO AMENDMENT OF
NEW MATTER

AND NOW, comes Paul J. Malizia, attorney for Pristine Property Holdings and Donald Aravich and states that he consents to the filing of Amended New Matter by the Plaintiff.

Respectfully submitted,

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

Dated: March 15, 2006

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

NO. 05-266 CD

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**


CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent to Amendment of New Matter was forwarded in the U.S. Mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 15th day of March, 2006, addressed to:

David J. Hopkins, Esquire
900 Beaver Dr.
DuBois, PA 15801

MALIZIA & MALIZIA, P.C.

BY:



Paul J. Malizia, Esquire

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiffs

vs.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

No. 05-266 C.D.

Type of Pleading: Amended New
Matter

Filed on behalf of: James G. Brady Trust
and James Brady as Trustee, Plaintiffs

Counsel of Record for this party:
HOPKINS HELTZEL LLP

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

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

900 Beaver Drive
DuBois, Pennsylvania 15801

FILED ^{ICC}
019:56301 Amy Hopkins
MAR 27 2006
(UN)

William A. Shaw
Prothonotary/Clerk of Courts

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiffs

vs.

No. 05-266 C.D.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

AMENDED NEW MATTER

AND NOW, comes Plaintiffs James G. Brady Living Trust and James Brady, as Trustee, by and through his attorneys, Hopkins Heltzel, LLP, and amends his New Matter to add the following:

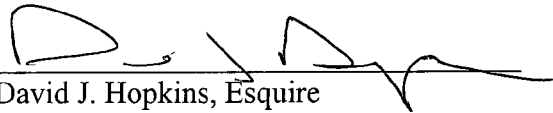
66. Defendants' claims are barred inasmuch as Defendants have failed to mitigate its damages.

67. Defendants' counterclaims are barred inasmuch as Defendants' property has increased in value substantially since the date of the alleged breach by Plaintiff.

68. Defendants' counterclaims are barred inasmuch as Defendants have not suffered any financial loss as a result of Plaintiff's alleged breach.

Respectfully submitted,

HOPKINS HELTZEL, LLP


David J. Hopkins, Esquire
Attorney for Plaintiff

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiffs

vs.

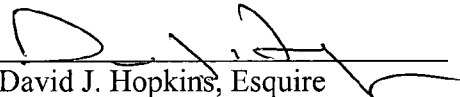
No. 05-266 C.D.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Amended New Matter, filed on behalf of Plaintiffs, James G. Brady Trust and James Brady, as Trustee, was forwarded by first class mail, postage prepaid, on the 24th day of March, 2006, to all counsel of record, addressed as follows:

Paul J. Malizia, Esquire
Malizia & Malizia, P.C.
25 East Fourth Street
P.O. Box 111
Emporium, PA 15834


David J. Hopkins, Esquire
Attorney for Plaintiffs

pristineREPLY/3/15/06

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

NO. 05-266 CD

**Type of Filing: Defendants Pristine Property
Holdings and Donald Aravich's Reply to
New Matter**

Filed on Behalf of Defendants

**Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.
Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950**

**Counsel of Record for Opposing Party:
HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
Lea Ann Heltzel, Esquire
900 Beaver Drive
DuBois, PA 15801**

FILED *no*
m/10:31:30
MAR 30 2006 *ec*
William A. Shaw
Prothonotary/Clerk of Courts

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

VS. :

NO. 05-266 CD

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

**DEFENDANTS PRISTINE PROPERTY HOLDING AND
DONALD ARAVICH'S REPLY TO NEW MATTER**

AND NOW, comes Paul J. Malizia, attorney for Defendants Pristine Property Holdings and Donald Aravich, and files this their Reply to Plaintiff's Amended New Matter, as follows:

66. Said allegation is a conclusion of law to which no response is required however, if a response is required, then it is denied that Defendants' claims are barred inasmuch as Defendants have failed to mitigate their damages, for the reason Defendant has listed the property for sale and has attempted to sell the same, to no avail. By way of further response, Defendant is entitled to keep the down payment as a result of Plaintiff's breach of the agreement to purchase the property.

67. Said allegation is a conclusion of fact with no legal basis and no response is required. To the extent a response is required, then the same is denied for the reason that Defendants are without knowledge or information sufficient to form a belief as to the truth of said averment, and strict proof is demanded at time of trial and further, Defendant Pristine

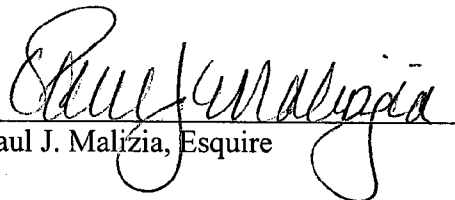
Property Holdings is entitled to keep and retain the down payment for the reason that Plaintiff breached the Agreement of Sale by refusing to purchase the real estate.

68. Denied for the reason that Defendant is without knowledge or information sufficient to form a belief as to the truth of said averment and strict proof is demanded at time of trial. To the extent an answer is required, it is denied that Defendants have not suffered any financial loss and on the contrary, Defendants have expended substantial sums in furtherance of the real estate closing which did not occur as a result of Plaintiff's breach of the agreement of sale.

Respectfully submitted,

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

Dated:

3/28/2006

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

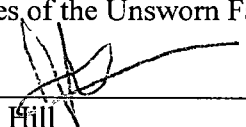
NO. 05-266 CD

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

VERIFICATION

I, Joseph Hill verify that the facts set forth in the foregoing Defendants' Reply to New Matter are true and correct to the best of my knowledge, information and belief. I understand that false statements made are subject to the penalties of the Unsworn Falsification Act.



Joseph Hill

DATED: 3-16-06

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

NO. 05-266 CD

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**


CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Defendants' Reply to New Matter was forwarded in the U.S. Mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 28th day of March, 2006, addressed to:

David J. Hopkins, Esquire
900 Beaver Dr.
DuBois, PA 15801

MALIZIA & MALIZIA, P.C.

BY:


Paul J. Malizia, Esquire

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

VS. :

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

NO. 05-266 CD

Type of Pleading: NOTICE TO ATTEND

Filed on Behalf of Defendants

Counsel of Record for this Party:

MALIZIA & MALIZIA, P.C.

Paul J. Malizia, Esquire

25 East Fourth St., P.O. Box 111

Emporium, PA 15834

(814) 486-1181

PA ID No. 35950

Counsel of Record for Opposing Party:

HOPKINS HELTZEL, LLP

David J. Hopkins, Esquire

Lea Ann Heltzel, Esquire

900 Beaver Drive

DuBois, PA 15801

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

NO. 05-266 CD

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

Type of Pleading: NOTICE TO ATTEND

NOTICE TO ATTEND

TO: James G. Brady


1. You are directed to come to the Clearfield County Courthouse, in Clearfield, Pennsylvania on the 1st day of May, 2006 at 2:30 P.M., to testify on behalf of Defendant, Pristine Property Holdings.

2. And bring with you the following:

N/A

If you fail to attend or to produce the documents or things required by this Notice to Attend, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.

DATED: May 3, 2006



**Paul J. Malizia, Attorney
Defendant Pristine Property Holdings**

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

**JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :**

NO. 05-266 CD

VS. :

**PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Notice to Attend was forwarded via first class mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 3rd day of May, 2006, addressed to:

David J. Hopkins, Esquire
HOPKINS HELTZEL LLP
900 Beaver Drive
DuBois, PA 15801

MALIZIA & MALIZIA, P.C.

By: _____

Paul J. Malizia, Esquire

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

JAMES G. BRADY TRUST and
JAMES BRADY, as Trustee,
Plaintiffs

vs.

No. 05-266 C.D.

PRISTINE PROPERTY HOLDINGS,
DAVID P. KING and DONALD ARAVICH,
Defendants

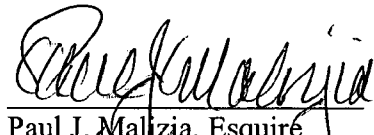
CONSENT ORDER

AND NOW, this matter having come before the Court and it appearing Plaintiff and Defendant have entered into an agreement to settle this case;

It is this 24th day of May, 2006, ORDERED and ADJUDGED as follows:

1. The Clearfield County Prothonotary shall pay over \$17,500.00 to Paul J. Malizia, Esquire, as attorney for Pristine Property Holdings and Donald Aravich;
2. The Prothonotary of Clearfield County shall pay all remaining funds to David J. Hopkins, Esquire, as Attorney for the James G. Brady Living Trust and James Brady, as Trustee;
3. This case is marked settled, discontinued and ended with prejudice.

I consent to the form and entry of the within Order.


Paul J. Malizia, Esquire
5/18/2006


David J. Hopkins, Esquire

BY THE COURT,

FILED

014:0061
MAY 24 2006

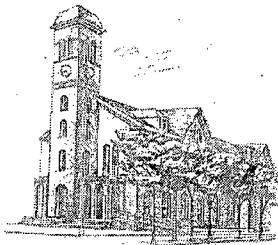
William A. Shaw
Prothonotary/Clerk of Courts

Atty: Hopkins
Malizia

w/ checks

OK


JUDGE



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 5/24/06

_____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

X Plaintiff(s)/Attorney(s)

X Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

CLEARFIELD COUNTY PROTHONOTARY

7-83

1196

~~ALLEN D. BIETZ~~ WILLIAM A. SHAW
ESCROW ACCOUNT
P.O. BOX 549
CLEARFIELD, PA 16830

MAY 26,

2006

60-629/313

PAY
TO THE
ORDER OF

PAUL J. MALIZIA, ESQ.

\$ 17,500.00

SEVENTEEN THOUSAND FIVE HUNDRED AND 00/100

DOLLARS



Main Office
11 North 2nd Street
Clearfield, PA 16830

IMMA

FOR OS-226-CD PER COURT ORDER

William A. Shaw

⑆031306294⑆ 1 2 26577 2⑈ 1196

CLEARFIELD COUNTY PROTHONOTARY

7-83

1197

ALLEN D. BIETZ
ESCROW ACCOUNT
P.O. BOX 549
CLEARFIELD, PA 16830

MAY 26

2006

60-629/313

PAY
TO THE
ORDER OF

DAVID J. HOPKINS, ESQ.

\$ 2,393.59

TWENTY-THREE HUNDRED NINETY-THREE AND 59/100

DOLLARS



Main Office
11 North 2nd Street
Clearfield, PA 16830

IMMA

FOR OS-226-CD PER COURT ORDER

William A. Shaw

⑆031306294⑆ 1 2 26577 2⑈ 1197

Clearfield County Court of Common Pleas

NO. 0020307

DISBURSEMENT

Monday, July 10, 2006

Paid to: Paul J. Malizia, Esq.

\$17500.00

Seventeen Thousand Five Hundred and 00/100 Dollars

Case: 2005-00266-CD

vs G. Brady, etal. vs. Pristine Property Holdings, etal.

For: Trust

17500.00 William A. Shaw, Prothonotary/Clerk of Courts

By: _____

Deputy Clerk

Clerk: BILLSHAW

NOT NEGOTIABLE

Clearfield County Court of Common Pleas

NO. 0020308

DISBURSEMENT

Monday, July 10, 2006

Paid to: David J. Hopkins, Esq.

\$2393.59

DuBois PA 15801

Two Thousand Three Hundred Ninety-Three and 59/100 Dollars

Case: 2005-00266-CD

vs G. Brady, etal. vs. Pristine Property Holdings, etal.

For: Trust

2393.59 William A. Shaw, Prothonotary/Clerk of Courts

By: _____

Deputy Clerk

Clerk: BILLSHAW

NOT NEGOTIABLE

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

JAMES G. BRADY TRUST AND
JAMES BRADY, as Trustee

V.

PRISTINE PROPERTY HOLDINGS,
AND DONALD ARAVICH

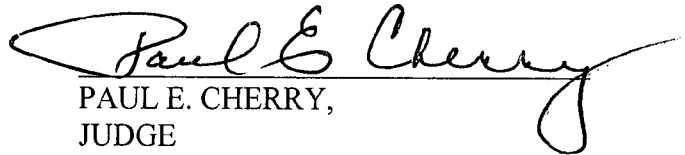
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NO. 05-266-CD

ORDER

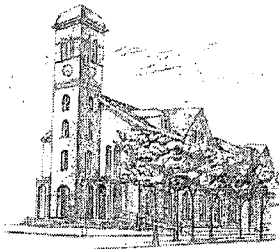
AND NOW, this 16th day of May, 2006, the Court having been advised by counsel that an agreement has been reached with regard to this matter, it is the ORDER of this Court that Civil Non-Jury Trial scheduled for May 17, 18, 2006, be and is hereby cancelled. It is the further ORDER of this Court that the parties shall submit to the Court a signed Stipulation or Order within fifteen (15) days of this date.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED 2cc Atty's:
03:59 PM Hopkins
MAY 19 2006 Malizia

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 5/19/06

 You are responsible for serving all appropriate parties.

 X The Prothonotary's office has provided service to the following parties:

 X Plaintiff(s)/Attorney(s)

 X Defendant(s)/Attorney(s)

 Other

 Special Instructions:

Just for
file

TX
R

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

VS. :

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

NO. 05-266 CD

Type of Pleading: DEFENDANTS'
SUPPLEMENTAL PRETRIAL NARRATIVE

Filed on Behalf of Defendants

Counsel of Record for this Party:
MALIZIA & MALIZIA, P.C.

Paul J. Malizia, Esquire
25 East Fourth St., P.O. Box 111]
Emporium, PA 15834
(814) 486-1181
PA ID No. 35950

Counsel of Record for Opposing Party:
HOPKINS HELTZEL, LLP
David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

RECEIVED

MAR 13 2006

COURT ADMINISTRATOR'S
OFFICE

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

NO. 05-266 CD

VS. :

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

DEFENDANTS' SUPPLEMENTAL
PRETRIAL NARRATIVE

AND NOW, comes Paul J. Malizia attorney for Defendant Pristine Property Holdings,
and Donald Aravich, files this their Supplemental Pre-Trial Narrative as follows:

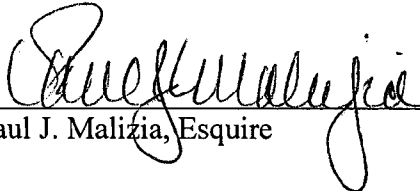
3. WITNESSES:

F. David Hopkins, Esquire, 900 Beaver Dr., DuBois, PA 15801.
(Liability and Damage).

Respectfully submitted,

MALIZIA & MALIZIA, P.C.

By:


Paul J. Malizia, Esquire

Dated: March 10, 2006

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES G. BRADY TRUST AND :
JAMES BRADY, As Trustee, :
Plaintiff :

NO. 05-266 CD

VS. :

PRISTINE PROPERTY :
HOLDINGS, DAVID P. KING :
AND DONALD ARAVICH, :
Defendants :

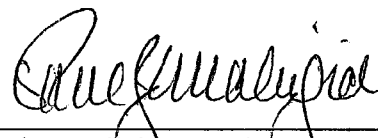
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Defendants' Supplemental Pre-Trial Narrative was forwarded in the U.S. Mail, postage prepaid in the United States Post Office in Emporium, Pennsylvania on this the 13th day of March, 2006, addressed to:

David J. Hopkins, Esquire
900 Beaver Dr.
DuBois, PA 15801

MALIZIA & MALIZIA, P.C.

BY:


Paul J. Malizia, Esquire