

05-1570-CD

Harry Strawser et al vs Robert Holland et al

Harry Strawser et al vs. Robert Holland et al
2005-1570-CD

Date: 11/08/2005
Time: 11:42 AM
Page 1 of 1

Clearfield County Court of Common Pleas

User: LBENDER

ROA Report

Case: 2005-01570-CD

Current Judge: No Judge

Harry Strawser, Harry Straw, Timothy Straw, Jeffrey Straw, Brian Rhinesmuth, Brian Davis vs. Robert Holland, John A. Baran, Robin E. Baran

Civil Other

Date		Judge
10/10/2005	New Case Filed. ✓ Filing: Complaint Paid by: Neiswender, Frederick M. (attorney for Strawser, Harry) Receipt number: 1909937 Dated: 10/10/2005 Amount: \$85.00 (Check) 5CC Atty.	No Judge No Judge
10/11/2005	✓ Preliminary Injunction, filed by s/ Frederick M. Neiswender Esq. 5CC atty. No Judge ✓ Rule Retunable, NOW, this 11th day of October, upon consideration of Plaintiffs' Preliminary Injunction, a Rule is hereby issued upon the Defendants, Robert Holland, John A. Baran and Robin E. Baran, to show cause why the Preliminary Injunction should not be granted. Rule Returnable for Answer by the Defendants and hearing on said Preliminary Injunction to be held on the 14th day of October 2005 at 1:00 p.m. in Courtroom No. 2. BY THE COURT: /s/ Paul E. Cherry, Judge. 5CC Atty Neiswender ✓ Order NOW, this 11th day of October 2005, upon consideration of Plaintiffs' Preliminary Injunction, it is the ORDER of this Court that the Preliminary Injunction be and is hereby GRANTED. The Defendants, Robert Holland, John A. Baran, Robin E. Baran and their agents are hereby enjoined from entering, cutting and removing timber from the property in Knox Township, Clearfield County, Pennsylvania that is the subject of Plaintiffs' Complaint until a hearing can be held in this matter. BY THE COURT: /S/ Paul E. Cherry, Judge. 5CC Atty Neiswender	No Judge Paul E. Cherry
10/13/2005	✓ Preliminary Objections filed on behalf of Robert Holland, filed by s/Peter F. Smith, Esq. Two CC Atty Smith ✓ Praeclipe, filed. Please enter my appearance as attorney for Defendant Robert Holland in the above-captioned matter, filed by s/ Peter F. Smith Esq. No CC. ✓ Certificate of Service, filed. Sent true and correct copy of Preliminary Objections, Entry of Appearance and Defendant Robert Holland's Memorandum on October 13, 2005 to Frederick M. Neiswender Esq., filed by s/ Peter F. Smith Esq. No CC.	No Judge No Judge No Judge
10/14/2005	✓ Entry of Appearance, on behalf of Defendants John A. Baran and Robin E. Baran: filed by s/ Timothy E. Durant, Esquire. 4CC to Atty.	No Judge
11/03/2005	✓ Preliminary Objections, filed by s/ Timothy E. Durant, Esquire. 5CC Atty. Durant ✓ Affidavit of Service filed. I have this date placed a certified copy of the PRELIMINARY OBJECTIONS filed on November 3, 2005 to Frederick M. Neiswender Esq., and Peter F. Smith Esq., filed by s/ Timothy E. Durant Esq. No CC.	No Judge No Judge
11/08/2005	✓ Order AND NOW, this 7th day of November 2005, following argument on Plaintiff's Preliminary Injunction and upon consideration of same, the Court having reviewed all documents provided to it by counsel for all parties, it is the ORDER of this court that said Preliminary Injunctions shall be and is hereby DISSOLVED. It is further ORDER of the Court that Plaintiff's Petition and Complaint shall be and are hereby DISMISSED. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Atty: Neiswender, P. Smith and Durant.	No Judge

Custody

Date		Judge
08/15/2002	✓ Filing: Custody Complaint/Visitation Paid by: Freeman, Robert J. Esq (attorney for Brady, Darice Janel) Receipt number: 1847092 Dated: 08/15/2002 Amount: \$80.00 (Check) 1 cc Atty	No Judge
08/20/2002	✓ ORDER OF COURT, re: DENNIS ALLEN CORSON to appear in person the 24th day of Sept., 2002, at 1:30 p.m. for a Custody Conference. by the Court, s/FJA,J. 2 cc Atty Freeman	Fredric Joseph Ammerman
09/24/2002	✓ ORDER OF COURT, re: DENNIS ALLEN CORSON to appear in person the 18th day of October, 2002, at 2:30 p.m. for a Custody Conference. by the Court, s/FJA,J. 2 cc Atty Freeman	Fredric Joseph Ammerman
10/18/2002	✓ Affidavit of Service, Plaintiff's Complaint upon DENNIS A. CORSON. s/Robert J. Freeman, Esquire	Fredric Joseph Ammerman
10/25/2002	✓ ORDER FOR MEDIATION CONFERENCE and PAYMENT OF COSTS, NOW, this 24th day of October, 2002, re: Custody Mediation Conference to be held before Allen H. Ryen, Ph.D. Licensed Child Psychologist. by the Court, s/FJA,J. 2 cc & Quest. to Atty Freeman, Beyer, 1 copy to Judge Ammerman, and Allen H. Ryen, Ph.D. Quest. given to both attorneys	Fredric Joseph Ammerman
12/05/2002	✓ Petition for Special Relief filed by Plaintiff. 2 CC to Atty. Freeman	Fredric Joseph Ammerman
12/06/2002	✓ Affidavit of Service filed by Atty. Freeman no cert. copies Served copy of Petition for Special Relif on David L. Beyer.	Fredric Joseph Ammerman
12/09/2002	✓ ORDER, NOW, this 9th day of December, 2002, re: Custody Mediation Conference scheduled for Jan. 29, 2003, at 9:00 a.m. by the Court, s/FJA,J. 2 cc to Atty Freeman, Atty Beyer, 1 copy to Judge Ammerman, Allen H. Ryne, Ph.D., and CA	Fredric Joseph Ammerman
12/20/2002	✓ Petition for Special Relief/Emergency Relief, filed by Atty. Freeman 3 cert. to Atty.	Fredric Joseph Ammerman
12/23/2002	✓ Answer To Petition For Special Relief. filed by s/David L. Beyer, Esquire no cc	Fredric Joseph Ammerman
12/24/2002	✓ ORDER, AND NOW, this 23rd day of December, 2002, a Hearing for Plaintiff's Petition for Special Relief/Emergency Relief is scheduled as follows: Jan. 16, 2003, at 11:30a.m. by the Court, s/FJA,J. 3 cc Atty Freeman Order, AND NOW, this 24 day of December, 2002, a hearing for the Plaintiff's Petition for Special Relief is scheduled as follows: January 16, 2003, 11:30 a.m. BY THE COURT: /s/Fredric J. Ammerman, Judge Two CC Attorney Freeman	Fredric Joseph Ammerman
01/20/2003	✓ ORDER, NOW, this 16th day of January, 2003, re: Petitions for Special Relief. by the Court, s/FJA,J. 2 cc Atty Freeman, Beyer	Fredric Joseph Ammerman
02/04/2003	✓ ORDER, NOW, this 29th day of January, 2003, re; Mediation Conference. by the Court, s/FJA,J. 2 cc Atty Freeman, Beyer	Fredric Joseph Ammerman
05/08/2003	✓ Petition For Civil Contempt For Disobedience Of A Partial Custody Order. filed by s/ Robert J. Freeman, Esquire Verification s/Darice Janel Brady 2 cc Atty Freeman	Fredric Joseph Ammerman
05/22/2003	✓ NOTICE AND ORDER TO APPEAR, DENNIS ALLEN CORSON, whether or not you file in writing with the Court your defenses or objections, you must appear in person in Court on June 20, 2003 at 9:00 a.m. by the Court, s/FJA,J. 5/21/03 2 cc to Atty Freeman	Fredric Joseph Ammerman

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

HARRY STRAWSER, HARRY STRAW,
TIMOTHY STRAW, JEFFREY STRAW,
BRIAN RHINESMUTH and
BRIAN DAVIS,

Plaintiffs,

vs.

ROBERT HOLLAND, JOHN A. BARAN
and ROBIN E. BARAN, husband and wife,
Defendants.

: No. 05 - 1570- CD

: Type of case: Civil

: Type of pleading: Complaint

: Filed on behalf of: Plaintiffs,
Harry Strawser, et. al.

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

FILED *Atty pd.*
03:38 PM 85.00
OCT 10 2005
S5 cc Atty

William A. Shaw
Prothonotary/Clerk of Courts

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

HARRY STRAWSER, HARRY STRAW, :
TIMOTHY STRAW, JEFFREY STRAW, :
BRIAN RHINESMUTH and :
BRIAN DAVIS, :
Plaintiffs, :
vs. : No. 05 - - CD
ROBERT HOLLAND, JOHN A. BARAN :
and ROBIN E. BARAN, husband and wife, :
Defendants. :
:

NOTICE TO DEFEND

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

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

COURT ADMINISTRATOR
1 North Second Street
Clearfield, Pennsylvania 16830
(814) 765-2641

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

HARRY STRAWSER, HARRY STRAW, :
TIMOTHY STRAW, JEFFREY STRAW, :
BRIAN RHINESMUTH and :
BRIAN DAVIS, :
Plaintiffs, :
vs. : No. 05 - - CD
ROBERT HOLLAND, JOHN A. BARAN :
and ROBIN E. BARAN, :
Defendants. :
:

COMPLAINT

AND NOW, come the Plaintiffs, HARRY STRAWSER, HARRY STRAW, TIMOTHY STRAW, JEFFREY STRAW, BRIAN RHINESMUTH and BRIAN DAVIS, by and through their attorney, FREDERICK M. NEISWENDER, ESQUIRE, and file this Complaint against the Defendants, ROBERT HOLLAND, JOHN A. BARAN and ROBIN E. BARAN, husband and wife, on a cause of action upon which the following is a statement:

1. Plaintiffs, HARRY STRAWSER, HARRY STRAW, TIMOTHY STRAW, JEFFREY STRAW, BRIAN RHINESMUTH and BRIAN DAVIS [hereinafter referred to as "Plaintiffs"], are adult individuals with the primary tenant HARRY STRAWSER residing at 1115 Dartmouth Road, Hummelstown, Dauphin County, Pennsylvania 17036.
2. Defendant, ROBERT HOLLAND [hereinafter referred to as "Defendant Holland"], is an adult individual with a mailing address of P.O. Box 367, Curwensville, Clearfield County, Pennsylvania 16833.

3. Defendant, JOHN A. BARAN [hereinafter referred to as "Defendant Baran"], is an adult individual, residing at 511 East Spruce Street, Philipsburg, Centre County, Pennsylvania 16866.

4. Defendant, ROBIN E. BARAN [hereinafter referred to as "Defendant Baran"], is an adult individual, residing at 844 Thorn Street #63, Sewickley, Allegheny County, Pennsylvania 15143.

5. Plaintiffs own property comprising land and a camp in Knox Township, Clearfield County, Pennsylvania, consisting of 358.9837 acres to which they took title by deed of record in the Clearfield County Courthouse on August 2, 2002 recorded at Instrument Number 200212501.

See attached Exhibits "A" and "B"

COUNT I – CONVERSION

6. Plaintiffs restate and incorporate Paragraphs 1 through 5 above as if stated at length herein.

7. Sometime in 2003, Defendant Holland entered into a contract to cut timber on property allegedly owned by Defendants Baran.

8. Plaintiffs believe and therefore aver that the property that is the subject of this contract is in fact part of their property described above.

9. Subsequent to the contract signing, an agent for Defendant Holland was observed cutting and removing timber from Plaintiffs' property. Plaintiffs informed the agent that he was trespassing and requested that he cease and desist from the further cutting of timber. The agent complied with their request.

10. Sometime in July 2004, Defendant Holland renewed his contract with Defendants Baran to resume cutting timber on the subject property.

11. On or about the week of September 26, 2005, an agent for Defendant Holland resumed cutting timber on the subject property.

12. Agents for Defendant Holland were observed cutting the timber into billets and removing it in pick-up trucks.

13. When the agents for Defendant Holland realized that they were being observed they ran from the property leaving behind their equipment and the cut timber.

14. Upon learning that the timbering had resumed, Plaintiffs called the Pennsylvania State Police for assistance.

15. When the police arrived, an agent for Defendant Holland presented them with a contract, which he stated gave Defendant Holland a right to cut timber on the subject property. The police subsequently declined to file a criminal compliant.

16. Agents for Defendant Holland continue to remove timber from the Plaintiffs' property.

17. Plaintiffs have suffered a significant loss to the value of their property as a result of the actions of the Defendants.

18. Plaintiffs have suffered a significant loss of valuable timber as a result of the actions of the Defendants.

WHEREFORE, Plaintiffs request this Court enter judgement against Defendant in an amount in excess of \$20,000.00.

COUNT II – TRESPASS

19. Plaintiffs restate and incorporate Paragraphs 1 through 18 above as if stated at length herein.

20. The entire perimeter of Plaintiffs' property, as described above, is posted with "No Trespassing" signs and the perimeter trees are painted to delineate a clear boundary line.

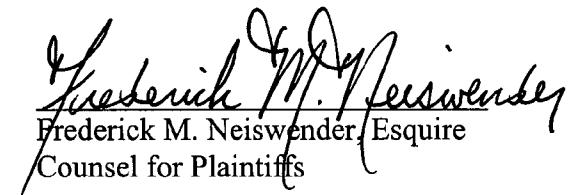
21. Defendants have ignored these signs, entered onto Plaintiffs' property, and caused significant damage.

22. Plaintiffs have suffered a significant loss to the value of their property as a result of the actions of the Defendants.

23. Plaintiffs have suffered a significant loss of valuable timber as a result of the actions of the Defendants.

WHEREFORE, Plaintiffs request this Court enter judgement against Defendant in an amount in excess of \$20,000.00.

Respectfully submitted,


Frederick M. Neiswender, Esquire
Counsel for Plaintiffs

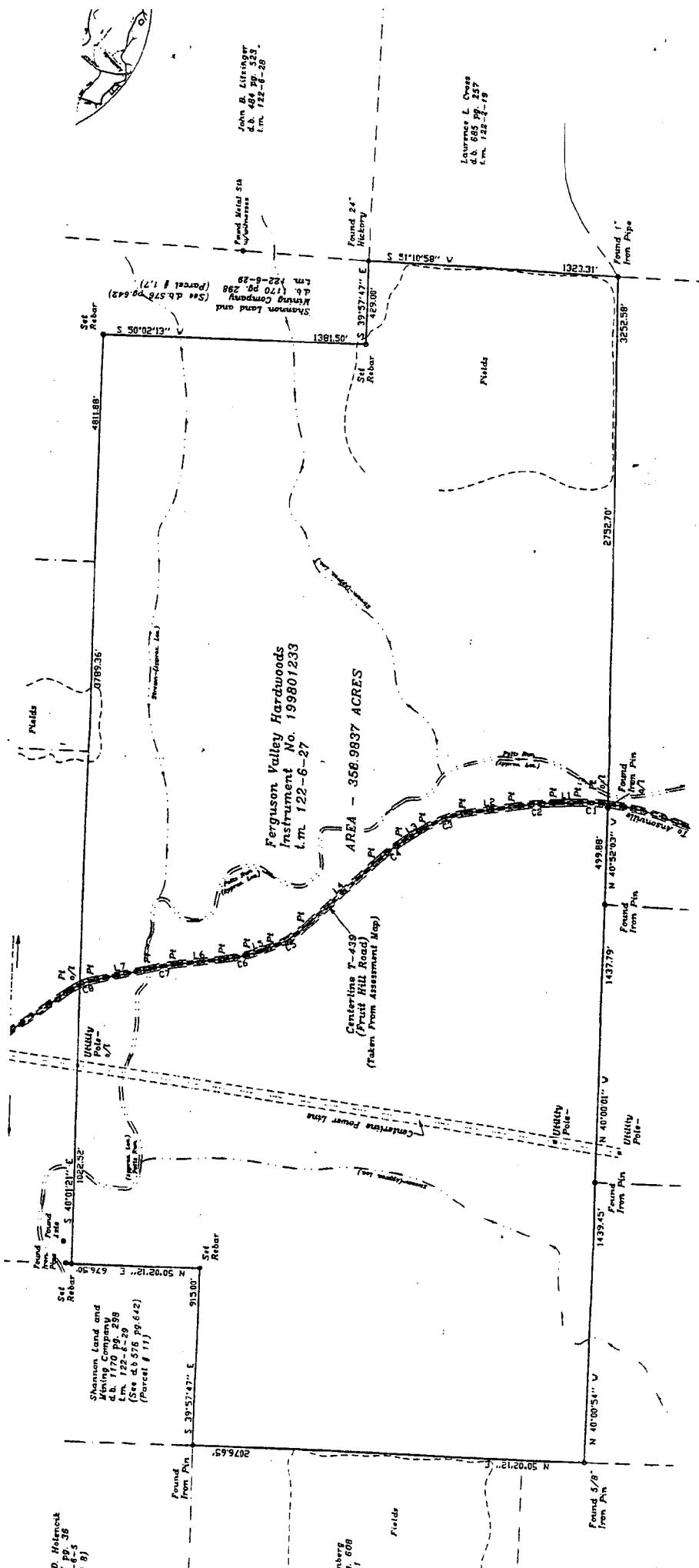


Exhibit "A"

THIS DEED,

MADE THE 2nd day of AUGUST, in the year two thousand two (2002),

BETWEEN CHARLES M. COLONY, DOROTHY I. COLONY and ERIC E. EMINHIZER, individually and as partners trading as FERGUSON VALLEY HARDWOODS, with its principal place of business at 501 Electric Avenue, Lewistown, Mifflin County, Pennsylvania, Grantor

AND

HARRY STRAWSER, HARRY STRAW, TIMOTHY STRAW, JEFFREY STRAW, BRIAN DAVIS and BRIAN RHINESMITH, as tenants in common, Grantees

WITNESS, that in consideration of One Hundred Thirty Thousand (\$130,000.00) Dollars, in hand paid, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant and convey to the said Grantees,

ALL THAT CERTAIN piece, parcel or tract of land situate in the Township of Knox, County of Clearfield and State of Pennsylvania, bounded and described on Schedule "A" attached.

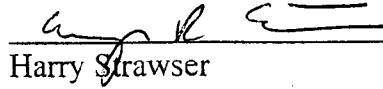
SUBJECT, HOWEVER, to all exceptions, reservations, restrictions, leases, interests, covenants, agreements, rights-of-way and easements contained in, and/or conveyed and/or granted by, prior instruments of writing of record in the chain of title, insofar as they may still be in force and effect; all easements apparent on the premises; municipal zoning ordinances; building codes; laws, ordinances or governmental regulations relating to sewage disposal; and, all laws, ordinances and regulations relating to subdivisions.

EXCEPTING AND RESERVING unto the grantors herein all oil and gas rights.

NOTWITHSTANDING the reservation of the oil and gas rights set forth above grantors convey unto the grantee all the "House Gas" rights under any existing oil and gas leases. Grantee agrees for it and its heirs and assigns to release and indemnify grantor for any liability for personal or property damage resulting from grantees use of the House Gas.

TOGETHER WITH the appurtenances.

NOTICE – Grantee (hereinafter, whether one or more, called “Grantee”) hereby agrees 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 interest in the coal.



Harry Strawser

NOTE – 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 in the manner provided in Section 1 of the Act of July 17, 1957, P.L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.]

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

Sealed and delivered in the presence of

Charles M. Colony

CHARLES M. COLONY, individually
and as a partner of Ferguson Valley
Hardwoods

Dorothy L. Colony

DOROTHY L. COLONY, individually
and as a partner of Ferguson Valley
Hardwoods

Eric E. Eminhizer

ERIC E. EMINHIZER, individually
and as a partner of Ferguson Valley
Hardwoods

CERTIFICATE OF RESIDENCE

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

1955 LANDWATER ROAD, HUMMELSTOWN PA 17036

Daniel Z. Seaver

Attorney for Grantees

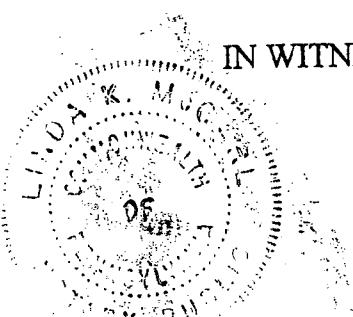
COMMONWEALTH OF PENNSYLVANIA

ss:

COUNTY OF MIFFLIN

On this, the 2nd day of August, 2002, before me, the undersigned officer, personally appeared CHARLES M. COLONY, DOROTHY I. COLONY and ERIC E. EMINHIZER, individually and as partners of FERGUSON VALLEY HARDWOODS, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

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


Linda K. McCarl
Notary Public

Notarial Seal
Linda K. McCarl, Notary Public
Lewistown Boro, Mifflin County
My Commission Expires Sept. 21, 2002
Member, Pennsylvania Association of Notaries

RECORDED in the Office for Recording of Deeds, etc., in and for said County, in Record Book , Page .

WITNESS my hand and official seal this day of ,
200 .

Recorder of Deeds

KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY
Pennsylvania

INSTRUMENT NUMBER
200212501
RECORDED ON
AUG 06, 2002
1:57:01 PM
Total Pages: 6

RECORDING FEES -	\$20.00
RECORDER	\$2.00
COUNTY IMPROVEMENT FUND	\$3.00
RECORDER IMPROVEMENT FUND	\$3.00
STATE TRANSFER	\$1,300.00
TAX	\$0.50
STATE WRIT TAX	\$0.50
KNOX TOWNSHIP	\$650.00
CLEARFIELD AREA	\$650.00
SCHOOLS	\$2,625.50
TOTAL	\$2,625.50
CUSTOMER	
THOMPSON, DAVID	

SCHEDULE "A"

ALL THAT CERTAIN parcel of land located in Knox Township, Clearfield County, Pennsylvania, more fully bounded and described as follows, to wit:

BEGINNING at a post being the common corner of four separate warrants, to wit, Caleb Foulk, Jr. warrant, George Wescot warrant, also the John Pierre warrant and the Owen Foulk warrant, of which latter two warrants this tract is a part; thence along the line of land now or formerly of Carnwath Coal company South 34 degrees 30 minutes East 915 feet to a post, being the Northwest corner of a 27.67 acre tract formerly the property of Witherow, now or formerly of R.D. Tonkin; thence along the Northern line of same North 56 degrees 30 minutes East 676.5 feet to post; thence South 34 degrees 30 minutes East 4851 feet to post, being the southeast corner of a 20.5 acres tract formerly the property of Witherow, now or formerly of R.D. Tonkin; thence South 56 degrees 30 minutes West 676.5 feet to post on line between John Pierre warrant and Owen Foulk warrant; thence continuing into the Owen Foulk warrant South 56 degrees 30 minutes West 705 feet to a post; thence South 34 degrees 30 minutes East 429 feet to post near hickory tree and on line between Owen Foulk warrant and William Hunter warrant; thence South 56 degrees 30 minutes West 1361 feet to post; thence North 34 degrees 30 minutes West along line of lands now or formerly of Jackson and also of Joseph Witherow 6195 feet to stone on line of land of Caleb Foulk, Jr. warrant; thence North 56 degrees 30 minutes East 2066 feet to place of beginning.

UNDER AND SUBJECT, nevertheless, to all existing easements, conditions restrictions, and covenants of record, including the reservation of all oil and gas in and underlying the same, together with the free right of ingress and egress and all privileges necessary to prospect for, develop and take away the said oil and gas.

BEING the premises which Ferguson Valley Hardwoods, became seized by deed of Eugene Orwick, et al, dated December 15, 1998, and recorded in the Recorder's Office of Clearfield County, Pennsylvania, at Instrument Number 199801233.

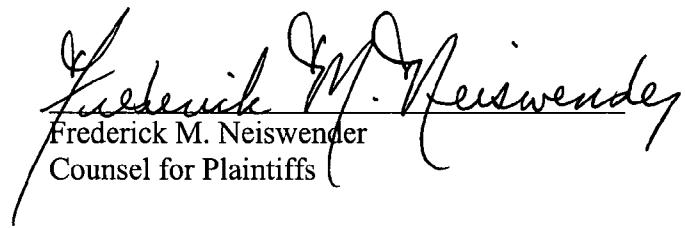
AND the said Grantor will **SPECIALLY WARRANT** the property hereby conveyed.

GRANTOR certifies that no hazardous waste, within the meaning of the Solid Waste Management Act of 1980, is presently being disposed of or has ever been disposed of by the Grantor or to the Grantor's actual knowledge in or upon the premises above described.

VERIFICATION

FREDERICK M. NEISWENDER, ESQUIRE hereby states that he is Counsel for the Plaintiffs' in this action and that the statements of fact made in the foregoing Complaint are true and correct upon opinion and belief based on information provided to him by the Plaintiffs. The undersigned is verifying this Petition on behalf of the Plaintiffs as per the Pennsylvania Rules of Civil Procedure due to the fact that the Plaintiffs reside outside the jurisdiction of this Court and time constraints do not permit their verification of the Complaint. Both the Plaintiffs and the undersigned understand the statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: Oct. 7, 2005


Frederick M. Neiswender
Counsel for Plaintiffs

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

HARRY STRAWSER, HARRY STRAW,
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vs.

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and ROBIN E. BARAN, husband and wife,
Defendants.

No. 05 - 1570 - CD

FILED

9939 LM 5CC Atty
OCT 11 2005

William A. Shaw
Prothonotary/Clerk of Courts

Type of case: Civil

Type of pleading: Preliminary Injunction

Filed on behalf of: Plaintiffs,
Harry Strawser, et. al.

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

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:

NOTICE TO DEFEND

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ROBERT HOLLAND, JOHN A. BARAN :
and ROBIN E. BARAN, husband and wife, :
Defendants. :

PRELIMINARY INJUNCTION

AND NOW, come the Plaintiffs, HARRY STRAWSER, HARRY STRAW, TIMOTHY STRAW, JEFFREY STRAW, BRIAN RHINESMUTH and BRIAN DAVIS, by and through their attorney, FREDERICK M. NEISWENDER, ESQUIRE, and present the following request for a Preliminary Injunction pursuant to Rule 1531 of the Pennsylvania Rules of Civil Procedure and in support thereof allege the following:

1. Plaintiffs have filed a Complaint in this matter against Defendants with the Prothonotary of Clearfield County, a true and correct copy of which is attached hereto.
2. Plaintiffs have brought this action to seek a Preliminary Injunction, prohibiting the Defendants, Robert Holland, John A. Baran and Robin E. Baran from cutting timber on property that they claim to own but which is owned by the Plaintiffs.
3. Plaintiffs have the right to file for a Preliminary Injunction under Rule 1531 of the Pennsylvania Rules of Civil Procedure.

4. Plaintiffs may suffer immediate and irreparable harm if an injunction is not granted in that valuable hardwood trees have been removed and continue to be removed from Plaintiffs' property by Defendants.

WHEREFORE, Plaintiffs respectfully prays that this Court issue a Preliminary Injunction enjoining the Defendants, Robert Holland, John A. Baran and Robin E. Baran from cutting timber on the Plaintiffs' property as described in the attached Complaint.

Respectfully submitted,


Frederick M. Neiswender
Counsel for Plaintiffs

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Filed on behalf of: Plaintiffs,
Harry Strawser, et. al.

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

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

OCT 10 2005

Attest

John J. Kelly
Prothonotary
Clerk of Courts

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

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

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Clearfield, Pennsylvania 16830
(814) 765-2641

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

HARRY STRAWSER, HARRY STRAW, :
TIMOTHY STRAW, JEFFREY STRAW, :
BRIAN RHINESMUTH and :
BRIAN DAVIS, :
Plaintiffs, :
vs. : No. 05 - - CD
ROBERT HOLLAND, JOHN A. BARAN :
and ROBIN E. BARAN, :
Defendants. :

COMPLAINT

AND NOW, come the Plaintiffs, HARRY STRAWSER, HARRY STRAW, TIMOTHY STRAW, JEFFREY STRAW, BRIAN RHINESMUTH and BRIAN DAVIS, by and through their attorney, FREDERICK M. NEISWENDER, ESQUIRE, and file this Complaint against the Defendants, ROBERT HOLLAND, JOHN A. BARAN and ROBIN E. BARAN, husband and wife, on a cause of action upon which the following is a statement:

1. Plaintiffs, HARRY STRAWSER, HARRY STRAW, TIMOTHY STRAW, JEFFREY STRAW, BRIAN RHINESMUTH and BRIAN DAVIS [hereinafter referred to as "Plaintiffs"], are adult individuals with the primary tenant HARRY STRAWSER residing at 1115 Dartmouth Road, Hummelstown, Dauphin County, Pennsylvania 17036.
2. Defendant, ROBERT HOLLAND [hereinafter referred to as "Defendant Holland"], is an adult individual with a mailing address of P.O. Box 367, Curwensville, Clearfield County, Pennsylvania 16833.

3. Defendant, JOHN A. BARAN [hereinafter referred to as "Defendant Baran"], is an adult individual, residing at 511 East Spruce Street, Philipsburg, Centre County, Pennsylvania 16866.

4. Defendant, ROBIN E. BARAN [hereinafter referred to as "Defendant Baran"], is an adult individual, residing at 844 Thorn Street #63, Sewickley, Allegheny County, Pennsylvania 15143.

5. Plaintiffs own property comprising land and a camp in Knox Township, Clearfield County, Pennsylvania, consisting of 358.9837 acres to which they took title by deed of record in the Clearfield County Courthouse on August 2, 2002 recorded at Instrument Number 200212501.

See attached Exhibits "A" and "B"

COUNT I – CONVERSION

6. Plaintiffs restate and incorporate Paragraphs 1 through 5 above as if stated at length herein.

7. Sometime in 2003, Defendant Holland entered into a contract to cut timber on property allegedly owned by Defendants Baran.

8. Plaintiffs believe and therefore aver that the property that is the subject of this contract is in fact part of their property described above.

9. Subsequent to the contract signing, an agent for Defendant Holland was observed cutting and removing timber from Plaintiffs' property. Plaintiffs informed the agent that he was trespassing and requested that he cease and desist from the further cutting of timber. The agent complied with their request.

10. Sometime in July 2004, Defendant Holland renewed his contract with Defendants Baran to resume cutting timber on the subject property.

11. On or about the week of September 26, 2005, an agent for Defendant Holland resumed cutting timber on the subject property.

12. Agents for Defendant Holland were observed cutting the timber into billets and removing it in pick-up trucks.

13. When the agents for Defendant Holland realized that they were being observed they ran from the property leaving behind their equipment and the cut timber.

14. Upon learning that the timbering had resumed, Plaintiffs called the Pennsylvania State Police for assistance.

15. When the police arrived, an agent for Defendant Holland presented them with a contract, which he stated gave Defendant Holland a right to cut timber on the subject property. The police subsequently declined to file a criminal complaint.

16. Agents for Defendant Holland continue to remove timber from the Plaintiffs' property.

17. Plaintiffs have suffered a significant loss to the value of their property as a result of the actions of the Defendants.

18. Plaintiffs have suffered a significant loss of valuable timber as a result of the actions of the Defendants.

WHEREFORE, Plaintiffs request this Court enter judgement against Defendant in an amount in excess of \$20,000.00.

COUNT II - TRESPASS

19. Plaintiffs restate and incorporate Paragraphs 1 through 18 above as if stated at length herein.

20. The entire perimeter of Plaintiffs' property, as described above, is posted with "No Trespassing" signs and the perimeter trees are painted to delineate a clear boundary line.

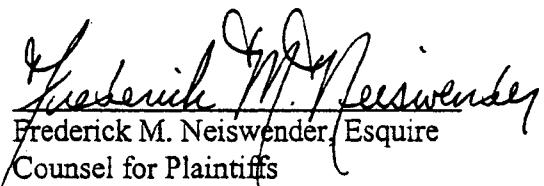
21. Defendants have ignored these signs, entered onto Plaintiffs' property, and caused significant damage.

22. Plaintiffs have suffered a significant loss to the value of their property as a result of the actions of the Defendants.

23. Plaintiffs have suffered a significant loss of valuable timber as a result of the actions of the Defendants.

WHEREFORE, Plaintiffs request this Court enter judgement against Defendant in an amount in excess of \$20,000.00.

Respectfully submitted,


Frederick M. Neiswender, Esquire
Counsel for Plaintiffs

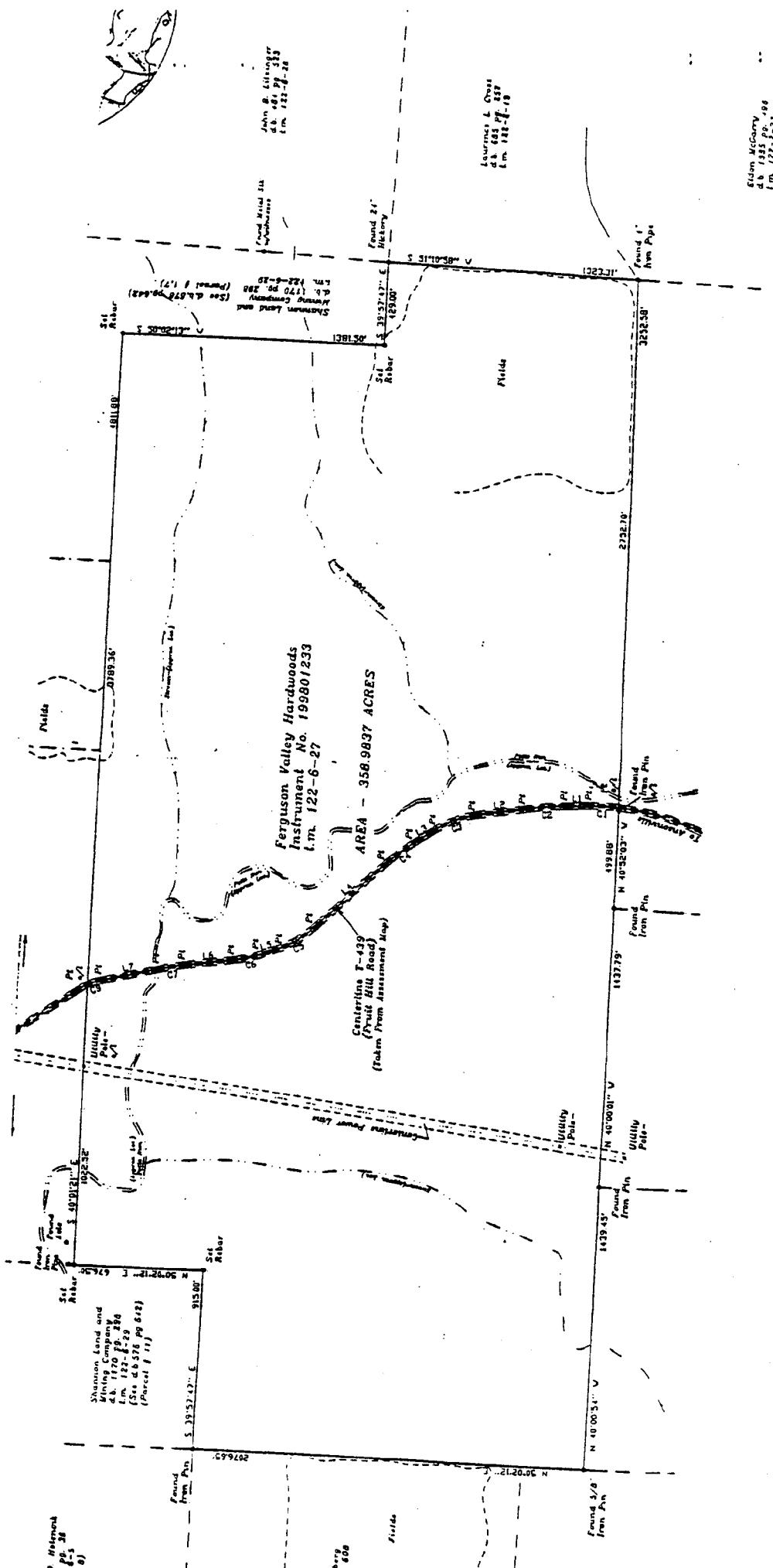


Exhibit "A"

THIS DEED,

MADE THE 2nd day of AUGUST, in the year two thousand two (2002),

BETWEEN CHARLES M. COLONY, DOROTHY I. COLONY and ERIC E. EMINHIZER, individually and as partners trading as FERGUSON VALLEY HARDWOODS, with its principal place of business at 501 Electric Avenue, Lewistown, Mifflin County, Pennsylvania, Grantor

AND

HARRY STRAWSER, HARRY STRAW, TIMOTHY STRAW, JEFFREY STRAW, BRIAN DAVIS and BRIAN RHINESMITH, as tenants in common, Grantees

WITNESS, that in consideration of One Hundred Thirty Thousand (\$130,000.00) Dollars, in hand paid, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant and convey to the said Grantees,

ALL THAT CERTAIN piece, parcel or tract of land situate in the Township of Knox, County of Clearfield and State of Pennsylvania, bounded and described on Schedule "A" attached.

SUBJECT, HOWEVER, to all exceptions, reservations, restrictions, leases, interests, covenants, agreements, rights-of-way and easements contained in, and/or conveyed and/or granted by, prior instruments of writing of record in the chain of title, insofar as they may still be in force and effect; all easements apparent on the premises; municipal zoning ordinances; building codes; laws, ordinances or governmental regulations relating to sewage disposal; and, all laws, ordinances and regulations relating to subdivisions.

EXCEPTING AND RESERVING unto the grantors herein all oil and gas rights.

NOTWITHSTANDING the reservation of the oil and gas rights set forth above grantors convey unto the grantee all the "House Gas" rights under any existing oil and gas leases. Grantee agrees for it and its heirs and assigns to release and indemnify grantor for any liability for personal or property damage resulting from grantees use of the House Gas.

TOGETHER WITH the appurtenances.

NOTICE - Grantee (hereinafter, whether one or more, called "Grantee") hereby agrees 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 interest in the coal.

Harry Strawser

NOTE - 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 in the manner provided in Section 1 of the Act of July 17, 1957, P.L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.]

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

Sealed and delivered in the presence of

Charles M. Colony
CHARLES M. COLONY, individually
and as a partner of Ferguson Valley
Hardwoods

Dorothy J. Colony
DOROTHY J. COLONY, individually
and as a partner of Ferguson Valley
Hardwoods

Eric E. Emzhizer
ERIC E. EMINHIZER, individually
and as a partner of Ferguson Valley
Hardwoods

CERTIFICATE OF RESIDENCE

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

1955 LANDWATER ROAD, Hummelstown PA 17036

Daniel Z. Seaver
Attorney for Grantees

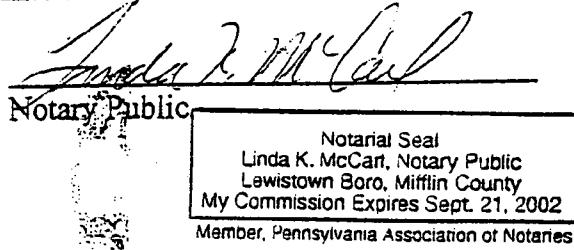
COMMONWEALTH OF PENNSYLVANIA

ss:

COUNTY OF MIFFLIN

On this, the 2nd day of August, 2002, before me, the undersigned officer, personally appeared CHARLES M. COLONY, DOROTHY I. COLONY and ERIC E. EMINHIZER, individually and as partners of FERGUSON VALLEY HARDWOODS, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

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



RECORDED in the Office for Recording of Deeds, etc., in and for said County, in Record Book , Page .

WITNESS my hand and official seal this day of , 200 .

Recorder of Deeds

KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY
Pennsylvania

INSTRUMENT NUMBER
200212501

RECORDED ON

AUG 06, 2002
1:57:01 PM

Total Pages: 6

RECORDING FEES -	\$20.00
RECORDER	
COUNTY IMPROVEMENT FUND	\$2.00
RECORDER IMPROVEMENT FUND	\$3.00
STATE TRANSFER TAX	\$1,300.00
STATE WRIT TAX	\$0.50
KNOX TOWNSHIP	\$650.00
CLEARFIELD AREA	\$650.00
SCHOOLS	
TOTAL	\$2,625.50

CUSTOMER

THOMSON, DAVID

SCHEDULE "A"

ALL THAT CERTAIN parcel of land located in Knox Township, Clearfield County, Pennsylvania, more fully bounded and described as follows, to wit:

BEGINNING at a post being the common corner of four separate warrants, to wit, Caleb Foulk, Jr. warrant, George Wescot warrant, also the John Pierre warrant and the Owen Foulk warrant, of which latter two warrants this tract is a part; thence along the line of land now or formerly of Carnwath Coal company South 34 degrees 30 minutes East 915 feet to a post, being the Northwest corner of a 27.67 acre tract formerly the property of Witherow, now or formerly of R.D. Tonkin; thence along the Northern line of same North 56 degrees 30 minutes East 676.5 feet to post; thence South 34 degrees 30 minutes East 4851 feet to post, being the southeast corner of a 20.5 acres tract formerly the property of Witherow, now or formerly of R.D. Tonkin; thence South 56 degrees 30 minutes West 676.5 feet to post on line between John Pierre warrant and Owen Foulk warrant; thence continuing into the Owen Foulk warrant South 56 degrees 30 minutes West 705 feet to a post; thence South 34 degrees 30 minutes East 429 feet to post near hickory tree and on line between Owen Foulk warrant and William Hunter warrant; thence South 56 degrees 30 minutes West 1361 feet to post; thence North 34 degrees 30 minutes West along line of lands now or formerly of Jackson and also of Joseph Witherow 6195 feet to stone on line of land of Caleb Foulk, Jr. warrant; thence North 56 degrees 30 minutes East 2066 feet to place of beginning.

UNDER AND SUBJECT, nevertheless, to all existing easements, conditions restrictions, and covenants of record, including the reservation of all oil and gas in and underlying the same, together with the free right of ingress and egress and all privileges necessary to prospect for, develop and take away the said oil and gas.

BEING the premises which Ferguson Valley Hardwoods, became seized by deed of Eugene Orwick, et al, dated December 15, 1998, and recorded in the Recorder's Office of Clearfield County, Pennsylvania, at Instrument Number 199801233.

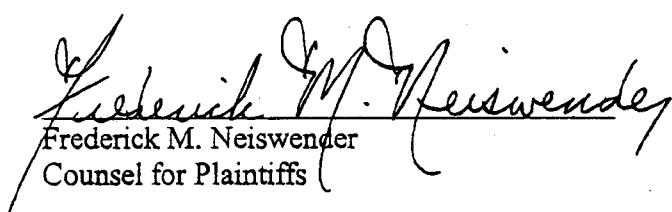
AND the said Grantor will **SPECIALLY WARRANT** the property hereby conveyed.

GRANTOR certifies that no hazardous waste, within the meaning of the Solid Waste Management Act of 1980, is presently being disposed of or has ever been disposed of by the Grantor or to the Grantor's actual knowledge in or upon the premises above described.

VERIFICATION

FREDERICK M. NEISWENDER, ESQUIRE hereby states that he is Counsel for the Plaintiffs' in this action and that the statements of fact made in the foregoing Complaint are true and correct upon opinion and belief based on information provided to him by the Plaintiffs. The undersigned is verifying this Petition on behalf of the Plaintiffs as per the Pennsylvania Rules of Civil Procedure due to the fact that the Plaintiffs reside outside the jurisdiction of this Court and time constraints do not permit their verification of the Complaint. Both the Plaintiffs and the undersigned understand the statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

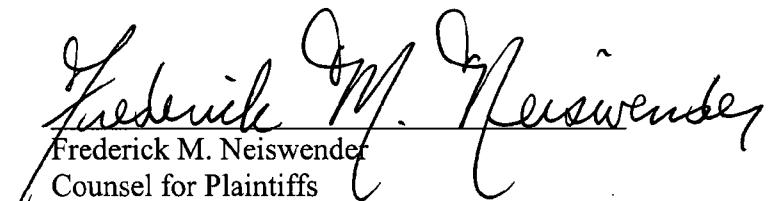
Date: Oct 7, 2005


Frederick M. Neiswender
Counsel for Plaintiffs

VERIFICATION

FREDERICK M. NEISWENDER, ESQUIRE hereby states that he is Counsel for the Plaintiffs' in this action and that the statements of fact made in the foregoing Preliminary Injunction are true and correct upon opinion and belief based on information provided to him by the Plaintiffs. The undersigned is verifying this Petition on behalf of the Plaintiffs as per the Pennsylvania Rules of Civil Procedure due to the fact that the Plaintiffs reside outside the jurisdiction of this Court and time constraints do not permit their verification of the Preliminary Injunction. Both the Plaintiffs and the undersigned understand the statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: Oct. 10, 2005


Frederick M. Neiswender
Counsel for Plaintiffs

CA

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

HARRY STRAWSER, HARRY STRAW, :
TIMOTHY STRAW, JEFFREY STRAW, :
BRIAN RHINESMUTH and :
BRIAN DAVIS, :
Plaintiffs, :
vs. : No. 05 - 1570 - CD
ROBERT HOLLAND, JOHN A. BARAN :
and ROBIN E. BARAN, husband and wife, :
Defendants. :

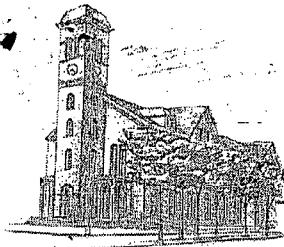
RULE RETURNABLE

NOW, this 11th day of October 2005, upon consideration of Plaintiffs' Preliminary Injunction, a Rule is hereby issued upon the Defendants, Robert Holland, John A. Baran and Robin E. Baran, to show cause why the Preliminary Injunction should not be granted. Rule Returnable for Answer by the Defendants and hearing on said Preliminary Injunction to be held on the 14th day of October, 2005, at 1:00 o'clock P. m. in Courtroom No. 2 of the Clearfield County Courthouse.

BY THE COURT,


Paul E. Cherry
Judge

FILED *sec*
01/10/21 AM Atty Neiswender
OCT 11 2005
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

Date: September 19, 2005

Over the past several weeks, 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

You are responsible for serving all appropriate parties.

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

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

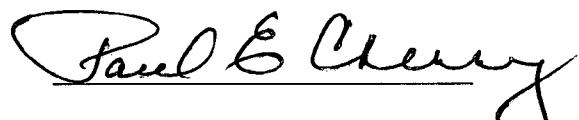
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

HARRY STRAWSER, HARRY STRAW, :
TIMOTHY STRAW, JEFFREY STRAW, :
BRIAN RHINESMUTH and :
BRIAN DAVIS, :
Plaintiffs, :
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and ROBIN E. BARAN, husband and wife, :
Defendants. :
:

ORDER

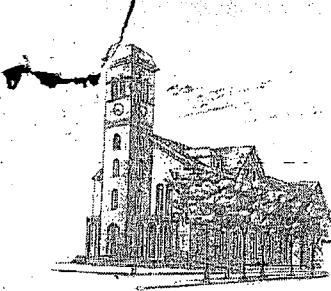
NOW, this 11th day of October 2005, upon consideration of Plaintiffs' Preliminary Injunction, it is the ORDER of this Court that the Preliminary Injunction be and is hereby GRANTED. The Defendants, Robert Holland, John A. Baran, Robin E. Baran and their agents are hereby enjoined from entering, cutting and removing timber from the property in Knox Township, Clearfield County, Pennsylvania that is the subject of Plaintiffs' Complaint until a hearing can be held in this matter.

BY THE COURT,


Paul E. Cherry
Judge

FILED *sec*
01/10/2005 *Atty. never served*
OCT 11 2005 *W*

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

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Sincerely,

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Prothonotary

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Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

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

HARRY STRAWSER, HARRY STRAW, :
TIMOTHY STRAW, JEFFREY STRAW, : No. 05-1570-CD
BRIAN RHINESMUTH and :
BRIAN DAVIS, :
Plaintiffs :
vs. :
Type of Case:
CIVIL
ROBERT HOLLAND, JOHN A. BARAN :
and ROBIN E. BARAN, husband and wife, :
Defendants :
Type of Pleading:
PRELIMINARY OBJECTIONS
Filed on Behalf of:
Defendant Robert Holland
Counsel of Record for this Party:
Peter F. Smith, Esquire
Supreme Court ID #34291
30 South Second Street
P. O. Box 130
Clearfield, PA 16830
(814) 765-5595
Counsel of Record for Plaintiffs:
Frederick M. Neiswender, Esquire
Supreme Court ID #74456
501 East Market Street, Suite 3
Clearfield, PA 16830
(814) 765-6500

FILED
01 30 2005
OCT 13 2005
2cc
Atty Smith
W.A. Shaw
Prothonotary/Clerk of Courts

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

HARRY STRAWSER, HARRY STRAW,	:	
TIMOTHY STRAW, JEFFREY STRAW,	:	No. 05-1570-CD
BRIAN RHINESMUTH and	:	
BRIAN DAVIS,	:	
Plaintiffs	:	
vs.	:	
ROBERT HOLLAND, JOHN A. BARAN	:	
and ROBIN E. BARAN, husband and wife,	:	
Defendants	:	

PRELIMINARY OBJECTIONS

COMES NOW, Defendant ROBERT HOLLAND by his attorney Peter F. Smith, who makes the following preliminary objections to the Petition for a Preliminary Injunction and the Complaint filed in this matter:

1. The Petition and Complaint are legally insufficient because they fail to set forth facts establishing the Plaintiffs' ownership of the property actually at issue. Pa.R.C.P. 1028(a)(4).
2. The Petition and Complaint are legally insufficient because they fail to set forth facts establishing that the Plaintiffs are in possession of the property actually at issue. Pa.R.C.P. 1028(a)(4).
3. Therefore, the Plaintiffs must first bring either an Action to Quiet Title and/or an Action in Ejectment against the Defendants.
4. The Petition and Complaint are insufficient to establish Plaintiffs' entitlement to equitable relief because they have a full, complete and adequate non-statutory remedy of law. Pa.R.C.P. 1028(a)(8).

5. Plaintiffs' claim for equitable relief is barred by the Doctrine of Unclean Hands.

6. Plaintiffs' claim for equitable relief is barred by the Doctrine of Laches.

7. Counsel for Mr. Holland wrote to Plaintiff Harry Strawser on May 13, 2004 and again on June 8, 2005. Copies of those letters are attached. The Plaintiffs were given an opportunity to establish their claim to the property in question and avoid this litigation. Neither they nor an attorney on their behalf responded.

Their silence is an admission of the Barans' title and Mr. Holland's right to enter the premises and cut timber pursuant to his agreement with the Barans.

8. The Preliminary Injunction was improperly issued because:
- a. Plaintiffs did not post a bond pursuant to Pa.R.C.P. 1531(b); and,
 - b. Their Petition is not properly verified by a person with personal knowledge of the facts averred therein as required by Pa.R.C.P. 1024(a).

WHEREFORE, the Defendant prays that this Honorable Court enter an Order dissolving the Preliminary Injunction and dismissing both the Petition and Complaint with prejudice.

Respectfully submitted,

Date: 10/13/05



Peter F. Smith, Esquire
Attorney for Defendant Robert Holland

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

HARRY STRAWSER, HARRY STRAW, :
TIMOTHY STRAW, JEFFREY STRAW, : No. 05-1570-CD
BRIAN RHINESMUTH and :
BRIAN DAVIS, :
Plaintiffs :
vs. :
ROBERT HOLLAND, JOHN A. BARAN :
and ROBIN E. BARAN, husband and wife, :
Defendants :
:

PRAECLYPE

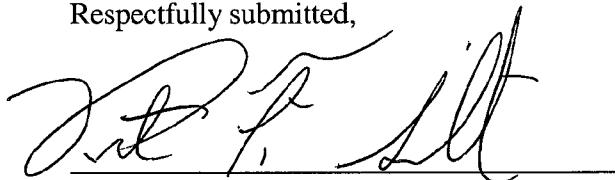
To: William A. Shaw, Prothonotary

Dear Sir:

Please enter my appearance as attorney for Defendant Robert Holland in the above-captioned matter.

Date: 10/13/05

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Robert Holland
Supreme Court I.D. # 34291
P. O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

FILED NO
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OCT 13 2005 LM

William A. Shaw
Prothonotary/Clerk of Courts

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

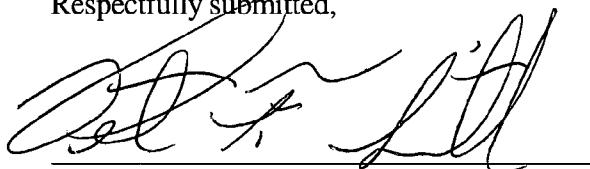
HARRY STRAWSER, HARRY STRAW, :
TIMOTHY STRAW, JEFFREY STRAW, : No. 05-1570-CD
BRIAN RHINESMUTH and :
BRIAN DAVIS, :
Plaintiffs :
vs. :
ROBERT HOLLAND, JOHN A. BARAN :
and ROBIN E. BARAN, husband and wife, :
Defendants :
:

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for Defendant Robert Holland in the above-captioned matter, certify that I sent a true and correct copy of **PRELIMINARY OBJECTIONS, ENTRY OF APPEARANCE and DEFENDANT ROBERT HOLLAND'S MEMORANDUM** by U.S. First Class Mail, Postage Pre-Paid to the attorney for the Plaintiffs on October 13, 2005 at the following address:

Frederick M. Neiswender, Esquire
501 East Market Street, Suite 3
Clearfield, PA

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Robert Holland
Supreme Court I.D. # 34291
P. O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

FILED
OCT 13 2005
13:55 PM
2005
Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Date: October 13, 2005

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

HARRY STRAWSER, HARRY STRAW, *
TIMOTHY STRAW, JEFFREY STRAW, *
BRIAN RHINESMUTH and *
BRIAN DAVIS *

PlaintiffS *

VS. *

ROBERT HOLLAND, JOHN A. BARAN *
and ROBIN E. BARAN, *
Defendants *

No. 05-1570-CD

Type of Pleading:
ENTRY OF APPEARANCE

Filed on behalf of:
JOHN A. BARAN and ROBIN E. BARAN, Defendants

Counsel for Defendants John A. Baran and Robin E. Baran:

TIMOTHY E. DURANT, ESQ.
Pa. I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

Counsel For Defendant
Robert Holland:

Peter F. Smith, Esq.
Pa. I.D. No. 34291
30 North 2nd Street
Clearfield, PA 16830
(814) 765-5595

Counsel For Plaintiffs:

Frederick M. Neiswender, Esq
Pa. I. D. No. 74456
501 E. Market St., Suite 3
Clearfield, PA 16830
(814) 765-6500

Filed by:

Timothy E. Durant

Timothy E. Durant, Esq.

FILED

O 1:42 P.M. 6K
OCT 14 2005

4CC TO ATTY

60

W
Frothonotary

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

HARRY STRAWSER, HARRY STRAW, *
TIMOTHY STRAW, JEFFREY STRAW, *
BRIAN RHINESMUTH and *
BRIAN DAVIS *

PlaintiffS *

VS. *

No. 05-1570-CD

ROBERT HOLLAND, JOHN A. BARAN *
and ROBIN E. BARAN, *
Defendants *

ENTRY OF APPEARANCE

Please enter my appearance for Defendants, John A. Baran and
Robin E. Baran in regard to the above-captioned matter.

Timothy E. Durant
I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

Dated: October 14, 2005

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

**HARRY STRAWSER, HARRY STRAW,
TIMOTHY STRAW, JEFFREY STRAW,
BRIAN RHINESMUTH and
BRIAN DAVIS**

Plaintiffs

vs.

**ROBERT HOLLAND, JOHN A. BARAN
and ROBIN E. BARAN, husband and wife**
Defendants

*
* No. 05-1570-CD
*
*
*
* Type of Pleading:
* PRELIMINARY OBJECTIONS
*
*
*

Filed on Behalf of:

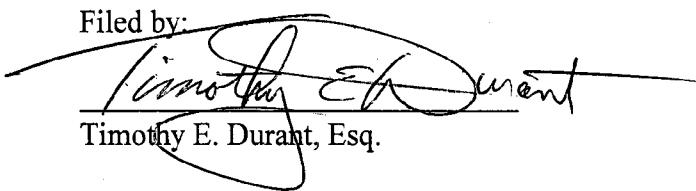
Defendants: John A. Baran, and
Robin E. Baran

Counsel of Record for Defendants
John A. Baran and Robin E. Baran:
Timothy E. Durant, Esq.
Pa. I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

Counsel of Record For Defendant
Robert Holland:
Peter F. Smith, Esquire
Pa. I.D. No. 34291
30 South Second Street
PO Box 130
Clearfield, PA 16830
(814) 765-5595

Counsel of Record for Plaintiffs:
Frederick M. Neiswender, Esquire
Pa. I.D. No. 74456
501 East Market Street, Suite 3
Clearfield, PA 16830
(814) 765-6500

Filed by:


Timothy E. Durant, Esq.

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

HARRY STRAWSER, HARRY STRAW,	*
TIMOTHY STRAW, JEFFREY STRAW,	*
BRIAN RHINESMUTH and	*
BRIAN DAVIS	*
Plaintiffs	*
vs.	*
ROBERT HOLLAND, JOHN A. BARAN	*
and ROBIN E. BARAN, husband and wife	*
Defendants	*

To all plaintiffs
c/o **Frederick M. Neiswender, Esquire**
501 East Market Street, Suite 3
Clearfield, PA 16830

NOTICE TO PLEAD

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

November 3, 2005



Timothy E. Durant
Attorney for Defendant
201 North Second Street
Clearfield, PA 16830

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

HARRY STRAWSER, HARRY STRAW,	*
TIMOTHY STRAW, JEFFREY STRAW,	*
BRIAN RHINESMUTH and	*
BRIAN DAVIS	*
Plaintiffs	*
vs.	*
ROBERT HOLLAND, JOHN A. BARAN	*
and ROBIN E. BARAN, husband and wife	*
Defendants	*

PRELIMINARY OBJECTIONS

Defendants JOHN A. BARAN and ROBIN E. BARAN by their attorney Timothy E. Durant, file the following preliminary objections to the Petition for a Preliminary Injunction as well as the Complaint filed in this matter:

Demurrer

1. The Petition and Complaint are legally insufficient because they fail to set forth facts establishing the Plaintiffs' ownership of the property actually at issue. See Pa. R.C.P. 1028(a)(4).
2. The Petition and Complaint are legally insufficient because they fail to set forth facts establishing that the Plaintiffs are in possession of the property which is actually at issue. See Pa. R.C.P. 1028(a)(4).
3. Therefore, the Plaintiffs must first bring either an Action to Quiet Title and/or an Action in Ejectment against the Defendants.

Adequate Remedy at Law

4. The Petition and Complaint are insufficient to establish Plaintiffs' entitlement to equitable

relief because they have a full, complete and adequate non-statutory remedy at law. See Pa. R.C.P. 1028(a)(8).

5. Plaintiffs' claim for equitable relief is barred by the Doctrine of Unclean Hands.

6. Plaintiffs' claim for equitable relief is barred by the Doctrine of Laches.

7. Counsel for Defendant Robert. Holland wrote to Plaintiff Harry Strawser on May 13, 2004 and again on June 8, 2005. Copies of those letters were attached to the Preliminary Objections filed by Robert Holland.. Plaintiffs were given an opportunity to establish their claim to the property in question and avoid this litigation. Neither they nor any attorney on their behalf responded. Plaintiffs' silence is an admission of the Barans' title and Mr. Holland's right to enter the premises and cut timber pursuant to his agreement with the Barans.

8. The Preliminary Injunction of October 11, 2005 was improperly issued because:

a. Plaintiffs did not post a bond pursuant to Pa.R.C.P. 1531(b); and,

b. Their Petition is not properly verified by a person with personal knowledge of the facts averred therein as required by Pa.R.C.P. 1024(a) (i.e. none of the Plaintiffs signed it).

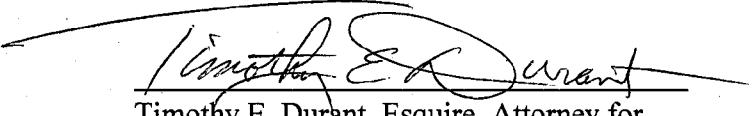
9. After scheduling a hearing before this Court (for 1:00 p.m. on October 14, 2005) to determine whether the ex parte injunction should be continued, none of the Plaintiffs appeared and thus no testimony was presented by Plaintiffs.

10. At the hearing on October 14, 2005 this Court would not accept testimony from Defendant Robert Holland who was then and there present and prepared to testify.

11. As of the date of this filing the ex parte injunction, filed without any bond and not verified by anyone with personal knowledge remains in place preventing the legitimate use by defendant Barans' of their property.

WHEREFORE, the Defendants, JOHN A. BARAN and ROBIN E. BARAN pray that this Honorable Court enter an Order dissolving the Preliminary Injunction and dismissing both the Petition and Complaint with prejudice.

Respectfully submitted



Timothy E. Durant, Esquire, Attorney for
Defendants John A. Baran and Robin E. Baran

November 2, 2005

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

**HARRY STRAWSER, HARRY STRAW,
TIMOTHY STRAW, JEFFREY STRAW,
BRIAN RHINESMUTH and
BRIAN DAVIS**

Plaintiffs

vs.

**ROBERT HOLLAND, JOHN A. BARAN
and ROBIN E. BARAN, husband and wife**
Defendants

*
* No. 05-1570-CD
*
*
*
*
*
*
*

AFFIDAVIT OF SERVICE

I, Timothy E. Durant, Esquire, hereby verify that I have this date placed a certified copy of the PRELIMINARY OBJECTIONS filed on November 3, 2005 for Defendants, John A. Baran and Robin E. Baran in this matter, in the U.S. Mail, prepaid, to counsel as follows:

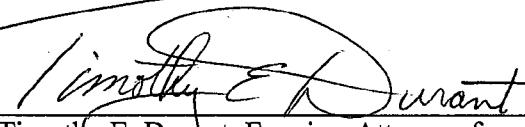
For Plaintiffs:

**FREDERICK M. NEISWENDER, ESQUIRE
501 East Market Street, Suite 3
Clearfield, PA 16830**

Counsel of Record For Defendant Robert Holland:

**PETER F. SMITH, ESQUIRE
30 South Second Street
PO Box 130
Clearfield, PA 16830**

Dated: November 3, 2005



Timothy E. Durant
Timothy E. Durant, Esquire, Attorney for
Defendants John A. Baran and Robin E. Baran

FILED
02-3781 NO CC
NOV 03 2005
WES

William A. Shaw
Prothonotary/Clerk of Courts

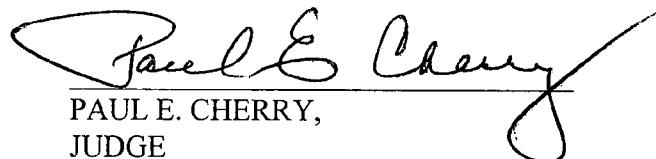
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HARRY STRAWSER, HARRY STRAW, : NO. 05-1570-CD
TIMOTHY STRAW, JEFFREY STRAW, :
BRIAN RHINESBUTH and :
BRIAN DAVIS, :
Plaintiffs :
: :
V. :
: :
ROBERT HOLLAND, JOHN A. BARAN :
and ROBIN E. BARAN, husband and wife, :
Defendants :
:

ORDER

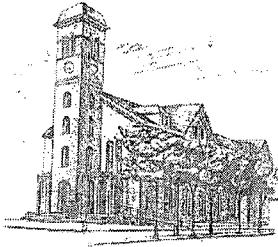
AND NOW, this 7th day of November, 2005, following argument on Plaintiff's Preliminary Injunction and upon consideration of same, the Court having reviewed all documentation provided to it by counsel for all parties, it is the ORDER of this Court that said Preliminary Injunctions shall be and is hereby DISSOLVED. It is the further ORDER of this Court that Plaintiff's Petition and Complaint shall be and are hereby DISMISSED.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED 10/24/05
NOV 08 2005
William A. Shaw
Prothonotary/Clerk of Courts

100 Atty's:
Atty's: Neiswender
P. Smith
Durant



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

Date: September 19, 2005

Over the past several weeks, 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

You are responsible for serving all appropriate parties.

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

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100868
NO: 05-1570-CD
SERVICE # 1 OF 2
COMPLAINT,PRELIMINARY INJUNCTION, RULE &

ORDER

PLAINTIFF: HARRY STRAWSER, HARRY STRAW, TIMOTHY STRAW, JEFFREY STRAW, BRIAN RHINESMUTH &
BRIAN DAVIS

vs.

DEFENDANT: ROBERT HOLLAND, JOHN A. BARAN and ROBIN E. BARAN

SHERIFF RETURN

NOW, October 11, 2005, SHERIFF OF CENTRE COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT,PRELIMINARY INJUNCTION, RULE & ORDER ON JOHN A. BARAN.

NOW, October 12, 2005 ATTEMPTED TO SERVE THE WITHIN COMPLAINT,PRELIMINARY INJUNCTION, RULE & ORDER ON JOHN A. BARAN, DEFENDANT. THE RETURN OF CENTRE COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN MARKED "NOT FOUND".

~~FILED~~
92:30 am
DEC 12 2005 

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100868
NO: 05-1570-CD
SERVICE # 2 OF 2
COMPLAINT,PRELIMINARY INJUNCTION, RULE &

ORDER

PLAINTIFF: HARRY STRAWSER, HARRY STRAW, TIMOTHY STRAW, JEFFREY STRAW, BRIAN RHINESMUTH & BRIAN DAVIS

vs.

DEFENDANT: ROBERT HOLLAND, JOHN A. BARAN and ROBIN E. BARAN

SHERIFF RETURN

NOW, October 11, 2005, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT,PRELIMINARY INJUNCTION, RULE & ORDER ON ROBIN E. BARAN.

NOW, October 14, 2005 AT 2:45 PM SERVED THE WITHIN COMPLAINT,PRELIMINARY INJUNCTION, RULE & ORDER ON ROBIN E. BARAN, DEFENDANT. THE RETURN OF ALLEGHENY COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100868
NO: 05-1570-CD
SERVICES 2
COMPLAINT,PRELIMINARY INJUNCTION, RULE &

ORDER

PLAINTIFF: HARRY STRAWSER, HARRY STRAW, TIMOTHY STRAW, JEFFREY STRAW, BRIAN RHINESMUTH & BRIAN DAVIS

vs.

DEFENDANT: ROBERT HOLLAND, JOHN A. BARAN and ROBIN E. BARAN

SHERIFF RETURN

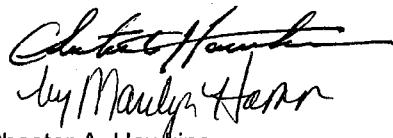
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	NEISWENDER	2071	20.00
SHERIFF HAWKINS	NEISWENDER	2071	47.00
CENTRE CO.	NEISWENDER	2070	42.00
ALLEGHENY CO.	NEISWENDER	2072	50.00
SHEILA O'BRIEN,NOT	NEISWENDER	2073	5.00

Sworn to Before Me This

So Answers,

Day of _____ 2005


Chester A. Hawkins
Sheriff

SHERIFF'S OFFICE

CENTRE COUNTY

1163

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

SHERIFF SERVICE PROCESS RECEIPT, AND AFFIDAVIT OF RETURN

INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. Please type or print legibly. Do not detach any copies.

1. Plaintiff(s)	2. Case Number
<i>Harry Strawser, et al</i>	
3. Defendant(s)	4. Type of Writ or Complaint:
<i>John A. Baron</i>	
SERVE → AT <div style="display: inline-block; vertical-align: middle; text-align: center; border: 1px solid black; padding: 5px; margin-left: 10px;"> 5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levied, Attached or Sold. <i>John A. Baron</i> </div> <div style="display: inline-block; vertical-align: middle; text-align: center; border: 1px solid black; padding: 5px; margin-left: 10px;"> 6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code) <i>511 E Spruce street, Philipsburg, Pa 16866</i> </div>	
7. Indicate unusual service: <input type="checkbox"/> Reg Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Deputize <input type="checkbox"/> Post <input type="checkbox"/> Other	

Now, 20 I SHERIFF OF CENTRE COUNTY, PA., do hereby deputize the Sheriff of _____ County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff. _____ Sheriff of Centre County

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE

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

9. Print/Type Name and Address of Attorney/Originator	10. Telephone Number	11. Date
12. Signature		

SPACE BELOW FOR USE OF SHERIFF ONLY - DO NOT WRITE BELOW THIS LINE

13. I acknowledge receipt of the writ or complaint as indicated above.	SIGNATURE of Authorized CCSD Deputy of Clerk and Title	14. Date Filed	15. Expiration/Hearing Date
--	--	----------------	-----------------------------

TO BE COMPLETED BY SHERIFF

16. Served and made known to _____, on the _____ day of _____,

20 _____, at _____ o'clock, _____ m., at _____, County of Centre

Commonwealth of Pennsylvania, in the manner described below:

- Defendant(s) personally served.
- Adult family member with whom said Defendant(s) resides(s). Relationship is _____
- Adult in charge of Defendant's residence.
- Manager/Clerk of place of lodging in which Defendant(s) resides(s).
- Agent or person in charge of Defendant's office or usual place of business.
- _____ and officer of said Defendant company.
- Other _____

On the 12 day of October, 20 05, at 3:15 o'clock, P M.

Defendant not found because:

- Moved
- Unknown
- No Answer
- Vacant
- Other _____

Remarks: 844 Thorn st., Apt #63 Sewickley, Pa 15143

Advance Costs	Docket	Service	Sur Charge	Affidavit	Mileage	Postage	Misc.	Total Costs	Costs Due or Refund
<u>75.00</u>	<u>9.00</u>	<u>3.00</u>	<u>—</u>	<u>2.50</u>	<u>24.00</u>	<u>.50</u>	<u>1.00</u>	<u>42.00</u>	<u>33.00</u>

17. AFFIRMED and subscribed to before me this _____

So Answer.

20. day of _____ 20 _____

18. Signature of Dep. Sheriff

19. Date

23. _____ Notary Public

21. Signature of Sheriff

22. Date

SHERIFF OF CENTRE COUNTY

Amount Pd. Page

My Commission Expires

24. I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE
OF AUTHORIZED AUTHORITY AND TITLE.

25. Date Received



Sheriff's Office Clearfield County

CHESTER A. HAWKINS
SHERIFF

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

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

ROBERT SNYDER
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

CYNTHIA AUGHENBAUGH
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 100868

TERM & NO. 05-1570-CD

HARRY STRAWSER, HARRY STRAW, TIMOTHY STRAW, JEFFREY STRAW, BRIAN RHINESMUTH & BRIAN DAVIS

COMPLAINT, PRELIMINARY INJUNCTION, RULE & ORDER

vs.

ROBERT HOLLAND, JOHN A. BARAN and ROBIN E. BARAN

HEARING
SERVE BY: **10/14/05**

MAKE REFUND PAYABLE TO FRED M. NEI

SERVE: JOHN A. BARAN

ADDRESS: 511 EAST SPRUCE ST., PHILIPSBURG, PA 168

Know all men by these presents, that I, CHESTER A. HAWKINS, Sheriff of Clearfield County, State of Pennsylvania, do hereby depelize the SHERIFF to execute this writ. This Deputation being made at the request

RESPECTFULLY,

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

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

293241-PA
PL

100868
RUSH ✓

ALLEGHENY COUNTY SHERIFF'S DEPARTMENT

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

PETER R. DEFAZIO
Sheriff

DENNIS SKOSNIK
Chief Deputy

PLAINTIFF: HARRY STRAWSER a1

VS.

DEFT.: ROBERT HOLLAND a1

DEFT.: SERVED: ROBIN E. BARAN

DEFT.: 844 Thorn S. #63
Sewickley, Pa. 15143

GARNIShee:

ADDRESS:

MUNICIPALITY OR CITY WARD:

ATTY: Fred M. Neiswender

DATE: 20

ADDRESS: 501 E. Market St. Suite 3
Clearfield, Pa. 16830

ATTY'S PHONE: 814-765-6500

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

NOW: October 11 2005

CLEARFIELD

ALLEGHENY

ALLEGHENY COUNTY, PA do hereby depose the Sheriff of

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

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

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

MAKE	MODEL	MOTOR NUMBER	SERIAL NUMBER	LICENSE NUMBER

SHERIFF'S OFFICE USE ONLY

I hereby CERTIFY and RETURN that on the 14th day of OCTOBER 2005, at 2:45 o'clock, A.M./P.M. Address Above/ Address Below, County of Allegheny, Pennsylvania

I have served in the manner Described below:

Defendant(s) personally served.

Adult family member with whom said Defendant(s) reside(s). Name & Relationship _____

Adult in charge of Defendant's residence who refused to give name or relationship. _____

Manager/other person authorized to accept deliveries of United States Mail _____

Agent or person in charge of Defendant(s) office or usual place of business. _____

Other _____

Property Posted _____

Defendant not found because: Moved Unknown No Answer Vacant Other _____

Certified Mail Receipt _____ Envelope Returned _____ Neither receipt or envelope retuned: writ expired _____

Regular Mail Why _____

You are hereby notified that on _____, levy was made in the case of _____

Possession/Sale has been set for _____, 20 _____ at _____ o'clock

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

ATTEMPTS _____ / _____ / _____ / _____ / _____ / _____ / _____ / _____

Additional Costs Due \$ _____, This is _____

placed on writ when returned to Prothonotary. Please check _____
before satisfying case. _____ BY: _____ (DEPUTY)

Affirmed and subscribed before me _____
this _____ day of _____ 20_____
Sheila R. O'Brien, Notary Public
City of Pittsburgh, Allegheny County
My Commission Expires June 19, 2008

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

Member, Pennsylvania Association of Notaries

White Copy - Sheriff

Pink Copy - Attorney

Notary

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

HARRY STRAWSER, HARRY STRAW,
TIMOTHY STRAW, JEFFREY STRAW,
BRIAN RHINESMUTH and
BRIAN DAVIS,

Plaintiffs,

vs.

No. 05 - 1570 - CD

ROBERT HOLLAND, JOHN A. BARAN
and ROBIN E. BARAN, husband and wife,
Defendants.

RULE RETURNABLE

NOW, this 11th day of October 2005, upon consideration of Plaintiffs' Preliminary Injunction, a Rule is hereby issued upon the Defendants, Robert Holland, John A. Baran and Robin E. Baran, to show cause why the Preliminary Injunction should not be granted. Rule Returnable for Answer by the Defendants and hearing on said Preliminary Injunction to be held on the 14th day of October, 2005, at 1:00 o'clock P. m. in Courtroom No. 2 of the Clearfield County Courthouse.

BY THE COURT,

/s/ Paul E. Cherry

Judge

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

OCT 11 2005

Attest

William E. Cherry
Prothonotary/
Clerk of Courts

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

HARRY STRAWSER, HARRY STRAW,
TIMOTHY STRAW, JEFFREY STRAW,
BRIAN RHINESMUTH and
BRIAN DAVIS,

Plaintiffs,

vs.

No. 05 - 1570 - CD

ROBERT HOLLAND, JOHN A. BARAN
and ROBIN E. BARAN, husband and wife,
Defendants.

ORDER

NOW, this 11th day of October 2005, upon consideration of Plaintiffs' Preliminary Injunction, it is the ORDER of this Court that the Preliminary Injunction be and is hereby GRANTED. The Defendants, Robert Holland, John A. Baran, Robin E. Baran and their agents are hereby enjoined from entering, cutting and removing timber from the property in Knox Township, Clearfield County, Pennsylvania that is the subject of Plaintiffs' Complaint until a hearing can be held in this matter.

BY THE COURT,

/s/ Paul E. Cherry

Judge

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

OCT 11 2005

APR 11 2006

Paul E. Cherry/
Clearfield County
Court of Common Pleas



Sheriff's Office Clearfield County

CHESTER A. HAWKINS
SHERIFF

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

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

FAX (814) 765-5915

ROBERT SNYDER
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

CYNTHIA AUGHENBAUGH
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 100868

TERM & NO. 05-1570-CD

HARRY STRAWSER, HARRY STRAW, TIMOTHY STRAW, JEFFREY STRAW, BRIAN RHINESMUTH & BRIAN DAVIS

COMPLAINT, PRELIMINARY INJUNCTION, RULE & ORDER

vs.

ROBERT HOLLAND, JOHN A. BARAN and ROBIN E. BARAN

Hearing
SERVE BY: **10/14/05**

MAKE REFUND PAYABLE TO FRED M. NEISWENDER, ESQ.

SERVE: ROBIN E. BARAN

ADDRESS: 844 THORN ST. #63, SEWICKLEY, PA 15143

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF ALLEGHENY COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, October 11, 2005.

RESPECTFULLY,

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

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA