

05-1758-CD
Mahoning Dist. Vs Benjamin Coal

05-1758-CD
Mahoning Dist. Vs Benjamin Coal Co. al

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

MAHONING DISTRIBUTION, INC., :
Plaintiff :
: No. 05 - 1758 - C.D.
vs. :
: ACTION TO QUIET TITLE
BENJAMIN COAL COMPANY, and D. W. :
MICHAEL, A/K/A D. W. MICHAELS, :
A/K/A DAVID W. MICHAEL, A/K/A : COMPLAINT
DAVID W. MICHAELS, their heirs, :
executors, administrators and :
assigns, :
Defendants :
:

Filed on behalf of
Plaintiff

Counsel of Record for
this Party:

Carl A. Belin, Jr., Esq.
Pa. I.D. #08605

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED 2cc
01/08/2005 Atty Belin
NOV 09 2005

William A. Shaw
Prothonotary/Clerk of Courts
Atty pd. 95.00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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A/K/A DAVID W. MICHAEL, A/K/A	:	
DAVID W. MICHAELS, their heirs,	:	
executors, administrators and	:	
assigns,	:	
Defendants	:	

NOTICE

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
Clearfield County Courthouse
1 North Second Street
Clearfield, PA 16830

(814) 765-2641 Ex 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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A/K/A DAVID W. MICHAEL, A/K/A :
DAVID W. MICHAELS, their heirs, :
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Defendants :

COMPLAINT

NOW COMES, the Plaintiff, Mahoning Distribution, Inc., by and through its attorneys Belin & Kubista, bring the following action in quiet title, and in support thereof, allege as follows:

1. That the Plaintiff is Mahoning Distribution, Inc., a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal place of business at P.O. Box 283, Corsica, Pennsylvania 15829 ("Mahoning").

2. The Defendants are: Benjamin Coal Company, a Pennsylvania corporation with a last known address of LaJose, Clearfield County, Pennsylvania; and D. W. Michael, a/k/a D. W. Michaels, a/k/a David W. Michael, a/k/a David W. Michaels, an individual whose last known address is Chest Township,

LaJose, Clearfield County, Pennsylvania, their heirs, executors, administrators and assigns.

3. That the Plaintiff is the owner of a parcel of land that was identified in the Clearfield County Tax Maps as Parcel Number 109-D14-33 which is located in Chest Township, Clearfield County, Pennsylvania, more particularly bounded and described as two (2) tracts as follows:

BEGINNING at a $\frac{1}{4}$ " iron roofbolt corner on the northern right-of-way line of S.R. 3014 (L.R. 17004), and land of Benjamin Coal Company, grantor herein of which this is a part; thence by line of Benjamin Coal Company, North forty-two (42°) degrees fifty (50') minutes thirty (30") seconds East a distance of two hundred fifty-eight and fifty-four hundredths (258.54) feet to a $\frac{1}{4}$ " iron roofbolt corner; thence by same, North sixty-nine (69°) degrees thirty-nine (39') minutes eighteen (18") seconds East a distance of two hundred sixty-one and thirty-three hundredths (261.33) feet to a chain-link fence post corner on the western side of a road; thence by same and following the western side of said road, South thirteen (13°) degrees fifteen (15') minutes eighteen (18") seconds East a distance of two hundred seventy-seven and twenty-three hundredths (277.23) feet to a $\frac{1}{4}$ " iron roofbolt corner on the aforementioned northern right-of-way line of S.R. 3014 (L.R. 17004); thence by the northern right-of-way line of said road by a curve to the right, the chord of which is South eighty-seven (87°) degrees twenty-nine (29') minutes one (01") second West a distance of four hundred thirty-six and twelve hundredths (436.12) feet to $\frac{1}{4}$ " iron roofbolt corner; thence by the northern

right-of-way line of said road, North seventy-nine (79°) degrees fifty-four (54') minutes sixteen (16") seconds West a distance of forty-nine and twenty-seven hundredths (49.27) feet to a $\frac{3}{4}$ " iron roofbolt corner, the place of beginning.

CONTAINING 2.053 Acres.

(**"Tract 1"**).

BEGINNING at a $\frac{3}{4}$ " iron roofbolt corner on the southern right-of-way line of S.R. 3014 (L.R. 17004) and land of Benjamin Coal Company, grantor herein of which this is a part; thence by line of Benjamin Coal Company these following courses and distances: South one (01°) degree thirty-six (36') minutes five (05") seconds East a distance of fifty-five and seventeen hundredths (55.17) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South fifty-six (56°) degrees twenty-one (21') minutes thirteen (13") seconds West a distance of one hundred two and forty-four hundredths (102.44) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North fifty-seven (57°) degrees two (02') minutes twenty-three (23") seconds West a distance of eighty-six and thirty-nine hundredths (86.39) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South forty-three (43°) degrees fifteen (15') minutes forty-two (42") seconds West a distance of eighty-four and five hundredths (84.05) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South eighty (80°) degrees fifty (50') seconds nine (09") minutes [sic] West a distance of forty-six and ninety-three hundredths (46.93) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South ten (10°) degrees twenty-five (25') minutes thirty-four (34") seconds West a distance of two hundred thirty and eighty-two hundredths (230.82) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North seventy-seven (77°)

degrees fifty-six (56') minutes forty (40") seconds West a distance of one hundred twenty-three and fifty-five hundredths (123.55) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South eighty (80°) degrees fifty (50') minutes three (03") seconds West a distance of two hundred eleven and forty-six hundredths (211.46) feet to a 3/4" iron roofbolt corner; thence North seventy-three (73°) degrees twenty-one (21') minutes ten (10") seconds West a distance of forty-two and seventy-four hundredths (42.74) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South fifty-six (56°) degrees thirty (30') minutes nineteen (19") seconds West a distance of one hundred fourteen and thirty hundredths (114.30) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North eighty-five (85°) degrees forty-four (44') minutes thirty-three (33") seconds West a distance of two hundred twenty and thirty-one hundredths (220.31) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North two (02°) degrees eighteen (18') minutes thirty-eight (38") seconds East a distance of two hundred eighty-one and seventy-six hundredths (281.76) feet to a $\frac{3}{4}$ " iron roofbolt corner on the aforementioned Southern right-of-way line of S.R. 3014 (L.R. 17004); thence by the southern right-of-way line of said road, South seventy-nine (79°) degrees fifty-four (54') minutes sixteen (16") seconds East a distance of twenty-two and ninety-seven hundredths (22.97) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence still by same by a curve to the left, the chord of which is North eighty-seven (87°) degrees thirty-one (31') minutes forty-five (45") seconds East a distance of four hundred forty-eight and sixty-nine hundredths (448.69) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence still by same, North seventy-eight (78°) degrees eight (08') minutes nineteen (19") seconds East a distance of five hundred sixteen and

twenty-six hundredths (516.26) feet to a $\frac{1}{4}$ " iron roofbolt corner, the place of beginning.

CONTAINING 4.635 Acres.

("Tract 2").

4. That Mahoning acquired Tract 1 and Tract 2 by virtue of a deed from James R. Walsh, Esquire, Trustee of the Bankruptcy Estate of Benjamin Coal Company dated March 4, 1991, and recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 1388, page 494.

5. That Mahoning acquired title to an additional tract of land situate in Chest Township, Clearfield County, Pennsylvania, which is contiguous to Tract 1 and Tract 2 and which is more particularly bounded and described as follows:

CHEST TOWNSHIP
MAP #109-D15-000-00030
9A IN FEE EXCEPT GAS & OIL.

("Tract 3").

6. That Tract Nos. 2 and 3 have been consolidated with Tract No. 1 into a new Tax Assessment No. 109-D14-33 which tracts have been surveyed by virtue of a Lot Consolidation which is recorded in the Office of the Recorder of Deeds of Clearfield County as Instrument No. 200514872 and which are more particularly bounded and described as follows to wit:

BEGINNING at a found roof bolt, said corner being the northwest corner of the property described herein; thence along the southern right-of-way line of State Route 3014 these following courses and distances: by a curve to the left with a radius of one thousand fifty and four hundredths (1050.04) feet, the chord of which is South fifty-eight (58°) degrees forty-eight (48') minutes eighteen (18") seconds East, a distance of three hundred eighty-three and ninety-four hundredths (383.94) feet to a point; South sixty-nine (69°) degrees twenty-nine (29') minutes thirty-four (34") seconds East, a distance of six hundred forty-seven and seventy-nine hundredths (647.79) feet to a set $\frac{1}{4}$ " iron rebar corner; thence along the western right-of-way line of Owens Road these following courses and distances: South three (03°) degrees thirteen (13') minutes forty-seven (47") seconds East, a distance of twenty-six and ninety-seven hundredths (26.97) feet to a point, South nine (09°) degrees fifty-one (51') minutes fifty-four (54") seconds East, a distance of sixty-seven and ninety-two hundredths (67.92) feet to a set $\frac{1}{4}$ " iron rebar corner; thence along an existing gas line these following courses and distances: South sixty-four (64°) degrees forty-one (41') minutes seven (07") seconds West, a distance of six hundred one and nine hundredths (601.09) feet to a point, South sixty-five (65°) degrees nineteen (19') minutes forty-seven (47") seconds West, a distance of nine hundred ten and twenty-nine hundredths (910.29) feet to a point, thence along land of now or formerly Pennsylvania Society for the Advancement of the Deaf, Inc. and land of now or formerly Franklin L., Thomas E. and Scott A. Wolfgang; North twenty (20°) degrees thirty-nine (39') minutes twenty-

two (22") seconds East, a distance of three hundred forty-two and zero hundredths (342.00) feet to a found rebar corner; thence along land of now or formerly Franklin L., Thomas E. and Scott A. Wolfgang, North thirty-nine (39°) degrees fifty-two (52') minutes eighteen (18") seconds West, a distance of sixty-eight and fifty-four hundredths (68.54) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along land of now or formerly Arthur B. Hugill these following courses and distances: North twenty-seven (27°) degrees twenty-three (23') minutes forty-four (44") seconds East, a distance of five hundred sixty-three and fifty-six hundredths (563.56) feet to a found iron pipe corner, North fifty-three (53°) Degrees twenty-five (25') minutes fifty (50") seconds West, a distance of one hundred twelve and sixty-two hundredths (112.62) feet to a found roof bolt corner, North thirty-nine (39°) degrees twelve (12') minutes forty-six (46") seconds East, a distance of two hundred seventy-nine and forty-eight hundredths (279.48) feet to a found roof bolt, the place of beginning.

CONTAINING 16.05 acres as shown on a plan titled "Preliminary/Final Lot Consolidation Plan of Mahoning Distributing Inc., Chest Township, Clearfield County", as prepared by Hess & Fisher Engineers, Inc., dated August 5, 2005. A copy of said plan is recorded in the Office of the Recorder of Deeds for Clearfield County to Instrument No. 200514872.

(Tract 2 and Tract 3 are also identified as "Consolidated Parcels").

7. That Tract No. 1 has been surveyed on the plan entitled "Preliminary/Final Consolidation Plan of Mahoning Distribution, Inc., Chest Township, Clearfield County," dated August 5, 2005, and has been more particularly bounded and described as follows:

BEGINNING at a found roof bolt, said corner being the southeast corner of the property described herein; thence along the northern right-of-way line of State Route 3014 these following courses and distances: North sixty-eight (68°) degrees thirty-seven (37') minutes forty-five (45") seconds West, a distance of sixty-four and twenty-seven hundredths (64.27) feet to a point; by a curve to the right with a radius of one thousand thirty-six and thirty-four hundredths (1036.34) feet, the chord which is North fifty-seven (57°) degrees twenty-nine (29') minutes thirty (30") seconds West, a distance of four hundred twenty-two and twenty hundredths (422.20) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along land of now or formerly Arthur B. and Nancy J. Hugill these following courses and distances: North seventy-five (75°) degrees fifteen (15') minutes nine (09") seconds East, a distance of two hundred sixty and ten hundredths (260.10) feet to a set $\frac{3}{4}$ " iron rebar corner, South seventy-seven (77°) degrees fifty-six (56') minutes three (03") seconds East, a distance of two hundred sixty-one and thirteen hundredths (261.13) feet to a found chain link fence post corner, South nineteen (19°) degrees nine (09') minutes twenty-one (21") seconds West, a distance of two hundred seventy-seven and thirty hundredths (277.30) feet to a found roof bolt corner, the place of beginning.

CONTAINING 2.06 acres as shown on a plan titled "Preliminary/Final Lot Consolidation Plan of Mahoning Distributing Inc., Chest Township, Clearfield County", as prepared by Hess & Fisher Engineers, Inc., dated August 5, 2005. A copy of said plan is recorded in the Office of the Recorder of Deeds for Clearfield County to Instrument No. 200514872.

("Consolidated Parcel 1").

Tract 1 and Tract 2

8. That title to Tract 1 and Tract 2 were acquired by Benjamin Coal Company by virtue of a deed from Anna Benjamin et al. dated June 1, 1965, and recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 518, page 517, as Tract No. 15 in said deed.

9. That Anna Benjamin et al. acquired Tract 1 and Tract 2 by virtue of a deed from Dr. K. C. Kitchen dated September 13, 1955, recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 445, page 494.

10. That Dr. K. C. Kitchen acquired Tract 1 and Tract 2 by virtue of a deed from Helen Michael, now Helen S. Peden, and Arthur Peden, her husband, dated March 6, 1951, and recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 411, page 242.

11. That Helen Peden, formerly Helen Michael, acquired the premises along with her husband Darrell H. Michael, by virtue of a deed from Alex F. Michael et al. dated March 10, 1943, and recorded in the Office of the Recorder of Deeds in Deed Book 320, page 349; that Darrell H. Michael died on June 17, 1945, thereby vesting title in his surviving spouse, Helen Michael who since married Arthur Peden.

12. That Alex F. Michael, a/k/a Alex F. Michaels, a/k/a Alexander F. Michael, a/k/a Alexander F. Michaels, acquired the premises by virtue of a commissioner's deed as a result of a private tax sale, said deed dated February 22, 1943, and recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 349, page 322.

13. That the Clearfield County Treasurer acquired property assessed in the name of D. W. Michael, a/k/a D. W. Michaels, a/k/a David W. Michael, a/k/a David W. Michaels, consisting of "40 and 60 Acres" by deed dated December 31, 1937 and recorded in the Office of the Recorder of Deeds in Deed Book 346, page 216.

14. That the purpose of this quiet title is to extinguish any interest that D. W. Michael, a/k/a D. W. Michaels, a/k/a David W. Michael, a/k/a David W. Michaels, his heirs, successors, administrators and assigns, may have had in

the premises remaining after the tax sale referred to in Paragraphs 12 and 13 which are incorporated herein and made a part hereof, and to extinguish any interest in equity that D. W. Michael, a/k/a D. W. Michaels, a/k/a David W. Michael, a/k/a David W. Michaels, his heirs, successors, administrators and assigns, may have had in the premises due to a lack of notice or any other defect in the tax sale, and to extinguish any interest in equity that D. W. Michael, a/k/a D. W. Michaels, a/k/a David W. Michael, a/k/a David W. Michaels, his heirs, successors, administrators and assigns, may have had in the premises following the tax sale.

15. That D. W. Michael, a/k/a D. W. Michaels, a/k/a David W. Michael, a/k/a David W. Michaels, acquired the premises by virtue of a deed of James Curry dated January 20, 1881, and recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 23, page 398.

Tract 3

16. That Mahoning acquired the premises by virtue of a deed from William G. Satterlee & Sons, Inc. ("Satterlee"), dated July 8, 2004, and recorded in the Office of the Recorder of Deeds of Clearfield County in Instrument No. 200411065.

17. That Satterlee acquired title to the premises by virtue of a deed from the Tax Claim Bureau of Clearfield

County, Pennsylvania, Trustee, dated May 3, 2004 and recorded in the Office of the Recorder of Deeds of Clearfield County in Instrument Number 200409396 assessed in the name of Benjamin Coal Company.

18. That the Clearfield County Tax Claim Bureau sold property assessed in the name of Benjamin Coal Company for unpaid taxes for the years 1987 through 2003 by deed dated May 3, 2004 and recorded in the Office of the Recorder of Deeds of Clearfield County in Instrument No. 200409396.

19. That the purpose of this quiet title is to extinguish any interest that Benjamin Coal Company, its successors, administrators and assigns, may have had in the premises remaining after the tax sale referred to in Paragraphs 17 and 18 which are incorporated herein and made a part hereof, and to extinguish any interest in equity that Benjamin Coal Company, its successors, administrators and assigns, may have had in the premises due to a lack of notice or any other defect in the tax sale, and to extinguish any interest in equity that Benjamin Coal Company, its successors, administrators and assigns, may have had in the premises following the tax sale.

20. That Benjamin Coal Company acquired title to the premises by virtue of a deed of Lynn L. Michaels and Ethel L. Michaels, his wife, Sara Michaels Westover, also known as

Saradline Michaels Westover and Glenn L. Westover, her husband, dated January 5, 1978, and recorded in the Office of the Recorder of Deeds Of Clearfield County in Deed Book 753, page 033; and by deed of Paul J. Michaels and Goldie Michaels by deed dated August 4, 1980, recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 801, page 011.

21. That Lynn L. Michaels, Sara Michaels Westover, also known as Saradline Michaels Westover, and Paul J. Michaels acquired title to the premises by virtue of a Will of Nancy A. Michaels, a/k/a Nancy A. Michael, who died on May 13, 1974, and by virtue of her Last Will and Testament devised all her real estate to her children: Lynn L. Michaels, Sara Michaels Westover, also known as Saradline Michaels Westover, and Paul J. Michaels, which Will was recorded in the Office of the Register of Wills of Clearfield County in Will Book 35, page 70.

22. That Alexander F. Michael, a/k/a Alexander F. Michaels, a/k/a Alex F. Michael, a/k/a Alex F. Michaels, died on October 21, 1958, and by virtue of the premises being conveyed by tenants by the entireties the premises became vested in Nancy A. Michael, a/k/a Nancy A. Michaels.

23. That Alexander F. Michael, a/k/a Alex F. Michael, a/k/a Alexander F. Michaels, a/k/a Alex F. Michaels, and Nancy A. Michael, a/k/a Nancy A. Michaels, acquired title to the premises as tenants by the entireties by virtue of a deed from Alexander F. Michael, a/k/a Alexander F. Michaels, a/k/a Alex F. Michael, a/k/a Alex F. Michaels, and Nancy A. Michael, also known as Nancy A. Michaels, his wife, dated May 15, 1946, recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 375, page 463.

24. That Alexander Michael, a/k/a Alexander Michaels, acquired title to the premises by virtue of a deed of Nancy Alberta Griffith and H. M. Griffith, dated January 5, 1923, recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 264, page 35.

25. That Nancy Alberta Griffith acquired title to the premises by virtue of a deed of Ed. B. Chase, Register of Wills, dated October 29, 1917, recorded in the Office of the Recorder of Deeds of Clearfield County in Deed Book 224, page 153; said deed was a conveyance from the estate of her father, Austin Curry.

26. That Austin Curry acquired title to the premises by virtue of a Will from his father, James Curry, which Will is

recorded in the Office of the Clearfield County Register of Wills in Will Book A, page 155.

27. That the Plaintiffs and their predecessors in title have exercised adverse, continuous, visible, notorious, exclusive and hostile possession over the premises and have continued possession for a period in excess of 21 years.

28. That the Defendants and the Plaintiffs herein are the only persons or entities known to the Plaintiffs who have any interest in the said premises.

WHEREFORE, Plaintiffs request:

(a) That by decree of Your Honorable Court it may be declared that the Plaintiffs have acquired title to the premises and that they should be allowed to enjoy said properties in peace;

(b) That the Defendants within twenty (20) days from the receipt of the Complaint, institute an action of ejectment against the Plaintiffs and that otherwise the Defendants be perpetually enjoined from setting up any title to said premises; from impeaching, denying or in any way attacking the Plaintiffs' title to said premises, from issuing or maintaining an ejectment of said premises or any part thereof; and

(c) Such other relief as the court deems proper.

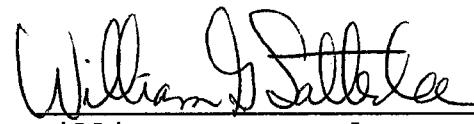
Respectfully Submitted,

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esq.

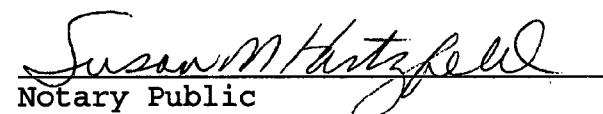
COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :
:

Before me the undersigned officer, personally appeared WILLIAM G. SATTERLEE, who deposes and says he is the President of MAHONING DISTRIBUTION, INC., and as such President being authorized to do so, and being duly sworn according to law, deposes and says that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.

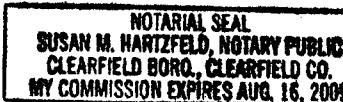


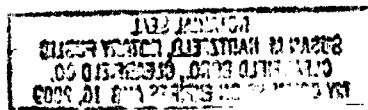
William G. Satterlee

Sworn and subscribed before me this 9th day of November, 2005.



Susan M. Hartzfeld
Notary Public





FILED

NOV 09 2005

William A. Shaw
Prothonotary/Clerk of Courts

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MOTION FOR PUBLICATION
AND ORDER

Filed on behalf of
Plaintiff

Counsel of Record for
this Party:

Carl A. Belin, Jr., Esq.
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15 North Front Street
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01/30/08 BY *AB*
NOV 09 2005 *AB*
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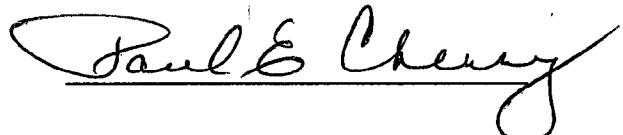
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A/K/A DAVID W. MICHAEL, A/K/A :
DAVID W. MICHAELS, their heirs, :
executors, administrators and :
assigns, :
Defendants :

ORDER

AND NOW, to wit: this 9th day of November, 2005,
upon consideration of the foregoing Motion, the Plaintiff is
granted leave to make service of the Complaint on the Defendants,
BENJAMIN COAL COMPANY, and D. W. MICHAEL, A/K/A D. W. MICHAELS,
A/K/A DAVID W. MICHAEL, A/K/A DAVID W. MICHAELS, their heirs,
executors, administrators and assigns by general publication one
time in *The Progress* and the *Clearfield County Legal Journal*,
Clearfield, Pennsylvania not less than thirty (30) days prior to
December 15, 2005, the date set for hearing of said Complaint in
Courtroom No. 2 at Clearfield, Pennsylvania at 9:00 o'clock
Q.m.

BY THE COURT,



FILED *acc*
013:08/05 AttyBelin
NOV 09 2005


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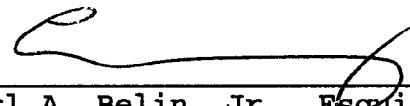
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William A. Shaw
Prothonotary/Clerk of Courts

listing was found in the name of Defendant D. W. MICHAEL, A/K/A D. W. MICHAELS, A/K/A DAVID W. MICHAEL, A/K/A DAVID W. MICHAELS, his heirs, executors, administrators and assigns; that phone directories were consulted in LaJose, Pennsylvania, and no listing was found for D. W. MICHAEL, A/K/A D. W. MICHAELS, A/K/A DAVID W. MICHAEL, A/K/A DAVID W. MICHAELS, his heirs, executors, administrators and assigns.

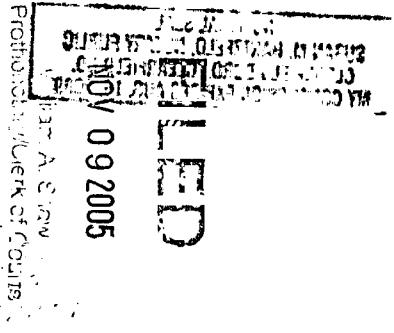
Based upon the foregoing search, personal service cannot be made upon Defendants BENJAMIN COAL COMPANY, and D. W. MICHAEL, A/K/A D. W. MICHAELS, A/K/A DAVID W. MICHAEL, A/K/A DAVID W. MICHAELS, their heirs, executors, administrators, and assigns, and it is necessary that service be made by publication.


Carl A. Belin, Jr., Esquire
Attorney for Plaintiff

Sworn and subscribed before me this 9th day of
November, 2005.


Susan M. Hartzfeld
Notary Public





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

MAHONING DISTRIBUTION, INC., :
Plaintiff :
: No. 05 - 1758 - C.D.
vs. :
: ACTION TO QUIET TITLE
BENJAMIN COAL COMPANY, and D. W. :
MICHAEL, A/K/A D. W. MICHAELS, :
A/K/A DAVID W. MICHAEL, A/K/A : AFFIDAVIT
DAVID W. MICHAELS, their heirs, :
executors, administrators and :
assigns, :
Defendants :

Filed on behalf of
Plaintiff

Counsel of Record for
this Party:

Carl A. Belin, Jr., Esq.
Pa. I.D. #08605

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED

DEC 12 2005
6/10/05 LM
William A. Shaw
Prothonotary/Clerk of Courts
No C/C

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

MAHONING DISTRIBUTION, INC., :
Plaintiff :
: No. 05 - 1758 - C.D.
vs. :
: ACTION TO QUIET TITLE
BENJAMIN COAL COMPANY, and D. W. :
MICHAEL, A/K/A D. W. MICHAELS, :
A/K/A DAVID W. MICHAEL, A/K/A :
DAVID W. MICHAELS, their heirs, :
executors, administrators and :
assigns, :
Defendants :

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

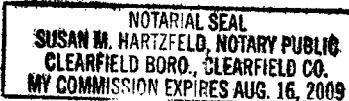
CARL A. BELIN, JR., attorney for the above named Plaintiff,
being duly sworn according to law, deposes and states that Notice
of the Quiet Title Action was served upon Defendants, BENJAMIN COAL
COMPANY, and D. W. MICHAEL, A/K/A D. W. MICHAELS, A/K/A DAVID W.
MICHAEL, A/K/A DAVID W. MICHAELS, their heirs, executors,
administrators, and assigns, by publication in *The Progress*, a
newspaper, on November 12, 2005, as evidenced by the Proof of
Publication dated December 6, 2005, attached hereto, AND by
publication in the *Clearfield County Legal Journal*, Clearfield, on
November 18, 2005, as evidenced by the Proof of Publication dated

November 18, 2005, attached hereto.


Carl A. Belin, Jr., Esquire

SWORN AND SUBSCRIBED before me this 10th day of
December, 2005.


Susan M. Hartzfeld
Notary Public



PROOF OF PUBLICATION

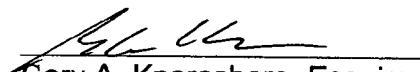
STATE OF PENNSYLVANIA :

:

COUNTY OF CLEARFIELD :

:

On this 18th day of November AD 2005, before me, the subscriber, a Notary Public in and for said County and State, personally appeared Gary A. Knaresboro editor of the Clearfield County Legal Journal of the Courts of Clearfield County, and that the annexed is a true copy of the notice or advertisement published in said publication in the regular issues of Week of November 18, 2005. Vol. 17, No. 46. And that all of the allegations of this statement as to the time, place, and character of the publication are true.



Gary A. Knaresboro, Esquire
Editor

Sworn and subscribed to before me the day and year aforesaid.

Sharon J. Pusey
Notary Public
My Commission Expires

NOTARIAL SEAL
SHARON J. PUSEY, Notary Public
Clearfield, Clearfield County, PA
My Commission Expires APRIL 7, 2007

Belin & Kubista
15 N Front St
Clearfield PA 16830

MAYHEW, SHERRY L., Dec'd
Late of Mahaffey
Co-Executrices: **PAMELA J. DIMMICK**
KATHY A. BAILOR
Attorney: **JAMES A. NADDEO**
207 East Market Street
PO Box 552
Clearfield, PA 16830

First and Final Account of, First Commonwealth Trust Company, Executor for the Estate of Annabelle E. Cook, late of DuBois, Clearfield County, PA. DECEASED.

Second and Partial Account of First Commonwealth Trust Company and Brenda L. Orsich, Co-Guardians for the Estate of Jennifer L. Weaver, a minor.

ADV: November 11 & 18, 2005.

KAREN L. STARCK, REGISTER OF WILLS & CLERK OF ORPHANS' COURT.

REGISTER & ORPHANS' COURT NOTICES

Notice is hereby given that the following Accounts have been examined by me and remain in the Office of Karen L. Starck, Register of Wills for the inspection of the heirs, legatees and creditors and all others interested and will be presented to the Orphans' Court of Clearfield County, PA on the first Monday in November, 2005.

The Accounts will be presented to the Orphans' Court for Confirmation NISI on the first Monday in December, 2005, and if no Objections or Exceptions are filed to the Account, it will be Confirmed Absolutely, as of course, without further notice by the Court in 10 days.

First and Final Account of Clearfield Bank & Trust Company and Joanne Hoffman (Rothrock), Co-Executors for the Estate of Julia D. Joplin, late of Clearfield, Clearfield County, PA, DECEASED.

First and Final Account of William H. Hubler, Executor for the Estate of Catherine A. Hubler, late of Allport, Clearfield County, PA, DECEASED.

First and Final Account of Claude Allen Sayers, Executor for the Estate of C. Ursula Sayers, a/k/a Ursula Sayers, a/k/a C. U. Sayers, a/k/a Catherine U. Sayers, a/k/a Catharine U. Sayers, a/k/a Catherine Ursula Sayers, late of Frenchville, Clearfield County, PA, DECEASED.

First and Final Account of Margaret A. Murawski, Executor for the Estate of Ambrose M. Murawski, a/k/a Ambrose M. Murawski, late of Morann, Clearfield County, PA, DECEASED.

First and Final Account of Jeffrey B. Wasilko and Wanda L. Wasilko, Co-Administrators for the Estate of George R. Guydosik, late of Morrisdale, Clearfield County, PA, DECEASED.

First and Final Account of Judith Guth and Ronald J. Guth, Co-Executors for the Estate of Elsie M. Hawk, late of Morrisdale, Clearfield County, PA, DECEASED.

First and Final Account of Ethel Boggan, Executrix for the Estate of Joseph L. Hvizdash, late of Morrisdale, Clearfield County, PA, DECEASED.

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

DOUGLAS F. MIHALKO, Plaintiff vs. JOHN A. ESTEP and FRANCES ESTEP a/k/a FRANCES MAY ESTEP, his wife; MABEL ESTEP; WILLIAM R. ESTEP; MARTHA ESTEP; ALBERT ESTEP and EDNIE ESTEP, and their heirs, executors, administrators, successors, trustees, and assigns, known or unknown, and any other person who may claim title or an interest in the property subject to this action, Defendants

No. 2005-1709 -CD
ACTION TO QUIET TITLE
NOTICE

TO: JOHN A. ESTEP and FRANCES ESTEP a/k/a FRANCES MAY ESTEP, his wife; MABEL ESTEP; WILLIAM R. ESTEP; MARTHA ESTEP; ALBERT ESTEP; and EDNIE ESTEP, and their heirs, executors, administrators, successors, trustees, successors and assigns, known or unknown:

You have been sued in Court. You are hereby notified that an Action to Quiet Title to those tracts or parcels of land located in Bigler Township, Clearfield County, Pennsylvania, has been filed against you. Said land is bounded and described as follows:

THE FIRST THEREOF

BEGINNING at corner of Lot Nos. 11 & 12 on Winona Alley; thence South Eighty (80) feet along line between Lots Nos. 11 & 12 to right-of-way of Vulcan Branch Railroad; thence along said right-of-way Southwest Ninety (90) feet to a point along Worth Street; thence West along Worth Street about Eight (8) feet to corner of Lots Nos. 12 & 13; thence North along said line of Lots Nos. 12 & 13, One Hundred and Fifty (150) feet to a point on Winona Alley; Thence along the western side of Winona Alley in a southerly direction to place of beginning and known as Lot No. 12 on the plan of Beulah City as recorded in the office

for recording of deeds in said County in Deed Book No. 73, Page 504.

THE SECOND THEREOF

BOUNDED on the East by Lot No. 12; on the North by Winona Alley; on the West by Lot No. 14, and on the South by Worth Street and known as Lot No. 13 on the plan of Beulah City as recorded in the office for recording of deeds in said County in Deed Book 73, Page 504.

THE THIRD THEREOF

BOUNDED on the East by Whiteside Street; on the North by Winona Alley; on the West by Lot No. 12; and on the South by Worth Street and known as Lot No. 11 on the Beulah City as recorded in the office for recording of deeds in said County in Deed Book No. 72, Page 504. This Lot being divided by the right-of-way for the Vulcan Branch Railroad.

The above properties combined is currently known by Clearfield County Tax Map No. 103-L14-372-8.

You are further notified to appear and answer the Complaint in said Action within twenty (20) days from the date of this publication, otherwise judgment will be entered against you barring you from all claims, rights and interest inconsistent with the Plaintiffs' claim of title as set forth in the Complaint.

NOTICE

TO: JOHN A. ESTEP and FRANCES ESTEP a/k/a FRANCES MAY ESTEP, his wife; MABEL ESTEP; WILLIAM R. ESTEP; MARTHA ESTEP; ALBERT ESTEP; and EDNIE ESTEP; and their heirs, executors, administrators, successors, trustees and assigns, known or unknown.

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the Court. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

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

Court Administrator's Office, Clearfield

County Courthouse, Clearfield, PA 16830
(814) 765-2641.

LEHMAN & KASUBICK, 611 Brisbin Street, Houtzdale, PA 16651.

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

No. 05 - 1758 - C.D.
ACTION TO QUIET TITLE

MAHONING DISTRIBUTION, INC., Plaintiff vs. BENJAMIN COAL COMPANY, and D. W. MICHAEL, A/K/A D. W. MICHAELS, A/K/A DAVID W. MICHAEL, A/K/A DAVID W. MICHAELS, their heirs, executors, administrators and assigns, Defendants.

TO: BENJAMIN COAL COMPANY, and D. W. MICHAEL, A/K/A D. W. MICHAELS, A/K/A DAVID W. MICHAEL, A/K/A DAVID W. MICHAELS, THEIR HEIRS, EXECUTORS, ADMINISTRATORS AND ASSIGNS:

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the Plaintiffs. You may lose money or property or other rights important to you.

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, Clearfield County Courthouse, 1 North Second Street, Clearfield, Pennsylvania 16830 (814) 765-2641 Ex. 5982.

You are hereby notified that an action has been filed to Quiet Title to the following premises identified in the Clearfield County Tax Maps as Parcel Number 109-D14-33 which is located in Chest Township, Clearfield County, Pennsylvania, more particularly bounded and described as two (2) tracts as follows:

BEGINNING at a $\frac{3}{4}$ " iron roofbolt corner on the northern right-of-way line of S.R. 3014 (L.R. 17004), and land of Benjamin Coal Company, grantor herein of which this is a part; thence by line of Benjamin Coal Company, North forty-two (42°) degrees fifty (50') minutes thirty (30") seconds East a

distance of two hundred fifty-eight and fifty-four hundredths (258.54) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence by same, North sixty-nine (69°) degrees thirty-nine (39') minutes eighteen (18") seconds East a distance of two hundred sixty-one and thirty-three hundredths (261.33) feet to a chain-link fence post corner on the western side of a road; thence by same and following the western side of said road, South thirteen (13°) degrees fifteen (15') minutes eighteen (18") seconds East a distance of two hundred seventy-seven and twenty-three hundredths (277.23) feet to a $\frac{3}{4}$ " iron roofbolt corner on the aforementioned northern right-of-way line of S.R. 3014 (L.R. 17004); thence by the northern right-of-way line of said road by a curve to the right, the chord of which is South eighty-seven (87°) degrees twenty-nine (29') minutes one (01") second West a distance of four hundred thirty-six and twelve hundredths (436.12) feet to $\frac{3}{4}$ " iron roofbolt corner; thence by the northern right-of-way line of said road, North seventy-nine (79°) degrees fifty-four (54') minutes sixteen (16") seconds West a distance of forty-nine and twenty-seven hundredths (49.27) feet to a $\frac{3}{4}$ " iron roofbolt corner, the place of beginning.

CONTAINING 2.053 Acres.

("Tract 1").

BEGINNING at a $\frac{3}{4}$ " iron roofbolt corner on the southern right-of-way line of S.R. 3014 (L.R. 17004) and land of Benjamin Coal Company, grantor herein of which this is a part; thence by line of Benjamin Coal Company these following courses and distances: South one (01°) degree thirty-six (36') minutes five (05") seconds East a distance of fifty-five and seventeen hundredths (55.17) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South fifty-six (56°) degrees twenty-one (21') minutes thirteen (13") seconds West a distance of one hundred two and forty-four hundredths (102.44) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North fifty-seven (57°) degrees two (02') minutes twenty-three (23") seconds West a distance of eighty-six and thirty-nine hundredths (86.39) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South forty-three (43°) degrees fifteen (15') minutes forty-two (42") seconds West a distance of eighty-four and five hundredths (84.05) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South eighty (80°) degrees fifty (50') seconds nine (09") minutes [sic] West a distance of forty-six and ninety-three hundredths (46.93) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South ten (10°) degrees twenty-five (25') minutes thirty-four (34") seconds West a distance of two hundred thirty and eighty-two hundredths (230.82) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North seventy-seven (77°) degrees fifty-six

(56") minutes forty (40") seconds West a distance of one hundred twenty-three and fifty-five hundredths (123.55) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South eighty (80°) degrees fifty (50') minutes three (03") seconds West a distance of two hundred eleven and forty-six hundredths (211.46) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North seventy-three (73°) degrees twenty-one (21') minutes ten (10") seconds West a distance of forty-two and seventy-four hundredths (42.74) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South fifty-six (56°) degrees thirty (30') minutes nineteen (19") seconds West a distance of one hundred fourteen and thirty hundredths (114.30) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North eighty-five (85°) degrees forty-four (44') minutes thirty-three (33") seconds West a distance of two hundred twenty and thirty-one hundredths (220.31) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North two (02°) degrees eighteen (18') minutes thirty-eight (38") seconds East a distance of two hundred eighty-one and seventy-six hundredths (281.76) feet to a $\frac{3}{4}$ " iron roofbolt corner on the aforementioned Southern right-of-way line of S.R. 3014 (L.R. 17004); thence by the southern right-of-way line of said road, South seventy-nine (79°) degrees fifty-four (54') minutes sixteen (16") seconds East a distance of twenty-two and ninety-seven hundredths (22.97) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence still by same by a curve to the left, the chord of which is North eighty-seven (87°) degrees thirty-one (31') minutes forty-five (45") seconds East a distance of four hundred forty-eight and sixty-nine hundredths (448.69) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence still by same, North seventy-eight (78°) degrees eight (08') minutes nineteen (19") seconds East a distance of five hundred sixteen and twenty-six hundredths (516.26) feet to a $\frac{3}{4}$ " iron roofbolt corner, the place of beginning.

CONTAINING 4.635 Acres.

("Tract 2").

And further to quiet title to an additional tract of land situate in Chest Township, Clearfield County, Pennsylvania, which is contiguous to Tract 1 and Tract 2 and which is more particularly bounded and described as follows:

CHEST TOWNSHIP

MAP #109-D15-000-00030

9A IN FEE EXCEPT GAS & OIL.

("Tract 3").

Tract Nos. 2 and 3 have been consolidated with Tract No. 1 into a new Tax Assessment No. 109-D14-33 which tracts have been surveyed by virtue of a Lot Consolidation which is recorded in the Office of the Recorder of Deeds of Clearfield County as Instrument No. 200514872 and which are more particularly bounded and

described as follows to wit:

BEGINNING at a found roof bolt, said corner being the northwest corner of the property described herein; thence along the southern right-of-way line of State Route 3014 these following courses and distances: by a curve to the left with a radius of one thousand fifty and four hundredths (1050.04) feet, the chord of which is South fifty-eight (58?) degrees forty-eight (48') minutes eighteen (18") seconds East, a distance of three hundred eighty-three and ninety-four hundredths (383.94) feet to a point; South sixty-nine (69?) degrees twenty-nine (29') minutes thirty-four (34") seconds East, a distance of six hundred forty-seven and seventy-nine hundredths (647.79) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along the western right-of-way line of Owens Road these following courses and distances: South three (03?) degrees thirteen (13') minutes forty-seven (47") seconds East, a distance of twenty-six and ninety-seven hundredths (26.97) feet to a point, South nine (09?) degrees fifty-one (51') minutes fifty-four (54") seconds East, a distance of sixty-seven and ninety-two hundredths (67.92) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along an existing gas line these following courses and distances: South sixty-four (64?) degrees forty-one (41') minutes seven (07") seconds West, a distance of six hundred one and nine hundredths (601.09) feet to a point, South sixty-five (65?) degrees nineteen (19') minutes forty-seven (47") seconds West, a distance of nine hundred ten and twenty-nine hundredths (910.29) feet to a point, thence along land of now or formerly Pennsylvania Society for the Advancement of the Deaf, Inc. and land of now or formerly Franklin L., Thomas E. and Scott A. Wolfgang; North twenty (20?) degrees thirty-nine (39') minutes twenty-two (22") seconds East, a distance of three hundred forty-two and zero hundredths (342.00) feet to a found rebar corner; thence along land of now or formerly Franklin L., Thomas E. and Scott A. Wolfgang, North thirty-nine (39?) degrees fifty-two (52') minutes eighteen (18") seconds West, a distance of sixty-eight and fifty-four hundredths (68.54) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along land of now or formerly Arthur B. Hugill these following courses and distances: North twenty-seven (27?) degrees twenty-three (23') minutes forty-four (44") seconds East, a distance of five hundred sixty-three and fifty-six hundredths (563.56) feet to a found iron pipe corner, North fifty-three (53?) Degrees twenty-five (25') minutes fifty (50") seconds West, a distance of one hundred twelve and sixty-two hundredths (112.62) feet to a found roof bolt corner, North thirty-nine (39?)

degrees twelve (12') minutes forty-six (46") seconds East, a distance of two hundred seventy-nine and forty-eight hundredths (279.48) feet to a found roof bolt, the place of beginning.

CONTAINING 16.05 acres as shown on a plan titled "Preliminary/Final Lot Consolidation Plan of Mahoning Distributing Inc., Chest Township, Clearfield County", as prepared by Hess & Fisher Engineers, Inc., dated August 5, 2005. A copy of said plan is recorded in the Office of the Recorder of Deeds for Clearfield County to Instrument No. 200514872.

(Tract 2 and Tract 3 are also identified as "Consolidated Parcels").

Tract No. 1 has been surveyed on the plan entitled "Preliminary/Final Consolidation Plan of Mahoning Distribution, Inc., Chest Township, Clearfield County," dated August 5, 2005, and has been more particularly bounded and described as follows:

BEGINNING at a found roof bolt, said corner being the southeast corner of the property described herein; thence along the northern right-of-way line of State Route 3014 these following courses and distances: North sixty-eight (68?) degrees thirty-seven (37') minutes forty-five (45") seconds West, a distance of sixty-four and twenty-seven hundredths (64.27) feet to a point; by a curve to the right with a radius of one thousand thirty-six, and thirty-four hundredths (1036.34) feet, the chord which is North fifty-seven (57?) degrees twenty-nine (29') minutes thirty (30") seconds West, a distance of four hundred twenty-two and twenty hundredths (422.20) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along land of now or formerly Arthur B. and Nancy J. Hugill these following courses and distances: North seventy-five (75?) degrees fifteen (15') minutes nine (09") seconds East, a distance of two hundred sixty and ten hundredths (260.10) feet to a set $\frac{3}{4}$ " iron rebar corner, South seventy-seven (77?) degrees fifty-six (56') minutes three (03") seconds East, a distance of two hundred sixty-one and thirteen hundredths (261.13) feet to a found chain link fence post corner, South nineteen (19?) degrees nine (09') minutes twenty-one (21") seconds West, a distance of two hundred seventy-seven and thirty hundredths (277.30) feet to a found roof bolt corner, the place of beginning.

CONTAINING 2.06 acres as shown on a plan titled "Preliminary/Final Lot Consolidation Plan of Mahoning Distributing Inc., Chest Township, Clearfield County", as prepared by Hess & Fisher Engineers, Inc., dated August 5, 2005. A copy of said plan is recorded in the Office of the Recorder of Deeds for Clearfield County to Instrument

No. 200514872.

("Consolidated Parcel 1").

That one of the purposes of this Quiet Title Action is to extinguish any interest that D. W. Michael, a/k/a D. W. Michaels, a/k/a David W. Michael, a/k/a David W. Michaels, his heirs, successors, administrators and assigns, may have had in the premises remaining after the tax sale referred to in Paragraphs 12 and 13 of the complaint which are incorporated herein and made a part hereof, and to extinguish any interest in equity that D. W. Michael, a/k/a D. W. Michaels, a/k/a David W. Michael, a/k/a David W. Michaels, his heirs, successors, administrators and assigns, may have had in the premises due to a lack of notice or any other defect in the tax sale, and to extinguish any interest in equity that D. W. Michael, a/k/a D. W. Michaels, a/k/a David W. Michael, a/k/a David W. Michaels, his heirs, successors, administrators and assigns, may have had in the premises following the tax sale; and further to extinguish any interest that Benjamin Coal Company, its successors, administrators and assigns, may have had in the premises remaining after the tax sale referred to in Paragraphs 17 and 18 of the Complaint which are incorporated herein and made a part hereof, and to extinguish any interest in equity that Benjamin Coal Company, its successors, administrators and assigns, may have had in the premises due to a lack of notice or any other defect in the tax sale, and to extinguish any interest in equity that Benjamin Coal Company, its successors, administrators and assigns, may have had in the premises following the tax sale.

WHEREUPON said Court ordered that notice of said action and the facts thereto be served on the Defendants Benjamin Coal Company, and D. W. Michael, a/k/a D. W. Michaels, a/k/a David W. Michael, a/k/a David W. Michaels, their heirs, executors, administrators and assigns, by the Plaintiff by advertisement requiring Defendants Benjamin Coal Company, and D. W. Michael, a/k/a D. W. Michaels, a/k/a David W. Michael, a/k/a David W. Michaels, their heirs, executors, administrators and assigns, to answer the said complaint within twenty (20) days from the date of this publication. For failure to comply, a judgment will be taken by application of Plaintiff before the Court at a hearing to be held on December 15, 2005, at 9:00 A.M., at the Clearfield County Courthouse, Courtroom No. 2, Clearfield, Pennsylvania.

BELIN & KUBISTA, Attorneys at Law,
15 North Front Street, Clearfield,
Pennsylvania, Attorneys for Plaintiffs.

SHERIFF'S SALE OF VALUABLE REAL ESTATE

BY VIRTUE OF: Execution issued out of the Court of Common Pleas of Clearfield County, Pennsylvania and to me directed, there will be exposed to public sale in the Sheriff's Office in the Court House in the Borough of Clearfield on FRIDAY, DECEMBER 2, 2005 at 10:00 A.M.

THE FOLLOWING DESCRIBED PROPERTY TO WIT: (SEE ATTACHED DESCRIPTION) TERMS OF SALE

The Price or sum at which the property shall be struck off must be paid at the time of sale or such other arrangements made as will be approved, otherwise the property will be immediately put up and sold again at the expense and risk of the person to whom it was struck off and who in case of deficiency of such resale shall make good for the same and in no instance will the deed be presented for confirmation unless the money is actually paid to the Sheriff.

TO all parties in interest and claimants: A schedule of distribution will be filed by the Sheriff in his office the first Monday following the date of the sale and distribution will be made in accordance with the schedule unless exceptions are filed within ten (10) days thereafter.

ALL THOSE two (2) certain lots or parcels of land, situate in the Village of Blain City, Beccaria Township, Clearfield County, Pennsylvania, bounded and described as follows:

PARCEL NUMBER 1: BEGINNING at a post on the Westerly line of Pine Street at the Southeastern corner of Lot Number 51, such post being located North 09 degrees West a distance of 120 feet from the Northwest corner of the intersection of Pine Street and Chestnut Street; then South 09 degrees East along the Westerly line of Pine Street for a distance of 60 feet to a post at the Northeastern corner of Lot Number 53; then South 81 degrees West along the Northerly line of Lot Number 53 for a distance of 200 feet to a post at the Northwestern corner of Lot Number 53 on the Easterly line of an alley; then North 09 degrees West along the Easterly line of said alley for a distance of 60 feet to a post at the Southwestern corner of Lot Number 51 on the Easterly line of said alley; then North 81 degrees East along the Southerly line of Lot Number 51 for a distance of 200 feet to a post and the place of BEGINNING.

This lot or parcel of land is known as Lot Number 52 on the tracing of the map of the Dotts & Shaw Addition to the Village of Blain City, Beccaria Township, Clearfield County, Pennsylvania as recorded in Clearfield County, Pennsylvania in Miscellaneous

Book 52, Page 47.

PARCEL NUMBER 2: BEGINNING at a post on the Westerly line of Pine Street at the Southeastern corner of Lot Number 52, such post being located South 09 degrees East a distance of 60 feet from the Southeast corner Lot Number 51; then South 09 degrees East along the Westerly line of Pine Street for a distance of 60 feet to a post at the Northeastern corner of the intersection of Pine Street and Chestnut Street; then South 81 degrees West along the northerly line of Chestnut Street for a distance of 200 feet to a post at the Northeastern corner of the intersection of an alley and Chestnut Street; then North 09 degrees West along the Easterly line of said alley for a distance of 60 feet to a post at the Southwestern corner of Lot Number 52 on the Easterly line of said alley; then North 81 degrees East along the Southerly line of Lot Number 51 for a distance of 200 feet to a post and the place of BEGINNING.

This lot or parcel of land is known as Lot Number 53 on the tracing of the map of the Dotts & Shaw Addition to the Village of Blain City, Beccaria Township, Clearfield County, Pennsylvania as recorded in Clearfield County, Pennsylvania in Miscellaneous Book 52, Page 47.

PARCEL NUMBER 1 and PARCEL NUMBER 2 being collectively further identified on the Clearfield County, Pennsylvania Tax Assessment Records as Tax Map No. 101-H17-417-00053.

HAVING THEREON ERECTED A DWELLING KNOWN AS RR #1, Box 830R, Coalport, Pennsylvania.

BEING THE SAME PREMISES WHICH Ruth L. Moore, by her Deed dated August 23, 1999 and recorded September 14, 1999 as Clearfield County Instrument Number 199915303, granted and conveyed unto Richard E. Demoulin, Jr.

Assessment #101-H17-417-53

SEIZED, taken in execution to be sold as the property of RICHARD E. DEMOULING, JR., at the suit of BANKONE, NATIONAL ASSOCIATION, TRUSTEE. JUDGMENT NO. 00-1339-CD

Chester A. Hawkins, Sheriff.

ADV: November 11th, 18th, 25th, 2005.

**SHERIFF'S SALE
OF VALUABLE REAL ESTATE**

BY VIRTUE OF: Execution issued out of the Court of Common Pleas of Clearfield County, Pennsylvania and to me directed, there will be exposed to public sale in the Sheriff's Office in the Court House in the

Borough of Clearfield on FRIDAY, DECEMBER 2, 2005 at 10:00 A.M.

THE FOLLOWING DESCRIBED PROPERTY TO WIT: (SEE ATTACHED DESCRIPTION) TERMS OF SALE

The Price or sum at which the property shall be struck off must be paid at the time of sale or such other arrangements made as will be approved, otherwise the property will be immediately put up and sold again at the expense and risk of the person to whom it was struck off and who in case of deficiency of such resale shall make good for the same and in no instance will the deed be presented for confirmation unless the money is actually paid to the Sheriff.

TO all parties in interest and claimants: A schedule of distribution will be filed by the Sheriff in his office the first Monday following the date of the sale and distribution will be made in accordance with the schedule unless exceptions are filed within ten (10) days thereafter.

ALL THAT CERTAIN PIECE OF LAND LYING AND SITUATE IN THE CITY OF DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POST AT SHAFFER ALLEY; THENCE BY RUMBARGER AVENUE NORTH 62 1/2 DEGREES WEST 60 FEET TO A POST; THENCE BY LOT OF WHICH THIS IS A PART NORTH 27 1/2 DEGREES EAST 60 FEET TO A POST; THENCE BY LOT NOW OR FORMERLY OF W. N. PROTHERO (NO. 214), SOUTH 62 1/2 DEGREES EAST 60 FEET TO A POST; THENCE BY SHAFFER ALLEY SOUTH 27 1/2 DEGREES WEST 60 FEET TO A POST AT RUMBARGER AVENUE, THE PLACE OF BEGINNING. BEING 60 X 60 FEET AND CONTAINING 3600 SQUARE FEET. BEING PART OF LOT NO. 215 IN JOHN RUMBARGER'S ADDITION TO SAID CITY OF DUBOIS.

BEING THE SAME PREMISES WHICH JOHN P. BALTRUS AND ANDREA BALTRUS, HIS WIFE, BY DEED DATED 5/20/96 AND RECORDED 5/31/96 IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR CLEARFIELD COUNTY IN DEED BOOK 1762 AT PAGE 391, GRANTED AND CONVEYED UNTO WILLIAM H. SIDELINGER AND SHERRY L. SIDELINGER.

TAX PARCEL #:75-0009-2455

SEIZED, taken in execution to be sold as the property of WILLIAM H. SIDELINGER AND SHERRY L. SIDELINGER, at the suit of COUNTRYWIDE HOME LOANS, INC. JUDGMENT NO. 04-1537-CD

Chester A. Hawkins, Sheriff.

ADV: November 11th, 18th, 25th, 2005.

IN THE COURT OF
COMMON PLEAS OF
CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION
No. 05 - 1758 - C.D.
ACTION TO QUIET TITLE

MAHONING DISTRIBUTION,
INC.,

Plaintiff:
vs.

BENJAMIN COAL COMPANY,
and D. W. MICHAEL, A/K/A D. W.
MICHAELS, A/K/A DAVID W.
MICHAEL, A/K/A DAVID W.
MICHAELS, their heirs, executors,
administrators and assigns,

Defendants

TO: BENJAMIN COAL COMPANY, and D. W. MICHAEL, A/K/A D. W. MICHAELS, A/K/A DAVID W. MICHAEL, A/K/A DAVID W. MICHAELS, THEIR HEIRS, EXECUTORS, ADMINISTRATORS AND ASSIGNS:

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the Plaintiffs. You may lose money or property or other rights important to you. 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, Clearfield County Courthouse, 1 North Second Street, Clearfield, Pennsylvania 16830 (814) 765-2641 Ext. 5982.

You are hereby notified that an action has been filed to Quiet Title to the following premises identified in the Clearfield County Tax Maps as Parcel Number 109-D14-33 which is located in Chest Township, Clearfield County, Pennsylvania, more particularly bounded and described as two (2) tracts as follows:

BEGINNING at a $\frac{3}{4}$ " iron roofbolt corner on the northern right-of-way line of S.R. 3014 (L.R. 17004), and land of Benjamin Coal Company, grantor herein of which this is a part; thence by line of Benjamin Coal Company, North forty-two (42°) degrees fifty (50') minutes thirty (30") seconds East a distance of two hundred fifty-eight and fifty-four hundredths (258.54) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence by same, North sixty-nine (69°) degrees thirty-nine (39') minutes eighteen (18") seconds East a distance of two hundred sixty-one and thirty-three hundredths (261.33) feet to a chain-link fence post corner on the western side of a road; thence by same and following the western side of said road, South thirteen (13°) degrees fifteen (15') minutes eighteen (18") seconds East a distance of two hundred seventy-seven and twenty-three hundredths (277.23) feet to a $\frac{3}{4}$ " iron roofbolt corner on the aforementioned northern right-of-way line of S.R. 3014 (L.R. 17004); thence by the northern right-of-way line of said road by a curve to the right, the chord of which is South eighty-seven (87°) degrees twenty-nine (29') minutes one (01") second West a distance of four hundred thirty-six and twelve hundredths (436.12) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence by the northern right-of-way line of said road, North seventy-nine (79°) degrees fifty-four (54') minutes sixteen (16") seconds West a distance of forty-nine and twenty-seven hundredths (49.27) feet to a $\frac{3}{4}$ " iron roofbolt corner, the place of beginning.

CONTAINING 2.053 Acres.

("Tract 1").

BEGINNING at a $\frac{3}{4}$ " iron roofbolt corner on the southern right-of-way line of S.R. 3014 (L.R. 17004) and land of Benjamin Coal Company, grantor herein of which this is a part; thence by line of Benjamin Coal Company these following courses and distances: South one (01") degree thirty-six (36') minutes five (05") seconds East a distance of fifty-five and seventeen hundredths (55.17) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South fifty-six (56°) degrees twenty-one (21') minutes thirteen (13") seconds West a distance of one hundred two and forty-four hundredths (102.44) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North fifty-seven (57°) degrees two (02") minutes twenty-three (23") seconds West a distance of eighty-six and thirty-nine hundredths (86.39) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South forty-three (43°) degrees fifteen (15') minutes forty-two (42") seconds West a distance of eighty-four and five hundredths (84.05) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South eighty (80°) degrees fifty (50") seconds nine (09") minutes [sic] West a distance of forty-six and ninety-three hundredths (46.93) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South ten (10") degrees twenty-five (25") minutes thirty-four (34") seconds West a distance of two hundred thirty and eighty-two hundredths (230.82) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North seventy-seven (77°) degrees fifty-six (56°) minutes forty (40") seconds West a distance of one hundred twenty-three and fifty-five hundredths (123.55) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South eighty (80°) degrees fifty (50") minutes three (03") seconds West a distance of two hundred eleven and forty-six hundredths (211.46) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North seventy-three (73°) degrees twenty-one (21") minutes ten (10") seconds West a distance of forty-two and seventy-four hundredths (42.74) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence South fifty-six (56°) degrees thirty (30") minutes nineteen (19") seconds West a distance of one hundred fourteen and thirty hundredths (114.30) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North eighty-five (85°) degrees forty-four (44") minutes thirty-three (33") seconds West a distance of two hundred twenty and thirty-one hundredths (220.31) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North two (02") degrees eighteen (18") minutes thirty-eight (38") seconds East a distance of two hundred eighty-one and seventy-six hundredths (281.76) feet to a $\frac{3}{4}$ " iron

rooftop corner on the aforementioned Southern right-of-way line of S.R. 3014 (L.R. 17004); thence by the southern right-of-way line of said road, South seventy-nine (79°) degrees fifty-four (54") minutes sixteen (16") seconds East a distance of twenty-two and ninety-seven hundredths (22.97) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence still by the same, North eighty-seven (87°) degrees thirty-one (31") minutes forty-five (45") seconds East a distance of four hundred forty-eight and sixty-nine hundredths (448.69) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence still by the same, North seventy-eight (78°) degrees eight (08") minutes nineteen (19") seconds East a distance of five hundred sixteen and twenty-six hundredths (516.26) feet to a $\frac{3}{4}$ " iron roofbolt corner, the place of beginning.

CONTAINING 4.635 Acres.

("Tract 2").

And further to quiet title to an additional tract of land situate in Chest Township, Clearfield County, Pennsylvania, which is contiguous to Tract 1 and Tract 2 and which is more particularly bounded and described as follows:

CHEST TOWNSHIP
MAP #109-D15-000-00030
9A IN FEE EXCEPT GAS & OIL
("Tract 3").

Tract Nos. 2 and 3 have been consolidated with Tract No. 1 into a new Tax Assessment No. 109-D14-33 which tracts have been surveyed by virtue of a Lot Consolidation which is recorded in the Office of the Recorder of Deeds of Clearfield County as Instrument No. 200514872 and which are more particularly bounded and described as follows to wit:

BEGINNING at a found roof bolt, said corner being the northwest corner of the property described herein; thence along the southern right-of-way line of State Route 3014 these following courses and distances: by a curve to the left with a radius of one thousand fifty and four hundredths (1050.04) feet, the chord of which is South fifty-eight (58°) degrees forty-eight (48") minutes eighteen (18") seconds East, a distance of three hundred eighty-three and ninety-four hundredths (383.94) feet to a point; South sixty-nine (69°) degrees twenty-nine (29") minutes thirty-four (34") seconds East, a distance of six hundred forty-seven and seventy-nine hundredths (647.79) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along the western right-of-way line of Owens Road these following courses and distances: South three (03") degrees thirteen (13") minutes forty-seven (47") seconds East, a distance of twenty-six and ninety-seven hundredths (26.97) feet to a point, South nine (09") degrees fifty-one (51") minutes fifty-four (54") seconds East, a distance of sixty-seven and ninety-two hundredths (67.92) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along an existing gas line these following courses and distances: South sixty-four (64") degrees forty-one (41") minutes seven (07") seconds West, a distance of six hundred one and nine hundredths (601.09) feet to a point, South sixty-five (65") degrees nineteen (19") minutes forty-seven (47") seconds West, a distance of nine hundred ten and twenty-nine hundredths (910.29) feet to a point, thence along land of now or formerly Pennsylvania Society for the Advancement of the Deaf, Inc. and land of now or formerly Franklin L. Thomas E. and Scott A. Wolfgang, North twenty (20") degrees thirty-nine (39") minutes twenty-two (22") seconds East, a distance of three hundred forty-two and zero hundredths (342.00) feet to a found rebar corner; thence along land of now or formerly Franklin L. Thomas E. and Scott A. Wolfgang, North thirty-nine (39") degrees fifty-two (52") minutes eighteen (18") seconds West, a distance of sixty-eight and fifty-four hundredths (68.54) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along land of now or formerly Arthur B. Hugill these following courses and distances: North twenty-seven (27") degrees twenty-three (23") minutes forty-four (44") seconds East, a distance of five hundred sixty-three and fifty-six hundredths (563.56) feet to a found iron pipe corner, North fifty-three (53") Degrees twenty-five (25") minutes fifty (50") seconds West, a distance of one hundred twelve and sixty-two hundredths (112.62) feet to a found roof bolt corner, North thirty-nine (39") degrees twelve (12") minutes forty-six (46") seconds East, a distance of two hundred seventy-nine and forty-eight hundredths (279.48) feet to a found roof bolt, the place of beginning.

CONTAINING 16.05 acres as shown on a plan titled "Preliminary/Final Lot Consolidation Plan of Mahoning Distributing Inc., Chest Township, Clearfield County", as prepared by Hess & Fisher Engineers, Inc., dated August 5, 2005. A copy of said plan is recorded in the Office of the Recorder of Deeds for Clearfield County to Instrument No. 200514872.

(Tract 2 and Tract 3 are also identified as "Consolidated Parcels").

Tract No. 1 has been surveyed on the plan entitled "Preliminary/Final Consolidation Plan of Mahoning Distribution, Inc., Chest Township, Clearfield County", dated August 5, 2005, and has been more particularly bounded and described as follows: BEGINNING at a found roof bolt, said corner being the southeast corner of the property described herein; thence along the northern right-of-way line of State Route 3014 these following courses and distances: North sixty-eight (68°) degrees thirty-seven (37") minutes forty-five (45") seconds West, a distance of sixty-four and twenty-seven hundredths (64.27) feet to a point; by a curve to the right with a radius of one thousand thirty-six and thirty-four hundredths (1036.34) feet, the chord of which is North fifty-seven (57°) degrees twenty-nine (29") minutes thirty (30") seconds West, a distance of four hundred twenty-two and twenty-four hundredths (422.20) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along land of now or formerly Arthur B. and Nancy J. Hugill these following courses and distances: North seventy-five (75°) degrees fifteen (15") minutes nine (09") seconds East, a distance of two hundred sixty and ten hundredths (260.10) feet to a

PROOF OF PUBLICATION

STATE OF PENNSYLVANIA :

: SS:

COUNTY OF CLEARFIELD :

On this 6th day of December, A.D. 2005, before me, the subscriber, a Notary Public in and for said County and State, personally appeared Margaret E. Krebs, who being duly sworn according to law, deposes and says that she is the President of The Progressive Publishing Company, Inc., and Associate Publisher of The Progress, a daily newspaper published at Clearfield, in the County of Clearfield and State of Pennsylvania, and established April 5, 1913, and that the annexed is a true copy of a notice or advertisement published in said publication in

the regular issues of November 12, 2005.

And that the affiant is not interested in the subject matter of the notice or advertising, and that all of the allegations of this statement as to the time, place, and character of publication are true.

Sworn and subscribed to before me the day and year aforesaid.

Cheryl J. Robison COMMONWEALTH OF PENNSYLVANIA

Notary Public Clearfield, Pa.

My Commission Expires
October 31, 2007

Notarial Seal
Cheryl J. Robison, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Oct. 31, 2007
Member, Pennsylvania Association Of Notaries

Shuster, Sherwood, ent, Pitts, Holden, id Platts, no Brady, Fattah, Murtha and

ng. None. **EVNS EXEMPTION:** for and 298 against, on Oct. 19 defeated an amendment to HR 554 (above) to allow obesity suits fast-food chains in children under 8 years

er D Calif. said "fast food chains are bombarding children with advertising that encourage over-consumption of unhealthy eating. So it is not just a individual responsibility, it's a choice, when we about young children

ther Canon, R-Utah, amendment "manages children and discourages from exercising responsibility all at the same time. It literally would make companies liable when their kids a six-pack is every day for eight

te backed the amendment

yes: Brady, Fattah, Schwartz and Doyle, no: English, Hart, Gerlach, Weldon, reppareez, Shuster, Sherwood, Murtha, Pitts, Holden, Murphy and Platts.

Not voting: None.

SENATE

CONGRESSIONAL PAY RAISE: Senators on Oct. 18 voted, 32 for and six against, to block a 1.9 percent pay raise, totaling \$3,100, scheduled for members of Congress in January.

But the raise from \$162,100 to \$165,200 appears certain because the House has voted to accept it; it takes actions by both chambers to block congressional pay raises.

This vote occurred during debate on a fiscal 2006 budget bill (HR 3688) for the Treasury Department and other agencies.

Barney, a House reversal, rank-and-file lawmakers will receive \$165,200.

in the Senate, and secretary of the Senate will be paid \$162,100

each and the majority and minority leaders of both chambers will each receive \$183,500.

Russ Feingold, D-Wis., said

"many Americans do not realize that under current law, members

of Congress can get an automatic pay raise every year without lifting a finger, unless we act to stop it.

"It is automatic. There is no requirement for a vote. All that is required is that we show up to cash the check."

James Inhofe, R-Okl., said

"it is the annual hypocrisy day

in the Senate. He urged passage

of a related measure that would prevent senators and House members who vote against pay raises from pocketing the increase.

No senator spoke against the amendment.

A yes vote was to block a congressional pay raise.

Voting: yes: Arlen Specter, R; and Rick Santorum, R.

Not voting: None.

MINIMUM WAGE INCREASE: Voting 47 for and 51 against, senators on Oct. 19 defeated an amendment to HR 3058 (above) to raise the minimum wage by \$1.10 per hour over 18 months — from the present \$5.15 per hour to \$6.25 per

hour.

This increase since 1989 has

been raised to over 10 percent, are at the minimum wage level.

Mike Johanns, R-Neb., said the

minimum wage increase, which

is now \$5.15, is too low for the

average worker to live on.

A yes vote:

Not voting: Santorum, R.

Not voting: Feingold, D.

Not voting: Specter, R.

Not voting: Inhofe, R.

Not voting: Murphy, D.

Not voting: Vito Lopez, D.

Not voting: Tom Harkin, D.

Not voting: Tom Coburn, R.

Not voting: John McCain, R.

Not voting: John Warner, R.

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

MAHONING DISTRIBUTION, INC., :
Plaintiff :
: No. 05 - 1758 - C.D.
vs. :
: ACTION TO QUIET TITLE
BENJAMIN COAL COMPANY, and D. W. :
MICHAEL, A/K/A D. W. MICHAELS, :
A/K/A DAVID W. MICHAEL, A/K/A :
DAVID W. MICHAELS, their heirs, :
executors, administrators and :
assigns, :
Defendants :
:

W
FILED 30C
09/09/05 Amy Belin
DEC 15 2005

ORDER

William A. Shaw
Prothonotary/Clerk of Courts

AND NOW, this 15th day of December, 2005, an Affidavit of Service of the Complaint with Notice to Defend having been filed stating that the complaint and notice was served on all Defendants by publication, and no responsive pleading having been filed by said Defendants, the Defendants having not appeared in person or by attorney upon motion of Carl A. Belin, Jr., Attorney for Plaintiff, it is the **ORDER** of this Court that title to said premises is found to be vested in the Plaintiff and that it be allowed to enjoy said property in peace. Said property is identified in the Clearfield County Tax Maps as Parcel Number 109-D14-33 which is located in Chest Township, Clearfield County, Pennsylvania, more particularly bounded and described as two (2)

tracts as follows:

BEGINNING at a $\frac{3}{4}$ " iron roofbolt corner on the northern right-of-way line of S.R. 3014 (L.R. 17004), and land of Benjamin Coal Company, grantor herein of which this is a part; thence by line of Benjamin Coal Company, North forty-two (42°) degrees fifty (50') minutes thirty (30") seconds East a distance of two hundred fifty-eight and fifty-four hundredths (258.54) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence by same, North sixty-nine (69°) degrees thirty-nine (39') minutes eighteen (18") seconds East a distance of two hundred sixty-one and thirty-three hundredths (261.33) feet to a chain-link fence post corner on the western side of a road; thence by same and following the western side of said road, South thirteen (13°) degrees fifteen (15') minutes eighteen (18") seconds East a distance of two hundred seventy-seven and twenty-three hundredths (277.23) feet to a $\frac{3}{4}$ " iron roofbolt corner on the aforementioned northern right-of-way line of S.R. 3014 (L.R. 17004); thence by the northern right-of-way line of said road by a curve to the right, the chord of which is South eighty-seven (87°) degrees twenty-nine (29') minutes one (01") second West a distance of four hundred thirty-six and twelve hundredths (436.12) feet to $\frac{3}{4}$ " iron roofbolt corner; thence by the northern right-of-way line of said road, North seventy-nine (79°) degrees fifty-four (54') minutes sixteen (16") seconds West a distance of forty-nine and twenty-seven hundredths (49.27) feet to a $\frac{3}{4}$ " iron roofbolt corner, the place of beginning.

CONTAINING 2.053 Acres.

("Tract 1").

BEGINNING at a $\frac{3}{4}$ " iron roofbolt corner on the southern right-of-way line of S.R. 3014 (L.R. 17004) and land of Benjamin Coal Company,

grantor herein of which this is a part; thence by line of Benjamin Coal Company these following courses and distances: South one (01°) degree thirty-six (36') minutes five (05") seconds East a distance of fifty-five and seventeen hundredths (55.17) feet to a 3/4" iron roofbolt corner; thence South fifty-six (56°) degrees twenty-one (21') minutes thirteen (13") seconds West a distance of one hundred two and forty-four hundredths (102.44) feet to a 3/4" iron roofbolt corner; thence North fifty-seven (57°) degrees two (02') minutes twenty-three (23") seconds West a distance of eighty-six and thirty-nine hundredths (86.39) feet to a 3/4" iron roofbolt corner; thence South forty-three (43°) degrees fifteen (15') minutes forty-two (42") seconds West a distance of eighty-four and five hundredths (84.05) feet to a 3/4" iron roofbolt corner; thence South eighty (80°) degrees fifty (50') seconds nine (09") minutes [sic] West a distance of forty-six and ninety-three hundredths (46.93) feet to a 3/4" iron roofbolt corner; thence South ten (10°) degrees twenty-five (25') minutes thirty-four (34") seconds West a distance of two hundred thirty and eighty-two hundredths (230.82) feet to a 3/4" iron roofbolt corner; thence North seventy-seven (77°) degrees fifty-six (56') minutes forty (40") seconds West a distance of one hundred twenty-three and fifty-five hundredths (123.55) feet to a 3/4" iron roofbolt corner; thence South eighty (80°) degrees fifty (50') minutes three (03") seconds West a distance of two hundred eleven and forty-six hundredths (211.46) feet to a 3/4" iron roofbolt corner; thence North seventy-three (73°) degrees twenty-one (21') minutes ten (10") seconds West a distance of forty-two and seventy-four hundredths (42.74) feet to a 3/4" iron roofbolt corner; thence South fifty-six (56°) degrees thirty (30') minutes nineteen (19") seconds West a distance of one hundred fourteen and thirty hundredths (114.30) feet to a 3/4" iron roofbolt corner; thence North

eighty-five (85°) degrees forty-four (44') minutes thirty-three (33") seconds West a distance of two hundred twenty and thirty-one hundredths (220.31) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence North two (02°) degrees eighteen (18') minutes thirty-eight (38") seconds East a distance of two hundred eighty-one and seventy-six hundredths (281.76) feet to a $\frac{3}{4}$ " iron roofbolt corner on the aforementioned Southern right-of-way line of S.R. 3014 (L.R. 17004); thence by the southern right-of-way line of said road, South seventy-nine (79°) degrees fifty-four (54') minutes sixteen (16") seconds East a distance of twenty-two and ninety-seven hundredths (22.97) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence still by same by a curve to the left, the chord of which is North eighty-seven (87°) degrees thirty-one (31') minutes forty-five (45") seconds East a distance of four hundred forty-eight and sixty-nine hundredths (448.69) feet to a $\frac{3}{4}$ " iron roofbolt corner; thence still by same, North seventy-eight (78°) degrees eight (08') minutes nineteen (19") seconds East a distance of five hundred sixteen and twenty-six hundredths (516.26) feet to a $\frac{3}{4}$ " iron roofbolt corner, the place of beginning.

CONTAINING 4.635 Acres.

("Tract 2").

And further to quiet title to an additional tract of land situate in Chest Township, Clearfield County, Pennsylvania, which is contiguous to Tract 1 and Tract 2 and which is more particularly bounded and described as follows:

CHEST TOWNSHIP
MAP #109-D15-000-00030
9A IN FEE EXCEPT GAS & OIL.

("Tract 3").

Tract Nos. 2 and 3 have been consolidated with Tract No. 1 into a new Tax Assessment No. 109-D14-33 which tracts have been surveyed by virtue of a Lot Consolidation which is recorded in the Office of the Recorder of Deeds of Clearfield County as Instrument No. 200514872 and which are more particularly bounded and described as follows to wit:

BEGINNING at a found roof bolt, said corner being the northwest corner of the property described herein; thence along the southern right-of-way line of State Route 3014 these following courses and distances: by a curve to the left with a radius of one thousand fifty and four hundredths (1050.04) feet, the chord of which is South fifty-eight (58°) degrees forty-eight (48') minutes eighteen (18") seconds East, a distance of three hundred eighty-three and ninety-four hundredths (383.94) feet to a point; South sixty-nine (69°) degrees twenty-nine (29') minutes thirty-four (34") seconds East, a distance of six hundred forty-seven and seventy-nine hundredths (647.79) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along the western right-of-way line of Owens Road these following courses and distances: South three (03°) degrees thirteen (13') minutes forty-seven (47") seconds East, a distance of twenty-six and ninety-seven hundredths (26.97) feet to a point, South nine (09°) degrees fifty-one (51') minutes fifty-four (54") seconds East, a distance of sixty-seven and ninety-two hundredths (67.92) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along an existing gas line these following courses and

distances: South sixty-four (64°) degrees forty-one (41') minutes seven (07") seconds West, a distance of six hundred one and nine hundredths (601.09) feet to a point, South sixty-five (65°) degrees nineteen (19') minutes forty-seven (47") seconds West, a distance of nine hundred ten and twenty-nine hundredths (910.29) feet to a point, thence along land of now or formerly Pennsylvania Society for the Advancement of the Deaf, Inc. and land of now or formerly Franklin L., Thomas E. and Scott A. Wolfgang; North twenty (20°) degrees thirty-nine (39') minutes twenty-two (22") seconds East, a distance of three hundred forty-two and zero hundredths (342.00) feet to a found rebar corner; thence along land of now or formerly Franklin L., Thomas E. and Scott A. Wolfgang, North thirty-nine (39°) degrees fifty-two (52') minutes eighteen (18") seconds West, a distance of sixty-eight and fifty-four hundredths (68.54) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along land of now or formerly Arthur B. Hugill these following courses and distances: North twenty-seven (27°) degrees twenty-three (23') minutes forty-four (44") seconds East, a distance of five hundred sixty-three and fifty-six hundredths (563.56) feet to a found iron pipe corner, North fifty-three (53°) Degrees twenty-five (25') minutes fifty (50") seconds West, a distance of one hundred twelve and sixty-two hundredths (112.62) feet to a found roof bolt corner, North thirty-nine (39°) degrees twelve (12') minutes forty-six (46") seconds East, a distance of two hundred seventy-nine and forty-eight hundredths (279.48) feet to a found roof bolt, the place of beginning.

CONTAINING 16.05 acres as shown on a plan titled "Preliminary/Final Lot Consolidation Plan of Mahoning Distributing Inc., Chest Township, Clearfield County", as prepared by Hess & Fisher Engineers, Inc., dated August 5,

2005. A copy of said plan is recorded in the Office of the Recorder of Deeds for Clearfield County to Instrument No. 200514872.

(Tract 2 and Tract 3 are also identified as "Consolidated Parcels").

Tract No. 1 has been surveyed on the plan entitled "Preliminary/Final Consolidation Plan of Mahoning Distribution, Inc., Chest Township, Clearfield County," dated August 5, 2005, and has been more particularly bounded and described as follows:

BEGINNING at a found roof bolt, said corner being the southeast corner of the property described herein; thence along the northern right-of-way line of State Route 3014 these following courses and distances: North sixty-eight (68°) degrees thirty-seven (37') minutes forty-five (45") seconds West, a distance of sixty-four and twenty-seven hundredths (64.27) feet to a point; by a curve to the right with a radius of one thousand thirty-six and thirty-four hundredths (1036.34) feet, the chord which is North fifty-seven (57°) degrees twenty-nine (29') minutes thirty (30") seconds West, a distance of four hundred twenty-two and twenty hundredths (422.20) feet to a set $\frac{3}{4}$ " iron rebar corner; thence along land of now or formerly Arthur B. and Nancy J. Hugill these following courses and distances: North seventy-five (75°) degrees fifteen (15') minutes nine (09") seconds East, a distance of two hundred sixty and ten hundredths (260.10) feet to a set $\frac{3}{4}$ " iron rebar corner, South seventy-seven (77°) degrees fifty-six (56') minutes three (03") seconds East, a distance of two hundred sixty-one and thirteen hundredths (261.13) feet to a found chain link

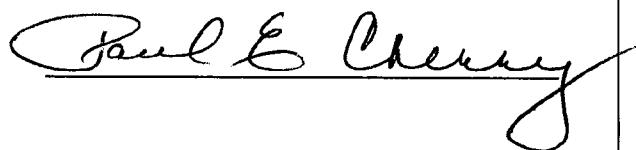
fence post corner, South nineteen (19°) degrees nine (09') minutes twenty-one (21") seconds West, a distance of two hundred seventy-seven and thirty hundredths (277.30) feet to a found roof bolt corner, the place of beginning.

CONTAINING 2.06 acres as shown on a plan titled "Preliminary/Final Lot Consolidation Plan of Mahoning Distributing Inc., Chest Township, Clearfield County", as prepared by Hess & Fisher Engineers, Inc., dated August 5, 2005. A copy of said plan is recorded in the Office of the Recorder of Deeds for Clearfield County to Instrument No. 200514872.

("Consolidated Parcel 1").

It is the FURTHER ORDER of this Court that unless the Defendants file a responsive pleading to the complaint or institute an action in ejectment within thirty (30) days of the date hereof, the Defendants shall be forever barred from asserting any right, lien, title or interest in the land inconsistent with the interest of the claim of the Plaintiff set forth in its Complaint. If Defendants fail to take such action within the thirty (30) day period, the Prothonotary on Praecept of the Plaintiff shall enter final judgment against Defendants.

BY THE COURT,



1

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

MAHONING DISTRIBUTION, INC., :
Plaintiff :
vs. : No. 05 - 1758 - C.D.
: ACTION TO QUIET TITLE
BENJAMIN COAL COMPANY, and D. W. :
MICHAEL, A/K/A D. W. MICHAELS, :
A/K/A DAVID W. MICHAEL, A/K/A : PRAECIPE
DAVID W. MICHAELS, their heirs, :
executors, administrators and :
assigns, :
Defendants :
:

Filed on behalf of
Plaintiff

Counsel of Record for
this Party:

Carl A. Belin, Jr., Esq.
Pa. I.D. #08605

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED No CC
01/19/2006 Statement
JAN 16 2006 to Atty Belin
W.M.

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
STATEMENT OF JUDGMENT

 COPY

Mahoning Distribution, Inc.
Plaintiff(s)

No.: 2005-01758-CD

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Benjamin Coal Company, and
D. W. Michael, a/k/a D.W. Michaels,
a/k/a David W. Michael, a/k/a
David W. Michaels, their heirs,
executors, administrators, and assigns
Defendant(s)

Instrument: Quiet Title Final Judgment

Date of Entry: January 16, 2006

Certified from the record this 16th day of January, 2006.

William A. Shaw, Prothonotary