

05-1842-CD
Albert Nelson vs Waroquier Coal al

Albert L. Nelson vs Waroquier Coal al
05-1842-CD

Civil Other

Date		Judge
11/28/2005	New Case Filed.	No Judge
	X Filing: Praecipe to issue Writ of Summons Paid by: Naddeo, James A. (attorney for Nelson, Albert L.) Receipt number: 1911423 Dated: 11/28/2005 Amount: \$85.00 (Check) 3 Writs & 1 CC to Shff.	No Judge
12/07/2005	X Praecipe For Entry of Appearance, filed on behalf of all defendants, by s/ Peter F. Smith, Esquire. No CC	No Judge
01/27/2006	X Complaint, filed by s/ James A. Naddeo, Esquire. 1CC to Atty.	No Judge
02/28/2006	X Defendants' Preliminary Objections, filed by s/ Peter F. Smith, Esquire. SCC Atty. Smith	No Judge
	X Certificate of Service, copy of Defendants' Preliminary Objections and Defendants' Request For Production of Documents, served upon James A. Naddeo, Esquire on Feb. 28, 2006. Filed by s/ Peter F. Smith, Esquire. No CC	No Judge
03/01/2006	X Praecipe For Scheduling of Argument, filed by s/ Peter F. Smith, Esquire. No CC	No Judge
03/02/2006	X Sheriff Return, December 2, 2005 at 1:58 pm served the within Summons on Waroquier Coal. December 2, 2005 at 1:58 pm served the within Summons on Joseph L. Waroquier Jr. ind & co-partner t/d/b/a Waroquier Coal Company. December 2, 2005 at 1:58 pm served the within Summons on gary V. Waroquier ind & co-partner t/d/b/a Waroquier Coal Company. December 2, 2005 at 1:58 am served the within Summons on Waroquier Coal Company. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Naddeo \$96.25	No Judge
03/03/2006	X Order, NOW, this 3rd day of March, 2006, Preliminary Objections having been filed on behalf of the Defs., Ordered that Argument will be conducted on Defs' Preliminary Objections on March 28, 2006 at 9:30 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. P. Smith	Fredric Joseph Ammerman
03/08/2006	X Certificate of Service, filed. That a certified copy of a Scheduling Order dated March 3, 2006 scheduling argument on Defendants' Preliminary Objections was hand delivered to James A. Naddeo on March 7, 2006, filed by s/ Peter F. Smith Esq. No CC.	Fredric Joseph Ammerman

Date: 03/15/2006

Clearfield County Court of Common Pleas

User: LBENDER

Time: 12:23 PM

Hearings by Judge

Page 3 of 3

CT COMMON PLEAS,

All Case Types

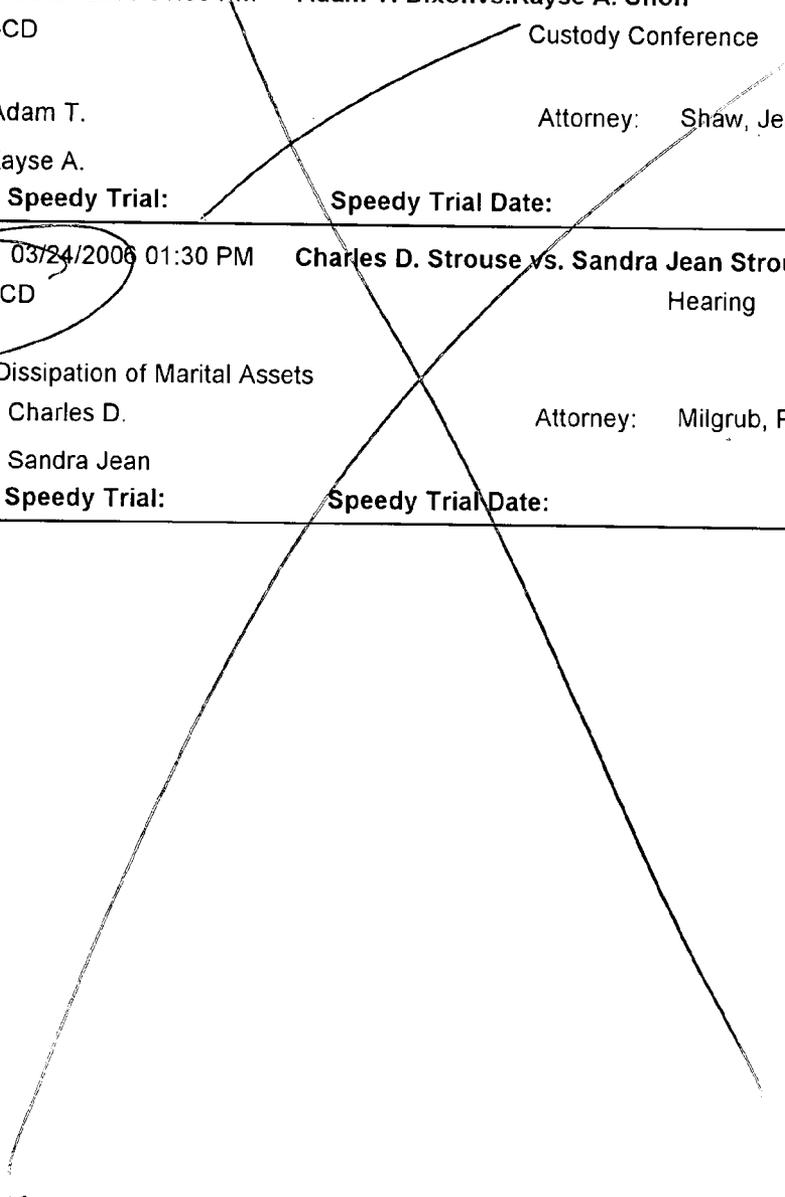
From 03/20/2006 08:00 AM to 03/24/2006 05:00 PM

Paul E. Cherry

Begin Date and Time End Date and Time

03/24/2006 01:30 PM 03/24/2006 01:30 PM **Adam T. Dixon vs. Kayse A. Shoff**
 Case: 2006-00306-CD Custody Conference
 Courtroom:
 Plaintiff: Dixon, Adam T. Attorney: Shaw, Jennifer L.
 Defendant: Shoff, Kayse A.
 Days to Speedy Trial: Speedy Trial Date:

03/24/2006 01:30 PM 03/24/2006 01:30 PM **Charles D. Strouse vs. Sandra Jean Strouse**
 Case: 2005-00924-CD Hearing
 Courtroom:
 PI's Petition Against Dissipation of Marital Assets
 Plaintiff: Strouse, Charles D. Attorney: Milgrub, Richard H.
 Defendant: Strouse, Sandra Jean
 Days to Speedy Trial: Speedy Trial Date:



Civil Other

Date	Selected Items	Judge
03/29/2006	<input checked="" type="checkbox"/> Order, NOW, this 28th day of March, 2006, following argument on the Defendants' Preliminary Objections, it is the Order of this Court that the said Preliminary Objections be and are hereby dismissed. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC to Atty. Naddeo, 2CC to Atty. Smith	Fredric Joseph Ammerman
04/19/2006	<input checked="" type="checkbox"/> Answer and New Matter filed by s/ Peter F. Smith Esq. 3CC Atty Smith.	Fredric Joseph Ammerman
	<input checked="" type="checkbox"/> Certificate of Service, filed. That a true and correct copy of Defendants' Answer & New Matter was hand delivered to James A. Naddeo Esq., filed by s/ Peter F. Smith Esq. No CC.	Fredric Joseph Ammerman
05/09/2006	<input checked="" type="checkbox"/> Answer to New Matter, filed by s/ James A. Naddeo Esq. 1CC Atty Naddeo.	Fredric Joseph Ammerman
05/10/2006	<input checked="" type="checkbox"/> Certificate of Service, filed. That a certified copy of the Plaintiff's Request for Production of Documents was served on the 10th day of May to Peter F. Smith Esq., filed by s/ James A. Naddeo Esq. 1CC Atty Naddeo.	Fredric Joseph Ammerman
05/22/2006	<input checked="" type="checkbox"/> Motion To Join Additional Defendants, filed by s/ Peter F. Smith, Esquire. 6CC to Atty	Fredric Joseph Ammerman
	<input checked="" type="checkbox"/> Rule - Answer & Hearing: NOW, this 22nd day of May, 2006, upon consideration of the following Motion, it is ordered that a Rule is issued upon the Plaintiff W. Ruskin Dressler a/d/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas and Ramm Coal, Inc. The Respondents shall file an answer to this Motion on or before June 12, 2006. An evidentiary hearing on disputed issues of material fact shall be held on June 23, 2006 at 9:00 a.m. in Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 5CC to Atty.	Fredric Joseph Ammerman
05/23/2006	<input checked="" type="checkbox"/> Certificate of Service, filed. That a certified copy of a Motion to Join Additional Defendants including a Rule scheduling hearing and response was delivered to James A. Naddeo Esq. on May 22, 2006 filed by s/ Peter F. Smith Esq. No CC.	Fredric Joseph Ammerman
	<input checked="" type="checkbox"/> Certificate of Service, filed. That a certified copy of the Answer to Request to Produce Documents was served on Peter F. Smith Esq., on the 23rd day of May 2006, filed by s/ James A. Naddeo Esq. NO CC.	Fredric Joseph Ammerman
06/02/2006	<input checked="" type="checkbox"/> Second Motion to Join a Fourth Additional Defendant, filed by s/ Peter F. Smith, Esquire. 3CC Atty. Smith	Fredric Joseph Ammerman
	<input checked="" type="checkbox"/> Rule - Answer & Hearing, NOW, this 1st day of June, 2006, upon consideration of the following Motion, It is hereby ordered that: A Rule is issued upon the Plaintiff, W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas, Ramm Coal Inc. and Miriam R. Thomas, and an evidentiary hearing on disputed issues of material fact shall be held on June 23, 2006 at 9:00 a.m in Courtroom No 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Smith	Fredric Joseph Ammerman
06/05/2006	<input checked="" type="checkbox"/> Certificate of Service, filed. That a certified copy of a SECOND MOTION TO JOIN A FOURTH ADDITIONAL DEFENDANT including a RULE schedulin hearing and response was hand delivered to James A. Naddeo Esq., on June 2, 2006, filed by s/ Peter F. Smith Esq. No CC.	Fredric Joseph Ammerman

Begin Date and Time End Date and Time

~~06/07/2006 09:00 AM 06/07/2006 12:00 PM **Derek D. Rogers vs. Anna Marie Rogers**
 Case: 2002-00351-CD Mediation Conference
 Courtroom:
 Plaintiff: Rogers, Derek D. Attorney: Nadedo, James A.
 Defendant: Rogers, Anna Marie
Days to Speedy Trial: Speedy Trial Date:
 Attorney: Foor, Robin J.~~

~~06/07/2006 09:00 AM 06/07/2006 09:00 AM **Melissa Dombroski vs. Christopher Dombroski**
 Case: 2003-01578-CD Divorce Bifurcation
 Courtroom:
 Plaintiff: Dombroski, Melissa
 Defendant: Dombroski, Christopher
Days to Speedy Trial: Speedy Trial Date:
 Attorney: Kubista, Kimberly M.~~

~~06/07/2006 09:00 AM 06/07/2006 09:00 AM **Melissa Dombroski vs. Christopher Dombroski**
 Case: 2003-01510-CD Divorce Bifurcation
 Courtroom:
 Plaintiff: Dombroski, Melissa Attorney: Colavecchi, Paul
 Defendant: Dombroski, Christopher
Days to Speedy Trial: Speedy Trial Date:
 Attorney: Kubista, Kimberly M.~~

06/07/2006 10:00 AM 06/07/2006 10:00 AM
 Appointment Description: RE: Adoption of Jesse Fulkerson OC 2921

~~06/07/2006 11:00 AM 06/07/2006 11:00 AM **Eric W. Dixon Sr. vs. Tina M. Dixon**
 Case: 2005-00610-CD Custody Contempt Hearing
 Courtroom:
 PI Pet.
 Plaintiff: Dixon, Eric W. Sr. Attorney: Ryan, John R.
 Defendant: Dixon, Tina M.
Days to Speedy Trial: Speedy Trial Date:~~

Civil Other

Date	Selected Items	Judge
06/05/2006	X Sheriff Return, May 30, 2006 at 12:20 pm served the within Motion to Join Additional Defendants on W. Ruskin Dressler aka Ruskin Dressler. May 31, 2006 at 3:00 pm served the within Motion to Join Additional Defendants on Roger A. Thomas. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Waroquier Coal \$89.37	Fredric Joseph Ammerman
06/12/2006	X Praecipe For Entry of Appearance, filed. Please enter my appearance on behalf of Roger A. Thomas and Ramm Coal Inc., in regard to the above-captioned action, filed by s/ Carl A. Belin Jr. Esq. 5CC Atty Belin and copy to C/A.	Fredric Joseph Ammerman
	X Answer to Defendants' Motion to Join Additional Defendants, filed by Carl A. Belin Jr Esq. 5CC Atty Belin.	Fredric Joseph Ammerman
	X Reply to Motion to Join Additional Defendants filed by s/ Timothy E. Durant Esq. 4CC Atty Durant.	Fredric Joseph Ammerman
	X Affidavit of Service filed. Served a copy of the Reply to Motion to Join Additional Defendants on behalf of W. Ruskin Dressler on James A, Naddeo Esq. and Peter F. Smith Esq., filed by s/ Michael Luongo. 4 CC Atty Durant.	Fredric Joseph Ammerman
06/14/2006	X Affidavit of Service filed. Served by personal service, a copy of the REPLY TO MOTION TOJOIN ADDITIONAL DEFENDANTS, filed in this matter on behalf of W. Ruskin Dressler, on Carl A. Belin Jr Eqs., filed by s/ Michael Luongo. 3CC Atty Durant.	Fredric Joseph Ammerman

Begin Date and Time End Date and Time

06/07/2006 01:00 PM 06/07/2006 04:00 PM Amy Jo Mainesvs.Jody Charles Sharpless

Case: 2006-00429-CD Mediation Conference

Courtroom:

Plaintiff: Maines, Amy Jo

Defendant: Sharpless, Jody Charles

Days to Speedy Trial:

Speedy Trial Date:

06/07/2006 01:30 PM 06/07/2006 02:30 PM

Appointment Description: Re: Rowles, Chelsea and Deborah Mo. for restrictions

06/07/2006 02:30 PM 06/07/2006 02:30 PM Geraldine Susan Shenkle vs. Robert Alan Shenkle

Case: 2005-00616-CD Hearing

Courtroom:

PI Pet for Special Relief

Plaintiff: Shenkle, Geraldine Susan

Attorney: Ryan, John R.

Defendant: Shenkle, Robert Alan

Days to Speedy Trial:

Speedy Trial Date:

Attorney: DuBois, Jeffrey S.

06/07/2006 03:00 PM 06/07/2006 03:00 PM Melanie J. Hetrick vs. Charles R. Hetrick

Case: 2006-00427-CD Petition for Exclusive Possession

Courtroom:

Exclusive Poss. of Marital Residence

Plaintiff: Hetrick, Melanie J.

Attorney: Kubista, Courtney L.

Defendant: Hetrick, Charles R.

Days to Speedy Trial:

Speedy Trial Date:

06/08/2006 09:00 AM 06/08/2006 04:00 PM

Appointment Description: Criminal Trial - Ronald Hubler

06/08/2006 09:00 AM 06/08/2006 09:00 AM Chris Lee Reasingervs.Jessica Caldarelli

Case: 2006-00709-CD Custody Conference

Courtroom:

Plaintiff: Reasinger, Chris Lee

Attorney: Heltzel, Lea Ann

Defendant: Caldarelli, Jessica

Days to Speedy Trial:

Speedy Trial Date:

Civil Other

Date	Selected Items	Judge
06/16/2006	✓ Sheriff Return, June 5, 2006 at 11:58 pm served the within Second Motion to Join a Fourth Addl. Def. on Miriam R. Thomas. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Smith \$39.57	Fredric Joseph Ammerman
06/19/2006	✓ Praeipe to Enter Appearance, filed. Please enter my appearance on behalf of Miriam R. Thomas and Ramm Coal Co. in regard to the above-captioned action, filed by Carl A. Belin Esq. 5CC Atty Belin.	Fredric Joseph Ammerman
	✓ Answer to Defendants' Second Motion to Join Fourth Additional Defendant, filed by s/ Carl A. Belin Esq. 5 CC Atty Belin.	Fredric Joseph Ammerman
06/23/2006	✓ Order NOW, this 23rd day of June 2006, following argument on the Motion to Join Additional Defendants filed on behalf of Waroquier Coal and related Defendants, it is the ORDER of this Court that said Motion be and is hereby granted. W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Dressler Coal, Roger A. Thomas, Ramm Coal Inc., and Miriam R. Thomas are hereby joined as Additional Defendants. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 2 CC Attys: Naddeo, P. Smith, Belin, and Durant.	Fredric Joseph Ammerman

surface support) and 100% of the coal of the property being mined. To the extent that third parties may own the said surface of coal or a part thereof of either or both, then in said event the payments to the Lessors would be reduced in proportion to their ownership interests. By way of example only, if the Lessors collectively own no surface rights but only the coal, the royalty payments would be 5% of the sale price of the coal or \$1.00, whichever is the greater, i.e. the owners would receive collectively 50% of 5% of the selling price of \$.50, which ever is the greater, and the Hertleins as Sublessors would receive the other 50% of 5% of the selling price of the coal or \$.50 whichever is greater.

All royalties due under the terms of this Lease shall be payable as follows:

- (a) One-half (1/2) of the royalty to Sublessors; and
- (b) One-half (1/2) of the royalty to First Lessors and Additional Lessors in proportion to their interest in surface minerals or the surface and minerals as the case may be."

COUNT I
BREACH OF CONTRACT

18. That the Plaintiffs incorporate Paragraphs 1 through 17 of this Complaint by reference and make them a part hereof.

19. That Defendant, River Hill Coal Company, Inc., has failed and/or refused to pay to Plaintiffs any royalty as provided in the Lease and Sublease Agreement attached hereto as Exhibit "C" for coal mined and removed from the premises described in Paragraph 14 hereof despite Plaintiffs' demand for payment.

Civil Other

Date	Selected Items	Judge
7/11/2006	Defendants' Complaint Against Additional Defendants, filed by s/ Peter F. Smith Esq. 4CC Atty Smith.	Fredric Joseph Ammerman
	Certificate of Service, filed. That a certified copy of Defendant's Complaint against Additional Defenants was hand delivered to James A. Naddeo Esq., Carl A. Belin Jr Esq., and Timothy A. Durant Esq., on July 11, 2006, filed by s/ Peter F. Smith Esq. No CC.	Fredric Joseph Ammerman
7/27/2006	Praeipce to Withdraw Appearance, filed. Please withdraw my appearance on behalf of Roger A. Thomas, Miriam R. Thomas and Ramm Coal Inc., with regards to the above-captioned action, filed by s/ Carl A. Belin Esq. 6CC Atty Belin and copy to C/A	Fredric Joseph Ammerman
7/31/2006	Answer and New Matter to Original Defendants' Complaint Against Additional Defendant, filed by s/ Timothy E. Durant, Esquire. 5CC Atty. Durant	Fredric Joseph Ammerman
8/4/2006	Praeipce For Entry of Appearance, filed by Thomas T. Frampton Enter appearance of Thomas T. Frampton, Esq. and Mandi L. Scott, Esq. on behalf of Additional Defendants, Roger A. Thomas, Miriam R. Thomas and RAMM Coal, Inc..	Fredric Joseph Ammerman
8/14/2006	Waroquier's Answer to Dressler's New Matter, filed by s/ Peter F. Smith Esq. 4CC Atty P. Smith.	Fredric Joseph Ammerman
	Certificate of Service, filed. That a copy of Waroquier's Answer to Dressler's New Matter was served on James A. Naddeo Esq., Timothy A. Durant Esq and Thomas T. Frampton Esq. on August 14, 2006, filed by s/ Peter F. Smith Esq. NO CC.	Fredric Joseph Ammerman
8/18/2006	Answer, New Matter, New Matter Pursuant to P.A.R.C.P. 2252 (d) and Counterclaim, filed by s/ Thomas T. Frampton Esq. No CC.	Fredric Joseph Ammerman
9/8/2006	Waroquiers' Answer to Thomas' New Matter & Counterclaim & New Matter, filed by s/ Peter F. Smith Esq. 4CC Atty Smith.	Fredric Joseph Ammerman
	Certificate of Service, filed. That a copy of Waroquiers' Answer to Thomas' New Matter & Counterclaim & New Matter on James A. Naddeo Esq., Timothy E. Durant Esq., Thomas T. Frampton Esq., filed by s/ Peter F. Smith Esq. No CC.	Fredric Joseph Ammerman
9/27/2006	Reply to New Matter, filed by s/ Thomas T. Frampton Esq. NO CC.	Fredric Joseph Ammerman
10/30/2006	Notice of Service of Discovery, filed by s/ Thomas T. Frampton Esq. NO CC.	Fredric Joseph Ammerman
11/17/2006	Notice of Service of Discovery to Additional Defendant W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, filed by s/ Mandi L. Scott Esq. No CC.	Fredric Joseph Ammerman
11/27/2006	Certificate of Service, filed. That a copy of Defendant's Response to Plaintiff's Request for Production of Documents was hand delivered to James A. Naddeo Esq., and Timothy E. Durant Esq and sent to Thomas T. Frampton Esq. on November 22, 2006, filed by s/ Peter F. Smith Esq.	Fredric Joseph Ammerman
11/29/2006	Certificate of Service, filed. That a Notice to Take Oral Deposition of Albert L. Nelson, W. Ruskin Dressler and Roger A. Thomas were served upon James A. Naddeo Esq., Timothy E. Durant Esq., and Thomas T. Frampton Esq., filed by s/ Peter F. Smith Esq. No CC.	Fredric Joseph Ammerman
12/4/2006	Certificate of Service, filed. That a copy of Defendants' Answers to Thomas' & Ramm Coal, Inc's Interrogatories and Request for Production of Documents was delivered to James A. Naddeo Esq., Timothy E. Durant Esq. and Thomas T. Frampton Esq., filed by s/ Peter F. Smith Esq. No CC.	Fredric Joseph Ammerman

Civil Other

Date	Selected Items	Judge
12/5/2006	✓ Supplement to Defendant Waroquiers' Answers to Thomas' & Ramm Coal Inc's Interrogatories & Request for Production, filed s/ Peter F. Smith Esq. NO CC.	Fredric Joseph Ammerman
	✓ Certificate of Service, filed. That a copy of Supplement to Defendant Waroquiers' Answer to Thomas' & Ram Coal Inc's Interrogatories and Request for Production of Documents was faxed to James A. Naddeo Esq., Timothy E. Durant Esq and Thomas T. Frampton Esq., filed by s/ Peter F. Smith Esq. No CC.	Fredric Joseph Ammerman
	✓ Certificate of Service, filed. That a copy of the Answer to Additional Defendants Roger A. Thomas, Miriam R. Thomas and Ramm Coal, Inc's First Set of Interrogatories and Request for Production of Documents Directed to Plaintiff, Albert L. Nelson were served on the 5th day of December 2006 to Peter F. Smith Esq. and Timothy E. Durant Esq., filed by s/ James A. Naddeo Esq. 1CC Atty Naddeo.	Fredric Joseph Ammerman
12/6/2006	✓ Certificate of Service, filed. That a copy of Answer to Additional Defendants Roger A. Thomas, Miriam R. Thomas and Ramm Coal Inc's First Set of Interrogatories and Request for Production of Documents Directed to Plaintiff, Albert L. Nelson were served on Thomas T. Frampton Esq on the 5th day of December 2006 by overnight Federal-Express, filed by s/ James A. Naddeo Esq. NO CC/	Fredric Joseph Ammerman
	✓ Answer to 1st Set of Interrogatories and Request for Production of Documents Directed by Additional Defendants Thomas and Ramm to Additional Defendant W. Ruskin Dressler, filed by s/ Timothy E. Durant Esq. NO CC.	Fredric Joseph Ammerman
2/12/2007	✓ Certificate of Service, copy of the Notice of Intent to Serve Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21 was served on Feb. 12, 2007 by First-Class Mail upon Peter F. Smith, Esquire, and Timothy E. Durant, Esquire. Filed by s/ James A. Naddeo	Fredric Joseph Ammerman
3/13/2007	✓ Certificate Prerequisite to Service of a Subpoena Pursuant to Pa.R.C.P. 4009.22, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo	Fredric Joseph Ammerman
3/14/2007	✓ Certificate of Service, filed. That a true and correct copy of Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 was served on the 13th day of March 2007 to Peter F. Smith Esq., Thomas T. Frampton Esq. and Timothy E. Durant Esq., filed by s/ James A. Naddeo Esq. NO CC.	Fredric Joseph Ammerman
	✓ Certificate of Service, filed. That a true and correct copy of the Certificate Prerequisite to Service of Subpoena was served on the 13th day of March 2007 to Thomas T. Frampton Esq., filed by s/ James A. Naddeo Esq. NO CC.	Fredric Joseph Ammerman
4/10/2007	✓ Certificate of Service, Notice to Take Oral Deposition was hand delivered to Attys. James A. Naddeo and Timothy E. durant and sent U.S. First Class Mail to Attorney Thomas T. Frampton on april 10, 2007. filed by s/ Peter F. Smith, Esquire. No CC	Fredric Joseph Ammerman
4/11/2007	✓ Certificate of Service, filed. That a true and correct copy of Notice of Taking Deposition for Gary V. Waroquier, was served on Peter F. Smith Esq., Thomas T. Frampton Esq., and Timothy E. Durant Esq., on the 11th day of April 2007, filed by s/ James A. Naddeo Esq. 4CC Atty Naddeo.	Fredric Joseph Ammerman

Civil Other

Date	Selected Items	Judge
4/11/2007	✓ Certificate of Service, filed. That a true and correct copy of Notice of Taking Deposition for Joseph L. Waroquier Jr. was served on Peter F. Smith Esq., Thomas T. Frampton Esq. and Timothy E. Durant Esq on the 11th day of April 2007, filed by s/ James A. Naddeo Esq. 4CC Atty Naddeo.	Fredric Joseph Ammerman
7/14/2008	✓ Motion for Status Conference, filed by Atty. Frampton no cert. copies.	Fredric Joseph Ammerman
7/17/2008	✓ Order, this 16th day of July, 2008, a status conference shall be held on August 25, 2008 at 9:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Scott	Fredric Joseph Ammerman
7/25/2008	✓ Praecipe to Settle and Discontinue, filed. Please mark the above-captioned case settled and discontinued, filed by s/ James A. Naddeo Esq. 1CC & 1 cert of disc issued to Atty Naddeo and copy to C/A.	Fredric Joseph Ammerman
8/13/2008	Motion to Clarify Record, filed by s/ James A. Naddeo, Esquire. 3CC Atty. Naddeo	Fredric Joseph Ammerman

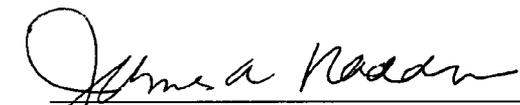
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ALBERT L. NELSON,	*		
an Individual,	*		
Plaintiff,	*		
V.	*	No. 05 -	- CD
WAROQUIER COAL,	*		
and	*		
JOSEPH L. WAROQUIER, JR. and	*		
GARY V. WAROQUIER, individually	*		
and co-partners t/d/b/a	*		
WAROQUIER COAL COMPANY,	*		
and	*		
WAROQUIER COAL COMPANY,	*		
a partnership,	*		
and	*		
WAROQUIER COAL COMPANY, INC.	*		
Defendants.	*		

PRAECIPE TO ISSUE WRIT OF SUMMONS

To the Prothonotary:

Please issue a Writ of Summons against Waroquier Coal, Joseph L. Waroquier, Jr. and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company; and Waroquier Coal Company, a partnership; and Waroquier Coal Company, Inc., a Pennsylvania corporation, all having the address of 133 West Fifth Street, Clearfield, Pennsylvania 16830.



James A. Naddeo, Esquire
Attorney for Plaintiff

Dated: November 28, 2005

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

 COPY

SUMMONS

Albert L. Nelson

Vs.

NO.: 2005-01842-CD

Waroquier Coal, and

**Joseph L. Waroquier Jr. and Gary V. Waroquier,
individually and co-partners t/d/b/a
Waroquier Coal Company, and**

Waroquier Coal Company, a partnership, and

Waroquier Coal Company, Inc.

TO: Waroquier Coal, and

**Joseph L. Waroquier Jr. and Gary V. Waroquier, individually and co-partners
t/d/b/a Waroquier Coal Company, and
Waroquier Coal Company, a partnership, and
Waroquier Coal Company, Inc.**

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

Date: 11/28/2005

William A. Shaw
Prothonotary

Issuing Attorney:

James A. Naddeo
P.O. Box 552
Clearfield, PA 16830

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

No. 2005-1842-CD

P R A E C I P E

To: William A. Shaw, Prothonotary of Clearfield County

Dear Sir :

Please enter my appearance as attorney for all Defendants in the above-captioned matter.

Respectfully submitted

Dated: December 7, 2005



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

cc: James A. Naddeo, Esquire

FILED ^{NO CC}
0110:1830
DEC 07 2005 (60)

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON,	*	
an individual,	*	
Plaintiff,	*	
	*	
vs.	*	No. 05 - 1842 - CD
	*	
WAROQUIER COAL,	*	Jury Trial Demanded
and	*	
JOSEPH L. WAROQUIER, JR. and	*	
GARY V. WAROQUIER, individually	*	
and co-partners t/d/b/a	*	
WAROQUIER COAL COMPANY,	*	
and	*	
WAROQUIER COAL COMPANY,	*	
a partnership,	*	
and	*	
WAROQUIER COAL COMPANY, INC.	*	
A Pennsylvania corporation,	*	
Defendants.	*	

COMPLAINT

NOW COMES the Plaintiff, Albert L. Nelson, and by his attorney, James A. Naddeo, sets forth the following:

1. That the Plaintiff, Albert L. Nelson is an adult individual who resides at 1149 South Main Street, DuBois, Pennsylvania 15801.

2. That the Defendants Joseph L. Waroquier, Jr. and Gary V. Waroquier are co-partners, t/d/b/a under the fictitious name designation of Waroquier Coal Company with the partners principal place of business located at 133 West Fifth Avenue, Clearfield, Pennsylvania.

3. That the Defendant, Waroquier Coal Company is a general partnership having its principal place of business located at 133 West Fifth Avenue, Clearfield, Pennsylvania.

4. That the Defendant, Waroquier Coal Company, Inc., is a business corporation duly formed under the laws of the Commonwealth of Pennsylvania with its principal place of business located at 133 West Fifth Avenue in the Borough of Clearfield, Clearfield County, Pennsylvania.

5. That at all times referred to herein, the Defendants have on occasion done business under the unregistered designation Waroquier Coal.

6. That at all times referred to herein the Plaintiff, Albert L. Nelson, was and remains the Trustee under an Agreement of Trust dated October 1, 1993 known as the Albert L. Nelson Living Trust, a Certificate of Trust is attached hereto as Exhibit "A".

7. That the Plaintiff, Albert L. Nelson, brings this action in his capacity as Trustee of the Albert L. Nelson Living Trust.

8. That at all times referred to herein, the Albert L. Nelson Living Trust was the owner of a certain piece or parcel of land located in Brady Township, Clearfield County, Pennsylvania, consisting of approximately 49 acres, more or

less, which property is more particularly described in the deed attached hereto as Exhibit "B".

9. That at all times referred to herein, the Defendants either collectively, individually, or in consort with each other were engaged in the business of the broad sale and production of minerals including the mining of coal by the strip mining method.

FIRST COUNT
Intentional Trespass

10. That on or about the first week of January, 2001, the Defendants collectively, individually, or in consort with each other intentionally, willfully, wantonly and recklessly with force and arms and without Plaintiff's permission entered upon the premises described in Paragraph 4 hereof and proceeded to strip mine a portion of the coal underlying said premises consisting of the middle Kittanning seam of coal being 32" in thickness and the Luthersburg seam of coal being 13.5" in thickness.

11. That the Defendants removed from 5.5 acres of Plaintiff's premises 37,260 tons of coal from the middle Kittanning and Luthersburg seams of coal from January, 2001 until sometime after January, 2003.

12. That Defendants removed from 0.9 acres of Plaintiff's premises 1,823 tons of coal from the Luthersburg

seam of coal from January, 2001 until sometime after January, 2003.

13. That as a direct result of the intentional, willful, wanton and reckless conduct of the Defendants, Plaintiff was denied the opportunity to let and market the coal underlying the premises described in Paragraph 4 as he deemed to be to his optimum benefit including the right to determine when to develop or to sell the coal, to whom the coal was to be sold, the rate of compensation for the coal, and the specific terms under which the coal was to be let.

WHEREFORE, Plaintiff demands a reasonable amount for the following:

A. Pit price of the coal per ton during the time that it was removed from Plaintiff's premises or alternatively;

B. Pit price of the coal at its maximum value from the time that the coal was unlawfully removed from Plaintiff's property to date of trial;

C. The cost of restoring the Plaintiff's property to a condition satisfactory to Plaintiff;

D. All other damages allowable by law.

SECOND COUNT
INTENTIONAL TRESPASS

14. That the Plaintiff incorporates the allegations contained in Paragraphs 1 through 13 of this Complaint by reference and makes them a part hereof.

15. That Plaintiff was unable to confirm until September, 2003 that it was the Defendants collectively, intentionally or in consort with each other that had intentionally, willfully, wantonly and recklessly with force and arms and without Plaintiff's permission entered upon the premises described in Paragraph 4 to mine the coal from said premises.

16. That Plaintiff demanded that the Defendants immediately remove themselves from the premises described in Paragraph 4 hereof.

17. That in direct contravention of Plaintiff's demand that Defendants remove themselves from the premises described in Paragraph 4 hereof, Defendants intentionally, collectively or in consort with each other continued in possession of said property by constructing and using a haul road upon said premises over which Defendants transported coal, equipment, goods and supplies from lands adjoining said premises.

18. That Defendants individually, collectively or in consort with each other, continued in unlawful possession of the premises described in Paragraph 4 hereof up to and including October 5, 2004.

WHEREFORE, Plaintiff claims damage from the Defendants as follows:

A. Reasonable rental value of the premises from January, 2001 up to and including October 5, 2004, or alternatively;

B. Reasonable rate of wheelage for all coal or other minerals hauled by Defendants through the property of Plaintiffs;

C. All other damages including interest as allowable by law.

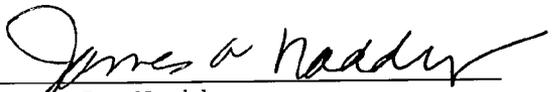
THIRD COUNT
PUNITIVE DAMAGES

19. That the Plaintiff incorporates the allegations contained in Paragraphs 1 through 18 of this Complaint by reference and makes them a part hereof.

20. That the Defendants individually, collectively or in consort with each other, entered upon the premises described in Paragraph 4 hereof without the permission of the Plaintiff.

21. That the Defendants individually, collectively or in consort with each other continued their unlawful possession and use of the premises described in Paragraph 4 hereof in direct contravention of Plaintiff's demand that the Defendants remove themselves from the premises.

WHEREFORE, Plaintiff demands exemplary damages. Jury Trial Demanded


James A. Naddeo
Attorney for Plaintiff

CERTIFICATE OF TRUST

Unmarried Trustor Generation-Skipping Living Trust

Amendment To

The undersigned hereby certify that he is Trustee under the Trust Agreement, dated March 1, 2007, Albert L. Nelson, Trustor, and Albert L. Nelson, Trustee, which amends the Trust Agreement, dated October 1, 1993, Albert L. Nelson, Trustor, and Albert L. Nelson, Trustee.

The Trustee is executing this Certificate Of Trust to confirm the establishment of all trusts created thereunder and to provide a summary of the Trust Agreement. The undersigned further certifies that the Trust Agreement is valid and in effect as of the date of this Certificate Of Trust, the undersigned is currently serving as Trustee with full power and authority thereunder, and under the provisions of the Trust Agreement this Certificate Of Trust may be relied upon for any statement of fact hereunder.

The designated Trustee hereunder shall act with full delegated powers stated herein on its own, being sufficient and therefore unnecessary to be put to further inquiry into the right of such Trustee to so act. Trustee may execute and deliver all instruments that will facilitate the exercise of Trustee powers/duties and perform all other acts necessary or advisable to administer the Trust Agreement to any corporation, transfer agent, or governmental agency and record a copy in the office of the county recorder of any county. Reproductions of this executed original shall be deemed to be original counterparts of this Certificate.

Custodial agents, transfer agents, vendors, financial institutions, physicians, or any other separate party of this Trust Agreement performing fiduciary or transferor duties or rendering any other service, pursuant to any such transfers or documents for the furtherance of the purposes and intents of this Trust Agreement shall, absent of any fraud, be under no liability or obligation for the application or administration of this Trust Agreement, and shall not put the Trustee to task or inquiry regarding any supplements or amendments of this Trust Agreement, which may have been created and executed from time to time, other than such supplements and amendments that the Trustee alone shall present to any separate party.

A Certificate of Trust signed by the designated Trustee of this Trust Agreement and acknowledged before a Notary Public shall be conclusive evidence upon all persons and for all purposes of the facts stated in said Certificate respecting the terms of this Trust Agreement and of the text thereof and of who are, from time to time, the designated Trustee hereunder.

Summary Of Trust Agreement

1. The Trust Agreement creates the Albert L. Nelson Living Trust.
2. This Trust is created for the benefit of the Trustor Beneficiary during his or her life. Upon the death of the Trustor, the beneficiaries of all the trusts are the Successor

CERTIFICATE OF TRUST, Page 1

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All rights reserved

EXHIBIT "A"

Beneficiaries.

3. Albert L. Nelson is the Trustor of the Trust.
4. Albert L. Nelson is the Trustee of the Trust.
5. The Trustor Beneficiary of the Trust is Albert L. Nelson.
6. The Successor Beneficiary of one trust is Amberly F. Foulkrod, the Niece Successor Beneficiary, and the Successor Beneficiary of one trust is Kathleen J. Foulkrod, the Sister Successor Beneficiary.
7. The trust property consists of all assets of the Trustor that have been titled in the name of the Trust or assigned to the Trust, as well as the proceeds of all interests of the Trustor for which the Trust is named beneficiary.
8. During the life of the Trustor, the Trustor continues to retain all absolute rights to the property transferred to the Trust. The Trustor, with respect to his or her Trust, may withdraw the property, add property, change the beneficiaries, amend the provisions, or revoke it.
9. The named Trustee manages the trusts and serves until its death, resignation, or incapacity. If the named Trustee ceases to serve as Trustee the Trustor names Kathleen J. Foulkrod and Gene Root CFP to serve as Successor Trustee. If a named Co-Trustee ceases to serve as Trustee the remaining named Co-Trustee continues to serve as Trustee. If Kathleen J. Foulkrod ceases to serve as Co-Trustee the Trustor names Amberly F. Foulkrod to serve as Co-Trustee. If Gene Root CFP ceases to serve as Co-Trustee the Trustor names Matthew A. Laick RFC to serve as Co-Trustee. If no named Trustee is available to serve, a majority of the beneficiaries, or the court, name a successor corporate Trustee. Consent to action by both of the Successor Co-Trustees is required.
10. In order to carry out the purposes of the Trust Agreement, the Trustee, in addition to all other powers granted by law and as provided by Pennsylvania Statute, have various stated specific powers and discretions. The Trustee is authorized and empowered with respect to any property at any time held under any provision of the Trust Agreement and as beneficiary under any policies of life insurance or any retirement benefit plans to exercise all of the powers and rights in the management of the trust property which any individual could exercise in the management of similar property owned in its own right, upon such terms and conditions as to the Trustee seems best, and execute and deliver any and all instruments and do all acts which the Trustee deems proper or necessary to carry out the purposes of the Trust Agreement.

11. During the life of the Trustor, the Trustee pays from the Trust the income and the principal to the Trustor Beneficiary. If the Trustor is incapacitated, the Trustee may pay broad discretionary amounts of the income and the principal to Trustor Beneficiary.
12. If the Trustor is incapacitated, the Trustee may make limited gifts, gifts for tuition, and gifts for medical care.
13. Upon the death of the Trustor, the Trustee coordinates with the Personal Representative of such deceased Trustor's Estate the administration of the Estate. The Trustee may pay the deceased Trustor's death costs, purchase the assets of the deceased Trustor's Estate, and make loans to the deceased Trustor's Estate.
14. Upon the death of the Trustor, the Trustee makes any special distributions of such Trustor Beneficiary.
15. Upon the death of the Trustor, the Trustee makes any specific distributions.
16. Upon the death of the Trustor, the Trustee makes any reductions for gifts or loans.
17. Upon the death of the Trustor, the Trustee divides and allocates the deceased Trustor's trust property into separate shares. A share is held in the Exempt Family Trust and a share is held in the Nonexempt Family Trust.
18. During the life of the Niece Successor Beneficiary, the Trustee pays from the Exempt Family Trust the principal to the Niece Successor Beneficiary.
19. During the life of the Sister Successor Beneficiary, the Trustee pays from the Nonexempt Family Trust the principal to the Sister Successor Beneficiary.
20. The Trustee may pay limited discretionary amounts of the income and the principal to the Successor Beneficiaries.
21. The Trust Agreement also provides for division and distribution of the trust property if all or certain beneficiaries are deceased or not in being.
22. The Trust Agreement contains sections covering underage, incapacitated, spendthrift, or special needs beneficiaries; administration; trust property title; income taxation; definitions; and construction.
23. The Trust Agreement also contains an agreement of Albert L. Nelson, in which he states it is his intent to enter into the Trust Agreement, regarding his property.

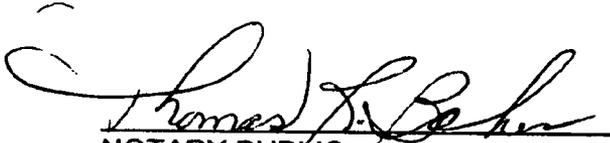
IN WITNESS WHEREOF, the Trustee has hereto executed this Certificate of Trust this date: March 1, 2001.

TRUSTEE:

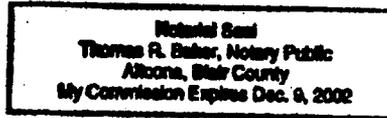

Albert L. Nelson

Ss. (COMMONWEALTH OF PENNSYLVANIA
(COUNTY OF BLAIR)

On March 1, 2001, before me, a Notary Public, personally appeared Albert L. Nelson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.


NOTARY PUBLIC

NOTARY SEAL



My Commission Expires: Member, Pennsylvania Association of Notaries

DEED

ALBERT L. NELSON

TO

**ALBERT L. NELSON, TRUSTEE OF THE ALBERT L. NELSON LIVING TRUST,
UNDER TRUST AGREEMENT DATED OCTOBER 1, 1993**

**Albert L. Nelson, Esq., CEBFA
2400 Koppers Building
Pittsburgh, PA 15219-1818
Phone (412) 227-2050
Fax (412) 232-6200**

Warranty Deed

EXHIBIT "B"

THIS DEED,

MADE the 1st day of November in the year nineteen hundred and ninety-three (1993),

BETWEEN ALBERT L. NELSON, single, of Sandy Township, Clearfield County, Pennsylvania, hereinafter called "Grantor",

AND ALBERT L. NELSON, TRUSTEE OF THE ALBERT L. NELSON LIVING TRUST, UNDER TRUST AGREEMENT DATED OCTOBER 1, 1993, of Sandy Township, Clearfield County, Pennsylvania, hereinafter called "Grantee":

WITNESSETH, That in consideration of One (\$1.00) Dollar, in hand paid, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant and convey to the said Grantee,

ALL those certain tracts of land, bounded and described as follows:

THE FIRST THEREOF:

ALL that certain tract of land designated as Section 1, Block 1, Unit B Unit Week 52 in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds office in Misc. Map Docket File 150, Square 101.

EXCEPTING AND RESERVING therefrom and subject to:

1. All easements, rights of way, reservations, restrictions, and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.
2. The Restrictions, Wolf Run Manor Corp., Declaration of Interval Ownership recorded in Misc. Book Vol. 239, p. 331, as amended by Amendment 1, recorded in Misc. Book Vol. 244, p. 251; all of said restrictions being covenants which run with the land.
3. All minerals and mining rights of every kind and nature.
4. A lien for all unpaid charges or assessments as may be made by Wolf Run Manor Corp. or Wolf Run Manor Association, Inc. which lien shall run with the land and be an encumbrance against it.

BEING the same premises conveyed to the Grantor by Indenture dated February 17, 1986, and recorded in the Office for Recording of Deeds in and for Clearfield County in Deed Book Volume 1066, Page 139 on February 19, 1986.

THE SECOND THEREOF:

ALL those certain premises situate in Brady Township, Clearfield County, Pennsylvania, more commonly known as the Benjamin Carson Place, containing about 50 acres more or less, and bounded and described as follows:

On the North by lands now or formerly of Recissa Dressler, formerly a part of the estate of Joseph Seyler, deceased; on the East by lands now or formerly of the estate of Lewis N. Kirk, deceased; on the South, in part by lands now or formerly of T. H. Seyler, formerly of Jos. Seyler, Jr., deceased, and in part by lands now or formerly of the DuBois Brewing Company, formerly of Andrew Pentz, Jr., deceased; and on the West in part by lands now or formerly of George B. Wachob, and in part by lands now or formerly of James Luther, formerly the Hugh Kelley Place.

TOGETHER with all of the right, title, and interest of the party of the first part in a gas oil lease entered into between Ord L. Oakes and Laura Oakes and T. W. Phillips Gas and Oil Company by lease dated November 9, 1950, and recorded at Clearfield, Pennsylvania, in Miscellaneous Book No. 78, Page 239.

BEING the same premises conveyed to the Grantor by Deed dated March 1, 1991, and recorded in the Office for Recording of Deeds in and for Clearfield County in Deed Book Volume 1388, Page 081 on March 8, 1991.

EXCEPTING AND RESERVING from the above conveyance the surface and all buildings situate on the following described premises:

Beginning at a point in the center line of a township road, said point also being on the western boundary line of the larger premises of which this is a part; thence by the center line of said township road South 79 degrees, 55' East 334.8 feet more or less to a point in the center line of said township road; thence through land of which this is a part North 8 degrees, 10' East 121.7 feet more or less to a point; thence still through land of which this is a part North 80 degrees, 30' West 370.7 feet more or less to a point on the said western boundary line of the larger premises of which this is a part; thence by the said western boundary of the larger premises South 9 degrees, 00' East 124.5 feet to a point and place of beginning.

IT IS distinctly understood that the Grantor is not excepting and reserving the coal, oil, clay, gas, and other minerals underlying said reserved premises. Said coal, oil, clay, gas, and other minerals under the premises above reserved along with the coal, clay, gas, and other minerals under the premises herein conveyed is hereby conveyed to the Grantee herein.

THE THIRD THEREOF:

ALL that certain messuage of land situate in the Township of Union, County of Clearfield, and State of Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a post in the Northern line of tract No. 2006; thence by lands formerly of Shaw and Smith, East one hundred four and one-half (104 1/2) perches to a post; thence South eighty-four and six tenths (84.6) perches to a pine; thence West one hundred four and one-half (104 1/2) perches to a hemlock; thence North eighty-four and six-tenths (84.6) perches, more or less, to a post, the place of beginning, and containing fifty-two (52) acres and forty (40) perches, more or less, with allowance of six (6%) percent for roads, etc.

BEING the same premises conveyed to the Grantor by Deed dated November 1, 1993, and recorded in the Office for Recording of Deeds in and for Clearfield County in Deed Book Volume *572* Page *136* on November 30, 1993.

THE FOURTH THEREOF:

ALL that certain lot or piece of land, situated in the City of DuBois, Clearfield County, Pennsylvania, being known as Lot No. 41, in the Hopkins Land Company Addition to the City of DuBois, bounded and described as follows:

Bounded on the North by an alley; on the East by Lot No. Forty (40) of said plan of lots; on the South by DuBois Avenue; and on the West by Lot No. Forty-two (42) of said plan of lots; said lot hereby conveyed being in Block "A" of said plan of lots, and having a frontage or width of Fifty (50) feet along the Northern Boundary line of DuBois Avenue, and extending thence in a northerly direction between two (2) parallel lines at right angles with said DuBois Avenue, One hundred sixty (160) feet to an alley; which said plan of lots is recorded in the office for Recording of Deeds in Clearfield County, in Deed Book No. 86, Page 608.

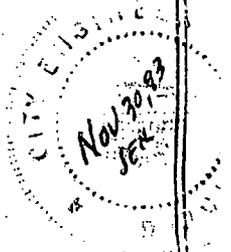
BEING the same premises conveyed to the Grantor by Deed dated November 1, 1993, and recorded in the Office for Recording of Deeds in and for Clearfield County in Deed Book Volume *572* Page *140* on November 30, 1993.



THE FIFTH THEREOF:

ALL that certain piece or parcel of land situate, lying, and being in the City of DuBois, Clearfield County, Pennsylvania, and being bounded and described as follows, to wit:

BOUNDED on the North by an alley; on the East by Lot No. 41; on the South by DuBois Avenue; on the West by Osbourne Street; and having a frontage or width of 50 feet along the northern boundary of DuBois Avenue, and extending in a Northerly direction between two parallel lines at right angles with said DuBois Avenue, 160 feet to an alley and being known as Lot No. 42 in Block A in the Hopkins Land Company's First Plan of lots in the Borough (now City) of DuBois.



EXCEPTING AND RESERVING out of the land described, the small piece of land out of the Northeast corner heretofore conveyed to the United Natural Gas Company, by deed dated April 20, 1915, and recorded at Clearfield, Pennsylvania, in Deed Book 208, Page 89.

BEING the same premises conveyed to the Grantor by Deed dated November 1, 1993, and recorded in the Office for Recording of Deeds in and for Clearfield County in Deed Book Volume ~~172~~ 172, Page ~~44~~ 44 on November 30, 1993.

AND the said Grantor will WARRANT AND FOREVER DEFEND the property hereby conveyed.

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

SIGNED, SEALED, AND DELIVERED in the presence of:

Christine M. Leslie)

Albert L. Nelson (SEAL)
Albert L. Nelson

THIS TRANSFER is an excluded transaction under Section 8102-C.3. (6) and (8) of the Realty Transfer Tax Act as a transfer for no or nominal consideration to a trustee of an ordinary trust where the sister of the grantor is the only possible beneficiary.

I HEREBY CERTIFY that the precise residence of the Grantee herein is as follows:
1149 South Main Street, DuBois, PA 15801

Albert L. Nelson
Attorney for Grantee

NOTICE

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

Witness:

Christine M. Leslie

Albert L. Nelson Trustee
Albert L. Nelson, Trustee of the
Albert L. Nelson Living Trust
Under Trust Agreement Dated
October 1, 1993

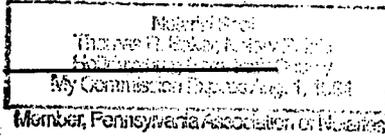
This 1st day of November, 1993

COMMONWEALTH OF PENNSYLVANIA)
) SS.
COUNTY OF BLAIR)

On this, the 1st day of November 1993, before me, a Notary Public for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared ALBERT L. NELSON, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

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

My Commission Expires



Thomas L. Baker
Notary Public

COMMONWEALTH OF PENNSYLVANIA)
) SS.
COUNTY OF CLEARFIELD)

RECORDED in the Office for Recording of Deeds & c. in and for said County in Deed Book No. _____ Page _____
WITNESS my hand and seal of office this day of _____, 1993.

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



Karen L. Starck

Karen L. Starck
Recorder of Deeds

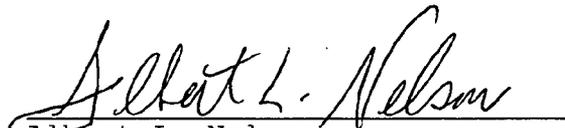
Recorder of Deeds

CLEARFIELD COUNTY
ENTERED OF RECORD
TIME 3:33 pm 11-30-93
BY Albert Nelson
FEES 19.50
Karen L. Starck, Recorder

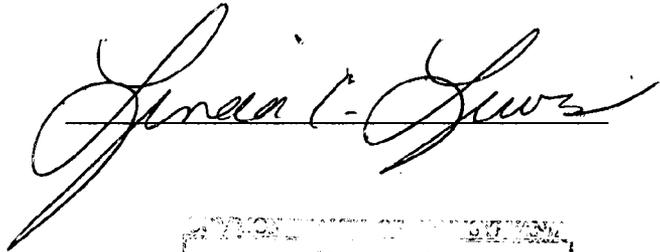
Entered of Record Nov 30 1993, 3:33 pm Karen L. Starck, Recorder

COMMONWEALTH OF PENNSYLVANIA)
)
) SS.
COUNTY OF CLEARFIELD)

Before me, the undersigned officer, personally appeared ALBERT L. NELSON, who being duly sworn according to law, depose and state that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.


Albert L. Nelson

SWORN and SUBSCRIBED before me this 30th day of December, 2005.





LA

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

No. 2005-1842-CD

Type of Pleading:
**DEFENDANTS' PRELIMINARY
OBJECTIONS**

Filed on behalf of:
DEFENDANTS

Counsel of Record for Defendants
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 Plaintiff:
James A. Naddeo, Esquire
Supreme Court ID #06820
207 East Market Street
P. O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED 3cc
01:48BA Atty Smith
FEB 28 2006
@k

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON,	:	
Plaintiff	:	
	:	No. 2005-1842-CD
vs.	:	
	:	
WAROQUIER COAL, and	:	
JOSEPH L. WAROQUIER, JR. and	:	
GARY V. WAROQUIER, individually and	:	
co-partners t/d/b/a WAROQUIER COAL	:	
COMPANY, and	:	
WAROQUIER COAL COMPANY, a	:	
partnership, and	:	
WAROQUIER COAL COMPANY, INC.,	:	
Defendants	:	

DEFENDANTS' PRELIMINARY OBJECTIONS

COMES NOW, the Defendants, by their Attorney Peter F. Smith, who makes the following preliminary objections to the Complaint:

1. The Complaint advances three claims for damages in tort. The first two are for intentional trespasses and the final for punitive damages.
2. Paragraph 11 of the Complaint states that the trespass commenced in January of 2001 and continued until "sometime after January 2003."
3. This litigation was initiated by a Writ of Summons issued by the Clearfield County Prothonotary on November 28, 2005.
4. The Complaint is insufficient because it fails to specifically aver facts establishing that the alleged trespasses occurred within the two-year statute of limitations to which all trespasses to real property are subject. 42 Pa. C.S.A. § 5524.

5. Count Three of the Complaint claiming punitive damages is deficient because it fails to set forth facts sufficient to support a claim for punitive damages under Pennsylvania law.

6. Plaintiff fails to allege a detailed, factual basis supporting his demand for punitive damages. That is a recitation of specific conduct, acts, errors or omissions so outrageous, wanton or shocking as to be without palliation as required by Pennsylvania law. Huddleston v. Infertility Center of America, 700 A.2d 453 (1997);

"Punitive damages may also be imposed upon proof of facts indicating malice, vindictiveness and wanton disregard of another's rights." Richette v. Solomon, 410 Pa.6, 187 A.2d 910 (1963).

7. Ordinary negligence is insufficient to support an award of punitive damages. McDaniel v. Merck, Sharp & Dohme, 367 Pa.Super. 600, 533 A.2d 436 (1987).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter F. Smith', written over a horizontal line.

Peter F. Smith, Esquire
Attorney for Defendants

Date: February 28, 2006

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

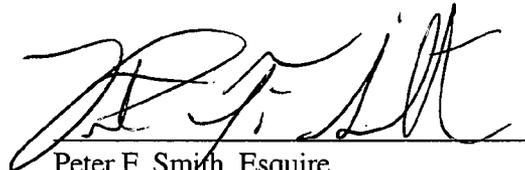
ALBERT L. NELSON, :
Plaintiff :
 :
vs. : No. 2005-1842-CD
 :
 :
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR. and :
GARY V. WAROQUIER, individually and :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, being duly sworn according to law, depose and say that a true and correct copy of **DEFENDANTS' PRELIMINARY OBJECTIONS** and **DEFENDANTS' REQUEST FOR PRODUCTION OF DOCUMENTS** were hand delivered to the Attorney for the Plaintiff at the following address:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Date: February 28, 2006



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
Clearfield, PA 16830
(814) 765-5595

FILED No cc
01:48 BX
FEB 28 2006 @

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

No. 2005-1842-CD

FILED *NOCC*
0/10:38/01
MAR 01 2006 *GP*

William A. Shaw
Prothonotary/Clerk of Courts

PRAECIPE FOR SCHEDULING OF ARGUMENT

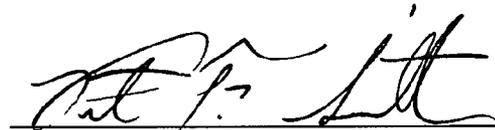
To: William A. Shaw, Prothonotary of Clearfield County

Dear Sir :

Pursuant to Local Rule 1028(c), I request that the Preliminary Objections which I have filed on behalf of the Defendants be scheduled for argument before the Court. I attach a proposed Scheduling Order to this Praecipe. Would you kindly present these along with the Preliminary Objections to the Court Administrator and advise me once the Scheduling Order has been entered.

Respectfully submitted

Dated: February 28, 2006



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

cc: James A. Naddeo, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101039
NO: 05-1842-CD
SERVICE # 1 OF 5
SUMMONS

PLAINTIFF: ALBERT L. NELSON

vs.

DEFENDANT: WAROQUIER COAL and JOSEPH L. WAROQUIER JR. and GARY V. WAROQUIER,
ind & co-partners t/d/b/a WAROQUIER COAL COMPANY, and WAROQUIER COAL COMPANY,
A Partnership & WAROQUIER COAL COMPANY, INC.

SHERIFF RETURN

NOW, December 02, 2005 AT 1:58 PM SERVED THE WITHIN SUMMONS ON WAROQUIER COAL DEFENDANT AT 3056 WASHINGTON AVE., HYDE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JOSEPH M. WAROQUIER, EXEC. ADMINISTRATOR A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING /

FILED
01/12/2006
MAR 02 2006
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101039
NO: 05-1842-CD
SERVICE # 2 OF 5
SUMMONS

PLAINTIFF: ALBERT L. NELSON

vs.

DEFENDANT: WAROQUIER COAL and JOSEPH L. WAROQUIER JR. and GARY V. WAROQUIER,
ind & co-partners t/d/b/a WAROQUIER COAL COMPANY, and WAROQUIER COAL COMPANY,
A Partnership & WAROQUIER COAL COMPANY, INC.

SHERIFF RETURN

NOW, December 02, 2005 AT 1:58 PM SERVED THE WITHIN SUMMONS ON JOSEPH L. WAROQUIER JR. ind & co-partner t/d/b/a WAROQUIER COAL COMPANY DEFENDANT AT 3056 WASHINGTON AVE., HYDE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JOSEPH M. WAROQUIER., PIC A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101039
NO: 05-1842-CD
SERVICE # 3 OF 5
SUMMONS

PLAINTIFF: ALBERT L. NELSON

vs.

DEFENDANT: WAROQUIER COAL and JOSEPH L. WAROQUIER JR. and GARY V. WAROQUIER,
ind & co-partners t/d/b/a WAROQUIER COAL COMPANY, and WAROQUIER COAL COMPANY,
A Partnership & WAROQUIER COAL COMPANY, INC.

SHERIFF RETURN

NOW, December 02, 2005 AT 1:58 PM SERVED THE WITHIN SUMMONS ON GARY V. WAROQUIER ind &
co-partner t/d/b/a WAROQUIER COAL COMPANY DEFENDANT AT 3056 WASHINGTON AVE., HYDE,
CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JOSEPH M. WAROQUIER, PIC A TRUE AND
ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101039
NO: 05-1842-CD
SERVICE # 4 OF 5
SUMMONS

PLAINTIFF: ALBERT L. NELSON

vs.

DEFENDANT: WAROQUIER COAL and JOSEPH L. WAROQUIER JR. and GARY V. WAROQUIER,
ind & co-partners t/d/b/a WAROQUIER COAL COMPANY, and WAROQUIER COAL COMPANY,
A Partnership & WAROQUIER COAL COMPANY, INC.

SHERIFF RETURN

NOW, December 02, 2005 AT 1:58 PM SERVED THE WITHIN SUMMONS ON WAROQUIER COAL COMPANY A
partnership DEFENDANT AT 3056 WASHINGTON AVE., HYDE, CLEARFIELD COUNTY, PENNSYLVANIA, BY
HANDING TO JOSEPH M. WAROQUIER, EXEC. ADMINISTRATOR A TRUE AND ATTESTED COPY OF THE
ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101039
NO: 05-1842-CD
SERVICE # 5 OF 5
SUMMONS

PLAINTIFF: ALBERT L. NELSON

vs.

DEFENDANT: WARQUIER COAL and JOSEPH L. WARQUIER JR. and GARY V. WARQUIER,
ind & co-partners t/d/b/a WARQUIER COAL COMPANY, and WARQUIER COAL COMPANY,
A Partnership & WARQUIER COAL COMPANY, INC.

SHERIFF RETURN

NOW, December 02, 2005 AT 1:58 PM SERVED THE WITHIN SUMMONS ON WARQUIER COAL COMPANY, INC. DEFENDANT AT 3056 WASHINGTON AVE., HYDE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JOSEPH M. WARQUIER, PIC A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101039
NO: 05-1842-CD
SERVICES 5
SUMMONS

PLAINTIFF: ALBERT L. NELSON

vs.

DEFENDANT: WAROQUIER COAL and JOSEPH L. WAROQUIER JR. and GARY V. WAROQUIER,
ind & co-partners t/d/b/a WAROQUIER COAL COMPANY, and WAROQUIER COAL COMPANY,
A Partnership & WAROQUIER COAL COMPANY, INC.

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	NADDEO	17743	50.00
SHERIFF HAWKINS	NADDEO	17743	46.25

Sworn to Before Me This

_____ Day of _____ 2006

So Answers,



Chester A. Hawkins
Sheriff

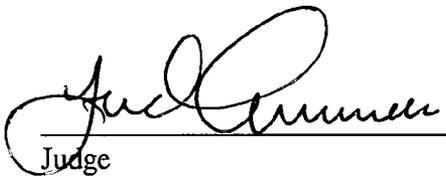
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ALBERT L. NELSON,	:	
Plaintiff	:	
	:	No. 2005-1842-CD
vs.	:	
	:	
WAROQUIER COAL, and	:	
JOSEPH L. WAROQUIER, JR. and	:	
GARY V. WAROQUIER, individually and	:	
co-partners t/d/b/a WAROQUIER COAL	:	
COMPANY, and	:	
WAROQUIER COAL COMPANY, a	:	
partnership, and	:	
WAROQUIER COAL COMPANY, INC.,	:	
Defendants	:	

SCHEDULING ORDER

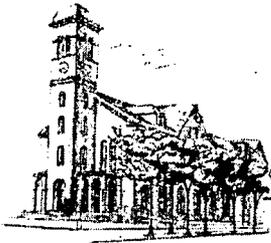
AND NOW, this 3 day of March, 2006, Preliminary Objections having been filed on behalf of the Defendants, it is the Order of this Court that Argument will be conducted on Defendants' Preliminary Objections on March 28, 2006 at 9:30 A.m.

By the Court



Judge

FILED 4cc
014:00301 Atty P. Smith
MAR 03 2006 @CP
William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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

Sincerely,

William A. Shaw
Prothonotary

DATE: 3/3/06

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 DIVISION

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

No. 2005-1842-CD

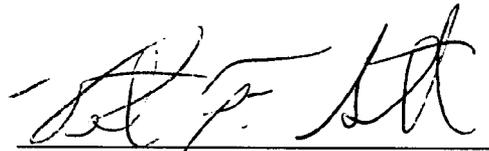
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0/10:25/01
MAR 08 2006
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, being duly sworn according to law, depose and say that a certified copy of a **SCHEDULING ORDER** dated March 3, 2006 scheduling argument on Defendants' Preliminary Objections was hand delivered to the Attorney for the Plaintiff at the following address on March 7, 2006:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Date: March 7, 2006



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
Clearfield, PA 16830
(814) 765-5595

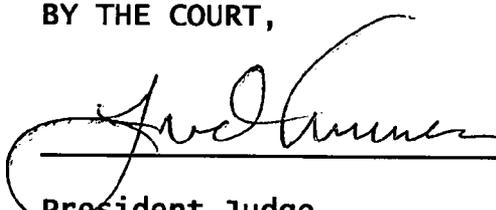
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ALBERT L. NELSON :
 :
-VS- : No. 05-1842-CD
 :
WAROQUIER COAL, and JOSEPH :
L. WAROQUIER, JR., and :
GARY V. WAROQUIER, :
individually and :
co-partners t/d/b/a :
WAROQUIER COAL COMPANY, a :
partnership, and WAROQUIER :
COAL COMPANY, INC. :

O R D E R

NOW, this 28th day of March, 2006, following
argument on the Defendants' Preliminary Objections, it is
the ORDER of this Court that the said Preliminary
objections be and are hereby dismissed.

BY THE COURT,



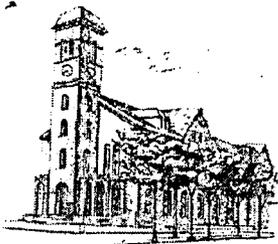
President Judge

FILED

MAR 29 2006

06101306
William A. Shaw
Prothonotary/Clerk of Courts 

2 CERT. TO ATTORNEY NADGE
2 CERT. TO ATTORNEY SHAW



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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

Sincerely,

William A. Shaw
Prothonotary

DATE: 3-29-06

_____ 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 DIVISION

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

No. 2005-1842-CD

Type of case:
CIVIL

Type of Pleading:
ANSWER & NEW MATTER

Filed on behalf of:
ALL DEFENDANTS

Counsel of Record for Defendants
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 Plaintiff:
James A. Naddeo, Esquire
Supreme Court ID #06820
207 East Market Street
P. O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED 300
APR 19 2006
Atty Smith
LM

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON,	:	
Plaintiff	:	
	:	No. 2005-1842-CD
vs.	:	
	:	
WAROQUIER COAL, and	:	
JOSEPH L. WAROQUIER, JR. and	:	
GARY V. WAROQUIER, individually and	:	
co-partners t/d/b/a WAROQUIER COAL	:	
COMPANY, and	:	
WAROQUIER COAL COMPANY, a	:	
partnership, and	:	
WAROQUIER COAL COMPANY, INC.,	:	
Defendants	:	

NOTICE TO ANSWER

To: Albert L. Nelson
C/O James A. Naddeo, Esquire
Attorney for Plaintiff

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

Date: 4/19/06



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130
30 South Second Street
Clearfield, PA 16830
(814) 765-5595

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

ALBERT L. NELSON,	:	
Plaintiff	:	
	:	No. 2005-1842-CD
vs.	:	
	:	
WAROQUIER COAL, and	:	
JOSEPH L. WAROQUIER, JR. and	:	
GARY V. WAROQUIER, individually and	:	
co-partners t/d/b/a WAROQUIER COAL	:	
COMPANY, and	:	
WAROQUIER COAL COMPANY, a	:	
partnership, and	:	
WAROQUIER COAL COMPANY, INC.,	:	
Defendants	:	

ANSWER & NEW MATTER

COMES NOW, the Defendants, by their Attorney Peter F. Smith, who answers the Complaint as follows:

1. Admitted.
2. Admitted that the individual Defendants do business as partners under the fictitious name Waroquier Coal Company, but their business address has moved to 3056 Washington Avenue, Clearfield, Pennsylvania 16830. There is no entity known as "Waroquier Coal" per se.
3. Admitted and denied for the reasons stated in paragraph 2.
4. Admitted that Waroquier Coal Company, Inc, is a Pennsylvania business corporation, but again, its address of its principal office is incorrect. It receives mail at P.O. Box 128, Clearfield, PA 16830 and the address of its office is 3056 Washington Avenue, Clearfield, Pennsylvania 16830.

5. Denied. Defendants have done business under their lawfully designated names.

6. Admitted.

7. Admitted.

8. Neither admitted nor denied. Neither Defendants nor their agents have examined Plaintiff's title to the subject real estate. Therefore strict proof of Plaintiff's ownership is demanded at trial.

9. Denied as stated. The Defendants have done business only through their lawfully organized and designated business entities, to wit: Waroquier Coal Company, Inc. and Waroquier Coal Company. They have not engaged in the coal business in their personal capacities.

FIRST COUNT
INTENTIONAL TRESPASS

10. Denied. The Defendant Waroquier Coal Company, Inc. obtained by assignment dated January 22, 2001 from W. Ruskin Dressler a Surface Mining Permit to conduct strip mining on both Plaintiff's real estate and a parcel adjoining the Plaintiff's owned by Richard Kimble. A true and correct copy of said assignment is attached hereto and incorporated herein by reference as Defendants' Exhibit A.

W. Ruskin Dressler also had a lease from the Plaintiff executed on or about February 3, 1997 to conduct strip mining operations on the Plaintiff's real estate which is the subject of this litigation. A true and correct copy of said Option and Lease Agreement is attached as Defendants' Exhibit B. The Plaintiff also executed a Contractual Consent to landowner in conjunction with the Dressler lease. Said consent is recorded at Clearfield County Instrument Number 199902726. A true and correct copy of said Consent is attached hereto and incorporated herein by reference as

Defendants' Exhibit C. These are part of the Surface Mining Permit assigned to Defendant Waroquier Coal Company, Inc. by Dressler.

The Defendants and their agents were lawfully present on the property. Defendant Waroquier Coal Company, Inc. was mistaken as to the exact location of the boundary line between the Nelson and Kimble properties. It appears that Waroquier Coal Company, Inc. inadvertently paid Kimble for some of Plaintiff's coal. Upon notice of its mistake, Waroquier Coal Company, Inc. has been and still is ready and willing to pay Plaintiff royalty for the coal from Plaintiff's property pursuant to the lease.

The other Defendants deny liability for the royalty because it was and is Waroquier Coal Company, Inc.'s responsibility.

The thickness of the coal seams is denied. The middle Kittanning seam contained 28" of marketable coal. If binders and a middle strata of shale are added, the total thickness would be 32". This seam was also deep mined under portions of the Nelson property, and in those areas no middle Kittanning seam is present.

The Luthersburg seam varied in thickness from 0"-16".

11. Denied as stated. While it is admitted that Defendant Waroquier Coal Company, Inc. may have mistakenly paid Kimble for a portion of Plaintiff's coal, W. Ruskin Dressler and his subcontractors Ramm Coal, Inc. and Roger A. Thomas had already started mining and taken coal from the Nelson property. Dressler, Ramm Coal and Thomas will be joined as Defendants to this suit. They are liable for all coal which they removed and any other damages which they caused.

12. Denied for the reasons set forth in paragraph 11.

13. Denied. Plaintiff had already executed a lease for the surface mining of the coal on

Plaintiff's property. That lease was part of Dressler's permit which was assigned to Defendant Waroquier Coal Company, Inc. The Defendant's entry upon the Plaintiff's property was authorized. Defendant Waroquier Coal Company, Inc. may have paid the wrong lessor for some of the coal removed, but Defendant Waroquier Coal Company, Inc. is prepared to pay according to the terms of the governing lease.

WHEREFORE, Defendants pray that Plaintiff's claim for damages be denied to the extent that it exceeds the price for coal specified in the Nelson - Dressler lease based on the amount of coal which Defendant Waroquier Coal Company, Inc. actually took and removed from the Plaintiff's property. W. Ruskin Dressler and Ramm Coal, Inc. and/or Roger A. Thomas should be held liable for any balance or additional damages.

SECOND COUNT
INTENTIONAL TRESPASS

14. Paragraphs 1 through 13 of this answer are incorporated herein by reference as though set forth in full.

15. Denied. Mr. Nelson either knew or should have known of mining operations since the date he executed the Dressler lease on February 3, 1997.

16. Denied. Plaintiff has requested monetary compensation from his first contact with the Defendants. If demand was made for Defendants to vacate the premises, then it was in breach of the parties' lease.

17. Denied. Defendants were lawfully present on the Plaintiff's property by virtue of the lease. The lease also granted the Defendants the "right of ingress, egress and regress..." upon said land and the right to "... build roads, railroads and tram roads..." This language is found in the

lease's paragraph beginning with "TOGETHER ..."

Only a very small portion of the haul road servicing this entire job was actually on the Nelson property. Coal from what proved to be the Kimble property was never hauled over the Nelson section of that road.

18. Denied as stated. The surface mining operations and transportation were conducted exclusively by Defendant Waroquier Coal Company, Inc. and the partnership Waroquier Coal Company.

WHEREFORE, Defendants pray that this additional claim for damages in the forms of rent, wheelage and "all other damages," be denied to the extent that it differs from or exceeds the lawful royalty due for the coal which Defendant Waroquier Coal Company, Inc. actually removed from the Plaintiff's premises.

THIRD COUNT
PUNITIVE DAMAGES

19. Paragraphs 1 through 18 of this answer are incorporated herein by reference as set though set forth in full.

20. Denied. Defendants' entry upon and mining of Plaintiff's property was lawful, peaceable and consensual. It was authorized by the Dressler lease which was freely assignable and transferred by Dressler to Waroquier Coal Company, Inc. as part of Dressler's Surface Mining Permit.

The Defendant companies' failure to pay Plaintiff for his coal was innocent and inadvertent. The Defendant companies reasonably relied upon information which they received from the prior lessor W. Ruskin Dressler and the contract miner Roger A. Thomas as to the location of the

boundary between the Kimble and Nelson properties. Defendants have been ready and willing to pay Plaintiff for his coal. Payment has not yet been made because Defendants legitimately and in good faith dispute the amount due.

21. Denied. Their entry upon the Plaintiff's property was authorized. Their failure to pay was inadvertent, and they have been ready and willing to make lawful restitution without resort to legal proceedings. Further denied that the Defendants' activities were so outrageous as to justify punitive damages.

WHEREFORE, Plaintiff's prayer for punitive damages should be denied.

NEW MATTER

22. The answers contained in 1 through 21 of the preceding answer are incorporated herein by reference as though set forth in full.

23. Plaintiff's claim is barred by the 2-year statute of limitations for the initiation of trespass actions. 42 Pa.C.S. §5524

24. The individual Defendants Joseph L. Waroquier, Jr. and Gary V. Waroquier participated in the operations alleged in the complaint as agents of the Defendant corporation and are therefore excluded from personal liability for the damages alleged.

25. Since February 3, 1997, Plaintiff has known that W. Ruskin Dressler intended to commence strip-mining operations on the subject real estate.

26. Plaintiff was negligent in failing to regularly visit and oversee his property in view of the lease which he executed.

27. Plaintiff failed to mitigate his damages by regularly visiting his property and/or

properly marking the boundary between his property and the Kimble property and/or by promptly notifying the Defendants of their alleged trespass.

28. As averred in paragraph 10 above, the Defendant Waroquier Company's assignor W. Ruskin Dressler had commenced stripping operations on the Kimble property prior to any of the Defendants' entry upon either Kimble or the Plaintiff's properties. It is further averred that Roger A. Thomas and/or Ramm Coal, Inc. assisted W. Ruskin Dressler in these strip-mining activities as a contract miner.

29. Both Dressler and Thomas showed the Defendants where they believed the boundary line to be between the Kimble and Nelson properties.

30. Defendants reasonably relied upon this information supplied by Dressler and/or Thomas because they had been conducting stripping operations on the premises without apparent complaint from Plaintiff but, by that point, had already crossed onto the Plaintiff's property and in fact removed coal.

31. W. Ruskin Dressler and/or Ramm Coal, Inc. and/or Roger A. Thomas, either individually or jointly, are liable to Plaintiff for the coal which they removed and other damages which they may have caused to the Plaintiff.

32. In the event that Defendants are found wholly liable for all of the Plaintiff's damages, then the Defendants are entitled to indemnity or contribution from W. Ruskin Dressler and/or Ramm Coal, Inc. and/or Roger A. Thomas for that portion of the Plaintiff's damages which they, either jointly or individually, caused.

33. W. Ruskin Dressler had a valid lease with Plaintiff to conduct strip-mining operations on Plaintiff's property and removed coal therefrom. Therefore Plaintiff is barred and

estopped from asserting causes of action sounding in trespass and for punitive damages against W. Ruskin Dressler and the Defendants.

WHEREFORE, Defendants pray that this Honorable Court deny Plaintiff's claim for damages from them to the extent that this claim exceeds the royalty specified by the lease calculated with the tonnage of coal which the Defendants actually mined and removed from the Plaintiff's property.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter F. Smith', written over a horizontal line.

Peter F. Smith, Esquire
Attorney for Defendants

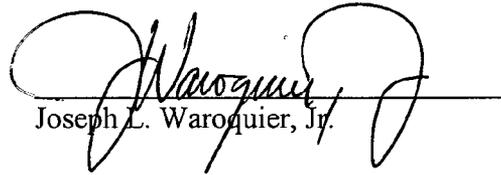
Date: April 19, 2006

VERIFICATION

I verify that the statements made in this response to Answer and New Matter are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Dated:

4/18/06



Joseph L. Waroquier, Jr.

VERIFICATION

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

Dated: 4/18/06



Gary N. Waroquier

WAROQUIER COAL, INC.

Coal Producers

P.O. BOX 128
CLEARFIELD, PA. 16830

January 18, 2001

AGREEMENT

This 22 of January 2001, WAROQUIER COAL CO., INC. agrees to resume the permit #17990105 of Ruskin Dressler. We will pay Ruskin Dressler \$15,000 (Fifteen Thousand Dollars) for this permit. Also, a payment of an override fee of \$1.00 (One Dollar) for each ton of coal mined off of this permit. Settlements in payments of royalty shall be made on the 25th day of each month for all coal mined and removed from the premises during the preceding calendar month and shall be accompanied by a copy of all weight slips showing the number of tons of coal mined and removed.

Waroquier Coal Co., Inc. Agrees to pay Ruskin Dressler \$5,000 (Five Thousand Dollar) for the road bond if Brady Township will not refund Ruskin Dresslers moneys for the road bond.

Waroquier Coal Co., Inc. agrees to sell Ruskin Dressler house coal out of this mine at pit price.

Waroquier Coal Co., Inc. will be working under Ruskin Dressler Permit until the transfer for the permit is made. Waroquier Coal Co., Inc. will be responsible for all mining activity through MSHA and DEP Regulations excluding Ruskin Dressler.

Ruskin Dressler is responsible for the up keep of this area and any MSHA fines that may accrue from his area.

In case of death the Royalty of this agreement will go to Bernice V. Oman, RD# 2 Box 231A, Dubois, PA 15801.

January 26th, 2001 Waroquier Coal Co., Inc. is advancing Ruskin Dressler \$15,000 (Fifteen Thousand Dollars) on Advance Royalty in which Waroquier Coal Co., Inc. will recoup from the override fee of \$1.00 (One Dollar) a ton when mining begins

until sum is collected. After sum is collected all will be based on what is stated in the first paragraph of this agreement.

ATTEST:

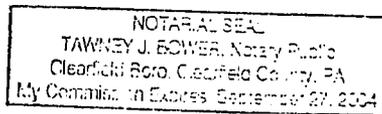
Tawney J Bower

W Ruskin Dressler
RUSKIN DRESSLER

WAROQUIER COAL CO., INC

Tawney J Bower

Gary V Waroquier
GARY V. WAROQUIER,
SECRETARY OF TREASURER



Option and Lease Agreement

THIS ARTICLE OF AGREEMENT made and concluded this 10/11/93 day of October, 1993.
between ALBERT L. NELSON, Trustee of THE ALBERT L. NELSON LIVING TRUST
1149 South Main Street, DuBois, PA 15801
U/T/A Dated 10/11/93

of the first part, hereinafter designated as Lessor, and W. RUSKIN DRESSLER, of Box 39,
Rockton, Pennsylvania, 15856
the second part, hereinafter designated as Lessee, witnesseth:

1. In consideration of the sum of \$ 1.00 in hand paid, receipt whereof is hereby acknowledged, Lessor
by lease, lets, and demises unto Lessee, ALL of the surface ~~of the~~ mineable
portion or vein of coal in, under and upon all that certain piece, parcel or tract of land situated in Brady
County, Pennsylvania, bounded and described as follows:

North - Kimble
East - Crescent Brick Division of RESCO Products, Inc.
South - Crescent Brick Division of RESCO Products, Inc. and Broad
West - Jacob D. Hayes

D.S. & B. Book VOL 1572 Pags 148
Recorded 11-30-93

containing 49.0 acres, more or less.

TOGETHER with all the mining rights and easements owned by Lessor and appurtenant to the coal and land herein
described, including the right of ingress, egress, and regress, in, to and upon said land for the purpose of exploring for
and mining, manufacturing, testing and preparing said coal for market, to build roads, railroads and tram roads, to
install, maintain and operate, to deposit waste material and refuse on the surface of the land, to build wire and
conduit lines, to drain water upon the surface by any means, to transport coal from other properties through or over this
land and to do all things necessary, usual and proper in connection with said operations, and Lessor hereby waives
all right to surface support, both laterally and subjacent, and releases all liability for damage to buildings and objects
on and under the surface and thereon. Said coal may be removed either by drift mining or stripping process and all of
the usual rights and privileges are hereby granted in connection therewith including the removal and sale of all of
the coal and other objects and materials overlying said coal, to be exercised without further cost or liability for the damage
done thereby.

ALSO TOGETHER WITH XXXX

EXCEPTING AND RESERVING XXXX

2. Lessee covenants and agrees to pay to Lessor the sum of Two Dollars (\$2.00) ~~per ton~~ per ton of 2,000
lbs for all mineable merchantable and marketable coal mined and removed from said premises. Settlements to be
made on the twenty-fifth day of each month for all such coal mined and removed from the premises during the preceding
calendar month and all settlements shall be based upon the weights by which the coal is marketed. It is further under-
stood and agreed that Lessee will pay ten (10%) percent of pit price or \$2.00 per
ton, whichever is greater.

3. Lessee covenants and agrees to commence mining operations upon said premises within three (3) years
from the effective date of this lease and in event of failure so to commence mining operations agrees to pay Lessor as a
minimum royalty the sum or price of XXX per acre, payable quarterly in advance.

4. Lessee agrees that all mining operations shall be conducted in accordance with the laws of Pennsylvania and
the mining methods prevailing in the industry. It is also understood that Lessor shall have access to the operations
and records of Lessee at all reasonable times in person or by duly authorized agent.

5. This lease shall continue for a period of three (3) years from the effective date hereof, or until all of the
mineable and merchantable coal has been exhausted from the premises. Lessee may remove all equipment, buildings and
improvements from the premises at the end of the term provided no royalty is then due.

6. This article of agreement shall constitute and be construed an option granted by Lessor to Lessee so that Lessee
may elect to accept or reject it at any time during XXX days from the date hereof. Upon acceptance
hereof this agreement shall become immediately effective in all its terms as a lease of the coal in place. During the option
period Lessee may go upon the premises for the purpose of surveying, drilling, digging, exploring, testing, taking samples,
otherwise examining said coal, without liability for the damage, caused thereby or for the coal taken in such
operations. Lessee may exercise this option by notifying Lessor in writing of its election to do so within the option
period aforesaid.

7. It is understood and agreed that in the event that Lessee should default in any payment provided for herein and
in such default for a period of ninety days from the date when said payment becomes due, or should Lessee be
in default in any other respect and continue in such default for a period of ninety days after being notified in writing
of such default by Lessor, then, in either event, at the option of Lessor, this lease shall cease and terminate and Lessee
shall be deemed to have abandoned the coal in place. In the event of such default, Lessor may cause a judgment against
Lessee for the coal in place to be entered by a Court of Record to appear for it and in its name to confess a judgment against
Lessee for the coal in place, together with clause of fieri facias for rent in arrears and costs.

8. It is further understood and agreed that XXX

9. It is mutually understood and agreed that the rights, duties and obligations created hereby shall extend to and be binding upon the parties, their heirs, executors, administrators and assigns, and that the singular herein shall include the plural.

10. Lessor hereby warrants generally the title to said coal and mining rights and this lease shall be free and clear of all encumbrances except those for which waiver and consent hereto is obtained and Lessee may in all cases apply royalty payments to the satisfaction of such encumbrances as may be found to exist.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals and caused this article of agreement to be duly executed by their officers, the day and year aforesaid.

Witness:

D. W. Egan

ARUNDELSON

Albert L. Nelson, Trustee (Seal)
(Albert L. Nelson) Lessor

W. Ruskin Dressler (Seal)
(W. Ruskin Dressler) Lessee

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF CLEARFIELD } ...

On this 3rd day of FEBRUARY, 1997, before me, a Notary Public
in and for the County of CLEARFIELD and State of Pennsylvania, came the above named
ALBERT L. NELSON

who in due form of law acknowledged the foregoing Article of Agreement to be HIS act and deed, and desired the same to be recorded as such.

Witness my hand and OFFICIAL seal the day and year aforesaid
Andrew P. Booth

My Commission Expires Andrew L. Booth, Notary Public
DuBois, Clearfield County
My Commission Expires Oct. 14, 1997
Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF Clearfield } ...

On this 3rd day of FEBRUARY, 1997, before me, a Notary Public
in and for the County of CLEARFIELD and State of Pennsylvania, came the above named
W. Ruskin Dressler

who in due form of law acknowledged the foregoing Article of Agreement to be his act and deed, and desired the same to be recorded as such.

Witness my hand and official seal the day and year aforesaid
Andrew P. Booth

My Commission Expires Andrew L. Booth, Notary Public
DuBois, Clearfield County
My Commission Expires Oct. 14, 1997
Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

APPL. NO. (Department Use Only)

CONTRACTUAL CONSENT OF LANDOWNER

(I) (We), the undersigned, being the owner(s) of 49.0 acres of land located in Brady Township, Clearfield County, as described in the deed(s) recorded in the Recorder of Deeds Office Book(s) and page(s) Deed Book Vol 1572 Page 148 and shown by crosshatched lines on the map attached hereto which is signed in the original by the landowner upon which W. Ruskin Dressler proposes to engage in surface

(Name of Mining Operator)

mining activities for which application for permit will be made to the Department of Environmental Resources and of which application this consent will be made a part, **DO HEREBY ACKNOWLEDGE THAT THE MINING OPERATOR HAS THE RIGHT TO ENTER UPON AND USE THE LAND FOR THE PURPOSES OF CONDUCTING SURFACE MINING ACTIVITIES.** Furthermore, (I) (We), the undersigned, do hereby irrevocably grant to the Mining Operator and the Commonwealth of Pennsylvania, the right to enter upon the aforesaid land before beginning the mining activity(ies), during the mining activity(ies) and for a period of five (5) years after the completion or abandonment of the mining activity(ies) for the purposes of inspecting, studying, backfilling, planting and reclaiming the land and abating pollution in accordance with the provisions of the Surface Mining Conservation and Reclamation Act, The Clean Streams Law, and The Coal Refuse Disposal Act, as amended, rules and regulations promulgated thereunder, and the provisions of permit(s) issued to the Mining Operator. (I) (We) do hereby grant in addition to the Commonwealth, for the aforesaid period of time, a right of entry across any adjoining or contiguous lands owned by (us) (me) in order to have access to the land described herein. It is specifically agreed and understood that this contractual consent gives the Commonwealth the right to enter, inspect, study, backfill, plant and reclaim the land and abate pollution therefrom as a matter within the police power but does not obligate the Commonwealth to do so, and does not constitute any ownership interest by the Commonwealth in the aforesaid land.

This Consent shall not be construed to impair any contractual agreement between the Mine Operator and the landowner.

(INSERT ADDITIONAL PROVISIONS OR CROSS. OUT)

In witness whereof and intending to legally bind (myself) (ourselves), (my) (our) heirs, successors and assigns, (I) (we) have hereunto set (my) (our) hand(s) and seal this 30th day of FEB, 1997.

Albert L. Nelson

LANDOWNER Yrattler (Print Name)

By: Albert L. Nelson, Jr. et al. (Signature) (Seal)

Name)

EXHIBIT C

By: _____ (Signature)

KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY, PA
Pennsylvania

INSTRUMENT NUMBER
199902726

RECORDED ON
Feb 23, 1997
11:51:31 AM

RECORDING FEES - \$13.00
CODER
COUNTY IMPROVEMENT \$1.00
CODER \$1.00
FROVEMENT FUND \$0.50
STATE WRIT TAX \$15.50
TOTAL

ACKNOWLEDGEMENT OF INDIVIDUALS OR PARTNERS

LAND OWNER

STATE OF PA. : : :
COUNTY OF CLEARFIELD : : : SS

On FEB 3 1997 before me, the undersigned Notary, personally appeared ALBERT L. NELSON

[Name(s)]

known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument, and who acknowledged that HE

[he, she or they]

executed the same and desires it to be recorded.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal. My Commission Expires:

Notarial Seal
Homer D. Edner, Notary Public
DuBois, Clearfield County
My Commission Expires Nov. 20, 2000
Member, Pennsylvania Association of Notaries

Notary Public

ACKNOWLEDGEMENT OF CORPORATIONS

LAND OWNER

STATE OF : : :
COUNTY OF : : : SS

On _____, before me, the undersigned Notary, personally appeared _____

who acknowledged (herself) (himself) to be the _____ of _____

[Title of Person]

[Name of Corporation]

a corporation, and the (s)he, as such officer, being authorized to do so, executed the foregoing instrument on behalf of the said corporation and desires that this instrument be recorded.

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

My Commission Expires:

Notary Public

[date]

This instrument has been recorded in Clearfield County, Pennsylvania, this 23rd day of February, 1999, at Book 199902726, Page (s) 1.

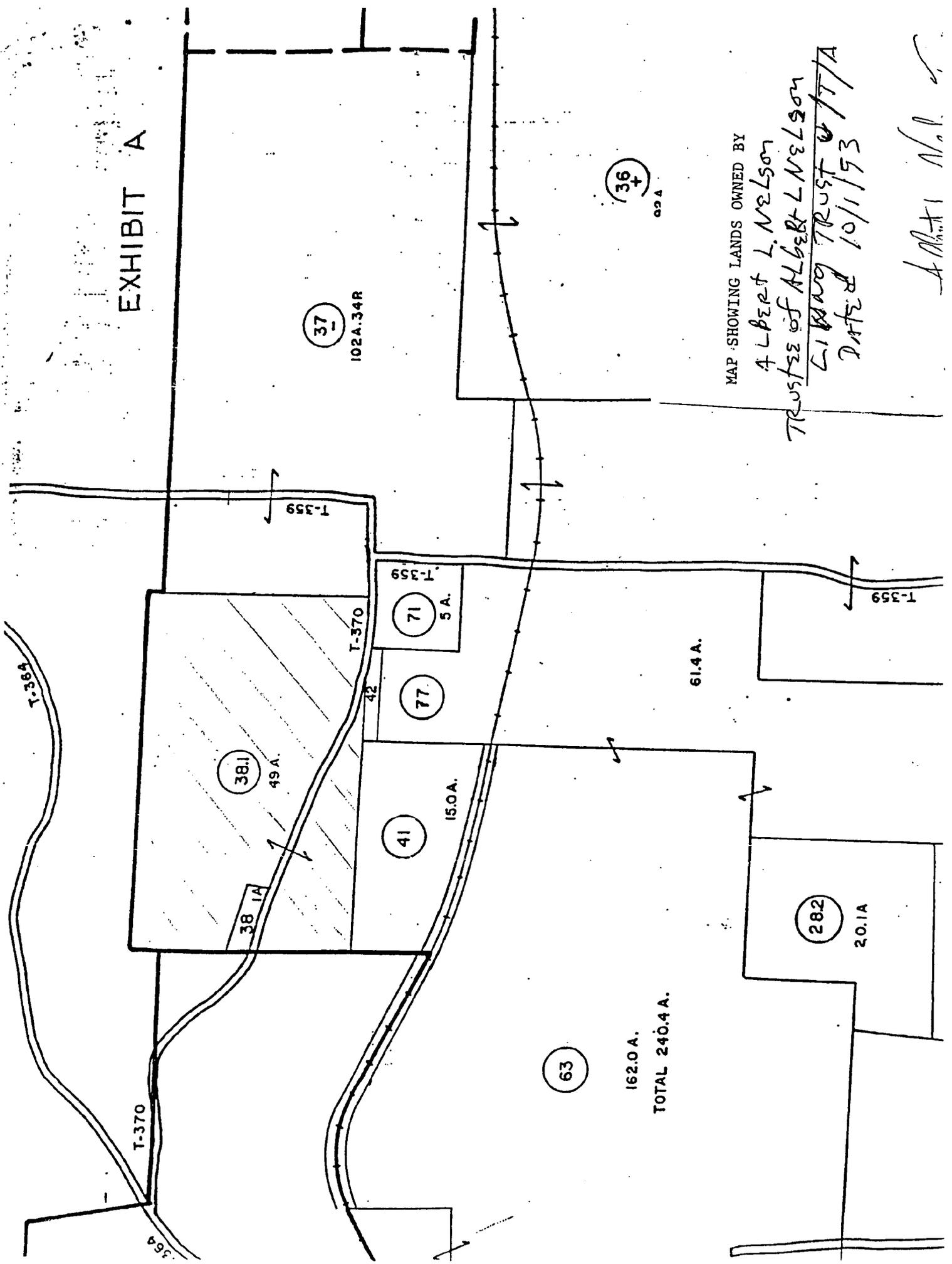
Karen L. Stueck
(Signed) * (Print Name)

RECORDER OF DEEDS

KAREN L. STUECK
(Sealed)

My Commission Expires in January, 2000

EXHIBIT A



MAP SHOWING LANDS OWNED BY

ALBERT L. NELSON

TRUSTEE OF ALBERT L. NELSON

LIBRARY TRUST # 177/A

DATED 10/1/53

ALBERT L. NELSON

36
62 A

37
102 A. 34 R

38.1
49 A.

38 1A

41
150 A.

77

71
5 A.

282
20.1 A

63
162.0 A.

TOTAL 240.4 A.

61.4 A.

T-370

T-370

T-359

T-359

T-359

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

ALBERT L. NELSON, :
Plaintiff :
 :
vs. : No. 2005-1842-CD
 :
 :
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR. and :
GARY V. WAROQUIER, individually and :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a true and correct copy of **DEFENDANTS' ANSWER & NEW MATTER** was hand delivered to the Attorney for the Plaintiff at the following address on April 19, 2006:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Date: April 19, 2006



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
Clearfield, PA 16830
(814) 765-5595

FILED *NOCC*
01-403d
APR 19 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON,	*	
an individual,	*	
Plaintiff,	*	
	*	
vs.	*	No. 05 - 1842 - CD
	*	
WAROQUIER COAL,	*	Jury Trial Demanded
and	*	
JOSEPH L. WAROQUIER, JR. and	*	
GARY V. WAROQUIER, individually	*	
and co-partners t/d/b/a	*	
WAROQUIER COAL COMPANY,	*	
and	*	
WAROQUIER COAL COMPANY,	*	
a partnership,	*	
and	*	
WAROQUIER COAL COMPANY, INC.	*	
A Pennsylvania corporation,	*	
Defendants.	*	

ANSWER TO NEW MATTER

NOW COMES the Plaintiff and by his attorney, James A. Naddeo, Esquire, sets forth the following:

22. No answer required. Plaintiff incorporates allegations of his Complaint.

23. States a conclusion of law to which no answer is required. To the extent that an answer may be required, it is alleged that Defendants conducted a continuous trespass upon Plaintiff's property up to and including October 5, 2004.

24. Denied in that after reasonable investigation the Plaintiff is unable to determine the truth of said allegation.

25. Admitted.

26. States a conclusion of law to which no answer is required. To the extent that an answer may be required, said allegation is generally denied and in further answer thereto it is alleged that Plaintiff had no duty to oversee his property.

27. States a conclusion of law to which no answer is required. To the extent that an answer may be required, it is alleged that Plaintiff contacted Defendants prior to September 2003 and was assured by said Defendants that no coal had been removed by Defendants from Plaintiff's property. In further answer thereto it is alleged that in September 2003 Defendants through their engineers, Curry & Associates, admitted that Defendants prior denials were incorrect and that coal had been mined from Plaintiff's property. Finally it is alleged that Plaintiff had no duty to mark the boundary lines of his property.

28. Denied in so far as it alleges that Defendants were the Assignors of W. Ruskin Dressler and to the contrary it is alleged that Defendants denied the existence of such assignment to various persons including officers of the Pennsylvania State Police. Said allegation is otherwise admitted.

29. Denied in that after reasonable investigation the Plaintiff is unable to determine the truth of said allegation.

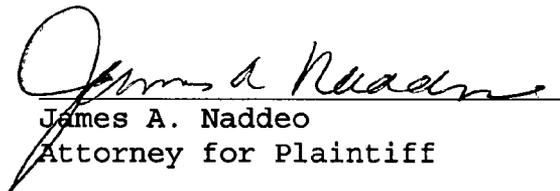
30. Denied in that after reasonable investigation the Plaintiff is unable to determine the truth of said allegation.

31. States a conclusion of law to which no answer is required.

32. States a conclusion of law to which no answer is required.

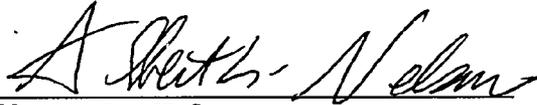
33. Denied and on the contrary it is alleged that the lease between Plaintiff and W. Ruskin Dressler had expired by its terms or was otherwise abandoned by the said W. Ruskin Dressler. The remainder of said allegation states a conclusion of law to which no answer is required.

WHEREFORE, Plaintiff claims damages as set forth in his original complaint.

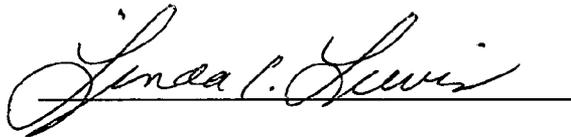

James A. Naddeo
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA)
)
) SS.
COUNTY OF CLEARFIELD)

Before me, the undersigned officer, personally appeared ALBERT L. NELSON, who being duly sworn according to law, depose and state that the facts set forth in the foregoing Answer to New Matter are true and correct to the best of his knowledge, information and belief.


Albert L. Nelson

SWORN and SUBSCRIBED before me this 8 day of ^{May}~~April~~, 2006.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Linda C. Lewis, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires July 25, 2007

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

ALBERT L. NELSON,
an individual,
Plaintiff,

vs.

WAROQUIER COAL,
and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually
and co-partners t/d/b/a
WAROQUIER COAL COMPANY,
and
WAROQUIER COAL COMPANY,
a partnership,
and
WAROQUIER COAL COMPANY, INC.
Defendants.

No. 05 - 1842 - CD

Type of Pleading:

**CERTIFICATE OF
SERVICE**

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED 100
03:44 PM
MAY 10 2006
W.A. Shaw

William A. Shaw
Prothonotary/Clerk of Courts

FILED

MAY 10 2006

William A. Sharpe
Treasurer/Clerk of Courts

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

No. 2005-1842-CD

Type of case:
CIVIL

Type of Pleading:
**MOTION TO JOIN ADDITIONAL
DEFENDANTS**

Filed on behalf of:
DEFENDANTS

Counsel of Record for Defendants
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 Plaintiff:
James A. Naddeo, Esquire
Supreme Court ID #06820
207 East Market Street
P. O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED

MAY 22 2006
0 / 11:55 am
William A. Shaw (62)
Prothonotary/Clerk of Courts
5 copies to Atty

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

No. 2005-1842-CD

RULE - ANSWER & HEARING

AND NOW, this 22 day of May, 2006, upon consideration of the following Motion, it is hereby ordered that:

1. A Rule is issued upon the **Plaintiff, W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas and Ramm Coal, Inc.** to show cause why the Defendants are not entitled to join W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas and Ramm Coal, Inc. as additional defendants;

2. N/A;

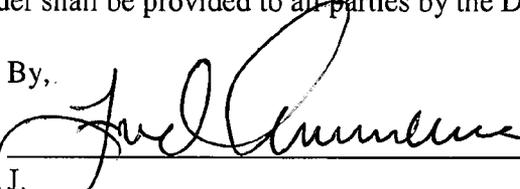
3. The Respondents shall file an answer to this Motion on or before June 12, 2006;

4. The Motion shall be decided under Pa.R.C.P No. 206.7;

5. N/A;

6. An evidentiary hearing on disputed issues of material fact shall be held on June 23, 2006 at 9:00 A.m. in Courtroom No. 1 of the Clearfield County Courthouse;

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

By, 
J.
2

FILED
MAY 22 2006
0/11:55/AM GR
William A. Shaw
Prothonotary/Clerk of Courts
5 CENT TO APX

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

ALBERT L. NELSON,	:	
Plaintiff	:	
	:	No. 2005-1842-CD
vs.	:	
	:	
WAROQUIER COAL, and	:	
JOSEPH L. WAROQUIER, JR. and	:	
GARY V. WAROQUIER, individually and	:	
co-partners t/d/b/a WAROQUIER COAL	:	
COMPANY, and	:	
WAROQUIER COAL COMPANY, a	:	
partnership, and	:	
WAROQUIER COAL COMPANY, INC.,	:	
Defendants	:	

DEFENDANTS' MOTION TO JOIN ADDITIONAL DEFENDANTS

AND NOW, Defendants, Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company and Waroquier Coal Company, Inc., by their attorney Peter F. Smith, move this Court pursuant to Pa.R.C.P. 2253 for an Order allowing the joinder of W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas and Ramm Coal, Inc. as additional Defendants in this action, and in support thereof allege:

1. Plaintiff instituted this case by Writ of Summon issued on November 28, 2005.
2. Plaintiff's Complaint was filed and served on Defendants' counsel December 27, 2005.
3. Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company, Waroquier Coal Company a partnership, and Waroquier Coal Company, Inc., shall be collectively referred to throughout this Motion as "Waroquiers."
4. Waroquiers propose to join the following as additional Defendants:

a) **W. Ruskin Dressler a/k/a Ruskin Dressler.** The address of his residence is P.O. Box 39, Rockton, Pennsylvania 15856. W. Ruskin Dressler does business as "W. Ruskin Dressler Coal." It has a business office on Rockton Road, DuBois, PA;

b) **Roger A. Thomas** who resides at R.D. #1 Box 16, Rockton, Pennsylvania 15856; and,

c) **Ramm Coal, Inc.** is a Pennsylvania business corporation with registered office at 1092 Spruce Hill Road, Rockton, PA 15856, which Waroquiers believe is owned and operated by Roger A. Thomas.

5. If the allegations of the Plaintiff's complaint are proven at trial, either in whole or in part, the Waroquiers aver that the additional Defendants, W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal Company and/or Roger A. Thomas and/or Ramm Coal, Inc. are either solely liable to the Plaintiff, jointly and severally liable to the Plaintiff or liable to the Waroquiers for full indemnity and/or contribution for all such loss, damages and/or court costs as Waroquiers may suffer as a result of this action.

6. By Agreement dated January 18, 2001, Waroquier Coal Company, Inc. took assignment of a surface mining permit issued by the Pennsylvania Department of Environmental Resources at number 17990105 from W. Ruskin Dressler a/k/a Ruskin Dressler. A true and correct copy of said Agreement is attached hereto and incorporated herein as Waroquier's Exhibit A.

7. This permit was to conduct surface mining operations on Plaintiff's property in Brady Township, Clearfield County, Pennsylvania, and the adjoining property of Richard Kimble.

8. Mr. Thomas and Ramm are contract miners who had been excavating overburden and coal for Mr. Dressler on the Kimble and Nelson properties prior to the assignment to Waroquier.

9. Waroquier continued this arrangement with Mr. Thomas and Ramm when it purchased the mining permit from Mr. Dressler. This was a verbal agreement.

10. Prior to Waroquiers' entry upon the Kimble and Nelson properties, it appears that Dressler and/or Thomas and/or Ramm had or may have already crossed the boundary onto the Nelson property, had conducted surfacing mining operations on the Nelson property and had removed coal from the Nelson property without paying Plaintiff the royalty for that coal.

11. In this event, Dressler, Thomas and/or Ramm would be liable to Plaintiff for the coal which they removed and for which they failed to compensate Plaintiff with royalties.

12. Mr. Dressler showed the Waroquiers what he said were the boundary lines and natural monuments which separate the Kimble from the Nelson properties.

13. Mr. Thomas and Ramm had been mining on the property. They either knew or should have known the location of that boundary.

14. The Waroquiers reasonably relied upon Dressler's, Thomas' and Ramm's statements and conduct as to the location of the boundary between the Kimble and Nelson properties.

15. Waroquier believes and therefore avers that W. Ruskin Dressler, Thomas and Ramm are jointly and severally liable because they breached their express and implied contractual obligations to Waroquier by failing to properly establish the actual location of the boundary between the Kimble and Nelson properties and failing to accurately advise Waroquiers as to the actual location of that boundary and by failing to pay Plaintiff for all coal removed from

Plaintiff's property, if in fact coal was actually removed from Plaintiff's property and, if in fact no payment was made for that coal.

16. Therefore, Waroquier avers that Dressler and/or Thomas are liable to Waroquier for the damages it may suffer as a result of Plaintiff's suit against Waroquiers.

17. The allowance of this Motion to join Dressler, Thomas and Ramm as parties to this litigation will permit the court to adjudicate the liabilities and rights of the various parties at the same time, thereby avoiding a multiplicity of cases and fostering judicial economy.

18. The Waroquiers would be prejudiced by denial of this Motion because they have a good defense against the Plaintiff and a meritorious claim against the additional Defendants, all of which are best heard and presented in the context of a single case.

19. The additional Defendants will not be prejudiced by the allowance of this Motion because the underlying issues and proof are the same whether this case is heard as a part of this litigation or in a separate suit, and if found liable in these proceedings, Waroquier will sue them anyhow.

WHEREFORE, the Waroquiers pray this Honorable Court to enter an Order permitting them to join W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas and Ramm Coal, Inc. as additional Defendants to this action.

Respectfully submitted,

Date: 5/18/06



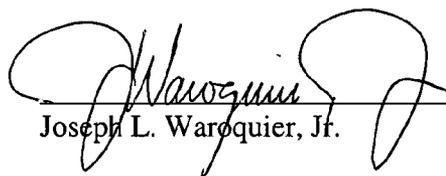
Peter F. Smith, Esquire
Attorney for Defendants

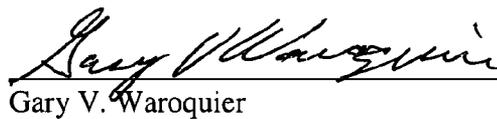
We verify that the statements made in this Petition are true and correct. We understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

FOR ALL DEFENDANTS

Dated:

5/17/26


Joseph L. Waroquier, Jr.


Gary V. Waroquier

WAROQUIER COAL, INC.

Coal Producers

P.O. BOX 128
CLEARFIELD, PA. 16830

January 18, 2001

AGREEMENT

This 22 of January 2001, WAROQUIER COAL CO., INC. agrees to resume the permit #17990105 of Ruskin Dressler. We will pay Ruskin Dressler \$15,000 (Fifteen Thousand Dollars) for this permit. Also, a payment of an override fee of \$1.00 (One Dollar) for each ton of coal mined off of this permit. Settlements in payments of royalty shall be made on the 25th day of each month for all coal mined and removed from the premises during the preceding calendar month and shall be accompanied by a copy of all weight slips showing the number of tons of coal mined and removed.

Waroquier Coal Co., Inc. Agrees to pay Ruskin Dressler \$5,000 (Five Thousand Dollar) for the road bond if Brady Township will not refund Ruskin Dresslers moneys for the road bond.

Waroquier Coal Co., Inc. agrees to sell Ruskin Dressler house coal out of this mine at pit price.

Waroquier Coal Co., Inc. will be working under Ruskin Dressler Permit until the transfer for the permit is made. Waroquier Coal Co., Inc. will be responsible for all mining activity through MSHA and DEP Regulations excluding Ruskin Dressler.

Ruskin Dressler is responsible for the up keep of this area and any MSHA fines that may accrue from his area.

In case of death the Royalty of this agreement will go to Bernice V. Oman, RD# 2 Box 231A, Dubois, PA 15801.

January 26th, 2001 Waroquier Coal Co., Inc. is advancing Ruskin Dressler \$15,000 (Fifteen Thousand Dollars) on Advance Royalty in which Waroquier Coal Co., Inc. will recoup from the override fee of \$1.00 (One Dollar) a ton when mining begins

until sum is collected. After sum is collected all will be based on what is stated in the first paragraph of this agreement.

ATTEST:

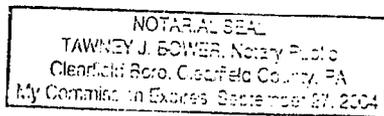
Tawney J Bower

W. Ruskin Dressler
RUSKIN DRESSLER

WAROQUIER COAL CO., INC

Tawney J Bower

Gary V. Waroquier
GARY V. WAROQUIER,
SECRETARY OF TREASURER



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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

No. 2005-1842-CD

FILED *NO*
0/10:29/06 *cc*
MAY 23 2006
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a certified copy of a **MOTION TO JOIN ADDITIONAL DEFENDANTS** including a **RULE** scheduling hearing and response was hand delivered to the Attorney for the Plaintiff at the following address on May 22, 2006:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Date: May 22, 2006



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
Clearfield, PA 16830
(814) 765-5595

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

No. 2005-1842-CD

Type of case:
CIVIL

Type of Pleading:
**SECOND MOTION TO JOIN A
FOURTH ADDITIONAL DEFENDANT**

Filed on behalf of:
DEFENDANTS WAROQUIERS

Counsel of Record for Defendants
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 Plaintiff:
James A. Naddeo, Esquire
Supreme Court ID #06820
207 East Market Street
P. O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED 300
019:56611 Atty Smith
JUN 02 2006

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

ALBERT L. NELSON,
Plaintiff

No. 2005-1842-CD

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

FILED 3CC
019:56301 Atty Smith
JUN 02 2006

William A. Shaw
Prothonotary/Clerk of Courts

RULE - ANSWER & HEARING

AND NOW, this 1st day of June, 2006, upon consideration of the following Motion, it is hereby ordered that:

1. A Rule is issued upon the **Plaintiff, W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas, Ramm Coal, Inc. and Miriam R. Thomas** to show cause why the Defendants are not entitled to join W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas, Ramm Coal, Inc. and Miriam R. Thomas as additional defendants;
2. N/A;
3. The Respondents shall file an answer to this Motion on or before _____, 2006;
4. The Motion shall be decided under Pa.R.C.P No. 206.7;
5. N/A;
6. An evidentiary hearing on disputed issues of material fact shall be held on June 23, 2006 at 9:00 A.m. in Courtroom No. 1 of the Clearfield County Courthouse;
7. Notice of the entry of this Order shall be provided to all parties by the Defendants.

By, Judith Ammann
J.

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

ALBERT L. NELSON, :
Plaintiff :
 : No. 2005-1842-CD
vs. :
 :
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR. and :
GARY V. WAROQUIER, individually and :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

DEFENDANTS' SECOND MOTION
TO JOIN A FOURTH ADDITIONAL DEFENDANT

AND NOW, Defendants, Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company and Waroquier Coal Company, Inc., by their attorney Peter F. Smith, move this Court pursuant to Pa.R.C.P. 2253 for an Order allowing the joinder of **Miriam R. Thomas** as an Additional Defendant in this action, and in support thereof allege:

1. Plaintiff instituted this case by Writ of Summon issued on November 28, 2005.
2. Plaintiff's Complaint was filed and served on Defendants' counsel December 27, 2005.
3. Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company, Waroquier Coal Company a partnership, and Waroquier Coal Company, Inc., shall be collectively referred to throughout this Motion as "Waroquiers."
4. The Waroquiers filed a Motion to join three Additional Defendants on May 26, 2006, a copy of which is attached hereto and incorporated herein by reference.

5. Under Certificate of Service dated May 23, 2006, Plaintiff's counsel delivered additional answers to Defendants' Request for Production of Documents to the undersigned.

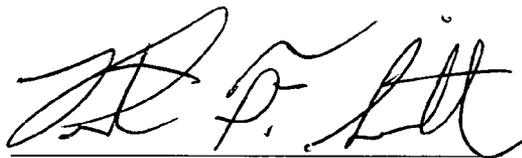
6. Among the items produced by Plaintiff is Articles of Agreement dated April 12, 2003 between the Plaintiff and "Roger A. Thomas and Miriam R. Thomas t/d/b/a Ramm Coal Co. of R.D. 1 Box 16, Rockton, PA."

7. That document and Blasting Reports from Tyler Blasting to "Ramm Coal" also produced by Plaintiff's counsel on May 23, 2006 indicate that this additional business entity "Ramm Coal" was conducting surface mining operations on the real estate subject to this action.

8. In this event, **Miriam R. Thomas**, who is believed to be the wife of Roger A. Thomas and who appears to be a co-owner of "Ramm Coal Co.," should be joined as an Additional Defendant because of her interest in Ramm Coal Co.

WHEREFORE, the Defendants Waroquiers pray this Honorable Court to enter an Order joining Miriam R. Thomas as an Additional Defendant.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "P. F. Smith", written over a horizontal line.

Peter F. Smith, Esquire
Attorney for Defendants

Date: May 31, 2006

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

No. 2005-1842-CD

Type of case:
CIVIL

Type of Pleading:
**MOTION TO JOIN ADDITIONAL
DEFENDANTS**

Filed on behalf of:
DEFENDANTS

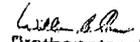
Counsel of Record for Defendants
Peter F. Smith, Esquire
Supreme Court ID #34291
30 South Second Street
P. O. Box 130
Clearfield, PA 16830
(814) 765-5595

Counsel of Record for Plaintiff:
James A. Naddeo, Esquire
Supreme Court ID #06820
207 East Market Street
P. O. Box 552
Clearfield, PA 16830
(814) 765-1601

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

MAY 22 2006

Attest.


Prothonotary/
Clerk of Courts

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

No. 2005-1842-CD

RULE - ANSWER & HEARING

AND NOW, this 22 day of MAY, 2006, upon consideration of the following Motion, it is hereby ordered that:

1. A Rule is issued upon the Plaintiff, **W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas and Ramm Coal, Inc.** to show cause why the Defendants are not entitled to join **W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas and Ramm Coal, Inc.** as additional defendants;
2. N/A;
3. The Respondents shall file an answer to this Motion on or before JUNE 12, 2006;
4. The Motion shall be decided under Pa.R.C.P No. 206.7;
5. N/A;
6. An evidentiary hearing on disputed issues of material fact shall be held on JUNE 23, 2006 at 9:00 A.m. in Courtroom No. 1 of the Clearfield County Courthouse;
7. Notice of the entry of this Order shall be provided to all parties by the Defendants.

By,

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

/s/ Fredric J. Ammerman

J.

MAY 22 2006

2

Attest.

William A. Ammerman
Prothonotary/
Clerk of Courts

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

ALBERT L. NELSON, :
Plaintiff :
 : No. 2005-1842-CD
vs. :
 :
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR. and :
GARY V. WAROQUIER, individually and :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

DEFENDANTS' MOTION TO JOIN ADDITIONAL DEFENDANTS

AND NOW, Defendants, Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company and Waroquier Coal Company, Inc., by their attorney Peter F. Smith, move this Court pursuant to Pa.R.C.P. 2253 for an Order allowing the joinder of W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas and Ramm Coal, Inc. as additional Defendants in this action, and in support thereof allege:

1. Plaintiff instituted this case by Writ of Summon issued on November 28, 2005.
2. Plaintiff's Complaint was filed and served on Defendants' counsel December 27, 2005.
3. Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company, Waroquier Coal Company a partnership, and Waroquier Coal Company, Inc., shall be collectively referred to throughout this Motion as "Waroquiers."
4. Waroquiers propose to join the following as additional Defendants:

a) **W. Ruskin Dressler a/k/a Ruskin Dressler.** The address of his residence is P.O. Box 39, Rockton, Pennsylvania 15856. W. Ruskin Dressler does business as "W. Ruskin Dressler Coal." It has a business office on Rockton Road, DuBois, PA;

b) **Roger A. Thomas** who resides at R.D. #1 Box 16, Rockton, Pennsylvania 15856; and,

c) **Ramm Coal, Inc.** is a Pennsylvania business corporation with registered office at 1092 Spruce Hill Road, Rockton, PA 15856, which Waroquiers believe is owned and operated by Roger A. Thomas.

5. If the allegations of the Plaintiff's complaint are proven at trial, either in whole or in part, the Waroquiers aver that the additional Defendants, W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal Company and/or Roger A. Thomas and/or Ramm Coal, Inc. are either solely liable to the Plaintiff, jointly and severally liable to the Plaintiff or liable to the Waroquiers for full indemnity and/or contribution for all such loss, damages and/or court costs as Waroquiers may suffer as a result of this action.

6. By Agreement dated January 18, 2001, Waroquier Coal Company, Inc. took assignment of a surface mining permit issued by the Pennsylvania Department of Environmental Resources at number 17990105 from W. Ruskin Dressler a/k/a Ruskin Dressler. A true and correct copy of said Agreement is attached hereto and incorporated herein as Waroquier's Exhibit A.

7. This permit was to conduct surface mining operations on Plaintiff's property in Brady Township, Clearfield County, Pennsylvania, and the adjoining property of Richard Kimble.

8. Mr. Thomas and Ramm are contract miners who had been excavating overburden and coal for Mr. Dressler on the Kimble and Nelson properties prior to the assignment to Waroquier.

9. Waroquier continued this arrangement with Mr. Thomas and Ramm when it purchased the mining permit from Mr. Dressler. This was a verbal agreement.

10. Prior to Waroquiers' entry upon the Kimble and Nelson properties, it appears that Dressler and/or Thomas and/or Ramm had or may have already crossed the boundary onto the Nelson property, had conducted surfacing mining operations on the Nelson property and had removed coal from the Nelson property without paying Plaintiff the royalty for that coal.

11. In this event, Dressler, Thomas and/or Ramm would be liable to Plaintiff for the coal which they removed and for which they failed to compensate Plaintiff with royalties.

12. Mr. Dressler showed the Waroquiers what he said were the boundary lines and natural monuments which separate the Kimble from the Nelson properties.

13. Mr. Thomas and Ramm had been mining on the property. They either knew or should have known the location of that boundary.

14. The Waroquiers reasonably relied upon Dressler's, Thomas' and Ramm's statements and conduct as to the location of the boundary between the Kimble and Nelson properties.

15. Waroquier believes and therefore avers that W. Ruskin Dressler, Thomas and Ramm are jointly and severally liable because they breached their express and implied contractual obligations to Waroquier by failing to properly establish the actual location of the boundary between the Kimble and Nelson properties and failing to accurately advise Waroquiers as to the actual location of that boundary and by failing to pay Plaintiff for all coal removed from

Plaintiff's property, if in fact coal was actually removed from Plaintiff's property and, if in fact no payment was made for that coal.

16. Therefore, Waroquier avers that Dressler and/or Thomas are liable to Waroquier for the damages it may suffer as a result of Plaintiff's suit against Waroquiers.

17. The allowance of this Motion to join Dressler, Thomas and Ramm as parties to this litigation will permit the court to adjudicate the liabilities and rights of the various parties at the same time, thereby avoiding a multiplicity of cases and fostering judicial economy.

18. The Waroquiers would be prejudiced by denial of this Motion because they have a good defense against the Plaintiff and a meritorious claim against the additional Defendants, all of which are best heard and presented in the context of a single case.

19. The additional Defendants will not be prejudiced by the allowance of this Motion because the underlying issues and proof are the same whether this case is heard as a part of this litigation or in a separate suit, and if found liable in these proceedings, Waroquier will sue them anyhow.

WHEREFORE, the Waroquiers pray this Honorable Court to enter an Order permitting them to join W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas and Ramm Coal, Inc. as additional Defendants to this action.

Respectfully submitted,

Date: 5/18/06

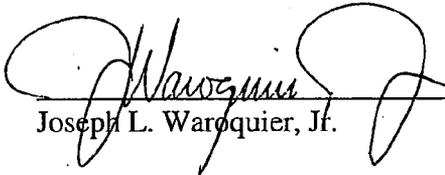


Peter F. Smith, Esquire
Attorney for Defendants

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

FOR ALL DEFENDANTS

Dated: 5/17/26


Joseph L. Waroquier, Jr.


Gary V. Waroquier

WAROQUIER COAL, INC.

Coal Producers

P.O. BOX 128
CLEARFIELD, PA. 16830

January 18, 2001

AGREEMENT

This 22 of January 2001, WAROQUIER COAL CO., INC. agrees to resume the permit #17990105 of Ruskin Dressler. We will pay Ruskin Dressler \$15,000 (Fifteen Thousand Dollars) for this permit. Also, a payment of an override fee of \$1.00 (One Dollar) for each ton of coal mined off of this permit. Settlements in payments of royalty shall be made on the 25th day of each month for all coal mined and removed from the premises during the preceding calendar month and shall be accompanied by a copy of all weight slips showing the number of tons of coal mined and removed.

Waroquier Coal Co., Inc. Agrees to pay Ruskin Dressler \$5,000 (Five Thousand Dollar) for the road bond if Brady Township will not refund Ruskin Dresslers moneys for the road bond.

Waroquier Coal Co., Inc. agrees to sell Ruskin Dressler house coal out of this mine at pit price.

Waroquier Coal Co., Inc. will be working under Ruskin Dressler Permit until the transfer for the permit is made. Waroquier Coal Co., Inc. will be responsible for all mining activity through MSHA and DEP Regulations excluding Ruskin Dressler.

Ruskin Dressler is responsible for the up keep of this area and any MSHA fines that may accrue from his area.

In case of death the Royalty of this agreement will go to Bernice V. Oman, RD# 2 Box 231A, Dubois, PA 15801.

January 26th, 2001 Waroquier Coal Co., Inc. is advancing Ruskin Dressler \$15,000 (Fifteen Thousand Dollars) on Advance Royalty in which Waroquier Coal Co., Inc. will recoup from the override fee of \$1.00 (One Dollar) a ton when mining begins

until sum is collected. After sum is collected all will be based on what is stated in the first paragraph of this agreement.

ATTEST:

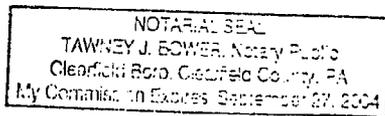
Tawney J. Bower

W. Ruskin Dressler
RUSKIN DRESSLER

WAROQUIER COAL CO., INC

Tawney J. Bower

Gary V. Waroquier
GARY V. WAROQUIER,
SECRETARY OF TREASURER



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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

No. 2005-1842-CD

FILED ^{NO CC}
01:10:17
JUN 05 2006
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a certified copy of a **SECOND MOTION TO JOIN A FOURTH ADDITIONAL DEFENDANT** including a **RULE** scheduling hearing and response was hand delivered to the Attorney for the Plaintiff at the following address on June 2, 2006:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Date: June 2, 2006



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
Clearfield, PA 16830
(814) 765-5595

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101556
NO: 05-1842-CD
SERVICE # 1 OF 3
MOTION TO JOIN ADDITIONAL DEFENDANTS

PLAINTIFF: ALBERT L. NELSON
vs.
DEFENDANT: WAROQUIER COAL al

SHERIFF RETURN

NOW, May 30, 2006 AT 12:20 PM SERVED THE WITHIN MOTION TO JOIN ADDITIONAL DEFENDANTS ON W. RUSKIN DRESSLER aka RUSKIN DRESSLER DEFENDANT AT Meeting place: Lutheran Church, Rt. 410, TROUTVILLE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO W. RUSKIN DRESSLER AKA, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL MOTION TO JOIN ADDITIONAL DEFENDANTS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / DEHAVEN

FILED
9/2:31/01
JUN 05 2006
LW

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101556
NO: 05-1842-CD
SERVICE # 2 OF 3
MOTION TO JOIN ADDITIONAL DEFENDANTS

PLAINTIFF: ALBERT L. NELSON
vs.
DEFENDANT: WAROQUIER COAL al

SHERIFF RETURN

NOW, May 31, 2006 AT 3:00 PM SERVED THE WITHIN MOTION TO JOIN ADDITIONAL DEFENDANTS ON ROGER A. THOMAS DEFENDANT AT RR#1 BOX 16, 1092 SPRUCE HILL ROAD, ROCKTON, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MIRIAM THOMAS, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL MOTION TO JOIN ADDITIONAL DEFENDANTS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / DEHAVEN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101556
NO: 05-1842-CD
SERVICE # 3 OF 3
MOTION TO JOIN ADDITIONAL DEFENDANTS

PLAINTIFF: ALBERT L. NELSON
vs.
DEFENDANT: WARQUIER COAL al

SHERIFF RETURN

NOW, May 31, 2006 AT 3:00 PM SERVED THE WITHIN MOTION TO JOIN ADDITIONAL DEFENDANTS ON RAMM COAL, INC. DEFENDANT AT 1092 SPRUCE HILL ROAD, ROCKTON, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MIRIAM THOMAS, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL MOTION TO JOIN ADDITIONAL DEFENDANTS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / DEHAVEN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101556
NO: 05-1842-CD
SERVICES 3
MOTION TO JOIN ADDITIONAL DEFENDANTS

PLAINTIFF: ALBERT L. NELSON
vs.
DEFENDANT: WARQUIER COAL ai

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	WARQUIER COAL	13542	30.00
SHERIFF HAWKINS	WARQUIER COAL	13542	59.37

Sworn to Before Me This

_____ Day of _____ 2006

So Answers,


Chester A. Hawkins
Sheriff

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

ALBERT L. NELSON, :
Plaintiff :
 : NO. 2005 - 1842 - CD
vs. :
 : PRAECIPE TO ENTER
WAROQUIER COAL, and : APPEARANCE
JOSEPH L. WAROQUIER, JR., and :
GARY V. WAROQUIER, individually :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

Filed on Behalf of:
Roger A. Thomas and
Ramm Coal Company, Inc.

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972 (PHONE)
(814) 765-9893 (FAX)

FILED SCC
0/3:35 AM Any Belin
JUN 12 2006
Copy to CIA

William A. Shaw
Prothonotary/Clerk of Courts

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

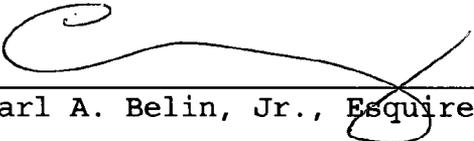
ALBERT L. NELSON, :
Plaintiff :
vs. : NO. 2005 - 1842 - CD
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR., and :
GARY V. WAROQUIER, individually :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

PRAECIPE TO ENTER APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance on behalf of Roger A. Thomas
and Ramm Coal, Inc., in regard to the above-captioned action.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esquire

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

ALBERT L. NELSON, :
Plaintiff :
 : NO. 2005 - 1842 - CD
vs. :
 :
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR., and :
GARY V. WAROQUIER, individually :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a certified copy of Entry of Appearance on behalf of Roger A. Thomas and Ramm Coal, Inc., in the above-captioned matter to the following parties by postage prepaid United States first class mail on the 12th day of June, 2006:

James A. Naddeo, Esquire
207 East market Street
P.O. Box 552
Clearfield, PA 16830

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830

W. Ruskin Dressler
a/k/a Ruskin Dressler
d/b/a W. Ruskin Dressler coal
P.O. Box 39
Rockton, PA 15856.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esquire
Attorney for
Roger A. Thomas and
Ramm Coal, Inc.

FILED

JUN 12 2006

**William A. Shaw
Prothonotary/Clerk of Courts**

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

ALBERT L. NELSON, :
 :
 Plaintiff :
 :
 vs. : NO. 2005 - 1842 - CD
 :
 : ANSWER TO DEFENDANTS'
 : MOTION TO JOIN
 : ADDITIONAL DEFENDANTS
 :
 WAROQUIER COAL, and :
 :
 JOSEPH L. WAROQUIER, JR., and :
 :
 GARY V. WAROQUIER, individually :
 :
 co-partners t/d/b/a WAROQUIER COAL :
 :
 COMPANY, and :
 :
 WAROQUIER COAL COMPANY, a :
 :
 partnership, and :
 :
 WAROQUIER COAL COMPANY, INC., :
 :
 Defendants :

Filed on Behalf of:
Roger A. Thomas and
Ramm Coal Company, Inc.

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972 (PHONE)
(814) 765-9893 (FAX)

FILED 5 cc
01335/BH
JUN 12 2006
Amy Belin

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON, :
Plaintiff :
 : NO. 2005 - 1842 - CD
vs. :
 :
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR., and :
GARY V. WAROQUIER, individually :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

**ANSWER TO DEFENDANTS' MOTION
TO JOIN ADDITIONAL DEFENDANTS**

AND NOW comes Roger A. Thomas and Ramm Coal, Inc. (collectively "Thomas"), by and through their attorneys, Belin & Kubista, and file the following answer to Defendants' Motion to Join Additional Defendants:

1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted.
3. Paragraph 3 is admitted.
4. Paragraph 4 is admitted but it is averred that neither Roger A. Thomas nor Ramm Coal, Inc., should be added as additional Defendants in this case, and in further answer thereto, Paragraphs 5 through 10 of this answer are hereby incorporated by reference and made a part hereof.

5. Paragraph 5 is denied in that Roger A. Thomas and Ramm Coal, Inc., were contractors on an original job known as the "Kimble" job operated by Ruskin Dressler ("Dressler") which included leases with Richard L. and Nancy D. Kimble and the Plaintiff, Albert L. Nelson. A copy of the original contract is attached hereto as Exhibit "1." A copy of the Nelson lease is attached hereto and made a part hereof as Exhibit "2." In further answer thereto, Thomas entered into a written contract with Dressler, Lessee of the Kimball and Nelson leases, to uncover coal existing on the leaseholds in order that the coal could be loaded out by Dressler. Under the contract, Dressler was responsible to pay the royalties to the lessee. See copy of statement of Dressler attached hereto and made a part hereof as Exhibit "3." Thereafter, Dressler sold the Kimble job to Waroquier and assigned the Kimble and Nelson leases to Waroquier. Thomas continued his contract for Waroquier under a partially written contract, a copy of which is attached hereto and made a part hereof as Exhibit "4." Under this contract, Thomas continued to uncover the coal situated on the leases and Waroquier loaded out the coal and was responsible for the royalties. For this reason, Thomas was never responsible *vis a vis* Dressler or Waroquier for coal loaded out from either the Kimble or Nelson premises, rather that that was the responsibility of either Dressler or Waroquier. For this

reason, Thomas is not liable to Nelson for the royalties for any coal removed from his premises.

6. Paragraph 6 is admitted and it is believed and averred that the aforesaid Kimble and Nelson leases were assigned by Dressler to Waroquier.

7. Paragraph 7 is admitted.

8. Paragraph 8 is admitted and in further answer thereto, Paragraph 5 of this answer is hereby incorporated by reference and made a part hereof.

9. Paragraph 9 is admitted in part. It is averred that there was a written agreement which carried forward the contract Dressler had with Thomas and a partially oral contract that Waroquier was responsible to pay the royalties to the Lessors.

10. Paragraph 10 is admitted and it is further averred that Thomas continued to conduct surface mining operations on the Nelson property after Waroquier acquired the job. It is averred in either event, that either Dressler or Waroquier were liable for the royalties, and in further answer thereto, Paragraph 5 of this answer is hereby incorporated by reference and made a part hereof.

11. Paragraph 11 is denied and in further answer thereto Paragraph 10 of this answer is hereby incorporated by reference and made a part hereof.

12. Paragraph 12 is neither admitted nor denied as after reasonable investigation Thomas is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial.

13. Paragraph 13 is admitted but it is averred that in the event Thomas mined on the Nelson property while Dressler owned the job that Dressler would have been liable for the royalties, and in the event Thomas mined on the Nelson property while Waroquier owned the job, that Waroquier would have been liable for the royalties, and in further answer thereto, Paragraph 5 of this answer is hereby incorporated by reference and made a part hereof.

14. Paragraph 14 is denied and it is averred that the mining operation maps correctly showed the location of the Nelson property as far as the boundary between Kimble and Nelson, and in the event Waroquier removed coal from the Nelson property, that Waroquier was liable under the lease to pay for the royalties rather than Thomas.

15. Paragraph 15 is denied and it is averred that in the event Waroquier loaded out the coal from the Nelson property that it is liable to Nelson for the royalties rather than Thomas, and in the alternative, in the event Dressler removed and sold the coal from the Nelson property, that Dressler was

liable for the royalties, and in any event that Thomas was not responsible for royalties for any coal removed by either party.

16. Paragraph 16 is denied and in further answer thereto Paragraphs 5 through 15 of this answer are hereby incorporated by reference and made a part hereof.

17. Paragraph 17 is denied as Thomas is not liable to Waroquier for any coal removed by Waroquier from the Nelson property as Waroquier is liable for royalties as an assignee of the lease.

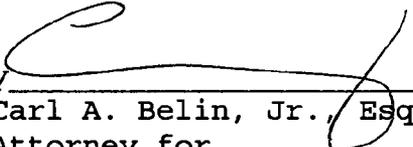
18. Paragraph 18 is denied insofar as Waroquier's attempt to assert liability against Thomas for coal removed from the Nelson property and in further answer thereto, Paragraphs 5 through 16 of this answer are hereby incorporated by reference and made a part hereof.

19. Paragraph 19 is denied as it is averred that the additional Defendants, Thomas, are not liable under the contract they had with Waroquier and Dressler, and Waroquier has no claim against Thomas in any event.

WHEREFORE, Roger A. Thomas and Ramm Coal, Inc., hereby request Your Honorable Court to enter an order denying the

Motion to Join Additional Defendants in this action.

BELIN & KUBISTA

By 

Carl A. Belin, Jr., Esquire
Attorney for
Roger A. Thomas and
Ramm Coal, Inc.

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

Before me the undersigned officer, personally appeared **ROGER A. THOMAS**, as an individual and as President of Ramm Coal, Inc, being authorized to execute this affidavit on behalf of Ramm Coal, Inc., and being duly sworn according to law, deposes and says that the facts set forth in the foregoing Answer to Defendants' Motion to Join Additional Defendants are true and correct to the best of his knowledge, information and belief.



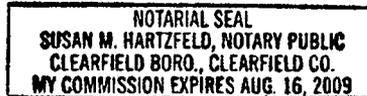
Roger A. Thomas

Sworn and subscribed before me this 12th day of

June, 2006.



Notary Public



W. RUSKIN DRESSLER COAL

BOX 39

ROCKTON, PA 15856

Kimble Job -

SMP 17990105

Ramm Coal Co.
RD #1, Box 16
Rockton, Pa. 15856

Dressler obligations

Ramm obligations

Permit for job,	Own & operate 2400
Bonding on job & roads	dragline & maintain; fee
Remove top soil & store in	for cables, bucket parts.
proper place. Build &	Responsible for drilling &
maintain E & S pond, ditches	blasting for dragline ^{Middle} Kittanni
& Treatment Basin.	Spoil overburden in a manner
Market coal, Payment to	that would minimize doze
Ramm Coal 5 days after receiving	shaping contours of hill for
payment from coal buyer.	stage I release.
Backfill & seeding AS Required by DEP.	
MSHA Fine to be responsibility of person at fault.	
Upper KT Dressler only.	
All house coal to be split 50-50.	
Overburden on Luthersburg seam to be removed by Dressler.	
Any shooting required shall be divided equally between Ramm	
& Dressler.	

In the event that Dressler would not be able to continue operation of Kimble Job. Ramm coal would have option to continue operations until Job is finished. Bernice V. Oman will receive — per ton AS AN override fee of all coal production on Kimble

In the event of Ramm being ^(death) unable to finish operations Dressler shall have option to purchase Ramm's equipment at market price.

Any Auger coal will be Dressler's only.

Middle
KITTANNING Coal proceeds to be split 50-50 until Dressler puts his own bulldozer to work on Kimble Job. ~~After that~~ proceeds will be Dressler 55%; Ramm 45% when Dressler has paid monies owed Ramm for work done to remove Luthersburg overburden in previous months Oct. 99 thru Feb. 2000

RAMM Coal Co
Roger A. Thomas
Nov. 23-1999

W Ruskin Dressler Co
W Ruskin Dressler
Nov. 23-1999

owner

Roger A. Thomas

~~W~~ owner

W Ruskin Dressler

Option and Lease Agreement

THIS ARTICLE OF AGREEMENT made and concluded this day of 19 96
between ALBERT L. NELSON, Trustee of The ALBERT L. NELSON Living Trust ~~ET AL~~
1149 South Main Street, DuBois, PA 15801

L/T/A DATED 10/1/93

of the first part, hereinafter designated as Lessor, and W. RUSKIN DRESSLER, of Box 39,
Rockton, Pennsylvania, 15856 part y
of the second part, hereinafter designated as Lessee, witnesseth:

I. In consideration of the sum of \$ 1.00 in hand paid, receipt whereof is hereby acknowledged, Lessor
hereby leases, lets, and demises unto Lessee, ALL of the surface ~~surface~~ ^{of and} mineable
earn or vein of coal in, under and upon all that certain piece, parcel or tract of land situated in Brady
township, Clearfield County, Pennsylvania, bounded and described as follows:

North - Kimble

East - Crescent Brick Division of RESCO Products, Inc.

South - Crescent Brick Division of RESCO Products, Inc. and Broad

West - Jacob D. Hayes

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RECORDED 11-30-93

containing 42.0 acres, more or less.

TOGETHER with all the mining rights and easements owned by Lessor and appurtenant to the coal and land herein
described, including the right of ingress, egress, and regress, in, to and upon said land for the purpose of exploring for
and of mining, manufacturing, testing and preparing said coal for market, to build roads, railroads and train roads, to
build buildings, ditches and chutes, to deposit waste material and refuse on the surface of the land, to build wire and
dip lines, to drain water upon the surface by any means, to transport coal from other properties through or over this
premises and to do all things necessary, usual and proper in connection with said operations, and Lessor hereby waives
all right to surface support, both laterally and subjacent, and releases all liability for damage to buildings and objects
hereon and waters therein and thereon. Said coal may be removed either by drift mining or stripping process and all of
the usual rights and privileges are hereby granted in connection therewith including the removal and redeposit of all
tills and other objects and materials overlying said coal, to be exercised without further cost or liability for the damage
caused thereby.

ALSO TOGETHER WITH: XXXX

EXCEPTING AND RESERVING: XXXX

2. Lessee covenants and agrees to pay to Lessor the sum of Two Dollars (\$2.00) ~~XXXX~~ per ton of 2,000
pounds for all mineable merchantable and marketable coal mined and removed from said premises. Settlements to be
made on the twenty-fifth day of each month for all such coal mined and removed from the premises during the preceding
calendar month and all settlements shall be based upon the weights by which the coal is marketed. It is further under-
stood and agreed that Lessee will pay ten (10%) percent of pit price or \$2.00 per
ton, whichever is greater.

3. Lessee covenants and agrees to commence mining operations upon said premises within three (3) ~~YEARS~~ ^{YEARS}
from the effective date of this lease and in event of failure so to commence mining operations agrees to pay Lessor as a
minimum royalty the sum or price of XXXX
per year, payable quarterly in advance.

4. Lessee agrees that all mining operations shall be conducted in accordance with the laws of Pennsylvania and
modern mining methods prevailing in the industry. It is also understood that Lessor shall have access to the operations
and scale records of Lessee at all reasonable times in person or by duly authorized agent.

5. This lease shall continue for a period three (3) years from the effective date hereof, or until all of the
mineable and merchantable coal has been exhausted from the premises. Lessee may remove all equipment, buildings and
machinery from the premises at the end of the term provided no royalty is then due.

6. This article of agreement shall constitute and be construed an option granted by Lessor to Lessee so that Lessee
may elect to accept or reject it at any time during XXXX
days from the date hereof. Upon acceptance
this instrument shall become immediately effective in all its terms as a lease of the coal in place. During the option
period Lessee may go upon the premises for the purpose of surveying, drilling, digging, exploring, testing, taking samples,
and otherwise examining said coal, without liability for the damage, caused thereby or for the cost taken in such
operations. Lessee may exercise this option by notifying Lessor in writing of its election to do so within the option
period aforesaid.

7. It is understood and agreed that in the event that Lessor should default in any payment provided for herein and
remain in such default for a period of ninety days from the date when said payment becomes due, or should Lessee be
in default in any other respect and continue in such default for a period of ninety days after being notified in writing
of such default by Lessor, then, in either event, at the option of Lessor, this lease shall cease and terminate and Lessee
shall authorize any attorney of any Court of Record to appear for it and in its name to sue and obtain a judgment against
it in an equitable action to the end that a writ of habere facias possessionem may issue forthwith for the
delivery of possession to Lessor, together with clause of fieri facias for rent in arrears and costs.

8. It is further understood and agreed that XXXX

Exhibit "2"

9. It is mutually understood and agreed that the rights, duties and obligations created hereby shall extend to and be binding upon the parties, their heirs, executors, administrators and assigns, and that the singular herein shall include the plural.

10. Lessor hereby warrants generally the title to said coal and mining rights and this lease shall be free and clear of all encumbrances except those for which waiver and consent hereto is obtained and Lessee may in all cases apply royalty payments to the satisfaction of such encumbrances as may be found to exist.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals and caused this article of agreement to be duly executed by their officers, the day and year aforesaid.

Witness:

D.W. Egan

MRUSKIN

Albert L. Nelson, Trustee (Seal)
(Albert L. Nelson) Lessor
W. Ruskin Dressler (Seal)

W. Ruskin Dressler (Seal)
(W. Ruskin Dressler) Lessee

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF CLEARFIELD } 001

On this 3rd day of FEBRUARY, 1997, before me, a Notary Public
in and for the County of CLEARFIELD and State of Pennsylvania, came the above named
ALBERT L. NELSON

who in due form of law acknowledged the foregoing Article of Agreement to be HIS act and deed, and desired the same to be recorded as such.

Witness my hand and OFFICIAL seal the day and year aforesaid.

Andrew L. Booth
My Commission Expires Oct. 14, 1997
Notarial Seal
Andrew L. Booth, Notary Public
Clearfield, Clearfield County
My Commission Expires Oct. 14, 1997
Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF Clearfield } 001

On this 3rd day of FEBRUARY, 1997, before me, a Notary Public
in and for the County of CLEARFIELD and State of Pennsylvania, came the above named
W. Ruskin Dressler

who in due form of law acknowledged the foregoing Article of Agreement to be his act and deed, and desired the same to be recorded as such.

Witness my hand and official seal the day and year aforesaid.

Andrew L. Booth
My Commission Expires Oct. 14, 1997
Notarial Seal
Andrew L. Booth, Notary Public
Clearfield, Clearfield County
My Commission Expires Oct. 14, 1997
Member, Pennsylvania Association of Notaries

June 8, 2006

I, W. Ruskin Dressler, was responsible for paying the royalties for coal removed from the job known as the "Kimble Mine" where Roger Thomas and I mined coal from October 1999 till January 2001.

W Ruskin Dressler

WAROQUIER COAL, INC.

Coal Producers

P.O. BOX 128
CLEARFIELD, PA. 16830

January 18, 2001

AGREEMENT

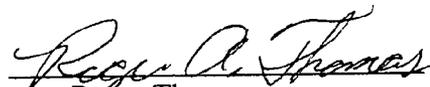
Roger Thomas agrees to contract mine off of the said permit for Ruskin Dressler. Starting this 19 of January 2001, Roger Thomas will be responsible for the drilling, blasting, and mining of the lower seam. Waroquier Coal Co., Inc. will take care of the loading of the coal.

Waroquier Coal Co., Inc. agrees to pay Roger Thomas \$17.00 (Seventeen dollars) per ton for the drilling, blasting, and mining of the lower seam.

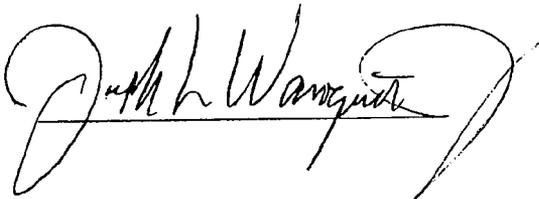
Roger Thomas will be responsible for any MSHA fines which may accrue in his mining operation.

Waroquier Coal Co., Inc. holds no obligation to Roger Thomas for before, during, and after except for what he has prepared for mining as in drilling and blasting.

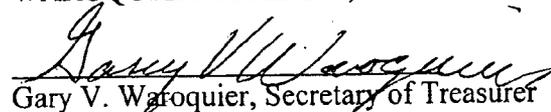
ATTEST:



Roger Thomas



WAROQUIER COAL CO., INC



Gary V. Waroquier, Secretary of Treasurer

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

ALBERT L. NELSON, :
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 : NO. 2005 - 1842 - CD
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JOSEPH L. WAROQUIER, JR., and :
GARY V. WAROQUIER, individually :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

CERTIFICATE OF SERVICE

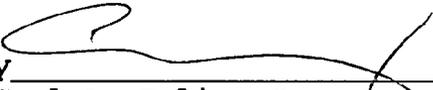
This is to certify that the undersigned has sent a certified copy of Roger A. Thomas and Ramm Coal, Inc.'s Answer to Defendants' Motion to Join Additional Defendants in the above-captioned matter to the following parties by postage prepaid United States first class mail on the 12th day of June, 2006:

James A. Naddeo, Esquire
207 East market Street
P.O. Box 552
Clearfield, PA 16830

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830

W. Ruskin Dressler
a/k/a Ruskin Dressler
d/b/a W. Ruskin Dressler coal
P.O. Box 39
Rockton, PA 15856.

BELIN & KUBISTA

By 

Carl A. Belin, Jr., Esquire
Attorney for
Roger A. Thomas and
Ramm Coal, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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WAROQUIER, individually co-partners
t/d/b/a WAROQUIER COAL COMPANY,
and, WAROQUIER COAL COMPANY,
a partnership, and WAROQUIER COAL
COMPANY, INC.,

Defendants

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*
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No. 2005- 1842 -CD

CIVIL ACTION

Type of Pleading: Reply to Motion to join
Additional Defendants

Filed on Behalf of: Proposed Additional
Defendant, W. RUSKIN DRESSLER

Counsel for this party:
TIMOTHY E. DURANT, Esquire
Supreme Court I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
814-765-1711

Opposing Counsel:
For Plaintiff
JAMES A. NADDEO, Esquire
Supreme Court I.D. No. 06820
207 East Market Street
PO Box 552
Clearfield PA 16830
814 765-1601

For Defendants
PETER F. SMITH, Esquire
Supreme Court I.D. No.34291
30 South Second Street
PO Box 130
Clearfield PA 16830
814 765-5595

FILED 4cc
0/3:13801 Atty Durant
JUN 12 2006
WJ

William A. Shaw
Prothonotary/Clerk of Courts

filed by 

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

ALBERT L. NELSON,
Plaintiff

v.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually co-partners
t/d/b/a WAROQUIER COAL COMPANY,
and, WAROQUIER COAL COMPANY,
a partnership, and WAROQUIER COAL
COMPANY, INC.,

Defendants

No. 2005- 1842 -CD

W. RUSKIN DRESSLER'S REPLY TO
DEFENDANTS' MOTION TO JOIN ADDITIONAL DEFENDANTS

For a Reply to the Motion of Defendants' to Join Additional Defendants, W. Ruskin Dressler, one of the parties proposed to be joined, provides the following response, by his attorney Timothy E. Durant:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
 - a) Denied. On the contrary, the address of W. Ruskin Dressler's address is 352 Sabula Outing Club Road, DuBois, PA 15801;
 - b) Denied. On the contrary, Roger A. Thomas is believed to reside at 1092 Spruce Hill Road, Rockton, PA 15856; and,
 - c) Admitted.
5. Denied. On the contrary, this is a conclusion of law and therefore no answer is

required. If it is determined that an answer is required W. Ruskin Dressler (hereinafter, Dressler) denies that he is liable to Waroquiers in whole or in part, jointly or otherwise for indemnity or contribution and further states in the alternative that if he had any liability such has been extinguished by the passage of time and the running of the applicable statute of limitations and/or the actions of the Waroquiers, their agents, servants or employees. It is further averred that the Motion for Joinder in this matter is a "late joinder" and the additional defendant is prejudiced by the delay.

6. Admitted.

7. Admitted.

8. Denied. On the contrary, on and after January 22, 2001 Mr. Thomas and Ramm ceased to do any contract mining for Dressler. Prior to January 22, 2001 Mr. Thomas t/d/b/a Ramm Coal mined under contract for Dressler as a dragline owner/operator on the Kimble property.

9. Denied. On the contrary, after reasonable investigation Dressler is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict proof thereof is demanded at trial if relevant.

10. Denied. On the contrary, prior to January 22, 2001, based upon information and belief, neither Dressler nor Thomas nor Ramm conducted any surface mining operations on the Nelson property nor did anyone else under Dressler's contractual employment or supervision take any coal from the Nelson property.

11. Denied. On the contrary, no coal was removed by Dressler from Nelson property and therefore no liability exists to Plaintiff.

12. Denied as stated. On the contrary, Dressler stood in one spot on the Kimble property and pointed in the general direction of two boundary markers but the parties did not walk the boundary line nor did Dressler point out with any specificity where the line was. Dressler is not a surveyor nor an owner of the subject property and he never made any warranty or guarantee as to the boundary line. Waroquiers should reasonably have determined the lines of the properties prior to proceeding on January 22, 2001 and thereafter.

13. Denied. This averment is not directed to Dressler and therefore no answer is necessary.

14. Denied. This is a conclusion of law and so no response is necessary. If it is determined that an answer is required Dressler denies any basis for liability over. Waroquiers had duty as a knowledgeable established coal company to exercise its due diligence to determine the boundaries of the properties covered under the subject permit area. Dressler gave Waroquiers all information which he had (including maps) pertaining to this permit. To the extent that this

avermment claims liability against Dressler for conduct or statements by Thomas or Ramm as to the location of the boundary between the Kimble and Nelson properties Dressler denies this as their relationship with Waroquiers both before and after January 22, 2001 was as an independent self employed contract stripper and not as an agent, servant or employee of Dressler.

15. Denied. This is a conclusion of law and so no response is necessary. If it is determined that an answer is required Dressler denies that there is any express or implied contractual obligation on his part towards Waroquiers to mark out, identify, or establish the actual location of the boundary between the said Kimble and Nelson properties. Waroquiers bought such rights as Dressler had in the permitted area upon terms set out in Exhibit A which document was drafted and typed by Waroquiers.

16. This is a conclusion of law and therefore no answer is necessary.

17. This is a conclusion of law and therefore no answer is necessary. Dressler avers in the alternative that if under any theory he had any liability such liability has since been extinguished by the passage of time and the running of the applicable statute of limitations.

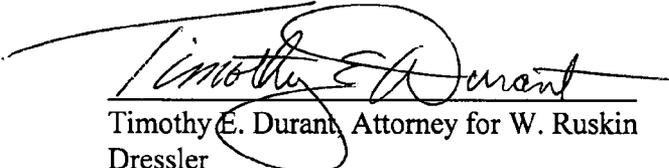
18. This is a conclusion of law and therefore no answer is necessary. If an answer is deemed to be necessary, Dressler responds as follows, Denied. On the contrary, after reasonable investigation, proposed Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict proof thereof is demanded at trial if relevant.

19. This is a conclusion of law and therefore no answer is necessary. If an answer is deemed to be necessary, Dressler responds as follows, Denied. On the contrary, after reasonable investigation, proposed Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict proof thereof is demanded at trial if relevant. Obviously being added to this suit is burdensome and prejudicial since Waroquiers may not be found to be liable in the suit in chief.

WHEREFORE, Dressler prays this Honorable Court to reject this Motion to Join and refuse to enter any Order allowing Waroquiers to join W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, as additional Defendant to this action.

Respectfully Submitted

Date: June 12, 2006


Timothy E. Durant, Attorney for W. Ruskin Dressler

VERIFICATION

I, W. RUSKIN DRESSLER, verify that the statements made in this Pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities

DATED: June 10, 2006

A handwritten signature in cursive script that reads "W. Ruskin Dressler". The signature is written in black ink and is positioned above a horizontal line.

W. RUSKIN DRESSLER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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ALBERT L. NELSON,
Plaintiff

v.

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WAROQUIER, JR. and GARY V.
WAROQUIER, individually co-partners
t/d/b/a WAROQUIER COAL COMPANY,
and, WAROQUIER COAL COMPANY,
a partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

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No. 2005- 1842 -CD

CIVIL ACTION

AFFIDAVIT OF SERVICE

I, Michael Luongo, hereby verify that I have this day, served by personal service, a copy of the REPLY TO MOTION TO JOIN ADDITIONAL DEFENDANTS filed in this matter on behalf of W. Ruskin Dressler, on counsel as follows:

For Plaintiff:

JAMES A. NADDEO, Esquire
207 East Market Street
PO Box 552
Clearfield PA 16830

FILED 4cc
013:13/AN
JUN 12 2006
UN
William A. Shaw
Prothonotary/Clerk of Courts

Counsel of Record For Defendant :

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

Dated: June 12, 2006


Michael Luongo

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

ALBERT L. NELSON,
Plaintiff

v.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually co-partners
t/d/b/a WAROQUIER COAL COMPANY,
and, WAROQUIER COAL COMPANY,
a partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

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No. 2005- 1842 -CD

CIVIL ACTION

AFFIDAVIT OF SERVICE

I, Michael Luongo, hereby verify that I have this day, served by personal service, a copy of the REPLY TO MOTION TO JOIN ADDITIONAL DEFENDANTS filed in this matter on behalf of W. Ruskin Dressler, on counsel as follows:

Counsel For Proposed Additional Defendants?
Roger A. Thomas and Ramm Coal, Inc. :

CARL A. BELIN JR. ESQ.
Belin & Kubista
PO Box 1
Clearfield, PA 16830

FILED 3cc
07:52 PM
JUN 14 2006
Atty Durant
William A. Shaw
Prothonotary/Clerk of Courts

Dated: June 14, 2006


Michael Luongo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101602
NO: 05-1842-CD
SERVICE # 1 OF 1
SECOND MOTION TO JOIN A FOURTH ADDL.

DEFT.

PLAINTIFF: ALBERT L. NELSON
vs.
DEFENDANT: WARQUIER COAL al

SHERIFF RETURN

NOW, June 05, 2006 AT 11:58 PM SERVED THE WITHIN SECOND MOTION TO JOIN A FOURTH ADDL. DEFT. ON MIRIAM R. THOMAS DEFENDANT AT RR#1 BOX 16, 1092 SPRUCE HILL ROAD, ROCKTON, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MIRIAM R. THOMAS, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SECOND MOTION TO JOIN A FOURTH ADDL. DEFT. AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	SMITH	9299	10.00
SHERIFF HAWKINS	SMITH	9299	29.57

FILED
92:40 cm
JUN 16 2006

William A. Shaw
Prothonotary

Sworn to Before Me This

_____ Day of _____ 2006

So Answers,

Chester A. Hawkins
by Marilyn Hann
Chester A. Hawkins
Sheriff

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

ALBERT L. NELSON, :
Plaintiff :
 : NO. 2005 - 1842 - CD
vs. :
 : PRAECIPE TO
WAROQUIER COAL, and : ENTER APPEARANCE
JOSEPH L. WAROQUIER, JR., and :
GARY V. WAROQUIER, individually :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

Filed on Behalf of:
Miriam R. Thomas and
Ramm Coal Co.

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972 (PHONE)
(814) 765-9893 (FAX)

FILED

9/10:37am
JUN 19 2006

SCA Atty Belin

William A. Shaw
Prothonotary

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

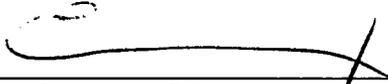
ALBERT L. NELSON, :
Plaintiff :
 : NO. 2005 - 1842 - CD
vs. :
 :
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR., and :
GARY V. WAROQUIER, individually :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

PRAECIPE TO ENTER APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance on behalf of Miriam R. Thomas
and Ramm Coal Co. in regard to the above-captioned action.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esquire

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

ALBERT L. NELSON, :
Plaintiff :
 : NO. 2005 - 1842 - CD
vs. :
 :
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR., and :
GARY V. WAROQUIER, individually :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

CERTIFICATE OF SERVICE

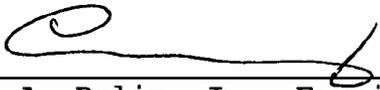
This is to certify that the undersigned has sent a certified copy of Entry of Appearance on behalf of Miriam R. Thomas and Ramm Coal Co. in the above-captioned matter to the following parties by postage prepaid United States first class mail on the 19th day of June, 2006:

James A. Naddeo, Esquire
207 East market Street
P.O. Box 552
Clearfield, PA 16830

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830

W. Ruskin Dressler
a/k/a Ruskin Dressler
d/b/a W. Ruskin Dressler coal
P.O. Box 39
Rockton, PA 15856.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esquire
Attorney for
Roger A. Thomas and
Ramm Coal, Inc.

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

ALBERT L. NELSON, :
 :
 Plaintiff :
 :
 vs. : NO. 2005 - 1842 - CD
 :
 : ANSWER TO DEFENDANTS'
 : SECOND MOTION TO JOIN
 : FOURTH ADDITIONAL
 : DEFENDANT
 :
 WAROQUIER COAL, and :
 :
 JOSEPH L. WAROQUIER, JR., and :
 :
 GARY V. WAROQUIER, individually :
 :
 co-partners t/d/b/a WAROQUIER COAL :
 :
 COMPANY, and :
 :
 WAROQUIER COAL COMPANY, a :
 :
 partnership, and :
 :
 WAROQUIER COAL COMPANY, INC., :
 :
 Defendants :

Filed on Behalf of:
Miriam R. Thomas and
Ramm Coal Co.

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972 (PHONE)
(814) 765-9893 (FAX)

FILED

0/10:37 am

JUN 19 2006

(initials)

5cc Atty Belin

William A. Shaw
Prothonotary

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

ALBERT L. NELSON, :
 :
 Plaintiff :
 :
 vs. : NO. 2005 - 1842 - CD
 :
 :
 WAROQUIER COAL, and :
 JOSEPH L. WAROQUIER, JR., and :
 GARY V. WAROQUIER, individually :
 co-partners t/d/b/a WAROQUIER COAL :
 COMPANY, and :
 WAROQUIER COAL COMPANY, a :
 partnership, and :
 WAROQUIER COAL COMPANY, INC., :
 Defendants :

**ANSWER TO DEFENDANTS' SECOND MOTION
TO JOIN FOURTH ADDITIONAL DEFENDANT**

AND NOW comes Miriam R. Thomas, partner of Ramm Coal Co.,
("Ramm"), by and through their attorneys, Belin & Kubista, and
file the following answer to Defendants' Second Motion to Join
Fourth Additional Defendants:

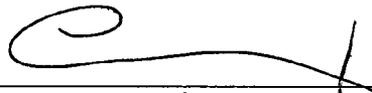
1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted.
3. Paragraph 3 is admitted.
4. Paragraph 4 is admitted.
5. Paragraph 5 is admitted.
6. Paragraph 6 is admitted.
7. Paragraph 7 is admitted.
8. Paragraph 8 is admitted that Miriam R. Thomas and
Roger A. Thomas were husband and wife, were partners and co-
owners of Ramm Coal Co. The assets of Ramm Coal Co., except

for the equipment, were distributed to Ramm Coal, Inc. upon its formation in May 2004.

9. In further answer thereto, Paragraph 5 through Paragraph 19 of the answer of Roger A. Thomas and Ramm Coal, Inc. to defendants' motion to join additional defendants are hereby incorporated by reference and made a part hereof.

WHEREFORE, Ramm hereby request Your Honorable Court to enter an order denying Defendants' Second Motion to Join a Fourth Additional Defendant in this action.

BELIN & KUBISTA

By 

Carl A. Belin, Jr., Esquire
Attorney for
Miriam R. Thomas and
Ramm Coal Co.

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

Before me the undersigned officer, personally appeared **MIRIAM R. THOMAS**, as an individual and as a partner of Ramm Coal Company, being authorized to execute this affidavit on behalf of Ramm Coal Company, and being duly sworn according to law, deposes and says that the facts set forth in the foregoing Answer to Defendants' Second Motion to Join a Fourth Additional Defendant are true and correct to the best of her knowledge, information and belief.



Miriam R. Thomas

Sworn and subscribed before me this 19th day of

June, 2006.



Notary Public



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

ALBERT L. NELSON, :
Plaintiff :
 : NO. 2005 - 1842 - CD
vs. :
 :
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR., and :
GARY V. WAROQUIER, individually :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

CERTIFICATE OF SERVICE

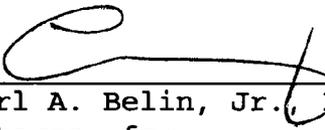
This is to certify that the undersigned has sent a certified copy of Miriam R. Thomas and Ramm Coal Co.'s Answer to Defendants' Second Motion to Join Fourth Additional Defendant in the above-captioned matter to the following parties by postage prepaid United States first class mail on the 19th day of June, 2006:

James A. Naddeo, Esquire
207 East market Street
P.O. Box 552
Clearfield, PA 16830

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830

W. Ruskin Dressler
a/k/a Ruskin Dressler
d/b/a W. Ruskin Dressler coal
P.O. Box 39
Rockton, PA 15856.

BELIN & KUBISTA

By 

Carl A. Belin, Jr., Esquire
Attorney for
Miriam R. Thomas and
Ramm Coal Co.

CA

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

ALBERT L. NELSON

-vs-

No. 05-1842-CD

WAROQUIER COAL, and JOSEPH
L. WAROQUIER, JR., and
GARY V. WAROQUIER,
individually and
co-partners t/d/b/a
WAROQUIER COAL COMPANY, a
partnership, and WAROQUIER
COAL COMPANY, INC.

FILED
012:45 BT
JUN 23 2006

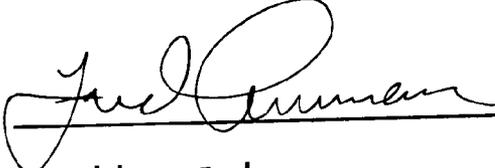
acc Atty:
Nardoo
P. Smith
Belin
Dewart

William A. Shaw
Prothonotary/Clerk of Courts

ORDER

NOW, this 23rd day of June, 2006, following
argument on the Motion to Join Additional Defendants filed
on behalf of waroquier Coal and related Defendants, it is
the ORDER of this Court that said Motion be and is hereby
granted. W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a
W. Ruskin Dressler Coal, Roger A. Thomas, Ramm Coal, Inc.,
and Miriam R. Thomas are hereby joined as Additional
Defendants.

BY THE COURT,



President Judge

FILED

JUN 23 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 6/23/06

You are responsible for serving all appropriate parties.

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

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney Add'l Def. Atty's

Special Instructions:

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Plaintiffs

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,
Additional Defendants

No. 2005-1842-CD

Type of case:
CIVIL

Type of Pleading:
**DEFENDANTS' COMPLAINT
AGAINST ADDITIONAL DEFENDANTS**

Filed on behalf of:
DEFENDANTS

Counsel of Record for Defendants
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 Plaintiff:
James A. Naddeo, Esquire
Supreme Court ID #06820
207 East Market Street
P. O. Box 552
Clearfield, PA 16830
(814) 765-1601

Counsel of Record for Additional Defendants:
Timothy E. Durant, Esquire
Attorney for W. Ruskin Dressler, et al.
Supreme Court ID #21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

Carl A. Belin, Jr., Esquire
Attorney for Roger A. Thomas, Miriam R.
Thomas and Ramm Coal, Inc.
Supreme Court ID# 06805
Belin & Kubista
15 North Front Street
P. O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED 4cc
03:26/01 Atty. Smith
JUL 11 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON,
Plaintiff

No. 2005-1842-CD

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Plaintiffs

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,
Additional 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 other rights important to you.

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

COURT ADMINISTRATOR
Clearfield County Courthouse
Market and Second Streets
Clearfield, PA 16830
(814) 765-2641

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Clearfield County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

Clearfield County Court Administrator
Clearfield County Courthouse
Market and Second Streets
Clearfield, PA 16830
(814) 765-2641

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

ALBERT L. NELSON, : No. 2005-1842-CD
Plaintiff :

vs. :

WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR. and :
GARY V. WAROQUIER, individually and :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :

WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR. and :
GARY V. WAROQUIER, individually and :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Plaintiffs :

vs. :

W. RUSKIN DRESSLER a/k/a RUSKIN :
DRESSLER d/b/a W. RUSKIN DRESSLER :
COAL, ROGER A. THOMAS, MIRIAM R. :
THOMAS and RAMM COAL, INC., :
Additional Defendants :

DEFENDANTS' COMPLAINT AGAINST ADDITIONAL DEFENDANTS

COMES NOW, the Defendants Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company and Waroquier Coal Company, Inc., by their attorney Peter F. Smith who file this compliant against the Additional Defendants and in support thereof allege:

1. The Defendants, Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company, Waroquier Coal Company, a partnership and Waroquier Coal Company, Inc. are either residents of or domiciled in Clearfield County, Pennsylvania with business address of 3056 Washington Avenue, Clearfield, PA 16830 and mailing address of P. O. Box 128, Clearfield, PA 16830. Defendants will be referred to as "Waroquiers" throughout this pleading.

2. W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal is the first Additional Defendant. The last known address of his residence is 352 Sabula Outing Club Road, DuBois, PA 15801.

3. Roger A. Thomas and Miriam R. Thomas are the next Additional Defendants. They are husband and wife. They reside at 1092 Spruce Hill Road, Rockton, PA 15856.

4. The final Additional Defendant is Ramm Coal, Inc. It is a Pennsylvania business corporation owned and operated by Roger A. and Miriam R. Thomas with registered office at 1092 Spruce Hill Road, Rockton, PA 15856.

5. According to Plaintiff's complaint, the Waroquiers, collectively, individually or in consort, intentionally, willfully, wantonly and recklessly, with force and arms and without the Plaintiff's permission, entered the Plaintiff's property in Brady Township, Clearfield County and allegedly removed 37,260 tons of coal from the middle Kittanning and Luthersburg seams and an additional 1,823 tons of coal from the Luthersburg seam.

6. According to Plaintiff, this trespass commenced in January of 2001 and continued "until sometime after January 2003." (Quoting from paragraphs 11 and 12 of Plaintiff's complaint.)

7. During that timeframe commencing in January 2001 through January 2003, Waroquiers were strip mining on a property adjoining that of Plaintiffs owned by Richard Kimble in Brady Township, Clearfield County. It appears that Waroquiers and/or the Additional Defendants may have also mined a portion of the Plaintiff's property.

8. However, Waroquiers were lawfully present on both the Kimble and the Plaintiff's properties by virtue of an assignment of a Surface Mining Permit from Additional Defendant W. Ruskin Dressler on January 22, 2001. A true and correct copy of said assignment is attached hereto and incorporated herein by reference. This assignment was also attached to Waroquiers' Answer and is identified on both pleadings as Waroquiers' Exhibit A.

9. Additional Defendant W. Ruskin Dressler had a legally binding and sufficient contract to strip mine the Plaintiff's real estate by virtue of a lease dated February 3, 1997, a true and correct copy of which is attached both to Waroquiers' Answer and this pleading marked as Waroquiers' Exhibit B.

10. The Plaintiff also executed a Contractual Consent to landowner in conjunction with the Dressler lease. A true and correct copy of said consent as recorded at Clearfield County Instrument Number 199902726 is also attached as Waroquiers' Exhibit C.

11. Dressler's lease with Plaintiff was a part of the permitted property assigned by Dressler to Waroquiers by the instrument dated January 22, 2001 and identified as Exhibit A hereto.

12. Additional Defendants Roger A. Thomas, Miriam R. Thomas and/or Ramm Coal, Inc. were, during that timeframe, and are contract miners who had been excavating overburden and coal for Mr. Dressler on the Kimbles' and Plaintiff's properties prior to the assignment by Dressler to Waroquier.

13. Waroquiers continued this arrangement with Mr. Thomas and/or Ramm Coal, Inc. when it purchased the mining permit from Mr. Dressler. This was a verbal agreement. A portion of their agreement is written and attached as Waroquiers' Exhibit D.

14. Prior to Waroquiers' entry upon the Kimble and Nelson properties, Dressler and/or Thomas and/or Ramm had already crossed the boundary onto the Nelson property, had

conducted surfacing mining operations on the Nelson property and had removed coal from the Nelson property, and Plaintiff alleges that he was not paid the royalty for that coal.

15. If it is judicially determined that coal was mined from Plaintiff's property by either or both of the Additional Defendants or that Plaintiff was otherwise damaged by their trespass, for which no payment was made, then it is averred that the Additional Defendants are responsible and should be held liable for the royalties due under the February 3, 1997 lease for said coal.

WHEREFORE, the Defendants, Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company, Waroquier Coal Company, a partnership and Waroquier Coal Company, Inc. demand:

- A. Judgment in their favor together with costs;
- B. Judgment that if there is any liability to Plaintiff, the Additional Defendants are solely liable to Plaintiff; or,
- C. In the event that a verdict is recovered by Plaintiff against the Waroquier Defendants, that they have judgment over and against the Additional Defendants by way of indemnification and/or contribution for the amount recovered by Plaintiff against the Waroquier Defendants together with costs.

COUNT II

16. Paragraphs 1 through 15 of the foregoing complaint are incorporated herein by reference as though set forth in full.

17. Mr. Dressler showed the Waroquiers what he said were the boundary lines and natural monuments which separate the Kimble from the Nelson properties.

18. Mr. Thomas and Ramm had been mining on the property. They either knew or should have known the location of that boundary.

19. The Waroquiers reasonably relied upon Dressler's, Thomas' and Ramm's statements and conduct as to the location of the boundary between the Kimble and Nelson properties.

20. Pennsylvania law imposes implied covenants of good faith and fair dealing in all contracts.

21. Pennsylvania law imposes an implied covenant that performance will be completed in a workmanlike manner.

22. Dressler and/or Thomas and/or Ramm Coal, Inc. breached these contractual obligations to Waroquiers by:

A. Failing to properly locate the boundary line separating the Plaintiff's from the Kimble's properties;

B. Failing to properly mark that boundary line;

C. Failing to accurately advise Waroquiers of where that boundary line actually was in relation to mining activities; and,

D. Failing to fully and promptly pay Plaintiff for coal actually mined and removed from Plaintiff's property, if in fact they, or one or more of them, did mine coal from Plaintiff's property for which they, or one or more of them, did not pay.

E. Failing to mine the "toe" and/or low wall.

23. The Waroquiers reasonably relied upon Dressler's, Thomas' and Ramm's statements and conduct as to the location of the boundary between the Kimble and Plaintiff's properties.

24. If it is judicially determined that Waroquiers are liable for coal that was actually mined and removed from Plaintiff's property, then Waroquiers aver that the Additional Defendants are liable to them for all amounts which should have been paid to Plaintiff.

WHEREFORE, the Defendants, Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company, Waroquier Coal Company, a partnership and Waroquier Coal Company, Inc. demand:

- A. Judgment in their favor together with costs;
- B. Judgment that if there is any liability to Plaintiff, the Additional Defendants are solely liable to Plaintiff; or,
- C. In the event that a verdict is recovered by Plaintiff against the Waroquier Defendants, that they have judgment over and against the Additional Defendants by way of indemnification and/or contribution for the amount recovered by Plaintiff against the Waroquier Defendants together with costs.

COUNT III

25. Paragraphs 1 through 24 of the foregoing complaint are incorporated herein by reference as though set forth in full.

26. Plaintiff alleges in paragraphs 11 and 12 of his complaint that 39,083 tons of coal were removed from his property by Waroquiers.

27. The Waroquiers' records and analysis indicate that 19,655 tons of coal were removed from Plaintiff's property.

28. To date, neither Plaintiff nor Defendants Waroquiers can resolve this large discrepancy.

29. Mr. Dressler produced an agreement between himself and Ramm Coal Co. dated November 23, 1999, and attached to his Answer opposing the Motion to Join as Exhibit 1.

30. That agreement in pertinent parts states: "All house coal to be split 50-50."

31. This contractual arrangement was unknown to Waroquiers until they were served with Mr. Dressler's Answer to their Motion to Join on or about June 12, 2006.

32. Waroquiers at no time participated either individually or jointly with the other Defendants in this house coal arrangement.

33. House coal is generally sold on a cash basis.

34. The removal and sale of house coal by Additional Defendants Dressler, the Thomas' and/or Ramm Coal, Inc. could account for all or a portion of the difference between Plaintiff's claimed tonnage and the Waroquiers'.

WHEREFORE, the Defendants, Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company, Waroquier Coal Company, a partnership and Waroquier Coal Company, Inc. demand:

A. Judgment in their favor together with costs;

B. Judgment that if there is any liability to Plaintiff, the Additional Defendants are solely liable to Plaintiff; or,

C. In the event that a verdict is recovered by Plaintiff against the Waroquier Defendants, that they have judgment over and against the Additional Defendants by way of indemnification and/or contribution for the amount recovered by Plaintiff against the Waroquier Defendants together with costs.

COUNT IV

35. Paragraphs 1 through 34 of the foregoing complaint are incorporated herein by reference as though set forth in full.

36. The Additional Defendants would be unjustly enriched to the detriment of the Waroquiers if Waroquiers are compelled to pay Plaintiff for coal which the Additional Defendants mined, sold and profited from but for which the Additional Defendants did not pay Plaintiff or Waroquiers.

WHEREFORE, the Defendants, Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company, Waroquier Coal Company, a partnership and Waroquier Coal Company, Inc. demand:

- A. Judgment in their favor together with costs;
- B. Judgment that if there is any liability to Plaintiff, the Additional Defendants are solely liable to Plaintiff; or,
- C. In the event that a verdict is recovered by Plaintiff against the Waroquier Defendants, that they have judgment over and against the Additional Defendants by way of indemnification and/or contribution for the amount recovered by Plaintiff against the Waroquier Defendants together with costs.

Respectfully submitted,

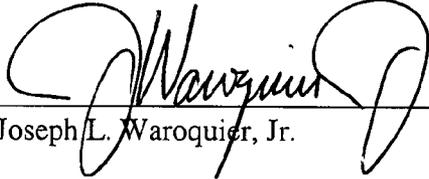
Date: July 10, 2006


Peter F. Smith, Esquire
Attorney for Defendants

VERIFICATION

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

Dated: 7/11/06



Joseph L. Waroquier, Jr.

WAROQUIER COAL, INC.

Coal Producers

P.O. BOX 128
CLEARFIELD, PA. 16830

January 18, 2001

AGREEMENT

This 22 of January 2001, WAROQUIER COAL CO., INC. agrees to resume the permit #17990105 of Ruskin Dressler. We will pay Ruskin Dressler \$15,000 (Fifteen Thousand Dollars) for this permit. Also, a payment of an override fee of \$1.00 (One Dollar) for each ton of coal mined off of this permit. Settlements in payments of royalty shall be made on the 25th day of each month for all coal mined and removed from the premises during the preceding calendar month and shall be accompanied by a copy of all weight slips showing the number of tons of coal mined and removed.

Waroquier Coal Co., Inc. Agrees to pay Ruskin Dressler \$5,000 (Five Thousand Dollar) for the road bond if Brady Township will not refund Ruskin Dresslers moneys for the road bond.

Waroquier Coal Co., Inc. agrees to sell Ruskin Dressler house coal out of this mine at pit price.

Waroquier Coal Co., Inc. will be working under Ruskin Dressler Permit until the transfer for the permit is made. Waroquier Coal Co., Inc. will be responsible for all mining activity through MSHA and DEP Regulations excluding Ruskin Dressler.

Ruskin Dressler is responsible for the up keep of this area and any MSHA fines that may accrue from his area.

In case of death the Royalty of this agreement will go to Bernice V. Oman, RD# 2 Box 231A, Dubois, PA 15801.

January 26th, 2001 Waroquier Coal Co., Inc. is advancing Ruskin Dressler \$15,000 (Fifteen Thousand Dollars) on Advance Royalty in which Waroquier Coal Co., Inc. will recoup from the override fee of \$1.00 (One Dollar) a ton when mining begins

until sum is collected. After sum is collected all will be based on what is stated in the first paragraph of this agreement.

ATTEST:

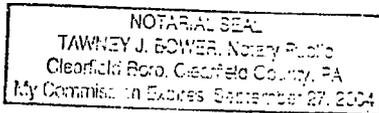
Tawney J Bower

W Ruskin Dressler
RUSKIN DRESSLER

WAROQUIER COAL CO., INC

Tawney J Bower

Gary V Waroquier
GARY V. WAROQUIER,
SECRETARY OF TREASURER



Option and Lease Agreement

THIS ARTICLE OF AGREEMENT made and concluded this... day of... 19 96.

ALBERT L. NELSON Trustee of THE ALBERT L. NELSON LIVING TRUST 1149 South Main Street, DuBois, PA 15801

U/T/A DATED 10/1/93

of the first part, hereinafter designated as Lessor, and W. RUSKIN DRESSLER, of Box 39, Rockton, Pennsylvania, 15856

the second part, hereinafter designated as Lessee, witnesseth:

1. In consideration of the sum of \$ 1.00 in hand paid, receipt whereof is hereby acknowledged, Lessor by lease, lets, and demises unto Lessee, ALL of the surface ~~and~~ mineable or vein of coal in, under and upon all that certain piece, parcel or tract of land situated in Brady Township, Clearfield County, Pennsylvania, bounded and described as follows:

North - Kimble East - Crescent Brick Division of RESCO Products, Inc. South - Crescent Brick Division of RESCO Products, Inc. and Broad West - Jacob D. Hayes

Deed Book Vol 1572 Page 148 Recorded 11-30-93

mining 49.0 acres, more or less.

TOGETHER with all the mining rights and easements owned by Lessor and appurtenant to the coal and land herein ceded, including the right of ingress, egress, and regress, in, to and upon said land for the purpose of exploring for and mining, manufacturing, testing and preparing said coal for market, to build roads, railroads and tram roads, to buildings, tipples and chutes, to deposit waste material and refuse on the surface of the land, to build wells and lines, to drain water upon the surface by any means, to transport coal from other properties through or over this land and to do all things necessary, usual and proper in connection with said operations, and Lessee hereby waives and releases all liability for damage to buildings and objects on and waters therein and thereon. Said coal may be removed either by drift mining or stripping process and all of said rights and privileges are hereby granted in connection therewith including the removal and redeposit of all soil and other objects and materials overlying said coal, to be exercised without further cost or liability for the damage

ALSO TOGETHER WITH XXXX

EXCEPTING AND RESERVING XXXX

1. Lessee covenants and agrees to pay to Lessor the sum of Two Dollars (\$2.00) per ton of 2,000 lbs for all mineable merchantable and marketable coal mined and removed from said premises. Settlements to be made on the twenty-fifth day of each month for all such coal mined and removed from the premises during the preceding month and all settlements shall be based upon the weights by which the coal is marketed. It is further understood and agreed that Lessee will pay ten (10%) percent of pit price or \$2.00 per ton whichever is greater.

2. Lessee covenants and agrees to commence mining operations upon said premises within three (3) years from the effective date of this lease and in event of failure so to commence mining operations agrees to pay Lessor as a minimum royalty the sum or price of XXXX or, payable quarterly in advance.

3. Lessee agrees that all mining operations shall be conducted in accordance with the laws of Pennsylvania and the mining methods prevailing in the industry. It is also understood that Lessor shall have access to the operations and records of Lessee at all reasonable times in person or by duly authorized agent.

4. This lease shall continue for a period of three (3) years from the effective date hereof, or until all of the mineable and merchantable coal has been exhausted from the premises. Lessee may remove all equipment, buildings and structures from the premises at the end of the term provided no royalty is then due.

5. This article of agreement shall constitute and be construed an option granted by Lessor to Lessee so that Lessee may elect to accept or reject it at any time during XXXX days from the date hereof. Upon acceptance of this agreement shall become immediately effective in all its terms as a lease of the coal in place. During the option Lessee may go upon the premises for the purpose of surveying, drilling, digging, exploring, testing, taking samples, otherwise examining said coal, without liability for the damage, caused thereby or for the coal taken in such operations. Lessee may exercise this option by notifying Lessor in writing of its election to do so within the option period aforesaid.

6. It is understood and agreed that in the event that Lessee should default in any payment provided for herein and should be in such default for a period of ninety days from the date when said payment becomes due, or should Lessee be in default in any other respect and continue in such default for a period of ninety days after being notified in writing of such default by Lessor, then, in either event, at the option of Lessor, this lease shall cease and terminate and Lessee authorizes any attorney of any Court of Record to appear for it and in its name to confess a judgment against it for the amount of any sums due to Lessor together with clause of fieri facias for rent in arrears and costs.

7. It is further understood and agreed that XXXX

Option and Lease Agreement

THIS ARTICLE OF AGREEMENT made and concluded this _____ day of _____ 19 96

between ALBERT L. NELSON, Trustee of THE ALBERT L. NELSON LIVING TRUST
1149 South Main Street, DuBois, PA 15801
U/T/A Dated 10/1/93

of the first part, hereinafter designated as Lessor, and W. RUSKIN DRESSLER, of Box 39, Rockton, Pennsylvania, 15856
the second part, hereinafter designated as Lessee, witnesseth:

1. In consideration of the sum of \$ 1.00 In hand paid, receipt whereof is hereby acknowledged, Lessor by lease, lets, and demises unto Lessee, ALL of the surface ~~and~~ mineable or vein of coal in, under and upon all that certain piece, parcel or tract of land situated in Brady Township, Clearfield County, Pennsylvania, bounded and described as follows:

North - Kimble
East - Crescent Brick Division of RESCO Products, Inc.
South - Crescent Brick Division of RESCO Products, Inc. and Broad
West - Jacob D. Hayes

Dred Book Vol 1572 Page 148
Recorded 11-30-93

containing 49.0 acres, more or less.

TOGETHER with all the mining rights and easements owned by Lessor and appurtenant to the coal and land herein described, including the right of ingress, egress, and regress, in, to, and upon said land for the purpose of exploring for, mining, manufacturing, testing and preparing said coal for market, to build roads, railroads and train roads, to build buildings, tipples and chutes, to deposit waste material and refuse on the surface of the land, to build water lines, to drain water upon the surface by any means, to transport coal from other properties through or over the land and to do all things necessary, usual and proper in connection with said operations, and Lessor hereby waives and releases all liability for damage to buildings and objects on and waters therein and thereon. Said coal may be removed either by drift mining or stripping process and all of the usual rights and privileges are hereby granted in connection therewith including the removal and redeposit of all dirt and other objects and materials overlying said coal, to be exercised without further cost or liability for the damage thereby.

ALSO TOGETHER WITH _____ XXXX

EXCEPTING AND RESERVING _____ XXXX

Lessee covenants and agrees to pay to Lessor the sum of Two Dollars (\$2.00) per ton of 2,000 lbs for all mineable merchantable and marketable coal mined and removed from said premises. Settlements to be made on the twenty-fifth day of each month for all such coal mined and removed from the premises during the preceding month and all settlements shall be based upon the weights by which the coal is marketed. It is further understood and agreed that Lessee will pay ten (10%) percent of pit price or \$2.00 per ton, whichever is greater.

Lessee covenants and agrees to commence mining operations upon said premises within three (3) years from the effective date of this lease and in event of failure so to commence mining operations agrees to pay Lessor as a minimum royalty the sum or price of _____ XXXX or, payable quarterly in advance.

Lessee agrees that all mining operations shall be conducted in accordance with the laws of Pennsylvania and the mining methods prevailing in the industry. It is also understood that Lessor shall have access to the operations and records of Lessee at all reasonable times in person or by duly authorized agent.

This lease shall continue for a period of three (3) years from the effective date hereof, or until all of the mineable and merchantable coal has been exhausted from the premises. Lessee may remove all equipment, buildings and other things from the premises at the end of the term provided no royalty is then due.

This article of agreement shall constitute and be construed an option granted by Lessor to Lessee so that Lessee may elect to accept or reject it at any time during _____ XXXX days from the date hereof. Upon acceptance of this option the agreement shall become immediately effective in all its terms as a lease of the coal in place. During the option term Lessee may go upon the premises for the purpose of surveying, drilling, digging, exploring, testing, taking samples, otherwise examining said coal, without liability for the damage, caused thereby or for the coal taken in such operations. Lessee may exercise this option by notifying Lessor in writing of its election to do so within the option term aforesaid.

It is understood and agreed that in the event that Lessee should default in any payment provided for herein and in such default for a period of ninety days from the date when said payment becomes due, or should Lessee be in default in any other respect and continue in such default for a period of ninety days after being notified in writing by Lessor, then, in either event, at the option of Lessor, this lease shall cease and terminate and Lessee authorizes any attorney of any Court of Record to appear for it and in its name to cause a judgment against Lessee to be entered and that a writ of habere facias possessionem may issue forthwith for the recovery of possession to Lessor, together with clause of fieri facias for rent in arrears and costs.

It is further understood and agreed that _____ XXXX

9. It is mutually understood and agreed that the rights, duties and obligations created hereby shall extend to and be binding upon the parties, their heirs, executors, administrators and assigns, and that the singular herein shall include the plural.

10. Lessor hereby warrants generally the title to said coal and mining rights and this lease shall be free and clear of all encumbrances except those for which waiver and consent hereto is obtained and Lessee may in all cases apply royalty payments to the satisfaction of such encumbrances as may be found to exist.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals and caused this article of agreement to be duly executed by their officers, the day and year aforesaid.

Witness:

D.W. Egan

Albert L. Nelson, Trustee
(ALBERT L. NELSON) LESSOR (Seal)

W. Ruskin Dressler (Seal)

..... (Seal)

..... (Seal)

..... (Seal)

..... (Seal)

W. Ruskin Dressler
(W. RUSKIN DRESSLER) LESSEE (Seal)

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD } ...

On this 3rd day of FEBRUARY, 1997, before me, a Notary Public
in and for the County of CLEARFIELD and State of Pennsylvania, came the above named
ALBERT L. NELSON

who in due form of law acknowledged the foregoing Article of Agreement to be HIS act and deed, and desired the same to be recorded as such.

Witness my hand and OFFICIAL seal the day and year aforesaid.

Andrew L. Booth
Notary Seal
My Commission Expires
Andrew L. Booth, Notary Public
Clearfield, Clearfield County
My Commission Expires Oct. 14, 1997
Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF Clearfield } ...

On this 3rd day of FEBRUARY, 1997, before me, a Notary Public
in and for the County of CLEARFIELD and State of Pennsylvania, came the above named
W. Ruskin Dressler

who in due form of law acknowledged the foregoing Article of Agreement to be his act and deed, and desired the same to be recorded as such.

Witness my hand and official seal the day and year aforesaid.

Andrew L. Booth
Notary Seal
My Commission Expires
Andrew L. Booth, Notary Public
Clearfield, Clearfield County
My Commission Expires Oct. 14, 1997
Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

APPL. NO. (Department Use Only)

CONTRACTUAL CONSENT OF LANDOWNER

(I) (We), the undersigned, being the owner(s) of 49.0 acres of land located in Brady Township, Clearfield County, as described in the deed(s) recorded in the Recorder of Deeds Office Book(s) and page(s) Deed Book Vol 1572 Page 148 and shown by crosshatched lines on the map attached hereto which is signed in the original by the landowner upon which W. Ruskin Dressler proposes to engage in surface

mining activities for which application for permit will be made to the Department of Environmental Resources and of which application this consent will be made a part, **DO HEREBY ACKNOWLEDGE THAT THE MINING OPERATOR HAS THE RIGHT TO ENTER UPON AND USE THE LAND FOR THE PURPOSES OF CONDUCTING SURFACE MINING ACTIVITIES.** Furthermore, (I) (We), the undersigned, do hereby irrevocably grant to the Mining Operator and the Commonwealth of Pennsylvania, the right to enter upon the aforesaid land before beginning the mining activity(ies), during the mining activity(ies) and for a period of five (5) years after the completion or abandonment of the mining activity(ies) for the purposes of inspecting, studying, backfilling, planting and reclaiming the land and abating pollution in accordance with the provisions of the Surface Mining Conservation and Reclamation Act, The Clean Streams Law, and The Coal Refuse Disposal Act, as amended, rules and regulations promulgated thereunder, and the provisions of permit(s) issued to the Mining Operator. (I) (We) do hereby grant in addition to the Commonwealth, for the aforesaid period of time, a right of entry across any adjoining or contiguous lands owned by (us) (me) in order to have access to the land described herein. It is specifically agreed and understood that this contractual consent gives the Commonwealth the right to enter, inspect, study, backfill, plant and reclaim the land and abate pollution therefrom as a matter within the police power but does not obligate the Commonwealth to do so, and does not constitute any ownership interest by the Commonwealth in the aforesaid land.

This Consent shall not be construed to impair any contractual agreement between the Mine Operator and the landowner.

(INSERT ADDITIONAL PROVISIONS OR CROSS OUT)

In witness whereof and intending to legally bind (myself) (ourselves), (my) (our) heirs, successors and assigns, (I) (we) have hereunto set (my) (our) hand(s) and seal this 3rd day of FEB, 1997.

Albert L. Nelson
LANDOWNER Yrattler (Print Name)
By: Albert L. Nelson, Jr. et al. (Signature) (Seal)

EXHIBIT C
Name: _____
By: _____ (Signature)

KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY, PA
Pennsylvania

INSTRUMENT NUMBER
199902726
RECORDED ON
Feb 23, 1999
11:51:31 AM

RECORDING FEES - \$13.00
RECORDER
COURTY IMPROVEMENT \$1.00
AND
CORDER
PROVEMENT FUND \$1.00
ATE WRIT TAX \$0.50
TOTAL \$15.50

ACKNOWLEDGEMENT OF INDIVIDUALS OR PARTNERS

LAND OWNER

STATE OF PA. : : : : :
COUNTY OF CLEARFIELD : : : : :

SS

On FEB 3 1997, before me, the undersigned Notary, personally appeared ALBERT L NELSON

(Name(s))

known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument, and who acknowledged that HE

(he, she or they)

executed the same and desires it to be recorded.

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

Notarial Seal
Homer D. Edner, Notary Public
DuBois, Clearfield County
My Commission Expires Nov. 20, 2000
MEMBER, Pennsylvania Association of Notaries

(Signature) My Commission Expires: (date)

Notary Public

ACKNOWLEDGEMENT OF CORPORATIONS

LAND OWNER

STATE OF : : : : :
COUNTY OF : : : : :

SS

On _____, before me, the undersigned Notary, personally appeared _____ of _____ a

(Title of Person)

(Name of Corporation)

corporation, and the (s)he, as such officer, being authorized to do so, executed the foregoing instrument on behalf of the said corporation and desires that this instrument be recorded.

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

(Signature) My Commission Expires: (date)

Notary Public

This instrument has been recorded in Clearfield County, Pennsylvania, this 23rd day of February, 19 99, at Book # 199902726, Page (s) _____

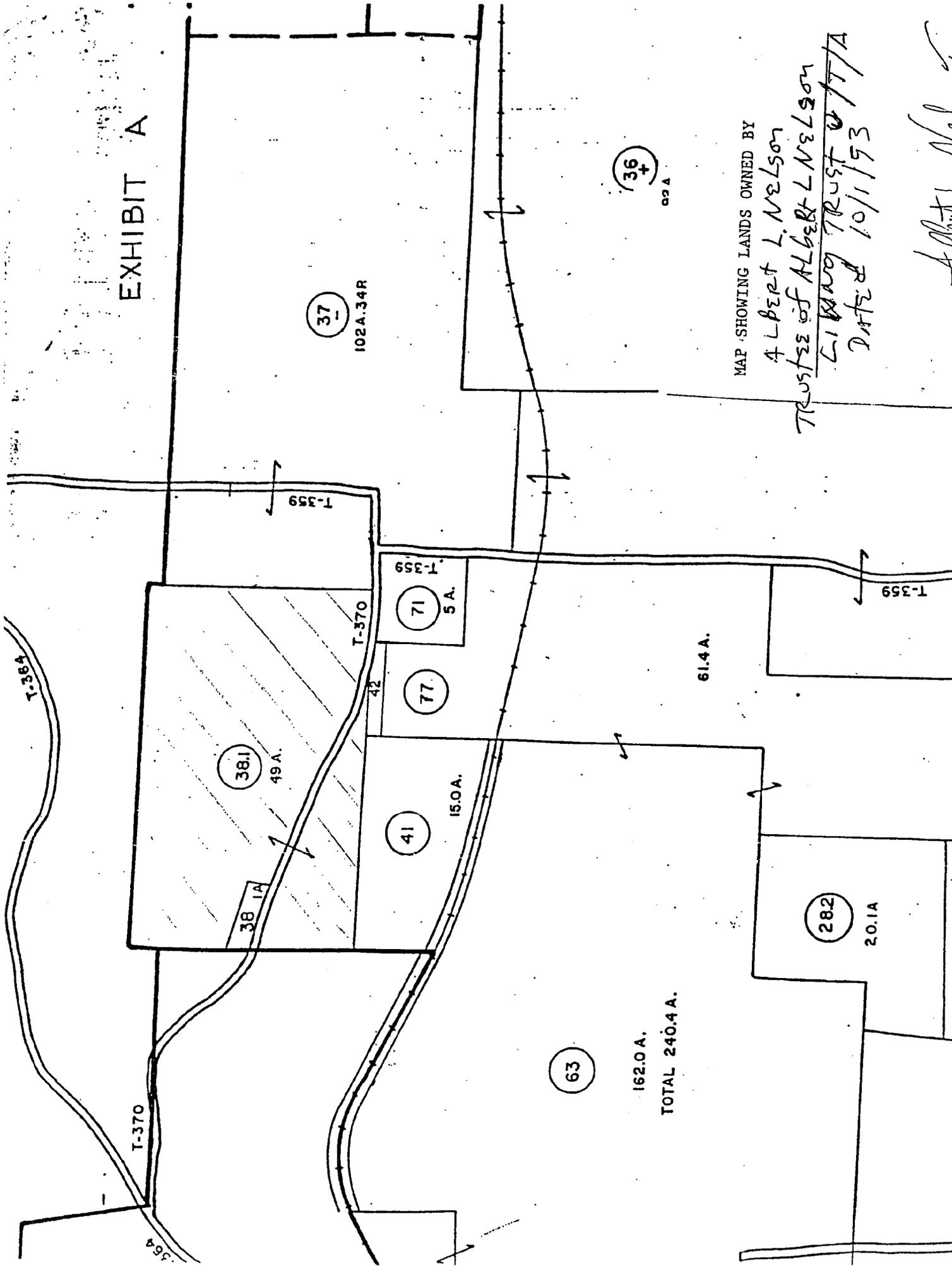
(Signature) * (Print Name) Karen L. Stuck

RECORDER OF DEEDS

(Seal) Karen L. STUCK

My Commission Expires in January, 2000

EXHIBIT A



MAP SHOWING LANDS OWNED BY

ALBERT L. NELSON

TRUSTEE OF ALBERT L. NELSON

LIVING TRUST 07/77A

DATED 10/1/93

ALBERT NELSON

TOTAL 240.4 A.

WAROQUIER COAL, INC.

Coal Producers

P.O. BOX 128
CLEARFIELD, PA. 16830

January 18, 2001

AGREEMENT

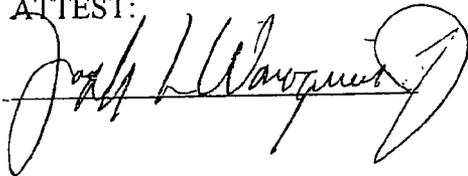
Roger Thomas agrees to contract mine off of the said permit for Ruskin Dressler. Starting this 19 of January 2001, Roger Thomas will be responsible for the drilling, blasting, and mining of the lower seam. Waroquier Coal Co., Inc. will take care of the loading of the coal.

Waroquier Coal Co., Inc. agrees to pay Roger Thomas \$17.00 (Seventeen dollars) per ton for the drilling, blasting, and mining of the lower seam.

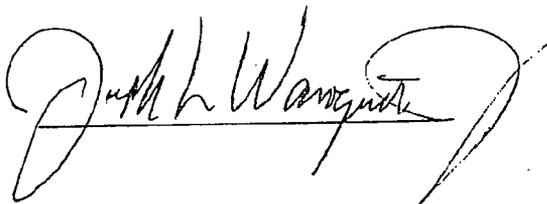
Roger Thomas will be responsible for any MSHA fines which may accrue in his mining operation.

Waroquier Coal Co., Inc. holds no obligation to Roger Thomas for before, during, and after except for what he has prepared for mining as in drilling and blasting.

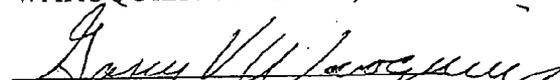
ATTEST:



Roger Thomas



WAROQUIER COAL CO., INC



Gary V. Waroquier, Secretary of Treasurer

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Defendants

WAROQUIER COAL, and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER COAL
COMPANY, and
WAROQUIER COAL COMPANY, a
partnership, and
WAROQUIER COAL COMPANY, INC.,
Plaintiffs

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,
Additional Defendants

No. 2005-1842-CD

FILED ^{NO} cc
013:2661
JUL 11 2006

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a certified copy of **DEFENDANT'S COMPLAINT AGAINST ADDITIONAL DEFENDANTS** was hand delivered to the Attorney for the Plaintiff and the Attorneys for the Additional Defendants at the following addresses on July 11, 2006:

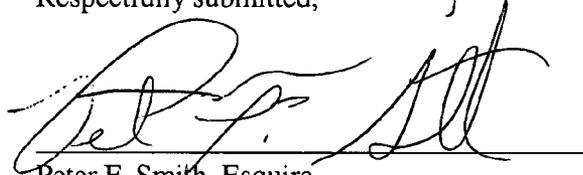
James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Carl A. Belin, Jr., Esquire
Belin & Kubista
15 North Front Street
Clearfield, PA 16830

Timothy A. Durant, Esquire
201 North Second Street
Clearfield, PA 16830

Respectfully submitted,

Date: 7/11/06

A handwritten signature in black ink, appearing to read "Peter F. Smith", written over a horizontal line.

Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
Clearfield, PA 16830
(814) 765-5595

: Counsel of Record for
: Plaintiff:
: **James A. Naddeo, Esq.**
: Supreme Court ID #06820
: 207 East Market Street
: P.O. Box 552
: Clearfield, PA 16830
: (814)765-1601

:
: Counsel of Record for
: Additional Defendants
: W.Ruskin Dressler et al
: **Timothy E. Durant, Esq.**
: Supreme Court ID #21352
: 201 North Second Street
: Clearfield, PA 16830
: (814)765-1711

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

ALBERT L. NELSON, :
Plaintiff :
 : NO. 2005 - 1842 - CD
vs. :
 :
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR., and :
GARY V. WAROQUIER, individually :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :
 :
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR., and :
GARY V. WAROQUIER, individually and :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Plaintiffs :
vs. :
 :
W. RUSKIN DRESSLER a/k/a RUSKIN :
DRESSLER d/b/a W. RUSKIN DRESSLER :
COAL, ROGER A. THOMAS, MIRIAM R. :
THOMAS and RAMM COAL, INC., :
Additional Defendants :

PRAECIPE TO WITHDRAW APPEARANCE

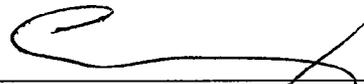
TO THE PROTHONOTARY:

Please withdraw my appearance on behalf of Roger A. Thomas, Miriam R. Thomas and Ramm Coal, Inc., with regard to

the above-captioned action.

BELIN & KUBISTA

By



Carl A. Belin, Jr., Esq.

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

ALBERT L. NELSON, :
Plaintiff :
 : NO. 2005 - 1842 - CD
vs. :
 :
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR., and :
GARY V. WAROQUIER, individually :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Defendants :
 :
WAROQUIER COAL, and :
JOSEPH L. WAROQUIER, JR., and :
GARY V. WAROQUIER, individually and :
co-partners t/d/b/a WAROQUIER COAL :
COMPANY, and :
WAROQUIER COAL COMPANY, a :
partnership, and :
WAROQUIER COAL COMPANY, INC., :
Plaintiffs :
vs. :
 :
W. RUSKIN DRESSLER a/k/a RUSKIN :
DRESSLER d/b/a W. RUSKIN DRESSLER :
COAL, ROGER A. THOMAS, MIRIAM R. :
THOMAS and RAMM COAL, INC., :
Additional Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a certified copy of Praecipe to Withdraw Appearance on behalf of Additional Defendants Roger A. Thomas, Miriam R. Thomas, and Ramm Coal, Inc., in the above-captioned matter to the following

parties by postage prepaid United States first class mail on
the 27th day of July, 2006:

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
Attorney for Defendants

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
Attorney for Plaintiff

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830
Attorney for Additional Defendants
W. Ruskin Dressler, et al.

BELIN & KUBISTA

By



Carl A. Belin, Jr., Esquire

RECEIVED
JUL 26 2006

July 24, 2006

Mr. Carl A. Belin
Belin & Kubista
P.O. Box 1
Clearfield, Pa. 16830

Bonnie - 7/28
Yes + file this
letter w/ it also

Doris

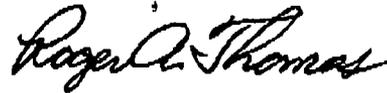
Re: Civil Case # 2005-1842-CD
Albert L. Nelson vs. Waroquier Coal
vs. W Ruskin Dressler and RAMM Coal, Inc.

Dear Mr. Belin,

We have decided to have Thomas T. Frampton, esquire, represent us in the above lawsuit. Enclosed is check # 1401 in the amount of \$2300.00, representing payment in full.

Please withdraw your appearance in the above case and forward the files to Mr. Thomas T. Frampton at Goehring, Rutter & Boehm, 1424 Frick Bldg., 437 Grant St. Pittsburgh, Pa. 15219. (phone 412-281-0587)

Thank-you,



Roger A. Thomas



Miriam R. Thomas
RAMM Coal, Inc.
1092 Spruce Hill Rd.
Rockton, Pa. 15856

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

ALBERT L. NELSON,
Plaintiff
vs.

No. 2005- 1842 -CD

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually co-partners
t/d/b/a WAROQUIER COAL COMPANY,
and, WAROQUIER COAL COMPANY,
a partnership, and WAROQUIER COAL
COMPANY, INC.,

CIVIL ACTION

Defendants
vs.

Type of Pleading:

ANSWER and NEW MATTER TO
ORIGINAL DEFENDANTS' COMPLAINT
AGAINST ADDITIONAL DEFENDANT

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,
Additional Defendants*

Filed on Behalf of: Additional
Defendant, W. RUSKIN DRESSLER

Counsel for this party:

Counsel For Original Defendants:

TIMOTHY E. DURANT, Esquire
Supreme Court I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
814-765-1711

PETER F. SMITH, Esquire
Supreme Court I.D. No.34291
30 South Second Street
PO Box 130
Clearfield PA 16830
814 765-5595

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0/2:4861 Any
JUL 31 2006 Stewart

William A. Shaw
Prothonotary/Clerk of Courts

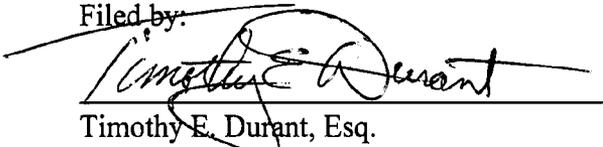
Counsel For Plaintiff

Counsel For Additional Defendants:
Roger A. Thomas, Miriam R. Thomas
and Ramm Coal, Inc.,

JAMES A. NADDEO, Esquire
Supreme Court I.D. No. 06820
207 East Market Street
PO Box 552
Clearfield PA 16830
(814) 765-1601

UNKNOWN

Filed by:


Timothy E. Durant, Esq.

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually co-partners
t/d/b/a WAROQUIER COAL COMPANY,
and, WAROQUIER COAL COMPANY,
a partnership, and WAROQUIER COAL
COMPANY, INC.,

Defendants

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,
Additional Defendants*

No. 2005- 1842 -CD

CIVIL ACTION

To: WAROQUIER COAL, and JOSEPH L. WAROQUIER, JR. and GARY V. WAROQUIER,
individually co-partners t/d/b/a WAROQUIER COAL COMPANY, and, WAROQUIER
COAL COMPANY, a partnership, and WAROQUIER COAL COMPANY, INC.,

c/o **PETER F. SMITH**, Esquire
30 South Second Street
PO Box 130
Clearfield PA 16830

AND ALSO

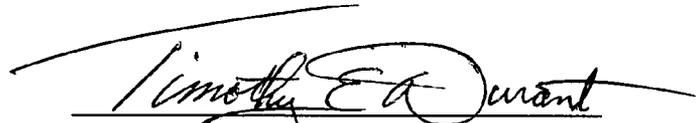
To: ALBERT L. NELSON
c/o **JAMES A. NADDEO**, Esquire
207 East Market Street
PO Box 552
Clearfield PA 16830

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.

Dated: July 31, 2006

A handwritten signature in black ink, reading "Timothy E. Durant". The signature is written in a cursive style with a large, prominent "D" and "E". A horizontal line is drawn across the signature.

Timothy E. Durant Esquire Attorney for
Additional Defendant, W. Ruskin Dressler
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

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

ALBERT L. NELSON,	*	
Plaintiff	*	
	*	No. 2005- 1842 -CD
vs.	*	
	*	
WAROQUIER COAL, and JOSEPH L.	*	CIVIL ACTION
WAROQUIER, JR. and GARY V.	*	
WAROQUIER, individually co-partners	*	
t/d/b/a WAROQUIER COAL COMPANY,	*	
and, WAROQUIER COAL COMPANY,	*	
a partnership, and WAROQUIER COAL	*	
COMPANY, INC.,	*	
Defendants	*	
	*	
vs.	*	
	*	
W. RUSKIN DRESSLER a/k/a RUSKIN	*	
DRESSLER d/b/a W. RUSKIN DRESSLER	*	
COAL, ROGER A. THOMAS, MIRIAM R.	*	
THOMAS and RAMM COAL, INC.,	*	
Additional Defendants*	*	

**W. RUSKIN DRESSLER'S ANSWER and NEW MATTER TO ORIGINAL
DEFENDANTS' COMPLAINT AGAINST ADDITIONAL DEFENDANTS**

For an Answer to the Defendants' Complaint Against Additional Defendants, Additional Defendant W. Ruskin Dressler provides the following response, by his attorney Timothy E. Durant:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted plaintiff's complaint so states. But in further response hereto Additional

defendant Dressler states that after reasonable investigation he (hereinafter, Dressler) is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict proof thereof is demanded at trial if relevant.

6. Admitted.

7. Denied as stated. Original defendants may have mined from January 2001 through January 2003 but Dressler did not do so and the contract set out as Exhibit "A" in the instant Complaint makes it clear that original defendants are responsible for all mining activity on the permitted area as of January 22, 2001.

8. Admitted.

9. This is a conclusion of law and so no response is necessary. To the extent that an answer is necessary Dressler responds as follows: Denied. On the contrary, after reasonable investigation Dressler is without knowledge or information sufficient to form a belief as to the truth of this averment. It is up to the original defendants to determine whether they had a legally binding and sufficient contract to proceed in the manner in which they proceeded on and after January 22, 2001. Strict proof thereof is demanded at trial if relevant. It is admitted that Dressler's lease with plaintiff is attached to the instant complaint as Exhibit "B".

10. Admitted.

11. Admitted.

12. Admitted.

13. Denied. On the contrary, after reasonable investigation Dressler is without knowledge or information sufficient to form a belief as to the truth of this averment. Exactly what all the arrangements were between original defendants and additional defendants Thomas and Ramm Coal,

Inc. are not known to Dressler.

14. Denied. On the contrary, prior to January 22, 2001, based upon information and belief, neither Dressler nor Thomas nor Ramm conducted any surface mining operations on the Nelson property nor did anyone else under Dressler's contractual employment or supervision take any coal from the Nelson property. It is admitted that plaintiff alleges in paragraph 10 of its complaint that the original defendants, took coal without permission "on or about the first week of January 2001".

15. Denied. This is a conclusion of law and so no response is necessary. If it is determined that an answer is required Dressler denies any basis for liability over. Original defendants are solely liable for coal which they or their servants, agents or employees mined, removed or sold pursuant to the February 3, 1997 lease.

WHEREFORE, W. Ruskin Dressler prays this Honorable Court to dismiss the complaint seeking to join him as an additional defendant in this action and find that there is no liability by Dressler for:

- a. any coal taken or negligence occurring more than two years prior to the filing of the law suit, nor
- b. for any breach of contract occurring more than four years prior to the filing of the said law suit.
- c. any actions or omissions to act committed or omitted by the original defendants or by any other additional defendants

ANSWER TO COUNT II

16. Paragraphs 1-15 of the foregoing answers are incorporated herein by reference as though set forth in full.

17. Denied as stated. On the contrary, Dressler stood in one spot on the Kimble property and pointed in the general direction of two boundary markers and told Gary Waroquier where the permanent old time markers could be found but the parties did not walk the boundary line nor did Dressler point out where actual line was. Dressler is not a surveyor nor an owner of the subject property and he never made any warranty or guarantee as to the boundary line. Waroquiers as professionals and experts engaged in the business of coal mining should reasonably have determined the lines of the properties prior to mining or proceeding on January 22, 2001. They proceeded at their own risk. Waroquiers had duty as a knowledgeable established coal company to exercise its due diligence to determine the boundaries of the properties covered under the subject permit area. Dressler gave Waroquiers all information which he had (including maps) pertaining to this permit.

18. Denied. On the contrary, Dressler had been mining on the Kimble parcel and whether or not he had been mining on the Nelson property this was more than four years prior to the filing of the instant law suit. Original defendants had all the information available to Dressler from which to determine the boundaries of the Plaintiff's property. When it became necessary to determine the Plaintiff's boundary Waroquiers could have and should have exercised due diligence to determine the line and if they did not do so they would not be able to apportion the proper royalty payments to the appropriate landowner.

19. Denied. This is a conclusion of law and therefore no answer is necessary. If an

answer is deemed to be necessary, Dressler responds as follows, Denied. On the contrary, after reasonable investigation, Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict proof thereof is demanded at trial if relevant. Further, Dressler denies that he in anyway misled the Waroquiers about the boundary between the two properties on his mining permit. Dressler further denies that there is any express or implied contractual obligation on his part towards Waroquiers to mark out, identify, or establish the actual location of the boundary between the said Kimble and Nelson properties. Waroquiers bought such rights as Dressler had in the permitted area upon terms set out in Exhibit A which document was drafted and typed by Waroquiers.

20. Denied. This is a conclusion of law and therefore no answer is necessary.
21. Denied. This is a conclusion of law and therefore no answer is necessary.
22. Denied. On the contrary, Dressler did not breach any obligations to Waroquiers
 - A. Denied. Dressler had no duty to locate the boundary line between the two properties on his mining permit he sold the permit and the job to a knowledgeable established coal company. This was a sale between coal operators not consumers. Dressler answered all questions asked by original defendants honestly and to the best of his ability but he is not and does not represent himself to be a surveyor. If original defendants had concerns, doubts or questions about the property lines they should have taken the prudent course and obtained a survey prior to taking any coal. Dressler turned over all his maps to Waroquiers as of January 22, 2001.
 - B. Denied. Dressler had no duty to mark the boundary line between the two

properties on his mining permit he sold the permit and the job to a knowledgeable established coal company. This was a sale between coal operators not consumers. Dressler answered all questions asked by original defendants honestly and to the best of his ability but he is not and does not represent himself to be a surveyor. If original defendants had concerns, doubts or questions about the property lines they should have taken the prudent course and obtained a survey prior to taking any coal. Dressler turned over all his maps to Waroquiers as of January 22, 2001.

- C. Denied. On the contrary, Dressler advised the Waroquiers of what he knew and did so in good faith and to the best of his ability. Before progressing with the job they had just bought Waroquiers should have exercised reasonable and prudent judgment to satisfy themselves that their digging would not be in violation of permits or contracts. Waroquiers agreed in the contract that they were "...responsible for "all mining activity through MSHA and DEP Regulations..."
- D. Denied. On the contrary, Dressler did not mine any coal from or on the plaintiff's property.
- E. Denied. On the contrary, the "toe" and or low wall began to be mined on or about January 22, 2001.

23. The answer is the same as the answer to paragraph 19 above which is incorporated herein by reference as if set out in full.

24. Denied. This is a conclusion of law and therefore no answer is necessary. If an

answer is deemed to be necessary, Dressler responds as follows,

WHEREFORE, W. Ruskin Dressler prays this Honorable Court to dismiss the complaint seeking to join him as an additional defendant in this action and find that there is no liability by Dressler for:

- a. any coal taken or negligence occurring more than two years prior to the filing of the law suit, nor
- b. for any breach of contract occurring more than four years prior to the filing of the said law suit.
- c. any actions or omissions to act committed or omitted by the original defendants or by any other additional defendants

ANSWER TO COUNT III

25. Paragraphs 1-24 of the foregoing answers are incorporated herein by reference as though set forth in full.

26. Admitted that this is what plaintiff claims. But as to the truth of the matter, Dressler Denies this allegation. On the contrary, after reasonable investigation, Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict proof thereof is demanded at trial if relevant.

27. Denied. On the contrary, after reasonable investigation, Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict proof thereof is demanded at trial if relevant. Dressler has no access to original defendants' records.

28. Denied. On the contrary, after reasonable investigation, Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict

proof thereof is demanded at trial if relevant.

29. Admitted.

30. Admitted.

31. Denied. On the contrary, after reasonable investigation, Additional Defendant is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict proof thereof is demanded at trial if relevant. The agreement of November 23, 1999 pre-existed the contract of January 22, 2001 which Dressler made with original defendants and it is believed and therefore averred that this contract was superceded by the new contracts one of which was signed by W. Ruskin Dressler and the other of which was signed by Roger Thomas and both of which were signed by Gary V. Waroquier, "Secretary of (sic) Treasurer" for Waroquier Coal Co., Inc.

32. Denied. On the contrary, the agreement of January 22, 2001 (Exhibit "A") shows in the third paragraph that original defendants agreed to sell Dressler house coal out of the mine at pit price. On whatever coal the original defendants sold to Dressler they would have been responsible to pay the appropriate royalties to the proper land owner on and after January 22, 2001.

33. Denied. On the contrary, when Dressler sold house coal he accepted checks as well as cash from his customers.

34. Denied. On the contrary, the only house coal Dressler received from original defendants was in January and February 2001 and Waroquiers were required to pay the royalties on this coal pursuant to the agreement of January 22, 2001 as previously stated. Dressler paid Waroquiers the pit price for this coal. Dressler always paid the appropriate royalties on house coal he sold.

WHEREFORE, W. Ruskin Dressler prays this Honorable Court to dismiss the complaint

seeking to join him as an additional defendant in this action and find that there is no liability by Dressler for:

- a. any coal taken or negligence occurring more than two years prior to the filing of the law suit, nor
- b. for any breach of contract occurring more than four years prior to the filing of the said law suit.
- c. any actions or omissions to act committed or omitted by the original defendants or by any other additional defendants

ANSWER TO COUNT IV

35. Paragraphs 1-34 of the foregoing answers are incorporated herein by reference as though set forth in full.

36. Denied. On the contrary Defendant Dressler did not mine sell or profit from the removal of any of Plaintiff's coal. In the alternative, if defendant did profit from the removal or sale of any coal from plaintiff any right of recovery has since that event been "time barred" by the running of the applicable statute of limitations.

WHEREFORE, W. Ruskin Dressler prays this Honorable Court to dismiss the complaint seeking to join him as an additional defendant in this action and find that there is no liability by Dressler for:

- a. any coal taken or negligence occurring more than two years prior to the filing of the law suit, nor
- b. for any breach of contract occurring more than four years prior to the filing of the said law suit.

- c. any actions or omissions to act committed or omitted by the original defendants or by any other additional defendants

NEW MATTER

For his New Matter in this case additional defendant W. Ruskin Dressler hereby alleges the following directed to both the original defendants and the plaintiff:

37. Paragraphs 1-36 of Additional Defendant, W. Ruskin Dressler's, Answer are incorporated herein by reference as if set forth at length.

Affirmative Defense - Statute of Limitations

38. The Complaint against the additional defendant is allegedly based upon his negligence or in the alternative it is based upon his breach of contract.

39. The statute of limitations (Title 42 Pa. C.S. §5524) for suits pertaining to matters of negligence is two years.

40. The statute of limitations (Title 42 Pa. C.S. §5525) for suits pertaining to matters of breach of contract is four years.

41. More than four (4) years elapsed from the date of transfer (i.e. January 22, 2001) by Dressler of his rights under the relevant coal mining permit (No. 17990105) to the original defendants until the suit in this matter was filed (i.e. November 28, 2005).

42. Utilizing either the two year or the four year statute of limitations any action against this additional defendant is time barred.

Affirmative Defense - Laches

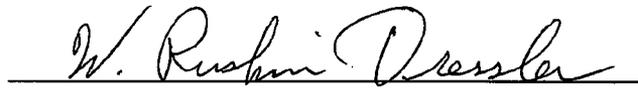
43. The passage of time from the stated default date of January 2001 until the filing of this action on November 28, 2005 constitutes unreasonable delay and has prejudiced the defendant.

VERIFICATION

I, W. RUSKIN DRESSLER, verify that the statements made in this Pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities

DATED:

July 31, 2006

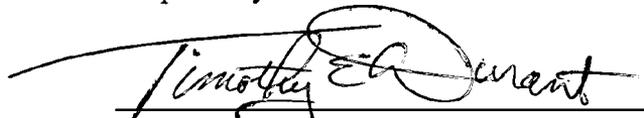

W. RUSKIN DRESSLER

44. Plaintiff's action herein and original defendants complaint against additional defendant Dressler should be barred due to unreasonable and unconscionable delay in notifying defendant and pursuing their legal remedies.

WHEREFORE, W. Ruskin Dressler prays this Honorable Court to dismiss the complaint seeking to join him as an additional defendant in this action and find that there is no liability by Dressler for:

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- b. for any breach of contract occurring more than four years prior to the filing of the said law suit.
- c. any actions or omissions to act committed or omitted by the original defendants or by any other additional defendants

Respectfully Submitted



Timothy E. Durant, Attorney for W. Ruskin Dressler

Date: July 31, 2006

AFFIDAVIT OF SERVICE

I, Michael Luongo, hereby verify that I have this day, served by personal service, a copy of the ANSWER and NEW MATTER TO ORIGINAL DEFENDANTS' COMPLAINT AGAINST ADDITIONAL DEFENDANTS AND NEW MATTER also DIRECTED TO PLAINTIFF all of which was filed in this matter on behalf of W. Ruskin Dressler, and is served upon counsel as follows:

For Plaintiff:

JAMES A. NADDEO, Esquire
207 East Market Street
PO Box 552
Clearfield PA 16830

Counsel of Record For Original Defendant :

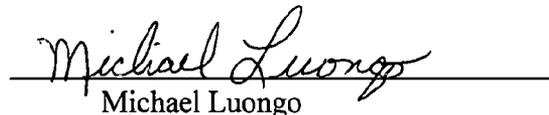
PETER F. SMITH, ESQUIRE
30 South Second Street
PO Box 130
Clearfield, PA 16830

by first class mail, postage pre-paid:

Unrepresented Additional Defendants Roger A. Thomas, Miriam R. Thomas and Ramm Coal,
Inc.:

1092 Spruce Hill Road
Rockton, PA 15856

Dated: July 31, 2006


Michael Luongo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,

No. 2005-1842-CD

Plaintiff,

vs.

ENTRY OF APPEARANCE

WAROQUIER COAL and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY and
WAROQUIER COAL COMPANY, a
partnership and WAROQUIER COAL
COMPANY, INC.,

Filed on Behalf of Additional Defendants:

Roger A. Thomas, Miriam R. Thomas and
RAMM Coal, Inc.

Defendants,

Counsel for Record for This Party:

vs.

Thomas T. Frampton, Esquire
Pa. I.D. #17286

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,

Mandi L. Scott, Esquire
Pa. I.D. #92818

Additional Defendants.

GOEHRING, RUTTER & BOEHM
Firm #102
1424 Frick Building
437 Grant Street
Pittsburgh, PA 15219
(412) 281-0587

FILED

AUG 04 2006

m/3-00/c
William A. Shaw
Prothonotary/Clerk. of Courts

no c/c

copy to C/A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,)
)
 Plaintiff,)
)
 vs.)
)
 WARQUIER COAL and JOSEPH L.)
 WARQUIER, JR. and GARY V.)
 WARQUIER, individually and co-partners)
 t/d/b/a WARQUIER COAL COMPANY and)
 WARQUIER COAL COMPANY, a) No. 2005-1842-CD
 partnership and WARQUIER COAL)
 COMPANY, INC.,)
)
 Defendants,)
)
 vs.)
)
 W. RUSKIN DRESSLER a/k/a RUSKIN)
 DRESSLER d/b/a W. RUSKIN DRESSLER)
 COAL, ROGER A. THOMAS, MIRIAM R.)
 THOMAS and RAMM COAL, INC.,)
)
 Additional Defendants.)

ENTRY OF APPEARANCE

TO: William A. Shaw, Prothonotary

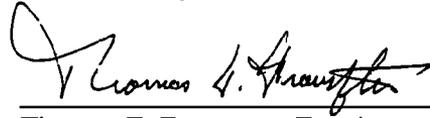
Please enter the appearance of Goehring, Rutter & Boehm, Thomas T. Frampton, Esquire and Mandi L. Scott, Esquire, on behalf of the Additional Defendants, Roger A. Thomas, Miriam R. Thomas and RAMM Coal, Inc., in the above-captioned action.

Date: August 2, 2006

Respectfully Submitted,

GOERING, RUTTER & BGEHM

By:



Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92818

Firm #102
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219
(412) 281-0587

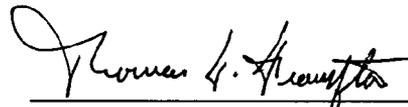
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **ENTRY OF APPEARANCE** was served upon all counsel of record via first class mail, postage prepaid, this 2nd day of August, 2006:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
Counsel for Plaintiff, Albert L. Nelson

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
Counsel for Defendants, Waroquier Coal Company, Inc., et. al.

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830
Counsel for Additional Defendants, W. Ruskin Dressler, et. al.



Thomas T. Frampton, Esquire

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY
and WAROQUIER COAL COMPANY, a
partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.
Additional Defendants

No. 2005-1842-CD

Type of case:
CIVIL

Type of Pleading:
**WAROQUIER'S ANSWER TO
DRESSLER'S NEW MATTER**

Filed on behalf of:
ALL DEFENDANTS

Counsel of Record for Defendants
Waroquiers & Waroquier Coal Company
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 Plaintiff:
James A. Naddeo, Esquire
Supreme Court ID #06820
207 East Market Street
P. O. Box 552
Clearfield, PA 16830
(814) 765-1601

Counsel of Record for Additional Defendant:
W. Ruskin Dressler
Timothy E. Durant, Esquire
Supreme Court ID # 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

Counsel of Record for Additional Defendants:
Roger A. Thomas, Miriam R. Thomas and
RAMM Coal, Inc.
Thomas T. Frampton, Esquire
Pa. ID # 17286
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219
(412) 281-0587

FILED 4cc
0/2:12/01 Atty P. Smith
AUG 14 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON, :
Plaintiff :
 :
vs. : No. 2005-1842-CD
 :
 :
WAROQUIER COAL, and JOSEPH L. :
WAROQUIER, JR. and GARY V. :
WAROQUIER, individually and co-partners :
t/d/b/a WAROQUIER COAL COMPANY :
and WAROQUIER COAL COMPANY, a :
partnership, and WAROQUIER COAL :
COMPANY, INC., :
Defendants :
 :
vs. :
 :
W. RUSKIN DRESSLER a/k/a RUSKIN :
DRESSLER d/b/a W RUSKIN DRESSLER :
COAL, ROGER A. THOMAS, MIRIAM R. :
THOMAS and RAMM COAL, INC. :
Additional Defendants :

WAROQUIER'S ANSWER TO DRESSLER'S NEW MATTER

COMES NOW, Waroquier Coal, Joseph L. Waroquier, Jr., Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc., by their Attorney Peter F. Smith, who answers Dressler's New Matter as follows:

37. Paragraphs 1 through 36 of the complaint against the additional Defendant's are incorporated herein by reference.

38. Admitted.

39. Denied as a statement of law to which no response is required. However, it is averred that suit was brought within the applicable limitation.

40. Denied as a statement of law to which no response is required. However, it is averred that suit was brought within the applicable limitation.

41. While it is admitted that the transfer document between Dressler and Waroquier was signed January 22, 2001, their contract was ongoing. Mr. Dressler continued to receive overrides for at least three years following that date. The writ of summons against Waroquiers in this case was not filed until November 28, 2005. The motion to join the additional defendants was filed May 22, 2006 well within both statutes of limitation.

42. Denied for the reasons set forth in answer 41 above.

43. Denied for the reasons set forth in answer 41 above and further denied that because Mr. Dressler and his company are not entitled to raise any equitable defenses. Waroquiers believe and therefore aver that Mr. Dressler either knew of the underlying trespass or suspected that it had occurred. He tried to extricate himself from this problem by transferring the permit to Waroquiers. His equitable defense of laches is therefore barred by the Doctrine of Unclean Hands.

44. Denied for the reasons set forth in answer 41 and 43 above.

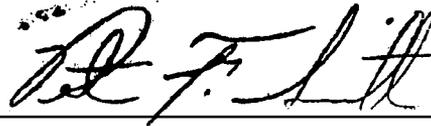
WHEREFORE, the Defendants, Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company, Waroquier Coal Company, a partnership and Waroquier Coal Company, Inc. demand:

- A. Judgment in their favor together with costs;
- B. Judgment that if there is any liability to Plaintiff, the Additional Defendants are solely liable to Plaintiff; or,

C. In the event that a verdict is recovered by Plaintiff against the Waroquier Defendants, that they have judgment over and against the Additional Defendants by way of indemnification and/or contribution for the amount recovered by Plaintiff against the Waroquier Defendants together with costs.

Respectfully submitted,

Date: 8/14/04



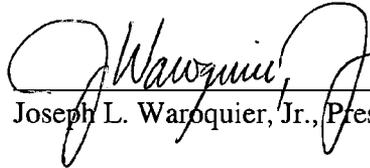
Peter F. Smith, Esquire, Attorney for Defendants Waroquier Coal, Joseph L. Waroquier, Jr., Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc.,

VERIFICATION

I verify that the statements made in this response to Additional Defendant W. Ruskin Dressler's New Matter are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

WAROQUIER COAL COMPANY, INC.

Dated: 8/10/06



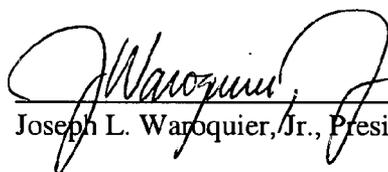
Joseph L. Waroquier, Jr., President

VERIFICATION

We verify that the statements made in this response to Additional Defendant W. Ruskin Dressler's New Matter are true and correct. We understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

WAROQUIER COAL COMPANY

Dated: 8/10/06



Joseph L. Waroquier, Jr., President

Dated: 8/10/06



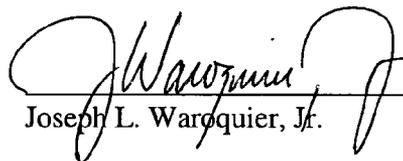
Gary W. Waroquier, Secretary/Treasurer

VERIFICATION

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

Dated:

8/10/06


Joseph L. Waroquier, Jr.

VERIFICATION

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

Dated: 8/10/06


Gary V. Waroquier

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

ALBERT L. NELSON, :
Plaintiff :
 :
No. 2005-1842-CD

vs. :

WAROQUIER COAL, and JOSEPH L. :
WAROQUIER, JR. and GARY V. :
WAROQUIER, individually and co-partners :
t/d/b/a WAROQUIER COAL COMPANY :
and WAROQUIER COAL COMPANY, a :
partnership, and WAROQUIER COAL :
COMPANY, INC., :
Defendants :

vs. :

W. RUSKIN DRESSLER a/k/a RUSKIN :
DRESSLER d/b/a W. RUSKIN DRESSLER :
COAL, ROGER A. THOMAS, MIRIAM R. :
THOMAS and RAMM COAL, INC. :
Additional Defendants :

FILED NO CC
02:12:51
AUG 14 2006
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

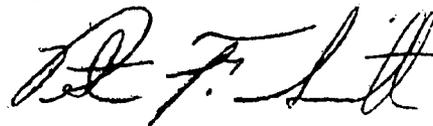
I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a copy of **WAROQUIER'S ANSWER TO DRESSLER'S NEW MATTER** was hand delivered to the Attorneys James A. Naddeo and Timothy A Durant and sent U.S. First Class Postage Prepaid to Attorney Thomas T. Frampton on August 14, 2006.

Attorney for Plaintiff
Albert L. Nelson
James A. Naddeo, Esq.
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Attorney for Defendant
W. Ruskin Dressler
Timothy A. Durant, Esq.
201 North Second Street
Clearfield, PA 16830

Attorney for Defendants Thomas'
& Ramm Coal, Inc.
Thomas T. Frampton, Esq.
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
30 South Second Street, P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

Date: August 14, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,

No. 2005-1842-CD

Plaintiff,

vs.

WAROQUIER COAL and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY and
WAROQUIER COAL COMPANY, a
partnership and WAROQUIER COAL
COMPANY, INC.,

Defendants,

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,

Additional Defendants.

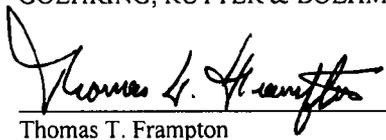
TO ALL PARTIES:

NOTICE TO PLEAD

YOU ARE HEREBY NOTIFIED TO PLEAD TO THE
ENCLOSED NEW MATTER, NEW MATTER
PURSUANT TO Pa. R.C.P. 2252(d) AND
COUNTERCLAIM WITHIN TWENTY (20) DAYS
FROM SERVICE HEREOF OR A DEFAULT
JUDGMENT MAY BE ENTERED AGAINST YOU.

GOEHRING, RUTTER & BOEHM,

BY:


Thomas T. Frampton

**ANSWER, NEW MATER, NEW MATTER
PURSUANT TO Pa. R.C.P. 2252(d) AND
COUNTERCLAIM**

Filed on Behalf of Additional Defendants:

Roger A. Thomas, Miriam R. Thomas and
RAMM Coal, Inc.

Counsel for Record for This Party:

Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92818

GOEHRING, RUTTER & BOEHM
Firm #102
1424 Frick Building
437 Grant Street
Pittsburgh, PA 15219
(412) 281-0587

FILED NO CC
M/12:01/01
AUG 18 2006
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,)
)
 Plaintiff,)
)
 vs.)
)
 WAROQUIER COAL and JOSEPH L.)
 WAROQUIER, JR. and GARY V.)
 WAROQUIER, individually and co-partners)
 t/d/b/a WAROQUIER COAL COMPANY and)
 WAROQUIER COAL COMPANY, a)
 partnership and WAROQUIER COAL)
 COMPANY, INC.,)
)
 Defendants,)
)
 vs.)
)
 W. RUSKIN DRESSLER a/k/a RUSKIN)
 DRESSLER d/b/a W. RUSKIN DRESSLER)
 COAL, ROGER A. THOMAS, MIRIAM R.)
 THOMAS and RAMM COAL, INC.,)
)
 Additional Defendants.)

No. 2005-1842-CD

ANSWER, NEW MATER, NEW MATTER PURSUANT TO Pa. R.C.P. 2252(d) AND COUNTERCLAIM

Additional Defendants, Roger A. Thomas, Miriam R. Thomas and RAMM Coal, Inc. (hereinafter "Thomas"), by their undersigned counsel, file the within Answer, New Matter, New Matter Pursuant to Pa. R.C.P.(d) to the Waroquier Defendants' Complaint to Join Additional Defendants as well as a Counterclaim against Defendant, Waroquier Coal Co., Inc., and, in support thereof, aver as follows:

1.-4. The averments of Paragraphs 1 through 4 are admitted.

5.-6. As to what the averments of Plaintiff's Complaint state, it is a document which speaks for itself and requires no response. As to the allegations of Paragraph 5 and 6, the Thomas Additional Defendants are without knowledge or information sufficient to admit or deny

the averments of Paragraph 5 and 6, hence said averments are denied and strict proof thereof is demanded at the time of trial.

7. The averments of Paragraph 7 are denied. On the contrary, the Thomas Additional Defendants believe and aver that the Waroquier Defendants strip mined the property owned by Plaintiff from January 2001 until they completed their operations. By way of further response the Thomas Additional Defendants, at no time relevant hereto, engaged in strip mining but rather at all times were removing only overburden from the properties in question.

8. The document referenced as Exhibit "A" in Paragraph 8 speaks for itself and requires no response. As to the legal sufficiency of said document and the rights it may have given to Waroquiers, these allegations require a legal conclusion to which no response is required.

9. The document referenced as Exhibit "B" in Paragraph 9 speaks for itself and requires no response. As to the legal sufficiency and the rights it may have bestowed, these allegations require a legal conclusion to which no response is required.

10. The document referenced as Exhibit "C" in Paragraph 10 speaks for itself and requires no response.

11. The document referenced as Exhibit "A" in Paragraph 11 speaks for itself and requires no response.

12. The averments of Paragraph 12 are denied. On the contrary, the Thomas Additional Defendants, with the exception of RAMM Coal, Inc., which did not come into existence until May, 2004, were, during the relevant time period, licensed contract operators who excavated only overburden from the properties in question.

13. The averments of Paragraph 13 are admitted in part and denied in part. It is admitted that the portion of the agreement between Dressler and the Thomas Additional

Defendants, with the exception of RAMM Coal, Inc. which did not come into existence until May, 2004, pertaining to the removal of overburden continued with the Waroquier Defendants. It is denied that any other portions of the agreement between Dressler and the Thomas Additional Defendants continued with Waroquier. On the contrary, the only agreement between the Thomas Additional Defendants and the Waroquier Defendants was that the Thomas Additional Defendants would remove only the overburden on the properties in question and that Waroquier Coal would pay Roger Thomas \$17.00 for each ton of coal removed by Waroquier from the property from which Thomas removed the overburden.

14. The Thomas Additional Defendants are without knowledge or information sufficient to admit or deny the averments of Paragraph 14, hence said averments are denied and strict proof thereof is demanded at the time of trial. By way of further answer, the right to entry onto the Kimble and Nelson properties and to remove overburden and coal therefrom is under the same permit issued by the Department of Environmental Protection.

15. The averments of Paragraph 15 set forth legal conclusions to which no response is required. To the extent a response is required, the Thomas Additional Defendants at all times material hereto had the legal right to be where they were to remove overburden and at no time did they mine or remove any coal. Also Dressler and/or Waroquier were responsible for all coal removal and payment of coal royalties from the Nelson property.

WHEREFORE, the Thomas Additional Defendants demand judgment in their favor and against the Waroquier Defendants and deny any obligation of sole liability, indemnification or contribution.

COUNT II

16. The responses of the Thomas Additional Defendants to Paragraphs 1 through 15 are incorporated herein by reference as though set forth fully herein.

17. The Thomas Additional Defendants are without knowledge or information sufficient to admit or deny the averments of Paragraph 17, hence said averments are denied and strict proof demanded at the time of trial.

18. The averments of Paragraph 18 are denied. On the contrary, the Thomas Additional Defendants were only removing overburden from the properties in question. By way of further answer, the Thomas Additional Defendants had no reason to know the location of the boundary lines as the Kimble and Nelson properties were on the same permit issued by the Department of Environmental Protection and the Dressler Additional Defendants and the Waroquier Defendants had the obligation to pay royalties due from the sale of coal.

19. The Thomas Additional Defendants are without knowledge or information sufficient to admit or deny the averments of Paragraph 19, hence said averments are denied and strict proof demanded at the time of trial.

20. – 21. The averments of Paragraphs 20 and 21 set forth legal conclusions to which no response is required.

22. The averments of Paragraph 22 and all of its subparts are denied. As to subparts A, B and C, the Thomas Additional Defendants incorporate their responses to Paragraphs 17, 18 and 19 herein by reference. By way of further response the Thomas Additional Defendants were only removing overburden and had no obligation to ascertain the property line. As to subpart D the Thomas Additional Defendants did not mine coal but rather removed only overburden and had no obligation to pay royalties which was rather the obligation of the Dressler Additional Defendants and the Waroquier Defendants. As to subpart E the Thomas Additional Defendants are without knowledge or information sufficient to admit or deny said averments, hence said averments are denied and strict proof thereof is demanded at the time of trial.

23. The Thomas Additional Defendants are without knowledge or information sufficient to admit or deny the averments of Paragraph 23, hence said averments are denied and strict proof demanded at the time of trial.

24. The response to Paragraph 15 is incorporated herein by reference.

WHEREFORE, the Thomas Additional Defendants demand judgment in their favor and against the Waroquier Defendants and deny any obligation of sole liability, indemnification or contribution.

COUNT III

25. The responses of the Thomas Additional Defendants to Paragraph 1 through 24 are incorporated herein by reference as though set forth fully herein.

26.-28. The Thomas Additional Defendants are without knowledge or information sufficient to admit or deny the averments of Paragraphs 26 through 28, hence said averments are denied and strict proof demanded at the time of trial.

29. The averments of Paragraph 29 are admitted.

30. The averments of Paragraph 30 are admitted except that the quoted language is not a "pertinent" part of the cited agreement but simply a part of the agreement as are the other terms of said agreement. By way of further answer, the cited portion of the agreement between Dressler and the Thomas Additional Defendants did not apply to the agreement between the Thomas Additional Defendants and the Waroquier Defendants.

31. The Thomas Additional Defendants are without knowledge or information sufficient to admit or deny the averments of Paragraph 31, hence said averments are denied and strict proof demanded at the time of trial.

32. The averments of Paragraph 32 are admitted as between the Waroquier Defendants and the Thomas Additional Defendants as the Thomas Additional Defendants never

sold any house coal from either the Kimble or Nelson jobs or received any profits from the sale of house coal by Waroquier. As to the interaction between Waroquiers and Dresslers, the Thomas Additional Defendants are without knowledge or information sufficient to admit or deny said averments and hence they are denied and strict proof is demanded at the time of trial.

33. The Thomas Additional Defendants are without knowledge or information sufficient to admit or deny the averments of Paragraph 33, hence said averments are denied and strict proof demanded at the time of trial.

34. The Thomas Additional Defendants are without knowledge or information sufficient to admit or deny the averments of Paragraph 34, hence said averments are denied and strict proof demanded at the time of trial. By way of further answer the Thomas Additional Defendants did not remove any coal from the Nelson or Kimble properties and thus could not account for any differential in the amount paid Nelson or Kimble.

WHEREFORE, the Thomas Additional Defendants demand judgment in their favor and against the Waroquier Defendants and deny any obligation of sole liability, indemnification or contribution.

COUNT IV

35. The responses of the Thomas Additional Defendants to Paragraphs 1 through 34 are incorporated herein by reference as though set forth fully herein.

36. The averments of Paragraph 36 set forth a legal conclusion to which no response is required. However, and to the extent that a response is required the Thomas Additional Defendants did not mine or sell any of the coal in question and hence could not be unjustly enriched.

WHEREFORE, the Thomas Additional Defendants demand judgment in their favor and against the Waroquier Defendants and deny any obligation of sole liability, indemnification or contribution.

NEW MATTER

The Thomas Additional Defendants plead the following New Matter based on a review of documents and based on facts and information expected to be proved in discovery:

37. RAMM Coal, Inc. was not formed until May, 2004, and hence was not in existence at any time material to the allegations in the within-captioned case.

38. The Thomas Additional Defendants operated on the Nelson property and removed overburden therefrom beginning in January, 2001 until September 30, 2002; left the property on that date; and never returned to the property for any further activity of any kind.

39. The Thomas Additional Defendant hereby assert the Statute of Limitations as to the trespass action as averred by Plaintiff and the Waroquier Defendants as all of the alleged activities occurred more than two (2) years before the Complaint was filed by Nelson in the above-captioned case.

40. The Thomas Additional Defendants assert the Statute of Limitations as to the any breach of contract claim for all coal mined and removed more than four (4) years prior to the Complaint being filed by Plaintiff.

41. The Thomas Additional Defendants at no time material hereto removed any coal from the Plaintiff's or Kimble's premises.

42. The Dressler Additional Defendants and/or the Waroquier Defendants were obligated to pay all royalties to Plaintiff.

WHEREFORE, the Thomas Additional Defendants would demand judgment in their favor and against the Waroquier Defendants and the Plaintiff and as to any claim for sole liability, contribution or indemnity.

**NEW MATTER PURSUANT TO RULE 2252(D) OF THE
PENNSYLVANIA RULES OF CIVIL PROCEDURE**

By way of further response to the Waroquier Defendants' Complaint to Join Additional Defendants, the Thomas Additional Defendants assert the following New Matter Pursuant to Rule 2252(d) of the Pennsylvania Rules of Civil Procedure:

43. The averments contained in Paragraphs 1 through 42 of the Thomas Additional Defendants' Answer and New Matter are incorporated by reference thereto as if set forth fully herein.

44. This Additional Defendant incorporates herein by reference the averments of Plaintiffs' Complaint against the original Waroquier Defendants, and the Complaint against the other Additional Defendant, W. Ruskin Dressler, a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, solely for purpose of this new matter and cross-claim only and without admitting same.

45. The Thomas Additional Defendants hereby plead that the original Defendants and the other Additional Defendant are solely liable to Plaintiff for alleged damages, if any.

46. In the event that it is determined that the Thomas Additional Defendants are liable to Plaintiffs, which liability is expressly denied, then this Additional Defendant avers that the original Defendants and the other Additional Defendant are jointly and severally liable to Plaintiff for the damages allegedly sustained as a result of the occurrence giving rise to this action.

47. The Thomas Additional Defendants further aver that in the event that this Additional Defendant is determined to be liable to Plaintiff on account of the events described in Plaintiffs' Complaint, which right of recovery is specifically denied, then this Additional

Defendant avers that the original Defendants and the other Additional Defendant are liable over to this Additional Defendant under the principles of contribution and/or indemnification pursuant to contract and/or law.

WHEREFORE, Additional Defendants, deny that they are indebted to Plaintiff in any sum whatsoever and, in the alternative, assert that the original Defendants and/or the other Additional Defendant are liable over to the Thomas Additional Defendants on the principles of joint and several liability and/or contribution and/or indemnity.

COUNTERCLAIM

Roger A. Thomas v. Waroquier Coal Co., Inc.

Roger A. Thomas, one of the Thomas Additional Defendants, pleads the following counterclaim against Waroquier Coal Co., Inc. based on a review of documents and based on facts and information that he believes will be proved in discovery and at trial:

48. In his Complaint in Paragraphs 11 and 12 Plaintiff alleges that the Waroquier Defendants which includes Waroquier Coal Co., Inc., removed 39,083 tons of coal from his premises without paying for said coal.

49. In Paragraph 27 of their Complaint against Additional Defendants the Waroquier Defendants appear to acknowledge responsibility for mining 19,655 tons of Plaintiff's coal.

50. Additionally, in their Complaint to Join Additional Defendants, Defendants allege that the Thomas Additional Defendants mined and sold the unaccounted for 19,428 tons of coal.

51. The Thomas Additional Defendants, specifically Roger A. Thomas, removed only overburden on the Nelson and Kimble properties and did not mine and/or sell any coal on either premises.

52. On or about January 22, 2001, the Dressler Additional Defendants assigned their Surface Mining Permit for the Nelson and Kimble properties to the Waroquier Defendants and

hence after January 22, 2001, the parties permitted to remove coal from the Nelson and Kimble properties were the Waroquier Defendants.

53. The Waroquier Defendants, including Waroquier Coal Company, Inc., had an agreement with Roger A. Thomas to remove the overburden from the coal on the Nelson and Kimble properties and as compensation therefore Waroquier Coal would pay Thomas \$17.00 for each ton of coal removed by Waroquier from those properties from which Thomas removed the overburden.

54. Thomas believes that the evidence will establish that Waroquier Coal removed and sold the unaccounted for 19,428 tons of coal.

55. Roger A. Thomas was only paid for 15,660 tons of coal removed by the Waroquier Defendants.

56. If Waroquier Coal removed at least 19,655 tons of coal, as is admitted in paragraph 27 of Defendants' Complaint Against Additional Defendants, Waroquier Coal owes Roger A. Thomas, at the very least, an additional \$67,915.00.

57. If it is determined that Waroquier Coal removed and sold the unaccounted for 19,428 tons of coal at issue, it owes Roger A. Thomas \$17.00 for each additional ton of coal removed, or \$330,276.00.

58. Roger A. Thomas believes that Waroquier Coal fraudulently concealed the mining of this additional coal in part to avoid paying Thomas for the removal of the overburden.

59. Roger A. Thomas was not aware of the evidence of and could not discover that Waroquier Coal was mining and selling this additional coal and thus not paying him what it was contractually obligated to do until at the earliest 2004.

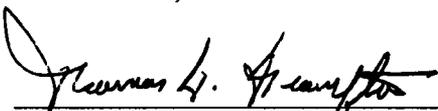
60. By failing to pay Roger A. Thomas for the removal of the coal beyond 15,660 tons, Waroquier Coal breached its contract with Roger A. Thomas.

WHEREFORE, Roger A. Thomas would demand judgment in his favor against Waroquier Coal Company, Inc. in the amount of \$398,191.00, plus interest at the legal rate from the time it is determined that Waroquier Coal Company, Inc. breached its contract with Roger A. Thomas.

Date: August 17, 2006

Respectfully Submitted,

GOEHRING, RUTTER & BOEHM

By: 
Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92818

Firm #102
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219
(412) 281-0587

VERIFICATION

We, Roger A. Thomas and Miriam R. Thomas, individually and as the sole shareholders of RAMM Coal, Inc., do hereby verify that we have read the foregoing **ANSWER AND NEW MATTER, NEW MATTER PURSUANT TO Pa. R.C.P. 2252(D) AND COUNTERCLAIM OF ADDITIONAL DEFENDANTS ROGER A. THOMAS, MIRIAM R. THOMAS AND RAMM COAL, INC., TO DEFENDANTS' COMPLAINT AGAINST ADDITIONAL DEFENDANTS** and the statements therein are correct to the best of our knowledge, information and belief.

This Verification is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unknown falsification to authorities.

Date: August 17, 2006



Roger A. Thomas



Miriam R. Thomas

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within ANSWER, NEW MATTER, NEW MATTER PURSUANT TO Pa. R.C.P. 2252(d) AND COUNTERCLAIM was served upon all counsel of record via overnight delivery, this 18th day of August, 2006:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
Counsel for Plaintiff, Albert L. Nelson

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
Counsel for Defendants, Waroquier Coal Company, Inc., et. al.

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830
Counsel for Additional Defendants, W. Ruskin Dressler, et. al.



Thomas T. Frampton, Esquire

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY
and WAROQUIER COAL COMPANY, a
partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.
Additional Defendants

No. 2005-1842-CD

Type of case:
CIVIL

Type of Pleading:
**WAROQUIERS' ANSWER TO THOMAS'
NEW MATTER & COUNTERCLAIM &
NEW MATTER**

Filed on behalf of : **ALL DEFENDANTS**

Counsel of Record for Defendants
Waroquiers & Waroquier Coal Company:
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 Plaintiff:
James A. Naddeo, Esquire
Supreme Court ID #06820
207 East Market Street
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Clearfield, PA 16830
(814) 765-1601

Counsel of Record for Additional Defendant
W. Ruskin Dressler:
Timothy E. Durant, Esquire
Supreme Court ID # 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

Counsel of Record for Additional Defendants:
Roger A. Thomas, Miriam R. Thomas and
RAMM Coal, Inc.:
Thomas T. Frampton, Esquire
Pa. ID # 17286
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219
(412) 281-0587

FILED 4cc
013:07/01
SEP 08 2005
Atty Smith
LPS

William A. Shaw
Prothonotary/Clerk of Courts

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

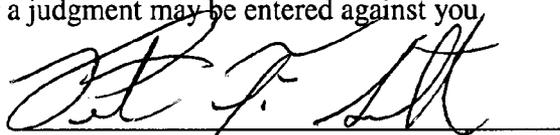
ALBERT L. NELSON, :
Plaintiff :
 : No. 2005-1842-CD
vs. :
 :
WAROQUIER COAL, and JOSEPH L. :
WAROQUIER, JR. and GARY V. :
WAROQUIER, individually and co-partners :
t/d/b/a WAROQUIER COAL COMPANY :
and WAROQUIER COAL COMPANY, a :
partnership, and WAROQUIER COAL :
COMPANY, INC., :
Defendants :
 :
vs. :
 :
W. RUSKIN DRESSLER a/k/a RUSKIN :
DRESSLER d/b/a W RUSKIN DRESSLER :
COAL, ROGER A. THOMAS, MIRIAM R. :
THOMAS and RAMM COAL, INC. :
Additional Defendants :

NOTICE TO DEFEND

To: Roger A. Thomas and Miriam R. Thomas
RAMM Coal, Inc.
C/O Thomas T. Frampton, Esquire
Attorney for Additional Defendants

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

Date: September 8, 2006



Peter F. Smith, Esquire
Attorney for Defendants Waroquier
P. O. Box 130
30 South Second Street
Clearfield, PA 16830
(814) 765-5595

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

ALBERT L. NELSON, :
Plaintiff :
 :
vs. : No. 2005-1842-CD
 :
 :
WAROQUIER COAL, and JOSEPH L. :
WAROQUIER, JR. and GARY V. :
WAROQUIER, individually and co-partners :
t/d/b/a WAROQUIER COAL COMPANY :
and WAROQUIER COAL COMPANY, a :
partnership, and WAROQUIER COAL :
COMPANY, INC., :
Defendants :
 :
vs. :
 :
 :
W. RUSKIN DRESSLER a/k/a RUSKIN :
DRESSLER d/b/a W RUSKIN DRESSLER :
COAL, ROGER A. THOMAS, MIRIAM R. :
THOMAS and RAMM COAL, INC. :
Additional Defendants :

**WAROQUIERS' ANSWER TO THOMAS' NEW MATTER & COUNTERCLAIM
& NEW MATTER**

COMES NOW, Waroquier Coal, Joseph L. Waroquier, Jr., Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc., by their Attorney Peter F. Smith, who answers Thomas' New Matter and Counterclaim as follows:

1 - 36. Paragraphs 1 through 36 of the complaint against the Additional Defendants are incorporated herein by reference as though set forth in full

37. Neither admitted nor denied because the Waroquiers are without knowledge of this averment and strict proof thereof is requested at trial.

38. Denied. Thomas and his equipment remained on the property and part of the job until January - February of 2005.

39. Denied as a conclusion of law. To the extent that an answer is required, Waroquiers aver that their complaint against the Additional Defendants sounds in contract. The Motion to Join the Additional Defendants was filed May 26, 2006 which was well within the applicable four year statute of limitations. The complaint against the Additional Defendants was filed July 11, 2006 which is also within the applicable statute of limitations. *Assuming for the purpose of argument that Thomas' averment in paragraph 38 of its New Matter that their contract with Waroquiers concluded September 30, 2002, (which Waroquiers in the preceding paragraph have denied) is correct, Waroquiers still filed within four years..*

Count IV of Waroquiers' complaint against the Additional Defendants asserts a claim based in equity which is governed not by a statute of limitations but rather by the principal of Laches. Waroquiers believe and therefore aver that they have joined the Additional Defendants within a reasonable period of time. The Additional Defendants have not been prejudiced, particularly Mr. Thomas since his relationship with Mr. Nelson is ongoing and he has been assisting Mr. Nelson in his claim against Waroquiers in this suit.

40. Denied for the reasons set forth in paragraph 39 above.

41. Denied. Thomas Additional Defendants were engaged in the strip mining process at periods relevant to these proceedings. They had the machinery and opportunity to remove coal, and as a subcontractor of the Waroquiers, were responsible for any quantities of coal not removed by the Waroquiers because they (Thomas) were in possession and control of the premises.

42. Admitted but further averred that this averment is not material to the claims asserted by Waroquiers against the Thomas' and RAMM Coal, Inc. because they breached the other provisions of their contract, express and implied, with Waroquiers as more fully stated in paragraph

22 of the complaint to join the Additional Defendants.

WHEREFORE, the Defendants, Joseph L. Waroquier, Jr., Gary V. Waroquier, Waroquier Coal Company, Waroquier Coal Company, a partnership and Waroquier Coal Company, Inc. demand:

- A. Judgment in their favor together with costs;
- B. Judgment that if there is any liability to Plaintiff, the Additional Defendants are solely liable to Plaintiff; or,
- C. In the event that a verdict is recovered by Plaintiff against the Waroquier Defendants, that they have judgment over and against the Additional Defendants by way of indemnification and/or contribution for the amount recovered by Plaintiff against the Waroquier Defendants together with costs.

**THOMAS' NEW MATTER PURSUANT RO RULE 2252(D) OF THE
PENNSYLVANIA RULES OF CIVIL PROCEDURE**

43 & 44. The averments of the complaint and the preceding paragraphs 37 through 42 are incorporated herein by reference as though set forth in full

45. Denied. Waroquiers believe and therefore aver for the reasons set forth in the complaint that both Additional Defendants are liable and therefore jointly and severally liable.

46. Denied for the reasons set forth in paragraph 45 above.

47. Denied for the reasons set forth in paragraph 45 above.

WHEREFORE, Defendants Waroquier pray for judgment against the Additional Defendants as set forth above.

ANSWER TO COUNTERCLAIM

Roger A. Thomas v. Waroquier Coal Co., Inc.

48. Admitted that Plaintiff makes those allegations but denied that those allegations are true for the reasons set forth in paragraphs 11 and 12 of Waroquiers' answer to Nelson's complaint.

49. Admitted.

50. Denied as stated. Defendants believe that only 19,655 tons were actually mined and removed from Plaintiff's property. Waroquiers deny mining, removing and selling any additional tonnage. In the event that additional tonnage was mined, removed and/or sold, then by process of elimination, it must have been by one or both of the Additional Defendants.

51. Denied for the reasons set forth in paragraph 41 above.

52. Admitted.

53. Denied for the reasons set forth in paragraph 41 above.

54. Denied. Waroquiers believe that the evidence will establish that this assertion is based upon faulty assumptions, incorrect information, bad engineering and bad faith by the calculators.

55. Denied. Waroquiers' records indicate that Mr. Thomas was paid for 15,660.09 tons of coal.

56. Denied. Although Waroquiers believe the tonnage removed from the Nelson property is 19,655 tons, Mr. Thomas was not involved with the removal of 3,994.91 tons of that total tonnage. Therefore, he is entitled to no compensation in regard to that tonnage. Waroquiers aver that Mr. Thomas has been paid in full.

57. Denied for the reasons set forth in paragraphs 11 and 12 of Waroquiers' answer to the original complaint and further denied for the reasons set forth in paragraphs 54 and 56 above.

58. Denied. Roger A. Thomas personally operated the dragline and other mining equipment for his portion of the stripmining. It would have been impossible for the Waroquiers to conceal the mining and removal of an amount of coal twice that reported from Mr. Thomas.

59. Denied for the reasons set forth in paragraph 58 and further denied because as averred in paragraph 39 above, Mr. Thomas has been assisting Mr. Nelson with this litigation since prior to its filing.

60. Denied for the reasons set forth in paragraphs 54 and 56 above.

WHEREFORE, Defendants Waroquier pray that Roger A. Thomas' demand for judgment be denied.

NEW MATTER

61. By virtue of his presence on the job each and every workday, Mr. Thomas either knew or reasonably should have known the quantities of coal mined and removed from the Nelson property.

62. Waroquiers believe and therefore aver that Mr. Thomas has assisted Mr. Nelson in the preparation and pursuit of this litigation. Therefore, he has known about these issues since at least 2004.

63. Therefore, Mr. Thomas' allegation of fraudulent concealment in paragraph 58 of his Counterclaim is baseless.

64. In the event that it is determined that Waroquiers' claim against the Additional Defendants is barred by the statute of limitations, then the claim of Roger A. Thomas against Waroquier Coal Co., Inc. is also barred.

WHEREFORE, Waroquier Coal Co., Inc. prays that Mr. Thomas' claim against it be dismissed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P.F. Smith', written over a horizontal line.

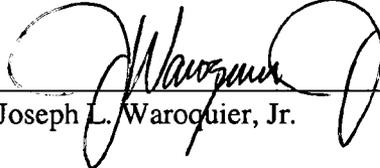
Date: September 8, 2006

Peter F. Smith, Esquire,
Attorney for Defendants

VERIFICATION

I verify that the statements made in this response to Additional Defendants Thomas and RAMM Coal, Inc.'s New Matter and Counterclaim and New Matter are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Dated: 9/8/06



Joseph L. Waroquier, Jr.

VERIFICATION

I verify that the statements made in this response to Additional Defendants Thomas and RAMM Coal, Inc.'s New Matter and Counterclaim and New Matter are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Dated: 9-8-06

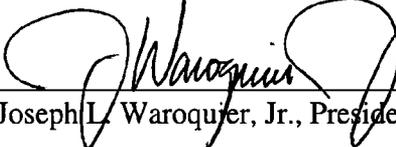
Gary V Waroquier
Gary V Waroquier

VERIFICATION

We verify that the statements made in this response to Additional Defendants Thomas and RAMM Coal, Inc.'s New Matter and Counterclaim and New Matter are true and correct. We understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

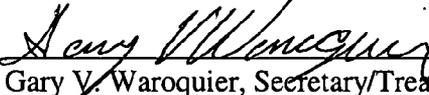
WAROQUIER COAL COMPANY

Dated: 9/8/06



Joseph L. Waroquier, Jr., President

Dated: 9-8-06



Gary V. Waroquier, Secretary/Treasurer

FILED

SEP 08 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON,
Plaintiff

No. 2005-1842-CD

vs.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY
and WAROQUIER COAL COMPANY, a
partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

FILED *no cc*
0/3/07/2006
SEP 08 2006
William A. Shaw
Prothonotary/Clerk of Courts

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.
Additional Defendants

CERTIFICATE OF SERVICE

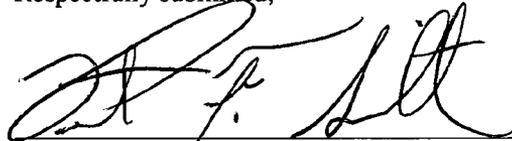
I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a copy of **WAROQUIERS' ANSWER TO THOMAS' NEW MATTER & COUNTERCLAIM & NEW MATTER** was hand delivered to the Attorneys James A. Naddeo and Timothy E. Durant and sent U.S. First Class Mail, Postage Prepaid, to Attorney Thomas T. Frampton on September 8, 2006.

Attorney for Plaintiff
Albert L. Nelson
James A. Naddeo, Esq.
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Attorney for Defendant
W. Ruskin Dressler
Timothy E. Durant, Esq.
201 North Second Street
Clearfield, PA 16830

Attorney for Defendants Thomas'
& Ramm Coal, Inc.
Thomas T. Frampton, Esq.
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219

Respectfully submitted,



Date: September 8, 2006

Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
30 South Second Street, P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

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

ALBERT L NELSON,

No. 2005-1842-CD

Plaintiff,

vs.

REPLY TO NEW MATTER

WAROQUIER COAL and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/t/a WAROQUIER COAL COMPANY and
WAROQUIER COAL COMPANY, a
partnership and WAROQUIER COAL
COMPANY, INC.,

Defendants,

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/t/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,

Additional Defendants.

Filed on Behalf of Additional Defendants:

Roger A. Thomas, Miriam R. Thomas and
RAMM Coal, Inc.

Counsel for Record for This Party:

Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92318

GOEHRING, RUTTER & BOEHM
Firm #102
1424 Frick Building
437 Grant Street
Pittsburgh, PA 15219
(412) 281-0587

FILED *NO CC*
011:24201
SEP 27 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,)
)
 Plaintiff,)
)
 vs.)
)
 WAROQUIER COAL and JOSEPH L.)
 WAROQUIER, JR. and GARY V.)
 WAROQUIER, individually and co-partners)
 t/d/b/a WAROQUIER COAL COMPANY and)
 WAROQUIER COAL COMPANY, a) No. 2005-1842-CD
 partnership and WAROQUIER COAL)
 COMPANY, INC.,)
)
 Defendants,)
)
 vs.)
)
 W. RUSKIN DRESSLER a/k/a RUSKIN)
 DRESSLER d/b/a W. RUSKIN DRESSLER)
 COAL, ROGER A. THOMAS, MIRIAM R.)
 THOMAS and RAMM COAL, INC.,)
)
 Additional Defendants.)

REPLY TO NEW MATTER

AND NOW, come the Additional Defendants, Roger A. Thomas, Miriam R. Thomas and Ramm Coal, Inc. (hereinafter "Thomas"), by their undersigned attorneys, and file the following Reply to New Matter filed by Waroquier Coal, Joseph L. Waroquier, Jr., Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc. (hereinafter "Waroquier Defendants").

61. The averments of Paragraph 61 are denied. On the contrary, all engineering for the project at issue was performed by W. Ruskin Dressler and the Waroquier Defendants. The

Additional Defendant Roger A. Thomas never saw any of the engineering reports and had no knowledge of the amount of coal that should have been there. By way of further answer, Roger A. Thomas' obligation for the project at issue was to remove overburden, not coal. Furthermore, he relied on the weigh slips given to him by both Dressler and Waroquier regarding the amount of coal removed.

62. The averments of Paragraph 62 are admitted in part and denied in part. It is admitted that Roger A. Thomas became aware sometime in 2004 of the mining and selling of additional coal by Waroquier Coal for which he was not being paid and for which Waroquier Coal was contractually obligated to pay him. It is denied that Roger A. Thomas assisted Mr. Nelson in preparation and pursuit of this litigation. On the contrary, he provided information regarding the project at issue to Mr. Nelson through his attorney.

63. The averments of Paragraph 63 set forth a legal conclusion to which no response is required. To the extent a response is required; the averments of the Counterclaim filed by Roger A. Thomas are incorporated herein by reference.

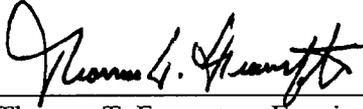
64. The averments of Paragraph 64 set forth a legal conclusion to which no response is required.

WHEREFORE, the Thomas Additional Defendants would demand that judgment be entered in their favor against the above-named Waroquier Defendants.

Date: September 26, 2006

Respectfully Submitted,

GOEHRING, RUTTER & BOEHM

By: 
Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92818

Firm #102
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219
(412) 281-0587

VERIFICATION

We, Roger A. Thomas and Miriam R. Thomas, individually and as the sole shareholders of RAMM Coal, Inc., do hereby verify that we have read the foregoing **REPLY TO NEW MATTER** and the statements therein are correct to the best of our knowledge, information and belief.

This Verification is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unknown falsification to authorities.

Date: September 26, 2006


Roger A. Thomas


Miriam R. Thomas

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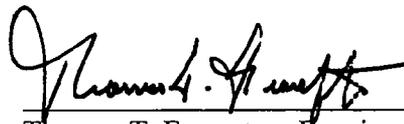
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **REPLY TO NEW MATTER** was served upon all counsel of record via Overnight Delivery this 26th day of September, 2006:

James A. Nacdeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
Counsel for Plaintiff, Albert L. Nelson

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
Counsel for Defendants, Waroquier Coal Company, Inc., et. al.

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830
Counsel for Additional Defendants, W. Ruskin Dressler, et. al.



Thomas T. Frampton, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,

No. 2005-1842-CD

Plaintiff,

vs.

WAROQUIER COAL and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY and
WAROQUIER COAL COMPANY, a
partnership and WAROQUIER COAL
COMPANY, INC.,

Defendants,

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,

Additional Defendants.

NOTICE OF SERVICE OF DISCOVERY

Filed on Behalf of Additional Defendants:

Roger A. Thomas, Miriam R. Thomas and
RAMM Coal, Inc.

Counsel for Record of This Party:

Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92818

GOEHRING, RUTTER & BOEHM
Firm #102
1424 Frick Building
437 Grant Street
Pittsburgh, PA 15219
(412) 281-0587

FILED *NO CC*
21:57
OCT 30 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON,)
)
 Plaintiff,)
)
 vs.)
)
 WAROQUIER COAL and JOSEPH L.)
 WAROQUIER, JR. and GARY V.)
 WAROQUIER, individually and co-partners)
 t/d/b/a WAROQUIER COAL COMPANY and)
 WAROQUIER COAL COMPANY, a) No. 2005-1842-CD
 partnership and WAROQUIER COAL)
 COMPANY, INC.,)
)
 Defendants,)
)
 vs.)
)
 W. RUSKIN DRESSLER a/k/a RUSKIN)
 DRESSLER d/b/a W. RUSKIN DRESSLER)
 COAL, ROGER A. THOMAS, MIRIAM R.)
 THOMAS and RAMM COAL, INC.,)
)
 Additional Defendants.)

NOTICE OF SERVICE OF DISCOVERY

TO THE PROTHONOTARY:

Please be advised that the following discovery requests, along with a copy of this Notice of Service of the same, were served upon the specified parties this 26th day of October, 2006, by first class U.S. Mail, at the addresses indicated below.

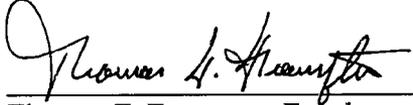
1. Additional Defendants Roger A. Thomas, Miriam R. Thomas and RAMM Coal, Inc.'s First Set of Interrogatories and Request for Production of Documents Directed to Plaintiff, Albert L. Nelson;

2. Additional Defendants Roger A. Thomas, Miriam R. Thomas and RAMM Coal, Inc.'s First Set of Interrogatories and Request for Production of Documents Directed to Defendants, Waroquier Coal and Joseph L. Waroquier, Jr. and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company and Waroquier Coal Company, a partnership and Waroquier Coal Company, Inc.

Date: October 26, 2006

Respectfully Submitted,

GOEHRING, RUTTER & BOEHM

By: 
Thomas T. Frampton, Esquire
Pa. I.D. #17286

Firm #102
1424 Frick Building
437 Grant Street
Pittsburgh, PA 15219
(412) 281-0587

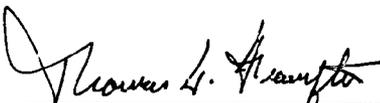
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **NOTICE OF SERVICE OF DISCOVERY** was served by United States First Class, postage pre-paid mail this 26th day of October, 2006, upon:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
Counsel for Plaintiff, Albert L. Nelson

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
Counsel for Defendants, Waroquier Coal Company, Inc., et. al.

Timothy E. Duran, Esquire
201 North Second Street
Clearfield, PA 16830
Counsel for Additional Defendants, W. Ruskin Dressler, et. al.

By: 
Thomas T. Frampton, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,

No. 2005-1842-CD

Plaintiff,

vs.

WAROQUIER COAL and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY and
WAROQUIER COAL COMPANY, a
partnership and WAROQUIER COAL
COMPANY, INC.,

Defendants,

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,

Additional Defendants.

**NOTICE OF SERVICE OF DISCOVERY
TO ADDITIONAL DEFENDANT W.
RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL**

Filed on Behalf of Additional Defendants:

Roger A. Thomas, Miriam R. Thomas and
RAMM Coal, Inc.

Counsel for Record of This Party:

Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92818

GOEHRING, RUTTER & BOEHM

Firm #102

1424 Frick Building

437 Grant Street

Pittsburgh, PA 15219

(412) 281-0587

FILED NO CC
NOV 17 2006
53/01
JUN

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON,)
)
 Plaintiff,)
)
 vs.)
)
 WAROQUIER COAL and JOSEPH L.)
 WAROQUIER, JR. and GARY V.)
 WAROQUIER, individually and co-partners)
 t/d/b/a WAROQUIER COAL COMPANY and)
 WAROQUIER COAL COMPANY, a) No. 2005-1842-CD
 partnership and WAROQUIER COAL)
 COMPANY, INC.,)
)
 Defendants,)
)
 vs.)
)
 W. RUSKIN DRESSLER a/k/a RUSKIN)
 DRESSLER d/b/a W. RUSKIN DRESSLER)
 COAL, ROGER A. THOMAS, MIRIAM R.)
 THOMAS and RAMM COAL, INC.,)
)
 Additional Defendants.)

NOTICE OF SERVICE OF DISCOVERY TO ADDITIONAL DEFENDANT
W. RUSKIN DRESSLER a/k/a RUSKIN DRESSLER
d/b/a W. RUSKIN DRESSLER COAL

TO THE PROTHONOTARY:

Please be advised that the following discovery requests, along with a copy of this Notice of Service of the same, were served upon the specified parties this 15th day of November, 2006, by first class U.S. Mail, at the addresses indicated below.

1. Additional Defendants Roger A. Thomas, Miriam R. Thomas and RAMM Coal, Inc.'s First Set of Interrogatories and Request for Production of Documents Directed to Additional Defendant W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal.

Date: November 15, 2006

Respectfully Submitted,

GOEHRING, RUTTER & BOEHM

By:



Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92818

Firm #102
1424 Frick Building
437 Grant Street
Pittsburgh, PA 15219
(412) 281-0587

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **NOTICE OF SERVICE OF DISCOVERY TO ADDITIONAL DEFENDANT W. RUSKIN DRESSLER a/k/a RUSKIN DRESSLER d/b/a W. RUSKIN DRESSLER COAL** was served by United States First Class, postage pre-paid mail this 15th day of November, 2006, upon:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
Counsel for Plaintiff, Albert L. Nelson

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 15830
Counsel for Defendants, Waroquier Coal Company, Inc., et. al.

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830
Counsel for Additional Defendants, W. Ruskin Dressler, et. al.

By: 

Mardi L. Scott, Esquire

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

ALBERT L. NELSON, :
Plaintiff :
 :
vs. : No. 2005-1842-CD
 :
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WAROQUIER COAL, and JOSEPH L. :
WAROQUIER, JR. and GARY V. :
WAROQUIER, individually and co-partners :
t/d/b/a WAROQUIER COAL COMPANY :
and WAROQUIER COAL COMPANY, a :
partnership, and WAROQUIER COAL :
COMPANY, INC., :
Defendants :
 :
vs. :
 :
W. RUSKIN DRESSLER a/k/a RUSKIN :
DRESSLER d/b/a W. RUSKIN DRESSLER :
COAL, ROGER A. THOMAS, MIRIAM R. :
THOMAS and RAMM COAL, INC. :
Additional Defendants :

FILED
NOV 27 2006
0 12:06/wn
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a copy of **DEFENDANTS' RESPONSE TO PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS** was hand delivered to the Attorneys James A. Naddeo and Timothy E. Durant and sent U.S. First Class Mail, Postage Prepaid, to Attorney Thomas T. Frampton on November 22, 2006.

Attorney for Plaintiff
Albert L. Nelson
James A. Naddeo, Esq.
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Attorney for Defendant
W. Ruskin Dressler
Timothy E. Durant, Esq.
201 North Second Street
Clearfield, PA 16830

Attorney for Defendants Thomas'
& RAMM Coal, Inc.
Thomas T. Frampton, Esq.
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
30 South Second Street, P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

Date: November 22, 2006

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

ALBERT L. NELSON,
Plaintiff

No. 2005-1842-CD

vs.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY
and WAROQUIER COAL COMPANY, a
partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.
Additional Defendants

FILED

NOV 29 2006

William A. Shaw
Prothonotary/Clerk of Courts

01/300/cwm

no cert copie

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a **NOTICE TO TAKE ORAL DEPOSITION** of Albert L. Nelson, W. Ruskin Dressler and Roger A. Thomas was hand delivered to Attorneys James A. Naddeo and Timothy E. Durant and sent U.S. First Class Mail, Postage Prepaid, to Attorney Thomas T. Frampton on November 29, 2006.

Attorney for Plaintiff
Albert L. Nelson
James A. Naddeo, Esq.
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Attorney for Defendant
W. Ruskin Dressler
Timothy E. Durant, Esq.
201 North Second Street
Clearfield, PA 16830

Attorney for Defendants Thomas'
& Ramm Coal, Inc.
Thomas T. Frampton, Esq.
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
30 South Second Street, P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

Date: November 29, 2006

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY
and WAROQUIER COAL COMPANY, a
partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.
Additional Defendants

No. 2005-1842-CD

FILED ^{NOCC}
DEC 04 2006
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a copy of **DEFENDANTS' ANSWERS TO THOMAS' & RAMM COAL, INC.'S INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS** was hand delivered to the Attorneys James A. Naddeo and Timothy E. Durant and sent U.S. First Class Mail, Postage Prepaid, to Attorney Thomas T. Frampton on December 1, 2006.

Attorney for Plaintiff
Albert L. Nelson
James A. Naddeo, Esq.
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

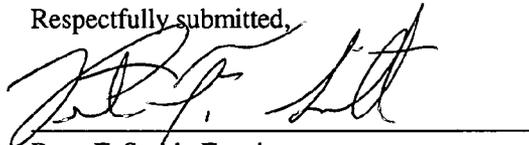
Attorney for Defendant
W. Ruskin Dressler
Timothy E. Durant, Esq.
201 North Second Street
Clearfield, PA 16830

Attorney for Defendants Thomas' & Ramm Coal, Inc.
Thomas T. Frampton, Esq.
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219

Date:

12/1/06

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
30 South Second Street, P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY
and WAROQUIER COAL COMPANY, a
partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.
Additional Defendants

No. 2005-1842-CD

FILED *ncc*
01:10:50 PM
DEC 05 2006
JS

William A. Shaw
Prothonotary/Clerk of Courts

**SUPPLEMENT TO DEFENDANT WAROQUIERS' ANSWERS TO THOMAS' & RAMM
COAL INC.'S INTERROGATORIES & REQUEST FOR PRODUCTION**

COMES NOW, the Waroquier Defendants who supplement the answers to discovery which they submitted December 1, 2006.

14. The Waroquier Defendants' answer to Interrogatory 14 contained an error. The correct answer follows. The corrections appear in italics:

The Waroquier Defendants' review of their records and additional engineering studies which they obtained in conjunction with this litigation establishes that they removed approximately 35,000 tons of coal from *both Plaintiff's and the Kimbles' properties, in other words from the entire permit. Waroquiers believe that of that total amount 19,186.07 tons were from Plaintiff's property.*

If it is judicially determined that additional coal was removed from Plaintiff's property, then it had

to have been removed by Defendants Dressler, Thomas and/or RAMM Coal because they were the only other parties present on the property with equipment and otherwise able to remove coal.

The Waroquier Defendants reserve the right to supplement this Answer as additional evidence is produced through discovery.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "P.F. Smith", written over a horizontal line.

Peter F. Smith, Esquire,
Attorney for Defendants

Date: December 4, 2006

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY
and WAROQUIER COAL COMPANY, a
partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.
Additional Defendants

No. 2005-1842-CD

Type of case:
CIVIL

Type of Pleading:
**SUPPLEMENT TO DEFENDANT
WAROQUIERS' ANSWERS TO THOMAS'
& RAMM COAL INC.'S INTERROGATORIES
& REQUEST FOR PRODUCTION**

Filed on behalf of : **Waroquier Defendants**

Counsel of Record for Defendants
Waroquiers & Waroquier Coal Company:
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 Plaintiff:
James A. Naddeo, Esquire
Supreme Court ID #06820
207 East Market Street
P. O. Box 552
Clearfield, PA 16830
(814) 765-1601

Counsel of Record for Additional Defendant
W. Ruskin Dressler:
Timothy E. Durant, Esquire
Supreme Court ID # 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

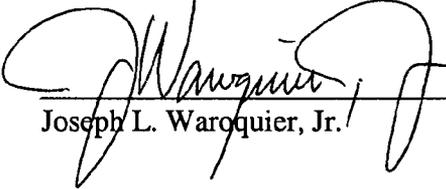
Counsel of Record for Additional Defendants:
Roger A. Thomas, Miriam R. Thomas and
RAMM Coal, Inc.:
Thomas T. Frampton, Esquire
Pa. ID # 17286
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219
(412) 281-0587

VERIFICATION

I verify that the preceding Supplement to Discovery is true, correct and authentic.

I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Dated: December 4, 2006



Joseph L. Waroquier, Jr.

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

ALBERT L. NELSON,
Plaintiff

vs.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY
and WAROQUIER COAL COMPANY, a
partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.
Additional Defendants

No. 2005-1842-CD

FILED NO CC
01/10:50/BJ
DEC 05 2006

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a copy of **SUPPLEMENT TO DEFENDANT WAROQUIERS' ANSWER TO THOMAS' & RAMM COAL, INC.'S INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS** was faxed to the Attorneys James A. Naddeo and Timothy E. Durant and sent U.S. First Class Mail, Postage Prepaid, to Attorney Thomas T. Frampton on December 4, 2006.

Attorney for Plaintiff
Albert L. Nelson
James A. Naddeo, Esq.
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Attorney for Defendant
W. Ruskin Dressler
Timothy E. Durant, Esq.
201 North Second Street
Clearfield, PA 16830

Attorney for Defendants Thomas' & RAMM Coal, Inc.
Thomas T. Frampton, Esq.
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
30 South Second Street, P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

Date: December 4, 2006

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

ALBERT L. NELSON,	*	
an individual,	*	
Plaintiff,	*	
	*	
v.	*	No. 05 - 1842 - CD
	*	
WAROQUIER COAL,	*	
and	*	
JOSEPH L. WAROQUIER, JR. and	*	
GARY V. WAROQUIER, individually	*	
and co-partners t/d/b/a	*	
WAROQUIER COAL COMPANY,	*	
and	*	
WAROQUIER COAL COMPANY,	*	
a partnership,	*	
and	*	
WAROQUIER COAL COMPANY, INC.	*	
Defendants.	*	

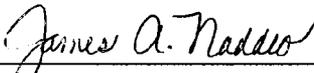
CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a copy of the ANSWER TO ADDITIONAL DEFENDANTS ROGER A. THOMAS, MIRIAM R. THOMAS AND RAMM COAL, INC'S FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF, ALBERT L. NELSON were served on the following and in the following manner on the 5th day of December, 2006:

Hand Delivered To

Peter F. Smith, Esquire
30 South Second Street
PO Box 130
Clearfield, PA 16830

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830



James A. Naddeo
Attorney for Plaintiff

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

ALBERT L. NELSON,	*
an individual,	*
Plaintiff,	*
	*
vs.	*
	*
WAROQUIER COAL,	*
and	*
JOSEPH L. WAROQUIER, JR. and	*
GARY V. WAROQUIER, individually	*
and co-partners t/d/b/a	*
WAROQUIER COAL COMPANY,	*
and	*
WAROQUIER COAL COMPANY,	*
a partnership,	*
and	*
WAROQUIER COAL COMPANY, INC.	*
Defendants.	*

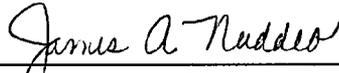
No. 05 - 1842 - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a copy of ANSWER TO ADDITIONAL DEFENDANTS ROGER A. THOMAS, MIRIAM R. THOMAS AND RAMM COAL, INC'S FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF, ALBERT L. NELSON were served on the following and in the following manner on the 5th day of December, 2006:

DELIVERED OVERNIGHT FEDERAL-EXPRESS TO

Thomas T. Frampton, Esquire
Goehring, Rutter & Boehm
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219



James A. Naddeo
Attorney for Plaintiff

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

ALBERT L. NELSON,
Plaintiff
vs.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually co-partners
t/d/b/a WAROQUIER COAL COMPANY,
and, WAROQUIER COAL COMPANY,
a partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER*
COAL, ROGER A. THOMAS, MIRIAM R.*
THOMAS and RAMM COAL, INC.,
Additional Defendants

No. 2005- 1842 -CD

CIVIL ACTION

Type of Pleading:

* ANSWER TO 1st SET of INTERROGATORIES
* AND REQUEST FOR PRODUCTION OF
* DOCUMENTS DIRECTED BY ADDITIONAL
* DEFENDANTS THOMAS AND RAMM TO
* ADDITIONAL DEFENDANT W. RUSKIN
* DRESSLER

Filed on Behalf of: Additional Defendant,
W. RUSKIN DRESSLER

Counsel for this party:

TIMOTHY E. DURANT, Esquire
Supreme Court I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
814-765-1711

Counsel For Plaintiff

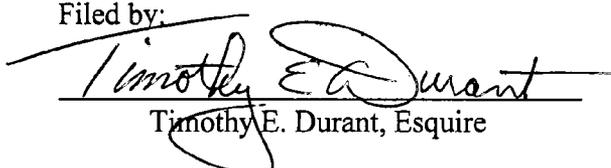
JAMES A. NADDEO, Esquire
Supreme Court I.D. No. 06820
207 East Market Street
PO Box 552
Clearfield, PA 16830
(814) 765-1601

Counsel For Original Defendants:

PETER F. SMITH, Esquire
Supreme Court I.D. No. 34291
30 South Second Street
PO Box 130
Clearfield PA 16830
814 765-5595

Counsel For Additional Defendants:
Roger A. Thomas, Miriam R. Thomas
and Ramm Coal, Inc.,
Thomas T. Frampton, Esquire
PA ID# 17286
437 Grant Street, 1424 Frick Building
Pittsburgh, PA 15219
(412) 281-0587

Filed by:


Timothy E. Durant, Esquire

FILED *NO CC*
01/10/08
DEC 06 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON, *
Plaintiff * No. 2005- 1842 -CD
vs. *
*
WAROQUIER COAL, and JOSEPH L. *
WAROQUIER, JR. and GARY V. *
WAROQUIER, individually co-partners *
t/d/b/a WAROQUIER COAL COMPANY, *
and, WAROQUIER COAL COMPANY, *
a partnership, and WAROQUIER COAL *
COMPANY, INC., *
Defendants *
vs. *
*
W. RUSKIN DRESSLER a/k/a RUSKIN *
DRESSLER d/b/a W. RUSKIN DRESSLER*
COAL, ROGER A. THOMAS, MIRIAM R. *
THOMAS and RAMM COAL, INC., *
Additional Defendants *

CERTIFICATE OF SERVICE

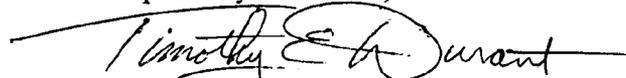
I, Timothy E. Durant, Attorney for W. Ruskin Dressler, Additional Defendant in the above-captioned matter, certify that a copy of **ANSWER TO 1st SET of INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED BY ADDITIONAL DEFENDANTS THOMAS AND RAMM TO ADDITIONAL DEFENDANT W. RUSKIN DRESSLER** was faxed to Attorneys James A. Naddeo and Peter F. Smith and sent by U.S. First Class Mail, Postage Prepaid, to Attorney Thomas T. Brampton on December 5, 2006.

Attorney for Plaintiff
Albert L. Nelson
James A. Naddeo, Esq.
207 East Market Street
PO Box 552
Clearfield, PA 16830

Attorney for Defendant
Waroquiers
Peter F. Smith, Esq.
30 South Second Street
PO Box 130
Clearfield, PA 16830

Attorney for Add'l Defendants
Thomas' & Ramm Coal, Inc.
Thomas T. Brampton, Esq.
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219

Respectfully Submitted,



Timothy E Durant, Esquire
Attorney for Additional Defendant W. R. Dressler
201 North Second Street
Clearfield, PA 16830

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

ALBERT L. NELSON,
an individual,
Plaintiff,

v.

WAROQUIER COAL,
and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually
and co-partners t/d/b/a
WAROQUIER COAL COMPANY,
and
WAROQUIER COAL COMPANY,
a partnership,
and
WAROQUIER COAL COMPANY, INC.
Defendants.

No. 05 - 1842 - CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

February 12, 2007

FILED

FEB 12 2007

0/3240
William A. Shaw
Prothonotary/Clerk of Courts
no c/c @R

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

ALBERT L. NELSON,
an individual,
Plaintiff,

v.

WAROQUIER COAL,
and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually
and co-partners t/d/b/a
WAROQUIER COAL COMPANY,
and
WAROQUIER COAL COMPANY,
a partnership,
and
WAROQUIER COAL COMPANY, INC.
Defendants.

No. 05 - 1842 - CD

Type of Pleading:

**CERTIFICATE PREREQUISITE
TO SERVICE OF SUBPOENA**

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED 2 CC
01340301 Atty Naddeo
MAR 13 2007 (GR)
William A. Shaw
Prothonotary/Clerk of Courts

March 13, 2007

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

ALBERT L. NELSON,	*	
an individual,	*	
Plaintiff,	*	
	*	
vs.	*	No. 05 - 1842 - CD
	*	
WAROQUIER COAL,	*	Jury Trial Demanded
and	*	
JOSEPH L. WAROQUIER, JR. and	*	
GARY V. WAROQUIER, individually	*	
and co-partners t/d/b/a	*	
WAROQUIER COAL COMPANY,	*	
and	*	
WAROQUIER COAL COMPANY,	*	
a partnership,	*	
and	*	
WAROQUIER COAL COMPANY, INC.	*	
A Pennsylvania corporation,	*	
Defendants.	*	

CERTIFICATE PREREQUISITE TO SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.22

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

(1) a notice of intent to serve subpoena the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,

(2) a copy of the notice of intent, including the proposed subpoena, is attached to this certificate,

(3) no objection to the subpoena has been received, and

(4) the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

NADDEO & LEWIS, LLC

Date: March 13, 2007

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

Police, Troop C, DuBois Station located at 101 Preston Way, Falls Creek, Pennsylvania 15840. Trooper David A. Ray of Troop C investigated the matter.

at NADDEO & LEWIS, LLC, 207 East Market Street, P.O. Box 552, Clearfield, Pennsylvania 16830.

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

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

This subpoena was issued at the request of the following person:

James A. Naddeo
Pa I.D. 06820
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
814-765-1601
Attorney for Plaintiff

BY THE COURT:

DATE: _____

By _____
Prothonotary

Seal of the Court

Pennsylvania State Police

Date: _____

By _____

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

ALBERT L. NELSON,
an individual,
Plaintiff,

v.

WAROQUIER COAL,
and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually
and co-partners t/d/b/a
WAROQUIER COAL COMPANY,
and
WAROQUIER COAL COMPANY,
a partnership,
and
WAROQUIER COAL COMPANY, INC.
Defendants.

No. 05 - 1842 - CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

March 14, 2007

FILED NOCC
0/10:40PM
MAR 14 2007
LTM

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON,
an individual,
Plaintiff,

v.

WAROQUIER COAL,
and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually
and co-partners t/d/b/a
WAROQUIER COAL COMPANY,
and
WAROQUIER COAL COMPANY,
a partnership,
and
WAROQUIER COAL COMPANY, INC.
Defendants.

No. 05 - 1842 - CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

March 14, 2007

FILED No CC
01:10:40
MAR 14 2007
LN

William A. Shaw
Prothonotary/Clerk of Courts

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

ALBERT L. NELSON,
an individual,
Plaintiff,

v.

WAROQUIER COAL,
and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually
and co-partners t/d/b/a
WAROQUIER COAL COMPANY,
and
WAROQUIER COAL COMPANY,
a partnership,
and
WAROQUIER COAL COMPANY, INC.
Defendants.

*
*
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No. 05 - 1842 - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of the Certificate Prerequisite to Service of Subpoena was served on the following and in the following manner on the 13th day of March, 2007:

First-Class Mail, Postage Prepaid:

Thomas T. Frampton, Esquire
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By 
James A. Naddeo
Attorney for Plaintiff

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

ALBERT L. NELSON, *
an individual, *
Plaintiff, *
v. * No. 05 - 1842 - CD
WAROQUIER COAL, *
and *
JOSEPH L. WAROQUIER, JR. and *
GARY V. WAROQUIER, individually *
and co-partners t/d/b/a *
WAROQUIER COAL COMPANY, *
and *
WAROQUIER COAL COMPANY, *
a partnership, *
and *
WAROQUIER COAL COMPANY, INC. *
Defendants. *

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Notice of Taking Deposition for Gary V. Waroquier, was served on the following and in the following manner on the 11th day of April, 2007:

First-Class Mail, Postage Prepaid:

Peter F. Smith, Esquire	Thomas T. Frampton, Esquire
30 South Second Street	437 Grant Street
PO Box 130	1424 Frick Building
Clearfield, PA 16830	Pittsburgh, PA 15219

and

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

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

ALBERT L. NELSON, :
Plaintiff :
 :
vs. :
 :
WAROQUIER COAL, and JOSEPH L. :
WAROQUIER, JR. and GARY V. :
WAROQUIER, individually and co-partners :
t/d/b/a WAROQUIER COAL COMPANY :
and WAROQUIER COAL COMPANY, a :
partnership, and WAROQUIER COAL :
COMPANY, INC., :
Defendants :
 :
vs. :
 :
W. RUSKIN DRESSLER a/k/a RUSKIN :
DRESSLER d/b/a W. RUSKIN DRESSLER :
COAL, ROGER A. THOMAS, MIRIAM R. :
THOMAS and RAMM COAL, INC. :
Additional Defendants :

No. 2005-1842-CD

FILED

APR 10 2007
0/10:30/w
William A. Shaw
Prothonotary/Clerk of Courts
no c/c (w)

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a **NOTICE TO TAKE ORAL DEPOSITION** was hand delivered to the Attorneys James A. Naddeo and Timothy E. Durant and sent U.S. First Class Mail, Postage Prepaid, to Attorney Thomas T. Frampton on April 10, 2007.

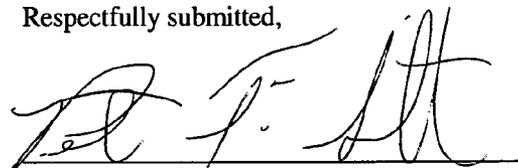
Attorney for Plaintiff
Albert L. Nelson
James A. Naddeo, Esq.
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Attorney for Defendant
W. Ruskin Dressler
Timothy E. Durant, Esq.
201 North Second Street
Clearfield, PA 16830

Attorney for Defendants Thomas'
& Ramm Coal, Inc.
Thomas T. Frampton, Esq.
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219

Date: 4/10/07

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
30 South Second Street, P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

UA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,

No. 2005-1842-CD

Plaintiff,

vs.

FILED
JUL 14 2008
m/11:15/ew
William A. Shaw
Prothonotary/Clerk of Courts
no etc

MOTION FOR STATUS CONFERENCE

WAROQUIER COAL and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY and
WAROQUIER COAL COMPANY, a
partnership and WAROQUIER COAL
COMPANY, INC.,

Filed on Behalf of Additional Defendants:

Roger A. Thomas, Miriam R. Thomas and
RAMM Coal, Inc.

Defendants,

Counsel for Record for This Party:

vs.

Thomas T. Frampton, Esquire
Pa. I.D. #17286

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,

Mandi L. Scott, Esquire
Pa. I.D. #92818

Additional Defendants.

GOEHRING, RUTTER & BOEHM
Firm #102
1424 Frick Building
437 Grant Street
Pittsburgh, PA 15219
(412) 281-0587

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,)
)
Plaintiff,)
)
vs.)
)
WAROQUIER COAL and JOSEPH L.)
WAROQUIER, JR. and GARY V.)
WAROQUIER, individually and co-partners)
t/d/b/a WAROQUIER COAL COMPANY and)
WAROQUIER COAL COMPANY, a) No. 2005-1842-CD
partnership and WAROQUIER COAL)
COMPANY, INC.,)
)
Defendants,)
)
vs.)
)
W. RUSKIN DRESSLER a/k/a RUSKIN)
DRESSLER d/b/a W. RUSKIN DRESSLER)
COAL, ROGER A. THOMAS, MIRIAM R.)
THOMAS and RAMM COAL, INC.,)
)
Additional Defendants.)

MOTION FOR STATUS CONFERENCE

AND NOW, come the Additional Defendants, Roger A. Thomas, Miriam R. Thomas and RAMM Coal, Inc. (hereinafter "Thomas"), by their undersigned attorneys, and file the following Motion for Status Conference pursuant to 46 J.D.R.C.P. 212.1.

1. Pursuant to 46 J.D.R.C.P. 212.1, in any civil action, a party shall have the right to request a status conference after sixty (60) days from the filing of the Complaint.
2. The Complaint in this action was filed on January 27, 2006.
3. Defendants' Complaint to Join Against Additional Defendants was filed on July 11, 2006.
4. Thomas filed a counterclaim against Defendants on August 18, 2006.

5. The parties have engaged in discovery, including depositions which were held on December 7, 2006 and May 29, 2007.

6. There has been no further activity in this action since May 29, 2007.

7. In May, concurrence was sought from all opposing counsel. Counsel for Plaintiff and the Dressler Additional Defendants do not oppose this Motion. Counsel for Defendants requested that Thomas not file this Motion while Plaintiff and Defendants were engaging in settlement negotiations. However, Thomas has not been contacted by any other party since that time.

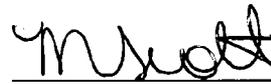
WHEREFORE, Additional Defendants, Roger A. Thomas, Miriam R. Thomas and RAMM Coal, Inc. respectfully request that this Court schedule a Status Conference pursuant to 46 J.D.R.C.P. 212.1.

Date: July 10, 2008

Respectfully Submitted,

GOEHRING, RUTTER & BOEHM

By:



Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92818

Firm #102
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219
(412) 281-0587

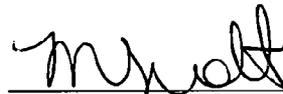
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **MOTION FOR STATUS CONFERENCE** was served the following via first class mail, postage prepaid, this 10th day of July 2008:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
Counsel for Plaintiff, Albert L. Nelson

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
Counsel for Defendants, Waroquier Coal Company, Inc., et. al.

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830
Counsel for Additional Defendants, W. Ruskin Dressler, et. al.



Thomas T. Frampton, Esquire

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

ALBERT L. NELSON,)

Plaintiff,)

vs.)

WAROQUIER COAL and JOSEPH L.)
WAROQUIER, JR. and GARY V.)
WAROQUIER, individually and co-partners)
t/d/b/a WAROQUIER COAL COMPANY and)
WAROQUIER COAL COMPANY, a)
partnership and WAROQUIER COAL)
COMPANY, INC.,)

No. 2005-1842-CD

Defendants,)

vs.)

W. RUSKIN DRESSLER a/k/a RUSKIN)
DRESSLER d/b/a W. RUSKIN DRESSLER)
COAL, ROGER A. THOMAS, MIRIAM R.)
THOMAS and RAMM COAL, INC.,)

Additional Defendants.)

ORDER OF COURT

AND NOW, this 16th day of JULY, 2008, upon consideration of the foregoing

Motion for Status Conference, it is hereby ORDERED that a status conference shall be held on

August 25, 2008 at 9:00 am in the Clearfield County Courthouse, Clearfield,
Pennsylvania, in Courtroom No. 1.

BY THE COURT

Justice J. Cunningham

FILED_{icc}

0/4:00 PM
JUL 17 2008

Atty Scott

(610)

William A. Shaw
Prothonotary/Clerk of Courts

FILED

JUL 17 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 7/17/08

You are responsible for serving all appropriate parties.

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

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

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

ALBERT L. NELSON,
an individual,
Plaintiff,

vs.

WAROQUIER COAL,
and
JOSEPH L. WAROQUIER, JR. and
GARY V. WAROQUIER, individually
and co-partners t/d/b/a
WAROQUIER COAL COMPANY,
and
WAROQUIER COAL COMPANY,
a partnership,
and
WAROQUIER COAL COMPANY, INC.
A Pennsylvania corporation,
Defendants.

No. 05 - 1842 - CD

FILED ICC+ICE it of
9/3/25 disc issued to
JUL 25 2008 Atty Naddeo
William A. Shaw Copy to CIA
Prothonotary/Clerk of Courts

Type of Pleading:

**PRAECIPE TO SETTLE
AND DISCONTINUE**

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Albert L. Nelson

Vs.

No. 2005-01842-CD

Waroquier Coal
Joseph L. Waroquier Jr.
Gary V. Waroquier
Waroquier Coal Company
Waroquier Coal Company, Inc.
Roger A. Thomas
Ramm Coal Inc.
Miriam R. Thomas
W. Ruskin Dressler
W. Ruskin Dressler Coal

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on July 25, 2008, marked:

Settled and discontinued

Record costs in the sum of \$85.00 have been paid in full by James A. Naddeo Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 25th day of July A.D. 2008.



LM

William A. Shaw, Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,

No. 2005-1842-CD

Plaintiff,

vs.

**MOTION TO CANCEL STATUS
CONFERENCE**

WAROQUIER COAL and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY and
WAROQUIER COAL COMPANY, a
partnership and WAROQUIER COAL
COMPANY, INC.,

Filed on Behalf of Additional Defendants:

Defendants,

Roger A. Thomas, Miriam R. Thomas and
RAMM Coal, Inc.

vs.

Counsel for Record for This Party:

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,

Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92818

Additional Defendants.

GOEHRING, RUTTER & BOEHM
Firm #102
1424 Frick Building
437 Grant Street
Pittsburgh, PA 15219
(412) 281-0587

FILED NO CC
M 110:31/STL
AUG 25 2008
William A. Shaw
Frothonotary/Clerk of Courts
(GP)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,)
)
 Plaintiff,)
)
 vs.)
)
 WAROQUIER COAL and JOSEPH L.)
 WAROQUIER, JR. and GARY V.)
 WAROQUIER, individually and co-partners)
 t/d/b/a WAROQUIER COAL COMPANY and)
 WAROQUIER COAL COMPANY, a) No. 2005-1842-CD
 partnership and WAROQUIER COAL)
 COMPANY, INC.,)
)
 Defendants,)
)
 vs.)
)
 W. RUSKIN DRESSLER a/k/a RUSKIN)
 DRESSLER d/b/a W. RUSKIN DRESSLER)
 COAL, ROGER A. THOMAS, MIRIAM R.)
 THOMAS and RAMM COAL, INC.,)
)
 Additional Defendants.)

MOTION TO CANCEL STATUS CONFERENCE

NOW comes Additional Defendants, Roger A. Thomas, Miriam R. Thomas and RAMM Coal, Inc. (hereinafter "The Thomas Additional Defendants"), by their undersigned attorneys, and file the following Motion to Cancel Status Conference pursuant to 46 J.D.R.C.P. 212.1.

1. On July 10, 2008, The Thomas Additional Defendants, filed a Motion for Status Conference.
2. The Court has scheduled a Status Conference for Monday, August 25, 2008.

3. Since the time The Thomas Additional Defendants filed their Motion, Plaintiff and the principal Defendants have settled their claims between each other.

4. Defendants have also begun settlement discussions with the Thomas Additional Defendants.

5. Given the current posture of the case, and the potential for resolution of the entire case, the Thomas Additional Defendants no longer believe a Status Conference is necessary.

6. The parties will keep the Court apprised of any future agreements reached with respect to this action.

WHEREFORE, the Thomas Additional Defendants respectfully request that this Court cancel the Status Conference scheduled for Monday, August 25, 2008.

Date: August 22, 2008

Respectfully Submitted,

GOEHRING, RUTTER & EOEHM

By:


Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92818

Firm #102
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219
(412) 281-0587

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **MOTION TO CANCEL STATUS CONFERENCE** was served upon the following via fax and overnight mail, this 22nd day of August 2008:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
Counsel for Plaintiff, Albert L. Nelson

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
Counsel for Defendants, Waroquier Coal Company, Inc., et. al.

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830
Counsel for Additional Defendants, W. Ruskin Dressler, et. al.



Thomas T. Frampton, Esquire
Mandi L. Scott, Esquire

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

ALBERT L. NELSON,)
)
 Plaintiff,)
)
 vs.)
)
 WAROQUIER COAL and JOSEPH L.)
 WAROQUIER, JR. and GARY V.)
 WAROQUIER, individually and co-partners)
 t/d/b/a WAROQUIER COAL COMPANY and)
 WAROQUIER COAL COMPANY, a) No. 2005-1842-CD
 partnership and WAROQUIER COAL)
 COMPANY, INC.,)
)
 Defendants,)
)
 vs.)
)
 W. RUSKIN DRESSLER a/k/a RUSKIN)
 DRESSLER d/b/a W. RUSKIN DRESSLER)
 COAL, ROGER A. THOMAS, MIRIAM R.)
 THOMAS and RAMM COAL, INC.,)
)
 Additional Defendants.)

ORDER OF COURT

AND NOW, this ____ day of _____, 2008, upon consideration of the foregoing Motion to Cancel Status Conference, it is hereby ORDERED that the Status Conference scheduled for August 25, 2008 is hereby cancelled.

BY THE COURT,

CA

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

ALBERT L. NELSON,)

Plaintiff,)

vs.)

WAROQUIER COAL and JOSEPH L.)

WAROQUIER, JR. and GARY V.)

WAROQUIER, individually and co-partners)

t/d/b/a WAROQUIER COAL COMPANY and)

WAROQUIER COAL COMPANY, a)

partnership and WAROQUIER COAL)

COMPANY, INC.,)

Defendants,)

vs.)

W. RUSKIN DRESSLER a/k/a RUSKIN)

DRESSLER d/b/a W. RUSKIN DRESSLER)

COAL, ROGER A. THOMAS, MIRIAM R.)

THOMAS and RAMM COAL, INC.,)

Additional Defendants.)

No. 2005-1842-CD

ORDER OF COURT

AND NOW, this 25th day of AUGUST, 2008, upon consideration of the foregoing

Motion to Cancel Status Conference, it is hereby ORDERED that the Status Conference scheduled for August 25, 2008 is hereby cancelled.

FILED *acc*
06:08/01 *Atty Scott*
AUG 24 2008

William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT,

Judith J. Curren

DATE: 8/26/08

You are responsible for serving all appropriate parties.

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

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

FILED

AUG 26 2008

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,

No. 2005-1842-CD

Plaintiff,

vs.

**MOTION TO CANCEL STATUS
CONFERENCE**

WAROQUIER COAL and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY and
WAROQUIER COAL COMPANY, a
partnership and WAROQUIER COAL
COMPANY, INC.,

Filed on Behalf of Additional Defendants:

Roger A. Thomas, Miriam R. Thomas and
RAMM Coal, Inc.

Defendants,

Counsel for Record for This Party:

vs.

Thomas T. Frampton, Esquire
Pa. I.D. #17286

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,

Mandi L. Scott, Esquire
Pa. I.D. #92818

Additional Defendants.

GOEHRING, RUTTER & BOEHM
Firm #102
1424 Frick Building
437 Grant Street
Pittsburgh, PA 15219
(412) 281-0587

3. Since the time The Thomas Additional Defendants filed their Motion, Plaintiff and the principal Defendants have settled their claims between each other.

4. Defendants have also begun settlement discussions with the Thomas Additional Defendants.

5. Given the current posture of the case, and the potential for resolution of the entire case, the Thomas Additional Defendants no longer believe a Status Conference is necessary.

6. The parties will keep the Court apprised of any future agreements reached with respect to this action.

WHEREFORE, the Thomas Additional Defendants respectfully request that this Court cancel the Status Conference scheduled for Monday, August 25, 2008.

Date: August 22, 2008

Respectfully Submitted,

GOEHRING, RUTTER & BOEHM

By:



Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92818

Firm #102
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219
(412) 281-0587

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **MOTION TO CANCEL STATUS CONFERENCE** was served upon the following via fax and overnight mail, this 22nd day of August 2008:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
Counsel for Plaintiff, Albert L. Nelson

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
Counsel for Defendants, Waroquier Coal Company, Inc., et. al.

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830
Counsel for Additional Defendants, W. Ruskin Dressler, et. al.



Thomas T. Frampton, Esquire
Mandi L. Scott, Esquire

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

ALBERT L. NELSON, *
Plaintiff, *

vs. *

No. 2005 - 1842 - CD

WAROQUIER COAL, and JOSEPH L. *
WAROQUIER, JR. and GARY V. *
WAROQUIER, individually and *
co-partners t/d/b/a WAROQUIER *
COAL COMPANY, a partnership, *
And WAROQUIER COAL COMPANY, *
INC., *

Defendants *

WAROQUIER COAL, and JOSEPH L. *
WAROQUIER, JR. and GARY V. *
WAROQUIER, individually and *
co-partners t/d/b/a WAROQUIER *
COAL COMPANY, a partnership, *
And WAROQUIER COAL COMPANY, *
INC., *

Plaintiffs *

vs. *

W. RUSKIN DRESSLER a/k/a *
RUSKIN DRESSLER d/b/a W. *
RUSKIN DRESSLER COAL, ROGER *
A. THOMAS, MIRIAM R. THOMAS *
and RAMM COAL, INC. *

Additional Defendants *

FILED 3cc
of 4:00 PM Atty Naddeo
SEP 26 2008
William A. Shaw
Prothonotary/Clerk of Courts
GV

ORDER

AND NOW this 26 day of September, 2008, upon
consideration of the Motion to Clarify Record filed by James A.
Naddeo, attorney of record for Plaintiff, Albert L. Nelson, it
is the ORDER of this Court that this case be marked settled and
discontinued as between Plaintiff, Albert L. Nelson and original

Defendants, Waroquier Coal, Joseph L. Waroquier, Jr., and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc. It is further ORDERED that all claims filed between original Defendants, Waroquier Coal, Joseph L. Waroquier, Jr., and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc., and additional Defendants, W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas, Ramm Coal, Inc., and Miriam R. Thomas are hereby preserved.

BY THE COURT,


Judge

FILED

SEP 26 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/24/08

- You are responsible for serving all appropriate parties.
- The Prothonotary's office has provided service to the following parties:
 - Plaintiff(s) Plaintiff(s) Attorney Other
 - Defendant(s) Defendant(s) Attorney
 - Special Instructions:

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

ALBERT L. NELSON,
Plaintiff,

vs.

No. 2005 - 1842 - CD

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER
COAL COMPANY, a partnership,
And WAROQUIER COAL COMPANY,
INC.,
Defendants

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER
COAL COMPANY, a partnership,
And WAROQUIER COAL COMPANY,
INC.,
Plaintiffs

vs.

W. RUSKIN DRESSLER a/k/a
RUSKIN DRESSLER d/b/a W.
RUSKIN DRESSLER COAL, ROGER
A. THOMAS, MIRIAM R. THOMAS
and RAMM COAL, INC.
Additional Defendants

MOTION TO CLARIFY RECORD

NOW COMES the Plaintiff, Albert L. Nelson, and by his attorney, James A. Naddeo, Esquire, files the herein motion and sets forth the following:

1. On or about November 28, 2005, Plaintiff filed this action against Defendants, Waroquier Coal, Joseph L. Waroquier,

Jr., and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc.

2. On or about June 1, 2006, Defendants, Waroquier Coal, Joseph L. Waroquier, Jr., and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc., filed a motion to join additional Defendants, namely, W. Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas, Ramm Coal, Inc. and Miriam R. Thomas.

3. On or about June 23, 2006, the Court granted the motion by Defendants, Waroquier Coal, Joseph L. Waroquier, Jr., and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc., to join additional defendants and thereby joined additional Defendants, W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas, Ramm Coal, Inc., and Miriam R. Thomas.

4. That Plaintiff and Defendants, Waroquier Coal, Joseph L. Waroquier, Jr., and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc., have settled the suit as between Plaintiff and these named original Defendants.

5. That on or about July 25, 2008, Plaintiff filed a

Praeceptum to Settle and Discontinue the case as to Plaintiff versus Defendants, Waroquier Coal, Joseph L. Waroquier, Jr., and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc.

6. That the case was marked settled and discontinued by the Prothonotary as to the entire case.

7. That to be more precise Plaintiff should have requested the case to be marked settled and discontinued only as between Plaintiff, Albert Nelson and Defendants, Waroquier Coal, Joseph L. Waroquier, Jr., and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc.

8. That the claims by Waroquier Coal, Joseph L. Waroquier, Jr., and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc. as Plaintiffs against Defendants, W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas, Ramm Coal, Inc., and Miriam R. Thomas are not settled and are unaffected by the settlement between Plaintiff, Albert Nelson and Defendants, Waroquiers' settlement.

9. That the claims between original Defendants, Waroquier Coal, Joseph L. Waroquier, Jr., and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a

partnership, and Waroquier Coal Company, Inc., and additional Defendants, W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas, Ramm Coal, Inc., and Miriam R. Thomas are preserved.

10. That Plaintiff respectfully requests that for clarification the record be corrected by the Prothonotary and the case be marked "settled and discontinued as between Plaintiff, Albert L. Nelson and original Defendants, Waroquier Coal, Joseph L. Waroquier, Jr., and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc." with a notation that all claims filed between Waroquier Coal, Joseph L. Waroquier, Jr., and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a partnership, and Waroquier Coal Company, Inc., and additional Defendants, W. Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler Coal, Roger A. Thomas, Ramm Coal, Inc., and Miriam R. Thomas are preserved.

WHEREFORE, Plaintiff, Albert Nelson, requests this Honorable Court enter an order directing the Prothonotary to correct the record in this case in such a manner as to preserve the claims filed between original Defendants, Waroquier Coal, Joseph L. Waroquier, Jr., and Gary V. Waroquier, individually and co-partners t/d/b/a Waroquier Coal Company, a partnership, and

Waroquier Coal Company, Inc., and additional Defendants, W.
Ruskin Dressler a/k/a Ruskin Dressler d/b/a W. Ruskin Dressler
Coal, Roger A. Thomas, Ramm Coal, Inc. and Miriam R. Thomas.

Respectfully submitted,

NADDEO & LEWIS, LLC

By: 
James A. Naddeo, Esquire
Attorney for Plaintiff/Movant

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

ALBERT L. NELSON,
Plaintiff,

vs.

No. 2005 - 1842 - CD

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER
COAL COMPANY, a partnership,
And WAROQUIER COAL COMPANY,
INC.,
Defendants

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER
COAL COMPANY, a partnership,
And WAROQUIER COAL COMPANY,
INC.,
Plaintiffs

vs.

W. RUSKIN DRESSLER a/k/a
RUSKIN DRESSLER d/b/a W.
RUSKIN DRESSLER COAL, ROGER
A. THOMAS, MIRIAM R. THOMAS
and RAMM COAL, INC.
Additional Defendants

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Motion to Clarify Record was served on the following and in the following manner on the 13th day of August, 2008:

First-Class Mail, Postage Prepaid:

Peter F. Smith, Esquire
30 South Second Street
PO Box 130

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830

Clearfield, PA 16830

Thomas T. Frampton, Esquire
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By



James A. Naddeo

Attorney for Plaintiff

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

ALBERT L. NELSON,
Plaintiff,

vs.

No. 2005 - 1842 - CD

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER
COAL COMPANY, a partnership,
And WAROQUIER COAL COMPANY,
INC.,

Defendants

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and
co-partners t/d/b/a WAROQUIER
COAL COMPANY, a partnership,
And WAROQUIER COAL COMPANY,
INC.,

Plaintiffs

vs.

W. RUSKIN DRESSLER a/k/a
RUSKIN DRESSLER d/b/a W.
RUSKIN DRESSLER COAL, ROGER
A. THOMAS, MIRIAM R. THOMAS
and RAMM COAL, INC.

Additional Defendants

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a certified copy of Order was served on the following and in the following manner on the 29th day of September, 2008:

First-Class Mail, Postage Prepaid:

Peter F. Smith, Esquire
30 South Second Street
PO Box 130
Clearfield, PA 16830

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830

Thomas T. Frampton, Esquire
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

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

ALBERT L. NELSON,
Plaintiff

No. 2005-1842-CD

vs.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY
and WAROQUIER COAL COMPANY, a
partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

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FILED
07/10/18/09
AUG 03 2009
William A. Shaw
Prothonotary/Clerk of Courts

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.
Additional Defendants

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a **REQUEST FOR PRODUCTION OF DOCUMENTS and INTERROGATORIES** was hand delivered to the Attorneys James A. Naddeo and Timothy E. Durant and sent U.S. First Class Mail, Postage Prepaid, to Attorneys Mandi L. Scott and Thomas T. Frampton on July 31, 2009.

Attorney for Plaintiff
Albert L. Nelson
James A. Naddeo, Esq.
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Attorney for Defendant
W. Ruskin Dressler
Timothy E. Durant, Esq.
201 North Second Street
Clearfield, PA 16830

Attorneys for Defendants Thomas' & Ramm Coal, Inc.
Mandi L. Scott, Esq. &
Thomas T. Frampton, Esq.
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219

Respectfully submitted,

Date: 7/31/09



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
30 South Second Street, P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,

No. 2005-1842-CD

Plaintiff,

vs.

WAROQUIER COAL and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
d/b/a WAROQUIER COAL COMPANY and
WAROQUIER COAL COMPANY, a
partnership and WAROQUIER COAL
COMPANY, INC.,

Defendants,

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,

Additional Defendants.

**NOTICE OF SERVICE OF ADDITIONAL
DEFENDANTS ROGER A. THOMAS,
MIRIAM R. THOMAS AND RAMM
COAL, INC.'S ANSWERS TO
WAROQUIERS' INTERROGATORIES
AND RESPONSES TO REQUESTS FOR
PRODUCTION OF DOCUMENTS**

Filed on Behalf of Additional Defendants:

Roger A. Thomas, Miriam R. Thomas and
RAMM Coal, Inc.

Counsel for Record of This Party:

Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92818

GOEHRING, RUTTER & BOEHM
Firm #102
1424 Frick Building
437 Grant Street
Pittsburgh, PA 15219
(412) 281-0587

FILED *no cc*
mip:346
MAR 17 2010

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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,

Plaintiff,

vs.

WAROQUIER COAL and JOSEPH L. WAROQUIER,
JR. and GARY V. WAROQUIER, individually and co-
partners t/d/b/a WAROQUIER COAL COMPANY and
WAROQUIER COAL COMPANY, a partnership and
WAROQUIER COAL COMPANY, INC.,

Defendants,

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN DRESSLER
d/b/a W. RUSKIN DRESSLER COAL, ROGER A.
THOMAS, MIRIAM R. THOMAS and RAMM COAL,
INC.,

Additional Defendants.

No. 2005-1842-CD

**NOTICE OF SERVICE OF ADDITIONAL DEFENDANTS ROGER A. THOMAS,
MIRIAM R. THOMAS AND RAMM COAL, INC.'S ANSWERS TO WAROQUIERS'
INTERROGATORIES AND RESPONSES TO REQUESTS FOR PRODUCTION OF
DOCUMENTS**

TO THE PROTHONOTARY:

Please be advised that **ADDITIONAL DEFENDANTS ROGER A. THOMAS,
MIRIAM R. THOMAS AND RAMM COAL, INC.'S ANSWERS TO WAROQUIERS'
INTERROGATORIES AND RESPONSES TO REQUESTS FOR PRODUCTION OF
DOCUMENTS**, along with a copy of this Notice of Service of the same, were served upon the
specified parties this 15th of March, 2010, by first class U.S. Mail, at the addresses indicated
below.

Date: March 15, 2010

Respectfully Submitted,

GOEHRING, RUTTER & BOEHM

By:



Mandi L. Scott, Esquire

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **NOTICE OF SERVICE OF ADDITIONAL DEFENDANTS ROGER A. THOMAS, MIRIAM R. THOMAS AND RAMM COAL, INC.'S ANSWERS TO WAROQUIERS' INTERROGATORIES AND RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS** was served by United States First Class, postage pre-paid mail this 15 day of March, 2010, upon:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
Counsel for Plaintiff, Albert L. Nelson

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
Counsel for Defendants, Waroquier Coal Company, Inc., et. al.

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830
Counsel for Additional Defendants, W. Ruskin Dressler, et. al.

By: Mandi L. Scott
Thomas T. Frampton, Esquire
Mandi L. Scott, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,

No. 2005-1842-CD

Plaintiff,

vs.

WAROQUIER COAL and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY and
WAROQUIER COAL COMPANY, a
partnership and WAROQUIER COAL
COMPANY, INC.,

Defendants,

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.,

Additional Defendants.

**NOTICE OF SERVICE OF ADDITIONAL
DEFENDANTS ROGER A. THOMAS,
MIRIAM R. THOMAS AND RAMM
COAL, INC.'S SECOND SET OF
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS
TO THE WAROQUIER DEFENDANTS**

Filed on Behalf of Additional Defendants:

Roger A. Thomas, Miriam R. Thomas and
RAMM Coal, Inc.

Counsel for Record of This Party:

Thomas T. Frampton, Esquire
Pa. I.D. #17286

Mandi L. Scott, Esquire
Pa. I.D. #92818

GOEHRING, RUTTER & BOEHM
Firm #102
1424 Frick Building
437 Grant Street
Pittsburgh, PA 15219
(412) 281-0587

FILED 10
MT10:34/bt/cc
MAR 17 2010

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

ALBERT L. NELSON,

Plaintiff,

vs.

WAROQUIER COAL and JOSEPH L. WAROQUIER,
JR. and GARY V. WAROQUIER, individually and co-
partners t/d/b/a WAROQUIER COAL COMPANY and
WAROQUIER COAL COMPANY, a partnership and
WAROQUIER COAL COMPANY, INC.,

Defendants,

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN DRESSLER
d/b/a W. RUSKIN DRESSLER COAL, ROGER A.
THOMAS, MIRIAM R. THOMAS and RAMM COAL,
INC.,

Additional Defendants.

No. 2005-1842-CD

**NOTICE OF SERVICE OF ADDITIONAL DEFENDANTS ROGER A. THOMAS,
MIRIAM R. THOMAS AND RAMM COAL, INC.'S SECOND SET OF
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO
THE WAROQUIER DEFENDANTS**

TO THE PROTHONOTARY:

Please be advised that **ADDITIONAL DEFENDANTS ROGER A. THOMAS,
MIRIAM R. THOMAS AND RAMM COAL, INC.'S SECOND SET OF
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO
THE WAROQUIER DEFENDANTS** along with a copy of this Notice of Service of the same,
was served upon counsel for the Waroquier Defendants this 15 day of March, 2010, by first class
U.S. Mail, at the address indicated below.

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830

Date: March 15, 2010

Respectfully Submitted,

GOEHRING, RUTTER & BOEHM

By: M. Scott
Mandi L. Scott, Esquire

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **NOTICE OF SERVICE OF ADDITIONAL DEFENDANTS ROGER A. THOMAS, MIRIAM R. THOMAS AND RAMM COAL, INC.'S SECOND SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO THE WAROQUIER DEFENDANTS** was served by United States First Class, postage pre-paid mail this 15 day of March, 2010, upon:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
Counsel for Plaintiff, Albert L. Nelson

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
Counsel for Defendants, Waroquier Coal Company, Inc., et. al.

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830
Counsel for Additional Defendants, W. Ruskin Dressler, et. al.

By: Mandi L. Scott
Thomas T. Frampton, Esquire
Mandi L. Scott, Esquire

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

ALBERT L. NELSON,
Plaintiff

No. 2005-1842-CD

vs.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY
and WAROQUIER COAL COMPANY, a
partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.
Additional Defendants

FILED NO CC
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FEB 07 2011
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a **ANSWER TO DEFENDANTS ROGER A. THOMAS, MIRIAM R. THOMAS AND RAMM COAL, INC.'S SECOND SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS** was sent Via Fed Ex , to Attorney Mandi L. Scott on February 4, 2011.

*Attorneys for Defendants Thomas'
& RAMM Coal, Inc.*
Mandi L. Scott, Esq.
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
30 South Second Street, P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

Date: 2/4/11

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

ALBERT L. NELSON,
Plaintiff

No. 2005-1842-CD

vs.

WAROQUIER COAL, and JOSEPH L.
WAROQUIER, JR. and GARY V.
WAROQUIER, individually and co-partners
t/d/b/a WAROQUIER COAL COMPANY
and WAROQUIER COAL COMPANY, a
partnership, and WAROQUIER COAL
COMPANY, INC.,
Defendants

vs.

W. RUSKIN DRESSLER a/k/a RUSKIN
DRESSLER d/b/a W. RUSKIN DRESSLER
COAL, ROGER A. THOMAS, MIRIAM R.
THOMAS and RAMM COAL, INC.
Additional Defendants

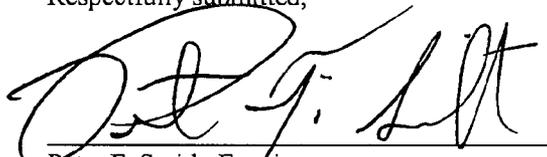
FILED
0 1:21 P.M. GK
FEB 10 2011 No CC
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for the Defendants in the above-captioned matter, certify that a true, correct copy of **THE WAROQUIER DEFENDANTS' SUPPLEMENT TO THEIR ANSWERS TO REQUEST FOR PRODUCTION OF DOCUMENTS** was sent via U.S. First Class Mail postage Prepaid to Attorney Mandi L. Scott on February 9, 2011.

*Attorneys for Defendants Thomas'
& RAMM Coal, Inc.
Mandi L. Scott, Esq.
437 Grant Street
1424 Frick Building
Pittsburgh, PA 15219*

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Defendants
P. O. Box 130, 30 South Second St.
30 South Second Street, P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

Date: February 9, 2011