

06-437-CD  
Donald Way et al vs James  
Swatsworth

Donald Way et al vs James Swatsworth  
2006-437-CD

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

Donald B. Way and  
Mary Ann Way,  
Plaintiffs

\*

\*

Vs.

\*

Docket Number: *2006-437-CD*

James Swatsworth  
Defendant

\*

Type of Pleading:  
COMPLAINT

Filed on Behalf of:  
Plaintiffs:  
Donald B. Way and Mary Ann Way

Counsel of Record for  
This Party:

LAW OFFICES OF  
DWIGHT L. KOERBER, JR.

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED**

*0 3:12 GK*  
**MAR 22 2006**

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

*4 cc Amy*

**NOTICE**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action 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 within twenty (20) days. 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 relief claimed in the complaint by the plaintiff.

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

DAVID S. MEHOLICK, COURT ADMINISTRATOR  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830  
(814) 765-2641 Ext. 32

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

Donald B. Way and  
Mary Ann Way,  
Plaintiffs

\*

\*

Vs.

\*

Docket Number:

James Swatsworth  
Defendant

\*

**COMPLAINT**

COME NOW, Plaintiffs Donald B. Way and Mary Ann Way, by and through their attorney Dwight L. Koerber, Jr., Esquire, and file the within Complaint against James Swatsworth, Defendant. In support whereof, Plaintiffs aver and show as follows.

1. Plaintiffs are husband and wife, and reside at 335 Way Road, Clearfield, Lawrence Township and Pike Township, Clearfield County, Pennsylvania, 16830.
2. Defendant is James Swatsworth, who resides at 62 Fleming Road, Curwensville, Pennsylvania, 16833.
3. Plaintiffs are the owners of a certain parcel of property, having a street address of 335 Way Road, Clearfield, Pennsylvania, which is more fully identified by Deed Book reference Volume 1602, Page 530. Attached hereto as Exhibit A is a copy of the deed depicting the land which Plaintiffs own.
4. Defendant is in the logging business, and included in his business is the process of harvesting saw logs, pulpwood logs and timber from various properties and then selling such logs and timber to third parties for commercial utilization.

**I.**  
**BREACH OF CONTRACT**

5. In the spring/summer of the year 2005, Defendant contacted Plaintiff Donald B. Way and proposed a business transaction whereby he would remove the saw logs and pulpwood from Plaintiffs' property, and in exchange for that would pay the standard rate for such removal.

6. On behalf of himself and his wife, Plaintiff Donald B. Way agreed to permit Defendant to come onto the property and agreed to the standard rate of pay, with the understanding that the payment would be made in the relatively near future.

7. Defendant came onto Plaintiffs' property during the summer of 2005, and removed substantial amounts of wood, timber and pulp logs from Plaintiffs' property. Without giving any accounting at all for the amount of wood/timber that was removed, Defendant made payment of \$1,700.00 to Plaintiffs, with the understanding that he would be making further payment to them. Notwithstanding the verbal promises of Defendant to make full payment for the logs and timber that was removed and to do so in a prompt and reasonable time, Defendant has failed and refused to make any additional payments to Plaintiffs.

8. Defendant has acknowledged that additional payments are due and owing, but has failed to fulfill his contractual obligations to make such payments.

9. In order to quantify the amount of timber and wood that was removed from the property, Plaintiffs contacted Lee F. Warren, a professional forester, and had him perform a survey and analysis of their grounds so as to determine the amount of

saw timber and pulp wood that had been removed by Defendant.

10. Attached hereto as Exhibit B is a true and correct copy of the November 15, 2005 report prepared by Lee F. Warren, showing that the value of the saw timber and pulpwood removed from Plaintiffs' land is \$21,248.00.

11. The standard rate of payment for saw timber and pulpwood removed from a landowner's property is that the landowners receive 50% of the revenue generated by the sale of the wood. Based upon the figure, Plaintiffs made demand of Defendant that he pay them 50% of the \$21,248.00, which would equal \$10,624.00, less the \$1,700.00 that Defendant had already paid them. Thus, the demand for additional payment made of Defendant was \$8,924.00.

12. Notwithstanding the fact that Defendant acknowledged to Plaintiffs that additional payment was owed to them for the wood removed, he has failed and refused to make additional payments.

13. Defendant is in breach of his contract with Plaintiffs in failing to pay them for the saw timber and pulpwood he removed from their property.

14. The damages from Defendant's breach of contract amount to \$8,924.00.

15. Plaintiffs seek prejudgment interest at the rate of 6% running from October 1, 2005, as this is the reasonable date upon which full payment should have been made.

WHEREFORE, Plaintiffs pray that judgment be entered in their favor and against Defendant in the amount of \$8,924.00, plus legal interest, prejudgment interest from October 1, 2005 and costs.

**II.**  
**UNJUST ENRICHMENT**

16. Paragraphs 1 through 14 of the Complaint are incorporated by reference.

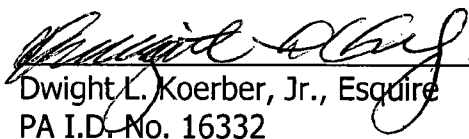
17. in connection with removing timber and pulpwood from the Plaintiffs' property, Defendant received certain revenues and payments from his sale of such timber.

18. In failing to pay the Plaintiffs the reasonable value of their timber and sawlogs, other than \$1,700.00 which has already been paid, Defendant has been unjustly enriched at the expense of the Defendants. The amount of the unjust enrichment which Plaintiff has derived is \$8,924.00. It is unjust to permit Defendant to be enriched at Plaintiffs expense, thereby demonstrating that Defendant is obligated to compensate the Plaintiffs for the amount of the unjust enrichment which he has gained.

19. Defendant is therefore obligated to Plaintiffs in the sum of \$8,924.00.

WHEREFORE, Plaintiffs pray that judgment be entered in their favor and against Defendant in the amount of \$8,924.00, plus legal interest and costs.

Respectfully submitted,

  
Dwight L. Koerber, Jr., Esquire  
PA I.D. No. 16332

110 North Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

Attorney for Plaintiffs:  
Donald B. Way and Mary Ann Way

### VERIFICATION

I certify that the statements made in the foregoing document 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.

Donald B. Way  
Donald B. Way

DATE: 3 - 20 - 06



## **EXHIBIT A**

Attached hereto as Exhibit A is a copy of the deed depicting the land which  
Plaintiffs own.

County Parcel No. \_\_\_\_\_

## This Deed,

MADE the 27<sup>th</sup> day of April  
in the year nineteen hundred and ninety-four (1994)  
BETWEEN BLAIR C. WAY and MYRTLE V. WAY, Grantors;

A N D

MARY ANN WAY and DONALD B. WAY, husband and wife, as Tenants by the Entireties,  
Grantees;

WITNESSETH, That in consideration of One and 00/100 .....  
.....(\$1.00) ..... Dollars,

in hand paid, the receipt whereof is hereby acknowledged, the said grantors do hereby grant  
and convey to the said grantees,  
THE FIRST THEREOF:

ALL that certain piece or parcel of land situate in Pike Township, Clearfield  
County Pennsylvania, bounded and described as follows:

BEGINNING at a post on line of land owned September 24, 1884 by Hugh W. Mullen;  
thence along said land, South 2 degrees west 63.5 perches to a post; thence along  
the line of land now or formerly of George B. Logan, North 85½ degrees east 39.5  
perches to a stone; thence South 2 degrees west 2.4 perches to a white oak; thence  
North 72 degrees east 41.7 perches to a post; thence by land now or formerly owned  
by George Welch heirs North 1-3/4 degrees east 46.5 perches to a post; thence by line  
of other lands now or formerly owned by the heirs of Alexander Caldwell, South 807½  
degrees east, 76.2 perches to the place of beginning. CONTAINING 26 acres and  
allowance.

BEING the same premises conveyed to Blair C. Way and Myrtle V. Way by Deed of Albert  
C. Smeal, David D. Smeal and M. Louise Smeal, Harry William Smeal and Katherine Cook  
Smeal dated the 26th day of June, 1962 and recorded in Clearfield County Deed and  
Records book at Volume 497, Page 398.

THE SECOND THEREOF:

ALL that certain piece or parcel of land situate in Pike Township, Clearfield County,  
Pennsylvania being the portion of the parcel transferred to the Grantors above by  
deed of September 30, 1959 recorded at Clearfield County Deed Book 479 page 247,  
which is south/southeast of both T-502 and S.R. 17040 and as outlined in red on the  
attached map, containing approximately 44.6 acres. The Grantors are retaining title  
to the remaining approximately 16 acres situated to the north/northwest of T-502.

VOL 1602 PAGE 531

The exact description of this entire parcel is as stated in the deed at Clearfield County Deed Book 479, page 247; a new survey to be performed at a later date. BEING a portion of the premises which Blair Way, also known as Blair C. Way and Myrtle V. Way, by deed dated September 30, 1959 and recorded in Deed Book 479, Page 247, granted and conveyed to the Grantors herein.

This is a transfer between Parent and child,

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

CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 9:26 A.M. 5-5-94  
BY *Richard Deland*  
FEES 15.50  
Karen L. Starck, Recorder

## 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:

*Mary Ann Way*  
MARY ANN WAY  
*Donald B. Way*  
DONALD B. WAY

This ..... day of .....

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

VOL 1602 PAGE 532

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

IN WITNESS WHEREOF, said grantor ha hereunto set their hands and seals, the day and year first above-written.

Scaled and delivered in the presence of

Blair C. Way [Seal]  
BLAIR C. WAY

Myrtle V. Way [Seal]  
MYRTLE V. WAY

### CERTIFICATE OF RESIDENCE

I hereby certify, that the precise residence of the grantee herein is as follows: R.D. 4, Box 80, Clearfield, PA 16830.

*[Signature]*  
Attorney or Agent for Grantee

Commonwealth of Pennsylvania

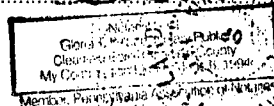
County of CLEARFIELD ss.

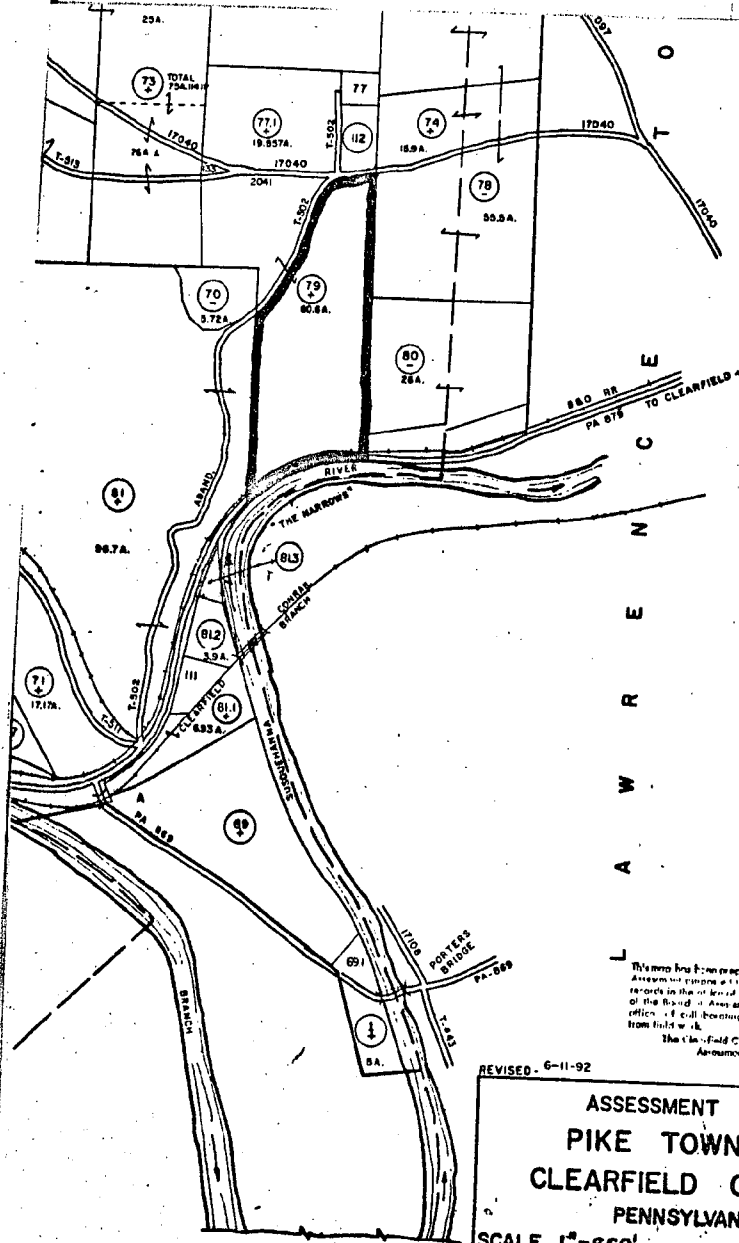
On this, the 27<sup>th</sup> day of April 1994, before me the undersigned officer, personally appeared Blair C. Way and Myrtle V. Way known to me (or satisfactorily proven) to be the person<sup>s</sup> whose names subscribed to the within instrument, and acknowledged that they executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and

seal.

My Commission Expires





**NOTICE**  
 This map has been prepared, as required by law, for the Assessment of property in this Township. It has been prepared by the Clearfield County Assessor's Office, and is subject to the review and approval of the Clearfield County Board of Assessment and Revision of Taxes.

REVISED - 6-11-92

ASSESSMENT MAP	
PIKE TOWNSHIP	
CLEARFIELD COUNTY	
PENNSYLVANIA	
SCALE 1"=660'	AD-1956
	MAP NO.
	19

VOL 1602 PAGE 534

State of ..... } ss.  
County of .....

On this, the ..... day of ..... 19 .., before me  
the undersigned officer, personally appeared  
known to me (or satisfactorily proven) to be the person ..... whose name ..... subscribed to the within  
instrument, and acknowledged that ..... executed the same for the purpose therein  
contained.

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

My Commission Expires .....

Commonwealth of Pennsylvania } ss.  
County of .....

RECORDED in the Office for Recording of Deeds, etc., in and for the said  
County, in Deed Book No. ...., Page .....  
WITNESS my hand and official seal this ..... day of .., 19 ..

Recorder of Deeds

Not

Deed

WARRANTY DEED  
The Plunkhorn Co., Williamsport, Pa.

Blair C. Way & Myrtle V. Way  
AND  
Mary Ann Way & Donald B. Way

Dated .....  
For .....  
Consideration .....  
Recorded .....

Entered for Record in the Recorder's  
Office of .....  
County, the ..... day of Tax. \$ .....  
19 ..... Fees. \$ .....  
Recorder

Entered of Record May 5 1994, 9:26 A.M. Karen L. Sarek, Recorder

**EXHIBIT B**

Attached hereto as Exhibit B is a true and correct copy of the November 15, 2005 report prepared by Lee F. Warren.

LEE F. WARREN  
PROFESSIONAL FORSTRY SERVICES  
410 WELCH AVE.  
CLEARFIELD, PA. 16830  
Home: 814-765-2871  
Cell: 814-577-7248  
TREEMAN130@HOTMAIL.COM

Mr. Donald Way  
335 Way Road  
Clearfield, PA 16830

November 15, 2005

Dear Mr. Way,

The attached report presents the timber volume and value appraisal of your cut over forestland located in Lawrence Township, Clearfield County. The appraisal found the following:

*AND Pike  
LFW*

A: 2005 Volume and Values

208 Saw timber trees: 27,426 board feet	valued at	\$ 20,608.00
171 Pulpwood trees: 128 Tons	valued at	<u>\$ 640.00</u>
<b>TOTAL VALUE FOR SAW TIMBER AND PULPWOOD</b>		<b>\$ 21,248.00</b>

If you have any questions concerning this report, please feel free to contact me.

Sincerely,



Lee F. Warren



Lee F. Warren  
Professional Forestry Services  
410 Welch Ave.  
Clearfield, PA. 16830  
Home: 814-765-2871  
Cell: 814-577-7248  
Treeman130@hotmail.com

November 15, 2005

## TIMBER VALUATION REPORT

This report is done on the DONALD WAY property located in Lawrence Township, Clearfield County, Pennsylvania. The acreage was not determined.

### THE METHOD:

One hundred percent of all stumps of sawtimber size trees (12" diameter at breast height and larger) and all pulpwood size trees (less than 12" diameter at breast height) that were cut and removed from the property this past summer were measured and recorded to develop the volumes and values of the report. The stump diameters were adjusted down one inch to accommodate for taper. The tree heights were determined by measuring trees on the adjacent uncut property to develop an average height.

The sawtimber volumes are expressed as "net volumes" in board feet. These figures are arrived at by adjusting the gross volumes as read from the volume table and subtracting those sections of the trees that are non-commercial due to size, shape or decay. This is done by estimating in four-foot sections of the trees and is expressed as a percentage of the tree that is non-commercial. This practice is the standard application of the volume table.

### VOLUME TABLE:

This is the "Board-foot and Cubic-foot Volume Tables For Commercial Forest Species of Pennsylvania", produced in cooperation by Pennsylvania State University, Pennsylvania Bureau of Forestry and the U. S. Forest Service; copyright 1972. This is a "Local Volume Table for Trees Growing in Pennsylvania".

The sawtimber volumes are expressed in "Board-feet-International 1/4" Log Scale". The pulpwood volumes are expressed in "Cubic-feet of Solid Wood". For the report, the pulpwood cubic-foot volumes are converted to weight and expressed as "tons". This is done because pulpwood is sold by weight in this area.

## TABLE 1

This gives the current sawtimber volumes, pulpwood weight and dollar values.

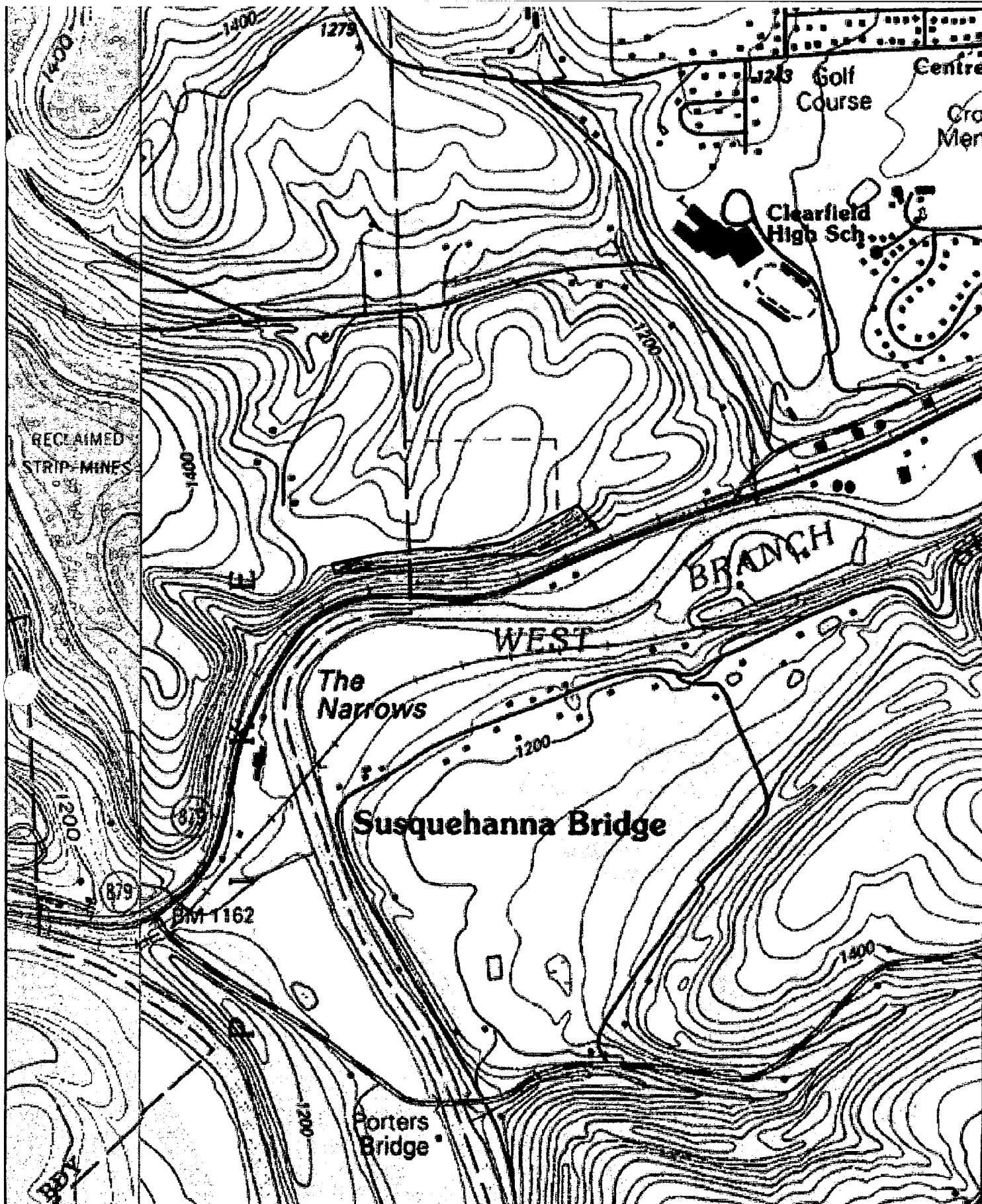
### VALUES:

The report uses as a value index the low values received by the Pennsylvania Bureau of Forestry for timber sales on the Moshannon State Forest located in Clearfield, Elk and Centre Counties. The sale volumes have been developed using the same methods and volume tables as used for the report. The values are expressed as "low dollar values" received on **competitive sealed bid** sales for the target year. The low dollar values are used in this report due to the low quality of this particular timber due to the growing site ( steep, South exposure).

**TABLE 1**  
**2005 VALUES**  
**DONALD WAY PROPERTY**

<b>SPECIES</b>	<b>NET VOLUME</b>		<b>PRICE /MBF</b>		<b>TOTAL DOLLAR VALUE</b>
Red Maple	966 Bd Ft	x	\$ 208	=	\$ 200.00
Sugar Maple	1227 " "	x	\$ 470	=	\$ 576.00
Red Oak sp.	2944 " "	x	\$ 312	=	\$ 918.00
White Oak	677 " "	x	\$ 260	=	\$ 177.00
White Ash	2080 " "	x	\$ 150	=	\$ 312.00
Hickory sp.	2098 " "	x	\$ 150	=	\$ 314.00
Black Cherry	17791 " "	x	\$ 1018	=	\$ 18111.00
Mixed Pulpwood	128 Tons	x	\$ 5	=	<u>\$ 640.00</u>

**TOTAL DOLLAR VALUE : \$ 21248.00**



Name: GLEN RICHEY  
Date: 11/15/2005  
Scale: 1 inch equals 1000 feet

Location: 040° 59' 04.8" N 078° 29' 22.6" W  
Caption: DONALD WAY TIMBER APPRAISAL - APPROXIMATE  
LOCATION

# TIMBER APPRAISAL

Species	Red Maple				Red Oak				White Oak				Ash				White Pine				Hemlock				Sugar Maple				Total
	# Diameter	# Trees	Gross	Net	# Diameter	# Trees	Gross	Net	# Diameter	# Trees	Gross	Net	# Diameter	# Trees	Gross	Net	# Diameter	# Trees	Gross	Net	# Diameter	# Trees	Gross	Net					
12	2	236	189	2	232	200	0	0	0	6	666	573	0	0	0	0	0	0	0	0	0	1	116	97	11	1260	1069		
13	1	138	110	4	644	468	0	0	0	1	129	111	0	0	0	0	0	0	0	0	0	1	136	113	7	948	809		
14	1	160	128	2	514	270	0	0	0	2	298	245	0	0	0	0	0	0	0	0	0	0	0	6	770	653			
15	0	0	0	3	571	491	1	189	139	2	338	281	0	0	0	0	0	0	0	0	2	364	297	8	1431	1217			
16	1	208	166	0	0	0	1	228	187	2	452	389	0	0	0	0	0	0	0	0	1	201	169	5	1089	911			
17	0	0	0	4	1092	939	0	0	0	1	264	218	0	0	0	0	0	0	0	0	1	226	190	6	1572	1347			
18	0	0	0	1	266	220	0	0	0	1	284	244	0	0	0	0	0	0	0	0	0	0	0	2	540	464			
19	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
20	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
21	1	468	373	1	414	356	1	428	352	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	1309	1081			
22	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
23	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
24	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
25	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
26	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
27	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
28	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
29	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
30+	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Totals	6	1208	966	17	3423	2844	3	826	677	15	2419	2030	0	0	0	0	0	0	0	0	6	1032	867	47	8907	7534			

DONALD WAY  
Tree Frequency and Volume by Diameter Table  
International 1/4" Board Foot Scale  
TIMBER APPRAISAL

Species	#	Chestnut Oak	Hickory	Black Birch	Beech	Black Cherry	Black Walnut	TOTAL	GRAND TOTALS
Diameter	Trees	Gross	Net	Trees	Gross	Net	Trees	Gross	Net
12	0	0	0	8	888	781	0	0	0
13	0	0	0	3	387	341	0	0	0
14	0	0	0	2	286	260	0	0	0
15	0	0	0	0	0	0	0	0	0
16	0	0	0	1	228	188	0	0	0
17	0	0	0	0	0	0	0	0	0
18	0	0	0	1	239	210	0	0	0
19	0	0	0	0	0	0	0	0	0
20	0	0	0	1	348	308	0	0	0
21	0	0	0	0	0	0	0	0	0
22	0	0	0	0	0	0	0	0	0
23	0	0	0	0	0	0	0	0	0
24	0	0	0	0	0	0	0	0	0
25	0	0	0	0	0	0	0	0	0
26	0	0	0	0	0	0	0	0	0
27	0	0	0	0	0	0	0	0	0
28	0	0	0	0	0	0	0	0	0
29	0	0	0	0	0	0	0	0	0
30	0	0	0	0	0	0	0	0	0
Totals	0	0	0	18	2384	2098	0	0	0

TOTAL

GRAND TOTALS

7628

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101367  
NO: 06-437-CD  
SERVICE # 1 OF 1  
COMPLAINT

PLAINTIFF: DONALD B. WAY and MARY ANN WAY  
vs.  
DEFENDANT: JAMES SWATSWORTH

SHERIFF RETURN

NOW, April 04, 2006 AT 3:32 PM SERVED THE WITHIN COMPLAINT ON JAMES SWATSWORTH DEFENDANT AT SHERIFF'S OFFICE, 1 N. 2ND ST., SUITE 116, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JAMES SWATSWORTH, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: SNYDER /

FILED  
012:5134  
APR 27 2006

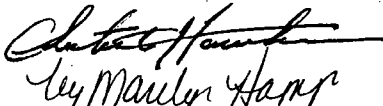
William A. Shaw  
Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	KOERBER	2633	10.00
SHERIFF HAWKINS	KOERBER	2633	30.07

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**

Donald B. Way and  
Mary Ann Way,  
Plaintiffs

Vs.

James Swatsworth  
Defendant

\*

\*

\*

\*

Docket Number: 06-437-CD

Type of Pleading:  
PRAECIPE TO ENTER JUDGMENT

Filed on behalf of:  
Plaintiffs:  
DONALD B. WAY AND  
MARY ANN WAY

Counsel of record for this party:

Dwight L. Koerber, Jr.  
PA I.D. No. 16332

110 North Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED** 3cc to statement  
03:21:30 Atty Koerber  
MAY 16 2006 Notice to Def.

William A. Shaw  
Prothonotary/Clerk of Courts

Atty pd.  
80.00

ER



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

Donald B. Way and  
Mary Ann Way,  
Plaintiffs

\*

\*

Vs.

\*

Docket Number: 06-437-CD

James Swatsworth  
Defendant

\*

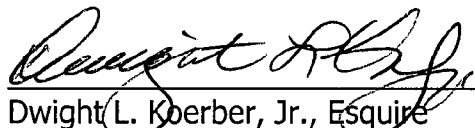
**PRAECIPE TO ENTER JUDGMENT**

TO WILLIAM A. SHAW, PROTHONOTARY:

Please enter a judgment against Defendant James Swatsworth in the amount of \$8,924.00, plus costs and legal interest from October 1, 2005. Attached hereto is a copy of the notice I served upon Defendant on April 28, 2006, in accordance with Rule 237.1 of the Pennsylvania Rules of Civil Procedure.

Defendant's address is:

James Swatsworth  
62 Fleming Road  
Curwensville, PA 16833

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Donald B. Way and Mary Ann Way

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

Donald B. Way and  
Mary Ann Way,  
Plaintiffs

\*

\*

Vs.

\*

Docket Number: 06-437-CD

James Swatsworth  
Defendant

\* \*

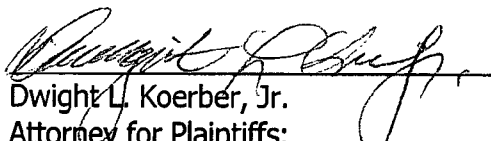
**DEFAULT NOTICE**

To: James Swatsworth  
62 Fleming Road  
Curwensville, PA 16833

**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

DAVID S. MEHOLICK, COURT ADMINISTRATOR  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830  
(814) 765-2641 Ext. 32

  
Dwight L. Koerber, Jr.  
Attorney for Plaintiffs:  
Donald B. Way and Mary Ann Way

Law Offices of Dwight L. Koerber, Jr., Esquire  
110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830

Date: April 28, 2006

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

Donald B. Way and  
Mary Ann Way,  
Plaintiffs

\*

\*

Vs.

\*

Docket Number: 06-437-CD

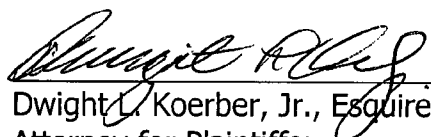
James Swatsworth  
Defendant

\*

**CERTIFICATE OF SERVICE**

This is to certify that on the 16<sup>th</sup> day of May 2006, the undersigned served a  
PRAECIPE TO ENTER JUDGMENT in the above captioned matter upon Defendant. Such  
document was served by United States First Class Mail upon the following:

James Swatsworth  
62 Fleming Road  
Curwensville, PA 16833

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs:  
Donald B. Way and Mary Ann Way

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

CIVIL DIVISION

Donald B. Way and Mary Ann Way

Vs.

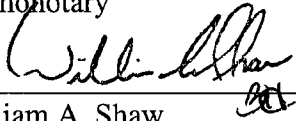
No. 2006-00437-CD

James Swatsworth

To: DEFENDANT(S)

NOTICE is given that a JUDGMENT in the above captioned matter has been entered against you in the amount of \$8,924.00 on May 16, 2006.

William A. Shaw  
Prothonotary

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

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

Copy

Donald B. Way  
Mary Ann Way  
Plaintiff(s)

No.: 2006-00437-CD

Real Debt: \$8,924.00

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

James Swatsworth  
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: May 16, 2006

Expires: May 16, 2011

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



William A. Shaw, Prothonotary

\*\*\*\*\*

SIGN BELOW FOR SATISFACTION

Received on \_\_\_\_\_, \_\_\_\_\_, of defendant full satisfaction of this Judgment,  
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

\_\_\_\_\_  
Plaintiff/Attorney

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

DONALD B. WAY AND  
MARY ANN WAY,  
Plaintiffs

-vs-

JAMES SWATSWORTH,  
Defendant

\*  
\*  
\*  
\*  
\*

Docket No. 06-437-CD

Type of pleading:  
CERTIFICATE OF SERVICE

Filed on behalf of:  
PLAINTIFFS, Donald B. Way  
and Mary Ann Way

Counsel of record for  
this party:

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED** No. 06-437-CD  
9:24:45 am  
NOV -1 2006

William A. Shaw  
Prothonotary/Clerk of Courts

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

DONALD B. WAY AND  
MARY ANN WAY,  
Plaintiffs

\*

\*

-vs-

\*

Docket No. 06-437-CD

JAMES SWATSWORTH,  
Defendant

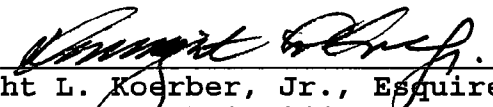
\*

\*

CERTIFICATE OF SERVICE

I certify that a "Notice of Taking Deposition Upon Oral Examination in Furtherance of Execution" was served by United States First Class Mail upon Defendant James Swatsworth on or about October 11, 2006; and that a Subpoena was served upon Defendant James Swatsworth by the Clearfield County Sheriff's office on October 25, 2006, requiring the defendant's presence at the deposition to be held at the offices of counsel for plaintiffs on November 14, 2006, beginning at 10:00 A.M., and requiring that Defendant James Swatsworth bring with him to the deposition his 2004 and 2005 tax returns, his files concerning pending litigation, his financial statements from banks, and a listing of accounts receivable.

Respectfully submitted,

By:   
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs,  
Donald B. Way and Mary Ann Way  
DATE: October 31, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102018  
NO: 06-437-CD  
SERVICE # 1 OF 1  
SUBPOENA TO ATTEND AND TESTIFY

**FILED**  
OCT 11 2006  
NOV 02 2006  
*(Signature)*

William A. Shaw  
Prothonotary/Clerk of Courts

PLAINTIFF: DONALD B. WAY & MARY ANN WAY  
vs.  
DEFENDANT: JAMES SWATSWORTH

**SHERIFF RETURN**

---

NOW, October 25, 2006 AT 2:30 PM SERVED THE WITHIN SUBPOENA TO ATTEND AND TESTIFY ON JAMES SWATSWORTH DEFENDANT AT 62 FLEMING ROAD, CURWENSVILLE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JAMES SWATSWORTH, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL SUBPOENA TO ATTEND AND TESTIFY AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DAVIS / MORGILLO

PURPOSE	VENDOR	CHECK #	AMOUNT
SHERIFF HAWKINS	KOERBER	2855	34.41

Sworn to Before Me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2006

\_\_\_\_\_

So Answers,

*(Signature)*  
*(Signature)*  
Chester A. Hawkins  
Sheriff