

**Lorraine Gearhart et al vs Christopher Hen.  
2006-1027-CD**

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

Lorraine L. Gershart, et.al.

(Plaintiff)

501 S. 6th Street  
(Street Address)

Clearfield PA 16830  
(City, State ZIP)

vs.

Paul Thomas  
(Defendant)

311 Reighard Street  
(Street Address)

Clearfield PA 16830  
(City, State ZIP)

CIVIL ACTION

No.

06-1027-CD

Type of Case: Property issues/Landlord/Tenant

Type of Pleading: Notice of Appeal

Filed on Behalf of:

Paul Thomas, Defendant  
(Plaintiff/Defendant)

**FILED** *1/10/30am* *Copy to MJD Ireland*  
*Att \$85.00* *Pitt*  
*JUN 29 2006* *deft*  
*US*

William A. Shaw  
Prothonotary

Warren B. McGehee  
(Filed by)

115 E. Locust Street  
(Address) Clearfield PA 16830

814-765-6605  
(Phone)

  
(Signature)

## COMMONWEALTH OF PENNSYLVANIA

## COURT OF COMMON PLEAS

Judicial District, County Of  
CLEARFIELD

## NOTICE OF APPEAL

FROM

## DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2006-1027-CD

## NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case referenced below.

NAME OF APPELLANT <b>PAUL THOMAS</b>	MAG. DIST. NO. <b>46-3-02</b>	NAME OF D.J. <b>RICHARD A. IRELAND</b>
ADDRESS OF APPELLANT <b>311 REIGHARD STREET</b>	CITY <b>CLEARFIELD</b>	STATE <b>PA</b> ZIP CODE <b>16830</b>
DATE OF JUDGMENT <b>June 21, 2006</b>	IN THE CASE OF (Plaintiff) <b>GEARHART, LORRAINE, ET.AL.</b>	(Defendant) <b>PAUL THOMAS</b>
DOCKET No. <b>LT-0000151-06</b>	SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT 	
This block will be signed ONLY when this notation is required under Pa. R.C.P.D.J. No. 1008B. This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.		If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action before a District Justice, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.  
_____ Signature of Prothonotary or Deputy		

## PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO JUNE 29 2006

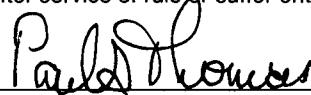
(This section of form to be used ONLY when appellant was DEFENDANT (see Pa.R.C.P.D.J. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

**William A. Shaw**  
ProthonotaryEnter rule upon LORRAINE L. GEARHART ET.AL. \_\_\_\_\_

appellee(s), to file a complaint in this appeal

Name of appellee(s)

(Common Pleas No. 2006-1027-CD ) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Signature of appellant or attorney or agent

RULE: To LORRAINE L. GEARHART ET.AL. , appellee(s)

Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of the mailing.

Date: June 29, 2006

Signature of Prothonotary or Deputy

YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.

---

**PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT**

*(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing of the notice of appeal. Check applicable boxes.)*

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF \_\_\_\_\_; ss

**AFFIDAVIT:** I hereby (swear) (affirm) that I served

a copy of the Notice of Appeal, Common Pleas No. \_\_\_\_\_, upon the District Justice designated therein on  
(date of service) \_\_\_\_\_, 20\_\_\_\_\_,  by personal service  by (certified) (registered) mail,  
sender's receipt attached hereto, and upon the appellee, (name) \_\_\_\_\_, on  
\_\_\_\_\_, 20\_\_\_\_\_,  by personal service  by (certified) (registered) mail,  
sender's receipt attached hereto.

(SWORN) (AFFIRMED) AND SUBSCRIBED BEFORE ME  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_

*Signature of affiant*

*Signature of official before whom affidavit was made*

*Title of official*

My commission expires on \_\_\_\_\_, 20\_\_\_\_\_

## COMMONWEALTH OF PENNSYLVANIA

## COURT OF COMMON PLEAS

Judicial District, County Of  
CLEARFIELD

## NOTICE OF APPEAL

FROM  
DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2006-1027-CD

## NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case referenced below.

NAME OF APPELLANT <b>PAUL THOMAS</b>	MAG. DIST. NO. <b>46-3-02</b>	NAME OF D.J. <b>RICHARD A. IRELAND</b>
ADDRESS OF APPELLANT <b>311 REIGHARD STREET</b>	CITY <b>CLEARFIELD</b>	STATE <b>PA</b>
DATE OF JUDGMENT <b>June 21, 2006</b>	IN THE CASE OF (Plaintiff) <b>GEARHART, LORRAINE, ET.AL.</b>	(Defendant) <b>PAUL THOMAS</b>
DOCKET No. <b>LT-0000151-06</b>	SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT <i>Paul A. Thomas</i>	

This block will be signed ONLY when this notation is required under Pa. R.C.P.D.J. No. 1008B.

This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.

If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action before a District Justice, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.

*Signature of Prothonotary or Deputy*

**FILED**

## PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa.R.C.P.D.J. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.)

*JUN 29 2006*

PRAECIPE: To Prothonotary

Enter rule upon LORRAINE L. GEARHART ET.AL.  
Name of appellee(s)

*William A. Shaw*  
appellee(s) to file a complaint in this appeal  
Prothonotary

(Common Pleas No. 2006-1027-CD ) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

*Paul A. Thomas*  
Signature of appellant or attorney or agent

RULE: To LORRAINE L. GEARHART ET.AL. , appellee(s)  
Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

- (2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU.
- (3) The date of service of this rule if service was by mail is the date of the mailing.

Date: June 29, 2006

*William A. Shaw*  
Signature of Prothonotary or Deputy

**YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.**

---

**PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT**

*(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing of the notice of appeal. Check applicable boxes.)*

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF \_\_\_\_\_; ss

**AFFIDAVIT:** I hereby (swear) (affirm) that I served

a copy of the Notice of Appeal, Common Pleas No. \_\_\_\_\_, upon the District Justice designated therein on  
(date of service) \_\_\_\_\_, 20\_\_\_\_\_.  by personal service  by (certified) (registered) mail,  
sender's receipt attached hereto, and upon the appellee, (name) \_\_\_\_\_, on  
\_\_\_\_\_, 20\_\_\_\_\_.  by personal service  by (certified) (registered) mail,  
sender's receipt attached hereto.

(SWORN) (AFFIRMED) AND SUBSCRIBED BEFORE ME  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_

*Signature of affiant*

*Signature of official before whom affidavit was made*

*Title of official*

My commission expires on \_\_\_\_\_, 20\_\_\_\_\_.  
\_\_\_\_\_, 20\_\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

**46-3-02**

MDJ Name: Hon.

**RICHARD A. IRELAND**  
Address: **650 LEONARD ST**  
**STE 113**  
**CLEARFIELD, PA**

Telephone: **(814) 765-5335**      **16830**

**ATTORNEY DEF PRIVATE :**

**WARREN MIKESELL**  
**115 E LOCUST STREET**  
**CLEARFIELD, PA 16830**

**NOTICE OF JUDGMENT/TRANSCRIPT**  
**RESIDENTIAL LEASE**

PLAINTIFF: **GEARHART, LORRAINE L, ET AL.** NAME and ADDRESS  
**501 S 6TH STREET**  
**CLEARFIELD, PA 16830**

VS.

DEFENDANT: **THOMAS, PAUL** NAME and ADDRESS  
**311 REIGHARD STREET**  
**CLEARFIELD, PA 16830**

Docket No.: **LT-0000151-06**  
Date Filed: **6/05/06**



**THIS IS TO NOTIFY YOU THAT:**

Judgment:

**FOR PLAINTIFF**

**GEARHART, LORRAINE L, ET AL.**

Judgment was entered for: (Name) **GEARHART, LORRAINE L, ET AL.**

Judgment was entered against **THOMAS, PAUL** in a

Landlord/Tenant action in the amount of \$ **694.00** on **6/21/06** (Date of Judgment)

The amount of rent per month, as established by the Magisterial District Judge, is \$ **600.00**.

The total amount of the Security Deposit is \$ **.00**

Total Amount Established by MDJ Less Security Deposit Applied = Adjudicated Amount

Rent in Arrears \$ **600.00** - \$ **.00** = \$ **600.00**

Physical Damages Leasehold Property \$ **.00** - \$ **.00** = \$ **.00**

Damages/Unjust Detention \$ **.00** - \$ **.00** = \$ **.00**

Less Amt Due Defendant from Cross Complaint - \$ **.00**

Interest (if provided by lease) \$ **.00**

L/T Judgment Amount \$ **600.00**

Judgment Costs \$ **94.00**

Attorney Fees \$ **.00**

**Total Judgment** \$ **694.00**

Post Judgment Credits \$ **.00**

Post Judgment Costs \$ **.00**

**Certified Judgment Total** \$ **.00**

Attachment Prohibited/  
42 Pa.C.S. § 8127

This case dismissed without prejudice.

Possession granted.

Possession granted if money judgment is not satisfied by time of eviction.

Possession not granted.

Defendants are jointly and severally liable.

IN AN ACTION INVOLVING A RESIDENTIAL LEASE, ANY PARTY HAS THE RIGHT TO APPEAL FROM A JUDGMENT FOR POSSESSION WITHIN TEN DAYS AFTER THE DATE OF ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURTS OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. THIS APPEAL WILL INCLUDE AN APPEAL OF THE MONEY JUDGMENT, IF ANY. IN ORDER TO OBTAIN A SUPERSEDEAS, THE APPELLANT MUST DEPOSIT WITH THE PROTHONOTARY/CLERK OF COURTS THE LESSER OF THREE MONTHS RENT OR THE RENT ACTUALLY IN ARREARS ON THE DATE THE APPEAL IS FILED.

IF A PARTY WISHES TO APPEAL ONLY THE MONEY PORTION OF A JUDGMENT INVOLVING A RESIDENTIAL LEASE, THE PARTY HAS 30 DAYS AFTER THE DATE OF ENTRY OF JUDGMENT IN WHICH TO FILE A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURTS OF THE COURT OF COMMON PLEAS, CIVIL DIVISION.

THE PARTY FILING AN APPEAL MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THE NOTICE OF APPEAL. EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

**JUN 21 2006**

Date

*R. L. G. J.*

, Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

Date

, Magisterial District Judge

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

**46-3-02**

MDJ Name: Hon.

**RICHARD A. IRELAND**  
Address: **650 LEONARD ST**  
**STE 113**  
**CLEARFIELD, PA**

Telephone: **(814) 765-5335**      **16830**

**RICHARD A. IRELAND**  
**650 LEONARD ST**  
**STE 113**  
**CLEARFIELD, PA 16830**

2006-102n-CN

**NOTICE OF JUDGMENT/TRANSCRIPT  
RESIDENTIAL LEASE**

PLAINTIFF: **GEARHART, LORRAINE L, ET AL.**  
NAME and ADDRESS

**501 S 6TH STREET**  
**CLEARFIELD, PA 16830**

VS.

DEFENDANT: **NAME and ADDRESS**

**THOMAS, PAUL**  
**311 REIGHARD STREET**  
**CLEARFIELD, PA 16830**

Docket No.: **LT-0000151-06**  
Date Filed: **6/05/06**



**THIS IS TO NOTIFY YOU THAT:**

Judgment:

Judgment was entered for: (Name) **GEARHART, LORRAINE L, ET AL.**  
 Judgment was entered against **THOMAS, PAUL** in a  
 Landlord/Tenant action in the amount of \$ **694.00** on **6/21/06** (Date of Judgment)  
 The amount of rent per month, as established by the Magisterial District Judge, is \$ **600.00**.

The total amount of the Security Deposit is \$ **.00**

Total Amount Established by MDJ Less Security Deposit Applied = Adjudicated Amount		
Rent in Arrears	\$ <b>600.00</b> - \$ <b>.00</b>	= \$ <b>600.00</b>
Physical Damages Leasehold Property	\$ <b>.00</b> - \$ <b>.00</b>	= \$ <b>.00</b>
Damages/Unjust Detention	\$ <b>.00</b> - \$ <b>.00</b>	= \$ <b>.00</b>
Less Amt Due Defendant from Cross Complaint		
Interest (if provided by lease)		
L/T Judgment Amount		
<b>FILED</b>		
Judgment Costs		
Attorney Fees		
<b>Total Judgment</b>		
<b>JUL 07 2006</b>		
<b>h/12.00/ Post Judgment Credits</b>		
William A. Shaw Judgment Costs		
Prothonotary/Clerk of Courts		
<b>Certified Judgment Total</b>		
\$ <b>694.00</b>		

Attachment Prohibited/  
42 Pa.C.S. § 8127  
 This case dismissed without prejudice.  
 Possession granted.  
 Possession granted if money judgment is not satisfied by time of eviction.  
 Possession not granted.

Defendants are jointly and severally liable.

IN AN ACTION INVOLVING A RESIDENTIAL LEASE, ANY PARTY HAS THE RIGHT TO APPEAL FROM A JUDGMENT FOR POSSESSION WITHIN TEN DAYS AFTER THE DATE OF ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURTS OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. THIS APPEAL WILL INCLUDE AN APPEAL OF THE MONEY JUDGMENT, IF ANY. IN ORDER TO OBTAIN A SUPERSEDEAS, THE APPELLANT MUST DEPOSIT WITH THE PROTHONOTARY/CLERK OF COURTS THE LESSER OF THREE MONTHS RENT OR THE RENT ACTUALLY IN ARREARS ON THE DATE THE APPEAL IS FILED.

IF A PARTY WISHES TO APPEAL ONLY THE MONEY PORTION OF A JUDGMENT INVOLVING A RESIDENTIAL LEASE, THE PARTY HAS 30 DAYS AFTER THE DATE OF ENTRY OF JUDGMENT IN WHICH TO FILE A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURTS OF THE COURT OF COMMON PLEAS, CIVIL DIVISION.

THE PARTY FILING AN APPEAL MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THE NOTICE OF APPEAL, EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

**JUN 21 2006**

Date

*Richard Ireland*

, Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

**JUL 03 2006**

Date

*Richard Ireland*

, Magisterial District Judge

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

Lorraine L. Gearhart, individually,  
Michele A. Newpher, individually  
and Christopher A. Hendricks,  
individually, by his legal guardian,  
Lorraine L. Gearhart,

Plaintiffs

vs.

Paul Thomas,

Defendant

\*  
\*  
\*  
\*  
\*  
\*

\* No. 2006-1027-CD

\*  
\*  
\*  
\*  
\*  
\*

\* Type of Case: Civil

\*  
\*  
\*

\* Type of Pleading: Complaint

\*  
\*  
\*  
\*  
\*  
\*

\* Filed on Behalf of: Plaintiffs

\*  
\*  
\*  
\*  
\*

\* Counsel of Record for this Party:  
\* John Sughrue, Esquire  
\* Attorney I. D. No. 01037  
\* 23 North Second Street  
\* Clearfield, PA 16830  
\* Phone: (814) 765-1704  
\* Fax: (814) 765-6959

\*  
\*  
\*

\* Other Counsel of Record:  
\* Warren B. Mikesell, Esquire  
\* Attorney I. D. No.  
\* Mikesell & Mikesell  
\* 115 East Locust St.  
\* Clearfield, PA 16830  
\* Phone: (814) 765-9026  
\* Fax: (814) 765-9039

\*

**FILED**  
09:30 am  
JUL 17 2006  
300 Atty  
Sughrue  
vn

William A. Shaw  
Prothonotary

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

Lorraine L. Gearhart, individually,	*
Michele A. Newpher, individually	*
and Christopher A. Hendricks,	*
individually, by his legal guardian,	*
Lorraine L. Gearhart,	*
Plaintiffs	*
vs.	*
	No. 2006-1027-CD
Paul Thomas,	*
Defendant	*
	*
	*
	*

**NOTICE**

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

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.**

Court Administrator's Office  
Clearfield County Courthouse  
1 North Second Street  
Clearfield, PA 16830  
(814) 765-2641, Extension 5982

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

Lorraine L. Gearhart, individually,	*
Michele A. Newpher, individually	*
and Christopher A. Hendricks,	*
individually, by his legal guardian,	*
Lorraine L. Gearhart,	*
Plaintiffs	*
vs.	*
	No. 2006-1027-CD
Paul Thomas,	*
Defendant	*
	*
	*
	*
	*

**COMPLAINT**

**AND NOW**, comes the Plaintiffs, above-named by their attorney, John Sughrue, and files this Complaint against the above-named Defendant upon causes of action whereof the following are statements:

1. The Plaintiff, Lorraine L. Gearhart, hereinafter referred to individually and collectively as "Owners" is an adult individual who resides at 501 South 6<sup>th</sup> St., Clearfield, PA 16830.
2. The Plaintiff, Michele A. Newpher, hereinafter referred to individually and collectively as "Owners" is an adult individual who resides at 143 Meadow Drive, Renfrew, PA 16053.
3. The Plaintiff, Christopher A. Hendricks, hereinafter referred to individually and collectively as "Owners" is an adult individual who currently resides with his sister Lorraine L. Gearhart at 501 South 6<sup>th</sup> St., Clearfield, PA 16830 and appears in this action by Lorraine L. Gearhart, his legal guardian by virtue of decree issued from the Orphans' Court division of this Court, all which appears of record.

4. The Defendant, Paul Thomas, is an adult individual whose last known address was 311 Reighard St., Clearfield, PA 16830.

5. The real property which is the subject of this case is located in Clearfield Borough, Clearfield County, Pennsylvania and consists of a lot improved with a single family residential dwelling commonly known and designated as 311 Reighard St., Clearfield, PA 16830. Said property is hereinafter referred to as "the premises".

6. The Owners are the owners of the premises having inherited the same from their mother, Irene C. Stauffer, under her Will probated in the Register of Will's Office of Clearfield County, Pennsylvania, in Estate No. 2000-339.

7. For a period of time prior to April 28, 2006, the premises were occupied by the Defendant as his personal residence. Defendant occupied the premises at the will and acquiescence of the Owners and did not pay any rent.

8. On or about May 31, 2006, Owners determined that they desired and intended to sell the property on the open market. In that connection, Owners asked Defendant to vacate the premises. Notwithstanding the foregoing, Defendant refused to surrender the premises to the Owners.

9. As a result of the foregoing, the Defendant retained Attorney Warren B. Mikesell, Esq. as his agent. Said agent, on behalf of the Defendant and acting within the scope of his authority and employment, advised the Owners that the Defendant would not voluntarily vacate the premises.

10. As a result of the foregoing, Owners, by letter dated April 28, 2006 directed to Attorney Mikesell, gave notice to Defendant that his right or privilege to occupy and utilize the premises was being terminated effective May 31, 2006 and that he should vacate the premises by

that date. Said notice was forwarded by Attorney John Sughrue, representing the Owners, and a copy of said letter is attached hereto as **EXHIBIT A** and incorporated herein by reference.

11. As a result of the foregoing, Owners, at the same time, advised Defendant that a monthly rental of six hundred dollars (\$600.00) would be charged for every month he continued to occupy the premises and deprive the Owners of the beneficial use and enjoyment of their property.

12. Notwithstanding the foregoing, Defendant failed or refused to vacate the premises on or before May 31, 2006 and continues to occupy the premises and/or in the alternative claims the right to occupy the premises through the filing of this Complaint.

13. As a result of the foregoing, Owners instituted a Landlord and Tenant Complaint for possession of the premises and rent in the office of District Justice Richard A. Ireland on or about June 5, 2006.

14. After hearing, District Justice Ireland by judgment dated June 21, 2006 granted possession to the owners and entered a money judgment in the amount of six hundred and ninety four dollars (\$694.00) including costs which represents rent due for the month of June 2006.

15. As a result of the foregoing, Defendant filed an appeal from said judgment on or about June 29, 2006 at the above-captioned term and number.

16. As a result of said appeal, this Complaint has been filed.

**COUNT I**

**Complaint for Possession**

17. The facts and averments set forth in paragraph 1 through 16 are incorporated herein by reference as though the same were set forth herein at length verbatim.

18. In filing said appeal, the Defendant failed or refused to deposit with the Prothonotary a sum equal to the lesser of three months rent or the rent actually in arrears on the date the appeal was filed, as required by law and accordingly, the appeal did not constitute a supersedeas to the judgment of possession.

19. As a result of the foregoing, a final and enforceable judgment for possession has been issued by the District Court and is being executed upon as of the filing of this Complaint.

20. The Owners have the right to full use, possession, control, and all other indicia of ownership of the premises.

21. Proper notice was given to the Defendant to quit and surrender the premises.

22. The term for which the property was leased, rented and/or occupied by the Defendant as a tenant has ended.

23. The Defendant has no right or privilege to continue to occupy or utilize the premises.

24. Defendants continued occupancy and use of the premises is detrimental to the rights of the Owners.

**WHEREFORE**, Owners/Plaintiffs respectfully moves the Honorable Court to enter judgment in their favor and against the Defendant granting permanent possession of the premises to the Owners and barring the Defendant from entering, occupying, possessing or otherwise alleging any interest or control in the premises for all time and to tax costs of these proceedings to the Defendant.

**COUNT II**

**Action for Rent Due**

25. The facts and averments set forth in paragraphs 1 through 24 above are incorporated herein by reference as though the same were set forth herein at length verbatim.

26. The established rent of six hundred dollars (\$600.00) per month plus utilities is a fair and reasonable rent for the premises.

27. By failing to vacate the premises as demanded by May 31, 2006, the Defendant agreed by implication or by operation of law to the payment of the rent which was being demanded.

28. As of the filing of this Complaint, rent due for June and July remains unpaid and unsatisfied for a total of one thousand two hundred dollars (\$1,200.00).

29. As an alternative to the rent, Defendant avers that it would be unjust for the Defendant to utilize and receive the benefit of the premises during the period of occupancy and that such occupancy without compensation to the Owners is detrimental and harmful to the Owners in the amount of no less than reasonable rent, specifically six hundred dollars (\$600.00) per month and the actual costs of utilities, taxes, and insurance related to the premises during said period.

30. In the alternative, restitution is due the Defendant for the period of time that the Defendant occupied the premises and deprived the Owners of the possession and use of the premises. Fair restitution is six hundred dollars (\$600.00) per month for occupancy plus the actual costs related to the maintenance and operation of the premises, including utilities, real estate taxes and home insurance.

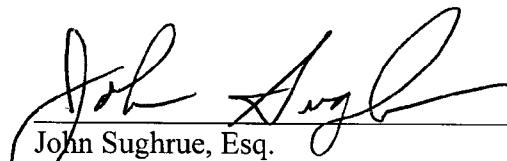
31. The Owners have demanded said rent from the Defendant and he has failed and/or refused pay the same as of the filing of this Complaint.

**WHEREFORE**, Owners/Plaintiffs respectfully moves the Honorable Court to enter a judgment in their favor and against the Defendant in the following amounts:

- A. Twelve hundred dollars (\$1,200.00) for the months of June and July 2006;
- B. Six hundred dollars (\$600.00) per month for each month or part of a month the Defendant continues to occupy the premises;

- C. One-twelfth (1/12) of the actual real estate taxes due on the premises for each month that the Defendant occupied the premises;
- D. One-twelfth (1/12) of the total premium paid annually for fire and casualty insurance on the premises for each month the Defendant occupied the premises after May 31, 2006;
- E. The actual costs of utilities and necessary repairs expended by the Owners on the premises following May 31, 2006 through the date the Defendant vacates the premises;
- F. Cost of this action;
- G. And such other damages and compensation as may be due the Plaintiffs under the law and under the circumstances of this case.

Respectfully submitted by:



John Sughrue, Esq.  
Attorney for Plaintiffs

**JOHN SUGHRUE  
Attorney at Law**

Phone (814) 765-1704

23 North Second Street  
Clearfield, PA 16830

Fax (814) 765-6959

April 28, 2006

Warren B. Mikesell Esq.  
MIKESELL & MIKESELL  
115 EAST LOCUST ST.  
CLEARFIELD, PA 16830

 **COPY**

Re: Lorraine Gearhart and property located Reighard Street

Dear Warren,

Ms. Lorraine Gearhart recently consulted with me regarding your letter directed to her with respect to the above mentioned property and your client, Paul Thomas.

Ms. Gearhart disagrees strongly with the facts as stated in your letter. Her brother, Christopher, came to reside with her on or about July 10, 2004 and has continued to reside with her since that date. He came because of Paul's admittance to the hospital, his declining health and his inability to care for Chris. My client is satisfied that inability continues through the present time. She is further satisfied that the intent and purpose of her mother's wishes have been followed.

With respect to your allegations that your client has a claim against the property or will compute a claim against the property, I have advised my client that it is very unlikely that he has a legally viable claim. In any event, such a claim is independent of the property itself.

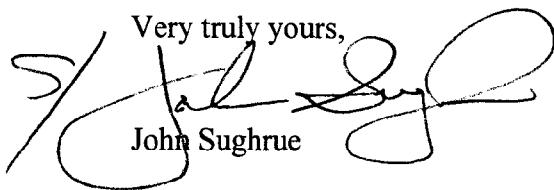
Accordingly, please accept this letter as Ms. Gearhart's reaffirmation to your client that she desires and intends to place the property on the market and that he should vacate by May 31, 2006. Subsequent to May 31, 2006, a monthly rental of \$600.00 plus utilities will be charged.

From a practical standpoint, the ongoing expense and liability of maintaining this property is probably a burden on both your client and mine. If your client should have another extended hospital stay or rehab stay, the property would be vacant. Would it not be in his best interest to secure a more manageable accommodation.

We ask that this matter be resolved amicably within the next ten days or my client will have to consider other options available to her. Thank you for considering these matters.

Very truly yours,

John Sughrue



JS/kg

cc: Ms. Lorraine L. Gearhart

**VERIFICATION**

I, Lorraine L. Gearhart, individually and as a guardian for Christopher A. Hendricks and as authorized agent for Michele A. Newpher, Plaintiff, verify that the statements made in this Complaint 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.

Date: July 14, 2006

  
\_\_\_\_\_  
Lorraine L. Gearhart

**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on July 17, 2006, I caused a true and correct copy of COMPLAINT to be served on the following and in the manner indicated below:

**By United States Mail, First Class, Postage Prepaid**  
**Addressed as Follows:**

Warren B. Mikesell, Esq.  
Mikesell & Mikesell  
115 East Locust St.  
Clearfield, PA 16830

Date: July 17, 2006



John Sughrue, Esquire  
Attorney for Plaintiff

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

Lorraine L. Gearhart, individually,  
Michele A. Newpher, individually  
and Christopher A. Hendricks,  
individually, by his legal guardian,  
Lorraine L. Gearhart,

Plaintiffs

VS.

Paul Thomas,  
Defendant

No. 2006-1027-CD

Type of Case: Civil

Type of Pleading: Answer to Complaint and  
Counterclaim

Filed on behalf of:  
DEFENDANT: Paul Thomas

Counsel of record for this party:

Warren B. Mikesell, II  
PA I.D. No. 63717

115 East Locust Street  
Clearfield, PA 16830  
(814) 765-6605

**FILED**  
03:40pm 4CC Atty. Mikesell  
AUG - 4 2006  
S

William A. Shaw  
Prothonotary

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

Lorraine L. Gearhart, individually,	:	
Michele A. Newpher, individually	:	
and Christopher A. Hendricks,	:	
individually, by his legal guardian,	:	
Lorraine L. Gearhart,	:	
Plaintiffs	:	
VS.	:	No. 2006-1027-CD
	:	
Paul Thomas,	:	
Defendant	:	

**ANSWER TO COMPLAINT**

NOW COMES the Defendant, PAUL THOMAS, by and through his attorney, Warren B. Mikesell, II, and sets forth the following Answers to Complaint, and in support thereof would aver as follows:

1. Paragraph one is admitted.
2. Paragraph two is admitted.
3. Paragraph three is without sufficient knowledge to ascertain or affirm this averment. Proof of this averment is demanded at trial.
4. Paragraph four is admitted.
5. Paragraph five is admitted.
6. Paragraph six is admitted in part and denied in part. It is admitted that the subject property is listed and the terms and conditions of ownership are subject to the terms and conditions of the Codicil written by Irene C. Stauffer which was duly probated. Defendant is

without sufficient legal knowledge as to the interpretation thereof and therefore demands proof of this averment is demanded at trial.

7. Paragraph seven is admitted in part and denied in part. It is admitted that the Defendant has occupied the premises until July 2006 and that the Defendant did not pay rent. It is denied that the Defendant occupied the premises at the will of the Owners. By way of further explanation, Defendant asserts that he had an absolute right under the terms and conditions of the Codicil of Irene C. Stauffer to live and remain in the residence during his lifetime so long as he was able to care for her son, Christopher A. Hendricks. According to the terms and conditions of the aforesaid Codicil the Defendant was and is entitled to reside in the residence so long as he provides and maintains the residence as a home for Christopher and he can physically and mentally do so. Despite a brief hospital stay in the past (at which time the Plaintiff, Lorraine L. Gearhart, did assume responsibility for Christopher) Defendant has been both physically and mentally capable of providing and maintaining the residence property for both himself and Christopher A. Hendricks in accordance with the Will and Codicil of Irene C. Stauffer. Proof of his inability to provide said care is demanded at trial.

8. Paragraph eight is admitted in part and denied in part. It is admitted that the Owners asked Defendant to surrender the premises in question, it is denied that they had a legal right to do so. Defendant is without sufficient knowledge, information or belief as to what all of the Owner's desired or intended to do with the premises and that they had a legal right to do so. Proof that the terms and conditions of the Codicil of Irene C. Stauffer were not adhered to is demanded at trial in order to establish that the Owners had a legal right to sell the premises.

9. Paragraph nine is admitted.

10. Paragraph ten is admitted in part and denied in part. It is admitted that the Owner Lorraine Gearhart gave notice of the right to occupy the premise was being terminated effective May 31, 2006, however, it is denied that Owners had a legal right to do the same. Proof that the Owners had a legal right to deny occupancy under the terms and conditions of the Codicil of Irene C. Stauffer is demanded at trial.

11. Paragraph eleven is admitted in part and denied in part. It is admitted that the Owner Lorraine Gearhart gave notice of a monthly rental fee for the premise; however, it is denied that Owners had a legal right to do the same. Proof that the Owners had a legal right to deny occupancy and charge rent under the terms and conditions of the Codicil of Irene C. Stauffer is demanded at trial.

12. Paragraph twelve is admitted in part and denied in part. It is admitted that the Defendant refused to move from the premises; however, he was physically removed from the same in July of 2006. Defendant further admits that he claims a legal right to occupy the premises so long as he is willing to maintain the same as a residence for himself and Christopher A. Hendricks and can physically and mentally do so. Proof that he cannot physically or mentally care and provide for Christopher A. Hendricks is demanded at trial.

13. Paragraph thirteen is admitted.

14. Paragraph fourteen is admitted.

15. Paragraph fifteen is admitted.

16. Paragraph sixteen is admitted.

17. Paragraph seventeen requires not response. Insofar as a response is necessary, the Defendant adopts and incorporates his answers hereinbefore provided for paragraphs 1 through 16 as if the same were set forth herein in their entirety.

18. Paragraph eighteen is admitted.

19. Paragraph nineteen states a legal conclusion which requires no response.

Insofar as a response is required, it is denied that the Order of the District Court is valid because the District Court lacks original jurisdiction for matters of the Orphan's Court.

20. Paragraph twenty states a legal conclusion which requires no response. Insofar as a response is required, it is denied that the Order of the District Court is valid because the District Court lacks original jurisdiction for matters of the Orphan's Court; therefore, proof of this averment is demanded at trial.

21. Paragraph twenty-one is admitted insofar as notice was required; however it is denied that Owners had a legal right to demand possession. Proof of this averment is demanded at trial.

22. Paragraph twenty-two is denied. Insofar as an answer is required, it is asserted that Defendant had a legal right to remain in the premises by virtue of the terms and conditions of the Codicil of Irene C. Stauffer. Proof that the Defendant could not meet the terms and conditions of the Codicil of Irene C. Stauffer is demanded at trial.

23. Paragraph twenty-three is denied. Insofar as an answer is required, it is asserted that Defendant had a legal right to remain in the premises by virtue of the terms and conditions of the Codicil of Irene C. Stauffer. Proof that the Defendant could not meet the terms and conditions of the Codicil of Irene C. Stauffer is demanded at trial.

24. Paragraph twenty-four Defendant is without sufficient knowledge, information or belief as to how or under what right Owners have a claim to occupy the residence. Proof of their legal right to occupy is demanded at trial.

**WHEREFORE**, the Defendant requests your Honorable Court to deny Plaintiff's request for permanent possession of the subject premises and permit the Defendant to return to the same and to deny Plaintiff's requests for taxation of costs and expenses to the Defendant.

**COUNTERCLAIM**

**COUNT I**

25. That the Defendant hereby incorporates by reference all the averments contained in Paragraphs 1 through 24 above as if each averment were set forth fully hereunder.

26. That the Defendant has lived at the subject premises for a period of approximately seventeen (17) years during which time he assumed the responsibility of payment of bills, expenses, taxes, maintenance and care of the said premises together with care for his loyal and loving lifetime companion, Irene C. Stauffer and her son, Christopher A. Hendricks.

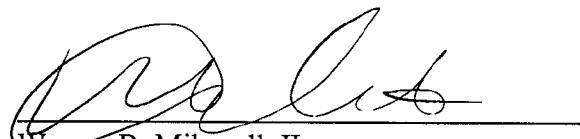
27. That during the aforesaid seventeen (17) year period he adequately provided for the care and needs of the aforesaid Christopher A. Hendricks.

28. That the Respondent is more than capable of care and providing for and maintaining the premises as home for himself and Christopher A. Hendricks.

29. That it is believed that it was the intent of the aforesaid Irene C. Stauffer, the lifetime companion of the Respondent, to grant him a life estate for and during his lifetime as expressed in her Codicil duly probated in the Office of the Register of Wills of Clearfield County, Pennsylvania.

30. That because of the action of Plaintiff's, your Respondent has been forced to employ the services of an attorney and has incurred additional costs and expenses for living accommodations.

**WHEREFORE**, the Defendant respectfully requests this Honorable Court to grant him possession of the premises in question in addition to attorney fees and costs of moving expenses and rent.



Warren B. Mikesell, II  
Attorney for Defendant

**VERIFICATION**

I, WARREN B. MIKESELL, II, ESQUIRE, as Attorney for the Defendant, Paul Thomas, in the above-captioned action, do hereby verify that the responses set forth in the within Answers to Complaint and Counterclaim are true and correct to the best of my knowledge, information and belief. Said Attorney is making said Verification on behalf of Defendant since cannot be obtained from Defendant within the time allowed for filing the response to the Complaint and Counterclaim. Said Verification is also being made upon my reviewing of Plaintiff's Complaint with the Defendant and said Verification is based on the representations made to the undersigned by the Defendant. I, the undersigned, understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Date: 1/16/06

  
\_\_\_\_\_  
Warren B. Mikesell, II Esquire  
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

(CIVIL DIVISION)

Lorraine L. Gearhart, individually, :  
Michele A. Newpher, individually :  
and Christopher A. Hendricks, :  
individually, by his legal guardian, :  
Lorraine L. Gearhart, :  
Plaintiffs :  
:

VS. : No. 2006-1027-CD

Paul Thomas, :  
Defendant :  
:

FILED  
9/23/06 4:44 PM  
M. K. Mikesell  
AUG - 7 2006  
WS

William A. Shaw  
Prothonotary

CERTIFICATE OF SERVICE

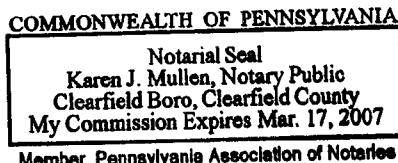
I, Warren B. Mikesell, II, Esquire, verify that on August 7, 2006, at approximately 1:30 p.m., I did serve, by personal service, by handing a true and correct copy of the ANSWER TO COMPLAINT AND COUNTERCLAIM filed in the above captioned matter to the Plaintiff's Attorney, John Sughrue, 23 North Second Street, Clearfield, PA 16830.

I understand that false statements herein are made subject to the penalties of 18 PA. C.S. §4904, relating to unsworn falsification to authorities.

  
Warren B. Mikesell, II  
Attorney for Defendant

Sworn to and subscribed  
before me this 7th day  
of August, 2006.





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

Lorraine L. Gearhart, individually,  
Michele A. Newpher, individually  
and Christopher A. Hendricks,  
individually, by his legal guardian,  
Lorraine L. Gearhart,

Plaintiffs

vs.

Paul Thomas,

Defendant

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\* No. 2006-1027-CD

\*  
\*  
\*  
\*  
\*  
\* Type of Case: Civil

\*  
\*  
\*  
\* Type of Pleading: Reply to Counterclaim

\* Filed on Behalf of: Plaintiffs

\* Counsel of Record for this Party:

\* John Sughrue, Esquire  
\* Attorney I. D. No. 01037  
\* 23 North Second Street  
\* Clearfield, PA 16830  
\* Phone: (814) 765-1704  
\* Fax: (814) 765-6959

\* Other Counsel of Record:

\* Warren B. Mikesell, Esquire  
\* Attorney I. D. No.  
\* Mikesell & Mikesell  
\* 115 East Locust St.  
\* Clearfield, PA 16830  
\* Phone: (814) 765-9026  
\* Fax: (814) 765-9039

FILED  
of 1246 3cc  
SEP 05 2006  
Atty Sughrue  
C  
William A. Shaw  
Prothonotary/Clerk of Courts

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

Lorraine L. Gearhart, individually,	*
Michele A. Newpher, individually	*
and Christopher A. Hendricks,	*
individually, by his legal guardian,	*
Lorraine L. Gearhart,	*
	*
	*
vs.	No. 2006-1027-CD
	*
	*
Paul Thomas,	*
	*
Defendant	*
	*
	*
	*

**REPLY TO COUNTERCLAIM**

**AND NOW**, comes Plaintiffs, by their attorney, John Sughrue, and Replies to the Counterclaim set forth in Defendant's Answer as follows:

25. Denied. On the contrary, facts and matters are set forth in paragraphs 1 through 24 of the original Complaint, all of which is incorporated herein by reference as if the same were set forth herein at length verbatim.

26. Denied. On the contrary, until on or about the death of Irene C. Stauffer in June 2000, the taxes, insurance, maintenance, utilities, and expenses related to the premises were paid fully or substantially by Irene C. Stauffer, owner of the premises. Subsequent to Ms. Stauffer's death, all such expenditures were paid by Christopher A. Hendricks through his guardian and/or by Christopher directly, except perhaps certain utilities, such as phone or TV cable that may have been paid by Defendant. In any event, since the death of his mother through the present time, the said Mr. Hendricks has always paid and been responsible for real estate taxes, insurance, and ordinary and extraordinary

maintenance expenses related to the premises. Further, Plaintiffs are without any knowledge or information sufficient to form a belief as to whether or not Defendant assumed or paid any such expenditures from his own funds at any time and strict proof of the same, if relevant, is demanded at the trial of this action.

27. Denied. On the contrary, Mr. Hendrick's guardian and the person who cared for him through June 2000 was his mother, Irene C. Stauffer, now deceased. Mr. Hendricks did reside with Mr. Thomas from about June 2000 through July 10, 2004 and Mr. Thomas did, during the period, provide the care and supervision that was envisioned and required in Irene C. Stauffer's Will. Further, on or about July 10, 2004, the Defendant became ill and was unable to provide to Mr. Hendricks the necessary daily supervision and care previously provided. Mr. Thomas was, in fact, in need of care himself. As a result of that change in circumstances, Mr. Thomas was no longer capable of providing the care and supervision envisioned in the Will of Ms. Stauffer and alternative supervision and care had to be provided for Mr. Hendricks. On or about July 2004, Mr. Hendricks transferred his residence to the home of his sister, Lorraine Gearhart, his guardian and one of the Plaintiffs herein. Mr. Hendricks has resided with his said sister through the present time and she has provided the care and supervision required. As a result of the foregoing, the Defendant was not and continues to be incapable of providing appropriate care and supervision to Mr. Hendricks.

28. Denied. On the contrary, the facts are set forth in paragraph 27 above, all of which are incorporated herein by reference.

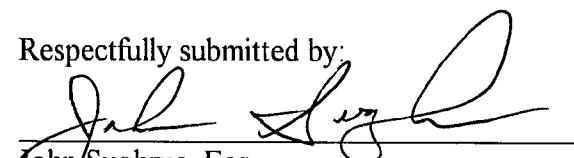
29. Denied. On the contrary, it was not the intent of Irene C. Stauffer to provide Defendant with a life estate in the premises. On the contrary, said Will clearly contemplates and provides for Defendant to reside at the premises so long and only so

long as he is able to provide Christopher Hendricks with appropriate supervision and care. The Will further provides for an alternative care provider at such time the Defendant is no longer capable of providing such service. A reading of the complete Will makes it clear that upon ceasing to provide the said care for Mr. Hendricks, that the Defendant no longer had a right to occupy or utilize the premise for his benefit but rather had an obligation to vacate the premises.

30. It is denied that the Defendant was forced to employ the services of an attorney or has incurred any additional costs and expenses for living accomodations. On the contrary, the employment of an attorney was his choice and he would have costs and expenses of living regardless of Plaintiffs' action. Further, to the extent said allegations are an attempt to form a basis for a claim for attorneys fees and/or puniary damages, it is denied that the same is a sufficient legal basis for the same. On the contrary, Defendant has not averred any factual or legal basis which would cause the Plaintiffs to be responsible for Defendant's attorney fees, costs or expenses of living accomodations.

**WHEREFORE**, Plaintiffs respectfully moves the Honorable Court to forthwith dismiss the Counterclaim and to enter a judgement in favor of the Plaintiff and against the Defendant in accordance with the prayer of the original Complaint filed herein.

Respectfully submitted by:



John Sughrue, Esq.  
Attorney for Plaintiffs

**VERIFICATION**

I, Lorraine L. Gearhart, individually and as a guardian for Christopher A. Hendricks and as authorized agent for Michele A. Newpher, Plaintiff, verify that the statements made in this REPLY 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.

Date: August 31, 2006



Lorraine L. Gearhart

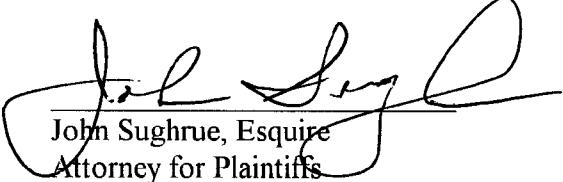
**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on September 5, 2006, I caused a true and correct copy of the REPLY TO COUNTERCLAIM to be served on the following and in the manner indicated below:

**By United States Mail, First Class, Postage Prepaid**  
**Addressed as Follows:**

Warren B. Mikesell, Esq.  
Mikesell & Mikesell  
115 East Locust St.  
Clearfield, PA 16830

Date: September 5, 2006

  
John Sughrue, Esquire  
Attorney for Plaintiffs

N & K

NEISWENDER & KUBISTA  
ATTORNEYS AT LAW  
211 1/2 NORTH SECOND STREET  
CLEARFIELD, PENNSYLVANIA 16830

CERTIFIED TRUE AND CORRECT COPY

**ORIGINAL**

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

LORRAINE L. GEARHART, individually :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :  
: Type of case: Civil  
: Type of pleading: Notice of Intent to Serve  
: A Subpoena to Produce Documents and  
: Things for Discovery Pursuant to Rule  
: 4009.21 Directed to Clearfield Hospital  
: Filed on behalf of: Plaintiffs  
: Counsel for Plaintiffs:  
: Frederick M. Neiswender, Esquire  
: Supreme Court No. 74456  
: NEISWENDER & KUBISTA  
: 211½ North Second Street  
: Clearfield, Pennsylvania 16830  
: (814) 765-6500

FILED 3cc Atty  
03:45 pm  
MAR 29 2007  
Neswender

William A. Shaw  
Prothonotary/Clerk of Courts

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

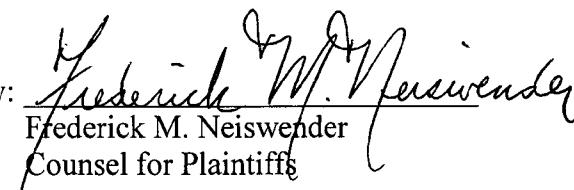
LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
: vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :  
:

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

Plaintiffs, Lorraine L. Gearhart, individually, Michele A. Newpher, individually and Christopher A. Hendricks, individually, by his legal guardian, Lorraine L. Gearhart, intend to serve a subpoena identical to the one that is attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Respectfully submitted,

NEISWENDER & KUBISTA

By:   
Frederick M. Neiswender  
Counsel for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Lorraine L. Gearhart  
Michele A. Newpher  
Christopher A. Hendricks  
Plaintiff(s)  
Vs.  
Paul Thomas  
Defendant(s)

\*

No. 2006-01027-CD

\*

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

ATTN: Medical Records Dept.  
TO: Clearfield Hospital, 809 Turnpike Ave., Clearfield, PA 16830  
(Name of Person or Entity)

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

All medical records, billing statements and diagnostic films of  
Paul Thomas dated June 1, 2003 to the present. At the onset of  
his treatment, Mr. Thomas' address was 311 Reighard St.,  
Clearfield, PA 16830. (Address)

809 Turnpike Ave., Clearfield, PA 16830

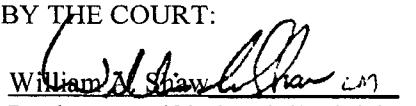
You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing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

NAME: Frederick M. Neiswender, Esquire  
ADDRESS: NEISWENDER & KUBISTA  
211½ North Second Street, Clearfield, PA 16830  
TELEPHONE: (814) 765-6500  
SUPREME COURT ID # 74456  
ATTORNEY FOR: Plaintiffs

BY THE COURT:

  
William A. Shaw, Esq.  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, March 28, 2007

Seal of the Court

Deputy

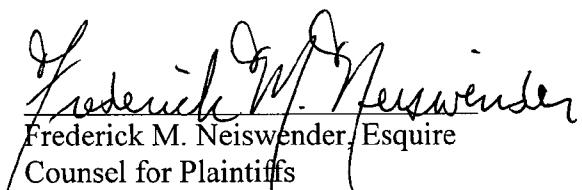
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL ACTION)

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
:  
vs. : No. 2006 - 1027 - CD  
:  
PAUL THOMAS, :  
Defendant. :  
:

**CERTIFICATE OF SERVICE**

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Notice of Intent to Serve A Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21 Directed to Clearfield Hospital was made upon Paul Thomas, by hand delivering a true copy to the office of his attorney of record, Warren B. Mikesell, Esquire, on March 29, 2007, at the following address:

Warren B. Mikesell, Esquire  
Mikesell & Mikesell  
115 East Locust Street  
Clearfield, Pennsylvania 16830

  
Frederick M. Neiswender, Esquire  
Counsel for Plaintiffs  
NEISWENDER & KUBISTA  
211½ North Second Street  
Clearfield, Pennsylvania 16830

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

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :  
: Type of case: Civil  
: Type of pleading: Certificate Prerequisite  
: to Service of a Subpoena Pursuant to Rule  
: 4009.22  
: Filed on behalf of: Plaintiffs  
: Counsel for Plaintiffs:  
: Frederick M. Neiswender, Esquire  
: Supreme Court No. 74456  
: NEISWENDER & KUBISTA  
: 211½ North Second Street  
: Clearfield, Pennsylvania 16830  
: (814) 765-6500

FILED 3cc  
04/19/2007 Atty  
APR 19 2007  
GK

William A. Shaw  
Prothonotary/Clerk of Courts

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

LORRAINE L. GEARHART, individually,	:	
MICHELE A. NEWPHER, individually	:	
and CHRISTOPHER A. HENDRICKS,	:	
individually, by his legal guardian,	:	
LORRAINE L. GEARHART,	:	
Plaintiffs,	:	
vs.	:	No. 2006 - 1027 - CD
PAUL THOMAS,	:	
Defendant.	:	

**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, Plaintiffs certify that:

1. A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty (20) 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.

4. The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Respectfully submitted,

NEISWENDER & KUBISTA

Date: April 19, 2007

By: Frederick M. Neiswender  
Frederick M. Neiswender  
Counsel for Plaintiffs

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

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :  
: Type of case: Civil  
: Type of pleading: Notice of Intent to Serve  
: A Subpoena to Produce Documents and  
: Things for Discovery Pursuant to Rule  
: 4009.21 Directed to Clearfield Hospital  
: Filed on behalf of: Plaintiffs  
: Counsel for Plaintiffs:  
: Frederick M. Neiswender, Esquire  
: Supreme Court No. 74456  
: NEISWENDER & KUBISTA  
: 211½ North Second Street  
: Clearfield, Pennsylvania 16830  
: (814) 765-6500

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

MAR 29 2007

Attest.

*[Signature]*  
F. J. Moriarty/  
Clerk of Courts

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

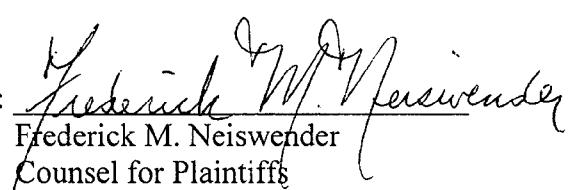
LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :

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

Plaintiffs, Lorraine L. Gearhart, individually, Michele A. Newpher, individually and Christopher A. Hendricks, individually, by his legal guardian, Lorraine L. Gearhart, intend to serve a subpoena identical to the one that is attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Respectfully submitted,

NEISWENDER & KUBISTA

By:   
Frederick M. Neiswender  
Counsel for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Lorraine L. Gearhart  
Michele A. Newpher  
Christopher A. Hendricks  
Plaintiff(s)

Vs.

Paul Thomas  
Defendant(s)

\*

No. 2006-01027-CD

\*

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

ATTN: Medical Records Dept.  
TO: Clearfield Hospital, 809 Turnpike Ave., Clearfield, PA 16830  
(Name of Person or Entity)

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

All medical records, billing statements and diagnostic films of  
Paul Thomas dated June 1, 2003 to the present. At the onset of  
his treatment, Mr. Thomas' address was 311 Reighard St.,  
Clearfield, PA 16830. (Address)

809 Turnpike Ave., Clearfield, PA 16830

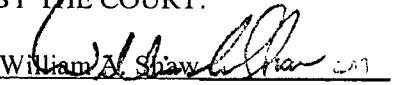
You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing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

NAME: Frederick M. Neiswender, Esquire  
ADDRESS: NEISWENDER & KUBISTA  
211½ North Second Street, Clearfield, PA 16830  
TELEPHONE: (814) 765-6500  
SUPREME COURT ID # 74456  
ATTORNEY FOR: Plaintiffs

BY THE COURT:

  
William A. Shaw, Esq.  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, March 28, 2007  
Seal of the Court

Deputy

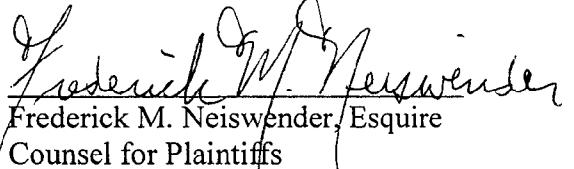
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL ACTION)

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :

**CERTIFICATE OF SERVICE**

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Notice of Intent to Serve A Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21 Directed to Clearfield Hospital was made upon Paul Thomas, by hand delivering a true copy to the office of his attorney of record, Warren B. Mikesell, Esquire, on March 29, 2007, at the following address:

Warren B. Mikesell, Esquire  
Mikesell & Mikesell  
115 East Locust Street  
Clearfield, Pennsylvania 16830

  
Frederick M. Neiswender, Esquire  
Counsel for Plaintiffs  
NEISWENDER & KUBISTA  
211½ North Second Street  
Clearfield, Pennsylvania 16830

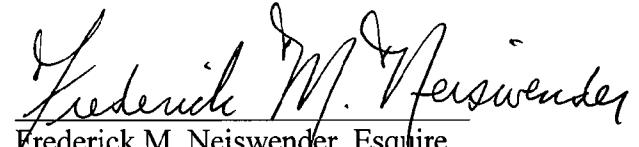
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL ACTION)

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
: vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :  
:

**CERTIFICATE OF SERVICE**

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing  
Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22 was made upon Paul  
Thomas, by mailing, first class, postage prepaid, a true copy to the office of his attorney of  
record, Warren B. Mikesell, Esquire, on April 19, 2007, at the following address:

Warren B. Mikesell, Esquire  
Mikesell & Mikesell  
115 East Locust Street  
Clearfield, Pennsylvania 16830

  
Frederick M. Neiswender, Esquire  
Counsel for Plaintiffs  
NEISWENDER & KUBISTA  
211½ North Second Street  
Clearfield, Pennsylvania 16830

N & K

NEISWENDER & KUBISTA  
ATTORNEYS AT LAW  
211 1/2 NORTH SECOND STREET  
CLEARFIELD, PENNSYLVANIA 16830

CERTIFIED TRUE AND CORRECT COPY

*CA*  
ORIGINAL

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

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :  
: Type of case: Civil  
: Type of pleading: Certificate of Readiness  
: Filed on behalf of: Plaintiffs,  
: Counsel for Plaintiffs:  
: Frederick M. Neiswender, Esquire  
: Supreme Court No. 74456  
: NEISWENDER & KUBISTA  
: 211½ North Second Street  
: Clearfield, Pennsylvania 16830  
: (814) 765-6500

FILED *pd \$20.00 Atty*  
*3cc Atty*  
*Neiswender*  
APR 24 2007  
William A. Shaw  
Prothonotary/Clerk of Courts

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

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :

**CERTIFICATE OF READINESS**

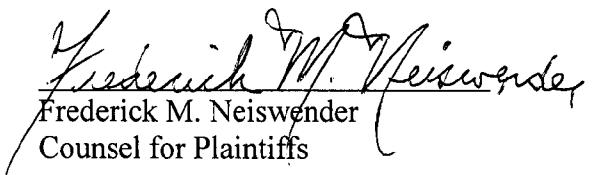
TO THE PROTHONOTARY:

Please place the above captioned case on the Civil Trial List.

1. Date presented: April 23, 2007.
2. Date compliant filed: July 17, 2006.
3. Type of trial requested: Arbitration.
4. Estimated trial time:  $\frac{1}{2}$  day.
5. Amount at issue: Less than \$20,000.00 including interest and court costs.
6. Counsel for the Defendant: Warren B. Mikesell, II, Esq., Telephone: (814) 765-6605.

I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel.

Respectfully submitted,

  
Frederick M. Neiswender  
Counsel for Plaintiffs

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

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :

**CERTIFICATE OF SERVICE**

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Certificate of Readiness was made upon Paul Thomas, by mailing, first class, postage prepaid, a true copy to the office of his attorney of record, Warren B. Mikesell, II, Esquire, on April 23, 2007, at the following address:

Warren B. Mikesell, II, Esquire  
Mikesell & Mikesell  
Attorneys at Law  
115 East Locust Street  
Clearfield, Pennsylvania 16830

*Frederick M. Neiswender*  
Frederick M. Neiswender, Esquire  
Counsel for Plaintiffs  
NEISWENDER & KUBISTA  
211½ North Second Street  
Clearfield, Pennsylvania 16830

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

Lorraine L. Gearhart, individually,	:	
Michele A. Newpher, individually	:	
and Christopher A. Hendricks,	:	
individually, by his legal guardian,	:	
Lorraine L. Gearhart,	:	
Plaintiffs	:	
VS.	:	No. 2006-1027-CD
Paul Thomas,	:	
Defendant	:	

**TYPE OF PLEADING:**  
Motion to Withdraw as Counsel

**FILED ON BEHALF OF:** Defendant

**COUNSEL OF RECORD FOR THIS PARTY:**

WARREN B. MIKESELL II, ESQUIRE  
Supreme Court I.D. #63717  
115 East Locust Street  
Clearfield, PA 16830  
(814) 765-6605

*FILED  
07/5/2001 4CC  
MAY 01 2001 Amy Mikesell  
W.A. Shaw  
Prothonotary/Clerk of Courts*

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

**(CIVIL DIVISION)**

Lorraine L. Gearhart, individually,	:	
Michele A. Newpher, individually	:	
and Christopher A. Hendricks,	:	
individually, by his legal guardian,	:	
Lorraine L. Gearhart,	:	
Plaintiffs	:	
VS.	:	No. 2006-1027-CD
Paul Thomas,	:	
Defendant	:	

**MOTION TO WITHDRAW AS COUNSEL**

COMES NOW, Warren B. Mikesell, II, Esquire, and files the within Motion for Leave of Court to Withdraw as Counsel for Paul Thomas, Defendant, in the above-referenced matter.

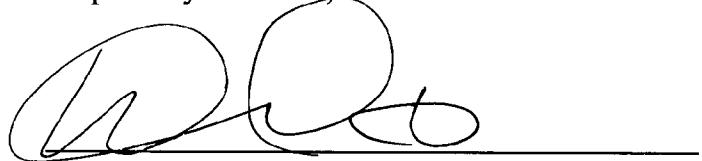
1. Movant is Warren B. Mikesell, II, Esquire, whose office is located at 115 East Locust Street, Clearfield, PA 16830.
2. Defendant is Paul Thomas, address is unknown.
3. Movant was counsel for Respondent in the above-referenced matter at the Lower Court Level and for filing of the underlying appeal; however, since Plaintiff's execution of Judgment against the Defendant, Paul Thomas, and his subsequent removal from the property in question, there has been no contact with Defendant and his whereabouts are unknown.

4. Movant requests Leave to Withdraw as he has been unable to communicate with Respondent, has not paid Counsel. Respondent has not initiated any communication with Counsel and Respondent.

5. For the reasons set forth herein, Movant requests Leave of Court so that he can withdraw as counsel in this matter.

WHEREFORE, Movant, Warren B. Mikesell, II, Esquire, prays that his Motion to Withdraw as Counsel be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "WB Mikesell II", is written over a horizontal line.

Warren B. Mikesell, II, Esquire  
Attorney for Defendant: Paul Thomas

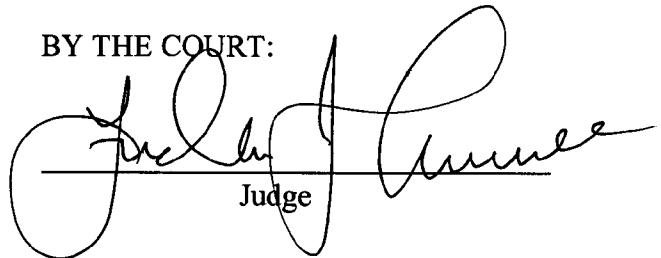
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

Lorraine L. Gearhart, individually, :  
Michele A. Newpher, individually :  
and Christopher A. Hendricks, :  
individually, by his legal guardian, :  
Lorraine L. Gearhart, :  
Plaintiffs :  
VS. :  
No. 2006-1027-CD  
Paul Thomas, :  
Defendant :  
:

**ORDER**

NOW, this 7 day of May, 2007, upon consideration of the attached  
Motion, the same is hereby granted and Counsel is permitted to withdraw.

BY THE COURT:



Judge

**FILED**

05/07/2007  
MAY 07 2007

(60)

William A. Shaw  
Prothonotary/Clerk of Courts  
4 C C Atty Mikesell  
1 C C Atty Neiswender  
1 C C Atty Sughree  
1 C C Def- 311 Reighard St.  
Clearfield PA 16833

DATE: 5/10/07

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**  
**MAY 07 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

SWENDER & KUBISTA  
ATTORNEYS AT LAW  
1 1/2 NORTH SECOND STREET  
RFIELD, PENNSYLVANIA 16830

CERTIFIED TRUE AND CORRECT COPY

**ORIGINAL**

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

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :  
: Type of case: Civil  
: Type of pleading: Amended Certificate  
of Service  
: Filed on behalf of: Plaintiffs,  
: Counsel for Plaintiffs:  
: Frederick M. Neiswender, Esquire  
: Supreme Court No. 74456  
: NEISWENDER & KUBISTA  
: 211½ North Second Street  
: Clearfield, Pennsylvania 16830  
: (814) 765-6500

FILED <sup>CC</sup>  
05/09/2006 Atty Neiswender  
MAY 09 2006  
*LM*

William A. Shaw  
Prothonotary/Clerk of Courts

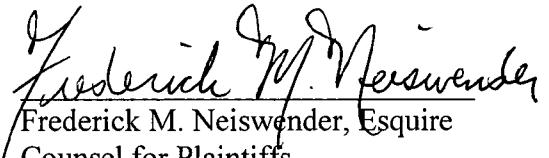
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL ACTION)

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
: vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :  
:

**AMENDED CERTIFICATE OF SERVICE**

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Certificate of Readiness was made upon Paul Thomas, by mailing, first class, postage prepaid, a true copy to the office of his attorney of record, Warren B. Mikesell, II, Esquire, on May 7, 2007, at the following address:

Warren B. Mikesell, II, Esquire  
Mikesell & Mikesell  
Attorneys at Law  
115 East Locust Street  
Clearfield, Pennsylvania 16830

  
Frederick M. Neiswender, Esquire  
Counsel for Plaintiffs  
NEISWENDER & KUBISTA  
211½ North Second Street  
Clearfield, Pennsylvania 16830

**WILLIAM A. SHAW**  
PROTHONOTARY  
and CLERK of COURTS  
P.O. BOX 549  
CLEARFIELD, PENNSYLVANIA 16830

076115505405  
GCO200  
05/08/2007  
Shipped From 16830  
US POSTAGE

Paul Thomas  
311 Reighard Street  
Clearfield, PA 16830

**FILED**

MAY 14 2007

4/8/30/ ( )  
William A. Shaw  
Prothonotary/Clerk of Courts

61

165 N 1 706 T 25 05/10/07  
THOMAS' RETURN TO SENDER  
MOVED LEFT NO ADDRESS  
UNABLE TO FORWARD  
RETURN TO SENDER  
BC: 16830054949 \*1173-03165-08-38

1583000546

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

Lorraine L. Gearhart, individually,	:	
Michele A. Newpher, individually	:	
and Christopher A. Hendricks,	:	
individually, by his legal guardian,	:	
Lorraine L. Gearhart,	:	
Plaintiffs	:	
VS.	:	No. 2006-1027-CD
Paul Thomas,	:	
Defendant	:	

**ORDER**

NOW, this 7 day of May, 2007, upon consideration of the attached Motion, the same is hereby granted and Counsel is permitted to withdraw.

BY THE COURT:

/S/ Fredric J Ammerman

---

Judge

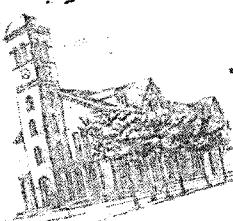
I hereby certify this to be a true and attested copy of the original statement filed in this case.

MAY 07 2007

Attest,



William L. Jr.  
Prothonotary  
Clerk of Courts

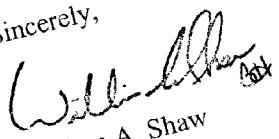


Clearfield County Office of the Prothonotary and Clerk of Courts  
William A. Shaw  
Prothonotary/Clerk of Courts      Jacki Kendrick  
Deputy Prothonotary/Clerk of Courts      Bonnie Hudson  
Administrative Assistant      David S. Ammerman  
Solicitor  
PO Box 549, Clearfield, PA 16830      Phone: (814) 765-2641 Ext. 1330      Fax: (814) 765-7659      www.clearfieldco.org

To: All Concerned Parties  
From: William A. Shaw, Prothonotary

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

Sincerely,



William A. Shaw  
Prothonotary

DATE: 5/7/07

You are responsible for serving all appropriate 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

LORRAINE L. GEARHART, MICHELE :  
A. NEWPHER, CHRISTOPHER A. :  
HENDRICKS :  
vs. : No. 06-1027-CD  
PAUL THOMAS :  
:

**O R D E R**

NOW, this 17 day of May, 2007, it is the ORDER of the Court that the above-captioned matter is scheduled for Arbitration on Friday, June 29, 2007 at 1:00 P.M. in the Conference/Hearing Room No. 3, 2<sup>nd</sup> Floor, Clearfield County Courthouse, Clearfield, PA. The following have been appointed as Arbitrators:

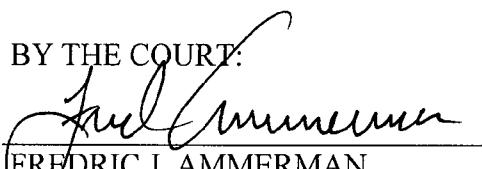
David P. King, Esquire

Christopher E. Mohney, Esquire

Peter J. Carfley, Esquire

Pursuant to Local Rule 1306A, you must submit your Pre-Trial Statement seven (7) days prior to the scheduled Arbitration. The original should be forwarded to the Court Administrator's Office and copies to opposing counsel and each member of the Board of Arbitrators. For your convenience, a Pre-Trial (Arbitration) Memorandum Instruction Form is enclosed as well as a copy of said Local Rule of Court.

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

FILED *6cc*  
MAY 18 2007 CIA  
*6c*

William A. Shaw  
Prothonotary/Clerk of Courts

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

LORRAINE L. GEARHART, :  
individually, MICHELE A. NEWPHER, :  
individually and CHRISTOPHER A. :  
HENDRICKS, individually, by his legal :  
guardian, LORRAINE L. GEARHART :  
:  
vs. : No. 06-1027-CD  
:  
PAUL THOMAS :  
:

**ORDER**

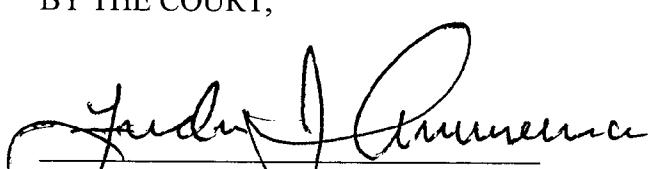
AND NOW, this 18<sup>th</sup> day of May, 2007, it is the ORDER of the Court that Counsel for Plaintiff is hereby directed to serve the Defendant with notice by publication in the above-captioned matter of the Arbitration Hearing scheduled for June 29, 2007 at 1:00 P.M. in the Conference/ Hearing Room No. 3, 2<sup>nd</sup> Floor, Clearfield County Courthouse, Clearfield, PA. as follows:

1. One time in The Progress; and
2. One time in the Clearfield Legal Journal

Service of the aforementioned publications is effective upon the date of publication and Plaintiff's Attorney is to file Affidavits of Service with the Prothonotary of Clearfield County.

This Order is being issued due to the Clearfield County Court Administrator's Office and prior defense counsel being unable to locate the Defendant for service purposes.

BY THE COURT,

  
FREDRIC J. AMMERMAN  
President Judge

FILED *40*  
cc Attys:  
03/34/07 Neiswender  
MAY 21 2007 Sughrue  
Mikells  
William A. Shaw  
Prothonotary/Clerk of Courts

1CC CIA

**FILED**

**MAY 21 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 5/21/07

X You are responsible for serving all appropriate parties.

X 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 ACTION—LAW

Lorraine L. Gearhart, individually,  
Michele A. Newpher, individually  
and Christopher A. Hendricks,  
individually, by his legal guardian,  
Lorraine L. Gearhart,

Plaintiffs  
vs.

Paul Thomas,  
Defendant

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\* No. 2006-1027-CD

FILED  
MAY 30 2007  
C 3501 W  
William A. Shaw  
Prothonotary/Clerk of Courts

3 CENTS TO ACTS

\* **Type of Case:** Civil

- \* **Type of Pleading:** Praecept for Withdrawal
- \* of Appearance

\* **Filed on Behalf of:** Plaintiffs

\* **Counsel of Record for this Party:**

\* John Sughrue, Esquire  
\* Attorney I. D. No. 01037  
\* 23 North Second Street  
\* Clearfield, PA 16830  
\* Phone: (814) 765-1704  
\* Fax: (814) 765-6959

\* **Other Counsel of Record:**

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

Lorraine L. Gearhart, individually,	*
Michele A. Newpher, individually	*
and Christopher A. Hendricks,	*
individually, by his legal guardian,	*
Lorraine L. Gearhart,	*
Plaintiffs	*
vs.	*
	No. 2006-1027-CD
Paul Thomas,	*
Defendant	*
	*
	*
	*
	*

**PRAECIPE FOR WITHDRAWAL OF APPEARANCE**

TO WILLIAM A. SHAW, PROTHONOTARY.

Please note that Plaintiff has secured new counsel, specifically Frederick M. Neiswender, Esquire, and that Mr. Neiswender has prior hereto entered his appearance. Accordingly, kindly withdraw my appearance entered on behalf of Plaintiffs, Lorraine L. Gearhart, et al., in the above-captioned matter.



John Sughrue, Esquire  
Attorney for Plaintiffs

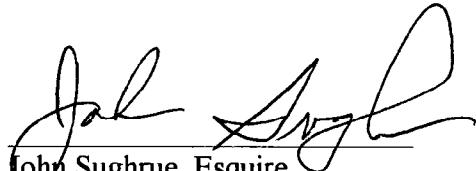
**CERTIFICATE OF SERVICE**

AND NOW, I do hereby certify that on May 30, 2007, I caused a true and correct copy of PRAECIPE FOR WITHDRAWAL OF APPEARANCE to be served on the following and in the manner indicated below:

**By United States Mail, First Class, Postage Prepaid**  
**Addressed as Follows:**

Frederick M. Neiswender, Esq.  
211½ North Second Street  
Clearfield, PA 16830

Date: May 30, 2007



John Sughrue, Esquire  
Attorney for Plaintiffs

N & K

NEISWENDER & KUBISTA

ATTORNEYS AT LAW

211 1/2 NORTH SECOND STREET  
CLEARFIELD, PENNSYLVANIA 16830

CERTIFIED TRUE AND CORRECT COPY

ORIGNAL

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

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006-1027-CD  
PAUL THOMAS, :  
Defendant. :  
: Type of case: Civil  
: Type of pleading: Affidavit of Service  
: Filed on behalf of: Plaintiffs  
: Counsel for Plaintiffs:  
: Frederick M. Neiswender, Esquire  
: Supreme Court No. 74456  
: NEISWENDER & KUBISTA  
: 211½ North Second Street  
: Clearfield, Pennsylvania 16830  
: (814) 765-6500

**FILED**  
C 9:42 a.m. GK  
JUN 29 2007 2cc AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
GK

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

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
:  
vs. : No. 2006-1027-CD  
:  
PAUL THOMAS, :  
Defendant. :  
:

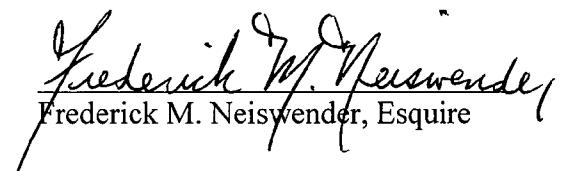
**AFFIDAVIT OF SERVICE**

COMMONWEALTH OF PENNSYLVANIA )  
 )SS:  
COUNTY OF CLEARFIELD )

FREDERICK M. NEISWENDER, who being duly sworn according to law, deposes and says in support of his Motion For Publication, the following:

I certify that I caused to have published in The Progress and the Clearfield County Legal Journal a Notice to Defend the Arbitration Hearing directed to the above named Defendant, as per this Court's Order as evidenced by Exhibits "A", "B" and "C" attached hereto.

Further, the deponent sayeth not.

  
Frederick M. Neiswender, Esquire

Sworn to and subscribed  
before me this 29<sup>th</sup> day  
of June, 2007.

  
Notary Public

**RECORDER OF DEEDS**

MY COMMISSION EXPIRES  
FIRST MONDAY IN JANUARY 2008

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

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :

**NOTICE TO DEFEND**

TO PAUL THOMAS, formerly of 311 Reighard Street, Clearfield, Pennsylvania:

By Order of the Court of Common Pleas of Clearfield County, Pennsylvania, you are hereby notified by advertisement that arbitration in the above captioned matter will be held on JUNE 29, 2007 AT 1:00 P.M. IN HEARING ROOM NO. 3, 2<sup>ND</sup> FLOOR OF THE CLEARFIELD COUNTY COURTHOUSE, CLEARFIELD, PENNSYLVANIA.

Frederick M. Neiswender  
NEISWENDER & KUBISTA  
211½ North Second Street  
Clearfield, Pennsylvania 16830  
(814) 765-6500

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

No. 2006-1027-CD

LORRAINE L. GEARHART,  
individually,  
MICHELE A. NEWPHER,  
individually  
and CHRISTOPHER A.  
HENDRICKS,  
individually,  
by his legal guardian,  
LORRAINE L. GEARHART,  
Plaintiffs,  
vs.  
PAUL THOMAS,  
Defendant.

NOTICE TO DEFEND  
TO PAUL THOMAS, formerly of  
311 Reighard Street, Clearfield,  
Pennsylvania:  
By Order of the Court of Common  
Pleas of Clearfield County, Penn-  
sylvania, you are hereby notified by  
advertisement that arbitration in the  
above captioned matter will be held  
on JUNE 29, 2007 AT 1:00 P.M.  
IN HEARING ROOM NO. 3, 2ND  
FLOOR OF THE CLEARFIELD  
COUNTY COURTHOUSE,  
CLEARFIELD, PENNSYLVANIA.

Frederick W. Neiswender  
NEISWENDER & KUBISTA  
21 1/2 North Second Street  
Clearfield, Pennsylvania 16830  
(814) 765-6500

6-9-1d-b

## PROOF OF PUBLICATION

STATE OF PENNSYLVANIA : SS:  
COUNTY OF CLEARFIELD :

On this 18th day of June, A.D. 2007,  
before me, the subscriber, a Notary Public in and for said County and  
State, personally appeared Margaret E. Krebs, who being duly sworn  
according to law, deposes and says that she is the President of The  
Progressive Publishing Company, Inc., and Associate Publisher of The  
Progress, a daily newspaper published at Clearfield, in the County of  
Clearfield and State of Pennsylvania, and established April 5, 1913, and  
that the annexed is a true copy of a notice or advertisement published in  
said publication in

the regular issues of June 9, 2007.  
And that the affiant is not interested in the subject matter of the notice or  
advertising, and that all of the allegations of this statement as to the time,  
place, and character of publication are true.

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

*Margaret A. Krebs*  
COMMONWEALTH OF PENNSYLVANIA

Notarial Seal  
Chery J. Robison, Notary Public  
Clearfield Boro, Clearfield County  
My Commission Expires Oct. 31, 2007

My Commission Expires  
October 31, 2007

Member, Pennsylvania Association Of Notaries

# Clearfield County Legal Journal

The Official Legal Journal of the Courts of Clearfield County, PA

**CLEARFIELD COUNTY**

**LEGAL JOURNAL**

P. O. Box 521, Clearfield, PA  
Owned and Published Weekly  
by the  
Clearfield County  
Bar Association

Frederick Ammerman ..... President Judge  
Paul Cherry ..... Judge

Robin Foor ..... President  
Peter Smith ..... Vice President  
Linda C. Lewis ..... Secretary  
Paul Colavecchi ..... Treasurer

Joseph Colavecchi ..... Exec. Editor  
Gary A. Knaresboro ..... Editor

**Executive Committee**

Barbara J. Hugney-Shope ... John R. Ryan  
Linda C. Lewis ..... R. Denning Gearhart  
Ann B. Wood ..... Earle D. Lees, Jr.  
Jeffrey S. DuBois

All advertisements must be in the hands  
of the editor by 4:00 P.M. Friday of each  
week.

Annual Subscription ..... \$35.00  
Single Copies ..... \$.75

**REPORT OF DEEDS**

June 11, 2007

Brian Knoll to Thomas Gibney  
200709557 \$160,000  
Brian Knoll to Thomas Gibney  
200709558 \$5,000  
Heather Reese to Heather Reese  
200709561 \$1  
Theresa Carlson to Catherine Helsel  
200709576 \$50,000  
Adrian Butler to Joseph Rozela  
200709584 \$105,000  
Daniel Zazworsky to James McHugh  
200709594 \$15,000  
Anthony Flango to Corey Shawver  
200709595 \$60,000

Brian Wisneski to Brian Wisneski  
200709628 \$1  
Joseph Manno to Brian Smith  
200709629 \$1  
John Lansberry to Bradford Heights/  
Woodland Properties Management LLC  
200709638 \$1  
Mary Leskovansky to Michael  
Leskovansky 200709646 \$1  
John Bumbarger II to Kevin Jordan  
200709655 \$33,500  
Mona Haversack to Brenda  
Schreckengost 200709664 \$13,000

**REPORT OF DEEDS**

June 12, 2007

J. Paul Winterhalter to Toni Butler  
200709670 \$156,000  
Mark Hoffer to William Yeatman  
200709672 \$170,000  
Rhode Island Medical Services PC to  
Brian Knoll 200709673 \$1  
Michael Amitia Sr. to Celena Bamford  
200709676 \$10  
K. Lee Robinson to Mickey Cain  
200709677 \$1  
Dorothy Miller to Kenneth Barnett Jr.  
200709679 \$1  
Alton Dotts to Alton Dotts 200709693 \$1  
Dexter-Carpenter Coal Sales Corp to  
Gary Weyandt Sr. 200709710 \$105,000  
Dexter-Carpenter Coal Sales Corp to  
Mark Savino 200709714 \$36,000  
Raymond Moore to Alan Quashnock  
200709719 \$60,000  
Gary Crowley to William Campbell  
200709727 \$1,281.50  
Wilda Turner Executrix to Elizabeth  
Ramsey 200709735 \$1,800

**REPORT OF DEEDS**

June 13, 2007

Robert Gray Trustee to James May  
200709777 \$190,000  
James Gearhart to Jarrod Swisher  
200709803 \$71,000  
David Olson to David Olson 200709820  
\$1  
Marie Marano to Marie Marano  
200709832 \$1  
Cynthia Delaney to Cynthia Delaney  
200709834 \$1

Jeffrey Barrett to Mich  
200709838 \$68,000  
Clearfield Co Sheriff to F  
200709842 \$1  
Brian Kittka to Brian Kittka  
\$1  
Cindy Tippett to Pamela  
200709844 \$4,500  
Robert French Sr. to Richa  
200709845 \$232,000  
Grace Whitlock to Dean  
200709847 \$21,500  
Grace Whitlock to Dean  
200709848 \$21,500  
Henry Snoke Est to Tr  
200709849 \$1  
Durrel Baney to John Shirey  
\$8,000  
Joan Heichel to Arde  
200709854 \$22,000  
James Strange to Jame  
200709870 \$1  
Leslie Albert to Househo  
Cons Disc Co 200709898 \$1  
Nancy Sullivan to David  
200709905 \$63,500  
Clearfield Co Sheriff to F  
200709908 \$10,000

**REPORT OF DEEDS**

June 15, 2007

Kenneth Murray to Alfred  
200709966 \$35,000  
Lindsay Smith to Lind  
200709971 \$1,000  
Angela Larson to Mich  
200709978 \$1  
Ralph Lingle II to Der  
200709979 \$500  
Ottis Williams III to Ja  
200709997 \$65,500  
William Harchak to Sand  
200710001 \$1  
Bernard Petrusky to  
200710002 \$20,000  
Rhea Zold to Rhea Zold 20  
Roger Bressler to Dav  
200710033 \$58,000  
Mark Resch to Danny  
200710052 \$1,800  
Susan Mehok to Jam  
200710061 \$29,000

quiring Respondent to  
wers should not be  
er pursuant to 36 P.S.

'O DEFEND  
efend, you must take  
(20) days after this  
a written appearance  
ney and filing in writing  
enses or objections to  
against you. You are  
to do so the case may  
ind a judgment may be  
by the Court without  
ny other claim or relief  
itioners. You may lose  
other rights important

AKE THIS PAPER TO  
ONCE. IF YOU DO  
WYER OR CANNOT  
TO OR TELEPHONE  
FORTH BELOW TO  
YOU CAN GET LEGAL

n, Court Administrator,  
Courthouse, 230 East  
field, PA 16830, (814)

ordon, Esquire, 152  
Brookville, PA 15852,  
rs, Henry H. Deible and

COMMON PLEAS OF  
NTY, PENNSYLVANIA  
DIVISION

ETZER, Plaintiff -VS  
, Defendant.  
16-1256-CD  
L DEMANDED  
usso  
JTICE

sued in Court. This  
ce case arising out of a  
ent which occurred on  
t in which you operated  
h collided with Plaintiff's  
resulted in personal  
s to Plaintiff. If you wish  
must enter a written  
ally or by attorney and  
or objections in writing  
u are warned that if you  
se may proceed without  
may be entered against  
r notice for the relief  
Plaintiff. You may lose  
or other rights important

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

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

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

Richard H. Milgrub, 211 North Second  
Street, Clearfield, PA 16830.

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

LORRAINE L. GEARHART, individually,  
MICHELE A. NEWPHER, individually and  
CHRISTOPHER A. HENDRICKS, individu-  
ally, by his legal guardian, LORRAINE L.  
GEARHART, Plaintiffs, vs. PAUL THOMAS,  
Defendant.

No. 2006-1027-CD  
NOTICE TO DEFEND

TO PAUL THOMAS, formerly of 311  
Reighard Street, Clearfield, Pennsylvania:  
By Order of the Court of Common Pleas of  
Clearfield County, Pennsylvania, you are  
hereby notified by advertisement that  
arbitration in the above captioned matter will  
be held on JUNE 29, 2007 AT 1:00 P.M.  
IN HEARING ROOM NO. 3, 2ND FLOOR  
OF THE CLEARFIELD COUNTY COURTHOUSE,  
CLEARFIELD, PENNSYLVANIA.

Frederick M. Neiswender, NEIS-  
WENDER & KUBISTA, 211½ North Second  
Street, Clearfield, Pennsylvania 16830  
(814)765-6500.

**NOTICE OF ACTION IN MORTGAGE  
FORECLOSURE  
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW**

Bank of New York as Trustee for the  
Certificateholders CWABS, Inc. Asset-  
Backed Certificates, Series 2006-BC5 Vs.

Robert A. Frailey, Mary K. Frailey.  
COURT OF COMMON PLEAS  
CIVIL DIVISION  
CLEARFIELD COUNTY  
NO. 07-483-CD  
NOTICE

To Mary K. Frailey:

You are hereby notified that on March  
27, 2007, Plaintiff, Bank of New York as  
Trustee for the Certificateholders CWABS,  
Inc. Asset-Backed Certificates, Series 2006-  
BC5, filed a Mortgage Foreclosure  
Complaint endorsed with a Notice to Defend,  
against you in the Court of Common Pleas  
of Clearfield County Pennsylvania, docketed  
to No. 07-483-CD. Wherein Plaintiff seeks to  
foreclose on the mortgage secured on your  
property located at 48 First Street,  
Grapian, PA 16838 whereupon your  
property would be sold by the Sheriff of  
Clearfield County.

You are hereby notified to plead to the  
above referenced Complaint on or before 20  
days from the date of this publication or a  
Judgment will be entered against you.

**NOTICE**

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

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

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

CLEARFIELD COUNTY, DAVID S.  
MEHOLICK, COURT ADMINISTRATOR,  
CLEARFIELD COUNTY COURTHOUSE,  
CLEARFIELD, PA 16830. (814) 765-2641 x  
5982.

PENNSYLVANIA LAWYER REFERRAL  
SERVICE, PENNSYLVANIA BAR  
ASSOCIATION, 100 SOUTH STREET, P.O.  
BOX 186, HARRISBURG, PA 17108, 800-  
692-7375.

FILED  
01/5/2007  
JUN 29 2007  
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

Lorraine L. Gearhart, indiv., Michele A. Newpher, indiv.,  
and Christopher A. Hendricks, indiv., by his legal  
guardian, Lorraine L. Gearhart

William A. Shaw  
Prothonotary/Clerk of Courts  
Notice to Atty Neiswender  
Notice to Def- 311 Reighard St.  
Clearfield, PA 16830

vs.

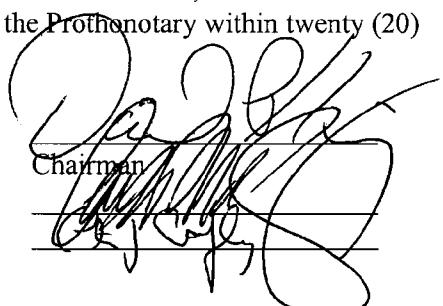
Paul Thomas

No. 2006-01027-CD

### OATH OR AFFIRMATION OF ARBITRATORS

Now, this 29th day of June, 2007, we the undersigned, having been appointed arbitrators in the above case do hereby swear, or affirm, that we will hear the evidence and allegations of the parties and justly and equitably try all matters in variance submitted to us, determine the matters in controversy, make an award, and transmit the same to the Prothonotary within twenty (20) days of the date of hearing of the same.

David P. King, Esq.



Chairman

Christopher E. Mohney, Esq.  
Peter J. Carfley, Esq.

Sworn to and subscribed before me this  
June 29, 2007



Prothonotary

### AWARD OF ARBITRATORS

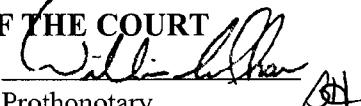
Now, this 29 day of June, 2007, we the undersigned arbitrators appointed in this case, after being duly sworn, and having heard the evidence and allegations of the parties, do award and find as follows:

*Judgment for plaintiffs in the amount of  
\$1200 plus interest at 6% per annum from July 5, 2006  
plus record costs. Also Judgment for plaintiffs for  
possession of  
311 Reighard St.  
Clearfield, PA and  
Banning defendant from  
(Continue if needed on reverse.)  
any other claim to...  
Chairman*

### ENTRY OF AWARD

Now, this 29th day of June, 2007, I hereby certify that the above award was entered of record this date in the proper dockets and notice by mail of the return and entry of said award duly given to the parties or their attorneys.

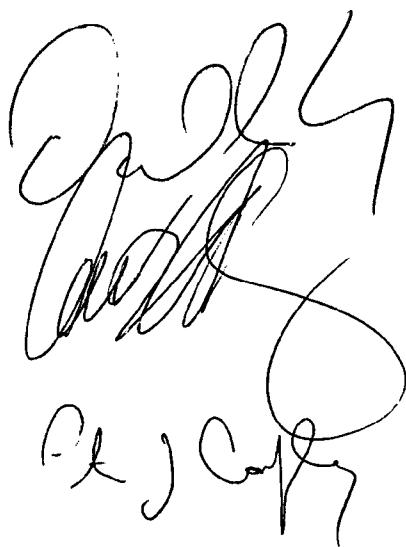
### WITNESS MY HAND AND THE SEAL OF THE COURT



Prothonotary

By \_\_\_\_\_

the property.  
On defendants' counterclaim, the same is  
Denied and dismissed.



Two handwritten signatures are present. The top signature, "J. A. Clegg", is written in a cursive style with a large, stylized 'J' and 'A'. Below it, the signature "B. J. Coffey" is also in cursive, with a more compact and fluid style.

**FILED**

JUN 29 2007

William A. Shaw  
Prothonotary/Clerk of Courts

Lorraine L. Gearhart, indiv.,  
Michele A. Newpher, indiv., and  
Christopher A. Hendricks, indiv., by his legal  
guardian, Lorraine Gearhart

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

Vs.

: No. 2006-01027-CD

Paul Thomas

:

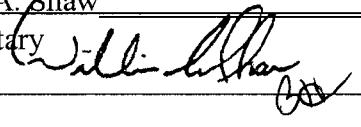
2PY

NOTICE OF AWARD

TO: PAUL THOMAS

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on June 29, 2007, and have awarded:

Judgment for Plaintiffs in the amount of \$1200 plus interest at 6% per annum from July 5, 2006, plus record costs. Also judgment for Plaintiffs for possession of 311 Reighard Street, Clearfield, PA, and barring defendant from any other claim to the property. On Defendant's counterclaim, the same is Denied and Dismissed.

William A. Shaw  
Prothonotary  
By 

June 29, 2007

Date

In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.

Lorraine L. Gearhart, indiv.,  
Michele A. Newpher, indiv., and  
Christopher A. Hendricks, indiv. and by his legal  
guardian, Lorraine L. Gearhart

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

Vs.

: No. 2006-01027-CD

Paul Thomas

:

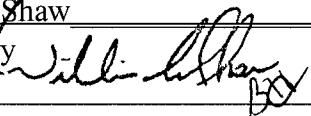
**COPY**

NOTICE OF AWARD

TO: FREDERICK M. NEISWENDER

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on June 29, 2007, and have awarded:

Judgment for Plaintiffs in the amount of \$1200 plus interest at 6% per annum from July 5, 2006, plus record costs. Also judgment for Plaintiffs for possession of 311 Reighard Street, Clearfield, PA, and barring defendant from any other claim to the property. On Defendant's counterclaim, the same is Denied and Dismissed.

William A. Shaw  
Prothonotary  
By 

June 29, 2007

Date

In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.

WILLIAM A. SHAW  
PROTHONOTARY  
and CLERK of COURTS  
P.O. BOX 549  
CLEARFIELD, PENNSYLVANIA 16830

FILED  
E 2:10pm  
JUL 05 2007

William A. Shaw  
Prothonotary/Clerk of Courts

no further  
address in file

Paul Thomas  
311 Reighard Street  
Clearfield, PA 16830

165 NDE 1 70SC 25 07/02/07  
THOMAS'PAUL  
MOVED LEFT NO ADDRESS  
UNABLE TO FORWARD  
RETURN TO SENDER  
BC: 16030054949 \*2343-08131-29-38  
168300549

05H16505405  
0004.0  
05/29/2007  
16030054949  
US POSTAGE

Lorraine L. Gearhart, indiv.,  
Michele A. Newpher, indiv., and  
Christopher A. Hendricks, indiv., by his legal  
guardian, Lorraine Gearhart

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

Vs.

: No. 2006-01027-CD

:

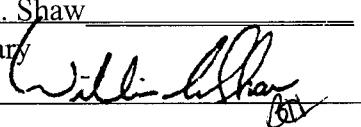
Paul Thomas

NOTICE OF AWARD

TO: PAUL THOMAS

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on June 29, 2007, and have awarded:

Judgment for Plaintiffs in the amount of \$1200 plus interest at 6% per annum from July 5, 2006, plus record costs. Also judgment for Plaintiffs for possession of 311 Reighard Street, Clearfield, PA, and barring defendant from any other claim to the property. On Defendant's counterclaim, the same is Denied and Dismissed.

William A. Shaw  
Prothonotary  
By 

June 29, 2007

Date.

In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.

N & K

NEISWENDER & KUBISTA  
ATTORNEYS AT LAW  
211 1/2 NORTH SECOND STREET  
CLEARFIELD, PENNSYLVANIA 16830

CERTIFIED TRUE AND CORRECT COPY

[REDACTED]

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

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :

vs. : No. 2006 - 1027 - CD

PAUL THOMAS, :  
Defendant. :

: Type of case: Civil

: Type of pleading: Praeclipe to Enter  
: Judgment

: Filed on behalf of: Plaintiffs

: Counsel for Plaintiffs:  
: Frederick M. Neiswender, Esquire  
: Supreme Court No. 74456

: NEISWENDER & KUBISTA  
: 211½ North Second Street  
: Clearfield, Pennsylvania 16830  
: (814) 765-6500

**FILED** 3cc Statement  
Oct 3 3:34 PM 2007 to Atty  
Oct 26 2007  
B  
William A. Shaw  
Prothonotary/Clerk of Courts  
Atty pd 20.00  
Notice to Def.

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

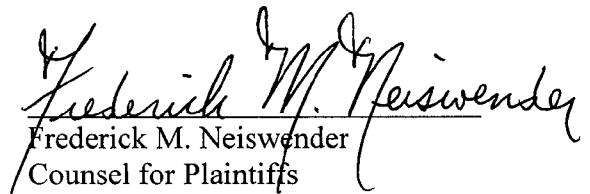
LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :

**PRAECIPE TO ENTER TO JUDGMENT**

TO THE PROTHONOTARY:

Please enter judgment in favor of the Plaintiffs against the Defendant as set forth in the attached Notice of Award.

Respectfully submitted,

  
Frederick M. Neiswender  
Counsel for Plaintiffs

Lorraine L. Gearhart, indiv.,  
Michele A. Newpher, indiv., and  
Christopher A. Hendricks, indiv. and by his legal  
guardian, Lorraine L. Gearhart

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

Vs.

: No. 2006-01027-CD

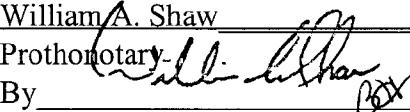
Paul Thomas

NOTICE OF AWARD

TO: FREDERICK M. NEISWENDER

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on June 29, 2007, and have awarded:

Judgment for Plaintiffs in the amount of \$1200 plus interest at 6% per annum from July 5, 2006, plus record costs. Also judgment for Plaintiffs for possession of 311 Reighard Street, Clearfield, PA, and barring defendant from any other claim to the property. On Defendant's counterclaim, the same is Denied and Dismissed.

William A. Shaw \_\_\_\_\_  
Prothonotary \_\_\_\_\_  
By \_\_\_\_\_ 

June 29, 2007

Date

In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.

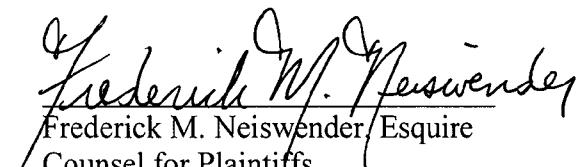
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL ACTION)

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :

**CERTIFICATE OF SERVICE**

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Praeclipe to Enter Judgment was made on October 24, 2007 upon Paul Thomas, by mailing, first class, postage prepaid, a true copy to the following address:

Paul Thomas  
311 Reighard Street  
Clearfield, Pennsylvania 16830

  
Frederick M. Neiswender, Esquire  
Counsel for Plaintiffs  
NEISWENDER & KUBISTA  
211½ North Second Street  
Clearfield, Pennsylvania 16830

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

CIVIL DIVISION

COPY

Lorraine L. Gearhart Michele A. Newpher  
Christopher A. Hendricks

Vs.

No. 2006-01027-CD

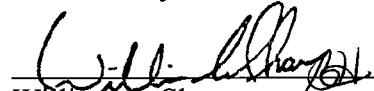
Paul Thomas

To: DEFENDANT(S)

NOTICE is given that a JUDGMENT in the above captioned matter has been entered against you in the amount of \$1,200 plus interest at 6% per annum from July 5, 2006, plus record costs. Also judgment for Plaintiffs for possession of 311 Reighard Street, Clearfield, PA, and barring defendant from any other claim to the property.

William A. Shaw  
Prothonotary

October 26, 2007

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

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

OPY

Lorraine L. Gearhart  
Michele A. Newpher  
Christopher A. Hendricks  
Plaintiff(s)

No.: 2006-01027-CD

Real Debt: \$1,200 plus interest at 6% per annum from July 5, 2006, plus record costs. Also judgment for Plaintiffs for possession of 311 Reighard Street, Clearfield, PA, and barring defendant from any other claim to the property.

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Paul Thomas  
Defendant(s)

Entry: \$20.00

Instrument: Arbitration Judgment

Date of Entry: October 26, 2007

Expires: October 26, 2012

Certified from the record this 26th day of October, 2007.

  
\_\_\_\_\_  
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

**N & K**

**NEISWENDER & KUBISTA**

ATTORNEYS AT LAW

211 1/2 NORTH SECOND STREET

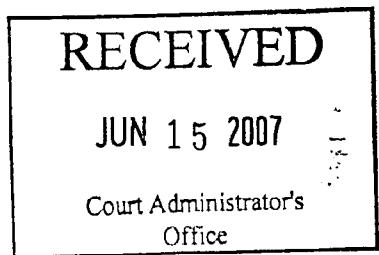
CLEARFIELD, PENNSYLVANIA 16830

CERTIFIED TRUE AND CORRECT COPY

**ORIGINAL**

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

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :  
: Type of case: Civil  
: Type of pleading: Pre-Trial Statement  
: Filed on behalf of: Plaintiffs  
: Counsel for Plaintiffs:  
: Frederick M. Neiswender, Esquire  
: Supreme Court No. 74456  
: NEISWENDER & KUBISTA  
: 211½ North Second Street  
: Clearfield, Pennsylvania 16830  
: (814) 765-6500



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

LORRAINE L. GEARHART, individually, :  
MICHELE A. NEWPHER, individually :  
and CHRISTOPHER A. HENDRICKS, :  
individually, by his legal guardian, :  
LORRAINE L. GEARHART, :  
Plaintiffs, :  
vs. : No. 2006 - 1027 - CD  
PAUL THOMAS, :  
Defendant. :

**PRE-TRIAL STATEMENT**

**A. STATEMENT OF THE CASE**

The Plaintiff, Lorraine L. Gearhart [hereinafter referred to as Plaintiffs] is an adult individual residing at 501 South 6<sup>th</sup> Street, Clearfield, Clearfield County, Pennsylvania 16830. The Plaintiff, Michele A. Newpher, [hereinafter referred to as Plaintiffs], is an adult individual residing at 143 Meadow Drive, Renfrew, Pennsylvania 16053. The Plaintiff, Christopher A. Hendricks, [hereinafter referred to as Plaintiffs], is an adult individual residing at 501 South 6<sup>th</sup> Street, Clearfield, Clearfield County, Pennsylvania 16830 and appears in this action by Lorraine L. Gearhart, his legal guardian by virtue of a decree issued from the Orphans' Court Division of the Court of Common Pleas of Clearfield County. The Defendant, Paul Thomas [hereinafter referred to as Defendant], is an adult individual with a last known address of 311 Reighard Street, Clearfield, Clearfield County, Pennsylvania 16830.

This matter is an eviction on appeal from a decision of District Judge Ireland issued on June 21, 2006. The Plaintiffs inherited interest in the subject property, 311 Reighard Street,

Clearfield, Pennsylvania, by virtue of the Will of their late Mother, Irene C. Stauffer, probated in the Register of Wills Office of Clearfield County, Pennsylvania at Estate No. 2000-339. The Defendant has maintained that he possesses a life estate in the subject property by virtue of a codicil to the above-mentioned Will. The Plaintiffs maintain that Defendant's life estate is contingent upon his ability to care for and maintain the subject property as well as care for Christopher A. Hendricks, who had also lived at the subject property. The Plaintiffs contend that Defendant's continued ill health prevent him from fulfilling these contingencies.

After filing his appeal from the decision of the District Magistrate, the Defendant vacated the subject property. His whereabouts are currently unknown.

## **B. CITATION TO APPLICABLE CASE LAW OR STATUTES**

1. Basic tenets of Estate Law, including codicils;
2. Basic tenets of Landlord/Tenant Law.

## **C. LIST OF WITNESSES**

1. Lorraine L. Gearhart;
2. Sonny Gearhart;
3. Paul Thomas;
4. Plaintiffs reserve the right to call additional witnesses with notice to Defendant.

#### **D. EXHIBITS**

1. Copies of the subject Will and Codicil;
2. Copies of various medical records and reports of the Defendant;
3. Plaintiffs reserve the right to offer additional exhibits with notice to Defendant.

#### **E. DAMAGES**

Plaintiffs seek the following damages:

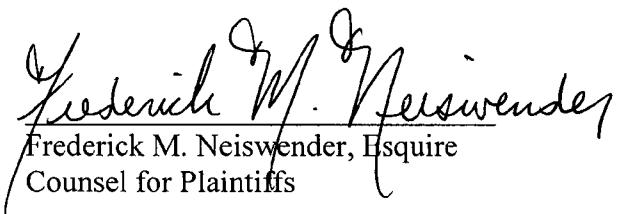
1. Permanent possession of the real property located at 311 Reighard Street, Clearfield, Clearfield County, Pennsylvania barring the Defendant from entering, occupying, possessing or otherwise alleging any interest or control in the subject property for all time;
2. One Thousand Two Hundred Dollars (\$1,200.00) rent for the months of June and July 2006;
3. Six Hundred Dollars (\$600.00) rent for each month or part of a month that Defendant is found to have occupied the subject premises after May 31, 2006 (not including June and July 2006);
4. One-twelfth (1/12) of the actual real estate taxes due on the subject premises for each month or part of a month that Defendant is found to have occupied the subject premises after May 31, 2006;
5. One-twelfth (1/12) of the premium paid annually for fire and casualty insurance on the subject premises for each month or part of a month that Defendant is found to have occupied the subject premises after May 31, 2006;

6. The actual costs of utilities and necessary repairs paid for by the Plaintiffs for each month or part of a month that Defendant is found to have occupied the subject premises after May 31, 2006;
7. Interest and costs of the suit;
8. Such other damages and compensation as may be due the Plaintiffs under the laws of the Commonwealth of Pennsylvania.

#### **F. EVIDENTIARY PROBLEMS**

No evidentiary problems are anticipated.

Respectfully submitted,



Frederick M. Neiswender, Esquire  
Counsel for Plaintiffs