

07-1388-CD

Richard Neff vs Penny Woodley

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

RICHARD D. NEFF,
Plaintiff/Movant

vs.

PENNY L. WOODLEY,
Defendant/Respondent

No. 07-1388-CD

Type of Pleading: MOTION FOR WRIT
OF SEIZURE

Filed on Behalf of: Plaintiff

Counsel of Record for this Party:

Kim C. Kesner, Esquire
Supreme Court I.D. #28307

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

FILED 4CC
07-1388-CD Atty Kesner
AUG 28 2007

W.A. Shaw
Prothonotary/Clerk of Courts
[Handwritten signature]

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

RICHARD D. NEFF, :
Plaintiff/Movant :
:
vs. : No.
:
PENNY L. WOODLEY, :
Defendant/Respondent :
:

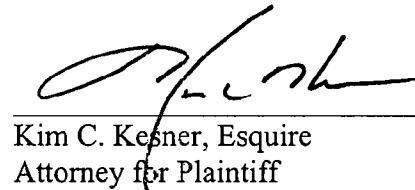
MOTION FOR
WRIT OF SEIZURE
(PA.R.CIV.P. Rule 1075.1)

AND NOW comes Movant/Plaintiff in this replevin action, Richard D Neff by his attorneys Kim C. Kesner, Esquire and Belin, Kubista & Ryan moves and for the issuance of a Writ of Seizure in accordance with Pa.R.Civ.P., Rule 1075.1, and in support hereof avers as follows:

1. Movant/Plaintiff has filed concurrently herewith a Complaint in Replevin the averments of which are incorporated herein by reference as is set forth verbatim.
2. Movant/Plaintiff believes and therefore avers that Respondent/Defendant, Penny L. Woodley has no cognizable claim for continued possession of the Premises being the subject matter of Movant/Plaintiff's Complain since the Sheriff's Sale of her property in the previous action at No. 2007-88-CD by First National Bank of Pennsylvania.
3. Movant/Plaintiff believes and therefore avers that the value of the property and the Plaintiff's interest therein will be adversely affected unless the Court on prompt hearing enters a Writ of Seizure.

WHEREFORE, Movant/Plaintiff request this Honorable Court in accordance with Pa.R.Civ.P. Rule 1075.1 to fix a date and time for hearing and upon notice and hearing enter a Writ of Seizure pending further proceedings in Plaintiff's Replevin Action.

Respectfully submitted,

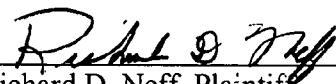


Kim C. Kesner, Esquire
Attorney for Plaintiff

VERIFICATION

I, RICHARD D. NEFF, Plaintiff, verify that the statements made in this Motion for Writ of Seizure are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Date: 8-28-07


Richard D. Neff, Plaintiff

FILED

AUG 28 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

RICHARD D. NEFF,
Plaintiff

vs.

No. 2007-1388-CD

PENNY L. WOODLEY,
Defendant

Type of Pleading: COMPLAINT
IN REPLEVIN

Filed on Behalf of: Plaintiff

Counsel of Record for this Party:

Kim C. Kesner, Esquire
Supreme Court I.D. #28307

BELIN, KUBISTA & RYAN
15 North Front Street
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Clearfield, PA 16830
(814) 765-8972
(814) 765-9893 - fax

FILED
03:03 P.M. GK
AUG 28 2007
William A. Shaw
Prothonotary/Clerk of Courts

Atty pd. 85.00

4cc Atty

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

RICHARD D. NEFF, :
Plaintiff :
:
vs. : No.
:
PENNY L. WOODLEY, :
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 process without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

Court Administrator's Office
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
Telephone: (814) 765-2641, ext. 5982

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

RICHARD D. NEFF, :
Plaintiff :
: vs. : No.
: :
PENNY L. WOODLEY, :
Defendant :
:

COMPLAINT
IN REPLEVIN

AND NOW comes RICHARD D. NEFF, by his attorneys Kim C. Kesner and Belin, Kubista & Ryan, and files this Complaint in action in replevin in accordance with Pa.R.Civ.P. Rule 1073.1 and in support hereof avers as follows:

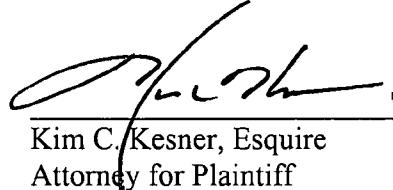
1. Plaintiff is Richard D. Neff an adult individual residing at P.O. Box 45, Michael Street, Westover, Clearfield County, Pennsylvania 16692.
2. Defendant is Penny L. Woodley an adult individual presently residing at 93 Hurd Drive, Westover, Clearfield County, Pennsylvania 16692.
3. The property to be replevied ("Premises") is a house and two parcels with the address of 93 Hurd Drive, Westover, Pennsylvania 16692. The first parcel consisting of thirty-five (35) acres, more or less, is identified by Clearfield County Assessment Map No. 20.0-D16-000-2. The second parcel consisting of ten (10) acres, more or less, is identified as Clearfield County Assessment Map No. 20.0-D16-000-3. The Premises is more fully described in that deed from the Sheriff of Clearfield County to Plaintiff dated August 21, 2007, recorded in the Office of the Recorder of Deeds of Clearfield County at Instrument Number 200713895.

4. The purchase price paid by Plaintiff to the Sheriff for the Premises was Sixty-Three Thousand (\$63,000.00) Dollars.
5. The Premises was acquired by Defendant and her then husband, James P. Woodley, by Deed dated August 2, 1997, recorded in the Office of the Recorder of Deeds of Clearfield County at Deed Book Volume 1864 page 416.
6. The Premises was sold to Plaintiff by the Sheriff of Clearfield County upon a Writ of Execution issued by this Court at No. 2007-88-CD at the suit of First National Bank of Pennsylvania vs. James P. Woodley and Penny L. Woodley.
7. Despite several demands including a written demand on August 7, 2007, after the Sheriff Sale on August 3, 2007, Defendant has failed or refused to remove herself and relinquish possession of the Premises to Plaintiff.
8. Defendant is occupying the Premises without legal right.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to:

- a. Upon separate motion for issue of a Writ of Seizure, issue a Writ of Seizure in accordance with Pa.R.Civ.P., Rule 1075.1 upon notice and hearing.
- b. Enter final judgment confirming and enforcing Plaintiffs right to possession of the Premises and in the amount of any special damages sustained.

Respectfully submitted,

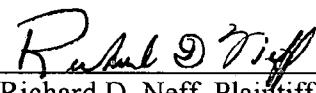


Kim C. Kesner, Esquire
Attorney for Plaintiff

VERIFICATION

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

Date: 8-28-07


Richard D. Neff

Plaintiff

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

RICHARD D. NEFF,
Plaintiff/Movant

vs.

No. 07-1388-CD

PENNY L. WOODLEY,
Defendant/Respondent

ORDER

AND NOW, this 29 day of August, 2007, upon consideration of Plaintiff's Motion for Writ of Seizure in accordance with Pa.R.Civ.P., Rule 1075.1, it is hereby ordered and decreed that hearing on the Motion shall be held on 31ST day of August, 2007, at 9 o'clock A.M. at Courtroom No. 1.

BY THE COURT:



FILED 400
01/24/08 by Kneser
AUG 29 2007
S

William A. Shaw
Prothonotary/Clerk of Courts

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

RICHARD D. NEFF,
Plaintiff

vs.

PENNY L. WOODLEY,
Defendant

: No. 2007-1388-CD

: Type of Pleading: AFFIDAVIT OF
SERVICE

: Filed on behalf of: Plaintiff

: Counsel of Record for this Party:

: Kim C. Kesner, Esquire
Supreme Court I.D. # 28307

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

FILED
0103461
AUG 31 2007
WM
William A. Shaw
Prothonotary/Clerk of Courts

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

RICHARD D. NEFF
VS
PENNY L. WOODLEY

NO.2007-1388-CD

AFFIDAVIT OF SERVICE

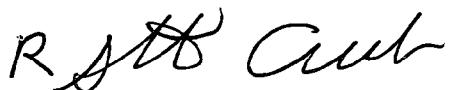
COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF CLEARFIELD

I, R. STUART AUBER, BEING DULY SURNED AND ACCORDING TO LAW,
DEPOSES AND SAYS:

1. THAT HE IS A CONSTABLE FOR THE COUNTY OF CLEARFIELD AND THE STATE OF PENNSYLVANIA, AND NOT A PARTY TO THE WITHIN ACTION.
2. THAT ON THE 29 DAY OF AUGUST, 2007 HE SERVED A TRUE AND CORRECT COPY OF A COMPLAINT IN REPLEVIN UPON PENNY L. WOODLEY, AT 93 HURD DRIVE, IN THE CITY, BORO, VILLAGE OF WESTOVER, TOWNSHIP OF _____, COUNTY OF CLEARFIELD, PENNSYLVANIA, THE DEFENDANT NAMED IN SAID DOCUMENT, BY THEN AND THERE AT THE PLACE AND ON THE DATE NOTED ABOVE, DELIVERED TO PENNY L. WOODLEY A TRUE AND CORRECT COPY OF THE SAID STATED DOCUMENTS. TIME OF THIS SERVICE WAS AT 1810 HOURS.



R. STUART AUBER
Pennsylvania State Constable
Certification number B000802

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

RICHARD D. NEFF
VS
PENNY L. WOODLEY

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NO. 2007-1388-CD

AFFIDAVIT OF SERVICE

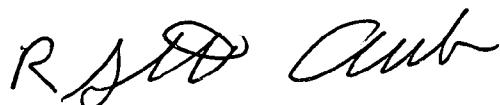
COMMONWEALTH OF PENNSYLVANIA:

SS:

COUNTY OF CLEARFIELD

I, R. STUART AUBER, BEING DULY SWORN AND ACCORDING TO LAW,
DEPOSES AND SAYS:

1. THAT HE IS A CONSTABLE FOR THE COUNTY OF CLEARFIELD AND THE STATE OF PENNSYLVANIA, AND NOT A PARTY TO THE WITHIN ACTION.
2. THAT ON THE 29 DAY OF AUGUST, 2007 HE SERVED A TRUE AND CORRECT COPY OF A MOTION FOR WRIT OF SEIZURE UPON PRNNY L. WOODLEY, AT 93 HURD DRIVE, IN THE CITY, BORO, VILLAGE OF WESTOVER, TOWNSHIP OF _____, COUNTY OF CLEARFIELD, PENNSYLVANIA, THE DEFENDANT NAMED IN SAID DOCUMENT, BY THEN AND THERE AT THE PLACE AND ON THE DATE NOTED ABOVE, DELIVERED TO PENNY L. WOODLEY A TRUE AND CORRECT COPY OF THE SAID STATED DOCUMENTS. TIME OF THIS SERVICE WAS AT 1810 HOURS.



R. STUART AUBER
Pennsylvania State Constable
Certification number B000802

FILED

AUG 31 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

RICHARD D. NEFF,
Plaintiff

vs.

PENNY L. WOODLEY,
Defendant

: No. 2007-1388-CD

FILED
09/31/07
AUG 31 2007
GR

William A. Shaw
Prothonotary/Clerk of Courts

REPLEVIN BOND

KNOWN ALL MEN BY THESE PRESENTS, the I, Richard D. Neff, be held and firmly bound unto the Commonwealth of Pennsylvania in the just and full sum of One Hundred Twenty-Six Thousand and 00/100 (\$126,000.00) Dollars, lawful money of Pennsylvania, to be paid to the said Commonwealth of Pennsylvania, their certain attorneys, successors or assigns; to which payment well and truly to be made and done, I do bind myself and my heirs, executors and administrators, and every of them, jointly and severally, firmly by these presents. Sealed with my seals, dated this 31st day of August in the year two thousand seven (2007).

NOW, The CONDITION OF THIS OBLIGATION IS SUCH that if the above-bound Richard D. Neff, Plaintiff, in a certain writ of seizure issued a replevin action, Court of Common Pleas, Clearfield County, Commonwealth of Pennsylvania, No. 2007-1388-CD, for certain real property and fixtures mentioned in said writ of the value of Sixty-Three Thousand and 00/100 (\$63,000.00), fails to maintain his right to possession of such property and fixtures, he shall pay to the party thereunto entitled the value of said property and fixtures and all legal costs, fees, and damages, which the Defendant or other

persons to whom such property or fixtures so seized belong may sustain by reason of the issuance of above writ of seizure, then this obligation to be void and of none effect, otherwise to be and remain in full force and virtue.

(signed) Ronald D. Jeff L.S.

(signed) _____ L.S.

Sealed and delivered in
the presence of us:

John

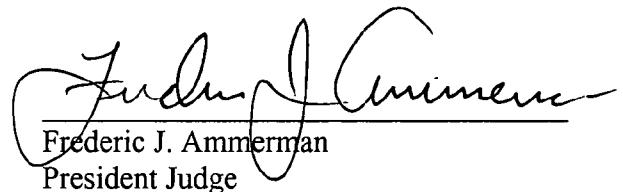
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RICHARD D. NEFF, :
Plaintiff :
vs. :
: No. 2007-1388-CD
PENNY L. WOODLEY, :
Defendant :
:

ORDER

AND NOW, this 31st day of August, 2007, after hearing scheduled by this Court's Order of August 29, 2007, the Defendant having failed to appear after service upon her of this Court's Order of August 29, 2007, with a copy Plaintiff's Complaint and Motion for Writ of Seizure by Constable R. Stuart Auber on August 29, 2007, at 6:10 p.m., Plaintiff having established a probable validity of his claim; it is hereby ORDERED and DECREED that the Prothonotary shall issue a Writ of Seizure in accordance with Pa.R.Civ.P., Rule 1075.3(a) and 1354 upon the filing of a Bond in the amount of One Hundred Twenty-Six Thousand and 00/100 (\$126,000.00) Dollars in accordance with Pa.R.Civ.P., Rule 1075.1(e). In addition, the Sheriff of Clearfield County is hereby directed to dispossess Defendant of the real property being the subject of the Plaintiff's Complaint described in the Sheriff's Deed to Plaintiff dated August 21, 2007, and to use force as is necessary to accomplish this. The Sheriff shall then deliver possession to Plaintiff pending further proceedings in this action.

BY THE COURT:


Frederic J. Ammerman
President Judge

FILED 3ccs 3 wnts
0/9/3/2007 Atty Kesner
AUG 31 2007

William A. Shaw Atty pd.
Prothonotary/Clerk of Courts 20.00

(6K)

COPY

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

RICHARD D. NEFF,
Plaintiff

vs.

No. 2007-1388-CD

PENNY L. WOODLEY,
Defendant

Type of Pleading: WRIT OF SEIZURE

Filed on behalf of: Plaintiff

Counsel of Record for this Party:

Kim C. Kesner, Esquire
Supreme Court I.D. # 28307

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

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

RICHARD D. NEFF, :
Plaintiff :
vs. : No. 2007-1388-CD
PENNY L. WOODLEY, :
Defendant :
:

WRIT OF SEIZURE

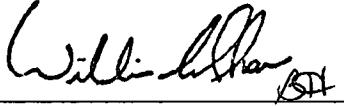
To Clearfield County Sheriff, Chester A. Hawkins:

You are directed to seize the following property:

That real property and fixtures consisting of a house and two parcels at 93 Hurd Drive, Westover, Clearfield County, Pennsylvania 16692, identified by Clearfield County Assessment Map Nos. 20.0-D16-000-2 and 20.0-D16-000-3 and more fully described in that deed from the Sheriff of Clearfield County to Plaintiff dated August 21, 2007, recorded in the Office of Recorder of Deeds of Clearfield County at Instrument No. 200713895.

If the property is found in the possession of a person not already a defendant, you are directed to add the person as a defendant, and notify the person that he or she has been added as a defendant and is required to defend the action.

Date of Writ August 31, 2007



William A. Shaw, Prothonotary

(SEAL)

By: _____
(Deputy)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103148
NO. 07-1388-CD
SERVICE # 1 OF 1
WRIT OF SEIZURE, COMPLAINT IN REPLEVIN,

ORDER

PLAINTIFF: RICHARD D. NEFF
vs.
DEFENDANT: PENNY L. WOODLEY

SHERIFF RETURN

NOW, August 31, 2007 AT 11:10 AM SERVED THE WITHIN WRIT OF SEIZURE, COMPLAINT IN REPLEVIN, ORDER ON PENNY L. WOODLEY DEFENDANT AT 93 HURD DRIVE, WESTOVER, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO PENNY WOODLEY, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF SEIZURE, COMPLAINT IN REPLEVIN, ORDER AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: MORGILLO / DEHAVEN

FILED
01100961
SEP 05 2007
JS

William A. Shaw
Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	BELIN	23766	10.00
SHERIFF HAWKINS	BELIN	23766	80.42

Sworn to Before Me This

____ Day of _____ 2007

So Answers,

Chester A. Hawkins
by Marilyn Harris
Chester A. Hawkins
Sheriff