

08-58-CD

Edmond George vs Leona Morgan

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County Of CLEARFIELD

NOTICE OF APPEAL

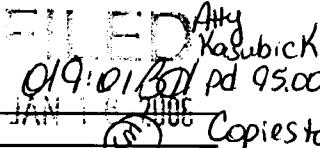
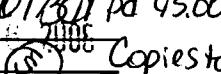
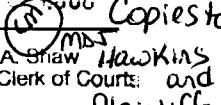
FROM

MAGISTERIAL DISTRICT JUDGE JUDGMENT

COMMON PLEAS No. 08-58-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 Magisterial District Judge on the date and in the case referenced below.

NAME OF APPELLANT Leona Morgan	MAG. DIST. NO. 46-3-04	NAME OF MDJ James L. Hawkins
ADDRESS OF APPELLANT 823 Brisbin Street	CITY Houtzdale	STATE PA
DATE OF JUDGMENT 12/21/07	IN THE CASE OF (Plaintiff) Edmond M. George	(Defendant) Leona Morgan
DOCKET No. CV-0000156-07	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 Magisterial District Judge, 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 Magisterial District Judge, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.
_____ Signature of Prothonotary or Deputy		 Atty.  01/01/08 pd 95.00 JAN 1 2008 Copies to  William A. Shaw HAWKINS Prothonotary/Clerk of Courts and Plaintiff

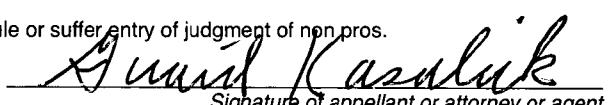
PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

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 Magisterial District Judge. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

Enter rule upon Edmond M. George appellee(s), to file a complaint in this appeal
Name of appellee(s)

(Common Pleas No. 08-58-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 Edmond M. George appellee(s)
Name of appellee(s)

OWNER

(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 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 January 16, 2008



Signature of Prothonotary or Deputy

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

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County Of CLEARFIELD

NOTICE OF APPEAL

FROM

MAGISTERIAL DISTRICT JUDGE JUDGMENT

COMMON PLEAS No. 08-58-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 Magisterial District Judge on the date and in the case referenced below.

NAME OF APPELLANT Leona Morgan	MAG. DIST. NO. 46-3-04	NAME OF MDJ James L. Hawkins
ADDRESS OF APPELLANT 823 Brisbin Street	CITY Houtzdale	STATE PA
DATE OF JUDGMENT 12/21/07	IN THE CASE OF (Plaintiff) Edmond M. George	(Defendant) Leona Morgan
DOCKET NO. CV-00000156-07	SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT 	
<p>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 Magisterial District Judge, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p>If appellant was Claimant (see Pa. R.C.P.D. J. No. 1001(6) in action before a Magisterial District Judge, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.</p> <p>_____ Signature of Prothonotary or Deputy</p>		

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

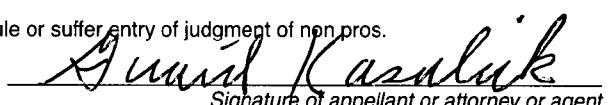
Atty
01/01/08 pd 95.00
Copies to
William A. Shaw HAWKINS
Prothonotary/Clerk of Courts and Plaintiff

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 Magisterial District Judge. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

Enter rule upon Edmond M. George appellee(s), to file a complaint in this appeal
 Name of appellee(s)

(Common Pleas No. 08-58-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 Edmond M. George appellee(s)
 Name of appellee(s)

OWNER

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Date January 16, 2008


Signature of Prothonotary or Deputy

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COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County Of CLEARFIELD

NOTICE OF APPEAL

FROM
MAGISTERIAL DISTRICT JUDGE JUDGMENT

COMMON PLEAS No. 08-58 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 Magisterial District Judge on the date and in the case referenced below.

NAME OF APPELLANT Leona Morgan	MAG. DIST. NO. 46-3-04	NAME OF MDJ James H. Hawkins
ADDRESS OF APPELLANT 823 Brisbin Street	CITY Houzdale	STATE PA
DATE OF JUDGMENT 12/21/07	IN THE CASE OF (Plaintiff) Edmond M. George	(Defendant) Leona Morgan
DOCKET No. CV-0000156-07	SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT <i>Grand Kasulik</i>	
<p>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 Magisterial District Judge, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p>If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action before a Magisterial District Judge, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.</p> <p>_____ Signature of Prothonotary or Deputy</p>		

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 Magisterial District Judge. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

Enter rule upon Edmond M. George appellee(s), to file a complaint in this appeal
 Name of appellee(s)

(Common Pleas No. 08-58 CD within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Grand Kasulik
Signature of appellant or attorney or agent

RULE: To Edmond M. George appellee(s)
 Name of appellee(s)

OWNER

(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.

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

Date January 16, 2008

Willie Allen
Signature of Prothonotary or Deputy

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

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-04

MDJ Name: Hon.

JAMES L. HAWKINS
Address: **251 SPRING ST**
PO BOX 362
HOUTZDALE, PA

Telephone: **(814) 378-7160**

16651-0362

ATTORNEY DEF PRIVATE :

GIRARD KASUBICK
611 BRISBIN ST
HOUTZDALE, PA 16651

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

GEORGE, EDMOND M.
171 SPRING ST.
HOUTZDALE, PA 16651

NAME and ADDRESS

DEFENDANT:

MORGAN, LEONA
823 BRISBIN STREET
HOUTZDALE, PA 16651

VS.

NAME and ADDRESS

Docket No.: **CV-0000156-07**
Date Filed: **11/09/07**



THIS IS TO NOTIFY YOU THAT:

FOR PLAINTIFF

Judgment: _____

(Date of Judgment) **12/21/07**

Judgment was entered for: (Name) **GEORGE, EDMOND M.**

Judgment was entered against: (Name) **MORGAN, LEONA**
in the amount of \$ **1,141.50**

Defendants are jointly and severally liable.

Damages will be assessed on Date & Time _____

This case dismissed without prejudice.

Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127
\$ _____

Portion of Judgment for physical damages arising out of
residential lease \$ _____

Amount of Judgment	\$ 1,050.00
Judgment Costs	\$ 91.50
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 1,141.50
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
Certified Judgment Total \$ _____	

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR 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.

12/21/07 Date *M. Andella*, 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

My commission expires first Monday of January, **2012**

SEAL

AOPC 315-07

DATE PRINTED: 12/21/07 2:37:00 PM

THE COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-04

MDJ Name: Hon.

JAMES L. HAWKINS
Address: **251 SPRING ST
PO BOX 362
HOUTZDALE, PA**

Telephone: **(814) 378-7160**

16651-0362

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

**GEORGE, EDMOND M.
171 SPRING ST.
HOUTZDALE, PA 16651**

NAME and ADDRESS

DEFENDANT:

**MORGAN, LEONA
823 BRISBIN STREET
HOUTZDALE, PA 16651**

NAME and ADDRESS

VS.

2008-58-CD

ATTORNEY DEF PRIVATE :

**GIRARD KASUBICK
611 BRISBIN ST
HOUTZDALE, PA 16651**

Docket No.: **CV-0000156-07**
Date Filed: **11/09/07**



THIS IS TO NOTIFY YOU THAT:

FOR PLAINTIFF

Judgment: _____

(Date of Judgment) _____

12/21/07

<input checked="" type="checkbox"/> Judgment was entered for: (Name) GEORGE, EDMOND M.	<i>6/3:45/08</i>
<input checked="" type="checkbox"/> Judgment was entered against: (Name) MORGAN, LEONA	
<input type="checkbox"/> Defendants are jointly and severally liable.	Amount of Judgment 2008 \$ 1,050.00
<input type="checkbox"/> Damages will be assessed on Date & Time _____	Judgment Costs \$ 91.50
<input type="checkbox"/> This case dismissed without prejudice.	Interest on Judgment .00
<input type="checkbox"/> Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ _____	Attorney Fees/Clerk of Courts .00
<input type="checkbox"/> Portion of Judgment for physical damages arising out of residential lease \$ _____	Total \$ 1,141.50
	Post Judgment Credits \$ _____
	Post Judgment Costs \$ _____
	Certified Judgment Total \$ 1141.50

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11/21/07 Date M. Mandella, Magisterial District Judge

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

11/21/08 Date M. Mandella, Magisterial District Judge

My commission expires first Monday of January, **2012**

SEAL

AOPC 315-07

DATE PRINTED: **12/21/07 2:37:00 PM**

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-04

MDJ Name: Hon.

JAMES L. HAWKINS

Address: **251 SPRING ST
PO BOX 362
HOUTZDALE, PA**

Telephone: **(814) 378-7160**

16651-0362

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

**GEORGE, EDMOND M.
171 SPRING ST.
HOUTZDALE, PA 16651**

NAME and ADDRESS

DEFENDANT:

**MORGAN, LEONA
823 BRISBIN STREET
HOUTZDALE, PA 16651**

VS.

NAME and ADDRESS

JAN 25 2008

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



**JAMES L. HAWKINS
251 SPRING ST
PO BOX 362
HOUTZDALE, PA 16651-0362**

Docket No.: **CV-0000156-07**
Date Filed: **11/09/07**

THIS IS TO NOTIFY YOU THAT:

FOR PLAINTIFF

(Date of Judgment)

12/21/07

2008-58-00

Judgment was entered for: (Name) **GEORGE, EDMOND M.**

Judgment was entered against: (Name) **MORGAN, LEONA**
in the amount of \$ **1,141.50**

Defendants are jointly and severally liable.

Damages will be assessed on Date & Time _____

This case dismissed without prejudice.

Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127
\$ _____

Portion of Judgment for physical damages arising out of
residential lease \$ _____

Amount of Judgment	\$ 1,050.00
Judgment Costs	\$ 91.50
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 1,141.50
Post Judgment Credits	\$ —
Post Judgment Costs	\$ —
Certified Judgment Total \$ 1141.50	

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12/21/07 Date

, Magisterial District Judge

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

1/21/08 Date

, Magisterial District Judge

My commission expires first Monday of January, **2012**

SEAL

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

EDMOND M. GEORGE,
Plaintiff
vs.
LEONA MORGAN,
Defendant

: Nos.: 08-58-CD
: : 08-174-CD
: Type of Case: Civil
: Type of Pleading:
: Answer to Complaint
: and New Matter
: Filed on behalf of:
: Defendant
: Counsel of Record for
: This Party:
: Girard Kasubick, Esq.
: Supreme Court No. 30109
: LEHMAN & KASUBICK
: 611 Brisbin Street
: Houtzdale, PA 16651
: (814) 378-7840

ED 1CC
01/10/2561 Atty Kasubick

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

EDMOND M. GEORGE,	:	
	Plaintiff	:
		:
vs.	:	Nos. 08-58-CD
	:	08-174-CD
LEONA MORGAN,	:	
	Defendant	:
		:

NOTICE TO PLEAD

To: Edmond M. George

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

Girard Kasubick
Girard Kasubick, Esq.
Attorney for Defendant
611 Brisbin Street
Houtzdale, PA 16651
(814) 378-7840

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

EDMOND M. GEORGE,	:	
	Plaintiff	:
		:
vs.	:	Nos. 08-58-CD
	:	08-174-CD
LEONA MORGAN,	:	
	Defendant	:
		:

ANSWER TO COMPLAINT AND NEW MATTER

AND NOW, comes Defendant, Leona Morgan, by and through her Attorney, Girard Kasubick, Esq., and files the following Answer and New Matter to Plaintiff's Complaint:

1. Admitted.

2. Admitted.

3. Admitted in part and Denied in part. It is admitted Plaintiff and Defendant's property are contiguous. It is denied the property is in the Township of Houtzdale. The property is located in the Borough of Houtzdale.

4. Denied. This is conclusion of law or fact for which no responsive pleading is required.

5. Denied. The Defendant has owned the contiguous parcel next to Plaintiff's parcel since 1981 by Deed recorded in Clearfield County Deed Book 810, Page 1. The

Defendant's parents owned the property prior to that. The Defendant conveyed out the property now owned by the Plaintiff by Deed recorded in Clearfield County Deed Book 810, Page 4. Defendant has only had control of the property since 1981.

6. Denied. The trees were planted prior to Defendant's ownership of the land adjacent to Plaintiff's land. Defendant has not planted any trees on the adjacent land since her ownership. It is further denied as to the location of the trees as this is a conclusion of law or fact for which no responsive pleading is required.

7. Admitted in part and Denied in part. It is denied the trees are overgrown, unkempt and unmanaged, which is a conclusion of law or fact for which no responsive pleading is required. It is admitted some branches of the pine trees encroach on Plaintiff's air space and that the trees are approximately 35 feet high.

8. Denied. This is a conclusion of law or fact for which no responsive pleading is required.

9. Denied. This is a conclusion of law or fact for which no responsive pleading is required.

10. Admitted in part and Denied in part. It is admitted that the trees may emit sap, needles and cones. It is denied that this creates an extremely treacherous condition and additional maintenance and damage to Plaintiff because Defendant after reasonable investigation is without knowledge or information to form a belief as to these averments and proof thereof is demanded.

11. Denied. This averment is denied because Defendant after reasonable investigation is without knowledge or information to form a belief as to these averments and proof thereof is demanded.

COUNT I
Trespass

12. Defendant hereby incorporates its answers to paragraphs 1 through 11 as though fully sets forth herein.

13. Denied. This is a conclusion of law or fact for which no responsive pleading is required.

14. Denied. This is a conclusion of law or fact for which no responsive pleading is required.

15. Denied. This is a conclusion of law or fact for which no responsive pleading is required.

16. Denied. This is a conclusion of law or fact for which no responsive pleading is required. It is further denied and averred that the Plaintiff had the right of self-help to trim the trees and could have eliminated and/or abated any possible nuisance or trespass.

WHEREFORE, Defendant requests your Honorable Court to enter judgment in favor of Defendant and against the Plaintiff.

COUNT II
Nuisance

17. Defendant hereby incorporates its answers to paragraphs 1 through 16 as though fully sets forth herein.

18. Admitted in Part and Denied in Part. It is admitted that Plaintiff has requested Defendant to remove the trees. It is denied that Defendant has refused without justification as this is a conclusion of law or fact for which no responsive pleading is required and further Plaintiff has refused Defendant's offer to remove the trees without justification.

19. Denied. This is a conclusion of law or fact for which no responsive pleading is required.

20. Denied. This averment is denied because Defendant after reasonable investigation is without knowledge or information to form a belief as to these averments and proof thereof is demanded. It is further denied and averred that the Plaintiff had the right of self-help to trim the trees and could have eliminated and/or abated any possible nuisance or trespass.

21. Denied. This is a conclusion of law or fact for which no responsive pleading is required. It is further denied and averred that the Plaintiff had the right of self-help to trim the trees and could have eliminated and/or abated any possible nuisance or trespass.

22. Denied. This is a conclusion of law or fact for which no responsive pleading is required.

WHEREFORE, Defendant requests your Honorable Court to enter judgment in favor of Defendant and against the Plaintiff.

COUNT III
Equitable Relief

23. Defendant hereby incorporates its answers to paragraphs 1 through 22 as though fully sets forth herein.

24. Denied. This is a conclusion of law or fact for which no responsive pleading is required.

25. Denied. Plaintiff states no facts of denial by Defendant and this is further denied as a conclusion of law for which no responsive pleading is required. It is further denied and averred that the Plaintiff had the right of self-help to trim the trees and could have eliminated and/or abated any possible nuisance or trespass.

26. Denied. This is a conclusion of law or fact for which no responsive pleading is required.

WHEREFORE, Defendant requests your Honorable Court to enter judgment in favor of Defendant and against the Plaintiff.

NEW MATTER

27. Plaintiff and his wife, Joanne George, became the owners of the adjacent property to the Defendant's property by Deed recorded March 28, 2003 in Clearfield County Instrument No. 200304908.

28. On March 28, 2003 the tree branches of the trees subject of Plaintiff's Complaint were encroaching on Plaintiff's air space above the real property acquired

by Plaintiff in the Deed recorded in Instrument No. 200304908.

29. Plaintiff knew of the encroaching trees at the time the Plaintiff purchased the real property by Deed recorded in Clearfield County Instrument No. 200304908.

30. Plaintiff has not cut down or removed any tree branches encroaching on the air space above the real property owned by Plaintiff by Deed recorded in Clearfield County Instrument No. 200304908.

31. Plaintiff did not give any notice to the Defendant of any problem or encroachment causing damages until Defendant received letter dated May 16, 2007 from Plaintiff's attorney.

32. Plaintiff has the legal right of self-help for encroaching branches on the air space above the real property he owns to cut and remove the branches.

33. The Plaintiff has failed to exercise his right of self-help and thereby mitigate any damages, if any damages are proven by Plaintiff and mitigate any nuisance or trespass.

34. The Plaintiff knew of the trespass of the branches in 2003 when Plaintiff purchased the real

property and the statue of limitations under 42 Pa. C.S.A. § 5524 has run for Plaintiff to make any claim.

35. The Defendant hereby raises the defense of the Doctrine of Laches because Plaintiff had knowledge of the existing condition on the real property when he purchased it in 2003 and he permitted the condition to remain thereby acquiescing in the condition of the trees.

WHEREFORE, Defendant requests your Honorable Court to enter judgment in favor of Defendant and against the Plaintiff.

Respectfully submitted,


Girard Kasubick
Attorney for Defendant

VERIFICATION

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



Leona B. Morgan
Leona Morgan

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

EDMOND M. GEORGE, : Nos.: 08-58-CD
Plaintiff : 08-174-CD
vs. : Type of Case: Civil
LEONA MORGAN, : Type of Pleading:
Defendant : Certificate of
: Service
: Filed on behalf of:
: Defendant
: Counsel of Record for
: This Party:
: Girard Kasubick, Esq.
: Supreme Court No. 30109
: LEHMAN & KASUBICK
: 611 Brisbin Street
: Houtzdale, PA 16651
: (814) 378-7840

06/10/4985
NO CC
W.A. Shaw
Prothonotary/Clerk of Courts

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

EDMOND M. GEORGE, :
Plaintiff :
: Nos.: 08-58-CD
vs. : 08-174-CD
: :
LEONA MORGAN, :
Defendant :
:

CERTIFICATE OF SERVICE

I hereby certify that I, Girard Kasubick, Esq., forwarded a copy of the Answer to Complaint and New Matter to counsel of record listed below by United States mail, postage prepaid on March 12, 2008, at the following address:

Edmond M. George, Esq.
OBERMAYER REBMAN MAXWELL & HIPPELL LLP
1617 JFK Boulevard
Suite 1900
Philadelphia, PA 19103



Girard Kasubick, Esquire,
Attorney for Defendant

1A

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

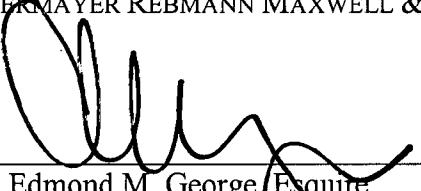
EDMOND M. GEORGE :
125 Spring Street :
Houtzdale, PA 16651 : February Term, 2008
:
v. : No.: 08-58-CD
: 08-174-CD
LEONA MORGAN :
823 Brisbin Street :
Houtzdale, PA 16651 :
:

PRAECIPE TO CONSOLIDATE CASES

TO THE CLERK:

As the parties to the above-referenced proceedings have agreed to consolidate the proceedings and file all pleadings in one proceeding captioned as Edmond M. George v. Leona Morgan, case number 08-58-CD, kindly mark Edmond M. George v. Leona Morgan, case number 08-174-CD as follows: "An order has been entered consolidating this case with Edmond M. George v. Leona Morgan, case number 08-58-CD. All future court filings shall be made in the Edmond M. George v. Leona Morgan, case number 08-58-CD."

OBERMAYER REBMAN MAXWELL & HIPPEL LLP

By: 

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1617 JFK Boulevard
Suite 1900
Philadelphia, PA 19103
T: (215) 665-3141
F: (215) 665-3165

Counsel to Edmond M. George

Dated: January 31, 2008

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m 19/1/08 Atty George
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William A. Shaw
Prothonotary/Clerk of Courts

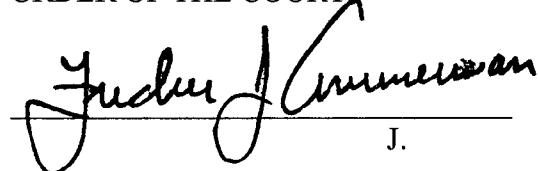
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW DIVISION

EDMOND M. GEORGE :
125 Spring Street :
Houtzdale, PA 16651 : February Term, 2008
:
v. : No.: 08-58-CD
: 08-174-CD
LEONA MORGAN :
823 Brisbin Street :
Houtzdale, PA 16651 :

ORDER CONSOLIDATING CASES

AND NOW this 26th day of March, 2008, upon consideration of the request of the parties, it is hereby ORDERED that the above-referenced cases are hereby consolidated, all further court filings shall be made in the case captioned as Edmond M. George v. Leona Morgan, case number 08-58-CD, and a docket entry for the case captioned Edmond M. George v. Leona Morgan, case number 08-174-CD, shall state that “An order has been entered consolidating this case with Edmond M. George v. Leona Morgan, case number 08-58-CD. All future court filings shall be made in the Edmond M. George v. Leona Morgan, case number 08-58-CD.”

ORDER OF THE COURT



J.

01/24/2008 4:00
Atty George
William A. Shaw
Prothonotary/Clerk of Courts
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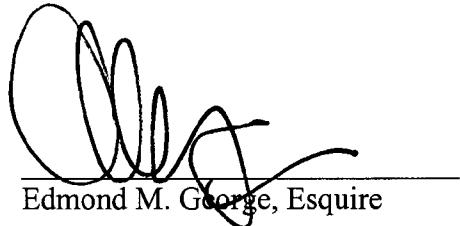
IN THE COURT OF COMMON PLEAS OF
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EDMOND M. GEORGE :
125 Spring Street :
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:
v. : No.: 08-58-CD
: 08-174-CD
LEONA MORGAN :
823 Brisbin Street :
Houtzdale, PA 16651 :

CERTIFICATE OF SERVICE

I, Edmond M. George, a partner at the law firm of Obermayer Rebmann Maxwell & Hippel LLP, do hereby certify that on March 19, 2008, I caused a true and correct copy of the foregoing Praeclipe to Consolidate Cases, and proposed Order to be served via U.S. First Class Mail, postage prepaid upon:

Girard Kasubick, Esquire
Lehman & Kasubick
611 Brisbin Street
Houtzdale, PA 16651



Edmond M. George, Esquire

Edmond M. George, Esquire
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Counsel to Edmond M. George

FILED *acc Atty
m/10:45am
George*
MAR 28 2008
WS
William A. Shaw
Prothonotary/Clerk of Courts

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

EDMOND M. GEORGE :
:
Plaintiff :
: Nos.: 08-58-CD
v. : 08-174-CD
:
LEONA MORGAN :
:
Defendant. :

REPLY TO DEFENDANT'S NEW MATTER

Edmond M. George (“Plaintiff”), by and through his undersigned counsel, hereby responds to the New Matter of Leona Morgan (the “Defendant”) as follows:

27. Admitted.
28. Admitted in part, denied in part. It is admitted only that tree branches now extend over the property line. The Plaintiff was and is unaware as to whether the trunks of the trees are on or over the property line. The remaining allegations are denied.
29. Denied. It is specifically denied that Plaintiff knew of encroaching tree branches at the time he purchased the realty. Although the branches may have encroached at a certain time, they were not in fact, a nuisance at that juncture.
30. Admitted in part, denied in part. It is admitted only that Plaintiff has not cut down the trees due to the fact that Plaintiff has been advised that cutting the branches

may cause the trees to die, potentially creating a liability to the Defendant in this matter. Defendant has repeatedly requested that the Defendants remove either the offending branches, or cut the trees down altogether so as to avoid any issue over the removal of the trees, and abate the nuisance. The trees are a nuisance and continue to drop pine cones, needles, sap and other noxious substances onto the Plaintiff's property.

31. Denied. It is denied that Defendant did not have knowledge of the encroachment or the damages of the Plaintiff in this case.

32. Denied as a legal conclusion. It is denied that self-help is a remedy for a nuisance, which the encroaching tree branches and the trees themselves are at this time.

33. Denied. Plaintiff has requested that the Defendant remove the trees so that if the branches are removed on Plaintiff's side, and the trees die. Plaintiffs will not have any potential liability. The Plaintiff's therefore require an order from the court directing the Defendant to remove the trees as a continuing nuisance.

34. Denied. The nuisance and trespass are continuing and have not been abated by the Defendant. The remaining allegations are legal conclusions to which no response is required.

35. Denied. The allegations in this paragraph are legal conclusions to which no response is required.

WHEREFORE, the Plaintiff demands judgment in his favor and against the Defendant, plus interest, costs and attorney's fees.

NEW MATTER

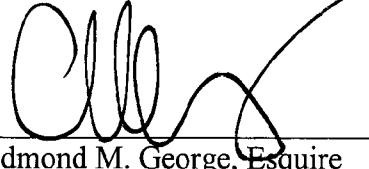
36. The Defendant has permitted a continuous and unabated nuisance to exist on her property which has affected the rights of the Plaintiff herein.

37. The trees in question are "continuing" nuisances which are causing substantial and sensible damage to the Plaintiff's property.

WHEREFORE, the Plaintiff demands judgment in his favor and against the Defendant, plus interest, costs and attorney's fees.

Dated: March 27, 2008

OBERMAYER REBMANN MAXWELL & HIPPEL LLP

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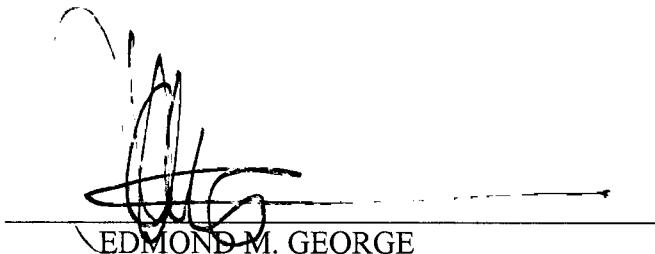
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Counsel to Edmond M. George

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

EDMOND M. GEORGE	:
	:
Plaintiff	:
	:
v.	: Nos.: 08-58-CD
	: 08-174-CD
	:
LEONA MORGAN	:
	:
Defendant.	:

VERIFICATION

I, Edmond M. George, hereby verify that I am authorized to make this Verification and that the facts and statements contained in the foregoing, are true and correct to the best of my information, knowledge and belief. I make these statements subject to the penalties of 18 Pa. C. S. A. § 4904 relating to unsworn falsification to authorities.



EDMOND M. GEORGE

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Counsel to Jacob George Ford Sales, Inc.

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

EDMOND M. GEORGE	:
	:
Plaintiff	:
	:
v.	: Nos.: 08-58-CD
	: 08-174-CD
	:
LEONA MORGAN	:
	:
Defendant.	:

CERTIFICATE OF SERVICE

I, Edmond M. George, an attorney at Obermayer Rebmann Maxwell & Hippel LLP, hereby certify that a true and correct copy of the Reply To Defendant's New Matter was served on this day the 27th of March, 2008, via U.S. First Class Mail postage prepaid upon the following:

Girard Kasubick, Esquire
Lehman & Kasubick
611 Brisbin Street
Houtzdale, PA 16651

By: 
Edmond M. George, Esquire