

08-433-CD

Bank of NY vs Robert Powell et al

FILED  
MAR 12 2008  
11:20 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
4 CMT TO SHFF

PHELAN HALLINAN & SCHMIEG, LLP  
FRANCIS S. HALLINAN, ESQ., Id. No. 62695  
DANIEL G. SCHMIEG, ESQ., Id. No. 62205  
MICHELE M. BRADFORD, ESQ., Id. No. 69849  
SHEETAL R. SHAH-JANI, ESQ., Id. No. 81760  
JUDITH T. ROMANO, ESQ., Id. No. 58745  
JENINE R. DAVEY, ESQ., Id. No. 87077  
MICHAEL E. CARLETON, ESQ., Id. No. 203009  
ONE PENN CENTER PLAZA, SUITE 1400  
PHILADELPHIA, PA 19103  
(215) 563-7000 173779

ATTORNEY FOR PLAINTIFF

BANK OF NEW YORK AS TRUSTEE FOR THE  
CERTIFICATEHOLDERS CWALT, INC.  
ALTERNATIVE LOAN TRUST 2005-80CB  
MORTGAGE PASS-THROUGH CERTIFICATES,  
SERIES 2005-80CB  
7105 CORPORATE DRIVE  
PLANO, TX 75024

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

NO. 2008-433-CD

Plaintiff

CLEARFIELD COUNTY

v.  
ROBERT W. POWELL  
DARLENE S. POWELL  
SECTION 1 LOT 191 TREASURE LAKE  
A/K/A 3344 BAY ROAD  
DUBOIS, PA 15801

THE UNITED STATES OF AMERICA  
C/O THE UNITED STATES ATTORNEY FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA,  
P.O. BOX 1805  
U.S. POST OFFICE AND COURTHOUSE  
PITTSBURGH, PA 15230

Defendants

**CIVIL ACTION - LAW**  
**COMPLAINT IN MORTGAGE FORECLOSURE**

## 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. 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.

Lawyer Referral Service:  
Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
100 South Street  
PO Box 186  
Harrisburg, PA 17108  
800-692-7375

Notice to Defend:  
Daniel J. Nelson, Court Administrator  
Clearfield County Courthouse  
2<sup>nd</sup> and Market Streets  
Clearfield, PA 16830  
814-765-2641 x 5982

**IF THIS IS THE FIRST NOTICE THAT YOU HAVE  
RECEIVED FROM THIS OFFICE, BE ADVISED THAT:**

**PURSUANT TO THE FAIR DEBT COLLECTION  
PRACTICES ACT, 15 U.S.C. § 1692 et seq. (1977),  
DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE  
DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S)  
DO SO IN WRITING WITHIN THIRTY (30) DAYS OF  
RECEIPT OF THIS PLEADING, COUNSEL FOR  
PLAINTIFF WILL OBTAIN AND PROVIDE  
DEFENDANT(S) WITH WRITTEN VERIFICATION  
THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED  
TO BE VALID. LIKEWISE, IF REQUESTED WITHIN  
THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING,  
COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S)  
THE NAME AND ADDRESS OF THE ORIGINAL  
CREDITOR, IF DIFFERENT FROM ABOVE.**

**THE LAW DOES NOT REQUIRE US TO WAIT UNTIL  
THE END OF THE THIRTY (30) DAY PERIOD  
FOLLOWING FIRST CONTACT WITH YOU BEFORE  
SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH  
THE LAW PROVIDES THAT YOUR ANSWER TO THIS**

COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.

1. Plaintiff is

BANK OF NEW YORK AS TRUSTEE FOR THE  
CERTIFICATEHOLDERS CWALT, INC.  
ALTERNATIVE LOAN TRUST 2005-80CB  
MORTGAGE PASS-THROUGH CERTIFICATES ,  
SERIES 2005-80CB  
7105 CORPORATE DRIVE  
PLANO, TX 75024

2. The name(s) and last known address(es) of the Defendant(s) are:

ROBERT W. POWELL  
DARLENE S. POWELL  
SECTION 1 LOT 191 TREASURE LAKE  
A/K/A 3344 BAY ROAD  
DUBOIS, PA 15801

THE UNITED STATES OF AMERICA  
C/O THE UNITED STATES ATTORNEY FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA, P.O. BOX 1805  
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PITTSBURGH, PA 15230

who is/are the mortgagor(s) and/or real owner(s) of the property hereinafter described.

3. On 07/29/2005 mortgagor(s) made, executed, and delivered a mortgage upon the premises hereinafter described to COLUMBIA HOME LOANS which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Instrument No: 200511786. PLAINTIFF is now the legal owner of the mortgage and is in the process of formalizing an assignment of same. The mortgage and assignment(s), if any, are matters of public record and are incorporated herein by reference in accordance with Pa.R.C.P. 1019(g); which Rule relieves the Plaintiff from its obligations to attach documents to pleadings if those documents are of public record.
4. The premises subject to said mortgage is described as attached.
5. The mortgage is in default because monthly payments of principal and interest upon said mortgage due 10/01/2007 and each month thereafter are due and unpaid, and by the terms

of said mortgage, upon failure of mortgagor to make such payments after a date specified by written notice sent to Mortgagor, the entire principal balance and all interest due thereon are collectible forthwith.

6. The following amounts are due on the mortgage:

Principal Balance	\$84,742.59
Interest	\$2,937.60
09/01/2007 through 03/10/2008 (Per Diem \$15.30)	
Attorney's Fees	\$1,250.00
Cumulative Late Charges	\$137.30
07/29/2005 to 03/10/2008	
Cost of Suit and Title Search	<u>\$750.00</u>
Subtotal	\$89,817.49
Escrow	
Credit	\$0.00
Deficit	\$0.00
Subtotal	<u>\$0.00</u>
<b>TOTAL</b>	<b>\$89,817.49</b>

7. If the mortgage is reinstated prior to a Sheriff's Sale, the attorney's fee set forth above may be less than the amount demanded based on work actually performed. The attorney's fees requested are in conformity with the mortgage and Pennsylvania law. Plaintiff reserves its right to collect attorney's fees up to 5% of the remaining principal balance in the event the property is sold to a third party purchaser at Sheriff's Sale, or if the complexity of the action requires additional fees in excess of the amount demanded in the Action.
8. Plaintiff is not seeking a judgment of personal liability (or an in personam judgment) against the Defendant(s) in the Action; however, Plaintiff reserves its right to bring a separate Action to establish that right, if such right exists. If Defendant(s) has/have received a discharge of personal liability in a bankruptcy proceeding, this Action of Mortgage Foreclosure is in no way an attempt to reestablish such personal liability

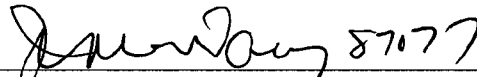
discharged in bankruptcy, but only to foreclose the mortgage and sell the mortgaged premises pursuant to Pennsylvania Law.

9. Notice of Intention to Foreclose as set forth in Act 6 of 1974, Notice of Homeowner's Emergency Assistance Program pursuant to Act 91 of 1983, as amended in 1998, and/or Notice of Default as required by the mortgage document, as applicable, have been sent to the Defendant(s) on the date(s) set forth thereon, and the temporary stay as provided by said notice has terminated because Defendant(s) has/have failed to meet with the Plaintiff or an authorized consumer credit counseling agency, or has/have been denied assistance by the Pennsylvania Housing Finance Agency.
10. This action does not come under Act 6 of 1974 because the original mortgage amount exceeds \$50,000.
11. The United States of America is made a Defendant herein pursuant to 28 U.S.C. 2410, because of federal tax liens that have been filed with the Prothonotary of CLEARFIELD County in the Judgment Index Unit as follows:
  - (a) United States vs. ROBERT W. POWELL; IRS Docket No. 2006-01784-CD;  
filed 10/30/2006; in the amount of \$24,865.38



WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$89,817.49, together with interest from 03/10/2008 at the rate of \$15.30 per diem to the date of Judgment, and other costs and charges collectible under the mortgage and for the foreclosure and sale of the mortgaged property.

PHELAN HALLINAN & SCHMIEG, LLP

By:  87077

FRANCIS S. HALLINAN, ESQUIRE  
DANIEL G. SCHMIEG, ESQUIRE  
MICHELE M. BRADFORD, ESQUIRE  
SHEETAL R. SHAH-JANI, ESQUIRE  
JUDITH T. ROMANO, ESQUIRE  
JENINE R. DAVEY, ESQUIRE  
MICHAEL E. CARLETON, ESQUIRE  
Attorneys for Plaintiff

### **LEGAL DESCRIPTION**

ALL THAT CERTAIN TRACT OF LAND DESIGNATED AS SECTION 1, LOT 191, "BARBADOS", IN THE TREASURE LAKE SUBDIVISION IN SANDY TOWNSHIP, CLEARFIELD COUNTY, PENNSYLVANIA, RECORDED IN THE RECORDER OF DEEDS OFFICE IN MISC. DOCKET MAP FILE NO. 25.

EXPECTING AND RESERVING THEREFROM AND SUBJECT TO:

1. ALL EASEMENTS, RIGHTS OF WAY, RESERVATIONS, RESTRICTIONS AND LIMITATIONS SHOWN OR CONTAINED IN PRIOR INSTRUMENTS OF RECORD AND IN THE AFORESAID RECORDED PLAN.
2. THE DECLARATION OF RESTRICTIONS, TREASURE LAKE, INC. RECORDED IN MISC. BOOK VOL. 146, P. 476; ALL OF SAID RESTRICTIONS BEING COVENANTS WHICH RUN WITH THE LAND.
3. ALL MINERALS AND MINING RIGHTS OF EVERY KIND AND NATURE.
4. A LIEN OF ALL UNPAID CHARGES OR ASSESSMENTS AS MAY BE MADE BY TREASURE LAKE, INC. OR TREASURE LAKE PROPERTY OWNERS ASSOCIATION, INC.; WHICH LIEN SHALL RUN WITH THE LAND AND BE AN ENCUMBRANCE AGAINST IT.

PREMISES: SECTION 1 LOT 191 TREASUER LAKE A/K/A 334 BAY ROAD

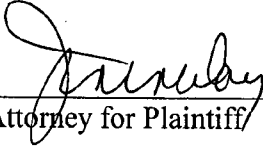
PARCEL: 128-C02-001-00-191-00-21

VERIFICATION

I hereby state that I am the attorney for Plaintiff in this matter, that Plaintiff is outside the jurisdiction of the Court and/or the verification could not be obtained within the time allowed for the filing of the pleading, that I am authorized to make this verification pursuant to Pa.R.C.P. 1024 (c), and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are based upon information supplied by Plaintiff and are true and correct to the best of my knowledge, information and belief.

Furthermore, counsel intends to substitute a verification from Plaintiff upon receipt.

The undersigned understands that this statement is made subject to the penalties of 18 Pa.C.S. Sec. 4904 relating to unsworn falsifications to authorities.

 87077  
\_\_\_\_\_  
Attorney for Plaintiff

DATE: 3/11/08

***PHELAN HALLINAN & SCHMIEG, LLP***  
By Lawrence T. Phelan, Esquire, ID. No. 32227  
Francis S. Hallinan Esquire, ID No. 62695  
One Penn Center at Suburban Station  
Suite 1400  
Philadelphia, PA 19103-1814  
(215) 563-7000

**FILED** *NO CC*  
*m/12:50/61*  
**APR 03 2008** *@*

William A. Shaw  
Prothonotary/Clerk of Courts

Attorney for Plaintiff

**BANK OF NEW YORK AS TRUSTEE FOR THE  
CERTIFICATEHOLDERS CWALT, INC.  
ALTERNATIVE LOAN TRUST 2005-80CB  
MORTGAGE PASS-THROUGH CERTIFICATES,  
SERIES 2005-80CB**

**Plaintiff**

**vs.**

**Court of Common Pleas  
CLEARFIELD County  
No. 2008-433-CD**

**ROBERT W. POWELL  
DARLENE S. POWELL, ET AL.**

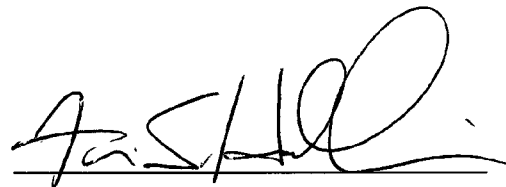
**Defendant(s)**

**PRAECIPE TO SUBSTITUTE LEGAL DESCRIPTION**

**TO THE PROTHONOTARY:**

Kindly substitute the attached legal description for the legal description originally filed with the complaint in the instant matter.

4/1/08  
Date



Lawrence T. Phelan, Esquire  
Francis S. Hallinan, Esquire  
Attorneys for Plaintiff

PHS # 173779

### LEGAL DESCRIPTION

ALL THAT CERTAIN TRACT OF LAND DESIGNATED AS SECTION 1, LOT 191, "BARBADOS", IN THE TREASURE LAKE SUBDIVISION IN SANDY TOWNSHIP, CLEARFIELD COUNTY, PENNSYLVANIA, RECORDED IN THE RECORDER OF DEEDS OFFICE IN MISC. DOCKET MAP FILE NO. 25.

EXPECTING AND RESERVING THEREFROM AND SUBJECT TO:

1. ALL EASEMENTS, RIGHTS OF WAY, RESERVATIONS, RESTRICTIONS AND LIMITATIONS SHOWN OR CONTAINED IN PRIOR INSTRUMENTS OF RECORD AND IN THE AFORESAID RECORDED PLAN.
2. THE DECLARATION OF RESTRICTIONS, TREASURE LAKE, INC. RECORDED IN MISC. BOOK VOL. 146, P. 476; ALL OF SAID RESTRICTIONS BEING COVENANTS WHICH RUN WITH THE LAND.
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PREMISES: SECTION 1 LOT 191 TREASUER LAKE A/K/A 3344 BAY ROAD

PARCEL: 128-C02-001-00-191-00-21

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FRANCIS S. HALLINAN, ESQ., Id. No. 62695  
ONE PENN CENTER PLAZA, SUITE 1400  
PHILADELPHIA, PA 19103  
(215) 563-7000

ATTORNEY FOR PLAINTIFF

**BANK OF NEW YORK AS TRUSTEE  
FOR THE CERTIFICATEHOLDERS  
CWALT, INC. ALTERNATIVE LOAN  
TRUST 2005-80CB MORTGAGE  
PASS-THROUGH CERTIFICATES ,  
SERIES 2005-80CB**

**Plaintiff**

vs.

**ROBERT W. POWELL  
DARLENE S. POWELL  
\* \*\*\*\*\*USA\*\*\*\*\***

**Defendant(s)**

**PRAECIPE TO SUBSTITUTE VERIFICATION  
TO CIVIL ACTION COMPLAINT  
IN MORTGAGE FORECLOSURE**

TO THE PROTHONOTARY:

Kindly substitute the attached verification for the verification originally filed with the complaint in the instant matter.

Phelan Hallinan & Schmieg, LLP  
Attorney for Plaintiff

By:   
Francis S. Hallinan, Esquire

Date: 5/7/08

**FILED** NO  
MAY 11 11:51 AM '08 CC  
(6K)

PHS #: 173779

William A. Shaw  
Prothonotary/Clerk of Courts

**VERIFICATION**

**MARK BISHOP**

hereby states that he/she is

**1st VICE PRESIDENT** of BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS  
CWALT, INC. ALTERNATIVE LOAN TRUST 2005-80CB MORTGAGE PASS-THROUGH  
CERTIFICATES , SERIES 2005-80CB, servieing agent for Plaintiff in this matter, that he/she is  
authorized to take this Verification, and that the statements made in the foregoing Civil Action in  
Mortgage Foreclosure are true and correct to the best of his/her knowledge, information and belief. The  
undersigned understands that this statement is made subject to the penalties of 18 Pa. C.S. Sec. 4904  
relating to unsworn falsification to authorities.

  
Name: **MARK BISHOP, 1ST VICE PRESIDENT**

DATE: **MAR 13 2008**

Title:

Company: BANK OF NEW YORK AS  
TRUSTEE FOR THE  
CERTIFICATEHOLDERS CWALT, INC.  
ALTERNATIVE LOAN TRUST 2005-80CB  
MORTGAGE PASS-THROUGH  
CERTIFICATES , SERIES 2005-80CB

PHELAN HALLINAN & SCHMIEG, LLP  
LAWRENCE T. PHELAN, ESQ., Id. No. 32227  
FRANCIS S. HALLINAN, ESQ., Id. No. 62695  
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ATTORNEY FOR PLAINTIFF

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FOR THE CERTIFICATEHOLDERS  
CWALT, INC. ALTERNATIVE LOAN  
TRUST 2005-80CB MORTGAGE  
PASS-THROUGH CERTIFICATES ,  
SERIES 2005-80CB**

**Plaintiff**

vs.

**ROBERT W. POWELL  
DARLENE S. POWELL  
\* \*\*\*\*\*USA\*\*\*\*\***

: **COURT OF COMMON PLEAS**  
:  
: **CIVIL DIVISION**  
:  
: **NO. 2008-433-CD**  
:  
: **CLEARFIELD COUNTY**  
:  
:  
:

**Defendant(s)**

**CERTIFICATE OF SERVICE**

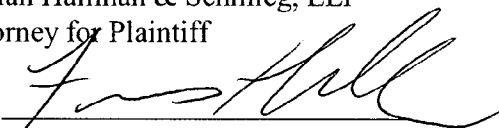
I hereby certify that a strue and correct copy of Plaintiff's Praecipe to attach Verification of Complaint was sent via first class mail to the following on the date listed below:

ROBERT W. POWELL  
DARLENE S. POWELL  
\* \*\*\*\*\*USA\*\*\*\*\*

SECTION 1 LOT 191 TREASURE LAKE, A/K/A 3344 BAY ROAD  
DUBOIS, PA 15801

ROBERT W. POWELL  
38 TREASURE LAKE  
Du Bois, PA 15801-9001

Phelan Hallinan & Schmieg, LLP  
Attorney for Plaintiff

By:   
Francis S. Hallinan, Esquire

Date: 5/7/08



CA

FILED <sup>NO CC</sup>  
m/11:35/31  
JUN 05 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP  
BY: Michele M. Bradford, Esquire, ID No. 69849  
Jenine R. Davey, Esquire, ID No. 87077  
One Penn Center at Suburban Station  
1617 JFK Boulevard, Suite 1400  
Philadelphia, PA 19103-1814  
(215) 563-7000

ATTORNEYS FOR PLAINTIFF

Bank of New York as Trustee for the :  
Certificateholders CWALT, Inc. Alternative Loan :  
Trust 2005-80CB Mortgage Pass-Through :  
Certificates, Series 2005-80CB :  
7105 Corporate Drive :  
Plano, TX 75024 :  
Plaintiff :

Court of Common Pleas

Civil Division

vs.

Clearfield County

Robert W. Powell :  
Darlene S. Powell :  
Section 1 Lot 191 Treasure Lake :  
a/k/a 3344 Bay Road :  
DuBois, PA 15801 :  
Defendants :

No. 08-CD-0433

**MOTION TO DIRECT THE SHERIFF TO FILE AFFIDAVIT OF SERVICE**

1. Plaintiff commenced the instant mortgage foreclosure action by filing a Complaint on March 12, 2008. A true and correct copy of the Complaint is attached hereto, made part hereof, and marked as Exhibit "A".

2. The Sheriff of Clearfield County was requested to serve the Complaint upon the Defendants.

3. On May 29, 2008, the Sheriff's office verbally advised counsel for Plaintiff that Robert A. Powell and Darlene S. Powell were served on April 4, 2008.

4. On May 30, 2008, Plaintiff sent the Defendants a ten day letter notifying them of its intention to file a default judgment.

5. To date, the Clearfield County Sheriff's office has not filed the Affidavit of Service, which was made on April 4, 2008.

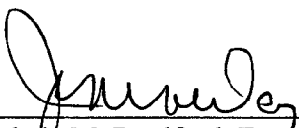
6. Plaintiff is unable to enter judgment and praecipe for a writ of execution until the Sheriff's office files the Affidavit of Service of the Complaint with the Prothonotary. Interest accrues at the rate of \$15.30 per day on this mortgage account.

7. The Plaintiff is greatly prejudiced by the delay in the filing of the Sheriff's Affidavit of Service.

WHEREFORE, Plaintiff respectfully requests that the Court enter an Order directing the Sheriff of Clearfield County to file the Affidavit of Service of the Complaint with the Prothonotary within seven days.

Respectfully submitted,  
PHELAN HALLINAN & SCHMIEG, LLP

6/4/08  
Date

  
\_\_\_\_\_  
Michele M. Bradford, Esquire  
Jenine R. Davey, Esquire  
Attorneys for Plaintiff

# **EXHIBIT A**

William A. Shaw  
Prothonotary/Clerk of Courts

William A. Shaw  
Prothonotary/Clerk of Courts

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

MAR 12 2008

Attest

William A. Shaw  
Prothonotary/  
Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP  
FRANCIS S. HALLINAN, ESQ., Id. No. 62695  
DANIEL G. SCHMIEG, ESQ., Id. No. 62205  
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COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

NO. 2008-433-CO

CLEARFIELD COUNTY

Plaintiff

v.  
ROBERT W. POWELL  
DARLENE S. POWELL  
SECTION 1 LOT 191 TREASURE LAKE  
A/K/A 3344 BAY ROAD  
DUBOIS, PA 15801

ATTORNEY FILE COPY  
PLEASE RETURN

THE UNITED STATES OF AMERICA  
C/O THE UNITED STATES ATTORNEY FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA,  
P.O. BOX 1805  
U.S. POST OFFICE AND COURTHOUSE  
PITTSBURGH, PA 15230  
Defendants

We hereby certify the  
within to be a true and  
correct copy of the  
original filed of record

**CIVIL ACTION - LAW**  
**COMPLAINT IN MORTGAGE FORECLOSURE**

## 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. 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.

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Pennsylvania Bar Association  
100 South Street  
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Harrisburg, PA 17108  
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Notice to Defend:  
Daniel J. Nelson, Court Administrator  
Clearfield County Courthouse  
2<sup>nd</sup> and Market Streets  
Clearfield, PA 16830  
814-765-2641 x 5982

**IF THIS IS THE FIRST NOTICE THAT YOU HAVE  
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PRACTICES ACT, 15 U.S.C. § 1692 et seq. (1977),  
DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE  
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DO SO IN WRITING WITHIN THIRTY (30) DAYS OF  
RECEIPT OF THIS PLEADING, COUNSEL FOR  
PLAINTIFF WILL OBTAIN AND PROVIDE  
DEFENDANT(S) WITH WRITTEN VERIFICATION  
THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED  
TO BE VALID. LIKEWISE, IF REQUESTED WITHIN  
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COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S)  
THE NAME AND ADDRESS OF THE ORIGINAL  
CREDITOR, IF DIFFERENT FROM ABOVE.**

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THE END OF THE THIRTY (30) DAY PERIOD  
FOLLOWING FIRST CONTACT WITH YOU BEFORE  
SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH  
THE LAW PROVIDES THAT YOUR ANSWER TO THIS**

COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.

1. Plaintiff is

BANK OF NEW YORK AS TRUSTEE FOR THE  
CERTIFICATEHOLDERS CWALT, INC.  
ALTERNATIVE LOAN TRUST 2005-80CB  
MORTGAGE PASS-THROUGH CERTIFICATES ,  
SERIES 2005-80CB  
7105 CORPORATE DRIVE  
PLANO, TX 75024

2. The name(s) and last known address(es) of the Defendant(s) are:

ROBERT W. POWELL  
DARLENE S. POWELL  
SECTION 1 LOT 191 TREASURE LAKE  
A/K/A 3344 BAY ROAD  
DUBOIS, PA 15801

THE UNITED STATES OF AMERICA  
C/O THE UNITED STATES ATTORNEY FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA, P.O. BOX 1805  
U.S. POST OFFICE AND COURTHOUSE  
PITTSBURGH, PA 15230

who is/are the mortgagor(s) and/or real owner(s) of the property hereinafter described.

3. On 07/29/2005 mortgagor(s) made, executed, and delivered a mortgage upon the premises hereinafter described to COLUMBIA HOME LOANS which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Instrument No: 200511786. PLAINTIFF is now the legal owner of the mortgage and is in the process of formalizing an assignment of same. The mortgage and assignment(s), if any, are matters of public record and are incorporated herein by reference in accordance with Pa.R.C.P. 1019(g); which Rule relieves the Plaintiff from its obligations to attach documents to pleadings if those documents are of public record.
4. The premises subject to said mortgage is described as attached.
5. The mortgage is in default because monthly payments of principal and interest upon said mortgage due 10/01/2007 and each month thereafter are due and unpaid, and by the terms



of said mortgage, upon failure of mortgagor to make such payments after a date specified by written notice sent to Mortgagor, the entire principal balance and all interest due thereon are collectible forthwith.

6. The following amounts are due on the mortgage:

Principal Balance	\$84,742.59
Interest	\$2,937.60
09/01/2007 through 03/10/2008 (Per Diem \$15.30)	
Attorney's Fees	\$1,250.00
Cumulative Late Charges	\$137.30
07/29/2005 to 03/10/2008	
Cost of Suit and Title Search	<u>\$750.00</u>
Subtotal	\$89,817.49
Escrow	
Credit	\$0.00
Deficit	\$0.00
Subtotal	<u>\$0.00</u>
<b>TOTAL</b>	<b>\$89,817.49</b>

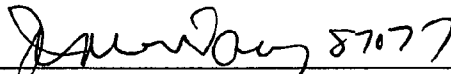
7. If the mortgage is reinstated prior to a Sheriff's Sale, the attorney's fee set forth above may be less than the amount demanded based on work actually performed. The attorney's fees requested are in conformity with the mortgage and Pennsylvania law. Plaintiff reserves its right to collect attorney's fees up to 5% of the remaining principal balance in the event the property is sold to a third party purchaser at Sheriff's Sale, or if the complexity of the action requires additional fees in excess of the amount demanded in the Action.
8. Plaintiff is not seeking a judgment of personal liability (or an in personam judgment) against the Defendant(s) in the Action; however, Plaintiff reserves its right to bring a separate Action to establish that right, if such right exists. If Defendant(s) has/have received a discharge of personal liability in a bankruptcy proceeding, this Action of Mortgage Foreclosure is in no way an attempt to reestablish such personal liability

discharged in bankruptcy, but only to foreclose the mortgage and sell the mortgaged premises pursuant to Pennsylvania Law.

9. Notice of Intention to Foreclose as set forth in Act 6 of 1974, Notice of Homeowner's Emergency Assistance Program pursuant to Act 91 of 1983, as amended in 1998, and/or Notice of Default as required by the mortgage document, as applicable, have been sent to the Defendant(s) on the date(s) set forth thereon, and the temporary stay as provided by said notice has terminated because Defendant(s) has/have failed to meet with the Plaintiff or an authorized consumer credit counseling agency, or has/have been denied assistance by the Pennsylvania Housing Finance Agency.
10. This action does not come under Act 6 of 1974 because the original mortgage amount exceeds \$50,000.
11. The United States of America is made a Defendant herein pursuant to 28 U.S.C. 2410, because of federal tax liens that have been filed with the Prothonotary of CLEARFIELD County in the Judgment Index Unit as follows:
  - (a) United States vs. ROBERT W. POWELL; IRS Docket No. 2006-01784-CD;  
filed 10/30/2006; in the amount of \$24,865.38

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$89,817.49, together with interest from 03/10/2008 at the rate of \$15.30 per diem to the date of Judgment, and other costs and charges collectible under the mortgage and for the foreclosure and sale of the mortgaged property.

PHELAN HALLINAN & SCHMIEG, LLP

By:  87077  
FRANCIS S. HALLINAN, ESQUIRE  
DANIEL G. SCHMIEG, ESQUIRE  
MICHELE M. BRADFORD, ESQUIRE  
SHEETAL R. SHAH-JANI, ESQUIRE  
JUDITH T. ROMANO, ESQUIRE  
JENINE R. DAVEY, ESQUIRE  
MICHAEL E. CARLETON, ESQUIRE  
Attorneys for Plaintiff

### LEGAL DESCRIPTION

ALL THAT CERTAIN TRACT OF LAND DESIGNATED AS SECTION 1, LOT 191, "BARBADOS", IN THE TREASURE LAKE SUBDIVISION IN SANDY TOWNSHIP, CLEARFIELD COUNTY, PENNSYLVANIA, RECORDED IN THE RECORDER OF DEEDS OFFICE IN MISC. DOCKET MAP FILE NO. 25.

EXPECTING AND RESERVING THEREFROM AND SUBJECT TO:

1. ALL EASEMENTS, RIGHTS OF WAY, RESERVATIONS, RESTRICTIONS AND LIMITATIONS SHOWN OR CONTAINED IN PRIOR INSTRUMENTS OF RECORD AND IN THE AFORESAID RECORDED PLAN.
2. THE DECLARATION OF RESTRICTIONS, TREASURE LAKE, INC. RECORDED IN MISC. BOOK VOL. 146, P. 476; ALL OF SAID RESTRICTIONS BEING COVENANTS WHICH RUN WITH THE LAND.
3. ALL MINERALS AND MINING RIGHTS OF EVERY KIND AND NATURE.
4. A LIEN OF ALL UNPAID CHARGES OR ASSESSMENTS AS MAY BE MADE BY TREASURE LAKE, INC. OR TREASURE LAKE PROPERTY OWNERS ASSOCIATION, INC.; WHICH LIEN SHALL RUN WITH THE LAND AND BE AN ENCUMBRANCE AGAINST IT.

PREMISES: SECTION 1 LOT 191 TREASUER LAKE A/K/A 334 BAY ROAD

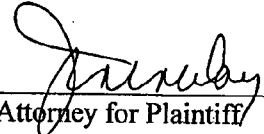
PARCEL: 128-C02-001-00-191-00-21

VERIFICATION

I hereby state that I am the attorney for Plaintiff in this matter, that Plaintiff is outside the jurisdiction of the Court and/or the verification could not be obtained within the time allowed for the filing of the pleading, that I am authorized to make this verification pursuant to Pa.R.C.P. 1024 (c), and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are based upon information supplied by Plaintiff and are true and correct to the best of my knowledge, information and belief.

Furthermore, counsel intends to substitute a verification from Plaintiff upon receipt.

The undersigned understands that this statement is made subject to the penalties of 18 Pa.C.S. Sec. 4904 relating to unsworn falsifications to authorities.

 87077  
\_\_\_\_\_  
Attorney for Plaintiff

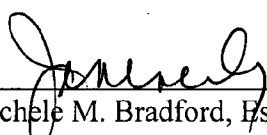
DATE: 3/11/08

**VERIFICATION**

The undersigned hereby state that they are the attorneys for the Plaintiff in this action, that they are authorized to make this Verification, and that the statements made in the foregoing Motion to Direct Sheriff to file Affidavit of Service and Brief in support thereof are true and correct to the best of their knowledge, information and belief. The undersigned understands that this statement herein is made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

6/4/08  
Date

PHELAN HALLINAN & SCHMIEG, LLP

  
\_\_\_\_\_  
Michele M. Bradford, Esquire  
Jenine R. Davey, Esquire  
Attorneys for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP  
BY: Michele M. Bradford, Esquire, ID No. 69849  
Jenine R. Davey, Esquire, ID No. 87077  
One Penn Center at Suburban Station  
1617 JFK Boulevard, Suite 1400  
Philadelphia, PA 19103-1814  
(215) 563-7000

ATTORNEYS FOR PLAINTIFF

Bank of New York as Trustee for the :  
Certificateholders CWALT, Inc. Alternative Loan :  
Trust 2005-80CB Mortgage Pass-Through :  
Certificates, Series 2005-80CB :  
7105 Corporate Drive :  
Plano, TX 75024 :  
Plaintiff :

Court of Common Pleas

Civil Division

vs.

Clearfield County

Robert W. Powell :  
Darlene S. Powell :  
Section 1 Lot 191 Treasure Lake :  
a/k/a 3344 Bay Road :  
DuBois, PA 15801 :  
Defendants :

No. 08-CD-0433

### CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of Plaintiff's Motion to Direct Sheriff to File Affidavit of Service and Brief in Support thereof were served upon the following interested parties via first class mail on the date indicated below:

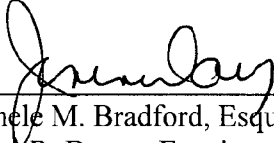
Chester A. Hawkins  
Sheriff of Clearfield County  
230 East Market Street  
Clearfield, PA 16830

Peter F. Smith, Esquire  
30 South 2<sup>nd</sup> Street  
PO Box 130  
Clearfield, PA 16830-2347  
(Sheriff's Solicitor)

Robert W. Powell  
Darlene S. Powell  
Section 1 Lot 191 Treasure Lake  
a/k/a 3344 Bay Road  
DuBois, PA 15801

6/4/08  
Date

PHELAN HALLINAN & SCHMIEG, LLP

  
\_\_\_\_\_  
Michele M. Bradford, Esquire  
Jenine R. Davey, Esquire  
Attorneys for Plaintiff



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

DCCKET # 103872  
NO: 08-433-CD  
SERVICE # 1 OF 4  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: BANK OF NEW YORK as Trustee  
vs.  
DEFENDANT: ROBERT W. POWELL and DARLENE S. POWELL

**SHERIFF RETURN**

NOW, April 04, 2008 AT 12:45 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON ROBERT W. POWELL DEFENDANT AT FIRST COMM. BANK, MAIN ST. & W. LONG AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO ROBERT POWELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

**FILED**  
013:57/4  
JUN 11 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

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

DCCKET # 103872  
NO: 08-433-CD  
SERVICE # 2 OF 4  
CCOMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: BANK OF NEW YORK as Trustee  
vs.  
DEFENDANT: ROBERT W. POWELL and DARLENE S. POWELL

**SHERIFF RETURN**

NOW, April 04, 2008 AT 12:45 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON DARLENE S. POWELL DEFENDANT AT FIRST COMM. BANK, MAIN ST. & W. LONG AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DARLENE POWELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

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

DOCKET # 103872  
NO: 08-433-CD  
SERVICE # 3 OF 4  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: BANK OF NEW YORK as Trustee  
vs.  
DEFENDANT: ROBERT W. POWELL and DARLENE S. POWELL

**SHERIFF RETURN**

NOW, April 04, 2008 AT 12:45 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON ROBERT W. POWELL DEFENDANT AT FIRST COMM. BANK, MAIN ST. & W. LONG AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO ROBERT POWELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SEC 1 LOT 191, TREASURE LAKE aka 3344 BAY RD., DUBOIS, PA. "OCCUPIED"

SERVED BY: COUDRIET /

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

DOCKET # 103872  
NO: 08-433-CD  
SERVICE # 4 OF 4  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: BANK OF NEW YORK as Trustee  
vs.  
DEFENDANT: ROBERT W. POWELL and DARLENE S. POWELL

**SHERIFF RETURN**

---

NOW, April 04, 2008 AT 12:45 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON DARLENE S. POWELL DEFENDANT AT FIRST COMM. BANK, MAIN ST. & W. LONG AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DARLENE POWELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SEC 1 LOT 191 TREASURE LAKE aka 3344 BAY ROAD, DUBOIS "OCCUPIED"

SERVED BY: COUDRIET /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103872  
NO: 08-433-CD  
SERVICES 4  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: BANK OF NEW YORK as Trustee  
vs.  
DEFENDANT: ROBERT W. POWELL and DARLENE S. POWELL

SHERIFF RETURN

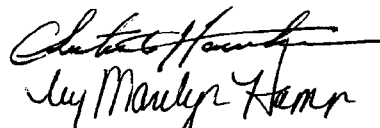
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	675935	40.00
SHERIFF HAWKINS	PHELAN	675935	60.00

Sworn to Before Me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2008

So Answers,



Chester A. Hawkins  
Sheriff

CA

FILED

03:56 PM  
JUN 09 2008

William A. Shaw  
Prothonotary/Clerk of Courts

ICC Atty  
Sawley

ICC Sheriff  
(out  
memo)

612

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

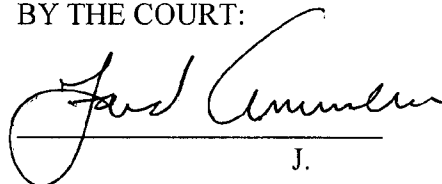
Bank of New York as Trustee for the	:	Court of Common Pleas
Certificateholders CWALT, Inc. Alternative Loan	:	
Trust 2005-80CB Mortgage Pass-Through	:	
Certificates, Series 2005-80CB	:	
7105 Corporate Drive	:	Civil Division
Plano, TX 75024	:	
Plaintiff	:	
vs.	:	Clearfield County
Robert W. Powell	:	
Darlene S. Powell	:	
Section 1 Lot 191 Treasure Lake	:	No. 08-CD-0433
a/k/a 3344 Bay Road	:	
DuBois, PA 15801	:	
Defendants	:	

ORDER

AND NOW, this 6<sup>th</sup> day of June, 2008, upon consideration of Plaintiff's Motion to Direct Sheriff to File Affidavit of Service, and any response thereto, it is hereby:

ORDERED and DECREED that the Sheriff of Clearfield County is hereby directed to complete and file an Affidavit of Service of the foreclosure Complaint within seven days of the date of this Order.

BY THE COURT:

  
J.

FILED

JUN 09 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 6/19/08

☒ You are responsible for serving all appropriate parties.  
\_\_\_\_ The Prothonotary's office has provided service to the following parties:  
\_\_\_\_ Plaintiff(s) \_\_\_\_ Plaintiff(s) Attorney \_\_\_\_ Other  
\_\_\_\_ Defendant(s) \_\_\_\_ Defendant(s) Attorney  
\_\_\_\_ Special Instructions:

FILED

JUN 18 2009

W/10:35C  
William A. Shaw

Prothonotary/Clerk of Courts

1 cent to ATT

PHELAN HALLINAN & SCHMIEG, LLP

BY: Michele M. Bradford, Esquire, ID No. 69849

Jenine R. Davey, Esquire, ID No. 87077

One Penn Center at Suburban Station

1617 JFK Boulevard, Suite 1400

Philadelphia, PA 19103-1814

(215) 563-7000

Bank of New York as Trustee for the :

Certificateholders CWALT, Inc. Alternative Loan :

Trust 2005-80CB Mortgage Pass-Through :

Certificates, Series 2005-80CB :

7105 Corporate Drive :

Plano, TX 75024 :

Plaintiff :

vs. :

Robert W. Powell :

Darlene S. Powell :

Section 1 Lot 191 Treasure Lake :

a/k/a 3344 Bay Road :

DuBois, PA 15801 :

Defendants :

ATTORNEYS FOR PLAINTIFF

Court of Common Pleas

Civil Division

Clearfield County

No. 08-0433-CD

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the Order granting Plaintiff's Motion to Direct Sheriff to File Affidavit of Service were served upon the following interested parties via first class mail on the date indicated below:

Chester A. Hawkins  
Sheriff of Clearfield County  
230 East Market Street  
Clearfield, PA 16830


Peter F. Smith, Esquire  
30 South 2<sup>nd</sup> Street  
PO Box 130  
Clearfield, PA 16830-2347  
(Sheriff's Solicitor)



Robert W. Powell  
Darlene S. Powell  
Section 1 Lot 191 Treasure Lake  
a/k/a 3344 Bay Road  
DuBois, PA 15801

6/16/08  
Date

PHELAN HALLINAN & SCHMIEG, LLP

  
\_\_\_\_\_  
Michele M. Bradford, Esquire  
Jenine R. Davey, Esquire  
Attorneys for Plaintiff