

08-521-CD
Russel Ashburn vs Joseph Chick

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County Of Clearfield

46-3-01

FILED
03/04/08
MAR 20 2008
Atty T. Cherry
Copies to
William A. Shaw
Plaintiff

NOTICE OF APPEAL

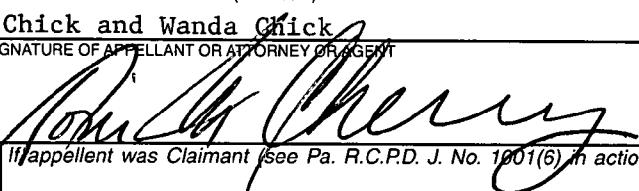
FROM Prothonotary/Clerk of Courts

MAGISTERIAL DISTRICT JUDGE JUDGMENT

COMMON PLEAS No. 08-521-CJ

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 Joseph Chick and Wanda Chick	MAG. DIST. NO. 46-3-01	NAME OF MDJ Patrick N. Ford
ADDRESS OF APPELLANT 2190 Oklahoma Salem Road,	CITY DuBois	STATE PA
DATE OF JUDGMENT 2/25/08	IN THE CASE OF (Plaintiff) Russell Ashburn v. Joseph Chick and Wanda Chick	(Defendant)
DOCKET No.	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>		

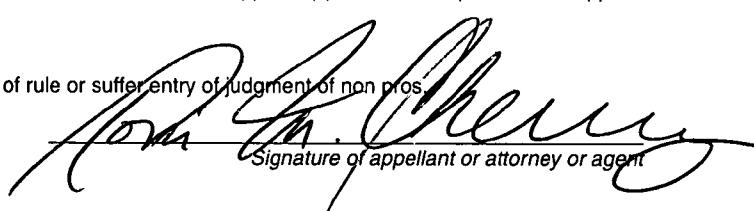
PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

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 Russell Ashburn appellee(s), to file a complaint in this appeal
Name of appellee(s)

(Common Pleas No. 08-521-CJ within twenty (20) days after service of rule or sufficient entry of judgment of non pros.


Signature of appellant or attorney or agent

RULE: To Russell Ashburn appellee(s)
Name of appellee(s)

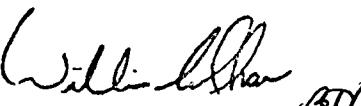
OWNER

(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 March 20, 2008


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 the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____; SS

AFFIDAVIT: I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. _____, upon the Magisterial District Judge designated therein on
(date of service) 20 0, 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 official before whom affidavit was made

Signature of affiant

Title of official

My commission expires on 20 0

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County Of Clearfield

46-3-01

NOTICE OF APPEAL

FROM

MAGISTERIAL DISTRICT JUDGE JUDGMENT

COMMON PLEAS No. 08-521-CJ

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 Joseph Chick and Wanda Chick	MAG. DIST. NO. 46-3-01	NAME OF MDJ Patrick N. Ford
ADDRESS OF APPELLANT 2190 Oklahoma Salem Road,	CITY DuBois	STATE PA ZIP CODE 15801
DATE OF JUDGMENT 2/25/08	IN THE CASE OF (Plaintiff) Russell Ashburn v. Joseph Chick and Wanda Chick	(Defendant)
DOCKET No.	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.</p> <p>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>_____ Signature of Prothonotary or Deputy</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>		

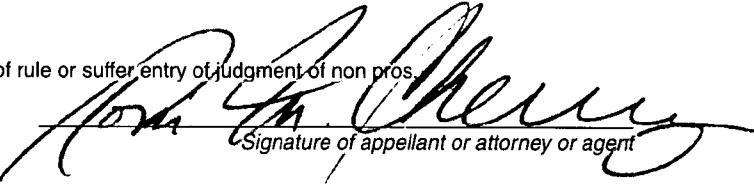
PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

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 Russell Ashburn appellee(s), to file a complaint in this appeal
Name of appellee(s)

(Common Pleas No. 08-521-CJ) 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 Russell Ashburn appellee(s)
Name of appellee(s)

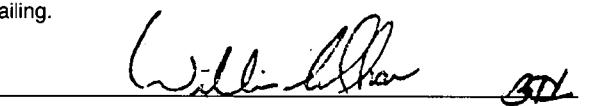
OWNER

(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 March 20, 2008


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 the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____; SS

AFFIDAVIT: I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. _____, upon the Magisterial District Judge 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 official before whom affidavit was made

Signature of affiant

Title of official

My commission expires on _____, 20_____

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-01

MDJ Name: Hon.

PATRICK N. FORD

Address: **309 MAPLE AVENUE
PO BOX 452
DUBOIS, PA**

Telephone: **(814) 371-5321 15801**

**JOSEPH CHICK
2190 OKLAHOMA SALEM ROAD
DUBOIS, PA 15801**

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

**ASHBURN, RUSSELL
90 SLOPING VIEW DR
DUBOIS, PA 15801**

NAME and ADDRESS

VS.

DEFENDANT:

**CHICK, JOSEPH, ET AL.
2190 OKLAHOMA SALEM ROAD
DUBOIS, PA 15801**

NAME and ADDRESS

Docket No.: **CV-0000560-07**
Date Filed: **10/16/07**



THIS IS TO NOTIFY YOU THAT:

Judgment: **DEFAULT JUDGMENT PLTF** (Date of Judgment) **2/25/08**

Judgment was entered for: (Name) **ASHBURN, RUSSELL**

Judgment was entered against: (Name) **CHICK, JOSEPH**
in the amount of \$ **188.00**

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	\$ 115.00
Judgment Costs	\$ 73.00
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 188.00
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.

2-25-08 Date *Patrick N. Ford PLTF*, 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: **2/25/08 8:07:00 AM**

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**Mag. Dist. No.: **46-3-01**

MOJ Name: Hon.

PATRICK H. FORDAddress: **309 MAPLE AVENUE
PO BOX 452
DUBOIS, PA**Telephone: **(814) 371-5321 15801****NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

NAME and ADDRESS

**ASHBURN, RUSSELL
98 SLOPING VIEW DR
DUBOIS, PA 15801**

VS.

DEFENDANT:

NAME and ADDRESS

**CHICK, JOSEPH, ET AL.
2190 OKLAHOMA SALEM ROAD
DUBOIS, PA 15801**Docket No.: **CV-0000560-07**
Date Filed: **10/16/07****WANDA CHICK
2190 OKLAHOMA SALEM ROAD
DUBOIS, PA 15801****THIS IS TO NOTIFY YOU THAT:****DEFAULT JUDGMENT PLTFP**(Date of Judgment) **2/25/08**

Judgment:

<input checked="" type="checkbox"/> Judgment was entered for: (Name) ASHBURN, RUSSELL	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>Amount of Judgment</td><td>\$ 115.00</td></tr> <tr><td>Judgment Costs</td><td>\$ 73.00</td></tr> <tr><td>Interest on Judgment</td><td>\$.00</td></tr> <tr><td>Attorney Fees</td><td>\$.00</td></tr> <tr><td>Total</td><td>\$ 188.00</td></tr> <tr><td>Post Judgment Credits</td><td>\$ 0.00</td></tr> <tr><td>Post Judgment Costs</td><td>\$ 0.00</td></tr> <tr><td colspan="2">Certified Judgment Total \$ 188.00</td></tr> </table>	Amount of Judgment	\$ 115.00	Judgment Costs	\$ 73.00	Interest on Judgment	\$.00	Attorney Fees	\$.00	Total	\$ 188.00	Post Judgment Credits	\$ 0.00	Post Judgment Costs	\$ 0.00	Certified Judgment Total \$ 188.00	
Amount of Judgment		\$ 115.00															
Judgment Costs		\$ 73.00															
Interest on Judgment		\$.00															
Attorney Fees		\$.00															
Total		\$ 188.00															
Post Judgment Credits	\$ 0.00																
Post Judgment Costs	\$ 0.00																
Certified Judgment Total \$ 188.00																	
<input checked="" type="checkbox"/> Judgment was entered against: (Name) CHICK, WANDA																	
in the amount of \$ 188.00																	
<input type="checkbox"/> Defendants are jointly and severally liable.																	
<input type="checkbox"/> Damages will be assessed on Date & Time _____																	
<input type="checkbox"/> This case dismissed without prejudice.																	
<input type="checkbox"/> Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ _____																	
<input type="checkbox"/> Portion of Judgment for physical damages arising out of residential lease \$ _____																	

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.

2-25-08 Date

Patrick H. Ford, P.M., 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: **2/25/08 8:07:00 AM**

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-01

MDJ Name: Hon.

PATRICK N. FORD
Address: **309 MAPLE AVENUE**
PO BOX 452
DUBOIS, PA

Telephone: **(814) 371-5321** **15801**

PATRICK N. FORD
309 MAPLE AVENUE
PO BOX 452
DUBOIS, PA 15801

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

ASHBURN, RUSSELL
90 SLOPING VIEW DR
DUBOIS, PA 15801

NAME and ADDRESS

DEFENDANT:

CHICK, JOSEPH, ET AL.
2190 OKLAHOMA SALEM ROAD
DUBOIS, PA 15801

VS.

NAME and ADDRESS

Docket No.: **CV-0000560-07**
Date Filed: **10/16/07**



08-521-CD

THIS IS TO NOTIFY YOU THAT:

Judgment: **DEFAULT JUDGMENT PLTF**

(Date of Judgment)

2/25/08

<input checked="" type="checkbox"/> Judgment was entered for: (Name) ASHBURN, RUSSELL	<table border="0"> <tbody> <tr> <td><input type="checkbox"/> Defendants are jointly and severally liable.</td> <td>Amount of Judgment \$ 115.00</td> </tr> <tr> <td><input type="checkbox"/> Damages will be assessed on Date & Time _____</td> <td>Judgment Costs \$ 73.00</td> </tr> <tr> <td><input type="checkbox"/> This case dismissed without prejudice.</td> <td>Interest on Judgment \$.00</td> </tr> <tr> <td><input type="checkbox"/> Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ _____</td> <td>Attorney Fees \$.00</td> </tr> <tr> <td><input type="checkbox"/> Portion of Judgment for physical damages arising out of residential lease \$ _____</td> <td>Total \$ 188.00</td> </tr> <tr> <td></td> <td>Post Judgment Credits \$ _____</td> </tr> <tr> <td></td> <td>Post Judgment Costs \$ _____</td> </tr> <tr> <td></td> <td>=====</td> </tr> <tr> <td></td> <td>Certified Judgment Total \$ _____</td> </tr> </tbody> </table>	<input type="checkbox"/> Defendants are jointly and severally liable.	Amount of Judgment \$ 115.00	<input type="checkbox"/> Damages will be assessed on Date & Time _____	Judgment Costs \$ 73.00	<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 \$.00	<input type="checkbox"/> Portion of Judgment for physical damages arising out of residential lease \$ _____	Total \$ 188.00		Post Judgment Credits \$ _____		Post Judgment Costs \$ _____		=====		Certified Judgment Total \$ _____
<input type="checkbox"/> Defendants are jointly and severally liable.		Amount of Judgment \$ 115.00																	
<input type="checkbox"/> Damages will be assessed on Date & Time _____		Judgment Costs \$ 73.00																	
<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 \$.00																	
<input type="checkbox"/> Portion of Judgment for physical damages arising out of residential lease \$ _____		Total \$ 188.00																	
	Post Judgment Credits \$ _____																		
	Post Judgment Costs \$ _____																		
	=====																		
	Certified Judgment Total \$ _____																		
<input type="checkbox"/> Judgment was entered against: (Name) CHICK, JOSEPH in the amount of \$ 188.00																			
<input type="checkbox"/> Defendants are jointly and severally liable.																			
<input type="checkbox"/> Damages will be assessed on Date & Time _____																			
<input type="checkbox"/> This case dismissed without prejudice.																			
<input type="checkbox"/> Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ _____																			
<input type="checkbox"/> Portion of Judgment for physical damages arising out of residential lease \$ _____																			

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.

*FILED
M 12/22/08
MAR 2 2009
WM*

William A. Shaw

Prothonotary/Clerk of Courts

225-08 Date *Patrick N. Ford-LNF*, 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: **2/25/08** **8:07:00 AM**

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

CIVIL COMPLAINT

Mag. Dist. No.: 46-3-01

DJ Name:

PATRICK N. FORD
309 Maple Avenue
P O Box 452
DuBois PA 15801

Address:

Telephone: (814) 371-5321

AMOUNT	DATE PAID
FILING COSTS \$ 73 -	/ /
SERVING COSTS \$ _____	/ /
TOTAL \$ _____	/ /

PLAINTIFF: NAME and ADDRESS

RUSSELL ASHBURN
90 Sloping View Drive
DuBois, PA 15801

DEFENDANT: NAME and ADDRESS

JOSEPH CHICK and WANDA CHICK
R. D. #3
DuBois PA 15801

Docket No.: *CV 560-07*
Date Filed:



TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$ 115.00 together with interest and costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

Amount represents damages and costs incurred by Plaintiff as a result of damages to his vinyl fence caused by rotten and fallen tree limbs from the property of the Defendants, for which Defendants had been previously warned.

I, Russell Ashburn, verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.


(Signature of Plaintiff or Authorized Agent)

Plaintiff's
Attorney: Ben Blakley

Address: 90 Sloping View Drive

Telephone: 371-2730

Clearfield Pa 15801

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT WILL BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within district justice jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five (5) days before the date set for the hearing. If you have a claim against the plaintiff which is not within district justice jurisdiction, you may request information from this office as to the procedures you may follow. If you are disabled and require assistance, please contact the Magisterial District office at the address above.

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

RUSSELL ASHBURN and BEVERLY ASHBURN,) NO. 08 - 521 - C.D.
Plaintiff,)
vs.) Type of Case:
JOSEPH CHICK and WANDA CHICK,)
Defendant.) Type of Pleading: COMPLAINT
) Filed on Behalf of:
) PLAINTIFF
)
) Counsel of Record:
) BENJAMIN S. BLAKLEY, III, ESQ.
)
) Supreme Court No. 26331
)
) BLAKLEY & JONES
) 90 Beaver Drive, Box 6
) DuBois, Pa 15801
) (314) 371-2730

11:55 AM

cc Atty Blakley
6K

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

RUSSELL ASHBURN and BEVERLY)
ASHBURN,)
)
Plaintiff,)
) NO. 08 - 521 - C.D.
vs.)
)
JOSEPH CHICK and WANDA CHICK,)
)
Defendant.)
)

NOTICE TO DEFEND

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 IS 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 AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT REQUESTED BY 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 LEGAL HELP.

Daniel J. Nelson, Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641

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

RUSSELL ASHBURN and BEVERLY ASHBURN,)
Plaintiff,)
vs.)
JOSEPH CHICK and WANDA CHICK,)
Defendant.)
NO. 08 - 521 - C.D.

COMPLAINT

AND NOW comes, Plaintiffs, **RUSSELL ASHBURN and BEVERLY ASHBURN** by and through their attorneys, **BLAKLEY & JONES**, and file the following Complaint, upon which the following is a statement:

1. The Plaintiffs, **RUSSELL ASHBURN and BEVERLY ASHBURN**, are adult individuals residing at 90 Sloping View Drive, DuBois, Clearfield County, Pennsylvania.
2. The Defendants, **JOSEPH CHICK and WANDA CHICK**, are adult individuals residing at 2190 Oklahoma Salem Road, DuBois, Clearfield County, Pennsylvania.
3. At all times material hereto, Plaintiffs and Defendants owned adjoining properties located in Sandy Township, Clearfield County, Pennsylvania.
4. Located upon the lands of the Defendants are numerous large trees, many of which border the lands of the Plaintiffs.

5. At all times material hereto, the Plaintiffs had erected upon their real property a fence located within the boundaries of their property, yet running parallel to the boundary line between their property and the Defendants' property.

6. During a period preceding the year 2003, the Defendants permitted many overhanging and rotten limbs to extend over onto the property of the Plaintiffs. During the year 2003, many numerous overhanging and rotten limbs broke from the trees located on the lands of the Defendants and fell upon the lands of the Plaintiffs, thereby causing significant damage to a storage shed and contents thereof located on the lands of the Plaintiffs.

7. Thereafter, the Plaintiffs advised the Defendants of the overhanging vegetation and the damage caused to their personal property and requested that the Defendants remove the overhanging vegetation so as not to further damage the personal property of the Plaintiffs.

8. Despite the requests of the Plaintiffs, the Defendants failed to remove the overhanging vegetation, and on August 7, 2007, a portion of the overhanging vegetation fell onto the fence located on the property of the Plaintiffs and running parallel to the boundary line between the Plaintiffs and Defendants, causing damage to the said fence.

9. As a result of the damage to the said fence and the downed limb which was allowed to lie on the lands of the Plaintiffs, the Plaintiffs employed the services of Dale A. Kessler Enterprises, Inc., to repair the damaged fence and, further, employed the services of Brian Cessna in order to remove the limb from the lands of the Plaintiffs, for which the Plaintiffs incurred expenses of one hundred fifteen (\$115.00) dollars. A copy of the invoices of Dale A. Kessler Enterprises, Inc., and Brian Cessna are attached hereto and marked Exhibits "A" and "B".

10. Despite requests that the Defendants reimburse the Plaintiffs for the damages caused to their personal property and for the removal of the aforesaid limb, the Defendants have failed and refused to pay to the Plaintiffs said reimbursement.

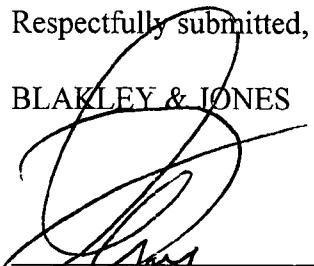
11. As a result of the actions of the Defendants, the Plaintiffs brought an action before Magistrate Patrick N. Ford, of DuBois, Pennsylvania, for which they incurred costs of seventy-three (\$73.00) dollars.

12. The actions of the Defendants in permitting overhanging and/or rotten limbs to remain located over onto the lands of the Plaintiffs after being given notice of the same and of the damage previously caused thereby were the direct and proximate cause of the damages incurred by the Plaintiffs as set forth above.

WHEREFORE, Plaintiffs demand judgment against the Defendants in the amount of \$188.00, together with interest and costs of suit.

Respectfully submitted,

BLAKLEY & JONES

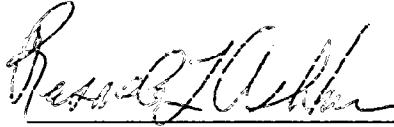


Benjamin S. Blakley, III
Attorney for Plaintiffs

VERIFICATION

We, **RUSSELL ASHBURN** and **BEVERLY ASHBURN** hereby state that we are the Plaintiffs in this action and verify that the statements made in the foregoing Complaint are true and correct to the best of our knowledge, information, and belief. We understand that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: 4/1/08


Russell Ashburn
RUSSELL ASHBURN

Dated: 4/1/08


Beverly Ashburn
BEVERLY ASHBURN

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

RUSSELL ASHBURN and BEVERLY)
ASHBURN,)
)
Plaintiff,)
)
vs.)
)
JOSEPH CHICK and WANDA CHICK,)
)
Defendant.)
)

CERTIFICATE OF SERVICE

This will certify that the undersigned served a copy of Plaintiffs' Complaint in the above-captioned matter on counsel for the Defendants at the address shown below by first-class U.S. Mail on the 2nd day of April, 2008:

Toni M. Cherry, Esquire
Gleason, Cherry & Cherry, LP
P O Box 505
DuBois PA 15801-0505

~~Benjamin S. Blakley, III
Attorney for Plaintiffs~~

DALE A. KESSLER ENTERPRISES, INC.
341 Kessler Rd.
DuBois, PA 15801
(814) 375 - 5515

QJ. 8/24/07
CK # 3510
100.00

Invoice

DATE	INVOICE #
8/21/2007	668796

BILL TO
Russell Ashburn 90 Sloping View Drive DuBois, PA. 15801



QUANTITY	DESCRIPTION	AMOUNT
	REPLACE DAMAGED VINYL FENCING MATERIAL	40.00

Thank you for your business.

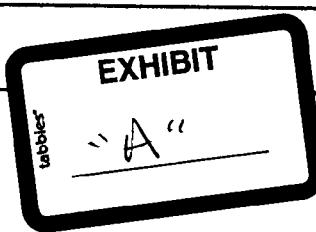
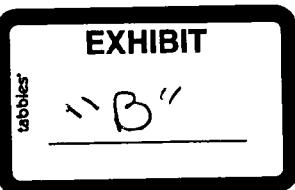


EXHIBIT	Total	\$40.00
---------	-------	---------

ORDER NO.	TERMS	DATE	
111-2901		8-8-57	
WHEN SHIP	SALESMAN	BUYER	HOW SHIP
Remove large limb off fence start brush away			
payable to Brian Cassie 5-91-6900 Book 1-400 Period 1- Fall			
75- 4 75-			

 TOPS FORM 46500 ®



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

RUSSELL ASHBURN and BEVERLY ASHBURN, Plaintiffs : No. 08 - 521 C.D.
vs. :
JOSEPH CHICK and WANDA CHICK, Defendants : Type of Case: CIVIL
: Type of Pleading: ANSWER, NEW MATTER
: AND COUNTERCLAIM
: Filed on Behalf of: JOSEPH CHICK and
: WANDA CHICK, Defendants
: Counsel of Record for these Parties:
: TONI M. CHERRY, ESQ.
: Supreme Court No.: 30205
: GLEASON, CHERRY AND
: CHERRY, L.L.P.
: Attorneys at Law
: P. O. Box 505
: One North Franklin Street
: DuBois, PA 15801
: (814) 371-5800

FILED *2cc*
MAY 08 2008 *Atty T. Cherry*
79:4181
(GR)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

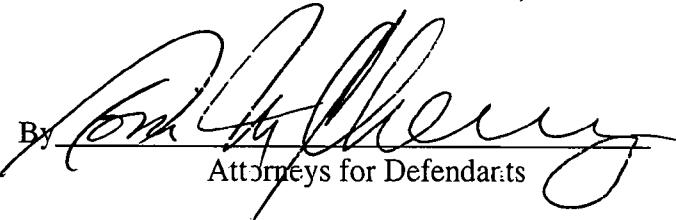
RUSSELL ASHBURN and BEVERLY ASHBURN, :
Plaintiffs :
: No. 08 - 521 C.D.
vs. :
: JOSEPH CHICK and WANDA CHICK, :
Defendants :
:

NOTICE TO PLEAD

To The Within Plaintiffs:

YOU ARE HEREBY NOTIFIED TO PLEAD TO THE WITHIN NEW MATTER AND COUNTERCLAIM WITHIN TWENTY (20) DAYS FROM THE DATE OF SERVICE HEREOF.

GLEASON, CHERRY AND CHERRY, L.L.P.

By 
Ron B. Cherry
Attorneys for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

RUSSELL ASHBURN and BEVERLY ASHBURN,	:	
	:	
Plaintiffs	:	
	:	
	:	No. 08 - 521 C.D.
vs.	:	
	:	
JOSEPH CHICK and WANDA CHICK,	:	
	:	
Defendants	:	
	:	

ANSWER

AND NOW, come the Defendants, JOSEPH CHICK and WANDA CHICK, by and through their attorneys, GLEASON, CHERRY AND CHERRY, L.L.P., and answer the Complaint filed by Plaintiffs as follows:

1. ADMITTED.
2. ADMITTED.
3. ADMITTED.
4. ADMITTED in part and DENIED in part. While it is ADMITTED that there are numerous large trees located upon the lands of the Defendants, all other aspects of Paragraph 4 are DENIED. There are no trees located along the border between the lands of Plaintiffs and the lands of Defendants with the exception of one pine tree that is located approximately three and one-half feet from the border. By way of further answer, it is averred that when Plaintiffs purchased their property, they were aware that the forest and uncultivated woodland area at the edge of Defendants' property bordered their lands.

5. DENIED as stated. Plaintiffs erected a fence along the boundary of their property in the Summer of 2007 after Defendants caused a farm fence to be erected marking the boundaries between Plaintiffs' and Defendants' lands in May of 2007.

6. DENIED. At no time have Defendants permitted any rotten limbs to extend over onto the property of the Plaintiffs. On the contrary, in September of 2003, Hurricane Isabelle came through the area with such force that it knocked down a limb from a tree that was then and there growing on Defendants' forested land at least five feet from the boundary line between the two properties. That act of God caused the limb to fall upon a shed that Plaintiffs had improperly erected outside of the setback lines required by the Zoning Ordinance of the Township of Sandy. Not only was the shearing off of the tree limb an act of God that could not have been caused nor prevented by Defendants, but had Plaintiffs not been in violation of the Zoning Ordinances of Sandy Township by erecting their storage shed too close to Defendants' property line, such storage shed would not have been damaged. However, by way of further answer, it is averred that prior to Hurricane Isabelle, the tree from which the limb was sheared was perfectly healthy and said limb would not have fallen but for the act of God for which Defendants cannot be held responsible.

7. DENIED as stated. After Hurricane Isabelle caused the limb to break off from the tree, Plaintiffs advised Defendants of the occurrence and requested that Defendants remove the limb that had been broken. Plaintiffs never complained of any other overhanging limbs. In response, Defendants hired Brian Cessna and he did come to the premises on or about June 28, 2004, and cut down the limb that had been sheared by the force of Hurricane Isabelle and Defendants also caused Brian Cessna to trim back any trees that appeared to be in a dying or

diseased condition at that same time so that there would be no further damage to the premises of the Plaintiffs.

When this was accomplished, Defendant Husband did approach Plaintiff Husband and advise him of what he had done and Plaintiffs advised that they were satisfied. At that same time, Defendant Husband gave Plaintiff Husband specific permission to cut any other branches, limbs or vegetation that might grow over and extend onto Plaintiffs' land.

3. DENIED. On the contrary, Plaintiffs never made any further requests of the Defendants because Plaintiffs knew that they had received Defendants' permission to remove any vegetation that extended over the property line. Despite having permission to cut any additional limbs that might be extending over onto their property, Plaintiffs elected to construct a fence directly under the overhanging branches of a tree located five feet from the Defendants' boundary line without first cutting the overhanging limb.

9. DENIED, as after reasonable investigation, Defendants are without sufficient knowledge to attest to the truth or falsity of the averments contained in Paragraph 9 as the same are within the sole knowledge of the Plaintiffs and strict proof of same is required at trial.

10. DENIED as stated. Defendants deny that they caused any damage to Plaintiffs' personal property. On the contrary, any damages that Plaintiffs contend were caused to their fence occurred solely as a result of either (a) an act of God; or (b) Plaintiffs' own action in erecting a fence directly under an overhanging tree limb without first cutting the tree limb off when they knew that they had been given permission to do so by Defendants more than three years before.

11. DENIED. Plaintiffs did not bring any action before the Magistrate as a result of the actions of the Defendants. On the contrary, Plaintiffs brought their action solely out of spite and in retaliation for the fact that Defendants would not agree to Plaintiffs erecting a new shed outside of the setback lines and because Defendants would no longer allow Plaintiffs to trespass upon the lands of the Defendants and to cause further damage to Defendants' property by mowing down vegetation and cutting trees and otherwise treating Defendants' property as if it were their own.

12. DENIED. At no time did Defendants permit any overhanging and/or rotten limbs to remain located over onto the lands of the Plaintiffs and at no time did Plaintiffs ever give Defendants notice that there were any trees that were causing damage or were in any way menacing the property of the Plaintiffs after the Spring of 2004 when Defendants had all of the limbs about which Plaintiffs were complaining at that time trimmed off. By way of further answer, it is averred that in the Summer of 2004, Defendants specifically gave Plaintiffs permission to trim off any other branches or limbs that Plaintiffs found to be extending over the boundary line that Plaintiffs did not want extending over onto the property. Plaintiffs never advised Defendants thereafter that there were any limbs that they wanted to have cut down nor did Plaintiffs ever indicate to Defendants that they were going to cut any limbs down although they had a perfect right to do so because of the prior permission given to them by Defendants.

The trees in question were located within a grove of trees and in an area that was not cultivated but was previously wild with natural vegetation and forest land that Plaintiffs knew existed prior to the time that they moved onto the property. Defendants deny that they are responsible for any damage allegedly suffered by Plaintiffs because such damage, if any

was suffered, occurred solely as the result of (a) an act of God; or (b) because Plaintiffs failed to trim any tree limbs extending out of the natural woodland over onto their property prior to constructing the fence even though they had permission to make such cuts from Defendants themselves.

WHEREFORE, Defendants respectfully request that Plaintiffs' Complaint be dismissed with prejudice and with costs assessed to Plaintiffs.

NEW MATTER

13. Defendants incorporate herein by reference the averments contained in Paragraphs 1 through 12 inclusive of the foregoing Answer as if the same were set forth at length herein.

14. In approximately 1975 when Plaintiffs moved to their property, they asked Defendants if they could mow the grass growing on Defendants' land approximately five feet from Defendants' border. Defendants gave permission for Plaintiffs to use their property and to otherwise maintain the same for Plaintiffs' comfort and enjoyment.

15. That since 1975, Plaintiffs had the right to mow five feet over the boundary line and to otherwise remove any tree limbs or other foliage that Plaintiffs desired to remove.

16. That in June of 2004, Defendants did cause the limbs that had been destroyed by Hurricane Isabelle and any other dead or diseased limbs to be trimmed away at their sole cost and Defendant Husband again advised Plaintiff Husband that if there were any further trees overhanging onto Plaintiffs' property, Plaintiffs had the permission of Defendants to remove said overhanging limbs without further notice to Defendants.

17. That thereafter, Defendants received no further demand from Plaintiffs for the removal by Defendants of any overhanging limbs nor did Defendants even know that there were any overhanging limbs until such time as Plaintiffs notified them in the Fall of 2007 that the fence they had erected in the Summer of 2007 had somehow been damaged.

18. That Plaintiffs erected a fence under Defendants' tree with full knowledge of the height and extension of the limbs of each and every mature tree on Defendants' property and within an area that was wooded.

19. That Plaintiffs erected said fence under Defendants' tree without first removing the limbs that overhung said fence even though Plaintiffs had been previously given permission to remove the same.

20. Plaintiffs voluntarily exposed themselves to the risks which led to the damages that they now claim.

21. By their own actions and inactions, Plaintiffs' cause of action is barred by their assumption of the risk.

WHEREFORE, Defendants respectfully request that Plaintiffs' Complaint be dismissed with prejudice and costs assessed to Plaintiffs.

COUNTERCLAIM

22. Defendants incorporate herein by reference the averments contained in Paragraphs 13 through 21 inclusive of the foregoing New Matter as if the same were set forth at length herein.

23. That in late June of 2004 when Plaintiff Husband entered upon the woodland area of his property with Brian Cessna for the purpose of trimming the tree limbs at Plaintiffs' request, he noticed that Plaintiffs had entered upon his land 15 feet further than the five feet Defendant Husband had given them permission to clear and a parcel of ground a total of 20 feet from Defendants' boundary line with Plaintiffs had been cleared of trees and vegetation and the area overtaken by Plaintiffs extended just short of a grove of cherry and pine trees approximately 20 feet from the border of Defendants' land.

24. That Defendant Husband did approach Plaintiff Husband and asked him why he had encroached 15 feet beyond the point where permission had been granted and Plaintiff Husband advised him that he was having trouble with bugs as a result of the wooded area.

25. That at that point in time, Defendant Husband did advise Plaintiff Husband that nothing further was to be cut on Defendants' land and that all Plaintiffs had Defendants' permission to do was to remove any limbs that were overhanging on Plaintiffs' property.

26. That Defendant Husband again came onto the area of Defendants' property near its border with Plaintiffs' property in the Spring of 2005 and throughout the Summer and Fall of 2005 and the Spring of 2006 to check his boundaries because he was involved in an on-going ejection action with another neighbor and there had been no further encroachment by Plaintiffs.

27. That in May of 2007, when his lawsuit with a neighbor had ended and the neighbor removed a shed that was encroaching on other lands of Defendants, Defendants came onto the property to erect a fence and discovered that Plaintiffs had again encroached another 20 feet

onto their property in the area of Defendants' land behind Plaintiffs' house and yard and had removed 55 pine and cherry trees having diameters ranging from one and a half to six inches.

28. That Defendants aver that the value of the trees removed by Plaintiffs is \$7,500.00.

29. That Plaintiffs knew after the Summer of 2004 that Defendants did not permit Plaintiffs to enter upon the lands of Defendants and to cut or remove any standing timber or other vegetation.

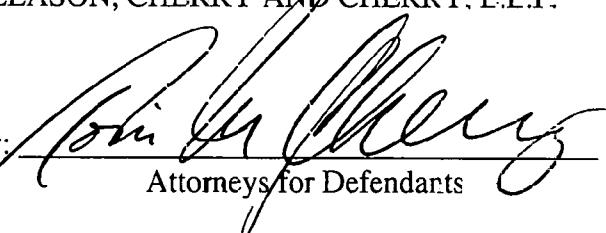
30. That Plaintiffs' subsequent entry onto the property of the Defendants and their removal of Defendants' cherry and pine trees was deliberate, entitling Defendants to three times the market value of the trees cut in accordance with the provisions of 42 Pa. C.S.A. §8311.

WHEREFORE, Defendants demand judgment in their favor and against Plaintiffs in the amount of TWENTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$22,500.00), together with interest thereon and costs of suit.

Respectfully submitted,

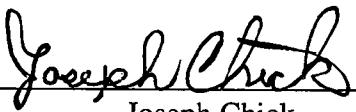
GLEASON, CHERRY AND CHERRY, L.L.P.

By:

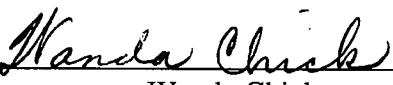

John P. Cherry
Attorneys for Defendants

VERIFICATION

We, JOSEPH CHICK and WANDA CHICK, Defendants herein, verify that the statements made in the foregoing Answer, New Matter and Counterclaim are true and correct. We understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.



Joseph Chick



Wanda Chick

Dated: May 7, 2008

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

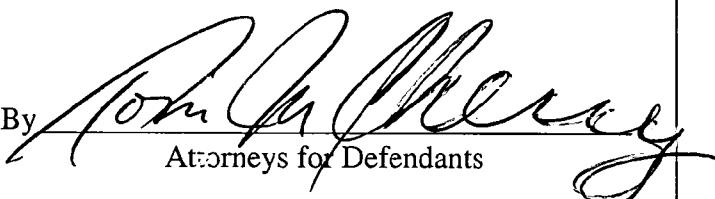
RUSSELL ASHBURN and BEVERLY :
ASHBURN, :
Plaintiffs :
: No. 08 - 521 C.D.
vs. :
: :
JOSEPH CHICK and WANDA CHICK, :
Defendants :
:

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of May, 2008, a true and correct copy of Defendants' Answer, New Matter and Counterclaim was served upon BENJAMIN S. BLAKLEY, III, ESQ., counsel for Plaintiffs, by mailing the same to him by United States First Class Mail, Postage Prepaid, by depositing the same in the United States Post Office at DuBois, Pennsylvania, addressed as follows:

BENJAMIN S. BLAKLEY, III, ESQ.
Blakley & Jones
Attorneys at Law
90 Beaver Drive, Box 6
DuBois, PA 15801

GLEASON, CHERRY AND CHERRY, L.L.P.

By 
Tom P. Cherry
Attorneys for Defendants

Dated: May 7, 2008

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

RUSSELL ASHBURN and BEVERLY ASHBURN,) NO. 08 - 521 - C.D.
vs.)
JOSEPH CHICK and WANDA CHICK,) Type of Case:
Plaintiff,)
Defendant.) Type of Pleading: PLAINTIFFS' REPLY TO
) DEFENDANTS' NEW MATTER AND
) ANSWER TO COUNTERCLAIM
) Filed on Behalf of:
) PLAINTIFF
)
) Counsel of Record:
) BENJAMIN S. BLAKLEY, III, ESQ.
)
) Supreme Court No. 26331
)
) BLAKLEY & JONES
) 90 Beaver Drive, Box 6
) DuBois, Pa 15801
) (814) 371-2730

FILED 1cc Atty
8/3/10 cm Blakley
MAY 29 2008
cm

William A. Shaw
Prothonotary/Clerk of Courts

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

RUSSELL ASHBURN and BEVERLY ASHBURN,)
Plaintiff,)
vs.)
JOSEPH CHICK and WANDA CHICK,)
Defendant.)
) NO. 08 - 521 - C.D.

**PLAINTIFFS' REPLY TO DEFENDANTS' NEW MATTER
AND ANSWER TO COUNTERCLAIM**

AND NOW comes, Plaintiffs, **RUSSELL ASHBURN and BEVERLY ASHBURN** by and through their attorneys, **BLAKLEY & JONES**, and replies to Defendants' New Matter and answer Defendants' Counterclaim as follows:

REPLY TO NEW MATTER

13. Requires no answer.
14. Denied, and on the contrary, it is averred that in 1977, the Plaintiffs asked the Defendants for permission to mow clear and maintain an access area approximately 20 to 40 feet onto their property with permission being given for the same by the Defendants.
15. Denied and on the contrary, it is averred that pursuant to the agreement of the parties in 1977, the Plaintiffs' maintained an area for approximately 20 to 40 feet on the boundary line between the Defendants' property and his neighbors properties, with the Defendants never

expressing dissatisfaction or disapproval of the actions of the Plaintiffs and other neighbors who were maintaining the aforesaid area.

16. It is admitted that in June of 2004, the Defendants cut dead or diseased limbs on their property, however, it is denied that the Plaintiffs ever had the permission of the Defendants to remove the overhanging limbs without further notice to the Defendants, and on the contrary, it is averred that by letter dated July 6, 2004, the Defendants attorney, Jeffrey S. DuBois, Esquire, did inform the Plaintiffs that they were not to come onto the Defendants' property for any purpose and that any prior permission to come onto the Defendants' property was thereby revoked with the Plaintiffs not coming onto the property thereafter pursuant to the demands of the Defendants. A copy of said correspondence from Jeffrey S. DuBois is attached hereto and made a party hereof and marked as Plaintiffs' Exhibit "A".

17. Denied, and on the contrary, it is averred that in response to the correspondence from Defendants' attorney, Plaintiffs' attorney advised Defendants' attorney of the ongoing problems occurring on the Defendants' property and had requested the Defendants to attend to any dangerous conditions on their property which would be of a threat to the property of the Plaintiffs, or in that alternative, that the Plaintiffs be permitted to attend to the problem. It is further denied that the fence which was the subject of this Complaint was erected by the Plaintiffs in the summer of 2007, and on the contrary, it is averred that the subject fence was erected in the summer of 2006. A copy of the correspondence of Plaintiffs' attorney to the defense attorney is attached hereto and made a part hereof and marked as Plaintiffs' Exhibit "B".

18. It is admitted that the Plaintiffs erected their fence on their property line which was located adjacent to a wooded area owned by the Defendants.

19. Denied, and on the contrary, it is averred that the Defendants had demanded that the Plaintiffs not come onto his property for any reason by the letter of their attorney dated July 6, 2004. It is further averred that at the time of the erection of the said fence, the Plaintiffs were unaware of any limbs which would have posed a danger to the Plaintiffs' fence.

20. Denied, and on the contrary, it is averred that the Plaintiffs' erected their fence strictly on their property and were unaware of any risks involved from trees located on the property of the Defendants, as the Defendants had ordered the Plaintiffs not to come onto the Defendants' property.

21. Denied, for the reasons set forth in the previous paragraph.

WHEREFORE, Plaintiffs demand judgment pursuant to the prayer in their Complaint.

ANSWER TO COUNTERCLAIM

22. Requires no answer.

23. Paragraph 23 is a statement of opinion and does not require an answer as plead, however, to the extent that an answer is required, it is admitted that the Plaintiffs had from time to time cleared a parcel of ground approximately 20 feet from Defendants' boundary line as the Defendants had given the Plaintiffs permission to do so in previous communications between the parties.

24. Denied, and on the contrary, it is averred that in 2004 the only communication between the Defendants and Plaintiffs was by the communication of Jeffrey DuBois, Esquire, demanding that the Plaintiffs not encroach upon the property of the Defendants.

25. Denied, and on the contrary, it is averred that the only communication between the Defendant and the Plaintiff were by the letter to the Plaintiffs of Defendants' counsel Jeffrey S. DuBois forbidding the Plaintiffs from coming onto the lands of the Defendants.

26. Admitted.

27. Denied, and on the contrary, it is averred that the Plaintiffs at no time came onto the property of the Defendants subsequent to their receipt of the letter of Jeffrey DuBois, dated July 6, 2004, for any purpose whatsoever, and it is further denied that the Plaintiffs removed any trees from the property of the Defendants at any time subsequent to the letter of Jeffrey DuBois, dated July 6, 2004.

28. Despite reasonable investigation the Plaintiffs are unable to determine the truth or falsity of the allegations contained within paragraph 28 of Defendants' Counterclaim and therefore denies the same and demands strict proof thereof at trial. To the extent that an answer is required, it is denied that the Plaintiffs at any time removed trees from the lands of the Defendants as forth above.

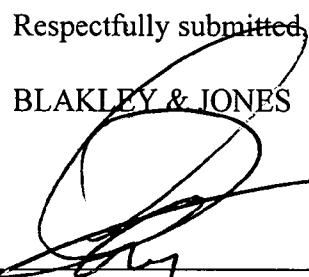
29. Admitted.

30. It is denied that any actions of the Plaintiffs have caused damages to the Defendants, and it's further denied that the Defendants have any entitlement to damages against the Plaintiffs as the Plaintiffs at no time encroached upon the lands of the Defendants' after receiving notice of Defendants' attorney, dated July 6, 2004.

WHEREFORE, Plaintiffs request that Defendants' Counterclaim be dismissed.

Respectfully submitted,

BLAKLEY & JONES



Benjamin S. Blakley, III
Attorney for Plaintiffs

VERIFICATION

We, **RUSSELL ASHBURN** and **BEVERLY ASHBURN**, hereby state that we are the Plaintiffs in this action and verify that the statements made in the foregoing Reply to Defendants' New Matter and Answer to Counterclaim are true and correct to the best of our knowledge, information, and belief. We understand that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to ur.swordr. falsification to authorities.

Dated: May 27, 2008

Russell Ashburn
RUSSELL ASHBURN

Dated: May 27, 2008

Beverly Ashburn
BEVERLY ASHBURN

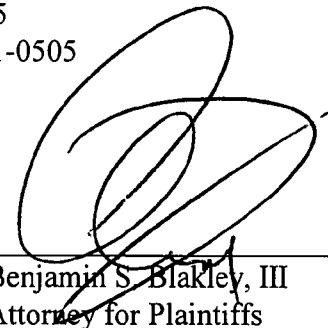
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RUSSELL ASHBURN and BEVERLY)
ASHBURN,)
Plaintiff,)
vs.) NO. 08 - 521 - C.D.
JOSEPH CHICK and WANDA CHICK,)
Defendant.)

CERTIFICATE OF SERVICE

This will certify that the undersigned served a copy of Plaintiffs' Reply to Defendants' New Matter and Answer to Counterclaim in the above-captioned matter on counsel for the Defendants at the address shown below by first-class U.S. Mail on the 29th day of May, 2008:

Toni M. Cherry, Esquire
Gleason, Cherry & Cherry, LP
P O Box 505
DuBois PA 15801-0505



Benjamin S. Blakley, III
Attorney for Plaintiffs



JEFFREY S. DuBOIS

Attorney at Law

Phone: 814-375-5598
Fax: 814-375-8710

190 West Park Avenue • Suite #5 • DuBois, PA 15801

E-Mail: jsdlaw@verizon.com

July 6, 2004

Russell and Beverly Ashburn
95 Sloping View Drive
DuBois, PA 15801

RE: Property – Sandy Township

Dear Mr. and Mrs. Ashburn,

Please be advised that my office represents the interests of Joseph and Wanda Chick who own property which borders yours in Sandy Township.

The Chick's recently came to see me concerning encroachment upon their land. Specifically, in examining their property, it appears that you have encroached on their property approximately forty (40) feet into their land. The approximate line which borders your property and the Chick's would be the wood fence on your property. There has obviously been clearing by you beyond the fence of brush and trees located on the Chick property.

The Chick's insist that this activity cease immediately and that you no longer clear, or have any activity on the property beyond your wood fence. Otherwise, the Chick's will have no other option but to initiate legal action to stop the same, and recover money damages for any trees or shrubbery that have been improperly removed from their property.

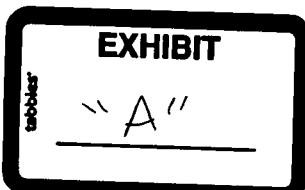
Thank you for your attention in this matter.

Sincerely,

Jeffrey S. DuBois

JSD:tlm

Cc: Benjamin S. Blakley, III, Esquire
Mr. & Mrs. Joseph Chick



LAW OFFICES OF
BLAKLEY & JONES
90 Beaver Drive, Box 6
Du Bois, Pennsylvania 15801

Telephone (814) 371-2730
Fax (814) 375-1082

July 23, 2004

Benjamin S. Blakley, III

Jeffrey S. DuBois, Esquire
190 West Park Avenue
Suite 5
Du Bois, PA 15801

**Re: Your Clients : Joe & Wanda Chick
Our Clients : Russell & Beverly Ashburn**

Dear Jeff:

I have had a chance to review your July 6th correspondence with my clients, Mr. and Mrs. Russell Ashburn. Mr. Ashburn previously related to me that, over the last twenty-five years, he had kept clear property bordering his land and belonging to your clients and that his actions were with the knowledge and consent of Mr. Chick. Apparently, any dispute now in existence arises from a rotten tree branch which fell onto my clients' property and onto his shed. My clients were only concerned that other such hazards remained on your clients' property and only wanted to make your clients aware of the potential problem and that periodic inspections were made in order to ensure that no further damage to my clients' property would occur.

It is not my clients' intention to create any disputes with the Chicks, whom the Ashburns consider to be good neighbors and with whom they wish to continue an amicable relationship. The Ashburns' only concern is that any overhanging of rotten limbs be trimmed or removed by your clients and that brush is not allowed to be piled up against the fence separating the parties' property. If your clients no longer wish Mr. Ashburn to care for the property that has been cared for by him for years, Mr. Ashburn will stay away from your clients' property. As I stated, it is not the Ashburns' intentions to create a state of hostility between themselves and the Chicks and they only wish to remain good neighbors who will cooperate with the Chicks in the maintenance of their separate properties. Their only request is that any dangerous conditions on the Chicks' property which threaten the buildings and property of the Ashburns be attended to in a timely fashion by the Chicks, or that the Chicks permit Mr. Ashburn to attend to the problem.

Should you have any other questions or comments, please feel free to contact me.

Very truly yours,

BLAKLEY & JONES
Benjamin S. Blakley, III

EXHIBIT

"B"

cc: Mr. & Mrs. Russell Ashburn



Notice of Proposed Termination of Court Case

February 1, 2012

RE: 2008-00521-CD

Russell Ashburn
Beverly Ashburn

Vs.

Joseph Chick
Wanda Chick

FILED

FEB 01 2012

William A. Shaw
Prothonotary/Clerk of Courts

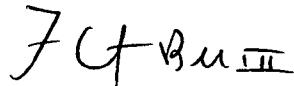
To All Parties and Counsel:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before April 2, 2012.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,



F. Cortez Bell, III, Esq.
Court Administrator

Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division

Russell Ashburn
Beverly Ashburn

RECEIVED
JULY 27 2012
SHERIFF OF PENNSYLVANIA
CLEARFIELD COUNTY, PENNSYLVANIA
6K

Vs.

2008-00521-CD

Joseph Chick
Wanda Chick

Termination of Inactive Case

This case is hereby terminated with prejudice this July
27, 2012, as per Rule 230.2

William A. Shaw

William A. Shaw
Prothonotary