

08-692-CD

Hester Smith vs James Beatty et al



1A

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

HESTER SMITH,
Plaintiff

-VS-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

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Docket No. 08- 692 -CD
ACTION TO QUIET TITLE

Type of pleading:
ORDER

Filed on behalf of:
PLAINTIFF, Hester Smith

Counsel of record for
this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

019:5781
APR 23 2008

HCC
Atty Koerber

62

William A. Shaw
Prothonotary/Clerk of Courts

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

HESTER SMITH,
Plaintiff

-VS-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

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Docket No. 08- -CD
ACTION TO QUIET TITLE

ORDER

AND NOW, this 22nd day of APRIL, 2008, upon consideration of the Motion For Publication filed by Dwight L. Koerber, Jr., attorney for plaintiff in the above-captioned action, it is hereby ORDERED AND DECREED that plaintiff is granted leave to make service of the Complaint upon all named Defendants in the above-captioned case, their heirs and assigns, and any other person or entity claiming or who might claim title under them, or all other persons claiming any right, title or interest in the property described in the Complaint, by publication once in The Progress, a newspaper of general circulation in Clearfield County, Pennsylvania, and in the Clearfield County Legal Journal; and proof of publication thereof shall be filed with the proceedings in this action and the said advertisement shall state that the defendants are required to

answer the Complaint within twenty (20) days from the date of advertisement thereof.

BY THE COURT:



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

HESTER SMITH,
Plaintiff

-vs-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

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Docket No. 08-692-CD
ACTION TO QUIET TITLE

Type of pleading:
AFFIDAVIT OF DEFAULT

Filed on behalf of:
PLAINTIFF, Hester Smith

Counsel of record for
this party:

Dwight L. Koerber, Jr.,
Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

0 2:59 PM GK
JUN 16 2008

(GK)

NO CC

William A. Shaw
Prothonotary/Clerk of Courts

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

HESTER SMITH,
Plaintiff

*

-vs-

*

Docket No. 08-692-CD
ACTION TO QUIET TITLE

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

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AFFIDAVIT OF DEFAULT

COMMONWEALTH OF PENNSYLVANIA:

:SS:

COUNTY OF CLEARFIELD

:

DWIGHT L. KOERBER, JR., ESQUIRE, being duly sworn according to law, deposes and states as follows, pursuant to Pa.R.C.P. 1066:

1. That he is counsel of record for plaintiff in the above-captioned matter.
2. That a Complaint to Quiet Title with Notice to Defend was filed in this matter on April 15, 2008, requesting that defendants, and any person or entity claiming under defendants, be permanently enjoined and restrained from asserting any claim or interest in or to real property described in plaintiff's Complaint filed in this matter.
3. That An Affidavit that the Whereabouts of the Defendants Named and Their Heirs and Assigns are Unknown was filed in this matter on April 21, 2008, along with a Motion for Publication.

4. That an Order was entered by the Court on April 22, 2008, granting plaintiff leave to make service by publication.

5. That publication was duly performed, as shown in the Affidavit of Service filed in this matter on June 12, 2008.

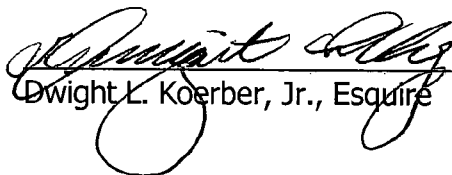
6. That defendants were advised through said publication to file an Answer within twenty days of the date of publication.

7. That defendants did not file an Answer to the Complaint.

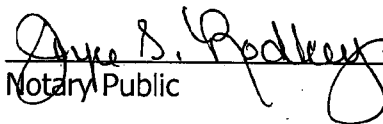
8. That Pa.R.C.P. 1066(a) specifies that this Honorable Court shall grant appropriate relief upon affidavit that a complaint containing a notice to defend has been served and that defendants have not filed an answer.

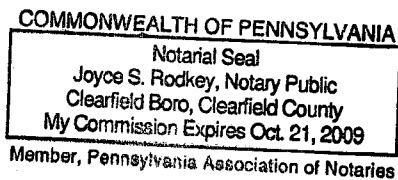
9. That plaintiff requests this Honorable Court to enter an Order against defendants, pursuant to Pa.R.C.P. 1066(b).

Respectfully submitted,


Dwight L. Koerber, Jr., Esquire

Sworn to and subscribed
before me this 16th
day of June, 2008.


Notary Public



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

HESTER SMITH,
Plaintiff

-VS-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

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Docket No. 08-692-CD
ACTION TO QUIET TITLE

Type of pleading:
AFFIDAVIT OF SERVICE

Filed on behalf of:
PLAINTIFF, Hester Smith

Counsel of record for
this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED 3cc
013:2630x Atty Koerber
JUN 12 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

HESTER SMITH,
Plaintiff

-VS-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

Docket No. 08-692-CD
ACTION TO QUIET TITLE

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA:

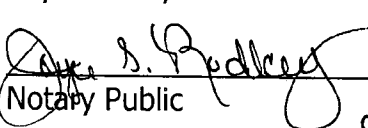
:SS:

COUNTY OF CLEARFIELD :

DWIGHT L. KOERBER, JR., ESQUIRE, being duly sworn according to law,
deposes and states that the defendants in the above-captioned matter were served
through publication with Notice of the Complaint filed in this matter, as set forth in the
Order of Court dated April 22, 2008. Notice appeared in "The Progress" on April 28,
2008, and in the "Clearfield County Legal Journal" on May 9, 2008, Vol. 20, No. 19.


Dwight L. Koerber, Jr., Esquire

Sworn to and subscribed
before me this 12th
day of June, 2008.


Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Joyce S. Rodkey, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Oct. 21, 2009
Member, Pennsylvania Association of Notaries

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

HESTER SMITH,
Plaintiff

-vs-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

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Docket No. 08-692 -CD
ACTION TO QUIET TITLE

Type of pleading:
MOTION FOR PUBLICATION

Filed on behalf of:
PLAINTIFF, Hester Smith

Counsel of record for
this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

0/3:24:30
APR 21 2008

3CC
Att'y Koerber

(60)

William A. Shaw
Prothonotary/Clerk of Courts

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

HESTER SMITH,
Plaintiff

-vs-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

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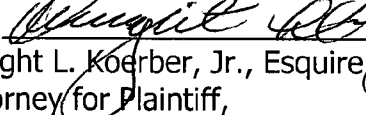
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Docket No. 08-692 -CD
ACTION TO QUIET TITLE

MOTION FOR PUBLICATION

COMES NOW, Plaintiff HESTER SMITH, by and through her attorney, Dwight L. Koerber, Jr., Esquire, and files the within Motion, with an Affidavit having been executed and filed on behalf of plaintiff, that the identity and whereabouts of the Defendants named herein, their heirs and assigns, are unknown, and moves this Honorable Court for leave to file the Complaint by publication in such manner as the Court shall direct, as provided by Pa.R.C.P. 430(b).

Respectfully submitted,

By: 
Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff,
HESTER SMITH

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

HESTER SMITH,
Plaintiff

-VS-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER
his Widow, their Heirs and Assigns,
Defendants

Docket No. 08- 692 -CD
ACTION TO QUIET TITLE

AFFIDAVIT THAT THE WHEREABOUTS OF THE DEFENDANTS NAMED HEREIN,
THEIR HEIRS AND ASSIGNS, ARE UNKNOWN

COMMONWEALTH OF PENNSYLVANIA:

:SS:

COUNTY OF CLEARFIELD :

HESTER SMITH, plaintiff in the above-captioned action, being duly sworn according to law, deposes and states that the whereabouts of the defendants named in this matter, their heirs and assigns, and any person or entity claiming or who might claim under them, are unknown by name, and their whereabouts are unknown.

Affiant, through her counsel, has investigated Clearfield County telephone directories, Clearfield County Post Offices, and the Clearfield County Courthouse, including the Office of the Register of Wills and the Tax Assessment Office, and has been unable to locate any of the named defendants, or the complete names and addresses of heirs and assigns, other than Defendant Martha M. Butler, widow of Defendant Allen G. Butler, who is being served by sheriff service.

Hester Smith
Hester Smith

Sworn to and subscribed before me
this 21st day of April, 2008.

Brenda D. Titus
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Brenda D. Titus, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Jan. 10, 2011
Member, Pennsylvania Association of Notaries

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

HESTER SMITH,
Plaintiff

-VS-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

Docket No. 08-692-CD
ACTION TO QUIET TITLE

FILED 4CC
0/3:25 am Koerber
JUL 18 2008
(LM)

William A. Shaw
Prothonotary/Clerk of Courts

Type of pleading:
PRAECIPE

Filed on behalf of:
PLAINTIFF, Hester Smith

Counsel of record for
this party:

Dwight L. Koerber, Jr.,
Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

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

HESTER SMITH,
Plaintiff

*

-vs-

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Docket No. 08-692-CD
ACTION TO QUIET TITLE

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

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PRAECIPE

TO THE PROTHONOTARY:

Kindly enter judgment to quiet title in favor of Plaintiff HESTER SMITH, and against Defendants JAMES B. BEATTY, his Heirs and Assigns; MARGARET HARPER, Trustee, her Heirs and Assigns; FRANCIS RALSTON, his Heirs and Assigns; RALPH J. CORIO, his Heirs and Assigns; and ALLEN G. BUTLER AND MARTHA M. BUTLER, this Widow, their Heirs and Assigns, in accordance with the Order of Court dated June 17, 2008, a true and correct copy of which is attached.

Respectfully submitted,

By: 

Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff,
HESTER SMITH

DATE: July 18, 2008

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA 11/17/2008
CIVIL DIVISION

HESTER SMITH,
Plaintiff

-VS-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

Attest.

William L. Harp
Prothonotary/
Clerk of Courts

Docket No. 08-692-CD
ACTION TO QUIET TITLE

Type of pleading:
ORDER

Filed on behalf of:
PLAINTIFF, Hester Smith

Counsel of record for
this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

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

HESTER SMITH,
Plaintiff

*

-VS-

*

Docket No. 08-692-CD
ACTION TO QUIET TITLE

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

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ORDER

AND NOW, this 17th day of June, 2008, with no Answer to the Complaint having been filed by defendants, and an Affidavit of Default having been filed with this Court, IT IS THE ORDER AND DECREE of this Court pursuant to Pa.R.C.P. 1066 that a judgment by default be entered against defendants, directing as follows:

THAT defendants named herein, their heirs and assigns, and any person or entity claiming under said defendants, are permanently enjoined and restrained from asserting any lien, title, claim or interest in or to the following real property of plaintiff, or any part thereof, with such description set forth hereinbelow containing and incorporating into the description the property which is the subject of the within quiet title action:

ALL that undivided one-half interest in and to 48 acres situate in Boggs Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a White Oak corner, thence north two degrees east one hundred seventy-three perches to stones; and thence north eighty-eight degrees west one hundred ninety-two perches to a post; thence south two degrees west one hundred seventy-three perches to stones; thence south eighty-eight degrees east one hundred ninety-two perches to the place of beginning; this parcel thus described containing two hundred seven acres and ninety-six perches, and to the grantor is herein conveyed what exists of that parcel less the following conveyances made previously:

One hundred acres conveyed to Newton J. Shimmel and Frances Shimme; fifty acres conveyed to Frances Shimmel by deed recorded in Clearfield County in Deed Book 26 at page 179; fifty acres conveyed to Uriah Bumbarger.

A search of the records of Clearfield County now indicating this subject conveyed property to be titled one-half to the estate of Ardell Knepp, and one-half to Hester Smith, of Clearfield, Pennsylvania.

BEING the same undivided one-half interest granted and conveyed unto Hester Smith by Treasurer's Deed dated August 7, 1972, and recorded at Clearfield County Deed Book Volume 723, page 384, and representing one-half interest in the property remaining from the original tract as therein described, consisting of 48 acres surface and mineral rights.

The relief requested in the Complaint filed herein shall be granted to plaintiff unless defendants file a written Answer to the Complaint within thirty days of the date of this Order, setting forth their defenses to the Complaint, pursuant to Pa.R.C.P. 1066(b)(1).

IT IS THE FURTHER ORDER AND DECREE of this Court that if no such action is taken by defendants within the thirty day time period specified herein, the Prothonotary, upon Praecept of the plaintiff, shall enter final judgment awarding the relief requested in

the Complaint to plaintiff.

BY THE COURT:

/S/ Fredric J Ammerman

Fredric J. Ammerman,
President Judge

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

HESTER SMITH,
Plaintiff

-VS-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

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Docket No. 08-692-CD
ACTION TO QUIET TITLE

FILED

JUN 17 2008
01:30 PM
William A. Shaw
Prothonotary/Clerk of Courts
4 Cent to Att

Type of pleading:
ORDER

Filed on behalf of:
PLAINTIFF, Hester Smith

Counsel of record for
this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

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

HESTER SMITH,
Plaintiff

*

-VS-

*

Docket No. 08-692-CD
ACTION TO QUIET TITLE

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

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ORDER

AND NOW, this 17th day of JUNE, 2008, with no Answer to the Complaint having been filed by defendants, and an Affidavit of Default having been filed with this Court, IT IS THE ORDER AND DECREE of this Court pursuant to Pa.R.C.P. 1066 that a judgment by default be entered against defendants, directing as follows:

THAT defendants named herein, their heirs and assigns, and any person or entity claiming under said defendants, are permanently enjoined and restrained from asserting any lien, title, claim or interest in or to the following real property of plaintiff, or any part thereof, with such description set forth hereinbelow containing and incorporating into the description the property which is the subject of the within quiet title action:

ALL that undivided one-half interest in and to 48 acres situate in Boggs Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a White Oak corner, thence north two degrees east one hundred seventy-three perches to stones; and thence north eighty-eight degrees west one hundred ninety-two perches to a post; thence south two degrees west one hundred seventy-three perches to stones; thence south eighty-eight degrees east one hundred ninety-two perches to the place of beginning; this parcel thus described containing two hundred seven acres and ninety-six perches, and to the grantor is herein conveyed what exists of that parcel less the following conveyances made previously:

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A search of the records of Clearfield County now indicating this subject conveyed property to be titled one-half to the estate of Ardell Knepp, and one-half to Hester Smith, of Clearfield, Pennsylvania.

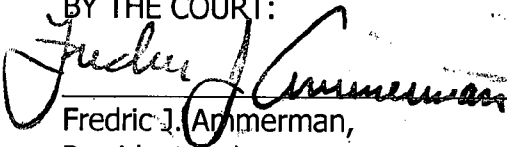
BEING the same undivided one-half interest granted and conveyed unto Hester Smith by Treasurer's Deed dated August 7, 1972, and recorded at Clearfield County Deed Book Volume 723, page 384, and representing one-half interest in the property remaining from the original tract as therein described, consisting of 48 acres surface and mineral rights.

The relief requested in the Complaint filed herein shall be granted to plaintiff unless defendants file a written Answer to the Complaint within thirty days of the date of this Order, setting forth their defenses to the Complaint, pursuant to Pa.R.C.P. 1066(b)(1).

IT IS THE FURTHER ORDER AND DECREE of this Court that if no such action is taken by defendants within the thirty day time period specified herein, the Prothonotary, upon Praecipe of the plaintiff, shall enter final judgment awarding the relief requested in

the Complaint to plaintiff.

BY THE COURT:


Fredric J. Ammerman,
President Judge

FILED
JUN 17 2008
William A. Shaw
Prothonotary/Clerk of Courts

DATE: 06-17-08

☒ 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:

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

HESTER SMITH,
Plaintiff

-VS-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

Docket No. 08-*692* -CD
ACTION TO QUIET TITLE

Type of pleading:
COMPLAINT

Filed on behalf of:
PLAINTIFF, Hester Smith

Counsel of record for
this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED *SCC*
012:51 PM
APR 15 2009
Wm A. Shaw
William A. Shaw
Prothonotary/Clerk of Courts
105.00

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

HESTER SMITH,
Plaintiff

-vs-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER,
his Widow, their Heirs and Assigns,
Defendants

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Docket No. 08- -CD
ACTION TO QUIET TITLE

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 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 within twenty (20) days. 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 relief claimed in the complaint by the plaintiff.

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.

Court Administrator
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 5982

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

HESTER SMITH,
Plaintiff

-VS-

JAMES B. BEATTY, his Heirs
and Assigns; MARGARET HARPER,
Trustee, her Heirs and Assigns;
FRANCIS RALSTON, his Heirs and
Assigns; RALPH J. CORIO, his
Heirs and Assigns; and ALLEN G.
BUTLER AND MARTHA M. BUTLER
his Widow, their Heirs and Assigns,
Defendants

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Docket No. 08- -CD
ACTION TO QUIET TITLE

COMPLAINT

COMES NOW, Plaintiff Hester Smith, by and through her attorney, Dwight L. Koerber, Jr., Esquire, and files the within Complaint.

1. Plaintiff is Hester Smith, a widow, of 1014 Coal Hill Road, Clearfield, PA 16830.
2. Defendant James B. Beatty, his Heirs and Assigns, are unknown by name, and their whereabouts are unknown. Defendant James B. Beatty died on December 17, 1947, as shown in Clearfield County Estate File No. 19463.
3. Defendant Margaret Harper, Trustee, her Heirs and Assigns, are unknown by name, and their whereabouts are unknown. It is believed that Defendant Margaret Harper, Trustee, is deceased.

4. Defendant Francis Ralston, his Heirs and Assigns, are unknown by name, and their whereabouts are unknown. It is believed that Defendant Francis Ralston is deceased.

5. Defendant Ralph J. Corio, his Heirs and Assigns, are unknown by name, and their whereabouts are unknown. It is believed that Defendant Ralph J. Corio is deceased.

6. Defendant Allen G. Butler died on May 1, 1979, as evidenced by Clearfield County Estate No. 79-198. His widow and sole beneficiary, Martha M. Butler, resides at Schoonover Road, P. O. Box 823, Morrisdale, PA 16858.

COUNT I
OWNERSHIP INTEREST OF PLAINTIFF

7. On August 7, 1972, plaintiff purchased a parcel of property located in Boggs Township, Clearfield County, Pennsylvania, through a Treasurer's Deed, recorded at Clearfield County Deed Book Volume 723, page 384, purportedly consisting of 48 acres, and being sold as the property of Allen G. Butler. Attached hereto as Appendix A is a true and correct copy of that deed.

8. Plaintiff's deed, attached hereto as Appendix A, mistakenly lists her interest as 48 acres coal rights.

9. In actuality, the property which plaintiff purchased, and which plaintiff owns, is an undivided one-half interest in 48 acres in fee, as shown in this Complaint.

10. The property which plaintiff purchased is located at Assessment Map No. 105-N10-00051. Attached hereto as Appendix B is a true and correct copy of the assessment card pertaining to the property, listing plaintiff's interest as 50% interest in 48 acres surface and minerals.

11. Set forth below is the chain of title to the property, showing each cloud on title to which this quiet title action applies:

(a) The original tract, consisting of 207 acres and 96 perches, situate in Boggs Township, Clearfield County, Pennsylvania, was the property of L. M. Lumadue. L. M. Lumadue made various adverse conveyances, with the matter of the 48 acres conveyance pertaining to the property which is the subject of this action.

(b) On March 31, 1914, L. M. Lumadue sold his interest to his two sons, E. J. Lumadue and M. H. Lumadue, specifically without exceptions and reservations, as recorded at Clearfield County Deed Book Volume 205, page 52.

(c) Germane to this proceeding is the one-half interest of M. H. Lumadue. However, the second one-half interest of E. J. Lumadue pertains as follows: On July 22, 1920, E. J. Lumadue sold his one-half interest in the property to Matilda Catherman. From that date forward, the Clearfield County Assessment Office began to list the one-half interest of M. H. Lumadue in the 48 acres as being "48 acres coal rights", rather than the correct one-half interest in 48 acres in fee.

(d) In 1931, the interest of M. H. Lumadue was sold to the county, and in 1936 James B. Beatty, defendant herein, acquired the interest at a Clearfield County Commissioners' sale, through an unrecorded deed. In 1940, the interest was again sold to the county. Attached hereto as Appendix C is a true and correct copy of the tax sale records showing a one-half interest in 48 acres being sold as the property of James B. Beatty.

(e) In 1940, Margaret Harper, Trustee, defendant herein, acquired the interest at a Commissioners' sale. On March 1, 1946, the property was sold to Clearfield County for unpaid taxes assessed in the name of Defendant Margaret Harper, Trustee. Attached hereto as Appendix D is a true and correct copy of the deed, recorded at Clearfield County Deed Book Volume 535, page 561. It is unknown why Defendant Margaret Harper is listed as "Trustee", nor to what that title pertains.

(f) Defendants Francis Ralston and Ralph Corio purchased the interest through sale by the Clearfield County Commissioners, deed dated August 10, 1950, recorded at Clearfield County Deed Book Volume 535, page 563. Attached hereto as Appendix E is a true and correct copy of that deed, listing the property as 48 acres coal rights.

(g) Defendant Allen G. Butler purchased the interest through two separate deeds, as follows:

(i) By deed of Francis Ralston and Millie Ralston, dated June 26, 1965, recorded at Clearfield County Deed Book Volume 535, page 564. Attached hereto as Appendix F is a true and correct copy of that deed, listing the property as 48 acres coal rights.

(ii) By deed of Carmela Corio, widow of Ralph J. Corio, dated July 8, 1958, recorded at Clearfield County Deed Book Volume 469, page 473. Attached hereto as Appendix G is a true and correct copy of that deed, listing the property as 48 acres coal rights.

(h) In 1972, the interest then was purchased by plaintiff herein, as explained in paragraphs 7-9 above.

12. Throughout the chain of title to the interest in the property, no deed description was given of plaintiff's property. However, as it pertains to the second one-half interest in the property, the following was set forth in the deed to Ardell Knepp, as recorded at Clearfield County Deed Book Volume 979, page 448:

"All or part of a certain piece or partial (sic) of land situate in Boggs Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a White Oak corner, thence north two degrees east one hundred seventy-three perches to stones; and thence north eighty-eight degrees west one hundred ninety-two perches to a post; thence south two degrees west one hundred seventy-three perches to stones; thence south eighty-eight degrees east one hundred ninety-two perches to the place of beginning; this parcel thus described containing two hundred seven acres and ninety-six perches, and to the grantor is herein conveyed what exists of that parcel less the following conveyances made previously:

One hundred acres conveyed to Newton J. Shimmel and Frances Shimme; fifty acres conveyed to Frances Shimmel by deed recorded in Clearfield County in Deed Book 26 at page 179; fifty acres conveyed to Uriah Bumbarger.

A search of the records of Clearfield County now indicating this subject conveyed property to be titled one-half to the estate of John Scollins, the grantor herein, and one-half to Hester Smith, of Clearfield, Pennsylvania.

This being a part of the parcel conveyed by E. J. Lumadue to Matilda Catherman by deed of July 22, 1920, and recorded in Clearfield County in Deed Book 243 at page 279 and representing one-half interest in the property remaining from the original tract as therein described."

13. Ardell Knepp died in 1995, and this property is not listed on the Inheritance Tax Return filed for that estate. It is presumed, therefore, that the second one-half interest remains titled in the name of the Estate of Ardell Knepp.

14. It is plaintiff's position that she is the owner of an undivided one-half interest in 48 acres in fee, and she seeks to remove the following clouds on title:

(a) The mistaken entry made by the Clearfield County Assessment Office in 1920, where the description was changed from one-half interest in 48 acres in fee to "48 acres coal rights".

(b) The numerous sales made to the county for unpaid taxes.

(c) The unrecorded deeds, which were shown on the sales to the county.

15. It is plaintiff's position that she holds good and marketable title to the property after it is divested of the clouds on title set forth hereinabove.

WHEREFORE, plaintiff prays your Honorable Court to grant the following relief:

(a) That the Court declare that the mistake made at the Clearfield County Assessment Office in 1920 be corrected to show plaintiff's ownership as an undivided one-half interest in 48 acres in fee.

(b) That the Court declare that the sales by the county, consisting of Commissioner's sales and Treasurer's sales, properly divested any ownership interest of the defendants, their heirs and assigns, in the subject property of plaintiff, vesting good and marketable title in and to plaintiff's undivided one-half interest in 48 acres in fee.

(c) That Defendants James B. Beatty, his Heirs and Assigns; Margaret Harper, Trustee, her Heirs and Assigns; Francis Ralston, his Heirs and Assigns; Ralph J. Corio, his Heirs and Assigns, and Allen G. Butler and Martha M. Butler, his Widow, their Heirs and Assigns, be barred forever from asserting any right, title, lien or interest in plaintiff's land, inconsistent with the ownership of plaintiff, unless defendants, or their heirs or assigns, bring an action of ejectment against plaintiff for recovery of the land within thirty (30) days after the entry of a judgment of the court.

COUNT II ADVERSE POSSESSION

Paragraphs 1 through 15 are incorporated herewith as though set forth in full.

16. Plaintiff is in possession of the property to which this quiet title action pertains, involving the subject one-half interest, with the legal description as set forth in paragraph 12 above.

17. From the time that she purchased her interest in the property in 1972, plaintiff was advised by legal counsel that she had acquired one-half interest in the subject 48 acres, and based upon that legal advice, plaintiff has continued to pay taxes on the real estate and has taken possession of her one-half interest through color of right.

18. Plaintiff's adverse possession under color of right has existed continuously and

openly, in a continuous exclusive-to-the-one-half, visible, notorious, distinct and hostile manner for a period of 21 years and in excess thereof.

19. Plaintiff has spent time at the property, has visited it with her children, has received and responded to phone calls from persons who have had an interest in the property, and who have recognized her ownership of an undivided interest in one-half of the 48 acres in fee, and has issued permission for other persons to go onto the property.

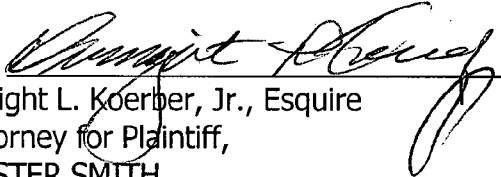
WHEREFORE, plaintiff prays your Honorable Court to grant the following relief:

(a) That the Court declare that the mistake made at the Clearfield County Assessment Office in 1920 be corrected to show plaintiff's ownership as an undivided one-half interest in 48 acres in fee; or, in the alternative, that plaintiff has established her ownership interest in an undivided one-half interest in the 48 acres in fee by virtue of adverse possession and color of right.

(b) That the Court declare that the sales by the county, consisting of Commissioner's sales and Treasurer's sales, properly divested any ownership interest of the defendants, their heirs and assigns, in the subject property of plaintiff, vesting good and marketable title in and to plaintiff's undivided one-half interest in 48 acres in fee.

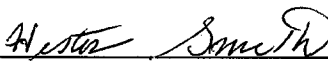
(c) That Defendants James B. Beatty, his Heirs and Assigns; Margaret Harper, Trustee, her Heirs and Assigns; Francis Ralston, his Heirs and Assigns; Ralph J. Corio, his Heirs and Assigns, and Allen G. Butler and Martha M. Butler, his Widow, their Heirs and Assigns, be barred forever from asserting any right, title, lien or interest in plaintiff's land, inconsistent with the ownership of plaintiff, unless defendants, or their heirs or assigns, bring an action of ejectment against plaintiff for recovery of the land within thirty (30) days after the entry of a judgment of the court.

Respectfully submitted,

By: 
Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff,
HESTER SMITH

VERIFICATION

I verify that the facts set forth in this document are true and correct. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.



Hester Smith
DATE: 4-12-08

APPENDIX A

Attached hereto is a copy of the deed issued to plaintiff on August 7, 1972.

Treasurer's Deed

To All to Whom These Presents Shall Come:

I, ELIZABETH CASKEY, Treasurer of the County of Clearfield, Pennsylvania, send Greetings:

Whereas, The Tax Collector of Boggs Township has made return to the County Commissioners of the County of Clearfield, Pennsylvania, of unpaid taxes for the year 19 70 on a certain piece of seated land, or property listed in such return as consisting of 48 A. Coal Rt. situate in the Township of Boggs purporting to be owned and assessed in the name of Butler, Allen G.

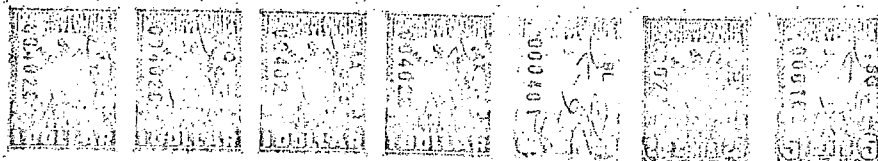
And Whereas, the said owner or owners have neglected or refused to pay said taxes, with which said property was rated, charged and assessed according to the laws of this commonwealth with the payment of said taxes for the year 19 70, and amounting in all to the sum of Twenty-one----- dollars and eighty-four----- cents for all taxes, interest and penalties legally due, unpaid, and returned for the year above mentioned.

And Whereas, in pursuance of the several Acts of Assembly in such case made and provided, I have given due legal notice to the public and to the owner or purported owner of the time, place, purpose and terms of sale of said seated land and property, the taxes for which as aforesaid were returned, and no person having paid said taxes, interest and penalties so rated, charged and assessed upon said tract of land and property and the costs accrued thereon,

And Whereas, the taxes, penalties, interest and costs remaining unpaid, I, ELIZABETH CASKEY, Treasurer of the County of Clearfield, aforesaid held the sale of said tract of land, among others, at the Court House in the Borough of Clearfield, County of Clearfield and State of Pennsylvania, by public vendue and outcry, and on the Seventh day of August, 19 72, sold the whole of said tract of land and property to Hester Smith

hereinafter called "Purchaser," the highest and best bidder, for the sum of Twenty-one----- dollars and eighty-four----- cents, the highest and best price bid for the same,

And Whereas, I have made a report of said sale and return to the Court of Common Pleas of Clearfield County, Pennsylvania, on the Twenty-eighth day of August, 19 72, (being the first Term of Court of Common Pleas of Clearfield County next succeeding said sale) which said report and return has been confirmed absolutely.



Now Know Ye,

That I, ELIZABETH CASKEY, Treasurer of the County of Clearfield, aforesaid, for and in consideration of the sum of Twenty-one dollars and eighty-four

 cents, lawful money of the United States, (being the amount of said taxes, penalties, interest and costs) to me in hand paid by the said Purchaser at the time of sale, (and of the subsequent delivery to me of a bond for the surplus money, if any) the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain and sell unto the said Purchaser, his heirs and assigns, all the aforementioned tract of land situate in the Township of Boggs

County of Clearfield, Pennsylvania, listed in the return as consisting of 48 A. Coal Rt.

and described or identified therein as follows: 105-

← This is a Township Number.

AFFIDAVIT NO. 5633

TOGETHER with all and singular the ways, water courses, rights, liberties, hereditaments and appurtenances, whatsoever thereunto belonging or in any wise appertaining.

TO HAVE and to hold the said premises hereby granted to the said Purchaser, his heirs, and assigns, to the only proper use and behoof of the said Purchaser, his heirs, and assigns forever, according to the form, force and effect of the Several Acts of the General Assembly of the Commonwealth of Pennsylvania relating to the sales of seated lands for the payment of taxes, and subject to the redemption allowed by law.

IN WITNESS WHEREOF, I the said ELIZABETH CASKEY, Treasurer of the County of Clearfield, Commonwealth of Pennsylvania, have hereunto set my hand and seal the Fourth day of December, 19 72

Sealed and delivered in the presence of

Elmer Ludwig

Elizabeth Caskey (SEAL)
TREASURER

STATE OF PENNSYLVANIA }
COUNTY OF CLEARFIELD } SS:

At a Court of Common Pleas held at Clearfield, Pa., on the Seventh day of August in the year of our Lord, one thousand nine

hundred and Seventy-Two before the Judge of the said Court, ELIZABETH CASKEY, Treasurer of the County of Clearfield, Pennsylvania, appeared in her proper person in open Court and acknowledged the foregoing deed-poll to be her act and deed, pursuant to the several Acts of Assembly, in such case made and provided.

Recorded in Docket No. 203, page 203

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said Court the day and year aforesaid.

Archie Hill
PROTHONOTARY

Entered of Record Aug 6 1876 11:37 *Clearfield* Recorder

APPENDIX B

Attached hereto is a copy of the assessment card for the property of plaintiff.

OF F 000 089 1007

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| ADDITIONS | FRONTINGS | COMPO LEVEL | COMPO TYPE |
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II. D. BARCEI

FOR BLDG INFO
SEE DETAILED CARD

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CLEARFIELD COUNTY, PA

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| SALES DATA | |

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| VALUES | OLD | APPRAISAL | CURRENT ASSESSMENT | NEW VALUE |
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| 1350 | 5400 | | SFLA | |

BLDG

CLEARFIELD COUNTY, PA

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| ADDITIONALS | | | ENTRANCE CODE | PARTIAL |
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| ID | LAST | FIRST | | |
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| 6 | 7 | 8 | 9 | 0 |

[illegible]

| CLEARFIELD COUNTY, PA | |
|-----------------------|--|
| TOTAL | |
| SALES DATA | |

| VALUES | OLD | APPRAISAL | CURRENT ASSESSMENT | REVALUATION |
|--------|------|-----------|--------------------|-------------|
| LAND | 1350 | 5400 | | SFLA |
| BLDG | 0 | 0 | | |

APPENDIX C

Attached hereto is a copy of the tax sale record showing ownership of Defendant James B. Beatty.

Bellevue Carl & Edward Chaplin
100a front prop 1/4 x 1/4 lot
25a cont. 1/4 x 1/4 lot
50a 1/4 x 1/4 lot
Sold to County 1940 Do not Assess

Page Total 000020 844 120 413 198 182

22 1940

| PROPERTY TAXES CLASS | NAME | VALUATION | COUNTY TAX | | | | TOTAL |
|-------------------------|---|-----------|----------------|----------------------|---------------------|-------|-------|
| | | | REAL ESTATE | PERSONAL PROPERTY | ROAD IMPROVEMENT | OTHER | |
| | <i>Bond Road & Wife</i> <i>edg</i> <i>1/4 x 1/4 x 1/4 prop 1/4 x 1/4 lot</i> <i>4x5a</i> <i>Sold to County 1940 Do not Assess</i> | | | | | | |
| | <i>Betty Mary B</i> <i>edg</i> <i>50a front prop 1/4 x 1/4 lot</i> <i>50a 1/4 x 1/4 lot</i> <i>Sold to County 1940 Do not Assess</i> | | | | | | |
| | <i>Betty James B</i> <i>Holly</i> <i>70' ac prop 1/4 x 1/4 lot</i> <i>50a front prop 1/4 x 1/4 lot</i> <i>45a 1/4 x 1/4 lot</i> <i>Sold to County 1940 Do not Assess</i> | 200 | | | | | |

Page Total 000021 454 330 157

0000

| PROPERTY TAXES CLASS | NAME | VALUATION | COUNTY TAX | | | | TOTAL |
|-------------------------|---|-----------|----------------|----------------------|---------------------|-------|-------|
| | | | REAL ESTATE | PERSONAL PROPERTY | ROAD IMPROVEMENT | OTHER | |
| | <i>Beck C J</i> <i>Frank W. B</i> <i>6x108a 1/4 x 1/4 lot</i> | 500 | | | | | |

Page Total 000022 825 375

APPENDIX D

Attached hereto is a copy of the deed showing ownership interest of Margaret Harper, Trustee.

Deed

On All to Whom These Presents Shall Come

I, **ROBERT W. KERR**, Treasurer of the County of Clearfield, Pennsylvania, send Greetings

Whereas the Tax Collector of **Hoggs Township**

has made return to the County Commissioners of the County of Clearfield, Pennsylvania of unpaid taxes for the years 1943

on a certain piece of leased land, consisting of **43 A CHAIR**

situate in the Township of **Hoggs** purporting to be owned and assessed in the name of **Harriet A. Rogers, et al**

And Whereas the said owner or owners have neglected or refused to pay said taxes, which said property was rated, charged and assessed according to the laws of this Commonwealth with the payment of said taxes for the year 1943

and amounting in all to the sum of **9** dollars and **00** cents for said taxes, interest and penalties due, unpaid, and returned for the year above mentioned

And Whereas the said Treasurer, in pursuance of the several Acts of Assembly in such cases made and provided, having given due legal notice of the time and place of sale of said leased land and property, the taxes for which as aforesaid were returned, and no person having paid said taxes, interest and penalties so rated, charged and assessed upon said tract of land and property and the costs accrued thereon

And Whereas the taxes, penalties, interest and costs remaining unpaid, **ROBERT W. KERR**, Treasurer of the County of Clearfield, aforesaid, commenced the sale of said tract of land and property at the Court House in the Borough of Clearfield, County of Clearfield and State of Pennsylvania, by public vendue and outcry, and on the **12th** day of **November** last past, an amount sufficient to pay said taxes, interest, penalties and costs not being bidden, the said property was purchased by the County Commissioners of the County of Clearfield, aforesaid

And Whereas the said Treasurer having made report of said sale and return to the Court of Common Pleas of Clearfield County, Pennsylvania, on **December 24th** last (being the first Term of Court of Common Pleas of Clearfield County next succeeding said sale) which said report and return has been confirmed absolutely

Now known as

That I, POSTER W. KERR, Treasurer of the County of Clearfield, aforesaid, for and in consideration of the sum of 100 dollars and 91 cents, being the amount of said taxes, interest, penalties and costs, have granted, bargained and sold and by these presents do grant, bargain and sell unto the said County Commissioners of the County of Clearfield, Pennsylvania, their successors and assigns, all the aforementioned tract of land situate in the Township of Boggs County of Clearfield, Pennsylvania, described as follows: 48 A Coal Rt.

According to the form, force and effect of the several Acts of General Assembly of the Commonwealth of Pennsylvania relating to the sales of seated lands for the payment of taxes, and subject to the redemption allowed by law.

IN WITNESS WHEREOF, I, the said POSTER W. KERR, Treasurer of the County of Clearfield, Commonwealth of Pennsylvania, have hereunto set my hand and seal the 10 day of March 1914.

Witness my hand and seal in the presence of

STATE OF PENNSYLVANIA
COUNTY OF CLEARFIELD

At a Court of Common Pleas held at Clearfield, Pa., on the 10 day of March in the year of our Lord one thousand nine hundred and 14 before the Judge of the said Court, POSTER W. KERR, Treasurer of the County of Clearfield, Pennsylvania, appeared in his proper person, in open Court and acknowledged the foregoing deed poll to be his act and deed, pursuant to the several Acts of Assembly, in such case made and provided. Recorded in Docket No. 100 page 1.

I, Matthew C. McFarland, I have hereunto set my hand and seal of said Court the day and year aforesaid.

Matthew C. McFarland
PROTHONOTARY

John H. McFarland
Recorder

Filed for record March 10, 1914 at Clearfield Pa.

APPENDIX E

Attached hereto is a copy of the deed to Defendants Ralston and Corio.

Entered of Record *Mar 23 1964* *7:45 PM* Louise Mahaffey, Recorder

APPENDIX F

Attached hereto is a copy of the first deed to Defendant Allen G. Butler.

This Indenture

WITNESSETH the _____ 8th _____ day of _____ July _____ in the year of
our Lord, one thousand nine hundred and _____ fifty-eight.

BETWEEN CARMELA CORIO, a Widow, of Rush Township, Centre County, Pennsylvania, Individually and as Executrix of the Last Will and Testament of Ralph J. Corio, Late of Rush Township, Centre County, Pennsylvania, Grantor and Party of the First Part,

AND

ALLEN BUTLER of Lanes, Clearfield County, Pennsylvania, Grantee and Party of the Second Part.

WITNESSETH, That the said party _____ of the first part, for and in consideration of the sum of FIFTY (\$50.00) Dollars,
lawful money of the United States of America, unto her _____ in hand paid by the said party _____ of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, he th _____ remised, released, and quit-claimed, and by these presents do th _____ remise, release, and quit-claim unto the said party _____ of the second part, and to his heirs _____ and assigns, forever.

THAT The undivided one-half interest in certain coal rights in land situated in the Township of Boggs, County of Clearfield, Pennsylvania, described as follows:

CONSISTING of forty-eight (48) acres of coal rights owned and assessed in the name of Margaret Harper, Trustee, which Foster W. Kerr, Treasurer of Clearfield County, Pennsylvania, by Treasurer's Deed dated March 1, 1946, sold and conveyed to the County Commissioners for unpaid taxes for the year 1943. The said County Commissioners, J. O. Kessler, Archie Hill and J. J. Sharkey, by deed dated August 10, 1950, did sell and convey said coal rights to Francis Halsten and Ralph J. Corio. Treasurer's Deed and County Commissioners Deed are not as yet of record, but intended so to be.

463 474

Together with all and singular the tenements, hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the revenues, remainder, rents, issues and profits thereof; and also all the estate, right, title, interest, property, claim and demand whatsoever, as well in law, as in equity, of the said part of the first part, of, in or to the above described premises, and every part and parcel thereof, with the appurtenances. To Have and to Hold all and singular the above mentioned and described premises, together with the appurtenances, unto the said part of the second part his heirs and assigns, forever.

In Witness Whereof, the said part of the first part has hereunto set her hand and seal the day and year first above written.

Sealed and Delivered in the Presence of

John B. Fitzgerald Jr.

Carmela Corio
Individually and as Executrix
of the Last Will and Testament
of Ralph J. Corio

SEAL

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Commonwealth of Pennsylvania, } ss.
County of CENTRE

On this 7th day of July

A. D. 19 58, before me, a Notary Public
in and for the above named State
and County

came the above named Carmela Corio,
individually, and as Executrix
of the Last Will and Testament
of Ralph J. Corio

acknowledged the foregoing instrument to be her
act and deed, and desired the same to be recorded as such.
Witness my hand and notarial seal,
the day and year aforesaid.

John J. McCamley
JOHN J. McCAMLEY, Notary Public
My Commission Expires FEBRUARY 28, 1961

State of
County of

On this day of

A. D. 19 , before me,

came the above named

and acknowledged the foregoing instrument to be
act and deed, and desired the same to be recorded as such.
Witness my hand and seal,
the day and year aforesaid.

My Commission Expires 19

Certificate of Residence.

I, Nevin B. Gilpatrick, Esq. Do hereby certify that Grantee's
present residence is Lantz, Clearfield County, Pennsylvania

Witness my hand this 8th day of July 19 58
John B. Fitzgerald Jr.

Entered of Record SEP 11 1958 9:36 AM Dick Reed, Recorder

APPENDIX G

Attached hereto is a copy of the second deed to Defendant Allen G. Butler.

This Indenture

Made the 7th day of _____ in the year of
our Lord, one thousand nine hundred and sixty-five.

Between FRANCIS RALSTON and MILLIE RALSTON, his wife, of Decatur
Township, Clearfield County, Pennsylvania, Grantors and Parties of
the First Part,

A N D

ALLEN BUTLER OF THE Village of Lanse, Cooper Township, Clearfield
County, Pennsylvania, Grantee and Party of the Second Part,

Witnesseth, That the said parties — of the first part, for and in consideration of the sum of
FIFTY (\$50.00) Dollars,
lawful money of the United States of America, unto them — in hand paid by the said party
of the second part, at or before the sealing and delivery of these presents, the receipt whereof
they acknowledge, have remised, released, and quit-claimed, and by these
presents do remise, release, and quit-claim unto the said party — of the second part; and to
his heirs — and assigns, forever.

All the undivided one-half interest in certain coal rights in land
situated in the Township of Boggs, County of Clearfield, Pennsylvania,
described as follows:

CONSISTING of forty-eight (48) acres of coal
rights owned and assessed in the name of
Margaret Harper, Trustee, which Foster W.
Kerr, Treasurer of Clearfield County, Pennsyl-
vania, by Treasurer's Deed dated March 1, 1946,
sold and conveyed to the County Commissioners
for unpaid taxes for the year 1943. The said
County Commissioners, J. M. Kessler, Archie
Hill and J. J. Sharkey, by deed dated August
20, 1950, did sell and convey said coal rights
to Francis Ralston and Ralph J. Corio, Treasurer's
Deed and County Commissioners Deed are not as yet
of record, but intended so to be.

Together with all and singular the tenements, hereditaments and appurtenances thereto belong-
ing, or in anywise appertaining, and the reversion, remainders, rents, issues and profits thereof;
and also all the estate, right, title, interest, property, claim and demand whatsoever, as well in law,
as in equity, of the said part 1st of the first part, of, in or to the above described premises, and every
part and parcel thereof, with the appurtenances. To Have and to Hold all and singular the above
mentioned and described premises, together with the appurtenances, unto the said party
of the second part, his heirs _____ and assigns, forever.

In Witness Whereof, the said parties -- of the first part have -- hereunto set their
hands -- and seals the day and year first above written.

Sealed and Delivered in the Presence of

Francis Ralston

Millie Ralston



Commonwealth of Pennsylvania,
County of _____

_____, before me, a Notary Public
in and for the above-named State
and County,
have the above named _____ Francis Ralston
and _____ Millie Ralston his wife.

and acknowledged the foregoing instrument to be their
act and deed, and desired the same to be recorded as such.

Witness my hand and _____ Notary Public _____ seal,
the day and year aforesaid.

My Commission Expires _____

State of _____
County of _____

on this _____ day of _____
A. D. 19 _____, before me,

have the above named _____

and acknowledged the foregoing instrument to be
act and deed, and desired the same to be recorded as such.

Witness my hand and _____ seal,
the day and year aforesaid.

My Commission Expires _____

Certificate of Residence.

I, _____ John J. McCawley, Esq. _____ Do hereby certify that _____ Grantee's
present residence is _____ Large, Clearfield County, Pennsylvania.

Witness my hand this _____ day of _____ 1965

Entered of Record _____ 1965, _____ Louise Mahaffey, Recorder

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104052
NO: 08-692-CD
SERVICE # 1 OF 1
COMPLAINT ACTION TO QUIET TITLE

PLAINTIFF: HESTER SMITH

vs.

DEFENDANT: JAMES B. BEATTY his heirs and assigns al

SHERIFF RETURN

NOW, May 13, 2008 AT 9:06 AM SERVED THE WITHIN COMPLAINT ACTION TO QUIET TITLE ON MRS. MARTHA M. BUTLER DEFENDANT AT DAUGHTER'S BEAUTY SHOP, 823 SPORTSMEN RD, MORRISDALE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO SUE TRUDE, DAUGHTER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT ACTION TO QUIET TITLE AND MADE KNOWN THE CONTENTS THEREOF.

MRS. MARTHA M. BUTLER, DEFENDANT IS 90 YRS. OLD AND DOESN'T UNDERSTAND.

SERVED BY: HUNTER /

| PURPOSE | VENDOR | CHECK # | AMOUNT |
|-----------------|---------|---------|--------|
| SURCHARGE | KOERBER | 3461 | 10.00 |
| SHERIFF HAWKINS | KOERBER | 3461 | 57.80 |

FILED
013:30LM
JUL 28 2008

William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

_____ Day of _____ 2008

So Answers,

Chester A. Hawkins
by *Marilyn Hannon*
Chester A. Hawkins
Sheriff