



## COMMONWEALTH OF PENNSYLVANIA

## COURT OF COMMON PLEAS

Judicial District, County Of Clearfield

46<sup>th</sup>

## NOTICE OF APPEAL

FROM


MAGISTERIAL DISTRICT JUDGE JUDGMENT

COMMON PLEAS No.

08-804-CD

## NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the Magisterial District Judge on the date and in the case referenced below.

NAME OF APPELLANT <b>Moshannon Valley Family Dentistry</b>		MAG. DIST. NO. <b>46-3-04</b>	NAME OF MDJ <b>James L. Hawkins</b>	
ADDRESS OF APPELLANT <b>439 Spring Street</b>		CITY <b>Houtzdale</b>	STATE <b>PA</b>	ZIP CODE <b>16651</b>
DATE OF JUDGMENT <b>4/14/08</b>	IN THE CASE OF (Plaintiff) <b>Holly J. Boumerhi v. Moshannon Valley Family Dentistry</b> (Defendant)			
DOCKET No. <b>LT-0000017-08</b>		SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT 		

This block will be signed ONLY when this notation is required under Pa. R.C.P.D. J. No. 1008B.

This Notice of Appeal, when received by the Magisterial District Judge, will operate as a SUPERSEDEAS to the judgment for possession in this case.

If appellant was Claimant (see Pa. R.C.P.D. J. No. 1001(6) in action

before a Magisterial District Judge, A COMPLAINT MUST BE FILED within twenty

(20) days after filing the NOTICE of APPEAL.

Signature of Prothonotary or Deputy

**FILED** *Atty. pd. 95.00*  
*m/2:57 PM 1 copy to*  
**APR 30 2008** *Atty. Boumerhi*

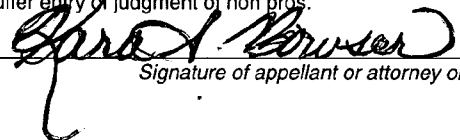
## PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

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 Holly J. Boumerhi appellee(s), to file a complaint in this appeal  
*Name of appellee(s)*

(Common Pleas No. \_\_\_\_\_) 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 Holly J. Boumerhi 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 April 30, 2008

  
Signature of Prothonotary or Deputy

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

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## 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

## COURT OF COMMON PLEAS

Judicial District, County Of Clearfield

46<sup>th</sup>

## NOTICE OF APPEAL

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MAGISTERIAL DISTRICT JUDGE JUDGMENT

COMMON PLEAS No.

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NAME OF APPELLANT <b>Moshannon Valley Family Dentistry</b>		MAG. DIST. NO. <b>46-3-04</b>	NAME OF MDJ <b>James L. Hawkins</b>	
ADDRESS OF APPELLANT <b>439 Spring Street</b>		CITY <b>Houtzdale</b>	STATE <b>PA</b>	ZIP CODE <b>16651</b>
DATE OF JUDGMENT <b>4/14/08</b>	IN THE CASE OF (Plaintiff) <b>Holly J. Boumerhi v. Moshannon Valley Family Dentistry</b> (Defendant)			
DOCKET No. <b>LT-0000017-08</b>	SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT 			
This block will be signed ONLY when this notation is required under Pa. R.C.P.D. J. No. 1008B. This Notice of Appeal, when received by the Magisterial District Judge, will operate as a SUPERSEDEAS to the judgment for possession in this case.		If appellant was Claimant (see Pa. R.C.P.D. J. No. 1001(6) in action before a Magisterial District Judge, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.		
_____ Signature of Prothonotary or Deputy		<div style="text-align: right;"> <b>FILED</b> <i>Atty. pd. 95.00</i>  <i>m/2:57 PM 1 copy to</i>  <b>APR 30 2008</b> <i>Atty Boumerhi</i>  <i>PHF</i>  <i>William A. Shaw</i>  <i>Prothonotary/Clerk of Courts</i>  <i>MST Hawkins</i> </div>		

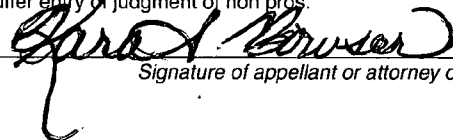
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This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.D.J. No. 1001(7) in action before Magisterial District Judge. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

Enter rule upon Holly J. Boumerhi appellee(s), to file a complaint in this appeal  
Name of appellee(s)

(Common Pleas No. \_\_\_\_\_) 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 Holly J. Boumerhi appellee(s)  
Name of appellee(s)

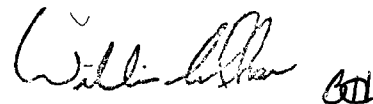
OWNER

(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 April 30, 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.: **46-3-04**  
MDJ Name: Hon. **JAMES L. HAWKINS**  
Address: **251 SPRING ST  
PO BOX 362  
HOUTZDALE, PA**  
Telephone: **(814) 378-7160** **16651-0362**

ATTORNEY DEF PRIVATE :

**KATHLEEN V. YURCHAK**  
**328 S ATHERTON**  
**GOODALL & YURCHAK PC**  
**STATE COLLEGE, PA 16801**

NOTICE OF JUDGMENT/TRANSCRIPT  
RESIDENTIAL LEASE

PLAINTIFF: **BOUMERHI, HOLLY J**  
NAME and ADDRESS  
**220 OAKWOOD DR  
PHILIPSBURG, PA 16866**

VS.  
DEFENDANT: **MOSHANNON VALLEY FAMILY DENTISTRY**  
NAME and ADDRESS  
**439 SPRING ST  
HOUTZDALE, PA 16651**

Docket No.: **LT-0000017-08**  
Date Filed: **2/20/08**



THIS IS TO NOTIFY YOU THAT:

Judgment:

- ☒ Judgment was entered for: (Name) **FOR PLAINTIFF BOUMERHI, HOLLY J**  
☒ Judgment was entered against **MOSHANNON VALLEY FAMILY DENTISTRY** in a  
Landlord/Tenant action in the amount of \$ **8,154.64** on **4/14/08** (Date of Judgment)  
The amount of rent per month, as established by the Magisterial District Judge, is \$ **6,000.00**  
The total amount of the Security Deposit is \$ **.00**

	Total Amount Established by MDJ	Less Security Deposit Applied	=	Adjudicated Amount
Rent in Arrears	\$ <b>8,000.00</b>	\$ <b>.00</b>	=	\$ <b>8,000.00</b>
Physical Damages Leasehold Property	\$ <b>.00</b>	\$ <b>.00</b>	=	\$ <b>.00</b>
Damages/Unjust Detention	\$ <b>.00</b>	\$ <b>.00</b>	=	\$ <b>.00</b>
Less Amt Due Defendant from Cross Complaint				\$ <b>.00</b>
Interest (if provided by lease)				\$ <b>.00</b>
L/T Judgment Amount				\$ <b>8,000.00</b>
Judgment Costs				\$ <b>154.64</b>
Attorney Fees				\$ <b>.00</b>
Total Judgment				\$ <b>8,154.64</b>
Post Judgment Credits				\$
Post Judgment Costs				\$
Certified Judgment Total				\$

- ☐ Attachment Prohibited/  
42 Pa.C.S. § 8127  
☐ This case dismissed without prejudice.  
☒ Possession granted.

- ☐ Possession granted if money judgment is not satisfied by time of eviction.  
☐ Possession not granted.

☐ Defendants are jointly and severally liable.

IN AN ACTION INVOLVING A RESIDENTIAL LEASE, ANY PARTY HAS THE RIGHT TO APPEAL FROM A JUDGMENT FOR POSSESSION WITHIN TEN DAYS AFTER THE DATE OF ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURTS OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. THIS APPEAL WILL INCLUDE AN APPEAL OF THE MONEY JUDGMENT, IF ANY. IN ORDER TO OBTAIN A SUPERSEDEAS, THE APPELLANT MUST DEPOSIT WITH THE PROTHONOTARY/CLERK OF COURTS THE LESSER OF THREE MONTHS RENT OR THE RENT ACTUALLY IN ARREARS ON THE DATE THE APPEAL IS FILED.

IF A PARTY WISHES TO APPEAL ONLY THE MONEY PORTION OF A JUDGMENT INVOLVING A RESIDENTIAL LEASE, THE PARTY HAS 30 DAYS AFTER THE DATE OF ENTRY OF JUDGMENT IN WHICH TO FILE A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF COURTS OF THE COURT OF COMMON PLEAS, CIVIL DIVISION.

THE PARTY FILING AN APPEAL MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THE 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.

9/19/08 Date [Signature] Magisterial District Judge  
I certify that this is a true and correct copy of the record or the proceedings containing the judgment.  
Date \_\_\_\_\_ Magisterial District Judge

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.: **46-3-04**  
MDJ Name: Hon. **JAMES L. HAWKINS**  
Address: **251 SPRING ST  
PO BOX 362  
HOUTZDALE, PA**  
Telephone: **(814) 378-7160** **16651-0362**

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

**NOTICE OF JUDGMENT/TRANSCRIPT  
RESIDENTIAL LEASE**

PLAINTIFF: **BOUMERHI, HOLLY J**  
220 OAKWOOD DR  
PHILIPSBURG, PA 16866

DEFENDANT: **MOSHANNON VALLEY FAMILY DENTISTRY**  
439 SPRING ST  
HOUTZDALE, PA 16651

Docket No.: **LT-0000017-08**  
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Less Amt Due Defendant from Cross Complaint				\$ <b>.00</b>
Interest (if provided by lease)				\$ <b>.00</b>
L/T Judgment Amount				\$ <b>8,000.00</b>
Judgment Costs				\$ <b>154.64</b>
Attorney Fees				\$ <b>.00</b>
<b>Total Judgment</b>				\$ <b>8,154.64</b>
Post Judgment Credits				\$ <b>—</b>
Post Judgment Costs				\$ <b>—</b>
<b>Certified Judgment Total</b>				\$ <b>8154.64</b>

☐ Attachment Prohibited/  
42 Pa.C.S. § 8127

☐ This case dismissed without prejudice.

☒ Possession granted.

☐ Possession granted if money judgment is not satisfied by time of eviction.

☐ Possession not granted.

☐ Defendants are jointly and severally liable.

**FILED**  
MAY 05 2008

William A. Shaw  
Prothonotary/Clerk of Courts

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4/14/08 Date [Signature], Magisterial District Judge  
I certify that this is a true and correct copy of the record or the proceedings containing the judgment.

4/30/08 Date [Signature], Magisterial District Judge

7

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

HOLLY J. BOUMERHI,  
Plaintiff

vs.

MOSHANNON VALLEY FAMILY  
DENTISTRY, INC.,  
Defendant

: No.: 2008-804-CD  
: Type of Case: Civil  
: Type of Pleading:  
: Complaint  
: Filed on behalf of:  
: Plaintiff  
: Counsel of Record for  
: This Party:  
: Girard Kasubick, Esq.  
: Supreme Court No. 30109  
: LEHMAN & KASUBICK  
: 611 Brisbin Street  
: Houtzdale, PA 16651  
: (814) 378-7840

FILED 3cc  
012:43301 Atty Kasubick  
MAY 19 2008 (62)

William A. Shaw  
Prothonotary/Clerk of Courts

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

HOLLY J. BOUMERHI,	:	
Plaintiff	:	No.: 2008-804-CD
	:	
vs.	:	
	:	
MOSHANNON VALLEY FAMILY	:	
DENTISTRY, INC.,	:	
Defendant	:	

**NOTICE**

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE.  
IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE

SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH  
INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE  
MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES  
THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A  
REDUCED FEE OR NO FEE.

Court Administrator's Office  
Clearfield County Court House  
Clearfield, PA 16830  
(814) 765-2641

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

HOLLY J. BOUMERHI,	:	
Plaintiff	:	No.: 2008-804-CD
	:	
vs.	:	
	:	
MOSHANNON VALLEY FAMILY	:	
DENTISTRY, INC.,	:	
Defendant	:	

**COMPLAINT**

AND NOW COMES the Plaintiff, Holly J. Boumerhi, by and through her attorney, Girard Kasubick, Esq., and files the following Complaint.

1. The Plaintiff is Holly J. Boumerhi, an individual, who resides at 220 Oakwood Drive, Philipsburg, PA 16866.

2. The Defendant is Moshannon Valley Family Dentistry, Inc., a corporation formed under the laws of the Commonwealth of Pennsylvania with its principal address at 298 Spring Street, Houtzdale, Clearfield County, Pennsylvania 16651.

3. It is believed and averred that the shareholders of the Defendant are Pierre Boumerhi, husband of Plaintiff, and Jolene Gavlak.

4. The Plaintiff is the owner of two (2) tracts of real property in Woodward Township, Clearfield County, Pennsylvania by deed dated October 13, 2000 and recorded in Clearfield County Instrument No. 200015914. The Grantee in this deed is Holly J. Beck, which is Plaintiff's prior married name.

5. The two (2) tracts of land described in Instrument No. 200015914 are assessed as Tax Map Nos. 130-N14-35 and 130-N14-8.1 and are adjacent tracts of land.

6. The two (2) tracts of land described in Instrument No. 200015914 contain a commercial building assessed as 3,027 square feet and a parking area and the properties have addresses of 427 Spring Street and 439 Spring Street, Houtzdale, PA 16651 and they are collectively referred to as "Premises" hereinafter.

7. On or about December 2005, the Defendant contacted Plaintiff and expressed a desire to rent the commercial building and the properties of Plaintiff for a dentistry office.

8. The Defendant presented a written lease to Plaintiff for review in or about December 2005 and Plaintiff was willing to execute the lease presented, but

Defendant expressed a desire to make some changes to the written lease and no written lease was executed.

9. On or about January 1, 2006, Defendant did enter into possession of the Premises for a dentistry business under oral lease between the parties.

10. Under the oral lease, the Defendant was to pay Two Thousand and 00/100 (\$2,000.00) Dollars rent per month and payments were made by Defendant to Plaintiff around the middle of each month.

11. During the time of the oral lease, there were exchanges between the parties to get a written lease executed, but Defendant never presented any updated written lease to Plaintiff.

12. On October 30, 2007, Plaintiff sent a letter to Defendant requesting a written lease and a response within two (2) days from receipt of the letter. The Defendant never responded to said letter.

13. On November 6, 2007, Plaintiff through her attorney, sent a letter to Defendant raising the rent to Six Thousand and 00/100 (\$6,000.00) Dollars per month effective with the December 18, 2007 payment, but would be willing to negotiate the rent if a written lease would get done.

14. The Defendant has never presented a proposed lease to Plaintiff since receiving the letter.

15. The Defendant continued to pay Plaintiff Two Thousand and 00/100 (\$2,000.00) Dollars per month rent from December 2007 through March 2008, but refused to pay the increased rent of Six Thousand and 00/100 (\$6,000.00) Dollars per month during that time.

16. Commencing with the April 2008 rental, Defendant has paid the increased rent of Six Thousand and 00/100 (\$6,000.00) Dollars.

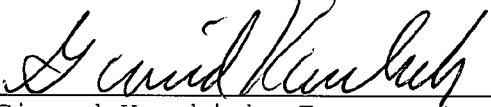
17. The Defendant owes rent of Four Thousand and 00/100 (\$4,000.00) Dollars per month from December 2007 through March 2008 for four (4) months for a total of Sixteen Thousand and 00/100 (\$16,000.00) Dollars on the oral month to month lease.

18. If Defendant fails to pay the Six Thousand and 00/100 (\$6,000.00) Dollars per month rent while in possession of the Premise hereafter, Plaintiff further makes a claim for any difference from payments made and rent due.

WHEREFORE, Plaintiff requests your Honorable Court to enter judgment in favor of Plaintiff for Sixteen Thousand

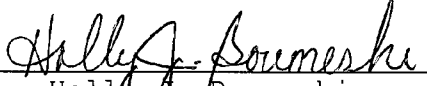
and 00/100 (\$16,000.00) Dollars plus any difference on future rent payments, if any, plus interest, costs and attorney fees.

RESPECTFULLY SUBMITTED:

  
Girard Kasubick, Esq.,  
Attorney for Plaintiff

**VERIFICATION**

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

  
Holly J. Bomerhi

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

HOLLY J. BOUMERHI,  
Plaintiff

vs.

MOSHANNON VALLEY FAMILY  
DENTISTRY, INC.,  
Defendant

: No.: 2008-804-CD  
: Type of Case: Civil  
: Type of Pleading:  
: Proof of Service  
: Filed on behalf of:  
: Plaintiff  
: Counsel of Record for  
: This Party:  
: Girard Kasubick, Esq.  
: Supreme Court No. 30109  
: LEHMAN & KASUBICK  
: 611 Brisbin Street  
: Houtzdale, PA 16651  
: (814) 378-7840

FILED

01/55301  
MAY 27 2008

icc

Att'y Kasubick

William A. Shaw  
Prothonotary/Clerk of Courts

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


HOLLY J. BOUMERHI, :  
Plaintiff : No.: 2008-804-CD  
vs. :  
MOSHANNON VALLEY FAMILY :  
DENTISTRY, INC., :  
Defendant :

**PROOF OF SERVICE**

I hereby certify that I, Girard Kasubick, Esq., served a copy of the Complaint on the Defendant by regular United States mail, postage pre-paid, mailed on May 20, 2008 upon the attorneys for the Defendant and upon the Defendant, Moshannon Valley Family Dentistry, Inc., at the following addresses:

GOODALL & YURCHAK, P.C.  
Kathleen V. Yurchak, Esq.  
Kara S. Bowser, Esq.  
328 South Atherton Street  
State College, PA 16801

Moshannon Valley Family  
Dentistry, Inc.  
439 Spring Street  
Houtzdale, PA 16651

  
Girard Kasubick, Esquire,  
Attorney for Plaintiff

ORIGINAL

FILED

JUN 06 2008

m/8:50/w

William A. Shaw

Prothonotary/Clerk of Courts

1 cent to Att

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

HOLLY J. BOUMERHI,  
Plaintiff

v.

MOSHANNON VALLEY FAMILY  
DENTISTRY, INC.,  
Defendant

No: 08-804-CD

TYPE OF MATTER  
Civil

TYPE OF PLEADING  
Defendant's Answer and New Matter to  
Plaintiff's Complaint

FILED ON BEHALF OF  
Moshannon Valley Family Dentistry

COUNSEL FOR PARTY  
Kathleen V. Yurchak, Esquire  
Pa.I.D. 55948  
Kara S. Bowser, Esquire  
Pa.I.D. 93386  
GOODALL & YURCHAK, P.C.  
328 South Atherton Street  
State College, PA 16801  
(814) 237-4100  
(814) 237-1497 - fax  
[kbowser@centrelaw.com](mailto:kbowser@centrelaw.com)

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

HOLLY J. BOUMERHI,  
Plaintiff

v.

MOSHANNON VALLEY FAMILY  
DENTISTRY, INC.,  
Defendant

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No: 08-804-CD

**DEFENDANT'S ANSWER AND NEW MATTER TO  
PLAINTIFF'S COMPLAINT**

Defendant Moshannon Valley Family Dentistry, Inc., by and through its attorneys, Goodall & Yurchak, P.C., files the following Answer and New Matter to Plaintiff's Complaint in the above captioned matter and states as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averment in paragraph 4.
5. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averment in paragraph 5.
6. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averment in paragraph 6.
7. Admitted.
8. Admitted.
9. Admitted in part and denied in part. It is admitted that Defendant took possession of the subject premises on or about January 1, 2006. However,

it is denied that an oral lease existed between the parties. In a letter from Plaintiff to Defendant dated October 30, 2007, Plaintiff admitted that the parties were "without a lease agreement." A true and correct copy of this letter is attached hereto and marked as Exhibit "A." Furthermore, to the extent that such an oral lease was entered into by the parties, it is in violation of the Statute of Frauds.

10. Admitted in part and denied in part. It is admitted that Defendant paid Plaintiff \$2,000 per month for use of the subject premises and that said sum was paid in the middle of each month. However, it is denied that this was done pursuant to an oral lease.
11. Admitted in part and denied in part. It is admitted that there were exchanges between the parties regarding the execution of a written lease and that Defendant did not present an updated written lease to Plaintiff. By way of further response, Plaintiff, the putative landlord, did not present an updated written lease to Defendant. Furthermore, it is denied that an oral lease existed at this or any other time.
12. Admitted in part and denied in part. It is admitted that Plaintiff sent a letter to Defendant, wherein she conceded that no lease agreement existed between the parties, on or about October 30, 2007. It is denied that Defendant failed to respond to said letter. On the contrary, Defendant's counsel responded by letter dated November 19, 2007 addressed to Plaintiff's counsel. A true and correct copy of the November 19, 2007 letter is attached hereto and marked as Exhibit "B".
13. Admitted in part and denied in part. It is admitted that Plaintiff's counsel

sent a letter to Defendant purporting to charge Defendant \$6,000 per month in rent. It is denied that said "increase" was effective or enforceable.

14. Admitted. By way of further response, Plaintiff has not presented a proposed written lease to Defendant.
15. Admitted in part and denied in part. It is admitted that Defendant has continued to pay Plaintiff \$2,000 per month for use of the subject premises. It is denied that Plaintiff effectively raised the monthly amount owed by Defendant to \$6,000 per month.
16. Admitted. By way of further response, Defendant gave Plaintiff \$6,000 in April in order to avoid eviction during the pendency of the present action.
17. Denied. It is denied that \$6,000 is the monthly amount owed the Plaintiff. Therefore, it is denied that Defendant owes a \$4,000 deficit for the months between December 2007 and March 2008.
18. No response is required.

WHEREFORE, Defendant Moshannon Valley Family Dentistry, Inc. respectfully requests that this Honorable Court enter judgment in its favor and against Plaintiff Holly J. Boumerhi.

**NEW MATTER**

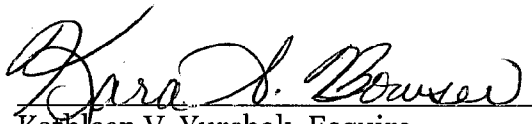
19. Paragraph 1 through 18 are incorporated herein and made part hereof as if set forth in full.
20. Plaintiff's attempt to triple the monthly amount owed by Defendant is void, as, under the Statute of Frauds, no valid lease agreement existed between the parties.

21. In the alternative, Plaintiff's purported rent increase to \$6,000 per month is void, as it is against public policy and is an attempt at retaliation against one of Defendant's owners, Jolene Gavlak- Vaughn. Plaintiff, the wife of Defendant's other owner, Pierre Boumerhi, tried to triple the monthly amount due only after Dr. Gavlak-Vaughn expressed a desire to dissolve the corporation which is co-owned with Dr. Boumerhi. This is not a valid exercise of landlord authority. Moreover, the new amount demanded by Plaintiff is clearly in excess of the fair market value of the subject premises.
22. The notice given to Defendant of the purported rent increase was ineffective because Defendant did not consent to such increase.

WHEREFORE, Defendant Moshannon Valley Family Dentistry, Inc. respectfully requests that this Honorable Court enter judgment in its favor and against Plaintiff Holly J. Boumerhi.

Respectfully submitted,

GOODALL & YURCHAK, P.C.



Kathleen V. Yurchak, Esquire

Pa.I.D. 55948

Kara S. Bowser, Esquire

Pa.I.D. 93386

328 South Atherton Street

State College, PA 16801

(814) 237-4100

Date: June 5, 2008

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

HOLLY J. BOUMERHI,  
Plaintiff

v.

MOSHANNON VALLEY FAMILY  
DENTISTRY, INC.,  
Defendant

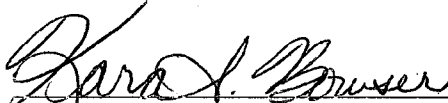
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No: 08-804-CD

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Defendant's Answer and New  
Matter to Plaintiff's Complaint has been sent on this 5<sup>th</sup> day of June, 2008, via  
United States first class mail, postage prepaid to the following:

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

  
Kara S. Bowser, Esquire

ORIGINAL

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

HOLLY J. BOUMERHI,  
Plaintiff

v.

MOSHANNON VALLEY FAMILY  
DENTISTRY, INC.,  
Defendant

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No: 08-804-CD

TYPE OF MATTER  
Civil

TYPE OF PLEADING  
Praeipue to Attach Exhibits

FILED ON BEHALF OF  
Moshannon Valley Family Dentistry

COUNSEL FOR PARTY  
Kathleen V. Yurchak, Esquire  
Pa.I.D. 55948  
Kara S. Bowser, Esquire  
Pa.I.D. 93386  
GOODALL & YURCHAK, P.C.  
328 South Atherton Street  
State College, PA 16801  
(814) 237-4100  
(814) 237-1497 - fax  
[kbowser@centrelaw.com](mailto:kbowser@centrelaw.com)

FILED  
JUN 12 2008

NO CC

(60)

William A. Shaw  
Prothonotary/Clerk of Courts

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

HOLLY J. BOUMERHI,  
Plaintiff

v.

MOSHANNON VALLEY FAMILY  
DENTISTRY, INC.,  
Defendant

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No: 08-804-CD


**PRAECIPE TO ATTACH EXHIBITS**

TO THE PROTHONOTARY

Please attach the exhibits that were overlooked in the above captioned matter to Defendant's Answer and New Matter to Plaintiff's Complaint that was filed on June 6, 2008.

Dated:

6/10/08

  
Kara S. Bowser, Esquire

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

HOLLY J. BOUMERHI,  
Plaintiff

v.

MOSHANNON VALLEY FAMILY  
DENTISTRY, INC.,  
Defendant

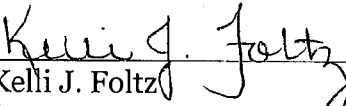
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No: 08-804-CD

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Plaintiff/Petitioner's  
Memorandum of Law has been sent on this 11<sup>th</sup> day of June, 2008, via first class, postage  
prepaid, to the following:

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

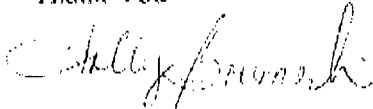
  
Kelli J. Foltz  
Secretary to Kara S. Bowser, Esquire

October 30, 2007

Dear Moshannon Valley Family Dentistry:

This letter is to inform you that you have been occupying 439 Spring St., since January 2006 without a lease agreement. I am giving you 48 hours from the receipt of this letter to contact me via email at [maddi1996@aol.com](mailto:maddi1996@aol.com) or cell 814-553-3549 regarding this issue. Failure to do so will result in legal action.

Thank You

A handwritten signature in cursive script, appearing to read "Holly Bournerhi".

Holly Bournerhi

EXHIBIT "A"

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**GOODALL & YURCHAK, P. C.**  
Attorneys at Law

---

---

**H. Amos Goodall, Jr.**  
goodall@centrelaw.com

---

**Leslie A. Dutchcot**  
ldutchcot@centrelaw.com

**Kathleen V. Yurchak**  
yurchak@centrelaw.com

---

**Kara S. Bowser**  
kbowser@centrelaw.com

November 19, 2007

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

Dear Mr. Kasubick:

This letter is written on behalf of Jolene Gavlak-Vaughn. As you may know, Dr. Gavlak-Vaughn is one of the shareholders of Moshannon Valley Family Dentistry, Inc., together with your client's husband, Pierre Bomerhi. It is curious that your letter announcing that the corporation's rent would triple occurred shortly after my client's notice to your client's husband that she would like to find an amicable way to dissolve the corporation. It is also curious that you have directed a notice concerning a corporate obligation to the shareholders of that corporation, including your client's husband.

Your offer to have a new lease at an unspecified but reduced rate will not convince Dr. Gavlak-Vaughn to change her mind about continuing the process of severing the professional relationship between herself and Dr. Bomerhi that has already been put in motion. Dr. Gavlak-Vaughn continues to hope that the parties can rationally and amicably divide the tangible and intangible assets, and she chooses not to see your letter as an attempt to subvert that process.

Dr. Gavlak-Vaughn is not a party to the lease and will not be signing any new leases on behalf of herself individually. You will need to take up the matter of any rent increases with the principal officers or corporate board of Moshannon Valley Family Dentistry, Inc.

Girard Kasubick, Esquire  
November 19, 2007  
Page 2 of 2

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Goodall & Yurchak, P.C.

A handwritten signature in black ink, appearing to be "H. Amos Goodall, Jr.", written over a horizontal line.

By: H. Amos Goodall, Jr.

HAG/mwh

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

HOLLY J. BOUMERHI,  
Plaintiff

vs.

MOSHANNON VALLEY FAMILY  
DENTISTRY, INC.,  
Defendant

: No.: 2008-804-CD  
: Type of Case: Civil  
: Type of Pleading:  
: Reply to New Matter  
: Filed on behalf of:  
: Plaintiff  
: Counsel of Record for  
: This Party:  
: Girard Kasubick, Esq.  
: Supreme Court No. 30109  
: LEHMAN & KASUBICK  
: 611 Brisbin Street  
: Houtzdale, PA 16651  
: (814) 378-7840

**FILED** ICC Atty  
9/3/08m Kasubick  
JUN 25 2008

William A. Shaw  
Prothonotary/Clerk of Courts

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

HOLLY J. BOUMERHI,	:	
Plaintiff	:	No.: 2008-804-CD
	:	
vs.	:	
	:	
MOSHANNON VALLEY FAMILY	:	
DENTISTRY, INC.,	:	
Defendant	:	

**REPLY TO NEW MATTER**

AND NOW COMES, the Plaintiff, Holly J. Boumerhi, by and through her attorney, Girard Kasubick, Esq., and files the following Reply to New Matter.

19. Paragraphs 1 through 18 of Plaintiff's Complaint are incorporated herein by reference thereto as though set forth in full herein.

20. Denied. This is a conclusion of law or fact for which no responsive pleading is required. Furthermore, the oral lease was for less than three (3) years and Defendant remained at will.

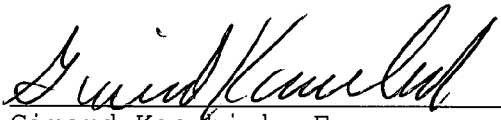
21. Denied. The increase in rent was requested after Plaintiff learned of owner, Jolene Gavlak-Vaughn, wanting to dissolve Defendant's corporation, but also after Defendant did not respond to Plaintiff's letter of

October 30, 2007 (Defendant's Exhibit "A" to Answer and New Matter) requesting a Lease Agreement. Plaintiff desired a written lease which Defendant refused to negotiate in writing and Plaintiff needed to have set terms for the use of her Premises or when Defendant may vacate. This is further denied as a conclusion of law or fact for which no responsive pleading is required. It is further denied that the rent was excessive as it was less than \$2.00 per square foot per month and strict proof of excessive rent is demanded.

22. Denied. Defendant could have vacated the Premises if Defendant did not agree to the rent increase, but Defendant did not elect to do so and accepted the Lease at will with the increased rent.


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

RESPECTFULLY SUBMITTED:

  
Girard Kasubick, Esq.,  
Attorney for Plaintiff

**VERIFICATION**

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

  
Holly J. Bomerhi

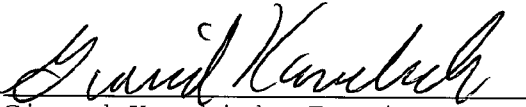
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA  
CIVIL DIVISION

HOLLY J. BOUMERHI,	:	
Plaintiff	:	No.: 2008-804-CD
	:	
vs.	:	
	:	
MOSHANNON VALLEY FAMILY	:	
DENTISTRY, INC.,	:	
Defendant	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I, Girard Kasubick, Esq.,  
forwarded a copy of the Reply to New Matter to Counsel of  
record listed below by United States mail, postage prepaid  
on the 25<sup>th</sup> day of June, 2008, at the following address:

Kathleen V. Yurchak, Esq.  
Kara S. Bowser, Esq.  
GOODALL & YURCHAK, P.C.  
328 South Atherton Street  
State College, PA 16801

  
Girard Kasubick, Esquire,  
Attorney for Plaintiff

## Notice of Proposed Termination of Court Case

February 1, 2012

RE: 2008-00804-CD

Holly J. Boumerhi

Vs.

Moshannon Valley Family Dentistry

FILED  
FEB 01 2012  
By 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*  
F. Cortez Bell, III, Esq.  
Court Administrator

K. Bowser  
Def

FILED  
FEB 01 2012  
William A. Shaw  
Prothonotary/Clerk of Courts

Court of Common Pleas of Clearfield County, Pennsylvania  
Civil Division

Holly J. Boumerhi

**FILED**  
JUL 27 2012  
William A. Shaw *OK*  
Prothonotary/Clerk of Courts

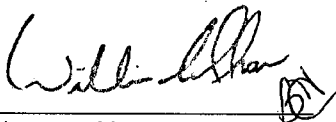
Vs.

2008-00804-CD

Moshannon Valley Family Dentistry

**Termination of Inactive Case**

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

  
\_\_\_\_\_  
William A. Shaw  
Prothonotary