

DOCKET NO. 173

NUMBER	TERM	YEAR
277	February	1961

Lloyd F. Riss and Patricia Jane Riss

Joseph Dym and Helen T. Dym

VERSUS

Sandy Township Municipal Auth.

Midland Contractors, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LLOYD F. RISS and : No. 277 Feb. Term, 1961  
PARTICIA JANE RISS: :  
JOSEPH DYM and HELEN :  
DYM : In Assumpsit

VS. :

SANDY TOWNSHIP MUNICIPAL :  
AUTHORITY and :  
MIDLAND CONTRACTORS, INC. :

PRAECIPE FOR DISCONTINUANCE

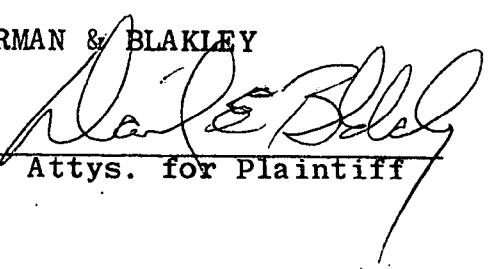
TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

SIR:

Please discontinue the above suit and mark the  
records discontinued and satisfied upon payment of costs.

AMMERMAN & BLAKLEY

BY

  
Attys. for Plaintiff

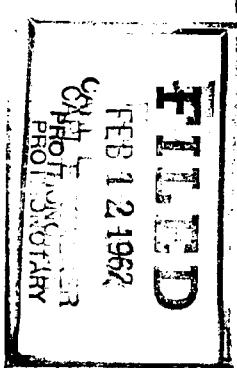
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENN-  
SYLVANIA

LLOYD F. RISS, and  
PATRICIA JANE RISS  
JOSEPH DYM AND HELEN  
DYM

VS.

SANDY TOWNSHIP MUNICIPAL  
AUTHORITY and MIDLAND  
CONTRACTORS, INC.

PRAECIPE FOR DISCONTINUANCE



SMITH, SMITH & WORK  
ATTORNEYS-AT-LAW  
CLEARFIELD, PA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH DYM and HELEN T. DYM

vs

No. 277, Feb. Term, 1961

SANDY TOWNSHIP MUNICIPAL  
AUTHORITY and  
MIDLAND CONTRACTORS, INC.

IN TRESPASS

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\*

AMENDED COMPLAINT

1. The plaintiffs, Joseph Dym and Helen T. Dym are individuals, being husband and wife, residing in Sandy Township, Clearfield County, Pennsylvania.

2. The defendant, Sandy Township Municipal Authority, is a municipal authority, created by Sandy Township, Clearfield County, Pennsylvania, under the laws of the Commonwealth of Pennsylvania. Midland Contractors, Inc., defendant, is a business corporation organized under the laws of the Commonwealth of Pennsylvania, with a place of business or office in Sandy Township, Clearfield County, Pennsylvania.

3. That the said plaintiffs are the owners of a right of way over and upon the following described premises in Sandy Township, Clearfield County, Pennsylvania:

PARCEL #1. Beginning at an iron pipe in the northerly line of South Main Street, said pipe being the southeast corner of land of Mildred Delp; thence by land of Mildred Delp N 37° 27' W 113.9 feet to an iron pipe; thence still by same N 69° 58' W 44.3 feet to an iron pipe in the southerly line of Wide Alley; thence by said southerly line N 54° 33' E 59.0 feet to an axle, said axle being the Northwest corner of land now or formerly of James Cable; thence by land of James Cable S 35° 27' E 150.0 feet to a stone in the northerly line of South Main Street; thence by said northerly line S 54° 33' W 29.6 feet to an iron pipe and the place of beginning.

PARCEL #2. Beginning at an iron pipe in the northerly line of Wide Alley, said pipe being the southwest corner of land of James Cable; thence by the northerly line of

Wide Alley S 54° 33' W 22.6 feet to an iron pipe in line of land of Mildred Delp; thence by land of Mildred Delp N 69° 58' W 10.7 feet to an iron pipe; thence by land of Mildred Delp and others S 89° 34½' West 497.2 feet to an iron pipe; thence by land of Pearl Munderff N 1° 05' W 132.0 feet to an iron pipe; thence still by same N 88° 36' E 231.35 feet to an iron pipe in the westerly line of lot of Joseph Dym; thence by land of Dym S 0° 47' E 112.2 feet to an iron pipe, said pipe being the southwest corner of land of Dym; thence still by same N 89° 34½' E 283.7 feet to an iron pipe, said pipe being the southeast corner of land of Dym and being in the west line of lot of James Cable; thence by line of James Cable S 37° 27' East 17.9 feet to an iron pipe and the place of beginning.

4. Said right of way furnishes access to the dwelling premises of the plaintiffs located in Sandy Township, Clearfield County, Pennsylvania. Said right of way being granted to them by Lloyd F. Riss and Patricia Jane Riss, who are the owners of the foregoing described tracts of land.

5. That over and across said above described land, the plaintiffs did have the use of a driveway from South Main Street in said township to their premises, said driveway being constructed of good road building materials and in excellent condition, prior to October, 1960.

6. During the month of October, 1960, the defendants herein, by themselves, their agents, contractors, employees and workmen, did come upon said above described land with machinery and equipment and did dig up, tear up and completely destroy the private road or driveway over and upon the above described land, for a distance of approximately six hundred and ninety (690) feet without the consent of the plaintiffs, and without any right or authority to do so.

7. That as a result of the defendants above named, by their agents, contractors, employees and workmen coming upon the said land described in Paragraph 3 hereof, as above set forth, and destroying the roadway over which the plaintiffs travel to

and from their home, the plaintiffs were and are still deprived of the use and enjoyment of their land and home, from October, 1960 up and to the present time.

8. That as a result of said actions of the defendants, the roadway to the plaintiffs' premises from October, 1960 to May of 1961, was mud, mire and ruts and practically impassable, and since May of 1961, said road is muddy, rough and in poor condition and the value of the plaintiffs' premises has decreased.

9. That the dwelling home owned by the plaintiffs in Sandy Township, Clearfield County, Pennsylvania is furnished water by a water line traversing Prospect Avenue in Sandy Township, Clearfield County, Pennsylvania, which said Prospect Avenue adjoins the premises of the plaintiffs.

10. That on or about February 18, 1961, the defendants herein, by their agents, contractors, employees and workmen, in laying pipe or sewer line on Prospect Avenue, did break and destroy the water line furnishing the water to said plaintiffs' dwelling. That as a result of the breaking of said line furnishing water to the plaintiffs' dwelling, by the defendants, their premises was deprived of water for several days, and the plaintiffs were obligated to expend the sum of One Hundred Twenty-Seven and 22/100 (\$127.22) Dollars to repair the same, as follows:

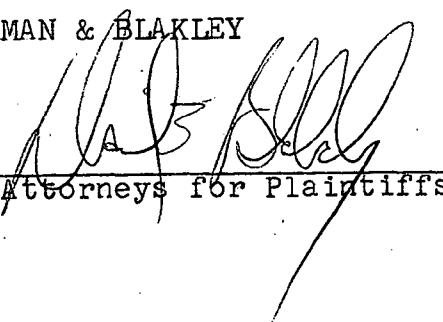
John M. Gnan, Plumbing & heating	\$ 39.22
Wayne W. Moore, Excavating	
Contractor	26.00
Rent of Electric Welder and 24 hours	
of operation thereof at	
\$1.75 per hour labor and	
\$20 rental	<u>62.00</u>
TOTAL	\$ 127.22

WHEREFORE the plaintiffs, Joseph Dym and Helen T. Dym, demand judgment against the defendants in the amount of One Hundred Twenty Seven and 22/100 (\$127.22) Dollars, together with

interest from February 20, 1961, and an amount sufficient to compensate them for the interference of their use and enjoyment of their dwelling premises, together with an amount sufficient to compensate them for the decrease in value of their dwelling premises, together with a sum sufficient to compensate them for the interruption of water service to their dwelling premises.

AMMERMAN & BLAKLEY

BY

  
Attorneys for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA : : SS  
COUNTY OF CLEARFIELD : :

Personally appeared before me, a Notary Public, in and for the above county and state, JOSEPH DYM, one of the plaintiffs in the foregoing complaint, and who being duly sworn according to law, deposes and says that the facts set forth therein are true and correct, to the best of his knowledge, information and belief.

*Joseph Dym*  
Joseph Dym

Sworn to and subscribed  
before me this 15 day of  
December, 1961.

*Mrs. Della W. Egan*

MRS. DELLA W. EGAN, Notary Public  
DU BOIS, CLEARFIELD CO., PA.  
My Commission expires Sept. 30, 1962

W<sup>m</sup>. Amth  
No. 277, 2nd Term, 1961

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
IN TRESPASS.

JOSEPH DYM and  
HELEN T. DYM

vs

SANDY TOWNSHIP MUNICIPAL  
AUTHORITY and  
MIDLAND CONTRACTORS, INC.

AMENDED COMPLAINT

TO THE WITHIN DEFENDANTS:  
You are hereby notified  
to plead to the within  
Complaint within twenty (20)  
days from the date of  
service hereof.

Atto<sup>r</sup>ney for Plaintiffs

**FILED**

DEC 16 1961

WM. T. HAGERTY

PROTHONOTARY

LAW OFFICES  
AMMERMAN & BLAKLEY  
DUBOIS, PENNA.

12/12/81

James H. Hagerty  
Prothonotary

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

LLOYD F. RISS and  
PATRICIA JANE RISS,  
JOSEPH DYM and  
HELEN T. DYM

: No. 277 February Term, 1961

: In Trespass

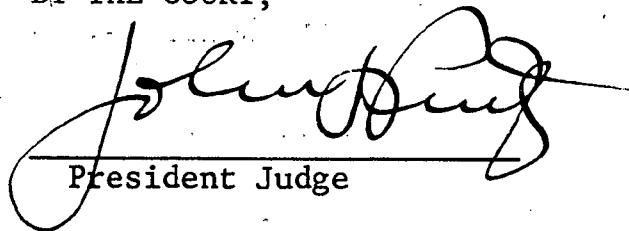
-vs-

SANDY TOWNSHIP MUNICIPAL  
AUTHORITY and  
MIDLAND CONTRACTORS, INC.

O R D E R

NOW, November 3, 1961, preliminary objections sustained, plaintiffs to sever the actions of Lloyd F. Riss and Patricia Riss against defendant, and Joseph Dym and Helen T. Dym against defendant, and plaintiffs Riss will amend by filing more detailed estimate of costs of restoring driveway to its original character. Severance and the amendment to be accomplished within twenty (20) days from the date hereof)

BY THE COURT,

  
John D. Dym  
President Judge

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 277, February Term, 1961

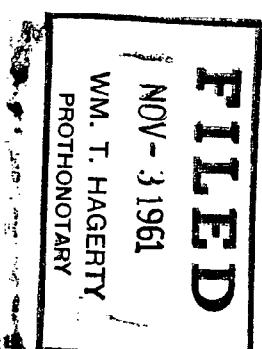
In Trespass

LLOYD F. RISS and  
PATRICIA JANE RISS,  
JOSEPH DYM and HELEN T. DYM

-vs-

SANDY TOWNSHIP MUNICIPAL  
AUTHORITY and MIDLAND  
CONTRACTORS, INC.

O R D E R



JOHN J. PENTZ  
PRESIDENT JUDGE  
CLEARFIELD, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LLOYD F. RISS and :  
PATRICIA JANE RISS; :  
JOSEPH DYM and HELEN :  
T. DYM :  
-vs- : No. 277 Feb. Term, 1961  
SANDY TOWNSHIP MUNICIPAL : IN TRESPASS  
AUTHORITY and :  
MIDLAND CONTRACTORS, INC. :  
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\*

C O M P L A I N T

F I R S T C O U N T

LLOYD F. RISS and PATRICIA JANE RISS vs SANDY TOWNSHIP MUNICIPAL AUTHORITY and MIDLAND CONTRACTORS, INC.

1. The plaintiffs, Lloyd F. Riss and Patricia Jane Riss are individuals, being husband and wife, residing in Sandy Township, Clearfield County, Pennsylvania.
2. The defendant, Sandy Township Municipal Authority, is a municipal authority, created by Sandy Township Clearfield County, Pennsylvania, under the laws of the Commonwealth of Pennsylvania. Midland Contractors, Inc., defendant, is a business corporation organized under the laws of the Commonwealth of Pennsylvania, with a place of business or office in Sandy Township, Clearfield County, Pennsylvania.
3. The plaintiffs, Lloyd F. Riss and Patricia Jane Riss, are the owners of ALL those certain two pieces or parcels of land situate in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows:

PARCEL #1. Beginning at an iron pipe in the northerly line of South Main Street, said pipe being the southeast corner of land of Mildred Delp; thence by land of Mildred Delp N 37° 27' W 113.9 feet to an iron pipe; thence still by same N 69° 58' W 44.3 feet to an iron pipe in the southerly line of Wide Alley; thence by said southerly line N 54° 33' E 59.0 feet to an axle, said axle being

the Northwest corner of land now or formerly of James Cable; thence by land of James Cable S 35° 27' E 150.0 feet to a stone in the northerly line of South Main Street; thence by said northerly line S 54° 33' W 29.6 feet to an iron pipe and the place of beginning.

PARCEL #2. Beginning at an iron pipe in the northerly line of Wide Alley, said pipe being the southwest corner of land of James Cable; thence by the northerly line of Wide Alley S 54° 33' W 22.6 feet to an iron pipe in line of land of Mildred Delp; thence by land of Mildred Delp N 69° 58' W 10.7 feet to an iron pipe; thence by land of Mildred Delp and others S 89° 34½' West 497.2 feet to an iron pipe; thence by land of Pearl Mundorff N 1° 05' W 132.0 feet to an iron pipe; thence still by same N 88° 36' E 231.35 feet to an iron pipe in the westerly line of lot of Joseph Dym; thence by land of Dym S 0° 47' E 112.2 feet to an iron pipe, said pipe being the southwest corner of land of Dym; thence still by same N 89° 34½' E 283.7 feet to an iron pipe, said pipe being the southeast corner of land of Dym and being in the west line of lot of James Cable; thence by line of James Cable S 37° 27' East 17.9 feet to an iron pipe and the place of beginning.

4. That over and across said above described land, the plaintiffs did have constructed a driveway from South Main Street in said township to their premises, said driveway being constructed of good road building materials and in excellent condition, prior to October, 1960.

5. During the month of October, 1960, the defendants herein, by themselves, their agents, contractors, employees and workmen, did come upon said above described land with machinery and equipment and did dig up, tear up and completely destroy the private road or driveway over and upon the above described land, for a distance of approximately six hundred and ninety (690) feet without the consent of the plaintiffs, and without any right or authority to do so.

6. That as a result of the defendants coming upon said land of the plaintiffs and tearing up, digging and destroying the land of the plaintiffs, the driveway existing across said land was, and is now completely destroyed and it is now mud, mire and ruts and practically unusable.

7. That as a result of the acts of the defendants coming upon the said land of the plaintiffs, the use and enjoyment of the premises of the plaintiffs have been interferred with since October, 1960.

8. That as a result of the defendants coming upon the land of the plaintiffs, the premises have diminished and decreased in value.

9. That, to restore the premises, to wit, more particularly the driveway, to its former condition, the plaintiffs will have to expend the sum of One Thousand Five Hundred (\$1,500.00) Dollars.

10. That the coming upon the land of the plaintiffs by the defendants, through their agents, contractors, employees and workmen, was without any authority, and was without any right, and was without the consent of the plaintiffs, and was unlawful.

11. That the defendants, by their agents, contractors, employees and workmen did, after digging and tearing up the said land of the plaintiffs, lay a pipe line or sewer line in a ditch dug by them, on the land of the plaintiffs, which said pipe line still exists upon said land of the plaintiffs, and that the defendants did not have any right of way, right, authority or consent to lay and maintain said pipe line or sewer line upon the premises of the plaintiffs.

WHEREFORE, plaintiffs, Lloyd F. Riss and Patricia Jane Riss demand judgment against the defendants in the sum of One Thousand Five Hundred (\$1,500.00) Dollars, together with a sum sufficient to compensate them for the unlawful taking of their land, together with a sum sufficient to compensate them for the interference with the use and enjoyment of their premises, and for a sum sufficient to compensate them for the reduction in value of the premises.

SECOND COUNT

JOSEPH DYM and HELEN T. DYM vs SANDY TOWNSHIP MUNICIPAL AUTHORITY and MIDLAND CONTRACTORS, INC.

12. That the plaintiffs, Joseph Dym and Helen T. Dym are individuals, being husband and wife, residing in Sandy Township, Clearfield County, Pennsylvania.

13. The defendant, Sandy Township Municipal Authority, is a municipal authority, created by Sandy Township, Clearfield County, Pennsylvania, under the laws of the Commonwealth of Pennsylvania. Midland Contractors, Inc., defendant, is a business corporation organized under the laws of the Commonwealth of Pennsylvania, with a place of business or office in Sandy Township, Clearfield County, Pennsylvania.

14. That said plaintiffs are the owners of a right of way over and upon said premises described in Paragraph 3 of the First Count hereof, said right of way furnishing access to the premises of these plaintiffs, located in Sandy Township, Clearfield County, Pennsylvania, consisting of their home. Said right of way being granted to them by Lloyd F. Ross and Patricia Jane Riss, owners of said land.

15. That as a result of the defendants above named, by their agents, contractors, employees and workmen coming upon the said land described in Paragraph 3 hereof, as above set forth, and destroying the roadway over which the plaintiffs travel to and from their home, the plaintiffs were and are still deprived of the use and enjoyment of their land and home, from October, 1960 up and to the present time.

16. That as a result of said actions of the defendants, the roadway to the plaintiffs' premises is mud, mire and ruts and practically impassible, and the value of the plaintiffs' premises has decreased.

17. That the dwelling home owned by the Plaintiffs in Sandy Township, Clearfield County, Pennsylvania is furnished water by a water line traversing Prospect Avenue in Sandy Township, Clearfield County, Pennsylvania, which said Prospect Avenue adjoins the premises of the plaintiffs.

18. That on or about February 18, 1961, the defendants herein, by their agents, contractors, employees and workmen, in laying pipe or sewer line on Prospect Avenue, did break and destroy the water line furnishing the water to said plaintiffs' dwelling. That as a result of the breaking of said line furnishing water to the plaintiffs' dwelling, by the defendants, their premises was deprived of water for several days, and the plaintiffs were obligated to expend the sum of One Hundred Twenty Seven and 22/100 (\$127.22) Dollars to repair the same.

WHEREFORE, the plaintiffs, Joseph Dym and Helen T. Dym demand judgment against the defendants in the amount of One Hundred Twenty Seven and 22/100 (\$127.22) Dollars, together with interest from February 20, 1961, and an amount sufficient to compensate them for the interference of their use and enjoyment of their dwelling premises, together with an amount sufficient to compensate them for the decrease in value of their dwelling premises, together with a sum sufficient to compensate them for the interruption of water service to their dwelling premises.

AMMERMAN & BLAKLEY

BY

Attorneys for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA : :  
COUNTY OF CLEARFIELD : : SS

Personally appeared before me, a Notary Public, in and for the above county and state, LLOYD F. RISS and JOSEPH DYM, who being two of the plaintiffs in the foregoing complaint, and who being duly sworn according to law, depose and say that the facts set forth in the foregoing complaint are true and correct, to the best of their information, knowledge and belief.

Lloyd F. Riss  
Lloyd F. Riss

Joseph Dym  
Joseph Dym

Sworn to and subscribed  
before me this 26th day  
of May, 1961.

Mrs. Della W. Egan

MRS. DELLA W. EGAN, Notary Public  
DU BOIS, CLEARFIELD CO., PA.  
My Commission expires Sept. 30, 1962

Service accepted by copy this 29<sup>th</sup> day of  
May 1961 by Smith Smith & Clark  
per Joseph R. Clark.

No. 277 Feb. Term, 1961

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.

IN TRESPASS

LLOYD F. RISS, et al

vs

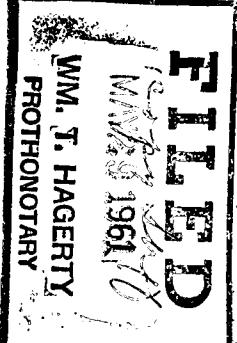
SANDY TOWNSHIP MUNICIPAL  
AUTHORITY and MIDLAND  
CONTRACTORS, INC.

COMPLAINT

TO THE WITHIN DEFENDANTS:  
You are hereby notified  
to plead to the within  
complaint within twenty (20)  
days from date of service.

AMMERMAN & BLAKLEY

BY *W. T. Haggerty*  
Attorneys for Plaintiffs



LAW OFFICES  
AMMERMAN & BLAKLEY  
DUBOIS, PENNA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LLOYD F. RISS and  
PATRICIA JANE RISS;  
JOSEPH DYM and HELEN  
T. DYM

vs

SANDY TOWNSHIP MUNICIPAL  
AUTHORITY and  
MIDLAND CONTRACTORS, INC.

No. 277, 7th Term, 1961

IN TRESPASS

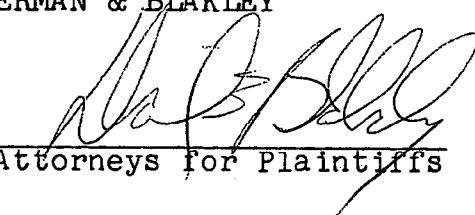
PRAECIPE FOR SUMMONS

TO: WILLIAM T. HAGERTY, Prothonotary:

Issue Writ of Summons in Trespass in the above.

AMMERMAN & BLAKLEY

BY

  
Attorneys for Plaintiffs

3-11-61  
Service of Summons accepted by copy on behalf of  
Sandy Tap Municipal Authority, Smith, Smith & Wark by  
Joseph P. Wark

No. 272, *Left* Term, 1961 *Brumitt*

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.

IN TRESPASS

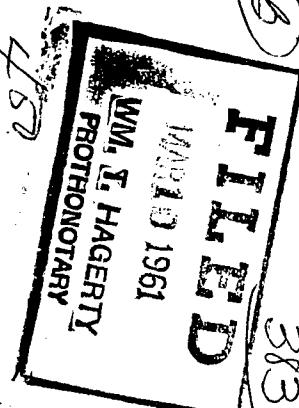
LLOYD F. RISS, et al

vs

SANDY TOWNSHIP MUNICIPAL  
AUTHORITY and  
MIDLAND CONTRACTORS, INC.

PRAECIPE FOR SUMMONS

Received 383  
(B)



452

LAW OFFICES  
AMMERMAN & BLAKLEY  
DUBOIS, PENNA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LLOYD F. RISS and PATRICIA :  
JANE RISS: JOSEPH DYM and :  
HELEN T. DYM :  
VS : No. 277 February Term, 1961  
SANDY TOWNSHIP MUNICIPAL :  
AUTHORITY and MIDLAND :  
CONTRACTORS, INC. : In Trespass

PRELIMINARY OBJECTIONS

COMES now the Defendant, MIDLAND CONTRACTORS, INC., and files Preliminary Objections to the Complaint as drafted as follows:

MOTION FOR MORE SPECIFIC PLEADING

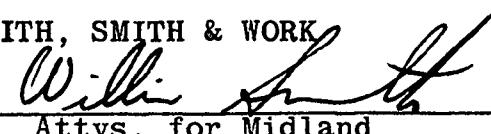
(1). The Complaint fails to itemize the elements of damage and merely lumps the same in a lump sum. Defendant, Midland Contractors, Inc., moves your Honorable Court to require the Plaintiffs to properly and specifically itemize their items of damage in conformity with Pennsylvania Rules of Civil Procedure.

MOTION TO STRIKE

(2). Defendant, Midland Contractors, Inc., moves the Court to strike the Complaint because of improper joinder of parties plaintiff since they have no joint or several interests in the matter and are complaining of different occurrences of damage.

(3). Defendant moves your Honorable Court to dismiss said Complaint because it fails to state a cause of action.

SMITH, SMITH & WORK

BY   
Attys. for Midland

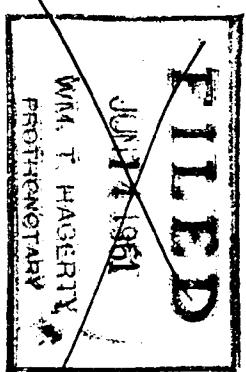
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 277 February Term, 1961  
IN TRESPASS

LLOYD F. RISS, ET UX and  
JOSEPH DYM, ET UX

-VS-

SANDY TOWNSHIP MUNICIPAL  
AUTHORITY and MIDLAND CON-  
TRACTORS, INC.

PRELIMINARY OBJECTIONS



SMITH, SMITH & WORK  
ATTORNEYS-AT-LAW  
CLEARFIELD, PA.

Lap-over Margin

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LLOYD F. RISS and :  
PATRICIA JANE RISS; :  
JOSEPH DYM and :  
HELEN T. DYM :  
VS. : No. 277 February Term, 1961  
SANDY TOWNSHIP MUNICIPAL : IN TRESPASS  
AUTHORITY and MIDLAND :  
CONTRACTORS, INC. :

A N S W E R

FIRST COUNT

NOW COMES THE SANDY TOWNSHIP MUNICIPAL AUTHORITY IN ANSWER TO THE COMPLAINT OF LLOYD F. RISS AND PATRICIA JANE RISS AND AVERS AS FOLLOWS:

- (1). The averments of Paragraph 1 are admitted.
- (2). The averments of Paragraph 2 are admitted.
- (3). The averments of Paragraph 3 are denied. Insofar as the title to the parcels of land situate in Sandy Township is in the Plaintiffs, Defendants demand, that proof of these facts be shown.
- (4). It is admitted, that Plaintiffs have constructed a drive-way. It is averred, however, that the Defendant by their lack of knowledge of Plaintiffs' premises demand proof of the quality of the materials employed in construction of the drive-way and the condition of said drive-way prior to October of 1960.
- (5). The averments of Paragraph 5 are denied. The Defendant, Sandy Township Municipal Authority, is excluded from liability, as the Defendant, Midland Contractors, Inc., at all times material to the Plaintiffs' cause of action was an independent contractor. The exclusive ownership, possession or control of the instrumentalities as used upon the drive-way herein mentioned were under the control of Midland Contractors, Inc.
- (6). The averments of Paragraph 6 are denied. Insofar as Defendant, Sandy Township Municipal Authority, is concerned, the Municipal Authority is not responsible for the acts of the independent contractor, Midland Contractors, Inc., as provided for in

the construction agreement between the Municipal Authority and Midland Contractors, Inc. The status of Midland Contractors, Inc. was that of an independent contractor.

(7). The averments of Paragraph 7 are denied. Defendant is without information or belief sufficient to answer the same and demands strict proof thereof.

(8). The averments of Paragraph 8 are denied. Insofar as Defendant is without information or belief sufficient to state whether the premises of the Plaintiffs' have diminished or decreased in value. It is further averred, that regardless of whether the premises of the Plaintiffs' diminished in value the Defendant, Municipal Authority is in no way responsible for that decrease in value.

(9). The averments in Paragraph 9 are denied. Insofar as the amounts to be expended and the costs thereof to the Plaintiffs, Defendant is without information or belief sufficient to answer the same and demands strict proof thereof.

(10). The averments of Paragraph 10 are denied. Insofar as Defendant, the Municipal Authority did not enter upon the land of the Plaintiffs' without their consent.

(11). The averments of Paragraph 11 are denied. Defendant, Midland Contractors, Inc., acted as an independent contractor in exercising exclusive control and dominion over instrumentalities used by Midland Contractors on the properties of the Plaintiff. The status of Midland Contractors, Inc. as an independent contractor is in accordance with Clause (7) of the construction agreement between the Municipal Authority and Midland Contractors, Inc.

WHEREFORE, Defendant, Sandy Township Municipal Authority denies any liability to the Plaintiffs for any amount whatsoever and seeks judgment on the pleadings in its favor.

SECOND COUNT

NOW COMES THE DEFENDANT, SANDY TOWNSHIP MUNICIPAL AUTHORITY IN ANSWER TO THE COMPLAINT OF JOSEPH DYM AND HELEN T. DYM AND AVERS AS FOLLOWS:

(12). The averments of Paragraph 12 are admitted.

(13). The averments of Paragraph 13 are admitted.

(14). The averments of Paragraph 14 are denied. Defendant demands that Plaintiffs prove their ownership of a right of way over and upon said premises described in Paragraph 3 of the Complaint.

(15). The averments of Paragraph 15 are denied. The Defendant, Sandy Township Municipal Authority did employ Midland Contractors, Inc., but as noted previously, the status of Midland Contractors, Inc. was that of an independent contractor. The Municipal Authority did not enter upon, destroy or cause to be destroyed the premises of the Plaintiffs'.

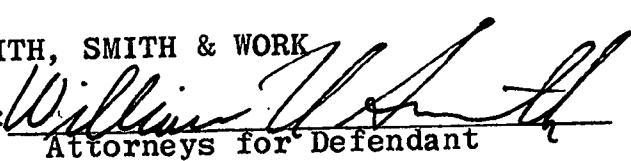
(16). The averments of Paragraph 16 are denied. Insofar as the Defendant, Sandy Township Municipal Authority being responsible for the diminished value of Plaintiffs' premises, the Municipal Authority denies the same.

(17). The averments of Paragraph 17 are admitted.

(18). The averments of Paragraph 18 are denied. Insofar as Defendant, Sandy Township Municipal Authority is excluded from liability as at all times material to the Plaintiffs' cause of action, Midland Contractors, Inc. was and independent contractor.

WHEREFORE, Defendant, Sandy Township Municipal Authority denies any liability for damages in the amount of One Hundred twenty-seven and 22/100 (\$127.22), plus interest and asks for judgment on the pleadings in its favor.

SMITH, SMITH & WORK

BY:   
Attorneys for Defendant

STATE OF PENNSYLVANIA:  
SS  
COUNTY OF CLEARFIELD :

W. H. GRATTON, being duly sworn according to law de-  
poses and says that he is the Chairman of Sandy Township Municipal  
Authority and as such he is duly authorized to make this Affidavit;  
further that the facts set forth in the foregoing Answer are true  
and correct to the best of his knowledge, information and belief.

W. H. Gratton  
W. H. GRATTON

Sworn to and subscribed  
before me this 14<sup>th</sup> day  
of June, 1961.

Mrs Mildred B. Kinger

NOTARY PUBLIC  
My Commission Expires  
JANUARY 7, 1969

19-61-9 *John G. Morris*  
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 277 February Term, 1961  
IN TRESPASS

LLOYD F. RISS and PATRICIA  
JANE RISS; JOSEPH DYM and  
HELEN T. DYM

VS.

SANDY TOWNSHIP MUNICIPAL  
AUTHORITY and MIDLAND CON-  
TRACTORS, INC.

A N S W E R

JUN 14 1961

Wm. T. HAGERTY  
PROTHONOTARY

SMITH, SMITH & WORK  
ATTORNEYS-AT-LAW  
CLEARFIELD, PA.

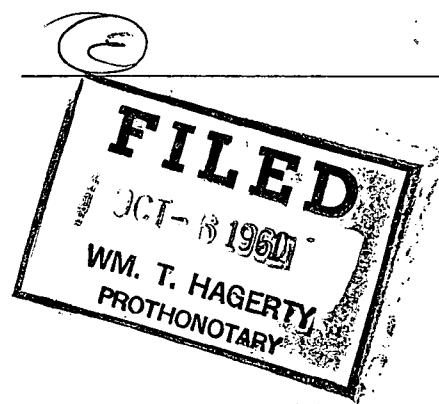
Lap-over Margin

No. \_\_\_\_\_ Term \_\_\_\_\_ 19 \_\_\_\_\_

vs.

APPEARANCE

For \_\_\_\_\_



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LLOYD F. RISS and PATRICIA  
JANE RISS: JOSEPH DYM and  
HELEN T. DYM

VS  
SANDY TOWNSHIP MUNICIPAL  
AUTHORITY and MIDLAND  
CONTRACTORS, INC.

No. 277 February Term, 1961

In Trespass

PRAECIPE FOR APPEARANCE

TO WILLIAM T. HAGERTY, PROTHONOTARY

SIR:

Enter our appearance in the above entitled matter  
on behalf of Midland Contractors, Inc.

SMITH, SMITH & WORK

BY W. U. Hill  
Attys. for Midland

Dated: June 13, 1961

In the Court of Common Pleas of Clfd County, Pa

Lloyd F. Riss et al  
vs

No 277 Feb Term 1961

Sandy Township Municipal Authority & Midland Cont.

## Complaint In Trespass

Now, June 9, 1961 at 9:35 O'Clock A.M. served the within Complaint in Trespass on Midland Contractors at place of business. Sandy Township, Du Bois, PA. by handing to Carl Haymaker, Time Keeper and Office Sect. personally a true and attested copy of the original Complaint In trespass and made known to him the contents Thereof

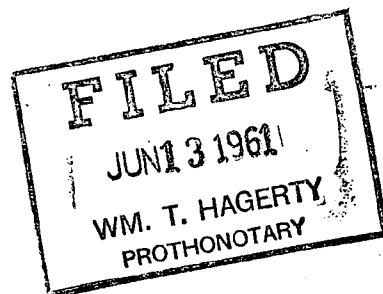
Costs Sheriff Ammerman \$12.00  
(Paid by Attys A & B)

### So Answers.

Charles G. Ammerman  
Sheriff

Sworn to before me this 9th  
day of June 1961 A.D.

Rev. J. J. Haggerty  
Prothonotary



In the Court of Common Pleas of Clearfield County, Pa.

Lloyd F. Riss  
Patricia J. Riss  
Joseph Dyn  
Helen T. Dyn

No. 277 Feb Term 1961.

Sandy Township  
Municipal Authority  
Midland Contractors  
Inc.

## Summons In Trespass

Now, March 15, 1961, at 2:10 O'Clock P.M. served the within  
Summons In Trespass on Midland Contractors Inc at place of  
business 930 S. Brady St, Du Bois, Pa by handing to Ed Kofman  
Supt, for Midland Contractors Inc 930 S. Brady St, Du Bois  
Pa. by handing to him personally a True and Attested copy  
of the original Summons In Trespass and made known to him  
the contents thereof.

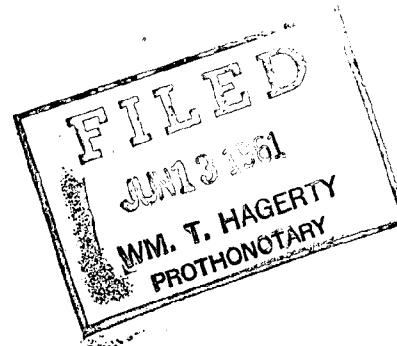
Costs: Sheriff Ammerman \$11.60  
(Paid By Attys A.B.O)

### So Answers,

Charles G Ammerman  
Charles G Ammerman  
Sheriff,

Sworn to before me this 16th  
day of March 16, 1961.

Howard L. Hazzard  
Prothonotary.



## SUMMONS

Commonwealth of Pennsylvania  
County of Clearfield

To ..... SANDY TOWNSHIP MUNICIPAL AUTHORITY and  
..... MIDLAND CONTRACTORS, INC.

You are notified that ..... LLOYD F. RISS & PATRICIA JANE RISS:  
..... JOSEPH DYM & HELEN T. DYM

the plaintiffs, have commenced an action in ..... SUMMONS IN TRESPASS  
..... against you which you are  
required to defend:

Date March 10, 1961

*John T. Nagert*  
John T. Nagert  
Prothonotary