

08-989-CD  
Thomas Holencik vs Larry L. Rea et al

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

THOMAS D. HOLENCIK,  
Plaintiff

vs.

LARRY L. REA; LARRY BRAY  
and LINDA BRAY, his wife;  
and CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants

: No.: 2008-989-CD  
: Type of Case: Equity  
: 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 5/9/2008  
MAY 30 2008 acc to Atty  
William A. Shaw  
Prothonotary/Clerk of Courts  
4cc Sheriff

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

THOMAS D. HOLENCIK, :  
Plaintiff :  
vs. : No. 2008-  
: IN EQUITY  
LARRY L. REA; LARRY BRAY :  
and LINDA BRAY, his wife; :  
and CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :

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

THOMAS D. HOLENCIK, :  
Plaintiff :  
vs. : No. 2008-  
: IN EQUITY  
LARRY L. REA; LARRY BRAY :  
and LINDA BRAY, his wife; :  
and CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :

COMPLAINT

AND NOW COMES, Thomas D. Holencik, by and through his attorney, Girard Kasubick, Esq., and files the following Complaint in Equity:

1. The Plaintiff is Thomas D. Holencik, who resides at P.O. Box 179, 1964 Union Street, Ramey, Pennsylvania 16671

2. The Defendant, Larry L. Rea, resides at 602 E. Texas Street, Apartment #3, Grapevine, Texas 76051.

3. The Defendants, Larry Bray and Linda Bray, his wife, reside at 4601 South Salem Church Street, Dover, Pennsylvania 17315.

4. The Defendants, Clifford Johnson and Guinivere Johnson, his wife, reside at 3424 Oak Ridge Road, New Millport, Pennsylvania 16861.

5. The Plaintiff is the owner of a tract of real property in Knox Township, Clearfield County, Pennsylvania, known by Tax Map No. 122-J13-44 containing approximately eighty (80) acres and being the Eleventh Thereof tract conveyed to Plaintiff in Deed dated March 20, 2006 and recorded in Clearfield County Instrument No. 200604596, hereinafter referred to as "Holencik Property" and shown on the Curry & Associates Survey Map recorded in Clearfield County Instrument No. 200800287, and attached hereto and marked as Exhibit "A".

6. The Defendant, Larry L. Rea, is the owner of a tract of real property in Knox Township, Clearfield County, Pennsylvania, known by Tax Map No. 122-I13-1.1 containing approximately five (5) acres conveyed to him by Deed dated November 13, 1975 and recorded in Clearfield County Deed Book 710, Page 563, hereinafter referred to as "Rea Property".

7. The Rea Property borders the Holencik Property to the southwest as shown on Exhibit "A".

8. The Defendants, Larry Bray and Linda Bray, are the owners of a tract of real property in Knox Township, Clearfield County, Pennsylvania, known by Tax Map No. 122-I13-45 containing approximately three and eighty-seven hundredths (3.87) acres conveyed to them by Deed dated

April 21, 1973 and recorded in Clearfield County Deed Book 631, Page 162, hereinafter referred to as "Bray Property".

9. The Bray property borders the southwest corner of Holencik Property and is on the southeastern side of Rea Property, as shown on Exhibit "A".

10. The Defendants, Clifford Johnson and Guinivere Johnson, are the owners of a tract of real property in Knox Township, Clearfield County, Pennsylvania, known by Tax Map No. 122-J13-28 containing approximately ninety-six (96) acres conveyed to them by Deed dated November 30, 1955 and recorded in Clearfield County Deed Book 451, Page 127, hereinafter referred to as "Johnson Property".

11. The Johnson Property borders the Holencik Property to the southeast and the Bray Property to the northeast as shown on Exhibit "A".

12. The Holencik Property is landlocked and has no recorded access to a publicly dedicated roadway.

**COUNT I - PRESCRIPTIVE RIGHT-OF-WAY**

13. Paragraphs 1 through 12 of this Complaint are incorporated herein by reference thereto.

14. The Holencik Property was owned by Plaintiff's mother, Juanita D. Holencik, prior to Plaintiff's

ownership by Deed from Union Banking and Trust Company, Executor of Estate of J. Howard Smith to her dated July 30, 1987 and recorded in Clearfield County Deeds and Records Book 1187, Page 36.

15. The Holencik Property was acquired by J. Howard Smith by Deed from the Commissions of Clearfield County sold for taxes in the name of Austin Rea dated May 25, 1942 and recorded in Clearfield County Deed Book 344, Page 233.

16. The Plaintiff and his predecessors in title have used a dirt and shale roadway marked "Old Access Road" as shown on Exhibit "A" to obtain access to Holencik Property. Said road running from Township Road T-443 to Holencik Property.

17. The "Old Access Road" shown on Exhibit "A" starts on Township Road T-443 at the common border between Rea Property and Bray Property and runs in a northeast direction through Rea Property, Bray Property and then enters the westernmost corner of Johnson Property before entering Holencik Property.

18. The Plaintiff and his predecessors in title have used the "Old Access Road" shown on Exhibit "A" to gain entry to Holencik Property continuously, openly,

visibility, notoriously, hostilely, and adversely for more than twenty-one (21) years by

- a). driving motorized vehicles over the said "Old Access Road";
- b). hauling coal, timber, and firewood from Holencik Property and removed over the "Old Access Road";
- c). and walking over the "Old Access Road" to get to Holencik Property.

19. Plaintiff and his predecessors in title have acquired an easement by prescriptive on the "Old Access Road" shown on Exhibit "A".

WHEREFORE, Plaintiff requests Your Honorable Court to issue an Order declaring that Plaintiff has acquired a prescriptive easement for an access road from Knox Township Road T-443 over Defendants' properties to Plaintiff's Property as shown on Exhibit "A" attached to this Complaint.

**COUNT II - OPEN PRIVATE ROAD UNDER  
36 P.S. §2731**

20. Paragraphs 1 through 19 of this Complaint are incorporated herein by reference thereto.

21. The Plaintiff requests that a board of view be appointed upon issuance of Petition with a Rule Returnable by Plaintiff to have the "Old Access Road" shown on Exhibit "A" be declared a private road over the Rea Property, Bray Property, and Johnson Property as servient tenements and Holencik Property as the dominant tenement under 36 P.S. §2731 et. seq.

22. The Plaintiff desires that the right-of-way be at least twenty (20) feet in width.

23. Plaintiff is willing to pay just compensation for the private road.

WHEREFORE, Plaintiff requests Your Honorable Court to appoint a board of view upon Petition by Plaintiff to declare a private road over Defendants' properties with compensation under the provisions of 36 P.S. §2731 et. seq.

RESPECTFULLY SUBMITTED:

  
Girard Kasubick  
Girard Kasubick, Esq.,  
Attorney for Plaintiff

**VERIFICATION**

I, the undersigned, verify that the statements made in the foregoing Complaint In Equity 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.



---

Thomas D. Holencik



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-989-CD

THOMAS D. HOLENCIK

vs

LARRY L. REA; LARRY BRAY and LINDAY BRAY and CLIFFORD JOHNSON & GUINIVERE JOHNSON  
COMPLAINT IN EQUITY

SERVE BY: 06/29/2008

HEARING:

PAGE: 104224

SERVICE # 4 OF 4

DEFENDANT: GUINIVERE JOHNSON  
ADDRESS: 3424 OAK RIDGE ROAD  
NEW MILLPORT, PA 16861

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/AAR

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS: AAR

VACANT

OCCUPIED

FILED  
07/3/2008  
JUN 02 2008

William A. Shaw  
Prothonotary/Clerk of Courts

ATTEMPTS

**SHERIFF'S RETURN**

NOW, June 2, 2008 AT 10:58 AM PM SERVED THE WITHIN

COMPLAINT IN EQUITY ON GUINIVERE JOHNSON, DEFENDANT

BY HANDING TO Guinivere Johnson Def

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM/ HER THE CONTENTS THEREOF.

ADDRESS SERVED 3424 Oak Ridge Road  
New Millport, Pa. 16861

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM POSTED THE WITHIN

COMPLAINT IN EQUITY FOR GUINIVERE JOHNSON

AT (ADDRESS) \_\_\_\_\_

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO GUINIVERE JOHNSON

REASON UNABLE TO LOCATE \_\_\_\_\_

SWORN TO BEFORE ME THIS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
DAY OF 2008

So Answers: CHESTER A. HAWKINS SHERIFF

BY:

James C. Davis  
Deputy Signature

James E. Davis  
Print Deputy Name

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
NO: 08-989-CD

THOMAS D. HOLENCIK

vs

LARRY L. REA; LARRY BRAY and LINDAY BRAY and CLIFFORD JOHNSON & GUINIVERE JOHNSON  
COMPLAINT IN EQUITY

SERVE BY: 06/29/2008

HEARING:

PAGE: 104224

DEFENDANT: CLIFFORD JOHNSON  
ADDRESS: 3424 OAK RIDGE ROAD  
NEW MILLPORT, PA 16861

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/AAR

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS:

VACANT

OCCUPIED Prothonotary/Clerk of Courts

FILED  
07/3/08  
JUN 02 2008  
S

William A. Shaw

ATTEMPTS

**SHERIFF'S RETURN**

NOW, June 2, 2008 AT 10:58 AM SERVED THE WITHIN  
COMPLAINT IN EQUITY ON CLIFFORD JOHNSON, DEFENDANT  
BY HANDING TO Guinivere Johnson, Wife

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM (HER) THE CONTENTS  
THEREOF.

ADDRESS SERVED 3424 Oak Ridge Road  
New Millport, Pa. 16861

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM POSTED THE WITHIN  
COMPLAINT IN EQUITY FOR CLIFFORD JOHNSON  
AT (ADDRESS) \_\_\_\_\_

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,  
I MAKE RETURN OF **NOT FOUND** AS TO CLIFFORD JOHNSON

REASON UNABLE TO LOCATE \_\_\_\_\_

SWORN TO BEFORE ME THIS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
DAY OF 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY:

James E. Davis  
Deputy Signature  
James E. Davis  
Print Deputy Name

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

THOMAS D. HOLENCIK,  
Plaintiff

vs.

LARRY L. REA; LARRY BRAY  
and LINDA BRAY, his wife;  
and CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants

: No.: 2008-989-CD  
: Type of Case: Equity  
: Type of Pleading:  
: Affidavit of Proof  
: of Service  
: Filed on behalf of:  
: Plaintiff  
: Counsel of Record  
: For This Party:  
: Girard Kasubick, Esq.  
: Supreme I.D. #30109  
: LEHMAN & KASUBICK  
: 611 Brisbin Street  
: Houtzdale, PA 16651  
: (814) 378-7840

FILED  
01841501  
JUN 11 2008  
1CC Atty Kasubick  
GIC

William A. Shaw  
Prothonotary/Clerk of Courts

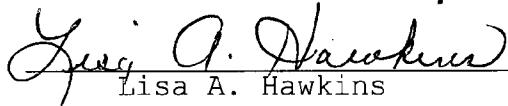
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA  
CIVIL DIVISION

THOMAS D. HOLENCIK, :  
Plaintiff :  
vs. : No. 2008-989-CD  
LARRY L. REA; LARRY BRAY :  
and LINDA BRAY, his wife; :  
and CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :

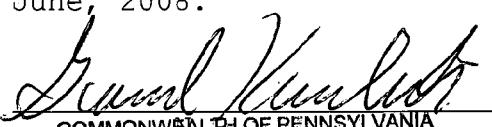
**AFFIDAVIT OF PROOF OF SERVICE**

COMMONWEALTH OF PENNSYLVANIA :  
§:  
COUNTY OF CLEARFIELD :

Before me, Girard Kasubick, Esq., personally appeared Lisa A. Hawkins, who being duly sworn according to law, deposes and says that she served the certified copy of the Complaint in Equity in the above-captioned matter by sending it by certified mail to Larry L. Rea on May 30, 2008. The certified mail was accepted by Larry L. Rea on June 6, 2008 as evidenced by the attached return receipt. Larry L. Rea is served outside the Commonwealth under Pa. R.C.P. 404(2) and 403.

  
Lisa A. Hawkins

Sworn to and subscribed  
before me this 10<sup>th</sup> day  
June, 2008.

  
COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Girard Kasubick, Notary Public  
Houtzdale Boro, Clearfield County  
My Commission Expires June 8, 2011

Member, Pennsylvania Association of Notaries

3879  
7834  
0004  
1160  
7004

**U.S. Postal Service™  
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**OFFICIAL USE**

Postage	\$ 1.51	0651
Certified Fee	\$ 2.70	
Return Receipt Fee (Endorsement Required)	\$ 2.20	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 6.41	05/30/2008

**Sent To**  
Larry L. Rea  
Street, Apt. No.: 602 E. Texas St., Apt. #3  
or PO Box No.  
City, State, ZIP+4: Grapevine, TX 76051

PS Form 3800, June 2002  
See Reverse for Instructions

*ROUTZDALE PA  
Postmark  
Here*  
*MAY 30 2008*  
*USPS 16651*  
*05/30/2008*

<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature <i>Larry L. Rea</i></p> <p>B. Received by (Printed Name) <i>LARRY REA</i></p> <p>C. Date of Delivery <i>6/6/08</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <i>501 Turner Rd Apt 213 Grapevine, TX 76051-7242</i></p>	
<p>1. Article Addressed to:</p> <p>Larry L. Rea 602 E. Texas Street Apartment #3 Grapevine, TX 76051</p> <p><i>JUN 5 2008</i></p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.         </p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>5. RETURN RECEIPT REQUESTED</p> <p>7004 1160 0004 7834 3879</p>			

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION

THOMAS D. HOLENCIK,  
Plaintiff

vs.

LARRY L. REA; LARRY BRAY  
and LINDA BRAY, his wife;  
and CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants

: No.: 2008-989-CD  
: Type of Case: Equity  
: Type of Pleading:  
: Affidavit of Proof  
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: Filed on behalf of:  
: Plaintiff  
: Counsel of Record  
: For This Party:  
: Girard Kasubick, Esq.  
: Supreme I.D. #30109  
: LEHMAN & KASUBICK  
: 611 Brisbin Street  
: Houtzdale, PA 16651  
: (814) 378-7840

FILED  
JUN 11 2008  
1CC  
Atty Kasubick  
GIC

William A. Shaw  
Prothonotary/Clerk of Courts

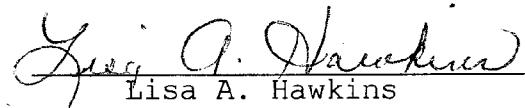
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA  
CIVIL DIVISION

THOMAS D. HOLENCIK, :  
Plaintiff :  
vs. : No. 2008-989-CD  
LARRY L. REA; LARRY BRAY :  
and LINDA BRAY, his wife; :  
and CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants : IN EQUITY

**AFFIDAVIT OF PROOF OF SERVICE**

COMMONWEALTH OF PENNSYLVANIA :  
S:  
COUNTY OF CLEARFIELD :  
:

Before me, Girard Kasubick, Esq., personally appeared Lisa A. Hawkins, who being duly sworn according to law, deposes and says that she served the certified copy of the Complaint in Equity in the above-captioned matter by sending it by certified mail to Larry L. Rea on May 30, 2008. The certified mail was accepted by Larry L. Rea on June 6, 2008 as evidenced by the attached return receipt. Larry L. Rea is served outside the Commonwealth under Pa. R.C.P. 404(2) and 403.

  
Lisa A. Hawkins

Sworn to and subscribed  
before me this 10<sup>th</sup> day  
June, 2008.



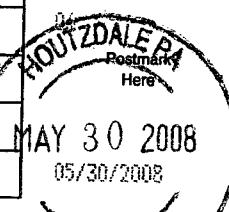
COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Girard Kasubick, Notary Public  
Houtzdale Boro, Clearfield County  
My Commission Expires June 8, 2011

Member, Pennsylvania Association of Notaries

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

**OFFICIAL USE**

7004	1160	0004	7834	3879	
GRAPENEVINE, TX 76051					
<b>Postage</b>					
\$1.51					
<b>Certified Fee</b>					
\$2.70					
<b>Return Receipt Fee (Endorsement Required)</b>					
\$2.20					
<b>Restricted Delivery Fee (Endorsement Required)</b>					
\$0.00					
<b>Total Postage &amp; Fees</b>					
\$6.41					



MAY 30 2008  
05/30/2008

**Sent To**

Larry L. Rea  
Street, Apt. No.: 602 E. Texas St., Apt. #3  
or PO Box No.  
City, State, ZIP+4: Grapevine, TX 76051

USPS 16651

PS Form 3800, June 2002      See Reverse for Instructions

<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<p><input type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p><input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</p> <p><input type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p><input type="checkbox"/> Signature      <input checked="" type="checkbox"/> Larry L. Rea</p> <p><input type="checkbox"/> Agent      <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Larry L. Rea 602 E. Texas Street Apartment #3 Grapevine, TX 76051</p>		<p>B. Received by (Printed Name)      <input type="checkbox"/> Date of Delivery</p> <p>LARRY REA      6/6/08</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>501 Turner Rd Apt 213 Grapevine, TX 76051-7242</p>	
<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail      <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered      <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail      <input type="checkbox"/> C.O.D.</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<b>RETURN RECEIPT REQUESTED</b>			
7004 1160 0004 7834 3879			

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

THOMAS D. HOLENCIK, Plaintiff : No. 2008-489 -CD  
vs. : Type of Case: Civil  
LARRY L. REA; LARRY BRAY and LINDA BRAY, his wife, and CLIFFORD JOHNSON and GUINIVERE JOHNSON, his wife Defendant : Type of Pleading:  
Defendant : Praeclipe for Entry of Appearance  
Defendant : Filed on behalf of: Defendant  
Defendant : Counsel of Record for this Party:  
Defendant : Andrew P. Gates, Esq.  
Defendant : Supreme Court No.: 36604  
Defendant : GATES & SEAMAN  
Defendant : Attorneys at law  
Defendant : 2 North Front Street  
Defendant : P. O. Box 846  
Defendant : Clearfield, Pennsylvania 16830  
Defendant : (814) 765-1766

FILED 1CC Atty  
01/35cm Gates  
JUN 27 2008  
60  
William A. Shaw  
Prothonotary/Clerk of Courts

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

THOMAS D. HOLENCIK,

**Plaintiff**

No. 2008-989-CD

VS.

## IN EQUITY

LARRY L. REA; LARRY BRAY and  
LINDA BRAY, his wife, and CLIFFORD  
JOHNSON and GUINIVERE JOHNSON,  
his wife

## Defendants

## PRAECLIPSE

TO: WILLIAM A. SHAW, PROTHONOTARY:

Kindly enter my appearance on behalf of Defendants, Larry L. Rea, Larry Bray and Linda Bray, his wife, in the above-captioned matter.

## GATES & SEAMAN

By:

S & SEAMAN

Andrew P. Gates, Esquire

Date: June 25, 2008

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

THOMAS D. HOLENCIK, Plaintiff :  
vs. : No. 2008-989-CD  
LARRY L. REA; LARRY BRAY and In Equity  
LINDA BRAY, his wife, and CLIFFORD Type of Case: Civil  
JOHNSON and GUINIVERE  
JOHNSON, his wife  
Defendants : Type of Pleading: Answer and  
New Matter  
: Filed on behalf of Defendants:  
Larry L. Rea, Larry Bray and  
Linda Bray  
: Counsel of Record for this Party:  
Andrew P. Gates, Esq.  
: Supreme Court No.: 36604  
: GATES & SEAMAN  
: Attorneys at law  
: Two North Front Street  
: P. O. Box 846  
: Clearfield, PA 16830  
: (814) 765-1766

FILED 3CC Atty  
01/35 cm Gates  
JUN 27 2008 (60)  
William A. Shaw  
Prothonotary/Clerk of Courts

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

THOMAS D. HOLENCIK,

Plaintiff

No. 2008-989-CD

vs.

IN EQUITY

LARRY L. REA; LARRY BRAY and  
LINDA BRAY, his wife, and CLIFFORD  
JOHNSON and GUINIVERE JOHNSON,  
his wife

Defendants

**NOTICE**

TO: Plaintiff, Thomas D. Holencik

**YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE  
ENCLOSED NEW MATTER WITHIN TWENTY (20) DAYS FROM SERVICE  
HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.**

GATES & SEAMAN

By:



Andrew P. Gates, Esquire, Attorney for Defendants,  
Larry L. Rea, Larry Bray and Linda Bray, his wife

Date: June 25, 2008

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

THOMAS D. HOLENCIK,	Plaintiff	:	
			No. 2008-989-CD
vs.			IN EQUITY
LARRY L. REA; LARRY BRAY and LINDA BRAY, his wife, and CLIFFORD JOHNSON and GUINIVERE JOHNSON, his wife			
	Defendants	:	

**ANSWER AND NEW MATTER**

NOW COMES, Defendants, Larry L. Rea, Larry Bray and Linda Bray, by their attorneys, Gates and Seaman, and responds to Plaintiff's Complaint in Equity, as follows:

1. Admitted.
2. Denied. On the contrary, Defendant, Larry L. Rea resides at 501 Turner Road, Apt. #213, Grapevine, Texas 76051, but receives all his mail at P. O. Box 2917, Grapevine, Texas 76099.
3. Admitted.
4. Denied. After reasonable investigation, these Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the averments set forth in Paragraph 4 of Plaintiff's Complaint, and if relevant, strict proof thereof is demanded at time of trial.
5. Paragraph 5 of Plaintiff's Complaint is admitted in part and denied in part. It is admitted that Plaintiff is the owner of a tract of real estate situate in Knox Township, Clearfield County, Pennsylvania having Clearfield County Assessment Map

Number 122-J13-44, presently assessed as 75 acres, with said premises having been conveyed to Plaintiff by deed dated March 20, 2006 and appearing of record as Clearfield County Instrument Number 200604596. As for the balance of Paragraph 5 of Plaintiff's Complaint, after reasonable investigation, these Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of said remaining allegations, and if relevant, strict proof thereof is demanded at time of trial. By way of further answer, Clearfield County Assessment Maps for the vicinity show the parcel identified as Clearfield County Assessment Map Number 122-J13-44 as not being situate in the same location as shown on Exhibit "A" of Plaintiff's Complaint. On the contrary, the Clearfield County Assessment Maps show the location of parcel number 122-J13-44 as being more to the East and that a different parcel identified by Clearfield County Assessment Map Number 122-J13-29 (assessed to Glenda A. Hipps et al) being located between these Defendants' parcels and that of Plaintiff.

6. Admitted.

7. Denied. After reasonable investigation, these Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 7 of Plaintiff's Complaint, and if relevant, strict proof thereof is demanded at time of trial. By way of further answer, these Defendants incorporate by reference the last two sentences of Paragraph 5 hereof.

8. Admitted.

9. Denied. After reasonable investigation, these Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 9 of Plaintiff's Complaint, and if relevant, strict

proof thereof is demanded at time of trial. By way of further answer, these Defendants incorporate by reference the last two sentences of Paragraph 5 hereof.

10. Admitted.

11. Denied. After reasonable investigation, these Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of allegations set forth in Paragraph 11 of Plaintiff's Complaint, and if relevant, strict proof thereof is demanded at time of trial. By way of further answer, the Clearfield County Assessment Maps for this section of Knox Township, Clearfield County, Pennsylvania show "the Holencik property" to be situate more to the East and that a different parcel having Clearfield County Assessment Map Number 122-J13-29 (presently assessed to Glenda L. Hipps et et) is located between the "Holencik Property" and the parcels of these Defendants.

12. Denied. After reasonable investigation, these Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 12 of Plaintiff's Complaint, and if relevant, strict proof thereof is demanded at time of trial.

Count I – Prescriptive Right of Way

13. Paragraph 1 through 12 of this Answer are hereby incorporated by reference as though set forth at length.

14. Denied. These Defendants, after reasonable investigation, are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set for in Paragraph 14 of Plaintiff's Complaint, and if relevant, strict proof thereof is demanded at time of trial.

15. Denied. These Defendants, after reasonable investigation, are without knowledge or information sufficient to form a belief as to the truth or falsity of the averments set forth in Paragraph 15 of Plaintiff's Complaint, and if relevant, strict proof thereof is demanded at time of trial.

16. Denied. On the contrary, these Defendants believe and therefore aver that the dirt and shale roadway, shown as "Old Access Road" on Exhibit "A" to Plaintiff's Complaint, was and has only been utilized by Plaintiff and his predecessors, on limited occasions to remove coal or possibly timber from the Holencik property. By way of further answer, these Defendants believe and therefore aver, Plaintiff and his predecessors in title have not utilized the dirt and shale roadway in question in such an open, continuous, visible, notorious, hostile and adverse fashion so as to be entitled to a prescriptive easement under the statutory and case law of the Commonwealth of Pennsylvania.

17. Paragraph 17 of Plaintiff's Complaint is admitted in part and denied in part. It is admitted that the dirt and shale road identified on Exhibit "A" to Plaintiff's Complaint as "Old Access Road" starts on Township Road T-443, at the common boundary between the "Rea Property" and "Bray Property" and runs in a northeast direction first through the "Rea Property" and then through the "Bray Property" and then enters the northwestern quadrant of the "Johnson Property". As for the balance of the averments set forth in Paragraph 17 of Plaintiff's Complaint, these Defendants, after reasonable investigation, are without knowledge or information sufficient to form a belief as to the truth or falsity thereof, and if relevant, strict proof thereof is demanded at time of trial. By way of further answer, these Defendants incorporate by reference

their response set forth in Paragraphs 5 and 11 of this Answer.

18. Paragraph 18 of Plaintiff's Complaint is denied as stated. On the contrary, the usage of the "Old Access Road" by Plaintiff and his predecessors in title, has either been consensual or otherwise has not been continuously, openly, visibly or notoriously utilized for twenty-one (21) consecutive years so as to entitle Plaintiff to a determination that he is entitled to a prescriptive easement under the statutory and case law of the Commonwealth of Pennsylvania.

19. Paragraph 19 of Plaintiff's Complaint sets forth a conclusion of law to which no responsive pleading is required. By way of further answer, Defendants hereby incorporate by reference Paragraphs 26 through 31 of the hereafter stated New Matter, as though set forth at length.

WHEREFORE, Defendants Larry Rea, Larry Bray and Linda Bray, his wife, request this Honorable Court to enter an Order denying Plaintiff's request for a prescriptive easement over the "Old Access Road" and to otherwise dismiss Plaintiff's Complaint, with prejudice.

Count II – Open Private Road Under 36 P.S. §2731

20. Paragraphs 1 through 19 of Defendants' Answer are hereby incorporated by reference as though set forth at length.

21. Paragraph 21 of Plaintiff's Complaint does not set forth any factual averments to which these Defendants are required to respond. By way of further answer, these Defendants believe and therefore aver Plaintiff has or may obtain access to a public road by other existing sources and as such, will be unable to establish "a private road is necessary" as is mandated by 36 P.S. §2731 et seq. By way of further

answer, these Defendants believe and aver given the criteria set forth in 36 P.S. §1785, a different location for a private road would be more appropriate, provided the Board of View finds such a private road to be "necessary" as to provide Plaintiff's parcel access to a public road.

22. Denied. On the contrary, these Defendants believe and therefore aver the existing width (approximately 12 feet) of the present dirt and shale roadway Plaintiff has identified as "Old Access Road" is more than adequate to provide Plaintiff access to his parcel should it be determined that such a private road is "necessary".

23. Paragraph 23 of Plaintiff's Complaint sets forth a conclusion of law to which no responsible pleading is required. By way of further answer, these Defendants, if a private road under the Pennsylvania Private Road Act is laid out over their respective parcels, are entitled to monetary damages in accordance with formula set forth in 36 P.S. §2736.

NEW MATTER

In further answer to Plaintiff's Complaint, Defendants, Larry L. Rea, Larry Bray and Linda Bray, through their attorneys, Gates and Seaman, hereby assert the following New Matter:

24. Paragraphs 1 through 12 and 14 through 19 and 21 through 23 of Defendants' Answer are hereby incorporated by reference as though set forth at length.

25. The eastern most portions of the "Rea Property" and "Bray Property" through which the "Old Access Road" traverses are wooded. As such, no prescriptive easement through said wooded sections may be obtained pursuant to 68 P.S. §411.

26. Defendants believe and therefore aver, any prior use of the "Old Access Road" by Plaintiff and his predecessors in title has been consensual and has been for the sole purpose of removing mined coal and/or to have timber cut on the Holencik property.

27. Defendants believe and therefore aver any prior use of the "Old Access Road" by Plaintiff and his predecessors in title amounted to, at most, a revocable license which these Defendants may revoke at any time.

28. The usage of the "Old Access Road" by Plaintiff and his predecessors in title has been sporadic and otherwise has not been continuously, notoriously, openly and hostilely exercised, for a period of twenty-one (21) consecutive years, so as to entitle Plaintiff to a prescriptive easement.

29. Alternatively, should it be established Plaintiff's predecessors in interest had secured a prescriptive easement over the "Old Access Road" said prescriptive easement has been lost due to its abandonment.

30. Provided it is determined the parcel identified by Clearfield County Assessment Map No. 122-J13-29 is located between these Defendants' parcels and the "Holencik Property, Plaintiff's Complainant has failed to join, as necessary and/or in dispensable parties, the present owners of Clearfield County Parcel No. 122-J13-29.

31. Defendants believe and therefore aver, Plaintiff may have access to the "Holencik Property" by other rights of way or consensual easements.

32. In order for Plaintiff to be entitled to have a private road laid out pursuant to the Pennsylvania Private Road Act (36 P.S. §2731 et seq) it must be established to the satisfaction of the Board of View to be appointed that: (i) such a

private road is "necessary" and (ii) the location thereof to only be decided upon once the criteria set forth in 36 P.S. §1785 is considered and adhered to.

WHEREFORE, Defendants Rea and Bray request this Honorable Court enter Judgment in their favor and otherwise dismiss Plaintiff's Complaint, with prejudice.

Respectfully submitted:

GATES & SEAMAN

By:



---

Andrew P. Gates, Esquire  
Attorney for Defendants Larry Rea,  
Larry Bray and Linda Bray

Date: June 25, 2008.

Two North Front Street, P. O. Box 846  
Clearfield, PA 16830  
(814) 765-1766

VERIFICATION

I, LARRY L. REA, the undersigned, verify that I am one of the Defendants in the within action, and that the statements made in the foregoing Answer and New Matter are true and correct to the best of my knowledge, information and belief. I the undersigned understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Larry L. Rea  
Larry L. Rea

Date: 6-26-, 2008

VERIFICATION

I, LARRY BRAY and LINDA BRAY, his wife , the undersigned, verify that we are two of the Defendants in the within action, and that the statements made in the foregoing Answer are true and correct to the best of our knowledge, information and belief. I the undersigned understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Larry Bray  
Larry Bray

Linda M. Bray  
Linda Bray

Date: June 25, 2008

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

THOMAS D. HOLENCIK,

Plaintiff

No. 2008-989-CD

vs.

IN EQUITY

LARRY L. REA; LARRY BRAY and  
LINDA BRAY, his wife, and CLIFFORD  
JOHNSON and GUINIVERE JOHNSON,  
his wife

Defendants

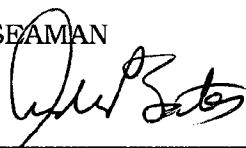
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of ANSWER and NEW MATTER OF  
DEFENDANTS, LARRY L. REA, LARRY BRAY and LINDA BRAY was forwarded by U. S.  
Mail, postage prepaid, on the 27<sup>th</sup> day of June, 2008, to:

Girard Kasubick, Esquire  
611 Brisbin Street  
Houtzdale, PA 16651  
(Attorney for Plaintiff, Thomas D. Holencik)

GATES & SEAMAN  
By:

Andrew P. Gates, Esquire  
Attorney for Defendants Larry Rea,  
Larry Bray and Linda Bray



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

THOMAS D. HOLENCIK,  
Plaintiff

vs.

LARRY L. REA; LARRY BRAY  
and LINDA BRAY, his wife;  
and CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants

: No.: 2008-989-CD  
: Type of Case: Equity  
: Type of Pleading:  
: Reply to New Matter of  
: Defendants, Larry L.  
: Rea; Larry Bray and  
: Linda Bray  
: 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** *acc*  
010:03/2014 *Atty Kasubick*  
JUL 18 2008

*(G)*  
William A. Shaw  
Prothonotary/Clerk of Courts

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

THOMAS D. HOLENCIK, :  
Plaintiff :  
vs. : No. 2008-989-CD  
: IN EQUITY  
LARRY L. REA; LARRY BRAY :  
and LINDA BRAY, his wife; :  
and CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :

**REPLY TO NEW MATTER OF DEFENDANTS, LARRY L. REA; LARRY  
BRAY AND LINDA BRAY**

AND NOW COMES, Thomas D. Holencik, Plaintiff, by and through his attorney, Girard Kasubick, Esq., and files the following Reply to above noted Defendants New Matter:

24. Plaintiff hereby incorporates paragraphs 1 through 23 of the Complaint as though set forth in full herein.

25. Denied. This is a conclusion of law or fact for which no responsive pleading is required.

26. Denied. Plaintiff never requested any permission or consent to use the "Old Access Road" and to best of Plaintiff's knowledge neither did his predecessors in title make any requests when timber or coal was removed or for any other reason. Plaintiff also incorporates paragraph 18 of the Complaint as though set forth in full

herein. Furthermore, Plaintiff after reasonable investigation is without knowledge or information sufficient to form a belief as to the truth of consensual use of his predecessors in title of the "Old Access Road" and proof thereof is demanded.

27. Denied. This is a conclusion of law or fact for which no responsive pleading is required. Plaintiff also incorporates paragraph 26 of this Reply to New Matter as though set forth in full herein.

28. Denied. This paragraph is denied as set forth in paragraph 18 of the Plaintiff's Complaint which is incorporated herein as though set forth in full herein.

29. Denied. This paragraph is denied as set forth in paragraph 18 of the Plaintiff's Complaint which is incorporated herein as though set forth in full herein. Although Plaintiff does not go onto Holencik property every day or every week, when he does go onto Holencik property, he always uses the "Old Access Road" to get onto his property. This paragraph is further denied as a conclusion of law or fact for which no responsive pleading is required.

30. Denied. Plaintiff's surveyor has determined the location of Holencik property to border the eastern sides of Rea property and Bray property under accepted surveying

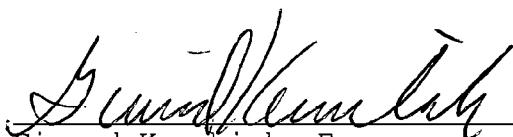
standards and this survey has been recorded in Clearfield County Instrument No. 200800297 on January 9, 2008. This paragraph is further denied that the averment therein is in the form of a Preliminary Objection not properly raised under Pa. R.C.P. 1028 and not a factual averment to be raised in New Matter.

31. Denied. This is a conclusion of law or fact for which no responsive pleading is required and strict proof thereof is demanded. By way of further denial, Plaintiff has not used any rights of ways or easements to gain access other than the "Old Access Road".

32. Denied. This is a conclusion of law or fact for which no responsive pleading is required.

WHEREFORE, Plaintiff requests Your Honorable Court to declare a private road right-of-way across Defendants property for access to Plaintiff's property as set forth in the Complaint.

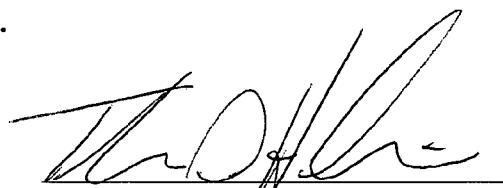
RESPECTFULLY SUBMITTED:



Girard Kasubick  
Girard Kasubick, Esq.,  
Attorney for Plaintiff

**VERIFICATION**

I, the undersigned, verify that the statements made in the foregoing Reply to New Matter of Defendants, Larry L. Rea; Larry Bray and Linda Bray 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.



Thomas D. Holencik

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

THOMAS D. HOLENCIK,  
Plaintiff

vs.

LARRY L. REA; LARRY BRAY  
and LINDA BRAY, his wife;  
and CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants

: No.: 2008-989-CD  
: Type of Case: Equity  
: Type of Pleading:  
: Certificate 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 100  
012-28-08 Atty Kasubick  
JUL 21 2008  
W.M.  
William A. Shaw  
Prothonotary/Clerk of Courts

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

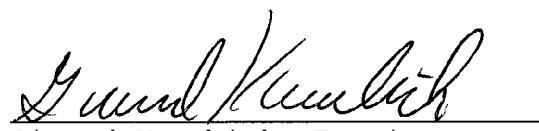
THOMAS D. HOLENCIK, :  
Plaintiff :  
vs. : No. 2008-989-CD  
: IN EQUITY  
LARRY L. REA; LARRY BRAY :  
and LINDA BRAY, his wife; :  
and CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :

**CERTIFICATE OF SERVICE**

I hereby certify that I, Girard Kasubick, Esq., served a copy of the Plaintiff's Replay to New Matter of Defendants, Larry L. Rea, Larry Bray and Linda Bray by regular United States mail, postage pre-paid, mailed on July 18, 2008 upon the attorney for the Defendants, Rea and Bray, and upon Defendants, Johnson, at the following addresses:

Andrew P. Gates, Esq.  
GATES & SEAMAN  
Two North Front Street  
P.O. Box 846  
Clearfield, PA 16830

Clifford Johnson  
Guinivere Johnson  
3424 Oak Ridge Road  
New Millport, PA 16861

  
Girard Kasubick, Esquire,  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104224  
NO: 08-989-CD  
SERVICE # 11 OF 4  
COMPLAINT IN EQUITY

PLAINTIFF: THOMAS D. HOLENICK

VS.

DEFENDANT: LARRY L. REA; LARRY BRAY and LINDAY BRAY and CLIFFORD JOHNSON & GUINIVERE JOHNSON

**SHERIFF RETURN**

---

NOW, May 30, 2008, SHERIFF OF YORK COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT IN EQUITY ON LARRY BRAY.

NOW, June 06, 2008 AT 1:33 PM SERVED THE WITHIN COMPLAINT IN EQUITY ON LARRY BRAY, DEFENDANT. THE RETURN OF YORK COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

FILED  
0/10/30cm  
SEP 18 2008

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104224  
NO. 08-989-CD  
SERVICE # 2 OF 4  
COMPLAINT IN EQUITY

PLAINTIFF: THOMAS D. HOLENICK

VS.

DEFENDANT: LARRY L. REA; LARRY BRAY and LINDAY BRAY and CLIFFORD JOHNSON & GUINIVERE JOHNSON

**SHERIFF RETURN**

---

NOW, May 30, 2008, SHERIFF OF YORK COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT IN EQUITY ON LINDA BRAY.

NOW, June 06, 2008 AT 1:33 PM SERVED THE WITHIN COMPLAINT IN EQUITY ON LINDA BRAY, DEFENDANT. THE RETURN OF YORK COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104224  
NO: 08-989-CD  
SERVICES 4  
COMPLAINT IN EQUITY

PLAINTIFF: THOMAS D. HOLENCIK

vs.

DEFENDANT: LARRY L. REA; LARRY BRAY and LINDAY BRAY and CLIFFORD JOHNSON & GUINIVERE JOHNSON

**SHERIFF RETURN**

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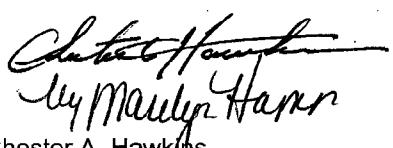
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	KASUBICK	13402	40.00
SHERIFF HAWKINS	KASUBICK	13402	49.13
YORK CO.	KASUBICK	13404	56.26

Sworn to Before Me This

So Answers,

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

  
Chester A. Hawkins  
Sheriff

COUNTY OF YORK

## OFFICE OF THE SHERIFF

45 N. GEORGE ST., YORK, PA 17401

SERVICE CALL  
(717) 771-9601SHERIFF SERVICE  
PROCESS RECEIPT and AFFIDAVIT OF RETURNINSTRUCTIONS  
PLEASE TYPE ONLY LINE 1 THRU 12  
DO NOT DETACH ANY COPIES

1. PLAINTIFF/S/

Thomas D Holencik

2. COURT NUMBER

08-989-C0

3. DEFENDANT/S/

Harry L. Rea et al

4. TYPE OF WRIT OR COMPLAINT

NOTICE, CICA  
Complaint in Equity

SERVE



{

5. NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO BE LEVIED, ATTACHED, OR SOLD

Larry Bray

6. ADDRESS (STREET OR RFD WITH BOX NUMBER, APT. NO., CITY, BORO, TWP., STATE AND ZIP CODE)

4601 South Salem Church St, Dover, PA 17315

7. INDICATE SERVICE:  PERSONAL  PERSON IN CHARGE  DEPUTIZE  CERT. MAIL  1ST CLASS MAIL  POSTED  OTHERNOW May 30, 2008, I, SHERIFF OF YORK COUNTY, PA, do hereby depose the sheriff of York COUNTY to execute this Writ and make return thereof according to law. This depose being made at the request and risk of the plaintiff.

SHERIFF OF YORK COUNTY

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE:

OUT OF COUNTY CLEARFIELD

ADV FEE PAID BY ATTY.

NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction, or removal of any property before sheriff's sale thereof.

9. TYPE NAME and ADDRESS of ATTORNEY / ORIGINATOR and SIGNATURE Girard Kasubick 611 BRISBIN ST., HOUTZDALE, PA 16651 814-378-7840 10. TELEPHONE NUMBER 11. DATE FILED 5-30-2008

12. SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW: (This area must be completed if notice is to be mailed).

## CLEARFIELD CO SHERIFF

## SPACE BELOW FOR USE OF THE SHERIFF - DO NOT WRITE BELOW THIS LINE

13. I acknowledge receipt of the writ or complaint as indicated above. MJ MCGILL YLSU 14. DATE RECEIVED 6-2-2008 15. Expiration/Hearing Date 6-29-08

16. HOW SERVED: PERSONAL  RESIDENCE ( ) POSTED ( ) POE ( ) SHERIFF'S OFFICE ( ) OTHER ( ) SEE REMARKS BELOW17.  I hereby certify and return a NOT FOUND because I am unable to locate the individual, company, etc. named above. (See remarks below.)18. NAME AND TITLE OF INDIVIDUAL SERVED / LIST ADDRESS HERE IF NOT SHOWN ABOVE (Relationship to Defendant) Harry J Bray 19. Date of Service 6-6-08 20. Time of Service 1330M

21. ATTEMPTS Date Time Miles Int. Date Time Miles Int.

22. REMARKS:

23. Advance Costs 24. Service Costs 25. N/F 26. Mileage 27. Postage 28. Sub Total 29. Pound 30. Notary 31. Surchrg. 32. Tot. Costs 33. Cash/Check Refund 34. Check No. \$100.00 24.00 25.26 49.26 7.00 56.26 43.74 88614

34. Foreign County Costs 35. Advance Costs 36. Service Costs 37. Notary Cert. 38. Mileage/Postage/Not Found 39. Total Costs 40. Costs Due or Refund

41. AFFIRMED and subscribed to before me this 10th

42. day of JUNE 20, 2008 By: Lisa L. Bowman COMMONWEALTH OF PENNSYLVANIA NOTARYNOTARIAL SEAL  
LISA L. BOWMAN, NOTARY PUBLIC  
CITY OF YORK, YORK COUNTY  
MY COMMISSION EXPIRES AUG. 12, 2009

SO ANSWERS

44. Signature of Dep. Sheriff Bush Deaconer #1M 45. DATE 6-6-0846. Signature of York County Sheriff RICHARD P. KEUERLEBER, SHERIFF 47. DATE 6-10-200848. Signature of Foreign County Sheriff RICHARD P. KEUERLEBER, SHERIFF 49. DATE50. I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE  
OF AUTHORIZED ISSUING AUTHORITY AND TITLE 51. DATE RECEIVED

COUNTY OF YORK

## OFFICE OF THE SHERIFF

45 N. GEORGE ST., YORK, PA 17401

SERVICE CALL  
(717) 771-9601SHERIFF SERVICE  
PROCESS RECEIPT and AFFIDAVIT OF RETURNINSTRUCTIONS  
PLEASE TYPE ONLY LINE 1 THRU 12  
DO NOT DETACH ANY COPIES

1. PLAINTIFF/S/

Thomas D Holencik

3. DEFENDANT/S/

Harry L. Rea a1

SERVE



AT

5. NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO BE LEVIED, ATTACHED, OR SOLD

6. ADDRESS (STREET OR RFO WITH BOX NUMBER, APT. NO., CITY, BORO, TWP., STATE AND ZIP CODE)

4601 South Salem Church St Duncr PA 17315

7. INDICATE SERVICE:  PERSONAL  PERSON IN CHARGE  DEPUTIZE  CERT. MAIL  1ST CLASS MAIL  POSTED  OTHERNOW May 30, 2008, I, SHERIFF OF YORK COUNTY, PA, do hereby depose the sheriff of York COUNTY to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff.

SHERIFF OF YORK COUNTY

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE:

OUT OF COUNTY CLEARFIELD

ADV FEE PAID BY ATTY.

NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction, or removal of any property before sheriff's sale thereof.

9. TYPE NAME and ADDRESS of ATTORNEY / ORIGINATOR and SIGNATURE Girard Kasubick 611 BRISBIN ST. 10. TELEPHONE NUMBER 814-378-7846 11. DATE FILED 5-30-2008

12. SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW: (This area must be completed if notice is to be mailed)

CLEARFIELD CO SHERIFF

## SPACE BELOW FOR USE OF THE SHERIFF - DO NOT WRITE BELOW THIS LINE

13. I acknowledge receipt of the writ or complaint as indicated above. 14. DATE RECEIVED 6-2-2008 15. Expiration/Hearing Date 6-29-0816. HOW SERVED: PERSONAL  RESIDENCE  POSTED  POE  SHERIFF'S OFFICE  OTHER  SEE REMARKS BELOW17.  I hereby certify and return a NOT FOUND because I am unable to locate the individual, company, etc. named above. (See remarks below.)18. NAME AND TITLE OF INDIVIDUAL SERVED / LIST ADDRESS HERE IF NOT SHOWN ABOVE (Relationship to Defendant) 19. Date of Service 6-6-08 20. Time of Service 133PM

21. ATTEMPTS Date Time Miles Int. Date Time Miles Int.

22. REMARKS:

23. Advance Costs 24. Service Costs 25. N/F 26. Mileage 27. Postage 28. Sub Total 29. Pound 30. Notary 31. Surchg. 32. Tot. Costs 33. Costs Due or Refund 34. Check No.

34. Foreign County Costs 35. Advance Costs 36. Service Costs 37. Notary Cert. 38. Mileage/Postage/Not Found 39. Total Costs 40. Costs Due or Refund

41. AFFIRMED and subscribed to before me this 10th day of JUNE, 2008. Sue L. Bowman SO ANSWERS42. day of JUNE, 2008. Sue L. Bowman COMMONWEALTH OF PENNSYLVANIA45. DATE 6-6-08

47. DATE

6-10-2008

NOTARIAL SEAL  
LISA L. BOWMAN, NOTARY PUBLIC  
CITY OF YORK, YORK COUNTY  
MY COMMISSION EXPIRES AUG. 12, 200944. Signature of  
Deputy Sheriff Beth Newcomer #m46. Signature of York  
County Sheriff Richard P. Keuerleber48. Signature of Foreign  
County Sheriff RICHARD P. KEUERLEBER, SHERIFF

49. DATE

50. I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE  
OF AUTHORIZED ISSUING AUTHORITY AND TITLE 51. DATE RECEIVED



CHESTER A. HAWKINS  
SHERIFF

Sheriff's Office  
Clearfield County

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641  
FAX (814) 765-5915  
ROBERT SNYDER  
CHIEF DEPUTY  
MARILYN HAMM  
DEPT. CLERK  
CYNTHIA AUGHENBAUGH  
OFFICE MANAGER  
KAREN BAUGHMAN  
CLERK TYPIST  
PETER F. SMITH  
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 104224

TERM & NO. 08-989-CD

THOMAS D. HOLENCIK

COMPLAINT IN EQUITY

VS.

LARRY L. REA; LARRY BRAY and LINDAY BRAY and CLIFFORD JOHNSON & GUINIVERE JOHNSON

SERVE BY: 06/29/08  
COURT DATE:

MAKE REFUND PAYABLE TO GIRARD KASUBICK, ESQ.

SERVE: LINDA BRAY

ADDRESS: 4601 SOUTH SALEM CHURCH ST., DOVER, PA 17315

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF YORK COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, May 30, 2008.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

RECEIVED  
CLEARFIELD COUNTY SHERIFF  
06 JUN 2 PM 2 52  
PA



CHESTER A. HAWKINS  
SHERIFF

Sheriff's Office  
Clearfield County

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641  
FAX (814) 765-5915  
ROBERT SNYDER  
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DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 104224

TERM & NO. 08-989-CD

THOMAS D. HOLENCIK

COMPLAINT IN EQUITY

VS.

LARRY L. REA; LARRY BRAY and LINDAY BRAY and CLIFFORD JOHNSON & GUINIVERE JOHNSON

SERVE BY: 06/29/08  
COURT DATE:

MAKE REFUND PAYABLE TO GIRARD KASUBICK, ESQ.

SERVE: LARRY BRAY

ADDRESS: 4601 SOUTH SALEM CHURCH ST., DOVER, PA 17315

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF YORK COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, May 30, 2008.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

RECEIVED  
CLEARFIELD COUNTY SHERIFF  
MAY 30 2008  
2 PM 2 52  
PA

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

THOMAS D. HOLENCIK,  
Plaintiff

vs.

LARRY L. REA; LARRY BRAY  
and LINDA BRAY, his wife;  
and CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants

: No.: 2008-989-CD  
: Type of Case: Equity  
: Type of Pleading:  
: Certificate 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 2CC  
APR 23 2009  
APR 22 2009 Atty Kasubick  
William A. Shaw  
Prothonotary/Clerk of Courts

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

THOMAS D. HOLENCIK, :  
Plaintiff :  
vs. : No. 2008-989-CD  
: IN EQUITY  
LARRY L. REA; LARRY BRAY :  
and LINDA BRAY, his wife; :  
and CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :

**CERTIFICATE OF SERVICE**

I hereby certify that I, Girard Kasubick, Esq., served a copy of the Petition to Appoint a Board of Viewers by regular United States mail, postage pre-paid, mailed on April 17, 2009 upon the attorney for the Defendants at the following address:

Andrew P. Gates, Esq.  
GATES & SEAMAN  
Two North Front Street  
P.O. Box 846  
Clearfield, PA 16830

Date: April 17, 2009

Girard Kasubick, Esquire,  
Attorney for Plaintiff,  
Thomas D. Holencik

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

THOMAS D. HOLENCIK,  
Plaintiff

vs.

LARRY L. REA; LARRY BRAY  
and LINDA BRAY, his wife;  
and CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants

: No.: 2008-989-CD  
: Type of Case: Equity  
: Type of Pleading:  
: Petition to Appoint  
: a Board of Viewers  
: 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 200  
APR 17 2009 Atty Kasubick  
d8:41:00

S William A. Shaw  
Prothonotary/Clerk of Courts

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

THOMAS D. HOLENCIK, :  
Plaintiff :  
vs. : No. 2008-989-CD  
: IN EQUITY  
LARRY L. REA; LARRY BRAY :  
and LINDA BRAY, his wife; :  
and CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :

**PETITION TO APPOINT A BOARD OF VIEWERS**

AND NOW COMES, Thomas D. Holencik, Plaintiff, by and through his attorney, Girard Kasubick, Esq., and sets forth the following:

1. The Plaintiff filed the Complaint in this case on May 30, 2008 and Count II of said Complaint raised the claim to open a private road under 36 P.S. § 2731.
2. The Plaintiff desires a right-of-way over the "old access road" as designated on Exhibit "A" attached to the Complaint which is more accurately shown on the map attached hereto and marked Exhibit "1" and is bounded and described as follows:

The beginning centerline point being on the southeastern line of Thomas D. Holencik and being North 49 Degrees 34 Minutes 30 Seconds East 21.01 feet from the

existing  $\frac{3}{4}$  inch rebar set previously at the southern most corner of the Thomas D. Holencik property, said rebar being the western corner of Clifford Johnson and Guinivere Johnson, as was conveyed by Deed Book 451, Page 127, said rebar also being on the northeastern line of Larry Bray and Linda Bray, as was conveyed to them by Deed Book 631, Page 162; thence South 5 Degrees 31 Minutes 41 Seconds West 11.90 feet along the centerline of old access road through lands of Clifford and Guinivere Johnson to a point on the northeastern line of Larry and Linda Bray; thence South 45 Degrees 42 Minutes 52 Seconds West a distance of 19.48 feet along the centerline of the old access road through Larry and Linda Bray to a point; thence South 56 Degrees 48 Minutes 59 Seconds West a distance of 609.67 feet along the centerline of the old access road through Larry and Linda Bray and through Lawrence A. Rea to a point on the centerline of Township Road T-443.

3. The Plaintiff has obtained a signed right-of-way from Clifford Johnson and Guinivere Johnson across their property described above which is attached hereto and marked Exhibit "2".

4. The Plaintiff desires to obtain a right-of-way twenty (20) feet in width to his landlocked property across the property of Larry L. Rea and Larry and Linda Bray as shown on Exhibit "1".

WHEREFORE, Plaintiff requests Your Honorable Court to appoint three (3) viewers to determine if the location of the right-of-way requested by Plaintiff is most practicable or if the viewers determine a more practicable right-of-way and to assess damages to which the Defendants, Larry L. Rea, and Larry and Linda Bray, are

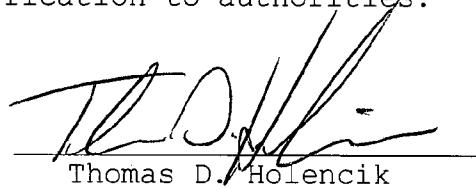
entitled to receive for any such right-of-way across their property under 36 P.S. § 2731.

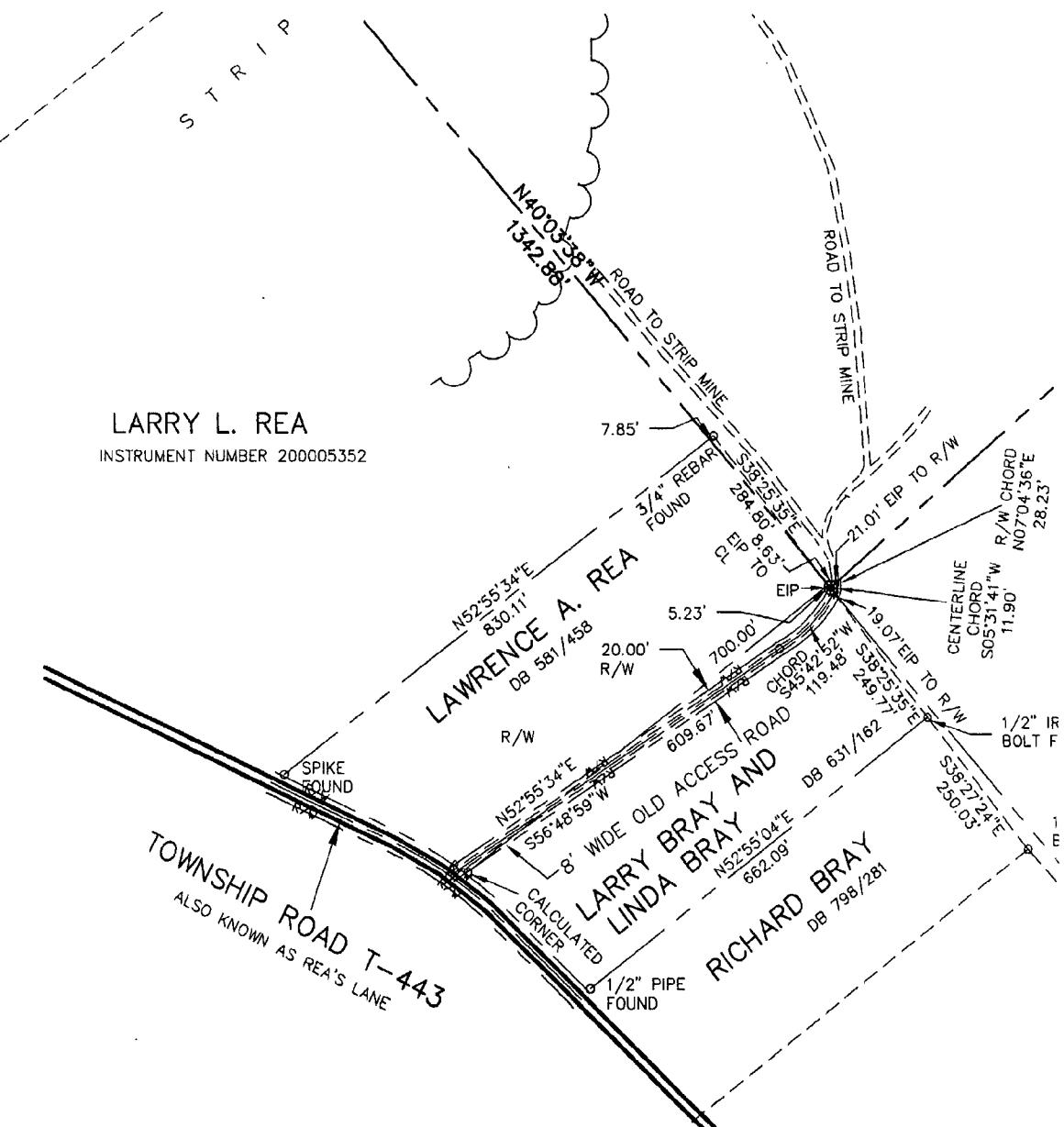
RESPECTFULLY SUBMITTED:

  
\_\_\_\_\_  
Girard Kasubick, Esq.,  
Attorney for Plaintiff

VERIFICATION

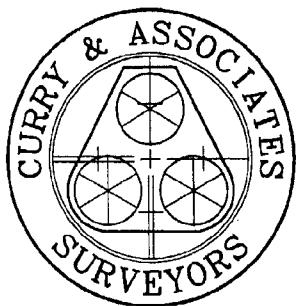
I, the undersigned, verify that the statements made in the foregoing Petition to Appoint a Board of Viewers are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. 4904 relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
Thomas D. Holencik



THOMAS D. HOLENCIK  
UNION STREET, BOX 179, RAMEY, PA 16671

OF RETRACEMENT SURVEY  
KNOX TOWNSHIP  
CLEARFIELD COUNTY



CLEARFIELD, PENNSYLVANIA

1 INCH = 200 FEET

DAVID J. THORP, PLS  
NO. SU-37822-E  
CURRY & ASSOCIATES  
207 SOUTH THIRD STREET

(814) 765-7226

REVISED: FEBRUARY 8, 2008  
FOR 20' R/W DETAIL  
REVISED: MARCH 12, 2008  
FOR REVISED 20' R/W DETAIL

PLAINTIFF'S EXHIBIT "1"



*David Thorp*

**RIGHT-OF-WAY EASEMENT**

This Easement made and entered into 18th day of  
March, 2009 by and between **CLIFFORD JOHNSON and**  
**GUINIVERE JOHNSON**, his wife, of 3424 Oak Ridge Road, New  
Millport, PA 16861, hereinafter called "Grantors",

AND

**THOMAS D. HOLENCIK**, of P.O. Box 179, 1964 Union Street,  
Ramey, PA 16671, and hereinafter called "Grantee".

WITNESSETH:

WHEREAS, Grantors are the owner of property located  
in Knox Township, Clearfield County, Pennsylvania, known  
by Tax Map No. 122-J13-28 by deed recorded in Clearfield  
County Deed Book 451, Page 127, and;

WHEREAS, Grantee is the owner of property located in  
Knox Township, Clearfield County, Pennsylvania, known by  
Tax Map No. 122-J13-44 by deed recorded in Clearfield  
County Instrument No. 200604596, and;

WHEREAS, the Grantee and his predecessors in title  
have used Grantors property to provide access for  
ingress, regress, and egress to Grantee's property on an  
old access road across Grantors property and the parties  
herein agree to establish this Right-of-Way of record.

NOW, THEREFORE in consideration of the sum of One (\$1.00) Dollar in hand paid by Grantee to Grantors and in consideration of the mutual covenants herein and with the intent to be legally bound hereby, the Parties agree as follows:

The Grantors do hereby grant, bargain, sell and convey unto Grantee a right-of-way easement upon and across that part of the property of the Grantors in Knox Township, Clearfield County, Pennsylvania, described as follows:

The beginning centerline point being on the southeastern line of Thomas D. Holencik and being North 49 Degrees 34 Minutes 30 Seconds East 21.01 feet from the existing  $\frac{3}{4}$  inch rebar set previously at the southern most corner of the Thomas D. Holencik property, said rebar being the western corner of Clifford Johnson and Guinivere Johnson, as was conveyed by Deed Book 451, Page 127, said rebar also being on the northeastern line of Larry Bray and Linda Bray, as was conveyed to them by Deed Book 631, Page 162; thence South 5 Degrees 31 Minutes 41 Seconds West 11.90 feet along the centerline of old access road through lands of Clifford and Guinivere Johnson to a point on the northeastern line of Larry and Linda Bray.

The Right-of-Way shall be twenty (20) feet in width being ten (10) feet on each side of the aforesaid described centerline across the western most corner of the Grantors property. Attached hereto is Exhibit "A" being a blow up of the area from the Thomas D. Holencik Map of Retracement Survey prepared by Curry & Associates Surveyors dated December 4, 2007 and recorded in Clearfield County Instrument No. 200800287.

The easement granted and conveyed herein is solely for the purpose of ingress, egress and regress from Township Road T-443 across other landowner's properties to

the Grantors property and then the Right-of-Way over the Grantors property to the property of Grantee in Knox Township, Clearfield County, Pennsylvania known by Tax Map No. 122-J13-44.

The maintenance of the right-of-way easement shall be by Grantee at his cost and expense. The Grantee shall maintain the right-of-way in a safe and passable condition and Grantee may make improvements at his cost and expense and with the agreement of Grantors. The right-of-way easement granted hereunder is not exclusive.

The right-of-way is for the benefit of the Grantee, and shall be appurtenant to and run with the Grantee's lands, the dominant tenements known by Tax Map No. 122-J13-44. The right-of-way easement shall be for the benefit of the Grantee and his heirs, successors, assigns and subsequent owners of the dominant tenement.

This instrument shall be binding on the Grantors, their heirs, successors and assigns and subsequent owners of the servient tenement known by Tax Map No. 122-J13-28 to the benefit of the Grantee, his heirs, successors, assigns and subsequent owners of the dominant tenement known by Tax Map No. 122-J13-44.

Grantors retains, reserves and shall continue to enjoy the use of the surface of such property of the servient tenement for any and all purposes which do not interfere with and prevent the use by Grantee of the within right-of-way easement to the dominant tenement.

IN WITNESS WHEREOF, this instrument is executed the day and year written above.

WITNESS:

Judy A. Clark  
(as of both)

GRANTORS:

Clifford Johnson (SEAL)  
Clifford Johnson

Guinivere Johnson (SEAL)  
Guinivere Johnson

WITNESS:

David Kunkel

GRANTEE:

Thomas D. Holencik (SEAL)  
Thomas D. Holencik

COMMONWEALTH OF PENNSYLVANIA : : S:

COUNTY OF CLEARFIELD : :

On this, the 25th day of March, 2009, before me, the undersigned officer, personally appeared **CLIFFORD JOHNSON and GUINIVERE JOHNSON**, his wife, known to me, (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

*Judy A. Clark*  
N.P.

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Judy A. Clark Notary Public  
Curwensville Boro. Clearfield County  
My Commission Expires Sept. 7, 2011

Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA : : S:

COUNTY OF CLEARFIELD : :

On this, the 18th day of March, 2009, before me, the undersigned officer, personally appeared **THOMAS D. HOLENICK**, known to me, (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

*David Vensel*  
N.P.



INSTRUMENT NUMBER 200800287

THOMAS D. HOLENCIK  
MAP OF RETRACEMENT SURVEY

THOMAS D. HOLENCIK  
80.000 ACRES  
INSTRUMENT NO. 200604596  
TAX MAP NO. 122-J13-44

EXHIBIT "A"

PLAINTIFF'S EXHIBIT "2"  
Page 6 of 6

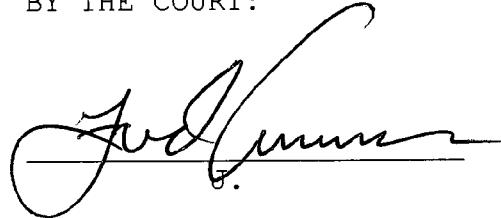
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA  
CIVIL DIVISION

THOMAS D. HOLENCIK, :  
Plaintiff :  
vs. : No. 2008-989-CD  
: IN EQUITY  
LARRY L. REA; LARRY BRAY :  
and LINDA BRAY, his wife; :  
and CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :

ORDER

AND NOW, this 28th day of April, 2009,  
upon the Petition of Thomas D. Holencik, the Court  
appoints Peter Smith, Esq. (Chairman), Wilson Fisher,  
and Richard Provost as viewers on the foregoing  
Petition and further Orders that the viewers perform  
their duties in accordance with 36 P.S. § 2731 and the  
provisions of the law applicable thereto.

BY THE COURT:



**FILED**

04/28/2009  
APR 28 2009

BY William A. Shaw  
Prothonotary/Clerk of Courts

10C: Attys: P. Smith

R. Provost

W. Fisher

10C: Attys: Krasubick  
Bates  
(with memo)

10C: C. Johnson  
G. Johnson  
3424 Oak Ridge Road  
New Milford, PA 16861  
(with memo)

**FILED**

APR 28 2009

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 4/28/09

— You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

Plaintiff(s) X Plaintiff(s), Attorney        Other         
X Defendant(s) X Defendant(s), Attorney        Other       

Special Instructions:

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

THOMAS D. HOLENICK,  
Plaintiff  
vs.  
LARRY L. REA; LARRY BRAY  
and LINDA BRAY, his wife, and  
CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his  
wife  
Defendant

:

:

:

:

:

:

:

No. 2008-489 -CD

Type of Case: Civil

Type of Pleading:  
Petition to Withdraw as Attorney of Record

Filed on behalf of: Defendant

Counsel of Record for this Party:  
Andrew P. Gates, Esq.

Supreme Court No.: 36604

GATES & SEAMAN  
Attorneys at law  
2 North Front Street  
P. O. Box 846  
Clearfield, Pennsylvania 16830  
(814) 765-1766

FILED  
09:35 AM  
MAY 11 2009

5  
William A. Shaw  
Prothonotary/Clerk of Courts

5 CC Atty Gates

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

THOMAS D. HOLENCIK, :  
Plaintiff :  
No. 2008-989-CD  
vs. :  
IN EQUITY  
LARRY L. REA; LARRY BRAY and :  
LINDA BRAY, his wife, and CLIFFORD :  
JOHNSON and GUINIVERE JOHNSON, :  
his wife :  
Defendants :

**PETITION TO WITHDRAW AS ATTORNEY OF RECORD**

TO THE HONORABLE FREDRIC J. AMMERMAN, PRESIDENT JUDGE:

The Petition of Andrew P. Gates, Esquire, and the Law Firm of Gates and Seaman, Attorneys at Law, respectfully represent the following:

1. On or about April 15, 2008, the undersigned Attorney and the Law Firm of Gates and Seaman was engaged by Defendants, Larry L. Rea, Larry Bray and Linda Bray, his wife, to represent them in regards to Plaintiff's desire to obtain a perpetual easement over lands of said Defendants situate in Knox Township, Clearfield County, Pennsylvania.
2. In accordance with the agreement between the undersigned attorney and his clients, the undersigned performed various legal services on behalf of said Defendants which included (i) a thorough review of correspondence directed to them by Plaintiffs attorney; (ii) correspondence prepared on their behalf by their prior attorney; (iii) review of existing real estate and assessment records; (iv) photographs reproduced by the Mapping Section of the Clearfield County Assessment Office; (v) preparation of correspondence directed to Plaintiff's Attorney; (vi) detailed

explanation to clients of the Pennsylvania Private Road act (36 P. S. §2731 et seq.) including the authority of a Court appointed Board of Viewers.

3. Since Plaintiff and Defendants were unable to work out an amicable perpetual easement agreement desired by Plaintiff, the scope of the undersigned's representation was expanded to include representing Defendants in the above captioned proceedings which was commenced by Plaintiff filing a Complaint on May 30, 2008. The services thereafter performed by the undersigned included (i) a thorough review of Plaintiff's Complaint; (ii) legal research pertaining to the issues raised in Plaintiff's Complaint; (iii) preparation of Defendants' Answer and New Matter to Plaintiff's Complaint; (iv) review of Reply to New Matter filed by the Plaintiff; (v) review of Plaintiff's Petition for Appointment of Board of Viewers under the Pennsylvania Private Road Act; and (vi) providing Defendants clients with his opinion regarding their chances of success in litigating the issues raised in the pleadings, particularly Plaintiff's claims under the Pennsylvania Private Road Act.

4. Following the receipt of a certified copy of Plaintiff's Petition To Appoint a Board of Viewers, filed April 17, 2009, the undersigned wrote to said Defendants on April 21, 2009 and on May 1, 2009 (after the Court entered an Order appointing a Board of Viewers that is to be chaired by Peter F. Smith, Esquire), said correspondence contained attorney's summary of what would be forthcoming, namely, the likely prompt scheduling of a Hearing and/or a View of the premises by the Board of View.

5. Since the undersigned had not received any direction and/or communication from Defendants despite writing to them on the aforementioned occasions advising they needed to get in touch with the undersigned right away, the

undersigned subsequently called Defendant Larry Rea at his place of employment in Texas and was advised over the telephone on May 7, 2009 that Defendants had discussed the matter amongst themselves and that the services of Andrew P. Gates Esquire and Gates and Seaman Attorneys at law would no longer be required or desired by Defendants, Lawrence L. Rea, Larry Bray and Linda Bray. Mr. Rea also advised he had recently mailed a letter to Gates and Seaman evidencing they no longer wished the undersigned to represent them in the aforementioned matter. A copy of said letter dated May 4, 2009 and the envelope in which it was mailed are attached hereto and made a part hereof as Exhibit "A".

6. The aforementioned law suit is at a stage where no hearings are presently scheduled, but the undersigned acknowledges he just received a letter dated May 4, 2009 from the Chairman of the Board of View requesting counsel to contact him to set up a hearing for some time in June 2009.

7. It is the undersigned's belief Defendants, Larry Rea, Larry Bray and Linda Bray intend to represent themselves in all future proceedings under this caption..

8. The undersigned on his own behalf and on behalf of the Law Firm of Gates and Seaman seeks leave of Court to withdraw as Counsel of record for Defendants, Larry L. Rea, Larry Bray and Linda Bray in the within captioned proceedings.

9. Local Rule of Court (46 J.D.R.C.P. 182(b)) provides that an appearance of counsel may not be withdrawn except by: (i) substitution of counsel...or, (ii) by leave of Court, upon the issuance of Rule to Show Cause upon said attorney's clients and all other parties involved in the litigation or proceedings.

WHEREFORE, Your Petitioner requests that this Honorable Court grant his Petition so that he and the Law Firm of Gates and Seaman are permitted to Withdraw

as Counsel for Defendant, Larry L. Rea, Larry Bray and Linda Bray in the above captioned proceedings.

Respectfully submitted:

GATES & SEAMAN

By:



---

Andrew P. Gates, Esquire

Date: May 11, 2009

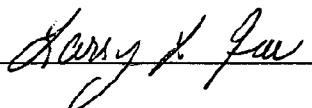
Two North Front Street  
P. O. Box 846  
Clearfield, PA 16830  
(814) 765-1766

5-4-09

Mr. Seaman,

Enclosed is a check for \$ 467.31 as full and final payment for your services. After talking with Larry and Linda Bray, we agreed that your involvement has not been beneficial.

Respectfully,  
Larry L. Rea



PO Box 2917

PO Box 2917  
GRAPENEWE, TX. 76099

REPORT OF THE COMMISSIONER OF THE STATE

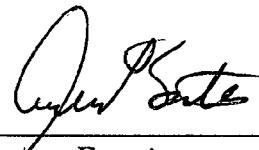
GATES & SEAMAN  
2 N. FRONT ST.  
P.O. BOX 846  
CLEARFIELD, PA. 16830

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ପ୍ରକାଶକ ପରିଷଦ

VERIFICATION

I, ANDREW P. GATES, ESQUIRE, OF GATES AND SEAMAN, ATTORNEYS AT LAW, PETITIONER, verify that I am the Petitioner in the within Petition, and that the statements made in the foregoing Petition to Withdraw as Attorney of record for Defendants, Larry L. Rea, Larry Bray and Linda Bray, are true and correct to the best of my knowledge, information and belief. I the undersigned understand that false statements made herein are subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.



Andrew P. Gates, Esquire

Date: May 11, 2009

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

THOMAS D. HOLENCIK, Plaintiff :  
vs. : No. 2008-989-CD  
LARRY L. REA; LARRY BRAY and :  
LINDA BRAY, his wife, and CLIFFORD :  
JOHNSON and GUINIVERE JOHNSON, :  
his wife Defendants :  
IN EQUITY

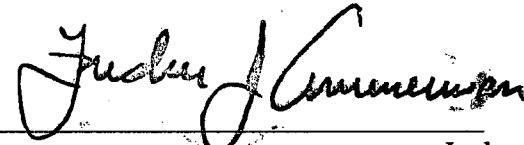
R U L E

AND NOW, this 14<sup>th</sup> day of MAY, 2009, upon  
consideration of the Petitioner's Petition, a Rule is hereby issued upon Defendants,  
Larry L. Rea, Larry Bray and Linda Bray, to show cause why the Petition of Andrew  
P. Gates, Esquire and the Law Firm of Gates and Seaman, should not be granted.

RULE RETURNABLE the 10<sup>th</sup> day of June, 2009, for filing  
written response.

This Rule is to be served upon the following by regular U. S. Mail,  
Postage Prepaid: (i) Larry L. Rea, P. O. Box 2917  
Grapevine, TX 76099 ; (ii) Larry Bray and Linda Bray, 4601 South Salem Church  
Street, Dover, PA 17315, (iii) Gerard Kasubick, Esquire, (Attorney for Plaintiff), 611  
Brisbin Street, Houtzdale, PA 16651 and (iv) Peter F. Smith, Esquire, (Chairman of  
Court Appointed Board of View), 30 South Second Street, P. O. Box 130, Clearfield,  
PA 16830. After making service, Petitioner shall file an Affidavit of Service.

BY THE COURT:

  
\_\_\_\_\_  
Judge

FILED 5CC  
03/5/2011  
MAY 1 2009 Atty Gates

S William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**MAY 14 2009**

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

~~MAY 11 2009~~

William A. Shaw  
Prothonotary/Clerk of Courts

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

THOMAS D. HOLENCIK, :  
Plaintiff : No. 2008-989-CD  
vs. :  
LARRY L. REA; LARRY BRAY and :  
LINDA BRAY, his wife; and :  
CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :  
vs. :  
LARRY L. REA; LARRY BRAY and :  
LINDA BRAY, his wife; and :  
CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :

FILED No. C.  
010-24cm  
MAY 18 2009  
William A. Shaw  
Prothonotary/Clerk of Courts

**SCHEDULING ORDER**

NOW, this 14<sup>TC</sup> day of May, 2009, the Board of View to be conducted in the above-captioned case shall commence at **9:00 a.m. on Wednesday, June 24, 2009**. It shall be conducted in Courtroom 2 at the Clearfield County Courthouse on the corner of Market and Second Streets in Clearfield, PA 16830.

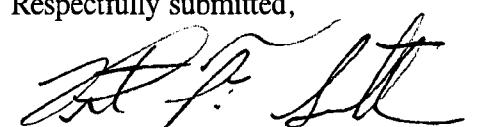
A Court Stenographer will be present to transcribe testimony.

Pre-Hearing statements complying with the requirements of Local Rule 212.4(e), including complete copies of all appraisals and any expert report, shall be served directly on each member of the Board of View on or before June 17, 2009.

All witnesses should be present at 9 A.M. on the date of hearing. They will be sworn. Preliminary Motions and other matters will be addressed by the Board. We will next proceed to the subject property for the View and then return to Courtroom 2 for hearing.

Respectfully submitted,

Date: 5/14/09

  
Peter F. Smith, Esquire  
Chairman of the Board of View  
P. O. Box 130, 30 South Second Street  
Clearfield, PA 16830  
(814) 765-5595

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

THOMAS D. HOLENCIK,  
Plaintiff : No. 2008-989-CD  
vs. :  
LARRY L. REA; LARRY BRAY and  
LINDA BRAY, his wife; and  
CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants :  
:

**CERTIFICATE OF SERVICE**

I, Peter F. Smith, Chairman of the Board of View in this matter, hereby certify that a true and correct copy of a **SCHEDULING ORDER** was served by U.S. First Class Mail, Postage Prepaid to the Attorney for the Plaintiff, Defendants and the Board of View members as follows:

Girard Kasubick, Esquire Leaman & Kasubick 611 Brisbin Street Houtzdale, PA 16651	Richard Provost Provost Realty 302 E. Pine Street Clearfield, PA 16830	Wilson Fisher Hess & Fisher Engineers, Inc. 36 North Second Street Clearfield, PA 16830
--	---	--

Guinivere Johnson 3424 Oak Ridge Road New Millport, PA 16861	Clifford Johnson 3424 Oak Ridge Road New Millport, PA 16861	Linda Bray 4601 South Salem Church St. Dover, PA 17315
--	---	--

Larry Bray 4601 South Salem Church St. Dover, PA 17315	Larry L. Rea P.O. Box 2917 Grapevine, TX 76099
--	--

Respectfully submitted,



Peter F. Smith, Esquire  
Chairman of the Board of View  
P. O. Box 130, 30 South Second Street  
Clearfield, PA 16830  
(814) 765-5595

Date: 5/14/08

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

THOMAS D. HOLENCIK, Plaintiff : No. 2008-989-CD  
vs. : IN EQUITY  
LARRY L. REA; LARRY BRAY and :  
LINDA BRAY, his wife, and CLIFFORD :  
JOHNSON and GUINIVERE JOHNSON, :  
his wife Defendants :

CERTIFICATE OF SERVICE

I hereby certify that a certified copy of Petition to Withdraw as Attorney of Record and attached Rule, dated May 14, 2009 were forwarded by regular U. S. Mail, postage prepaid, on the 18<sup>th</sup> day of May, 2009, to:

Mr. and Mrs. Larry Bray  
4601 South Salem Church Street  
Dover, PA 17315

Mr. Lawrence Rea  
P. O. Box 2917  
Grapevine, TX 76099

Girard Kasubick, Esquire  
LEHMAN & KASUBICK  
611 Brisbin Street  
Houtzdale, PA 16651

Peter F. Smith, Esquire  
30 South Second Street  
P. O. Box 130  
Clearfield, PA 16830

GATES & SEAMAN  
By:

Andrew P. Gates, Esquire

S FILED  
MAY 20 2009  
NO CC  
10  
William A. Shaw  
Prothonotary/Clerk of Courts

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

THOMAS D. HOLENCIK,  
Plaintiff : No. 2008-989-CD  
vs.  
LARRY L. REA; LARRY BRAY and  
LINDA BRAY, his wife; and  
CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants :  
.

5 **FILED** No CC

0/2/10 am  
JUN -3 2009

William A. Shaw  
Prothonotary/Clerk of Courts

**CERTIFICATE OF SERVICE**

I, Peter F. Smith, Chairman of the Board of View in this matter, hereby certify that a true and correct copy of a **SCHEDULING ORDER** was served by U.S. First Class Mail, Postage Prepaid to the Counsel for the Defendants Larry L. Rea, Larry Bray and Linda Bray as follows:

Andrew P. Gates, Esquire  
Gates & Seaman  
P.O. Box 846  
Clearfield, PA 16830

Respectfully submitted,

Date:

6/2/09

  
Peter F. Smith, Esquire  
Chairman of the Board of View  
P. O. Box 130, 30 South Second Street  
Clearfield, PA 16830  
(814) 765-5595

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

THOMAS D. HOLENCIK, :  
Plaintiff : No. 2008-989-CD  
:  
vs. :  
:  
LARRY L. REA; LARRY BRAY and :  
LINDA BRAY, his wife; and :  
CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :  
:

**SCHEDULING ORDER**

NOW, this 19<sup>th</sup> day of May, 2009, the Board of View to be conducted in the above-captioned case shall commence at **9:00 a.m. on Wednesday, June 24, 2009**. It shall be conducted in Courtroom 2 at the Clearfield County Courthouse on the corner of Market and Second Streets in Clearfield, PA 16830.

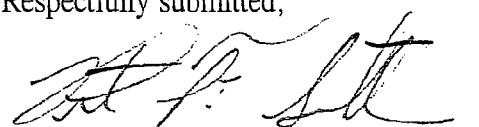
A Court Stenographer will be present to transcribe testimony.

Pre-Hearing statements complying with the requirements of Local Rule 212.4(e), including complete copies of all appraisals and any expert report, shall be served directly on each member of the Board of View on or before June 17, 2009.

All witnesses should be present at 9 A.M. on the date of hearing. They will be sworn. Preliminary Motions and other matters will be addressed by the Board. We will next proceed to the subject property for the View and then return to Courtroom 2 for hearing.

Respectfully submitted,

Date: 5/14/09

  
Peter F. Smith, Esquire  
Chairman of the Board of View  
P. O. Box 130, 30 South Second Street  
Clearfield, PA 16830  
(814) 765-5595

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

THOMAS D. HOLENCIK,  
Plaintiff  
vs.  
LARRY L. REA; LARRY BRAY  
and LINDA BRAY, his wife, and  
CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife  
Defendants

No. 2008-989 -CD  
In Equity  
Type of Case: Civil  
Type of Pleading:  
MOTION TO MAKE RULE ABSOLUTE  
Filed on behalf of: Defendants  
Rea and Bray, et ux  
Counsel of Record for this Party:  
Andrew P. Gates, Esq.  
Supreme Court No.: 36604  
GATES & SEAMAN  
Attorneys at law  
2 North Front Street  
P. O. Box 846  
Clearfield, Pennsylvania 16830  
(814) 765-1766

FILED 400  
01/10/2009 Atty Gates  
JUN 15 2009

5 William A. Shaw  
Prothonotary/Clerk of Courts

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

THOMAS D. HOLENCIK,	:	
	Plaintiff	
vs.	:	No. 2008-989-CD
		IN EQUITY
LARRY L. REA; LARRY BRAY and	:	
LINDA BRAY, his wife, and CLIFFORD	:	
JOHNSON and GUINIVERE JOHNSON, his wife	:	
Defendants	:	

MOTION TO MAKE RULE ABSOLUTE

TO THE HONORABLE FREDRIC J. AMMERMAN, PRESIDENT JUDGE:

NOW COMES, Petitioner/Movant, Andrew P. Gates, Esquire, who hereby requests this Honorable Court make the Rule entered by the Court on May 14, 2009 absolute and otherwise enter an Order authorizing the withdrawal of said attorney and the Law Firm of Gates and Seaman, Attorneys, from representation of Defendants, Larry L. Rea, Larry Bray and Linda Bray, in the above-captioned matter, and in support thereof asserts the following:

1. Your Movant filed his Petition to Withdraw as Attorney of Record (for Defendants, Larry L. Rea, Larry Bray and Linda Bray), for the reasons cited therein, with the Prothonotary on May 11, 2009.
2. In response to said Petition, your Honorable Court entered a Rule on May 14, 2009 to be issued to Defendants, Larry L. Rea, Larry Bray and Linda Bray, to show cause why Andrew P. Gates, Esquire, and the Law Firm of Gates & Seaman, should not be permitted to withdraw as counsel of record for said Defendants in the above-captioned proceedings, with said Rule having a written response date of June 12, 2009.

3. A certified copy of the Petition to Withdraw as Attorney of Record and the Rule of May 14, 2009 were served upon said Defendants, as well as upon Plaintiff's counsel, and the Chairman of the Board of View, by regular mail on May 18, 2009. Attached hereto and made a part hereof as Exhibit "A" is a photocopy of the Certificate of Service filed of record.

4. No written response to the aforementioned Petition to Withdraw as Attorney of Record has been received or filed of record within the time allotted, being June 12, 2009, from Defendants, Larry L. Rea, Larry Bray and Linda Bray, or from Plaintiff's counsel or the Court-appointed Chairman of the Board of View.

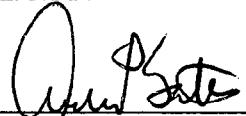
5. It is now appropriate for your Honorable Court to make the aforementioned Rule Absolute and to otherwise enter an Order authorizing the withdrawal of Andrew P. Gates, Esquire, and the Law Firm of Gates & Seaman, Attorney of Record for Defendants, Larry L. Rea, Larry Bray and Linda Bray, in the above-captioned proceedings.

WHEREFORE, your Movant requests this Honorable Court to make the Rule of May 14, 2009 Absolute and otherwise enter the attached Order which is consistent with the prayer of Movant's Petition to Withdraw as Attorney of Record.

Respectfully submitted:

GATES & SEAMAN

By:

  
Andrew P. Gates, Esquire

Date: June 15, 2009

Two North Front Street  
P. O. Box 846  
Clearfield, PA 16830  
(814) 765-1766

VERIFICATION

I, ANDREW P. GATES, ESQUIRE, OF GATES AND SEAMAN, ATTORNEYS AT LAW, PETITIONER and MOVANT herein, verify that I am the Movant in the within Motion and that the statements made in the foregoing Motion to Make Rule Absolute are true and correct to the best of my knowledge, information and belief. I, the undersigned, understand that false statements made herein are subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.



\_\_\_\_\_  
Andrew P. Gates, Esquire

Date: June 15, 2009

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

THOMAS D. HOLENCIK,	Plaintiff	:	No. 2008-989-CD
vs.		:	IN EQUITY
LARRY L. REA; LARRY BRAY and LINDA BRAY, his wife, and CLIFFORD JOHNSON and GUINIVERE JOHNSON, his wife	Defendants	:	

CERTIFICATE OF SERVICE

I hereby certify that a certified copy of Petition to Withdraw as Attorney of Record and attached Rule, dated May 14, 2009 were forwarded by regular U. S. Mail, postage prepaid, on the 18<sup>th</sup> day of May, 2009, to:

Mr. and Mrs. Larry Bray  
4601 South Salem Church Street  
Dover, PA 17315

Mr. Lawrence Rea  
P. O. Box 2917  
Grapevine, TX 76099

Girard Kasubick, Esquire  
LEHMAN & KASUBICK  
611 Brisbin Street  
Houtzdale, PA 16651

Peter F. Smith, Esquire  
30 South Second Street  
P. O. Box 130  
Clearfield, PA 16830

GATES & SEAMAN  
By:

  
Andrew P. Gates, Esquire

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

THOMAS D. HOLENCIK, Plaintiff : No. 2008-989-CD  
vs. : IN EQUITY  
LARRY L. REA; LARRY BRAY and :  
LINDA BRAY, his wife, and CLIFFORD :  
JOHNSON and GUINIVERE JOHNSON, his wife :  
Defendants :

O R D E R

AND NOW, this 15<sup>th</sup> day of June, 2009, upon consideration of the  
Movant's Motion to Make Rule Absolute, IT IS HEREBY ORDERED, ADJUDGED AND  
DECREED as follows:

1. This Court's Rule of May 14, 2009 is made Absolute; and
2. Andrew P. Gates, Esquire, and the Law Firm of Gates & Seaman, are hereby authorized to withdraw as counsel of record for Defendants, Larry L. Rea, Larry Bray and Linda Bray, and may do so by filing a Praeclipe with the Prothonotary withdrawing said appearance.

BY THE COURT:



Judge

FILED  
03/04/2011 4:00 AM  
JUN 15 2009  
S Gates  
William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**JUN 15 2009**

**William A. Shaw  
Prothonotary/Clerk of Courts**

DATE: *6/15/09*

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 ACTION - LAW

THOMAS D. HOLENCIK,  
Plaintiff :  
vs.  
LARRY L. REA; LARRY BRAY  
and LINDA BRAY, his wife, and  
CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife  
Defendants :  
: No. 2008-989 -CD  
: In Equity  
: Type of Case: Civil  
: Type of Pleading:  
PRAECIPE  
: Filed on behalf of: Defendants  
Rea and Bray, et ux  
: Counsel of Record for this Party:  
Andrew P. Gates, Esq.  
: Supreme Court No.: 36604  
: GATES & SEAMAN  
: Attorneys at law  
: 2 North Front Street  
: P. O. Box 846  
: Clearfield, Pennsylvania 16830  
: (814) 765-1766

FILED  
01247614CC  
JUN 17 2009 Amy Gates

S William A. Shaw  
Prothonotary/Clerk of Courts copy to  
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(510)

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

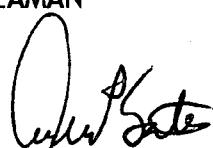
THOMAS D. HOLENCIK, :  
Plaintiff :  
vs. : No. 2008-989-CD  
LARRY L. REA; LARRY BRAY and :  
LINDA BRAY, his wife, and CLIFFORD :  
JOHNSON and GUINIVERE JOHNSON, his wife :  
Defendants : IN EQUITY

PRAECIPE

TO WILLIAM A. SHAW, PROTHONOTARY:

In accordance with the Court's Order of June 15, 2009, please withdraw my appearance and that of the Law Firm of Gates & Seaman, as Attorneys of record for Defendants, Larry L. Rea, Larry Bray and Linda Bray, in the above-captioned proceedings.

GATES & SEAMAN  
By:

  
Andrew P. Gates, Esquire

Date: June 17, 2009.

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

THOMAS D. HOLENCIK, Plaintiff : No. 2008-989-CD  
vs. : IN EQUITY  
LARRY L. REA; LARRY BRAY and :  
LINDA BRAY, his wife, and CLIFFORD :  
JOHNSON and GUINIVERE JOHNSON, :  
his wife Defendants :

CERTIFICATE OF SERVICE

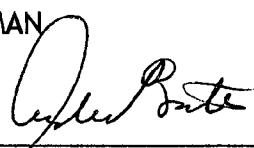
I hereby certify that a certified copy of my Motion to Make Rule Absolute with attached Court Order of June 15, 2009 and a certified copy of my Praeclipe to withdraw were forwarded by regular U. S. Mail, postage prepaid, on the 17<sup>th</sup> day of June, 2009, to:

Mr. and Mrs. Larry Bray  
4601 South Salem Church Street  
Dover, PA 17315

Mr. Lawrence Rea  
P. O. Box 2917  
Grapevine, TX 76099

GATES & SEAMAN

By:

  
Andrew P. Gates, Esquire

FILED NO CL,

0/11/09 am  
JUN 22 2009

5  
William A. Shaw  
Prothonotary/Clerk of Courts

O 1A

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

THOMAS D. HOLENICK,  
Plaintiff

2008-989-CD

Vs.

TYPE OF PLEADING:  
**REPORT**

LARRY L. REA; LARRY BRAY  
and LINDA BRAY, his wife;  
and CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants

FILED ON BEHALF OF THE  
BOARD OF VIEW CHAIRPERSON:  
**Peter F. Smith, Esquire**  
PA ID No. 34291  
P.O. Box 130  
Clearfield, PA 16830  
(814) 765-5595

COUNSEL OF RECORD FOR PETITIONER  
**Girard Kasubick, Esquire**  
Supreme Court No. 30109  
LEHMAN & KASUBICK  
611 Brisbin Street  
Houtzdale, PA 16651  
(814) 378-7840

FILED  
01/10/2009 8:00 AM  
AUG 05 2009 Atty Smith  
B6  
William A. Shaw  
Prothonotary/Clerk of Courts

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

THOMAS D. HOLENICK,	:	No. 2008-989-CD
Plaintiff	:	
vs.	:	
LARRY L. REA; LARRY BRAY and	:	
LINDA BRAY, his wife; and	:	
CLIFFORD JOHNSON and	:	
GUINIVERE JOHNSON, his wife,	:	
Defendants	:	
	:	

**BOARD OF VIEW'S REPORT**

COMES NOW, Richard Provost, Wilson Fisher and Peter F. Smith, who being duly appointed report to the Court as follows:

1. The undersigned were appointed to a Board of View in this matter by Order dated April 28, 2009 pursuant to Pennsylvania's Private Road Statute at 36 P.S. §2731.
2. The View and Hearing were conducted on Wednesday June 24, 2009.
3. The View and Hearing were convened by Scheduling Order dated May 14, 2009 issued by the Board's Chairman and appearing as Board Exhibit 1.
4. The Chairman's office served the Scheduling Order on the parties by U.S. First Class Mail as indicated by his Certificate of Service also dated May 14, 2009 and appearing as Board Exhibit 2.
5. The Chairman noted for the record that all of the service made by U.S. First Class Mail was sent in his business envelope with his business address printed on the exterior of each envelope. The Chairman further noted that none of these notices so sent were

returned to his office by the U.S. Postal Service (R. 4-5).

6. On May 14, 2009, Attorney Andrew P. Gates, who represented the Defendant Larry L. Rea, Larry Bray and Linda Bray, filed a Petition to withdraw as their Counsel in this case.

7. Mr. Gates' petition was not granted until an Order was entered on June 15, 2009. Therefore he continued to serve as counsel for Defendants Larry L. Rea, Larry Bray and Linda Bray.

8. Consequently the Chairman served Mr. Gates with a copy of the Scheduling Order sent under cover letter dated June 2, 2009. The Chairman's cover letter to Attorney Gates appears as Board Exhibit 3. The Chairman's Certificate of Service on Mr. Gates appears as Board Exhibit 4.

9. Petitioner entered a Right-of-Way Easement Agreement with Defendants Clifford Johnson and Guinivere Johnson dated March 18, 2009 and appearing as Petitioner's Exhibit 14.

10. Therefore the Johnsons did not attend the View and Hearing. However a written statement expressing their position in this litigation was submitted by Petitioner's Counsel and appears as Petitioner's Exhibit 15.

11. The Hearing and View commenced as scheduled at 9 a.m., June 24, 2009.

12. Defendants Larry L. Rea, Larry Bray and Linda Bray were not present in the Courtroom nor were any representatives present on any of their behalves. (R. 5)

13. The Chairman waited until 9:05 in order to provide additional opportunity for all participants to appear.

14. The Chairman then walked throughout the Courthouse to see if they were present at some other location. He made inquiry with Courthouse security at its main entrance and also checked the Courthouse steps and surrounding areas. None of the Defendants were found (R. 4).

15. The Chairman returned to the Courtroom, and the Board proceeded to hear testimony and receive Exhibits.

## **FINDINGS OF FACT**

1. The Petitioner is Thomas D. Holencik. He is an adult individual whose mailing address is P.O. Box 179, 1964 Union Street, Ramey, PA 16671 (R. 24).

2. Petitioner is the owner of an 80 acre tract situate in Knox Township by virtue of a deed from his mother's estate recorded at Clearfield County Instrument Number 200604596. The subject property is identified as parcel 11 under the Knox Township section of said deed which was admitted as Petitioner's Exhibit 5.

3. Petitioner's property is not inhabited. It has no improvements. Part of it was strip-mined in the late 1940's. It may have been the site of a farm at some earlier point. (R. 39).

4. James Thorpe, Registered Surveyor, testified on behalf of Petitioner's. The Board recognized his qualifications as an expert in this field (R. 13). Mr. Thorpe surveyed the premises on behalf of the Petitioner in late 2008. The survey map of Petitioner's property subject to these proceedings appears at Clearfield County Instrument Number 200800287 and was attached as Petitioner's Exhibit 3.

5. Mr. Thorpe's testimony states that he walked the entire property and became

sufficiently familiar with its surroundings. (R. 23).

6. Mr. Thorpe testified that Petitioner's property does not front on any state road, township road or public thoroughfare (R. 16).

7. Mr. Thorpe testified that the closest public road to Petitioner's property is TR 443 which runs to the southwest of the subject property. (R. 16 & 33).

8. TR443 lies within 700 feet of subject property. (R. 16).

9. The next closest road to the subject property is State Route 2015, also known as Oak Ridge Road. (R. 16-17).

10. Oak Ridge Road lies some 2000 feet distant from the subject property. However, that distance contains a steep grade that is completely wooded. A new road would have to be constructed to reach Oak Ridge Road. The steep grade would require switchbacks or a diagonal approach, both of which would make the road considerably longer and considerably more expensive to construct. (R. 17-18).

11. Mr. Thorpe further testified that an old "cartway" runs from TR 443 along the approximate boundary line between the Defendant Reas' property and the Defendants Brays' property and over a small portion of the Johnsons' property. (R. 18-19).

12. The Board observed this cartway when it viewed the premises.

13. The Board observed that it is approximately 20 feet in width and extends directly from TR 443 to the Petitioner's property. Its grade is gentle. It is obstructed by a few fallen timbers in some spots but not otherwise obstructed by growing trees or vegetation. Its edges are lined with well established old growth trees.

14. This cartway showed no sign of recent use.

15. This cartway showed little sign of erosion.
16. Those factors indicated to the Board that this cartway was the principal access to the subject premises in the past. (R. 22).
17. That observation was confirmed by Mr. Thorpe's testimony. He stated that he found no roads or cartways into the premises at other points. (R. 23). This point was confirmed by Petitioner during his testimony. (R. 36).
18. The cartway's condition also indicated to the Board that it was well constructed with a solid rock base.
19. Petitioner's Petition seeks to establish a private road over this old cartway. (Petition 2 & R. 33).
20. Mr. Thorpe surveyed this cartway. A verbal description of the cartway with a map was admitted as Petitioner's Exhibit 4.
21. The cartway is identified as the "Old Access Road" on Petitioner's Exhibit 4.
22. The western end of the proposed private road passes over real estate owned by Defendant Lawrence L. Rea to which he took title by deed in Clearfield County Deed Book 710 page 563 and admitted as Petitioner's Exhibit 7.
23. The next portion of the proposed private road passes over real estate owned by Defendants Larry Bray and Linda Bray to which they took title by deed in Clearfield County Deed Book 631 page 162 and admitted as Petitioner's Exhibit 9.
24. The final eastern portion of the proposed private road passes over real estate owned by Defendants Clifford Johnson and Guinivere Johnson to which they took title by deed in Clearfield County Deed Book 451 page 127 and admitted as Petitioner's Exhibit 11.

25 Petitioner offered appraisal reports and testimony of John K. Cowan, PA State certified general appraiser as evidence of the Defendants' damages.

26. Mr. Cowan's extensive resume appears at pages 19-26 of each report admitted as discussed below.

27. The Board recognized Mr. Cowan's qualifications as an expert general appraiser, and he was qualified to so testify.(R. 7).

28. On the basis of the Thorpe survey, Mr. Cowan calculated the approximate dimensions of the proposed private road over the Rea property to be 125 feet in length by 20 feet in width.(R. 10).

29. Based on an inspection of the Rea property and comparable sales of rights-of-way which Mr. Cowan in his expert opinion deemed to be relevant, he opined Defendant Rea's damages to be twenty (.20) cents per square foot resulting in total damages of Five Hundred (\$500.00) Dollars. (R. 10).

30. On the basis of the Thorpe, survey Mr. Cowan calculated the approximate dimensions of the proposed private road over the Bray's property to be 605 feet in length by 20 feet in width. (R. 11).

31. Based on his inspection of the Bray property and comparable sales of rights-of-way which Mr. Cowan in his expert opinion deemed to be relevant, he opined Defendant Bray's damages to be twenty (.20) cents per square foot resulting in total damages of Two Thousand Four Hundred (\$2,400.00) Dollars. (R. 11).

32. No testimony was offered on the Defendants Johnsons' damages because they reached a private agreement with the Petitioner as recited at number 7 above.

33. Mr. Cowan's report calculating Defendant Bray's damages was admitted as Petitioner's Exhibit 1.

34. Mr. Cowan's report calculating Defendant Rea's damages was admitted as Petitioner's Exhibit 2.

35. Final testimony at the hearing was offered by Petitioner.

36. He testified that the private road he proposes over the Defendants' properties is the best access to his property gave persuasive reasons. (R.38).

37. The Board of View therefore concludes that the private road as proposed by Petitioner is the best route to his property because:

A. It is the most obvious route to access Petitioner's property is the existing cartway; and,

B. It is the easiest route because the existing cartway will require little effort to open; and,

C. It is better because the quality of the existing cartway's construction will require little maintenance in the future; and,

D. It is the best access because it is the shortest, most direct route from a public thoroughfare to Petitioner's property with only a gentle grade; and,

E. Its gentle grade over a smooth hard surface can be traversed - - once cleared of grasses and other weeds - - by conventional vehicles; and,

F. Any other routes would have to be constructed brand new over other properties. They would be much longer in distance, more expensive to construct, and impose greater all around disturbance and burden on Petitioner and his neighbors.

G. The next shortest route would traverse the Johnson property. The grade is steep and the road would require switchbacks (R. 33-34) which would make it less desirable than the route proposed by Petitioner.

H. Mr. Thorpe's testimony, the Petitioner's testimony and the Board's observation made during its View established that the "Old Access Road" has been the historical access to Petitioner's property.

38. Mr. Thorpe's survey map admitted as page 2 of Petitioner's Exhibit 4 indicates the width of the "Old Access Road" to be 8 feet.

39. The Board's observation of the "Old Access Road" indicates that actual use extended it to a minimum width of 20 feet.

40. The Hearing was then adjourned and the Board, Petitioner and his Counsel proceeded to the subject properties to perform the View.

## **CONCLUSIONS OF LAW**

1. The Board of View was lawfully appointed and duly convened under the Private Road Statute at 36 P.S. 2731,et seq.

2. Notice of the Hearing and the View was lawfully given to all parties.

3. Petitioner's real estate, the subject of these proceedings, to which he took title at parcel 11 in the Knox Township section of his deed at Clearfield County Instrument Number 200604596 also identified by Clearfield County Tax Map Number 122-J13-44 is landlocked, and a private road is necessary. 36 P.S. §2732

4. Petitioner therefore has a statutory right to have a private road laid out pursuant to 36.P.S. §2731, et seq.

5. Upon consideration of the evidence, the Board finds that the best route for the private road is as proposed by the Petitioner over existing "Old Access Road" and as further described by Petitioner's survey admitted and identified by Petitioner's Exhibit 4, except that the Private Road shall have a width of 20 feet extending on 10 feet of the center line established by the Thorpe survey.

6. Defendant Larry L. Rea is entitled to damages in the amount of Five Hundred (\$500.00) Dollars as a result of the laying out of this private road pursuant to 36 P.S. §2736.

7. Defendants Larry Bray and Linda Bray are jointly entitled to damages in the amount of Two Thousand Four Hundred (\$2,400.00) Dollars as a result of the laying out of this private road pursuant to 36 P.S. §2736.

Respectfully submitted,

  
Attorney Peter F. Smith  
Chairman of the Board of View  
P.O. Box 130  
Clearfield, PA, 16830

Date: 7/30/09

  
Richard Provost  
Board of View

  
Wilson Fisher  
Board of View  
7/23/09

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

THOMAS D. HOLENCIK, :  
Plaintiff : No. 2008-989-CD  
:  
vs. :  
:  
LARRY L. REA; LARRY BRAY and :  
LINDA BRAY, his wife; and :  
CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :  
:

**SCHEDULING ORDER**

NOW, this 14<sup>th</sup> day of May, 2009, the Board of View to be conducted in the above-captioned case shall commence at **9:00 a.m. on Wednesday, June 24, 2009**. It shall be conducted in Courtroom 2 at the Clearfield County Courthouse on the corner of Market and Second Streets in Clearfield, PA 16830.

A Court Stenographer will be present to transcribe testimony.

Pre-Hearing statements complying with the requirements of Local Rule 212.4(e), including complete copies of all appraisals and any expert report, shall be served directly on each member of the Board of View on or before June 17, 2009.

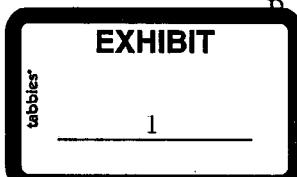
All witnesses should be present at 9 A.M. on the date of hearing. They will be sworn, Preliminary Motions and other matters will be addressed by the Board. We will next proceed to the subject property for the View and then return to Courtroom 2 for hearing.

Respectfully submitted,

Date: 5/14/09



Peter F. Smith, Esquire  
Chairman of the Board of View  
P. O. Box 130, 30 South Second Street  
Clearfield, PA 16830  
(412) 765-5595



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

THOMAS D. HOLENCIK,  
Plaintiff : No. 2008-989-CD  
vs. :  
LARRY L. REA; LARRY BRAY and  
LINDA BRAY, his wife; and  
CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants :  
:

**CERTIFICATE OF SERVICE**

I, Peter F. Smith, Chairman of the Board of View in this matter, hereby certify that a true and correct copy of a **SCHEDULING ORDER** was served by U.S. First Class Mail, Postage Prepaid to the Attorney for the Plaintiff, Defendants and the Board of View members as follows:

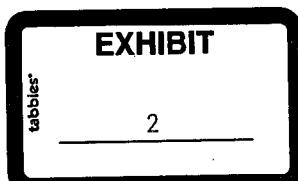
Girard Kasubick, Esquire Leaman & Kasubick 611 Brisbin Street Houtzdale, PA 16651	Richard Provost Provost Realty 302 E. Pine Street Clearfield, PA 16830	Wilson Fisher Hess & Fisher Engineers, Inc. 36 North Second Street Clearfield, PA 16830
Guinivere Johnson 3424 Oak Ridge Road New Millport, PA 16861	Clifford Johnson 3424 Oak Ridge Road New Millport, PA 16861	Linda Bray 4601 South Salem Church St. Dover, PA 17315
Larry Bray 4601 South Salem Church St. Dover, PA 17315	Larry L. Rea P.O. Box 2917 Grapevine, TX 76099	

Respectfully submitted,



Peter F. Smith, Esquire  
Chairman of the Board of View  
P. O. Box 130, 30 South Second Street  
Clearfield, PA 16830  
(814) 765-5595

Date: 5/14/09



PETER F. SMITH  
ATTORNEY  
30 SOUTH SECOND STREET  
P.O. BOX 130  
CLEARFIELD, PENNSYLVANIA 16830

(814) 765-5595  
FAX (814) 765-6662

E-mail  
pfsatty@verizon.net

June 2, 2009

Andrew P. Gates, Esquire  
Gates & Seaman  
P.O. Box 846  
Clearfield, PA 16830

Re: Holencik v Rea  
Private Road  
Clfd No. 2008-989-CD

Dear Andy:

I did receive a copy of your Petition to Withdraw as Counsel for Mr. Rea and Mr. and Mrs. Bray. I see the Rule Returnable is for June 12<sup>th</sup>. Until that date I am afraid you still represent these people. Therefore, I serve with this letter a Scheduling Order which I entered on May 14<sup>th</sup>. You will see that the Board will convene its proceedings on June 24<sup>th</sup>.

Copies of this Order were sent directly to your clients and the other parties. I apologize, I was under the mistaken impression that your Petition to Withdraw had already been granted. The Scheduling Orders were sent by U.S. First Class Mail. My return address was on the outside of the envelope. The postal service has not returned that correspondence. So I conclude that they received by your clients at their last known addresses.

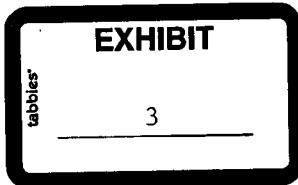
The Court, the other members of the Board and I will all appreciate it if you make certain that Mr. Rea and the Brays are notified of the proceedings on June 24<sup>th</sup>.

Sincerely,



Peter F. Smith

PFS/jaw  
Cc: Girard Kasubick, Esquire  
Wilson Fisher  
Richard Provost



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

THOMAS D. HOLENICK,  
Plaintiff : No. 2008-989-CD  
vs. :  
LARRY L. REA; LARRY BRAY and  
LINDA BRAY, his wife; and  
CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants :  
:

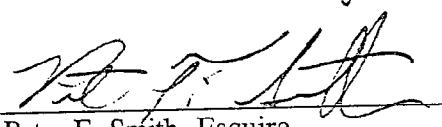
**CERTIFICATE OF SERVICE**

I, Peter F. Smith, Chairman of the Board of View in this matter, hereby certify that a true and correct copy of a **SCHEDULING ORDER** was served by U.S. First Class Mail, Postage Prepaid to the Counsel for the Defendants Larry L. Rea, Larry Bray and Linda Bray as follows:

Andrew P. Gates, Esquire  
Gates & Seaman  
P.O. Box 846  
Clearfield, PA 16830

Respectfully submitted,

Date: 6/2/09

  
Peter F. Smith, Esquire  
Chairman of the Board of View  
P. O. Box 130, 30 South Second Street  
Clearfield, PA 16830  
(814) 765-5595

**EXHIBIT**

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

THOMAS D. HOLENICK,  
Plaintiff

2008-989-CD

Vs.

LARRY L. REA; LARRY BRAY  
and LINDA BRAY, his wife;  
and CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants

TYPE OF PLEADING:  
**PETITION FOR COMPENSATION &  
ORDER**

FILED ON BEHALF OF THE  
BOARD OF VIEW CHAIRPERSON:  
**Peter F. Smith, Esquire**  
PA ID No. 34291  
P.O. Box 130  
Clearfield, PA 16830  
(814) 765-5595

COUNSEL OF RECORD FOR PETITIONER  
**Girard Kasubick, Esquire**  
Supreme Court No. 30109  
LEHMAN & KASUBICK  
611 Brisbin Street  
Houtzdale, PA 16651  
(814) 378-7840

5 FILED 8cc  
01/10/1961 Atty Smith  
AUG 05 2009  
WAS William A. Shaw  
Prothonotary/Clerk of Courts

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

THOMAS D. HOLENICK,	:	No. 2008-989-CD
Plaintiff	:	
vs.	:	
LARRY L. REA; LARRY BRAY and	:	
LINDA BRAY, his wife; and	:	
CLIFFORD JOHNSON and	:	
GUINIVERE JOHNSON, his wife,	:	
Defendants	:	

**PETITION FOR COMPENSATION**

COMES NOW, Peter F. Smith, who was appointed to serve as Chairman of the Board of View in the above captioned matter, and petitions the Court as follows:

1. The undersigned, Wilson Fisher, Richard Provost and the Chairman were appointed to a Board of View in this matter by Order dated April 28, 2009 pursuant to Pennsylvania's Private Road Statute at 36 P.S. §2731.
2. The View and Hearing were conducted on Wednesday June 24, 2009.
3. The Board members dedicated substantial time in preparation for the View, conducting the View and then preparing their report.
4. A true and correct copy of Richard Provost's time dedicated to this matter is attached hereto and incorporated herein as Board Exhibit 1.
5. A true and correct copy of Wilson Fisher's time dedicated to this matter is attached hereto and incorporated herein as Board Exhibit 2.
6. A true and correct copy of Peter F. Smith's time dedicated to this matter is attached hereto and incorporated herein as Board Exhibit 3.

7. The Board suggests that Mr. Provost and Mr. Fisher be compensated at the rate of \$125 per hour for their services.

8. Mr. Smith provided professional services as an attorney and the services of his office and requests to be compensated at the rate of \$185 per hour.

9. Applying those rates to the hours dedicated by each member results in the following compensation:

- A. Richard Provost - \$937.50
- B. Wilson Fisher - \$1,281.25
- C. Peter F. Smith, Attorney -\$2,534.50

10. Additionally, Peter F. Smith advanced One Hundred Sixty Eight Dollars and Twenty Five Cents (\$168.25) to pay the Court Reporter for her services. A true and correct copy of the invoice is attached as Exhibit 4.

11. Mr. Smith requests reimbursement by Petitioner in that amount of One Hundred Sixty Eight Dollars and Twenty Five Cents (\$168.25).

12. A true and correct copy of this Petition and proposed Order were served upon Petitioner's counsel.

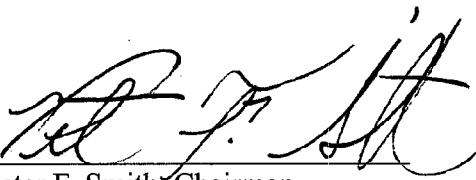
13. He discussed the matter with Petitioner and responded in writing that the Petitioner has no objection.

WHEREFORE, the Board prays this honorable Court to enter an Order directing Petitioner to compensate them in the amount stated in Paragraph 9 & 11 above.

Respectfully submitted,  
Board of View

Date:

8/3/09

by   
Peter F. Smith, Chairman

Thomas D. Holencik

V

Larry L. Rea

May 28: 2 Hours - Read all documents

June 1: 2 Hours - Reviewed appraisals and searched my data base and public records for data on easements and land sales in or around the subject market area to determine if the appraiser did due diligence.

June 24: 3 Hours: Hearing and trip to site.

July 16: 30 minutes: Read and reviewed draft of report.

Total time: 7 1/2 Hours



Richard J. Provost

EXHIBIT

tabies:

HESS AND FISHER ENG → 7656662

## Wilson Fisher Time

Clearfield County Board of View

2008-989-CD

Date	Hours
Wilson Fisher, Jr.	
5/05/09	0.50
5/11/09	0.25
5/18/09	0.25
5/28/09	0.50
6/24/09	3.00
6/22/09	1.00
6/23/09	1.00
7/18/09	0.75
7/20/09	1.00
7/21/09	1.25
7/22/09	0.25
7/23/09	0.50
Total	10.25

EXHIBIT

tabler

2

July 24, 2009

Holencik v Rea  
Clfd No. 2008-989-CD

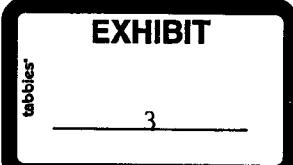
PETER F. SMITH  
Attorney  
30 South Second Street  
P.O. Box 130  
Clearfield, PA 16830

(814) 765-5595

5/04/09	Letters, revised	30 min.
5/12/09	Call for dates & letter	20 min.
5/14/09	Scheduling Order, Cert Service, letter & calls	50 min.
5/15/09	Call to Ct. Administrator, finished Order & letter	35 min.
5/21/09	Letter to Board	20 min.
6/02/09	Letter & service on Rea & Bray, cert of service	45 min.
6/23/09	Prep for hearing	35 min.
6/24/09	Board of View	115 min.
6/26/09	Drafted Report & Prelim Order	222 min.
7/07/09	Worked on Report	45 min.
7/13/09	Finished Report, letter to Fisher & Provost	70 min.
7/20/09	Letters to Fisher & Provost, research	15 min.
7/21/09	Finished Report, research sub-division ordinance, Letter	60 min.
7/22/09	Call to Fisher, proofed letter and Report	35 min.
7/23/09	Drafted Petition & Order for fees, revised & letter To Girard	25 min.

TOTAL TIME: 13.7 Hours @ \$185.00

**TOTAL AMOUNT DUE PETER F. SMITH, ATTORNEY - \$2,534.50**



I N V O I C E

Cathy Warrick Provost, RMR  
Clearfield County Courthouse  
230 E. Market Street, Suite 228  
Clearfield, PA 16830  
(814) 765-2641 (ext. 1304)  
Tax I.D. #177484707

-----  
DATE OF INVOICE: July 7, 2009

TO: Peter F. Smith, Esquire

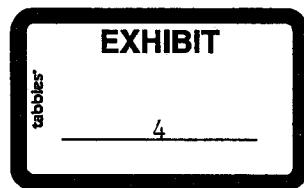
IN RE: Board of View Hearing

Hearing held 6/24/09

-----  
43 pages @ \$2.75 per page \$118.25  
Appearance Fee 50.00  
AMOUNT DUE: \$168.25

Make check payable to: Cathy Warrick Provost  
*Interest rate of 2 percent charged after 30 days*

pd 7/10/09  
CK# 11200



## VERIFICATION

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

Dated:

8/3/09



Peter F. Smith, Attorney

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

THOMAS D. HOLENCIK, : No. 2008-989-CD  
Plaintiff :  
vs. :  
LARRY L. REA; LARRY BRAY and :  
LINDA BRAY, his wife; and :  
CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :  
:

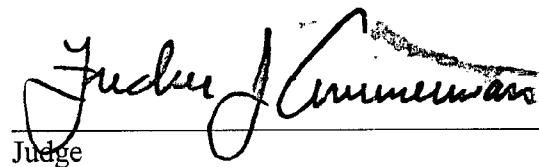
**PRELIMINARY ORDER**

AND NOW, this 12<sup>th</sup> day of August, 2009, upon consideration of the Report filed by the Board of View appointed in this matter, the Court finding the Report to be in order, it is,

ORDERED, ADJUDGED AND DECREED, that

1. Certified copies of said Report shall be served on each party by U.S. First Class Mail, postage prepaid by the Chairman; and,
2. Service shall be deemed to be made upon filing of the Certificate of Service so stating by the Chairman; and,
3. The Defendants shall have 30 days from the date of service to file written exceptions to the Report, and if no exceptions are filed or if they are overruled, the Report shall become final.

By the Court,

  
\_\_\_\_\_  
Judge

5 **FILED** 9CC  
010-00621 Atty P. Smith  
AUG 12 2009

William A. Shaw  
Prothonotary/Clerk of Courts

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

THOMAS D. HOLENCIK,	:	No. 2008-989-CD
Plaintiff	:	
vs.	:	
LARRY L. REA; LARRY BRAY and	:	
LINDA BRAY, his wife; and	:	
CLIFFORD JOHNSON and	:	
GUINIVERE JOHNSON, his wife,	:	
Defendants	:	

S  
**FILED** 8cc  
01/10/11 6:01 AM  
AUG 12 2009 P. Smith  
William A. Shaw  
Prothonotary/Clerk of Courts  
P.D.

## ORDER

NOW, this 12<sup>th</sup> day of August, 2009, in consideration of the Petition for Compensation filed by the Board of View appointed in the above captioned matter, a copy having been served upon Petitioner's Counsel, and Petitioner's Counsel having no objection thereto, it is;

ORDERED, ADJUDGED and DECREED that Petitioner shall compensate the Board members by issuing checks directly to them in the following amounts:

- A. Richard Provost - \$937.50
- B. Wilson Fisher - \$1,281.25
- C. Peter F. Smith, Attorney -\$2702.75, which includes reimbursement For the Recorder Fee of \$168.25.

The Chairman of the Board shall file a Certificate of Record in this case to establish when payment has been made.

By the Court,

Date:

Judie J. Cunningham  
Judge

**FILED**  
**AUG 12 2009**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 8/12/09

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

THOMAS D. HOLENCIK,  
Plaintiff

: No. 2008-989-CD

: vs.

LARRY L. REA; LARRY BRAY and  
LINDA BRAY, his wife; and  
CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants

4 FILED  
07/22/09  
AUG 14 2009  
William A. Shaw  
Prothonotary/Clerk of Courts  
100

**CERTIFICATE OF SERVICE**

I, Peter F. Smith, Chairman of the Board of View in this matter, hereby certify that true and correct certified copies of the **REPORT with INITIAL ORDER and PETITION FOR COMPENSATION with ORDER** were served by U.S. First Class Mail, Postage Prepaid to the Attorney for the Plaintiff, Defendants and the Board of View members as follows:

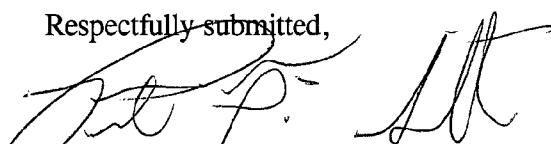
Girard Kasubick, Esquire Leaman & Kasubick 611 Brisbin Street Houtzdale, PA 16651	Richard Provost Provost Realty 302 E. Pine Street Clearfield, PA 16830	Wilson Fisher Hess & Fisher Engineers, Inc. 36 North Second Street Clearfield, PA 16830
--	---	--

Guinivere Johnson 3424 Oak Ridge Road New Millport, PA 16861	Clifford Johnson 3424 Oak Ridge Road New Millport, PA 16861	Linda Bray 4601 South Salem Church St. Dover, PA 17315
--	---	--

Larry Bray 4601 South Salem Church St. Dover, PA 17315	Larry L. Rea P.O. Box 2917 Grapevine, TX 76099
--	--

Respectfully submitted,

Date: 8/13/09



Peter F. Smith, Esquire  
Chairman of the Board of View  
P. O. Box 130, 30 South Second Street  
Clearfield, PA 16830  
(814) 765-5595

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

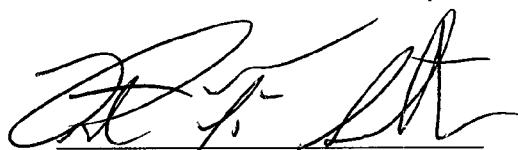
THOMAS D. HOLENICK,  
Plaintiff : No. 2008-989-CD  
vs. :  
LARRY L. REA; LARRY BRAY and :  
LINDA BRAY, his wife; and :  
CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife,  
Defendants :  
:

**CERTIFICATION**

I Peter F. Smith, Chairman of the Board of View appointed in the above caption matter, certify that I received the Plaintiff's check in the amount of \$2702.75 in payment of my fees on August 26, 2009, Mr. Provost received his fee of \$937.50 and Mr. Fisher received his fee of \$1281.25.

Plaintiff has fully complied with this Court's August 12, 2009, Order directing him to pay fees and costs.

Respectfully submitted,



Attorney Peter F. Smith  
Chairman of the Board  
P.O. Box 130  
Clearfield, PA, 16830

8/27/09

Cc: Girard Kasubick, Esquire

FILED  
010-130  
AUG 28 2009  
S (610)  
NO CC  
William A. Shaw  
Prothonotary/Clerk of Courts

63

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

THOMAS D. HOLENCIK,  
Plaintiff

vs.

LARRY L. REA; LARRY BRAY  
and LINDA BRAY, his wife;  
and CLIFFORD JOHNSON and  
GUINIVERE JOHNSON, his wife,  
Defendants

: No.: 2008-989-CD  
: Type of Case: Equity  
: Type of Pleading:  
: Praecepce for  
: Final Order and  
: Certifying Payment  
: 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 3 CC  
OCT 26 2009  
William A. Shaw  
Prothonotary/Clerk of Courts

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

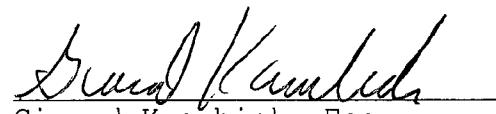
THOMAS D. HOLENCIK, :  
Plaintiff :  
vs. : No. 2008-989-CD  
: IN EQUITY  
LARRY L. REA; LARRY BRAY :  
and LINDA BRAY, his wife; :  
and CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :

**PRAECIPE FOR FINAL ORDER AND CERTIFYING PAYMENT**

TO: Honorable Fredric J. Ammerman, President Judge:

Please issue a Final Order in the above captioned case based on the Board of View Report filed August 5, 2009 and the Certification attached hereto.

Dated: October 26, 2009

  
Girard Kasubick, Esq.  
Attorney for Plaintiff

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

THOMAS D. HOLENCIK, :  
Plaintiff :  
vs. : No. 2008-989-CD  
: IN EQUITY  
LARRY L. REA; LARRY BRAY :  
and LINDA BRAY, his wife; :  
and CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :

**CERTIFICATION**

I, Girard Kasubick, Attorney for Plaintiff, hereby certifies that matters have been completed for the Court to issue a Final Order as follows:

1. The Chairman of the Board of View, Peter F. Smith, Esq. served all parties with the Report on August 13, 2009 as shown by the Certificate of Service filed by him on August 14, 2009 which commenced the running of the thirty (30) days to file exceptions to the Report under paragraph 3. of the Court's August 12, 2009 Preliminary Order.

2. No exceptions have been filed by any parties by September 14, 2009 which was the end of the thirty (30) days or by the date of filing this Certification.

3. The Plaintiff has made payment to Larry Bray and Linda Bray the sum of \$2,400.00 as required under paragraph 7. of the Conclusion of Law in the Board of View Report on October 21, 2009 as shown by the attached letter dated October 21, 2009 and check made payable to Larry and Linda Bray.

4. The Plaintiff has made payment to Larry L. Rea the sum of \$500.00 as required under paragraph 6. of the Conclusion of Law in the Board of View Report on October 23, 2009 as shown by the attached letter dated October 23, 2009 and check made payable to Larry L. Rea.

WHEREFORE, all matters have been completed as required under the Board of View Report and Plaintiff hereby requests the Court issue a Final Order granting the right-of-way twenty (20') feet in width under paragraphs 4. and 5. in the Conclusions of Law in the Board of View Report.

Respectfully submitted,

Dated: October 26, 2009

  
Girard Kasubick, Esq.  
Attorney for Plaintiff

LAW OFFICES  
**LEHMAN & KASUBICK**

611 BRISBIN STREET, HOUTZDALE, PA 16651

Telephone (814) 378-7840  
Facsimile (814) 378-6231

October 21, 2009

Mr. & Mrs. Larry Bray  
4601 South Salem Church Street  
Dover, PA 17315

RE: Thomas D. Holencik, vs. Larry L. Rea, et al.  
No. 2008-989-CD

Dear Mr. & Mrs. Bray:

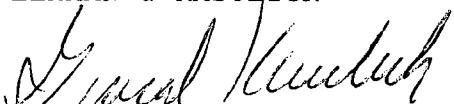
No parties have filed any exceptions or objections to the Board of View Report and thirty (30) days have lapsed since the Chairman of the Board of View filed his Certificate of Service on August 14, 2009.

To finalize matters, enclosed please find check number 3128 on the Plaintiff's account in the amount of \$2,400.00 made payable to you for damages as set forth under paragraph 7. of the Conclusion of Law in the Board of View Report. I will be filing a Praecept for Final Judgment on behalf of the Plaintiff asking the Court to issue a final Order granting the right of way to Thomas D. Holencik under the Report.

This should conclude all matters in this case with you.

Very truly yours,

LEHMAN & KASUBICK

  
Girard Kasubick

GK:lah  
Enclosure  
cc: Thomas D. Holencik

LAW OFFICES  
**LEHMAN & KASUBICK**

611 BRISBIN STREET, HOUTZDALE, PA 16651

Telephone (814) 378-7840  
Facsimile (814) 378-6231

October 23, 2009

Mr. Larry L. Rea  
P.O. Box 2917  
Grapevine, TX 76099

RE: Thomas D. Holencik, vs. Larry L. Rea, et al.  
No. 2008-989-CD

Dear Mr. Rea:

No parties have filed any exceptions or objections to the Board of View Report and thirty (30) days have lapsed since the Chairman of the Board of View filed his Certificate of Service on August 14, 2009.

To finalize matters, enclosed please find check number 3129 on the Plaintiff's account in the amount of \$500.00 made payable to you for damages as set forth under paragraph 6. of the Conclusion of Law in the Board of View Report. I will be filing a Praecept for Final Judgment on behalf of the Plaintiff asking the Court to issue a final Order granting the right of way to Thomas D. Holencik under the Report.

This should conclude all matters in this case with you.

Very truly yours,

LEHMAN & KASUBICK



Girard Kasubick

GK:lah  
Enclosure  
cc: Thomas D. Holencik

THOMAS D. HOLENCIK  
 DIANE M. HOLENCIK  
 P. O. BOX 179, UNION ST.  
 RAMEY, PA. 16671  
 PHONE (814) 378-6028

3128  
 60-8111/2313

10-20-09 Date

Pay to the Order of Larry and Linda Bray \$ 2,400.00  
Two Thousand Four Hundred and 00/100 Dollars  Security Features Details on Back

**PSECU** PENNSYLVANIA STATE EMPLOYEES CREDIT UNION HARRISBURG, PA 17110-2990

For Larry and Linda Bray TDK MP

10 23 13 8 11 16 03 128 00 04 56 11 7704 00

Hartland Clarke  
 GUARDIAN SAFETY® YELLOW

THOMAS D. HOLENCIK  
 DIANE M. HOLENCIK  
 P. O. BOX 179, UNION ST.  
 RAMEY, PA. 16671  
 PHONE (814) 378-6028

3129  
 60-8111/2313

10-22-09 Date

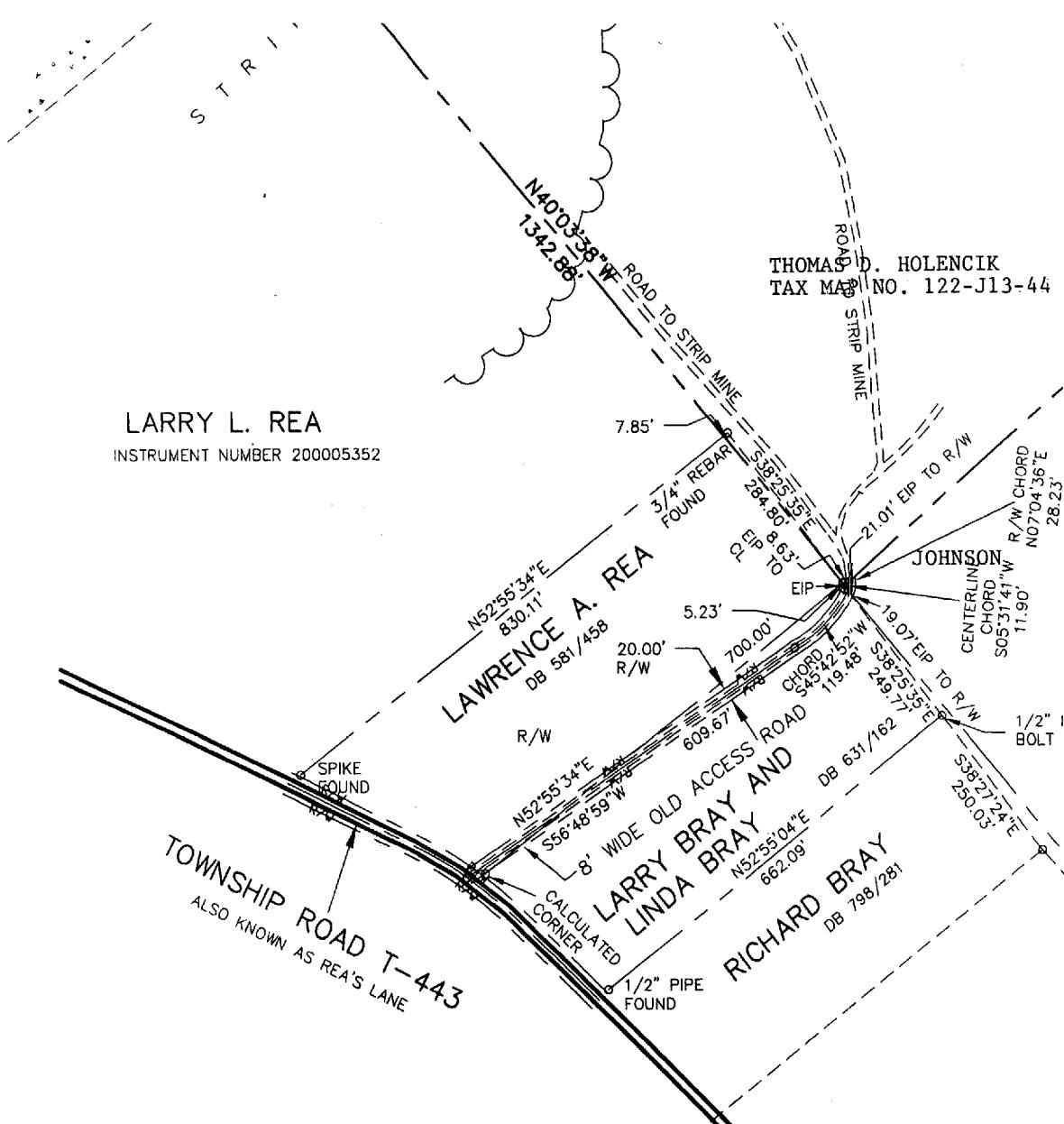
Pay to the Order of Larry A. Rea \$ 500.00  
Five Hundred and 00/100 Dollars  Security Features Details on Back

**PSECU** PENNSYLVANIA STATE EMPLOYEES CREDIT UNION HARRISBURG, PA 17110-2990

For Larry A. Rea TDK MP

10 23 13 8 11 16 03 129 00 04 56 11 7704 00

Hartland Clarke  
 GUARDIAN SAFETY® YELLOW

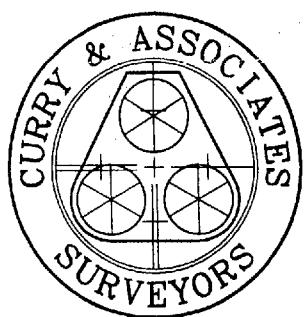


THOMAS D. HOLENCIK

UNION STREET, BOX 179, RAMEY, PA 16671

## OF RETRACEMENT SURVEY

KNOX TOWNSHIP  
CLEARFIELD COUNTY



CLEARFIELD, PENNSYLVANIA

1 INCH = 200 FEET

DAVID J. THORP, PLS  
NO. SU-37822-E  
CURRY & ASSOCIATES  
207 SOUTH THIRD STREET

(814) 765-7226

REVISED: FEBRUARY 8, 2008  
FOR 20' R/W DETAIL  
REVISED: MARCH 12, 2008  
FOR REVISED 20' R/W DETAIL



*David J. Thorp*

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

THOMAS D. HOLENICK, :  
Plaintiff :  
vs. : No. 2008-989-CD  
: IN EQUITY  
LARRY L. REA; LARRY BRAY :  
and LINDA BRAY, his wife; :  
and CLIFFORD JOHNSON and :  
GUINIVERE JOHNSON, his wife, :  
Defendants :  
: **FILED**

OCT 27 2009  
Offliso (w) 60  
William A. Shaw  
Prothonotary/Clerk of Courts  
3 cent - MTR

ORDER

NOW this 27<sup>th</sup> day of October, 2009,  
upon Praeclipe for Final Order and Certifying Payment  
filed by Plaintiff's attorney, it is hereby ORDERED and  
DECREED that a right of way for ingress, egress and  
regress through the Larry L. Rea property (Tax Map No.  
122-I13-1.1), Larry and Linda Bray property (Tax Map No.  
122-I13-45), and the Clifford and Guinivere Johnson  
property (Tax Map No. 122-J13-28), the servient tenements,  
located in Knox Township, Clearfield County, Pennsylvania  
is hereby granted as set forth in the Board of View Report  
and the right of way shall be twenty (20') feet in width  
extending ten (10') feet on each side of the centerline of

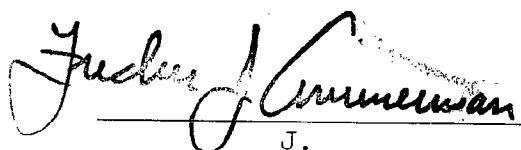
the right of way which is bounded and described as follows:

The beginning centerline point being on the southeastern line of Thomas D. Holencik and being North 49 degrees 34 minutes 30 seconds East 21.01 feet from the existing  $\frac{3}{4}$  inch rebar set previously at the southern most corner of the Thomas D. Holencik property, said rebar being the western corner of Clifford Johnson and Guinivere Johnson, as was conveyed by Deed Book 451, Page 127, said rebar also being on the northeastern line of Larry Bray and Linda Bray, as was conveyed to them by Deed Book 631, Page 162; thence South 5 degrees 31 minutes 41 seconds West 11.90 feet along the centerline of the old access road, through lands of Clifford and Guinivere Johnson to a point on the northeastern line of Larry and Linda Bray; thence South 45 degrees 42 minutes 52 seconds West a distance of 19.48 feet along the centerline of the old access road, through lands of Larry and Linda Bray to a point; thence South 56 degrees 48 minutes 59 seconds West a distance of 609.67 feet along the centerline of the old access road, through lands of Larry and Linda Bray and through land of Larry L. Rea to a point on the centerline of Township Road T-443.

The right of way is shown on the survey map of David J. Thorp, PLS of Curry & Associates dated February 8, 2008 and revised March 12, 2008 and attached hereto and incorporated herein.

The right of way is for the benefit of the property of the Plaintiff, Thomas D. Holencik, the dominant tenement, known by Tax Map No. 122-J13-44.

BY THE COURT:



J.

DATE 10-27-09

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:  
Plaintiff(s) \_\_\_\_\_ Plaintiff(s) Attorney \_\_\_\_\_ Plaintiff(s) \_\_\_\_\_  
Defendant(s) \_\_\_\_\_ Defendant(s) Attorney \_\_\_\_\_ Defendant(s) \_\_\_\_\_  
Special Litigations \_\_\_\_\_ Other \_\_\_\_\_

FILED  
OCT 27 2009  
William A. Shew  
Prothonotary's Clerk of Courts

Belinda Chelgren, Timothy Chelgren, Taylor Chelgren,  
Tanner Chelgren

Plaintiff

v.

Cecil Lynn Chelgren II

Defendant

: THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY,  
: PENNSYLVANIA  
:  
: CIVIL DIVISION  
:  
:  
:  
:  
:  
:  
: No. 2008-0990 C.D.  
:  
:

FILED  
01/02/2008  
MAY 30 2008

William A. Shaw  
Prothonotary/Clerk of Courts  
PFAS

## NOTICE OF HEARING AND ORDER

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claim set forth in the following papers, you must appear at the hearing scheduled herein. If you fail to do so, the case may proceed against you and a FINAL order may be entered against you granting the relief requested in the petition. In particular, you may be evicted from your residence, be prohibited from possessing any firearm, other weapon, ammunition or any firearm license, and lose other important rights, including custody of your children. Any protection order granted by a court may be considered in subsequent proceedings under Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, including child custody proceedings under Chapter 53 (relating to custody).

A hearing on the matter is scheduled for the  
June 10, 2008 at  
11:00 A.M. , in Courtroom 3, second floor at  
Clearfield County Courthouse, 230 East Market Street, Clearfield, PA 16830 .

If an order of protection has been entered, you MUST obey the order until it is modified or terminated by the court after notice and hearing. If you disobey this order, the police or sheriff may arrest you. Violation of this order may subject you to a charge of indirect criminal contempt which is punishable by a fine of up to \$1,000 and/or up to six months in jail under 23 Pa.C.S.A. §6114. Violation may also subject you to prosecution and criminal penalties under the Pennsylvania Crimes Code. Under federal law, 18. U.S.C. §2265, this order is enforceable anywhere in the United States, tribal lands, U.S. Territories and the Commonwealth of Puerto Rico. If you travel outside of the state and intentionally violate this order, you may be subject to federal criminal proceedings under the Violence Against Women Act. 18 U.S.C. §§2261-2262.

If this order directs you to relinquish any firearm, other weapon, ammunition or any firearm license to the sheriff, you may do so upon service of this order. As an alternative, you may relinquish any firearm, other weapon, or ammunition listed herein to a third party provided you and the third party first comply with all requirements to obtain a safekeeping permit. 23 Pa.C.S.A. §6108.3. You must relinquish any firearm, other weapon, ammunition or any firearm license listed in the order no later than 24 hours after service of the order. If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, you must provide an affidavit to the sheriff listing the firearms, other weapons or ammunition and their current location no later than 24 hours after service of the order. Failure to timely relinquish any firearm, other weapon, ammunition or any firearm license shall result in a violation of this order and may result in criminal conviction under the Uniform Firearms Act, 18 Pa. C.S.A. §6105.

NOTICE: Even if this order does not direct you to relinquish firearms, you may be subject to federal firearms prohibitions and federal criminal penalties under 18 U.S.C. §922(g)(8).

Attached you will find a copy of the Temporary Order issued in this case. You must obey this Order until further Order of this Court. Failure to obey the Temporary Order may result in your arrest by the police of Sheriff's Office. You will also be subject to the penalties of Indirect Criminal Contempt.

**Absolutely no continuances of the hearing shall be granted unless by Order of Court. The Hearing Officer shall not continue any hearing due to either party's request for counsel as neither party has an absolute right to be represented by counsel in civil Protection From Abuse proceedings.**

**The Sheriff or his authorized designee is hereby directed to obtain from the Defendant her/his current mailing address, birthdate and social security number.**

**If the Plaintiff fails to appear for the hearing as set forth above or any subsequent Protection From Abuse hearing, the Plaintiff is advised that filing fee and costs may be assessed against the Plaintiff and that the action may automatically be dismissed.**

**If the Defendant fails to appear for the hearing as set forth above or any subsequent Protection From Abuse hearing, the Defendant is advised that filing fee and costs may be assessed against the Defendant in addition to the entry of an Order.**

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. YOU HAVE THE RIGHT TO HAVE A LAWYER REPRESENT YOU AT THE HEARING. THE COURT WILL NOT, HOWEVER, APPOINT A LAWYER FOR YOU. 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. IF YOU CANNOT FIND A LAWYER, YOU MAY HAVE TO PROCEED WITHOUT ONE.**

County Lawyer Referral Service  
Office of the Court Administrator  
230 East Market Street  
Clearfield, PA 16830  
(814) 765-2641 Extension 5982

**Distribution to:**

Judge Paul E. Cherry  
Sheriff  
Clearfield Co Sheriff Department for Service on the Defendant  
and/or  
Centre County Sheriff Department for Service on the Defendant  
Plaintiff  
Hearing Officer-Warren B. Mikesell, II, Esquire  
Crossroads Project

Belinda Chelgren, Timothy Chelgren, Taylor Chelgren, Tanner Chelgren	:	THE COURT OF
	:	COMMON PLEAS OF
	:	CLEARFIELD COUNTY,
	:	PENNSYLVANIA
Plaintiff	:	
	:	
	:	
	:	
	:	
v.	:	
	:	
	:	
	:	
Cecil Lynn Chelgren II	:	
Defendant	:	No. 2008-0990 C.D.
	:	

## **TEMPORARY PROTECTION FROM ABUSE ORDER**

Defendant's Name is: **Cecil Lynn Chelgren II**

Defendant's Date of Birth is: **October 23, 1974**

Defendant's Social Security Number is: **174-60-8458**

Name(s) of All protected persons, including Plaintiff and minor children:

1. **Belinda Chelgren**
2. **Timothy Chelgren**
3. **Taylor Chelgren**
4. **Tanner Chelgren**

AND NOW, on **30th Day of May, 2008** upon consideration of the attached Petition for Protection from Abuse, the court hereby enters the following Temporary Order:

**Plaintiff's request for a temporary protection order is granted.**

1. Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found.
2. Defendant is evicted and excluded from the residence at:  
**328 Railroad Street**  
**Grampian, Pa 16838**

or any other permanent or temporary residence where Plaintiff or any other person protected under this order may live. Plaintiff is granted exclusive possession of the residence. Defendant shall have no right or privilege to enter or be present on the premises of Plaintiff or any other person protected under this order.

3. Except for such contact with the minor children as may be permitted under paragraph 5 of this order, Defendant is prohibited from having **ANY CONTACT** with Plaintiff, or any other person protected under this order either directly or indirectly, at any location, including but not limited to any contact at Plaintiff's or other protected party's school, business, or place of employment.
4. Except for such contact with the minor child/ren as may be permitted under paragraph 5 of this order, Defendant shall not contact Plaintiff, or any other person protected under this order, by telephone or by any other means, including through third persons.

## 5. CUSTODY

Until the final hearing, all contact between Defendant and the child/ren shall be limited to the following:

- **Defendant shall have no partial physical custody/visitation rights.**

Pending the outcome of the final hearing in this matter, Plaintiff is awarded temporary custody of the following minor child/ren:

1. **Timothy Chelgren**
2. **Taylor Chelgren**
3. **Tanner Chelgren**

The local law enforcement agency in the jurisdiction where the child/ren are located shall ensure that the child/ren are placed in the care and control of Plaintiff in accordance with the terms of this order.

## 6. FIREARMS, OTHER WEAPONS AND AMMUNITION RESTRICTIONS

Defendant is prohibited from possessing, transferring or acquiring any firearms for the duration of this order.

7. The following additional relief is granted:
8. A certified copy of this order shall be provided to the sheriff or police department where Plaintiff resides and any other agency specified hereafter:

**Woodland PSP  
Clearfield County Sheriff Department**

9. The sheriff, police or other law enforcement agencies are directed to serve Defendant with a copy of the petition, any order issued, and the order for hearing. Petitioner will inform the designated authority of any addresses, other than Defendant's residence, where Defendant can be served.
10. **THIS ORDER APPLIES IMMEDIATELY TO DEFENDANT AND SHALL REMAIN IN EFFECT UNTIL MAY 30, 2011 OR UNTIL OTHERWISE MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND HEARING.**

**NOTICE TO THE DEFENDANT**

Defendant is hereby notified that violation of this order may result in arrest for indirect criminal contempt, which is punishable by a fine of up to \$1,000 and/or up to six months in jail. 23 Pa.C.S.A. § 6114. Consent of Plaintiff to Defendant's return to the residence shall **not** invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 23 Pa.C.S.A. § 6108 (g). If Defendant is required to relinquish any firearms, other weapons or ammunition or any firearm license, those items must be relinquished to the sheriff within 24 hours of the service of this order. As an alternative, Defendant may relinquish any firearm, other weapon or ammunition listed herein to a third party provided Defendant and the third party first comply with all requirements to obtain a safekeeping permit. If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, Defendant shall provide an affidavit to the sheriff listing the firearms, other weapons or ammunition and their current location no later than 24 hours after the service of this order. Defendant is further notified that violation of this order may subject him/her to state charges and penalties under the Pennsylvania Crimes Code and to federal charges and penalties under the Violence Against Women Act, 18 U.S.C. §§ 2261-2262.

**NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS**

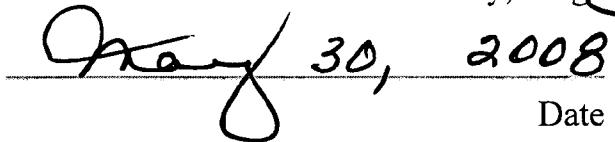
This order shall be enforced by the police department or sheriff who has jurisdiction over Plaintiff's residence OR any location where a violation of this order occurs OR where Defendant may be located. If Defendant violates Paragraphs 1 through 6 of this order, Defendant shall be arrested on the charge of indirect criminal contempt. An arrest for violation of this order may be made without warrant, based solely on probable cause, whether or not the violation is committed in the presence of a police officer or sheriff.

Subsequent to an arrest, the law enforcement officer or sheriff shall seize all firearms, other weapons and ammunition in Defendant's possession which were used or threatened to be used during the violation of the protection order or during prior incidents of abuse and any other firearms in Defendant's possession. Any firearm, other weapon, ammunition or any firearm license must be delivered to the sheriff's office of the county which issued this order, which office shall maintain possession of the firearms, other weapons and ammunition until further order of this court, unless the weapon/s are evidence of a crime, in which case, they shall remain with the law enforcement agency whose officer or sheriff made the arrest.

BY THE COURT:



Paul E. Cherry, Judge



May 30, 2008

Date

Distribution to:

Judge Paul E. Cherry

~~Sheriff~~

2cc Clearfield Co Sheriff Department for Service on the Defendant  
and/or

2cc Centre County Sheriff Department for Service on the Defendant

1cc Plaintiff

1cc Hearing Officer-Warren B. Mikesell, II, Esquire  
Crossroads Project

1cc Mid Penn

Belinda Chelgren, Timothy Chelgren, Taylor Chelgren, Tanner Chelgren	:	THE COURT OF COMMON
	:	PLEAS OF CLEARFIELD
	:	COUNTY, PENNSYLVANIA
Plaintiff	:	
	:	CIVIL DIVISION
	:	
v.	:	
	:	
	:	
Cecil Lynn Chelgren II	:	
Defendant	:	No. 2008-0990 C.D.
	:	

## **PETITION FOR PROTECTION FROM ABUSE**

1. Plaintiff's name is:

**Belinda Chelgren**

2. I, (the Plaintiff), am filing this petition on behalf of:

**- myself**

**- and as Parent of minor Plaintiff(s)**

3. Name(s) of ALL person(s), including minor children, who seek protection from abuse.

- a. **Belinda Chelgren**
- b. **Timothy Chelgren**
- c. **Taylor Chelgren**
- d. **Tanner Chelgren**

4. Plaintiff's Address is : **338 Railroad Street , Grampian, Pa 16838**

5. Defendant's Name is:

**Cecil Lynn Chelgren II**

6. Defendant is believed to live at the following address:

**16 West Spruce Street , Apartment #1 , Philipsburg, , Pa 16866**

7. Defendant's Social Security Number is:

**174-60-8458**

8. Defendant's Date of Birth is:

**October 23, 1974**

9. Defendant's place of employment is:

**Christoff Mitchell Petroleum**

10. Defendant is an **adult**.

11. The relationship between Plaintiff and Defendant is:

- spouse or former spouse of Defendant
- parent of a child with Defendant
- current or former sexual or intimate partner with Defendant
- child of Plaintiff
- child of Defendant
- family member related by blood (consanguinity) to Defendant
- family member related by marriage or affinity to Defendant
- sibling (person who shares parenthood) of Defendant
- current or former cohabitant (person who lives with) Defendant

12. Plaintiff and Defendant have been involved in the following court actions:

a. **Support**

13. Other details of the court action are:

**Clearfield County Case # 04110990 Child Support**

14. Defendant has **not been involved** in a criminal court action.

15. Plaintiff and Defendant are the parents of the following minor child/ren:

a. **Timothy Chelgren**

Age:8

Child's address is: **338 Railroad Street , Grampian, Pa 16838**

b. **Taylor Chelgren**

Age:5

Child's address is: **338 Railroad Street , Grampian, Pa 16838**

c. **Tanner Chelgren**

Age:5

Child's address is: **338 Railroad Street , Grampian, Pa 16838**

16. Plaintiff is seeking an order of child custody as part of this petition.

The following is a list of the children and where they have live for the past 5 years:

a. **Timothy Chelgren**

For the past 5 years, this child has lived with:

**1999-2007 423 Spruce Street Clearfield, 16830- lived with both parents.**

**2007- to current at 328 Railroad Street, Grampian, 16838. Lived with both parents until father left in March 9th, 2008**

b. **Taylor Chelgren**

For the past 5 years, this child has lived with:

**1999-2007 423 Spruce Street Clearfield, 16830- lived with both parents.**

**2007- to current at 328 Railroad Street, Grampian, 16838. Lived with both parents until father left in March 9th, 2008**

c. **Tanner Chelgren**

For the past 5 years, this child has lived with:

**1999-2007 423 Spruce Street Clearfield, 16830- lived with both parents.**

**2007- to current at 328 Railroad Street, Grampian, 16838. Lived with both parents until father left in March 9th, 2008**

17. The facts of the most recent incident of abuse are as follows:

On about **Wednesday, May 28, 2008** at approximately **6:30PM**

location: **Curwensville Little League Field**

I was sitting on a bench in front of the concession stand at the little league field. My husband, Cecile Lynn Chelgren II, walked from the "away team" bleachers and stood directly behind me and leaned against the concession stands brick wall. My keys to my car were sitting beside me on the bench and I had my cell phone in my hand. I was waiting for a call from a real estate agent that was going to show me a house that evening. When I wasn't paying attention my husband grabbed the keys from beside me and shouted "you stole my keys" I asked him to give them back. I explained to him that I did not steal his keys that they were in my purse in my car. I told him that I would get the keys for him and that we could trade keys. He followed me to my car and I leaned over the passenger side seat and reached into my purse that was between the seats. He then took a large McDonalds drink and dumped over my back and through my car. I stood up with his spare set of keys in my hand and asked him why he did that. He replied- HA HA HA HA HA . He then pushed me up against the van and began to walk away with my set of keys. I said "Lynn aren't you going to trade me keys" and I took a few steps toward him through the field. He then turned around and grabbed me and held me in place while he shoved his hand into my front pocket trying to retrieve my cellphone. His shoulder was by my mouth and I bit him. He continued to hold me tighter and finally retrieved the phone from my pocket. When he finally got the phone he let me go. I followed to the bleachers and attempt to reason with him, but when I did he yelled to the crowd and the dugout that I am a drug user and I have syphilis. He said this loud enough that many people heard this. I was mortified. I managed to talk him into trading keys and after sometime he also gave me my phone. I proceeded back to the bench

and gathered my belongings and my children. I asked my son's coach and asked it is were OK to take my son home and he said "yes" I went to my mom's house and she called the Curwensville Boro police. The incident is under investigation and charges are pending. This event makes me fearful of my husband and I'm scared that he is going to continue to harass me in public places as well as at my home. I don't want him to hurt me or my kids, just because he is angry. I also want to be able to take my children to their ball games and not be constantly worried about where he is or what he is going to do to me.

18. Prior incidents of abuse that Defendant has committed against Plaintiff or the minor child/ren, (including any threats, injuries, or incidents of stalking) are as follows:

**October 2007-** Lynn took me for a four wheeler ride into the middle of the woods. I didn't know where I was. During the ride I received a text message from a friend of mine. Lynn stopped the four wheeler and took my phone. He threatened to let me there unless I told him who was texting me. He let me in the middle of a field took the four wheeler key and started walking. It was beginning to get dark and I was scared so I attempted to make up with him. He came back to the ATV and allowed me to get back on, but was only satisfied after I started crying. During this argument he placed a call to my friend. Her voice mail pickup part of the argument.

**November 23rd, 2007-** I was working at the hospital. When my husband came to the nursing unit with out three children. He started screaming at me in front of the other nurses, doctors and patients and family members. He was screaming that I was fucking the doctor and I wouldn't stop. I calmly asked him to leave, I went to the locker room and cried, I was so embarrassed. The hospital had a letter sent to my husband that told him to not come to the hospital unless he was seeking medical care.

He was mad at me because I was texting one of my friends on my cell phone. He forcefully took the phone from me and he held me down on the floor and wouldn't let me up. When he did let me up I grabbed our home phone and told him I was calling the police. I dialed the number, but before I could talk he pushed me to the floor and took the phone and hung it up. He also took the other house phone and went outside. I followed him out. I gave up trying to contact the police because it appeared that he calmed down. I went to his truck to get a cigarette and when I did he thought I was reaching for the keys. He pinned my head down on the floor boards of his truck and started to choke me. When he was done doing that he picked me up and threw me onto the landscape rocks beside out house. Later he was talking to his friend and he said that he tried to pop my head off, but it didn't work.

Over the last year he has broken two of my cell phones. One he threw out the window of a car. The second one he snapped in half and threw it as hard as he could. A third cell phone he took from me and smashed my thumb in it, because I was trying to text my friends and let them know Lynn had my phone. He had already sent a group text to my friends explaining that I was a whore and that why I didn't have my phone.

He has also broken two cordless phones and my house because he was angry with me one he threw at my head because I was on the phone with my friend Betty and he was listening on the other line. I said something he didn't like and he grabbed the phone from my ear and threw it at my head. My friend heard the crash and was still on the line. He started screaming at her telling her that she was causing trouble with the two of us.

He installed programs on our computer such as VNC and Keystroke logger to watch and

record everything I was going on the computer. He also used these to gain access to my email account and my cell phone account. He purchased a recording device that enabled him to record phone conversations that I had from my family and friends.

**Feb 14, 2008:** My husband disconnected the cables from the battery of the truck when I had it parked behind the mall. I had gone with a friend and when I got back to the truck the truck would not start. The same night he took me to buy a couple of bottles of wine. He was acting very suspicious and he bought a box of wine glasses too. He proceeded to drive me to a friends house and try to drop me off in his driveway, saying if you want to be with him you can. He then drove off with me still in the truck and took me on back roads. I told him he was scaring me and he just laughed.

Once he even packed up my underwear and bras into a garbage bag and took them to my friends house and threw them in the yard. He told me he burnt my clothes, but had his friend Steve pick them up the next day.

**May 25, 2008:** Lynn was at my house on Sunday and he was mad at me because I wouldn't believe him when he told that my friend was with another women. I explained to him that really it wasn't a big deal to me and that it was really none of his business anyway. He became angry and smashed my cordless phone on the ground and threw the parts into the woods. He then followed me to the woods and grabbed my necklace and pulled it tight against my neck. I asked him to stop and that it hurt, but he just accused me of not wanting the necklace to be broken because "It must have been a gift".

After leaving the house and moving to his apartment Lynn frequently would come back to the house drunk and wakes me up. Once while I was sleeping I woke up with him ripping the covers off of me and accusing me of having another man in my bed. Once Lynn would wake me up he would never let me go back to sleep regardless of it I had to work in the morning or not.

**I fear what might happen next.**

19. (a) Has Defendant used or threatened to use any firearms or other weapons against Plaintiff or the minor child/ren?

**NO**

(b) Other than the firearms, other weapons or ammunition Defendant used or threatened to use against Petitioner or the minor child/ren, does Defendant, to the best of your knowledge or belief, own or possess any additional firearm, other weapon, ammunition or any firearm license?

**NO**

(c) If the answer to (b) above is "Yes", list any additional firearm, other weapon or ammunition owned by or in the possession of Defendant on Attachment A to Petition, which is incorporated by reference into this petition.

(d) Plaintiff **DOES NOT** request that the court order Defendant to relinquish firearms, other weapons or ammunition listed on Attachment A to Petition.

20. The sheriff, police department or law enforcement agency that should be provided with a copy of

the protection order are:

**Woodland PSP**

**Clearfield County Sheriff Department**

21. There is an immediate and present danger of further abuse from Defendant.
22. Plaintiff is asking the court to evict and exclude Defendant from the following residence:  
**328 Railroad Street**  
**Grampian, Pa 16838**

Owned By:

**Belinda Chelgren and Cecil Chelyren**

23. **FOR THE REASONS SET FORTH ABOVE, I REQUEST THAT THE COURT ENTER A TEMPORARY ORDER, and AFTER HEARING, A FINAL ORDER THAT WOULD DO THE FOLLOWING:**

- a. Restrain Defendant from abusing, threatening, harassing, or stalking Plaintiff and/or the minor child/ren in any place where Plaintiff and/or the child/ren may be found.
- b. Evict/exclude Defendant from Plaintiff's residence and prohibit Defendant from attempting to enter any temporary or permanent residence of Plaintiff.
- c. Award Plaintiff temporary custody of the minor child/ren and place the following restrictions on contact between Defendant and the child/ren:

- d. Prohibit Defendant from having any contact with Plaintiff and/or the minor child/ren, either in person, by telephone, or in writing, personally or through third persons, including but not limited to any contact at Plaintiff's school, business, or place of employment, except as the court may find necessary with respect to partial custody and/or visitation with the minor child/ren.
- e. Prohibit Defendant from having any contact with Plaintiff's relatives and Plaintiff's children listed in this petition, except as the court may find necessary with respect to partial custody and/or visitation with the minor child/ren.

The following persons are Plaintiff's relatives or family and household members that Plaintiff believes require protection from stalking and harassment by Defendant.

- f. Order Defendant to temporarily relinquish some or all of the firearms, other weapons and/or ammunition listed on Attachment A to Petition and any firearm license to the sheriff of this county and/or prohibit Defendant from transferring, acquiring, or possessing some or all firearms for the duration of the order.
- g. Grant such other relief as Plaintiff requests and/or the court deems appropriate.
- h. Order the police, sheriff or other law enforcement agency to serve Defendant

with a copy of this petition, any order issued, and the order for hearing. Plaintiff will inform the designated authority of any addresses, other than the Defendant's residence, where Defendant can be served.

---

### **VERIFICATION**

I verify that I am the petitioner as designated in the present action and that the facts and statements contained in the above petition are true and correct to the best of my knowledge. I understand that any false statements are made subject to the Penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities

---

Signature

---

Date

G. Order Defendant to temporarily relinquish some or all of the firearms, other weapons and/or ammunition listed on Attachment A to Petition and any firearm license to the sheriff of this county and/or prohibit Defendant from transferring, acquiring, or possessing some or all firearms for the duration of the order.

H. Order Defendant to pay temporary support to Plaintiff and/or the minor child/ren, including medical support and \_\_\_\_\_ payment of the rent or mortgage on the residence.

I. Direct Defendant to pay Plaintiff for the reasonable financial losses suffered as the result of the abuse, to be determined at the hearing.

J. Order Defendant to pay the costs of this action, including filing and service fees.

K. Order Defendant to pay Plaintiff's reasonable attorney's fees.

L. Order the following additional relief, not listed above:

M. Grant such other relief as the court deems appropriate.

N. Order the police, sheriff or other law enforcement agency to serve Defendant with a copy of this petition, any order issued, and the order for hearing. Plaintiff will inform the designated authority of any addresses, other than the Defendant's residence, where Defendant can be served.

Respectfully submitted by/prepared by: \_\_\_\_\_  
Preparer/Submitter's name

#### VERIFICATION

I verify that I am the petitioner as designated in the present action and that the facts and statements contained in the above Petition are true and correct to the best of my knowledge. I understand that any false statements are made subject to the Penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities

Belinda Cheyenne

Signature

5/28/08

Date

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-990-CD

BELINDA CHELGREN, TIMOTHY CHELGREN, TAYLOR CHELGREN, TANNER CHELGREN  
vs  
CECIL LYNN CHELGREN II

SERVICE # 2 OF 2

PROTECTION FROM ABUSE

SERVE BY: 06/09/2008 ASAP HEARING: 06/10/2008 11:00:00 AM PAGE: 104225

DEFENDANT: CECIL LYNN CHELGREN II  
ADDRESS: WORK: CHRISTOFF MITCHELL PETROLEUM  
PO BOX 669, PHILIPSBURG, PA 16866

FILED

JUN 02 2008  
07/11:50 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
16F1

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT ONLY

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS: VACANT OCCUPIED

ATTEMPTS

**SHERIFF'S RETURN**

NOW, 6/2/08 AT 9:00 AM PM SERVED THE WITHIN

PROTECTION FROM ABUSE ON CECIL LYNN CHELGREN II, DEFENDANT

BY HANDING TO Cecil Chelgren , Sc/f

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS THEREOF.

ADDRESS SERVED P.O. Box 669 Philipsburg

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM POSTED THE WITHIN

PROTECTION FROM ABUSE FOR CECIL LYNN CHELGREN II

AT (ADDRESS) \_\_\_\_\_

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO CECIL LYNN CHELGREN II

REASON UNABLE TO LOCATE \_\_\_\_\_

SWORN TO BEFORE ME THIS

\_\_\_\_\_  
DAY OF June 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY:

C. A. Hawkins  
Deputy Signature

C. A. Hunter  
Print Deputy Name

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104225  
NO: 08-990-CD  
SERVICE # 1 OF 2  
PROTECTION FROM ABUSE

PLAINTIFF: BELINDA CHELGREN, TIMOTHY CHELGREN, TAYLOR CHELGREN, TANNER CHELGREN  
vs.  
DEFENDANT: CECIL LYNN CHELGREN II

**SHERIFF RETURN**

---

NOW, May 30, 2008, SHERIFF OF CENTRE COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PROTECTION FROM ABUSE ON CECIL LYNN CHELGREN II.

NOW, June 02, 2008 ATTEMPTED TO SERVE THE WITHIN PROTECTION FROM ABUSE ON CECIL LYNN CHELGREN II, DEFENDANT. THE RETURN OF CENTRE COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN MARKED "NOT FOUND".

**FILED**  
07/31/2008  
JUN 04 2008  
WAS  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104225  
NO: 08-990-CD  
SERVICES 2  
PROTECTION FROM ABUSE

PLAINTIFF: BELINDA CHELGREN, TIMOTHY CHELGREN, TAYLOR CHELGREN, TANNER CHELGREN  
VS.

DEFENDANT: CECIL LYNN CHELGREN II

**SHERIFF RETURN**

---

**RETURN COSTS**

Description	Paid By	CHECK #	AMOUNT
SURCHARGE			10.00
SHERIFF HAWKINS			40.00
CENTRE CO.			42.50

Sworn to Before Me This

So Answers,

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



Chester A. Hawkins  
Sheriff

Belinda Chelgren, Timothy Chelgren, Taylor Chelgren, Tanner Chelgren	: THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
<hr/> <b>Plaintiff</b>	:
	: CIVIL DIVISION
	:
v.	:
	:
	:
	:
<b>Cecil Lynn Chelgren II</b>	: No. 2008-0990 C.D.
<hr/> <b>Defendant</b>	:

## **AFFIDAVIT OF SERVICE**

I, **SAMANTHA HUNTER**, the undersigned, hereby state that I served a copy of the **Notice of Hearing and Order, Petition and Temporary Order** in the above-captioned action.

**Service was made upon Defendant by handing the papers to CECIL CHELGREN at the following address: PO BOX 669, PHILIPSBURG, PA. on this 2nd Day of June, 2008, at approximately 09:00 AM.**

I verify that the statements made in this Affidavit are true and correct to the best of my knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

 Signature

*Signature*

**SHERIFF**

### Title

## **CLEARFIELD COUNTY PENNSYLVANIA**

### *Address*

June 3, 2008

THIS FORM MUST BE COMPLETED AND SIGNED BY THE PERSON WHO SERVES THE DEFENDANT WITH THE NOTICE OF HEARING AND ORDER, PETITION AND TEMPORARY ORDER. IT MUST BE FILED WITH THE PROTHONOTARY OR BROUGHT TO THE COURT ON THE HEARING DATE.

# SHERIFF'S OFFICE

## CENTRE COUNTY

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

### SHERIFF SERVICE PROCESS RECEIPT, AND AFFIDAVIT OF RETURN

INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. Please type or print legibly. Do Not detach any copies.

1. Plaintiff(s) Belinda Chelgren	2. Case Number 2008-0990 CD								
3. Defendant(s) Cecil Lynn Chelgren II	4. Type of Writ or Complaint: PFA 501545								
<b>SERVE</b> → <b>AT</b> { 5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levied, Attached or Sold. Cecil Lynn Chelgren II 6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code) 16 West Spruce St., Philipsburg, PA 16866									
7. Indicate unusual service: <input type="checkbox"/> Reg Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Deputize <input type="checkbox"/> Post <input type="checkbox"/> Other									
Now, 20 _____ I, SHERIFF OF CENTRE COUNTY, PA., do hereby depose the Sheriff of _____ County to execute this Writ and make return thereof according to law. This depoition being made at the request and risk of the plaintiff. _____ Sheriff of Centre County									
8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE									
<b>NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN</b> – Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.									
9. Print/Type Name and Address of Attorney/Originator	10. Telephone Number	11. Date							
	12. Signature								
<b>SPACE BELOW FOR USE OF SHERIFF ONLY - DO NOT WRITE BELOW THIS LINE</b>									
13. I acknowledge receipt of the writ or complaint as indicated above.	SIGNATURE of Authorized CCSD Deputy of Clerk and Title	14. Date Filed	15. Expiration/Hearing Date						
<b>TO BE COMPLETED BY SHERIFF</b>									
16. Served and made known to _____, on the _____ day of _____, 20 _____, at _____, County of Centre 20 0, at _____ o'clock, _____ m., at 16 West Spruce St., Philipsburg, PA 16866, County of Centre									
Commonwealth of Pennsylvania, in the manner described below:									
<input type="checkbox"/> Defendant(s) personally served. <input type="checkbox"/> Adult family member with whom said Defendant(s) resides(s). Relationship is _____ <input type="checkbox"/> Adult in charge of Defendant's residence. <input type="checkbox"/> Manager/Clerk of place of lodging in which Defendant(s) resides(s). <input type="checkbox"/> Agent or person in charge of Defendant's office or usual place of business. _____ and officer of said Defendant company. Other _____									
On the _____ day of _____, 20 _____, at _____ o'clock, _____ M.									
Defendant not found because:									
<input type="checkbox"/> Moved <input type="checkbox"/> Unknown <input type="checkbox"/> No Answer <input type="checkbox"/> Vacant <input type="checkbox"/> Other _____									
Remarks: 06-02-08 Served by Clearfield County Returning on Clearfields orders									
Advance Costs 0.00	Docket 9.00	Service 6.00	Sur Charge	Affidavit 2.50	Mileage 25.00	Postage	Misc.	Total Costs 42.50	Costs Due or Refund 42.50
17. AFFIRMED and subscribed to before me this 3				So Answer.					
20. day of June 2008				18. Signature of Dep. Sheriff					19. Date 05/08
23. Contra H. Peters, Notary Public Bellefonte Boro, Centre County My Commission Expires on Expiration Date				21. Signature of Sheriff					22. Date
SHERIFF OF CENTRE COUNTY									
Amount Pd. Page									
24. I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE OF AUTHORIZED AUTHORITY AND TITLE									
25. Date Received									

CHESTER A. HAWKINS  
SHERIFF

# Sheriff's Office

## Clearfield County

OFFICE (814) 765-2641 EXT. 5986  
AFTER 4:00 P.M. (814) 765-1533  
FAX (814) 765-5915COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830ROBERT SNYDER  
CHIEF DEPUTYCYNTHIA AUGHENBAUGH  
OFFICE MANAGERMARILYN HAMM  
DEPT. CLERKPETER F. SMITH  
SOLICITORDATE FAXED: 5-30-08TO: Centre Co ShffFROM: Marilyn  
Clearfield County Shff. Dept.FAX #: 814-548-1111FAX #: 814-765-5915PHONE #: 814-355-6803PHONE #: 814-765-2641 x 1360NUMBER OF PAGES INCLUDING COVER SHEET: 19MESSAGE: We are going to try his work address in  
our County - let us know if you get it served  
& we will do the same if we get him on our  
sideI will write your costs ASAPThanks! Marilyn

\*\*\*\*\*WARNING\*\*\*\*\*

Information contained in this transmission is CONFIDENTIAL and if received by anyone not entitled to see the same you must destroy the transmission and advise this Department immediately.



CHESTER A. HAWKINS  
SHERIFF

# Sheriff's Office Clearfield County

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641  
FAX (814) 765-5915  
ROBERT SNYDER  
CHIEF DEPUTY  
MARILYN HAMM  
DEPT. CLERK  
CYNTHIA AUGHENBAUGH  
OFFICE MANAGER  
KAREN BAUGHMAN  
CLERK TYPIST  
PETER F. SMITH  
SOLICITOR

## DEPUTATION

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

PAGE 104225

TERM &amp; NO. 08-990-CD

BELINDA CHELGREN, TIMOTHY CHELGREN, TAYLOR CHELGREN, TANNER CHELGREN

PROTECTION FROM ABUSE

vs.

CECIL LYNN CHELGREN II

**SERVE BY: 06/09/08  
COURT DATE: 6/10/2008**

**MAKE REFUND PAYABLE TO CALL WITH COSTS A.S.A.P. SO THEY CAN BE ASSESSED**

**SERVE:** CECIL LYNN CHELGREN II

**ADDRESS:** 16 WEST SPRUCE ST., PHILIPSBURG, PA 16866

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF CENTRE COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, May 30, 2008.

RESPECTFULLY,

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

Revised 11/01/2002

INFORMATION SHEETNAMES ON PETITION MUST MATCH THOSE ON THIS FORM.DEFENDANT'S FULL NAME/(NAME): Cecil Lynn Chelgren IIMALE/(SEX): M FEMALE/(SEX):  RACE/(RAC): (example caucasian) CaucasianDEFENDANT'S DATE OF BIRTH/(DOB): 10 / 23 / 1974 AGE: 33DEFENDANT'S SOCIAL SECURITY NUMBER/(SSN): 174 - 60 - 8458DEFENDANT'S DRIVERS LICENSE NUMBER/(OLN): STATE THAT ISSUED LICENSE/(OLS): PAYEAR ISSUED/(OLY): DEFENDANT'S VEHICLE REGISTRATION NUMBER/(LIC): STATE IN WHICH VEHICLE WAS REGISTERED/(LIS): PennsylvaniaYEAR VEHICLE WAS REGISTERED/(LIV): 2007VEHICLE REGISTRATION TYPE/(LIT): VEHICLE IDENTIFICATION NUMBER(VIN): YEAR OF VEHICLE/(VYR): 2004MAKE OF VEHICLE (CHEVROLET, FORD, ETC.)/(VMA): FordMODEL OF VEHICLE (Camaro, Cutlass, ETC.)/(VMO): F150VEHICLE STYLE (4 DOOR, COUPE, ETC.)/(VST): truck extended cabCOLOR OF VEHICLE/(VCO): blueDEFENDANT'S ADDRESS/(ADR): 16 West Spruce St PhilipsburgCITY/(CTY): Philipsburg STATE/(STA): PA ZIP CODE/(ZIP): DEFENDANT'S TELEPHONE NUMBER: (814) 592 - 1212DEFENDANT'S BIRTHPLACE/(POB): ClearfieldSKINTONE/SKIN: (example fair, medium or dark) mediumHEIGHT/(HGT): 5' 10" WEIGHT/(WGT): 160 lbsEYE/(EYE) COLOR: blueHAIR/(HAI) COLOR: blackGLASSES: YES        OR NO ✓DISTINGUISHING FEATURES/SCARS, MARKS, TATTOOS(SMT): hornet tattoo (R)antleUSUAL CLOTHING: jeans, t-shirt or long sleeve pull over shirt

PLAINTIFF'S FULL NAME/ (PLN) (PPN): Belinda Lee Chelgren

MALE/ (PSX) :  FEMALE/ (PSX) : ✓ RACE/ (PPR) (PLR): (example caucasian) Caucasian

PLAINTIFF'S DATE OF BIRTH/ (PLB) (PPB): 7 / 28 / 1977 AGE: 30

PLAINTIFF'S SOCIAL SECURITY NUMBER: 188 - 64 - 6976

PLAINTIFF'S TELEPHONE NUMBER: (814) 236 - 3307 (residence)

PLAINTIFF'S TELEPHONE NUMBER: (814) 592 - 0081 (cell) (work) - 768-2162

PLAINTIFF'S/ (PLA) (PPA) ADDRESS: 338 Railroad St

CITY/ (PLC) (PPC): Greenvale, PA 16838

STATE/ (PLS) (PPS): PA ZIP CODE/ (PLZ) (PPZ): 16838

SKINTONE/ SKN): (example fair, medium or dark) fair

HEIGHT/ (HGT): 5 ' 4 " WEIGHT/ (WGT): 124 lbs

HAIR COLOR: blond EYE COLOR: hazel GLASSES: no

THIS INFORMATION IS REQUIRED FOR THIS OFFICE TO PROCESS THIS PETITION

NAME OF LAW ENFORCEMENT AGENCY (POLICE DEPARTMENT/STATE POLICE) IN

THE AREA IN WHICH YOU LIVE: (example, State Police, Borough or Township)

State Police

NAME OF LAW ENFORCEMENT AGENCY (POLICE DEPARTMENT/STATE POLICE) IN

THE AREA IN WHICH THE INCIDENT TOOK PLACE:

Curwensville Boro

DIRECTIONS TO DEFENDANT'S RESIDENCE: From Clearfield to Philipsburg 322. Travel through 2 Stop lights then take a right on to Philipsburg Business Dist to Stop Sign then take a right onto Front Street. Continue on Front Street until Spruce Street and take a Right. Apt is last building on left. Apt #1

DEFENDANT'S CLOSEST RELATIVE: Sandy Chelgren

RELATIVE'S ADDRESS: corner of tenth & Penn St Grampian PA 16838

RELATIVE'S RELATIONSHIP TO DEFENDANT (FATHER, MOTHER, ETC.): mother

TIME WHEN DEFENDANT IS MOST LIKELY TO VISIT ABOVE: After 5:00pm weekdays

NAME & ADDRESS WHERE DEFENDANT IS MOST LIKELY TO SOCIALIZE AND WHEN:

DEFENDANT'S EMPLOYER: Christoff Mitchell Petroleum

EMPLOYER'S ADDRESS: PO Box 669 Philipsburg PA

DEFENDANT'S JOB CLASSIFICATION (TITLE): IT and collections manager

DEFENDANT'S WORK HOURS: 8am - 4pm

MOST LIKELY PLACE & TIME TO SERVE DEFENDANT WITH PETITION:

At work in the morning

DOES DEFENDANT HAVE ANY WEAPONS? YES \_\_\_\_\_ OR NO  HOW MANY? \_\_\_\_\_

DOES DEFENDANT HAVE A CRIMINAL RECORD? NO IS DEFENDANT ON PROBATION/PAROLE? ME

Belinda Chelgren, Timothy Chelgren, Taylor Chelgren,  
Tanner Chelgren

Plaintiff

# DEFENDANT

v.

Cecil Lynn Chelgren II

Defendant

: THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY,  
: PENNSYLVANIA. *Arabry certify this to be a true*  
: *and attested copy of the original*  
: CIVIL DIVISION *statement filed in this case.*

MAY 30 2008

: No. 2008-0990 C.D.  
: Attest.

*William L. Brown*  
Prothonotary/  
Clerk of Courts

## NOTICE OF HEARING AND ORDER

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claim set forth in the following papers, you must appear at the hearing scheduled herein. If you fail to do so, the case may proceed against you and a FINAL order may be entered against you granting the relief requested in the petition. In particular, you may be evicted from your residence, be prohibited from possessing any firearm, other weapon, ammunition or any firearm license, and lose other important rights, including custody of your children. Any protection order granted by a court may be considered in subsequent proceedings under Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, including child custody proceedings under Chapter 53 (relating to custody).

A hearing on the matter is scheduled for the

June 10, 2008 at  
11:00 A.M. in Courtroom 3, second floor at  
Clearfield County Courthouse, 230 East Market Street, Clearfield, PA 16830.

If an order of protection has been entered, you MUST obey the order until it is modified or terminated by the court after notice and hearing. If you disobey this order, the police or sheriff may arrest you. Violation of this order may subject you to a charge of indirect criminal contempt which is punishable by a fine of up to \$1,000 and/or up to six months in jail under 23 Pa.C.S.A. §6114. Violation may also subject you to prosecution and criminal penalties under the Pennsylvania Crimes Code. Under federal law, 18. U.S.C. §2265, this order is enforceable anywhere in the United States, tribal lands, U.S. Territories and the Commonwealth of Puerto Rico. If you travel outside of the state and intentionally violate this order, you may be subject to federal criminal proceedings under the Violence Against Women Act. 18 U.S.C. §§2261-2262.

If this order directs you to relinquish any firearm, other weapon, ammunition or any firearm license to the sheriff, you may do so upon service of this order. As an alternative, you may relinquish any firearm, other weapon, or ammunition listed herein to a third party provided you and the third party first comply with all requirements to obtain a safekeeping permit. 23 Pa.C.S.A. §6108.3. You must relinquish any firearm, other weapon, ammunition or any firearm license listed in the order no later than 24 hours after service of the order. If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, you must provide an affidavit to the sheriff listing the firearms, other weapons or ammunition and their current location no later than 24 hours after service of the order. Failure to timely relinquish any firearm, other weapon, ammunition or any firearm license shall result in a violation of this order and may result in criminal conviction under the Uniform Firearms Act, 18 Pa. C.S.A. §6105.

NOTICE: Even if this order does not direct you to relinquish firearms, you may be subject to federal firearms prohibitions and federal criminal penalties under 18 U.S.C. §922(g)(8).

Attached you will find a copy of the Temporary Order issued in this case. You must obey this Order until further Order of this Court. Failure to obey the Temporary Order may result in your arrest by the police of Sheriff's Office. You will also be subject to the penalties of Indirect Criminal Contempt.

**Absolutely no continuances of the hearing shall be granted unless by Order of Court. The Hearing Officer shall not continue any hearing due to either party's request for counsel as neither party has an absolute right to be represented by counsel in civil Protection From Abuse proceedings.**

**The Sheriff or his authorized designee is hereby directed to obtain from the Defendant her/his current mailing address, birthdate and social security number.**

**If the Plaintiff fails to appear for the hearing as set forth above or any subsequent Protection From Abuse hearing, the Plaintiff is advised that filing fee and costs may be assessed against the Plaintiff and that the action may automatically be dismissed.**

**If the Defendant fails to appear for the hearing as set forth above or any subsequent Protection From Abuse hearing, the Defendant is advised that filing fee and costs may be assessed against the Defendant in addition to the entry of an Order.**

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. YOU HAVE THE RIGHT TO HAVE A LAWYER REPRESENT YOU AT THE HEARING. THE COURT WILL NOT, HOWEVER, APPOINT A LAWYER FOR YOU. 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. IF YOU CANNOT FIND A LAWYER, YOU MAY HAVE TO PROCEED WITHOUT ONE.**

County Lawyer Referral Service  
Office of the Court Administrator  
230 East Market Street  
Clearfield, PA 16830  
(814) 765-2641 Extension 5982

**Distribution to:**

Judge Paul F. Cherry  
Sheriff  
Clearfield Co Sheriff Department for Service on the Defendant  
and/or  
Centre County Sheriff Department for Service on the Defendant  
Plaintiff  
Hearing Officer-Warren B. Mikesell, II, Esquire  
Crossroads Project

Belinda Chelgren, Timothy Chelgren,  
Taylor Chelgren, Tanner Chelgren

Plaintiff

v.

Cecil Lynn Chelgren II

Defendant

: THE COURT OF  
: COMMON PLEAS OF  
: CLEARFIELD COUNTY,  
: PENNSYLVANIA

: CIVIL DIVISION

:

:

:

: No. 2008-0990 C.D.

:

## **TEMPORARY PROTECTION FROM ABUSE ORDER**

Defendant's Name is: **Cecil Lynn Chelgren II**

Defendant's Date of Birth is: **October 23, 1974**

Defendant's Social Security Number is: **174-60-8458**

Name(s) of All protected persons, including Plaintiff and minor children:

1. **Belinda Chelgren**
2. **Timothy Chelgren**
3. **Taylor Chelgren**
4. **Tanner Chelgren**

AND NOW, on **30th Day of May, 2008** upon consideration of the attached Petition for Protection from Abuse, the court hereby enters the following Temporary Order:

**Plaintiff's request for a temporary protection order is granted.**

1. Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found.
2. Defendant is evicted and excluded from the residence at:  
**328 Railroad Street**  
**Grampian, Pa 16838**

or any other permanent or temporary residence where Plaintiff or any other person protected under this order may live. Plaintiff is granted exclusive possession of the residence. Defendant shall have no right or privilege to enter or be present on the premises of Plaintiff or any other person protected under this order.

3. Except for such contact with the minor children as may be permitted under paragraph 5 of this order, Defendant is prohibited from having **ANY CONTACT** with Plaintiff, or any other person protected under this order either directly or indirectly, at any location, including but not limited to any contact at Plaintiff's or other protected party's school, business, or place of employment.
4. Except for such contact with the minor child/ren as may be permitted under paragraph 5 of this order, Defendant shall not contact Plaintiff, or any other person protected under this order, by telephone or by any other means, including through third persons.

#### 5. CUSTODY

Until the final hearing, all contact between Defendant and the child/ren shall be limited to the following:

- **Defendant shall have no partial physical custody/visitation rights.**

Pending the outcome of the final hearing in this matter, Plaintiff is awarded temporary custody of the following minor child/ren:

1. **Timothy Chelgren**
2. **Taylor Chelgren**
3. **Tanner Chelgren**

The local law enforcement agency in the jurisdiction where the child/ren are located shall ensure that the child/ren are placed in the care and control of Plaintiff in accordance with the terms of this order.

#### 6. FIREARMS, OTHER WEAPONS AND AMMUNITION RESTRICTIONS

Defendant is prohibited from possessing, transferring or acquiring any firearms for the duration of this order.

7. The following additional relief is granted:
8. A certified copy of this order shall be provided to the sheriff or police department where Plaintiff resides and any other agency specified hereafter:

**Woodland PSP  
Clearfield County Sheriff Department**

9. The sheriff, police or other law enforcement agencies are directed to serve Defendant with a copy of the petition, any order issued, and the order for hearing. Petitioner will inform the designated authority of any addresses, other than Defendant's residence, where Defendant can be served.
10. **THIS ORDER APPLIES IMMEDIATELY TO DEFENDANT AND SHALL REMAIN IN EFFECT UNTIL MAY 30, 2011 OR UNTIL OTHERWISE MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND HEARING.**

**NOTICE TO THE DEFENDANT**

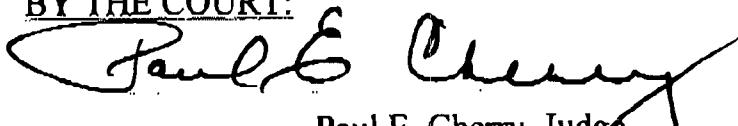
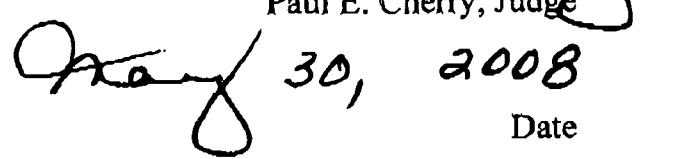
Defendant is hereby notified that violation of this order may result in arrest for indirect criminal contempt, which is punishable by a fine of up to \$1,000 and/or up to six months in jail. 23 Pa.C.S.A. § 6114. Consent of Plaintiff to Defendant's return to the residence shall **not** invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 23 Pa.C.S.A. § 6108 (g). If Defendant is required to relinquish any firearms, other weapons or ammunition or any firearm license, those items must be relinquished to the sheriff within 24 hours of the service of this order. As an alternative, Defendant may relinquish any firearm, other weapon or ammunition listed herein to a third party provided Defendant and the third party first comply with all requirements to obtain a safekeeping permit. If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, Defendant shall provide an affidavit to the sheriff listing the firearms, other weapons or ammunition and their current location no later than 24 hours after the service of this order. Defendant is further notified that violation of this order may subject him/her to state charges and penalties under the Pennsylvania Crimes Code and to federal charges and penalties under the Violence Against Women Act, 18 U.S.C. §§ 2261-2262.

**NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS**

This order shall be enforced by the police department or sheriff who has jurisdiction over Plaintiff's residence OR any location where a violation of this order occurs OR where Defendant may be located. If Defendant violates Paragraphs 1 through 6 of this order, Defendant shall be arrested on the charge of indirect criminal contempt. An arrest for violation of this order may be made without warrant, based solely on probable cause, whether or not the violation is committed in the presence of a police officer or sheriff.

Subsequent to an arrest, the law enforcement officer or sheriff shall seize all firearms, other weapons and ammunition in Defendant's possession which were used or threatened to be used during the violation of the protection order or during prior incidents of abuse and any other firearms in Defendant's possession. Any firearm, other weapon, ammunition or any firearm license must be delivered to the sheriff's office of the county which issued this order, which office shall maintain possession of the firearms, other weapons and ammunition until further order of this court, unless the weapon/s are evidence of a crime, in which case, they shall remain with the law enforcement agency whose officer or sheriff made the arrest.

BY THE COURT:

  
Paul E. Cherry, Judge  
  
Date

Distribution to:

Judge Paul E. Cherry

Sheriff

Clearfield Co Sheriff Department for Service on the Defendant  
and/or

Centre County Sheriff Department for Service on the Defendant  
Plaintiff

Hearing Officer-Warren B. Mikesell, II, Esquire  
Crossroads Project

PFAD Number: BJ3136668U

Belinda Chelgren, Timothy Chelgren, Taylor  
Chelgren, Tanner Chelgren

Plaintiff

v

Cecil Lynn Chelgren II

Defendant

: THE COURT OF COMMON  
: PLEAS OF CLEARFIELD  
: COUNTY, PENNSYLVANIA

: CIVIL DIVISION

:

:

:

:

: No. 2008-0990 C.D.

:

## **PETITION FOR PROTECTION FROM ABUSE**

1. Plaintiff's name is:

**Belinda Chelgren**

2. I, (the Plaintiff), am filing this petition on behalf of:

- myself

- and as **Parent of minor Plaintiff(s)**

3. Name(s) of ALL person(s), including minor children, who seek protection from abuse.

- a. **Belinda Chelgren**
- b. **Timothy Chelgren**
- c. **Taylor Chelgren**
- d. **Tanner Chelgren**

4. Plaintiff's Address is : **338 Railroad Street , Grampian, Pa 16838**

5. Defendant's Name is:

**Cecil Lynn Chelgren II**

6. Defendant is believed to live at the following address:

**16 West Spruce Street , Apartment #1 , Philipsburg, , Pa 16866**

7. Defendant's Social Security Number is:

**174-60-8458**

8. Defendant's Date of Birth is:

**October 23, 1974**

9. Defendant's place of employment is:

**Christoff Mitchell Petroleum**

10. Defendant is an **adult**.

11. The relationship between Plaintiff and Defendant is:

- spouse or former spouse of Defendant
- parent of a child with Defendant
- current or former sexual or intimate partner with Defendant
- child of Plaintiff
- child of Defendant
- family member related by blood (consanguinity) to Defendant
- family member related by marriage or affinity to Defendant
- sibling (person who shares parenthood) of Defendant
- current or former cohabitant (person who lives with) Defendant

12. Plaintiff and Defendant have been involved in the following court actions:

a. **Support**

13. Other details of the court action are:

**Clearfield County Case # 04110990 Child Support**

14. Defendant has **not been involved** in a criminal court action.

15. Plaintiff and Defendant are the parents of the following minor child/ren:

a. **Timothy Chelgren**

Age:8

Child's address is: **338 Railroad Street , Grampian, Pa 16838**

b. **Taylor Chelgren**

Age:5

Child's address is: **338 Railroad Street , Grampian, Pa 16838**

**Linner Chelgren**

Age: 5

Child's address is: 338 Railroad Street, Grampian, Pa 16838

16. Plaintiff is seeking an order of child custody as part of this petition.

The following is a list of the children and where they have live for the past 5 years:

**Timothy Chelgren**

For the past 5 years, this child has lived with:

1999-2007 423 Spruce Street Clearfield, 16830- lived with both parents.

2007- to current at 328 Railroad Street, Grampian, 16838. Lived with both parents until father left in March 9th, 2008

**Taylor Chelgren**

For the past 5 years, this child has lived with:

1999-2007 423 Spruce Street Clearfield, 16830- lived with both parents.

2007- to current at 328 Railroad Street, Grampian, 16838. Lived with both parents until father left in March 9th, 2008

**Lanner Chelgren**

For the past 5 years, this child has lived with:

1999-2007 423 Spruce Street Clearfield, 16830- lived with both parents.

2007- to current at 328 Railroad Street, Grampian, 16838. Lived with both parents until father left in March 9th, 2008

17. The facts of the most recent incident of abuse are as follows:

Wednesday, May 28, 2008 at approximately 6:30PM

Location: Curwensville Little League Field

I was sitting on a bench in front of the concession stand at the little league field. My husband, Cecile Lynn Chelgren II, walked from the "away team" bleachers and stood directly behind me and leaned against the concession stands brick wall. My keys to my car were sitting beside me on the bench and I had my cell phone in my hand. I was waiting for a call from a real estate agent that was going to show me a house that evening. When I wasn't paying attention my husband grabbed the keys from beside me and shouted "you stole my keys". I asked him to give them back. I explained to him that I did not steal his keys that they were in my purse in my car. I told him that I would get the keys for him and that we could trade keys. He followed me to my car and I leaned over the passenger side seat and reached into my purse that was between the seats. He than took a large McDonalds drink and dumped over my back and through my car. I stood up with his spare set of keys in my hand and asked him why he did that. He replied- HA HA HA HA HA. He then pushed me up against the car and began to walk away with my set of keys. I said "Lynn aren't you going to trade me keys" and I took a few steps toward him through the field. He than turned around and grabbed me and held me in place while he shoved his hand into my front pocket trying to retrieve my cellphone. His shoulder was by my mouth and I bit him. He continued to hold me tighter and finally retrieved the phone from my pocket. When he finally got the phone he let me go. I followed to the bleachers and attempt to reason with him, but when I did he yelled to the crowd and the dugout that I am a drug user and I have syphilis. He said this loud enough that many people heard this. I was mortified. I managed to talk him into trading keys and after sometime he also gave me my phone. I proceeded back to the bench

and gathered my belongings and my children. I asked my son's coach and asked it is were OK to take my son home and he said "yes" I went to my mom's house and she called the Curwensville Boro police. The incident is under investigation and charges are pending. This event makes me fearful of my husband and I'm scared that he is going to continue to harass me in public places as well as at my home. I don't want him to hurt me or my kids, just because he is angry. I also want to be able to take my children to their ball games and not be constantly worried about where he is or what he is going to do to me.

18. Prior incidents of abuse that Defendant has committed against Plaintiff or the minor child/ren, (including any threats, injuries, or incidents of stalking) are as follows:

October 2007- Lynn took me for a four wheeler ride into the middle of the woods. I didn't know where I was. During the ride I received a text message from a friend of mine. Lynn stopped the four wheeler and took my phone. He threatened to let me there unless I told him who was texting me. He let me in the middle of a field took the four wheeler key and started walking. It was beginning to get dark and I was scared so I attempted to make up with him. He came back to the ATV and allowed me to get back on, but was only satisfied after I started crying. During this argument he placed a call to my friend. Her voice mail pickup part of the argument.

November 23rd, 2007- I was working at the hospital. When my husband came to the nursing unit with out three children. He started screaming at me in front of the other nurses, doctors and patients and family members. He was screaming that I was fucking the doctor and I wouldn't stop. I calmly asked him to leave, I went to the locker room and cried, I was so embarrassed. The hospital had a letter sent to my husband that told him to not come to the hospital unless he was seeking medical care.

He was mad at me because I was texting one of my friends on my cell phone. He forcefully took the phone from me and he held me down on the floor and wouldn't let me up. When he did let me up I grabbed our home phone and told him I was calling the police. I dialed the number, but before I could talk he pushed me to the floor and took the phone and hung it up. He also took the other house phone and went outside. I followed him out. I gave up trying to contact the police because it appeared that he calmed down. I went to his truck to get a cigarette and when I did he thought I was reaching for the keys. He pinned my head down on the floor boards of his truck and started to choke me. When he was done doing that he picked me up and threw me onto the landscape rocks beside out house. Later he was talking to his friend and he said that he tried to pop my head off, but it didn't work.

Over the last year he has broken two of my cell phones. One he threw out the window of a car. The second one he snapped in half and threw it as hard as he could. A third cell phone he took from me and smashed my thumb in it, because I was trying to text my friends and let them know Lynn had my phone. He had already sent a group text to my friends explaining that I was a whore and that why I didn't have my phone.

He has also broken two cordless phones and my house because he was angry with me one he threw at my head because I was on the phone with my friend Betty and he was listening on the other line. I said something he didn't like and he grabbed the phone from my ear and threw it at my head. My friend heard the crash and was still on the line. He started screaming at her telling her that she was causing trouble with the two of us.

He installed programs on our computer such as VNC and Keystroke logger to watch and

**record everything I was going on the computer. He also used these to gain access to my email account and my cell phone account. He purchased a recording device that enabled him to record phone conversations that I had from my family and friends.**

**Feb 14, 2008: My husband disconnected the cables from the battery of the truck when I had it parked behind the mall. I had gone with a friend and when I got back to the truck the truck would not start. The same night he took me to buy a couple of bottles of wine. He was acting very suspicious and he bought a box of wine glasses too. He proceeded to drive me to a friends house and try to drop me off in his driveway, saying if you want to be with him you can. He then drove off with me still in the truck and took me on back roads. I told him he was scaring me and he just laughed.**

**Once he even packed up my underwear and bras into a garbage bag and took them to my friends house and threw them in the yard. He told me he burnt my clothes, but had his friend Steve pick them up the next day.**

**May 25, 2008: Lynn was at my house on Sunday and he was mad at me because I wouldn't believe him when he told that my friend was with another women. I explained to him that really it wasn't a big deal to me and that it was really none of his business anyway. He became angry and smashed my cordless phone on the ground and threw the parts into the woods. He then followed me to the woods and grabbed my necklace and pulled it tight against my neck. I asked him to stop and that it hurt, but he just accused me of not wanting the necklace to be broken because "It must have been a gift".**

**After leaving the house and moving to his apartment Lynn frequently would come back to the house drunk and wakes me up. Once while I was sleeping I woke up with him ripping the covers off of me and accusing me of having another man in my bed. Once Lynn would wake me up he would never let me go back to sleep regardless of it I had to work in the morning or not.**

**I fear what might happen next.**

19. (a) Has Defendant used or threatened to use any firearms or other weapons against Plaintiff or the minor child/ren?

**NO**

(b) Other than the firearms, other weapons or ammunition Defendant used or threatened to use against Petitioner or the minor child/ren, does Defendant, to the best of your knowledge or belief, own or possess any additional firearm, other weapon, ammunition or any firearm license?

**NO**

(c) If the answer to (b) above is "Yes", list any additional firearm, other weapon or ammunition owned by or in the possession of Defendant on Attachment A to Petition, which is incorporated by reference into this petition.

(d) Plaintiff **DOES NOT** request that the court order Defendant to relinquish firearms, other weapons or ammunition listed on Attachment A to Petition.

20. The sheriff, police department or law enforcement agency that should be provided with a copy of

the protection order are:

**Woodland PSP**

**Clearfield County Sheriff Department**

21. There is an immediate and present danger of further abuse from Defendant.
22. Plaintiff is asking the court to evict and exclude Defendant from the following residence:  
**328 Railroad Street**  
**Grampian, Pa 16838**

Owned By:

**Bellinda Chelgren and Cecil Chelyren**

23. **FOR THE REASONS SET FORTH ABOVE, I REQUEST THAT THE COURT ENTER A TEMPORARY ORDER, and AFTER HEARING, A FINAL ORDER THAT WOULD DO THE FOLLOWING:**

- a. Restrain Defendant from abusing, threatening, harassing, or stalking Plaintiff and/or the minor child/ren in any place where Plaintiff and/or the child/ren may be found.
- b. Evict/exclude Defendant from Plaintiff's residence and prohibit Defendant from attempting to enter any temporary or permanent residence of Plaintiff.
- c. Award Plaintiff temporary custody of the minor child/ren and place the following restrictions on contact between Defendant and the child/ren:
- d. Prohibit Defendant from having any contact with Plaintiff and/or the minor child/ren, either in person, by telephone, or in writing, personally or through third persons, including but not limited to any contact at Plaintiff's school, business, or place of employment, except as the court may find necessary with respect to partial custody and/or visitation with the minor child/ren.
- e. Prohibit Defendant from having any contact with Plaintiff's relatives and Plaintiff's children listed in this petition, except as the court may find necessary with respect to partial custody and/or visitation with the minor child/ren.

The following persons are Plaintiff's relatives or family and household members that Plaintiff believes require protection from stalking and harassment by Defendant.

- f. Order Defendant to temporarily relinquish some or all of the firearms, other weapons and/or ammunition listed on Attachment A to Petition and any firearm license to the sheriff of this county and/or prohibit Defendant from transferring, acquiring, or possessing some or all firearms for the duration of the order.
- g. Grant such other relief as Plaintiff requests and/or the court deems appropriate.
- h. Order the police, sheriff or other law enforcement agency to serve Defendant

with a copy of this petition, any order issued, and the order for hearing. Plaintiff will inform the designated authority of any addresses, other than the Defendant's residence, where Defendant can be served.

### VERIFICATION

I verify that I am the petitioner as designated in the present action and that the facts and statements contained in the above petition are true and correct to the best of my knowledge. I understand that any false statements are made subject to the Penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities

---

Signature

---

Date

G. Order Defendant to temporarily relinquish some or all of the firearms, other weapons and/or ammunition listed on Attachment A to Petition and any firearm license to the sheriff of this county and/or prohibit Defendant from transferring, acquiring, or possessing some or all firearms for the duration of the order.

H. Order Defendant to pay temporary support to Plaintiff and/or the minor child/ren, including medical support and \_\_\_\_\_ payment of the rent or mortgage on the residence.

I. Direct Defendant to pay Plaintiff for the reasonable financial losses suffered as the result of the abuse, to be determined at the hearing.

J. Order Defendant to pay the costs of this action, including filing and service fees.

K. Order Defendant to pay Plaintiff's reasonable attorney's fees.

L. Order the following additional relief, not listed above:

M. Grant such other relief as the court deems appropriate.

N. Order the police, sheriff or other law enforcement agency to serve Defendant with a copy of this petition, any order issued, and the order for hearing. Plaintiff will inform the designated authority of any addresses, other than the Defendant's residence, where Defendant can be served.

Respectfully submitted by/prepared by: \_\_\_\_\_  
Preparer/Submitter's name

#### VERIFICATION

I verify that I am the petitioner as designated in the present action and that the facts and statements contained in the above Petition are true and correct to the best of my knowledge. I understand that any false statements are made subject to the Penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities

Belinda Culpen

5/28/08

Signature

Date

**FILED**

**JUN 04 2008**

**William A. Shaw  
Prothonotary/Clerk of Courts**

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

Belinda Chelgren

Plaintiff

vs.

C. Lynn Chelgren, II

Defendant

80  
FILED  
No. 2008 - 0990  
JUN 10 2008

William A. Shaw  
Prothonotary/Clerk of Courts  
01/12/08

**PRAECIPE TO ENTER APPEARANCE**

To the Prothonotary:

Please enter my appearance on behalf of the above named Plaintiff/Defendant

C. Lynn Chelgren, II

JILL C. ENGLE  
(Signature)

JILL C. ENGLE  
(print name)

432 Rolling Ridge Drive Suite 3B  
(print address) State College PA 16801

814-234-8834  
(print phone number)

89236  
(Pa. Supreme Court I.D. Number)

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

Belinda Chelgren,  
Plaintiff

vs.

: No. 08-990-CD

Cecil Lynn Chelgren II,  
Defendant

PRAECIPE TO ENTER APPEARANCE

FILED

JUN 10 2008

William A. Shaw  
Prothonotary/Clerk of Courts

012-051W

To the Prothonotary:

Please enter my appearance on behalf of Belinda Chelgren.



Robin Jean Foor, Esquire  
Attorney for Belinda Chelgren  
MIDPENN LEGAL SERVICES  
211 East Locust Street  
Clearfield, PA 16830  
(814)765-9646

Belinda Chelgren  
\_\_\_\_\_  
Plaintiff

v.

Cecil Lynn Chelgren II  
\_\_\_\_\_  
Defendant

: THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY,  
: PENNSYLVANIA  
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: CIVIL DIVISION  
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P- Form  
**FILED**

JUN 10 2008  
11:05 AM (610)  
William A. Shaw  
Prothonotary/Clerk of Courts  
CPLT TO LISTEN  
FANTIN

## FINAL ORDER OF COURT

Defendant's Name: **Cecil Lynn Chelgren II**

Defendant's Date of Birth: **October 23, 1974**

Defendant's Social Security Number: **174-60-8458**

Names and Dates of Birth of All Protected Persons, including Plaintiff and minor children:

	Names	Dates of Birth
1.	<b>Belinda Chelgren</b>	<b>July 28, 1977</b>

Plaintiff or Protected Person(s) is/are:

- spouse or former spouse of Defendant
- parent of a child with Defendant
- current or former sexual or intimate partner with Defendant
- child of Plaintiff
- child of Defendant
- family member related by blood (consanguinity) to Defendant
- family member related by marriage or affinity to Defendant
- sibling (person who shares parenthood) of Defendant
- current or former cohabitant (person who lives with) Defendant.

Defendant was served in accordance with Pa. R.C.P. 1930.4 and provided notice of the time, date and location of the hearing scheduled in this matter.

Appearances by Parties and/or Counsel:

- Plaintiff appeared personally and is represented by: **Robin J. Foor, Esq., MidPennLegal Services**
- Defendant appeared personally and is represented by: **Jill C. Engle, Esq.**

AND NOW, this **10th Day of June, 2008** the court having jurisdiction over the parties and the subject-matter, it is ORDERED, ADJUDGED and DECREED as follows:

This order is entered by agreement without an admission. Without regard as to how the order was entered, this is a final order of court subject to full enforcement pursuant to the Protection From Abuse Act.

NOTICE TO THE PLAINTIFF AND DEFENDANT  
(RIGHT TO APPEAL)

This notice is to advise you that both parties in this action have a right to request an appeal of the decision made by the Hearing Officer. A request for an appeal must be made in writing to the Court of Common Pleas within (10) days of the date of this Order.

NO exceptions will be considered after this date.

**Plaintiff's request for a final protection order is granted.**

**1.** Defendant shall not abuse, stalk, harass, threaten or attempt to use physical force that would reasonably be expected to cause bodily injury to Plaintiff or any other protected person in any place where they might be found.

**2.** Defendant is completely evicted and excluded from the residence at:

**328 Railroad Street  
Grampian, Pa 16838**

or any other residence where Plaintiff or any other person protected under this order may live. Exclusive possession of the residence is granted to Plaintiff. Defendant shall have no right or privilege to enter or be present on the premises of Plaintiff or any other person protected under this order.

**3.** Except as provided in Paragraph 5 of this order, Defendant is prohibited from having **ANY CONTACT** with Plaintiff either directly or indirectly, or any other person protected under this order, at any location, including but not limited to any contact at Plaintiff's or other protected party's school, business, or place of employment. Defendant is specifically ordered to stay away from the following locations for the duration of this order.

**The Defendant shall be permitted to return to the marital residence (for the sole purpose of retrieving items of personal property belonging solely to him) on Sunday, June 15, 2008, between the hours of 10:00 a.m. and 11:00 a.m. During such time, there shall be no discussion as to the basis for obtaining a PFA nor the break-up of the parties relationship. Any items in dispute as to ownership shall remain at the marital residence until such time the Court of proper jurisdiction shall have determined its rightful owner.**

**4.** Except as provided in paragraph 5 of this order, Defendant shall not contact Plaintiff, either directly or indirectly, or any other person protected under this order, by telephone or by any other means, including through third persons.

**5.** Temporary custody of the minor children:

1. **Timothy Chelgren**
2. **Taylor Chelgren**
3. **Tanner Chelgren**

shall be as follows:

- Primary physical custody of the minor child/ren is awarded to Plaintiff.
- Defendant shall have the following partial physical custody/visitation rights: As hereinafter set forth in Paragraph 8.
- Transportation for partial physical custody/visitations shall be shared by the

**parties, with the party receiving the child/ren to provide transportation.**

**6. FIREARMS, OTHER WEAPONS AND AMMUNITION RESTRICTIONS**

Defendant is prohibited from possessing, transferring or acquiring any firearms for the duration of this order.

**7. Any firearm delivered to the sheriff or transferred to a licensed firearm dealer, or a qualified third party who satisfies the procedural and substantive requirements to obtain a safekeeping permit issued under 23 Pa. C.S.A. § 6108.3 pursuant to this order or the temporary order shall not be returned to Defendant until further order of court or as otherwise provided by law.**

**8.**

The following additional relief is granted as authorized by §6108 of the Act:

**The following additional relief is granted as authorized by §6108 of the Act:**

**1. Defendant shall be entitled to visitation with the minor children every other weekend commencing on Friday June 20, 2008, at 6:00 p.m. until the following Sunday, June 22, 2008, at 6:00 p.m. and continuing thereafter on a rotation basis until further Order of Court. Furthermore, Defendant shall be entitled to visitation with the minor children on Father's Day, June 15, 2008, between the hours of 11:00 a.m. and 3:00 p.m.**

**2. The custody exchange and/or visits shall take place at the residence of the custodial parent unless otherwise agreed upon by the parties.**

**THE CUSTODY SET FORTH IN THIS FINAL ORDER WILL EXPIRE 60 DAYS FROM THE DATE OF THIS FINAL ORDER**

**NOTE: FOR THE PURPOSE OF THIS FINAL ORDER LIMITED CONTACT BETWEEN DEFENDANT AND PLAINTIFF SHALL MEAN:**

**3. Defendant shall be permitted to contact the Plaintiff for the sole purpose of confirming that Temporary Visitation will occur. Any such communication shall occur between the hours of 9:00 a.m. and 9:00 p.m. on the day before or the day of visitation.**

**THERE IS TO BE NO CONVERSATION BETWEEN THE PARTIES AS TO THE REMAINING ISSUES OF PLAINTIFF'S AND DEFENDANT'S RELATIONSHIP OF ANY TYPE. IF THIS SHOULD OCCUR IT WILL BE CONSIDERED A VIOLATION OF THIS COURT ORDER AND CONTEMPT CHARGES WILL BE FILED.**

**Defendant shall be permitted to retrieve and return said minor child(ren) from and to Plaintiff's residence; however, no lengthy conversation shall be permitted other than discussing the child (ren)'s needs and making arrangements for Temporary Visitation to continue as ordered. IF THIS SHOULD OCCUR IT WILL BE CONSIDERED A VIOLATION OF THIS COURT ORDER AND CONTEMPT CHARGES WILL BE FILED.**

**The Defendant shall not consume nor shall he have in his possession any alcohol during any period of Temporary Visitation. IF THIS SHOULD OCCUR IT WILL BE CONSIDERED A VIOLATION OF THIS COURT ORDER AND CONTEMPT CHARGES WILL BE FILED.**

**The Defendant shall be permitted to contact the above listed child(ren) by telephone on no more than three (3) days per week between the hours of 10:00 a.m. and 8:00 p.m. During such conversation, the Defendant shall not malign or run down the Plaintiff or discuss the reason for the Plaintiff obtaining a Protection From Abuse Order. IF THIS SHOULD OCCUR IT WILL BE CONSIDERED A VIOLATION OF THIS COURT ORDER AND CONTEMPT CHARGES WILL BE FILED.**

**Plaintiff or Defendant shall file with the Court a separate action for custody or a divorce action which includes a count for custody wherein an Order of Court in the custody and/or divorce case**

**will determine the matter of custody of the minor child(ren).**

**The temporary custody provision of the Final Order in this case shall expire after sixty (60) days from the date of this Final Order unless an action for custody shall have been duly filed with the Court by one of the parties as directed above. To maintain the temporary custody provisions set forth herein, either party, Plaintiff or Defendant must timely file a custody action with the Court within the sixty (60) day period. If Plaintiff or Defendant timely files a custody action, the temporary visitation provisions of this Final Order shall remain in effect until further Order has been entered in the Custody action by the Court.**

**9. (a) The costs of this action are imposed on Defendant, as follows:**

**In the event that the either party shall relocate or have a change of address prior to having paid all costs in full, he/she shall immediately, in writing, notify the Court of same. Said writing shall contain the new address and shall reference the caption in this matter. All shall be addressed to the Protection From Abuse Coordinator, 230 East Market Street, Clearfield, PA 16830.**

**10. A certified copy of this Order shall be provided to the police department where Plaintiff resides and any other agency specified hereafter:**

**Woodland PSP  
Clearfield County Sheriff Department**

**11. All provisions of this order shall expire in 1 year on June 10, 2009.**

**NOTICE TO THE DEFENDANT**

**VIOLATION OF THIS ORDER MAY RESULT IN YOUR ARREST ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT WHICH IS PUNISHABLE BY A FINE OF UP TO \$1,000 AND/OR A JAIL SENTENCE OF UP TO SIX MONTHS. 23 Pa.C.S.A. §6114. VIOLATION MAY ALSO SUBJECT YOU TO PROSECUTION AND CRIMINAL PENALTIES UNDER THE PENNSYLVANIA CRIMES CODE. A VIOLATION OF THIS ORDER MAY RESULT IN THE REVOCATION OF THE SAFEKEEPING PERMIT, WHICH WILL REQUIRE THE IMMEDIATE RELINQUISHMENT OF YOUR FIREARMS, OTHER WEAPONS AND AMMUNITION TO THE SHERIFF. PLAINTIFF'S CONSENT TO CONTACT BY DEFENDANT SHALL NOT INVALIDATE THIS ORDER WHICH CAN ONLY BE MODIFIED BY FURTHER ORDER OF COURT. 23 Pa.C.S.A. § 6108(g).**

**THIS ORDER IS ENFORCEABLE IN ALL FIFTY (50) STATES, THE DISTRICT OF COLUMBIA, TRIBAL LANDS, U.S. TERRITORIES AND THE COMMONWEALTH OF PUERTO RICO UNDER THE VIOLENCE AGAINST WOMEN ACT, 18 U.S.C. §2265. IF YOU TRAVEL OUTSIDE OF THE STATE AND INTENTIONALLY VIOLATE THIS ORDER, YOU MAY BE SUBJECT TO FEDERAL CRIMINAL PROCEEDINGS UNDER THAT ACT. 18 U.S.C §§2261-2262. IF YOU POSSESS A FIREARM OR ANY AMMUNITION WHILE THIS ORDER IS IN EFFECT, YOU MAY BE CHARGED WITH A FEDERAL OFFENSE EVEN IF THIS PENNSYLVANIA ORDER DOES NOT EXPRESSLY PROHIBIT YOU FROM POSSESSING FIREARMS OR AMMUNITION. 18 U.S.C. §922(g)(8).**

**NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS**

**The police and sheriff who have jurisdiction over Plaintiff's residence OR any location where a violation of this order occurs OR where Defendant may be located, shall enforce this order. The court shall have jurisdiction over any indirect criminal contempt proceeding, either in the county where the violation occurred or where this protective order was entered. An arrest for violation of paragraphs 1 through 7 of this order may be without warrant, based solely on probable cause, whether or not the violation is committed in the presence of the police or any sheriff. 23 Pa.C.S.A. §6113.**

**Subsequent to an arrest, and without the necessity of a warrant, the police officer or sheriff shall seize all**

firearms, other weapons and ammunition in Defendant's possession that were used or threatened to be used during the violation of the protection order or during prior incidents of abuse and any other firearms in Defendant's possession.

The Clearfield County Sheriff shall maintain possession of the firearms, other weapons or ammunition until further order of this court.

When Defendant is placed under arrest for violation of this order, Defendant shall be taken to the appropriate authority or authorities before whom Defendant is to be arraigned. A "Complaint for Indirect Criminal Contempt" shall then be completed and signed by the police officer, sheriff OR Plaintiff. Plaintiff's presence and signature are not required to file the complaint.

If sufficient grounds for violation of this order are alleged, Defendant shall be arraigned, bond set, if appropriate and both parties given notice of the date of the hearing.

BY THE COURT:

Paul E. Cherry

Paul E. Cherry, Judge

June 10, 2008

Date

Entered pursuant to the consent of plaintiff and defendant:

Belinda F. Cherry  
Plaintiff's Signature

Jim Cheley  
Defendant's Signature

Distribution to:

Judge Paul E. Cherry

Sheriff

Defendant (2) *46 Atty. F. Engle*  
Plaintiff (2) *46 Atty. mid Penn*  
Hearing Officer-Warren B. Mikesell, II, Esquire  
Crossroads Project

Mid Penn Legal  
Attny. Engle

Belinda Chelgren  
\_\_\_\_\_  
Plaintiff

v.

Cecil Lynn Chelgren II  
\_\_\_\_\_  
Defendant

: THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY,  
: PENNSYLVANIA

: CIVIL DIVISION

: No. 2008-0990 C.D.

**FILED**

JUN 10 2008  
0/12/08

William A. Shaw  
Prothonotary/Clerk of Courts

100% to LISTED party

### ORDER ASSESSING COSTS

(6K)

And now, this 10th Day of June, 2008, Cecil Lynn Chelgren, II, Defendant is hereby ORDERED to pay costs in the above action.

Costs Include:

Prothonotary's Office Filing Fee	\$95.00
Sheriff's Office Service Fee	\$50.00
Hearing Officer Fee	\$75.00
Hearing Officer Costs	\$25.00
Administrative Costs	\$40.00
Additional County Assessment Fee	\$25.00
Other (out of County - service fee)	\$42.50
<hr/>	
Total:	\$352.50

**Money Order Payable to:**

Prothonotary's Office  
230 East Market Street  
Clearfield, PA 16830

MAIL PAYMENT (MONEY ORDER ONLY) to Clearfield County Prothonotary, 230 East Market Street, Clearfield, PA 16830 All costs pertaining to this action must be paid within the forty-five (45) days period. Failure to comply with this provision of this "Final Order" will result in the responsible party being in Contempt and in the automatic issuance of a bench warrant for that party's arrest without further notice or hearing. There will be additional costs assigned once the bench warrant had been issued and the responsible party will be obliged to pay any and all additional costs related thereto.

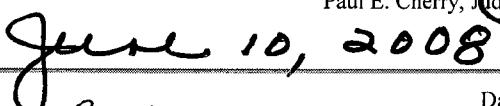
It is further ORDERED that said costs shall be paid by **July 25, 2008**.

**Distribution:**  
Judge Paul E. Cherry  
Crossroads  
Hearing Officer- Mikesell  
Defendant

BY THE COURT:

  
Paul E. Cherry

Paul E. Cherry, Judge

  
June 10, 2008

Date

  
Cecil Lynn Chelgren II  
Cecil Lynn Chelgren II, Defendant

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

BELINDA CHELGREN, :  
Plaintiff :  
V. : NO. 08-990-CD  
CECIL LYNN CHELGREN, II, :  
Defendant :  
.

## ORDER

NOW, this 29<sup>TH</sup> day of July, 2008, the above named Defendant, Cecil Lynn Chelgren, II, having failed to pay the costs relating to Protection From Abuse, Final Order dated June 10, 2008, unless the above named Defendant pays the costs due the Clearfield County Prothonotary in the amount of Three Hundred Fifty Two Dollars (\$352.00); (by **MONEY ORDER ONLY**), it is the ORDER of this Court that a hearing to show cause why said Defendant shall not be held in contempt of Court for failure to comply with said previous Order is scheduled for the 25<sup>th</sup> day of August, 2008, at 9:00 o'clock A.M. in Court Room No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania at which time the Defendant must be present or a Bench Warrant may be issued for his arrest.

BY THE COURT.

Paul E. Cherry  
PAUL E. CHERRY,  
JUDGE

**FILED** 2CC Attns:  
09/14/08  
JUL 30 2008  
Engle  
William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**JUL 30 2008**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 7/30/08

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:

Date: 8/25/2008  
Time: 09:28 AM

Clearfield County Court of Common Pleas  
Receipt

NO. 1925559  
Page 1 of 1

Received of: Chelgren, Cecil Lynn II \$ 257.00

16 West Spruce St.

Philipsburg, PA

Two Hundred Fifty-Seven and 00/100 Dollars

Defendant: Belinda Chelgren vs. Cecil Lynn Chelgren II

Case	Litigant type	Amount
2008-00990-CD	Defendant	
	PFA Sheriff Service Fee	92.50
2008-00990-CD	Defendant	
	PFA Hearing Office fee & costs	100.00
2008-00990-CD	Defendant	
	Administrive Fee (PFA)	64.50
		Total: 257.00

Balance due: 0.50

Next due date: 7/25/2008

Payment Method: Cash

William A. Shaw, Prothonotary/Clerk of Cou

Amount Tendered:

257.00

Change Returned:

0.00

By:

Deputy Clerk

Clerk: GLKNISLEY

Date: 8/25/2008  
Time: 09:27 AM

Clearfield County Court of Common Pleas  
Receipt

NO. 1925558  
Page 1 of 1

Received of: Chelgren, Cecil Lynn, II \$ 95.00

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Ninety-Five and 00/100 Dollars

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Case:	Plaintiff:	Amount
2008-00990-CD	Belinda Chelgren vs. Cecil Lyn	
Protection From Abuse Petition		95.00
Total:		95.00

Payment Method: Cash  
Amount Tendered: 95.00  
Change Returned: 0.00  
Clerk: GLKNISLEY

William A. Shaw, Prothonotary/Clerk of Cou  
By: \_\_\_\_\_  
Deputy Clerk

Date: 8/26/2008  
Time: 09:00 AM

Clearfield County Court of Common Pleas  
Receipt

NO. 1925595  
Page 1 of 1

Received of: Chelgren, Cecil Lynn II \$ 0.50

16 West Spruce St.  
Philipsburg, PA

Zero and 50/100 Dollars

Defendant: Belinda Chelgren vs. Cecil Lynn Chelgren II

Case	Litigant type	Amount
2008-00990-CD	Defendant	
	Administrive Fee (PFA)	0.50
		Total: 0.50
		Balance due: 0.00

Payment Method: Cash

Amount Tendered: 0.50

Change Returned: 0.00

Clerk: LMILLER

William A. Shaw, Prothonotary/Clerk of Cou

By: \_\_\_\_\_

Deputy Clerk

FILED *acc Atys;  
01/11/08 BOY  
AUG 27 2008  
Foor  
Engle  
(610)*

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

BELINDA CHELGREN :  
VS. : NO. 08-990-CD  
CECIL LYNN CHELGREN II :

O R D E R

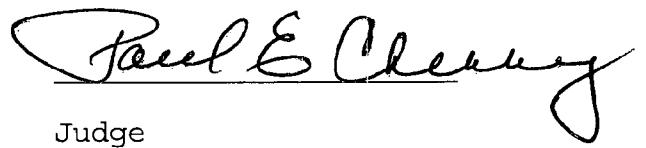
AND NOW, this 25th day of August, 2008, this being the date set for contempt proceeding; the Defendant being present; the Court is satisfied he is in contempt for failing to pay Protection From Abuse costs, as well as failure to comply with the Children's First Program, it is the ORDER of this Court that he be incarcerated in the Clearfield County Jail for a period of thirty (30) days. Said sentence to be suspended upon the following terms and conditions:

1. He pay Protection From Abuse costs in the amount of Three Hundred Fifty-two (\$352.00) Dollars this date;
2. That he contact Nancy Lombardo at the Clearfield County League of Social Services this date to set up the participation in the Children's First Program.

Any failure to comply with the above two provisions shall result in automatic issuance of Bench Warrant without further notice or hearing being provided and, upon his apprehension, imposition of the period of incarceration as set forth above. If incarcerated, he shall purge himself of contempt and be released upon his payment of all amounts due in

full, as well as proof of scheduling the Children's First seminar.

BY THE COURT,

  
Paul E. Cheaney

Judge

**FILED**

**AUG 27 2008**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 8/27/08

       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        Other

       Special Instructions: