

08-1909-CD

Michael Tochimak vs Victor Couturier et al

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

MICHAEL E. TOCIMAK, III, an
individual,

Plaintiff,

vs.

VICTOR COUTURIAX and
THERESA COUTURIAX, husband
and wife,

Defendants.

* No. 2008 - 1909- CD

* Type of Pleading:

* **COMPLAINT**

* Filed on behalf of:

* Plaintiffs

* Counsel of Record for
this party:

* James A. Naddeo, Esq.

* Pa I.D. 06820

*

* Trudy G. Lumadue, Esq.

* Pa I.D. 202049

* NADDEO & LEWIS, LLC.

* 207 E. Market Street

* P.C. Box 552

* Clearfield, PA 16830

* (814) 765-1601

*

*

Dated: October 7, 2008

s FILED 2cc
013:42:34 Atty Naddeo
OCT 07 2008
Atty pd. \$95.00
William A. Shaw
Prothonotary/Clerk of Courts

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

MICHAEL E. TOCIMAK, III, an *
individual, *
Plaintiff, *
*
vs. * No. 2008 - - CD
*
VICTOR COUTURIAX and *
THERESA COUTURIAX, husband *
and 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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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

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

MICHAEL E. TOCIMAK, III, an *
individual, *
Plaintiff, *
*
vs. * No. 2008 - - CD
*
VICTOR CCUTURIAX and *
THERESA COUTURIAX, husband *
and wife, *
Defendants. *

COMPLAINT

NOW COMES the Plaintiff, Michael E. Tocimak, III, and by his attorney, James A. Naddeo, Esquire, sets forth the following:

1. That the Plaintiff is Michael E. Tocimak, III, an adult individual, who resides at 771 Troy-Hawk Run Highway, Philipsburg, Pennsylvania 16866.

2. That the Defendants are Victor Couturiax and Theresa Couturiax, husband and wife, who reside at Troy-Hawk Run Highway, Philipsburg, Pennsylvania 16866.

3. That Plaintiff is an owner of property situate in Morris Township, Clearfield County, Pennsylvania, which Plaintiff acquired by deed dated September 9, 2004, said deed is recorded in Clearfield County Deeds and Records to Instrument Number 200417835. A true and correct copy of Plaintiff's deed is attached hereto as Exhibit "A."

4. That Defendants are the owners of property which is situate adjacent to the property of Plaintiff, being part of the same property formerly owned by Steve Fetcenko and over which the original easement described herein was created. A true and correct copy of G.F. Dunkle Map is attached hereto as Exhibit "B."

COUNT I - ENJOIN OBSTRUCTION OF EASEMENT

5. That contained in the deed of Plaintiff as attached hereto as Exhibit A, is language which preserves Plaintiff's right to use an easement being defined as an alley which was created by John Nicholls and Frances A. Nicholls. Namely that Plaintiff's deed contains the following:

"Together with the free and undisputed right to use an alley created by John Nicholls and Frances A. Nicholls in the conveyance of lands now or formerly of Steve Fetcenko and which alley leads from the lands herein described in a westerly direction to the alley leading from the State Highway in a northerly direction along the western line of lands of said Fetcenko, the purpose of the right of way or privilege being to grant to the grantees herein the right of egress, ingress and regress in and over said alley and the alley leading northward from the State Highway.

6. That a true and correct copy of deed from John Nicholls and Frances A. Nicholls (grantors) to Michael and Martha Tocimak (grantees) dated August 16, 1943 recorded in Clearfield County Deeds and Records to Deed Book Volume 355, Page 25 is attached hereto as Exhibit "C."

7. That Defendants periodically over the course of time park in the easement in a manner which blocks the same.

8. That Defendants' action as described in Paragraph seven hereof prevents Plaintiff from utilizing the herein described easement.

9. That Defendants were placed on notice of this conduct and requested to cease and desist by letter dated August 22, 2008. A true and correct copy of said letter is attached hereto as Exhibit "D."

10. Despite notice being given to Defendants to refrain from obstructing the herein described easement Defendants continue to park in the easement and prevent Plaintiff's use of the same.

11. That Plaintiff has no adequate remedy at law.

WHEREFORE, the Plaintiff, Michael E. Tocimak, III. prays for relief from Defendants' actions and the entry of an order permanently:

(a) enjoining and restraining the Defendants, their agents, servants, and employees from obstructing the easement herein described; and

(b) such other relief as may be just and proper.

COUNT II - CONTINUOUS TRESPASS

12. That Plaintiff incorporates by reference paragraphs one through four hereof as if the same were set forth in full.

13. That in or about the month of June 2008, Defendants constructed a drainage pipe for the collection and distribution of water which was constructed in such a manner that the pipe discharges said water onto Plaintiff's property as identified at Paragraph three hereof.

14. That Plaintiff by letter dated August 22, 2008 placed Defendants on notice of said trespass and requested that they discontinue the distribution of water onto Plaintiff's property. See Exhibit D.

15. That despite Plaintiff's request to Defendants to discontinue the herein described trespass Defendants continue the same.

16. That Plaintiff has no adequate remedy at law.

WHEREFORE, the Plaintiff, Michael E. Tocimak, III, prays for relief from Defendants' actions and the entry of an order permanently:

(a) enjoining and restraining the Defendants, their agents, servants, and employees from trespassing upon the property of Plaintiff; and

(b) such other relief as may be just and proper.

NADDEO & LEWIS, LLC

By

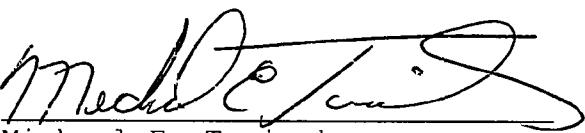
James A. Naddeo
James A. Naddeo, Esquire

Attorney for Plaintiff

V E R I F I C A T I O N

I, Michael E. Tocimak, Plaintiff, verify that the statements made in the foregoing Complaint are true and correct upon my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

By:


Michael E. Tocimak
Plaintiff

Dated:

9-23-08

CLEARFIELD COUNTY RECORDER OF DEEDS

Karen L. Starck, Recorder
Maurene Inlow - Chief Deputy
P.O. Box 361
1 North Second Street, Suite 103
Clearfield, Pennsylvania 16830

***RETURN DOCUMENT TO:**

Instrument Number - 200417885
Recorded On 11/2/2004 At 11:38:47 AM
* Instrument Type - DEED
* Total Pages - 4
Invoice Number - 120102
* Grantor - TOCIMAK, MICHAEL
* Grantee - TOCIMAK, MICHAEL E III
* Customer - LEE, GREEN & REITER, INC

LEE, GREEN & REITER, INC
115 EAST HIGH STREET
P. O. BOX 179
BELLFONTE, PA 16823-0179

*** FEES**

STATE WRIT TAX	\$0.50
JCS/ACCESS TO JUSTICE	\$10.00
RECORDING FEES -	\$13.00
RECORDER	
RECORDER IMPROVEMENT	\$3.00
FUND	
COUNTY IMPROVEMENT FUND	\$2.00
TOTAL	\$28.50

I hereby CERTIFY that this document
is recorded in the Recorder's Office of
Clearfield County, Pennsylvania.



Karen L. Starck

Karen L. Starck
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

Exhibit "A"

DEED

MADE this 9TH day of Sept., in the year two thousand and four (2004),

BETWEEN **MICHAEL TOCIMAK** and **MARTHA TOCIMAK**, his wife, of Morris Township, Clearfield County, Pennsylvania, Grantors and parties of the first part;

--AND--

MICHAEL E. TOCIMAK, III of Morris Township, Clearfield County, Pennsylvania,
Grantee and party of the second part,

WITNESSETH, that the said parties of the first part, for and in consideration of the sum of **ONE DOLLAR (\$1.00)**, lawful money of the United States of America, well and truly paid by the said party of the second part to the said parties of the first part, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, enfeoffed, released, conveyed and confirmed, and by these presents do grant, bargain, sell, alien, enfeoff, release, convey and confirm unto the said party of the second part, his successors and assigns.

ALL that certain piece or parcel of land situate, lying and being in the Township of Morris, County of Clearfield and State of Pennsylvania, bounded and described as follows, to-wit:

BEGINNING at a point on the Highway leading from Philipsburg to Morrisdale and at a point where the lands herein described adjoin lands now or formerly of Steve Fetcenko; thence along the eastern line of said Fetcenko lands to a point on an alley, (which point is the northern extremity of lands now or formerly of Steve Fetcenko) leading in a northerly direction from said State Highway; thence along said alley and in a northerly direction to a point on lands now or formerly of the Philipsburg Coal and Land Company; thence in an easterly direction along said lands to a point on lands now or formerly of Carlson; thence in a southerly direction along lands now or formerly of Carlson to a point on the northeastern corner of lands now or formerly of Michael Smolko; thence in a westerly direction along lands now or formerly of Smolko to a point on lands herein described; thence in a southerly direction along Smolko lands to a point on the said State Highway; and thence in a westerly direction along the northern line of said Highway to the place of beginning; containing a little more than two (2) acres. Together with the free and undisputed right to use an alley created by John Nicholls and Frances A. Nicholls in the conveyance of lands now or formerly of Steve Fetcenko and which alley leads from the lands herein described in a westerly direction to the alley leading from the State Highway in a northerly direction along the western line of lands of said Fetcenko, the purpose of this right of way or privilege being to grant to the grantee herein the right of egress, ingress and regress in and over said alley and the alley leading northward from the State Highway.

BEING the same premises granted and conveyed to Michael Tocimak and Martha Tocimak, his wife, pursuant to Deed of John Nicholls and Frances A. Nicholls dated August 16, 1943, and recorded in Clearfield County Recorder of Deeds Book 355, page 25.

It is hereby certified that this conveyance is exempt from the imposition of Pennsylvania Realty Transfer Tax inasmuch as this is a parent to child transaction.

UNDER AND SUBJECT, NEVERTHELESS, to all restrictions, easements and conditions of record.

TOGETHER with all and singular the tenements, hereditaments and appurtenances to the same belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereon; **AND ALSO** all the estate, right, title and interest, property, claim and demand whatsoever, both in law and equity, of the said parties of the first part, of, in, to or out of the said premises, and every part and parcel thereof.

TO HAVE AND TO HOLD the said premises, with all and singular the appurtenances, unto the said party of the second part, his heirs and assigns, to and for the only proper use and behoof of said party of the second part, his successors and assigns forever.

AND the said Grantors, their heirs, successors and assigns, do by these presents, covenant, grant and agree to and with the said party of the second part, his heirs, successors and assigns, that they the said Grantors, their heirs, successors and assigns, all and singular the hereditaments and premises herein above described and granted, or mentioned and intended so to be, with the appurtenances unto the said party of the second part, his heirs, successors and assigns, against the said parties of the first part and their heirs, successors and assigns, and against all and every other person or persons, whomsoever, lawfully claiming or to claim the same or any part thereof, shall and will, by these presents **WARRANT AND SPECIALLY FOREVER DEFEND**.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals, the day and year first above written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

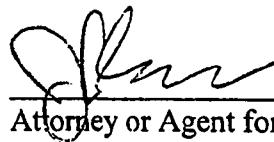
Michael Tocimak
Martha Tocimak

Michael Tocimak {SEAL}
Michael Tocimak
Martha Tocimak {SEAL}
Martha Tocimak

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the Grantee herein is as follows:

771 Troy Hawk Run Highway
Philipsburg, PA 16866

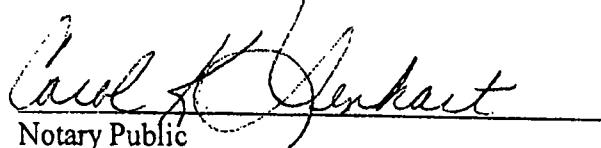


Attorney or Agent for Grantee

STATE OF PENNSYLVANIA)
)
COUNTY OF CENTRE)
) ss}
)

ON THIS, the 9th day of September, 2004, before me, a Notary Public, the undersigned officer, personally appeared Michael Tocimak and Martha Tocimak, 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 purpose therein contained.

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



Carol K. Lenhart
Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Carol K. Lenhart, Notary Public
Bellefonte Boro, Centre County

My Commission Expires Oct 3, 2007

Member, Pennsylvania Association Of Notaries

RECORDED in the Office for Recording of Deeds in and for Clearfield County, in Deed Book _____, Page _____.

Dated: _____

Recorder: _____

MAP of JOHN NICHOLAS LAND
near Troy, Morris Twp., Clearfield Co., Pa.
Surveyed Sept. 12, 1895 - (G.R.O.) 5.90 A.
Showing division of same
compiled from deeds and other
data, for MICHAEL S. CIMA
P.B. 8-1945

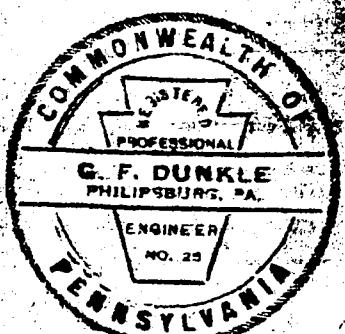


Exhibit "B"

519-26B

Plot of Land that Locinck
S-16-43
Deed

2.91 A

N49°50' E-224.7
N21°40' E-307.7
H 1 G H 1 1 1 1 1 1

Plot of Land Simek's

5.12.35
Deed

480-3211-59412
N49°30' E-235.5
H 1 G H 1 1 1 1 1 1

Plot of Land Simek's
5.12.35
Deed

the above above written
Given under my hand and seal of the said office
in Deed Book 355 Vol 355 Page 35
in the Recorder's Office of Said County
on this 18 day of Aug 1943

355

Deed of Record
of the County of Clearfield

CLERK OF THE COUNTY OF CLEARFIELD CO. SS
MICHAEL TOCHMAK and MARIA
TOCHMAK, HIS WIFE.

JOHN NICHOLS and FRANCES A.
NICHOLS, HIS WIFE.

TO

Dated, August 16, 1943

TIME 10:20 A.M.
BY John Nichols
FEES \$ 1.00
GEO. W. GAYLOR, Recorder

Exhibit "C"

Deed

Made the Sixteenth day of August in the year Nineteen
Hundred and forty-three.

Grantor JOHN NICHOLLS and FRANCES A. NICHOLLS, his wife, of
Decatur Township, Clearfield County, Pennsylvania, grantors and par-
ties of the first part

AND

MICHAEL TOCIMAK and MARTHA TOCIMAK, his wife, of Decatur Township,
Clearfield County, Pennsylvania, Grantees and parties of the second
part.

Witnesseth, That in consideration of

SIX HUNDRED AND NO/100 (\$600.00) Dollars,
in hand paid, the receipt whereof is hereby acknowledged, the said grantors do
hereby grant and convey to the said grantees,

All that certain piece or parcel of land situate, lying and being
in the Township of Morris, County of Clearfield and State of Penn-
sylvania, bounded and described as follows, to wit:-

BEGINNING at a point on the Highway leading from
Philipsburg to Morrisdale and at a point where the lands
herein described adjoin lands of Steve Fetcenko and which
lands were recently purchased from the grantors herein;
thence along the eastern line of said Fetcenko lands to a
point on an alley, (which point is the northern extremity
of lands of Steve Fetcenko,) leading in a northerly direction
from said State Highway; thence along said alley and in a
northerly direction to a point on lands now or formerly
of the Philipstburg Coal and Land Company; thence in an
easterly direction along said lands to a point on lands of
Carlson; thence in a southerly direction along lands of
Carlson to a point on the northeastern corner of lands of
Michael Smolko; thence in a westerly direction along lands
of Smolko to a point on lands herein described; thence in a
southerly direction along Smolko lands to a point on the said
State Highway; and thence in a westerly direction along the
northern line of said Highway to the place of beginning;
containing a little more than two (2) acres. Together
with the free and undisputed right to use an alley created
by the grantors herein in the conveyance of lands of
Steve Fetcenko and which alley leads from the lands herein
described in a westerly direction to the alley leading from
the State Highway in a northerly direction along the western
line of lands of said Fetcenko, the purpose of this right of
way or privilege being to grant to the grantees herein the
right of egress, ingress and regress in and over said alley
and the alley leading northward from the State Highway.

BEING a portion of a larger tract of land sold
and conveyed to the grantors herein by the Heirs of
John Nicholls and Rebecca Nicholls by their deed
dated May 15, 1937 and recorded in Clearfield in
Deed Book 314 at page 196. _____

And the said grantors, do hereby warrant the title to the property hereby conveyed,

In Witness Whereof, said grantors have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered

In the Presence of

John A. Johnson

John Nicholls

1. S

Frances A. Nicholls

1. S

1. S

1. S

Commonwealth of Pennsylvania

SS

County of Centre

On this 17th day August A. D. 1943, before me
came
the above named John Nicholls and Frances A. Nicholls

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

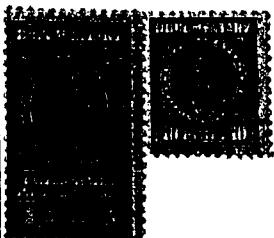
Witness my hand and Notarial seal the day and year aforesaid.

MY COMMISSION EXPIRES

My commission expires March 6, 1945

Donald W. Craft
Notary Public

Witnessed, that the precise address of the grantees herein is Morris Township, Clearfield County, Pa., Philipsburg P. O.



Attorney for Grantees

NADDEO & LEWIS, LLC
ATTORNEYS AT LAW
207 EAST MARKET STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

JAMES A. NADDEO
LINDA C. LEWIS
Trudy G. Lumadue

(814) 765-1601
FAX: (814) 765-8142
naddeolaw@atlanticbbn.net

August 22, 2008

Theresa
Mr. and Mrs. Victor Couturax
Troy-Hawk Run Highway
Philipsburg, PA 16866

Re: Tocimak Property 14-Foot Alley

Dear Mr. and Mrs. Couturax:

I have been consulted by Mr. Michael Tocimak concerning the property that he owns adjacent to your residence. My client has two problems, which he would prefer to resolve as a good neighbor.

You have constructed a drainage pipe for the distribution of water, which is collected from the roof and patio of your dwelling. This water discharges onto the Tocimak property. It is my opinion that the directing of this water flow onto my clients property constitutes a continuous trespass. The law does not permit interference with the natural flow of water. This problem can be easily remedied by moving the discharge pipe closer to your property. My client believes that 2-4 feet would most likely cure the problem. He asks that you consider this solution in lieu of litigation.

The second problem relates to a shrub, which you have planted along the 14-foot alley, which the Tocimaks use to access their property. The branches from this shrub extend into the alley. This impairs the Tocimaks ability to access the alley without jeopardizing their vehicles to potential damage. In addition you have parked in this alley so as to destruct your neighbors access.

I have advised my client that he has the right to trim back the shrub to the extent that it extends to the alley. He would prefer not to do so. He asks that you trim the shrub back so that it is done to your satisfaction.

Exhibit "D"

Mr. and Mrs. Victor Couturiax
August 22, 2008
Page 2

Finally he asks that you refrain from parking in the alley. These requests are made in the hope that lawsuits can be avoided.

Sincerely,



James A. Naddeo

JAN/arb

Cc: Michael Tocimak

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
NO: 08-1909-CD

MICHAEL E. TOCIMAK, III an individual
vs
VICTOR COUTURIAX and THERESA COUTURIAX
COMPLAINT

SERVICE # 2 OF 2

SERVE BY: 11/06/2008 HEARING: PAGE: 104761

DEFENDANT: THERESA COUTURIAX
ADDRESS: 135 LITTLE TROY DRIVE
PHILIPSBURG, PA 16866

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/AAR

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS: VACANT

S
FILED
03:25pm
OCT 30 2008

William A. Shaw
Prothonotary/Clerk of Courts
WS

OCCUPIED

ATTEMPTS

SHERIFF'S RETURN

NOW, This 30th day OCT 2008 AT 1:15 AM / PM SERVED THE WITHIN

COMPLAINT ON THERESA COUTURIAX, DEFENDANT

BY HANDING TO THERESA COUTURIAX, Def

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

ADDRESS SERVED 135 LITTLE TROY DR Philipsburg

NOW _____ AT _____ AM / PM POSTED THE WITHIN

COMPLAINT FOR THERESA COUTURIAX

AT (ADDRESS) _____

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

I MAKE RETURN OF **NOT FOUND** AS TO THERESA COUTURIAX

REASON UNABLE TO LOCATE _____

SWORN TO BEFORE ME THIS

_____DAY OF _____ 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY: George F. Dehaven

Deputy Signature

George F. Dehaven

Print Deputy Name

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

MICHAEL E. TOCIMAK, III, an Individual, Plaintiff : No. 2008-1909-CD
Vs. : Type of Pleading:
ANSWER
VICTOR COUTURIAUX and THERESA COUTURIAUX, Husband and Wife, Defendants : Filed on Behalf of:
DEFENDANTS
: Counsel of Record for This Party:
: Kim C. Kesner, Esquire
: Supreme Court No. 28307
: 212 South Second Street
: Clearfield, PA 16830
: (814) 765-1706
: Other Counsel of Record:
: James A. Naddeo, Esquire
: Trudy G. Lumadue, Esquire
: NADDEO & LEWIS, LLC
: P.O. Box 552
: Clearfield, PA 16830

FILED 4cc
of 3:46pm NOV 19 2008 Atty Kesner

5 William A. Shaw
Prothonotary/Clerk of Courts

60

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

MICHAEL E. TOCIMAK, III, an : No. 2008-1909-CD
Individual, :
Plaintiff :
Vs. :
VICTOR COUTURIAUX and :
THERESA COUTURIAUX, Husband :
and Wife, :
Defendants :
:

ANSWER

AND NOW, comes the Defendants, VICTOR and THERESA COUTURIAUX, by their counsel, Kim C. Kesner, Esquire, and answers Plaintiff's Complaint as follows:

1. Admitted.
2. It is admitted that the Defendants reside at 135 Lil Troy Drive, Philipsburg, Clearfield County, Pennsylvania, 16866.
3. Defendants admit that the exhibit is a true copy of the referenced document. Otherwise, Defendants are without sufficient knowledge or information to form a belief as to Plaintiff's color or claim of title. Proof thereof is requested.
4. Defendants admit that they are the owners of property adjacent to the property described in Exhibit "A" attached to Plaintiffs Complaint. Defendants are without sufficient knowledge or information to form a belief as to whether their property and the property described in Exhibit "A" derived through a common owner. Proof thereof is requested. Defendants are also without sufficient knowledge or information to form a belief as to whether Exhibit "B" is a true copy of "G.F. Dunkle Map" and/or the

relevance of the exhibit to the claims made in Plaintiff's Complaint. Proof thereof is requested.

COUNT I

5. The averments contained in paragraph five consist of a restatement of language from Exhibit "A" which requires no response. By way of further answer, the allegation that the language "...preserves Plaintiff's right to use an easement being defined as an alley..." constitutes contentions or conclusions of law to which no response is required. To the extent an answer is required and is relevant, Defendants are without sufficient knowledge or information to form a belief as to Plaintiff's color or claim of title to an easement on or across their property and/or the location of any such easement exercisable by Plaintiff on or across their property and/or the nature of the rights exercisable by Plaintiff on or across their property. By way of further answer, Defendants are without sufficient knowledge and information to form a belief as to whether Plaintiff has color or claim of title to an easement "...created by John Nicholls and Frances A. Nicholls in the conveyance of lands now or formerly of Steve Fetcenko..." Proof thereof is requested. However, it is averred that the language in Exhibit "C" to Plaintiff's Complaint was only sufficient to create an easement personal to Michael and Martha Tocimak.

6. Admitted in part and denied in part. It is admitted that the exhibit is a true copy of the referenced deed. It is specifically denied that the language in the deed in and of itself created more than a personal right exercisable by Michael and Martha Tocimak which could be assignable and/or run with the land.

7. Defendants are without sufficient knowledge or information to form a belief as to Plaintiff's color or claim of title to an easement on or across their land and/or its

location or the nature of easement rights. Proof thereof is requested. It is specifically denied that Defendants have blocked for any significant time any area to which Plaintiff may have any easement rights.

8. Defendants are without sufficient knowledge or information to form a belief as to Plaintiff's color or claim of title to an easement on or across their land and/or its location or the nature of easement rights. Proof thereof is requested. It is specifically denied that Defendants have blocked for any significant time any area to which Plaintiff may have any easement rights.

9. It is admitted that Exhibit "D" was mailed to Defendants. Defendants are without sufficient knowledge or information to form a belief as to Plaintiff's color or claim of title to an easement on or across their land and/or its location or the nature of easement rights. Proof thereof is requested. It is specifically denied that Defendants have blocked for any significant time any area to which Plaintiff may have any easement rights.

10. Defendants are without sufficient knowledge or information to form a belief as to Plaintiff's color or claim of title to an easement on or across their land and/or its location or the nature of easement rights. Proof thereof is requested. It is specifically denied that Defendants have blocked for any significant time any area to which Plaintiff may have any easement rights.

11. The averments contained in paragraph 11 constitute a contention or conclusion of law to which no response is required.

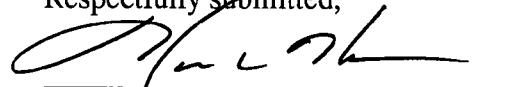
WHEREFORE, Defendants respectfully request this Honorable Court to dismiss Plaintiff's Complaint.

COUNT II

12. Defendants incorporate paragraphs one through eleven of this answer.
13. Defendants are without sufficient knowledge or information to form a belief as to what an updated survey would show as to the location of the boundary between their property and the property described in Exhibit "A". Proof thereof is requested. Subject to the foregoing and by way of further answer, Defendants specifically deny that any drainage pipe on their property discharges any water onto the property described in Exhibit "A". Any discharge has been limited and located upon Defendants property.
14. It is admitted that Exhibit "D" was mailed. The averments contained in paragraph 14 constitute contentions or conclusions of law to which no response is required. By way of further answer, Defendants specifically deny that any drainage pipe on their property discharges any water onto the property described in Exhibit "A".
15. The averments contained in paragraph 15 constitute contentions or conclusions of law to which no response is required. By way of further answer, Defendants specifically deny that any drainage pipe on their property discharges any water onto the property described in Exhibit "A".
16. The averments contained in paragraph 16 of Plaintiff's Complaint constitute contention or conclusions of law to which no response is required.

WHEREFORE, Defendants respectfully request this Honorable Court to dismiss Plaintiff's Complaint.

Respectfully submitted,

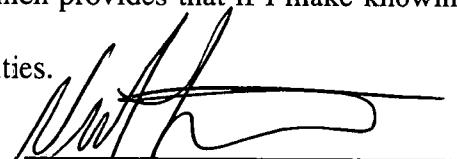


Kim C. Kesner, Esquire
Counsel for Defendants

VERIFICATION

I, VICTOR COUTURIAUX, as verify that the factual allegations in the foregoing Answer are true and correct to the best of my knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.



Victor Couturiaux

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

MICHAEL E. TOCIMAK, III, an : No. 2008-1909-CD
Individual, :
Plaintiff :
Vs. :
VICTOR COUTURIAUX and :
THERESA COUTURIAUX, Husband :
and Wife, :
Defendants :
:

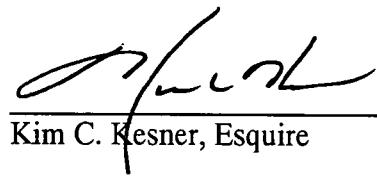
CERTIFICATE OF SERVICE

I do hereby certify that on the 19 day of November, 2008, I served a true and correct copy of the within Answer by first class mail, postage prepaid, on the following:

James A. Naddeo, Esquire
&
Trudy G. Lumadue, Esquire
P.O. Box 552
Clearfield, PA 16830

Nov. 19, 2008

Date



Kim C. Kesner, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
NO: 08-1909-CD

MICHAEL E. TOCIMAK, III an individual
vs
VICTOR COUTURIAX and THERESA COUTURIAX
COMPLAINT

SERVE BY: 11/06/2008 HEARING: PAGE: 104761

Pls 57 Sheet 2
Forward to
Mooris docket

DEFENDANT: VICTOR COUTURIAX
ADDRESS: 135 LITTLE TROY DRIVE
PHILIPSBURG, PA 16866

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/AAR

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS: VACANT

OCCUPIED

ATTEMPTS _____

William A. Shaw
Prothonotary/Clerk of Courts

FILED

03:25 cm
OCT 30 2008

SHERIFF'S RETURN

NOW, This 30th day of OCT 2008 AT 1:15 AM PM SERVED THE WITHIN
COMPLAINT ON VICTOR COUTURIAX, DEFENDANT
BY HANDING TO Theresa Coutury, wife

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

ADDRESS SERVED 135 LITTLE TROY DRIVE Philpsburg

NOW _____ AT _____ AM / PM POSTED THE WITHIN

COMPLAINT FOR VICTOR COUTURIAX

AT (ADDRESS) _____

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

I MAKE RETURN OF **NOT FOUND** AS TO VICTOR COUTURIAX

REASON UNABLE TO LOCATE _____

SWORN TO BEFORE ME THIS

_____DAY OF 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY:

George F. DetHafer
Deputy Signature

George F. DetHafer
Print Deputy Name

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104761
NO: 08-1909-CD
SERVICES 2
COMPLAINT

PLAINTIFF: MICHAEL E. TOCIMAK, III an individual
vs.
DEFENDANT: VICTOR COUTURIAX and THERESA COUTURIAX

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	NADDEO	1419	20.00
SHERIFF HAWKINS	NADDEO	1419	43.14

5
FILED
02:00pm
JAN 30 2009

William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

So Answers,

____ Day of _____ 2008



Chester A. Hawkins
Sheriff

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

MICHAEL E. TOCIMAK, III, an Individual,	:	No. 2008-1909-CD
Plaintiff	:	Type of Pleading:
Vs.	:	CERTIFICATE OF SERVICE
VICTOR COUTURIAUX and THERESA COUTURIAUX, Husband and Wife,	:	Filed on Behalf of: DEFENDANTS
Defendants	:	Counsel of Record for This Party:
	:	Kim C. Kesner, Esquire Supreme Court No. 28307 212 South Second Street Clearfield, PA 16830 (814) 765-1706
	:	Other Counsel of Record:
	:	James A. Naddeo, Esquire Trudy G. Lumadue, Esquire NADDEO & LEWIS, LLC P.O. Box 552 Clearfield, PA 16830

5 FILED acc
012:00pm Kesner
MAR 5 2009

William A. Shaw
Prothonotary/Clerk of Courts

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

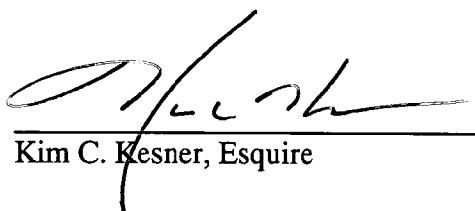
MICHAEL E. TOCIMAK, III, an	:	No. 2008-1909-CD
Individual,	:	
	Plaintiff	:
		:
Vs.	:	
		:
VICTOR COUTURIAUX and	:	
THERESA COUTURIAUX, Husband	:	
and Wife,	:	
	Defendants	:

CERTIFICATE OF SERVICE

I do hereby certify that on the 3 day of March, 2009, I served a true and correct copy of the within First Set of Interrogatories by first class mail, postage prepaid, on the following:

James A. Naddeo, Esquire
Trudy G. Lumadue, Esquire
207 East Market Street
Clearfield, PA 16830

3-3-2009
Date


Kim C. Kesner, Esquire

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

MICHAEL E. TOCIMAK, III, an
individual,

Plaintiff,

vs.

VICTOR COUTURIAX and
THERESA COUTURIAX, husband
and wife,

Defendants.

* No. 2008 - 1909 - CD

* Type of Pleading:

* **CERTIFICATE OF SERVICE**

* Filed on behalf of:

* Plaintiffs

* Counsel of Record for
this party:

* James A. Naddeo, Esq.
* Pa I.D. 06820

* &
* Trudy G. Lumadue, Esq.
* Pa I.D. 202049

* NADDEO & LEWIS, LLC.
* 207 E. Market Street
* P.O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

*

*

FILED
01/10/45801 2cc
MAR 13 2009
Atty Naddeo

William A. Shaw
Prothonotary/Clerk of Courts

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

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that Notices of Taking Deposition of Victor Couturiax and Theresa Couturiax were served on the following and in the following manner on the 13th day of March, 2009:

First-Class Mail, Postage Prepaid

Kim C. Kesner, Esquire
212 South Second Street
Clearfield, PA 16830

Maryann Cornelius, Court Reporter
339 Southmont Boulevard
Johnstown, PA 15905

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

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

MICHAEL E. TOCIMAK, III, an
individual,

Plaintiff,

vs.

VICTOR COUTURIAX and
THERESA COUTURIAX, husband
and wife,

Defendants.

* No. 2008 - 1909 - CD

* Type of Pleaing:

CERTIFICATE OF SERVICE

* Filed on behalf of:

* Plaintiffs

* Counsel of Record for
* this party:

* James A. Naddeo, Esq.

* Pa I.D. 06820

* &

* Trudy G. Lumadue, Esq.

* Pa I.D. 202049

* NADDEO & LEWIS, LLC.

* 207 E. Market Street

* P.O. Box 552

* Clearfield, PA 16830

* (814) 765-1601

Dated: June 17, 2009

s
FILED
073:31 AM NO
JUN 17 2009 CC
LM

William A. Shaw
Prothonotary/Clerk of Courts

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

MICHAEL E. TOCIMAK, III, an *
individual, *
Plaintiff, *
*
vs. * No. 2008 - 1909 - CD
*
VICTOR COUTURIAX and *
THERESA COUTURIAX, husband *
and wife, *
Defendants. *

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Plaintiff's Answers to Interrogatories of Defendants were served on the following and in the following manner on the 17th day of June, 2009:

First-Class Mail, Postage Prepaid

Kim C. Kesner, Esquire
212 South Second Street
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

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

MICHAEL E. TOCIMAK, III, an
individual,

Plaintiff,

vs.

VICTOR COUTURIAX and
THERESA COUTURIAX, husband
and wife,

Defendants.

* No. 2008 - 1909 - CD

* Type of Pleading:

* **CERTIFICATE OF SERVICE**

* Filed on behalf of:

* Plaintiff

* Counsel of Record for
this party:

* James A. Naddeo, Esq.
* Pa I.D. 06820

* &

* Trudy G. Lumadue, Esq.
* Pa I.D. 202049

* NADDEO & LEWIS, LLC.
* 207 E. Market Street
* P.O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

*FILED
01/13/2009 AM
NW 17 2009
NADDEO*
S
William A. Shaw
Prothonotary/Clerk of Courts

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

MICHAEL E. TOCIMAK, III, an individual, Plaintiff, vs. VICTOR COUTURIAX and THERESA COUTURIAX, husband and wife, Defendants. * * * * * No. 2008 - 1909 - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that true and correct copies of Notice of Taking Deposition of Victor and Theresa Couturiax were served on the following and in the following manner on the 17th day of November, 2009:

First-Class Mail, Postage Prepaid

Kim C. Kesner, Esquire
212 South Second Street
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

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

MICHAEL E. TOCIMAK, III, an
individual,

Plaintiff,

vs.

VICTOR COUTURIAX and
THERESA COUTURIAX, husband
and wife,

Defendants.

* No. 2008 - 1909 - CD

* Type of Pleading:

* **CERTIFICATE OF SERVICE**

* Filed on behalf of:

* Plaintiff

* Counsel of Record for
* this party:

* James A. Naddeo, Esq.

* Pa I.D. 06820

* &

* Trudy G. Lumadue, Esq.

* Pa I.D. 202049

* NADDEO & LEWIS, LLC.

* 207 E. Market Street

* P.O. Box 552

* Clearfield, PA 16830

* (814) 765-1601

*

FILED

010:45 AM 2CC
DEC 11 2008

William A. Shaw
Prothonotary/Clerk of Courts

Att'y
Naddeo

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

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that true and correct copies of Notice of Taking Deposition of Victor and Theresa Couturiax were served on the following and in the following manner on the 11th day of December, 2009:

First-Class Mail, Postage Prepaid

Kim C. Kesner, Esquire
212 South Second Street
Clearfield, PA 16830

Maryann Cornelius, Court Reporter
339 Southmont Boulevard
Johnstown, PA 15905

NADDEO & LEWIS, LLC
By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

CA

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

MICHAEL TOCIMAK, III
Plaintiff

vs.

VICTOR COUTURIAUX
THERESA COUTURIAUX
Defendants

* 2008-1909-CD

*

*

*

*

*

ORDER

NOW, this 15th day of May, 2013, it is the ORDER of this Court that a **status conference** be and is hereby scheduled for the **27th day of June, 2013 at 1:30 p.m.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

If this case has been concluded, the moving party is directed to file the appropriate Praeclipe with the Prothonotary of Clearfield County to finalize that status of the case.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED 01 8:49 AM
MAY 16 2013
William A. Shaw
Prothonotary/Clerk of Courts

1CC Atty's:
Naddeo
Kesner
6K

DATE: 5-16-13

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:

FILED

MAY 16 2013

William A. Shaw
Prothonotary/Clerk of Courts

FILED

5 JUL 01 2013
6/3/06 (L)
William A. Shaw
Prothonotary/Clerk of Courts
Clerk T

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

MICHAEL E. TOCIMAK III)
VS.) NO. 2008-1909-CD
VICTOR COUTURIAUX and)
THERESA COUTURIAUX)

DECREE NISI

NOW this 27th day of June, 2013, this being the date set for call of List of Inactive Cases; the Court noting that there's been no docket activity in the case since for a period of two (2) years or more; the Court noting that counsel is present the Court hereby gives notice to the Plaintiff that the matter will be dismissed in thirty (30) days from this date unless appropriate objection or exception to the dismissal is filed with the record and served on the Court and Defense counsel. In the event nothing is received, the Court will enter further Order dismissing the action, with prejudice.

BY THE COURT,

President Judge

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

MICHAEL E. TOCIMAK, III, an
individual,

Plaintiff,

v.

No. 2008 - 1909 - CD

VICTOR COUTURIAX and
THERESA COUTURIAX, husband
and wife,

Defendants.

CERTIFICATE OF SERVICE

Counsel of Record
For Defendant:

JAMES A. NADDEO, ESQUIRE
Supreme Court ID No.: 06820

Naddeo & Lewis, LLC
207 East Market Street
PO Box 552
Clearfield, PA 16830
814-765-1601

DATE: July 11, 2013

S (26) FILED 3CC
O/3/48 Attn: Naddeo
JUL 11 2013

William A. Shaw
Prothonotary/Clerk of Courts

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

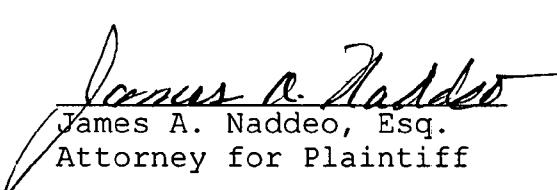
*
MICHAEL E. TOCIMAK, III, an *
individual, *
Plaintiff, *
*
v. * No. 2008 - 1909 - CD
*
VICTOR COUTURIAX and *
THERESA COUTURIAX, husband *
and wife, *
Defendants. *
*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Plaintiff's Praeclipe to List for Trial was served on the following and in the following manner on the 11th day of July, 2013.

First-Class Mail, Postage Prepaid

Kim C. Kesner, Esquire
212 South Second Street
Clearfield, PA 16830


James A. Naddeo, Esq.
Attorney for Plaintiff

FILED

JUL 11 2013

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

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

MICHAEL E. TOCIMAK, III, an
individual,

Plaintiff,

v.

VICTOR COUTURIAX and
THERESA COUTURIAX, husband
and wife,

Defendants.

No. 2008 - 1909 - CD

Type of Pleading:

**PRAECIPE TO LIST
FOR TRIAL**

Filed on Behalf of:

Plaintiff

Counsel of Record
For this Party:

JAMES A. NADDEO, ESQUIRE
Supreme Court ID No.: 06820

Naddeo & Lewis, LLC
207 East Market Street
PO Box 552
Clearfield, PA 16830
814-765-1601

DATE: July 11, 2013

FILED 30C
O 3:47pm JUL 11 2013 Attn: Naddeo
S JUL 11 2013 6K
William A. Shaw
Prothonotary/Clerk of Courts

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

*

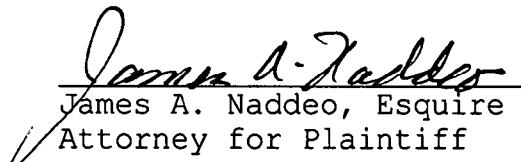
MICHAEL E. TOCIMAK, III, an *
individual, *
Plaintiff, *
*
v. * No. 2008 - 1909 - CD
*
VICTOR COUTURIAX and *
THERESA COUTURIAX, husband *
and wife, *
Defendants. *

PRAECIPE TO LIST FOR TRIAL

TO THE PROTHONOTARY:

Please place the above-captioned matter on the next list for trial. In support thereof I certify the following:

1. There are no Motions outstanding.
2. Discovery has been completed and the case is ready for trial.
3. The case is not to be heard by jury.
4. Notice of the Praecipe has been given to opposing counsel.
5. The time for trial is estimated at one-half (1/2) day.


James A. Naddeo, Esquire
Attorney for Plaintiff

Date: July 11, 2013

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

MICHAEL E. TOCIMAK, III,
an individual

vs.

VICTOR COUTURIAUX and
THERESA COUTURIAUX,
husband and wife

Plaintiff : NO. 2008-1909-CD

Defendants :

FILED ICC&memo
O/10/01 b Atty's
S JUL 16 2013
William A. Shaw
Prothonotary/Clerk of Courts
Naddie
Kesker
GK

O R D E R

AND NOW, this 15th day of July, 2013, upon consideration
of Plaintiff's Certificate of Readiness for Civil Non-Jury Trial, it is the Order
of this Court that a pre-trial conference in the above-captioned matter shall be
and is hereby scheduled for Thursday, September 5, 2013, at 11:00 A.M. in
Judge Ammerman's Chambers, Clearfield County Courthouse, Clearfield, PA.

One half hour has been reserved for this conference.

BY THE COURT:



FREDRIC J. AMMERMAN
PRESIDENT JUDGE

DATE: 7-16-13

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:

FILED

JUL 16 2013

William A. Shaw
Prothonotary/Clerk of Courts

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

MICHAEL E. TOCIMAK, III, an
individual,

Plaintiff,

v.

VICTOR COUTURIAX and
THERESA COUTURIAX, husband
and wife,

Defendants.

* No. 2008 - 1909 - CD

9/11/2013
William A. Shaw
Prothonotary, Clerk of Court

* **CERTIFICATE OF SERVICE**

* Filed on behalf of:
* Plaintiff

* Counsel of Record for
* this party:

* James A. Naddeo, Esq.
* Pa I.D. 06320

* Naddeo & Lewis, LLC
* P.O. Box 552
* Clearfield, PA 16830
* (814) 755-1601

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

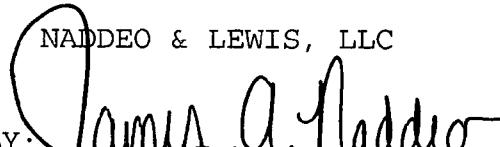
MICHAEL E. TOCIMAK, III, an *
individual, *
Plaintiff, *
*
v. * No. 2008 - 1909 - CD
*
VICTOR COUTURIAX and *
THERESA COUTURIAX, husband *
and wife, *
Defendants. *

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that Plaintiff's Pre-Trial Statement filed in the above-captioned case was served on the following and in the following manner on the 29th day of August, 2013:

First-Class Mail, Postage Prepaid

Kim C. Kesner, Esquire
212 South Second Street
Clearfield, PA 16830

NADDEO & LEWIS, LLC
BY: 
James A. Naddeo, Esquire
Attorney for Plaintiff

CA

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

MICHAEL E. TOCIMAK, III, an individual, * NO. 2008-1909-CD
Plaintiff *
VS *
VICTOR COUTURIAX and THERESA COUTURIAX, *
husband and wife, *
Defendants *
*

ORDER

NOW, this 5th day of September, 2013, following Pre-Trial Conference with
counsel and the Court; it is the ORDER of this Court that a two day non-jury trial be and
is hereby scheduled for **January 16 and 17, 2014** commencing at **9:00 a.m.** each
day in Courtroom No. 1 of the Clearfield County Courthouse.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED 1CC ATT/s:
O/ 8/47 cm Noddeo
S SEP 09 2013 Kesner
William A. Shaw
Prothonotary/Clerk of Courts 6K

DATE 9-9-13

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

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

FILED

SEP 09 2013

William A. Shaw
Prothonotary/Clerk of Courts

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

MICHAEL E. TOCIMAK, III
an individual

Plaintiff, i NO. 2008-1909-CD

vs. i

VICTOR COUTURIAUX and
THERESA COUTURIAUX,
husband and wife

Defendant, i

FILED

©1936pm
9 DEC 09 2013

William A. Shaw
Prothonotary/Clerk of Courts

6K

ORDER

AND NOW, this 16th day of December, 2013, due to a scheduling conflict, it is the ORDER of this court that the Civil Non-Jury Trial in the above captioned case, previously scheduled for January 16 and 17, 2014, shall be and is hereby **re-scheduled to Thursday, January 23, 2014, in the Annex Courtroom, and Friday, January 24, 2014, in Courtroom #1**, of the Clearfield County Courthouse, Clearfield, PA. beginning each day at 9:00 o'clock AM.

BY THE COURT:



FREDRIC J. AMMERMAN
PRESIDENT JUDGE

FILED

DEC 09 2013

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12.9.13

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

FILED

MICHAEL E. TOCCIMAK, III, an
individual,

Plaintiff,

v.

VICTOR COUTURIAX and
THERESA COUTURIAX, husband
and wife,

Defendants.

* No. 2008 - 1909

2 DECEMBER 2013
11:30 AM
William A. Shaw
Prothonotary

2 court to

ATT

* Type of Pleading:

* PRAECIPE TO SETTLE AND
DISCONTINUE

* Filed on behalf of:
Plaintiff

* Counsel of Record for
this party:

* James A. Naddec, Esq.
Pa I.D. 06820

* Naddec & Lewis, LLC
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

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

MICHAEL E. TOCIMAK, III, an *
individual, *
Plaintiff, *
*
v. * No. 2008 - 1909 - CD
*
VICTOR COUTURIAX and *
THERESA COUTURIAX, husband *
and wife, *
Defendants. *
*

PRAECIPE TO SETTLE AND DISCONTINUE

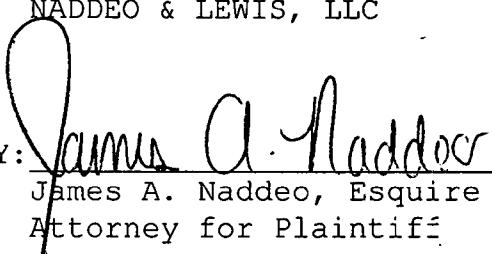
TO THE PROTHONOTARY:

Dear Sir:

Please mark the above-captioned case settled and discontinued.

NADDEO & LEWIS, LLC

BY:


James A. Naddeo, Esquire
Attorney for Plaintiff

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

MICHAEL E. TOCIMAK, III, an
individual,

Plaintiff,

v.

* No. 2008 - 1909 - CD

VICTOR COUTURIAX and
THERESA COUTURIAX, husband
and wife,

Defendants.

*

CERTIFICATE OF SERVICE

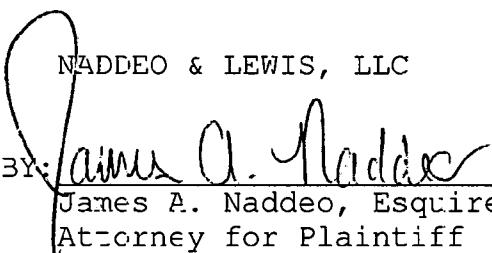
I, James A. Naddeo, Esquire, do hereby certify that a certified copy of Praeclipe to Settle and Discontinue filed in the above-captioned case was served on the following and in the following manner on the 17th day of December, 2013:

First-Class Mail, Postage Prepaid

Kim C. Kesner, Esquire
212 South Second Street
Clearfield, PA 16830

NADDEO & LEWIS, LLC

BY:


James A. Naddeo, Esquire
Attorney for Plaintiff

FILED
Dec 17 1973
William A. Shaw
Prothonotary

95-
63.14
158.19

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Michael E. Tocimak III

Vs.

**Victor Couturiax and
Theresa Couturiax**

No. 2008-01909-CD

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on December 17, 2013, marked:

Settled and Discontinued.

Record costs in the sum of \$158.14 have been paid in full by Naddeo & Lewis, LLC.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 17th day of December A.D. 2013.

William A. Shaw, Prothonotary

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

MICHAEL E. TOCIMAK, III, an individual
Plaintiff

* No. 2008-1909-CD

vs.

*

VICTOR COUTURIAX and THERESA COUTURIAX,
husband and wife,

*

*

*

ORDER

NOW, this 17th day of December, 2013, upon receipt and review of the Plaintiff's Praeclipe to Settle and Discontinue filed by James A. Naddeo, Esquire; it is the ORDER of this Court that the Non-Jury trial scheduled for January 23 and 24, 2014 be and is hereby CANCELED.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED
OCT 10 2013
DEC 18 2013

William A. Shaw
Prothonotary/Clerk of Courts

ICC Attn's:
Naddeo
Kesner

6K

DATE: 12-18-13

 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

 Defendant(s) X Defendant(s) Attorney

 Special Instructions:

FILED

DEC 18 2013

William A. Shaw
Prothonotary/Clerk of Courts