2008-1996-CD
Beneficial Consumer vs. Karen Kephart

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

BENEFICIAL CONSUMER DISCOUNT COMPANY	*	
Petitioner	*	No. 08-1996-CD
vs.	*	
KAREN J. KEPHART	*	
Respondent	*	

REPLY AND NEW MATTER AND COUNTER CLAIM TO "PETITION TO STRIKE DEED AND FOR DAMAGES"

Filed on behalf of Respondent,

COUNSEL OF RECORD FOR THIS PARTY:

TIMOTHY E. DURANT, ESQ.
Pa. I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711 Telephone

OPPOSING COUNSEL: for Petitioner

FRANK DUBIN, ESQUIRE
Pa. I.D. No. 19280
McCabe Weisberg & Conway, LLC
123 South Broad Street
Philadelphia, PA 19109
Phone (215)-790-1010

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

BENEFICIAL CONSUMER DISCOUNT COMPANY 1995 South Atherton Street State College, PA 16801 Petitioner	*	No. 08-1996-CD
vs.	*	
KAREN J. KEPHART 422 S. Second Street Philipsburg, PA 16866 Respondent	*	

To: Beneficial Consumer Discount Company
c/o FRANK DUBIN, ESQUIRE
Pa. I.D. No. 19280
McCabe Weisberg & Conway, LLC
123 South Broad Street
Philadelphia, PA 19109

NOTICE TO DEFEND

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 Petition 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 and for any other claims 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
Second and Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 5982

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

BENEFICIAL CONSUMER DISCOUNT COMPANY 1995 South Atherton Street State College, PA 16801 Petitioner	*	No. 08-1996-CD
vs.	*	
KAREN J. KEPHART 422 S. Second Street Philipsburg, PA 16866 Respondent	*	

To: Beneficial Consumer Discount Company
c/o FRANK DUBIN, ESQUIRE
Pa. I.D. No. 19280
McCabe Weisberg & Conway, LLC
123 South Broad Street
Philadelphia, PA 19109

NOTICE TO PLEAD

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.

Timothy E. Durant, Esquire, Attorney for
Respondent, Karen J. Kephart
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

Dated: December 10, 2008

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

BENEFICIAL CONSUMER DISCOUNT COMPANY 1995 South Atherton Street State College, PA 16801 Petitioner	*	No. 08-1996-CD
vs.	*	
KAREN J. KEPHART 422 S. Second Street Philipsburg, PA 16866 Respondent	*	

REPLY TO PETITION TO STRIKE DEED AND FOR DAMAGES

1. Denied. On the contrary, after reasonable investigation Respondent, Karen J. Kephart (hereinafter, Respondent or Kephart) is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict proof thereof is demanded at trial if relevant. If a response is deemed necessary, Respondent avers that she by her counsel, sent the original recorded deed and correspondence to the Petitioner (d/b/a Beneficial Mortgage Co. of Pennsylvania) at the address listed above on March 10, 2008 and it came back on March 15, 2008 marked, "Return to Sender, Not Deliverable as Addressed, Unable to Forward."

2. Admitted that Respondent is Karen J. Kephart, but denied that her address is as stated. On the contrary, Respondent resides at 422 South Second Street, Philipsburg, PA 16866.

3. Admitted that the property which is the subject of this Petition is located in the Borough of Chester Hill, Clearfield County, Pennsylvania with a street address of 613 DeCatur Street, but contrary to the averment of Beneficial, this action is designated, marked, and packaged

as a, "Petition" not a "Complaint in Equity". There has been no complaint filed, only a petition.

4. Admitted. In further answer however it is averred that Beneficial Consumer Discount Company d/b/a Beneficial Mortgage Co. of Pennsylvania as Mortgagee under a certain 30 year mortgage in the initial amount of $75,722.14 which was filed on September 18, 2001 as Clearfield County Instrument No. 200114752 had for many years prior to the recording of the deed excluded Respondent and all others from 613 DeCatur Street and engaged a person or persons believed to be, Mark A. Wolf, trading and doing business as Mark's Repairs of 1750 Bush Hollow Road, Julian, PA 16844 to board up all the windows and padlock the doors and entry ways and to exert defacto ownership over the Respondent's former residence at 613 DeCatur Street.

5. Denied. Contrary to the implied position stated herein, Respondent had no duty to give Petitioner any advance notice of her intention to file the Quit Claim Deed since the same was merely a confirmation of the position already taken by Petitioner in the unilateral taking of exclusive possession and control of the subject premises on or about September of 2003 as set out at more length hereafter. Furthermore, Respondent did notify Petitioner after the filing that the Quit Claim Deed had been filed as set out in paragraph 36 of the New Matter hereafter.

6. Denied. On the contrary this is a conclusion of law and no answer is required. But to the extent that an answer may be required, Respondent avers, that her actions were entirely appropriate and legal for the reasons set out above in paragraph 4 and below in New Matter. Respondent unified the title and benefitted Petitioner who had taken exclusive possession of the premises since approximately September 2003.

7. Denied. On the contrary, after reasonable investigation Respondent is without knowledge or information sufficient to form a belief as to the truth of this averment. Proof is demanded at trial if relevant. Furthermore this allegation is a conclusion of law and for that reason

no answer is required. To the extent that an answer may be required or appropriate it is averred that a party in exclusive control and possession of a property is responsible for the condition of the property and Petitioner was the defacto owner of the property in December of 2006 for the reasons as set out in this Reply and New Matter.

8. Admitted. In further explanation however, this is merely the result of Petitioner's failure to bear the burden of an owner, i.e. one who takes possession of real estate must maintain it. Regardless of whether the deed was in Petitioner's name or not, Respondent actually controlled the property exclusively and kept all others (including Respondent) out for almost 5 years prior to the code or ordinance enforcement action brought by Chester Hill.

9. Denied. On the contrary, after reasonable investigation Respondent is without knowledge or information sufficient to form a belief as to the truth of this averment. Proof is demanded at trial if relevant. If Petitioner has been caused to incur legal fees and costs in the defense of the second code enforcement action this is merely the result of Petitioner's failure to bear the burden of an owner, i.e. one who takes possession of real estate must maintain it. Regardless of whether the deed was in Petitioner's name or not, Respondent actually controlled the property exclusively and kept all others (including Respondent) out for almost 5 years prior to the code or ordinance enforcement action brought by Chester Hill.

10. Denied. On the contrary, Respondent knew that she had no control or beneficial interest in the subject premises and that she could not sell the premises due to the existing mortgage but she believed the mortgage holder could sell the property if they had paper title and by this means the untenable situation which had existed for almost five years would be resolved. Petitioner had steadfastly evidenced its unwillingness to help her resolve the unmarketable nature of the premises so Respondent took the matter in hand and cleared any title interest she may have had by recording

and delivering the deed to Petitioner at no charge to them.

11. Denied. On the contrary, as set out in New Matter, Respondent had previously tried to obtain release of the property from Petitioner but none of Petitioner's agents were willing to help nor were they willing to relinquish actual control of the premises. Code violations should be borne by the entity who exercises sole and exclusive control over the property. Petitioner took exclusive control over the premises utilizing self help and without the consent of Respondent or the aid of the courts.

12. Admitted. Denied however that Respondent had any duty to strike or otherwise remove the deed for the reasons as set out in this Reply and New Matter.

13. Denied. On the contrary, after reasonable investigation Respondent is without knowledge or information sufficient to form a belief as to the truth of this averment. If Petitioner has been caused to incur legal fees and costs in the defense of the second code enforcement action this is merely the result of Petitioner's failure to bear the burden of an owner, i.e. one who takes possession of real estate must maintain it. Regardless of whether the deed was in Petitioner's name or not, Respondent actually controlled the property exclusively and kept all others (including Respondent) out for almost 5 years prior to the code or ordinance enforcement action brought by Chester Hill.

14. Denied. On the contrary this is a conclusion of law and no answer is required. But to the extent that an answer may be required, Respondent avers, that Petitioner sought to have and did obtain, defacto ownership, possession, control and dominion of the premises and yet sought to have no responsibility to the community with regard to taxes, safety or blight. It is clear Respondent has no legal or economic interests in the subject premises which Petitioner took from her more than four years prior to her relinquishment of paper title by quit claim deed of April 3,

2008. Respondent's actions were not done secretly but quite openly and the recorded deed was promptly forwarded to the Mortgage holder who had by self help "taken" the property.

15. Denied. On the contrary this is a conclusion of law and no answer is required. But to the extent that an answer may be required, Respondent avers, that her actions were entirely appropriate and legal for the reasons set out above in paragraph 4 and below in New Matter. Respondent unified the title and benefitted Petitioner who had taken exclusive possession of the premises since approximately September 2003.

NEW MATTER

16. Paragraphs 1-15 of Respondents' Reply are incorporated herein by reference as if set forth at length.

17. The subject property at 613 DeCatur Street vested in Respondent by deed dated September 9, 1994 from Robert D. Conklin and Billie Rae Conklin and was recorded in the Clearfield County Recorder's Office in Deed and Records Book Volume 1630 at page 438 on September 12, 1994.

18. Petitioner granted Respondent a 30 year Mortgage in the initial amount of $75,722.14 with the same being filed in the Clearfield County Recorder's Office as Instrument No. 200114752 on September 18, 2001.

19. On July 23, 2003 Respondent's residence at 613 DeCatur Street, Chester Hill Borough, Clearfield County, Pennsylvania was destroyed by a fire and rendered uninhabitable.

20. As required by Petitioner, Respondent had fire insurance in an amount satisfactory to Petitioner. The insurer was National Grange Mutual Insurance Company.

21. For reasons unknown to Respondent, Petitioner by it's agents initially refused to accept the insurance proceeds. After persistence and insistence by Respondent, Petitioner in or

about November 2003 agreed to accept the net proceeds of the fire insurance.

22. On or about September of 2003 Petitioner caused the subject premises to be both boarded-up and locked-up (by padlocks) and thus totally unaccessible to Respondent. This exclusive possession was accomplished without prior notice to or consent by Respondent and during a time when she still retained personal property inside the residence. From that day to the present Respondent has not been able to obtain her personal property nor to enter into the subject premises. Such personal property, if it still exists in the premises, has by now become valueless.

23. Petitioner has effectively exercised total dominion, control and ownership of the subject premises from the day of the boarding up of the property until the present.

24. Petitioner has not paid any real estate taxes on the premises nor has it complied with the Chester Hill Borough ordinance requirements pertaining to proper maintenance of the premises.

25. Petitioner has retained its mortgage lien upon the subject premises with the consequence that the Clearfield County Tax Claim Bureau has been unable to sell the property at its upset sale and the unpaid taxes continue to accumulate. No buyer has been/is willing to buy 613 DeCatur Street subject to the unsatisfied mortgage.

26. In or about June 2005 Respondent went to the State College office of Petitioner and asked them to tell her what amount of money they would require to release the property so she could sell it but they informed her that they could not help her.

27. On or about December 2005 Respondent filed a Voluntary Chapter 7 Bankruptcy action to Case No. 05-73280-BM in the Western District of Pennsylvania, naming, inter alia the Petitioner and her obligations under the Petitioner's aforementioned Mortgage.

28. Respondent was discharged of all personal responsibility under the mortgage when the bankruptcy was finalized by "DISCHARGE OF DEBTOR" signed by Judge Bernard Markovitz

on May 23, 2006.

29. Petitioner by its actions has evidenced for a period of more than five years that it is willing to allow the subject property to: deteriorate; become unsafe; violate Borough ordinances; be a visual and economic blight to the community; remain off of the real estate tax rolls; be a burden to the citizens of Chester Hill Borough and be of absolutely no economic value even to Respondent's own shareholders.

30. Petitioner's refusal to cooperate with the Respondent and its actions in this matter are an egregious display of bad faith and cause them to be before this court with unclean hands all the while asking for equity to be done.

31. Respondent has by her actions merely placed the paper title in the same location and with the same entity which has exercised defacto ownership and exclusive possession, control and dominion since on or about September 2003.

32. Respondent has unified the title, removed a cloud on the title, and given the Petitioner the opportunity to sell the premises which had heretofore been unsaleable unless Petitioner would first have undergone the delay and expense of a foreclosure action.

33. Respondent has by her actions benefitted Petitioner at no cost to Petitioner.

34. As a result of the exclusion from the premises and then the filing of the Bankruptcy petition, Respondent retains no economic interest the subject premises.

35. Petitioner has acted in bad faith by filing this vexatious suit which has no merit and thereby has caused Respondent to expend funds to pay her attorney in a matter which can clearly be seen to have benefitted Petitioner not harmed it.

36. After recording the deed, Respondent mailed the original to the Petitioner's last known address, i.e to 1995 South Atherton Street, State College, PA 16801 which is the address

shown on the subject Mortgage and also the address used by Petitioner in the instant "Petition To Strike Deed, etc" it was returned as undeliverable and then re-mailed as set out below.

37. After mailing original recorded deed to Petitioner on March 10, 2008 it was returned on March 15, 2008 by US Postal Service marked, "Return to Sender, Not Deliverable as Addressed, Unable to Forward". Respondent then re-mailed the recorded deed and forwarding letter with original envelope by first class mail to Petitioner at, "Beneficial" with the address of 325 Benner Pike, State College, Pennsylvania 16801. Following the second mailing of the original deed it was never returned to Respondent or her counsel and is thus presumed to have been delivered. A copy of the front of envelope in which the original deed was first mailed and the envelope in which the original deed was secondly mailed is attached hereto and marked as Exhibit " 1 ".

38. Petitioner never corresponded with Respondent or sent the deed back to her and was apparently satisfied to have the paper title until such time as Petitioner was served with a citation from Chester Hill Borough for failing to meet their ownership obligations.

COUNTER CLAIM

39. Paragraphs 1-38 of Respondents' Reply and New Matter are incorporated herein by reference as if set forth at length.

40. Petitioner has brought this action in bad faith and has engaged in conduct which is vexatious to Respondent and serves no legitimate purpose except to punish the Respondent who now has no personal liability to them under the mortgage described above. Petitioner was satisfied to let the property go to waste and ruin and see if they could wait out Respondent with Chester Hill Borough left to do the heavy lifting by filing of citations.

41. Petitioner acted as the owner in taking exclusive possession and now has a unified and marketable title and has decided to sue the person who unified their title

42. Whereas Petitioner previously had possession and an unenforceable mortgage, it now has a unified marketable title.

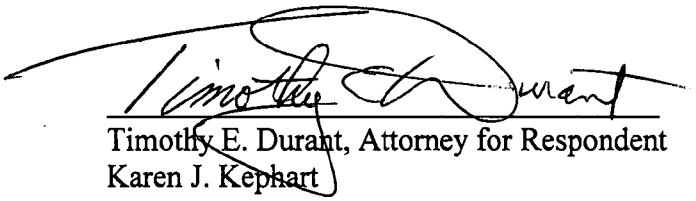
43. Petitioner's actions herein suffice to qualify Respondent to collect counsel fees pursuant to 42 Pa.C.S.A. § 2503 (9), i.e. because their conduct in commencing the matter or otherwise was arbitrary, vexatious or in bad faith.

WHEREFORE, Defendant respectfully requests that:

(i) this Honorable Court dismiss the Petition with prejudice, and

(ii) Order Beneficial Consumer Discount Company to pay counsel fees to Respondent that were incurred by Petitioner in the defense against this litigation.

Respectfully submitted,



December 10, 2008

Timothy E. Durant, Attorney for Respondent
Karen J. Kephart

VERIFICATION

I, **KAREN J. KEPHART**, verify that the statements made in this Pleading are true and correct to the best of my knowledge, information and belief. Respondent understands that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

KAREN J. KEPHART, Respondent

Dated: 12/8/2008

Timothy E. Durant
Attorney at Law
201 North Second Street
Clearfield, Pennsylvania 16830

ALTOONA PA 165
10 MAR 2008 PM 1 T

"LET US DARE TO
THINK, SPEAK AN
John Adams, 176
powerofthelette

Rec'd Mar. 15, 2008

Beneficial Consumer Discount Company
d/b/a Beneficial Mortgage Co. of Pennsylvania
1995 South Atherton Street
State College, PA 16801

NIXIE 165 CE 1 25 03/13/08
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD
BC: 16830255499 *2343-08850-10-38

16830@2554

Timothy E. Durant
Attorney at Law
201 North Second Street
Clearfield, PA 16830

3/15/08
Mailed the above envelope back out today to Beneficial at this address

Beneficial
325 BENNER PIKE
STATE COLLEGE, PA 16801

Got this new address from the main Beneficial website www.Beneficial.com

EXHIBIT "1"

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

BENEFICIAL CONSUMER DISCOUNT COMPANY 1995 South Atherton Street State College, PA 16801 Petitioner	*	No. 08-1996-CD
vs.	*	
KAREN J. KEPHART 422 S. Second Street Philipsburg, PA 16866 Respondent	*	

AFFIDAVIT OF SERVICE

I, Timothy E. Durant, verify that on December 10, 2008 I did mail one (1) certified copy of the **REPLY, NEW MATTER AND COUNTER CLAIM TO "PETITION TO STRIKE DEED AND FOR DAMAGES"**. Said Document was mailed by pre-paid U.S. Mail deposited at the Clearfield Post Office and addressed to counsel for Petitioner: FRANK DUBIN, ESQUIRE c/o McCabe Weisberg & Conway, LLC, at 123 South Broad Street, Philadelphia, PA 19109.

I understand that false statements herein are made subject to the penalties of 18 PA. C.S. §4904, relating to unsworn falsification to authorities.

Timothy E. Durant,

Dated: December 10, 2008

COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION

No. 08-1996-CD

Type of Case: Petition to Strike Deed and for Damages

Beneficial Consumer Discount Company
Petitioner

VS.

Karen J. Kephart
Respondent

Type of Pleading: Petition

Filed on Behalf of:
Beneficial Consumer Discount Company - Petitioner

Counsel of Record for this Party:

Frank Dubin, Esquire

Supreme Court No.: 19280

McCabe Weisberg & Conway, LLC
123 South Broad Street
Philadelphia, PA 19109
215-790-1010

Dated: October 15, 2008

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

1cc Shff
1cc Atty
Atty pd. 95.00

McCABE, WEISBERG AND CONWAY, P.C.
BY: FRANK DUBIN, ESQUIRE
Identification Number 19280
123 South Broad Street, Suite 2080
Philadelphia, PA 19109
(215) 790 - 1010

Attorney for Petitioner

Beneficial Consumer Discount Company 1995 S. Atherton Street State College, PA 16801 v. Karen J. Kephart 12 Hudson Street Phillipsburg, PA 16866	Clearfield County Court of Common Pleas No.

PETITION TO STRIKE DEED AND FOR DAMAGES

1. Petitioner is Beneficial Consumer Discount Company, a corporation duly organized and doing business at the above captioned address.

2. The Respondent is Karen J. Kephart, whose last-known address is 12 Hudson Street, Phillipsburg, Pennsylvania 16866.

3. The property that is the subject of this Complaint in Equity is 613 DeCatur Street, Chester Hill, Pennsylvania.

4. On or about March 4, 2008, Respondent, Karen J. Kephart, without the knowledge of Petitioner, Beneficial Consumer Discount Company, recorded a Quit Claim Deed identified as Instrument Number 200802897 in favor of Petitioner. A true

and correct copy is attached and marked as Exhibit "A."

5. Respondent gave Petitioner no notice whatsoever of her intention to file the Quit Claim Deed nor did Respondent ever notify Petitioner thereafter that the Quit Claim Deed had been filed.

6. The Respondent filed the Quit Claim Deed because of the deteriorated condition of the property located at 613 DeCatur Street, Chester Hill, Pennsylvania and in an effort to avoid responsibility for conditions of the real estate that violate local codes.

7. On December 5, 2006, Petitioner, Beneficial Consumer Discount Company was cited for the condition of the property due to damage. Petitioner incurred legal fees and costs in the defense of that action which was subsequently dismissed as Petitioner had no obligation as a mortgagee to cure or correct any conditions that violated local codes. A true and correct copy of the citation for that code enforcement complaint is attached and marked as Exhibit "B."

8. On or about August 14, 2008, another citation was filed against Petitioner, Beneficial Consumer Discount Company, again for a code violation and seeking $1,000.00 fine plus costs. A copy of the citation is attached hereto and marked as Exhibit "C."

9. Petitioner Beneficial has again been required to defend this second code enforcement action and has incurred attorney's fees and costs as a direct result of the wrongful filing of the Quit Claim Deed by Respondent Karen J. Kephart. Again,

Defendant Kephart's actions have exposed Petitioner to claims and liabilities in her effort to avoid her own responsibilities to maintain the subject property.

10. Respondent Karen J. Kephart knew that by transferring ownership to Petitioner that she would be avoiding responsibility and shifting liability to Petitioner.

11. Respondent transferred the title without giving Petitioner notice or requesting permission, thus exposing Petitioner to code violations and other liabilities without its knowledge or consent.

12. Respondent, through her counsel, was notified of Beneficial's request to strike or otherwise remove the deed and has failed and/or refused to take the necessary action. (See letter dated September 16, 2008, courtesy copy of which was addressed to Defendant's counsel and marked as Exhibit "D.")

13. Petitioner has been caused to incur legal fees and costs in the defense of the second code enforcement action filed on or about August 14, 2008. (See letter to District Justice Rudella of advising of representation in said action attached hereto and marked as Exhibit "D.")

14. Respondent's actions are outrageous in that they seek to surreptitiously shift her responsibility for the property to Petitioner in an effort to protect her own interests and illegally escape responsibility.

15. Respondent's actions were improper and illegal and, accordingly, the Petitioner seeks the equitable remedy of striking and declaring null and void the Quit Claim Deed recorded March 4, 2008 as Instrument Number 200802897, and in addition, Petitioner

seeks damages incurred as a result of the wrongfully recording of the Quit Claim Deed.

WHEREFORE, Plaintiff respectfully requests that: (i) this Honorable Court issue an Order striking and declaring null and void the Quit Claim Deed from Karen J. Kephart, as grantor, to Beneficial Consumer Discount Company d/b/a Beneficial Mortgage Co. of Pennsylvania, as grantee, dated March 3, 2008 and recorded March 4, 2008 as Instrument Number 200802897 and directing the Recorder of Deeds to mark the records accordingly; and (ii) Order Karen J. Kephart to pay counsel fees to Petitioner that were incurred by Petitioner in the defense of the code enforcement action filed on August 14, 2008, as well as costs and fees incurred in the prosecution of this litigation.

Respectfully Submitted

By: _____

Frank Dubin, Esquire
Attorney for Petitioner
Beneficial Consumer Discount Company

VERIFICATION

The undersigned, Susan J. Farrell, hereby certifies that she is the Senior Paralegal of the Plaintiff in the within action, and that she is authorized to make this verification and that the forgoing facts are true and correct to the best of her knowledge, information and belief, and further states that false statements herein are made subject to the penalties of 18 PA.C.S. ' 4904 relating to unsworn falsification to authorities.

Susan J. Farrell

DATE: 10/14/08

EXHIBIT "A"

CLEARFIELD COUNTY
RECORDER OF DEEDS

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

AFFIDAVIT No. 40883

***RETURN DOCUMENT TO:**
TIMOTHY E. DURANT
201 N. SECOND STREET
CLEARFIELD, PA 16830

Instrument Number - 200802897
Recorded On 3/4/2008 At 10:38:51 AM
*** Instrument Type - DEED**
*** Total Pages - 4**
Invoice Number - 181420
*** Grantor - KEPHART, KAREN J**
*** Grantee - BENEFICIAL CONS DISC CO**
*** Customer - TIMOTHY E. DURANT**

*** FEES**

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

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

RECORDER OF DEEDS OF CLEARFIELD COUNTY PENNSYLVANIA

Maurene E. Inlow

Maurene E. Inlow
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.**

QUIT-CLAIM DEED

MADE the 3rd day of March
in the year Two Thousand Eight (2008)

KAREN J. KEPHART, not stated, of 12 Hudson Street, Philipsburg, Pennsylvania 16866, party, of the first part, Grantor

AND

BENEFICIAL CONSUMER DISCOUNT COMPANY d/b/a BENEFICIAL MORTGAGE CO. OF PENNSYLVANIA, with offices at 1995 South Atherton Street, State College, Pennsylvania 16801, party of the second part, Grantee

WITNESSETH, that in consideration of the sum of One ($1.00) DOLLAR, in hand paid, receipt whereof is hereby acknowledged, the said grantor does hereby release and quit claim to the said grantee

ALL that certain message, tenement, and tract of land situate, lying and being in Foster's Addition to Chester Hill Borough, Clearfield County, Pennsylvania, bounded and described as follows, to-wit:

> BEGINNING at the Northwestern corner of Lot No. 30 and situate in Decatur Street; thence along the western line of Decatur Street in a northerly direction a distance of fifty (50) feet to the Northeastern corner of Lot No. 34, now or formerly owned by Community Action; thence in a westerly direction along the line of Lot No. 34, a distance of seventy-two (72) feet to lands now or formerly of Lockey; thence along the said lands of Lockey in a southeasterly direction a distance fifty (50) feet to the line of Lot No. 30; thence in a northeasterly direction along Lot No. 30 a distance of seventy-two (72) feet to the point and place of beginning.

BEING Lot No. 32 in the plan or plot of Foster's Addition and being further known as 613 Decatur Street.

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

BEING the same premises conveyed to Grantor by Deed dated September 9, 1994 from Robert D. Conklin and Billie Rae Conklin, husband and wife and recorded in the office of the Recorder of Deeds for Clearfield County in Deed Book Volume 1630, at page 438 on September 12, 1994.

The purpose of this deed is to extinguish any interest which Grantor may have had in the premises and is an Excluded transaction per the Pennsylvania Realty Transfer Tax Act at 61 Pa..Code §91.193(b)(16), i.e. a transfer to a holder of a bona fide mortgage in default since the transfer is being made in lieu of foreclosure under Clearfield County Instrument No. 200114752, as recorded on September 18, 2001.

IN WITNESS WHEREOF, the said grantor has hereunto set her hand and seal the day and year first above written.

Sealed and Delivered in the Presence of

KAREN J. KEPHART (SEAL)

COMMONWEALTH OF PENNSYLVANIA :

SS:

COUNTY OF CLEARFIELD :

On this, the 3rd day of March, 2008, before me, Timothy E. Durant, a Notary Public, personally appeared Karen J. Kephart, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged she has executed the same for the purposes therein contained.

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

My Commission Expires: 10/10/09

Timothy E. Durant, Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
TIMOTHY E. DURANT NOTARY PUBLIC
CLEARFIELD BORO, CLEARFIELD COUNTY
MY COMMISSION EXPIRES OCTOBER 10, 2009

TIMOTHY E. DURANT
COMMONWEALTH OF PENNSYLVANIA
NOTARY PUBLIC

CERTIFICATE OF RESIDENCE

I hereby certify that the precise address of the grantee herein is as follows:

1995 South Atherton Street
State College, Pennsylvania 16801

Timothy E. Durant
Attorney for Grantee NTS

DEED

QUIT-CLAIM

Dated March 3, 2008

For 613 Decatur Street

Chester Hill Borough

Clearfield County, Pennsylvania

Consideration $1.00

EXHIBIT "B"

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: CLEARFIELD

CIVIL COMPLAINT

Mag. Dist. No.: 46-3-03
MDJ Name: Hon. MICHAEL A. RUDELLA
Address: 131 ROLLING STONE ROAD
PO. BOX 210
KYLERTOWN, PA 16847-0444
Telephone: (814) 345-6789

PLAINTIFF: NAME and ADDRESS
Chester Hill Boro
920 Walton St.
Philipsburg PA, 16866.

VS.

DEFENDANT: NAME and ADDRESS
Beneficial Consumer Discount Company.
1995 S. Atherton St.
State college PA. 16801.

Docket No.: CV-564-06
Date Filed: 12-5-06

	AMOUNT	DATE PAID
FILING COSTS	$ 57.50	12/5/06
POSTAGE	$	/ /
SERVICE COSTS	$	/ /
CONSTABLE ED.	$	/ /
TOTAL	$	/ /

Pa.R.C.P.D.J. No. 206 sets forth those costs recoverable by the prevailing party.

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for $ 957.50 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated): for structure at 613 decatur St. this house has been burnt out for 4 years after further investigation we found out that this company has hold of this property.

I, Paula Johnson verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.

Paula Johnson (ordinance officer)
(Signature of Plaintiff or Authorized Agent)

Plaintiff's Attorney: _____ Address: _____

Telephone: _____

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within magisterial district judge jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

AOPC 308A-05.

EXHIBIT "C"

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: CLEARFIELD

Mag. Dist. No.: 46-3-03
MDJ Name: Hon. MICHAEL A. RUDELLA
Address: 131 ROLLING STONE ROAD
PO BOX 210
KYLERTOWN, PA 16847-0444
Telephone: (814) 345-6789

SEP 10 2008

SUMMONS FOR A SUMMARY CASE NON-TRAFFIC

COMMONWEALTH OF PENNSYLVANIA

VS.

DEFENDANT: NAME and ADDRESS
BENEFICIAL CONSUMER DISCOUNT CO
1995 S ATHERTON ST
STATE COLLEGE, PA 16801

BENEFICIAL CONSUMER DISCOUNT CO
1995 S ATHERTON ST
STATE COLLEGE, PA 16801

Docket No.: NT-0000339-08
Date Filed: 8/14/08

Charge(s):
O 04-08-2008 §301 INT. PROPERTY MAINTENANCE CODE

FINE AND COSTS:	FINE: $1000.00	COSTS: 58.00	OTHER: —	TOTAL DUE: $1058.00

WITHIN TEN (10) DAYS OF RECEIPT OF THIS SUMMONS YOU MUST:

1. PLEAD NOT GUILTY by notifying the magisterial district judge above in writing and forwarding an amount equal to the total due specified above, or if the fine and costs are not specified, forward the sum of $50.00 as collateral for your appearance at trial; OR,
2. PLEAD NOT GUILTY by appearing before the magisterial district judge above and posting such collateral for your appearance as the magisterial district judge shall require; OR,
3. If you cannot afford to pay the total due specified above or the $50.00 collateral, you must appear before the magisterial district judge above to enter a plea; OR,
4. PLEAD GUILTY by notifying the magisterial district judge above in writing, signing the appropriate plea below, and forwarding an amount equal to the total due specified above: OR,
5. PLEAD GUILTY by appearing before the magisterial district judge above if the total due is not specified.

IF YOU ARE FOUND GUILTY BY THE MAGISTERIAL DISTRICT JUDGE AND WISH TO APPEAL, YOU HAVE THIRTY (30) DAYS TO REQUEST A TRIAL DE NOVO IN THE COURT OF COMMON PLEAS.

ALL CHECKS OR MONEY ORDERS FOR FINE, COSTS, FEES, OR FOR COLLATERAL, SHALL BE MADE PAYABLE TO "MAGISTERIAL DISTRICT NO. 46-3-03 " IDENTIFIED ABOVE AND SENT TO THE ADDRESS ABOVE.

IF YOU FAIL TO RESPOND TO THIS SUMMONS WITHIN THE TIME SPECIFIED ABOVE, A WARRANT FOR YOUR ARREST SHALL BE ISSUED.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

IF YOU INTEND TO RESPOND BY MAIL:

Detach and complete the lower portion of this summons with your signature on the appropriate plea line, (1) or (2).

If you PLEAD NOT GUILTY, your check or money order must be in the amount of the total due specified above. If the total due is not specified, your check or money order must be in the amount of $50.00 which will be held for collateral for your appearance at trial. You will be notified by mail of your date and time for trial.

If you PLEAD GUILTY, enclose a check or money order in the amount of the total due specified above. Failure to remit the full amount of the fine, costs and fees will result in the issuance of a warrant for your arrest. Your check or money order shall be made payable to the "Magisterial District No." above.

(DETACH HERE) ----------

MAIL IN PLEA

I represent that I make this plea knowingly, voluntarily, and intelligently. (Failure to indicate a plea when forwarding an amount equal to the total due specified above will result in a guilty plea being recorded.)

1. I PLEAD NOT GUILTY. _____ (Signature) Docket No.: NT-0000339-08
2. I PLEAD GUILTY. _____ (Signature) Citation No.: P5712029-1

AOPC 617-07 DATE PRINTED: 8/14/08 11:38:29 AM

COMMONWEALTH OF PENNSYLVANIA
NON-TRAFFIC CITATION/SUMMONS

CITATION NO. P5712029-1

1. Magisterial District Number: 46-3-03
2. Docket Number: NT-339-08
3. Social Security Number:
4. Address of Magisterial District Office: P.O. Box 910 Kylertown, PA 16847
5. Driver's Number:
6. State: ☐ PA
7. Defendant's Name - First / Middle / Last: Beneficial Consumer Discount Company
8. Defendant's Address (Street-City-State-Zip Code): 1995 South Atherton St. State College, PA 16801
9. Race/Ethnicity: (W) ☐ White (A) ☐ Asian (B) ☐ Black (H) ☐ Hispanic (I) ☐ Native American (U) ☐ Unknown
10. Sex: (M) ☐ Male (F) ☐ Female
11. Date of Birth (MM/DD/YY):
12. Resident Status: (R) ☐ Resident (N) ☐ Non-Resident (U) ☐ Unknown
13. Case Instituted by: (O) ☐ On-View Arrest (C) ☐ Citation/Summons
14. JUVENILE: ☐ Yes
15. Parents Notified: ☐ Yes
16. Parent's Name:
17. Date Notified:
18. Time:
19. Charge: ☐ Disorderly Conduct ☐ Criminal Trespass ☐ Theft of Services ☐ Criminal Mischief ☐ Harassment ☒ Public Drunkenness ☐ Scattering Rubbish ☐ Retail Theft ☐ Purchase, Consumption, Possession or Transportation of Liquor or Malt or Brewed Beverages ☐ Other

20. Nature of Offense: Ord. 04-08-2008-4 International Property Maintenance Code, Failed to repair, clean up property, cut grass or Demo building.
21. Pa. Code:
22. ☐ CRIMES CODE TITLE 18
23. SECTION: S:301, 302-304
24. SUB.SEC.:
25. FINE: 1000.00
26. COSTS:
27. J.C./P.A.T.A.: 10.00
28. TOTAL DUE: $
29. ☐ Lab Services Requested

30. Date: 8-6-08
31. Time: 11:00
32. Day: Wed.
33. City-Twp-Boro: Chester Hill Boro
34. Code: 403
35. Zone:
36. Location: 613 Decatur St. Chester Hill
37. County: Clearfield
38. County Code: 17
39. Defendant's Signature - Acknowledges Receipt of Citation: X
40. Date:
41. ☐ Issued ☐ Filed ☐ Filed as info. received

42. I verify that the facts set forth in this citation are true to the best of my knowledge, information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.
OFFICER'S SIGNATURE: Donald S. Ernst
BADGE NUMBER: CE 170018
ORI NUMBER:

43. Station Address: 930 Walton St. Chester Hill, PA.
44. Offense Code:
45. Property Record No.:
46. Systems Code:
47. ☐ Initial Report
48. ☐ Attention LCS
49. Incident No.:
50. Victim's Name: [redacted]
51. Date of Birth (MM/DD/YY):
52. Sex:
53. Race/Ethnicity:

54. Remarks / Subpoena List
This has been on going since 2003 and on March 3rd 2008 a Quit Claim Deed by Beneficial Consumer Discount Company 3-3-08.

P5712029-1

97. Supv. Int.:
Badge No.:

AOPC 407-95 (Rev. 1/2005)

DEFENDANT'S COPY

RIGHTS AND OBLIGATIONS

1. The original of this non-traffic citation/summons will be filed before the MAGISTERIAL DISTRICT JUDGE WHOSE ADDRESS IS LISTED IN ITEM 4 on the reverse side.
2. Within TEN (10) days of the issuance or receipt of this citation/summons, you must:
   a. **PLEAD NOT GUILTY** by signing your name on Line (a) of the mail-in portion of this citation/summons and returning it to the Magisterial District Office shown in ITEM 4 together with your collateral in an amount equal to the Total Due as specified in ITEM 28 on the reverse side or if the Total Due is not specified, by forwarding the sum of $50.00 as collateral for your appearance at trial.

   OR

   b. **PLEAD NOT GUILTY** by appearing before the proper Magisterial District Judge and posting such collateral for your appearance as the Magisterial District Judge shall require. If you cannot afford to pay the Total Due as specified in ITEM 28 on the reverse side, or the $50.00 collateral, you must appear before the proper Magisterial District Judge to enter a plea.

   OR

   c. **PLEAD GUILTY** by signing your name on Line (b) of the mail-in portion of this citation/summons and returning it to the Magisterial District Office shown in ITEM 4 together with an amount equal to the Total Due as specified in ITEM 28 on the reverse side.

   OR

   d. **PLEAD GUILTY** by appearing before the proper Magisterial District Judge if the Total Due is not specified.

   OR

   e. **REQUEST** inclusion in an Accelerated Rehabilitative Disposition Program (ARD) by appearing before the proper Magisterial District Judge.
3. All checks or money orders must be made payable to the "Magisterial District Number" identified in ITEM 1 on the reverse side, and sent to the address reported in ITEM 4.
4. Failure to respond within the time specified above may result in the issuance of a warrant for your arrest.
5. If you fail to appear for trial, the trial may be held in your absence.
6. If you are found guilty by the Magisterial District Judge, or you plead guilty, and you wish to appeal, you have THIRTY (30) days to file an appeal for a trial in the Court of Common Pleas.
7. If you are disabled and require assistance, please contact the Magisterial District Office identified in ITEM 4 on the reverse side.
8. Please note that a guilty plea to offenses relating to underage drinking, 18 Pa.C.S. §§ 6307, 6308, and 6310.3 will result in the suspension of your driver's license.

TOTAL DUE	$

INSTRUCTIONS FOR RESPONSE BY MAIL

If you intend to respond by mail:

1. Detach and complete the lower portion of this citation/summons with your signature on the appropriate plea line (a) or b.).
2. If you PLEAD NOT GUILTY, your check or money order for collateral must be in the amount equal to the Total Due as specified in ITEM 28 on the reverse side. If the Total Due is not specified, your check or money order for collateral must be in the amount of $50.00. You will be notified by mail of your trial date.
3. If you PLEAD GUILTY, enclose a check or money order in the amount reported as Total Due in ITEM 28 on the reverse side. Failure to remit the full amount will result in the issuance of a warrant for your arrest.
4. Your check or money order must be made payable to: "Magisterial District Number" identified in ITEM 1 on the reverse side and sent to the address reported in ITEM 4.

Explanation of Items 26 & 27:

Costs	May include program costs for crime and delinquency commission, domestic violence, crime victims compensation and courts.
J.C.P./A.T.J.	Judicial Computer Project/Access to Justice

MAIL IN PORTION

Place this portion of the citation/summons and your check or money order in an envelope and mail to the MAGISTERIAL DISTRICT OFFICE WHOSE ADDRESS IS REPORTED IN ITEM 4 on the reverse side.

Failure to indicate a plea when forwarding an amount equal to the Total Due as specified on the citation/summons will result in a guilty plea being recorded.

I understand my rights and obligations. Further, I represent that I make this plea knowingly, voluntarily, and intelligently.

a. I plead **NOT GUILTY** and request a trial _____

Signature _____

b. I plead **GUILTY** _____

Signature _____

PLEASE PLACE THE CITATION NUMBER ON YOUR CHECK OR MONEY ORDER.

DO NOT MAIL YOUR CHECK OR MONEY ORDER TO THE POLICE DEPARTMENT.

DO NOT SEND CASH!

EXHIBIT "D"

TERRENCE J. McCABE•••
MARC S. WEISBERG••
EDWARD D. CONWAY
MARGARET GAIRO
LISA L. WALLACE+†
BRENDA L. BROGDON•
FRANK DUBIN
ANDREW L. MARKOWITZ
GAYL C. SPIVAK•
HEIDI R. SPIVAK•
SCOTT TAGGART•
MARISA COHEN•
KATHERINE SANTANGINI^^
JASON BROOKS^
DEBORAH K. CURRAN±•
LAURA H.G. O'SULLIVAN±•
STEPHANIE H. HURLEY••
MARGARET MARY BALMFORTH •<
ADRIENNE CHAPMAN^^^

• Licensed in PA & NJ
•• Licensed in PA & NY
^ Licensed in NY
^^ Licensed in NJ
• Licensed in PA & WA
••• Licensed in PA, NJ & NY
† Licensed in NY & CT
• Licensed in MD & DC
•• Licensed in MD
+ Managing Attorney for NY
± Managing Attorney for MD
< Licensed in VA

LAW OFFICES
McCABE, WEISBERG & CONWAY, P.C.
SUITE 2080
123 SOUTH BROAD STREET
PHILADELPHIA, PA 19109
(215) 790-1010
FAX (215) 790-1274

SUITE 303
216 HADDON AVENUE
WESTMONT, NJ 08108
(856) 858-7080
FAX (856) 858-7020

SUITE 401
145 HUGUENOT STREET
NEW ROCHELLE, NY 10801
(914)-636-8900
FAX (914)-636-8901
Also servicing Connecticut

SUITE 302
8101 SANDY SPRING ROAD
LAUREL, MD 20707
(301) 490-3361
FAX (301) 490-1568
Also servicing the District of Columbia and Virginia

Of Counsel
JOSEPH F. RIGA• - PA & NJ

September 16, 2008

The Honorable Michael A. Rudella
131 Rolling Stone Road
P. O. Box 210
Kylertown, PA 16847-0444

Re: Commonwealth of Pennsylvania v.
Beneficial Consumer Discount Company
Docket No.: NT-0000339-08
Property Address: 613 DeCatur Street, Clearfield County, PA

Dear Judge Rudella:

Thank you for your time on the telephone during our conversation yesterday. I have again been retained to represent Beneficial Consumer Discount Company with respect to the citation issued for the property located at 613 DeCatur Street, Chester Hill, Pennsylvania. I enclosed a copy of the Summons and on behalf of my client, I have entered a not guilty plea. I am writing to request that you stay this matter from any further proceedings, pending the results of an action in equity to strike a Quit Claim Deed filed by Karen J. Kephart.

As I advised you in our conversation, Ms. Kephart filed a Quit Claim Deed, which is dated March 3, 2008 (a copy of the Quit Claim Deed is enclosed). I am uncertain as to the date that the Quit Claim Deed was filed with the Recorder of Deeds, but it was filed without my client's knowledge and without my client's consent. Accordingly, Ms. Kephart's effort to direct responsibility for the condition of the property to someone other than herself is not only improper, but illegal and actionable.

I telephoned John Sobel, Esquire and informed him of these developments and have not yet received a return call. Under the circumstances and considering the history of this matter, I trust that this matter can be deferred until the Court of Common Pleas has an opportunity to act on our motion to strike the improperly filed Deed.

I have also discussed this matter with Timothy Durant, Esquire. Mr. Durant may be representing Ms. Kephart in this matter. We are discussing a possible resolution whereby Ms. Kephart will voluntarily agree to take back title to the property.

Would you please advise at your earliest convenience if you will stay this matter pending the equity action?

Thank you for your time and attention to this matter.

Respectfully,

EDWARD D. CONWAY

EDC/jdm
Enc.

cc: John Sobel, Esquire (via fax and regular mail)
Timothy Durant, Esquire (via fax and regular mail)

CLEARFIELD COUNTY COURT OF COMMON PLEAS
CIVIL DIVISION

Beneficial Consumer Discount Company 1995 S. Atherton Street State College, PA 16801 v. Karen J. Kephart 12 Hudson Street Phillipsburg, PA 16866	Clearfield County Court of Common Pleas No. 08-1996-CD

FILED icc Atty
01:11:26 BDK
OCT 21 2008 icc
Sheriff
William A. Shaw
Prothonotary/Clerk of Courts

ORDER

AND NOW, this 21st, day of October, 2008, upon consideration of the foregoing petition, it is hereby ordered that:

(1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;

(2) a quitclaim deed from Karen J. Kephart, respondent, to Beneficial Consumer Discount Company, petitioner, pertaining to 613 DeCatur Street, Chester Hill, Pennsylvania, be stricken, and further, that damages arising in connection with the recording of that deed be awarded to Petitioner;

(3) the respondent shall file an answer to the petition within twenty (20) days of service upon the respondent;

(4) the petition shall be decided under Pa.R.C.P. No. 206.7;

(5) depositions shall be completed with _____ days of this date;

(6) an evidentiary hearing on disputed issues of material fact shall be held on November 21, 2008 @ 9:00 A.M in Courtroom 1 of the Clearfield Count Courthouse;

(7) notice of the entry of this order shall be provided to all parties by the petitioner.

(8) the action against petitioner, Beneficial Consumer Discount Company, in Magisterial District Court No. 46-3-03, Docket Number NT-0000339-08, pertaining to a violation of the property maintenance code, is stayed pending the resolution of Respondent's Petition to strike the quit claim deed.

NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE MATTERS SET FORTH IN THE FOLLOWING PETITION, YOU MUST ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE AN

ANSWER IN WRITING WITH THE PROTHONOTARY SETTING FORTH YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU AND SERVE A COPY ON THE ATTORNEY OR THE PERSON FILING THE PETITION. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR THE RELIEF REQUESTED BY THE PETITIONER. YOU MAY LOSE 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
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 50-51

BY THE COURT:

Fredric J. Ammerman

J.

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

BENEFICIAL CONSUMER DISCOUNT COMPANY, Plaintiff	*	
	*	Docket No. 08-1996-CD
v.	*	
KAREN J. KEPHART, Defendant	*	

Type of Pleading:
PRAECIPE TO ENTER APPEARANCE

Filed on behalf of:
Plaintiff: BENEFICIAL CONSUMER DISCOUNT COMPANY

Counsel of Record of this party:

THE LAW OFFICES OF DWIGHT L. KOERBER, JR.

Eric E. Cummings, Esquire
PA I.D. No. 206194

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

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

2cc Atty Cummings
Copy to CIA

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

BENEFICIAL CONSUMER DISCOUNT COMPANY, Plaintiff	*	
	*	Docket No. 08-1989-CD
v.	*	
KAREN J. KEPHART, Defendant	*	

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance on behalf of Plaintiff, Beneficial Consumer Discount Company, in the above proceeding.

Respectfully submitted,

Eric E. Cummings, Esquire
Attorney for Plaintiff: Beneficial Consumer Discount Company

COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION

No. 08-1996-CD

Type of Case: Petition to Strike Deed and for Damages

Beneficial Consumer Discount Company
Petitioner

VS.

Karen J. Kephart
Respondent

Type of Pleading: Petition

Filed on Behalf of:
Beneficial Consumer Discount Company - Petitioner

Counsel of Record for this Party:

Frank Dubin, Esquire

Supreme Court No.: 19280

McCabe Weisberg & Conway, LLC
123 South Broad Street
Philadelphia, PA 19109
215-790-1010

Dated: October 15, 2008

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

1cc Shff
1cc Atty
Atty pd.
95.00

Original
upstairs

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

BENEFICIAL CONSUMER DISCOUNT COMPANY	*	
Plaintiff	*	No. 08-1996-CD
vs.	*	
KAREN J. KEPHART	*	
Defendant	*	

SPECIAL ENTRY OF APPEARANCE

FILED ON BEHALF OF
Defendant,

COUNSEL OF RECORD FOR
THIS PARTY:

TIMOTHY E. DURANT, ESQ.
Pa. I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711 Telephone

OPPOSING COUNSEL: for plaintiff

FRANK DUBIN, ESQUIRE
Pa. I.D. No. 19280
McCabe Weisberg & Conway, LLC
123 South Broad Street
Philadelphia, PA 19109
215-790-1010 Telephone

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

BENEFICIAL CONSUMER DISCOUNT COMPANY	*	
Plaintiff	*	No. 08-1996-CD
vs.	*	
KAREN J. KEPHART	*	
Defendant	*	

To: The Prothonotary

SPECIAL ENTRY OF APPEARANCE

Kindly enter my appearance in the above captioned matter only for the limited purpose of contesting personal jurisdiction upon my client, Karen J. Kephart. She not having been properly served in this case.

Timothy E. Durant, Esquire, Attorney for
Defendant, Karen J. Kephart
201 North Second Street
Clearfield, PA 16830

Dated: November 21, 2008

FILED

NOV 21 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

BENEFICIAL CONSUMER DISCOUNT COMPANY, Plaintiff/Movant	*	
v.	*	Docket No. 08-1996-CD
KAREN J. KEPHART, Defendant/Respondent	*	

Type of Pleading:
AFFIDAVIT OF SERVICE

Filed on behalf of:
Plaintiff: BENEFICIAL CONSUMER DISCOUNT COMPANY

Counsel of Record of this party:

THE LAW OFFICES OF DWIGHT L. KOERBER, JR.

Eric E. Cummings, Esquire
PA I.D. No. 206194

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

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

BENEFICIAL CONSUMER DISCOUNT COMPANY, Plaintiff	*	
v.	*	Docket No. 08-1989-CD
KAREN J. KEPHART, Defendant	*	

AFFIDAVIT OF SERVICE

I certify that service of process was effectuated upon Karen J. Kephart, by having her attorney, Timothy E. Durant, Esquire accept service. Attached hereto is the acceptance of service signed by Attorney Durant on this day, November 21, 2008, such acceptance having occurred at the Clearfield County Courthouse on November 21, 2008, at approximately 9:15 a.m.

Eric E. Cummings, Esquire
PA ID. No. 206194
Attorney for Plaintiff: Beneficial Consumer Discount Company

SWORN to and subscribed
before me this 21st day
of November, 2008.

Brenda D. Titus
Notary Public

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

COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION

No. 08-1996-CD

Type of Case: Petition to Strike Deed and for Damages

Beneficial Consumer Discount Company
Petitioner

VS.

Karen J. Kephart
Respondent

Type of Pleading: Petition

Filed on Behalf of:
Beneficial Consumer Discount Company - Petitioner

Counsel of Record for this Party:

Frank Dubin, Esquire

Supreme Court No.: 19280

McCabe Weisberg & Conway, LLC
123 South Broad Street
Philadelphia, PA 19109
215-790-1010

Dated: October 15, 2008

November 21, 2008
I hereby accept service on behalf of Karen J. Kephart.

Timothy E. Durant
Attorney at Law

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

OCT 17 2008

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

CLEARFIELD COUNTY COURT OF COMMON PLEAS
CIVIL DIVISION

Beneficial Consumer Discount Company 1995 S. Atherton Street State College, PA 16801 v. Karen J. Kephart 12 Hudson Street Phillipsburg, PA 16866	Clearfield County Court of Common Pleas No. 08-1996-CD

ORDER

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(1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;

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(3) the respondent shall file an answer to the petition within twenty (20) days of service upon the respondent;

(4) the petition shall be decided under Pa.R.C.P. No. 206.7;

(5) depositions shall be completed with _____ days of this date;

(6) an evidentiary hearing on disputed issues of material fact shall be held on November 21, 2008 in Courtroom 1 of the Clearfield Count Courthouse; @ 9:00 A.M.

(7) notice of the entry of this order shall be provided to all parties by the petitioner.

(8) the action against petitioner, Beneficial Consumer Discount Company, in Magisterial District Court No. 46-3-03, Docket Number NT-0000339-08, pertaining to a violation of the property maintenance code, is stayed pending the resolution of Respondent's Petition to strike the quit claim deed.

NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE MATTERS SET FORTH IN THE FOLLOWING PETITION, YOU MUST ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE AN

ANSWER IN WRITING WITH THE PROTHONOTARY SETTING FORTH YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU AND SERVE A COPY ON THE ATTORNEY OR THE PERSON FILING THE PETITION. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR THE RELIEF REQUESTED BY THE PETITIONER. YOU MAY LOSE 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
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 50-51

BY THE COURT:
/S/ Fredric J Ammerman

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

OCT 21 2008

Attest. William L. Ohm
Prothonotary/
Clerk of Courts

McCABE, WEISBERG AND CONWAY, P.C.
BY: FRANK DUBIN, ESQUIRE
Identification Number 19280
123 South Broad Street, Suite 2080
Philadelphia, PA 19109
(215) 790 - 1010

Attorney for Petitioner

Beneficial Consumer Discount Company 1995 S. Atherton Street State College, PA 16801 v. Karen J. Kephart 12 Hudson Street Phillipsburg, PA 16866	Clearfield County Court of Common Pleas No.

PETITION TO STRIKE DEED AND FOR DAMAGES

1. Petitioner is Beneficial Consumer Discount Company, a corporation duly organized and doing business at the above captioned address.

2. The Respondent is Karen J. Kephart, whose last-known address is 12 Hudson Street, Phillipsburg, Pennsylvania 16866.

3. The property that is the subject of this Complaint in Equity is 613 DeCatur Street, Chester Hill, Pennsylvania.

4. On or about March 4, 2008, Respondent, Karen J. Kephart, without the knowledge of Petitioner, Beneficial Consumer Discount Company, recorded a Quit Claim Deed identified as Instrument Number 200802897 in favor of Petitioner. A true

and correct copy is attached and marked as Exhibit "A."

5. Respondent gave Petitioner no notice whatsoever of her intention to file the Quit Claim Deed nor did Respondent ever notify Petitioner thereafter that the Quit Claim Deed had been filed.

6. The Respondent filed the Quit Claim Deed because of the deteriorated condition of the property located at 613 DeCatur Street, Chester Hill, Pennsylvania and in an effort to avoid responsibility for conditions of the real estate that violate local codes.

7. On December 5, 2006, Petitioner, Beneficial Consumer Discount Company was cited for the condition of the property due to damage. Petitioner incurred legal fees and costs in the defense of that action which was subsequently dismissed as Petitioner had no obligation as a mortgagee to cure or correct any conditions that violated local codes. A true and correct copy of the citation for that code enforcement complaint is attached and marked as Exhibit "B."

8. On or about August 14, 2008, another citation was filed against Petitioner, Beneficial Consumer Discount Company, again for a code violation and seeking $1,000.00 fine plus costs. A copy of the citation is attached hereto and marked as Exhibit "C."

9. Petitioner Beneficial has again been required to defend this second code enforcement action and has incurred attorney's fees and costs as a direct result of the wrongful filing of the Quit Claim Deed by Respondent Karen J. Kephart. Again,

Defendant Kephart's actions have exposed Petitioner to claims and liabilities in her effort to avoid her own responsibilities to maintain the subject property.

10. Respondent Karen J. Kephart knew that by transferring ownership to Petitioner that she would be avoiding responsibility and shifting liability to Petitioner.

11. Respondent transferred the title without giving Petitioner notice or requesting permission, thus exposing Petitioner to code violations and other liabilities without its knowledge or consent.

12. Respondent, through her counsel, was notified of Beneficial's request to strike or otherwise remove the deed and has failed and/or refused to take the necessary action. (See letter dated September 16, 2008, courtesy copy of which was addressed to Defendant's counsel and marked as Exhibit "D.")

13. Petitioner has been caused to incur legal fees and costs in the defense of the second code enforcement action filed on or about August 14, 2008. (See letter to District Justice Rudella of advising of representation in said action attached hereto and marked as Exhibit "D.")

14. Respondent's actions are outrageous in that they seek to surreptitiously shift her responsibility for the property to Petitioner in an effort to protect her own interests and illegally escape responsibility.

15. Respondent's actions were improper and illegal and, accordingly, the Petitioner seeks the equitable remedy of striking and declaring null and void the Quit Claim Deed recorded March 4, 2008 as Instrument Number 200802897, and in addition, Petitioner

seeks damages incurred as a result of the wrongfully recording of the Quit Claim Deed.

WHEREFORE, Plaintiff respectfully requests that: (i) this Honorable Court issue an Order striking and declaring null and void the Quit Claim Deed from Karen J. Kephart, as grantor, to Beneficial Consumer Discount Company d/b/a Beneficial Mortgage Co. of Pennsylvania, as grantee, dated March 3, 2008 and recorded March 4, 2008 as Instrument Number 200802897 and directing the Recorder of Deeds to mark the records accordingly; and (ii) Order Karen J. Kephart to pay counsel fees to Petitioner that were incurred by Petitioner in the defense of the code enforcement action filed on August 14, 2008, as well as costs and fees incurred in the prosecution of this litigation.

Respectfully Submitted

By: _____

Frank Dubin, Esquire
Attorney for Petitioner
Beneficial Consumer Discount Company

VERIFICATION

The undersigned, Susan J. Farrell, hereby certifies that she is the Senior Paralegal of the Plaintiff in the within action, and that she is authorized to make this verification and that the forgoing facts are true and correct to the best of her knowledge, information and belief, and further states that false statements herein are made subject to the penalties of 18 PA.C.S. 4904 relating to unsworn falsification to authorities.

Susan J. Farrell

DATE: 10/14/08

EXHIBIT "A"

CLEARFIELD COUNTY
RECORDER OF DEEDS

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

AFFIDAVIT No. 40883

***RETURN DOCUMENT TO:**
TIMOTHY E. DURANT
201 N. SECOND STREET
CLEARFIELD, PA 16830

Instrument Number - 200802897
Recorded On 3/4/2008 At 10:38:51 AM
* Instrument Type - DEED
* Total Pages - 4
Invoice Number - 181420
* Grantor - KEPHART, KAREN J
* Grantee - BENEFICIAL CONS DISC CO
* Customer - TIMOTHY E. DURANT

* FEES

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

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

Maurene E. Inlow
Maurene E. Inlow
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.

QUIT-CLAIM DEED

MADE the 3rd day of March
in the year Two Thousand Eight (2008).

KAREN J. KEPHART, not stated, of 12 Hudson Street, Philipsburg, Pennsylvania 16866, party, of the first part, Grantor

AND

BENEFICIAL CONSUMER DISCOUNT COMPANY d/b/a BENEFICIAL MORTGAGE CO. OF PENNSYLVANIA, with offices at 1995 South Atherton Street, State College, Pennsylvania 16801, party of the second part, Grantee

WITNESSETH, that in consideration of the sum of One ($1.00) DOLLAR, in hand paid, receipt whereof is hereby acknowledged, the said grantor does hereby release and quit claim to the said grantee

ALL that certain message, tenement, and tract of land situate, lying and being in Foster's Addition to Chester Hill Borough, Clearfield County, Pennsylvania, bounded and described as follows, to-wit:

> BEGINNING at the Northwestern corner of Lot No. 30 and situate in Decatur Street; thence along the western line of Decatur Street in a northerly direction a distance of fifty (50) feet to the Northeastern corner of Lot No. 34, now or formerly owned by Community Action; thence in a westerly direction along the line of Lot No. 34, a distance of seventy-two (72) feet to lands now or formerly of Lockey; thence along the said lands of Lockey in a southeasterly direction a distance fifty (50) feet to the line of Lot No. 30; thence in a northeasterly direction along Lot No. 30 a distance of seventy-two (72) feet to the point and place of beginning.

BEING Lot No. 32 in the plan or plot of Foster's Addition and being further known as 613 Decatur Street.

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

BEING the same premises conveyed to Grantor by Deed dated September 9, 1994 from Robert D. Conklin and Billie Rae Conklin, husband and wife and recorded in the office of the Recorder of Deeds for Clearfield County in Deed Book Volume 1630, at page 438 on September 12, 1994.

The purpose of this deed is to extinguish any interest which Grantor may have had in the premises and is an Excluded transaction per the Pennsylvania Realty Transfer Tax Act at 61 Pa..Code §91.193(b)(16), i.e. a transfer to a holder of a bona fide mortgage in default since the transfer is being made in lieu of foreclosure under Clearfield County Instrument No. 200114752, as recorded on September 18, 2001.

IN WITNESS WHEREOF, the said grantor has hereunto set her hand and seal the day and year first above written.

Sealed and Delivered in the Presence of

_____ _____ (SEAL)
KAREN J. KEPHART

COMMONWEALTH OF PENNSYLVANIA :
SS:
COUNTY OF CLEARFIELD :

On this, the 3rd day of March, 2008, before me, Timothy E. Durant, a Notary Public, personally appeared Karen J. Kephart, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged she has executed the same for the purposes therein contained.

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

My Commission Expires: 10/10/09

Timothy E. Durant, Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
TIMOTHY E. DURANT, NOTARY PUBLIC
CLEARFIELD BORO, CLEARFIELD COUNTY
MY COMMISSION EXPIRES OCTOBER 10, 2009

TIMOTHY E. DURANT
COMMONWEALTH OF PENNSYLVANIA
NOTARY PUBLIC

CERTIFICATE OF RESIDENCE

I hereby certify that the precise address of the grantee herein is as follows:

1995 South Atherton Street
State College, Pennsylvania 16801

Attorney for Grantee NTS

DEED

QUIT-CLAIM

Dated March 3, 2008

For 613 Decatur Street

Chester Hill Borough

Clearfield County, Pennsylvania

Consideration $1.00

EXHIBIT "B"

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: CLEARFIELD

CIVIL COMPLAINT

Mag. Dist. No.: 46-3-03
MDJ Name: Hon. MICHAEL A. RUDELLA
Address: 131 ROLLING STONE ROAD
PO. BOX 210
KYLERTOWN, PA 16847-0444
Telephone: (814) 345-6789

PLAINTIFF: NAME and ADDRESS
Chester Hill Boro
920 Walton St.
Philipsburg PA, 16866.

VS.

DEFENDANT: NAME and ADDRESS
Beneficial Consumer Discount Company.
1945 S. Atherton St.
State college PA. 16801.

Docket No.: CV-564-06
Date Filed: 12-5-06

	AMOUNT	DATE PAID
FILING COSTS	$ 57.50	12/5/06
POSTAGE	$	/ /
SERVICE COSTS	$	/ /
CONSTABLE ED.	$	/ /
TOTAL	$	/ /

Pa.R.C.P.D.J. No. 206 sets forth those costs recoverable by the prevailing party.

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for $ 957.50 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated): For structure at 613 Decator St. this house has been burnt out for 4 years after further investigation we found out that this company has hold of this properity.

I, Paula Johnson verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.

Paula Johnson (ordinance officer)
(Signature of Plaintiff or Authorized Agent)

Plaintiff's Attorney: _____ Address: _____

Telephone: _____

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within magisterial district judge jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

AOPC 308A-05.

EXHIBIT "C"

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: CLEARFIELD

Mag. Dist. No.: 46-3-03
MDJ Name: Hon. MICHAEL A. RUDELLA
Address: 131 ROLLING STONE ROAD
PO BOX 210
KYLERTOWN, PA 16847-0444
Telephone: (814) 345-6789

SEP 10 2008

SUMMONS FOR A SUMMARY CASE NON-TRAFFIC

COMMONWEALTH OF PENNSYLVANIA

VS.

DEFENDANT: NAME and ADDRESS
BENEFICIAL CONSUMER DISCOUNT CO
1995 S ATHERTON ST
STATE COLLEGE, PA 16801

BENEFICIAL CONSUMER DISCOUNT CO
1995 S ATHERTON ST
STATE COLLEGE, PA 16801

Docket No.: NT-0000339-08
Date Filed: 8/14/08

Charge(s):

O 04-08-2008 §301 INT. PROPERTY MAINTENANCE CODE

FINE AND COSTS:	FINE:	COSTS:	OTHER:	TOTAL DUE:
	$1000.00	58.00	—	$1058.00

WITHIN TEN (10) DAYS OF RECEIPT OF THIS SUMMONS YOU MUST:

1. PLEAD NOT GUILTY by notifying the magisterial district judge above in writing and forwarding an amount equal to the total due specified above, or if the fine and costs are not specified, forward the sum of $50.00 as collateral for your appearance at trial; **OR,**

2. PLEAD NOT GUILTY by appearing before the magisterial district judge above and posting such collateral for your appearance as the magisterial district judge shall require; **OR,**

3. If you cannot afford to pay the total due specified above or the $50.00 collateral, you must appear before the magisterial district judge above to enter a plea; **OR,**

4. PLEAD GUILTY by notifying the magisterial district judge above in writing, signing the appropriate plea below, and forwarding an amount equal to the total due specified above: **OR,**

5. PLEAD GUILTY by appearing before the magisterial district judge above if the total due is not specified.

IF YOU ARE FOUND GUILTY BY THE MAGISTERIAL DISTRICT JUDGE AND WISH TO APPEAL, YOU HAVE THIRTY (30) DAYS TO REQUEST A TRIAL DE NOVO IN THE COURT OF COMMON PLEAS.

ALL CHECKS OR MONEY ORDERS FOR FINE, COSTS, FEES, OR FOR COLLATERAL, SHALL BE MADE PAYABLE TO "MAGISTERIAL DISTRICT NO. 46-3-03 " IDENTIFIED ABOVE AND SENT TO THE ADDRESS ABOVE.

IF YOU FAIL TO RESPOND TO THIS SUMMONS WITHIN THE TIME SPECIFIED ABOVE, A WARRANT FOR YOUR ARREST SHALL BE ISSUED.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

IF YOU INTEND TO RESPOND BY MAIL:

Detach and complete the lower portion of this summons with your signature on the appropriate plea line, (1) or (2).

If you PLEAD NOT GUILTY, your check or money order must be in the amount of the total due specified above. If the total due is not specified, your check or money order must be in the amount of $50.00 which will be held for collateral for your appearance at trial. You will be notified by mail of your date and time for trial.

If you PLEAD GUILTY, enclose a check or money order in the amount of the total due specified above. Failure to remit the full amount of the fine, costs and fees will result in the issuance of a warrant for your arrest. Your check or money order shall be made payable to the "Magisterial District No." above.

(DETACH HERE) ----------

MAIL IN PLEA

I represent that I make this plea knowingly, voluntarily, and intelligently. (Failure to indicate a plea when forwarding an amount equal to the total due specified above will result in a guilty plea being recorded.)

1. I PLEAD NOT GUILTY. _____ (Signature) Docket No.: NT-0000339-08

2. I PLEAD GUILTY. _____ (Signature) Citation No.: P5712029-1

AOPC 617-07 DATE PRINTED: 8/14/08 11:38:29 AM

COMMONWEALTH OF PENNSYLVANIA
NON-TRAFFIC CITATION/SUMMONS

CITATION NO. P5712029-1

1. Magisterial District Number: 46-3-03
2. Docket Number: NT-339-08
3. Social Security Number:
4. Address of Magisterial District Office: P.O. Box 210 Kylertown, PA 16847
5. Driver's Number:
6. State: ☐ PA
7. Defendant's Name - First / Middle / Last: Beneficial Consumer Discount Company
8. Defendant's Address (Street-City-State-Zip Code): 1995 South Atherton St. State College, PA. 16801
9. Race/Ethnicity: (W) ☐ White (A) ☐ Asian (B) ☐ Black (H) ☐ Hispanic (I) ☐ Native American (U) ☐ Unknown
10. Sex: (M) ☐ Male (F) ☐ Female
11. Date of Birth (MM/DD/YY):
12. Resident Status: (R) ☐ Resident (N) ☐ Non-Resident (U) ☐ Unknown
13. Case Instituted by: (O) ☐ On-View Arrest (C) ☐ Citation/Summons
14. JUVENILE: ☐ Yes
15. Parents Notified: ☐ Yes
16. Parent's Name:
17. Date Notified:
18. Time:
19. Charge: ☐ Disorderly Conduct ☐ Criminal Trespass ☐ Theft of Services ☐ Criminal Mischief ☐ Harassment ☒ Public Drunkenness ☐ Scattering Rubbish ☐ Retail Theft ☐ Purchase, Consumption, Possession or Transportation of Liquor or Malt or Brewed Beverages ☐ Other

20. Nature of Offense: Ord. 04-08-2008-4 International Property Maintenance Code. Failed To Repair, clean up property, cut grass or Demo building.
21. Pa. Code:
22. ☐ CRIMES CODE TITLE 18
23. SECTION: S. 301, 302, 304
24. SUB. SEC.:
25. FINE: 1000.00
26. COSTS:
27. J.C.P./A.T.J.: 10.00
28. TOTAL DUE: $
29. ☐ Lab Services Requested
30. Date: 8-6-08
31. Time: 11:00
32. Day: Wed.
33. City-Twp-Boro: Chester Hill Boro
34. Code: 403
35. Zone:
36. Location: 613 Decatur St. Chester Hill
37. County: Clearfield
38. County Code: 17
39. Defendant's Signature - Acknowledges Receipt of Citation: X
40. Date: ☐ Mailed ☐ Filed
41. ☐ Filed on info. received
42. I verify that the facts set forth in this citation are true to the best of my knowledge, information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.
OFFICER'S SIGNATURE: Donald W. Enck
BADGE NUMBER: CE 170018
ORI NUMBER:
43. Station Address: 920 Walton St. Chester Hill, PA.
44. Offense Code:
45. Property Record No.:
46. Systems Code:
47. ☐ Initial Report
48. ☐ Attention LCF
49. Incident No.:
50. Victim's Name: MONTHLY STAT
51. Date of Birth (MM/DD/YY):
52. Sex:
53. Race/Ethnicity:
54. Remarks / Subpoena List: This has been on going since 2003 and on March 3rd 2008 a Quit Claim Deed by Beneficial Consumer Discount Company 3-3-08.

P5712029-1

57. Supv. Int.:
Badge No.:

AOPC 407-95 (Rev. 1.2005)

DEFENDANT'S COPY

RIGHTS AND OBLIGATIONS

1. The original of this non-traffic citation/summons will be filed before the MAGISTERIAL DISTRICT JUDGE WHOSE ADDRESS IS LISTED IN ITEM 4 on the reverse side.
2. Within TEN (10) days of the issuance or receipt of this citation/summons, you must:
   a. **PLEAD NOT GUILTY** by signing your name on Line (a) of the mail-in portion of this citation/summons and returning it to the Magisterial District Office shown in ITEM 4 together with your collateral in an amount equal to the Total Due as specified in ITEM 28 on the reverse side, or if the Total Due is not specified, by forwarding the sum of **$50.00** as collateral for your appearance at trial.

   OR

   b. **PLEAD NOT GUILTY** by appearing before the proper Magisterial District Judge and posting such collateral for your appearance as the Magisterial District Judge shall require. If you cannot afford to pay the Total Due as specified in ITEM 28 on the reverse side, or the **$50.00** collateral, you must appear before the proper Magisterial District Judge to enter a plea.

   OR

   c. **PLEAD GUILTY** by signing your name on Line (b) of the mail-in portion of this citation/summons and returning it to the Magisterial District Office shown in ITEM 4 together with an amount equal to the Total Due as specified in ITEM 28 on the reverse side.

   OR

   d. **PLEAD GUILTY** by appearing before the proper Magisterial District Judge if the Total Due is not specified.

   OR

   e. **REQUEST** inclusion in an Accelerated Rehabilitative Disposition Program (ARD) by appearing before the proper Magisterial District Judge.
3. All checks or money orders must be made payable to the "**Magisterial District Number** ___-___-___", identified in ITEM 1 on the reverse side, and sent to the address reported in ITEM 4.
4. Failure to respond within the time specified above may result in the issuance of a warrant for your arrest.
5. If you fail to appear for trial, the trial may be held in your absence.
6. If you are found guilty by the Magisterial District Judge, or you plead guilty, and you wish to appeal, you have THIRTY (30) days to file an appeal for a trial in the Court of Common Pleas.
7. If you are disabled and require assistance, please contact the Magisterial District Office identified in ITEM 4 on the reverse side.
8. Please note that a guilty plea to offenses relating to underage drinking, 18 Pa.C.S. §§ 6307, 6308, and 6310.3 will result in the suspension of your driver's license.

INSTRUCTIONS FOR RESPONSE BY MAIL

If you intend to respond by mail:

1. Detach and complete the lower portion of this citation/summons with your signature on the appropriate plea line (a. or b.).
2. If you PLEAD NOT GUILTY, your check or money order for collateral must be in the amount equal to the Total Due as specified in ITEM 28 on the reverse side. If the Total Due is not specified, your check or money order for collateral must be in the amount of $50.00. You will be notified by mail of your trial date.
3. If you PLEAD GUILTY, enclose a check or money order in the amount reported as Total Due in ITEM 28 on the reverse side. Failure to remit the full amount will result in the issuance of a warrant for your arrest.
4. Your check or money order must be made payable to: "**Magisterial District Number** ___-___-___", identified in ITEM 1 on the reverse side and sent to the address reported in ITEM 4.

Explanation of Items 26 & 27 { Costs — May include program costs for crime and delinquency commission, domestic violence, crime victims compensation and courts.
J.C.P./A.T.J. — Judicial Computer Project/Access to Justice

MAIL IN PORTION

Place this portion of the citation/summons and your check or money order in an envelope and mail to the MAGISTERIAL DISTRICT OFFICE WHOSE ADDRESS IS REPORTED IN ITEM 1 on the reverse side.

Failure to indicate a plea when forwarding an amount equal to the Total Due as specified on the citation/summons will result in a guilty plea being recorded.

I understand my rights and obligations. Further, I represent that I make this plea knowingly, voluntarily, and intelligently:

a. I plead **NOT GUILTY** and request a trial _____
Signature

b. I plead **GUILTY** _____
Signature

PLEASE PLACE THE CITATION NUMBER ON YOUR CHECK OR MONEY ORDER.

DO NOT MAIL YOUR CHECK OR MONEY ORDER TO THE POLICE DEPARTMENT.

DO NOT SEND CASH!

EXHIBIT "D"

LAW OFFICES
McCABE, WEISBERG & CONWAY, P.C.
SUITE 2080
123 SOUTH BROAD STREET
PHILADELPHIA, PA 19109
(215) 790-1010
FAX (215) 790-1274

TERRENCE J. McCABE•••
MARC S. WEISBERG••
EDWARD D. CONWAY
MARGARET GAIRO
LISA L. WALLACE+†
BRENDA L. BROGDON•
FRANK DUBIN
ANDREW L. MARKOWITZ
GAYL C. SPIVAK•
HEIDI R. SPIVAK•
SCOTT TAGGART•
MARISA COHEN•
KATHERINE SANTANGINI^^
JASON BROOKS^
DEBORAH K. CURRAN±▲
LAURA H.G. O'SULLIVAN±▲
STEPHANIE H. HURLEY▲▲
MARGARET MARY BALMFORTH ▲<
ADRIENNE CHAPMAN^^^

• Licensed in PA & NJ
•• Licensed in PA & NY
^ Licensed in NY
^^ Licensed in NJ
▲ Licensed in PA & WA
••• Licensed in PA, NJ & NY
† Licensed in NY & CT
+ Licensed in MD & DC
▲▲ Licensed in MD
▲ Managing Attorney for NY
± Managing Attorney for MD
< Licensed in VA

SUITE 303
216 HADDON AVENUE
WESTMONT, NJ 08108
(856) 858-7080
FAX (856) 858-7020

SUITE 401
145 HUGUENOT STREET
NEW ROCHELLE, NY 10801
(914)-636-8900
FAX (914)-636-8901
Also servicing Connecticut

SUITE 302
8101 SANDY SPRING ROAD
LAUREL, MD 20707
(301) 490-3361
FAX (301) 490-1568
Also servicing the District of Columbia and Virginia

Of Counsel
JOSEPH F. RIGA• - PA & NJ

September 16, 2008

The Honorable Michael A. Rudella
131 Rolling Stone Road
P. O. Box 210
Kylertown, PA 16847-0444

Re: Commonwealth of Pennsylvania v.
Beneficial Consumer Discount Company
Docket No.: NT-0000339-08
Property Address: 613 DeCatur Street, Clearfield County, PA

Dear Judge Rudella:

Thank you for your time on the telephone during our conversation yesterday. I have again been retained to represent Beneficial Consumer Discount Company with respect to the citation issued for the property located at 613 DeCatur Street, Chester Hill, Pennsylvania. I enclosed a copy of the Summons and on behalf of my client, I have entered a not guilty plea. I am writing to request that you stay this matter from any further proceedings, pending the results of an action in equity to strike a Quit Claim Deed filed by Karen J. Kephart.

As I advised you in our conversation, Ms. Kephart filed a Quit Claim Deed, which is dated March 3, 2008 (a copy of the Quit Claim Deed is enclosed). I am uncertain as to the date that the Quit Claim Deed was filed with the Recorder of Deeds, but it was filed without my client's knowledge and without my client's consent. Accordingly, Ms. Kephart's effort to direct responsibility for the condition of the property to someone other than herself is not only improper, but illegal and actionable.

I telephoned John Sobel, Esquire and informed him of these developments and have not yet received a return call. Under the circumstances and considering the history of this matter, I trust that this matter can be deferred until the Court of Common Pleas has an opportunity to act on our motion to strike the improperly filed Deed.

I have also discussed this matter with Timothy Durant, Esquire. Mr. Durant may be representing Ms. Kephart in this matter. We are discussing a possible resolution whereby Ms. Kephart will voluntarily agree to take back title to the property.

Would you please advise at your earliest convenience if you will stay this matter pending the equity action?

Thank you for your time and attention to this matter.

Respectfully,

EDWARD D. CONWAY

EDC/jdm
Enc.

cc: John Sobel, Esquire (via fax and regular mail)
Timothy Durant, Esquire (via fax and regular mail)

FILED 1cc Attys: Cummings Dubin Durant
014:00 BA
NOV 21 2008
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

BENEFICIAL CONSUMER DISCOUNT	:	
VS.	:	NO. 08-1996-CD
KAREN J. KEPHART	:	

O R D E R

AND NOW, this 21st day of November, 2008, this being the date set for hearing on the Petition to Strike Deed and for Damages; the Court noting that Attorney Timothy Durant has appeared specially on behalf of the Respondent who the parties agree has not yet been served with the Plaintiff's Petition. In consideration of the same and upon agreement of the parties, it is the ORDER of this Court as follows:

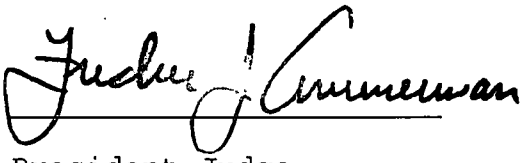
1. Attorney Timothy Durant will accept service of a copy of the Petition to Strike Deed and for Damages this date on behalf of the Defendant without the necessity of the Sheriff of Clearfield County causing the Petition to be served on the Respondent through the Sheriff of Centre County;

2. The Respondent shall have no more than twenty (20) days from this date in which to file a written answer to the Petition to Strike Deed and for Damages;

3. The Court Administrator shall cause the matter to be rescheduled before the Court for hearing in no less than

thirty (30) days from this date, estimated time of hearing being one (1) hour.

BY THE COURT,



President Judge

FILED

NOV 21 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/21/08

____ 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

NOV 24 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

BENEFICIAL CONSUMER DISCOUNT :

VS. : NO. 08-1996-CD

KAREN J. KEPHART :

O R D E R

AND NOW, this 21st day of November, 2008, this being the date set for hearing on the Petition to Strike Deed and for Damages; the Court noting that Attorney Timothy Durant has appeared specially on behalf of the Respondent who the parties agree has not yet been served with the Plaintiff's Petition. In consideration of the same and upon agreement of the parties, it is the ORDER of this Court as follows:

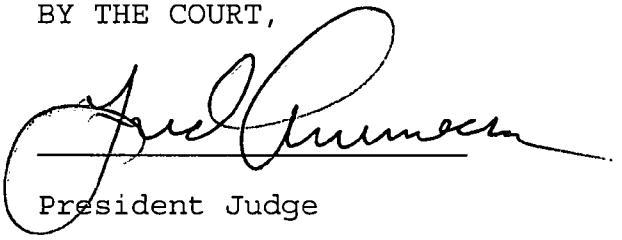
1. Attorney Timothy Durant will accept service of a copy of the Petition to Strike Deed and for Damages this date on behalf of the Defendant without the necessity of the Sheriff of Clearfield County causing the Petition to be served on the Respondent through the Sheriff of Centre County;

2. The Respondent shall have no more than twenty (20) days from this date in which to file a written answer to the Petition to Strike Deed and for Damages;

3. The Court Administrator shall cause the matter to be rescheduled before the Court for hearing in no less than

thirty (30) days from this date, estimated time of hearing being one (1) hour.

BY THE COURT,



President Judge

FILED
NOV 24 2008
William A. Shaw
Prothonotary/Clerk of Courts

11-24-08.

[illegible] 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

[illegible] Instructions:

CA

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

BENEFICIAL CONSUMER DISCOUNT	:	
	:	
vs.	:	No. 08-1996-CD
	:	
KAREN J. KEPHART	:	

O R D E R

NOW, this 24th day of November, 2008, it is the ORDER of this Court that hearing relative Petition to Strike Deed and for Damages shall be and is hereby scheduled for **Thursday, December 18, 2008 at 9:30 A.M.**, in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

Fredric J. Ammerman

HONORABLE FREDRIC J. AMMERMAN
President Judge

FILED
10:04 AM
NOV 25 2008
William A. Shaw
Prothonotary/Clerk of Courts

1 CC Attys:
Dubin
Cummings
Durant

FILED

NOV 25 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/25/08

____ 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:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1996-CD

BENEFICIAL CONSUMER DISCOUNT COMPANY

vs

KAREN J. KEPHART

SERVICE # 1 OF 1

HEARING: 11/21/08 @ 9AM

ORDER/PETITION TO STRIKE DEED FOR DAMAGES

SERVE BY: ASAP ~~POSP~~ HEARING: PAGE: 104830

DEFENDANT: KAREN J. KEPHART

ADDRESS: 12 HUDSON STREET
PHILIPSBURG, PA 16866

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT ONLY

CIRCLE IF THIS HIGHLIGHTED ADDESS IS: VACANT OCCUPIED

ATTEMPTS 11/10/08 House Empty

FILED
DEC 09 2008
0/8:40/w
William A. Shaw
Prothonotary/Clerk of Courts

SHERIFF'S RETURN

NOW, _____ AT _____ AM / PM **SERVED** THE WITHIN

ORDER/PETITION TO STRIKE DEED FOR DAMAGES ON KAREN J. KEPHART, DEFENDANT

BY HANDING TO _____ / _____

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

ADDRESS SERVED _____

NOW _____ AT _____ AM / PM **POSTED** THE WITHIN

ORDER/PETITION TO STRIKE DEED FOR DAMAGES FOR KAREN J. KEPHART

AT (ADDRESS) _____

NOW 12/9/08 AT 8:30 AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO KAREN J. KEPHART

REASON UNABLE TO LOCATE NOT FOUND HOUSE EMPTY

So Answers: CHESTER A. HAWKINS, SHERIFF

BY: Deputy S. Hunter
Deputy Signature

S. Hunter
Print Deputy Name

SWORN TO BEFORE ME THIS

_____ DAY OF _____ 2008

COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION

No. 08-1996-CD

Type of Case: Petition to Strike Deed and for Damages

Beneficial Consumer Discount Company
Petitioner
VS.
Karen J. Kephart
Respondent

Type of Pleading: Petition

Filed on Behalf of:
Beneficial Consumer Discount Company - Petitioner

Counsel of Record for this Party:

Frank Dabin, Esquire

Supreme Court No.: 19280

McCabe Weisberg & Conway, LLC
123 South Broad Street
Philadelphia, PA 19109
215-790-1010

Dated: October 15, 2008

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

OCT 17 2008

Attest.

Prothonotary/
Clerk of Courts

CLEARFIELD COUNTY COURT OF COMMON PLEAS
CIVIL DIVISION

Beneficial Consumer Discount Company 1995 S. Atherton Street State College, PA 16801 v. Karen J. Kephart 12 Hudson Street Phillipsburg, PA 16866	Clearfield County Court of Common Pleas No. 08-1996-CD

ORDER

AND NOW, this 21st, day of October, 2008, upon consideration of the foregoing petition, it is hereby ordered that:

(1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;

(2) a quitclaim deed from Karen J. Kephart, respondent, to Beneficial Consumer Discount Company, petitioner, pertaining to 613 DeCatur Street, Chester Hill, Pennsylvania, be stricken, and further, that damages arising in connection with the recording of that deed be awarded to Petitioner;

(3) the respondent shall file an answer to the petition within twenty (20) days of service upon the respondent;

(4) the petition shall be decided under Pa.R.C.P. No. 206.7;

(5) depositions shall be completed with _____ days of this date;

(6) an evidentiary hearing on disputed issues of material fact shall be held on November 21, 2008 in Courtroom 1 of the Clearfield Count Courthouse; @ 9:00 A.M.

(7) notice of the entry of this order shall be provided to all parties by the petitioner.

(8) the action against petitioner, Beneficial Consumer Discount Company, in Magisterial District Court No. 46-3-03, Docket Number NT-0000339-08, pertaining to a violation of the property maintenance code, is stayed pending the resolution of Respondent's Petition to strike the quit claim deed.

NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE MATTERS SET FORTH IN THE FOLLOWING PETITION, YOU MUST ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE AN

ANSWER IN WRITING WITH THE PROTHONOTARY SETTING FORTH YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU AND SERVE A COPY ON THE ATTORNEY OR THE PERSON FILING THE PETITION. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR THE RELIEF REQUESTED BY THE PETITIONER. YOU MAY LOSE 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
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 50-51

BY THE COURT:
/S/ Fredric J Ammerman

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

OCT 21 2008

Attest. William L. Ohm
Prothonotary/
Clerk of Courts

McCABE, WEISBERG AND CONWAY, P.C. Attorney for Petitioner
BY: FRANK DUBIN, ESQUIRE
Identification Number 19280
123 South Broad Street, Suite 2080
Philadelphia, PA 19109
(215) 790 - 1010

Beneficial Consumer Discount Company 1995 S. Atherton Street State College, PA 16801 v. Karen J. Kephart 12 Hudson Street Phillipsburg, PA 16866	Clearfield County Court of Common Pleas No.

PETITION TO STRIKE DEED AND FOR DAMAGES

1. Petitioner is Beneficial Consumer Discount Company, a corporation duly organized and doing business at the above captioned address.

2. The Respondent is Karen J. Kephart, whose last-known address is 12 Hudson Street, Phillipsburg, Pennsylvania 16866.

3. The property that is the subject of this Complaint in Equity is 613 DeCatur Street, Chester Hill, Pennsylvania.

4. On or about March 4, 2008, Respondent, Karen J. Kephart, without the knowledge of Petitioner, Beneficial Consumer Discount Company, recorded a Quit Claim Deed identified as Instrument Number 200802897 in favor of Petitioner. A true

and correct copy is attached and marked as Exhibit "A."

5. Respondent gave Petitioner no notice whatsoever of her intention to file the Quit Claim Deed nor did Respondent ever notify Petitioner thereafter that the Quit Claim Deed had been filed.

6. The Respondent filed the Quit Claim Deed because of the deteriorated condition of the property located at 613 DeCatur Street, Chester Hill, Pennsylvania and in an effort to avoid responsibility for conditions of the real estate that violate local codes.

7. On December 5, 2006, Petitioner, Beneficial Consumer Discount Company was cited for the condition of the property due to damage. Petitioner incurred legal fees and costs in the defense of that action which was subsequently dismissed as Petitioner had no obligation as a mortgagee to cure or correct any conditions that violated local codes. A true and correct copy of the citation for that code enforcement complaint is attached and marked as Exhibit "B."

8. On or about August 14, 2008, another citation was filed against Petitioner, Beneficial Consumer Discount Company, again for a code violation and seeking $1,000.00 fine plus costs. A copy of the citation is attached hereto and marked as Exhibit "C."

9. Petitioner Beneficial has again been required to defend this second code enforcement action and has incurred attorney's fees and costs as a direct result of the wrongful filing of the Quit Claim Deed by Respondent Karen J. Kephart. Again,

Defendant Kephart's actions have exposed Petitioner to claims and liabilities in her effort to avoid her own responsibilities to maintain the subject property.

10. Respondent Karen J. Kephart knew that by transferring ownership to Petitioner that she would be avoiding responsibility and shifting liability to Petitioner.

11. Respondent transferred the title without giving Petitioner notice or requesting permission, thus exposing Petitioner to code violations and other liabilities without its knowledge or consent.

12. Respondent, through her counsel, was notified of Beneficial's request to strike or otherwise remove the deed and has failed and/or refused to take the necessary action. (See letter dated September 16, 2008, courtesy copy of which was addressed to Defendant's counsel and marked as Exhibit "D.")

13. Petitioner has been caused to incur legal fees and costs in the defense of the second code enforcement action filed on or about August 14, 2008. (See letter to District Justice Rudella of advising of representation in said action attached hereto and marked as Exhibit "D.")

14. Respondent's actions are outrageous in that they seek to surreptitiously shift her responsibility for the property to Petitioner in an effort to protect her own interests and illegally escape responsibility.

15. Respondent's actions were improper and illegal and, accordingly, the Petitioner seeks the equitable remedy of striking and declaring null and void the Quit Claim Deed recorded March 4, 2008 as Instrument Number 200802897, and in addition, Petitioner

seeks damages incurred as a result of the wrongfully recording of the Quit Claim Deed.

WHEREFORE, Plaintiff respectfully requests that: (i) this Honorable Court issue an Order striking and declaring null and void the Quit Claim Deed from Karen J. Kephart, as grantor, to Beneficial Consumer Discount Company d/b/a Beneficial Mortgage Co. of Pennsylvania, as grantee, dated March 3, 2008 and recorded March 4, 2008 as Instrument Number 200802897 and directing the Recorder of Deeds to mark the records accordingly; and (ii) Order Karen J. Kephart to pay counsel fees to Petitioner that were incurred by Petitioner in the defense of the code enforcement action filed on August 14, 2008, as well as costs and fees incurred in the prosecution of this litigation.

Respectfully Submitted

By: _____

Frank Dubin, Esquire
Attorney for Petitioner
Beneficial Consumer Discount Company

VERIFICATION

The undersigned, Susan J. Farrell, hereby certifies that she is the Senior Paralegal of the Plaintiff in the within action, and that she is authorized to make this verification and that the forgoing facts are true and correct to the best of her knowledge, information and belief, and further states that false statements herein are made subject to the penalties of 18 PA.C.S. § 4904 relating to unsworn falsification to authorities.

Susan J. Farrell

DATE: 10/14/08

EXHIBIT "A"

CLEARFIELD COUNTY
RECORDER OF DEEDS

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

AFFIDAVIT No. 40883

***RETURN DOCUMENT TO:**
TIMOTHY E. DURANT
201 N. SECOND STREET
CLEARFIELD, PA 16830

Instrument Number - 200802897
Recorded On 3/4/2008 At 10:38:51 AM
*** Instrument Type - DEED**
*** Total Pages - 4**
Invoice Number - 181420
*** Grantor - KEPHART, KAREN J**
*** Grantee - BENEFICIAL CONS DISC CO**
*** Customer - TIMOTHY E. DURANT**

*** FEES**

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

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

Maurene E. Inlow
Maurene E. Inlow
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.**

QUIT-CLAIM DEED

MADE the 3rd day of March
in the year Two Thousand Eight (2008)

KAREN J. KEPHART, not stated, of 12 Hudson Street, Philipsburg, Pennsylvania 16866, party, of the first part, Grantor

AND

BENEFICIAL CONSUMER DISCOUNT COMPANY d/b/a BENEFICIAL MORTGAGE CO. OF PENNSYLVANIA, with offices at 1995 South Atherton Street, State College, Pennsylvania 16801, party of the second part, Grantee

WITNESSETH, that in consideration of the sum of One ($1.00) DOLLAR, in hand paid, receipt whereof is hereby acknowledged, the said grantor does hereby release and quit claim to the said grantee

ALL that certain message, tenement, and tract of land situate, lying and being in Foster's Addition to Chester Hill Borough, Clearfield County, Pennsylvania, bounded and described as follows, to-wit:

> BEGINNING at the Northwestern corner of Lot No. 30 and situate in Decatur Street; thence along the western line of Decatur Street in a northerly direction a distance of fifty (50) feet to the Northeastern corner of Lot No. 34, now or formerly owned by Community Action; thence in a westerly direction along the line of Lot No. 34, a distance of seventy-two (72) feet to lands now or formerly of Lockey; thence along the said lands of Lockey in a southeasterly direction a distance fifty (50) feet to the line of Lot No. 30; thence in a northeasterly direction along Lot No. 30 a distance of seventy-two (72) feet to the point and place of beginning.

BEING Lot No. 32 in the plan or plot of Foster's Addition and being further known as 613 Decatur Street.

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

BEING the same premises conveyed to Grantor by Deed dated September 9, 1994 from Robert D. Conklin and Billie Rae Conklin, husband and wife and recorded in the office of the Recorder of Deeds for Clearfield County in Deed Book Volume 1630, at page 438 on September 12, 1994.

The purpose of this deed is to extinguish any interest which Grantor may have had in the premises and is an Excluded transaction per the Pennsylvania Realty Transfer Tax Act at 61 Pa..Code §91.193(b)(16), i.e. a transfer to a holder of a bona fide mortgage in default since the transfer is being made in lieu of foreclosure under Clearfield County Instrument No. 200114752, as recorded on September 18, 2001.

IN WITNESS WHEREOF, the said grantor has hereunto set her hand and seal the day and year first above written.

Sealed and Delivered in the Presence of

KAREN J. KEPHART (SEAL)

COMMONWEALTH OF PENNSYLVANIA :

SS:

COUNTY OF CLEARFIELD :

On this, the 3rd day of March, 2008, before me, Timothy E. Durant, a Notary Public, personally appeared Karen J. Kephart, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged she has executed the same for the purposes therein contained.

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

My Commission Expires: 10/10/09

Timothy E. Durant, Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
TIMOTHY E. DURANT, NOTARY PUBLIC
CLEARFIELD BORO, CLEARFIELD COUNTY
MY COMMISSION EXPIRES OCTOBER 10, 2009

TIMOTHY E. DURANT
COMMONWEALTH OF PENNSYLVANIA
NOTARY PUBLIC

CERTIFICATE OF RESIDENCE

I hereby certify that the precise address of the grantee herein is as follows:

1995 South Atherton Street
State College, Pennsylvania 16801

Timothy E. Durant

Attorney for Grantee NTS

DEED

QUIT-CLAIM

Dated March 3, 2008

For 613 Decatur Street

Chester Hill Borough

Clearfield County, Pennsylvania

Consideration $1.00

EXHIBIT "B"

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: CLEARFIELD

CIVIL COMPLAINT

Mag. Dist. No.: 46-3-03
MDJ Name: Hon. MICHAEL A. RUDELLA
Address: 131 ROLLING STONE ROAD
PO BOX 210
KYLERTOWN, PA 16847-0444
Telephone: (814) 345-6789

PLAINTIFF: NAME and ADDRESS
Chester Hill Boro
920 Walton St
Philipsburg PA, 16866.

VS.

DEFENDANT: NAME and ADDRESS
Beneficial Consumer Discount Company.
1995 S. Atherton St.
State college PA, 16801.

Docket No.: CV-564-06
Date Filed: 12-5-06

	AMOUNT	DATE PAID
FILING COSTS	$ 57.50	12/5/06
POSTAGE	$	/ /
SERVICE COSTS	$	/ /
CONSTABLE ED.	$	/ /
TOTAL	$	/ /

Pa.R.C.P.D.J. No. 206 sets forth those costs recoverable by the prevailing party.

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for $ 957.50 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated): for structure at 613 decator St. this house has been burnt out for 4 years after further investigation we found out that this company has hold of this properity.

I, Paula Johnson verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.

Paula Johnson (Codinance officer)
(Signature of Plaintiff or Authorized Agent)

Plaintiff's Attorney: _____ Address: _____

Telephone: _____

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within magisterial district judge jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

AOPC 308A-05.

EXHIBIT "C"

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: CLEARFIELD

Mag. Dist. No.: 46-3-03
MDJ Name: Hon. MICHAEL A. RUDELLA
Address: 131 ROLLING STONE ROAD
PO BOX 210
KYLERTOWN, PA
Telephone: (814) 345-6789 16847-0444

SEP 10 2008
CML L A

SUMMONS FOR A SUMMARY CASE NON-TRAFFIC

COMMONWEALTH OF PENNSYLVANIA

VS.

DEFENDANT: NAME and ADDRESS
BENEFICIAL CONSUMER DISCOUNT CO
1995 S ATHERTON ST
STATE COLLEGE, PA 16801

BENEFICIAL CONSUMER DISCOUNT CO
1995 S ATHERTON ST
STATE COLLEGE, PA 16801

Docket No.: NT-0000339-08
Date Filed: 8/14/08

Charge(s):

O 04-08-2008 §301 INT. PROPERTY MAINTENANCE CODE

FINE AND COSTS:	FINE: $1000.00	COSTS: 58.00	OTHER: —	TOTAL DUE: $1058.00

WITHIN TEN (10) DAYS OF RECEIPT OF THIS SUMMONS YOU MUST:

1. PLEAD NOT GUILTY by notifying the magisterial district judge above in writing and forwarding an amount equal to the total due specified above, or if the fine and costs are not specified, forward the sum of $50.00 as collateral for your appearance at trial; **OR,**

2. PLEAD NOT GUILTY by appearing before the magisterial district judge above and posting such collateral for your appearance as the magisterial district judge shall require; **OR,**

3. If you cannot afford to pay the total due specified above or the $50.00 collateral, you must appear before the magisterial district judge above to enter a plea; **OR,**

4. PLEAD GUILTY by notifying the magisterial district judge above in writing, signing the appropriate plea below, and forwarding an amount equal to the total due specified above: **OR,**

5. PLEAD GUILTY by appearing before the magisterial district judge above if the total due is not specified.

IF YOU ARE FOUND GUILTY BY THE MAGISTERIAL DISTRICT JUDGE AND WISH TO APPEAL, YOU HAVE THIRTY (30) DAYS TO REQUEST A TRIAL DE NOVO IN THE COURT OF COMMON PLEAS.

ALL CHECKS OR MONEY ORDERS FOR FINE, COSTS, FEES, OR FOR COLLATERAL, SHALL BE MADE PAYABLE TO "MAGISTERIAL DISTRICT NO. 46-3-03 " IDENTIFIED ABOVE AND SENT TO THE ADDRESS ABOVE.

IF YOU FAIL TO RESPOND TO THIS SUMMONS WITHIN THE TIME SPECIFIED ABOVE, A WARRANT FOR YOUR ARREST SHALL BE ISSUED.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

IF YOU INTEND TO RESPOND BY MAIL:

Detach and complete the lower portion of this summons with your signature on the appropriate plea line, (1) or (2).

If you PLEAD NOT GUILTY, your check or money order must be in the amount of the total due specified above. If the total due is not specified, your check or money order must be in the amount of $50.00 which will be held for collateral for your appearance at trial. You will be notified by mail of your date and time for trial.

If you PLEAD GUILTY, enclose a check or money order in the amount of the total due specified above. Failure to remit the full amount of the fine, costs and fees will result in the issuance of a warrant for your arrest. Your check or money order shall be made payable to the "Magisterial District No." above.

(DETACH HERE) ----------

MAIL IN PLEA

I represent that I make this plea knowingly, voluntarily, and intelligently. (Failure to indicate a plea when forwarding an amount equal to the total due specified above will result in a guilty plea being recorded.)

1. I PLEAD NOT GUILTY. _____ (Signature) Docket No.: NT-0000339-08

2. I PLEAD GUILTY. _____ (Signature) Citation No.: P5712029-1

AOPC 617-07 **DATE PRINTED: 8/14/08 11:38:29 AM**

COMMONWEALTH OF PENNSYLVANIA
NON-TRAFFIC CITATION
SUMMONS

CITATION NO. P5712029-1

1. Magisterial District Number: 46-3-03
2. Docket Number: NT-339-08
3. Social Security Number:
4. Address of Magisterial District Office: P.O. Box 210 Kylertown, PA 16847
5. Driver's Number:
6. State: ☐ PA
7. Defendant's Name - First / Middle / Last: Beneficial Consumer Discount Company
8. Defendant's Address (Street-City-State-Zip Code): 1995 South Atherton St. State College, PA. 16801
9. Race/Ethnicity: (W) ☐ White (B) ☐ Black (I) ☐ Native American (A) ☐ Asian (H) ☐ Hispanic (U) ☐ Unknown
10. Sex: (M) ☐ Male (F) ☐ Female
11. Date of Birth (MM/DD/YY):
12. Resident Status: (R) ☐ Resident (N) ☐ Non-Resident (U) ☐ Unknown
13. Case Instituted by: (O) ☐ On-View Arrest (C) ☐ Citation/Summons
14. JUVENILE: ☐ Yes
15. Parents Notified: ☐ Yes
16. Parent's Name:
17. Date Notified:
18. Time:
19. Charge: ☐ Disorderly Conduct ☐ Harassment ☐ Retail Theft ☐ Other ☐ Criminal Trespass ☐ Public Drunkenness ☐ Purchase, Consumption, Possession or Transportation of Liquor or Malt or Brewed Beverages ☐ Theft of Services ☐ Scattering Rubbish ☐ Criminal Mischief

20. Nature of Offense: Ord. 04-08-2008-4 International-Property Maintenance Code. Failed To Repair, clean up property, cut grass or Demo building.
21. Pa. Code:
22. ☐ CRIMES CODE TITLE 18
23. SECTION: 5-3a1,
24. SUB SEC.: 302-304
25. FINE: 1,000.00
26. COSTS:
27. J.C.P.A.T.A.: 10.00
28. TOTAL DUE: $
29. ☐ Lab Services Requested

30. Date: 8-6-08
31. Time: 11:00
32. Day: Wed.
33. City-Twp-Boro: Chester Hill Boro
34. Code: 403
35. Zone:
36. Location: 613 Decatur St. Chester Hill
37. County: Clearfield
38. County Code: 17
39. Defendant's Signature - Acknowledges Receipt of Citation: X
40. Date: ☐ Issued ☐ Filed
41. ☐ Filed on Info. received

42. I verify that the facts set forth in this citation are true to the best of my knowledge, information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.

OFFICER'S SIGNATURE: Donald S. Emick
BADGE NUMBER: CE170018
ORI NUMBER:

43. Station Address: 920 Walton St. Chester Hill, PA.
44. Offense Code:
45. Property Record No.:
46. Systems Code:
47. ☐ Initial Report
48. ☐ Attention LCE
49. Incident No.:
50. Victim's Name:
51. Date of Birth (MM/DD/YY):
52. Sex:
53. Race/Ethnicity:

54. Remarks / Subpoena List: This has been on going since 2003 and on March 3rd 2008 a Quit Claim Deed by Beneficial Consumer Discount Company 3-3-08.

P5712029-1

57. Supv. Int.:
Badge No.:

AOPC 407-95 (Rev. 1/2005)

DEFENDANT'S COPY

RIGHTS AND OBLIGATIONS

1. The original of this non-traffic citation/summons will be filed before the MAGISTERIAL DISTRICT JUDGE WHOSE ADDRESS IS LISTED IN ITEM 4 on the reverse side.
2. Within TEN (10) days of the issuance or receipt of this citation/summons, you must:
   a. **PLEAD NOT GUILTY** by signing your name on Line (a) of the mail-in portion of this citation/summons and returning it to the Magisterial District Office shown in ITEM 4 together with your collateral in an amount equal to the Total Due as specified in ITEM 28 on the reverse side, or if the Total Due is not specified, by forwarding the sum of **$50.00** as collateral for your appearance at trial.

   OR

   b. **PLEAD NOT GUILTY** by appearing before the proper Magisterial District Judge and posting such collateral for your appearance as the Magisterial District Judge shall require. If you cannot afford to pay the Total Due as specified in ITEM 28 on the reverse side, or the **$50.00** collateral, you must appear before the proper Magisterial District Judge to enter a plea.

   OR

   c. **PLEAD GUILTY** by signing your name on Line (b) of the mail-in portion of this citation/summons and returning it to the Magisterial District Office shown in ITEM 4 together with an amount equal to the Total Due as specified in ITEM 28 on the reverse side.

   OR

   d. **PLEAD GUILTY** by appearing before the proper Magisterial District Judge if the Total Due is not specified.

   OR

   e. **REQUEST** inclusion in an Accelerated Rehabilitative Disposition Program (ARD) by appearing before the proper Magisterial District Judge.
3. All checks or money orders must be made payable to the "**Magisterial District Number** _____" identified in ITEM 1 on the reverse side, and sent to the address reported in ITEM 4.
4. Failure to respond within the time specified above may result in the issuance of a warrant for your arrest.
5. If you fail to appear for trial, the trial may be held in your absence.
6. If you are found guilty by the Magisterial District Judge, or you plead guilty, and you wish to appeal, you have THIRTY (30) days to file an appeal for a trial in the Court of Common Pleas.
7. If you are disabled and require assistance, please contact the Magisterial District Office identified in ITEM 4 on the reverse side.
8. Please note that a guilty plea to offenses relating to underage drinking, 18 Pa.C.S. §§ 6307, 6308, and 6310.3 will result in the suspension of your driver's license.

INSTRUCTIONS FOR RESPONSE BY MAIL

If you intend to respond by mail:

1. Detach and complete the lower portion of this citation/summons with your signature on the appropriate plea line (a. or b.).
2. If you PLEAD NOT GUILTY, your check or money order for collateral must be in the amount equal to the Total Due as specified in ITEM 28 on the reverse side. If the Total Due is not specified, your check or money order for collateral must be in the amount of **$50.00**. You will be notified by mail of your trial date.
3. If you PLEAD GUILTY, enclose a check or money order in the amount reported as Total Due in ITEM 28 on the reverse side. Failure to remit the full amount will result in the issuance of a warrant for your arrest.
4. Your check or money order must be made payable to: "**Magisterial District Number** _____" identified in ITEM 1 on the reverse side and sent to the address reported in ITEM 4.

Explanation of Items 26 & 27:

Costs	May include program costs for crime and delinquency commission, domestic violence, crime victims compensation and courts.
J.C.P./A.T.J.	Judicial Computer Project/Access to Justice

MAIL IN PORTION

Place this portion of the citation/summons and your check or money order in an envelope and mail to the MAGISTERIAL DISTRICT OFFICE WHOSE ADDRESS IS REPORTED IN ITEM 4 on the reverse side.

Failure to indicate a plea when forwarding an amount equal to the Total Due as specified on the citation/summons will result in a guilty plea being recorded.

I understand my rights and obligations. Further, I represent that I make this plea knowingly, voluntarily, and intelligently:

a. I plead **NOT GUILTY** and request a trial _____
Signature

b. I plead **GUILTY** _____
Signature

PLEASE PLACE THE CITATION NUMBER ON YOUR CHECK OR MONEY ORDER.

DO NOT MAIL YOUR CHECK OR MONEY ORDER TO THE POLICE DEPARTMENT.

DO NOT SEND CASH!

EXHIBIT "D"

LAW OFFICES
McCABE, WEISBERG & CONWAY, P.C.
SUITE 2080
123 SOUTH BROAD STREET
PHILADELPHIA, PA 19109
(215) 790-1010
FAX (215) 790-1274

TERRENCE J. McCABE***
MARC S. WEISBERG**
EDWARD D. CONWAY
MARGARET GAIRO
LISA L. WALLACE+†
BRENDA L. BROGDON•
FRANK DUBIN
ANDREW L. MARKOWITZ
GAYL C. SPIVAK•
HEIDI R. SPIVAK•
SCOTT TAGGART•
MARISA COHEN•
KATHERINE SANTANGINI^^
JASON BROOKS^
DEBORAH K. CURRAN±▲
LAURA H.G. O'SULLIVAN±▲
STEPHANIE H. HURLEY▲▲
MARGARET MARY BALMFORTH ▲<
ADRIENNE CHAPMAN^^^

* Licensed in PA & NJ
** Licensed in PA & NY
^ Licensed in NY
^^ Licensed in NJ
• Licensed in PA & WA
*** Licensed in PA, NJ & NY
† Licensed in NY & CT
▲ Licensed in MD & DC
▲▲ Licensed in MD
+ Managing Attorney for NY
± Managing Attorney for MD
< Licensed in VA

SUITE 303
216 HADDON AVENUE
WESTMONT, NJ 08108
(856) 858-7080
FAX (856) 858-7020

SUITE 401
145 HUGUENOT STREET
NEW ROCHELLE, NY 10801
(914)-636-8900
FAX (914)-636-8901
Also servicing Connecticut

SUITE 302
8101 SANDY SPRING ROAD
LAUREL, MD 20707
(301) 490-3361
FAX (301) 490-1568
Also servicing the District of Columbia and Virginia

Of Counsel
JOSEPH F. RIGA* - PA & NJ

September 16, 2008

The Honorable Michael A. Rudella
131 Rolling Stone Road
P. O. Box 210
Kylertown, PA 16847-0444

Re: Commonwealth of Pennsylvania v.
Beneficial Consumer Discount Company
Docket No.: NT-0000339-08
Property Address: 613 DeCatur Street, Clearfield County, PA

Dear Judge Rudella:

Thank you for your time on the telephone during our conversation yesterday. I have again been retained to represent Beneficial Consumer Discount Company with respect to the citation issued for the property located at 613 DeCatur Street, Chester Hill, Pennsylvania. I enclosed a copy of the Summons and on behalf of my client, I have entered a not guilty plea. I am writing to request that you stay this matter from any further proceedings, pending the results of an action in equity to strike a Quit Claim Deed filed by Karen J. Kephart.

As I advised you in our conversation, Ms. Kephart filed a Quit Claim Deed, which is dated March 3, 2008 (a copy of the Quit Claim Deed is enclosed). I am uncertain as to the date that the Quit Claim Deed was filed with the Recorder of Deeds, but it was filed without my client's knowledge and without my client's consent. Accordingly, Ms. Kephart's effort to direct responsibility for the condition of the property to someone other than herself is not only improper, but illegal and actionable.

I telephoned John Sobel, Esquire and informed him of these developments and have not yet received a return call. Under the circumstances and considering the history of this matter, I trust that this matter can be deferred until the Court of Common Pleas has an opportunity to act on our motion to strike the improperly filed Deed.

I have also discussed this matter with Timothy Durant, Esquire. Mr. Durant may be representing Ms. Kephart in this matter. We are discussing a possible resolution whereby Ms. Kephart will voluntarily agree to take back title to the property.

Would you please advise at your earliest convenience if you will stay this matter pending the equity action?

Thank you for your time and attention to this matter

Respectfully,

EDWARD D. CONWAY

EDC/jdm
Enc.

cc: John Sobel, Esquire (via fax and regular mail)
Timothy Durant, Esquire (via fax and regular mail)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104830
NO: 08-1996-CD
SERVICES 1
ORDER/PETITION TO STRIKE DEED FOR DAMAGES

PLAINTIFF: BENEFICIAL CONSUMER DISCOUNT COMPANY
vs.
DEFENDANT: KAREN J. KEPHART

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	MCCABE	38321	10.00
SHERIFF HAWKINS	MCCABE	38321	32.72

FILED
0/1:50 cm
DEC 09 2008
William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

_____ Day of _____ 2008

_____

So Answers,

Chester A. Hawkins
Sheriff

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

BENEFICIAL CONSUMER DISCOUNT COMPANY Petitioner	*	No. 08-1996-CD
vs.	*	
KAREN J. KEPHART Respondent	*	

MOTION FOR CONTINUANCE
Filed on behalf of Respondent,

COUNSEL OF RECORD FOR THIS PARTY:

TIMOTHY E. DURANT, ESQ.
Pa. I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711 Telephone

OPPOSING COUNSEL: for Petitioner

FRANK DUBIN, ESQUIRE
Pa. I.D. No. 19280
McCabe Weisberg & Conway, LLC
123 South Broad Street
Philadelphia, PA 19109
Phone (215)-790-1010

Local Counsel for Petitioner:

Eric E. Cummings, Esquire
DWIGHT L. KOERBER, JR., ESQ.
110 North Second Street
P.O. Box 1320
Clearfield, PA 16830
814-765-9611

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

BENEFICIAL CONSUMER DISCOUNT COMPANY Petitioner	* * *	No. 08-1996-CD
vs.	* * *	
KAREN J. KEPHART Respondent	* *	

JOINT MOTION FOR CONTINUANCE

TO THE HONORABLE FREDERIC J. AMMERMAN, PRESIDENT JUDGE OF SAID COURT:

AND NOW, come the Respondent, KAREN J. KEPHART, and the Petitioner, BENEFICIAL CONSUMER DISCOUNT COMPANY, together with their respective counsel and file this joint motion for continuance for the purposes as hereinafter set out:

1. The undersigned represents KAREN J. KEPHART, Plaintiff in the above action.

2. Eric E. Cummings, Esquire, of 110 North Second Street, Clearfield, PA 16830 is local counsel for BENEFICIAL CONSUMER DISCOUNT COMPANY in the above action.

3. Edward D. Conway, Esquire of McCabe Weisberg & Conway, LLC, 123 South Broad Street, Philadelphia, PA 19109 is counsel for BENEFICIAL CONSUMER DISCOUNT COMPANY in the above action.

4. The parties hereto, by their counsel (Timothy E. Durant and Edward D. Conway) have been discussing settlement or resolution of the above captioned matter believe they have basically resolved the dispute but there is a third party whose outlook and involvement in this situation is important (i.e. Chester Hill Borough) which neither party herein controls.

5. Discussions regarding resolution of the said Borough's interests have been initiated by counsel for Petitioner with the Borough's legal counsel and are ongoing.

6. It has been represented to Respondent's counsel that the resolution would involve satisfaction of Petitioner's Mortgage on the subject premises, the striking of the deed from Respondent to Petitioner and acceptance of the property by the Borough from Respondent.

7. Respondent agrees to follow through with this potential arrangement if Chester Hill Borough will consent to accept the property without imposition of fines for code violations upon her.

8. Due to the public meeting scheduling requirements the Borough will not be able to meet, discuss or act upon this matter until January or February of 2009.

9. Therefore Respondent and Petitioner ask this court to continue this matter generally until either party files a request to reschedule the matter for a hearing relative to this petition.

10. Upon resolution of this matter between them the parties have agreed to forthwith file a joint consent Order which will fully end this case.

WHEREFORE, Respondent, **KAREN J. KEPHART** and Petitioner, **BENEFICIAL CONSUMER DISCOUNT COMPANY**, with their counsel jointly pray that this continue this matter from the hearing schedule and grant them a general continuance in accordance with the reasoning and purposes set out in the above motion.

DATE: December 17, 2008

Timothy E. Durant, Esquire,
Attorney for Respondent

DATE: December 17, 2008

Eric E. Cummings, Esquire,
Local Counsel for Petitioner

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

BENEFICIAL CONSUMER DISCOUNT COMPANY Petitioner	*	No. 08-1996-CD
vs.	*	
KAREN J. KEPHART Respondent	*	

ORDER

AND NOW, this 17th day of December 2008, upon consideration of Respondent's request for a continuance in the above captioned matter, it is the Order of this Court that the hearing scheduled for December 18, 2008 at 9:30 a.m. is hereby continued generally.

Either party may file a request to reschedule the matter for a hearing relative to this petition.

Upon resolution of this matter between them the parties have agreed to present a joint consent order to this court for consideration and possible signature so as to fully end this case.

BY THE COURT:

Fredric J. Ammerman, President Judge

FILED 3cc
013:30 Atty Cumming
DEC 17 2008
William A. Shaw
Prothonotary/Clerk of Courts

FILED

DEC 17 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/17/08

X 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:

CLEARFIELD COUNTY COURT OF COMMON PLEAS
CIVIL DIVISION

FILED 3cc
APR 13 2009 Atty Durant
William A. Shaw
Prothonotary/Clerk of Courts

Beneficial Consumer Discount Company v. Karen J. Kephart	No.: 08-1996-CD

STIPULATION

AND NOW this 7th day of April, 2009, the parties by and through undersigned counsel hereby stipulate to resolve all litigation now pending in this matter as follows:

1) The Quit Claim Deed from Respondent, Karen J. Kephart to Petitioner, Beneficial Consumer Discount Company for the property located at 613 Decatur Street, Chester Hill, Pennsylvania and recorded March 4, 2008 shall be stricken from the record and the parties further agree to the Court entering an Order holding that Petitioner, Beneficial Consumer Discount Company never held legal or equitable title to the subject premises.

2) After entry of an Order striking the aforesaid Deed, Beneficial will provide to Petitioner, Karen Kephart, an executed Release of Mortgage in recordable form for the property owned by Karen J. Kephart and located at 613 Decatur Street, Chester Hill, Pennsylvania.

3) The parties agree to mutually release each other from any and all claims, demands, complaints, counterclaims, suits for losses, damages, fees of any type or nature whatsoever against each other that have been raised or could have been raised in this litigation.

Attorney for Beneficial Consumer Discount Company

BY: _____
Edward D. Conway, Esquire
McCabe, Weisberg & Conway, P.C.
123 S. Broad Street, Suite 2080
Philadelphia, PA 19109
(215) 790-1010 (215) 790-1274 fax

Date: 4/7/09

Attorney for Karen J. Kephart

BY: _____
Timothy Durant, Esquire
201 N. 2nd Street
Clearfield, PA 16830

(814) 765-1711 (814) 765-9596 fax

Date: 4/10/09

CH

CLEARFIELD COUNTY COURT OF COMMON PLEAS
CIVIL DIVISION

Beneficial Consumer Discount Company v. Karen J. Kephart	No.: 08-1996-CD

FILED
014:00BL
APR 14 2009
William A. Shaw
Prothonotary/Clerk of Courts
4 cc Atty Dessant
(6)

ORDER

AND NOW this 13 day of April, 2009, upon consideration, this stipulation entered into by and between the parties is hereby ORDERED and DECREED as follows:

1) The Quit Claim Deed from Karen J. Kephart to Beneficial Consumer Discount Company for the premises located at 613 Decatur Street, Chester Hill, Pennsylvania and recorded March 4, 2008, shall be STRICKEN, to the same effect as if it had never been recorded, and further, the Court holds that Beneficial Consumer Discount Company was never the legal nor equitable owner of the subject premises.

2) Beneficial Consumer Discount Company shall provide Karen J. Kephart with a duly executed Release of Mortgage in recordable form for the premises located at 613 Decatur Street, Chester Hill, Pennsylvania.

J.

DATE: 4/14/09

X 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

APR 14 2009

William A. Shaw
Prothonotary/Clerk of Courts