

DOCKET NO. 174

Number	Term	Year
323	September	1961

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Irene Lippart

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Versus

Milford H. Carson

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Praeceptum for Writ of Execution - Money Judgments.

IRENE LIPPART

vs.

MILFORD H. CARSON  
Osceola Mills, Pa.

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

NO. 18                      September                      Term, 19 61

PRAECIPE FOR WRIT OF EXECUTION

To the Prothonotary:

Issue writ of execution in the above matter,

(1). directed to the Sheriff of \_\_\_\_\_ Clearfield \_\_\_\_\_ County;

(2). against the following property all personal property of the defendant  
\_\_\_\_\_ of defendant(s) and

~~(3) against the following property in the hands of (name) \_\_\_\_\_ garnishee~~

(4). and index this writ

(a) against \_\_\_\_\_ MILFORD H. CARSON \_\_\_\_\_  
\_\_\_\_\_ defendant(s) and

~~(b) against \_\_\_\_\_, as garnishee,  
as a liendens against real property of the defendant(s) in name of garnishee as follows~~

(Specifically describe property)

(If space insufficient attach extra sheets)

(5). Amount due                      \$1,041.23  
Interest from October 18, 1961                      \$ \_\_\_\_\_  
Costs (to be added)                      \$ \_\_\_\_\_

*Dan P. Aunsel*  
\_\_\_\_\_  
Attorney for Plaintiff(s)



Dan P. Arnold

October 19, 1961

TO SHERIFF OF CLEARFIELD COUNTY, DR.

PLAINTIFF	DEFENDANT	NO.	TERM	AMOUNT
Irene Lippart		No 323	Sept Term 1961	
vs				
Milford H. Carson		No 18	Sept Term 1961	
Osceola Mills, Pa.				
RDR.	3.75	Exec Debt		\$1,041.23
Levy	3.75	Int Fr Oct 18, 1961		5.21
Service	3.75	Brothnotary.		7.00
c/s d/s	2.00	Attorney		7.50
Mileage	4.20	Sheriffs Costs		<u>37.66</u>
Comm	<u>20.21</u>	Total		<u>\$1,098.60</u>
Total	<u>37.66</u>			

Charles G. Ammerman

SHERIFF

Please Give This Prompt Attention

Return this Bill with Remittance

No Sheriff shall be required to render any service in any civil proceedings until he receives indemnity satisfactory to him for the payment of his official fees, mileage, expenses, and legal costs or payment of same, from the party at whose instance or for whose benefit such service is to be performed, but any money advanced for his charges, and not earned or expended shall be refunded to the payer thereof. And in case he does not receive his charges in advance or upon demand, he may file with his return an itemized list of unpaid fees, mileage, costs and expenses respecting the services to which such return relates, and if no exceptions are filed to the same within thirty days, from the time of making such return, the items included in such list shall be considered taxed, and confirmed as fees and costs due such Sheriff and become a judgment in law against the party for whose benefit the services were rendered as well as against any other party who may be or become liable for such fees and costs by law; and the said Sheriff may issue an execution for the amount so taxed, and collect the same from any party so chargeable therewith without further suit, and shall not be disqualified to enforce such execution by reason of his interest therein.

PLAINTIFF'S ATTORNEY



LEDGER NO. 14/356  
CLEARFIELD, PA.

Don P. Arnold

October 10, 1961

TO SHERIFF OF CLEARFIELD COUNTY, DR.

PLAINTIFF	DEFENDANT	NO.	TERM	AMOUNT
Irene Lippart		No 323	Sept Term 1961	
vs				
Milford H. Carson		No 18	Sept Term 1961	
Osceola Mills, Pa.				
RDR.	3.75	Exec Debt		\$1,041.23
Levy	3.75	Int Fr Oct 18, 1961		5.21
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c/s d/s	2.00	Attorney		7.50
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Writ of Execution - Money Judgments.

Irene Lippart

vs.

Milford H. Carson  
Osceola Mills, Pa.

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

NO. 18 September Term, 1961

WRIT OF EXECUTION

Commonwealth of Pennsylvania }  
County of Clearfield } SS:

To the Sheriff of Clearfield County:

To satisfy the judgment, interest and costs against Milford H. Carson

defendant(s);

(1) You are directed to levy upon the following property of the defendant(s) and to sell his interest therein;

~~(2) You are also directed to attach the following property of the defendant not levied upon in the possession of~~ \_\_\_\_\_, as garnishee,  
all personal property of the defendants.

(Specifically describe property)

and to notify the garnishee that

- (a) an attachment has been issued;
- (b) the garnishee is enjoined from paying any debt to or for the account of the defendant(s) and from delivering any property of the defendant or otherwise disposing thereof.

(3) if property of the defendant not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify him that he has been added as a garnishee and is enjoined as above stated.

Amount due		\$ 1041.23
Interest from	October 18, 1961	\$ _____
Costs (to be added)	(Attorney \$7.50 Prothonotary \$7.00)	\$ 14.50

*Mark G. Hagerity*  
Prothonotary

By \_\_\_\_\_ Deputy



Date October 18, 1961

Proth'y. No. 64

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IRENE LIPPART

vs.

MILFORD H. CARSON

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:  
:  
:

No. 323 September Term, 1961

TO THE PROTHONOTARY:

Enter judgment against the defendant in the amount of debt and attorney's commission as per Affidavit of Default and calculation of amount due which is hereto attached.

October 18 , 1961.

  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IRENE LIPPART

vs.

MILFORD H. CARSON

:  
:  
No. September Term, 1961

STATE OF FLORIDA

COUNTY OF

:  
SS:  
:

IRENE LIPPART, being duly sworn according to law, deposes and says:

Plaintiff and defendant, as set forth above, made and entered into a certain lease for the mining and removal of coal and clay by the defendant from the property of the plaintiff located in Lawrence Township, Clearfield County, Pennsylvania, which said lease is attached hereto and made a part hereof.

The plaintiff avers that defendant made default in the payment of minimum royalties for the months of March, April, May, June, July, August, September and October of 1961 in the amount of \$50 per month for a total of Four hundred (\$400.00) Dollars, and additionally, made default in payment of tonnage royalty in the amount of 30 cents per ton for a total of 1821.9 tons, or Five hundred forty-six and 57/100 (\$546.57) Dollars.

WHEREFORE, defendant is presently indebted to the plaintiff in the amount of Nine hundred forty-six and 57/100 (\$946.57) Dollars, and said default has continued to the present date, whereby the defendant is now indebted to the plaintiff as per the following statement.

Debt due	\$ 946.57
Attorney's commission 10%	94.66
Interest from October 18, 1961	
Total	\$ _____

DAN P. ARNOLD  
ATTORNEY AT LAW  
CLEARFIELD, PA.

Sworn to and subscribed before me this 13 day of October, 1961.

*Irene Lippart*  
Irene Lippart

*William L. ...*  
Notary Public, State of Florida  
My Commission Expires Sept. 25, 1965

Lap-over Margin

IRENE LIPPART A N D MILFORD H. CARSON
<u>LEASE</u> <u>AGREEMENT</u>
<b>NEVLING &amp; DAVIS</b> ATTORNEYS-AT-LAW CLEARFIELD TRUST CO. BLDG. CLEARFIELD, PA.

LEASE AGREEMENT

THIS AGREEMENT, made and executed in duplicate this 22nd day of October, A.D., 1959, by and between IRENE LIPPART, widow, now of 29 South Second Street, Clearfield, Pennsylvania, party of the first part (hereinafter called the Lessor);

A  
N  
D

MILFORD H. CARSON of Stumptown, Osceola Mills, Pennsylvania, party of the second part (hereinafter called Lessee).

W I T N E S S E T H:

That the Lessor for and in consideration of the rents and royalties to be paid and the covenants and agreements herein contained to be kept, done and performed by the Lessee, does hereby lease, demise and let unto the Lessee for the term hereinafter mentioned, all the coal and clay (but no gas or oil) in, upon and under that certain tract of land situate in Lawrence Township, Clearfield County, Pennsylvania, identified as follows:

28 acres, more or less, described in deed from James A. Wrigley, Administrator, to Edward Lippart et al, dated October 5, 1903, recorded February 26, 1904, and recorded in the Recorder's Office of the County of Clearfield, Pennsylvania in Deed Book 141, page 6, and therein described as follows: - BOUNDED on the north by land of Curtis Wrigley, on the east by John F. Weaver Estate and Estate of John Brown, on the south by land of George Lippart, and on the west by land of Uriah Litz and Cora Shelow.

EXCEPTING AND RESERVING out of and from the said tract of 28 acres, 5.23 acres as described in a deed from Edward Lippart et ux to Kenneth S. Knepp et ux, dated March 17, 1944, recorded March 18, 1944 in Deed Book 357, page 318 in the Recorder's Office of Clearfield County, Pennsylvania, and specifically identified by survey map attached to and recorded with said deed.

Being the same premises of which Edward Lippart died seized, leaving his Last Will and Testament probated in the Register of Wills Office of Clearfield County, Pennsylvania, and appearing of record in Will Book 1, page 56, wherein he devised the same to his wife, Irene Lippart, Lessor herein.

Together with the right during the period of this lease with reversionary interest in the Lessor to make such use of a certain right-of-way in, over and across the said 5.23 acres above identified and three-fourths of an acre as reserved and described in a certain deed from Edward Lippart et ux to the said Kenneth S. Knepp et ux above identified, the said Lessor only giving to the Lessee such rights as she has to the use of the said right-of-way during the period of this lease.

Also, together with the right of ingress, egress and regress in, under and upon the land or premises above described for the purpose of mining and removing all the coal and clay hereby leased by all known methods of mining, including both deep and surface strip mining methods, with the right to occupy any portion of the premises for such purposes and the right to the use of improved machinery, fixtures and appliances, and to the construction and maintenance, repair and alteration of roads, buildings, chutes, tipples and other improvements, the right to deposit spoil and refuse from mining operations on the said premises, which said rights herein defined and the mining and removing of coal and clay from the said premises shall be exercised by the

Lessee without liability for damages to the surface, to the substrata, to the minerals, waters, springs, percolating waters, water courses, and damage to or destruction of any vegetation or growth of timber thereon.

In consideration whereof, the Lessee agrees and binds himself as follows:

(1) To conduct his mining operation or operations in a good and workmanlike manner with efficient equipment so as to mine and remove all the merchantable coal and clay that can be practicably and profitably mined and removed in, under and upon the demised premises during the term of this agreement and to comply with all State and Federal Regulations applicable to mining now in force or which may hereafter be enacted, which require the restoration of levels or contours, replanting or other corrective measures in connection with mining operations without liability whatsoever to the Lessor. The Lessee further covenants with the Lessor that he will indemnify and save harmless the owner or Lessor from all liability for wages, Workmen's Compensation, hours of employment, Social Security, and taxes, and further to indemnify and save harmless the owner or Lessor from all claims on the part of other persons for injury or damage resulting to their persons or property while on the demised premises or resulting from or caused by the surface mining operations of the lessee during the term of this Lease Agreement.

(2) The Lessee agrees to pay the Lessor at the

rate of Thirty (30¢) Cents per net ton for each and every net ton of two thousand pounds of merchantable coal or clay produced and removed from the demised premises. Royalty shall be paid monthly on or before the 25th day of each month for all coal and clay mined and removed during the immediately preceding calendar month.

(3) The Lessee further covenants and agrees with the Lessor to pay her a minimum royalty of Fifty (\$50.00) Dollars per month which shall be paid by the Lessee to the Lessor whether any coal or clay is produced or removed or not, for the use of the demised premises; said minimum royalty to be paid monthly and the first monthly payment having been made to the Lessor upon the execution of these premises is hereby receipted for and future payments of minimum royalty shall be made on the 25th day of each month beginning with the 25th day of November in the year 1959. These payments of minimum royalty shall constitute a credit against royalties upon coal or clay actually produced and removed from the leased premises in subsequent months during the continuance of this lease agreement.

Provided, however, and it is hereby expressly agreed by the Lessee, that upon the termination of this lease agreement, or at its earlier determination for any cause whatsoever, no payments made in the form of minimum royalty in excess of coal and clay actually mined and removed shall be recoverable by the Lessee, but that the same shall belong to the Lessor, without any right on the part of the Lessee

to recoup the same after the expiration or prior termination of this lease by the production of coal or clay.

(4) The Lessee agrees to keep proper records covering all coal and clay produced from the herein described premises, which records shall be open at all reasonable times for the inspection of the Lessor, or her agents, and the Lessor or her agents shall also have the right and privilege at any and all reasonable times to enter upon the premises for the purpose of inspecting and making surveys to determine the quantity of coal and clay actually mined and removed from the demised premises.

(5) A true and correct statement or account of the amount of coal and clay mined and removed from the demised premises shall be rendered by the Lessee to the Lessor at the time of payment of each month's royalty. The weight of all coal and clay produced shall be determined by the railroad scale weights over which the coal or clay shall pass, except when sold locally or when coal or clay from different tracts are mixed in the same railroad cars, in which event the Lessee's truck scale weights or the licensed truck scale weights, wheresoever, the same is weighed, shall determine the tonnage mined, copies of such truck scale weights as well as of the railroad scale weights shall be furnished to the Lessor by the Lessee at the time of payment of the royalty on the several days appointed, as herein agreed upon by and between the parties to this indenture. However, if any controversy arises between the parties as

to the actual amount of coal or clay produced and removed from the demised premises, the rule for determining the weights hereby adopted shall not be conclusive upon either party, but they shall have the right to resort to any proper method for ascertaining the amount or quantity of coal or clay actually mined and removed from the demised premises.

(6) This Lease Agreement shall continue for a period of two years from the date hereof with the right on the part of the Lessee to renew the same for an additional two years upon the Lessee giving the Lessor sixty (60) days notice in writing of his intention to renew said lease for an additional two year period, prior to the expiration of the two year period for which this lease is originally given.

(7) The Lessor covenants and agrees to pay or cause to be paid all taxes assessed against the surface and the coal in place, and the Lessee covenants and agrees to pay any and all taxes on the improvements erected or brought upon the demised premises by the Lessee, as well as any tax or levy on the coal that may be made after it has been mined and converted into personal property.

(8) It is further understood and agreed between the parties to this agreement, that the Lessee shall have the right to terminate this lease upon giving sixty (60) days written notice by registered mail to the Lessor of his intention to terminate this Lease Agreement, subject, of course, to the lessee having complied with the covenants, stipulations and

agreements herein contained.

(9) The Lessee agrees not to assign the term of this lease and not to sublease all or any part of the leased premises without permission of the Lessor, and any taking of the lease term or the lease premises in execution or into the possession of receivers or trustees in bankruptcy, or any other legal proceedings, shall be considered an assignment or sublease prohibited by this covenant, and any violation thereof shall work an immediate forfeiture of all the rights and estate granted by this lease to the Lessee, and thereupon the Lessor may enter into immediate possession of the leased premises.

(10) In the event of default by the Lessee in the performance of any of the terms of this agreement for a period of fifteen days, the Lessor may, at her option, give notice in writing to the Lessee of her intention to forfeit this lease and the rights of the Lessee thereunder, and if the default or defaults pointed out in the said notice are not remedied within fifteen days from the date of said notice to the Lessee, the estate, term and rights of the Lessee hereunder shall be wholly forfeited and ended, and in the aid of obtaining possession of the premises, the Lessee hereby authorizes any attorney of any Court of record to appear for him in an amicable action of ejectment and to confess judgment therein against the Lessee and in favor of the Lessor for said premises and may issue immediately a writ of habere facias possessionem, without stay or asking leave of Court, and the Lessee hereby

waives all errors and rights of appeal in such proceedings.

The Lessee further agrees with the Lessor that in the event of the non-payment of royalty for a period or space of thirty days after any one of said royalty payments shall become due and unpaid, anything herein contained to the contrary notwithstanding, that then, and in such case of default, the Lessee hereby authorizes and empowers any attorney of any Court of record in the Commonwealth of Pennsylvania, or elsewhere, to appear for the Lessee and confess judgment against him for the royalty then due and unpaid, with ten (10) percent attorney's commission added, hereby waiving the right or stay of execution, inquisition, right of appeal, errors and all laws relating to exemption of personal property from levy and sale under an execution, now in force, or which may hereinafter be enacted, together with interest thereon and costs.

The Lessor shall have the same rights as a landlord under the laws of the Commonwealth of Pennsylvania to distrain on any goods, chattels or machinery upon the demised premises for any royalty on coal or clay actually mined and removed or minimum advance royalty payments which may become due and unpaid for a period of thirty days and upon any such distress the Lessee waives all appraisements of personal property and agrees that all distrained personal property may be sold after six days public advertisement of the time and place of sale and the Lessee further waives all exemptions of personal property from sale upon such distress and all errors and defects in the distraint proceedings, other than the notice of distress required

by law.

The Lessee further agrees that all the remedies for the collection of royalty and for gaining possession of the demised premises shall be cumulative, or may be invoked separately, in favor of, and for the use and benefit of the Lessor.

(11) It is further understood and agreed between the Lessor and the Lessee to this agreement, that at any time within a period of thirty days after the expiration or earlier termination of this lease, that the Lessee shall have the right to remove any or all of his equipment from the demised premises, provided all royalties which may be due the Lessor under the terms of this agreement shall have been fully paid, and all the covenants, agreements, and stipulations contained herein have been fully and completely complied with, and should the Lessee attempt to remove his property from the demised premises without having complied fully with all such conditions, the same may be followed and distrained for the space of thirty days after such removal.

(12) It is further understood and agreed between the parties to this indenture that at the expiration or earlier termination of this lease agreement, the Lessee shall have the right or privilege of remaining upon the premises or of later returning to the same for the purpose of complying with all state and federal regulations applicable to surface mining operations on the demised premises for the performance

of which the Lessee shall have heretofore posted the necessary and required bond with the Commonwealth of Pennsylvania.

(13) All payments due the Lessor under this lease agreement shall be mailed to the Lessor at North Swinton Avenue, Delray Beach, Florida and all notices which are to be given to the Lessor shall be mailed by registered mail, addressed to her at the address mentioned immediately above, provided, however, that the Lessor may by written notice unto the Lessee at any time change the said address to another.

(14) All notices which are to be given the Lessee shall be mailed by registered mail addressed to Milford H. Carson at Stumptown, Osceola Mills, Pennsylvania.

(15) All the terms, conditions, covenants, agreements, and remedies shall apply to and bind the executors, administrators, successors and assigns of the parties hereto, as well as the parties themselves.

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

Witness:

J. K. Newling  
Agatha J. Carson

Irene Lippart (SEAL)  
Irene Lippart

Milford H. Carson (SEAL)  
Milford H. Carson

STATE OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

:  
:  
:

SS:

On this, the 27 day of October, 1959,  
before me Dick Reed the undersigned officer,  
personally appeared Irene Lippart, known to me (or satisfactorily  
proven) to be the person whose name is subscribed to the  
within instrument, and acknowledged that she executed the  
same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and  
official seal.

Dick Reed

RECORDER OF DEEDS

My Commission Expires  
First Monday In January 1960

STATE OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

:  
:  
:

SS:

On this, the 16 day of November, 1959,  
before me Dick Reed the undersigned officer,  
personally appeared Milford H. Carson, known to me (or satis-  
factorily proven) to be the person whose name is subscribed  
to the within instrument, and acknowledged that he executed  
the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and  
official seal.

Dick Reed

RECORDER OF DEEDS

My Commission Expires  
First Monday In January 1960

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 323 September Term 1961

IRENE LIPPART

VS.

MILFORD H. CARSON

AFFIDAVIT OF DEFAULT

*S/R*  
*580*  
**FILED**  
OCT 18 1961 EST  
J. G. MERTY  
WM. T. HAGERMAN  
PROTHONOTARY  
*150 beg. 10/17*

DAN P. ARNOLD  
ATTORNEY AT LAW  
CLEARFIELD, PA.