

DOCKET NO. 173

NUMBER                  TERM                  YEAR

532                  February                  1961

Henry Turik

Mary Turik

VERSUS

Lillian D. Eshelman

Earl W. Lutz

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA. No. <u>332</u> <del>June</del> <sup>16</sup> <del>T.</del> 1961	
ACTION TO QUIET TITLE	
HENRY TURIK, MARY TURIK, Plaintiffs	
vs.	
LILLIAN D. ESHELMAN and EARL W. LUTZ, Defendants	
COMPLAINT	
<p>TO THE WITHIN DEFENDANTS: You are hereby notified to file an answer to the herein Complaint within twenty (20) days from Service hereof.</p> <p><i>Richard M. Sharp</i> Attorneys for Plaintiffs</p> <p><b>FILED</b> RICHARD M. SHARP ATTORNEY APR 20 1961 WM. T. SECOR CLERK PHILADELPHIA, PENNSYLVANIA PROTHONOTARY</p> <p>4-50</p>	

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

HENRY TURIK, MARY TURIK,  
Plaintiffs

vs.

LILLIAN D. ESHELMAN and  
EARL W. LUTZ,  
Defendants,

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No. *Feb.* 532 ~~1961~~ Term, 1961

ACTION TO QUIET TITLE

COMPLAINT

1. The Plaintiffs are Henry Turik and Mary Turik, husband and wife, who reside in Cooper Township, Clearfield County, Pennsylvania.

2. The Defendant Lillian D. Eshelman is the County Treasurer of the County of Clearfield.

3. The Defendant Earl W. Lutz, an individual, resides in Cooper Township, Clearfield County, Pennsylvania.

4. At the Treasurers Sale of Seated Lands of the County of Clearfield held August 4, 1958, a certain property situate in Cooper Township, Clearfield County, Pennsylvania, assessed in the name of "Mrs. Mary Olson" and described as "H Shanty & 8A" was exposed for sale for taxes assessed for the year 1956.

5. At said sale Plaintiffs bid the sum of \$25.38 for said property, which bid being the highest and best bid for the same, the said property was thereupon declared sold to the Plaintiffs.

6. That the bid price of \$25.38 was thereupon paid by Plaintiffs to the County Treasurer, R. Curtis Smith.

7. The Plaintiffs paid the 1957 taxes in the amount of \$17.79 assessed against said property unto R. Curtis Smith, Treasurer on August 4, 1958.

8. The Plaintiffs paid the 1958 taxes assessed in the amount of \$19.44 unto R. Curtis Smith, County Treasurer.

9. Plaintiffs paid the 1959 and 1960 taxes assessed against said property unto the tax collector of Cooper Township on July 29, 1959 and January 18, 1961 respectively.

10. On August 3, 1960, the Defendant, Earl W. Lutz, redeemed the said property by paying unto the County Treasurer, Lillian D. Eshelman, the sum of \$89.06, representing the price bid and paid by Plaintiffs for said property, a redemption charge of 15% and reimbursement for taxes for the years 1957, 1958 and 1959, paid by Plaintiffs as aforesaid.

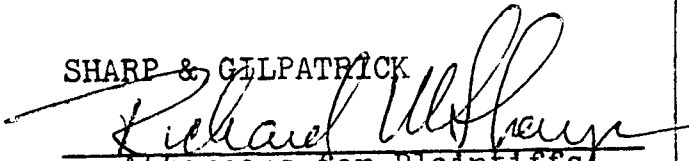
11. At the time of the payment of the redemption money by the said Defendant Earl W. Lutz, he was neither an owner, heir or legal representative of any owner, nor a lien creditor, heir, assign or legal representative of any lien creditor, nor interested in said property for the benefit of the owner or owners thereof.

12. The County Treasurer has rendered unto Plaintiffs the amount paid in redemption, which sum the Plaintiffs have refused to accept.

13. The Plaintiffs have requested that the County Treasurer deliver to them a deed for the premises, but this the County Treasurer has refused to do.

WHEREFORE, Plaintiffs request the Court to decree that title to said property is in Plaintiffs, that the County Treasurer of Clearfield County be directed to deliver to Plaintiffs a deed therefor and that the Defendant Earl W. Lutz be enjoined from setting up any title to said premises, from impeaching, denying or in any way attacking Plaintiffs' title to said property.

SHARP & GILPATRICK

  
Attorneys for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF

} SS.

Before me, the undersigned officer, personally appeared Henry Turik and Mary Turik, who being duly sworn according to law depose and say that the facts set forth in the foregoing complaint are true and correct to the best of their knowledge, information and belief.

Henry Turik  
Mary Turik

Sworn to and subscribed before me  
this 19 day of April, 1961.

T.

Leonard T. Hess

Notary Public

My Commission expires 4/23/65

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA. NO. 532 <del>1960</del> <sup>1961</sup> TERM, 1961	HENRY TURIK, MARY TURIK, Plaintiffs  vs.  LILLIAN D. ESHELMAN and EARL W. LUTZ, Defendants	PRELIMINARY OBJECTIONS IN BEHALF OF LILLIAN D. ESHELMAN, COUNTY TREASURER	<div>FILED MAY - 3 1961 WM. T. HAGERTY PROTHONOTARY</div> CLARENCE R. KRAMER COUNTY SOLICITOR CLEARFIELD, PA.
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And Now, This 8<sup>th</sup> day of May 1961, service of the  
within is hereby accepted & receipt of copy is  
acknowledged.

Sharon E. Seligman  
- MS Seligman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HENRY TURIK, MARY TURIK,  
Plaintiffs

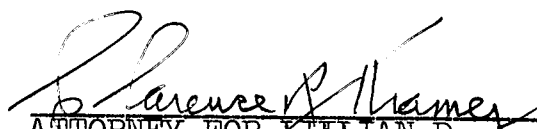
vs.

LILLIAN D. ESHELMAN and  
EARL W. LUTZ,  
Defendants

No. 532 ~~June~~ Term, 1961  
*Feb*

PRAECIPE TO WITHDRAW  
PRELIMINARY OBJECTIONS

The above case having been primarily a contest between the plaintiffs and Earl W. Lutz, the co-defendant, in which Lillian D. Eshelman as County Treasurer was joined and it appearing that the said Earl W. Lutz and the plaintiffs have settled the case between them, agreeing that the plaintiffs are entitled to the tax deed as a result of the sale of the property to them at County Treasurer's sale held August 4, 1958, it is directed that the Preliminary Objections be withdrawn.

  
ATTORNEY FOR LILLIAN D.  
ESHELMAN

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

No. 532 June Term, 1961

HENRY TURIK, MARY TURIK, Plaintiffs  
vs.  
LILLIAN D. ESHELMAN and EARL W. LUTZ, Defendants

PRACIPE TO WITHDRAW  
PRELIMINARY OBJECTIONS

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

No. 532 June Term, 1961

HENRY TURIK, MARY TURIK, Plaintiffs  
vs.  
LILLIAN D. ESHELMAN AND EARL W. LUTZ, Defendants

PRACIPE TO WITHDRAW  
PRELIMINARY OBJECTIONS

No. 532 June Term, 1961

ESHELMAN  
VERONICA ROY ELLIOTT D.

preliminary objections be withdrawn.  
treasurer's sale held August 4, 1958, it is directed that the  
tax deed as a result of the sale of the property to them at County  
between them, agreeing that the plaintiffs are entitled to the  
the sale. Earl M. Luttz and the plaintiffs have settled the case.

D. Eselman as County Treasurer was joined and it appearing that  
the plaintiffs and Earl M. Luttz, the co-defendant, in which Lillian  
in above case having been primarily a contest between

PRELIMINARY OBJECTIONS  
PRACIPE TO WITHDRAW

FILED  
DEC 13 1961  
WM. T. HAGERTY  
PROTHONOTARY

In the Court <sup>Of</sup> Common Pleas of Clearfield County, Pa.

Henry Turick and  
Mary Turick

No 532 <sup>Feb</sup> ~~June~~ Term 1961

vs

Lillian D Eshelman  
and Earl W. Lutz

Complaint to Action to Quiet Title

\* \* \* \* \*  
(Sheriff,s Return)

Now, April 21, 1961 at 10:20 A.M. served the within Action to Quiet Title on Lillian D Eshelman, 123 Susquehanna Ave, Curwen Sville, Pa. by handing to Lillian D Eshelman at corner of 2nd and Market Sts in Clearfield, Pa, personally a true and attested copy of the original Complaint, Action to Quiet Title, and made known to her the contents thereof.

Now, April, 22, 1961 at 12:05 P.M. served the within Complaint Action to Quiet Title on Earl W Lutz at place of residence in the village of Winburne, Cooper Township, Clearfield County, Pa. by handing to Earl W Lutz Personally a true and attested copy of the original Complaint, Action to Quiet Title and made known to him the contents thereof.

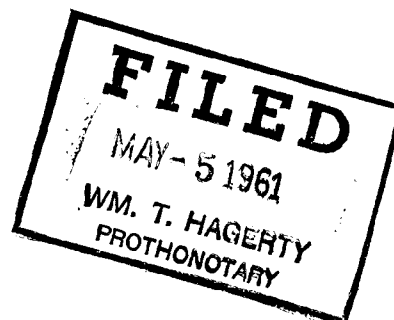
Costs Sheriff Ammerman \$13.50  
(Paid by Atty Sharp)

So Answers,

*Charles G. Ammerman*  
Charles G. Ammerman  
Sheriff

Sworn to before me this 24th  
day of April 1961. A.D.

*Wm T. Hagerty*  
Prothonotary.



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HENRY TURIK, MARY  
TURIK

VS

LILLIAN D. ESHELMAN and  
EARL W. LUTZ

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No. 532 June Term, 1961

Action to Quiet Title

PRAECIPE FOR APPEARANCE

TO WILLIAM T. HAGERTY, PROTHONOTARY

SIR:

Please enter my appearance for Earl W. Lutz, one of the  
Defendants in the above entitled matter.



Attorney for Earl W. Lutz,  
Defendant

Dated: May , 1961

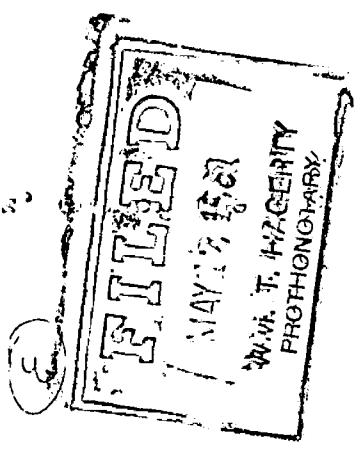
IN THE COURT OF COMMON PLEAS  
 OF CLEARFIELD COUNTY, PENNA.  
 No. 532 June Term, 1961  
 Action to Quiet Title

1961

1961

HENRY TURIK, MARY TURIK  
 VS  
 LILLIAN D. ESHELMAN and  
 EARL W. LUTZ

PRACIPE FOR APPEARANCE



TO THE COURT OF COMMON PLEAS  
 OF CLEARFIELD COUNTY, PENNA.  
 AS  
 I, THE  
 PROTHONOTARY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

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

HENRY TURIK, MARY TURIK,  
Plaintiffs

vs.

LILLIAN D. ESHELMAN and  
EARL W. LUTZ,  
Defendants,

No. 532 ~~June~~ <sup>Feb</sup> Term, 1961

PRELIMINARY OBJECTIONS  
IN BEHALF OF  
LILLIAN D. ESHELMAN,  
COUNTY TREASURER

1. An action to quiet title does not exist against a County Treasurer in her official capacity.
2. The defendant as County Treasurer cannot be joined in an action to quiet title with an individual defendant.
3. The averments in the complaint affirmatively show that no action in this case is properly brought against the County Treasurer.
4. That even if mandamus were sustainable against the County Treasurer the averments of fact in the pending case show that the Treasurer had discretionary power whether to allow redemption of the property and that having exercised the power of discretion is not subject to a writ of mandamus.

WHEREFORE, the defendant, Lillian D. Eshelman, the County Treasurer, asks the court for judgment in her behalf.

  
Solicitor for the County Treasurer

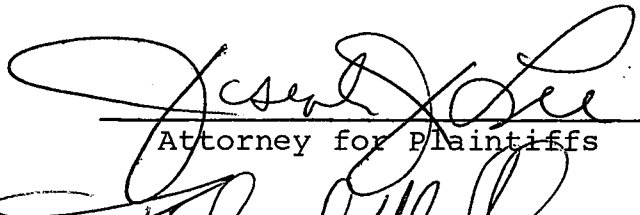
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA. No. 532 <del>June</del> -Term, 1961 <i>Feb</i> Action to Quiet Title	
HENRY TURIK, MARY TURIK,  Plaintiffs	vs.  LILLIAN D. ESHELMAN and EARL W. LUTZ,  Defendants
<div>S/L <b>FILED</b> JUL 23 1961 WM. T. HAGERTY PROTHONOTARY</div> <div>SHARP &amp; GILPATRICK ATTORNEYS AT LAW 20 NORTH SECOND ST. PHILIPSBURG, PA.</div>	

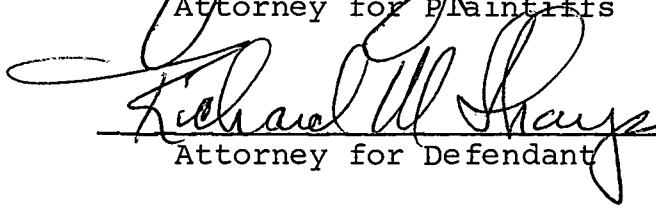
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

HENRY TURIK, MARY TURIK,	:	
Plaintiffs	:	
	:	
vs.	:	No. 532 <del>June</del> Term, 1961
	:	
LILLIAN D. ESHELMAN and	:	Action to Quiet Title
EARL W. LUTZ,	:	
Defendants	:	

MOTION FOR JUDGMENT

The Plaintiffs and Defendant Earl W. Lutz, having reached a compromise settlement in the above matter, the Court is respectfully moved to enter judgment against Defendant Earl W. Lutz in favor of Plaintiffs Henry Turik and Mary Turik by admission, costs to be paid by Plaintiffs.

  
\_\_\_\_\_  
Attorney for Plaintiffs

  
\_\_\_\_\_  
Attorney for Defendant

October 9, 1961.

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

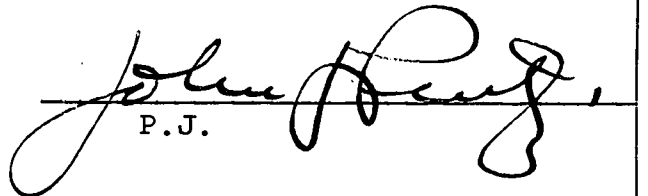
HENRY TURIK, MARY TURIK,	:	
Plaintiffs	:	
	:	
vs.	:	No. 532 June Term, 1961
	:	
LILLIAN D. ESHELMAN and	:	Action to Quiet Title
EARL W. LUTZ,	:	
Defendants	:	

ORDER OF COURT

AND NOW, this 13<sup>th</sup> day of October 1961,

upon motion of Richard M. Sharp, Esq., attorney for Plaintiffs,  
and Joseph J. Lee, Esq., attorney for Defendant Earl W. Lutz,  
judgment is entered by admission against Defendant Earl W. Lutz  
in favor of Plaintiffs Henry Turik and Mary Turik; costs to be  
borne by Plaintiffs.

BY THE COURT

  
P.J.

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 532 Feb. T., 1961  
Action to Quiet Title

HENRY TURIK, MARY TURIK,  
Plaintiffs

vs.

LILLIAN D. ESHELMAN and  
EARL W. LUTZ,  
Defendants

DECREE OF COURT

(S)

**FILED**  
FEB - 5 1962  
CARL E. WALKER  
PROTHONOTARY

SHARP & GILPATRICK  
ATTORNEYS AT LAW  
20 NORTH SECOND ST.  
PHILIPSBURG, PA.

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

HENRY TURIK, MARY TURIK,  
Plaintiffs,

vs.

LILLIAN D. ESHELMAN and  
EARL W. LUTZ,  
Defendants.

:

:

No. 532 February Term, 1961

:

Action to Quiet Title

:

DECREE OF COURT

AND NOW, this 5<sup>th</sup> day of Feb., 1962,

an amicable entry of judgment having been entered against the Defendant Earl W. Lutz, in the above matter, it is Decreed that the said Defendant Earl W. Lutz be, and he is hereby forever barred from setting up any title to the said premises, from impeaching, denying or in any way attacking title to said Plaintiff's property. That the redemption of the premises by said Earl W. Lutz on August 3, 1960 be and the same is hereby declared invalid; and further, that an affidavit of service of the Complaint with notice to plead having been filed and no Answer made by the Defendant Lillian D. Eshelman, the Court, upon motion of Sharp & Gilpatrick, Esqs., attorneys for Plaintiffs, hereby orders and decrees that Lillian D. Eshelman, the County Treasurer of Clearfield County, deliver unto the Plaintiffs a Treasurer's deed for the said premises to the same effect as though there had been no redemption thereof by said Defendant Earl W. Lutz.

BY THE COURT

P.J.

Rich Sharp  
Clarance Thamer

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA. No. 532 <del>June</del> Term, 1961 Action to Quiet Title	
HENRY TURIK, MARY TURIK  VS  LILLIAN D. ESHELMAN and EARL W. LUTZ	
ANSWER	
<div>RECEIVED JUN 12 1961 CLEARFIELD COUNTY</div> JOSEPH J. LEE ATTORNEY-AT-LAW CLEARFIELD, PA.	

And Now June 12, 1961 Service of the  
within answer is accepted on behalf of  
Plaintiffs & receipt of a copy acknowledged.

Richard M Sharp,  
Attorney for Plaintiffs  
June 12 1961 service accepted in behalf of Lillian D. Eshelman,  
County Treas. Clarence P Thamer,  
Solicitor for County Treas

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HENRY TURIK, MARY  
TURIK

VS

LILLIAN D. ESHELMAN and  
EARL W. LUTZ

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: No. 532 June Term, 1961  
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: Action to Quiet Title  
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A N S W E R

COMES NOW, the defendant, Earl W. Lutz, and by counsel files  
answer to the Complaint:

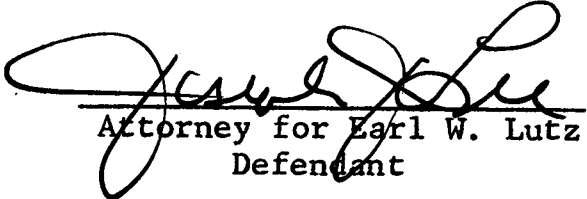
- (1). Admitted.
- (2). Admitted.
- (3). Admitted.
- (4). Admitted.
- (5). Admitted.
- (6). Admitted.
- (7). Admitted.
- (8). Admitted.
- (9). Admitted.
- (10). Admitted.

(11). Denied, and on the contrary it is averred that defendant, Earl W. Lutz, at the time of the payment of the redemption money, was the equitable owner of the property - having prior thereto and prior to the date of the sale of the premises deposited with the attorney for the estate of Mrs. Mary Olson earnest money in the amount of \$100.00 toward the purchase of the premises from the representatives of the estate, and since that time has been endeavoring to secure a deed from the estate of Mrs. Mary Olson and as such, defendant Earl W. Lutz, had the legal right to redeem the property.

(12). Admitted.


(13). Admitted.

WHEREFORE, defendant, Earl W. Lutz, requests the Court to dismiss the Complaint.

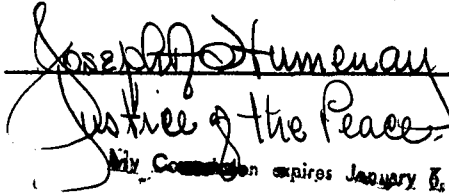
  
Attorney for Earl W. Lutz,  
Defendant

STATE OF PENNSYLVANIA:  
:SS  
COUNTY OF CLEARFIELD :

EARL W. LUTZ, being duly sworn according to law, deposes and says that the facts set forth in the within Answer are true and correct to the best of his knowledge, information and belief.

  
(Earl W. Lutz)

Subscribed and sworn to before  
me this 15 day of May, 1961.

  
Justice of the Peace  
My Commission expires January 1, 1966

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

No. 532 June Term, 1961

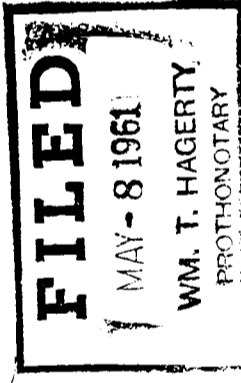
*Def.*

HENRY TURIK, MARY TURIK,  
Plaintiffs

vs.

LILLIAN D. ESHELMAN and EARL W.  
LUTZ,  
Defendants

PRAECIPE



SHARP & GILPATRICK  
Attorneys at Law  
Philipsburg, Pa.

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

HENRY TURIK, MARY TURIK,  
Plaintiffs

vs.

LILLIAN D. ESHELMAN and  
EARL W. LUTZ,  
Defendants

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No. 532 ~~June~~ Term, 1961

*Feb.*

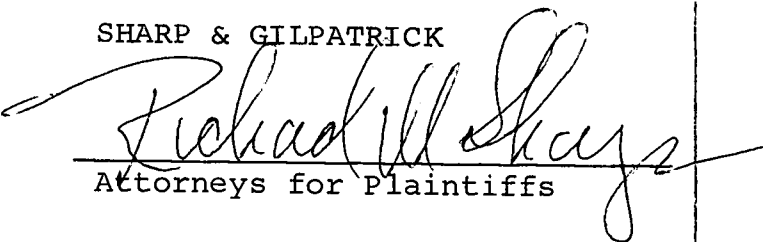
PRAECIPE

TO THE PROTHONOTARY OF THE SAID COURT:

Preliminary objections having been filed on behalf of  
Lillian D. Eshelman, Treasurer of Clearfield County, you are here-  
by directed to place this matter on the next argument list.

May 8, 1961.

SHARP & GILPATRICK

  
Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA. No. 532 Feb. Term, 1961 Action to Quiet Title	HENRY TURIK, MARY TURIK, Plaintiffs  vs.  LILLIAN D. ESHELMAN and EARL W. LUTZ, Defendants	AFFIDAVIT and MOTION	<div>3</div> <div>FILED FEB - 5 1962 CARL E. WALKER PROTHONOTARY</div> <div>SHARP &amp; GILPATRICK ATTORNEYS AT LAW 20 NORTH SECOND ST. PHILIPSBURG, PA.</div>
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Leona T. Hess  
Notary Public  
My Commission Expires 2/23/65

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

HENRY TURIK, MARY TURIK,  
Plaintiffs,

vs.

LILLIAN D. ESHELMAN and  
EARL W. LUTZ,  
Defendants.

:

:

No. 532 February Term, 1961

:


Action to Quiet Title

:

MOTION FOR JUDGMENT

AND NOW, February 5, 1962, an affidavit

having been executed on behalf of the Plaintiffs that the Complaint with notice to plead has been served on the Defendant, Lillian D. Eshelman, and the said Defendant has not answered, the Plaintiffs, by their attorneys, Sharp & Gilpatrick, Esqs, moves the Court to enter judgment against the Defendant, Lillian D. Eshelman, and in favor of the Plaintiffs; and to grant the Plaintiffs the relief prayed for in accordance with Pennsylvania R.C.P. No. 1066.

  
Attorney for Plaintiffs