

DOCKET NO. 173

NUMBER TERM YEAR

532 February 1961

Henry Turik

Mary Turik

VERSUS

Lillian D. Eshelman

Earl J. Lutz

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA.
No. 132 ~~June~~ ¹⁹⁶¹ P.

ACTION TO QUIET TITLE

HENRY TURIK, MARY TURIK,
Plaintiffs

vs.

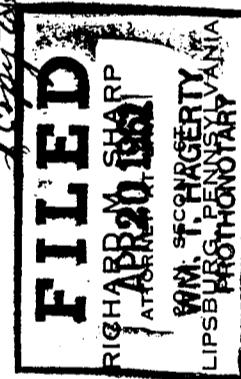
LILLIAN D. ESHELMAN and
EARL W. LUTZ, Defendants

COMPLAINT

TO THE WITHIN DEFENDANTS:

You are hereby notified
to file an answer to the
herein Complaint within twenty
(20) days from Service hereof

Alfred M. Steck
Attorneys for Plaintiffs



4/5-0

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

HENRY TURIK, MARY TURIK, :
Plaintiffs : *File*
vs. : No. 532 ~~_____~~ Term, 1961
LILLIAN D. ESHELMAN and : ACTION TO QUIET TITLE
EARL W. LUTZ, :
Defendants, :

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.

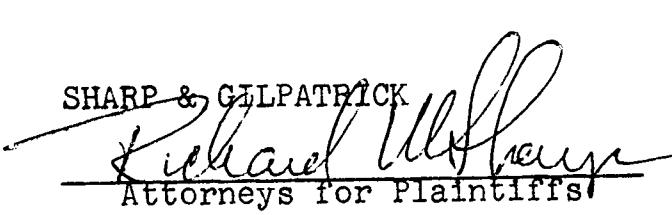
11. At the time of the payment of the redemption money by the said Defendant Earl W. Lutz, he was neither an owner, heir or legal representative of any owner, nor a lien creditor, heir, assign or legal representative of any lien creditor, nor interested in said property for the benefit of the owner or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


Michael W. Sharp
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.

George T. Hess
Notary Public
My Commission expires 7-23-65

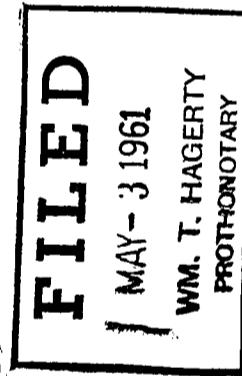
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
NO. 532 ~~1961~~ TERM, 1961
1-26

HENRY TURIK, MARY TURIK,
Plaintiffs

vs.

LILLIAN D. ESHELMAN and
EARL W. LUTZ, Defendants

PRELIMINARY OBJECTIONS IN
BEHALF OF LILLIAN D. ESHEL-
MAN, COUNTY TREASURER



CLARENCE R. KRAMER
COUNTY SOLICITOR
CLEARFIELD, PA.

And Now, This 8th day of May 1961, service of the
within is hereby accepted & receipt of copy is
acknowledged.

8th May 1961
W. T. HAGERTY
PROTHONOTARY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HENRY TURIK, MARY TURIK,
Plaintiffs

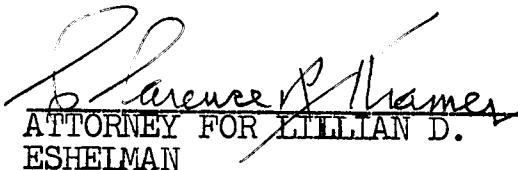
vs.

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 1861

No. 532 ~~June~~ Term, 1961

Plaintiffs
HENRY TURIK, MARY TURIK, MARY TURIK, Plaintiff
HELENA TURIK, Plaintiff
HENRY TURIK, MARY TURIK, Plaintiff
HELENA TURIK, Plaintiff

卷之三

PRAECL^EPI^E TO^E WITHDRAW
P^ERE^EMIN^EARY^E OB^EJECTI^EONS

БЕГИНОВИ
БЛЮЗЫ ДЛЯ МИНИДРАМ

PRAECEPTO WITHDRAW
PRELIMINARY OBJECTIONS

FILED
DEC 13 1961
WM. T. HAGERTY
PROTHONOTARY

In the Court ^{of} Common Pleas of Clearfield County, Pa.

Henry Turick and
Mary Turick
vs

No 532 ~~Feb~~ June Term 1961

Lillian D Eshelman
and Earl W. Lutz

Complaint to Action to Quiet Title

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. Ammermann
Sheriff

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

John P. Nagors
Prothopatology.



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

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

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

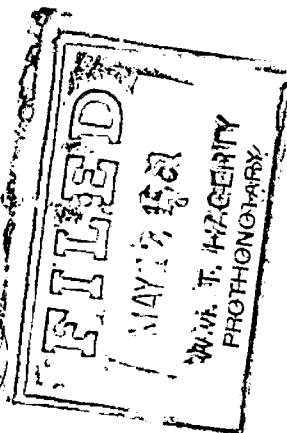
HENRY TURIK, MARY TURIK

VS
LILLIAN D. ESHELMAN and
EARL W. LUTZ

PRAECLYPE FOR APPEARANCE

DECEMBER 10, 1961

RECEIVED
PROSECUTOR'S OFFICE, 1961



NOTICE TO PLAINTIFF
SIR: I, ERNEST H. HIGGINS, AG
AG
AG

NOTICE TO PLAINTIFF
SIR: I, ERNEST H. HIGGINS, AG

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

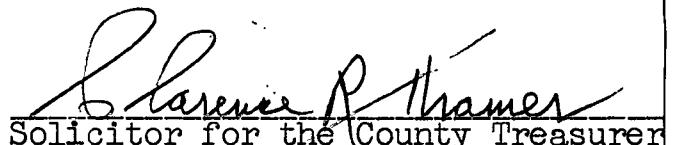
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

HENRY TURIK, MARY TURIK,
Plaintiffs :
vs. : No. 532 ~~June~~ ^{APR} Term, 1961
LILLIAN D. ESHELMAN and
EARL W. LUTZ,
Defendants, :

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.


Lawrence R. Thomas
Solicitor for the County Treasurer

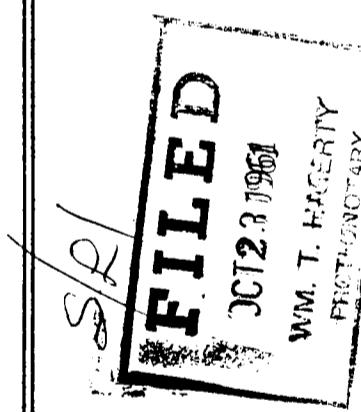
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 532 ~~June~~ Term, 1961

Jel
Action to Quiet Title

HENRY TURIK,
MARY TURIK,
Plaintiffs

vs.

LILLIAN D. ESHELMAN and
EARL W. LUTZ,
Defendants



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 : *Lut*
: :
vs. : No. 532 ~~June~~ 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.

Joseph Lee

Attorney for Plaintiffs

Richard W. Hayes

Attorney for Defendant

October 9, 1961.

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

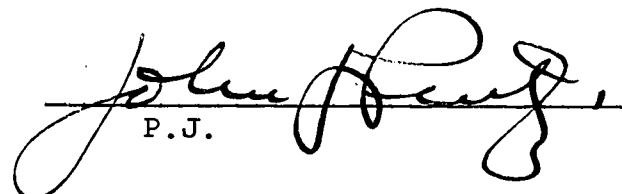
HENRY TURIK, MARY TURIK, :
Plaintiffs :
vs. : No. 532 June Term, 1961
LILLIAN D. ESHELMAN and : Action to Quiet Title
EARL W. LUTZ, :
Defendants :

ORDER OF COURT

AND NOW, this 13rd 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


John H. Reed,
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



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. No. 532 February Term, 1961
:
LILLIAN D. ESHELMAN and Action to Quiet Title
EARL W. LUTZ, :
Defendants.

DECREE OF COURT

AND NOW, this 5th 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

John J. Pugh
P.J.

*Recd. Seal
Concurrence*

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

HENRY TURIK, MARY TURIK

VS

LILLIAN D. ESHELMAN and
EARL W. LUTZ

ANSWER



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

June 12 1961 Service accepted on behalf of Plaintiffs
County Treas. Clarence P. Hansen Attorney for Plaintiffs
Solicitor for County Treas. Clarence P. Hansen
for Lillian D. Eshelman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

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

A N S W E R

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

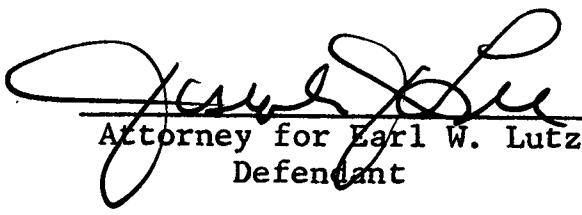
- (1). Admitted.
- (2). Admitted.
- (3). Admitted.
- (4). Admitted.
- (5). Admitted.
- (6). Admitted.
- (7). Admitted.
- (8). Admitted.
- (9). Admitted.
- (10). Admitted.

(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.

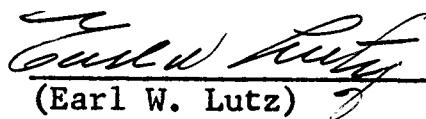
WHEREFORE, defendant, Earl W. Lutz, requests the Court to dismiss the Complaint.


Attorney for Earl W. Lutz,
Defendant

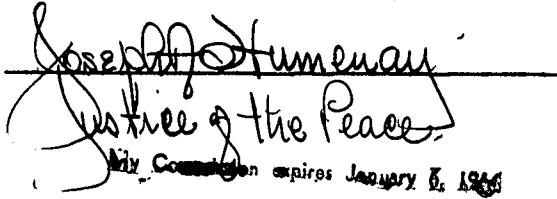
STATE OF PENNSYLVANIA:
:SS

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.


Joseph P. Humeau
Justice of the Peace
My Commission expires January 5, 1961

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

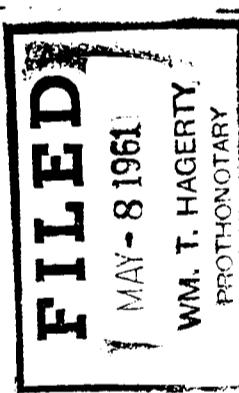
No. 532 June Term, 1961

HENRY TURIK, MARY TURIK,
Plaintiffs

vs.

LILLIAN D. ESHELMAN and EARL W.
LUTZ,
Defendants

PRAECIPE



SHARP & GILPATRICK
Attorneys at Law
Philipsburg, Pa.

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	:
EARL W. LUTZ,	:
Defendants	:

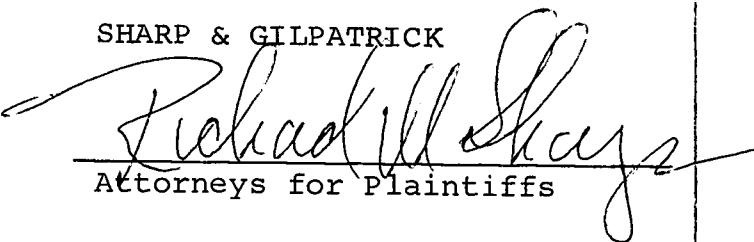
PRAECIPE

TO THE PROTHONOTARY OF THE SAID COURT:

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

May 8, 1961.

SHARP & GILPATRICK


Richard W. Shays
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



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. : No. 532 February Term, 1961
:
LILLIAN D. ESHELMAN and : Action to Quiet Title
EARL W. LUTZ, :
Defendants. :
:

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA)
SS.
COUNTY OF CENTRE))

Richard M. Sharp, being duly sworn according to law, deposes and says that he is the attorney for the Plaintiffs in this action and makes this affidavit on behalf of the Plaintiffs, being authorized to do so; that a Complaint in action to quiet title endorsed with notice to plead within twenty (20) days from service thereof was served on the Defendant, Lillian D. Eshelman on April 21, 1961, and that the Defendant has filed Preliminary Objections to the Complaint but withdrew same on December 13, 1961, and that Defendant named herein has not filed an Answer thereto although the time in which to do so has expired.

Richard M. Sharp

Sworn to and subscribed before
me this 8th day of January, 1962.

James 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. : No. 532 February Term, 1961
:
LILLIAN D. ESHELMAN and : Action to Quiet Title
EARL W. LUTZ, :
Defendants.

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