

IN THE SUPERIOR COURT OF PENNSYLVANIA  
No. 1463 EDA 2017

WALKER LAKESHORES  
LANDOWNERS ASSOCIATION,

Appellant

v.

WILLIAM PEARN and  
AMELIA PEARN, his wife,

Appellees

.....

**MOTION TO QUASH APPEAL**  
**PURSUANT TO Pa.R.A.P. 1911(d), 1972(5) AND 1972(7)**

AND NOW COME Appellees William Pearn and Amelia Pearn, his wife, by and through their attorneys, Bugaj/Fischer, P.C., and moves this Court for an Order quashing this appeal pursuant to Pa.R.A.P. 1911(d), 1972(5) and 1972(7), based upon the following:

1. This appeal was taken by appellant Walker Lakeshores Landowners Association from the judgment entered on the December 22, 2016 verdict rendered by the Hon. Joseph F. Kameen, P.J. of the Court of Common Pleas of Pike County

following a non-jury trial. A true and correct copy of this Verdict is attached as appellees' Exhibit A.

2. Appellant filed a motion for post-trial relief following entry of the trial court's December 22, 2016 Verdict. A true and correct copy of appellant's Post-Trial Motion is attached as appellees' Exhibit B.

3. Nowhere in appellant's Post-Trial Motion does appellant request a copy of the transcript of the non-jury trial. *See Exh. B.*

4. Appellant filed a Notice of Appeal on May 4, 2017. A true and correct copy of appellant's Notice of Appeal is attached as appellees' Exhibit C.

5. Appellant failed to include a request for transcript with his Notice of Appeal, as required by Pa.R.A.P. 1911(a), and further failed to include a statement that there either is no verbatim record of the non-jury trial or that the complete transcript of the non-jury trial had already been lodged, as required by Pa.R.A.P. 904(c). *See Exh. C.*

6. No transcript of the non-jury trial has ever been made.

7. Accordingly, no transcript of the non-jury trial appears in the record for review by this Court. A true and correct copy of the certification by the Prothonotary showing those documents submitted to this Court on July 17, 2017, evidencing that no transcript of the non-jury trial appears in the certified record, is attached as appellees' Exhibit D.

7. It is appellant's responsibility to supply this Court with a complete record for purposes of appellant's appeal. Com. v. Hallock, 722 A.2d 180, 182 (Pa.Super. 1998).

8. This Court cannot consider anything that is not a part of the record in this case. Smith v. Smith, 431 Pa.Super. 588, 637 A.2d 622, 623 (Pa.Super. 1993), *appeal denied*, 539 Pa. 680, 652 A.2d 1325 (Pa. 1994).

9. The transcript of the non-jury trial held in this case is necessary for review of appellant's appeal.

10. Appellant's failure to request a transcription of the non-jury trial warrants a finding that appellant has waived its claims presented for review before this Court and dismissal of appellant's appeal. Com. v. Peifer, 1999 PA Super 76, 730 A.2d 489, 492 n.3 (Pa.Super. 1999) (stating, in relevant part, "Failing to provide the necessary materials warrants a finding that appellant's claim is waived."), *appeal denied*, 560 Pa. 702, 743 A.2d 918 (Pa. 1999); Pa.R.A.P. 1911(d) (stating, "If the appellant fails to take the action required by these rules and the Pennsylvania Rules of Judicial Administration for the preparation of the transcript, the appellate court may take such action as it deems appropriate, which may include dismissal of the appeal.").

11. In addition, the issues that appellant now raises for review, in his concise statement of matters complained of on appeal, were not raised by appellant

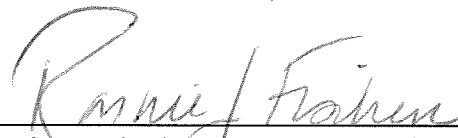
in its Post-Trial Motion. A true and correct copy of appellant's concise statement of matters complained of on appeal is attached as appellees' Exhibit E. *See also Exh. B.*

12. As such, the issues raised by appellant have been waived. Pa.R.C.P. 227.1(b)(2); Chalkey v. Roush, 757 A.2d 972, 975 (Pa.Super. 2000) (stating, "Grounds not specified by post-trial motion are, however, waived on appeal.")

WHEREFORE, appellees William Pearn and Amelia Pearn respectfully requests that this Court quash the above-captioned appeal.

Respectfully submitted,

BUGAJ/FISCHER, by:

  
\_\_\_\_\_  
Ronnie J. Fischer, Esq., PA ID#91029  
P.O. Box 390  
Honesdale, PA 18431  
570-253-3021  
ronnie\_fischer@hotmail.com

IN THE COURT OF COMMON PLEAS OF  
PIKE COUNTY, PENNSYLVANIA  
CIVIL

2016 DEC 22 PM 3:12

WALKER LAKESHORES  
LANDOWNERS ASSOCIATION,

Plaintiff,

v.

No. 277-2011 Civil

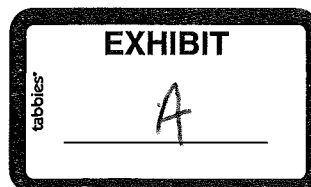
WILLIAM PEARN and  
AMELIA PEARN, his wife,

Defendants.

VERDICT

AND NOW, this 22<sup>nd</sup> day of December, 2016, following a Non-Jury Trial in the above matter and after review of the Post-Trial Briefs submitted by each party, the Court hereby enters a Verdict in favor of the Plaintiff and against the Defendants in the total amount of \$30.00.

Found within the chain of title for Defendants' property is a deed dated June 13, 1966 from Grace J. Swezy, Charles D. Swezy and Beverly A. Swezy to Donald Jarvis and Gladys Jarvis providing a metes and bounds description of Defendants' property. This deed contains a provision specifically granting the Jarvises, their heirs and assigns, the right to use the waters of Walker Lake, in common with the other lot owners in Maple Park and any others having a right to use the lake. This deed also contains thirteen (13) covenants. The final covenant is: "The purchaser agrees to pay to the grantors the sum of \$10.00 per year for the maintenance of the picnic grounds and docks until such time as 90% of the lots



described and laid out on the aforesaid map to be recorded have been sold and to pay said sum thereafter to an association of property owners to be formed at that time.” Therefore, because the June 13, 1966 deed indicates a payment of \$10.00 per year for maintenance of the picnic grounds and docks, Defendants shall pay a total amount of \$30.00 to Plaintiff for maintenance fees owed for the years 2008, 2009 and 2010.

As it relates to all other claims for the Association to collect “lake assessments”, a Verdict is entered in favor of the Defendants.

BY THE COURT:

  
\_\_\_\_\_  
HON. JOSEPH F. KAMEEN, P.J.

2016 DEC 22 PM 3:12

cc: Eric L. Hamill, Esq.  
Ronald Bugaj, Esq.  
av

**IN THE COURT OF COMMON PLEAS  
PIKE COUNTY, PENNSYLVANIA  
60<sup>th</sup> JUDICIAL DISTRICT**

OFFICE OF  
PROTHONOTARY  
ALEXANDER  
2011 JAN -8 PM 1:20  
PIKE COUNTY, PA

**WALKER LAKESHORES LANDOWNERS,  
ASSOCIATION,** :

**Plaintiff,** :

**v.** :

**NO.: 277-2011-CIVIL**

**WILLIAM PERN and  
AMELIA PERN, his wife,** :

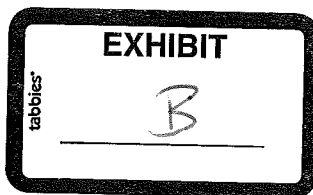
**Defendants.** :

.....

**POST-TRIAL MOTION**

*AND NOW COMES* Plaintiff's counsel, Eric L. Hamill, Esquire, and makes the following post-trial motions and request for relief to modify or change the decision:

1. Plaintiff sought payment for assessments related to use of Walker Lake by Defendants.
2. The Pleadings sought payment for such assessments, and Plaintiff limited its request for relief following discovery that certain assessments had been made for the owner prior to the named Defendants.
3. The Court refused to allow the amendment of the Pleadings to allow collection beyond 2010 as had been sought in the original pleadings.
4. In the Pleadings, Defendants did not deny the ownership of Walker Lake by the Plaintiff or challenge the right of Plaintiff to make an assessment.
5. At trial, the Defendants sought to distinguish a pro-rata collection of expenses versus an assessment for common elements owned by the Association and used by the



Defendants. Again, there was no modification of the pleadings to allow these theories to be advanced.

6. The Court did grant judgment for a ten dollar fee for maintenance of a picnic area. Plaintiff did not seek relief on this item as Plaintiff did not own said picnic area until 2013.
7. The Court did find the Defendants had the right to use Walker Lake, which was wholly owned by the Plaintiff.
8. Should the Court decide that some other method and assessments be required for the Defendants such that costs related to the shared lake use be charged as a pro rata share of expenses, the assessments, when unpaid for a year amount to that pro rata share of expenses.
9. Defendants did no discovery and could not properly question the legitimacy of any expense which was made from the assessments.
10. The Answer did not provide for any defense or reason for nonpayment.
11. The request to change the verdict is made to allow more corrections of error of law and fact, and to allow the verdict to conform to the Pleadings.
12. The Decision is contrary to law, as the Defendants most contribute to the cost of the shared element.
13. The Decision is against the weight of the evidence.

*WHEREFORE*, it is hereby requested that the Court 1) Set an argument date and/or 2) modify the verdict to remove the thirty dollar verdict, and enter verdict for the assessed values either: 1) as assessment or 2) as pro rata share representing amounts previously spent by the Association.



Respectfully Submitted,

A handwritten signature in black ink, appearing to be 'E. Hamill', written in a cursive style.

---

Eric L. Hamill, Esquire  
*Attorney for the Plaintiff*  
501 Broad Street, Suite 3  
Milford, Pennsylvania 18337  
(570) 296-6574

IN THE COURT OF COMMON PLEAS  
PIKE COUNTY, PENNSYLVANIA  
60<sup>th</sup> JUDICIAL DISTRICT

FILED  
APR 14 2017  
PIKE COUNTY CLERK

WALKER LAKESHORES LANDOWNERS  
ASSOCIATION,

Plaintiff,

v.

NO.: 277-2011-CIVIL

WILLIAM PEARN and  
AMELIA PEARN, his wife,

Defendants.

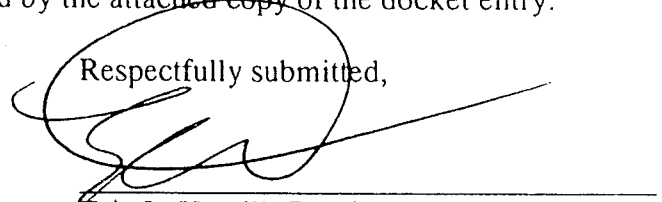
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NOTICE OF APPEAL

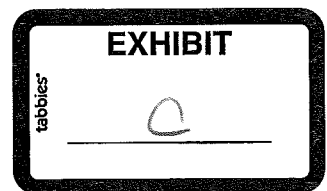
Notice is hereby given that Walker Lakeshores Landowners Association, Plaintiff above named, hereby appeals to the Superior Court of Pennsylvania from the Judgment entered in this matter on the 5th day of April, 2017 (attached).

This entry of the Judgment is evidenced by the attached copy of the docket entry.

Respectfully submitted,



Eric L. Hamill, Esquire  
Attorney ID Number 83929  
Attorney for the Plaintiff/Appellant  
501 Broad Street, Suite 3  
Milford, PA 18337  
(570) 296-6574



IN THE COURT OF COMMON PLEAS  
PIKE COUNTY, PENNSYLVANIA  
60<sup>th</sup> JUDICIAL DISTRICT

PIKE COUNTY COURT OF COMMON PLEAS  
MAY 4 2017

WALKER LAKESHORES LANDOWNERS  
ASSOCIATION,

Plaintiff,

v.

WILLIAM PEARN and  
AMELIA PEARN, his wife,

Defendants.

NO.: 277-2011-CIVIL

.....

CERTIFICATE OF SERVICE

I, Eric L. Hamill, Esquire, hereby certify that I have served a true and correct copy of the foregoing Notice of Appeal, upon the following individual by United States First Class Mail, postage pre-paid, under date of May 4, 2017.

Honorable Joseph F. Kameen, P.J.  
Pike County Court of Common Pleas  
102 East John Street  
Milford, PA 18337

Ronald M. Bugaj, Esq.  
P.O. Box 390  
Maple Leaf Gardens  
308 Ninth Street  
Honesdale, PA 18431



Eric L. Hamill, Esquire  
Attorney for Plaintiff/Appellant  
501 Broad Street, Suite 3  
Milford, PA 18337  
(570) 296-6574

IN THE COURT OF COMMON PLEAS OF PIKE COUNTY, PENNSYLVANIA  
60<sup>TH</sup> JUDICIAL DISTRICT  
CIVIL ACTION - LAW

WALKER LAKESHORES LANDOWNERS  
ASSOCIATION,

Plaintiff

vs.

WILLIAM PEARN and  
AMELIA PEARN, his wife,

Defendants

No. 277-2011-CV

201702-5 PM 10:40  
CLERK OF PROthonotary  
PIKE COUNTY, PA

PRAECIPE FOR ENTRY OF ADVERSE ORDER  
PURSUANT TO Pa.R.C.P. 227.4 and Pa.R.A.P. 301(d)

TO THE PROTHONOTARY:

Kindly enter judgment in favor of Plaintiff and against Defendants in the amount of \$30.00 in accordance with the Court's December 22, 2016 Verdict (a copy of which is attached as Exhibit A) as a result of the non-jury final disposition made by the Court. Plaintiff filed a Motion for Post-Trial Relief to this Order on January 3, 2017, which motion was denied by the Court by Order dated January 5, 2017. As a result, entry of judgment is proper pursuant to Pa.R.C.P. 227.4 and Pa.R.A.P. 301(d).

BUGAJ/FISCHER, by:

Ronald M. Bugaj, Esq.  
Counsel for Defendants William and Amelia Pearn

IN THE COURT OF COMMON PLEAS OF  
PIKE COUNTY, PENNSYLVANIA  
CIVIL

2016 DEC 22 PM 3:12

WALKER LAKESHORES  
LANDOWNERS ASSOCIATION,

Plaintiff,

v.

No. 277-2011 Civil

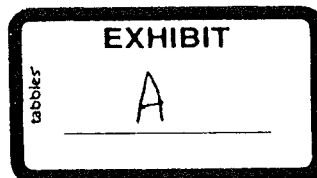
WILLIAM PEARN and  
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Defendants.

VERDICT

AND NOW, this 22<sup>nd</sup> day of December, 2016, following a Non-Jury Trial in the above matter and after review of the Post-Trial Briefs submitted by each party, the Court hereby enters a Verdict in favor of the Plaintiff and against the Defendants in the total amount of \$30.00.

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Cover Sheet

Case No 2011-00277

Plaintiff:  
WALKER LAKESHORES LANDOWNERS ASSOCIATION

\*\* (VS) \*\*

Defendant:  
PEARN WILLIAM J  
PEARN AMELIA

Case No 2011-00277  
WALKER LAKESHORES LANDOWNERS (VS) WILLIAM J AND AMELIA PEARN

Date  
Filed

FIRST ENTRY

- 1 2/10/11 NOTICE OF APPEAL FROM DISTRICT JUSTICE JUDGMENT FILED  
003 Image page(s) exist(s) for this entry
- 2 2/14/11 PROOF OF SERVICE OF NOTICE OF APPEAL FILED  
002 Image page(s) exist(s) for this entry
- 3 3/02/11 COMPLAINT FILED 3C ATTY  
006 Image page(s) exist(s) for this entry
- 4 3/09/11 CERTIFICATE OF SERVICE FILED - 1C ATTY  
001 Image page(s) exist(s) for this entry
- 5 3/21/11 ANSWER TO COMPLAINT FILED  
003 Image page(s) exist(s) for this entry
- 6 4/05/11 CERTIFICATE OF SERVICE FILED - 2C ATTY  
002 Image page(s) exist(s) for this entry
- 7 6/20/14 PRAECIPE FOR ARBITRATION FILED ORIG TO CT 2C ATTY  
001 Image page(s) exist(s) for this entry
- 8 6/23/14 ARBITRATORS APPOINTED: ARBITRATION SCHEDULED FOR AUGUST 15 2014  
AT 9:30AM LAW LIBRARY  
001 Image page(s) exist(s) for this entry
- 9 7/08/14 MEMORANDUM FILED WHEREIN JAN LOKUTA ESQ WILL REPLACE MARSHALL  
ANDERS ESQ FOR ARBITRATION SCHEDULED FOR AUGUST 15 2014 AT 9:30AM  
001 Image page(s) exist(s) for this entry
- 10 8/08/14 MEMORANDUM FILED WHEREIN LEATRICE ANDERSON ESQ WILL REPLACE  
STEVEN BURLEIN ESQ FOR ARBITRATION  
001 Image page(s) exist(s) for this entry
- 11 8/08/14 ENTRY OF APPEARANCE FILED BY RONALD M BUGAJ ESQ ON BEHALF OF  
DEFENDANTS 3C ATTY  
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- 12 8/15/14 REPORT AND AWARD OF ARBITRATORS FILED WHEREIN A HEARING MUST BE  
RESCHEDULED DUE TO ONLY HAVING 2 PANEL MEMBERS DEFENDANTS WOULD  
NOT CONSENT TO PROCEED BEFORE A PANEL OF 2  
004 Image page(s) exist(s) for this entry
- 13 8/20/14 ORDER OF COURT FILED WHEREIN ARBITRATION IS RESCHEDULED FOR  
SEPTEMBER 26 2014 AT 1:30PM LAW LIBRARY  
001 Image page(s) exist(s) for this entry
- 14 8/20/14 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 15 9/10/14 UNCONTESTED MOTION FOR CONTINUANCE FILED ORIG TO CT 2C ATTY  
003 Image page(s) exist(s) for this entry
- 16 9/10/14 ORDER OF COURT FILED WHEREIN ARBITRATION HEARING IS CONTINUED  
NOVEMBER 14 2014 AT 9:30AM  
001 Image page(s) exist(s) for this entry
- 17 9/10/14 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 18 10/28/14 UNCONTESTED MOTION FOR CONTINUANCE FILED ORIG TO CT 2C ATTY  
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- 19 10/29/14 ORDER OF COURT FILED WHEREIN ARBITRATION IS CONTINUED TO DECEMBER  
3 2014 AT 9:30AM  
001 Image page(s) exist(s) for this entry
- 20 10/29/14 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 21 12/03/14 REPORT AND AWARD OF ARBITRATORS FILED WHEREIN ARBITRATORS FIND  
AND AWARD FOR THE PLAINTIFF IN THE SUM OF \$1,287.96  
004 Image page(s) exist(s) for this entry

Case No 2011-00277  
WALKER LAKESHORES LANDOWNERS (VS) WILLIAM J AND AMELIA PEARN

- 22 12/30/14 APPEAL FROM REPORT AND AWARD OF ARBITRATORS FILED 3C ATTY  
001 Image page(s) exist(s) for this entry
- 23 1/06/15 CERTIFICATE OF SERVICE FILED 1C ATTY  
001 Image page(s) exist(s) for this entry
- 24 8/27/15 PRAECIPE FOR TRIAL LIST FILED WITH CERTIFICATE OF READINESS ORIG TO  
CT 2C ATTY  
003 Image page(s) exist(s) for this entry
- 25 9/22/15 ORDER OF COURT FILED SCHEDULNG A PRE TRIAL CONFERENCE FOR OCTOBER  
27 2015 AT 10:45 AM AT THE PIKE COUNTY JOHN STREET COMPLEX  
001 Image page(s) exist(s) for this entry
- 26 9/22/15 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 27 11/13/15 ORDER OF COURT FILED SCHEDULING A NON JURY TRIAL FOR JANUARY 28  
2016 AT 9:00 AM AND SCHEDULING A SETTLEMENT CONFERENCE FOR DECEMBER  
21 2015 AT 1:00 PM AT THE PIKE COUNTY JOHN STREET COMPLEX  
001 Image page(s) exist(s) for this entry
- 28 11/13/15 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 29 12/10/15 UNCONTESTED MOTION FOR CONTINUANCE FILED  
003 Image page(s) exist(s) for this entry
- 30 12/11/15 ORDER OF COURT FILED CONTINUING THE HEARING TO JANUARY 6 2016 AT  
10:30 AM AT THE PIKE COUNTY JOHN STREET COMPLEX  
001 Image page(s) exist(s) for this entry
- 31 12/11/15 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 32 2/01/16 UNCONTESTED MOTION FOR CONTINUANCE ORIG TO CT 2C ATTY  
003 Image page(s) exist(s) for this entry
- 33 2/02/16 ORDER OF COURT FILED CONTINUING THE NON JURY TRIAL TO MARCH 11 2016  
AT 9:00 AM AT THE PIKE COUNTY JOHN STREET COMPLEX  
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- 34 2/02/16 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 35 2/26/16 UNCONTESTED MOTION FOR CONTINUANCE FILED 2C ATTY ORIG TO CT  
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- 36 2/29/16 ORDER OF COURT FILED CONTINUING THE NON JURY TRIAL TO MAY 26 2016  
AT 9:00 AM AT THE PIKE COUNTY JOHN STREET COMPLEX  
001 Image page(s) exist(s) for this entry
- 37 2/29/16 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 38 5/19/16 UNCONTESTED MOTION FOR CONTINUANCE FILED ORIG TO CT 3C ATTY  
003 Image page(s) exist(s) for this entry
- 39 5/19/16 ORDER OF COURT FILED CONTINUING THE NON JURY TRIAL TO AUGUST 4 2016  
AT 9:00 AM AT THE PIKE COUNTY JOHN STREET COMPLEX  
001 Image page(s) exist(s) for this entry
- 40 5/19/16 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 41 8/02/16 MOTION FOR CONTINUANCE FILED ORIG TO CT 3C ATTY  
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- 42 8/04/16 UNCONTESTED MOTION FOR CONTINUANCE FILED ORIG TO CT 3C ATTY  
003 Image page(s) exist(s) for this entry
- 43 8/03/16 ORDER OF COURT FILED CONTINUING THE AUGUST 4 2016 TRIAL TO OCTOBER  
6 2016 AT 9:00 AM AT THE PIKE COUNTY JOHN STREET COMPLEX  
001 Image page(s) exist(s) for this entry
- 44 8/03/16 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES



Case No 2011-00277  
WALKER LAKESHORES LANDOWNERS (VS) WILLIAM J AND AMELIA PEARN

- 45 8/09/16 ORDER OF COURT FILED CONTINUING THE NON JURY TRIAL TO NOVEMBER  
14 2016 AT 9:00 AM AT THE PIKE COUNTY JOHN STREET COMPLEX  
001 Image page(s) exist(s) for this entry
- 46 8/09/16 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES  
001 Image page(s) exist(s) for this entry
- 47 11/14/16 ORDER OF COURT FILED WHEREIN EACH PARTY IS GRANTED TWENTY DAYS FROM  
THE DATE OF ORDER TO FILE A BRIEF IN THE MATTER
- 48 11/14/16 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 49 12/05/16 DEFENDANTS POST TRIAL BRIEF FILED 4C ATTY  
014 Image page(s) exist(s) for this entry
- 50 12/05/16 BRIEF FILED ORIG TO CT 2C ATTY  
007 Image page(s) exist(s) for this entry
- 51 12/22/16 ORDER OF COURT FILED WHEREIN THE COURT ENTERS A VERDICT IN FAVOR  
OF THE PLAINTIFF AND AGAINST THE DEFENDANT IN TEH TOTAL AMOUNT OF  
\$30.00  
002 Image page(s) exist(s) for this entry
- 52 12/22/16 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 53 1/03/17 POST TRIAL MOTION FILED ORIG TO CT 2C ATTY
- 54 1/05/17 ORDER OF COURT FILED WHEREIN POST TRIAL MOTION IS DENIED  
001 Image page(s) exist(s) for this entry
- 55 1/05/17 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 56 4/05/17 PRAECIPE FOR ENTRY OF ADVERSE ORDER PURSUANT TO PARCP 227.4 AND  
PARCP 301(D) FILED - EXIT NOTICE TO DEFENDANT BY FIRST CLASS MAIL  
2C ATTY  
005 Image page(s) exist(s) for this entry

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LAST ENTRY  
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VERIFIED FROM  
THE RECORD

MAY 04 2017  
*Jenise Fitzpatrick*  
Jenise Fitzpatrick  
Prothonotary & Clerk

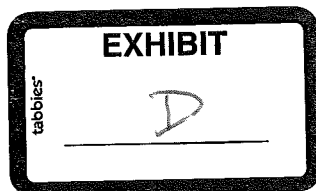
Cover Sheet

Case No 2011-00277

Plaintiff:  
WALKER LAKESHORES LANDOWNERS ASSOCIATION

\*\* (VS) \*\*

Defendant:  
PEARN WILLIAM J  
PEARN AMELIA



Case No 2011-00277  
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- 16 9/10/14 ORDER OF COURT FILED WHEREIN ARBITRATION HEARING IS CONTINUED  
NOVEMBER 14 2014 AT 9:30AM  
001 Image page(s) exist(s) for this entry
- 17 9/10/14 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 18 10/28/14 UNCONTESTED MOTION FOR CONTINUANCE FILED ORIG TO CT 2C ATTY  
003 Image page(s) exist(s) for this entry
- 19 10/29/14 ORDER OF COURT FILED WHEREIN ARBITRATION IS CONTINUED TO DECEMBER  
3 2014 AT 9:30AM  
001 Image page(s) exist(s) for this entry
- 20 10/29/14 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 21 12/03/14 REPORT AND AWARD OF ARBITRATORS FILED WHEREIN ARBITRATORS FIND  
AND AWARD FOR THE PLAINTIFF IN THE SUM OF \$1,287.96  
004 Image page(s) exist(s) for this entry

Case No 2011-00277  
WALKER LAKESHORES LANDOWNERS (VS) WILLIAM J AND AMELIA PEARN

Date Filed	Description	Image(s)
22 12/30/14	APPEAL FROM REPORT AND AWARD OF ARBITRATORS FILED 3C ATTY	001 Image page(s) exist(s) for this entry
23 1/06/15	CERTIFICATE OF SERVICE FILED - 1C ATTY	001 Image page(s) exist(s) for this entry
24 8/27/15	PRAECIPE FOR TRIAL LIST FILED WITH CERTIFICATE OF READINESS ORIG TO CT 2C ATTY	003 Image page(s) exist(s) for this entry
25 9/22/15	ORDER OF COURT FILED SCHEDULNG A PRE TRIAL CONFERENCE FOR OCTOBER 27 2015 AT 10:45 AM AT THE PIKE COUNTY JOHN STREET COMPLEX	001 Image page(s) exist(s) for this entry
26 9/22/15	EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES	
27 11/13/15	ORDER OF COURT FILED SCHEDULING A NON JURY TRIAL FOR JANUARY 28 2016 AT 9:00 AM AND SCHEDULING A SETTLEMENT CONFERENCE FOR DECEMBER 21 2015 AT 1:00 PM AT THE PIKE COUNTY JOHN STREET COMPLEX	001 Image page(s) exist(s) for this entry
28 11/13/15	EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES	
29 12/10/15	UNCONTESTED MOTION FOR CONTINUANCE FILED	003 Image page(s) exist(s) for this entry
30 12/11/15	ORDER OF COURT FILED CONTINUING THE HEARING TO JANUARY 6 2016 AT 10:30 AM AT THE PIKE COUNTY JOHN STREET COMPLEX	001 Image page(s) exist(s) for this entry
31 12/11/15	EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES	
32 2/01/16	UNCONTESTED MOTION FOR CONTINUANCE ORIG TO CT 2C ATTY	003 Image page(s) exist(s) for this entry
33 2/02/16	ORDER OF COURT FILED CONTINUING THE NON JURY TRIAL TO MARCH 11 2016 AT 9:00 AM AT THE PIKE COUNTY JOHN STREET COMPLEX	001 Image page(s) exist(s) for this entry
34 2/02/16	EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES	
35 2/26/16	UNCONTESTED MOTION FOR CONTINUANCE FILED 2C ATTY ORIG TO CT	003 Image page(s) exist(s) for this entry
36 2/29/16	ORDER OF COURT FILED CONTINUING THE NON JURY TRIAL TO MAY 26 2016 AT 9:00 AM AT THE PIKE COUNTY JOHN STREET COMPLEX	001 Image page(s) exist(s) for this entry
37 2/29/16	EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES	
38 5/19/16	UNCONTESTED MOTION FOR CONTINUANCE FILED ORIG TO CT 3C ATTY	003 Image page(s) exist(s) for this entry
39 5/19/16	ORDER OF COURT FILED CONTINUING THE NON JURY TRIAL TO AUGUST 4 2016 AT 9:00 AM AT THE PIKE COUNTY JOHN STREET COMPLEX	001 Image page(s) exist(s) for this entry
40 5/19/16	EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES	
41 8/02/16	MOTION FOR CONTINUANCE FILED ORIG TO CT 3C ATTY	003 Image page(s) exist(s) for this entry
42 8/04/16	UNCONTESTED MOTION FOR CONTINUANCE FILED ORIG TO CT 3C ATTY	003 Image page(s) exist(s) for this entry
43 8/03/16	ORDER OF COURT FILED CONTINUING THE AUGUST 4 2016 TRIAL TO OCTOBER 6 2016 AT 9:00 AM AT THE PIKE COUNTY JOHN STREET COMPLEX	001 Image page(s) exist(s) for this entry
44 8/03/16	EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES	

Case No 2011-00277

WALKER LAKESHORES LANDOWNERS (VS) WILLIAM J AND AMELIA PEARN

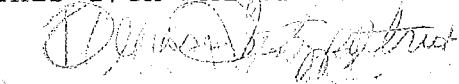
- 45 8/09/16 ORDER OF COURT FILED CONTINUING THE NON JURY TRIAL TO NOVEMBER  
14 2016 AT 9:00 AM AT THE PIKE COUNTY JOHN STREET COMPLEX  
001 Image page(s) exist(s) for this entry
- 46 8/09/16 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES  
001 Image page(s) exist(s) for this entry
- 47 11/14/16 ORDER OF COURT FILED WHEREIN EACH PARTY IS GRANTED TWENTY DAYS FROM  
THE DATE OF ORDER TO FILE A BRIEF IN THE MATTER
- 48 11/14/16 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 49 12/05/16 DEFENDANTS POST TRIAL BRIEF FILED 4C ATTY  
014 Image page(s) exist(s) for this entry
- 50 12/05/16 BRIEF FILED ORIG TO CT 2C ATTY  
007 Image page(s) exist(s) for this entry
- 51 12/22/16 ORDER OF COURT FILED WHEREIN THE COURT ENTERS A VERDICT IN FAVOR  
OF THE PLAINTIFF AND AGAINST THE DEFENDANT IN TEH TOTAL AMOUNT OF  
\$30.00  
002 Image page(s) exist(s) for this entry
- 52 12/22/16 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 53 1/03/17 POST TRIAL MOTION FILED ORIG TO CT 2C ATTY  
004 Image page(s) exist(s) for this entry
- 54 1/05/17 ORDER OF COURT FILED WHEREIN POST TRIAL MOTION IS DENIED  
001 Image page(s) exist(s) for this entry
- 55 1/05/17 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 56 4/05/17 PRAECIPE FOR ENTRY OF ADVERSE ORDER PURSUANT TO PARCP 227.4 AND  
PARCP 301(D) FILED - EXIT NOTICE TO DEFENDANT BY FIRST CLASS MAIL  
2C ATTY  
005 Image page(s) exist(s) for this entry
- 57 5/04/17 NOTICE OF APPEAL TO SUPERIOR COURT FILED ORIG TO CT 1C SUPERIOR  
CT WITH CHECK #3079 1C ATTY  
010 Image page(s) exist(s) for this entry
- 58 5/15/17 ORDER OF COURT FILED  
001 Image page(s) exist(s) for this entry
- 59 5/15/17 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 60 5/17/17 APPEAL DOCKET SHEET FROM SUPERIOR COURT OF PENNSYLVANIA FILED  
1463 EDA 2017  
002 Image page(s) exist(s) for this entry
- 61 6/05/17 PLAINTIFFS CONCISE STATEMENT OF MATTERS COMPLAINED OF ON APPEAL  
FILED 3C ATTY  
003 Image page(s) exist(s) for this entry
- 62 7/13/17 OPINION SUBMITTED PURSUANT TO PENNSYLVANIA RULE OF APPELLATE  
PROCEDURE 1925 FILED  
012 Image page(s) exist(s) for this entry
- 63 7/13/17 EXIT COPIES TO ALL PARTIES BY REGULAR MAIL OR OFFICE MAILBOXES
- 64 7/17/17 EXIT NOTICE OF RECORDED DOCUMENTS TO COUNSEL IN ACCORDANCE WITH  
PA RAP 1931 (D)
- 65 7/17/17 EXIT ENTIRE FILE TO SUPERIOR COURT

LAST ENTRY

128 pages

THIS APPEAL WAS TAKEN ON ORDER OF COURT DATED DECEMBER 22, 2016.

CERTIFIED AND SENT THIS 17<sup>th</sup> DAY OF JULY 2017.



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DENISE FITZPATRICK  
PROTHONOTARY

**IN THE COURT OF COMMON PLEAS  
PIKE COUNTY, PENNSYLVANIA  
60<sup>th</sup> JUDICIAL DISTRICT**

OFFICE OF  
PROTHONOTARY  
CLERK OF COURTS  
2017 JUN -5 PM 4: 11  
ENTERED FOR RECORD  
PIKE COUNTY, PA

**WALKER LAKESHORES LANDOWNERS,  
ASSOCIATION,** :

**Plaintiff,** :

v. :

NO.: 277-2011-CIVIL

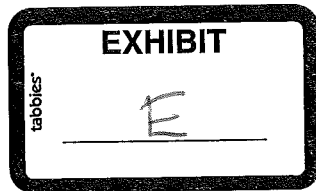
**WILLIAM PERN and  
AMELIA PERN, his wife,** :

**Defendants.** :

:.....:  
**PLAINTIFF'S CONCISE STATEMENT OF  
MATTERS COMPLAINED OF ON APPEAL**

*AND NOW COMES* Plaintiff, Walker Lakeshores Landowners Association, by and through their attorney, Eric L. Hamill, Esquire, and enters the following matters complained of on appeal:

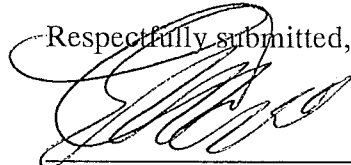
1. The Court erred as a matter of law and abused its discretion in relying on evidence which was incompetent and irrelevant as follows:
  - a. The Court erroneously relied on title search evidence from Defendants' supposed expert witness who could not explain simple title related questions, who did not understand title insurance, who did produce a chain of title to the documents she produced and who could not state what property the title documents related to. Court erred in finding expert qualified, and for relying on evidence produced by an unqualified witness.
  - b. The Court in its decision necessarily relied on documents (a 2013 Deed) which did not pertain to the time period of the suit (2008-2010), or which interest did not



exist during the relevant period.

2. The Court erred and abused its discretion in awarding common element assessments, or alternatively easement maintenance fees, for a property not owned by the Plaintiff/Association at the time of the suit (beach area) while failing to award common element assessments, or alternatively easement maintenance fees, for an area owned by the Plaintiff Association and useable by the Defendants (Lake).
3. The Court's decision was erroneous and an abuse of discretion is completely incongruous with the Pleadings, while the Court explicitly refused to allow amendment of the Pleadings, and where Defendants effectively admitted to the Plaintiff's allegations.
4. The Court's decision is erroneous as contrary to its own precedent properly assessing shared expenses attributable to the use of Walker Lake against owners in the Maple Park Subdivision. See e.g. Walker Lakeshores Landowners Association v. Gary and Debra Whyte, 1482-1997-CV, Pike County.

Respectfully submitted,



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Eric L. Hamill, Esquire  
*Attorney for Plaintiff*  
501 Broad Street, Suite 3  
Milford, PA 18337  
(570) 296-6574