

IN THE INDIANA COURT OF APPEALS
CAUSE NO. 43A03-1610-MI-02332

EPWORTH FOREST ADMINISTRATION,)
COMMITTEE, INC.)
Appellant/Defendant below,)Appeal from the Kosciusko Circuit Court
v.)Trial Court Case No.:43C01-1602-MI-47
GERRY LEE POWELL,)
PATRICIA ANN POWELL,)
Appellee/Plaintiffs below,)
And)The Honorable Michael W. Reed, Judge
ROBERT MILLER and DEBORAH MILLER)
Appellee/Defendants below)

APPENDIX TO THE BRIEF OF APPELLANT

Pages 3 to 40

VOLUME 2 of 2

Matthew R. Shipman, Attorney #20664-49
BLOOM GATES SHIPMAN & WHITELEATHER, LLP
119 South Main Street
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Attorney for Appellant/Defendant

CHRONOLOGICAL CASE SUMMARY
CIVIL DOCKET, KOSCIUSKO CIRCUIT COURT

FOR CAUSE NO: 43C01-1602-MI-000047
POWELL VS EPWORTH FOREST
THE HONORABLE MICHAEL W REED

ACTION:

DATE FILED: 02/18/2016
ORIG FILE DT: 02/18/2016

FUTURE CALENDAR DATES:

ENTRY/FEE BOOK: PAGE:
BOOK: 0 PAGE: 0
BOOK: 0 PAGE: 0

ATTORNEYS

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PETITIONER
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PATRICIA A POWELL

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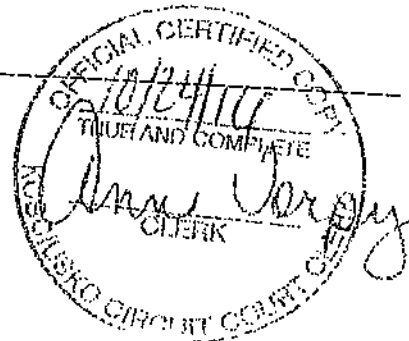
RESPONDENT
EPWORTH FOREST ADMINISTRATION
COMMITTEE, INC
8139 E WADE LN
NORTH WEBSTER IN 46555

6402-02 JOHN B POWELL
SHAMBAUGH KAST BECK WILLIAMS
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FORT WAYNE IN 46859-1648
PH: 260-423-1430
FAX: 260-422-9038

INTERVENING PARTY
ROBERT J MILLER

6402-02 JOHN B POWELL
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PH: 260-423-1430
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DEBORAH S MILLER



CHRONOLOGICAL CASE SUMMARY
CIVIL DOCKET, KOSCIUSKO CIRCUIT COURT

FOR CAUSE NO: 43C01-1602-MI-000047
POWELL VS EPWORTH FOREST
THE HONORABLE MICHAEL W REED

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FINANCIAL INFO

PAYOR: GERRY POWELL		Total:	\$156.00
STATE COURT COSTS	\$70.00		
COUNTY COURT COSTS	\$27.00		
CITY & TOWN COURT COSTS	\$3.00		
AUTO RECORD KEEPING-ST	\$19.00		
DOC STORAGE FEE	\$5.00		
PUBLIC DEF ADMIN FEE	\$5.00		
JUDICIAL INS ADJ FEE	\$1.00		
COURT ADMIN FEE	\$5.00		
JUDICIAL SALARIES FEE	\$20.00		
PRO BONO LEGAL SERVICE	\$1.00		

CHRONOLOGICAL SUMMARY OF FILINGS AND PROCEEDINGS

MIN Date: 02/18/2016 Notice: N
Input: 02/22/2016 RJO: N

COMPLAINT FILED.
Complaint filed. Attorney STEPHEN R. SNYDER files appearance on behalf of plaintiff. Summons issued by CERTIFIED MAIL. JA

MIN Date: 02/24/2016 Notice: N
Input: 02/29/2016 RJO: N

CERTIFIED MAIL RETURNED
Clerk files certified mail receipt received by non legible signature for Epworth Forest Administration Committee on February 23, 2015 LR

MIN Date: 03/08/2016 Notice: A
Input: 03/08/2016 RJO: N

On March 8, 2016, Matthew R. Shipman files appearance of counsel for and on behalf of Respondent together with Respondent's Answer to Petitioner's Complaint. (Memo w/copy: Shipman) (Memo: Snyder) pb

MIN Date: 03/10/2016 Notice: A
Input: 03/10/2016 RJO: Y

John B. Powell files appearance of counsel for Robert J. Miller and Deborah S. Miller together with Motion to Intervene and proposed Order Granting Motion to Intervene. Motion granted. The Court approved and entered furnished Order Granting Motion to Intervene on March 10, 2016. (Memo w/copies: Powell) (Memo w/order: Snyder, Shipman) st

CHRONOLOGICAL CASE SUMMARY
CIVIL DOCKET, KOSCIUSKO CIRCUIT COURT

FOR CAUSE NO: 43C01-1602-MI-000047
POWELL VS EPWORTH FOREST
THE HONORABLE MICHAEL W REED

ACTION:

DATE FILED: 02/18/2016
ORIG FILE DT: 02/18/2016

MIN Date: 03/16/2016 Notice: A
Input: 03/16/2016

RJO: N

On March 15, 2016, Plaintiffs, by counsel, filed motion for status conference. Status conference scheduled April 1, 2016, at 11:00 a.m. (Memo: Snyder, Shipman, Powell) kr

MIN Date: 03/22/2016 Notice: A
Input: 03/22/2016

RJO: Y

On March 21, 2016, Plaintiffs, by counsel, file Motion for Stay together with proposed Order. Court approved and entered furnished Order scheduling hearing on motion for April 7, 2016 at 10:00 a.m. on March 21, 2016. (Memo w/Order: Snyder, Shipman, Powell) gs

MIN Date: 03/28/2016 Notice: A
Input: 03/28/2016

RJO: N

On March 24, 2016, Defendants, Miller, by counsel, filed verified motion to continue hearing. Motion granted. Hearing on Plaintiffs' motion for stay continued to April 22, 2016, at 10:30 a.m. (Memo: Snyder, Shipman, Powell) kr

MIN Date: 03/29/2016 Notice: A
Input: 03/29/2016

RJO: N

On March 28, 2016, Defendants, Miller, by counsel, filed motion to reschedule status conference. Motion granted. Status conference scheduled April 1, 2016, continued to April 22, 2016, at 10:30 a.m., concurrently with hearing on the motion for stay. (Memo: Snyder, Shipman, Powell) kr

MIN Date: 04/25/2016 Notice: A
Input: 04/25/2016

RJO: N

On April 21, 2016, Defendants, Robert J. Miller and Deborah S. Miller, by counsel, filed response to Plaintiffs' motion to stay. (Memo: Snyder, Shipman, Powell) kr

MIN Date: 04/25/2016 Notice: A
Input: 04/25/2016

RJO: N

Status conference of attorneys and hearing on motion to stay scheduled April 22, 2016. Parties appear by counsel. There being insufficient time on the Court's calendar to hold a contested hearing on the motion to stay this date, contested hearing on the motion, together with further status conference of attorneys, was mistakenly scheduled one-half day hearing for May 3, 2016 (Election Day - Court Closed). The Court's calendar

CHRONOLOGICAL CASE SUMMARY
CIVIL DOCKET, KOSCIUSKO CIRCUIT COURT

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THE HONORABLE MICHAEL W REED

ACTION: DATE FILED: 02/18/2016
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allows for hearing on May 4, 2016 or May 5, 2016, at 9:00 a.m. for one-half day, and the Court will contact attorneys of record to see if either date is available for counsel. (Memo: Snyder, Shipman, Powell) kr

MIN Date: 04/26/2016 Notice: A RJO: N
Input: 04/26/2016

After consultation with counsel, the Court reschedules hearing on motion to stay together with further status conference of attorneys for May 4, 2016, at 9:15 a.m. One-half day reserved for hearing. (Memo: Snyder, Shipman, Powell) kr

MIN Date: 05/04/2016 Notice: A RJO: N
Input: 05/04/2016

On May 2, 2016, Interveners filed Motion to Allow Suetta M. Johnson to Testify Telephonically. Hearing on motion scheduled May 4, 2016, at 9:15 a.m. (Memo: Snyder, Shipman, Powell) st

MIN Date: 05/04/2016 Notice: A RJO: N
Input: 05/04/2016

Hearing held May 4, 2016, on the Plaintiff's Motion for Stay which the parties agreed to treat as a request for preliminary injunction. Petitioners appeared in person and by counsel, Stephen R. Snyder. Respondent, Epworth Forest Administration Committee, Inc., appeared by counsel, Matthew R. Shipman and its designated agent, Richard Presser. Intervening party, Robert J. Miller, appeared in person and by counsel, John B. Powell. Argument heard on the intervening party's motion to allow Suetta M. Johnson to testify telephonically. Motion denied. Evidence submitted and argument heard and the Court took the issues under advisement. Counsel for the parties to file proposed Findings of Fact, Conclusions of Law and Judgment with respect to the request for preliminary injunction on or before May 18, 2016. Further hearing scheduled on Petitioner's Complaint for Judicial Review on August 10, 2016, at 9:00 a.m. (Memo: Snyder, Shipman, Powell) st

MIN Date: 05/13/2016 Notice: A RJO: N
Input: 05/13/2016

Plaintiffs, by counsel, file Proposed Findings of Fact, Conclusions of Law and Order. (Memo: Snyder, Shipman, Powell) st

MIN Date: 05/20/2016 Notice: A RJO: N
Input: 05/20/2016

On May 18, 2016, Interveners, Robert J. Miller and Deborah S. Miller,

CHRONOLOGICAL CASE SUMMARY
CIVIL DOCKET, KOSCIUSKO CIRCUIT COURT

FOR CAUSE NO: 43C01-1602-MI-000047
POWELL VS EPWORTH FOREST
THE HONORABLE MICHAEL W REED

ACTION: DATE FILED: 02/18/2016
ORIG FILE DT: 02/18/2016

filed filed proposed findings of fact, conclusion of law and judgment with respect to Plaintiffs' request for preliminary injunction. (Memo: Snyder, Shipman, Powell) kr

MIN Date: 05/24/2016 Notice: A RJO: Y
Input: 05/24/2016

The Court, having taken the matter under advisement, does now enter its Findings of Fact, Conclusions of Law and Order. (Memo w/order: Snyder, Shipman, Powell) kr

MIN Date: 05/25/2016 Notice: A RJO: N
Input: 05/25/2016

The Court places of record this date the Defendant's proposed findings of fact, conclusions of law and judgment filed certified mail May 18, 2016. (Memo: Snyder, Shipman, Powell) kr

MIN Date: 08/10/2016 Notice: A RJO: N
Input: 08/10/2016

Trial held on the complaint for judicial review filed February 18, 2016, on August 10, 2016. Plaintiffs appeared in person and by counsel, Stephen R. Snyder. Defendant, Epworth Forest Administration Committee, Inc., appeared by counsel, Matthew R. Shipman, and its designated agent, Richard Presser. Intervening Party, Robert J. Miller and Deborah Miller, appeared in person and by counsel, John B. Powell. Parties filed Stipulation to include evidence submitted April 22, 2016 shall be a part of the record in this trial. Stipulation approved. Trial held. Evidence submitted and the Court took the issues under advisement. Court grants parties to and including August 26, 2016, within which to file proposed findings of fact, conclusions of law, and judgment. (Memo: Snyder, Shipman, Powell) kr

MIN Date: 08/26/2016 Notice: A RJO: N
Input: 08/26/2016

Plaintiffs, by counsel, submit proposed findings of fact, conclusions of law, and judgment. (Memo: Snyder, Shipman, Powell) kr

MIN Date: 08/30/2016 Notice: A RJO: N
Input: 08/30/2016

On August 25, 2016, Defendant, Epworth Forest Administration Committee, Inc., by counsel, filed proposed findings of fact, conclusions of law and judgment. (Memo: Snyder, Shipman, Powell) kr

MIN Date: 08/30/2016 Notice: A RJO: N
Input: 08/30/2016

CHRONOLOGICAL CASE SUMMARY
CIVIL DOCKET, KOSCIUSKO CIRCUIT COURT

FOR CAUSE NO: 43C01-1602-MI-000047
POWELL VS EPWORTH FOREST
THE HONORABLE MICHAEL W REED

ACTION:

DATE FILED: 02/18/2016
ORIG FILE DT: 02/18/2016

On August 26, 2016, Intervenors, Robert J. Miller and Deborah S. Miller, filed proposed findings of fact, conclusions of law and judgment. (Memo: Snyder, Shipman, Powell) kr

MIN Date: 09/09/2016 Notice: A DISPOSED: BT RJO: Y
Input: 09/09/2016

The Court having taken this matter under advisement, now enters its Findings of Fact, Conclusions of Law and Judgment. (Memo w/copy: Snyder, Shipman, Powell) st

MIN Date: 10/12/2016 Notice: A RJO: N
Input: 10/12/2016

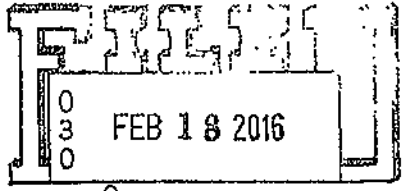
On October 7, 2016, Defendant, Epworth Forest Administration Committee, Inc., by counsel, filed Notice of Appeal. (Memo: Shipman, Snyder, Powell) (Memo w/copy: Court Reporter) st

MIN Date: 10/14/2016 Notice: A RJO: N
Input: 10/14/2016

On October 13, 2016, Gerry and Patricia Powell filed notice of appeal. (Memo w/copy: Powell) (Memo: Snyder, Shipman) st

STATE OF INDIANA) IN THE KOSCIUSKO CIRCUIT COURT
) SS:
COUNTY OF KOSCIUSKO) CAUSE NO. 43C01-1602-MI-47

GERRY LEE POWELL AND)
PATRICIA ANN POWELL)
)
Plaintiffs,)
v.)
)
EPWORTH FOREST ADMINISTRATION)
COMMITTEE, INC.,)
)
Defendant.)



Ann Carey
CLERK KOSCIUSKO CIRCUIT COURT

COMPLAINT FOR JUDICIAL REVIEW

Plaintiffs, for cause against Defendant, say:

1. Plaintiffs are the owners of the following described real estate located in Kosciusko County, Indiana:

Lot 12 in Block C in the Plat of Epworth Forest;

which property does not front on Webster Lake.
("Powell Lot").

2. Defendant is an Indiana corporation established pursuant to Order of the Court dated April 15, 2014 in Cause No. 43C01-9109-CP-00732.

3. Since 1941 and during the ownership of the Powell Lot by Plaintiffs and Plaintiffs' predecessors, there has been a pier maintained at a location on the waterfront of Lot 48 Block C in the Plat of Epworth Forest (now owned by Robert J. Miller and Debra S. Miller) ("Lakefront Lot") approved by this Court in Order entered January 21, 2014 in Cause No. 43C01-9109-CP-00732.

4. Defendant has demanded relocation of Plaintiffs' pier to a location different than that previously approved by this Court and by the prior pier committee.

5. Plaintiffs have appealed the determination of Defendant and all appeals have been denied as shown by Exhibit A attached hereto.

6. The actions of Defendant, requiring Plaintiffs to move their pier, are in violation of the Bylaws of Defendant, contrary to the prior orders of this Court and arbitrary and capricious.

WHEREFORE, Plaintiffs pray for judgment against Defendant reversing Defendant's order that Plaintiffs relocate their pier and for further order determining Plaintiffs' pier location as of the 2015 season to be permanent, finding the actions of Defendant to be arbitrary and capricious, for the costs of this action and for all other proper relief.

SNYDER MORGAN LLP

By: 

Stephen R. Snyder, #413-43
200 West Main Street
Syracuse, Indiana 46567
Telephone: 574/457-3300
srs@snydermorgan.com
Attorneys for Plaintiffs

EFAC

Powell Appeal 1/26/16

On 1/26/16 EFAC heard the appeal of Gerry Powell regarding the decision to remove pier 34A as there is not sufficient space for that pier. At the hearing the Powells were represented by their attorney, Steve Snyder. On 1/27/16 Mr. Snyder provided EFAC with the Memorandum in Support of the Appeal.

After a review of the documents, the Directors voted electronically on 2/15 & 16/16.

The vote on requiring the Powells to remove their pier because Pier 34 is allotted 24 ft. and the Millers are entitled to the same w/o moving their assignment. The vote of S. Montovani, R. Presser, and L .Grossnickle were for this position.

K. Lusby and S. Anson voted against the motion as there was no historical evidence of where the Millers' 24 ft began and ended along their property shoreline. The location of the 16 ft offshore assignment was defined as in compliance and has documented evidence of being assigned many years ago. Therefore is intended to be permanent.

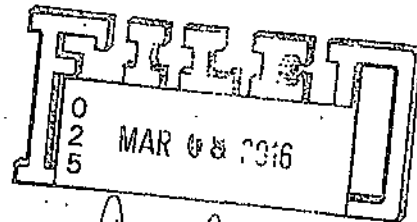
With this action EFAC is placing the Powells on the displaced list awaiting assignment.



STATE OF INDIANA)
)SS:
COUNTY OF KOSCIUSKO)

IN THE KOSCIUSKO CIRCUIT COURT
CAUSE NO. 43C01-1602-MI-47

GERRY LEE POWELL and,)
PATRICIA ANN POWELL,)
Plaintiffs,)
)
)
EPWORTH FOREST ADMINISTRATION)
COMMITTEE, INC.,)
Defendant.)



Ann [Signature]
CLERK KOSCIUSKO CIRCUIT COURT

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

COMES NOW the Defendant, Epworth Forest Administration Committee, Inc., by counsel, Bloom Gates & Whiteleather, LLP, and for their answer to Plaintiff's Complaint would state as follows:

1. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of Plaintiff's Complaint.
2. Defendant admits the allegations contained in paragraph 2 of Plaintiff's Complaint.
3. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of Plaintiff's Complaint.
4. Defendant is without information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of Plaintiff's Complaint.
5. Defendant admits the allegations contained in paragraph 5 of Plaintiff's Complaint.
6. Defendant denies the allegations contained in paragraph 6 of Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

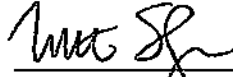
Defendant, Epworth Forest Administration Committee, Inc., by counsel, and for their further answer and defense to Plaintiff's Complaint, allege and state the following affirmative defenses:

1. **Failure to State a Cause of Action.** Plaintiff has failed to allege facts sufficient to support a claim against Defendant under Indiana law.
2. **Failure to State a Claim.** Plaintiff's Complaint does not contain a discernable claim against Defendant.
3. **Laches.** Plaintiff has failed to timely assert any claim against Defendant.
4. **Res Judicata.** This Court has previously issued an Order which Order bars this action.
5. **Attorney Fees.** Pursuant to this Court's Order of April 15, 2014, EFAC has the right to recover its reasonable attorney fees if it prevails in an action related to a pier assignment.
6. Pursuant to Indiana Trial Rule 19, Plaintiff has failed to join a person necessary for just adjudication and this matter should be dismissed pursuant to Indiana Trial Rule 12(B)(7). The property rights of Robert J. Miller and Debra S. Miller (identified as the "Lakefront Lot" in Plaintiff's Complaint) are a necessary party for the just adjudication of this matter.
7. Defendant reserves the right to amend or assert additional defenses, should such defenses become apparent throughout the course of discovery.

WHEREFORE, Defendant pray for judgment of the Court that Plaintiff take nothing by way of its Complaint, and for all other right and proper relief in the premises.

Respectfully submitted,

BLOOM GATES & WHITELEATHER



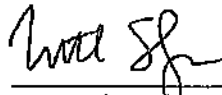
Matthew R. Shipman (Atty. No. 20664-49)
Attorneys for Defendant

119 S. Main Street
P.O. Box 807
Columbia City, Indiana 46725
Telephone (260) 248-8900

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the above and foregoing has been served upon Plaintiff, by first class mail, on the 4th day of March, 2016 at the address of record as follows:

Stephen Snyder
200 W Main St
Syracuse, IN 46567



Matthew R. Shipman

STATE OF INDIANA)
)
) SS:
)
COUNTY OF KOSCIUSKO)

IN THE KOSCIUSKO CIRCUIT COURT

CAUSE NO. 43C01-1602-MI-47

GERRY LEE POWELL, and)
PATRICIA ANN POWELL)
Plaintiffs,)
)
v.)
)
EPWORTH FOREST ADMINISTRATION)
COMMITTEE, INC.,)
Defendant.)

MOTION TO INTERVENE

COMES NOW the proposed Intervenors, Robert J. Miller and Deborah S. Miller, by counsel, pursuant to Rule 24 of the Indiana Rules of Trial Procedure, and move the Court for permission to intervene in the above matter. In support of this Motion, the following is respectfully shown to the Court:

1. Proposed Intervenors, Robert J. Miller and Deborah S. Miller, are the owners of the "Lakefront Lot" located at Lot 48 Block C of the Plat of Epworth Forest referred to in paragraph 3 of Plaintiffs' Complaint for Judicial Review and maintain a pier at this location on the waterfront.
2. Given their current status as non-parties, the ability of Robert J. Miller and Deborah S. Miller to protect their interest in the placement of the pier on the waterfront of the above mentioned lot is impaired.
3. There is a question as to whether the interests of the Proposed Intervenors, Robert J. Miller and Deborah S. Miller, will be adequately represented by the

existing parties.

4. Counsel for the Defendant, Epworth Forest Administration Committee, Inc., Matthew Shipman, has advised he has no objection to the Motion to Intervene.

WHEREFORE, the Proposed Intervenors, Robert J. Miller and Deborah S. Miller pray that their Motion to Intervene be granted, that they be permitted to intervene in the above matter as additional Defendants and that they be granted all other just and proper relief in the premises.



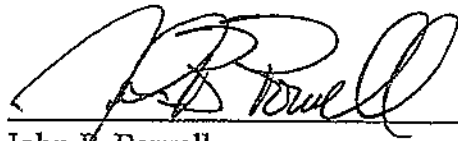
John B. Powell, #6402-02
Shambaugh, Kast, Beck & Williams, LLP
229 West Berry Street, Suite 400
P.O. Box 11648
Fort Wayne, IN 46859-1648
Telephone: (260) 423-1430
Facsimile: (260) 422-9038
Attorney for Intervenors

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was sent, by United States Mail, postage prepaid, or by some other means accepted by this Court, to the individuals listed below on the 8th day of March, 2016.

Stephen Snyder
200 West Main Street
Syracuse, IN 46567

Matthew R. Shipman
119 S. Main Street
P.O. Box 807
Columbia City, Indiana 46725

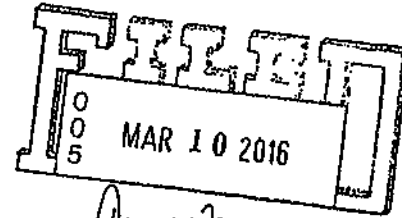


John B. Powell

STATE OF INDIANA)
) SS:
COUNTY OF KOSCIUSKO)

IN THE KOSCIUSKO CIRCUIT COURT
CAUSE NO. 43C01-1602-MI-47

GERRY LEE POWELL, and)
PATRICIA ANN POWELL)
Plaintiffs,)
)
v.)
)
EPWORTH FOREST ADMINISTRATION)
COMMITTEE, INC.,)
Defendant.)



Anna Jorpy
CLERK KOSCIUSKO CIRCUIT COURT

ORDER GRANTING MOTION TO INTERVENE

COME NOW the Proposed Intervenors, Robert J. Miller and Deborah S. Miller, by counsel, and file their Motion to Intervene pursuant to Rule 24 of the Indiana Rules of Trial Procedure.

The Court, having examined the Motion and being duly advised in the premises, now finds that the Motion should be granted.

It is hereby ORDERED ADJUDGED and DECREED that Robert J. Miller and Deborah S. Miller are permitted to intervene as additional Defendants in the above matter.

SO ORDERED.

Dated: 3/10/16

Michael W Reed

Judge, Kosciusko Circuit Court

NOTICE IS TO BE GIVEN BY:

X COURT CLERK PARTY OTHER

PROOF OF NOTICE UNDER TRIAL RULE 72(D)

A copy of this entry was served either by mail to the address of record, deposited in the Court's attorney's distribution box, distributed personally upon the persons and/or filed as listed below:

John B. Powell, 229 West Berry Street, Suite 400, P.O. Box 11648, Fort Wayne, IN 46859;

Stephen Snyder, 200 West Main Street, Syracuse, IN 46567;

Matthew R. Shipman, 119 S. Main Street, P.O. Box 807, Columbia City, IN 46725.

DATE OF NOTICE: _____

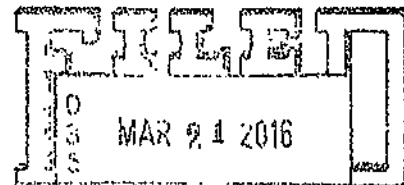
INITIALS OF PERSON WHO NOTIFIED PARTIES: COURT CLERK PARTY OTHER

dlw
F:\WORK\JBP\Miller, Robert&Deborah\Intervenc01Order.wpd

STATE OF INDIANA)
) SS:
COUNTY OF KOSCIUSKO)

IN THE KOSCIUSKO CIRCUIT COURT
CAUSE NO. 43C01-1602-MI-47

GERRY LEE POWELL AND)
PATRICIA ANN POWELL)
)
)
) Plaintiffs,)
)
) v.)
)
) EPWORTH FOREST ADMINISTRATION)
) COMMITTEE, INC.,)
)
) Defendant.)



Anna Morgan
CLERK KOSCIUSKO CIRCUIT COURT

MOTION FOR STAY

Plaintiffs, by counsel, would show the Court:

1. Plaintiffs' Complaint for Judicial Review involves the placement of Plaintiffs' pier on the lakeshore of Epworth Forest in accordance with various orders of this Court in Cause No. 43C01-9109-CP-0032.
2. Plaintiffs' pier has been maintained in the location it existed in 2015 for in excess of 40 years.
3. The actions of Defendant leave Plaintiffs without a pier location for the 2016 season which will work an unreasonable hardship on Plaintiffs.
4. If the actions of Defendant are stayed pending the conclusion of this action, it will not require any relocation of Intervenor's pier from the location it maintained in the 2015 season.

WHEREFORE, Plaintiffs move the Court for an order staying the effectiveness of the decision made by Defendant January 26, 2016 and permitting Plaintiffs to maintain their pier and boats moored at the pier in the same location as maintained in 2015 and for all other proper relief.

Respectfully submitted,
SNYDER MORGAN LLP

By: 

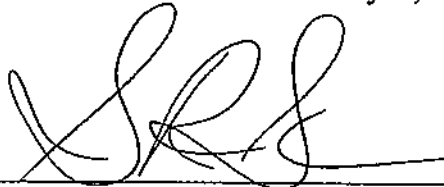
Stephen R. Snyder, #413-43
200 West Main Street
Syracuse, Indiana 46567
Telephone: 574/457-3300
srs@snydermorgan.com
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned certifies that on the 21 day of March, 2016, a true and correct copy of the foregoing pleading was served upon the following by first class U.S. mail, postage prepaid:

Matthew R. Shipman, Esq.
Bloom Gates & Whiteleather, LLP
119 S. Main St., P.O. Box 807
Columbia City, Indiana 46725

John Powell, Esq.
P.O. Box 11648
Fort Wayne, Indiana 46859-1648

A handwritten signature in black ink, appearing to read 'SR Snyder', is written over a horizontal line.

Stephen R. Snyder

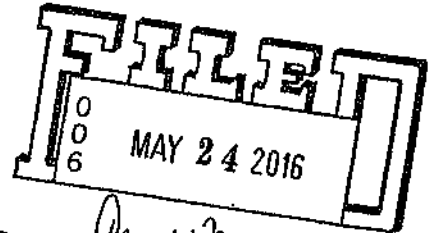
IN THE KOSCIUSKO CIRCUIT COURT
121 NORTH LAKE STREET
WARSAW, INDIANA 46580

GERRY LEE POWELL and
PATRICIA ANN POWELL,
Plaintiffs,

VS.

EPWORTH FOREST ADMINISTRATION
COMMITTEE, INC.,
Defendant.

CASE NO. 43C01-1602-MI-47



Ann Jorj
CLERK KOSCIUSKO CIRCUIT COURT

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER**

Hearing was held May 4, 2016, on the Plaintiffs' Motion for Stay which the parties agreed to treat as a request for preliminary injunction. Plaintiffs appeared in person and by counsel, Stephen R. Snyder. Defendant, Epworth Forest Administration Committee, Inc., appeared by counsel, Matthew R. Chipman, and its Designated Agent, Richard Presser. Intervening Party, Robert J. Miller, appeared in person and by counsel, John B. Powell. Evidence was submitted and argument heard and the Court took the issues under advisement. The Court having reviewed the evidence, the argument of counsel, the Court's file herein, and being duly advised in the premises, now enters its Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Plaintiffs are the owners of the following described real estate located in Kosciusko County, Indiana:

Lot 12 in Block C in the Plat of Epworth Forest;
which property does not front on Webster Lake. ("Powell Lot").

2. Defendant is an Indiana corporation established pursuant to Order of the Court dated April 15, 2014 in Cause No. 43Co01-9109-CP-732.

3. Since 1941 and during the ownership of the Powell Lot by Plaintiffs and Plaintiffs' predecessors, there has been a pier maintained at a location on the waterfront of Lot 48 Block C in the Plat of Epworth Forest, which lot is now owned by Robert J. Miller and Debra S. Miller ("Lakefront Lot").

4. The location of the Powell pier on the Lakefront Lot was approved by this Court in its Order entered January 21, 2014 in Cause No. 43C01-9109-CP-732.

5. Defendant Epworth Forest Administration Committee, Inc. ("EFAC") has demanded relocation of Plaintiffs' pier to a location different than that previously approved by this Court in Cause No. 43C01-9109-CP-732.

6. Plaintiffs appealed the determination of EFAC and all appeals have been denied and this litigation followed.

7. The rights and obligations of non-lakefront owners of lots in the plats of Epworth Forest have been determined by judgment and various orders of this Court in Cause No. 43C01-9109-CP-732, in particular, the Judgment entered August 2, 1994 (Exhibit 2), the Order dated November 7, 1997 (Exhibit 3), the Order dated January 21, 2014 (Exhibit 5) and the Order dated April 15, 2014 (Exhibit 6).

8. Pursuant to Exhibit 6, EFAC was established by the filing of its Articles of Incorporation with the Secretary of State of Indiana (Exhibit 7) and the adoption of its Bylaws (Exhibit 8).

9. EFAC now administers the lakefront in the various plats of Epworth Forest including, but not limited to, assignment of pier locations for both onshore and offshore lot owners.

10. The various Orders of this Court and, in particular, Exhibit 6 states:
Onshore owners' pier assignments will continue from year to year and be presumed permanent. An offshore pier assignment/location, in accordance with the 1994 judgment, may be changed only for substantial change of circumstances making the prior assignment unreasonable under current facts and circumstances.

11. Exhibit E to Exhibit 5 is a listing of assigned pier spaces approved by the Court as part of its Order dated January 21, 2014, and specifically assigned Pier Space

35A to Plaintiffs and Pier Space 34 to the predecessor of Defendants Robert J. Miller and Debra S. Miller, Suetta Johnson. The same exhibit indicates that the lake frontage of the Miller property is 50 feet and at the time of the January 21, 2014 Order, consisted of 16 feet assigned to Plaintiffs for Pier 35A, 24 feet assigned to Suetta Johnson for Pier 34 and 10 feet of open shoreline, a total of 50 feet.

12. Defendants Miller desire to place a boat lift on each side of their pier without relocating their pier within the 24-foot space assigned to them by Exhibit 5. Doing so without relocation of the Miller pier, would leave insufficient space for the Powell boat and pier as assigned by Exhibit 5.

13. Exhibits 11 and 12 clearly indicate there is ample space lakeward from the Miller lot to allow Miller to place a 4-foot-wide pier with a 10-foot-wide boat lift on each side of the pier and still maintain in excess of 4 feet of open space if the Miller pier were moved slightly west within the 24 feet of lake frontage assigned to Miller.

14. As indicated by Richard Presser, Vice President of EFAC, if the Powell pier is eliminated, they would be placed on a "waiting list" for a new pier assignment. Presser was unaware of when a new pier assignment space would be available.

15. If the Powell pier is left within the 16 feet assigned to Powell, Defendants Miller will retain the same 24 feet assigned to their predecessor, Suetta Johnson, and Millers would be able to locate whatever structures they desired within the same 24 feet.

CONCLUSIONS OF LAW

16. Pursuant to Trial Rule 65, in order to be entitled to a preliminary injunction, Plaintiffs as the moving party, must establish the following by a preponderance of the evidence: (1) the movant's remedies at law are inadequate which would cause irreparable harm pending resolution of the substantive action; (2) the movant has at least a reasonable likelihood of success at trial by establishing a prima facie case; (3) the threatened injury to the movant outweighs the potential harm to the non-moving party that would result in the granting of an injunction; and (4) the public interest would not be disserved by the granting of a preliminary injunction.

17. The judgment and various Orders in Case No. 43C01-9109-CP-732 of this Court clearly indicate that it was the intention of this Court that assignments of pier spaces for onshore owners were intended to be permanent, and offshore pier assignments were not to be changed without a significant change in circumstances.

18. The desire of Defendants Miller to place two boat lifts, one on each side of their current pier location, is not a significant change in circumstances.

19. The harm to Plaintiffs if they were to be forced to remove their pier and boat lift from the 16 feet currently assigned to them would be much greater than the harm to Defendants Miller which they might suffer by being required to relocate their pier within their 24-foot pier allocation to allow placement of a boat lift on each side of the Miller pier.

20. The determination made by EFAC requiring Powells to remove their pier and boat lift was arbitrary and capricious and not in conformity with the prior judgment and Orders of this Court, the Articles of Incorporation of EFAC and the Bylaws of EFAC.

21. Plaintiffs have established that they have a reasonable likelihood of success at trial, they are without an adequate remedy at law, and the public interest will not be disserved by the issuance of this preliminary injunction.

ORDER

IT IS, THEREFORE, ORDERED that Epworth Forest Administration Committee, Inc., is preliminarily enjoined from enforcement of its Order issued January 26, 2016, requiring Plaintiffs to remove their pier and boat lift from Pier Space 34A, or in any way interfering with Plaintiffs' use of Pier Space 34A as previously assigned. The Court determines that no bond is required of Plaintiffs.

SO ORDERED this 24th day of May, 2016.



Michael W. Reed, Judge
Kosciusko Circuit Court

Distribution:
Stephen R. Snyder
Matthew R. Shipman
John B. Powell

MWR/st

STATE OF INDIANA)
) SS:
COUNTY OF KOSCIUSKO)

IN THE KOSCIUSKO CIRCUIT COURT

CAUSE NO. 43C01-1602-MI-47

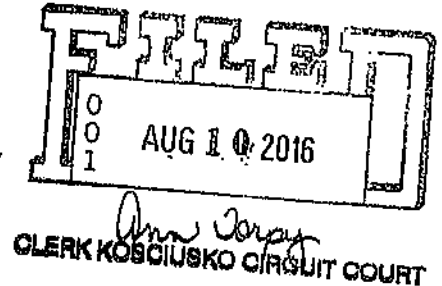
GERRY LEE POWELL AND
PATRICIA ANN POWELL

Plaintiffs,

v.

EPWORTH FOREST ADMINISTRATION
COMMITTEE, INC., ROBERT MILLER
and DEBORAH MILLER,

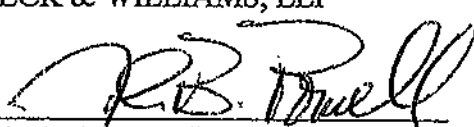
Defendants.



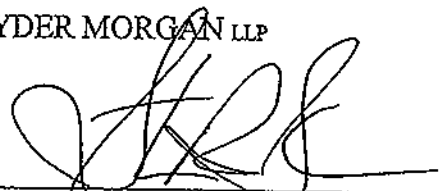
STIPULATION

Parties, by counsel, stipulate pursuant to TR 65(A)(2), that all evidence, including testimony and exhibits presented at the hearing on Preliminary Injunction held April 22, 2016, shall be part of the record in this matter and need not be repeated at trial.

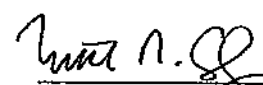
SHAMBAUGH, KAST,
BECK & WILLIAMS, LLP


John B. Powell, #6402-02
P.O. Box 11648
Fort Wayne, Indiana 46859-1648

SNYDER MORGAN LLP


Stephen R. Snyder, #413-43
200 West Main Street
Syracuse, Indiana 46567

BLOOM GATES & WHITELEATHER, LLP


Matthew R. Shipman, #20664-49
119 S. Main St., P.O. Box 807
Columbia City, Indiana 46725

EN TO CL 8/10/16

Wed Aug 10 2016 13:17:31

Page 1

CIVIL NOTICE
KOSCIUSKO CIRCUIT COURT
121 N LAKE STREET
2ND FLOOR
WARSAW IN 46580

POWELL VS EPWORTH FOREST
43C01-1602-MI-000047

TO: MATTHEW R SHIPMAN
BLOOM GATES SIGLER WHITELEATHE
119 S MAIN ST/P.O. BOX 807
COLUMBIA CITY IN 46725

ATTORNEYS		PARTIES	
		PETITIONER	
413-43	STEPHEN SNYDER	GERRY LEE POWELL	
413-43	STEPHEN SNYDER	PATRICIA ANN POWELL	
		RESPONDENT	
20664-49	MATTHEW SHIPMAN	EPWORTH FOREST ADMINISTRATION	
		INTERVENING PARTY	
6402-02	JOHN POWELL	ROBERT J MILLER	
6402-02	JOHN POWELL	DEBORAH S MILLER	

08/10/2016

Trial held on the complaint for judicial review filed February 18, 2016, on August 10, 2016. Plaintiffs appeared in person and by counsel, Stephen R. Snyder. Defendant, Epworth Forest Administration Committee, Inc., appeared by counsel, Matthew R. Shipman, and its designated agent, Richard Presser. Intervening Party, Robert J. Miller and Deborah Miller, appeared in person and by counsel, John B. Powell. Parties filed Stipulation to include evidence submitted April 22, 2016 shall be a part of the record in this trial. Stipulation approved. Trial held. Evidence submitted and the Court took the issues under advisement. Court grants parties to and including August 26, 2016, within which to file proposed findings of fact, conclusions of law, and judgment. (Memo: Snyder, Shipman, Powell) kr

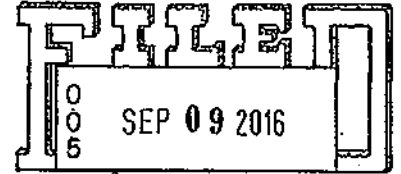
IN THE KOSCIUSKO CIRCUIT COURT
121 NORTH LAKE STREET
WARSAW, INDIANA 46580

GERRY LEE POWELL and
PATRICIA ANN POWELL,
Plaintiffs,

VS.

EPWORTH FOREST ADMINISTRATION
COMMITTEE, INC., ROBERT MILLER and
DEBORAH MILLER,
Defendants.

) CASE NO. 43C01-1602-MI-47
)
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Anna Jorjy
CLERK KOSCIUSKO CIRCUIT COURT

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND JUDGMENT**

Trial was held August 10, 2016. By stipulation of the parties, all evidence submitted at the preliminary injunction hearing held May 4, 2016 was deemed a part of the record without being repeated. Plaintiffs appeared in person and by counsel, Stephen R. Snyder, and Defendant, Epworth Forest Administration Committee, Inc., appeared by counsel, Matthew R. Shipman, and by its designated agent, Richard Presser. Intervening Parties, Robert J. Miller and Deborah S. Miller, appeared in person and by counsel, John B. Powell. Evidence was submitted and argument heard and the Court took the issues under advisement directing the parties to submit proposed Findings of Fact, Conclusions of Law and Judgments by August 26, 2016. The Court having reviewed the evidence, the arguments of counsel and the entire record herein, and being duly advised, now enters its Findings of Fact, Conclusions of Law and Judgment.

FINDINGS OF FACT

1. Plaintiffs are the owners of the following described real estate located in Kosciusko County, Indiana:

Lot 12 in Block C in the Plat of Epworth Forest;
which property does not front on Webster Lake. ("Powell Lot").

2. Defendant is an Indiana corporation established pursuant to Order of the Court dated April 15, 2014 in Cause No. 43C01-9109-CP-732.

3. Since 1941 and during the ownership of the Powell Lot by Plaintiffs and Plaintiffs' predecessors, there has been a pier maintained at a location on the waterfront of Lot 48 Block C in the Plat of Epworth Forest, which lot is now owned by Robert J. Miller and Debra S. Miller ("Lakefront Lot").

4. The location of the Powell pier assignment on the Lakefront Lot was approved by this Court in its Order entered January 21, 2014 in Cause No. 43C01-9109-CP-732.

5. Defendant Epworth Forest Administration Committee, Inc. ("EFAC") has demanded relocation of Plaintiffs' pier assignment to a location different than that previously approved by this Court in Cause No. 43C01-9109-CP-732.

6. Plaintiffs appealed the determination of EFAC and all appeals have been denied and this litigation followed.

7. The rights and obligations of non-lakefront owners of lots in the Plats of Epworth Forest have been determined by judgment and various orders of this Court in Cause No. 43C01-9109-CP-732, in particular, the Judgment entered August 2, 1994 (Exhibit 2), the Order dated November 7, 1997 (Exhibit 3), the Order dated January 21, 2014 (Exhibit 5) and the Order dated April 15, 2014 (Exhibit 6).

8. Pursuant to Exhibit 6, EFAC was established by the filing of its Articles of Incorporation with the Secretary of State of Indiana (Exhibit 7) and the adoption of its Bylaws (Exhibit 8).

9. EFAC now administers the lakefront in the various plats of Epworth Forest including, but not limited to, assignment of pier locations for both onshore and offshore lot owners.

10. The various Orders of this Court and, in particular, Exhibit 6, states:

Onshore owners' pier assignments will continue from year to year and be presumed permanent. An offshore pier assignment/location, in accordance with the 1994 judgment, may be changed only for substantial change of circumstances making the prior assignment unreasonable under current facts and circumstances.

11. Exhibit E to Exhibit 5 is a listing of assigned pier spaces approved by the Court as part of its Order dated January 21, 2014, and specifically assigned Pier Space 35A to Plaintiffs and Pier Space 34 to the predecessor of Defendants Robert J. Miller and Debra S. Miller, Suetta Johnson. The same exhibit indicates that the lake frontage of the Miller property is 50 feet and at the time of the January 21, 2014 Order, consisted of 16 feet assigned to Plaintiffs for Pier 35A, 24 feet assigned to Suetta Johnson for Pier 34 and 10 feet of open shoreline, a total of 50 feet.

12. Defendants Miller desire to place a boat lift on each side of their pier without relocating their pier within the 24-foot space assigned to them by Exhibit 5. Doing so without relocation of the Miller pier would leave insufficient space for the Powell boat and pier as assigned by Exhibit 5.

13. The Court's Order dated January 24, 2014 approving the then existing pier assignments approved not only the then existing pier placements (actual and based on prior usage), but also the assignment of a certain location zone for pier and other equipment usage (based on actual prior usage), as noted on the list and map showing pier assignments for 2014 attached to the Court's Order as Exhibit E.

14. It was further the Court's intention, and order, that the pier assignment based on Exhibit E was assigned based on an allocation of the frontage of each lot and created a zone of use for these assignments (an actual area assignment), which would not be subject to future change except as specifically provided by the Court's Orders, as the original and subsequent assignments were controlled by frontage or footage necessarily.

15. It was further the Court's intention, and order, that each assignee of a pier assignment be free to fully and freely utilize their zone assignment, but not so that this usage would affect others, especially adjacent pier location assignments, (i.e. the pier or other equipment may be moved within the assigned area, but may not be moved to affect the use of an adjacent assigned area.)

16. Therefore, the proposed change of actual use of an area by an assignee cannot be a substantial change of circumstances making the prior assignment unreasonable under current facts and circumstances.

17. Exhibits 11 and 12 clearly indicate there is ample space lakeward from the Miller lot to allow Miller to place a 4 foot wide pier with a 10 foot wide boat lift on each side of the pier and still maintain in excess of 4 feet of open space if the Miller pier were moved slightly west within the 24 feet of lake frontage assigned to Miller.

18. As indicated by Richard Presser, Vice President of EFAC, if the Powell pier is eliminated, they would be placed on a "waiting list" for a new pier assignment. Presser was unaware of when a new pier assignment space would be available.

19. If the Powell pier is left within the 16 feet assigned to Powell, Defendants Miller will retain the same 24 foot zone assigned to their predecessor, Suetta Johnson, and Millers are free to locate whatever structures they desired within the same 24 foot zone, so long as this does not affect the usage of the adjacent pier assignments.

20. The Court's Order of January 21, 2014 in Cause No. 43C01-9109-CP-732 established the area (zone) along the shoreline assigned to particular onshore and offshore owners. That Order was based on historic usage of the shoreline and not necessarily the exact location of a pier within the assigned shoreline.

21. Persons to whom a portion of the shoreline has been assigned are free to locate any structures within the assigned shoreline and may relocate those structures as long as they are located within the assigned area.

22. Assigned shoreline areas are based on historical usage as determined by this Court in prior Orders in Cause No. 43C01-9109-CP-732 and are not controlled by the location of platted lot lines extended to the water's edge.

CONCLUSIONS OF LAW

23. The judgment and various Orders in Case No. 43C01-9109-CP-732 of this Court clearly indicate that it was the intention of this Court that assignments of pier assignments for onshore owners were intended to be permanent, and offshore pier assignments were not to be changed without a significant change in circumstances.

24. The desire of Defendants Miller to place two boat lifts, one on each side of their current pier location, is not a significant change in circumstances.

25. The determination made by EFAC requiring Powells to remove their pier and boat lift was necessarily arbitrary and capricious and was, as a matter of the law of

the case, not in conformity with the prior Judgment and Orders of this Court, the Articles of Incorporation of EFAC and the Bylaws of EFAC.

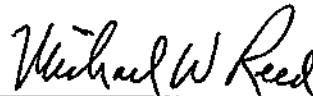
26. The placement of the Powell pier is in conformity with the Judgment and Orders in Cause No. 43C01-9109-CP-732 and no significant change in circumstances exists which would require the elimination or relocation of the original Powell pier assignment.

27. The determination of the Epworth Forest Administration Committee, Inc. made January 26, 2016 requiring Powells to remove their pier should be reversed.

JUDGMENT

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the determination made by Defendant, Epworth Forest Administration Committee, Inc., requiring Plaintiffs to relocate their pier is reversed, Plaintiffs' pier assignment as determined by this Court's Order of January 21, 2014 in Cause No. 43C01-9109-CP-732 is affirmed, and Plaintiffs are entitled to the use of their allocated waterfront area without interference from Defendants. The costs of this action are taxed to Defendants.

SO ORDERED THIS 9th DAY OF SEPTEMBER, 2016.



Michael W. Reed, Judge
Kosciusko Circuit Court

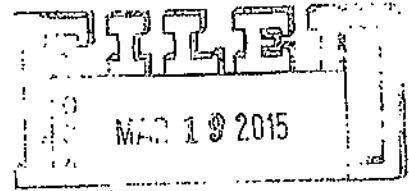
Distribution:
Stephen R. Snyder
Matthew R. Shipman
John B. Powell

MWR/st

STATE OF INDIANA)
)SS:
COUNTY OF WHITLEY)

IN THE KOSCIUSKO CIRCUIT COURT
CAUSE NO. 43C01-9109-CP-732

DOROTHY V. BARNES,)
Plaintiff,)
)
vs.)
)
NORTH INDIANA ANNUAL)
CONFERENCE OF THE UNITED)
METHODIST CHURCH, FRED)
and JOYCE PHANEUF, and)
NUMEROUS INTERVENING)
DEFENDANTS,)
Defendants.)



Ann Corey
CLERK KOSCIUSKO CIRCUIT COURT

LINDSEY A. GROSSNICKLE'S ACCEPTANCE AS FIFTH MEMBER

COMES NOW Lindsey A. Grossnickle, and accepts the Courts' appointment to serve as the fifth member of the Board of Directors for Epworth Forest Administration Committee. The undersigned previously advised the existing Board members that she would charge an hourly rate of \$150.00 for her services if appointed as the fifth director by the Board or the Court. An appropriate contract for services will be provided to the Board for review and signature. Should the Court deem this position of fifth director be unpaid, the undersigned requests the Court advise accordingly.

Respectfully submitted,

BLOOM GATES & WHITELEATHER, LLP

[Signature]

Lindsey A. Grossnickle
Attorney No. 22303-64

BLOOM GATES & WHITELEATHER, LLP
119 South Main St., P.O. Box 807
Columbia City, IN 46725
Telephone: (260) 248-8900
Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the above and foregoing Acceptance has been served upon parties of record, by first class, United States mail, postage prepaid, on this 16 day of March, 2015.

[Signature]

Lindsey A. Grossnickle

IN THE KOSCIUSKO CIRCUIT COURT
121 NORTH LAKE STREET
WARSAW, INDIANA 46580

DOROTHY V. BARNES,

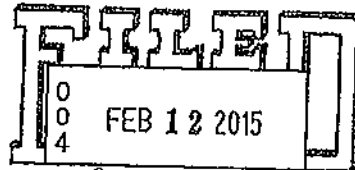
Plaintiff,

vs.

NORTH INDIANA ANNUAL
CONFERENCE OF THE UNITED
METHODIST CHURCH, FRED and
JOYCE PHANEUF, and NUMEROUS
INTERVENING DEFENDANTS,

Defendants.

CAUSE NO.: 43C01-9109-CP-732



Ann Joyce
CLERK KOSCIUSKO CIRCUIT COURT

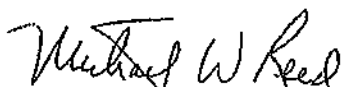
**ORDER APPOINTING FIFTH MEMBER
OF THE BOARD OF DIRECTORS, E.F.A.C.**

On April 15, 2014, the Court entered its Agreed Order Granting Relief Pursuant to T.R. 60 Through Modified Judgment. This Agreed Order provided for the establishment of the Epworth Forest Administration Committee (E.F.A.C.) to be managed by a Board of Directors consisting of five directors. This Agreed Order further provided that the fifth director would be appointed by the Court if the fifth director could not be selected by unanimous consent of the four elected directors and upon petition of any lot owner in Epworth Forest.

On January 22, 2015, Richard Presser, President of the E.F.A.C. filed petition to the Court indicating that the Board of Directors were unable to reach unanimous consent in the appointment of the fifth director and indicated that two candidates were interviewed and remain interested.

The Court, having reviewed this petition, the Court's file herein, and being duly advised in the premises, **NOW FINDS** that, although both prospective members would be qualified to serve, and each bring certain benefits and qualifications to the position, Lindsey A. Grossnickle, attorney, Bloom Gates Sigler & Whiteleather, 119 S. Main Street, P.O. Box 807, Columbia City, Indiana 46725; Telephone: 260/248-8900 **SHALL** be appointed as the Fifth Director of the E.F.A.C. Board of Directors subject to her filing acceptance of this appointment with the Court.

SO ORDERED: 12 February 2015



Michael W. Reed, Judge
Kosciusko Circuit Court

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Epworth Forest Administration Committee, Inc. v. Gerry Lee Powell, et al.


Appellate Court: Court of Appeals

Case Number: 43A03-1610-MI-02332

Case Type: Miscellaneous

Related Case(s): Kosciusko Circuit Court - 43C011602MI47

Documents & Media

 [How to read a case docket](#)

[More documents below](#)

Parties to the Case

Epworth Forest Administration Committee, Inc.; - *Appellant*

Powell, Gerry Lee; - *Appellee*

Powell, Patricia Ann; - *Appellee*



Miller, Robert; - *Appellee*


Miller, Deborah; - *Appellee*

Chronological Case Summary

[Toggle Capitalization](#)

[Show Documents Only](#)

Date	Event Details
1/10/2017	Order Granting Motion for Extension of Time To File Brief  order granting extension of time Judicial Officer: Vaidik, Nancy H. Party: Epworth Forest Administration Committee, Inc. Serve: Morgan, Randall Serve: Powell, John Serve: Shipman, Matthew Serve: Snyder, Stephen Having reviewed the matter, the Court finds and orders as follows: 1. Appellant's Corrected Verified Motion for 30-Day Extension of Time to File Appellant's Brief is Granted. 2. Appellant's brief shall be due on or before February 13, 2017.
1/10/2017	Document Transmitted
1/5/2017	Document Transmitted
1/5/2017	Notice of Defect Cured Motion for Extension of Time
1/5/2017	Motion for Extension of Time to File Brief  Motion for Extension of Time Attorney: Shipman, Matthew Party: Epworth Forest Administration Committee, Inc. Certificate of Service-Mailed 01/05/2017
1/4/2017	Received Document Receive Date: 01/04/2017 Motion for Extension of Time by Appellant counsel - Motion lacks required page numbers
1/4/2017	Notice of Defect Issued

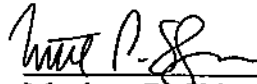
Date▼	Event Details
12/15/2016	Received Document Receive Date: 12/16/2016 One (1) vol. paper T/C for Transcript. One has been received electronically with the Transcript.
12/15/2016	Received Court Reporter's Notice of Filing of Transcript Received on: 12/16/2016
12/14/2016	Notice of Completion of Transcript Certificate of Service-Mailed - No Certificate of Service date. Date issued used. 12/13/2016
11/22/2016	Document Transmitted
11/21/2016	Order Granting Motion for Extension of Time  order granting ct reporter extension Judicial Officer: Vaidik, Nancy H. Serve: Morgan, Randall Serve: Powell, John Serve: Shipman, Matthew Serve: Snyder, Stephen Having reviewed the matter, the Court finds and orders as follows: 1. The Verified Motion for Extension of Time to File Transcript is granted in part. 2. The transcript shall be filed on or before December 13, 2016.
11/9/2016	Court Reporter's Motion for Extension of Time Certificate of Service-Mailed 11/09/16
10/26/2016	Notice of Completion of Clerk's Record Transcript Not Yet Completed Certificate of Service-Mailed 10/24/16
10/18/2016	Appearance Attorney: Morgan, Randall Attorney: Snyder, Stephen Party: Powell, Gerry Party: Powell, Patricia Ann Certificate of Service- Electronically Served 10/18/2016
10/17/2016	Note Epworth Forest - Appellant/Cross-Appellee Millers - Appellees/Cross-Appellants Powells - Appellees
10/10/2016	Notice of Appeal Filed Attorney: Powell, John Party: Miller, Deborah Party: Miller, Robert Certificate of Service-Method not Specified 10/10/16
10/7/2016	Notice of Appeal Filed Attorney: Shipman, Matthew Party: Epworth Forest Administration Committee, Inc. Certificate of Service-Mailed 10/07/16

For more information about any appellate case, contact the Clerk's Office at (317) 232-1930

VERIFICATION

I verify under the penalties of perjury that the documentation in this Appendix are accurate copies of parts of the Record on Appeal.

Dated: February 13, 2017



Matthew R. Shipman

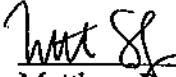
CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the above and foregoing Appendix to the Brief of Appellant-Defendant, Epworth Forest Administration Committee, Inc., has been served upon the following:

Stephen Snyder
200 W Main St
Syracuse, IN 46567
Attorney for Appellees/Plaintiffs below

John B. Powell
SHAMBAUGH, KAST, BECK,
& WILLIAMS, LLP
229 West Berry Street, Suite 400
PO Box 11648
Fort Wayne, IN 46859
Attorney for Appellees/Defendants below

by first class, United States mail, postage prepaid, on this 20th day of February, 2017.



Matthew Shipman