

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

LUDWIG SCHAPPELL and	:	
MICHELLE SCHAPPELL,	:	
Plaintiffs	:	
vs.	:	NO. 02-00981
	:	
	:	CIVIL ACTION
ARLON SPRINGER,	:	Defendant's Motion for
Defendant	:	Judgment on the Pleadings

ORDER

AND NOW, this 9th day of December 2003, upon consideration of the Defendant's Motion for Judgment on the Pleadings, the Court GRANTS the motion with respect to Plaintiffs' claim for damages related to loss of trees and encroachment of dirt. These are permanent injuries, not temporary and recurring ones. Therefore, Graybill v. Providence Township, 140 Pa.Cmwlth. 505, 593 A.2d 1314 (1991), affirmed per curiam 533 Pa. 61, 618 A.2d 392 (1993) is distinguishable and these damages fall more appropriately under Sustrik v. Jones and Laughlin Steel Corporation, 413 Pa. 324, 197 A.2d 44 (1964). Since more than two years has elapse since the driveway was constructed, the statute of limitations for these items of damage has expired. The Court DENIES the motion with respect to the damages for water ponding. At this stage of the proceedings, the Court cannot determine whether the water ponding is continuous and permanent or temporary, but recurring. This ruling is without prejudice to either

party filing an appropriate motion after discovery is complete.

By The Court,

Kenneth D. Brown, Judge

cc: Scott T. Williams, Esquire
Wilfred Knecht, Esquire