

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA

LYCOMING TOWNSHIP, : No. 01-01,774
Plaintiff :
 :
vs. : CIVIL ACTION IN EQUITY
 :
 :
PAUL E. SHANNON and :
Ellen I. SHANNON, his wife, :
and SHANNON LUMBER COMPANY, :
Defendants : 1925(a) Opinion

OPINION IN SUPPORT OF ORDER IN
COMPLIANCE WITH RULE 1925(a) OF
THE RULES OF APPELLATE PROCEDURE

This opinion is written in support of this Court's Order docketed February 3, 2003. The reasons for the Court granting the Township's request for an injunction can be found in that Order. Additionally, the Court notes a Complaint was filed in this matter naming Paul F. Shannon, Ellen I. Shannon, and Shannon Lumber Company, Inc., as defendants. The Complaint was reinstated on December 4, 2001. The Sheriff served Shannon Lumber Company, Inc. by handing the Complaint to Paul Shannon, the Chief Executive Officer and an owner of Shannon Lumber Co., Inc. on December 13, 2001. The Sheriff also hand-served Paul Shannon and Ellen Shannon on that date. See Returns of Services filed January 2, 2002. The defendants appear to be confusing this case with a previous case (96-00189) filed against them by

the Township of Lycoming.

Finally, the Court notes res judicata is an affirmative defense that must be raised as New Matter in the defendants' Answer to the Complaint. Pa.R.Civ.P. 1030. The defendants never filed an Answer with New Matter. Therefore, this issue is waived.

DATE: _____

By The Court,

Kenneth D. Brown, J.

cc: Scott T. Williams, Esq.
Paul Shannon
62 Mill Hill Rd, Cogan Station, PA 17728
Ellen Shannon
62 Mill Hill Rd, Cogan Station, PA 17728
Shannon Lumber Co., Inc.
% Paul Shannon
62 Mill Hill Rd, Cogan Station, PA 17728
Gary Weber, Esquire (Lycoming Reporter)