

**COVER SHEET - NOTICE OF FILING OF MOTION OR PETITION UNDER
LOCAL RULES OF CIVIL PROCEDURE**

CASE CAPTION: BOROUGH OF MEDIA CIVIL CASE NO. 06-20475
VS.
COUNTY OF DELAWARE
AND
THE MEDIA SWIMMING AND ROWING CLUB

NATURE OF MATTER FILED: *(please check one)*

- | | | |
|--|---|--|
| <input checked="checked" type="checkbox"/> Petition Pursuant to Rule 206.1 | <input type="checkbox"/> Response to Petition | <input type="checkbox"/> Motion for Judgment on the Pleadings Pursuant to Rule 1034(a) |
| <input type="checkbox"/> Motion Pursuant to Rule 208.1 | <input type="checkbox"/> Response to Motion | <input type="checkbox"/> Summary Judgment Pursuant to Rule 1035.2 |
| <input type="checkbox"/> Family Law Petition/Motion Pursuant to Rule 206.8 | | |

**FILING PARTY IS RESPONSIBLE FOR SERVICE OF THE RULE RETURNABLE
DATE OR HEARING DATE UPON ALL PARTIES**

A motion or petition was filed in the above captioned matter on the 28 day of September, 2012 which:

Requires you, Respondent, to file an Answer within twenty (20) days of the above date to this notice, or risk the entry of an Order in favor of the Petitioner. Answers must be filed and time stamped by the Office of Judicial Support by 4:30 PM on the following date October 18, 2012.

Requires all parties, to appear at a hearing/conference on the ___ day of _____, _____ at ___ in Courtroom ___, Delaware County Courthouse, Media, Pennsylvania. At this hearing/conference you must be prepared to present all testimony and/or argument, and must ensure that your witnesses will be present.

Was timely answered, thus requiring the scheduling of the following hearing in the above captioned matter on: _____, _____ at 10:00 AM in Courtroom _____.

At this hearing, all parties must be prepared to present all testimony and/or argument and must ensure that their witnesses will be present.

Qualifies as an Uncontested Motion or Petition, and as such requires neither an answer from the Respondent nor the scheduling of a hearing in this matter.

Has been assigned to Judge James F. Proud

FOR OFFICE USE ONLY

Mailing date: _____ Processed by: _____

EUGENE A. BONNER, ESQUIRE
Attorney I.D. #25685
111 NORTH OLIVE STREET
Media, Pa. 19063
(610)565-8787

Attorney for Media Swimming
and Rowing Club

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

BOROUGH OF MEDIA, : No.06-20475
Plaintiff :
Vs. :

COUNTY OF DELAWARE and :
THE MEDIA SWIMMING and :
ROWING CLUB, a Corporation, :
Now known as The Broomall's :
Lake Country Club :
Defendants
and
THE MEDIA SWIMMING AND :
ROWING CLUB, a Corporation, :
Now known as The Broomall's :
Lake Country Club and THE :
COUNTY OF DELAWARE, :
Plaintiffs
Vs.

BOROUGH OF MEDIA :
Defendant

FILED
2012 SEP 28 PM 1:57
OFFICE OF
JUDICIAL SUPPORT
DELAWARE CO. PA.

PETITION FOR CONTEMPT and ENFORCEMENT
OF STIPULATED ORDER

Now comes, Media Swimming and Rowing Company and presents the following in support of its Motion For Contempt and Enforcement of Stipulated Order:

1. This action had come before the Court as a result of Plaintiff's, the Borough of Media, Complaint for

Declaratory Relief.

2. Plaintiff had requested the Court to determine ownership interest of a portion of a dam/bridge which transverses Broomall Run and Lake at West Third Street, in the borough of Media.
3. Defendants, Delaware County and Media Swimming and Rowing Club, had asked the court to determine that the Borough of Media owns the dam/bridge as a result of its ownership of the road and continuous use, maintenance, operation and control of said road, bridge/dam.
4. That after several years of litigation, negotiations etc. a settlement between Plaintiff and Defendants was reached on April 25, 2011 and entered as an Order of Court dated and signed by the Honorable James Proud on May 26, 2011. Said **Stipulation and Order**, assumingly settling the issues between the parties. A copy of said Stipulation and Order is attached hereto, made a part hereof and marked Exhibit "A".
5. That since said Order was entered the Plaintiff has failed to proceed as Ordered.
6. That the Plaintiff has failed to use due diligence in proceeding to design, engineer, repair, and improve the dam. See **Stipulation and Order** paragraph #6 (a)
7. That the Plaintiff has failed to used due diligence in proceeding to re-establish the West Third Street roadway across the dam as an open thoroughfare for vehicular and pedestrian traffic. See **Stipulation and Order** paragraph #6 (a).
8. That Plaintiff through its present council intends to establish one way vehicular traffic across the dam.
9. That Plaintiff intention to limit vehicular access to one way across the dam is contrary to the Stipulation and Order.
10. That at all times during the active use for a period of over 100 years the roadway across the dam accommodated two way vehicular traffic.
11. That the road way across the dam accommodated two way

vehicular traffic prior to said litigation.


12. That the road way across the dam was open to two way vehicular traffic prior to the closing of the road way.
13. That the intent and meaning of "reestablish the West Third Street roadway across the dam as an open thoroughfare for vehicular and pedestrian traffic;" pursuant to the Stipulation and Order was to restore the roadway to its former position.
14. Black's Law Dictionary defines re-establish as to restore to its former position.
15. The Stipulation and Order entered into by the parties relied on the representation that said roadway would be re-established to its former position namely providing two way vehicular traffic.
16. That Plaintiff's intent not to abide by said Stipulation and Order is a violation of said Order.
17. That Plaintiff should be enjoined from any violation or deviation of said Order.
18. That Plaintiff has delayed in acting pursuant to said Order.
19. That continued delay by the Plaintiff presents a dangerous condition as to the emergency access to the public, for emergency vehicles etc. in the event that access through Media to is obstructed or that said route would beneficially contribute to more immediate access and response.
20. That continued delay by the Plaintiff increases the risk that said roadway and dam could be breached or otherwise create a hazardous condition.
21. That Plaintiff should incur cost and attorney fees for not abiding by said Order.

Wherefore, it is Defendant Media Swimming and Rowing Club request your Honorable Court to enter an Order enjoining Plaintiff from proceeding with plans for a one way roadway, Order Plaintiff to proceed with due

diligence to comply with said Stipulation and Order;
award reasonable attorney fees and enter such other
relief as it deems just.

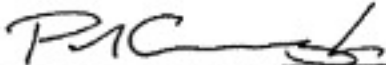
Respectfully submitted:

9/28/12


EUGENE A. BONNER, ESQUIRE
ATTORNEY FOR MEDIA SWIMMING
AND ROWING CLUB, also known as
BROOMALL'S LAKE COUNTRY CLUB

VERIFICATION

I, Paul Cavanagh, President of Broomall's Lake verify that the facts averred in the foregoing Petition are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.



Paul Cavanagh, President

Dated: 9/28/12

EUGENE A. BONNER, ESQUIRE
Attorney L.D. #25685
111 NORTH OLIVE STREET
Media, Pa. 19063
(610)565-8787

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY,
PENNSYLVANIA
CIVIL ACTION - LAW

BOROUGH OF MEDIA,
Plaintiff

No.06-20475

Vs.

COUNTY OF DELAWARE and
THE MEDIA SWIMMING and
ROWING CLUB

THE MEDIA SWIMMING AND
ROWING CLUB, a Corporation
Now known as The Broomall's
Lake Country Club and THE
COUNTY OF DELAWARE,
Defendants


CERTIFICATE OF SERVICE

I, EUGENE A. BONNER, Esquire, hereby certify that on September 28,
2012 I sent by U.S. first class mail a true and correct copy of the Petition for
Contempt and Enforcement of Stipulated Order to the following:

Guy A. Donatelli, Esquire
24 East Market Street
P.O. Box 565
West Chester, Pa. 19381

McNichol, Byrne & Matlawski
Michael L. Maddren, Esquire
606 E. Baltimore Pike
Media, Pa. 19063

Dated: 9/28/12

By: 
EUGENE A. BONNER, ESQUIRE