



## Participants

Judge.....Terry McMillen, Sr.  
Plaintiff Jesse Harper.....Dave Kalina  
Defendant Sydney Miller, owner of Sunshower Resort.....Joe Estock  
Plaintiff's Attorney.....Todd Henwood  
Defendant's Attorney.....Ken Crossan  
Plaintiff's Surveyor Peyton Mann, PS.....Pete Brothers  
Defendant's Surveyor Tommy Bradley, PS.....Larry Leso  
Title Expert.....Glen Johnson  
Bailiff/Moderator.....Gary R. Kent, PS

## Mock Trial Agenda

### Introductions and Case Background

#### Court Case

Comments from Judge  
Opening statements  
Plaintiff's attorney  
Defendant's attorney

#### Testimony - Plaintiff

Plaintiff Jesse Harper  
Surveyor Peyton Mann  
Title Expert

#### Testimony - Defendant

Defendant Sunshower Resort owner Sydney Miller  
Surveyor Tommy Bradley

#### Closing Statements

#### Jury instructions from Judge

#### Jury Deliberations

#### Reports

Jurys  
Attorneys  
Judge

#### Being an Expert Witness presentation

#### Questions and final comments

# *Mock Trial - Harper v. Sunshower Resort*

## **Pennsylvania Society of Land Surveyors**

**January 25, 2023**

### **Summary of Case**

The Harpers had Peyton Mann perform a survey to prepare for construction of their new home on their lakefront property on Conneaut Lake in Crawford County, Pennsylvania.

Sunshower Resort - owners of the property north of the Harpers - took exception to the opinion expressed by Mann's survey and the ensuing open disagreement resulted in litigation being filed by the Harpers based a claim of quiet title and, alternately, a claim for ejectment. Defendant Sunshower filed a counterclaim of ejectment.

Subsequent to the filing of the lawsuit, Defendants hired their own surveyor Tommy Bradley who prepared a survey that disagreed with Mann's opinion.

Although the two surveyors met in an amicable effort to resolve the differences in their opinions, title problems, a lack of documentation of original surveys, and numerous historically-conflicting surveys prevented a clear resolution to the conflict.

Two actual attorneys and a judge will participate with the audience sitting in as jury as the plaintiff and defendant, the two surveyors, and a title expert testify and we explore the chains of title, conflicting lines of possession, the related boundary law principles, and differing claims of title.

As an integral part of the trial, questions will be taken from the audience. In addition, the judge will discuss the process and procedures in such a case and the attorneys will offer guidance and suggestions to those who would testify as expert witnesses.

### **Time Line of Significant Events**

Earliest documented survey of the area	1831
Miles and Sarah Evers take title to area west of Old State Road	1885
10-foot strip ("easement") first appears in record (to Miles and Sarah Evers)	1885
All lakefront parcels in this area conveyed out by Evers	1926
Harpers acquire title from Woodson	1984
Miller (Sunshower Resort) acquires title from Walters	1991
10-foot strip reappears in record (some of Evers' Heirs execute quitclaims to Richards)	2003
Peyton Mann survey for Harper	2015
10-foot strip quitclaimed by Richards to Harper	2017
Peyton Mann 2019 survey for Harper and Complaint filed by Harper against Sunshower	2019
Tommy Bradley 2020 survey for Sunshower Resort	2020



parcel to the south of and contiguous to the Harper Property, a copy of which is attached as **Exhibit C** (the "Mann Survey");

4. That since the stakes for the Mann Survey were placed on or about February 25, 2015, a dispute has arisen between the Harpers and Sunshower as to the precise location of property line between the Sunshower Property and the Harper Property.
5. There is an area of land that on the north portion of the Harper Property and the south portion of the Sunshower Property that both the Harpers and Sunshower claim is part of their respective property, it is pictured in attached **Exhibit E** and described in attached **Exhibit F** (the "Disputed Area");
6. During the time the Harpers have owned the Harper Property (and upon belief, their predecessors in title dating back to April 1962), they have used the Disputed Area consistent with ownership of the Disputed Area by:
  - a. using it for recreation;
  - b. maintaining it by mowing, fertilizing and removing debris from it;
  - c. cutting and trimming trees and bushes in it;
  - d. maintaining the sea wall area of it;
  - e. adding drainage tile to and through it;
  - f. swimming and recreating in the lake adjacent to it;The Harpers, and upon belief, their predecessors in title have always used the Disputed Area in the above manners, and they always believed and claimed that the Disputed Area was part of the Harper Property.
7. There is a portion of the Disputed Area upon which arborvitae bushes grow and in many portions, the arborvitae bushes are on the believed dividing line between the Harper Property and the Sunshower Property.

## **COUNT I**

### **Quiet Title**

Come now the Plaintiffs, for their cause of action against the Defendants, and allege as follows:

8. Plaintiffs reincorporate by reference paragraphs 1 through 7 as if set out in full;
9. Plaintiffs assert title to the real estate that is the subject of the proceeding (the Disputed Area) against all other persons;
10. The purpose of this proceeding is to quiet the title to the real estate;
11. The Plaintiffs have named as Defendants all persons whom the Plaintiffs know may have a claim to or interest in the Disputed Area.
12. Plaintiffs file with this Complaint an affidavit as **Exhibit G** which complies with [PA STATUTE] and Plaintiffs ask for a waiver of the requirement to provide notice by publication under [PA STATUTE] because all parties with a potential interest in the Disputed Area are known and their whereabouts are known.

WHEREFORE, Plaintiffs seeks the following relief:

- a. A declaration from the Court that the entire Disputed Area is owned by the Harpers and title to the Disputed Area is quieted in the Harpers;
- b. All other proper relief.

## **COUNT II**

### **Ejectment**

Come now the Plaintiffs, for their alternative cause of action against the Defendants, and allege as follows:

13. Plaintiffs reincorporate by reference paragraphs 8 through 12 as if set out in full;

14. Defendants have in the past several weeks placed items (a stake, swing and ornamental vegetation) in the west portion of the Disputed Area nearest Conneaut Lake, and said area belongs to and is part of the Harper Property;
15. That the Harpers have, on 2 occasions (in May and June 2014) asked Sunshower to relocate a stake, swing and ornamental vegetation and Sunshower has refused;
16. That said acts of placing items in an attempt to control a portion of the Disputed Area constitutes a trespass on the Harper Property;
17. That said trespass entitles the Harpers to damages against Sunshower and attorney fees pursuant to [Pa R.C.P. § A Statute].

WHEREFORE, Plaintiffs seeks the following relief:

- a. Damages as allowed by law against the Defendants;
- b. All other proper relief.

Respectfully submitted,

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Attorney for the Plaintiffs

## **EXHIBIT A**

### **Harper Legal Description (Warranty deed from Woodson in 1984)**

ALL that certain piece or parcel of land situate in the Borough of Conneaut Lake in Crawford County, Pennsylvania, bounded and described as follows, to wit: being a part of the former Miles Evers property more particularly described as follows:

Commencing 10 rods west and 55 feet north of where the west line of the old State Road crosses the south line of the former Miles Evers property; thence west 27 feet, thence north 45 feet, thence east 58 feet, thence south 45 feet, thence west 31 feet to place of beginning.

Also, Commencing 10 rods west and 55 feet north of where the west line of the old State Road crosses the south line of the former Miles Evers property and running thence west to Conneaut Lake; thence northerly along the Lake to a point 100 feet north of the south line of the former Miles Evers property; thence east to a point 27 feet west and 45 feet north of the place of beginning; thence south 45 feet and there ending.

## **EXHIBIT B**

### **Miller/Sunshower Resort Legal Description (Warranty deed from Walters in 1991)**

ALL that certain piece or parcel of land situate in the Borough of Conneaut Lake in Crawford County, Pennsylvania, bounded and described as follows, to wit: being a part of the former Miles Evers property more particularly described as follows:

Commencing at a point 100 feet north and 68 feet west of the intersection of the south line of said Evers property with the westerly line of a public road; thence north 45 feet; thence east 152.65 feet to a point on the westerly line of a public road; thence southwesterly along said westerly line 52.97 feet to a point due east of the point of beginning; thence west 124.71 feet to the point of beginning.

ALSO, beginning 100 feet north and 68 feet west of the intersection of the south line of said Evers property with the westerly line of a public road; thence north 45 feet; thence west 177 feet, more or less, to a point on the shore of Conneaut Lake; thence southwesterly along the shore of said Conneaut Lake 55 feet, more or less, to a point due west of the point of beginning; thence east 206 feet, more or less, to the point of beginning.







## **EXHIBIT F**

### **Description of Conflict Area (prepared in 2020 by Tommy Bradley, PS)**

ALL that certain piece or parcel of land situate in the Borough of Conneaut Lake in Crawford County, Pennsylvania, bounded and described as follows, to wit: being a part of the former Miles Evers property more particularly described as follows:

COMMENCING at the intersection of the south line of the former Miles Evers property in Crawford County, Pennsylvania and the west line of the old State Road (also known as Konneyaut Trail); thence North 90 degrees 00 minutes 00 seconds West along said Evers line 165.00 feet; thence North 00 degrees 00 minutes 00 seconds East 45.00 feet to an iron stake with plastic cap stamped "FIRM #9999"; thence North 90 degrees 00 minutes 00 seconds East, a distance of 31.00 feet; thence North 00 degrees 00 minutes 00 seconds East, 10.00 feet to the southeast corner of lands owned by Jesse and Melinda Harper as recorded in Deed Record 93, Page 22 in the Recorder of Deeds Office of Crawford County; thence continuing North 00 degrees 00 minutes 00 seconds East a distance of 43.02 feet to the POINT OF BEGINNING; thence South 88 degrees 56 minutes 14 seconds West, a distance of 156.63 feet to the shoreline of Conneaut Lake; thence North 36 degrees 16 minutes 50 seconds East along the shoreline of Conneaut Lake a distance of 6.06 feet; thence North 90 degrees 00 minutes 00 seconds East parallel with and 100.00 feet (by perpendicular measurement ) North of said Evers south line, a distance of 153.02 feet; thence South 00 degrees 00 minutes 00 seconds West a distance of 1.98 feet to the POINT OF BEGINNING. Containing 0.01 acres, more or less.

## **EXHIBIT G**

### **Harper Affidavit**

Jesse Harper and Melinda Harper, each being first duly sworn and upon their oaths, state the following:

1. We are competent adults and we make these statements based on personal knowledge;
2. The Complaint in this matter contains all of the names of all persons by or whom a claim or interest in the disputed real estate may be asserted;
3. That Sydney Miller and Sunshower Resort (“Sunshower”) are believed to be the owners of the Sunshower Property described in the Complaint. Their current legal residence is 190 Konneyaut Trail, Borough of Conneaut Lake, Crawford County, Pennsylvania. Mr. Miller is living;
4. We claim full and complete right and title in the disputed area of real estate that is the subject of the Complaint filed in this matter;
5. We intend to quiet title to the disputed area of real estate as defined in the Complaint in this cause.

We swear and affirm under penalty of perjury the above representations are true to the best of our knowledge.

Date: 8/28/21

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Jesse Harper

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Melinda Harper

## **EXHIBIT H**

### **Legal Description – 10-foot strip**

#### **Quitclaim deed from Richards to Harper in 2017**

ALL that certain piece or parcel of land situate in the Borough of Conneaut Lake in Crawford County, Pennsylvania, bounded and described as follows, to wit: being a part of the former Miles Evers property more particularly described as follows:

COMMENCING at the intersection of the south line of said Miles Evers property in Crawford County, Pennsylvania and the West line of the old State Road, thence North 90 degrees 00 minutes 00 seconds West, along said Evers line 165.00 feet; thence North 00 degrees 00 minutes 00 seconds East 45.00 feet to the POINT OF BEGINNING; thence North 90 degrees 00 minutes 00 seconds West 150.45 feet to the shoreline of Conneaut Lake; thence North 21 degrees 50 minutes 48 seconds East along said shoreline 10.77 feet; thence South 90 degrees 00 minutes 00 seconds East 267.54 feet; thence South 00 degrees 00 minutes 00 seconds West 10.00 feet; thence North 90 degrees 00 minutes 00 seconds West 121.10 feet to the POINT OF BEGINNING. Containing 2,696 square feet, more or less.