MARK A. GUILFOYLE, ATTORNEY P.A.

306 N.W. SECOND • P.O. BOX 548 • ABILENE, KS 67410-0548

(785) 263-3070 • FAX (785) 263-4363

February 7, 2007

Kenneth W. Wasserman
NORTON, WASSERMAN, JONES,
KELLY, L.L.C.
PO Box 2388
Salina, KS 67402-2388

RE: Ostermann Property

Dear Ken:

I visited with Bill Peterson, on behalf of Peterson Farms, owner of the property adjoining the Ostermann property. Mr. Peterson stated that he is just not interested in putting up any fences on the property, at this time. He did indicate that if he would receive a good offer for purchase of the property, he would certainly entertain selling the property to Mr. Ostermann. If Mr. Ostermann owned both properties, he could do whatever he wanted with the alleyways.

Mr. Peterson recently obtained an appraisal from Dan Reynolds, of Reynolds Real Estate. The appraised value is $46,000.00. Any offer would have to be approaching that dollar range. Mr. Ostermann previously made an offer of $10,000.00 - $15,000.00, which is completely unacceptable, based on the appraised value. Please let me know if he wants to increase his offer.

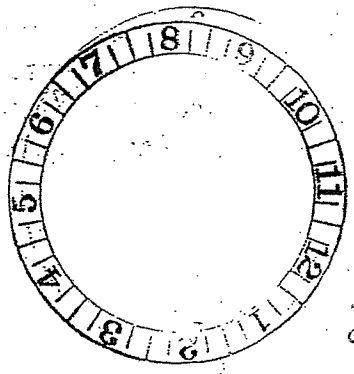
Sincerely yours,

MARK A. GUILFOYLE, ATTORNEY, P.A.

Mark A. Guilfoyle

Mark A. Guilfoyle

MAG:sks
cc: William H. Peterson



26

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February 7, 2007

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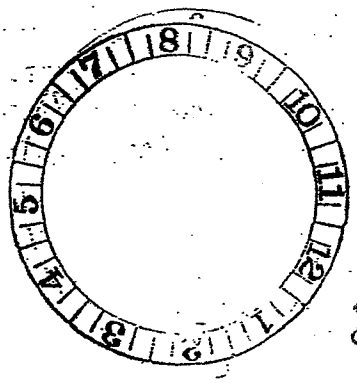
Sincerely yours,

MARK A. GUILFOYLE, ATTORNEY, P.A.

Mark A. Guilfoyle

Mark A. Guilfoyle

MAG:sks
cc: William H. Peterson
Mike Teasley



26

NORTON · WASSERMAN · JONES · KELLY LLC

FRANK C. NORTON
KENNETH W. WASSERMAN
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NORMAN R. KELLY
ROBERT A. MARTIN
JASON L. REED
LAWRENCE E. NORDLING

Attorneys at Law

MAILING ADDRESS:
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Salina, KS 67402-2388

LAW OFFICES AT:
213 S. Santa Fe
Salina, KS 67401

Telephone 785-827-3646
Fax 785-827-0538

February 9, 2007

Mark Guilfoyle
P.O. Box 548
Abilene, KS 67410-0548

RE: Ostermann Property

Dear Mark:

I am apparently confused.

It was my understanding that you represent the City of Abilene and all I was trying to do in my recent contact with you was try to gain an understanding as to why the City refused to issue a fence permit to Mr. Ostermann when the fence is entirely on his property.

Your letter of February 7, 2007, certainly appears to me to indicate that you represent Mr. Peterson and, if that is the case, I need to know who is representing the City of Abilene in this matter since clearly there appears to be a conflict of interest. I was hoping to resolve this matter without having to file an action in mandamus, however, if the City continues to stonewall on the fence permit Mr. Ostermann may not have an option.

I will convey to him your offer on behalf of Mr. Peterson.

Very truly yours,

Kenneth W. Wasserman

KWW/ms
cc: M/M Scott Ostermann

27

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February 9, 2007

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P.O. Box 548
Abilene, KS 67410-0548

RE: Ostermann Property

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I will convey to him your offer on behalf of Mr. Peterson.

Very truly yours,

Kenneth W. Wasserman

KWW/ms
cc: M/M Scott Ostermann

27

Inspection Department
PO Box 519
Abilene, KS 67410-0519
(785) 263-2550

CITY OF ABILENE, KANSAS

PERMIT NO._____

Permit Fee: $10.00

APPLICATION FOR FENCE PERMIT

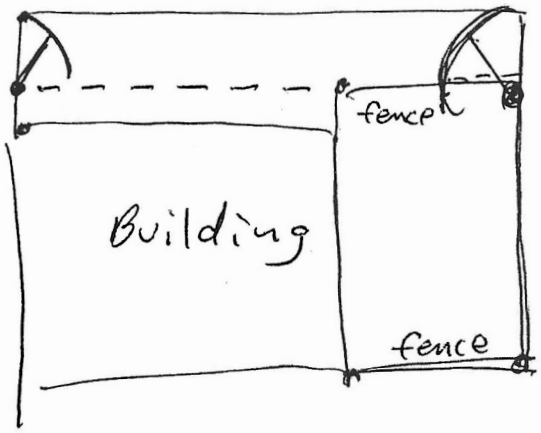
(Call 1-800-Dig-Safe before digging!)

Project Site Address: 101 N. Cedar

Owner of Record of Property: Scott h. / Christine C. Ostermann

Fence Contractor: Scott Ostermann

Please draw a map of your property showing the location of all buildings and any existing fence. Please include dimensions. Using a different colored pen or pencil, show the location of the proposed fence:



Will the fence encroach on any easement: cross over KGS,

Purpose of Fence: SECURITY / UTILITY Material of Fence: wood / steel

Height of Fence: 6½' Distance From Property Line: 10'

Signature Scott h. Ost Date: 3-12-7

(For Office Use Only)

Special Conditions _____

X Approved ____ Disapproved Reason: _____

City Inspector [signature] Date: 3-12-07

April 4, 2007

Mark or Brenda Weaver
PO Box 263
Longford, Kansas 67458-0263

Dear Mark or Brenda,

Having received a fence permit from the City of Abilene, this letter is to inform you of our intention to move the existing fence to a point 10 feet south of the property pin marking the northeast corner of the south 51 feet of lot 27. This will put the corner post approximately one foot inside the door frame.

This fence corner will hinge a gate that will parallel the perimeter of Peterson's easement and will line up with our 10 foot easement which runs north to Texas Street. The gate will block your door when open.

This is notification that your tenants do not have permission to place their trash can or any thing else on our property or easements.

This is notification that you do not have our permission for your customers to park or loiter or use our easement in any fashion we deem inappropriate.

You will be responsible for replacing service to your building for any sewer, telephone, or utility lines that are inappropriately located on our property and are removed. The same applies for any encroachments over the property line.

You can have your attorney call Ken Wasserman in Salina with any questions.

Sincerely,

Scott L. Ostermann

Cc : Kenneth W. Wasserman

Enclosure: site map

NORTON · WASSERMAN · JONES · KELLY LLC

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Fax 785-827-0538
kww@nwjklaw.com

September 13, 2007

Mark Guilfoyle
P.O. Box 548
Abilene, KS 67410-0548

RE: Down South Tavern

Dear Mark:

From our previous correspondence, it is my understanding that you represent Mark and Brenda Weaver, the owners of the building housing the Down South Tavern.

Having spoken with the representatives of both Kansas Gas Service and Westar Energy, it has been determined that the meters for both services are placed outside of the utility easement granted by my client Scott Ostermann. Having conceded this point, both utilities are ready to make the disconnect of their services.

However, Mark and Brenda Weaver, as owners of the building housing the DownSouth Tavern, are required to move the entry point of said services. This movement requires the employ of licensed professionals, and it is the Weavers' responsibility to obtain and pay for the services of these professionals.

This letter is to serve as a formal demand for the Weavers to complete this movement of the meters off of Mr. Ostermann's property. Please respond to this request within 10 days.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Kenneth W. Wasserman

KWW/kmw
cc: Scott Ostermann

STATE OF KANSAS

STANTON A. HAZLETT
Disciplinary Administrator

FRANK D. DIEHL
ALEXANDER M. WALCZAK
JANITH A. DAVIS
Deputy Disciplinary Administrators

GAYLE B. LARKIN
Admissions Attorney

OFFICE OF
THE DISCIPLINARY ADMINISTRATOR

701 Jackson St.
1st Floor
Topeka, Kansas 66603-3729
Telephone: (785) 296-2486
Fax: (785) 296-6049

August 6, 2007

Scott L. Ostermann
415 Brice Court
Abilene, Kansas 67410

Dear Mr. Ostermann:

This is a follow-up to my letter of July 16, 2007 concerning your complaint against attorney Mark Guilfoyle.

Your allegations against Mr. Guilfoyle were carefully reviewed and found not to be substantiated. The available evidence does not establish that Mr. Guilfoyle engaged in any conduct that would be a violation of the Kansas Rules of Professional Conduct for attorneys. There is no evidence that he misled, engaged in a legal conflict of interest or any professional misconduct.

Accordingly, your complaint against attorney Mark Guilfoyle is dismissed in accordance with Supreme Court Rule 209.

I am sorry, but I cannot be of any further assistance to you in this matter.

Sincerely,

Alexander Walczak

Alexander M. Walczak
Deputy Disciplinary Administrator

AMW:MAY

cc: Mark Guilfoyle

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Telephone 785-827-3646
Fax 785-827-0538

lmb@nwjklaw.com

September 26, 2007

Mr. Scott Ostermann
415 Brice Court
Abilene, KS 67410

RE: DownSouth Tavern

Dear Scott:

I am an associate of Ken Wasserman and am assisting him in regard to the matter of the DownSouth Tavern. We received a letter from Brenda Weaver advising that she and Mark no longer own the building that houses the DownSouth Tavern. The new owner is Lisa M. Weaver. We will be sending a demand letter to her similar to the one that we sent to the Mark and Brenda Weaver previously.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Lauren M. Bristow

Lauren M. Bristow

LMB/kmw

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Fax 785-827-0538

lmb@nwjklaw.com

September 26, 2007

VIA CERTIFIED MAIL
Lisa M. Weaver
308 NE Ninth St
Abilene, KS 67410-2224

RE: DownSouth Tavern

Dear Ms. Weaver:

I represent Scott Ostermann, a land owner adjoining your property which houses the DownSouth Tavern in Abilene, Kansas, and am assisting him in this matter. If you are represented by an attorney, please forward this letter to such.

Having spoken with the representatives of both Kansas Gas Service and Westar Energy, it has been determined that the meters for both services for the DownSouth Tavern are placed outside of the utility easement granted by my client, Mr. Ostermann. Having conceded this point, both utilities are ready to make the disconnect of their services.

However, as owner of the building housing the DownSouth Tavern, you are required to move the entry point of said services. This movement requires the employ of licensed professionals, and it is your responsibility to obtain and pay for the services of these professionals. Both meters for Westar Energy and Kansas Gas Service would need to be removed from the side of your building adjacent to Mr. Ostermann's property and relocated to an area that does not encroach on Mr. Ostermann's property.

This letter is to serve as a formal demand for the removal of said meters off of Mr. Ostermann's property. Please respond to this request within 10 days.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Lauren M. Bristow

LMB/kmw
cc: Scott Ostermann

FILED

2008 APR -4 PM 1:45

CLERK OF DISTRICT COURT
DICKINSON COUNTY, KANSAS

IN THE DISTRICT COURT OF DICKINSON COUNTY, KANSAS

SCOTT L. OSTERMANN AND CHRISTINE C. OSTERMANN, Plaintiffs,	)	
and	)	Case No. 07 CV 132
WILLIAM H. PETERSON AND PATRICIA PETERSON SWEENEY, TRUSTEE OF THE PATRICIA PETERSON SWEENEY REVOCABLE TRUST, DATED FEBRUARY 21, 2007 Defendants.	)	

ANSWER TO AMENDED PETITION

COME NOW the Defendants, Peterson, by and through their attorney, Mark A. Guilfoyle, Abilene, Kansas, and for their answer to Plaintiffs' Petition, state as follows:

1. Defendants admit the allegations contained in paragraphs 1, 2, 3, 4, 5, 6, and 7 of Plaintiffs' petition.

2. There is a numbering error in Plaintiffs petition and two paragraphs 3 are shown but Defendants admit the allegations as to both paragraphs 3.

3. The Defendants admit that there is a water downspout located on the south side of the building located at 101 N Cedar, but there are also two other downspouts on the same building so

30.3

not all of the water runs from the roof to the south as alleged in paragraph 9.

False
Unsubtantiated
Misrepresentation

4. The Defendant denies paragraphs 8 and 11 of Plaintiffs' petition.

5. Defendant lacks knowledge to either admit or deny the allegation contained in paragraph 10 of the petition, and therefore denies the same.

AFFIRMATIVE DEFENSES

6. The downspout on the south side of the building at 105 N Cedar has been at its location since the building was built in 1950. That because of adverse possession, the Defendants or their assignees have a prescriptive easement for water drainage across Plaintiffs property.

They owned 101 N. Cedar from 1962 - 1996; No Remedy or Disclosure. Cause/effect conditions were not easily observable.

7. If Defendants or are found not to have a prescriptive easement across Plaintiffs property, Defendants have a license to funnel water across Plaintiffs land, thereby negating any allegation of a continuing trespass.

8. The statute of limitations bars recovery by Plaintiffs for damages occurring more than two years prior to the trespass.

9. The petition fails to state a claim upon which relief can be granted.

WHEREFORE, Defendants pray that the Court deny the petition of Plaintiffs and grant Defendants such relief as the court deems just.

30.2

MARK A. GUILFOYLE ATTORNEY, P.A.
306 NW 2nd
PO Box 548
Abilene, KS 67410-0548
(785) 263-3070
Fax: (785) 263-4363

By: Mark A. Guilfoyle
Mark A. Guilfoyle, SC# 11311
Attorney for Defendants

CERTIFICATE OF SERVICE

TO: Lawrence E. Nordling, Norton, Wasserman, Jones & Kelly, L.L.C.
213 S. Santa Fe, PO Box 2388
Salina, KS 67402-2388
Attorney for Plaintiffs

I, Mark A. Guilfoyle, Attorney for Defendant, hereby certify that I mailed a true and correct copy of the foregoing Answer to Amended Petition to the above-named individual, first class postage prepaid, this 4th day of April, 2008.

Mark A. Guilfoyle

30.1

THOMPSON LAW OFFICE
DOUG THOMPSON
ATTORNEY AT LAW

TELEPHONE
785-922-6678

1205 MANOR DRIVE
POST OFFICE BOX 549
CHAPMAN, KANSAS 67431

FAX
785-922-6684

COPY

April 26, 2007

Kenneth W. Wasserman
PO Box 2388
Salina, Kansas 67402-2388

RE: Butcher Property

Dear Ken:

On the 25th of April I visited with Jim Butcher concerning your client's offer. He has had two larger offers and declined both.

Thank you for the offer but Mr. Butcher declines the offer.

Thank you.

Cordially,

Doug Thompson

DT/ab
cc: Jim Butcher

APR 2 8 2007

Form K156 – Satisfaction and Release of Judgment

DISTRICT COURT OF DICKINSON COUNTY, KANSAS

GUILFOYLE & HILDEBRAND, P.A.,
Plaintiff – name and address

vs.

LISA SANCHEZ
Defendant — name and address

For Court use only

FILED

2007 JUL -5 AM 10: 17

CLERK OF DISTRICT COURT
DICKINSON COUNTY, KANSAS

SATISFACTION & RELEASE OF JUDGMENT

Div. ____, No. 03 LM 196

The undersigned plaintiff hereby acknowledges full satisfaction of the judgment herein and does hereby release the judgment entered herein against the defendant(s) on LISA SANCHEZ.

Dated July 3, 2007.

Plaintiff's Attorney or Plaintiff

Copyright 1996, NDF Co. Electronic Forms Service, Box 725, Newton, KS 67114
Reorder Ph. 316-283-3628 FAX 316-283-3635

NORTON · WASSERMAN · JONES · KELLY LLC

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KENNETH W. WASSERMAN
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Salina, KS 67401

Telephone 785-827-3646
Fax 785-827-0538

kww@nwjklaw.com

August 21, 2007

Scott Kindlesparger
Kansas Gas Service
1001 Edison Place
Salina, KS 67401

RE: Ostermann Meter Request

Dear Scott:

Per Debbie Reinbold's direction, I'm reducing my client Scott Ostermann's request.

We are requesting that Kansas Gas Service move the meter for the Downsouth Tavern located at 210 West 1st Street, Abilene, Kansas, to an area in which no employee or agent of KGS would need to encroach on Mr. Ostermann's property located at 101 North Cedar when reading the meter or completing maintenance. Currently, the only way for KGS to have access to Downsouth Tavern's meter is to intrude on Mr. Ostermann's property. Our request is supported by the fact that the KGS meter is located outside of the utility easement on Mr. Ostermann's property. This easement is recorded in the public record for the property located at 101 North Cedar in Abilene, Kansas in MISC. book 118, page 436.

After my associate, Lauren Bristow, spoke with Greg Jackson of Westar Energy, it was brought to our attention that both Westar and KGS may claim to have obtained a prescriptive easement on Mr. Ostermann's property. Kansas law regarding prescriptive easements mirrors that of adverse possession. In such, when a person encroaching on the land is given permission to do so by the owner of said land it is a mere license, which can never ripen into an easement. Thus, no prescriptive easement has obtained over Mr. Ostermann's property because he has given permission to encroach.

NORTON · WASSERMAN · JONES · KELLY LLC

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Fax 785-827-0538

kww@nwjklaw.com

August 21, 2007

Greg Jackson
Westar Energy
1001 Edison Place
Salina, KS 67401

RE: Osterman Meter Request

Dear Greg:

After my associate, Lauren Bristow, spoke with you regarding our client Scott Ostermann's request to have a meter moved, it was brought to my attention that Westar Energy may claim to have obtained a prescriptive easement on Mr. Ostermann's property.

Kansas law regarding prescriptive easements mirrors that of adverse possession. In such, when a person encroaching on the land of another is given permission to do so by the owner of said land, it is a mere license, which can never ripen into an easement. The Westar utility lines are located outside of the utility easement on Mr. Osterman's property. No prescriptive easement has been obtained over Mr. Ostermann's property by Westar because Mr. Ostermann has given Westar his permission to encroach in such a way. Thus, at no time was Westar's presence on the land open, continuous, and exclusive in such a way as to be knowingly adverse as is required in order to obtain a prescriptive easement.

Please call me at your earliest convenience so that we may discuss.

Very truly yours,

Kenneth W. Wasserman

KWW/eh
cc: Scott Osterman

NORTON · WASSERMAN · JONES · KELLY LLC

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kww@nwjklaw.com

August 23, 2007

Mr. Scott Ostermann
415 Brice Court
Abilene, KS 67410

RE: Property Matter

Dear Scott:

I have now had more than one call from the utility companies.

They have conceded our point, however, they only provide gas service to the end of their line and electricity to the mast on top of the roof and they have agreed to move both the electrical meter and the gas meter, however, the cost of that move is at the owner's expense and the owner needs to hire an electrician and plumber to do it. The gas company and the electric company will then make the new connections. My next step is to make demand on the property owner and give them thirty (30) days to move the meters under the threat that I will advise you to file suit if that does not occur.

At this point I do not want to tell them suit would be filed since before we actually do that you have to weigh the cost litigation against the benefit you actually derive, however, we can certainly make the threat.

If I have not heard from you to the contrary, I will send that letter early next week.

Very truly yours,

Kenneth W. Wasserman

KWW/ms

NORTON · WASSERMAN · JONES · KELLY LLC

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September 13, 2007

Mark Guilfoyle
P.O. Box 548
Abilene, KS 67410-0548

RE: Down South Tavern

Dear Mark:

From our previous correspondence, it is my understanding that you represent Mark and Brenda Weaver, the owners of the building housing the Down South Tavern.

Having spoken with the representatives of both Kansas Gas Service and Westar Energy, it has been determined that the meters for both services are placed outside of the utility easement granted by my client Scott Ostermann. Having conceded this point, both utilities are ready to make the disconnect of their services.

However, Mark and Brenda Weaver, as owners of the building housing the DownSouth Tavern, are required to move the entry point of said services. This movement requires the employ of licensed professionals, and it is the Weavers' responsibility to obtain and pay for the services of these professionals.

This letter is to serve as a formal demand for the Weavers to complete this movement of the meters off of Mr. Ostermann's property. Please respond to this request within 10 days.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Kenneth W. Wasserman

KWW/kmw
cc: Scott Ostermann

December 6, 2007

Lauren M. Bristow

Norton, Wasserman, Jones, and Kelly LLC

PO Box 2388

Salina, Kansas 67401

Dear Lauren,

Landmark Surveying was on site for the boundary line survey per your request on December 4.

Should it be recorded at the Register of Deeds? Do you need a copy or the original?

The south east pin by the tavern building is within an inch of their wall. Obviously, my position is; everything on the west wall should be relocated.

I was wondering if you thought it worthwhile to attach the bar operators in the action against Lisa Weaver. Mark and Lisa Weaver have both stated that their family wants " Uncle" Mike Teasley, who is the actual bar operator, to buy the bar, but he doesn't have any money, so they just give it to each other, and supposedly he pays rent. If he's so special why don't they just give it to him? Also, there's that mysterious lien on the property. The BS meter is in the red zone. Additionally, they make no attempt to even pretend to keep their customers off my property.

Thanks for all of your help.

Sincerely,

Scott O.

DEED BOOK: 239
PAGE: 247

Prepared by The Dickinson County Title Co., 315 Broadway, Abilene, Kansas 67410
QUIT CLAIM DEED (Following Kansas Statutory Form)

STATE OF KANSAS 02126
DICKINSON COUNTY
This instrument was filed for record on 07/03/2007 at 10:43 AM & duly recorded in Book 239 at Page 247
Linda Jones -----Register of Deeds
Karen Freeman ---Deputy
P M C

DICKINSON COUNTY, KANSAS Seal COUNTY CLERK

AB0205 BK30
115-16-0-30-41-008

Entered In Transfer Record
In my office this 16 day of July A.D. 2007
Sandra K. Ennis Co. Clerk
By Martha Kolling Deputy Co. Clerk

REGISTER OF DEEDS SEAL DICKINSON COUNTY, KANSAS

Brenda A. Weaver and Mark Weaver, Wife and Husband,

CONVEY AND QUITCLAIM TO:

Lisa M. Weaver,

all the following described REAL ESTATE in the County of Dickinson and the State of Kansas, to-wit:

The West Half of the South Half of Lot Twenty-five (25), on First Street, Thompson and McCoy's Addition to the City of Abilene, Dickinson County, Kansas.

In consideration of the sum of: One dollar and other valuable consideration.

Subject to easements, reservations, restrictions and covenants, if any, now of record.

DATED this 2nd day of July, 2007.

Brenda A. Weaver

Mark Weaver

Pursuant to K.S.A. 79-1437 a real estate validation questionnaire is not required due to exemption NO. 4 .

STATE OF KANSAS, COUNTY OF DICKINSON, SS:

The foregoing instrument was acknowledged before me this 2 day of July, 2007, by Brenda A. Weaver and Mark Weaver, Wife and Husband.

NOTARY PUBLIC

My appointment expires:

OFFICIAL SEAL
[illegible] BENNETT
NOTARY PUBLIC - STATE OF KANSAS
MY APPOINTMENT EXPIRES
January 16, 2010

NORTON · WASSERMAN · JONES · KELLY LLC

FRANK C. NORTON
KENNETH W. WASSERMAN
ROBERT S. JONES
NORMAN R. KELLY
ROBERT A. MARTIN
JASON L. REED
LAWRENCE E. NORDLING
BRENDAN J. BURKE

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Salina, KS 67402-2388

LAW OFFICES AT:
213 S. Santa Fe
Salina, KS 67401

Telephone 785-827-3646
Fax 785-827-0538

kww@nwjklaw.com

August 21, 2007

Greg Jackson
Westar Energy
1001 Edison Place
Salina, KS 67401

RE: Osterman Meter Request

Dear Greg:

After my associate, Lauren Bristow, spoke with you regarding our client Scott Ostermann's request to have a meter moved, it was brought to my attention that Westar Energy may claim to have obtained a prescriptive easement on Mr. Ostermann's property.

Kansas law regarding prescriptive easements mirrors that of adverse possession. In such, when a person encroaching on the land of another is given permission to do so by the owner of said land, it is a mere license, which can never ripen into an easement. The Westar utility lines are located outside of the utility easement on Mr. Osterman's property. No prescriptive easement has been obtained over Mr. Ostermann's property by Westar because Mr. Ostermann has given Westar his permission to encroach in such a way. Thus, at no time was Westar's presence on the land open, continuous, and exclusive in such a way as to be knowingly adverse as is required in order to obtain a prescriptive easement.

Please call me at your earliest convenience so that we may discuss.

Very truly yours,

Kenneth W. Wasserman

KWW/eh
cc: Scott Osterman

NORTON · WASSERMAN · JONES · KELLY LLC

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kww@nwjklaw.com

August 21, 2007

Scott Kindlesparger
Kansas Gas Service
1001 Edison Place
Salina, KS 67401

RE: Ostermann Meter Request

Dear Scott:

Per Debbie Reinbold's direction, I'm reducing my client Scott Ostermann's request.

We are requesting that Kansas Gas Service move the meter for the Downsouth Tavern located at 210 West 1st Street, Abilene, Kansas, to an area in which no employee or agent of KGS would need to encroach on Mr. Ostermann's property located at 101 North Cedar when reading the meter or completing maintenance. Currently, the only way for KGS to have access to Downsouth Tavern's meter is to intrude on Mr. Ostermann's property. Our request is supported by the fact that the KGS meter is located outside of the utility easement on Mr. Ostermann's property. This easement is recorded in the public record for the property located at 101 North Cedar in Abilene, Kansas in MISC. book 118, page 436.

After my associate, Lauren Bristow, spoke with Greg Jackson of Westar Energy, it was brought to our attention that both Westar and KGS may claim to have obtained a prescriptive easement on Mr. Ostermann's property. Kansas law regarding prescriptive easements mirrors that of adverse possession. In such, when a person encroaching on the land is given permission to do so by the owner of said land it is a mere license, which can never ripen into an easement. Thus, no prescriptive easement has obtained over Mr. Ostermann's property because he has given permission to encroach.

NORTON · WASSERMAN · JONES · KELLY LLC

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Fax 785-827-0538

kww@nwjklaw.com

August 23, 2007

Mr. Scott Ostermann
415 Brice Court
Abilene, KS 67410

RE: Property Matter

Dear Scott:

I have now had more than one call from the utility companies.

They have conceded our point, however, they only provide gas service to the end of their line and electricity to the mast on top of the roof and they have agreed to move both the electrical meter and the gas meter, however, the cost of that move is at the owner's expense and the owner needs to hire an electrician and plumber to do it. The gas company and the electric company will then make the new connections. My next step is to make demand on the property owner and give them thirty (30) days to move the meters under the threat that I will advise you to file suit if that does not occur.

At this point I do not want to tell them suit would be filed since before we actually do that you have to weigh the cost litigation against the benefit you actually derive, however, we can certainly make the threat.

If I have not heard from you to the contrary, I will send that letter early next week.

Very truly yours,

Kenneth W. Wasserman

KWW/ms

NORTON · WASSERMAN · JONES · KELLY LLC

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Fax 785-827-0538
kww@nwjklaw.com

September 13, 2007

Mark Guilfoyle
P.O. Box 548
Abilene, KS 67410-0548

RE: Down South Tavern

Dear Mark:

From our previous correspondence, it is my understanding that you represent Mark and Brenda Weaver, the owners of the building housing the Down South Tavern.

Having spoken with the representatives of both Kansas Gas Service and Westar Energy, it has been determined that the meters for both services are placed outside of the utility easement granted by my client Scott Ostermann. Having conceded this point, both utilities are ready to make the disconnect of their services.

However, Mark and Brenda Weaver, as owners of the building housing the DownSouth Tavern, are required to move the entry point of said services. This movement requires the employ of licensed professionals, and it is the Weavers' responsibility to obtain and pay for the services of these professionals.

This letter is to serve as a formal demand for the Weavers to complete this movement of the meters off of Mr. Ostermann's property. Please respond to this request within 10 days.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Kenneth W. Wasserman

KWW/kmw
cc: Scott Ostermann

MARK A. GUILFOYLE, ATTORNEY P.A.

306 N.W. SECOND • P.O. BOX 548 • ABILENE, KS 67410-0548
(785) 263-3070 • FAX (785) 263-4363

COPY

February 26, 2008

Lawrence E. Nordling
NORTON WASSERMAN JONES & KELLY, LLC
PO Box 2388
Salina, KS 67402-2388

RE: Ostermann v. Peterson

Dear Larry:

Pursuant to our telephone conversation of February 26, 2008, I am enclosing a copy of the appraisal for the property adjoining Mr. Ostermann's, that is currently in dispute. I know that Mr. Ostermann, at one time, had wanted to purchase the property, but only offered $15,000.00. As you can see, the appraisal shows a value of $55,000.00.

Mr. and Mrs. Peterson are highly interested in selling the property and were going to actively pursue a sale in the fall of 2008. If you could talk to Mr. and Mrs. Ostermann and come up with a reasonable offer, based on the value of the land, I think that the Petersons would seriously consider the same, which would end the need for any type of lawsuit.

Please get back with me at your earliest opportunity.

Sincerely yours,

MARK A. GUILFOYLE, ATTORNEY, P.A.

Mark

Mark A. Guilfoyle

MAG:sks
Enclosure
cc: Mr. and Mrs. Wm. Peterson

NORTON · WASSERMAN · JONES · KELLY LLC

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KENNETH W. WASSERMAN
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Fax 785-827-0538

lmb@nwjklaw.com

September 26, 2007

Mr. Scott Ostermann
415 Brice Court
Abilene, KS 67410

RE: DownSouth Tavern

Dear Scott:

I am an associate of Ken Wasserman and am assisting him in regard to the matter of the DownSouth Tavern. We received a letter from Brenda Weaver advising that she and Mark no longer own the building that houses the DownSouth Tavern. The new owner is Lisa M. Weaver. We will be sending a demand letter to her similar to the one that we sent to the Mark and Brenda Weaver previously.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Lauren M. Bristow

Lauren M. Bristow

LMB/kmw

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KENNETH W. WASSERMAN
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Fax 785-827-0538

lmb@nwjklaw.com

September 26, 2007

VIA CERTIFIED MAIL
Lisa M. Weaver
308 NE Ninth St
Abilene, KS 67410-2224

RE: DownSouth Tavern

Dear Ms. Weaver:

I represent Scott Ostermann, a land owner adjoining your property which houses the DownSouth Tavern in Abilene, Kansas, and am assisting him in this matter. If you are represented by an attorney, please forward this letter to such.

Having spoken with the representatives of both Kansas Gas Service and Westar Energy, it has been determined that the meters for both services for the DownSouth Tavern are placed outside of the utility easement granted by my client, Mr. Ostermann. Having conceded this point, both utilities are ready to make the disconnect of their services.

However, as owner of the building housing the DownSouth Tavern, you are required to move the entry point of said services. This movement requires the employ of licensed professionals, and it is your responsibility to obtain and pay for the services of these professionals. Both meters for Westar Energy and Kansas Gas Service would need to be removed from the side of your building adjacent to Mr. Ostermann's property and relocated to an area that does not encroach on Mr. Ostermann's property.

This letter is to serve as a formal demand for the removal of said meters off of Mr. Ostermann's property. Please respond to this request within 10 days.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Lauren M. Bristow

LMB/kmw
cc: Scott Ostermann

Subject Address	Sale Date	Sale Price	Building Size	Lot Size	Year Built
105 North Cedar Street	N/A	N/A	2,811 Sq. Ft.	4,560 Sq. Ft.	1950
Comparable Buildings					
Property Address	**Sale Date**	**Sale Price**	**Building Size**	**Lot Size**	**Year Built**
211 NE 3rd Street	Aug-06	$55,000	2,240 Sq. Ft.	15,840 Sq. Ft.	1920
311 West 1st Street	May-07	$35,000	720 Sq. Ft.	14,000 Sq. Ft.	1984
612 South Buckeye Avenue	Mar-07	$38,500	1,779 sq. Ft.	8,245 Sq. Ft.	1900
Subject Lot Address	**Sale Date**	**Sale Price**	**Building Size**	**Lot Size**	**Year Built**
Lots 17, 18, 19 Central Park Add	N/A	N/A	N/A	22,785 Sq. Ft.	N/A
Comparable Lots	**Sale Date**	**Sale Price**	**Building Size**	**Lot Size**	**Year Built**
Lot 9 & W 25' of 10 on SE 7th	Apr-06	$7,500	N/A	10,500 Sq. Ft.	N/A
Lot 2, Block 2 Smalley's NE 3rd	Apr-06	$2,000	N/A	8,500 Sq. Ft.	N/A
Lots 4,5 Block 3 Smalley's NE 3rd	Jun-07	$5,000	N/A	13,110 Sq. Ft.	N/A
Selling Price Per Building Sq. Ft.		**Adjustments**			
211 NE 3rd Street	$24.55	Larger Lot		-25%	$18.41
311 West 1st Street	$48.61	Newer Building/Larger Lot		-50%	$24.30
612 South Buckeye Avenue	$21.64	Better Location/Larger Lot		-30%	$15.16
Selling Price Per Lot Sq. Ft.		**Adjustments**			
211 NE 3rd Street	$3.47				
311 West 1st Street	$2.50				
612 South Buckeye Avenue	$4.67				
Lot 9 & W 25' of 10 on SE 7th	$0.71	Better Location		-60%	$0.43
Lot 2, Block 2 Smalley's NE 3rd	$0.24	Similar			$0.24
Lots 4,5 Block 3 Smalley's NE 3rd	$0.38	Fencing		-45%	$0.21

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INDEPENDENT
REAL ESTATE
800-887-6929

PURCHASE AND SALE AGREEMENT

PARTIES TO CONTRACT: This Agreement made this day March 24, 2008 between

LISA M. WEAVER Seller,

and MICHAEL TEASLEY and VICKIE FAULKNER Buyer.

1. **MERCHANTABLE TITLE AND CONVEYANCE:** The Seller agrees that if the Buyer will first make the payments and perform the promises agreed to be performed by the Buyer in this agreement, the Seller will convey to the Buyer the fee simple, clear of all encumbrances whatsoever (except those mentioned here and except all restrictions, special assessments and easements of record) by a General Warranty Deed to the following described real estate located in the County of Dickinson and the State of Kansas, ~~208~~ 210 W. 1st., Abilene, Kansas 67410

2. **CONSIDERATION:** The purchase price is $16,500.00 Dollars, which the Buyer agrees to pay as follows: $11,500.00 Dollars, at the signing of this contract, the receipt of which is hereby acknowledged by the Seller and which is deposited in the escrow account of Wyatt Land Title as part of the consideration of the sale; the balance to be paid in the manner following: ~~Seller to fiaurance $5,000.00 to be paid in $1,000.00 monthly installments beginning 5-1-08 and ending 10-1-08.~~ BALANCE IN FULL AT CLOSING.
Title Insurance and Closing fee divided equally by Buyer & Seller

3. **BUYERS ACCEPTANCE OF TITLE:** Seller will furnish an Owners Title Insurance Policy within ten days in the amount of the purchase price from a company authorized to insure titles in this state, insuring a merchantable fee simple title in the Buyer as of the date of recording of the deed. Buyer will have five days to examine the title insurance policy, and make requirements necessary to provide merchantable title and Seller shall have fourteen days to satisfy those requirements or this agreement will be null and void.

4. **CLOSING DATE:** It is understood and agreed that the earnest money, a copy of this agreement and a properly executed deed to this property will be immediately placed in escrow with Escrow Company named above and all deferred payments (except encumbrances assumed) are to be paid through the escrow holder. Any fees charged by the escrow holder will be shared evenly by the Buyer and the Seller. (Closing by the Buyer will be evidence of Buyer's acceptance of the property in its condition on closing without further warranty by the Seller). Possession is to be given on closing. Closing is to be on or before 7/24/08 ~~4-14-08~~

5. **TAXES AND ASSESSMENTS:** It is understood and agreed that the Seller is to pay the taxes and assessments, if any, for the previous year and all previous years, and taxes and assessments, if any for the current year shall be prorated between Seller and Buyer as of the date of possession by Buyer, based on the calendar year and most current tax figure and mill levy available. However, in the event that improvements or special benefits have been made on or to the above described real estate since the date of assessment of taxes for the preceding year, then such proration shall be on the most current estimates of assessed value, mill rate, and special assessment available at closing date. The Buyer is to pay all taxes and assessments that may be levied or imposed after possession.

6. **DEFAULT BY BUYER:** In the case of failure of the Buyer to make the payments or perform any of these agreements, this contract shall, at the option of the Seller, be forfeited and determined, and the Buyer will

forfeit all payments made on this contract, and those payments will be retained by Seller in full satisfaction and in liquidation of all damages.

7. **DELIVERY OF PROPERTY:** It is agreed that the property shall be in at least as good a condition on the date of delivery of the deed as it is on the date of this agreement, ordinary wear and tear excepted. In the event of loss or damage by fire, flood, wind, hail or other causes to the improvements Seller, at his option, may repair such loss or damage so as to restore such improvements or contents to as good a condition as they are at the date of this contract, but if such loss or damage is not repaired before the above possession date, this contract, at the option of Buyer, shall be void and all monies paid will be returned to Buyer. Buyers acknowledge receipt of the 'Seller Property Disclosure' form.

8. **MECHANICS LIENS:** All bills for work done and materials furnished to the property incurred before possession date, which might attach to the property as a lien, will be paid in full by Seller by the date of closing.

9. **UTILITIES:** Buyer agrees to have all utilities changed to Buyer's name as of the possession date. Seller will pay all utility charges up through possession date as per final reading to be promptly requested by Seller.

10. **LEGAL AND TAX COUNSELING:** Both parties acknowledge the opportunity to obtain legal and tax counseling to review this agreement. This Agreement contains the entire agreement between Buyer and Seller regarding the property and the duties of each.

11. **TIME OF ESSENCE:** Time is the essence of this agreement.

12. **AGENCY DISCLOSURE**
    - A. Les Gray - Transaction Broker represents **SELLER.**
    - B. Les Gray - Transaction Broker represents **BUYER.**
    - C. **COMMISSION** will be paid by Seller @ 6%.
    - D. **Buyer and Seller** acknowledge that agency disclosure was made prior to contract and that all information given to an agent for the other party will be disclosed to that party.

13. **LEAD BASED PAINT:** Sellers declare they have no knowledge of the presence of Lead Based Paint. Buyer acknowledges receipt of the pamphlet "Protect Your Family From Lead in Your Home".

14. **AGENCY ALTERNATIVES DISCLOSURE** Buyers and Sellers of acknowledge receipt of a copy of the State Real Estate Commissions' brochure describing Agency alternatives.

15. **CONTRACT BINDING:** It is mutually agreed that all these agreements extend to and be obligatory upon the heirs, executors, administrators and assigns of the respective parties.

16. Seller herby declares property **IS / IS NOT** subject to special tax assessments. Estimated amount $_____,

17. ADDENDUM ATTACHED?: **NO / YES**

3-24-08
LISA M. WEAVER Seller/Date

03-24-0
MICHAEL TEASLEY Buyer/Date

Seller/Date

3-24-08
VICKIE FAULKNER Buyer/Date

This is a legally binding contract, consult an attorney if you do not understand any part of it. In the construction of this agreement, the use of the singular shall include the plural, and the use of the masculine shall include the feminine.

Receipt by Escrow Company

I hereby acknowledge the receipt of a copy of this contract and the earnest money described in this form.

Signed Date Company

GREAT PLAINS FEDERAL
CREDIT UNION
P.O. BOX 2968
JOPLIN, MO 64803

51409

REMITTER
VICKIE FAULKNER

DATE MARCH 24, 2008

83-7828/3011

PAY TO THE ORDER OF WYATT LAND TITLE CO. ********** $ 11,500.00***

ELEVEN THOUSAND FIVE HUNDRED DOLLARS

CASHIER'S CHECK

Kris Jackson

"051409" :301178288: 00008000 20"

NORTON • WASSERMAN • JONES • KELLY LLC

FRANK C. NORTON *
KENNETH W. WASSERMAN **
ROBERT S. JONES
NORMAN R. KELLY
ROBERT A. MARTIN
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LAWRENCE E. NORDLING
BRENDAN J. BURKE
LAUREN M. BRISTOW

Attorneys at Law

*Of Counsel

**Admitted in Kansas and Nebraska

All other attorneys admitted in Kansas only

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lmb@nwjklaw.com

March 25, 2008

Les Gray
1086 1935 Lane
Abilene, KS 67410

RE: Lisa Weaver Building

Dear Mr. Gray:

Please be advised that our office represents Mr. and Mrs. Scott Ostermann. It is my understanding that you are handling the sale of real estate owned by Lisa Weaver that is currently occupied by the Down South Tavern. Please be advised that Mr. and Mrs. Ostermann have a pending court proceeding against Ms. Weaver in the District Court of Dickinson County, Kansas, Case No. 07 CV 131, in which Ms. Weaver's building located at 210 W. First Street is at issue.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Lauren M. Bristow

LMB/kmw

FILED
2008 APR -4 PM 1:45
CLERK OF DISTRICT COURT
DICKINSON COUNTY, KANSAS

IN THE DISTRICT COURT OF DICKINSON COUNTY, KANSAS

SCOTT L. OSTERMANN AND CHRISTINE C. OSTERMANN, Plaintiffs,	)	
and	)	Case No. 07 CV 132
WILLIAM H. PETERSON AND PATRICIA PETERSON SWEENEY, TRUSTEE OF THE PATRICIA PETERSON SWEENEY REVOCABLE TRUST, DATED FEBRUARY 21, 2007 Defendants.	)	

ANSWER TO AMENDED PETITION

COME NOW the Defendants, Peterson, by and through their attorney, Mark A. Guilfoyle, Abilene, Kansas, and for their answer to Plaintiffs' Petition, state as follows:

1. Defendants admit the allegations contained in paragraphs 1, 2, 3, 4, 5, 6, and 7 of Plaintiffs' petition.

2. There is a numbering error in Plaintiffs petition and two paragraphs 3 are shown but Defendants admit the allegations as to both paragraphs 3.

3. The Defendants admit that there is a water downspout located on the south side of the building located at 101 N Cedar, but there are also two other downspouts on the same building so

30.3

not all of the water runs from the roof to the south as alleged in paragraph 9.

4. The Defendant denies paragraphs 8 and 11 of Plaintiffs' petition.

5. Defendant lacks knowledge to either admit or deny the allegation contained in paragraph 10 of the petition, and therefore denies the same.

AFFIRMATIVE DEFENSES

6. The downspout on the south side of the building at 105 N Cedar has been at its location since the building was built in 1950. That because of adverse possession, the Defendants or their assignees have a prescriptive easement for water drainage across Plaintiffs property.

7. If Defendants or are found not to have a prescriptive easement across Plaintiffs property, Defendants have a license to funnel water across Plaintiffs land, thereby negating any allegation of a continuing trespass.

8. The statute of limitations bars recovery by Plaintiffs for damages occurring more than two years prior to the trespass.

9. The petition fails to state a claim upon which relief can be granted.

WHEREFORE, Defendants pray that the Court deny the petition of Plaintiffs and grant Defendants such relief as the court deems just.

False
Un Substantiated
Misrepresentation

They owned 101 N. Cedar from 1962-1996; No Remedy or Disclosure. Cause/effect conditions were not easily observable.

30.2

MARK A. GUILFOYLE ATTORNEY, P.A.
306 NW 2nd
PO Box 548
Abilene, KS 67410-0548
(785) 263-3070
Fax: (785) 263-4363

By: Mark A. Guilfoyle
Mark A. Guilfoyle, SC# 11311
Attorney for Defendants

CERTIFICATE OF SERVICE

TO: Lawrence E. Nordling, Norton, Wasserman, Jones & Kelly, L.L.C.
213 S. Santa Fe, PO Box 2388
Salina, KS 67402-2388
Attorney for Plaintiffs

I, Mark A. Guilfoyle, Attorney for Defendant, hereby certify that I mailed a true and correct copy of the foregoing Answer to Amended Petition to the above-named individual, first class postage prepaid, this 4th day of April, 2008.

Mark A. Guilfoyle

30.1

COPY

NORTON • WASSERMAN • JONES • KELLY LLC

FRANK C. NORTON *
KENNETH W. WASSERMAN **
ROBERT S. JONES
NORMAN R. KELLY
ROBERT A. MARTIN
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LAUREN M. BRISTOW

Attorneys at Law

*Of Counsel

**Admitted in Kansas and Nebraska

All other attorneys admitted in Kansas only

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lmb@nwjklaw.com

April 25, 2008

Doug Thompson
Thompson Law Office
P.O. Box 549
Chapman, KS 67431-0549

RE: Butcher Property

Dear Doug:

I spoke with my client, Scott Ostermann, in regard to the sale price of $11,000.00 on the Butcher property. At this time, Mr. Ostermann has decided that he is no longer interested in purchasing the property from the estate.

After attending a city commission work session on Tuesday morning, James Holland informed Mr. Ostermann that the city would be contacting the Kansas Department of Health and Environment in regard to an environmental assessment.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Lauren M. Bristow

LMB/kmw
cc: Scott Ostermann

FILED

2008 MAY 21 AM 10: 30

CLERK OF DISTRICT COURT
DICKINSON COUNTY, KANSAS

KENNEDY BERKLEY YARNEVICH
& WILLIAMSON, CHARTERED
119 West Iron Avenue, 7th Floor
P.O. Box 2567
Salina, Kansas 67402-2567
(785) 825-4674 [Telephone]
(785) 825-5936 [Fax]

IN THE DISTRICT COURT OF DICKINSON COUNTY, KANSAS

SCOTT L. OSTERMANN and CHRISTINE C. OSTERMANN, Plaintiffs,	)	
vs.	)	Case No. 07 CV 131
LISA M. WEAVER, Defendant.	)	

(Proceedings Pursuant to K.S.A. Chapter 60)

AFFIDAVIT

STATE OF KANSAS, COUNTY OF SALINE, ss:

After first being duly sworn and upon her oath, come Lisa M. Weaver, of lawful age, and makes the following affidavit:

1. I am the Defendant in the above action. I am intimately familiar with the facts of this case, and have review the contents of the Motion to Set Aside Default Judgment as well as the Memorandum Brief in Support of Defendant's Motion to Set Aside Default Judgment, and the contents of those documents are true and correct to the best of my knowledge.

2. I am not an expert in the legal process, and am not sophisticated in that area.

3. I inadvertently failed to respond to the Petition and Motion for Judgment by Default, filed on March 3, 2008, because I was under the impression that I could not be required to

move the electric or gas meter or to change the structure of the roof of the building, because I believed that an easement existed for those items.

4. My family has owned the real property that is the subject of this suit for more than the past fifty years.

5. The gas meter, electric meter, and the roof have always occupied their present locations.

6. Until the Plaintiffs complained about the gas meter, electric meter, and the roof, there had been no complaints or discussions about the location of those items.

7. I, as well as my family, understood the gas meter, electric meter, and the roof to be located on my property.

8. I, nor the previous owners, have covered or otherwise concealed the position of the gas meter, electric meter, or the roof.

FURTHER AFFIANT SAITH NAUGHT.

Lisa M. Weaver, Defendant

SUBSCRIBED AND SWORN to before me this 19th day of May, 2008.

Janet Emig
Notary Public

JANET EMIG
Notary Public - State of Kansas
My Appt. Expires 3/2/09

FILED

2008 MAY 21 AM 10: 29

CLERK OF DISTRICT COURT
DICKINSON COUNTY, KANSAS

KENNEDY BERKLEY YARNEVICH
& WILLIAMSON, CHARTERED
119 West Iron Avenue, 7th Floor
P.O. Box 2567
Salina, Kansas 67402-2567
(785) 825-4674 [Telephone]
(785) 825-5936 [Fax]

IN THE DISTRICT COURT OF DICKINSON COUNTY, KANSAS

SCOTT L. OSTERMANN and CHRISTINE C. OSTERMANN, Plaintiffs,	)	
vs.	)	Case No. 07 CV 131
LISA M. WEAVER, Defendant.	)	

(Proceedings Pursuant to K.S.A. Chapter 60)

MEMORANDUM BRIEF IN SUPPORT OF DEFENDANT'S MOTION TO SET ASIDE DEFAULT JUDGMENT

COMES NOW, Defendant, Lisa M. Weaver, and in support of her Motion to Set Aside Default Judgment, provides the following brief in accordance with Supreme Court Rule 133.

For the sake of judicial economy, Defendant incorporates by this reference, its Motion to Set Aside Default Judgment, as though the same were fully set forth herein. In addition, Defendant notes that she has supplied an affidavit, attesting to the content of the instant Motion and Brief.

It is the preference of the Courts to try matters as opposed to dispose of them by default judgment. *Sharp v. Sharp*, 196 Kan. 38, Syl. ¶ 2 (1966). And, in order to set aside a default judgment, Defendant must demonstrate three elements, which are: 1) lack of prejudice to

Plaintiffs; 2) excusable neglect on the part of Defendant; and 3) a meritorious defense to the action. As demonstrated below, all three of these elements are present here.

Plaintiffs will not be prejudiced by litigating this issue on its merits. There is no evidence of missing evidence or witnesses that would prejudice Plaintiff's presentation of the case. Further, Plaintiffs have already conducted significant pre-suit investigation and most of their evidence is already in place.

Defendant is not sophisticated and does not understand the legal process. She inadvertently failed to respond to the Petition and Motion for Judgment by Default, filed on March 3, 2008, because she was under the impression that she could not be required to move the electric or gas meter or to change the structure of the roof of the building, because she believed that an easement existed for those items. Further, this motion was not filed for the purposes of delay, but rather to make sure that this matter is heard on the merits. Defendant's actions herein constitute excusable neglect.

Also, undersigned counsel was not contacted until after the hearing was held on Plaintiffs' Motion for Judgment by default. Since the order of default was entered, undersigned counsel has been diligently researching the case, becoming familiar with the facts thereof, and preparing the appropriate documents to set aside the judgment.

As a meritorious defense, Defendant asserts that she has a prescriptive easement for the gas and electric meters and the roof.

A prescriptive easement can be acquired by demonstrating: 1) exclusive use of the land to the extent the nature of the use will permit; 2) the use was continuous and uninterrupted; 3) the use was adverse and under a claim of right with the knowledge of the landowner, but without the landowner's consent; and 4) the land was used for a period of fifteen

years. *Fiest v. Steere*, 175 Kan. 1, 5-7 (1953). Defendant's use of the land in this case meets all of these requirements. A party may include her ownership as well the ownership of her predecessors for the purpose of establishing continuous 15 year possession and use of the land in question. *Allingham v. Nelson*, 6 Kan. App. 2d 294 (1981)

First, as stated in her affidavit, the roof of the building, and the gas and electric meters have been in the same location since her family acquired the property more than fifty years ago. Therefore, those items addressed in the default judgment have exclusively occupied those positions on Plaintiffs' property since they were installed long ago.

Second, because the gas and electric meters and roof have been in the same position for the past fifty years, the use of the land they occupy or encroach upon has been continuous. There can be no serious argument to contrary.

Third, because the building has been owned by Defendant's family for the past fifty years, she is in a position to represent that no one prior to these Plaintiffs has ever complained about the position of the meters or the roof during her family's ownership. Defendant and her family never attempted to conceal the position of roof or the meters. Their location and size have always been readily visible from Plaintiffs' property. Furthermore, Defendant always understood the meters to be on her property and the roof over it. In fact, it was not until Plaintiffs performed a boundary survey, in anticipation of litigation, was it never known that the electric and gas meters and the roof were not located exclusively on Defendant's property. Therefore, it can be determined that the use was adverse and under a claim of right with the knowledge of the landowner, but without the landowner's consent.

Fourth, because Defendant and her family have owned the property for more than fifty years, and the meters and roof have occupied their same positions that whole time, it is clear

the 15 year time period can be established as well.

As an alternative defense, Defendant would assert title to the occupied property by adverse possession, which uses substantially the same elements as a prescriptive easement.

WHEREFORE, Defendant prays that her motion be sustained and the default judgment herein be set aside and further proceedings be scheduled accordingly; and for such other and further relief as the Court deems just and equitable.

RESPECTFULLY SUBMITTED:

Larry G. Michel, #14067
Chris J. Kellogg, #21651
KENNEDY BERKLEY YARNEVICH
& WILLIAMSON, CHARTERED
119 W. Iron, 7th Floor
P.O. Box 2567
Salina, Kansas 67402-2567
(785) 825-4674 [Phone]
(785) 825-5936 [Fax]
ATTORNEYS FOR DEFENDANT

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P.O. Box 2567
Salina, KS 67402-2567

Phone: 785.825.4674
Fax: 785.825.5936

KennedyBerkleyYarnevicH&WilliamSon
CHARTERED

George W. Yarnevich
Tom A. Williamson
† Larry G. Michel
James R. Angell
‡ Lance H. Cochran
Chris J. Kellogg
Karen M. Quintelier

Gary D. Denning
Of Counsel
Rodney G. Nitz
Of Counsel

July 14, 2008

Lisa M. Weaver
308 N.E. 9th Street
Abilene, KS 67410

Re: Ostermann v. Weaver Dickinson County District Court Case No. 07 CV 131

Dear Lisa:

On Friday July 11, 2008, I met with Larry Nordling and Lauren Bristow, attorneys for Scott Ostermann. Based on that conversation, I have a very attractive settlement offer regarding Mr. Ostermann's lawsuit against you.

Enclosed with this letter is a fence permit, and various diagrams of your property, as well as that of the Ostermann's. As you can see, what Mr. Ostermann proposes is changing the fencing configuration slightly to prevent bar patrons from entering his property, as well as to provide you access to your utility meters. In addition to the fence, Mr. Ostermann would make the following proposal. Number one, should the utility meters ever require replacement, that they be moved to a different location at that time. Number two, if the roof on the building is replaced, or rots off, that it will not be rebuilt with an overhang over Mr. Ostermann's property, but rather with some sort of guttering system that would not protrude very far from the building.

This agreement would be put in writing, and would be recorded at the Register of Deeds Office so that it would be applicable to future purchasers to this land. In exchange for this agreement, Mr. Ostermann would drop his lawsuit against you, as well as dismiss the Judgment that he currently has.

I really see this situation as a win-win for both of you. It does not require any additional expense on your part, and it will essentially leave everything in its current position, while still allowing you to sell the property, should you wish to do so.

† Also licensed to practice in Colorado
‡ Also licensed to practice in Missouri

Thomas J. Kennedy
(1929-2005)

Robert B. Berkley
(1926-1996)

Upon your receipt of this letter, please contact me so that we might discuss whether this proposal is acceptable. In any of event, I need to hear from you no later than Thursday, as we have court on this matter on July 18, which is Friday.

I look forward to hearing back from you.

Sincerely,

KENNEDY BERKLEY YARNEVICH
& WILLIAMSON, CHARTERED

By:

Chris J. Kellogg
ckellogg@kenberk.com

CJK/jlb
Enclosure

FILED
2008 JUL 18 PM 2:30
CLERK OF DISTRICT COURT
DICKINSON COUNTY, KANSAS

IN THE DISTRICT COURT OF DICKINSON COUNTY, KANSAS

SCOTT L. OSTERMANN AND CHRISTINE C. OSTERMANN	
v.	**Case No. 07 CV 131**
LISA M. WEAVER	

AGREED ORDER OF CONTINUANCE

NOW on this 18 day of July, 2008, the above-captioned matter comes before the Court on the joint motion of counsel to continue the hearing currently scheduled for July 18, 2008. The Plaintiffs appear by and through counsel Lawrence E. Nordling of Norton, Wasserman, Jones & Kelly, L.L.C. The Defendant appears by and through counsel Chris J. Kellogg of Kennedy, Berkley, Yarnevich & Williamson, Chtd. There are no other appearances.

WHEREUPON, the Court is advised that the parties are in the process of negotiating a resolution of the entire case. However, counsel for Defendant needs additional time to discuss such potential resolution with Defendant. Both counsel request the hearing on Defendant's Motion to Set Aside Default Judgment currently set for July 18, 2008 be continued to August 29, 2008.

WHEREFORE, after hearing the statements of counsel and being duly advised in the premises, the Court enters the following Orders:

1. The hearing on Defendant's Motion to Set Aside Default Judgment currently scheduled for July 18, 2008, is hereby continued to 9:00 o'clock a.m. on August 29, 2008.

IT IS SO ORDERED.

DAVID R. PLATT
DISTRICT COURT JUDGE

SUBMITTED BY:

NORTON, WASSERMAN, JONES & KELLY, L.L.C.
213 S. Santa Fe
P.O. Box 2388
Salina, KS 67402-2388
(785) 827-3646
Fax: (785) 827-0538
E-Mail: len@nwjklaw.com

By:
Lawrence E. Nordling
SC #19299
Attorneys for Plaintiffs

Received Time Jul. 16. 2008 4:49PM No. 9217

The southeast downspout is still the only one that works.

The failed concrete never did divert water to Cedar Street.

FILED
2009 JUL 18 PM 2:29
CLERK OF DISTRICT COURT
DICKINSON COUNTY, KANSAS

IN THE DISTRICT COURT OF DICKINSON COUNTY, KANSAS

SCOTT L. OSTERMANN AND CHRISTINE C. OSTERMANN,	)	
Plaintiffs,	)	
v.	)	
	)	**Case No. 07 CV 132**
WILLIAM H. PETERSON AND PATRICIA PETERSON SWEENEY, TRUSTEE OF THE PATRICIA PETERSON SWEENEY REVOCABLE TRUST, DATED FEBRUARY 21, 2007,	)	
Defendants.	)	

PRETRIAL ORDER

A Pretrial Conference was held in the above-captioned case on May 15, 2008.

THEREAFTER, the Court makes certain findings and orders in this matter.

1. APPEARANCES:

Plaintiffs appear by and through counsel Lauren M. Bristow, appearing for counsel of record, Lawrence E. Nordling, both of Norton, Wasserman, Jones & Kelly, L.L.C. of Salina, Kansas

Defendants appear by and through counsel Mark A. Guilfoyle of Abilene, Kansas.

2. VENUE, JURISDICTION, PARTIES:

The Plaintiffs and Defendants agree that the District Court of Dickinson County, Kansas is the proper venue and has jurisdiction over the parties and subject matter.

3. NATURE OF THE CASE:

This is an action to recover for trespass upon Plaintiffs' property located at 101 North Cedar, Abilene, Dickinson County, Kansas 67410.

4. PLAINTIFFS' FACTUAL CONTENTIONS:

Plaintiffs are the owners of real property located at 101 North Cedar, Abilene, Dickinson County, Kansas 67410 and have been owners of such property since June 2003. Since the purchase of such property, Plaintiffs have observed excessive water runoff from Defendants' property located at 105 North Cedar, Abilene, Dickinson County, Kansas 67410 onto Plaintiffs' property.

During a particularly rainy day, Plaintiffs witnessed all water runoff from the roof of Defendants' building being funneled through a downspout located on the South side of said building because said downspout was lower in elevation than other downspouts on the property. Such runoff from the downspout located on the South side of Defendants' building funnels directly onto the Plaintiffs' property.

Plaintiffs employed Denny's Plumbing of Abilene, Kansas to determine where the sewer line for their building connected to the City sewer system. It was determined that such sewer line ran under Defendants' building. Questions and concerns then arose as to the damage being done to said sewer line because of the excessive water runoff from Defendants' property onto Plaintiffs' property from the downspout located on the South side of Defendants' property. The cost to remedy damage to the current sewer line at its current location would be approximately $4,000.00. To reroute the sewer line would cost approximately $10,000.00.

Plaintiff Scott Ostermann has previously met with Defendant William H. Peterson and counsel Mark A. Guilfoyle in regard to the water issue. No remedial conclusion was reached. Plaintiffs have made a number of attempts to contact Defendant William H. Peterson in regard to the ongoing trespass, and Defendant William H. Peterson has failed or refused to respond to Plaintiffs.

Plaintiffs removed a damaged concrete slab at the cost of $2,000.00 which was damaged due to excessive water drainage from Defendants' property and regraded such area on the North side of Plaintiffs' building to mitigate damages caused by Defendants' water runoff.

Defendants intentionally allowed excessive water runoff to enter Plaintiffs' property without the consent of the Plaintiffs nor with any privilege to enter the property and such trespass damaged Plaintiffs.

5. DEFENDANTS' FACTUAL CONTENTIONS:

Defendants are the owners of real property located immediately adjacent and to the North of 101 North Cedar, Abilene, Dickinson County, Kansas. Defendants and their predecessors in title have owned the property since at least 1950. Defendants also owned the property located at 101 North Cedar, at one point in time. Plaintiffs' building was built first and Defendants' building was constructed in 1950.

The down-spouts, located on Defendants' property, have been so located since the Defendants' building was constructed in approximately 1950, and water has always run from the down-spouts, some of it going toward the building at 101 North Cedar. Water was channeled by the concrete drive out to Cedar Street. When the Plaintiffs took out the concrete, they changed the course of the water, allowing more water to run to Plaintiffs' building. Plaintiffs caused their own problem. In addition, water has run the direction that it has run since the buildings were constructed. The downspouts on Defendants' building run to the South, West, East and North allowing drainage in all directions. As such, Defendants have an easement by prescription for water run-off over Plaintiffs' land, because of the amount of time during which the water has been allowed to run across Plaintiffs' land.

Plaintiffs may claim that their sewer line has collapsed. The sewer line ran underneath the building owned by Defendants. Plaintiffs have cited no expert testimony or studies to show that a collapse of the sewer system was the direct result of any negligence or trespass by Defendants.

6. AMENDMENTS TO PLEADINGS:

None.

7. STIPULATIONS:

The admission of the exhibits listed in the Pretrial Order is stipulated to by the parties as follows:

a. All witnesses endorsed by the parties hereto, and any exhibit listed by any of the parties hereto, may be used by the other party without further endorsement or listing.

b. That all documents produced or exchanged between the parties may be offered at trial without objection to genuineness or foundation.

c. Legible copies of original documents may be offered and admitted into evidence without further objection on the ground of the best evidence rule.

d. Reproduction and overlays of documents listed as exhibits herein may be used in trial so long as any reproduction or overlay thereof does not otherwise distort the document.

e. Parties and all witnesses may use diagrams, charts, blackboards, or overhead projectors in order to facilitate the presentation of evidence.

8. ISSUES OF FACT:

a. Whether the Defendants entered Plaintiffs' property.

b. Whether Defendants allowed excessive water runoff from Defendants' property to enter Plaintiffs' property.

ADDENDUM TO CONTRACT FOR SALE

This Addendum attached to Real Estate Contract No. 08-04 Dated 3-24-08 hereby changes the Buyers from Michel Teasley and Vickie Faulkner to Amanda ~~Doe~~ Done. All other terms and conditions remain the same.

Dated: 7-24-08 — Michael Teasley
MICHAEL Teasley

Dated: 7-24-08 — Vickie Faulkner
Vickie Faulkner

Dated: 7/24/08 — Lisa M. Weaver - Seller

Dated: [illegible] — Amanda ~~Doe~~ Done - Buyer

Dated: 7-22-08 — Les Gray
Les Gray - Licensee

Jul 24 08 11:04a Kirk Meyer 17855267841 p.3

July 24, 2008

RE: Purchase of 210 W. 1st St., Abilene, KS 67410

Legal Description:
The West Half of the South Half of Lot 25, on First Street, Thompson's and McCoy's Additioin to the City of Abilene, Dickinson County, Kansas.

The undersigned purchasers hereby acknowledge that the above described real estate is being purchased subject to a lawsuit pending in Dickinson County District Court, Case No. 07 CV 131, entitled Scott L. Ostermann and Christine C. Ostermann v. Lisa M. Weaver;

The undersigned further acknowledge that the Title Policy to be issued in conjunction with this purchase will include an exception for any judgment levied against Lisa M. Weaver, Defendant, or against captioned property, and Old Republic National Title Insurance Company, and Wyatt Land Title Services, Inc., it agent, does not insure against any loss, damage, costs or attorneys' fees and expenses which may arise by reason of said case.

Acknowledged and accepted this 24TH day of July, 2008.

Michael Teasley

Vicki Faulkner

OLD REPUBLIC
National Title Insurance Company

ORT Form 3120

8

FILE NO.
TI-13683

SCHEDULE B

POLICY NO.
OX262008

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of :

1. Rights of dower, curtesy, homestead or other marital rights of the spouse, if any, of any individual insured.
2. Rights or claims of parties other than Insured in actual possession of any or all of the property.
3. Unrecorded easements, discrepancies or conflicts in boundary lines, shortage in area and encroachments that an accurate and complete survey would disclose.
4. Unfiled mechanics' or materialmen's liens.
5. Taxes and special assessments that are not shown as existing liens by the public records.
6. General Taxes for ALL of the year 2008, and all subsequent years, and all special assessments due and payable therewith.
7. **LOSS OR DAMAGE ARISING FROM JUDGMENT ISSUED IN DICKINSON COUNTY DISTRICT COURT CASE NO. 07 CV 131, ENTITLED SCOTT L. OSTERMANN AND CHRISTINE C. OSTERMANN V. LISA WEAVER.**

DEED BOOK: 241
PAGE: 80

WARRANTY DEED (Following Kansas Statutory Warranty Form)

This 24th day of July , 2008,

LISA M. WEAVER, A SINGLE PERSON,

CONVEY(S) AND WARRANT(S) TO

AMANDA DOHE

all the following described REAL ESTATE in the County of Dickinson, State of Kansas, to wit:

THE WEST HALF OF THE SOUTH HALF OF LOT 25, ON FIRST STREET, THOMPSON AND MCCOY'S ADDITION TO THE CITY OF ABILENE, DICKINSON COUNTY, KANSAS.

for the sum of One Dollar and OVC

EXCEPT AND SUBJECT TO easements, restrictions and covenants of record

LISA M. WEAVER

State of Kansas, Dickinson County, ss

The foregoing instrument was acknowledged before me this 24th day of July, 2008, by LISA M. WEAVER, A SINGLE PERSON.

RAY E. WYATT
Notary Public-State of Kansas
My Appt. Expires 4/13/09

REGISTER OF DEEDS SEAL DICKINSON COUNTY, KANSAS

Notary Public

My Commission Expires:

Entered in Transfer Record
in my office this 28th day of
July A.D. 2008
Sandra Emig Burris Co. Clerk
by Barbara M Jones Dep Deputy Co. Clerk

Seal

STATE OF KANSAS 02416
DICKINSON COUNTY
This instrument was filed for record on 07/24/2008 at 11:36 AM & duly recorded in Book 241 at Page 80

Linda Jones Register of Deeds
Karen J Freeman Deputy

EXHIBIT
tabbies
A

CLOSING STATEMENT

SELLER: LISA M. WEAVER

PURCHASER: AMANDA DOHE

REAL ESTATE: 210 W. 1ST, ABILENE, KANSAS 67410

CLOSING DATE: JULY 24, 2008

SELLER STATEMENT -

CONTRACT PRICE		$ 16,500.00
EXPENSES-		
1/2 Title Insurance premium	$ 99.00	
1/2 Settlement fee	75.00	
Tax proration 1/1/08 to 2/24/08	232.73	
Commission @ 6% to Independent RE	990.00	
TOTAL EXPENSES		(1,396.73)
LESS RENT PAYMENT CREDITED TO PURCHASE PRICE		(450.00)
DUE TO SELLER AT CLOSING		$ 14,653.27

LISA M. WEAVER

WYATT LAND TITLE SERVICES, INC.
by: RAY WYATT, PRESIDENT

OLD REPUBLIC
National Title Insurance Company

1

ORT Form 3120

CLOSING STATEMENT

SELLER: LISA M. WEAVER

PURCHASER: AMANDA DOHE

REAL ESTATE: 210 W. 1ST, ABILENE, KANSAS 67410

CLOSING DATE: JULY 24, 2008

PURCHASER STATEMENT -

CONTRACT PRICE		$ 16,500.00
EXPENSES-		
1/2 Title Insurance premium	$ 99.00	
1/2 Settlement fee	75.00	
Deed recording fee	8.00	
TOTAL EXPENSES		182.00
CREDITS-		
Tax prorata 1/1/2008 to 7/24/2008	$ 232.73	
Rent payment credited to purchase price	450.00	
Earnest Money paid to closing agent	11,500.00	
TOTAL CREDITS		(12,182.73)
DUE FROM PURCHASER AT CLOSING		$ 4,499.27

AMANDA DOHE

WYATT LAND TITLE SERVICES, INC.
by: RAY WYATT, PRESIDENT

OLD REPUBLIC National Title Insurance Company

ORT Form 3120

6

GREAT PLAINS FEDERAL
CREDIT UNION
P.O. BOX 2968
JOPLIN, MO 64803

51434

REMITTER

Vicki Faulkner

83-7828/3011

DATE July 24, 2008

PAY TO THE ORDER OF Wyatt Land Title

$ 4,499.27

4499 27 CTS

DOLLARS

CASHIER'S CHECK

Janet Emig

AP

⑈051434⑈ ⑆301178288⑆ 00008000 20⑈

*-DELUXE CCD - 2800031
D DELUXE 10-1

NORTON • WASSERMAN • JONES • KELLY LLC

FRANK C. NORTON *
KENNETH W. WASSERMAN **
ROBERT S. JONES
NORMAN R. KELLY
ROBERT A. MARTIN
JASON L. REED
LAWRENCE E. NORDLING
BRENDAN J. BURKE
LAUREN M. BRISTOW

Attorneys at Law

*Of Counsel

**Admitted in Kansas and Nebraska

All other attorneys admitted in Kansas only

MAILING ADDRESS:
P.O. Box 2388
Salina, KS 67402-2388

LAW OFFICES AT:
213 S. Santa Fe
Salina, KS 67401

Telephone 785-827-3646
Fax 785-827-0538

lmb@nwjklaw.com

July 29, 2008

Mr. Scott Ostermann
415 Brice Court
Abilene, KS 67410

RE: *Ostermann v. Weaver* and *Ostermann v. Peterson*

Dear Scott:

I have spoken with both Chris Kellogg and Mark Guilfoyle in regard to the above referenced litigation.

In regard to *Ostermann v. Weaver*, after speaking with Chris Kellogg, Lisa Weaver has agreed to the terms of the settlement agreement as set forth herewith. In the event that the roof overhang or utility meters would need to be repaired or replaced, those items would have to be removed from your property and moved to a new location. Lisa Weaver would not oppose the fence as approved by your recent permit. Additionally, Chris Kellogg proposed that the right to the meters and roof overhang in the current location would run with the sale of the property; however, if the meters or roof overhang would have to be remedied, then any new owner should have to remove such from the current location.

In regard to *Ostermann v. Peterson*, we have been in contact with Pete Earles of Earles Engineering and have received a price estimate as to the cost for an expert report. Such report would cost approximately $3,000.00 for an initial visit to the property, as well as a contractor from Wichita being brought in with the appropriate camera necessary to complete the report. This seems like an extreme amount to spend without some assurance that the expert will be able to definitively say: (1) the water runoff caused the line to be damaged; and (2) that the damage occurred during the year before filing suit. Mark Guilfoyle has contacted our office in regard to settling this case and would like to know what items we would like to have remedied in order to settle. At the outset, you indicated your focus was on the drainage issue, and suggested plugging and/or redirecting the downspouts. I believe the defendants would negotiate regarding

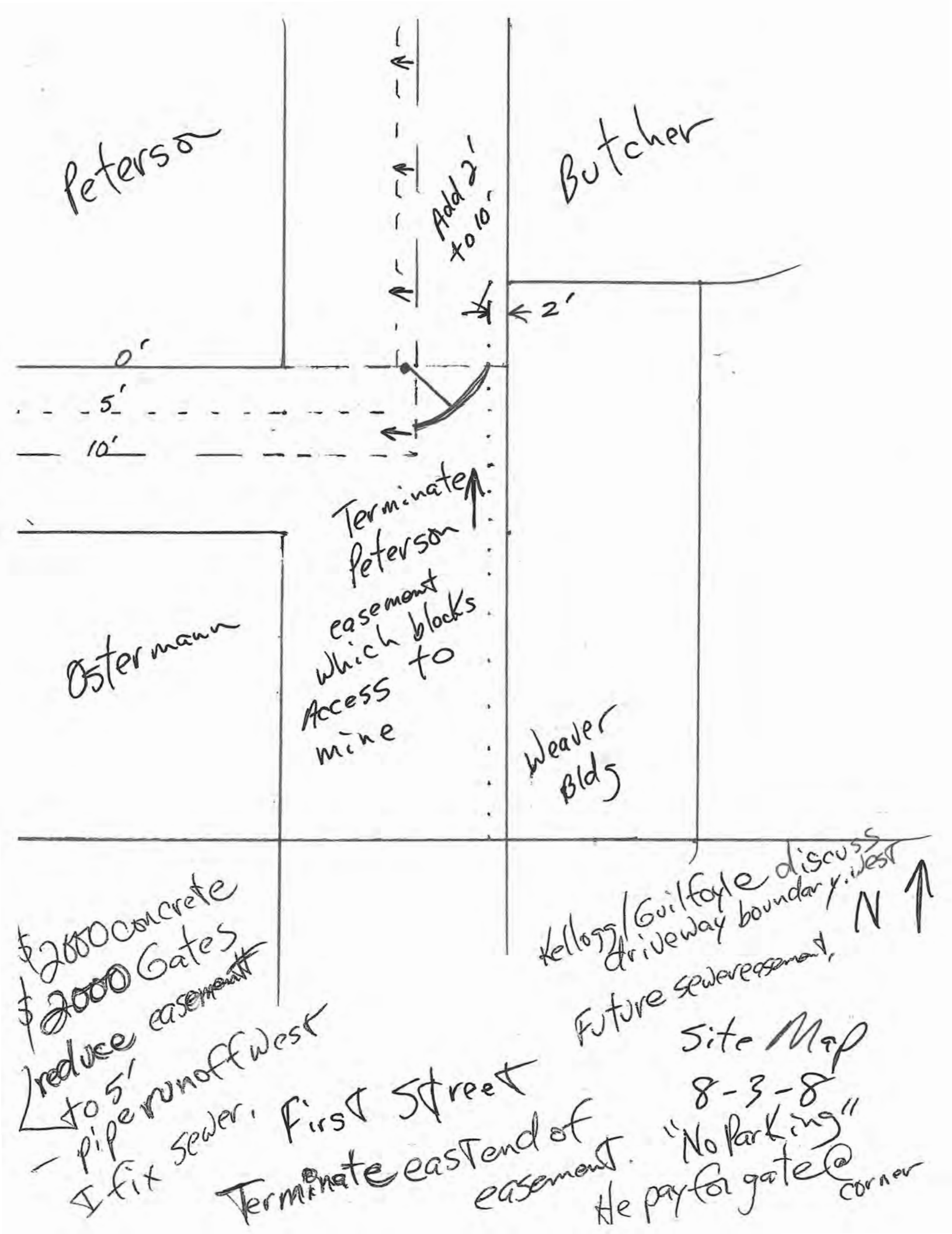
the drainage issue, however, I need to know the specifics of what you would like remedied in order to settle. Please advise as to those items you would like for me to propose to Mr. Guilfoyle in order to settle this case without trial.

After you have had a chance to review this letter, give me a call to discuss.

Very truly yours,

Lauren M. Bristow

LMB/jr


Peterson
Butcher
Add 2' to 10'
2'
0'
5'
10'
Terminate Peterson easement which blocks Access to mine
Ostermann
Weaver Bldg
$2000 Concrete
$2000 Gates
reduce easement to 5'
- pipe runoff west
I fix sewer.
First Street
Terminate east end of easement.
Kellogg/Guilfoyle discuss driveway boundary. West
Future sewer easement.
"No Parking"
He pay for gate @ corner
N
Site Map
8-3-8

rnela S. Larson, E16.5' Lot 27, all
ts 28 & 29, & the E112.5' Lots 30,
& 32, all in Blk. 7, Geis Add.,
lomon.

hy J. LePage and Cathlene S.
Page to Greg T. Eves and Jolene
es, E2 of the SE4 Section 4-14-1,
. Tr.

K. Fiedler and Judie Fiedler to
nomas N. Varvais, Sr., Lots 5, 7 &
Blk. 9, Orig. Enterprise.

hy I. Butcher, Trustee of the
orothy I. Butcher Trust dtd. 06-08-
and Dorothy I. Butcher, Trustee
the Kenneth D. Butcher Trust dtd.
-08-93 to Delma Slama, Janis
nderson and Lynette Fulmer, W30'
ot 10, & all Lot 11, Blk. 2,
atteson's Add., Abilene.

el B. Brillhart and Karen E.
illhart to Megan R. Ryan, E30'
ot 20, all Lot 21, & the W8' Lot 22,
lk. 26, Fairview Add., Abilene.

nas A. Whitehair and Janet L.
hitehair as Trustees of the Janet L.
hitehair Trust to Gary K. Fiedler
nd Judie Fiedler, 1/2 int. in Blks. 34
35, West Add., Enterprise.

nas A. Whitehair and Janet L.
hitehair as Trustees of the Thomas
. Whitehair Trust to Walton D.
ook and René O. Cook, 1/2 int. in
lks. 34 & 35, West Add.,
nterprise.

am J. Milleson, Co-Trustee of the
illiam J. Milleson and Pamela L.
lilleson Joint Living Tr, dtd. 09-10-
1, et al to Vernon Howard, Donald
. Ladd and Paula J. Ladd, E2 of the
120' Lot 1, Blk. 1, & the N10' vac.
NE 13th St. adj. Kuney & Hodge's
dd., Abilene.

n C. Lewis and Lynne E. Smith to
oran J. Strauss and Robin D.
cripter, Lot 23 & the W2 Lot 24,
lk. 19, Kuney & Hodge's Add.,
bilene.

R. Dejmal to Lyle Dejmal and
ynette Dejmal, Lot 11, Blk. 7,
enquenet's Add., Hope.

n A. Lainson to Todd S. Tanner and
ina L. Tanner, a Tr. Beg. at a point
0 Rods North of the SW Cor. of the
E4 of the SE4 Section 9-13-2.

tin Spieth to Anita L. Elkins, W25'
ot 58 & the W3' of the E15' of the
N80' of Lot 58, & the E25' of Lot
0, on North Fourth St., Thompson
& McCoy's Add., Abilene.

R. Lewis and Krystal A. Lewis to
David L. Robison, Lot 5, Ex. the
E137' thereof, Blk. 4, Rice &
Austin's Add., Abilene.

liam O. Knight, Jr. and Deb Knight
to PKB, LLC, Lots 2 & 4, Blk. 120,
Orig. Herington.

in W. Smith and Oma L. Smith to
Nicholas John Hancock, Lots 8, 9 &
10, Blk. 6, Schilling's Add.,
Herington.

D. Hyder to Manfred L. Blixt, Lots
1 & 2, Adam's Subdiv. Unit 1 of a
part of the SW4 of the NE4 Section
30-12-4.

y K. Fiedler and Judie Fiedler to
Walton D. Cook and René O. Cook,
an undiv. One-half interest in a par-
cel in Blks. 34 & 35, West Add.,
Enterprise; Beg at the SE Cor. of
said Blk. 34.

nk J. Holtz as Trustee of the Frank J.
Holtz Rev. Trust No. 1 dtd. 09-01-99
to R. Michael Robson and Anna G.

Herington, Lots 15, 16, 17 & 18,
Blk. 3, C... as Add., Herington.

Robert D. Atkinson and Lola M. Atkinson to Everett K. Crabtree and Noortje M. Crabtree, the NW4 Section 12-16-4, Ex. Trs.

Michael Perry Monnington, successor Trustee of the Rev. Inter Vivos Trust of Mary Elizabeth Monnington dtd. 08-31-92 to William Darby Lindler and Trina M. Lindler, Lots 14 & 16, Blk. 89, Herington Town Co's. Add., Herington.

Cecil C. Appel and Carmen A. Appel to Arely A. Howard, S2 of the N2 of the SE4 of the NE4 of Section 24-13-1, Ex. Tracts.

Robert E. Hottman to LPI Properties, LLC, Lot 21, Cedar St., Augustine & Lebold's Subdiv. of Thompson & McCoy's Add., Abilene.

Hall Family Farms, L.L.C., to Arnold L. Boyd and Jean A. Boyd, a parcel in the SE4 of Section 31-11-4.

Jason B. Johnston and Rachel M. Johnston to Timothy F. Bemis and Amy D. Bemis, Lot 2, Blk. 1, Frieze-Kolling Add., a replat of Lots 2, 3 & 4, Blk. 1, Detrich-Jury Add., Chapman.

Cesar Holguin and Erika Holguin and Lourdes Holguin to Virginia Evans and Larry Evans, S35' Lot 6, & the N10' of the W60' Lot 7, all in Blk. 3, Orig. Hope.

Etherington Farms, Inc. to Maurine P. Carl and Gilbert W. Carl, Co-Trustees of the Maurine P. Carl Living Trust dtd. 01-08-91, a Tr. in the city of Abilene, Beg. at a pt. on the extended West line of Spruceway, 546.96' North & 397.94' West of the SE Cor. of the NE4 of the NW4 of Section 16-13-2.

Walton D. Cook and René O. Cook to Gary K. Fiedler and Judie Fiedler, 1/2 int. in a parcel in Blk. 35, West Add., Enterprise.

Sheriff of Dickinson County to Solomon State Bank, Lots 15 & 16, Blk. 25, Fairview Add., Abilene.

Carl L. Woods to Neal D. Barten and Angela C. Barten, a Tr. in the NE4 Section 24-15-1.

Merle Stout and Bernice Stout to Kelly L. Schmersey, Lots 33 & 34, Blk. 20, East Abilene Town Co's. First Add., Abilene.

Harris Custom Homes, LLC to Dustin R. Weis, Lot 6, Blk. 5, Irish Acres Add., Unit No. 2, Chapman.

Eugene Sayers, et al to Charles J. Meyer and Nancy E. Meyer, S28' N2 Blk. 9 & the N25' & the E50' of the S125' of the S2, and all vac. Alley Line between the S2, & the N2 Blk. 9, Orig. Chapman.

Gary E. Rice to Noah A. Rice, Lots 9 & 10, Blk. 5, Sheeran's Third Add., Chapman.

The Citizens Bank of Abilene, nka Pinnacle Bank to Frank H. Lehman and Mary A. Lehman Trust, N146' of the N2 of the SE4 of the NE4 of the NE4 Section 13-13-1.

Donald E. Lamothe and Patsy L. Lamothe to Tristan D. Reisling and Natasha J. Reisling, N17' Lot 3, & all Lot 4, Blk. B. Geauque & Brenneman's Subdivision of the SW4 of the SE4 Section 9-13-2.

Tim P. Jury and Renee L. Jury to Jamie L. Scholz and Christopher R. Scholz, and Jean Ann Traskowsky ... NW4 of the SW4 Section 14-15 ...e SE4 & the E2 of the SW4, Section 14-15-4, and a parcel in the SW4 of the SE4, & the SE4 of the SW4 said Section 14-15-4.

Neil R. Steavenson to Phyllis A. Smith and Wilbur H. Smith, a Tr. in the NE4 of Section 14-16-4.

Blixt Construction, LLC to Harris Custom Homes, LLC, Lots 2 & 3, Blk. 6, Irish Acres Add., Unit No. 2, Chapman.

Carolann Davis and Ricky S,. Davis, et al to Aaron J. Welsh and Christina R. Welsh, Blk. 1, Orig. Chapman.

Lisa M. Weaver to Amanda Dohe, the W2 of the S2 Lot 25, First St., Thompson and McCoy's Add., Abilene.

Tony Frieze and Judy Frieze to Harold R. Oakleaf and Joyce E. Oakleaf, Lots 19 & 20, Ex. the S90' of said Lots, Blk. 5, Sheeran's Third Add., Chapman.

Theodore Barbieri and Katy Barbieri to Edwin C. Mueller, II and Kristy M. Mueller, a tr. in the SW4 of the SE4 of Section 11-16-4.

Charles E. Pfannenstiel and Gloria L. Pfannenstiel, Trustees of the Charles E. Pfannenstiel and Gloria L. Pfannenstiel Living Trust to Tony Frieze and Judy Frieze, Lots 5 & 6, Diehl's Add., Chapman.

Patrick Thomas and Rari N. Thomas to Tonya I. Johnson, Lots 12, 13, 14, 15, 16, 17 & 18, Henquenet's Add., Hope.

Jean A. Scanlan to Brent A. Blocker and Brenda K. Blocker, a Tr. in the SE4 of the SE4 of Section 30-12-4.

Kathleen M. Voran and Richard Voran; Patrick R. Harris and Marilyn Klaus; Brian M. Harris and Cecilia M. Harris; and Karen J. Conrad and Robert Conrad to Kevin O. Harris and Rosemary F. Harris, E2 SE4 SE4 of Section 5-15-2.

REYNOLDS
REAL ESTATE & AUCTION CO.
Call Georgia, Dan, Michelle, Joan, Paul, Mark, Geneva or Steve
263-7151
FOR YOUR REAL ESTATE NEEDS
102 N. Buckeye
Abilene, Ks

8-28-08

310 W. First

30.4

NORTON • WASSERMAN • JONES • KELLY LLC

FRANK C. NORTON *
KENNETH W. WASSERMAN **
ROBERT S. JONES
NORMAN R. KELLY
ROBERT A. MARTIN
JASON L. REED
LAWRENCE E. NORDLING
BRENDAN J. BURKE
LAUREN M. BRISTOW

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September 16, 2008

Mr. Scott Ostermann
415 Brice Court
Abilene, KS 67410

RE: Ostermann v. Weaver

Dear Scott:

Chris Kellogg, counsel for Lisa Weaver, was advised that the property in question had been transferred on July 24, 2008, which occurred before the most recent negotiations for settlement. Mr. Kellogg was unaware of the transfer of the property, and he also indicated he specifically instructed Ms. Weaver not to take any action to sell and/or transfer the property. Mr. Kellogg suggest we set up a time with the Judge presiding over this case to discuss the procedural issue which has arisen concerning the lack of standing of Ms. Weaver, and the effect on her ability to continue her attempt to have the Default Judgment set aside. The presiding Judge suggested the matter be scheduled on one of his dockets. Should Ms. Weaver elect to schedule a hearing on the Judge's docket, I believe it should be argued that Ms. Weaver is no longer the real party in interest, her Motion should be denied, and the Default Judgment should stand

It is our contention that Ms. Weaver no longer has standing to pursue her Motion to Set Aside the Default Judgment, as she is no longer the owner of the property. Thus, it is also our contention that if Ms. Weaver is no longer a real party in interest due to her transfer of the real estate, the Default Judgment should stand as ordered.

If you have any questions, please do not hesitate to contact me.

Very truly yours

Lauren M. Bristow

LMB/al

October 17, 2008

Dear Lauren,

Additional pictures of Peterson's "No Parking" sign are enclosed. Is this for real? The sign is a common plastic one stapled onto the plywood.

I talked to Keith Hoffman, the county attorney. He is the first official to verify to me that Lisa Weaver has a string of felony drug convictions plus a bunch of DUIs. Additionally, her son, Dalton Weaver , already has 3 felony convictions as a juvenile, and his twin brother was not there, only because, he's already been incarcerated in Topeka for several months.

Hoffman told me he had no doubt that the 4 kids in the paper would be in jail for something by the time they are 18. He didn't know if any of the other parents had connections to the tavern, but they are all similar to Weavers family situation, which is bad.

I asked him if "law enforcement" wanted to keep the tavern open; so they would know where they were; he said no.

He said that it's hard to get convictions, because it's a closed group. He said they have been through the system so much, they know how to manipulate the legal system.

I asked him how they ~~stay in~~ business; he said they sell drugs.

Scott O.

~~Scott o~~

NORTON • WASSERMAN • JONES • KELLY LLC

FRANK C. NORTON *
KENNETH W. WASSERMAN **
ROBERT S. JONES
NORMAN R. KELLY
ROBERT A. MARTIN
JASON L. REED
LAWRENCE E. NORDLING
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lmb@nwjklaw.com

December 5, 2008

Scott Ostermann
415 Brice Court
Abilene, KS 67410

RE: *Ostermann v. Peterson* and *Ostermann v. Weaver*

Dear Scott:

After reviewing your letter of December 4, 2008, there is some confusion as to the first paragraph of the second page. The settlement of *Ostermann v. Peterson* is not, in fact, contingent on a resolution of *Ostermann v. Weaver*.

As you advised Ken Wasserman, Larry Nordling and myself on October 9, 2008, you were in agreement with the settlement as proposed and negotiated with Mark Guilfoyle in *Ostermann v. Peterson*. The Petersons have already signed the Settlement Agreement, and we have advised the Court that a settlement has been reached.

On Judge Platt's docket day of November 21, 2008, Judge Platt had noticed the case for a status hearing, as he had previously been advised that a settlement had been reached. At that time, we advised the Court once again that a settlement had been reached in the matter. Judge Platt stated that if he had not received a journal entry of dismissal by December 12, 2008, then he would make both parties' counsel appear, once again on the matter. If an attorney from our firm must appear on December 12, 2008, this will obviously be an unnecessary expense. Also, there is a possibility that if Judge Platt does not receive the journal entry of dismissal, then the Judge will dismiss the case without any settlement reached. In that event, the Settlement Agreement signed by the Petersons is no longer valid and any resolutions that have been reached with the Petersons will be void.

I understand your contentions with the tavern owners, but as we discussed during the conference call with Ken, Larry and myself, having the Peterson case resolved in a manner that allows concessions on the part of the Petersons, is a step forward. With the Peterson matter

resolved, we can then work on having the meters moved and roof overhang remedied on the bar building. From The recent letter by Mr. Guilfoyle, it appears as if either the tavern manager or the tavern owner or both are serious in having these issues resolved. The matter of the CMB license renewal can then be addressed administratively, which is the proper course of action for this.

Thus, it is imperative that we receive a signed Settlement Agreement in *Ostermann v. Peterson* by Wednesday, December 10, 2008, so that a journal entry of dismissal can be filed with the Court prior to December 12, 2008.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Lauren M. Bristow

LMB/jr

SETTLEMENT AGREEMENT AND RELEASE

COPY

This SETTLEMENT AGREEMENT AND RELEASE is made and entered into this 5th day of December, 2008, by and between Scott L. Ostermann and Christine C. Ostermann (collectively "OSTERMANNS") and William H. Peterson and Patricia Peterson Sweeney, Trustee of the Patricia Peterson Sweeney Revocable Trust, Dated February 21, 2007 (collectively "PETERSONS").

RECITALS

WHEREAS, OSTERMANNS filed a legal action in the District Court of Dickinson County, Kansas, on the 27th day of December, 2007, styled: Scott L. Ostermann and Christine C. Ostermann vs William H. Peterson and Patricia Peterson Sweeney, Trustees of the Patricia Peterson Sweeney Revocable Trust, Dated February 21, 2007, Case No. 07 CV 132; and,

WHEREAS, the purpose of the parties' negotiations is to settle all claims against either party in regard to the above stated litigation; and,

WHEREAS, the parties desire to settle this matter in order to avoid litigation and the time, expense and uncertainty thereof.

AGREEMENT

NOW, THEREFORE, in consideration of the above and foregoing and the mutual covenants hereinafter set forth, the parties hereto hereby agree as follows:

1. PETERSONS have agreed to remedy water run-off issues on the south side of said property owned by PETERSONS located at 105 North Cedar, Abilene, Kansas, by re-routing a water down spout located on the south side of PETERSONS property around the southeast corner of said property in order to funnel said water runoff to the north.

44

12-15-08P03:25 RCVD

VOLUNTARY AGREEMENT

The parties acknowledge and agree that they have each been represented by counsel of their choice and have fully reviewed the terms and conditions of this Agreement with their respective attorneys and that the terms and provisions hereof are fair, just and equitable, and in the best interests of all of the parties hereto in order to fully and completely settle and resolve their disputes and differences, with each party to bear their respective costs and attorneys' fees.

FINAL SETTLEMENT

This Agreement is intended to be full, complete and final settlement of any and all claims, disputes and differences arising from and in any way relating to OSTERMANNS' claims against PETERSONS and is not subject to or conditioned upon any representation, agreement or commitment not expressly set forth herein. This Agreement shall be binding on and inure to the benefits of the parties, their heirs, assigns and successors in interest, and shall be interpreted and construed pursuant to the laws of Kansas. Any dispute involving this Agreement shall be heard in the District Court of Dickinson County, Kansas.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

OSTERMANNS

Scott L. Ostermann

Christine C. Ostermann

PETERSONS

William H. Peterson

Patricia Peterson Sweeney

42

CITY OF ABILENE, KANSAS

P.O. BOX 519
419 N. BROADWAY
ABILENE, KANSAS 67410-0519
PHONE: 785-263-2550
FAX: 785-263-2552
www.abilenecityhall.com

December 8, 2008

Mr. Scott Ostermann
415 Brice Ct.
Abilene, KS 67410

Dear Mr. Ostermann,

This letter is in response to your letter of December 4, 2008.

Yes the City Commission has full responsibility for issuing Cereal Malt Beverage licenses and also may revoke such a license per the provisions of the City Code. It is my opinion that this is solely the duty of the City Commission and not of the City Attorney.

The City Commission reviews Cereal Malt Beverage licenses on an annual basis as they all expire on the last day of each year. The Commission does have the ability to revoke a Cereal Malt Beverage License throughout the year in accordance with the provisions of the City Code. Again this is a duty of the City commission and not of the City Attorney.

In the fourth paragraph of your letter you addressed four items which I reply to as follows:

1) There are no restrictions as to where one may park on a public street as long as it is an area designated for parking. An adjacent property owner to the City right-of-way does not have a "reserved" space and anyone can park in public parking unless it is prohibited for anyone to park at that location.
2) Junk and litter can dealt with City nuisance codes. I am not sure as to what has occurred in the past or if the code enforcement officials ever received a complaint.
3) I have no idea as to the history of ownership of the building and the City of Abilene has no stake or role in the sale of private property. The City of Abilene issues the Cereal Malt Beverage to the operator and not the building owner.
4) Any complaints would be dealt with by the Police Department.

Also the City of Abilene has no interest in the any civil action that has been taken as the City was not a part of the action. These matters would all be dealt by the courts and any judgments in a civil action would not be concern for the City of Abilene to deal with.

The City of Abilene has no interest in any of the actions you referred to in your letter as it was not party to either suit.

Sincerely,

Allen J. Dinkel
City Manager

MISC. BOOK: 272
PAGE: 142

file

115-16-0-30-41-009
00901

RELEASE

FOR AND IN CONSIDERATION of those items set forth in the Settlement Agreement and Release, dated December 5, 2008, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned, WILLIAM H. PETERSON and PATRICIA PETERSON SWEENEY, TRUSTEE of the Patricia Peterson Sweeney Revocable Trust, dated February 21, 2007, hereby release to SCOTT L. OSTERMANN and CHRISTINE C. OSTERMANN, the most southerly Two and One-Half feet (2½')of the easement for ingress and egress over and across the following described real estate, it being the intention of the parties to terminate the most southerly Two and One-Half feet (2½') of such easement while maintaining the remaining northerly Seven and One-Half feet (7½') of such easement in full force and effect:

> The North Ten feet (N 10') of the South Fifty-One feet (S 51') of Lots Twenty-Seven (27) and Twenty-Nine (29) on First Street in Thompson & McCoy's Addition to the City of Abilene, Dickinson County, Kansas.

IN WITNESS WHEREOF, the undersigned have caused this Release to be executed as of this 27 day of March, 2009.

PATRICIA PETERSON SWEENEY
REVOCABLE TRUST, dated 02/21/07

William H Peterson
WILLIAM H. PETERSON

Patricia Peterson Sweeney
PATRICIA PETERSON SWEENEY, Trustee

STATE OF KANSAS, COUNTY OF DICKINSON, SS:

The foregoing instrument was acknowledged before me this 27 day of March, 2009, by WILLIAM H. PETERSON.

NOTARY PUBLIC - State of Kansas
SHAROLYN K. SANCHEZ
My Appt. Exp. 5-21-2012

Sharolyn K. Sanchez
Notary Public

STATE OF KANSAS, COUNTY OF DICKINSON, SS:

The foregoing instrument was acknowledged before me this 27 day of March, 2009, by PATRICIA PETERSON SWEENEY, as Trustee of the PATRICIA PETERSON SWEENEY REVOCABLE TRUST, dated February 21, 2007.

NOTARY PUBLIC - State of Kansas
SHAROLYN K. SANCHEZ
My Appt. Exp. 5-21-2012

Sharolyn K. Sanchez
Notary Public

111/15 — 2391/000 2391.02

District of Kansas
Claims Register

09-13012 Lisa Marie Weaver **Closed** 03/22/2011

Chief Judge: Dale L. Somers
Office: Wichita
Trustee: Steven L Speth

Chapter: 7
Last Date to file claims:
Last Date to file (Govt):

Creditor: (6223753)
Kennedy Berkley Yarnevich And Williamson
PO Box 2567
Salina KS 67402

Claim No: 1
Original Filed Date: 09/22/2009
Original Entered Date: 09/22/2009

Status:
Filed by: AT
Entered by: Chris J Kellogg
Modified: 09/23/2009

Amount claimed: $3750.00
Unsecured claimed: $3750.00

History:

Details	1-1	09/22/2009 Claim #1 filed by Kennedy Berkley Yarnevich And Williamson, Amount claimed: $3750.00 (Kellogg, Chris)

Description:
Remarks:

Claims Register Summary

Case Name: Lisa Marie Weaver
Case Number: 09-13012
Chapter: 7
Date Filed: 09/16/2009
Total Number Of Claims: 1

Total Amount Claimed*	$3750.00
Total Amount Allowed*	

*Includes general unsecured claims

The values are reflective of the data entered. Always refer to claim documents for actual amounts.

	Claimed	Allowed
Secured		
Priority		
Administrative		

PACER Service Center
Transaction Receipt

7800500-03 CURRENT PERIOD AND HISTORY PRE-BILLING LEDGER Run On 09/21/09 01/01/81-09/21/09 Page 001/001
Lisa Weaver Opened 02/27/08 Closed n/a Last Post 02/04/09
BUILDING DAMAGE

Bill to: Lisa Weaver
610 NW 2nd
Abilene, KS 67410

Client Attorney Larry G. Michel

Resp Atty 1 Larry G. Michel

Legal Services - Building Damage

Status Codes None Alternate Billing Format TK2
Finance Charges N
Sales Tax None
Retainer Acct Min 0 No auto transfers chosen
Unbilled only N

FEES

Date	Emp	Hours	Dollars	Gp		
02/29/08	LGM	0.30	60.00		B P	Corr to Lisa; Memo to Karen Quintelier
03/08/08	KMQM	1.90	247.00		B P	Correspond with client regarding further information; Prepare demand letter;
billable		1.90	146.15			Research law regarding neighbor's liability for spread of fire.
03/08/08	LGM	0.10	20.00		B P	Review demand letter
03/15/08	KMQM	0.40	52.00		B P	OC LGM regarding response from Mr. Thompson; Contact Abilene City Manager;
billable		0.40	30.77			Correspond with Client regarding status of case adn the city's position.
03/22/08	KMQM	0.30	39.00		B P	Prepare letter regarding file closure.
billable		0.30	23.08			
04/12/08	LGM	1.40	308.00		B P	TC's with Lisa re: building; Review pleadings; TC's with Wyatt Title and Attorney Nordling
04/19/08	CJKM	2.70	432.00		B P	OC LGM re property issue in Abilene; TC with Lisa; TC with Mike; OC LGM; TC with
billable		2.70	355.26			Lisa; TCs with Dickinson County Title; TC with Larry Nordling; TC with Lisa; TC with Lisa; TC with Debbie on Gas and Electric Meters; TC with Scott Kindlesparger at Kansas Gas; TC with Gaylen Barry.
04/19/08	LGM	0.90	198.00		B P	Meet Lisa in Abilene; OC's with Chris Kellogg
04/26/08	CJKM	0.30	48.00		B P	TC with Larry Nordling; TC with Lisa.
billable		0.30	39.47			
04/30/08	CJKM	0.80	128.00		B P	TC with Larry Nordling; Emails to Larry; Emails with Larry; Review of Order;
billable		0.80	105.27			Letter to Lisa.
/03/08	CJKM	0.40	64.00		B P	Review of Survey; Letter to Lisa
05/10/08	CJKM	0.60	96.00		B P	TC-Lisa; OC TAW re: Surveyors; TC-Earles; TC-Wilson and Co.
05/17/08	CJKM	4.00	640.00		B P	Motion to Set Aside Default Judgment; Affidavit for Lisa; Letter to Lisa
05/24/08	CJKM	0.60	96.00		B P	Finalize Motion and memorandum to Set Aside
05/31/08	CJKM	0.40	64.00		B P	TC-Larry Nordling; Emails w/ Larry Nordling
06/14/08	CJKM	0.30	48.00		B P	TC w/ Larry Nordling
06/21/08	CJKM	1.20	192.00		B P	TC-Lisa; TC-Larry Nordling; TC-Lauren Bristow
07/12/08	CJKM	1.00	160.00		B P	TC w/ Larry Nordling Re: Settlement; Meet w/ Larry Nordling and Lauren Bristow Re: Settlements
07/19/08	CJKM	0.80	128.00		B P	Letter to Lisa Weaver; Review of Letter from Larry Nordling; Order Continuing Hearing; TC w/ Lisa; TC w/ Larry Nordling
07/26/08	CJKM	0.10	16.00		B P	C w/ larry Nordling
08/09/08	CJKM	0.50	80.00		B P	Meet w/ Larry Nordling; Letter to Lisa
08/23/08	CJKM	0.30	48.00		B P	TC w/ Lisa Weaver; TC w/ Larry Nordling; TC Message to Lisa
08/30/08	CJKM	0.40	64.00		B P	TC w/ Lisa; TC w/ Larry Nordling; TC w/ Judge Platt
09/13/08	CJKM	1.00	160.00		B P	Emails w/ Larry Nordling; TC w/ Lisa; Review of File for Deed Information; TC w/

Case 09-13012 Claim 1-1 Part 2 Filed 09/22/09 Desc Exhibit Page 1 of 3

Date	Emp	Hours	Dollars	Gp		
						Larry Nordling; TC w/ LGM
09/20/08	CJKM	0.30	48.00	B	P	Emails w/ Larry Nordling
09/26/08	CJKM	0.30	48.00	B	P	OC LGM; Letter to Lisa
10/01/08	CJKM	0.10	16.00	B	P	TC message to Lisa
10/13/08	CJKM	0.30	48.00	B	P	Review of notice to dismiss; Letter to Lisa
10/29/08	CJKM	0.20	32.00	B	P	TCs with Lisa
10/30/08	CJKM	0.70	112.00	B	P	TCs with Lisa Weaver; Emails with Larry Nordling; review of motion of Larry Nordling and preparation for hearing; OC LGM
10/31/08	CJKM	1.70	272.00	B	P	Hearing in Abilene on Motion for Sanctions and Default Judgment; Letter to Lisa
11/14/08	CJKM	0.20	32.00	B	P	Letter to Lisa
Total FEES		24.50	3,996.00			24.50 3,750.00 246.00 (CP 01/01/81 - 09/21/09)
		24.50	3,996.00			24.50 3,750.00 246.00 (CTD Through 09/21/09)
		Actual Hours/$				Billable Hours/$ Write-dn $

Fee Analysis (CP 01/01/81 - 09/21/09)

Code	Name	Actual Hours	Actual Dollars	Actual $/ Actual Hrs	Billable Hours	Billable Dollars	Billable$/ Actual Hrs
CJKM	Chris Kellogg	19.20	3,072.00	160.00	19.20	2,964.00	154.38
KMQM	Karen Quintelier	2.60	338.00	130.00	2.60	200.00	76.92
LGM	Larry G. Michel	2.70	586.00	217.04	2.70	586.00	217.04

COSTS - Direct

Date	Units	Dollars	Gp			
04/14/08		6.63	N	B	P	Film
billable		0.00				
Tot DIR COSTS		6.63				0.00 6.63 (CP 01/01/81 - 09/21/09)
		6.63				0.00 6.63 (CTD Through 09/21/09)
		Actual Units/$				Billable Units/$ Write-dn $

A/R LEDGER (01/01/81 - 09/21/09)

Date	Type	Invoice#	Fees	Dir Costs	Ind Costs	Fin Charges	Sales Tax	Retainers	Total	Balance
05/12/08	Billing	27419	1286.00	0.00	0.00	0.00	0.00	0.00	1286.00	1286.00
06/10/08	Billing	27605	960.00	0.00	0.00	0.00	0.00	0.00	960.00	2246.00
07/15/08	Billing	27951	240.00	0.00	0.00	0.00	0.00	0.00	240.00	2486.00
08/11/08	Billing	28265	304.00	0.00	0.00	0.00	0.00	0.00	304.00	2790.00
09/10/08	Billing	28532	192.00	0.00	0.00	0.00	0.00	0.00	192.00	2982.00
10/07/08	Billing	28835	256.00	0.00	0.00	0.00	0.00	0.00	256.00	3238.00

Filed 09/22/09 Desc Exhibit Page 2 of 3
Case 09-13112 Claim 1-1 Part 2

11/07/08 Billing	29177	480.00	0.00	0.00	0.00	0.00	0.00	480.00	3718.00
01/08/09 Billing	30631	32.00	0.00	0.00	0.00	0.00	0.00	32.00	3750.00
Closing Balances		3750.00	0.00	0.00	0.00	0.00	0.00	3750.00	

A/R TOTALS (01/01/81 - 09/21/09) A/R TOTALS

	Fees	Dir Costs	Ind Costs	Fin Charges	Sales Tax	Retainers	Total
Billings							
01/01/81-09/21/09	3750.00	0.00	0.00	0.00	0.00	0.00	3750.00
CTD thru 09/21/09	3750.00	0.00	0.00	0.00	0.00	0.00	3750.00

A/R AGING (CTD thru 09/21/09) A/R AGING

Days Overdue	<= 30	31 - 60	61 - 90	91 - 120	121 - 150	151 - 180	> 180	Total
Fees	0.00	0.00	0.00	0.00	0.00	0.00	3750.00	3750.00
Totals	0.00	0.00	0.00	0.00	0.00	0.00	3750.00	3750.00

WORK IN PROCESS AND A/R PROJECTION WORK IN PROCESS AND A/R PROJECTION

	Fees	Dir Costs	Ind Costs	Fin Charges	Sales Tax	Retainers	Totals
Previous A/R	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Existing A/R	3750.00	0.00	0.00	0.00	0.00	0.00	3750.00
Projected A/R	3750.00	0.00	0.00	0.00	0.00	0.00	3750.00

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