

1 Law Offices of
2 **CARL D. MACPHERSON**
3 177 North Church, #315
4 Tucson, AZ 85701
5 (520) 622-2555
6 Fax: (520) 622-0346
7 PCC No.: 35932
8 ASB NO.: 6253
9 Attorney for Plaintiffs

FILED

2014 FEB 21 AM 11:46

MARY ELLEN JONES
CLERK OF SUPERIOR COURT
DEPUTY _____

10 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
11 IN AND FOR THE COUNTY OF COCHISE

12 DANNY R. HATCH, JR. and DENICE R.
13 HATCH, husband and wife,
14 Plaintiffs,

NO. **CV201400128**
COMPLAINT TO QUIET TITLE

15 vs.

16 RONALD J. KLUMP and JANE DOE
17 KLUMP, husband and wife, ROY J. KLUMP
18 and JANE DOE KLUMP, husband and wife,
19 and DAYLA HEAP and JOHN DOE HEAP,
20 wife and husband,
21 Defendants

22 NOW COME Plaintiffs, Danny R. Hatch, Jr., and Denice R. Hatch, husband and
23 wife, by and through their attorney, Carl D. Macpherson, and for their Complaint to Quiet
24 Title with the Defendants in the above matter, respectfully represent unto this Honorable
25 Court as follows.

26 Your Plaintiffs are owners of real estate located in Cochise County, Arizona,
27 commonly known as 3983 North Shepard Road, Wilcox, Arizona 85644, being a parcel of
28 land consisting of 40.32 acres, the legal description thereof being:

Parcel 32 as shown on the Report of Survey, in Book
1 of Surveys, Pages 56 and 56A, Records of Cochise
County, Arizona, being a portion of the northwest
corner of Section 14, Township 13 South, Range 25
East of the Gila and Salt River Base and Meridian,
Cochise County, Arizona.

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II

Your Defendants ROY J. KLUMP and JANE DOE KLUMP, husband and wife, are the owners of, a 300 plus acre parcel of land located in Cochise County directly south of Plaintiffs' parcel commonly known as 3840 N. Johnson Saddle Road, Wilcox, Arizona.

III

Your Defendants, RONALD J. KLUMP and JANE DOE KLUMP, husband and wife, are the owners of, or tenants on real property located at and residing at, 3840 N. Johnson Saddle Road, Wilcox, Arizona.

IV

Your Defendants DAYLA HEATH and JOHN DOE HEATH, wife and husband, are tenants presently residing at 3840 N. Johnson Saddle Road, Wilcox, Arizona.

V.

On the 1st day of February, 1977, Continental Service Corporation, as Trustee under Trust 9383, did convey an easement to construct, operate and maintain utilities and appurtenances for public utilities over the easterly sixty feet of your Plaintiffs property, which easement stopped at the southerly boundary of Plaintiff's property, as set forth in Instrument recorded in Docket 1133, Page 390, in the Office of the County Recorder of Cochise County, Arizona.

VI

Plaintiffs purchased subject property in August, 2003.

VII

Since the purchase of subject property they have exclusively used said easement as a driveway for purposes of ingress and egress, a true and correct copy of said Easement being attached hereto as Exhibit "1".

VIII

On or about December 30, 2013, Defendants, Ronald J. Klump and Jane Doe Klump, Dayla Heap, first attempted to use Plaintiff's private driveway for access to their

1 residence.

2 IX

3 Prior to said date, and presently, Defendants used North Johnson Saddle Road
4 exclusively as their means of ingress and egress to their property.

5 X

6 Plaintiffs aver that Defendants, from and after December 30, 2013, have trespassed
7 on their private driveway to gain access to their property.

8 XI

9 Plaintiffs aver that Lefty Sheppard and Sandra Earhardt, the prior owners of subject
10 property, used the hereinabove described easement as their private driveway for ingress
11 and egress to subject property exclusively, openly, notoriously and exclusively, for greater
12 than 11 years.

13 XII

14 Plaintiffs aver that they have used the hereinabove described easement as their
15 private driveway for ingress and egress to subject property exclusively, openly, notoriously
16 since they purchased same in August 2003.

17 XIII

18 Plaintiffs aver that Ronald Klump has committed irreparable damage to your
19 Plaintiffs property, including, but not limited to moving barbed wire that runs from the
20 locked gate of their private driveway to their east pasture fence, has dragged Plaintiffs
21 driveway, breaking up the top thereof, put a combination lock on Plaintiffs' gate to their
22 residence, and has harassed Plaintiffs as to the exclusive use of their private driveway on
23 a regular basis, including, on one occasion, ten times in one hour!

24 XIV

25 Plaintiffs are informed and believe Defendants permitted Plaintiffs horses to
26 escape from their pasture by removing the fence and the gate to the pasture where
27 they are kept.

28

Pursuant to A.R.S. §12-1103, Plaintiffs did cause to be tendered to Defendants, and each of them, a check in the amount of \$5.00, together with a Quit Claim Deed on the 30th day of January, 2014, a true and correct copy thereof being attached as Exhibits "2", "3" and "4".

WHEREFORE, Plaintiffs pray this Honorable Court:

1. Quiet Title to subject property in Plaintiffs.
2. Award Plaintiffs their court costs and attorney's fees incurred in the prosecution of this cause of action.
3. Enter a judgment against the Defendants, Ronald Klump and Dayla Heath, in a just and reasonable amount for rent as a result of their wrongful use of said driveway.
4. For such other and further relief as is equitable and in good conscience.

DATED this 20 day of FEB, 2014.

~~Carl D. Macpherson~~
Attorney for Plaintiffs

VERIFICATION

STATE OF ARIZONA)
)
COUNTY OF PIMA)

We, Danny D. and Denice Hatch, been first duly sworn under oath, state we have read the foregoing Complaint to Quiet Title and that all the facts contained therein are true and correct to the best of our knowledge, information and belief.

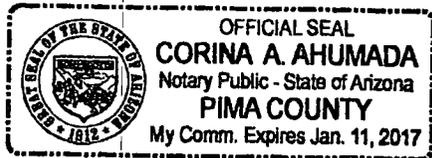
Date: 2/21/14

Danny D. Hatch
Danny D. Hatch

Denice Hatch
Denice Hatch

Subscribed and sworn to before me a Notary Public this 21 day of February, 2014 by Dan and Denise Hatch.

Corina A. Ahumada
Notary Public



WHEN RECORDED RETURN TO:
CONTINENTAL SERVICE CORPORATION
P.O. Box 500
Phoenix, Arizona 85001
attn: Dan Robledo
Trust No. 99383

KNOW ALL MEN BY THESE PRESENT, that the undersigned, CONTINENTAL SERVICE CORPORATION, as Trustee under Trust 9383 does hereby grant and convey to the public for ingress and egress and public utilities, an easement to construct, operate and maintain utilities and appurtenances across, over and under the surface of the premises hereinafter described.

Said easement is situated in Cochise County, Arizona and is more particularly described as follows, to wit:

See attached EXHIBIT "A"

Together with the said easement is granted the right to operate, repair, replace, maintain, and use said easement; to add to or alter any improvements and/or facilities at any reasonable time, with access to said easement and egress therefrom to permit normal operations of public utilities in connection with said easement.

Grantor shall not erect or construct or permit to be erected or constructed any building or other structure in the above described easement.

It is further understood that, whenever necessary, words used in this instrument in the singular shall be construed to read in the plural and that words used in the masculine gender shall be construed to read as feminine.

IN WITNESS WHEREOF, Continental Service Corporation, as Trustee has caused its corporation name to be signed and its corporate seal to be affixed by the undersigned officer thereunto duly authorized this 1st day of February, 1977.

CONTINENTAL SERVICE CORPORATION
as Trustee, and not personally,

By: Dan Robledo
Trust Officer

STATE OF ARIZONA)
)ss.
COUNTY OF MARICOPA)

Before me this 1st day of February 1977, personally appeared DAN ROBLEDO who acknowledged himself to be a Trust Officer of CONTINENTAL SERVICE CORPORATION, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation as Trustee, by himself as such officer.

Christina Placencia
Notary Public

My commission expires: 10-29-78



STATE OF ARIZONA }
COUNTY OF COCHISE } ss.
I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED AND RECORDED AT REQUEST OF: Transamerica Title Insurance Co.
P. O. Box 1608
Sierra Vista, Az. 85635
FEB 4 - 77 - 11 00 AM
392 No. 2431
392

390

EXHIBIT 1

47

EXHIBIT "A"

LEGAL DESCRIPTION

A ROADWAY EASEMENT, to be also used for utility purposes in, over and upon a certain strip of land, 60 feet in width, situate in the County of Cochise, State of Arizona, being located in Sections 10, 11, 14 and 15, T-13-S, R-25-E, G.&S.R.M., the centerline of which is described as follows:

BEGINNING at a point in the west line of said Section 15, from which said point a U.S.G.L.O. brass disc marking the west quarter corner of said Section 15 bears S $0^{\circ} 56' 49''$ E 180.95 feet distant;

THENCE from said POINT OF BEGINNING, and leaving said west line, N $28^{\circ} 35' 05''$ E 3264.57 feet;

THENCE northeasterly along the arc of a tangent curve to the right, having a radius of 190 feet and a central angle of $30^{\circ} 04' 17''$, an arc distance of 99.72 feet;

THENCE tangent to the preceding curve, N $58^{\circ} 39' 22''$ E 511.75 feet;

THENCE northeasterly along the arc of a tangent curve to the right, having a radius of 160 feet and a central angle of $35^{\circ} 03' 27''$, an arc distance of 97.90 feet;

THENCE tangent to the preceding curve, S $86^{\circ} 17' 11''$ E 4370.00 feet more or less to a point on the east line of Parcel 27 as recorded in Book 1 of Surveys page 56, Records of Cochise County, Arizona, said point going the terminal point of this description.

The dimensions shown herein are results of a survey based on the Arizona Coordinate System, Central Zone. All distances shown are grid distances. The Ground-to-Grid distance combined factor is 0.99973666.



CARL D. MACPHERSON, P.C.

177 North Church Avenue, #315

TUCSON AZ 85701

Office: (520) 622-2555

Facsimile: (520) 622-0346

e-mail: cdmgoblue@aol.com

MICHIGAN OFFICE

1640 Lake Shore Drive

Topinabee, MI 49791

(231) 238-9248

January 31, 2014

RONALD J. KLUMP
3840 N. Johnson Saddle Rd.
Willcox, Arizona 85643

Re: Hatch v. Klump

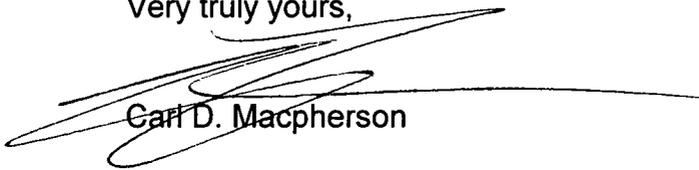
Dear Mr. Klump:

Please be informed that I have been retained to prepare a lawsuit to quiet title to the 60-foot easement on the easterly most part of my client's property which you have recently begun using as access to your residence.

To avoid a lawsuit in the Cochise County Superior Court, I enclose a Quit Claim Deed for both you and your wife to execute before a Notary quit claiming any interest that you have to the easterly 60-feet of my client's property. I also enclose a check for \$5.00 pursuant to A.R.S. §12-1103(B). Pursuant to this statute, if legal proceedings become necessary my clients will certainly claim court costs, ordinary costs and attorney's fees for your failure to execute and return the enclosed Quit Claim Deed.

Your execution of the enclosed Quit Claim Deed will avoid my further participation and incurring unnecessary costs and attorney's fees.

Very truly yours,



Carl D. Macpherson

CDM:cma

Enclosure [as indicated above]

cc: Mr. & Mrs. Dan Hatch

EXHIBIT 2

When Recorded, Mail to: Carl D. Macpherson, Attorney
177 North Church Ave., #315
Tucson, AZ 85701

QUIT CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

That we, RONALD J. KLUMP and KLUMP, husband and wife, the undersigned, for the consideration of Five Dollars, and other valuable considerations, do hereby release, devise, and forever Quitclaim unto DANNY D. HATCH, JR., and DENICE R. HATCH, husband and wife, all right, title and interest in that certain property situated in Cochise County, State of Arizona and described as follows:

The easterly sixty feet of Parcel 32 as shown on Report of Survey, filed in Book 1 of Surveys, Pages 56 and 56A, Records of Cochise County, Arizona, being a portion of the northwest one-quarter of Section 14 T.13 S, R. 25 E of the Gila and Salt River Base and Meredian of Cochise County, Arizona.

DATED this ____ day of _____, 2014..

Ronald J. Klump

Klump

ACKNOWLEDGMENT

STATE OF ARIZONA :
: ss
COUNTY OF COCHISE :

On this ____ day of _____, 2014, before me, the undersigned Notary Public, personally appeared Ronald J. Klump and Klump, to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Notary Public

LAW OFFICES OF CARL D. MACPHERSON, P.C., LTD

177 N CHURCH AVE STE 315
TUCSON, AZ 85701
520-622-2555

9885

91 532/1221
2

DATE

1/30/14

PAY
TO THE
ORDER OF

RONALD J. KLUMP

\$ *5.00*

FIVE and 00/100

DOLLARS

 Security
Features
Details on
Back



NATIONAL BANK OF ARIZONA

1-800-487-8168
www.nbarizona.com

FOR

[Signature]

MP

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CARL D. MACPHERSON, P.C.

177 North Church Avenue, #315

TUCSON AZ 85701

Office: (520) 622-2555

Facsimile: (520) 622-0346

e-mail: cdmgoblue@aol.com

MICHIGAN OFFICE

1640 Lake Shore Drive

Topinabee, MI 49791

(231) 238-9248

January 31, 2014

MR. ROY KLUMP
P O Box 896
Willcox, AZ 85644

Re: Hatch v. Klump

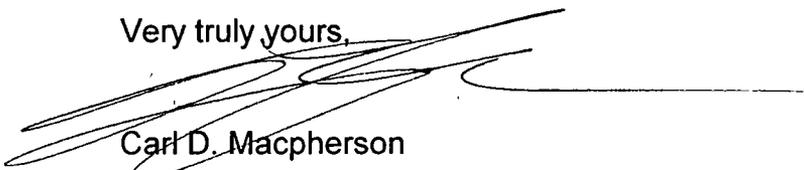
Dear Mr. Klump:

Please be informed that I have been retained to prepare a lawsuit to quiet title to the 60-foot easement on the easterly most part of my client's property which you have recently begun using as access to your residence.

To avoid a lawsuit in the Cochise County Superior Court, I enclose a Quit Claim Deed for both you and your wife to execute before a Notary quit claiming any interest that you have to the easterly 60-feet of my client's property. I also enclose a check for \$5.00 pursuant to A.R.S. §12-1103(B). Pursuant to this statute, if legal proceedings become necessary my clients will certainly claim court costs, ordinary costs and attorney's fees for your failure to execute and return the enclosed Quit Claim Deed.

Your execution of the enclosed Quit Claim Deed will avoid my further participation and incurring unnecessary costs and attorney's fees.

Very truly yours,



Carl D. Macpherson

CDM:cma

Enclosure [as indicated above]

cc: Mr. & Mrs. Dan Hatch

EXHIBIT 3

LAW OFFICES OF CARL D. MACPHERSON, P.C., LTD

177 N CHURCH AVE STE 315
TUCSON, AZ 85701
520-622-2555

9884

91-532/1221
2

DATE 1/30/14

PAY
TO THE
ORDER OF

Roy S. Klump

\$ 5.00

FIVE and 00/100

DOLLARS

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NATIONAL BANK OF ARIZONA

1-800-497-8188
www.nbarizona.com

FOR _____

[Signature]

MP

⑈009884⑈ ⑆122105320⑆ 0020004404⑈

CARL D. MACPHERSON, P.C.

177 North Church Avenue, #315

TUCSON AZ 85701

Office: (520) 622-2555

Facsimile: (520) 622-0346

e-mail: cdmgoblue@aol.com

MICHIGAN OFFICE

1640 Lake Shore Drive

Topinabee, MI 49791

(231) 238-9248

January 31, 2014

DAYLA HEAP
3840 N. Johnson Saddle Rd.
Willcox, Arizona 85643

Re: Hatch v. Klump

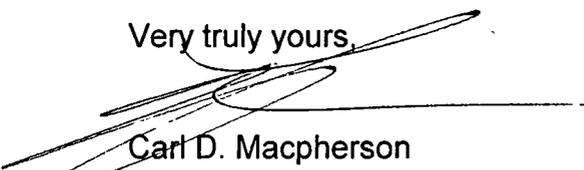
Dear Ms. Heap:

Please be informed that I have been retained to prepare a lawsuit to quiet title to the 60-foot easement on the easterly most part of my client's property which you have recently begun using as access to your residence.

To avoid a lawsuit in the Cochise County Superior Court, I enclose a Quit Claim Deed for both you and your husband to execute before a Notary quit claiming any interest that you have to the easterly 60-feet of my client's property. I also enclose a check for \$5.00 pursuant to A.R.S. §12-1103(B). Pursuant to this statute, if legal proceedings become necessary my clients will certainly claim court costs, ordinary costs and attorney's fees for your failure to execute and return the enclosed Quit Claim Deed.

Your execution of the enclosed Quit Claim Deed will avoid my further participation and incurring unnecessary costs and attorney's fees.

Very truly yours,



Carl D. Macpherson

CDM:cma

Enclosure [as indicated above]

cc: Mr. & Mrs. Dan Hatch

EXHIBIT 4

1950

LAW OFFICES OF CARL D. MACPHERSON, P.C., LTD

177 N CHURCH AVE STE 315
TUCSON, AZ 85701
520-822-2555

9886

91-532/1221

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DATE 1/30/14

PAY
TO THE
ORDER OF

DAYLA HEAR

\$ 5.00

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NATIONAL BANK OF ARIZONA

1-800-497-8168
www.nbarizona.com

FOR _____

[Signature]

MP

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