

LEGAL NOTICES, cont.

seventy hundredths (674.70) feet to an iron pin set; thence from said iron pin and continuing along lands now or formerly of Nathan L. Myers, north eleven 11 degrees east four hundred forty-one and forty hundredths (441.40) feet to an iron pin; thence from said iron pin along lands now or formerly of Aaron H. Myers, south sixty-five (65) degrees twenty-three (23) minutes forty-one (41) seconds east a distance of nine hundred sixty (960) feet to an iron pin six (6) inches below ground surface; thence from said iron pin and continuing along lands now or formerly of Aaron H. Myers, south twenty-four (24) degrees thirty-eight (38) minutes fifty-one (51) seconds west a distance of four hundred twenty-five (425) feet to an iron pin six (6) inches below ground surface; thence from said iron pin continuing along lands now or formerly of Aaron H. Myers, south sixty-three (63) degrees two (02) minutes fifty (50) seconds east a distance of one thousand four hundred six and twenty hundredths (1,406.20) feet to an existing metal disk in concrete; thence from said metal disk along lands now or formerly of West Penn Power Company, south thirty-five (35) degrees seven (7) minutes thirty (30) seconds west a distance of two hundred fifty (250) feet to an existing metal disk set in concrete; thence from said metal disk and continuing along lands now or formerly of West Penn Power Company south sixty-three (63) degrees two (2) minutes thirty (30) seconds east one hundred seventy-four and fifty hundredths (174.50) feet to a railroad spike set in the center line of Pennsylvania Legislative Route 887; thence from said railroad spike and along the center line of Pennsylvania Legislative Route 887, south thirty-five (35) degrees forty-two (42) minutes eight (08) seconds west a distance of one thousand fifty-nine and fifteen hundredths (1,059.15) feet to a railroad spike set in the center line of Pennsylvania Legislative Route 887; thence from said railroad spike and continuing along the center line of Pennsylvania Legislative Route 887 south thirty-six (36) degrees forty-five (45) minutes west a distance of three hundred seventy-five feet (375) to an existing railroad spike in the center line of Legislative Route 887 at a point of intersection of the center line of 887 with the center line of Township Route 349, being the place of beginning; the same containing approximately eighty and eight thousand six hundred seventy-three ten thousandths (80.8673) acres.

BEING a part of the same real estate which Filco, Inc., a Pennsylvania Corporation, by its deed dated September 29, 1972, and recorded among the deed records of Franklin County, Pennsylvania, in deed book Volume 682 at Page 304, conveyed to Mary R. Gibble, now deceased, and Ray G. Gibble, husband and wife.

BEING sold as the property of Ray A. Gibble, Writ Number DSB 1990-707.

SALE NO. 13
Writ No. DSB 1990-979
Judg. No. DSB 1990-979

George J. Bugyl and Judith B. Bugyl

-vs-

George C. Koontz and Gladys Koontz
his wife
Atty: William S. Dick

TRACT NO. 1: ALL that tract of real estate, together with the improvements erected thereon known as 13376 Buena Vista Road, lying and being situate in Washington Township, Franklin County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin on the east side of Buena Vista Avenue at the southwest corner of Tract No. 2 herein; thence by the latter north 48 degrees 06 minutes east 266.2 feet to an iron pin; thence by lands now or formerly of John H. McClellan and wife the following courses and distances: south 34 degrees 15 minutes east 23 feet to an iron pin; south 34 degrees 37 minutes east 172 feet to an iron pin; thence by

LEGAL NOTICES, cont.

other lands of John H. McClellan and wife, south 56 degrees 08 minutes west 261.8 feet to an iron pin on the east side of Buena Vista Avenue; thence with the east side of Buena Vista Avenue the following courses and distances: north 36 degrees 35 minutes west 147 feet to an iron pin; north 34 degrees 20 minutes west 10 feet to the place of beginning.

BEING the same real estate conveyed to the mortgagors by deed of George J. Bugyl and Judith B. Bugyl, his wife, dated July 30, 1987, and recorded in Franklin County Deed Book 995, Page 147.

THE above described real estate is mortgaged TOGETHER WITH AND SUBJECT TO the restrictions and conditions recited in the deeds of Buena Vista Springs Improvement Company, insofar as the same may remain applicable.

THE above described real estate is mortgaged together with and subject to all covenants, conditions, easements, rights of way, restrictions, reservations and limitations of record.

TRACT NO. 2: ALL that tract of real estate lying and being situate in Washington Township, Franklin County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin near the easterly edge of Township Route No. 800, also known as Buena Vista Avenue, at Tract No. 1 herein; thence with said Township Route No. 800, north 31 degrees 58 minutes west 120.63 feet to a point in the center line of the Appalachian Trail; thence with said center line, north 19 degrees 42 minutes east 110.54 feet to a point; thence with the same, north 07 degrees 12 minutes east 104.43 feet to a point; thence with the same, north 25 degrees 22 minutes 113.96 feet to a point; thence by the same north 51 degrees 42 minutes east 5.12 feet to a point; thence by lands now or formerly of John H. McClellan and wife, south 33 degrees 57 minutes east 285.77 feet to an iron pin; thence by Tract No. 1 herein, south 48 degrees west 267.68 feet to an iron pin, the place of beginning. CONTAINING 1.26 acres according to a survey by John Howard McClellan, R.S., dated August 11, 1975.

BEING the same real estate conveyed to the mortgagors by deed of George J. Bugyl and Judith B. Bugyl, his wife, dated July 30, 1987, and recorded in Franklin County Deed Book 995, Page 144.

THE above described real estate is mortgaged TOGETHER WITH AND SUBJECT TO all covenants, conditions, easements, rights of way, restrictions, reservations and limitations of record, including but not limited to a 33 foot wide easement or right of way granted to the Potomac Appalachian Trail Club by deed of John H. McClellan and wife, dated April 7, 1976, and recorded in Franklin County Deed Book 726, Page 474.

BEING sold as the property of George C. Koontz and Gladys Koontz, Writ Number DSB 1990-979.

TERMS

As soon as the property is knocked down to purchaser, 10% of the purchase price plus 2% Transfer Tax, or 10% of all costs, whichever may be the higher, shall be delivered to the Sheriff. If the 10% payment is not made as requested, the Sheriff will direct the auctioneer to resell the property.

The balance due shall be paid to the Sheriff by NOT LATER THAN Monday, January 7, 1991 at 4:00 P.M., prevailing time. Otherwise all money previously paid will be forfeited and the property will be resold on January 11, 1991 at 1:00 P.M., prevailing time in the Franklin County Courthouse, 3rd Floor, Jury Assembly Room, Chambersburg, Franklin County, Pennsylvania, at which time the full purchase price or all costs, whichever may be higher, shall be paid in full.

Raymond Z. Hussack
 Sheriff

Franklin County, Chambersburg, PA

12/7, 12/14, 12/21

Count 6: Driving while operating
 privileges are suspended:

Guilty

The defendant shall appear on the call of the District Attorney to be advised of his post verdict rights.

BORROR, ZONING OFFICER VS ACCEL RATED FALL EAST, INC., ET AL., C.P. Franklin County Branch, Eq. Doc. Vol 7, 509

Zoning - Industrial District - Indoor/Outdoor Recreational Use - Campground

1. The zoning ordinance follows a pattern that the least restrictive districts permit land uses allowed in more restrictive district.
2. Where the zoning ordinance fails to define the term "indoor and outdoor recreational facilities," the Court looks to the Statutory Construction Act.
3. Zoning ordinances are in derogation of the common law and are strictly construed in favor of the landowner.
4. The fact a use is specifically provided for as a special exception in a more restrictive district does not mean it is excluded in a less restrictive district.
6. A campground is an outdoor recreational activity.

Gregory H. Knight, Esq., Counsel for Plaintiff
David C. Cleaver, Esq., Counsel for Defendant

ADJUDICATION AND DECREE NISI

KAYE, J., June, 1990:

ADJUDICATION

Marvin K. Borrer, ("the zoning officer"), Zoning Officer of Greene Township, Franklin County, Pennsylvania, plaintiff, filed this action in equity against Accelerated Free Fall East, Inc., (Accelerated"), and Allan Gramando, ("Gramando"), the defendants, to enjoin the defendants from operating a campground or bunkhouse on property currently being leased to Accelerated. The plaintiff is also seeking to have a fine of \$500.00 per day assessed against the defendants for violation of the Township's zoning ordinance.

A trial without jury was held on May 1, 1990, and the parties were directed to file briefs by June 1, 1990. The briefs of the parties have been received and reviewed by the Court, and the matter is in a posture for decision.

In August of 1984, Allan Gramando purchased an existing skydiving business located at the Chambersburg Airport, from George Kabeller. The airport is owned by the Borough of Chambersburg, but is located within Greene Township. At the time of the purchase, Gramando did not consult with Township supervisors to determine whether the business was a permitted activity in conformance with the Township zoning ordinances. As a part of the purchase, Gramando obtained the options for the leases of the business, including the building lease, as well as the business telephone number. In late 1986 or early 1987, the skydiving business was incorporated as a for-profit business under the name of Accelerated Free Fall East, Inc.

At the present time, Gramando is the President of Accelerated, which operates a skydiving facility and school. Skydiving is an aviation activity which is regulated by the Federal Aviation Administration. According to Gramando, skydiving is considered to be a recreational aviation activity.

In addition to providing facilities for skydiving and skydiving instruction, Accelerated furnishes other services for its customers. These services include, among others, a snack bar, restroom facilities, as well as providing an area for overnight camping for its patrons. Although Accelerated has advertised that a bunkhouse is available for its customers, the bunkhouse has never been built.

Prior to Gramando's purchase of a business, camping activity took place at several locations over the airport grounds. After obtaining the business, Gramando consolidated the camping into one area and added sixteen (16) facilities for electrical hookups. However, he did not construct any sewer facilities at the campsites. Accelerated does not charge a fee to its skydiving customers for overnight camping, but it does make a \$35.00 charge for the electrical hookup to those customers who stay at the campsite for more than a month. Both experienced skydivers and skydiving trainees stay overnight on the property.

There are no sewer or bathroom facilities located at the campsites. However, there are bathroom facilities located in the airport. Additional bathroom facilities have been added since Gramando purchased the property. Gramando testified that Accelerated had merely finished the work that had been started previously. He further stated that Accelerated did not obtain sewer permits prior to completing the work.

The Chambersburg Airport and Accelerated operate in an area which has been zoned as an industrial district by the Greene Township Zoning Ordinance as shown on the Township Zoning Map. It appears that both parties agree that skydiving is a permitted activity within the industrial district.

However, it is the Township's position that although skydiving is a permitted use, camping is not permitted in an industrial district. Furthermore, the Township maintains that camping is not a necessary adjunct activity to skydiving.

In addition, the Township points out that the defendants have not obtained a Certificate of Occupancy for any of their activities on the airport grounds, nor have the defendants applied for a variance from the zoning ordinances. The defendants have not asked the Township for an interpretation of the zoning ordinance as it applies to the activities that they are conducting at the airport. Additionally, the defendants have made no application for a permit related to the camping facilities to the Department of Environmental Resources ("DER").

The defendants, on the other hand, maintain that the zoning ordinance permits indoor and outdoor recreational activity. The defendants also maintain that camping is incident to and an incidental use of skydiving which is a permitted use under the zoning ordinance.

The plaintiff has received a number of complaints regarding the activities taking place at the airport. Most of the complaints are related to the flying of aircraft. Only one person has persisted in complaining about the camping activity.

The zoning officer investigated the complaints and reviewed the Greene Township Zoning Ordinance, and determined that

camping was not a permitted use in the industrial district. On August 29, 1987, the defendants received a letter from the zoning officer informing them that camping was neither a permitted nor a conditional use in an industrial district. The letter instructed the defendants to cease the camping activity within thirty (30) days. The defendants did not comply with the instruction and did not reply to the letter.

First, we will consider whether a campground is an accessory use to a skydiving operation, or whether the campground operation must be authorized in its own right. The Greene Township Zoning Ordinance defines an accessory use in an industrial district as "...uses...customarily incidental to the above [permitted] uses..." in Section 3.6.A.19. The definitional section of the ordinance defines an accessory use as "[A] use customarily incidental and subordinate to the principal use of the main building and located on the same lot with such principal use or main building".

"Incidental use" is defined as "...use of premises which is dependent on or affiliated with the principal use of such premises". Black's Law Dictionary 686 (5th ed. 1979).

During the trial, Gramando testified that he is personally aware of two to three hundred airports that permit skydiving. All of those airports that permit skydiving also allow camping. Gramando also offered several advertisements into evidence which promote skydiving operations and facilities. Most, if not all, of the skydiving business operations also advertised that camping was available on site.

Although it appears from the evidence that onsite camping is customarily offered to the patrons of a skydiving business operation, we do not believe that camping is incidental to skydiving. Camping is not dependent upon skydiving, nor is skydiving dependent upon the operation of a campground. We believe that camping or operation of a campground must be authorized in its own right, and therefore is not an accessory use to a skydiving operation.

The Greene Township Zoning Ordinance provides for the operation of campgrounds as a conditional use in districts which are zoned for agricultural-residential use in Section 3.1.B.2 The ordinance makes no specific provision for the operation of a camp-

FIRST NATIONAL BANK AND TRUST CO.



13 West Main Street P.O. Box 391
Waynesboro, Pennsylvania 17268

(717) 762-8161

TRUST SERVICES
COMPETENT AND COMPLETE



Member F. D. I. C.



Citizens

NATIONAL BANK OF SOUTHERN PENNSYLVANIA

(717) 597-2191
(717) 762-3121
(717) 263-8788

Located in

Greencastle - Waynesboro - State Line - Chambersburg

Member FDIC

ground in an area designated as an industrial district. However, the ordinance does provide for indoor and outdoor recreation in Section 3.6.A.18. We must determine whether a campground is a permitted use within the provision for indoor and outdoor recreational use.

Initially, we note that the ordinance does not define the term "indoor and outdoor recreational facilities". Therefore, we must construe the meaning of the term within the context of the ordinance to determine whether camping is included as an outdoor recreational activity.

"The structure of the zoning ordinance itself provides the best guide to its interpretation". Ryan, Pennsylvania Zoning Law and Practice §4.2.1. Zoning ordinances often establish a most restrictive district limited to residential use only, and move to several zoning districts which are decreasingly less restrictive. The least restrictive districts commonly permit land uses which were allowed in the more restrictive districts. However, the converse is not true. *Id.*

It appears that the Greene Township Zoning Ordinance follows that type of pattern. It designates an agricultural/residential area which appears to be generally more restrictive and less intensive, and moves through several classifications of residential districts, to a commercial area and on to an industrial district. Each district appears to be less restrictive and more intensive than the previous one. From examination of the structure of the ordinance, it seems that camping which is permitted in a more restricted area, less intensive area, should be permitted in the industrial area.

However, our inquiry does not end here. Some zoning ordinances will specifically exclude a use allowed in a more restrictive area as being inappropriate for the less restrictive area. For example, commonly legislative bodies will exclude residences from an industrial zone. *Id.* It may be that a legislative body would ban camping in an intensive industrial zone. However, the fact that the zoning ordinance permits indoor and outdoor recreational activities in an industrial area seems to suggest that camping might be permissible.

Since the zoning ordinance fails to define the term "indoor and outdoor recreational facilities", we look to the Statutory Construc-

FIRST NATIONAL BANK AND TRUST CO.



13 West Main Street P.O. Box 391
Waynesboro, Pennsylvania 17268

(717) 762-8161

TRUST SERVICES
COMPETENT AND COMPLETE



Member F. D. I. C.



Citizens

NATIONAL BANK OF SOUTHERN PENNSYLVANIA

(717) 597-2191
(717) 762-3121
(717) 263-8788

Located in

Greencastle - Waynesboro - State Line - Chambersburg
Member FDIC

tion Act of 1972, 1 Pa. C.S. §1501, to aid us in construing the term. This Act is applicable to ordinances as well as to statutes. *Appeal of Neshaminy Auto Villa Ltd.*, 25 Pa. Cmwlth. 129, 358 A.2d 433 (1975). "Words and phrases shall be construed according to rules of grammar and according to their common and approved usage...". 1 Pa. C.S. §1903 (a). A zoning ordinance which contains ambiguous or undefined terms which restrict permitted use must be strictly construed so that the landowner is given the benefit of the least restrictive use. *Church of the Saviour v. Zoning Hearing Board of Tredyffrin Township*, Cmwlth. , 568 A.2d 1336 (1989). (Citations omitted). Zoning ordinances are in derogation of the common law, and therefore, they are strictly construed in favor of the landowner. *Abington Township v. Dunkin Donuts Franchising Corp.*, 5 Pa.Cmwlth. 399, 291 A.2d 322 (1972). Ambiguous descriptions of permitted uses should be given their common meaning, and any ambiguity should "...be resolved in favor of the property owner". *Id.* at 406, 291 A.2d at 325.

With the foregoing rules of construction in mind, we believe that "outdoor and indoor recreational activities" includes the operation of a campground.

The plaintiff cites *In re Stagebrush Promotions, Inc.*, 98 Pa. Cmwlth. 634, 512 A.2d 776 (1986), *alloc. den.*, 514 Pa. 637, 522 A.2d 1106 (1987), and *Neshannock Township v. Musquire*, 86 Pa. Cmwlth. 246, 484 A.2d 839 (1984) to support his position. In *Stagebrush*, the property owners sought to operate a business on their property which would include, *inter alia*, campgrounds, sporting events, concerts, circuses, and craft, antique and hobby shows, and festivals in an agricultural district under the conditional use provision "public and private parks and recreation areas provision". In *Neshannock*, the property owners sought to operate a commercial racetrack in a R-3 Residential Limited Use district under a provision allowing "public and private parks and recreation grounds". In both cases, the use was denied. But, in both cases, the proposed use was quite intensive in nature and the zoning districts involved were more restrictive than the industrial district involved in the case at bar. We believe that both cases are clearly distinguishable.

The zoning officer himself testified that during his deposition taken on November 10, 1989, he admitted that camping and

campgrounds are outdoor recreational activities. However, the zoning officer believes that the ordinance does not allow campgrounds in an industrial district because it is specifically provided for in the agricultural/residential district as a special exception. We do not agree. Because a particular activity is specifically provided for as a special exception in a more restrictive district, does not mean it is excluded in a less restrictive district, especially when the less restrictive district has a general provision which could arguably include that particular activity.

The Pennsylvania Recreation Use of Land and Water Act of 1966 defines recreational purposes so as to include camping. 68 P.S. §477-2(3). The Pennsylvania Department of Environmental Resources Regulations include organized camps and campgrounds, Chapter 191, under Article III, Recreational Facilities. *Webster's Third New International Dictionary-Unabridged*, defines camp, *inter alia*, "to live usually temporarily in a camp or outdoors especially for recreation".

We are sufficiently satisfied that the camping activities that are taking place on the defendants' premises are permitted as an outdoor recreational activity. Because a municipality has the ability to control the language of the zoning ordinance, and to make it as clear as possible, there is little reason to give the Township the benefit of the doubt over the landowner. As discussed previously, case law supports this. Furthermore, the Township is perfectly free to re-draft the zoning ordinance and express its intent more clearly.

Finally, the plaintiff contends the defendants have failed to secure the required permits and failed to submit the required documentation pursuant to Sections 3.6B and 7.3 of the Greene Township Zoning Ordinance. In addition, the plaintiff maintains the defendants have failed to comply with the Department of Environmental Resources ("DER") regulations relating to the operation of a campground.

Section 3.6B states that in order "to determine whether or not the proposed use is permitted, if not specifically listed in Section 3.6.1..., certain documentation must be submitted to the township". However, since we are holding that the campground is a permitted use under Section 3.6, the defendants are not required to submit the documentation required in 3.6B.

Section 7.3 of the Greene Township Zoning Ordinance requires that a Certificate of Occupancy be obtained for occupancy, use or any change in the use of the land and for occupancy, and use of a building which is erected or structurally altered or any change in the use of an existing building. Gramando testified that neither he nor Accelerated hold the required Certificate of Occupancy. Furthermore, the plaintiff stated that the defendants have failed to obtain the required permits from DER for the operation of a campground. See PA.Code Title 25, Chapter 191. Gramando admitted that he does not hold the required permit.

Owing to the defendants' acknowledged failure to secure the required permits which are a prerequisite for the utilization of real estate for campground operations exclusive of the requirements of the zoning ordinance, we will enter an appropriate order.

We will note parenthetically that plaintiff has asked that we impose a financial penalty on defenants of \$500.00 per day for each day of violation of the Township's Zoning Ordinance, pursuant to §7.5 of that ordinance. We decline to do so in the context of a proceeding seeking injunctive relief through the Court's equity powers. However, this shall not be construed to preclude the Township from taking such other enforcement action in this regard as it deems appropriate.

DECREE NISI

NOW, June 29, 1990, upon consideration of the evidence presented and the memoranda of law submitted by the parties, it is ORDERED, ADJUDGED, and DECREED, that defendants are enjoined from permitting, or from authorizing others to permit, the use of defendants' leased real estate situate on the grounds of the Chambersburg Airport in Greene Township, Franklin County, Pennsylvania, as a temporary or permanent site for a campground until such time as permits required therefor have been secured from the Township of Greene and from the Commonwealth of Pennsylvania, Department of Environmental Resources. Costs to be paid by defendants.

The Prothonotary shall cause a copy hereof to be served upon the parties by ordinary first class mail, and the decree shall be effective

FIRST NATIONAL BANK AND TRUST CO.



13 West Main Street P.O. Box 391
Waynesboro, Pennsylvania 17268

(717) 762-8161

TRUST SERVICES
COMPETENT AND COMPLETE



Member F. D. I. C.



Citizens

NATIONAL BANK OF SOUTHERN PENNSYLVANIA

(717) 597-2191
(717) 762-3121
(717) 263-8788

Located in
Greencastle - Waynesboro - State Line - Chambersburg
Member FDIC

upon receipt thereof by the defendants.

If post-trial motions are not filed within the time set forth in Pa.R.C.P. No. 227.1(c) (2) this decree nisi shall become a final decree upon praecipe of either party.

THARP AND WIFE V. THARP, C.P. Franklin County Branch,
No. A.D. 1990-131

*Writ of Certiorari - District Justice - Landlord-Tenant
Gross Irregularity of Procedure*

1. Certiorari is limited to an examination of the record of the proceedings before the District Justice.
2. Where the plaintiff amended his complaint to add a ground for eviction at the hearing and it was done in the presence of the defendant, there is no irregularity of procedure.
3. The failure of the District Justice to apprise the unrepresented defendant of a right to request a continuance upon amendment of the complaint is not a gross irregularity in procedure.

*Timothy W. Misner, Esq., Attorney for Plaintiffs
Jonathan D. Fenton, Esq., Attorney for Defendant*

OPINION AND ORDER OF COURT

KAYE, J., May 21, 1990:

OPINION

This matter is before the Court on a writ of certiorari filed by the defendant from a district justice's decision which awarded possession of real property and costs to the plaintiffs.

PROCEDURAL AND FACTUAL BACKGROUND

The plaintiffs, Loretta Tharp and Ray Tharp, who are husband and wife, own a parcel of real property located at 7255 Slabtown Road, Waynesboro, Franklin County, Pennsylvania. The defendant, Patricia Tharp, is the sister-in-law of plaintiff, Ray Tharp. Patricia

Tharp has leased the property located at 7255 Slabtown Road for approximately the last eight (8) years, and has parked her mobile home on the lot.

On October 3, 1989, the plaintiffs served a notice to quit and vacate the property by February 1, 1990 on the defendant. In the notice, the plaintiffs indicated that they intended to build a garage and a place of business on the lot.

The defendant failed to vacate the property by the February 1, 1990 date, and the plaintiffs filed a Landlord and Tenant Complaint with District Justice Pentz on February 2, 1990. On February 15, 1990, a hearing on the complaint was held by District Justice Pentz, and plaintiff, Loretta Tharp and defendant, Patricia Tharp both appeared. Loretta Tharp was represented by counsel at the hearing, however, Patricia Tharp appeared without counsel.

According to District Justice Pentz's certified record of the proceeding, the attorney representing Loretta Tharp moved to amend paragraph 5. of the complaint so that the first box was checked indicating that the term of the lease had fully ended. District Justice Pentz permitted the amendment pursuant to Pa.R.C.P.D.J.316.

On March 15, 1990, the defendant, through Legal Services, Inc., filed a Praecipe for Writ of Certiorari and Supersedeas, claiming that the proceedings held before District Justice Pentz contained "such gross irregularity of procedure as to make the judgment void."

The defendant alleges that the district justice judgment is void for gross irregularity of procedure because of the plaintiffs' failure to apprise the defendant of a lawful ground for the eviction prior to the hearing. Further, the defendant alleges that district justice and/or counsel for the plaintiffs, failed to explain to the defendant the nature of the motion to amend and the defendant's right to a continuance.

DISCUSSION

The Pennsylvania Rules of Civil Procedure District Justices provides for certiorari to the court of common pleas from the judgment of a district justice in order to attack "lack of jurisdiction