

PRECALENDAR STATEMENT

State of New York

Supreme Court—Appellate Division

Third Judicial Department

Case Title:

In the Matter of the Application of

MARY ANNE RICHARD AND DANIEL SMITH,

Petitioners,

-against-

Washington County
Index No. 16168

THE TOWN OF CAMBRIDGE; THE CAMBRIDGE
TOWN BOARD; AUDREY HALL; SALLY J.
WHITNEY; and TERRY E. WHITNEY, SR.,

RJI No. 57-1-2009-
0669

Respondents,

For a Judgment Pursuant to Article 78 of the New York
Civil Practice Law and Rules and Declaratory Judgment
Ordering the Town Board to Repeal its Resolution
Authorizing the Conveyance of the Disputed Property and
Declaring the Town of Cambridge the Record Owner of the
Disputed Property.

Parties Involved:

Party Name <i>[List of names of parties]</i>	Original Status <i>[List of titles of original party]</i>	Appellate Status <i>[List of titles of appellate party]</i>
MARY ANNE RICHARD	Petitioner	Respondent
DANIEL SMITH	Petitioner	Respondent
THE TOWN OF CAMBRIDGE	Respondent	Respondent
CAMBRIDGE TOWN BOARD	Respondent	Respondent
AUDREY HALL	Respondent	Appellant
SALLY J. WHITNEY	Respondent	Respondent
TERRY E. WHITNEY, SR.	Respondent	Respondent

Counsel for Appellant(s):

[Name of counsel for appellant(s)], [address of counsel for appellant(s)], [telephone number of counsel for appellant(s)], [fax number of counsel for appellant(s)]

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Court, Judge and County:

[Name of court]; [name of judge]; [name of county].

This appeal is taken from a Decision and Order dated November 10, 2010 of Hon. David B. Krogmann, Supreme Court Justice, of the Washington County Supreme Court.

Nature and Object of Action or Proceeding:

[Description of nature and object of underlying action or proceeding].

The nature and object of the underlying proceeding was an Article 78 proceeding to annul a resolution adopted by the Cambridge Town Board authorizing execution of a quitclaim deed and to set aside the quitclaim deed from the Town of Cambridge to Audrey Hall dated September 8, 2008, and recorded in the Washington County Clerk's Office on September 16, 2008.

Appellant Audrey Hall in her Answer to the Petition asserted that the proceeding, which was filed in the Washington County Clerk's Office on December 7, 2009, and never personally served upon her, was barred by the applicable four-month statute of limitations and also that the Court had no personal jurisdiction over her.

Appellate Issue(s):

[Description of appellate issue(s)]; [description of grounds for [reversal/modification]]; [description of relief sought on the appeal].


The issues to be raised on appeal are: (1) whether the Washington County Supreme Court had personal jurisdiction over Appellant Audrey Hall, in view of the fact that she was never served with process; and (2) whether the Article 78 proceeding to set aside a deed dated September 8, 2008, and recorded September 16, 2008, was barred by the applicable four-month statute of limitations in view of the fact that the initial pleadings were not filed in the Washington County Clerk's Office until December 7, 2009, and no service was attempted until on or after January 12, 2010.

Other Related Matters:

[None/[Identification of related action or proceeding]].

There are no related matters.

Submitted by:



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Received
County Clerks Office
Feb 01, 2011 10:20A
Washington County
Dona J. Crandall

Dated: January 28, 2011

Attachments:

- | | |
|----------------------------------------------------------------|-------------|
| 1. Copy of order or judgment appealed from. | Attached |
| 2. Copy of opinion or decision. | Same as "1" |
| 3. Copy of notice of appeal or order granting leave to appeal. | Attached |

Attach copies, not originals. File this original form with attachments when original notice of appeal is filed in the office where the judgment or order of court of original instance is entered. A copy of this document must be served upon all counsel and pro se parties.