



## **Court Case Studies**



**Richard C. Brooks, LS**  
**Brooks & Brooks, Land Surveyors, PC**  
**Rbrooks@bnbpc.biz**

### **EPIC BATTLE**

**Mohonk Preserve v Karen Pardini  
&  
Michael Fink**

**2015 NY slip op 05992  
(1993 to 2016)**

## **Discussion points**

- “ Client—Defendant Relationship
- “ The role of the expert witness’s
  - “ Health issues
- “ Trail preparation
- “ Court proceedings
- “ Trial by Media
  - “ Social and conventional
- “ Community fabric/agitation

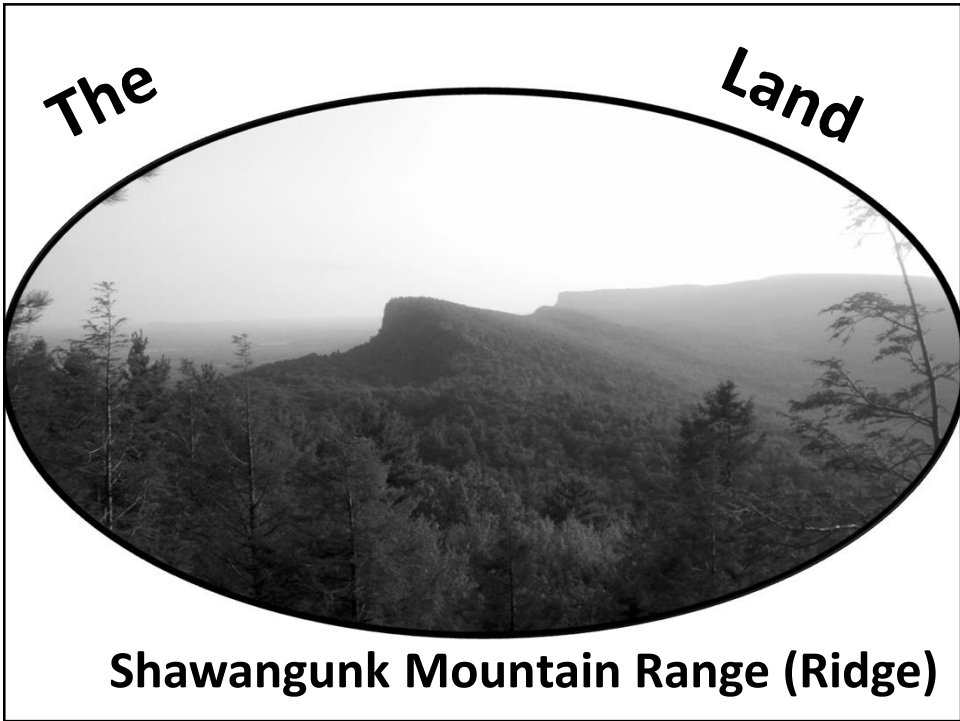


## **Case Timeline**

- 1987 Defendants acquire adjoining property.
- 1993 Hired to do a Boundary Line Revision.
- 1994, May 09th client acquires title.
  - \$82,168
  - American Title Insurance Company policy
- 1994 Client takes possession.
- 1996 Defendant takes possession
- 19 Claim submitted to First Amer.

**Case Timeline cont.**

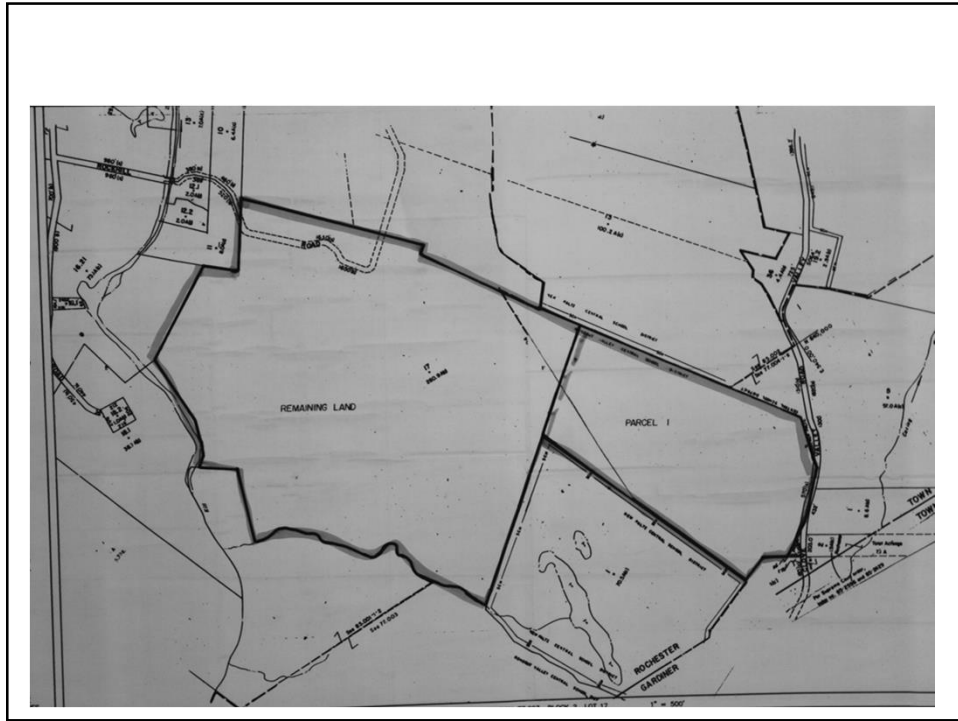
- **2008** Quiet Title action filed  
71.45 acres.
- **Years** Compiling Experts,  
Affidavits, counterclaims
- **2009** Summary Judgment, trail
- **2013** Supreme Court Decision.
- **2015** Court Appeals Decision
- **2015** Motion for leave to





**Razor thin soils—Mill Stone quarries—Bad timber**





ROCHESTER:

Partition  
of the  
NINETEEN PARTNER TRACT.  
18<sup>th</sup> December, 1799.

John Cantine }  
Abm Bevier } Commrs.  
Joh<sup>s</sup>. Bruyn }

One map attached, page 300.  
Filed January Term 1800.



## ***Client History 1869-1963-1978***



### ***Mohonk Preserve, Inc.***

- “ Mohonk Preserve is New York State's largest visitor- and member-supported nature preserve with 8,300 protected acres of cliffs, forests, fields, ponds and streams.
- “ 165,000 visitors a year including 50,000 rock climbers.
- “ Located 90 miles from NYC

**Attorney Report to  
First American Title Ins. Co.  
Jan. 2008**

- ▣ **“Parties in this action continue to fight each other with a vigor usually reserved for small countries at war.”**

**Defendant’s Media Campaign**

- “ **Local Press;**
  - . **“Lawsuit Defendants Allege Intimidation..”**
  - . **“Pirates Of The Shawangunks”**
  - . **“Rounding Out The Boundaries”**
  - . **“The Heavy Hand Of Mohonk”**
  - . **“Mohonk Losses latest Land Grab”**

## Defendant's Media Campaign

### " National:

. NYT June 1998, "Buying Land, Crying Foul:  
Preservationists Accused Of Overzealous Tactics In  
Bid To Keep Land Wild"

Property Rights Foundation of America  
Mohonk Preserve Neighbors Association

"Crooks and Crooks"

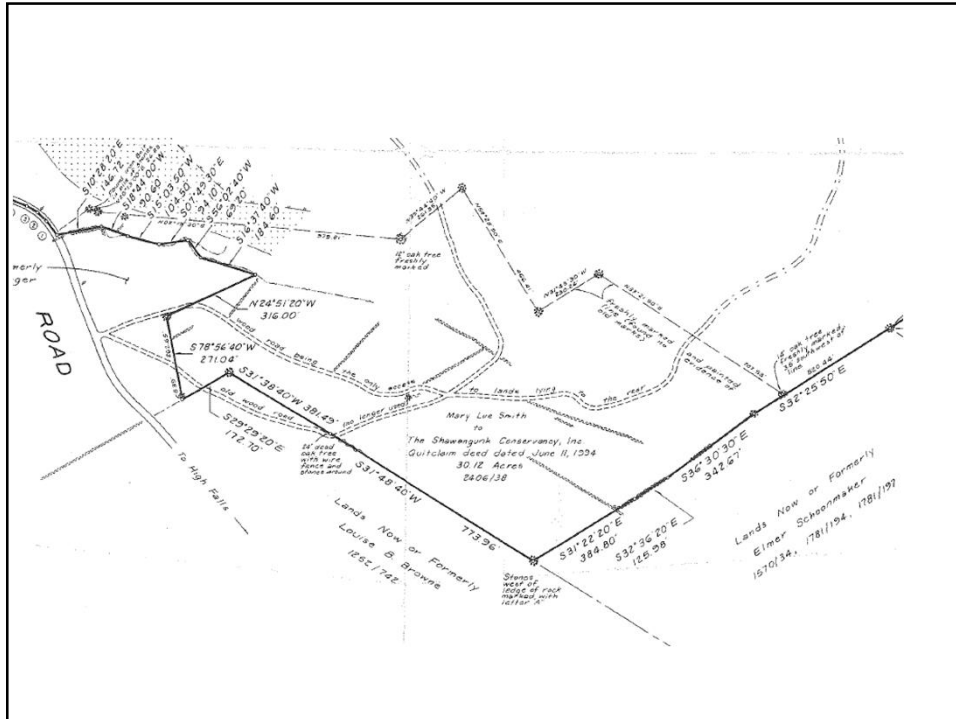
## 1996 survey of notation of

MAP  
QUADRANGLE  
# 2000  
20 FEET  
LEVEL

Lands Now or Formerly Mohonk Preserve, Inc.

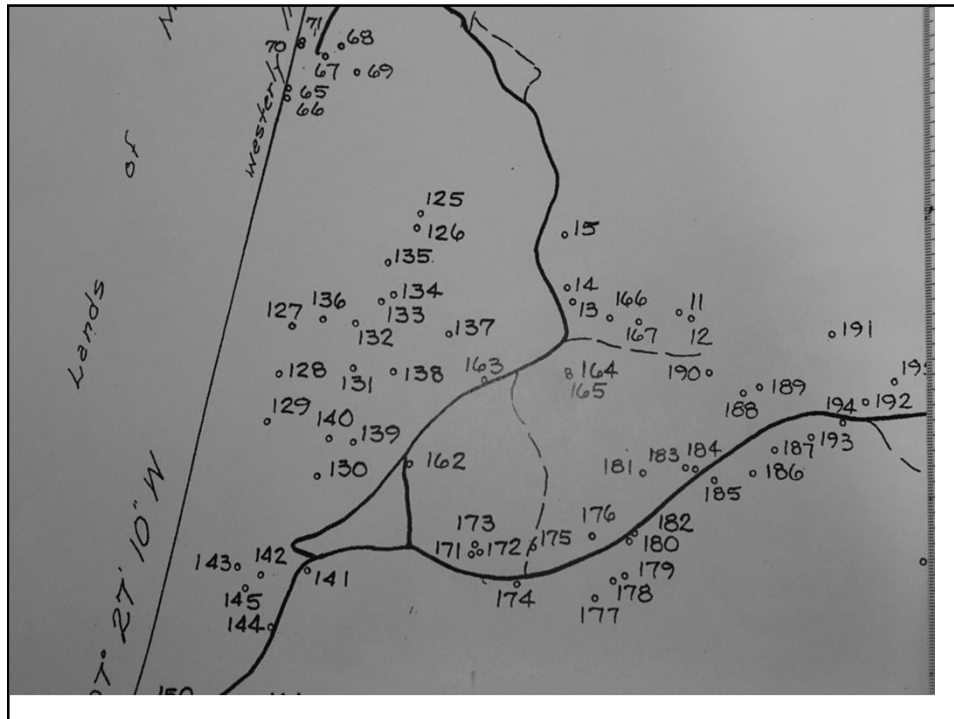
Note: This parcel is shown on a map titled  
"Map of revision of property lines  
between Gloria J. Finger and Mohonk  
Preserve, Inc." and filed in the Ulster  
County Clerk's Office as map number  
9953

Freshly marked and painted



**SURVEY MAP**  
SHOWING A SOUTHERLY PART OF  
LOT 1 OF THE 19 PARTNERS TRACT  
FOR  
KAREN PARDINI AND MICHAEL FINK  
TOWN OF ROCHESTER --- COUNTY OF ULSTER  
STATE OF NEW YORK --- SCALE: 1 INCH = 100 FEET

**Dated January 23, 2009**



## Supreme Court Decision

“ Issued May 29<sup>th</sup> 2013----3 pages long.

**“After hearing the testimony of more than 30 witnesses who testified at the most lengthy trial this Court has conducted to date, and after considering the well over 100 exhibits which were introduced into evidence at the trial....**

**and after reviewing the 1,299 pages of trail testimony”**

**The court accepted the proposed findings of facts and conclusions of law submitted by the defendant**

**“In a landscape whose boundaries lack absolute certainty due to a history stretching back to the early 1700s of unrecorded deeds, less than precise 18<sup>th</sup> and 19<sup>th</sup> century record keeping, scrivener’s errors, etc., the narrative of title and of possession put forth by the defendants at trail has emerged ...as being the more legally and factually supported...”**

~~PLAINTIFF CATCHES IT'S~~  
**SECOND WIND**

× **Claim made to First American  
Title Insurance Company,  
Policy Payout**

**2008 An attorney is hired to  
appeal the Supreme Courts  
decision.**

The Decision;

- “ July 9<sup>th</sup>, 2015----6 pages long
- “ An outright reversal of the trial courts  
decision  
*“on the law and the facts”*
- “ Describes the defendants *“detailed effort to  
de-construct plaintiff’s claim to the property”*
- “ But finds their proof was *“tenuous at best”*

**Defendants proof:**

- “ Chain of Title, defendants. *Over 100 years makes no specific mention of the subject parcel.***
- “ Chain of title, plaintiffs. *Over 100 years mentions and describes the subject parcel.***
- “ 1876 tax assessment. 26 acres instead of 96 acres.**

**Defendants Proof;**

- “ Adverse possession. *Vague and non-specific, summarily rejected.***
- “ “Evidence was insufficient as a matter of law to establish their continuous possession and occupation of the disputed property.”**

## Local Press Mid July 2015

**A State Appeals court has handed about 73 acres of prime land along the Shawangunk ridge to the Mohonk preserve.**

**Reversing a lower court decision that had given the land to neighbors.**

**After 19 years of fighting.....**

*State of New York*  
*Court of Appeals*

NOV 3 4 2015

*Decided and Entered on the  
twenty-third day of November, 2015*

**Present,** HON. JONATHAN LIPPMAN, *Chief Judge, presiding.*

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MO. No. 2015-1058  
Mohonk Preserve, Inc.,  
Respondent,  
v.  
Karen Fardini et al.,  
Appellants.

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Appellants having moved for leave to appeal to the Court of Appeals in the above cause;

Upon the papers filed and due deliberation, it is  
ORDERED, that the motion is denied with one hundred dollars costs and necessary reproduction disbursements.

**Nov. 23, 2015**



Nina Postupack  
County Clerk  
Kingston, NY 12401

Volm-5947 Pg-250

60 2015 00015727

Instrument Number: 2015- 00015727  
As  
D01 - Deed

Recorded On: November 30, 2015  
Parties: PARDINI KAREN  
To  
TAYLOR DOUGLAS  
Recorded By: MICHAEL FINK  
Comment:

Billable Pages: 5  
Num Of Pages: 5

\*\* Examined and Charged as Follows: \*\*

|                   |        |                      |         |                      |                         |
|-------------------|--------|----------------------|---------|----------------------|-------------------------|
| D01 - Deed        | 65.00  | RPS217-250           | 250.00  | Tax Affidavit TP 584 | 5.00                    |
| Recording Charge: | 320.00 |                      |         |                      |                         |
|                   | Amount | Consideration Amount | RS#/CS# | Basic                |                         |
| Tax-Transfer      | 320.00 | 80,000.00            | 1816    | 0.00                 |                         |
| ROCHESTER         |        |                      |         | Local                | 0.00 Special Additional |
|                   |        |                      |         | Additional           | 0.00 Transfer           |
| Tax Charge:       | 320.00 |                      |         |                      | 320.00                  |

***What The ???????***



- **Defendants able to sell because they remain title owners of the property**

**NOTWITHSTANDING**

**THE DECISIONS AND ORDERS issued  
by the  
Third Department & Court of Appeals  
AND**

**Notwithstanding**

**The Plaintiffs unopposed  
motion for entry of Judgement  
conveying the property to  
Mohonk Preserve.**

**Pending since August 2015**

**STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ULSTER**

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**MOHONK PRESERVE, INC.**

Plaintiff,

**against**

**Karen Pardini and Michael Fink,**

Defendants.

Index: 04-0525

**JUDGEMENT & ORDER**

**December 10<sup>th</sup> 2015**

**RE ESTABLISHING OCCUPATION**





**One remote boundary sign**

**Developing strategy to vacate the  
Douglas claim of title**

