

00-280-CD

JIM STELLABUTO'S EVERYTHING  
UNDER FOOT, INC.

vs

ALGIE LABRASCA

## THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801  
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA  
(CIVIL DIVISION)

✓ JIM STELLABUTO'S EVERYTHING  
UNDER FOOT, INC.,  
Plaintiff

vs.

✓  
ALGIE LABRASCA,  
Defendant

No. 00-280-00

Type of Pleading: Complaint

Filed on behalf of: Jim Stellabuto's  
Everything Under Foot

Counsel of Record for this party:  
DAVID J. HOPKINS, ESQUIRE  
Attorney at Law  
Supreme Court No. 42519

900 Beaver Drive  
DuBois, Pennsylvania 15801

(814) 375-0300

**FILED**

MAR 03 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA  
(CIVIL DIVISION)

JIM STELLABUTO'S EVERYTHING	:	
UNDER FOOT, INC.,	:	
Plaintiff	:	
	:	
vs.	:	No.
	:	
ALGIE LABRASCA,	:	
Defendant	:	

**NOTICE**

TO DEFENDANT:

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by Attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Office of the Court Administrator  
Clearfield County Courthouse  
One North Second Street  
Clearfield, PA 16830  
(814) 765-2641 (ext. 5982)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA  
(CIVIL DIVISION)

JIM STELLABUTO'S EVERYTHING	:	
UNDER FOOT, INC.,	:	
Plaintiff	:	
	:	
vs.	:	No.
	:	
ALGIE LABRASCA,	:	
Defendant	:	

**COMPLAINT**

**COUNT I**

AND NOW, comes Plaintiff, Jim Stellabuto's Everything Under Foot, Inc. by and through its attorney, David J. Hopkins, Esquire, and states as follows:

1. Jim Stellabuto's Everything Under Foot, Inc. is a Pennsylvania corporation maintaining a principle business address at 922 Beaver Drive, DuBois, Pennsylvania.

2. Defendant, Algie Labrasca, is an adult individual with a mailing address of 1178 Treasure Lake, DuBois, Pennsylvania 15824.

3. At all material times hereto, Plaintiff operated a floor covering business within Clearfield County.

4. In or about February 1998, Defendant Algie Labrasca, individually or through his agents, Victor Martinka and Liliya Martinka, traveled to Plaintiff's place of business, 922 Beaver Drive, DuBois, Clearfield County, Pennsylvania and ordered various carpet, padding, vinyl and other floor coverings from Plaintiff and expected Plaintiff to install said floor covering.

5. Plaintiff installed the floor covering in the home of Liliya Martinka and Victor Martinka in a timely fashion and has never received a complaint from Victor Martinka and Liliya Martinka or the Defendant regarding the floor covering.

6. The total cost of the floor covering totaled \$4,569.00.

7. There remains unpaid the sum of \$4,569.00 together with interest charges of 1.5% per month from March 9, 1998. A photocopy of Plaintiff's bill is attached hereto as Exhibit "A" and incorporated herein by reference.

8. Plaintiff has made demand upon Defendant for the aforesaid monies. However, Plaintiff has not been paid by Defendant.

9. As of February 10, 2000, the amount due and owing Plaintiff is \$5,808.98.

10. Plaintiff filed suit before the District Magistrate and is entitled to receive \$96.00 in Court costs.

WHEREFORE, Plaintiff demands judgment against Algie Labrasca in the amount of \$5,904.98 together with interest at the rate of 1.5% per month from February 10, 2000, statutory interest, cost of suit, and such other relief as the Court deems fair, just and equitable.

## **COUNT II**

11. Plaintiffs repeat the allegations set forth in Count I as if set forth at length herein.

12. Defendant Algie Labrasca benefited from the labor and material of Plaintiff and has been unjustly enriched in receiving floor covering for a house Defendant constructed for which Defendant has not paid Plaintiff.

13. Defendant received valuable materials in the nature of floor covering and installation services at a home which he sold to Defendants Victor Martinka and Liliya Martinka which on said sale price included said floor coverings.

14. Defendant accepted the floor covering and installation services and used them and enjoyed said floor covering and installation services and charged Defendant Victor Martinka and Liliya Martinka for a house with floor covering.

15. Plaintiff immediately notified Defendant that Plaintiff in providing the floor covering and in performing such services was expected to be paid by Defendant.

16. Under the theory of quantum merit, Plaintiff is entitled to a recovery against Defendant.

WHEREFORE, Plaintiff demands judgment against Algie Labrasca in the amount of \$5,904.98 together with interest at the rate of 1.5% per month from February 10, 2000, statutory interest, cost of suit and such other relief as the Court deems fair, just and equitable.

### **COUNT III**

17. Plaintiff repeats the allegations set forth in Count I and Count II as if set forth at length herein.

18. Defendant has each been unjustly enriched by retaining the floor covering and installation services supplied by Plaintiff which in justice and equity belong to Plaintiff. Defendant should not be permitted unjustly to enrich himself at the expense of Plaintiff but should be required to make restitution for floor covering and installation expenses received, retained and appropriated and inasmuch as such action involves no violation or frustration of law or opposition to public policy, either directly or indirectly.

19. Defendant has obtained a benefit by the Plaintiff in that floor covering was installed in a home constructed by Defendant and which he was paid for floor covering but Defendant has not paid Plaintiff.

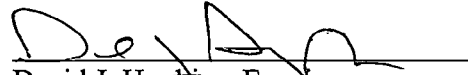
20. Defendant has knowledge of the benefit which Plaintiff has bestowed in that Defendant has sold a house to Victor Martinka and Liliya Martinka which has floor covering in it and for which he was paid.

23. Defendant has accepted and retained the floor covering and has refused to pay Plaintiff and therefore, under those circumstances, it is inequitable for Defendant to retain the benefit for the floor covering and installation services without the payment of its value to Plaintiff.



WHEREFORE, Plaintiff demands judgment against Defendant Algie Labrasca in the amount of \$5,904.98 together with interest at the rate of 1.5% per month from February 10, 2000, statutory interest, cost of suit and such other relief as the Court deems fair, just and equitable.

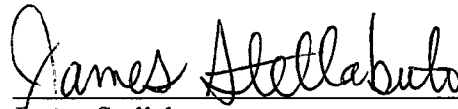
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'De J. Hopkins', is written over a horizontal line.

David J. Hopkins, Esquire  
Attorney for Plaintiff

**VERIFICATION**

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.

  
James Stellabuto

FILED

MAR 03 2000

William A. Shaw  
Prothonotary

cc atty Hopkin  
att Hopkin

PA. 80.00

~~PA. 80.00~~

DAVID J. HOPKINS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JIM STELLABUTO'S EVERYTHING

00-280-CD

VS

LABRASCA, ALGIE

COMPLAINT

SHERIFF RETURNS

NOW MARCH 13, 2000 AT 9:14 AM EST SERVED THE WITHIN COMPLAINT ON ALGIE LABRASCA, DEFENDANT AT RESIDENCE 1178 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO ALGIE LABRASCA A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: MCINTOSH/COUDRIET

28.21 SHFF. HAWKINS PAID BY: ATTY  
10.00 SURCHARGE PAID BY: ATTY

SWORN TO BEFORE ME THIS

16th DAY OF March 2000

William A. Shaw  
WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2002  
Clearfield Co., Clearfield, PA.

SO ANSWERS,

Chester A. Hawkins  
by Marilyn Harris  
CHESTER A. HAWKINS  
SHERIFF

FILED

MAR 6 2000  
01:30 pm  
William A. Shaw  
Prothonotary

ES

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THE HOPKINS LAW FIRM

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA  
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JIM STELLABUTO'S EVERYTHING  
UNDER FOOT, INC.,  
Plaintiff

vs.

ALGIE LABRASCA,  
Defendant

No. 2000-280-C.D.

Type of Pleading: Praeipue to Discontinue

Filed on behalf of: Jim Stellabuto's  
Everything Under Foot, Inc.

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE  
Attorney at Law  
Supreme Court No. 42519

900 Beaver Drive  
DuBois, Pennsylvania 15801

(814) 375-0300

**FILED**

JAN 23 2002

011155/1cc atty Hopkins

William A. Shaw  
Prothonotary

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA  
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JIM STELLABUTO'S EVERYTHING  
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Plaintiff

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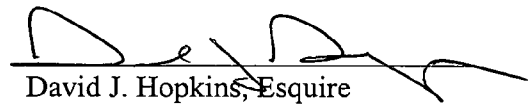
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No. 2000-280-C.D

**PRAECIPE TO DISCONTINUE**

TO THE PROTHONOTARY:

Kindly mark the above captioned civil action settled and discontinued.

  
David J. Hopkins, Esquire

**IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA**

**CIVIL DIVISION**

**Stellabuto's, Jim Everything Under Foot, Inc.**

**Vs.**

**No. 2000-00280-CD**

**Algie Labrasca**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on this 23rd day of January, 2002 marked:

Settled and Discontinued

Record costs in the sum of \$118.21 have been paid in full by David Hopkins, Esq..

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 23rd day of January A.D. 2002.

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William A. Shaw, Prothonotary