

00-453-CD
JO-ANN STORES, INC. -vs- FIRST PROPERTY ENTERPRISES, INC. et al

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

WJG
JO-ANN STORES, INC.
5555 Darrow Road
Hudson, Ohio 44236,

Petitioner,

v.

WJH
FIRST PROPERTY ENTERPRISES, INC.
649 North Lewis Road, Suite 120
Limerick, Pennsylvania 19468

and

WJG
CONSERVCO GENERAL
CONTRACTORS
805 South Second Street
Clearfield, Pennsylvania 16830,

Claimants.

CASE NO. 00-453-C0

JUDGE

**VERIFIED INTERPLEADER
PETITION**

COMES NOW Jo-Ann Stores, Inc. ("Jo-Ann Stores"), by and through its attorneys for its interpleader petition pursuant to Pa. R. Civ. P. 2302, alleges as follows:

1. Interpleader petitioner Jo-Ann Stores is a corporation organized and existing under the laws of the State of Ohio with its principal place of business in Hudson, Ohio.
2. Upon information and belief, claimant First Property Enterprises, Inc. ("First Property") is a corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Limerick, Pennsylvania.

FILED

*orig
clerk*
APR 17 2000

William A. Shaw
Prothonotary

FILED

Beet
APR 17 2000

m/ 11:50/m/
William A. Shaw
Prothonotary

PD
BY ATT.

1 CEM to ATT

CPA

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JO-ANN STORES, INC.)	CASE NO. 00-453-C0
5555 Darrow Road)	
Hudson, Ohio 44236,)	
)	JUDGE
Petitioner,)	
)	
v.)	
)	
FIRST PROPERTY ENTERPRISES, INC.)	
649 North Lewis Road, Suite 120)	
Limerick, Pennsylvania 19468)	
)	
and)	
)	
CONSERVCO GENERAL)	
CONTRACTORS)	VERIFIED INTERPLEADER
805 South Second Street)	PETITION
Clearfield, Pennsylvania 16830,)	
)	
Claimants.)	

COMES NOW Jo-Ann Stores, Inc. ("Jo-Ann Stores"), by and through its attorneys for its interpleader petition pursuant to Pa. R. Civ. P. 2302, alleges as follows:

1. Interpleader petitioner Jo-Ann Stores is a corporation organized and existing under the laws of the State of Ohio with its principal place of business in Hudson, Ohio.
2. Upon information and belief, claimant First Property Enterprises, Inc. ("First Property") is a corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Limerick, Pennsylvania.

FILED

APR 17 2000

William A. Shaw
Prothonotary

3. Upon information and belief, claimant Conservco General Contractors ("Conservco") is a corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Clearfield, Pennsylvania.

CAUSE OF ACTION IN INTERPLEADER

4. In December, 1998, First Property was hired by Jo-Ann Stores as a general contractor to perform various alterations to rental space ("Rental Space") in a shopping center in Altoona, Pennsylvania.

5. First Property entered into a subcontract with Conservco in December, 1998.

6. On June 24, 1999, after First Property failed to pay Conservco, Conservco filed a mechanic's lien claim against Jo-Ann Stores for labor and materials it allegedly furnished in connection with its work on the Rental Space.

7. Conservco also filed a civil action against Jo-Ann Stores in the Court of Common Pleas, Blair County, Pennsylvania, demanding judgment in the amount of \$90,105.00 plus interest and costs. The civil action, captioned Conservco General Contractors v. Jo-Ann Stores, Inc., was removed to federal district court (Case No. 99-189J), Western District of Pennsylvania, and has been stayed pending the conclusion of this action.

8. \$41,000.00 remains unpaid by Jo-Ann Stores to First Property.

9. By reason of the actual or potential claims of the interpleading claimants, Jo-Ann Stores is, or may be, exposed to multiple liability.

10. Jo-Ann Stores is ready, willing and able to pay the sum of \$41,000.00 in such amounts and to whichever interpleading party or parties as the Court shall designate.

11. Jo-Ann Stores has no interest in the \$41,000.00 and respectfully requests that this Court determine to whom said benefits should be paid.

12. Jo-Ann Stores respectfully requests to deposit into the Court \$41,000.00 (plus applicable interest, if any).

13. This interpleader action is filed in good faith to protect Jo-Ann Stores from double liability and is not filed in collusion with any party.

14. Jo-Ann Stores has not admitted the claim of, or subjected itself to independent liability to, any claimant in respect to the subject matter of the action.

WHEREFORE, Jo-Ann Stores demands judgment as follows: (i) an order pursuant to Pa. R. Civ. P. 2304 interpleading First Property, Conservco and any other interested party; (ii) an order under Pa. R. Civ. P. 2307(a) directing Jo-Ann Stores to pay into the Court, or to such person as the Court may direct, \$41,000.00; and (iii) an appropriate order under Pa. R. Civ. P. 2307(b) discharging Jo-Ann Stores from liability in respect of the money paid in accordance with such order and dismissing, with prejudice, this interpleader action as to Jo-Ann Stores.

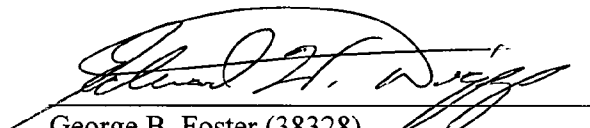
Respectfully submitted,

Of counsel:

Gabrielle S. Moses (OH 0067403)

THOMPSON HINE & FLORY LLP
3900 Key Center
127 Public Square
Cleveland, OH 44114-1216
(216) 566-5500

Attorney for Petitioner
Jo-Ann Stores, Inc.

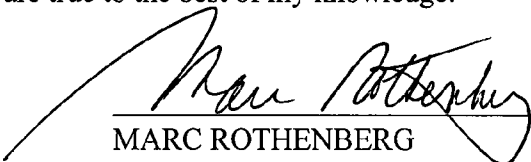

George B. Foster (38328)
Edward W. Diggs (66771)

KIRKPATRICK & LOCKHART LLP
1500 Oliver Building
Pittsburgh, PA 15222-2312
(412) 355-6500

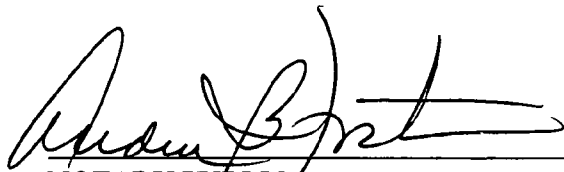
Attorneys for Petitioner
Jo-Ann Stores, Inc.

VERIFICATION

I, Marc Rothenberg, hereby verify the allegations contained in the foregoing Verified Interpleader Petitioner and advise that they are true to the best of my knowledge.


MARC ROTHENBERG

SWORN TO BEFORE ME and subscribed in my presence by MARC ROTHENBERG
on this 11 day of March, 2000.


ANDREA B. FOSTER, Notary Public
State of Ohio - Summit County
My Commission Expires 12/31/2002
NOTARY PUBLIC

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FILED

APR 19 2000

William A. Shaw
Prothonotary

JO-ANN STORES, INC.
5555 Darrow Road
Hudson, Ohio 44236,

Petitioner,

v.

FIRST PROPERTY ENTERPRISES, INC.
649 North Lewis Road, Suite 120
Limerick, Pennsylvania 19468

and

CONSERVCO GENERAL
CONTRACTORS
805 South Second Street
Clearfield, Pennsylvania 16830,

Claimants.

CASE NO. 00-453-CD

JUDGE

ORDER

Now, this 19th day of April, 2000, **IT IS HEREBY ORDERED** that the petition of Jo-Ann Stores, Inc. is granted and First Property Enterprises, Inc. and Conservco General Contractors are enjoined from commencing or further prosecuting any action in any court against Jo-Ann Stores, Inc. to enforce in whole in or in part any claim against it set forth in said petition, except as a party to the above-entitled action.

IT IS FURTHER ORDERED that the Sheriff in the County of Clearfield, shall direct the claimants, First Property Enterprises, Inc., 649 North Lewis Road, Suite 120, Limerick,

Pennsylvania 19468, and Conservco General Contractors, 805 South Second Street, Clearfield, Pennsylvania, to file in the above-entitled action in the office of the Clerk, Court of Common Pleas, Clearfield County, Pennsylvania a complaint within twenty (20) days after being served with copies of the petition for interpleader and this order and all pleadings heretofore filed in the above-entitled action if said service was made within your county, or within thirty (30) days of said service if said service was made within any other county of this Commonwealth.

By the Court

JUDGE

A handwritten signature in black ink, appearing to be 'C. J. [unclear]', is written over a horizontal line. The signature is stylized and cursive.

FILED

1 cc Atty

APR 19 2000

William A. Shaw
Prothonotary

[Handwritten signature]

FILED

APR 17 2000

m / 11:50 / m7
William A. Shaw
Prothonotary

PP
80-
BY NTR

1 cc Atty

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JO-ANN STORES, INC.
5555 Darrow Road
Hudson, Ohio 44236,
Petitioner,

v.

No. 00 - 453 - CD

FIRST PROPERTY ENTERPRISES, INC.
649 North Lewis Road, Suite 120
Limerick, Pennsylvania 19468,

and

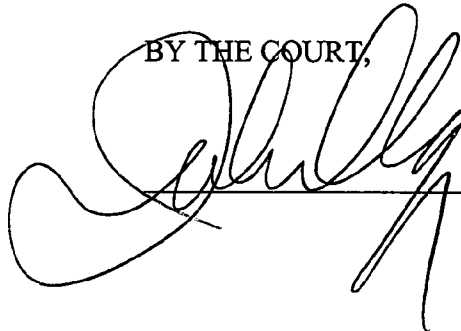
CONSERVCO GENERAL
CONTRACTORS
805 South Second Street
Clearfield, Pennsylvania 16830,
Claimants.

AMENDED ORDER

AND NOW this 15 day of May, 2000, the Order heretofore entered
on April 19, 2000, is hereby amended to provide as follows:

FURTHER ORDERED that Jo-Ann Stores, Inc. is hereby directed to pay \$41,000 into
the Prothonotary of Clearfield County, which shall be held by the Prothonotary until further
order of Court.

BY THE COURT,



FILED

MAY 15 2000

William A. Shaw
Prothonotary

FILED

MAY 15 2000

O/3115/145

William A. Shaw

Prothonotary

4 cents to Harry

Brian

\$ 41,000. -

DEP. IN Escrow Account
BY JOHN STONE



Vendor #: 0000213586

Vendor Name: PROTHONOTARY OF CLEARFIELD COU

Check Payment No: 00229266

Date: 05/05/2000

INVOICE	DESCRIPTION	DATE	GROSS AMT	DISC	NET AMOUNT	INVOICE	DESCRIPTION	DATE	GROSS AMT	DISC	NET AMOUNT
107304250	*RT AA	05/05/00	41000.00	0.00	41000.00						
JoAnn Stores, Inc. v. First Property Enterprises, Inc. Clearfield County, PA Court of Common Pleas Case #00-453-CD											
										Total Check Amount:	
										\$41,000.00	

JO-ANN
stores inc.

5555 Darrow Road • Hudson, Ohio 44236

REMOVE DOCUMENT ALONG THIS PERFORATION

Page 1 of 1

THIS DOCUMENT IS PRINTED IN TWO COLORS. DO NOT ACCEPT UNLESS BLUE AND BROWN ARE PRESENT.

JO-ANN stores inc. 5555 Darrow Road • Hudson, Ohio 44236	 KeyBank	NO. 00229266
DATE: 05/05/2000		AMOUNT: 41000.00
PAY: Forty-One Thousand and 0/100ths Dollars		
TO: PROTHONOTARY OF CLEARFIELD COUNTY P		
ORDER: C/O KIRKPATRICK & LOCKHART LLP		
OF: 535 SMITHFIELD ST HENRY W OLIVER BL		
PITTSBURGH PA 15222-2312		
US		
AUTHORIZED SIGNATURE: 		
TWO SIGNATURES REQUIRED OVER \$500,000		

⑈00229266⑈ ⑆041201703⑆ 11505⑈94647⑈

SEE REVERSE SIDE FOR OPENING INSTRUCTIONS

JO-ANN
stores inc.

5555 Darrow Road • Hudson, Ohio 44236

PAYMENT ENCLOSED

PROTHONOTARY OF CLEARFIELD COUNTY P
C/O KIRKPATRICK & LOCKHART LLP
535 SMITHFIELD ST HENRY W OLIVER BL
PITTSBURGH PA 15222-2312
US

00229266

430.00

BELIN & KUBISTA

ATTORNEYS AT LAW

15 NORTH FRONT STREET

P. O. BOX 1

CLEARFIELD, PENNSYLVANIA 16830

FILED

MAY 24 2000

010:41 / dec
William A. Shaw
Prothonotary

City Belin
Ed
Ked

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JO-ANN STORES, INC. :
5555 Darrow Road :
Hudson, Ohio 44236, :
Petitioner, :
v. : No. 00 - 453 - CD
FIRST PROPERTY ENTERPRISES, INC. :
649 North Lewis Road, Suite 120 :
Limerick, Pennsylvania 19468, :
and :
CONSERVCO GENERAL CONTRACTORS :
805 South Second Street :
Clearfield, Pennsylvania 16830 :
Claimants. :

NOTICE

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.

COURT ADMINISTRATOR
Clearfield County Courthouse
1 North Second Street
Clearfield, PA 16830
(814) 765-2641 Ex 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JO-ANN STORES, INC.	:	
5555 Darrow Road	:	
Hudson, Ohio 44236,	:	
Petitioner,	:	
	:	No. 00 - 453 - CD
v.	:	
	:	
FIRST PROPERTY ENTERPRISES, INC.	:	
649 North Lewis Road, Suite 120	:	
Limerick, Pennsylvania 19468,	:	
	:	
and	:	
	:	
CONSERVCO GENERAL CONTRACTORS	:	
805 South Second Street	:	
Clearfield, Pennsylvania 16830	:	
Claimants.	:	

COMPLAINT FILED IN ACCORDANCE WITH THE
ORDER OF COURT DATED MAY 15, 2000

AND NOW comes Claimant Conservco General Contractors, by
and through its attorneys, files the following statement of
claim:

1. Claimant Conservco General Contractors is a company
with its office and place of business at 805 South Second
Street, Clearfield, Pennsylvania 16830 ("Conservco") and was
interpleaded by Order of this Court dated April 19, 2000, upon
petition of Jo-Ann Stores, Inc.

2. Jo-Ann Stores, Inc. is a company which leases and
operates stores throughout the Commonwealth of Pennsylvania.

3. That Jo-Ann Stores, Inc. entered into a contract with First Property Enterprises, Inc., a company with an office and place of business at 649 North Lewis Road, Suite 120, Limerick, Pennsylvania 19468 ("First Property"), for the construction of a store in the Pleasant Valley Shopping Center in the Altoona area.

4. That First Property entered into a subcontract with Conservco to construct the store.

5. That Conservco had a balance of \$90,105.00 for the work done in connection with the construction.

6. That Conservco sued First Property in the Court of Common Pleas of Clearfield County, Pennsylvania at No. 99-1109-C.D. for the unpaid balance.

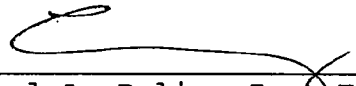
7. That First Property did not file an answer to said complaint and that Conservco entered a default judgment against First Property on November 9, 1999, a copy of said Statement of Judgment is hereto attached and marked Exhibit "A."

8. That the monies interpleaded by Jo-Ann Stores are the remaining proceeds due First Property for said construction and rightfully belong to Conservco to satisfy, in part, the judgment of Conservco against First Property.

WHEREFORE, Claimant, Conservco, respectfully requests that this Court enter an order pursuant to Pa.R.C.P. No. 2315

directing the payment to Claimant of the sum of \$41,000.00 which Jo-Ann Stores, Inc. disclaimed and paid into court pursuant to this Court's order dated April 19, 2000.

BELIN & KUBISTA

By 
Carl A. Belin, Jr. Esq.


COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

Before me the undersigned officer, personally appeared Joseph F. Kane, who deposes and says he is the President of Conservco General Contractors and as such President being authorized to do so, and being duly sworn according to law, depose and says that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.

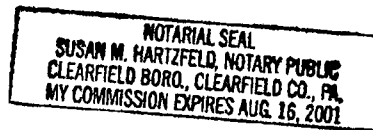


Joseph F. Kane

Sworn and subscribed before me this 23RD day of May, 2000.



Notary Public



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
STATEMENT OF JUDGMENT

BJR, INC., t/a CONSERVCO GENERAL
CONTRACTORS,

Plaintiff(s)

vs.

FIRST PROPERTY ENTERPRISES, INC.

Defendant(s)

Docket 279

No. 99-1109-CD

Real Debt \$90,105.00

Atty's Comm _____

Costs \$ _____

Int. From _____

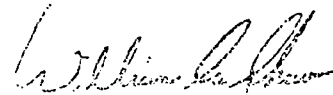
Entry \$9.50

Instrument DEFAULT JUDGMENT

Date of Entry November 9, 1999

Expires November 9, 2004

Certified from the record this 9th day of November, 19 99.



William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

Received on _____, 19 __, of defendant full
satisfaction of this Judgment, Debt, Interest and Costs and Prothonotary
is authorized to enter Satisfaction on the same.

Plaintiff/Attorney

CLEARFIELD, PENNSYLVANIA 16830

P. O. BOX 1

15 NORTH FRONT STREET

ATTORNEYS AT LAW

BELIN & KUBISTA

FILED

MAY 24 2000

6/3/00 WJS
William A. Shaw

Prothonotary

no c/c

EWS

JO-ANN STORES, INC.
5555 Darrow Road
Hudson, Ohio 44236,

v.

and

:
:
:
:
:
No. 00 - 453 - CD
:
:
CERTIFICATE OF SERVICE
:
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:
:
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:

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JO-ANN STORES, INC. :
5555 Darrow Road :
Hudson, Ohio 44236, :
Petitioner, :
v. : No. 00 - 453 - CD
FIRST PROPERTY ENTERPRISES, INC. :
649 North Lewis Road, Suite 120 :
Limerick, Pennsylvania 19468, :
and :
CONSERVCO GENERAL CONTRACTORS :
805 South Second Street :
Clearfield, Pennsylvania 16830 :
Claimants. :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a
certified copy of Claimant Conservco General Contractor's
Complaint Filed in Accordance With the Order of Court Dated May
15, 2000, in the above-captioned matter to the following
parties by postage prepaid United States first class mail on
the 24 day of May, 2000:

Edward W. Diggs, Esquire
Kirkpatrick & Lockhart LLP
1500 Oliver Building
Pittsburgh, PA 15222-2312

First Property Enterprises, Inc.
649 North Lewis Road, Suite 120
Limerick, PA 19468

BELIN & KUBISTA

By 

Carl A. Belin, Jr., Esq.
Attorney for Claimant
Conservco General
Contractors

EDWARD W. DIGGS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JO-ANN STORES, INC.

00-453-CD

VS

FIRST PROPERTY ENTERPRISES, INC

AMENDED ORDER, VERIFIED INTERPLEADER PETITION & ORDER
SHERIFF RETURNS

NOW MAY 18, 2000 AT 3:30 PM DST SERVED THE WITHIN AMENDED ORDER, VERIFIED INTERPLEADER PETITION & ORDER ON CONSERVCO GENERAL CONTRACTORS, DEFENDANT AT SHERIFF'S OFFICE, MARKET ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JOE KANE, OWNER A TRUE AND ATTESTED COPY OF THE ORIGINAL AMENDED ORDER, VERIFIED INTERPLEADER PETITION & ORDER AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: NEVLING

NOW MAY 16, 2000, JOHN DURANTE, SHERIFF OF MONTGOMERY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN AMENDED ORDER, VERIFIED INTERPLEADER PETITION & ORDER ON FIRST PROPERTY ENTERPRISES INC., DEFENDANT.

NOW MAY 23, 2000 SERVED THE WITHIN AMENDED ORDER, VERIFIED INTERPLEADER PETITION & ORDER ON FIRST PROPERTY ENTERPRISES, INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF MONTGOMERY COUNTY. THE RETURN OF SHERIFF DURANTE IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED ERZ DULL, P.I.C.

34.88 SHFF. HAWKINS PAID BY: ATTY.
33.00 SHFF. DURANTE PAID BY: ATTY.
20.00 SURCHARGE PAID BY: ATTY.

SWORN TO BEFORE ME THIS

1st DAY OF June 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 Maury Harris
CHESTER A. HAWKINS
SHERIFF

FILED

JUN 01 2000
09:43 am
William A. Shaw
Prothonotary

SHERIFF'S RETURN

PROTHONOTARY W- 2188

DEFENDANT: : First Property Enterprises

DOCUMENT SERVED: Civil

INDIVIDUAL SERVED: Erz Dull

RELATIONSHIP TO DEFENDANT: Person In Charge

DATE AND PREVAILING TIME: May 23, 2000 @ 8:25

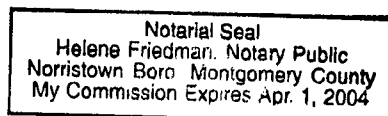
LOCATION 649 North Lewis Road, Suite 120, Limerick, PA

The above document was served on the defendant as per information listed above in the County of Montgomery, Commonwealth of Pennsylvania.

Affirmed and subscribed before me on this day so answers.

May 25, 2000
Notary Public

Helene Friedman



John P. Durnate
Sheriff of Montgomery County

Deputy Sheriff
Klass

Kevin R. Klass



Sheriff's Office Clearfield County

SUITE 116
1 NORTH SECOND STREET - COURTHOUSE
CLEARFIELD, PENNSYLVANIA 16830

CHESTER A. HAWKINS
SHERIFF

OFFICE (814) 765-2641
AFTER 4:00 P.M. (814) 765-1533
CLEARFIELD COUNTY FAX
(814) 765-6089

① 5/23

DARLENE SHULTZ
CHIEF DEPUTY

MARGARET PUTT
OFFICE MANAGER

MARILYN HAMM
DEPT. CLERK

PETER F. SMITH
SOLICITOR

DEPUTATION

00-453-CD
Amended Order, verified Inter-
pleader Petition & Order

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JO-ANN STORES, INC.

VS

FIRST PROPERTY ENTERPRISES INC.

W-2188
CLEARFIELD COUNTY
MONTGOMERY COUNTY DEPT
00 MAY 18 PM 1:05

PERSON SERVED Eric Dull

RELATION / POSITION P.I.C.

PLACE OF SERVICE KS Gym

TIME OF SERVICE 9:15

DATE OF SERVICE 5-23-00

NUMBER OF ATTEMPTS 1

SERVE: FIRST PROPERTY ENTERPRISES, INC.

DEPUTY K. Kline

DEPUTY _____

ADDRESS: 649 North Lewis Road, Suite 120
Limerick, Pa. 19468

LAST DAY OF SERVICE 6-15-00

Know all men by these presents, that I, CHESTER A. HAWKINS,
HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby
deputize the SHERIFF of MONTGOMERY County to execute this writ.

This deputation being made at the request and risk of the plaintiff
this 16th day of MAY 2000.

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

MAKE REFUND PAYABLE TO:

KIRKPATRICK & LOCKHART, Attorneys

W2188

FORM MCSD 101

CUSTOMER'S COPY



SHERIFF'S OFFICE COUNTY of MONTGOMERY

296216

COURT HOUSE

AIRY AND SWEDE STREETS
NORRISTOWN, PENNSYLVANIA 19404
TELEPHONE (610) 278-3331

Plaintiff

Defendant

Filed By

Date

☐ INVOICE for charges
☐ RECEIPT for payment

Docket No.

Type of Transaction

AMOUNT

Docketing and Service

Additional Defendant

Surcharge

Writ of Execution

Garnishment

Interrogatory

Affidavit-Notary

Pistol Permit No.

Property Claim

Poundage

Notarial Certificate

Sheriff's Acknowledgment

Prothonotary Acknowledgment

Mileage

Additional Mileage

Check No.

Docket

80205

FIVE THOUSAND FORMS

FILED

JUL 07 2000

09:20 am 13cc

William A. Shaw

Prothonotary

Atty Belin

ES

BELIN & KUBISTA

ATTORNEYS AT LAW

15 NORTH FRONT STREET

P O BOX 1

CLEARFIELD, PENNSYLVANIA 16830

2

JUL 07 2000
09:20am
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JO-ANN STORES, INC.
5555 Darrow Road
Hudson, Ohio 44236,

Petitioner,

v.

FIRST PROPERTY ENTERPRISES, INC.
649 North Lewis Road, Suite 120
Limerick, Pennsylvania 19468,

and

CONSERVCO GENERAL CONTRACTORS
805 South Second Street
Clearfield, Pennsylvania 16830
Claimants.

No. 00 - 453 - CD

FILED

JUL 07 2000

William A. Shaw
Prothonotary

ORDER

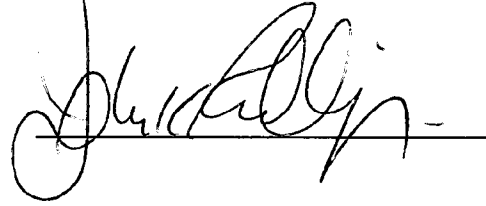
AND NOW this 6 day of July, 2000, upon reading and considering the foregoing motion for judgment and order directing payment of proceeds, it is the ORDER of this court that a rule be issued upon Jo-Ann Stores, Inc. and First Property Enterprises, Inc. to show cause why judgment should not be entered in favor of Conservco General Contractors and further that the Prothonotary be directed to pay the proceeds to Conservco General Contractors.

RULE returnable for written response the 31st day of

July, 2000, and if necessary, hearing be held on

August 2, 2000, at 1:30 o'clock P M. in courtroom
no. 1 of the Clearfield County Courthouse, Clearfield,
Pennsylvania.

BY THE COURT,

A handwritten signature in black ink, appearing to be "John Allen", is written over a horizontal line. The signature is stylized with a large initial "J" and a long, sweeping tail.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JO-ANN STORES, INC. :
5555 Darrow Road :
Hudson, Ohio 44236, :
Petitioner, :
v. : No. 00 - 453 - CD
FIRST PROPERTY ENTERPRISES, INC. :
649 North Lewis Road, Suite 120 :
Limerick, Pennsylvania 19468, :
and :
CONSERVCO GENERAL CONTRACTORS :
805 South Second Street :
Clearfield, Pennsylvania 16830 :
Claimants. :

MOTION FOR JUDGMENT AND ORDER TO
DIRECT PAYMENT OF PROCEEDS

AND NOW comes Claimant Conservco General Contractors, by and through its attorneys, and files the following motion for judgment and order to direct payment of proceeds and in support thereof avers as follows:

1. That Jo-Ann Stores, Inc. ("Jo-Ann") filed an interpleader petition to the above-captioned action on April 19, 2000.

2. That pursuant to the petition the court entered an order on April 19, 2000 that First Property Enterprises, Inc. ("First Property") and Conservco General Contractors ("Conservco") were enjoined from commencing or further

prosecuting any action in any court against Jo-Ann to enforce in whole or in part any claim against Jo-Ann and further, that the Claimants were directed to file a complaint within twenty (20) days after being served in Clearfield County area or within thirty (30) days if served in any other county.

3. That an amended order dated May 15, 2000, directed Jo-Ann to pay \$41,000 to the Prothonotary of Clearfield County which would be held until further order of Court.

4. That Conservco was served with a certified copy of the Petition, Order and Amended Order, on May 18, 2000, by the Sheriff of Clearfield County, and filed a complaint in accordance with the order of court on May 24, 2000.

5. That First Property was served with a certified copy of the Petition, Order and Amended Order, by the Sheriff of Montgomery County on May 23, 2000; First Property has not filed a complaint nor has it entered an appearance in the case.

6. That Conservco served the complaint on Jo-Ann by postage prepaid United States first class mail on May 24, 2000, and Jo-Ann has not filed an answer.

7. That Conservco served the complaint on First Property by postage prepaid United States first class mail on May 24, 2000, and First Property has not filed an answer.

8. That on June 15, 2000 Conservco served Jo-Ann with a notice of default in failing to answer the complaint.

9. That Jo-Ann has not taken any further action in this case.

10. That on June 15, 2000 Conservco served First Property with a notice of default in failing to answer the complaint.

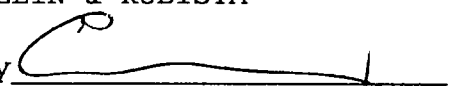
11. That First Property has not taken any further action in this case.

12. That judgment in this case should be entered in favor of Conservco and against First Property and Jo-Ann.

13. That the court should enter an order directing that the \$41,000 be paid to Conservco as the only claimant entitled to said proceeds.

WHEREFORE, Claimant, Conservco, respectfully requests that Your Honorable Court issue an order upon Jo-Ann and First Property to show cause why judgment should not be entered in favor of Conservco and against First Property and Jo-Ann and further, that the order direct payment of the \$41,000.00 presently being held by the Prothonotary of Clearfield County be paid to Conservco.

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esq.

BELIN & KUBISTA

ATTORNEYS AT LAW

15 NORTH FRONT STREET

P. O. BOX 1

CLEARFIELD, PENNSYLVANIA 16830

FILED

JUL 07 2000

013.30 PM

William A. Shaw

Prothonotary

WAS
WAS

JUL 07 2000
013.30 pm
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JO-ANN STORES, INC. :
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and :
CONSERVCO GENERAL CONTRACTORS :
805 South Second Street :
Clearfield, Pennsylvania 16830 :
Claimants. :


CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a certified copy of Claimant Conservco General Contractor's Motion for Judgment and Order to Direct Payment of Proceeds in the above-captioned matter to the following parties by postage prepaid United States first class mail on the 7th day of July, 2000:

Edward W. Diggs, Esquire
Kirkpatrick & Lockhart LLP
1500 Oliver Building
Pittsburgh, PA 15222-2312

First Property Enterprises, Inc.
649 North Lewis Road, Suite 120
Limerick, PA 19468

BELIN & KUBISTA

By 

Carl A. Belin, Jr., Esq.
Attorney for Claimant
Conservco General
Contractors

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

113
JO-ANN STORES, INC.
5555 Darrow Road
Hudson, Ohio 44236,

Petitioner,

v.

114
FIRST PROPERTY ENTERPRISES, INC.
649 North Lewis Road, Suite 120
Limerick, Pennsylvania 19468,

and

113
CONSERVCO GENERAL CONTRACTORS
805 South Second Street
Clearfield, Pennsylvania 16830
Claimants.

No. 00 - 453 - CD

FILED

AUG 03 2000

William A. Shaw
Prothonotary

ORDER

AND now, this 3rd day of August, 2000, this being the date set for hearing in the above-captioned matter, and the Court having been advised that no written response has been filed to the Motion for Judgment and Order to Direct Payment of Proceeds by either Jo-Ann Stores, Inc. or First Property Enterprises, Inc., it is the ORDER of Court that judgment be and is hereby entered for Conservco General Contractors and against Jo-Ann Stores, Inc. and First Property Enterprises, Inc. It is the FURTHER ORDER of Court that the Prothonotary is hereby directed to pay to Carl A. Belin, Jr., as attorney for Conservco General

Contractors, the sum of \$41,000.00 together with any accrued interest on said funds and upon payment of said amount the Prothonotary shall mark the judgment satisfied and the docket closed.

BY THE COURT,

A handwritten signature in cursive script, reading "Judson J. Cunningham", written over a horizontal line.

FILED

AUG 03 2000

O/g/10/4cc atty
William A. Shaw
Prothonotary
Belin

Escrow CK# 1121

241,435.75 issued to Penny Bevin

OK 10

CLEARFIELD COUNTY PROTHONOTARY 7-83

1121

ESCROW ACCOUNT
P.O. BOX 549
CLEARFIELD, PA 16830

August 3, ~~XX~~ 2000

60-629/313

PAY TO THE ORDER OF Carl A. Belin, Jr., Esq.

\$ 41,435.75

Forty-one Thousand Four Hundred Thirty-five and 75/100-----DOLLARS



Main Office
11 North 2nd Street
Clearfield, PA 16830

IMMA

FOR 00-453-CD Per Court Order 8-3-00

[Signature]

⑆031306294⑆ 1 2 26577 2⑈ 1121

CLEARFIELD COUNTY PROTHONOTARY 7-83

WILLIAM A. SHAW
ESCROW ACCOUNT
P.O. BOX 549
CLEARFIELD, PA 16830

60-629/313

DEPOSIT TICKET

DATE Aug. 3 2000
DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

CURRENCY	11	
COIN		
TOTAL CHECKS	41,435	75
TOTAL	41,435	75

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement.



Main Office
11 North 2nd Street
Clearfield, PA 16830

IMMA

00-453-CD

⑆031306294⑆ 1 2 26577 2⑈ 41



Main Office
11 North 2nd Street
Clearfield, PA 16830

124008

60-629/313

PAY TO THE ORDER OF Clearfield County Prothonotary, William A. Shaw
Escrow Agent

DATE 08/03/2000

\$ 41,435.75

PAY TO THE ORDER OF

DOLLARS

Close VR CD

TREASURER'S CHECK

[Signature: Dennis Eckberg]

PRES. TREAS.

⑆031306294⑆ 1 9 00002 7⑈ 4008

Clearfield Bank & Trust Co
11 N Second St PO Box 171
Clearfield Pa 16830

2000-453-CD

16830054949
CLEARFIELD COUNTY PROTHONOTARY
WILLIAM A SHAW ESCROW AGENT
CASE #00-453-CD
PO BOX 549
CLEARFIELD PA 16830-0549

Time Deposit Statement
From July to September, 2000

Account number	81150887	Transactions Totals	
Tax I.D. No.	25-6001024	-----	
Interest Rate	4.7600%	Deposits	.00
Interest Rate Date	7/25/00	Withdrawals	41,435.75
Purchase Date	5/16/00	Interest	185.50
Renewal Date		Withholding	.00
Maturity Date	None	Forfeitures	.00
Certificate Term	Open		
Type of Account	VARIABLE RATE CD		
Days in Statement Period	31		
Interest Earned	168.68		
Annual Percentage Yield Earned	4.92%		

Date	Additions	Subtractions	Interest	Balance
Balance Last Statement				41,250.25
7/05/00		Rate Change	4.8600%	41,250.25
7/11/00		Rate Change	4.8100%	41,250.25
7/25/00		Rate Change	4.7600%	41,250.25
8/03/00		41,435.75		185.50-
8/03/00			185.50	.00

CLEARFIELD COUNTY PROTHONOTARY 7-83

1121

ESCROW ACCOUNT
P.O. BOX 549
CLEARFIELD, PA 16830

August 3, ~~XX~~ 2000

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Clearfield, PA 16830

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FOR 00-453-CD Per Court Order 8-3-00

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CLEARFIELD COUNTY PROTHONOTARY 7-83

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ESCROW ACCOUNT
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60-629/313

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60-629/313

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Escrow Agent

\$ 41,435.75

PAY 41,435.75

DOLLARS

Close VR CD

TREASURER'S CHECK

PRES. TREAS.

Donnie Eckberg

⑆031306294⑆ 1 9 00002 7⑈ 4008