

00-1077-CD
John Bordas vs Paul Somsky

00

100-1077-CD
JOHN BORDAS SR. et ux -vs- PAUL SOMSKY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

61

JOHN BORDAS, SR. AND SANDRA BORDAS,
his wife,

84

Plaintiffs

* 00-1077-CO

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TYPE OF CASE:
Civil Division - Law

TYPE OF PLEADING:
Complaint

COUNSEL OF RECORD
FOR THIS PARTY:

David R. Thompson, Esquire
Attorney at Law
Supreme Court I.D. 73053
308 Walton Street, Suite 4
P.O. Box 587
Philipsburg PA 16866
(814) 342-4100

FILED

AUG 31 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

JOHN BORDAS, SR. AND SANDRA
BORDAS, his wife,

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* 00-
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Plaintiff

*

vs.

*

PAUL SOMSKY,

*

Defendant

*

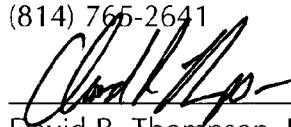
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NOTICE

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 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
Clearfield PA 16830
(814) 765-2641



David R. Thompson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

JOHN BORDAS, SR. AND SANDRA BORDAS, his wife	*
	*
	*
	00-
Plaintiffs	*
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	*
vs.	*
	*
	*
PAUL SOMSKY,	*
	*
	*
Defendant	*
	*

COMPLAINT

AND NOW, comes the Plaintiffs, JOHN BORDAS, SR. AND SANDRA BORDAS, by and through their attorney, David R. Thompson, Esquire, and files the following Complaint of which the following is averred:

1. Plaintiffs are John Bordas, Sr. and Sandra Bordas, his wife, currently residing at 301 Logan Street, P.O. Box 31, Philipsburg, Pennsylvania, 16866.
2. Defendant Paul Somsky, is an individual, currently residing at RD 1, Philipsburg, Clearfield County, Pennsylvania, 16866.
3. Defendant is the owner of real property located in Decatur Township, Clearfield County, Pennsylvania, more particularly described in Clearfield County Deed Book Volume 1758 at Page 509. (A true and correct copy of said deed is attached hereto and made a part hereof as Exhibit "A").
4. In or about May of 1996, Plaintiff John P. Bordas, Sr., and Defendant entered into an oral agreement of sale for Plaintiffs to purchase four (4) acres of ground from Defendant for

a purchase price of Twelve Thousand (\$12,000.00) Dollars.

5. Plaintiffs were purchasing the property with the intent to make improvements in order to construct a garage for the purpose of operating his trucking business.

6. At the time of entering into said Agreement of Sale, Plaintiffs paid Defendant a deposit for the purchase of the real property in checks totaling Two Thousand (\$2,000.00) Dollars. By way of further pleading, Defendant accepted from Plaintiffs and took possession of an engine worth Five Hundred (\$500.00) Dollars, and accepted this as part of the down payment. Therefore, a total down payment was made on the purchase price of Two Thousand Five Hundred (\$2,500.00) Dollars.

7. At the time said Oral Agreement was made, said real property was a piece of swampy ground that had little to no value.

8. At the time of entering into said Agreement, Plaintiff and Defendant agreed that Plaintiff could take possession and begin improving the property for Plaintiff's intended use of the property.

9. From May of 1996 to the present, with the permission of the Defendant, Plaintiffs have made improvements to the property and has incurred expenses in the amount of Thirteen Thousand Two Hundred (\$13,200.00) Dollars. (A true and correct copy of the receipts are attached hereto and made a part hereof Exhibit "B").

10. Upon completion of the said improvements, as agreed, Plaintiffs tendered payment to the Defendant of the balance owed, to wit: Ten Thousand (\$10,000.00) Dollars in the form of a check. By way of further pleading, however, the same was denied by the Defendant. It is further averred that Plaintiffs owed Defendant a balance of Nine Thousand Five Hundred (\$9,500.00) Dollars, and offered Defendant an additional \$500.00 at the

presentation of this check.

11. Defendant indicated that he had an appraisal performed on the property and that the fair market value of the property was Seventeen Thousand (\$17,000.00) Dollars. By way of further pleading, the appraisal was completed after Plaintiffs have made and paid for all the improvements to the real property.

12. Defendant then requested Plaintiffs to pay the sum of Twenty Thousand (\$20,000.00) Dollars for the property which did not include the down money previously paid.

COUNT I

BREACH OF ORAL CONTRACT

Paragraphs 1 through 12 are incorporated by reference as though the same were set forth at length herein.

13. Plaintiffs paid Defendant the sum of \$2,500.00 as down payment for the real property at issue herein.

14. Upon reliance of the Defendant's representation, the Plaintiffs made improvements to the real property based on the oral agreement of sale between the parties.

15. Plaintiffs in complying with said oral agreement with Defendant attempted to pay him the balance of \$9,500.00, plus an additional \$500.00 for a total of 10,000.00, however, the same was denied by Defendant.

16. The Defendant has failed to perform his end of the agreement, pursuant to his representation, and has raised the purchase price, in breach of the oral contract.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to enter judgment in their favor and against Defendant and award damages in the amount of \$15,700.00, plus

costs of suit and attorney's fees.

COUNT II

SPECIFIC PERFORMANCE

Paragraphs 1 through 16 are incorporated by reference as though the same were set forth at length herein.

17. The parties entered into an oral agreement of sale for the purchase of four (4) acres of real property located in Decatur Township, Clearfield County for the sum of \$12,000.00.

18. Plaintiffs paid a deposit of \$2,500.00 toward the said purchase of real property.

19. Further, Plaintiffs improved the real property pursuant to the agreement and tendered payment for the balance of \$9,500.00 owed for the purchase, plus an additional \$500.00.

20. Defendant has failed to consummate the transaction by performing any necessary tasks of presenting a valid deed conveying ownership of the real property to the Plaintiffs in breach of the contract.

21. Plaintiffs aver that they have partially and/or substantially performed their part of the oral agreement taking the matter out of the Statute of Frauds.

22. Now that Plaintiffs have improved the fair market value of the real property by virtue of their labor and expenses, Defendant has refused to sell the real property in accordance with the terms of the agreement.

23. Plaintiffs believe and therefore aver that specific performance of the agreement is warranted due to the fact that this parcel of real property already improved is a unique item, and that he cannot be compensated properly otherwise.

WHEREFORE, Plaintiffs respectfully requests this Honorable Court to enter judgment

in their favor and enter a Decree ordering Defendant to convey fee simple title to the four acre parcel of real property to the Plaintiffs in accordance with the Agreement.

COUNT III

UNJUST ENRICHMENT

Paragraphs 1 through 23 are incorporated by reference as though the same were set forth at length herein.

24. In May of 1996, Defendant entered into an oral agreement with Plaintiff John Bordas, Sr., whereby the Decatur Township property referred to in Paragraph 3 hereof and incorporated herein by reference was to be sold to the Plaintiffs for \$12,000.00.

25. In reliance upon the oral promise made by Defendant, Plaintiff, John P. Bordas, Sr., orally indicated to Defendant that he intended to make improvements to the property, for his own benefit.

26. Incident to his oral agreement with Defendant, Plaintiff John P. Bordas, Sr., excavated, back-filled and improved the real property.

27. In addition to providing all of the labor, Plaintiff, John P. Bordas, Sr., also leased a cat loader and purchased all the fuel for it, as well as his utilizing his own equipment.

28. The total time, equipment rental and fuel supplied by Plaintiff in respect to the Decatur Township property was as follows:

a. Labor 6/18/96 through 1998	\$ 3,500.00
b. Cat Loader Rental (14 months @ \$600/month)	\$ 8,400.00
c. Fuel	\$ 1,300.00

29. The total amount expended by Plaintiffs for the benefit of Defendant was

\$13,200.00.

30. As a direct result of Plaintiff John P. Bordas, Sr.'s, efforts, Defendant was able to obtain a fair market appraisal in the amount of \$17,000.00, on the real property.

31. In further reliance upon the promise made by Defendant to Plaintiffs, Plaintiffs had commenced making improvements on the real property on the assumption that a final settlement would be made as agreed between the parties.

32. From the date of the oral agreement through the presentment of the \$10,000.00 check by Plaintiff to Defendant to finalize the agreement, the Defendant never mentioned that he intended to raise the purchase price of the real property, or indicate to Plaintiffs that he should cease making said improvements until the transaction was completed.

33. In June of 2000, Plaintiff, John P. Bordas, Sr., was prepared to move forward with final settlement, at which time he was informed by Defendant that he had changed his mind and was no longer willing to sell the property for the \$12,000.00 price as agreed upon, but demanded that the sum of \$20,000.00 to be paid.

34. By breaching his agreement, Defendant is indebted to Plaintiff, John P. Bordas, Sr., for the labor, materials and other expenses incurred by Plaintiff, John P. Bordas, Sr., for the improvements made to the Decatur Township property, totaling \$13,200.00.

35. By breaching his agreement, it is now necessary for Plaintiffs to search and purchase, and possibly improve another parcel of real property for the parking and storage of his trucks and other equipment, and for the construction of a garage.

36. Throughout the duration of this Agreement and at the present time, Plaintiff continues to possess and use this real property for the storage of trucks and equipment pursuant to the Agreement.

37. Plaintiff relied upon Defendant's promise to sell him the real property in making improvements to the property and in paying the down deposit of \$2,500.00.

38. Plaintiffs expected to be compensated for their efforts by ultimately owning in fee simple title the parcel of real property. At no time were the Plaintiffs performing a gratuitous act for the benefit of the Defendant.

39. Defendant has been unjustly enriched by the value of the services and amount of work performed by the Plaintiffs in improving the real property, and by the deposit paid to Defendant.

WHEREFORE, Plaintiffs respectfully requests this Honorable Court to enter judgment in his favor and against the Defendant in the amount of \$15,700.00, plus costs and suit and attorneys fees.

Respectfully submitted,



David R. Thompson, Esquire
Attorney for Plaintiffs

VERIFICATION

Plaintiff hereby verifies that the statements made in this **COMPLAINT** are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

DATE: 8-24-00

x John P. Bordas
John Bordas, Sr.

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THIS DEED,

MADE the 11 day of May
in the year nineteen hundred and Ninety-six (1996)

between PAUL D. SOMSKY and TAMATHA SOMSKY, husband and wife,

GRANTORS

- A N D -

PAUL D. SOMSKY, individually

GRANTEE

Witnesseth, that in consideration of ONE and 00/100 ----- (\$1.00) ----- dollars, in hand paid, the receipt whereof is hereby acknowledged, the said grantor does hereby grant and convey to the said grantee,

ALL those two certain pieces or parcels of land located and situate in Decatur Township, Clearfield County, Pennsylvania, bounded and described as follows:

THE FIRST THEREOF:

BEGINNING at a 1" iron pin along the Northeastern edge of Legislative Route 17058 leading from Gearhartville to Legislative Route 17057 and at the line of Steele Copelin and Millie Copelin; thence North sixty-nine degrees forty-two minutes East (N 69° 42' E) along said Copelin crossing Legislative Route 17106 two thousand seven hundred three and four tenths (2703.4) feet to an 1" iron pin; thence North sixty-seven degrees twelve minutes East (N 67° 12' E) still along Copelin one hundred forty and twenty-five hundredths (140.25) feet to a 1" iron pin; thence South twenty-two degrees forty-eight minutes East (S 22° 48' E) still by Copelin following in part an old barb wire fence one thousand six and five tenths (1006.5) feet to a 1" iron pin at the line of land formerly of J.W. Abbott; thence South twenty-two degrees forty-eight minutes East (S 22° 48' E) along said J.W. Abbott and still following an old barb wire fence four hundred eight (408.00) feet to a mature cherry tree; thence North sixty-seven degrees fifty minutes East (N 67° 50' E) still along Abbott two hundred fifty-one and four tenths (251.4) feet to an 1" iron pin at the line of land of Harry Vaux; thence South thirty-nine degrees nineteen minutes West (S 39° 19' W) along Vaux eight-two and eight tenths (82.8) feet to a 1" iron pin at the line of land of Paul Yoder; thence South twelve degrees twenty-minutes West (S 12° 20' W) along Yoder four hundred ninety-five and seven tenths (495.7) feet to a 1" iron pin; thence South fifty-two degrees twelve minutes East (S 52° 12' E) still by Yoder one hundred ten and one tenth (110.1) feet to a 1" iron pin at the Western edge of Township Road T-667; thence South thirty-seven degrees forty-six minutes West (S 37° 46' W) along said Township Road T-667 one hundred eighty-two and three tenths (182.3) feet to a 1" iron pin.

EXHIBIT

A

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at the line of land of John Paul Adams; thence North fifty-six degrees zero minutes West (N 56° 00' W) along Adams one hundred thirty-five and five tenths (135.5) feet to a 1" iron pin; thence South thirty-two degrees forty-five minutes West (S 32° 45' W) still by Adams one hundred forty-three and four tenths (143.4) feet to a 1" iron pin at the line of land Cecile Askey; thence North seventy-two degrees forty-nine minutes West (N 72° 49' W) along Askey one hundred ninety-nine (199.0) feet to a 1" iron pin; thence North seventy-five degrees forty-one minutes West (N 75° 41' W) still along Askey two hundred seventy-eight (278.0) feet to a 1" iron pin; thence South twenty-nine degrees forty-nine minutes West (S 29° 49' W) still along Askey one hundred seventy-one (171.0) feet to a 1" iron pin at the Northeastern edge of Legislative Route 17058; thence North seventy-seven degrees fifteen minutes West (N 77° 15' W) along Legislative Route 17058 one hundred ninety eight and eight tenths (198.8) feet to a 1" iron pin at the line of land of Robert C. Crain; thence North thirteen degrees twenty-nine minutes East (N 13° 29' E) along line of land of said Crain and line of land of Clair A. Godissart five hundred sixty-four and seven tenths (564.7) feet to a 1" iron pin; thence North seventy-six degrees thirty-one minutes West (N 76° 31' W) along Godissart four hundred seventy-eight and five tenths (478.5) tenths feet to a 1" iron pin at the line of land of Sue Somsky and Annie Somsky; thence still North seventy-six degrees thirty-one minutes West (N 76° 31' W) along said Somsky two hundred sixty four (264.0) feet to a 1" iron pin; thence South thirteen degrees twenty-nine minutes West (S 13° 29' W) still along Somsky two hundred thirty-four and seven tenths (234.7) feet to a 1/2" iron pin; thence still South thirteen degrees twenty-nine minutes West (S 13° 29' W) along Somsky three hundred thirty (330.0) feet to a 1" iron pin at the Northeastern edge of Legislative Route 17058; thence along Legislative Route 17058 the following courses and distances: North seventy-one degrees twenty-six minutes West (N 71° 26' W) three hundred twenty-two and six tenths (372.6) feet; North seventy degrees and two tenths (378.2) feet; North sixty-five degrees fifteen minutes West (N 65° 15' W) three hundred sixty five and eight tenths (365.8) feet; North sixty degrees fourteen minutes West (N 60° 14' W) four hundred ninety four and three tenths (494.3) feet; North fifty three degrees forty two minutes West (N 53° 42' W) three hundred six (306.0) feet to a 1" iron pin at the line of land of Steele Copelin and Millie Copelin and place of beginning. Containing 79.67 acres.

THE SECOND THEREOF:

BEGINNING at a 1" iron pin along the Northeastern edge of Legislative Route 17058 leading from Gearhartville to Legislative Route 17057 and at the Western line of land of James H. Hutton; thence North seventy six degrees thirty-one minutes West (N 76° 31' W) along Legislative Route 17058 two hundred sixty four (264.0) feet to a 1" iron pin at the line of land of Ann Wills, Sue Ave., and Paul Somsky; thence North thirteen degrees twenty nine minutes East (N 13° 29' E) along land of Wills, Ave., and Somsky five hundred sixty four and seven tenths (564.7) feet to a 1" iron pin; thence South seventy-six degrees thirty-one minutes East (S 76° 31' E) still along Wills, Ave., and Somsky two hundred sixty-four (264.0) feet to a 1" iron pin at the line of land of Clair A. Godissart and Eleanor M. Godissart; thence South thirteen

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degrees twenty-nine minutes West (S 13° 29' W) along land of said Godissart and land of James H. Hutton five hundred sixty-four and seven tenths (564.7) feet to a 1" iron pin at the Northeastern edge of Legislative Route 17058 and the place of beginning. CONTAINING 3.422 acres.

BEING the same premises vested in Grantors herein by deed of Janet A. Somsky dated April 6, 1993, of record in the Clearfield County Recorder's Office in Deeds & Records Book 1523, page 27.

EXCEPTING AND RESERVING THEREOUT AND THEREFROM THE FOLLOWING TWO PARCELS:

PARCEL NO. 1: VINCE & JODIE COOLEY:

ALL that certain piece or parcel of land situated in the Township of Decatur, Clearfield County, and State of Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin located on the Northeastern side of State Route #2016, said point is on line of, now or formerly, William Pryde; thence along line of same, North sixty-nine degrees, forty-two minutes East (N 69° 42' E) eight hundred sixty feet (860.0) to an iron pin; thence along other lands of Grantors, South five degrees, twenty-three minutes, ten seconds West (S 5° 23' 10" W) seven hundred fifty-five and nine tenths feet (755.9) to an iron pin located on the Northeast side of State Route #2016; thence along said Road the following courses and distances: North sixty-five degrees, fifteen minutes West (N 65° 15' W) sixty-six feet (66.0) to an iron pin; thence North sixty degrees, fourteen minutes West (N 60° 14' W) four hundred ninety-four and three-tenths feet (494.3) to an iron pin; thence North fifty-three degrees, forty-two minutes West (N 53° 42' W) three hundred six feet (306.0) to an iron pin and place of beginning.

The property shown on survey map of Nicholas Shirokey, R.S., dated April 2, 1995.

BEING a part of the property conveyed to Paul D. and Tamatha Somsky, by deed dated April 6, 1993 and recorded in Clearfield County Deeds and Records Book 1527, page 27.

PARCEL NO. 2: JOHN T. AND SUZANNE JONES:

ALL that certain piece or parcel of land located and situate in Decatur Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin on the northerly right of way line of State Route No. S.R. 2016, and marking the southeast corner of lands of Vince and Jodie Cooley (D.B. 1678, page 78, Tax Parcel No. 112-P12-369); thence along said lands of Cooley N 05° 23' 10" E a distance of 479.14 feet to an iron pin on line of Cooley and marking a corner of lands of Paul D. and Tamatha Somsky (D.B. 1523, pg. 27, Tax Parcel No. 112-P12-0049); thence through lands of Somsky S 73° 34' 43" E a distance of 657.87 feet to an iron pin; thence through lands of Somsky S 12° 31' 35" W a distance of 532.09 feet to an iron pin on the northerly right of way line of said State Road No. S.R. 2016; thence along said right of way

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line N 70° 22' 00" W a distance of 306.14 feet to an iron pin on said right of way line; thence along said right of way line N 65° 15' 00" W a distance of 299.80 feet to an iron pin marking the place of beginning. CONTAINING 7.290 acres, as shown on the survey map of Stephen W. Norfolk, R.S., dated December 7, 1995.

BEING a part of the premises conveyed unto grantors herein by deed dated April 6, 1993 and recorded in Clearfield County Deeds and Records Book 1523, page 27.

THIS IS A TRANSFER FROM HUSBAND AND WIFE TO HUSBAND.

AND THE SAID GRANTOR WILL specially warrant and forever defend the property hereby conveyed.

IN WITNESS WHEREOF, SAID GRANTOR HAS HEREUNTO SET HER HAND AND SEAL,
THE DAY AND YEAR FIRST ABOVE-WRITTEN.

SEALED AND DELIVERED IN THE PRESENCE OF

Paul W. Snyder

Paul D. Somsky

(SEAL)

Nancy J. Snyder

Tamatha Somsky

(SEAL)

CERTIFICATE OF RESIDENCE

I HEREBY CERTIFY THAT THE PRECISE RESIDENCE OF THE GRANTEE IS AS FOLLOWS:

8041, Box 129A
Philipsburg, PA 16866

Robert W. Snyder

ATTORNEY OR AGENT FOR GRANTEE

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COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

ON THIS 11 DAY OF MAY, 1996, BEFORE ME, A NOTARY PUBLIC, THE UNDERSIGNED OFFICER, PERSONALLY APPEARED PAUL AND TAMATHA SOMSKY, KNOWN TO ME (OR SATISFACTORILY PROVEN) TO BE THE PERSON(S) WHOSE NAME(S) ARE SUBSCRIBED TO THE WITHIN INSTRUMENT, AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME FOR THE PURPOSES THEREIN CONTAINED.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND NOTARIAL SEAL.



NOTARIAL SEAL
ROGER W. SNYDER Notary Public
Clearfield Twp., Clearfield County
My Commission Expires March 15, 1997

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

Recorded in the office for Recording of deeds, etc., in and for said county, in record book no. _____
Page _____

WITNESS my hand and Official Seal the _____ day of _____, 1996.

CLEARFIELD COUNTY
ENTERED OF RECORD
TIME 10:25 AM 5/17/96
BY Devecka & Rayman
FEES 15.50
Karen L. Starck, Recorder

I hereby CERTIFY that this document
is recorded in the Recorder's Office of
Clearfield County, Pennsylvania.



Karen L. Starck
Karen L. Starck
Recorder of Deeds

ROBERT C. RAYMAN
DEVECKA & RAYMAN
111 SOWERS STREET, SUITE 600
STATE COLLEGE, PENNSYLVANIA 16801
(814) 234-5227

Entered of Record May 17 1996 :10:25 A Karen L. Starck, Recorder

DELUXE BUSINESS FORMS - 1-800-843-4294
A DIVISION OF DELUXE CHECK PRINTERS, INC.

- Set tab stops at arrows

- Align type for double line

BORDAS ASSOCIATES STATEMENT



PH. 814-342-1624
P. O. BOX 31, RT 322
PHILIPSBURG, PA 16866

DATE

NUMBER

J. P. GORDAS

TERMS

PLEASE DETACH AND RETURN WITH YOUR REMITTANCE

9

01600

BORDAS ASSOCIATES

EXHIBIT

Thank You

**PAY LAST AMOUNT
IN THIS COLUMN.**

GROVE CONTRACTING CO
R.D. #1 - BOX 195
HOOTZDALE, PA. 16651

611397

INVOICE NO.

INVOICE

SOLD TO John Boards		SHIPPED TO		VIA
ADDRESS 301 Logans Street Millersburg, Pa. 16866		ADDRESS		
CITY, STATE, ZIP		CITY, STATE, ZIP		
CUSTOMER'S ORDER		TERMS	FOB	DATE 6/28/96
SALESPERSON				
<p>CAT house Rental</p> <p>June 27/1996 to August 1997 - 14 mos.</p> <p>Rental Price \$600 per month</p> <p>16 mos total \$8400.00</p>				

Adams
D8740

FILED

AUG 3 1 2000

10/23/01
William A. Shaw
Prothonotary
PC \$80.00
JCC Sheriff

DAVID R. THOMPSON

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BORDAS, JOHN SR. & SANDRA
VS
SOMSKY, PAUL

00-1077-CD

COMPLAINT

SHERIFF RETURNS

NOW SEPTEMBER 5, 2000 AT 11:18 AM DST SERVED THE WITHIN
COMPLAINT ON PAUL SOMSKY, DEFENDANT AT RESIDENCE RD 1 BOX
429, PHILIPSBURG, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING
TO PAUL SOMSKY A TRUE AND ATTESTED COPY OF THE ORIGINAL
COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: McCLEARY/NEVLING

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

SWORN TO BEFORE ME THIS

18th DAY OF Sept. 2000
Chester A. Hawkins

SO ANSWERS,

Chester A. Hawkins
by Marlyn Harr

CHESTER A. HAWKINS
SHERIFF

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

FILED

SEP 18 2000

4:00 PM
William A. Shaw
Prothonotary

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

JOHN BORDAS, SR. and
SANDRA BORDAS, his wife
Plaintiffs

: No.: 00-1077-CD

v.

PAUL SOMSKY,
Defendant

:

ANSWER, NEW MATTER AND COUNTERCLAIM

AND NOW, comes the Defendant and states as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Denied. Defendant and Plaintiff discussed the sale of a parcel of ground from Defendant to Plaintiffs. The terms of the sale were never finalized. In addition, Plaintiff began to use the property as a junkyard/garbage dump without the knowledge or consent of Defendant.
5. Denied. Defendant is unaware of Plaintiffs' "intent" with respect to the property. Plaintiffs have used the property as a garbage dump/junkyard.
6. Admitted as to receipt of the checks and engine. The actual amount received was \$2,000.00.
7. Denied. The property is not swampy and was appraised at or above the discussed sales price.
8. Admitted in part and denied in part. It is admitted that Defendant allowed Plaintiffs access to the property. It is denied that Defendant knew Plaintiffs intended to use the property as a junkyard/garbage dump.

FILED

SFP 25 2000

William A. Shaw
Prothonotary

9. Denied. Defendant gave Plaintiffs permission to make a parking area only. It is denied that Plaintiffs spent \$13,200.00 in improvements. Defendant received an estimate for the "improvements" done by Plaintiffs in the amount of \$2,550.00. A copy of the estimate is attached hereto made a part hereof, and marked Exhibit "A".

10. Denied. The parties discussed the possible sale of the property in May of 1996. The full purchase price was to be paid in a reasonable time with no connection to completion of improvements. Plaintiffs made no attempt to tender the purchase price or complete a sale for four (4) years.

11. Denied. Defendant has no knowledge of any appraisal done by Plaintiffs and no copy of the appraisal was attached to the complaint. Any improvements done by Plaintiffs are minimal and Plaintiffs actions of dumping trash and junk vehicles on the property have depressed the value of the property.

12. Denied. Defendant avers that no meeting of the minds ever occurred and no agreement exists. Defendant has made a counter offer to Plaintiffs.

COUNT I

The allegations of paragraphs 1 through 12 of this Answer are incorporated herein by reference.

13. Denied. Plaintiffs paid Defendant a total of \$2,000.00 in cash and goods to hold the property for them and negotiate a final deal.

14. Denied. No oral agreement existed. No improvements were made except for grading and constructing a rough parking area which was done with Defendant's permission.

15. Denied. No oral agreement existed. Plaintiffs offered to pay an additional \$10,000.00 to purchase the property, which was rejected by Defendant.

16. Denied. No oral agreement existed. In addition, Plaintiffs have used the property as a junkyard/garbage dump without the knowledge or consent of Defendant.

WHEREFORE, Defendant requests that the Complaint be dismissed and damages to clean up the property be awarded to him.

COUNT II

Paragraphs 1 through 16 of this Answer are incorporated herein by reference.

17. Denied. No oral agreement ever existed. The terms of the sale of the property were never agreed to nor finalized.

18. Denied. Plaintiff's tendered \$2,000.00 in cash and goods to hold the property and gain access to the same.

19. Denied. Plaintiffs constructed a parking area only. Plaintiffs also offered \$10,000.00 in addition to the holding deposit which was rejected by Defendant.

20. Denied. No agreement ever existed. In addition, Plaintiffs made a use of the property which was never permitted nor contemplated by the discussions of the parties.

21. Denied. No meeting of the minds ever occurred and no written agreement exists.

22. Denied. Plaintiffs have decreased the value of the property by dumping trash on it and depositing numerous junk vehicles on the property.

23. Denied. No agreement ever existed. The cost of clean up of the property exceeds the value of any improvements made by Plaintiffs or the extent that it does not, Plaintiffs can be adequately compensated in money damages.

WHEREFORE, Defendant requests that the Complaint be dismissed and he be awarded damages for the clean up of the property.

16. Denied. No oral agreement existed. In addition, Plaintiffs have used the property as a junkyard/garbage dump without the knowledge or consent of Defendant.

WHEREFORE, Defendant requests that the Complaint be dismissed and damages to clean up the property be awarded to him.

COUNT II

Paragraphs 1 through 16 of this Answer are incorporated herein by reference.

17. Denied. No oral agreement ever existed. The terms of the sale of the property were never agreed to nor finalized.

18. Denied. Plaintiff's tendered \$2,000.00 in cash and goods to hold the property and gain access to the same.

19. Denied. Plaintiffs constructed a parking area only. Plaintiffs also offered \$10,000.00 in addition to the holding deposit which was rejected by Defendant.

20. Denied. No agreement ever existed. In addition, Plaintiffs made a use of the property which was never permitted nor contemplated by the discussions of the parties.

21. Denied. No meeting of the minds ever occurred and no written agreement exists.

22. Denied. Plaintiffs have decreased the value of the property by dumping trash on it and depositing numerous junk vehicles on the property.

23. Denied. No agreement ever existed. The cost of clean up of the property exceeds the value of any improvements made by Plaintiffs or the extent that it does not, Plaintiffs can be adequately compensated in money damages.

WHEREFORE, Defendant requests that the Complaint be dismissed and he be awarded damages for the clean up of the property.

COUNT III

Paragraph 1 through 23 of this Answer are incorporated herein by reference.

24. Denied. No agreement ever existed. No writing memorializing any agreement exists.
25. Denied. Defendant gave Plaintiffs permission to create a parking area on the property pending reaching an agreement.
26. Denied. Plaintiffs merely constructed a rough grade parking area.
27. Denied. After reasonable investigation, Defendant is without knowledge sufficient to form a belief as to the allegations of this paragraph.
28. Denied. The expenditures stated by Plaintiffs are exaggerated and out of line with the work performed. Defendants estimate for the same work was \$2,550.00
29. Denied. The money expended was not for the benefit of Defendant but for the benefit of Plaintiffs to park vehicles. Any benefit to Defendant is the increase in value of the property, if any, because of the improvements.
30. Denied. Plaintiffs "efforts" have decreased the value of property to \$17,000.00 by dumping trash and junk vehicles on the property.
31. Denied. Defendant gave Plaintiffs permission to enter upon the property, to construct a parking area for Plaintiffs convenience. Instead Plaintiffs entered onto the property and created a dump/junkyard.
32. Denied. No agreement existed. The terms of sale had never been agreed upon or finalized.
33. Denied. In June of 2000 Plaintiffs offered to pay the sum of \$10,000.00 to purchase the property. Defendant rejected the offer.

34. Denied. Defendant, if indebted to Plaintiffs at all, owes the amount that Plaintiffs improvements increased the value of the property. It is further averred that Plaintiffs actions actually decreased the value of the property.

35. Denied. Although Plaintiffs now claims that he intended to park and store vehicles and build a garage, in the four years since the initial discussions regarding purchase of the property he has built no garage and only deposited junk vehicles and trash on the property.

36. Denied. No agreement ever existed. In addition, Plaintiffs have only used the property as a junkyard and trash dump.

37. Denied. No agreement existed. The time of payment, method of payment, amount of payment, and other terms of sale were never agreed to by the parties.

38. Denied. Plaintiffs were aware that no agreement existed and that they had permission only to create a parking area not create a junkyard/trash dump.

39. Denied. Defendant, if indebted to Plaintiffs at all, owes the amount that Plaintiffs improvements increased the value of the property. It is further averred that Plaintiffs actions actually decreased the value of the property.

WHEREFORE, Defendant requests that the Complaint be dismissed and damages be awarded to him to clean up the property.

NEW MATTER

The allegations of paragraphs 1 through 39 of the Answer are incorporated herein by reference.

40. The alleged agreement for the purchase and sale of the real property violated the Statute of Frauds.

41. The action is barred by laches.

42. Plaintiffs represented to Defendant that they sought permission to use the property to park and store operable vehicles.

43. At no time did Plaintiffs inform Defendant that they intended to use the property to dump trash and junk vehicles.

44. In reliance on Plaintiffs representations that they intended to create a parking area for their vehicles, Defendant granted Plaintiffs permission to enter onto the property and create a parking area.

45. Instead of creating a parking area for operable vehicles, Plaintiffs hauled junk vehicles and trash onto the property and dumped the same on the property.

46. Defendant would not have permitted Plaintiffs onto the property had he known they intended to dump trash and junk vehicles on the property.

47. Plaintiffs actions of entering onto the property for purposes other than represented to Defendant are fraudulent.

WHEREFORE, Defendant requests that the Complaint be dismissed and he be awarded damages as set forth in the Counterclaim.

COUNTERCLAIM

The allegations of paragraphs 1 through 47 of the Answer and New Matter are incorporated herein by reference.

48. Defendant granted Plaintiffs permission to enter upon his property and construct a parking area for their operable vehicles.

49. Plaintiffs entered the property and instead of using the same to park their operable vehicles, dumped trash and numerous junk vehicles on the property.

50. The existence of the trash and junk vehicles has reduced the value of the property by 7,000.00.

51. The cost to clean up the trash and junk vehicles is as follows:

- a) Removal of trash: \$ 720.00
(Exhibit "B" is attached hereto, made a part hereof,
and incorporated herein by reference.)
- b) Removal of cars: \$ 850.00
- c) Removal of tractor trailers and large pieces: \$2,000.00
- d) Removal of tires: \$ 334.00
(Exhibit "C" is attached hereto, made a part hereof,
and incorporated herein by reference.)

Total: \$3,904.00

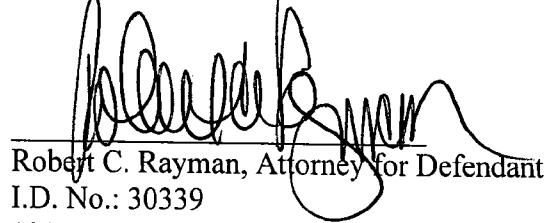
52. Defendant will be required to expend the above sums in addition to his own labor to restore the property to its prior state.

WHEREFORE, Defendant demands judgment against Plaintiffs in the amount of \$10,904.00 plus costs and attorney fees.

Respectfully submitted,

DEVECKA & RAYMAN

By:


Robert C. Rayman, Attorney for Defendant
I.D. No.: 30339
1315 W. College Avenue, Suite 300
State College, PA 16801
(814) 234-5227

Dated: 9/21/00

LUMADUE EXCAVATING

R.D. #1 Box 214-D
WEST DECATUR, PA 16878
814-765-7237

INVOICE

DATE:

9-8-00

S
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T
C

PAUL Somsky

SHIP TO

EXHIBIT "A"

Thank You



JOHN GLENN SANITATION SERVICE, INC.
P.O. Box 683 • Voyzey Road • Philipsburg, PA 16866-0683

PHONE: (814) 342-4166 • (814) 234-2423 • (800) 49TRASH • FAX: (814) 342-3619

SEPTEMBER 11, 2000

ESTIMATE FOR PAUL SOMSKY CLEAN-UP

(1) 30 YARD ROLL-OFF BOX

TRANSPORTATION	\$ 240.00
TONS - 6 @ \$40 Per Ton	240.00
LABOR TO LOAD	45.00
BACKHOE - (3) Hours with Operator	195.00
<hr/>	
	\$ 720.00

EXHIBIT "B"

"The Standard of Excellence in Managing Waste"

Estimate

HALFMOON VALLEY TOWING

No 2751

2036 Halfmoon Valley Road

Port Matilda, PA 16870

(814) 692-2216

Fax (814) 692-8571



DATE 9/11/00	TIME	REQUESTED BY Paul
MEMBER #	DISPATCH #	
LOCATION OF VEHICLE Philipsburg		
NAME Paul Somsky	PHONE 342-2156	
ADDRESS		
MILEAGE IN ROUTE _____ TOWED _____ TOTAL _____	SERVICE TIME FINISH _____ START _____ TOTAL _____	EXTRA PERSON FINISH _____ START _____ TOTAL _____
YEAR	MAKE/MODEL/COLOR	VEHICLE LICENSE #
VIN #		OWNER
JUMP START <input type="checkbox"/> LOCK OUT <input type="checkbox"/> FLAT TIRE <input type="checkbox"/> DOLLY <input type="checkbox"/> WINCH-OUTS <input type="checkbox"/> GAS <input type="checkbox"/> FLAT TOW <input type="checkbox"/> WRECK <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/>		
TOWED TO		
REMARKS Remove 12 Cars From Property		TOWING CHG. OVER MILEAGE CHG. 850.00 LABOR CHG. STORAGE CHG. 2000.00 TOTAL: 2850.00
(MECHANIC'S SIGNATURE) 31 <u>Time Removed = Small Tires \$4.00 A Tire</u> 21 <u>Big Tires \$10.00 A Tire</u> (AUTHORIZED SIGNATURE) ROAD SERVICE		

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

JOHN BORDAS, SR. and :
SANDRA BORDAS, his wife :
Plaintiffs :
v. : No.: 00-1077-CD
: :
PAUL SOMSKY, :
Defendant :
:

VERIFICATION

I, Paul Somsky, hereby verify that the facts set forth in the foregoing Answer, New Matter and Counterclaim are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

Date: 9-21-00


Paul Somsky

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

**JOHN BORDAS, SR. and
SANDRA BORDAS, his wife
Plaintiffs**

v.

**PAUL SOMSKY,
Defendant**

No.: 00-1077-CD

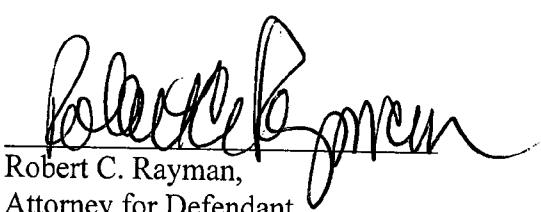
NOTICE TO PLEAD

**TO: David R. Thompson, Esq.
308 Walton Street, Suite 4
PO Box 587
Philipsburg, PA 16866**

You are hereby notified to plead to the within New Matter within twenty (20) days from receipt thereof or a default judgment may be entered against the Plaintiff.

DEVECKA & RAYMAN

By:



Robert C. Rayman,
Attorney for Defendant
I.D. No.: 30339
1315 W. College Avenue, Suite 300
State College, PA 16801
(814) 234-5227

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

JOHN BORDAS, SR. and :
SANDRA BORDAS, his wife :
Plaintiffs :

v. : **No.: 00-1077-CD**

PAUL SOMSKY, :
Defendant :

NOTICE TO DEFEND

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 Counterclaim 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 Counterclaim or for any other claim or relief requested by the Defendants. 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**

**David S. Meholic, Court Administrator
Clearfield County Courthouse
230 E. Market St.
Clearfield, PA 16830
(814) 765-2641**

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

**JOHN BORDAS, SR. and
SANDRA BORDAS, his wife
Plaintiffs**

v.

**PAUL SOMSKY,
Defendant**

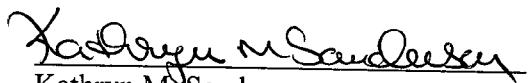
No.: 00-1077-CD

CERTIFICATE OF SERVICE

I certify that on September 21, 2000, I served a true and correct copy of the foregoing Notice to Plead, Notice to Defend, Answer, New Matter and Counterclaim and Verification upon council for the Plaintiffs, John Bordas, Sr. and Sandra Bordas regarding the above captioned matter to:

**David R. Thompson, Esq.
308 Walton Street, Suite 4
PO Box 587
Philipsburg, PA 16866**

by placing the same in the United States First Class Mail, postage prepaid and addressed as listed herein.



**Kathryn M. Sanderson,
Assistant to Robert C. Rayman, Esq.
Attorney for Defendant, Paul Somsky**

FILED

SFP 2-5-2000
M 119116Q
William A. Shaw
Prothonotary

cc

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL ACTION - LAW

JOHN BORDAS, SR. AND SANDRA BORDAS,
his wife,

1077
No. 00-192

Plaintiffs

vs.

PAUL SOMSKY,

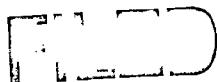
Defendant

TYPE OF CASE:
Civil Division - Law

TYPE OF PLEADING:
Reply to New Matter and
Answer to Counterclaim
and New Matter to Defendant's
Counterclaim

FILED ON BEHALF OF:
Plaintiffs

COUNSEL OF RECORD
FOR THIS PARTY:
David R. Thompson, Esquire
Attorney at Law
Supreme Court I.D. 73053
308 Walton Street, Suite 4
P.O. Box 587
Philipsburg PA 16866
(814) 342-4100



NOV 01 2000

William A. Show
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

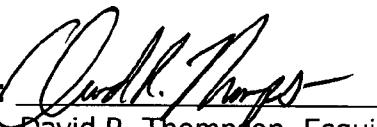
JOHN BORDAS, SR. AND SANDRA	*
BORDAS, his wife,	*
	*
Plaintiff	No. 00-192
	*
	*
VS.	*
	*
	*
PAUL SOMSKY,	*
	*
Defendant	*

NOTICE TO PLEAD

TO ROBERT C. RAYMAN, ESQUIRE ATTORNEY FOR DEFENDANT:

You are hereby notified to file a written response to the enclosed New Matter to
Defendant's Counterclaim within twenty (20) days from service hereof.

By:



David R. Thompson, Esquire
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

JOHN BORDAS, SR. AND SANDRA BORDAS, his wife,	*
	*
	*
Plaintiffs	*
	No. 00-192
	*
vs.	*
	*
	*
PAUL SOMSKY,	*
Defendant	*
	*

**REPLY TO NEW MATTER
AND
ANSWER TO COUNTERCLAIM**

AND NOW, come the Plaintiffs, John Bordas, Sr., and Sandra Bordas, his wife, by and through their attorney, David R. Thompson, Esquire, and files the following Reply to Defendant's New Matter and Answer to Counterclaim:

Paragraphs 1 through 39 of Plaintiff's Complaint are incorporated herein by reference as though the same were set forth at length herein.

40. Paragraph 40 is a conclusion of law to which no response is necessary. To the extent a response is deemed necessary, the same is denied and strict proof is demanded at the time of trial.

41. Paragraph 41 is a conclusion of law to which no response is necessary. To the extent a response is deemed necessary, the same is denied and strict proof is demanded at the time of trial.

42. Denied. By way of further pleading, Plaintiffs and Defendant made an agreement for Plaintiffs to purchase the property for the purpose of operating Mr. Bordas'

trucking business.

43. Denied. Plaintiffs indicated to Defendant that after they purchased the property, they would utilize the property in the operation of Mr. Bordas' trucking business and in all incidences thereto, including repair, parking and storage.

44. Admitted in part and denied in part. It is admitted that one of the operations of Mr. Bordas' business would be to utilize the area for the parking of vehicles. It is admitted that the Defendant granted Plaintiffs permission to enter onto the property and create said area for Plaintiffs' business. It is denied that parking was the sole intended use of the property. By way of further pleading, the agreement between the parties was that the Plaintiffs were purchasing property in accordance with Plaintiffs' Complaint.

45. Admitted in part and denied in part. It is admitted that Plaintiffs hauled both operable and inoperable vehicles onto the property. By way of further pleading, this is in accordance with the operation of Mr. Bordas' business. It is further admitted that there are various piles of collectibles that need discarded resulting from the operation of Plaintiffs' business. All other aspects of Paragraph 45 are denied, and strict proof to the contrary is demanded at the time of trial.

46. Denied. By way of further pleading, Defendant had actual knowledge that Plaintiffs were to utilize the property for the operation of Mr. Bordas' business and all incidences thereto, as they have done.

47. Paragraph 47 is a conclusion of law to which no response is necessary. To the extent a response is deemed necessary, the same is denied and strict proof is demanded at the time of trial.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to enter judgment in their favor in accordance with Plaintiffs' Complaint dismissing Defendant's New Matter.

ANSWER TO COUNTERCLAIM

Paragraphs 1 through 47 of Plaintiffs' Complaint and Reply to New Matter are incorporated herein by reference as though the same were set forth at length.

48. Admitted in part and denied in part. It is admitted that Plaintiffs' received permission to enter upon the property and construct and parking area for operable vehicles. By way of further pleading, all other aspects of Plaintiffs' trucking business were to be utilized on the property as well. Any indication to the contrary is specifically denied and strict proof is demanded at the time of trial.

49. Denied. By way of further pleading, Plaintiffs' are utilizing the property in the operation of Mr. Bordas' business, as intended.

50. After reasonable investigation, Plaintiffs are without information sufficient to form a belief as to the truth or falsity of the averment. The same is therefore denied and strict proof thereof is demanded at the time of trial.

51. After reasonable investigation, Plaintiffs are without information sufficient to form a belief as to the truth or falsity of the averment. The same is therefore denied and strict proof thereof is demanded at the time of trial.

52. After reasonable investigation, Plaintiffs are without information sufficient to form a belief as to the truth or falsity of the averment. The same is therefore denied and strict proof thereof is demanded at the time of trial.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to enter judgment

in their favor and against Defendant, dismissing Defendant's Counterclaim.

NEW MATTER TO DEFENDANT'S COUNTERCLAIM

Paragraphs 1 through 52 of Plaintiffs' Complaint, Reply to New Matter and Answer to Counterclaim are incorporated by reference as though the same were set forth at length herein.

53. All items referred to in Defendant's New Matter and Counterclaim placed upon the real property are items of personal property, easily removable and actually belonging to and owned by Plaintiffs.

54. Plaintiffs specifically reserve the right and fully intend to keep all items of personal property placed upon the real property, and will remove the same in the event Defendant owes money damages to Plaintiffs, or if Defendant prevails as to Plaintiffs' Complaint.

55. Defendant's alleged damages would be \$0.00 in the event Plaintiffs remove their items of personal property from the real property.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to enter judgment in their favor in accordance with Plaintiffs' Complaint dismissing Defendant's Counterclaim.

Respectfully submitted,



David R. Thompson, Esquire
Attorney for Plaintiffs

VERIFICATION

Plaintiff hereby verifies that the statements made in this **REPLY TO NEW MATTER AND ANSWER TO COUNTERCLAIM** are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

DATE: 10-30-00

John P. Bordas
John Bordas, Sr.

NOV 01 2000
01/01/00 Wm. H. Thompson
Priority 2cc - ~~Spec~~

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL ACTION - LAW

CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

I, DAVID R. THOMPSON, ESQUIRE, do hereby certify that I served a true and correct copy of the **REPLY TO NEW MATTER AND ANSWER TO COUNTERCLAIM AND NEW MATTER TO DEFENDANT'S COUNTERCLAIM**, in the above captioned matter on the following by depositing the same in the U.S. First Class Mail, postage prepaid, addressed as follows:

Robert C. Rayman, Esquire
DEVECKA & RAYMAN
1315 W College Avenue, Suite 300
State College PA 16801

DATE: 11-1-00

BY: David R. Thompson
David R. Thompson, Esquire

卷之三

NOV 01 2000

William A. Shaw
Professor

NOV 01 2000
4:00 P.M.
W. M. REED
Proudly
Gives

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

JOHN BORDAS, SR. and
SANDRA BORDAS, his wife
Plaintiffs

: No.: 00-1077-CD

v.

PAUL SOMSKY,
Defendant

:

ANSWER TO PLAINTIFFS' NEW MATTER

AND NOW, comes the Defendant and states as follows:

The allegations of paragraphs 1 through 52 of the Answer, New Matter and Counterclaim are incorporated herein by reference.

53. Denied. All the items are not easily removable as some have been buried on the real property and others consist of broken down and inoperable vehicles. Defendant is unaware as to who is the owner of said junk.

54. Denied. Plaintiffs have no intention of removing the items of junk (referred to as personal property by Plaintiffs) as they have attempted to bury the same on the property.

55. Denied. Defendant's damages are as stated in the Counterclaim.

WHEREFORE, Defendant requests judgment as requested in the Counterclaim.

LED

14 2000

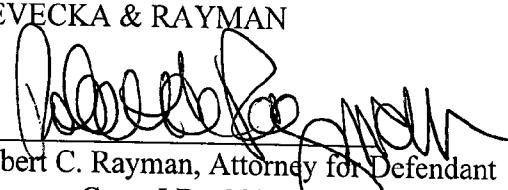
William A. Shaw
Pro. Atty.

Dated: 11/13/00

Respectfully submitted,

DEVECKA & RAYMAN

By:


Robert C. Rayman, Attorney for Defendant
Supreme Court I.D.: 30339
1315 W. College Avenue, Suite 300
State College, PA 16801
(814) 234-5227

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

JOHN BORDAS, SR. and :
SANDRA BORDAS, his wife :
Plaintiffs :
: No.: 00-1077-CD
v. :
: PAUL SOMSKY, :
Defendant :
:

VERIFICATION

I, Paul Somsky, hereby verify that the facts set forth in the foregoing Answer To Plaintiffs' New Matter are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

Date: 11-13-00



Paul Somsky

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

JOHN BORDAS, SR. and :
SANDRA BORDAS, his wife :
Plaintiffs :
: No.: 00-1077-CD
v. :
: PAUL SOMSKY, :
Defendant :
:

CERTIFICATE OF SERVICE

I certify that on November 13, 2000, I served a true and correct copy of the foregoing Answer To Plaintiffs' New Matter and Verification upon council for the Plaintiffs, John Bordas, Sr. and Sandra Bordas regarding the above captioned matter to:

**David R. Thompson, Esq.
308 Walton Street, Suite 4
PO Box 587
Philipsburg, PA 16866**

by placing the same in the United States First Class Mail, postage prepaid and addressed as listed herein.

Kathryn M. Sanderson
Kathryn M. Sanderson,
Assistant to Robert C. Rayman, Esq.
Attorney for Defendant, Paul Somsky

FILED

NOV 14 2000

2000-137 Doc

William A. Shaw

Prothonotary

[Handwritten signature]

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

JOHN BORDAS, SR. and
SANDRA BORDAS, his wife
Plaintiffs

v.

PAUL SOMSKY,
Defendant

: No.: 00-1077-CD

:

:

:

RULE

AND NOW, this 7th day of August, 2002, upon consideration
of Defendant's Petition for Entry of Judgment for Non Pros, a Rule is entered upon Plaintiff to
Show Cause why Defendant's Petition in the above-captioned matter should not be GRANTED.

RULE RETURNABLE this 24 day of September, 2003, at
9:00 o'clock A.m. in Courtroom No. 1, in Clearfield County Courthouse, Clearfield,
Pennsylvania.

BY THE COURT:

J.

FILED

AUG 07 2003

William A. Shaw
Prothonotary

FILED

317 100-200-0

AUG 07 2003

William A. Shaw
Prothonotary

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

JOHN BORDAS, SR. and
SANDRA BORDAS, his wife
Plaintiffs

v.

PAUL SOMSKY,
Defendant

: No.: 00-1077-CD

PETITION FOR ENTRY OF JUDGMENT OF NON PROS

AND NOW, comes the Defendant, Paul Somsky, and petitions this Honorable Court for judgment of non pros and states in support thereof as follows:

1. This action was initiated by the filing of a Complaint on August 31, 2000.
2. The matter arises out of a dispute regarding an oral agreement to sell real estate.
3. Attached hereto as Exhibit "A" is a copy of the docket sheet obtained from the office of the Prothonotary showing the last docket activity occurring on November 14, 2000.
4. No activity has taken place since the date of the last docket entry, a period of over two (2) years.
5. A Court may enter a judgment on non pros when a party to the proceeding has shown a want of due diligence in failing to proceed with reasonable promptitude, where there has been no compelling reason for the delay and where the delay has caused some prejudice to the adverse party.
6. Petitioner is entitled to judgment for non pros because there has been a lack of due diligence on the part of the Plaintiff in failing to proceed with reasonable promptitude, to wit; the case has languished for over two (2) years with absolutely no docket activity whatsoever and no activity of any kind.

FILED

AUG 05 2003

William A. Shaw
Prothonotary/Clerk of Courts

7. Defendant is aware of no compelling reason for such a delay.
8. Defendant has been prejudiced and will be prejudiced if the case is not dismissed for the following reasons:
 - a) Since the commencement of the action, Defendant has been unable to market or sell the real property in question;
 - b) Defendant has paid and continues to pay all taxes and expenses associated with the property;
 - c) Defendant is further unable to market and sell the property because he cannot remove the junk and debris deposited on the property until this case is resolved.
 - d) Defendant has no records, memorandum or other documents pertaining to the alleged transaction.

WHEREFORE, Defendant respectfully requests that the Court enter Judgment of Non Pros in favor of Defendant and against the Plaintiff and dismiss the matter with prejudice.

Dated: 7/31/03

By:

Respectfully submitted,


Robert C. Rayman, Attorney for Defendant
Supreme Court I.D.: 30339
1315 W. College Avenue, Suite 300
State College, PA 16801
(814) 234-5227

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

JOHN BORDAS, SR. and :
SANDRA BORDAS, his wife :
-vs- : No. 00-1077-CD
PAUL SOMSKY :

ORDER

NOW, this 24th day of September, 2003, this being the day and date set for argument into Defendant's Motion for Judgment of Non Pros, upon agreement of the parties, it is the ORDER of this Court that said matter be and is hereby continued with the issue to be submitted to the Court on briefs, each party to file their brief within 30 days from date hereof.

By the Court,

President Judge

FILED

SEP 24 2003

013:30PM

William A. Shaw

b6 Prothonotary/Clerk of Courts

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Raymar

CR

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

JOHN BORDAS, SR. and :
SANDRA BORDAS, his wife :
Plaintiffs :
v. :
PAUL SOMSKY, :
Defendant :

No.: 00-1077-CD

CERTIFICATE OF SERVICE

It is hereby certified that on **October 10, 2003**, a true and correct copy of the foregoing Brief In Support of Motion For Non Pros On Behalf of Defendant regarding the above captioned matter has been served upon the persons indicated below:

David R. Thompson, Esq.
308 Walton Street, Suite 4
PO Box 587
Philipsburg, PA 16866

Honorable John K. Reilly, Jr.
Clearfield County Courthouse
230 E. Market St.
Clearfield, PA 16830

by placing the same in the United States First Class Mail, postage prepaid and addressed as listed herein.

Kathryn M. Exeter
Kathryn M. Exeter,
Assistant to Robert C. Rayman, Esq.
Attorney for Defendant, Paul Somsky

FILED

OCT 15 2003

William A. Shaw
Prothonotary/Clerk of Courts

FILED
OCT 15 2003
William A. Shaw
Prothonotary/Clerk of Courts
[Handwritten signature]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

JOHN BORDAS, SR. AND SANDRA BORDAS,
his wife,

Plaintiffs * No. 00-192

vs.

PAUL SOMSKY,
Defendant

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CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

I, DAVID R. THOMPSON, ESQUIRE, do hereby certify that I served a true and correct, certified copy of the **BRIEF IN OPPOSITION TO PETITION FOR JUDGMENT OF NON PROS, PRAECIPE TO PLACE ON TRIAL LIST, AND CERTIFICATE OF READINESS**, in the above captioned matter has been served upon the persons indicated below, by placing the same in the United States First Class Mail, postage prepaid and addressed as follows:

Robert C. Rayman, Esquire
1315 West College Avenue, Suite 300
State College PA 16803

Honorable John K. Reilly, Jr.
Judges Chambers
CLEARFIELD COUNTY COURTHOUSE
Clearfield PA 16830

DATE: 10-24-03

BY: 

David R. Thompson, Esquire

FILED

1:43 AM, OCT 24 2003

OCT 24 2003

WS
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

JOHN BORDAS, SR. and

SANDRA BORDAS, his wife

-vs-

No. 00-1077-CD

PAUL SOMSKY

ORDER

NOW, this 27th day of October, 2003, upon consideration of Motion for Judgment of Non Pros filed on behalf of Defendant, the Court being satisfied that the requisite prejudice to the Defendant resulting from Plaintiffs' failure to proceed is insufficient to support the Motion, it is the ORDER of this Court that said Motion be and is hereby dismissed.

By the Court,

President Judge

FILED

OCT 27 2003

William A. Shaw
Prothonotary/Clerk of Courts

FILED

10/24/03
OCT 27 2003

1cc Atty Thompson
1cc Atty Rayman

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

CIVIL ACTION - LAW

JOHN BORDAS, SR., AND SANDRA BORDAS,
his wife,

Plaintiffs

vs.

PAUL SOMSKY,

Defendant

00-1077-C
No. 00-192

TYPE OF CASE:
Civil Action

TYPE OF PLEADING:
Praecipe to Place on Trial List

FILED ON BEHALF OF:
Plaintiffs

COUNSEL OF RECORD FOR
THIS PARTY:
David R. Thompson, Esq.
Supreme Court No. 73053
Attorney at Law
P. O. Box 587
Philipsburg, PA 16866
(814) 342-4100

FILED

OCT 31 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

JOHN BORDAS, SR. AND SANDRA BORDAS,
his wife,

Plaintiffs

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00-1077-CD

No. 00-192

*

vs.

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PAUL SOMSKY,

Defendant

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*

PRAECIPE TO PLACE ON TRIAL LIST

TO THE PROTHONOTARY:

Kindly place the above captioned matter on the Trial List. I certify that all discovery is closed.



David R. Thompson, Esquire
Attorney for Plaintiffs

DATED: 10-24-03

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

JOHN BORDAS, SR. AND SANDRA BORDAS,
his wife,

Plaintiffs * * *

vs.

PAUL SOMSKY,

Defendant * *

No. 00-192

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CERTIFICATE OF READINESS

Plaintiffs have filed a Praecept to list this matter for trial. Pursuant to Local Rule 2212.2, Plaintiffs state as follows:

1. No motions are outstanding, discovery has been completed to the extent it is to be done, and the case is ready for trial.
2. The case is to be heard by trial by jury.
3. Notice of the Praecept to List the matter for trial will be provided to Defendant, care of Robert Rayman, Esquire.

Respectfully submitted,



David R. Thompson, Esquire

FILED
OCT 3 2003
3 cc

Attn: Thompson

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION-LAW

JOHN BORDAS, SR. AND SANDRA BORDAS,
his wife,

Plaintiff

VS.

PAUL SOMSKY,

Defendant

1077-CD
No. 00-192

TYPE OF PLEADING:
Certificate of Service

FILED ON BEHALF OF:
Plaintiff

COUNSEL OF RECORD FOR
THIS PARTY:
David R. Thompson, Esquire
Attorney at Law
Supreme Court 73053
P.O. Box 587
308 Walton Street, Suite 4
Philipsburg PA 16866
(814) 342-4100

FILED

NOV 13 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

CIVIL DIVISION - LAW

JOHN BORDAS, SR. AND SANDRA BORDAS,
his wife,

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1077-cd
No. 00-192

Plaintiff

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PAUL SOMSKY,

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Defendant

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CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

I, DAVID R. THOMPSON, ESQUIRE, do hereby certify that I served a true and correct copy of **PRAECIPE TO PLACE ON TRIAL LIST**, in the above captioned matter on the following by Prepaid, First Class, United States Mail:

Robert C. Rayman, Esquire
1315 West College Avenue, Suite 300
State College, PA 16803

DATE: 11-7-03

BY:



David R. Thompson, Esquire

FILED

2CC
0/100/04 Atty Thompson
NOV 13 2003

REB
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

JOHN BORDAS, SR. AND SANDRA
BORDAS, his wife,

Plaintiff

* 1077-CD
No. 00-192

vs.

PAUL SOMSKY,

Defendant

* TYPE OF CASE:
* Civil Action - Law

* TYPE OF PLEADING:
* Praecipe to Discontinue

* FILED ON BEHALF OF:
* Plaintiff

* COUNSEL OF RECORD FOR
* THIS PARTY:
* David R. Thompson, Esquire
* Attorney at Law
* 308 Walton Street, Suite 4
* P.O. Box 587
* Philipsburg PA 16866
* (814) 342-4100
* Supreme Court I.D. No. 73053

61 01:54 01
FILED FEB 14 2005
100 Atty Thompson
and 1 Disc.

William A. Shaw
Prothonotary/Clerk of Courts
Copy of Disc to C/A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

JOHN BORDAS, SR. AND SANDRA	*
BORDAS, his wife,	*
Plaintiff	*
	*
vs.	*
	*
PAUL SOMSKY,	*
	*
Defendant	*
	*

PRAECIPE TO SETTLE AND DISCONTINUE

TO THE PROTHONOTARY:

Kindly mark the above-captioned matter as settled and discontinued.

Respectfully submitted,

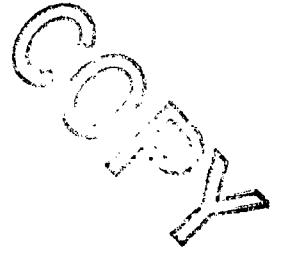
DATE: 2-11-05



David R. Thompson, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION



John Bordas Sr.
Sandra Bordas

Vs.
Paul Somsky **No. 2000-01077-CD**

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 February 14, 2005, marked:

Settled and Discontinued

Record costs in the sum of \$80.00 have been paid in full by David R. Thompson, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 14th day of February A.D. 2005.

William A. Shaw, Prothonotary