

00-1207-CD
JIM STELLABUTO'S EVERYTHING UNDER THE SUN - JAMES CALDWELL

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

JUDICIAL DISTRICT

46-3-01

NOTICE OF APPEAL

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No.

00-1207-CO

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case mentioned below.

NAME OF APPELLANT <u>James Caldwell</u>	MAG. DIST. NO. OR NAME OF D.J. <u>46-3-01</u>		
ADDRESS OF APPELLANT <u>c/o Eastfork Const., PO Box 11,</u>	CITY <u>Brookville</u>	STATE <u>PA</u>	ZIP CODE <u>15825</u>
DATE OF JUDGMENT <u>9/11/00</u>	IN THE CASE OF (Plaintiff) <u>Jim Stellabuto's Everything Under</u>	vs. (Defendant) <u>James Caldwell</u>	
CLAIM NO. <u>CV 19</u>	LT 19	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT <u>John C. Dennison, II</u>	
This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B. This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.		If appellant was CLAIMANT (see Pa. R.C.P.J.P. No. 1001(6) in action before District Justice, he MUST FILE A COMPLAINT within twenty (20) days after filing his NOTICE of APPEAL. <u>John C. Dennison</u> Signature of Prothonotary or Deputy	

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee).

PRAECIPE: To Prothonotary

Enter rule upon Jim Stellabuto's Everything Under, appellee(s), to file a complaint in this appeal
Name of appellee(s)

(Common Pleas No. 00-1207-CO) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

John C. Dennison
John C. Dennison, II
Signature of appellant or his attorney or agent

RULE: To Jim Stellabuto's Everything Under, appellee(s).
Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS WILL BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of mailing.

Date: September 29, 2000

William A. Shaw
Signature of Prothonotary or Deputy

FILED

SEP 29 2000

William A. Shaw
Prothonotary

PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____ ; ss

AFFIDAVIT: I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. _____, upon the District Justice designated therein on
(date of service) _____, by personal service by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, *(name)* _____, on _____, 19____ by personal service by (certified) (registered) mail, sender's receipt attached hereto.

and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on _____, 19____ by personal service by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS _____ DAY OF _____, 19_____

Signature of affiant

Signature of official before whom affidavit was made

Title of official

My commission expires on _____, 19_____

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-01

DJ Name: Hon.

PATRICK N. FORD

Address: **109 NORTH BRADY STREET
P.O. BOX 452
DUBOIS, PA**

Telephone: **(814) 371-5321 15801**

**JAMES CALDWELL
P.O. BOX 11
T/D/B/A EASTFORK CONST
BROOKVILLE, PA 15825**

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

**JIM STELLABUTO'S EVERYTHING UNDER
922 BEAVER DR.
DUBOIS, PA 15801**

NAME and ADDRESS

DEFENDANT:

**CALDWELL, JAMES
P.O. BOX 11
T/D/B/A EASTFORK CONST
BROOKVILLE, PA 15825**

VS.

NAME and ADDRESS

Docket No.: **CV-0000528-00**
Date Filed: **7/26/00**



THIS IS TO NOTIFY YOU THAT:

Judgment:

DEFAULT JUDGMENT PLTF

Judgment was entered for: (Name) **JIM STELLABUTO'S EVERYTHING UN**

Judgment was entered against: (Name) **CALDWELL, JAMES**

in the amount of \$ **4,608.30** on: (Date of Judgment) **9/11/00**

Defendants are jointly and severally liable. (Date & Time) _____

Damages will be assessed on: _____

This case dismissed without prejudice. _____

Amount of Judgment Subject to Attachment/Act 5 of 1996 \$ _____

Levy is stayed for _____ days or generally stayed: _____

Objection to levy has been filed and hearing will be held: _____

Amount of Judgment	\$ 4,510.80
Judgment Costs	\$ 97.50
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 4,608.30
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
Certified Judgment Total \$ _____	

Date:	Place:
Time:	

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

9/11/00 Date Patrick N. Ford, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

Date _____, District Justice

FILED

SEP 29 2000
M1183/Atty Dennison
William A. Shedd
Prothonotary

PD \$ 80.00
cc to

Atty Dennison

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-01

DJ Name: Hon.

PATRICK N. FORD

Address: **109 NORTH BRADY STREET
P.O. BOX 452
DUBOIS, PA**

Telephone: **(814) 371-5321 15801**

FILED

**PATRICK N. FORD
109 NORTH BRADY STREET
P.O. BOX 452
DUBOIS, PA 15801**

OCT 09 2000

m 19.12 cm

William A. Shaw
Prothonotary

THIS IS TO NOTIFY YOU THAT:

Judgment:

DEFAULT JUDGMENT PLTF

00-1207-C

Judgment was entered for: (Name) **JIM STELLABUTO'S EVERYTHING UN**

Judgment was entered against: (Name) **CALDWELL, JAMES**

in the amount of \$ **4,608.30** on: (Date of Judgment) **9/11/00**

Defendants are jointly and severally liable. (Date & Time) _____

Damages will be assessed on: _____

This case dismissed without prejudice. _____

Amount of Judgment Subject to
Attachment/Act 5 of 1996 \$ _____

Levy is stayed for _____ days or generally stayed. _____

Objection to levy has been filed and hearing will be held: _____

Amount of Judgment	\$ 4,510.80
Judgment Costs	\$ 97.50
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 4,608.30

Post Judgment Credits \$ _____

Post Judgment Costs \$ _____

=====

Certified Judgment Total \$ _____

Date:	Place:
Time:	

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION, YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

9-11-00 Date Patrick N. Ford, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

Date _____, District Justice

My commission expires first Monday of January,

2006

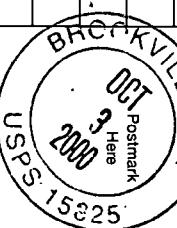
SEAL

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:

The Honorable Patrick N. Ford

Postage	\$.33
Certified Fee	1.40
Return Receipt Fee (Endorsement Required)	.1.25
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 2.98



7099	0001	4805	0479
3400			
Name (Please Print Clearly) (to be completed by mailer)			
The Honorable Patrick N. Ford			
St. No. or P.O. Box No.			
109 N. Brady St., PO Box 452			
City, State, ZIP-4			
DUBOIS, PA 15801			
PS Form 3800 July 1999			

See Reverse for Instructions

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

Important Reminders:

- Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- Certified Mail is not available for any class of International mail.
- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a Return Receipt may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT: Save this receipt and present it when making an inquiry.

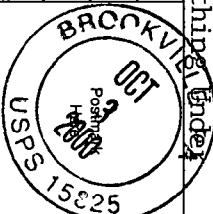
PS Form 3800, July 1998 (Reverse)
102595-99-M-2087

**U.S. POSTAL SERVICE
CERTIFIED MAIL RECEIPT**
(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:

Jim Stellabuto's Everything Under

Postage	\$.33
Certified Fee	1.40
Return Receipt Fee (Endorsement Required)	1.25
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 2.98



Name (Please Print Clearly) (to be completed by mailer)
Jim Stellabuto's Everything Under

Street, Apt. No., or P.O. Box No.
922 Beaver Drive

City, State, Zip+4
DUBOIS, PA 15801

PS Form 2800, July 1999

See Reverse for Instructions

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

Important Reminders:

- Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- Certified Mail is not available for any class of international mail.
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IMPORTANT: Save this receipt and present it when making an inquiry.

102595-99-M-2087

PS Form 3800, July 1999 (Reverse)

00-1207-CD

PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF JEFFERSON ; 88

AFFIDAVIT: I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. 00-1207 CD, upon the District Justice designated therein on
(date of service) October 3, 2000, by personal service by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) Jim Stellabuto's Everything Under, on
October 3, 2000 by personal service by (certified) (registered) mail, sender's receipt attached hereto.

and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on October 3, 2000, by personal service by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS 3rd DAY OF October, 2000

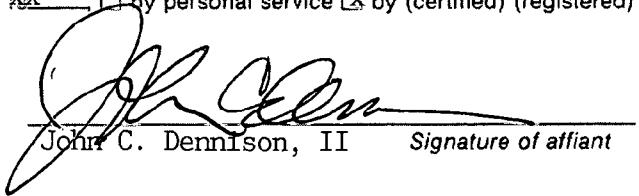
Leah N. Young

Signature of official before whom affidavit was made

Notary Public

Title of official

My commission expires on August 5, 2002


John C. Dennison, II Signature of affiant

FILED

OCT 04 2000

11:16:27 am

William A. Shaw

Prothonotary



Notarial Seal
Leah N. Young, Notary Public
Brookville Boro, Jefferson County
My Commission Expires Aug. 5, 2002
Member, Pennsylvania Association of Notaries



COURT OF COMMON PLEAS

JUDICIAL DISTRICT

46-3-01

NOTICE OF APPEAL

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS NO.

00-1207-CO

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case mentioned below.

NAME OF APPELLANT	MAG. DIST. NO. OR NAME OF D.J.		
James Caldwell	46-3-01		
ADDRESS OF APPELLANT	CITY	STATE	ZIP CODE
c/o Lastfort Const., PO Box 11,	Brookville	PA	15825
DATE OF JUDGMENT	IN THE CASE OF (Plaintiff)		
5/11/00	Jim Stellabuto's Everything Under vs. James Caldwell (Defendant)		
CLAIM NO.	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT		
CV 19	<i>John C. Dennis, II</i>		
LT 19			
<p>This block will be signed ONLY when this notation is required under Pa.R.C.P.J.P. No. 1008B.</p> <p>This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p>_____ Signature of Prothonotary or Deputy</p>			
<p>If appellant was CLAIMANT (see Pa. R.C.P.J.P. No. 1001(6) in action before District Justice, he MUST FILE A COMPLAINT within twenty (20) days after filing his NOTICE of APPEAL.</p>			

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee).

PRAECIPE: To Prothonotary

Enter rule upon Jim Stellabuto's Everything Under, appellee(s), to file a complaint in this appeal
 Name of appellee(s)

(Common Pleas No. 00-1207-CO) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

John C. Dennis, II
 Signature of appellant or his attorney or agent

RULE: To Jim Stellabuto's Everything Under, appellee(s).
 Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS WILL BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of mailing.

Date: May 21, 2000

John C. Dennis, II
 Signature of Prothonotary or Deputy

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

JIM STELLABUTO'S EVERYTHING
UNDER FOOT, INC.

Plaintiff

vs.

JAMES CALDWELL, t/d/b/a
EASTFORK CONSTRUCTION,
Defendant

No. 00-1207 C.D.

Type of Pleading: Complaint

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

Counsel of Record for this party:

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

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED

OCT 19 2000

William A. Shaw
Prothonotary

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

JIM STELLABUTO'S EVERYTHING
UNDER FOOT, INC.

Plaintiff

vs.

No. 00-1207 C.D.

JAMES CALDWELL,
EASTFORK CONSTRUCTION,
Defendant

COMPLAINT

AND NOW, comes Plaintiff, Jim Stellabuto's Everything Under Foot, Inc. by and through its attorneys, The Hopkins Law Firm, and states as follows:

1. Plaintiff is Jim Stellabuto's Everything Under Foot, Inc., a Pennsylvania Corporation, maintaining a principal business address at 922 Beaver Drive, DuBois, Pennsylvania.
2. Defendant is James Caldwell t/d/b/a East Fork Construction who resides at P.O. Box 11, Brookville, Pennsylvania 15825.
3. At all material times hereto, Plaintiff operated a floor covering business within Clearfield County.
4. In or about January 27, 2000, Defendant, James Caldwell t/d/b/a East Fork Construction traveled to Plaintiff's place of business at 922 Beaver Drive, DuBois, Clearfield County, Pennsylvania and ordered various carpet, padding, vinyl and other floor coverings from Plaintiff and expected Plaintiff to install said floor covering.

5. The total cost of the floor covering totaled \$6,300.00. Defendant paid a down payment of \$2,050.00 leaving a balance due of \$4,250.00.

6. There remains unpaid the sum of \$4,250.00 together with interest charges of 1.5% per month from March 10, 2000.

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

8. As of October 21, 2000, the amount due and owing Plaintiff is \$4,787.60.

9. Plaintiff filed suit before the District Magistrate and is entitled to receive \$131.00 in Court costs.

WHEREFORE, Plaintiff demands judgment against James Caldwell in the amount of \$4,918.60 together with interest at the rate of 1.5% per month from October 21, 2000, cost of suit, and such other relief as the Court deems fair, just and equitable.

COUNT II

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

11. Defendant has benefited from the labor and material of Plaintiff and have been unjustly enriched in receiving carpeting for which Defendant has not paid.

12. Defendant has received valuable materials in the nature of floor covering and installation services at a home which he owned or built.

13. Defendant accepted the floor covering and installation services and used them and enjoyed said floor covering and installation services.

14. Under the theory of quantum meruit, Plaintiff is entitled to a recovery against Defendant.

WHEREFORE, Plaintiff demands judgment against James Caldwell in the amount of \$4,918.60 together with interest at the rate of 1.5% per month from October 18, 2000, statutory interest, cost of suit and such other relief as the Court deems fair, just and equitable.

COUNT III

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

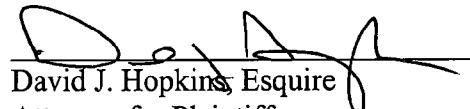
16. Defendant has each been unjustly enriched by retaining the floor covering and installation services supplied by Plaintiff which in justice and equity belong to Plaintiff. Defendant should not be permitted unjustly to enrich himself at the expense of Plaintiff but should be required to make restitution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

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

17. Plaintiff is entitled to judgment in the amount of \$4,918.60 under the theory of quantum meruit.

WHEREFORE, Plaintiff demands judgment against James Caldwell in the amount of \$4,608.30 together with interest at the rate of 1.5% per month from October 21, 2000, statutory interest, cost of suit and such other relief as the Court deems fair, just and equitable.

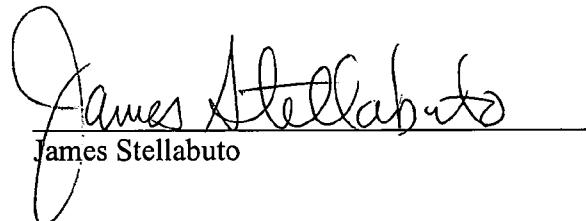
Respectfully submitted,



David J. Hopkins, Esquire
Attorney for Plaintiff

VERIFICATION

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


James Stellabuto
James Stellabuto

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

JIM STELLABUTO'S EVERYTHING
UNDER FOOT, INC. :
Plaintiff :
vs. : No. 00-1207 C.D.
JAMES CALDWELL, t/d/b/a
EASTFORK CONSTRUCTION,
Defendant :
:

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Complaint, filed on behalf of Jim Stellabuto's Everything Under Foot, was forwarded on the 18th day of October, 2000, by U.S. Mail, postage prepaid, to all counsel of record, addressed as follows:

John C. Dennison, II
Dennison and Dennison
293 Main Street
Brookville, PA 15825



David J. Hopkins, Esquire
Attorney for Plaintiff
Supreme Court No. 42519

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JIM STELLABUTO'S EVERYTHING
UNDER FOOT, INC.

CIVIL ACTION - LAW

Plaintiff,

Number 1207 of 2000 C.D.

vs.

Type of Case: Civil Division

JAMES CALDWELL t/d/b/a
EAST FORK CONSTRUCTION,

Type of Pleading: Answer

Defendant.

Filed on behalf of: Defendant

Counsel of Record for this Party:

John C. Dennison, II
Supreme Court Number: 29408

DENNISON, DENNISON & HARPER
293 Main Street
Brookville, Pennsylvania 15825
(814) 849-8316

FILED

DEC 12 2000

William A. Shaw
Prothonotary

JIM STELLABUTO'S EVERYTHING
UNDER FOOT, INC.

Plaintiff,

vs.

JAMES CALDWELL t/d/b/a
EAST FORK CONSTRUCTION,

Defendant.

* In the Court of Common Pleas of
* Clearfield County, Pennsylvania
* Civil Action- Law
*
*
*
*
* Number 1207 C.D.

ANSWER

AND NOW COMES, the Defendant, James Caldwell t/d/b/a East Fork Construction, who files the following Answer in response to Plaintiff's Complaint:

1. The averments of Paragraph 1 of Plaintiff's Complaint are admitted.

2. The averments of Paragraph 2 of Plaintiff's Complaint are denied. On the contrary, the precise name of the Defendant is Caldwell Holdings Ltd., a corporation, trading and doing business as East Fork Contractors. At no time herein did James Caldwell contract to purchase the goods described in the Plaintiff's Complaint as an individual. All such goods were purchased by Caldwell Holdings Ltd.

COUNT I

3. The averments of Paragraph 3 are admitted.

4. The averments of Paragraph 4 of Plaintiff's Complaint are denied and the averments of Paragraph 2 of this Answer are incorporated herein by reference thereto.

5. The averments of Paragraph 5 of Plaintiff's Complaint are admitted in part and denied

in part. It is admitted the cost of the flooring was \$6,300.00 and that a downpayment of \$2,050.00 was made. The remaining averments are denied and the averments of Paragraph 2 of this Answer are incorporated herein by reference thereto.

6. The averments of Paragraph 6 of this Answer are denied and the averments of Paragraph 2 of this Answer are incorporated herein by reference thereto.

7. The averments of Paragraph 7 of this Answer are denied and the averments of Paragraph 2 of this Answer are incorporated herein by reference thereto.

8. The averments of Paragraph 8 of Plaintiff's Complaint are denied and the averments of Paragraph 2 of this Answer are incorporated herein by reference thereto.

9. The averments of Paragraph 9 of Plaintiff's Complaint are denied and the averments of Paragraph 2 of this Answer are incorporated herein by reference thereto.

WHEREFORE, judgment is demanded against the Plaintiff.

COUNT II

10. The averments of Paragraphs 1 through 9 of this Answer are incorporated herein by reference thereto.

11. The averments of Paragraph 11 are denied and the averments of Paragraph 2 of this Answer are incorporated herein by reference thereto.

12. The averments of Paragraph 12 of Plaintiff's Complaint are denied and the averments of Paragraph 2 are incorporated herein by reference thereto. It is further averred that the Defendant did not own nor did he build the home in which the goods were installed as Caldwell Holdings, Ltd. built the home in which the goods were used.

13. The averments of Paragraph 13 of Plaintiff's Complaint are denied and the averments of Paragraph 2 and 12 of this Answer are incorporated herein by reference thereto.

14. The averments of Paragraph 14 of Plaintiff's Complaint are denied and the averments of Paragraph 2 and 12 of this Answer are incorporated herein by reference thereto. In addition, the averments of Paragraph 14 are conclusions of law and are deemed to be denied and no further answer is required thereto.

COUNT III

15. The averments of Paragraphs 1 through 14 of this Answer are incorporated herein by reference thereto.

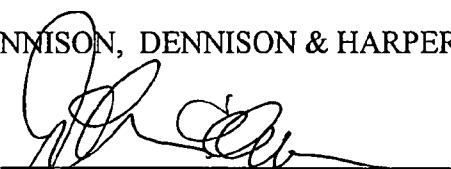
16. The averments of Paragraph 16 of Plaintiff's Complaint are denied and the averments of Paragraph 2 and 12 of this Answer are incorporated herein by reference thereto. In addition, the averments of Paragraph 16 are conclusions of law and are deemed to be denied and no further answer is required thereto.

17. The averments of Paragraph 17 of Plaintiff's Complaint are denied and the averments of Paragraph 2 and 12 of this Answer are incorporated herein by reference thereto. In addition, the averments of Paragraph 17 are conclusions of law and are deemed to be denied and no further answer is required thereto.

17. The averments of Paragraph 17 of Plaintiff's Complaint are denied and the averments of Paragraph 2 and 12 of this Answer are incorporated herein by reference thereto. In addition, the averments of Paragraph 17 are conclusions of law and are deemed to be denied and no further answer is required thereto.

WHEREFORE, judgment is demanded against the Plaintiff.

DENNISON, DENNISON & HARPER

By 

John C. Dennison, II
293 Main Street
Brookville, PA 15825

VERIFICATION

I verify that the answers to the forgoing Answer to Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein made are subject to the penalties of 18 Pa.C.S.A. Section 4904, relating to unsworn falsification to authorities.



James Caldwell
James Caldwell

THE HOPKINS LAW FIRM

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

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

JIM STELLABUTO'S EVERYTHING
UNDER FOOT, INC.

Plaintiff

vs.

JAMES CALDWELL, t/d/b/a
EASTFORK CONSTRUCTION,
Defendant

No. 00-1207 C.D.

Type of Pleading: Motion to Compel

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

Counsel of Record for this party:

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

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED

MAY 02 2001

William A. Shaw
Prothonotary

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

JIM STELLABUTO'S EVERYTHING UNDER FOOT, INC.	:	
Plaintiff	:	
vs.	:	No. 00-1207 C.D.
JAMES CALDWELL, t/d/b/a EASTFORK CONSTRUCTION,	:	
Defendant	:	

MOTION TO COMPEL

AND NOW, comes Plaintiff, Jim Stellabuto's Everything Under Foot, Inc. by and through its attorneys, The Hopkins Law Firm requests this Honorable Court to compel the Defendant to respond to the Request for Production of Documents propounded by said Plaintiff and states the following in support thereof:

1. On January 29, 2001 Request for Production of Documents were forward to Defendant in care of their attorney, John C. Dennison, II, Esquire.
2. As of May 1, 2001, Defendant, by his attorney, John C. Dennison, II, Esquire, has failed to respond to said Request for Production of Documents without explanation and no request for additional time in which to answer same has been made.
3. On March 6, 2001, counsel for Plaintiffs wrote a letter to counsel requesting that the response be made to the Request for Production of Documents. A true and correct copy of this letter is attached hereto and marked as Exhibit "A".

WHEREFORE, Plaintiff request this Honorable Court to compel Defendant to respond to the Request for Production of Documents propounded upon them within ten (10) days of the date of the attached Order.

Respectfully submitted,



David J. Hopkins, Esquire
Attorney for Plaintiff

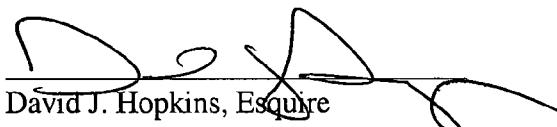
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

JIM STELLABUTO'S EVERYTHING :
UNDER FOOT, INC. :
Plaintiff :
vs. : No. 00-1207 C.D.
JAMES CALDWELL, t/d/b/a :
EASTFORK CONSTRUCTION, :
Defendant :
vs.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Motion to Compel filed on behalf of Plaintiff, Jim Stellabuto's Everything Under Foot, Inc. was forwarded on the 1~~st~~ day of May, 2001, by United States Mail, postage prepaid, to all counsel of record, addressed as follows:

John C. Dennison, II, Esquire
Dennison and Dennison
293 Main Street
Brookville, PA 15825

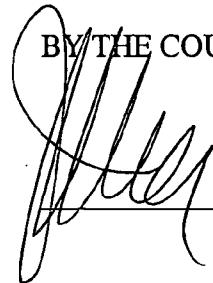

David J. Hopkins, Esquire
Attorney for Plaintiff

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

JIM STELLABUTO'S EVERYTHING :
UNDER FOOT, INC. :
Plaintiff :
vs. :
No. 00-1207 C.D.
JAMES CALDWELL, t/d/b/a :
EASTFORK CONSTRUCTION, :
Defendant :
vs.

ORDER OF COURT

AND NOW, this 4th day of May, 2001, upon consideration of the within Motion to Compel, it is hereby ORDERED and ADJUDGED, Defendant respond to the Request for Production of Documents within ten (10) days from the date of this Order or suffer such sanctions as this Court may deem appropriate.

BY THE COURT


JUDGE

FILED

MAY 04 2001

012:00 AM

William A. Shaw

Prothonotary

cc: [unclear]



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

JIM STELABUTO'S EVERYTHING
UNDER FOOT, INC.

Plaintiff

vs.

JAMES CALDWELL, t/d/b/a
EASTFORK CONSTRUCTION,
Defendant

No. 00-1207 C.D.

Type of Pleading: Request for Production
of Documents

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

Counsel of Record for this party:

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

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

Answers to Request for Production of
Documents filed on behalf of: Defendant

FILED

MAY 14 2001

William A. Shaw
Prothonotary

Counsel of Record for this Party:
John C. Dennison, II, Esq.
Dennison, Dennison & Harper
293 Main Street
Brookville, PA 15825
(814) 849-8316

I.D. #29408

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

JIM STELLABUTO'S EVERYTHING :
UNDER FOOT, INC. :
Plaintiff :
vs. : No. 00-1207 C.D.
JAMES CALDWELL, t/d/b/a :
EASTFORK CONSTRUCTION, :
Defendant :
:

ANSWERS TO
REQUEST FOR PRODUCTION OF DOCUMENTS

TO: JAMES CALDWELL t/d/b/a Eastfork Construction
c/o John C. Dennison, II, Esquire
Dennison, Dennison & Harper
293 Main Street
Brookville, PA 15825-1291

AND NOW, comes Plaintiff, Jim Stellabuto's Everything Under Foot, Inc., by and through its attorneys, The Hopkins Law Firm, and requests that the above named party produce the following described documents and things for inspection and copying at the office of Plaintiff's counsel, David J. Hopkins, Esquire, 900 Beaver Drive, DuBois, Pennsylvania 15801, in accordance with the Pennsylvania Rules of Civil Procedure, Rule 4001, 4003, and 4009. This request is deemed to be continuing in nature and will require updating as additional documents and materials are received by the above named party or its counsel, insurance company or agents.

The following documents and things are requested for production within thirty (30) days:

1. All photographs, videos or diagrams prepared of the scene, or other illustrations involving the incident giving rise to this lawsuit. None

2. Any and all documents containing the names, addresses and telephone numbers of all individuals contacted by Defendant or his attorney or agent, as potential witnesses. None

3. Copies of all reports of and correspondence with experts who are expected to testify at trial. None

4. Any and all fictitious name registrations filed with the Commonwealth of Pennsylvania by Caldwell Holdings Ltd, James Caldwell, Eastfork Construction and/or Eastfork Contractors. See attached

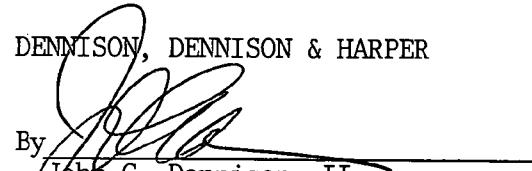
5. All documents Defendant relies upon that Caldwell Holdings Ltd. is authorized to utilize the name Eastfork Contractors or Eastfork Construction. See attached

6. All other documents in the file or files of Defendant and his attorney concerning this action which have not been requested by any of the preceding paragraphs hereof and which are not expressly not exempted by discovery by Pa. R.C.P. 4003.3 or 4011(c). Invoice from Plaintiff is only known document.

7. All documents which Defendant intends to be identified or admitted as evidence at the trial or arbitration of the above captioned matter. Will be supplied when determined.



David J. Hopkins, Esquire
Attorney for Plaintiff



DENNISON, DENNISON & HARPER
By
John C. Dennison, II
Attorneys for Defendant

COMMONWEALTH OF PENNSYLVANIA
PA COMBINED REGISTRATION
FORM

DEPARTMENT USE ONLY
RECEIVED DATE

MAIL COMPLETED APPLICATION TO:
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
BUREAU OF REGISTRATION AND DISCOVERY
DEPT. 28080
HARRISBURG, PA 17120-0801
TELEPHONE (717) 783-5839

DEPARTMENT USE ONLY

DEPARTMENT OF REVENUE & DEPARTMENT OF LABOR AND INDUSTRY

ALL REGISTRANTS MUST COMPLETE SECTIONS 1 THROUGH 14

TYPE OR PRINT LEGIBLY. USE BLACK INK

SECTION 1 - REASON FOR THIS REGISTRATION

1. <input checked="" type="checkbox"/> NEW REGISTRATION	2. <input type="checkbox"/> REINSTATE ENTERPRISE	2a. ENTERPRISE ACCOUNT NUMBER(S) TO BE REINSTATED
3. <input type="checkbox"/> OTHER (EXPLAIN)		

SECTION 2 - ENTERPRISE INFORMATION

1. DATE OF FIRST OPERATIONS 5/21/96	2. DATE OF FIRST OPERATIONS IN PA 5/21/96	3. ENTERPRISE FISCAL YEAR END December
4. LEGAL NAME CALDWELL HOLDING LTD.	5. FEDERAL EMPLOYER IDENTIFICATION NUMBER 11-3081501	
6. TRADE NAME (DOING BUSINESS AS) EAST FORK CO.	7. ENTERPRISE TELEPHONE NUMBER 111	
8. STREET ADDRESS (DO NOT USE P.O. BOX) 61 Pickering Street	CITY/TOWN Brookville	STATE PA
9. MAILING ADDRESS, IF SAME AS ITEM 8 ENTER "SAME"	CITY/TOWN Brookville	STATE PA
10. LOCATION OF ENTERPRISE RECORDS (STREET ADDRESS)	CITY/TOWN	STATE

SECTION 3 - GENERAL INFORMATION

ANSWER ALL QUESTIONS

1. YES NO IS THE ENTERPRISE PAYING WAGES?

2. YES NO ONE WHICH GAVE PRIOR EMPLOYMENT TO INDIVIDUALS WHO WORKED IN PA? IF YES, UNDER WHICH FEDERAL EIN? _____

3. YES NO ONE WHICH GAVE PRIOR EMPLOYMENT TO PA RESIDENTS WHO WORKED OUTSIDE OF PA? IF YES, UNDER WHICH FEDERAL EIN? _____

4. YES NO REGISTERING AS A RESULT OF A MERGER, CONSOLIDATION, ACQUISITION OF ALL OR PART OF AN EXISTING ENTERPRISE, OR CHANGE IN LEGAL STRUCTURE? IF YES, COMPLETE SECTION 14.

5. YES NO OFFERING PRODUCTS OR SERVICES FOR USE AND/OR CONSUMPTION BY OTHERS? IF YES, COMPLETE SECTION 17, PART 1

6. YES NO SELLING TIRES ON A RETAIL BASIS AND/OR RENTING OR LEASING MOTOR VEHICLES? IF YES, COMPLETE SECTION 17, PART 1

7. YES NO MAKING AVAILABLE FOR RENTAL FIVE OR MORE MOTOR VEHICLES DESIGNED TO CARRY FIFTEEN OR LESS PASSENGERS? IF YES, COMPLETE SECTION 17, PART 1

8. YES NO CONDUCTING RETAIL SALES IN PA AND NOT MAINTAINING A PERMANENT LOCATION IN PA? IF YES, COMPLETE SECTION 17, PARTS 1 & 2

9. YES NO ACTIVELY PROMOTING SHOWS WHERE PRODUCTS WILL BE OFFERED FOR RETAIL SALE? IF YES, COMPLETE SECTION 17, PARTS 1 & 3

10. YES NO REQUESTING A SALES TAX EXEMPT STATUS? IF YES, COMPLETE SECTION 17, PARTS 1, 4, 4A, 4B AND 4C

11. YES NO OPERATING A MOTOR CARRIER VEHICLE (TRUCK) WEIGHING MORE THAN 17,000 LBS.? IF YES, COMPLETE SECTION 18

12. YES NO OPERATING A MOTORBUS VEHICLE WITH A SEATING CAPACITY OF 20 OR MORE? IF YES, COMPLETE SECTION 18.

13. YES NO SELLING, USING OR TRANSPORTING MOTOR FUELS IN PA? IF YES, COMPLETE SECTION 18.

14. YES NO SELLING, STORING OR STAMPING CIGARETTES? IF YES, COMPLETE SECTION 19.

15. YES NO MANUFACTURING AND/OR DISTRIBUTING SMALL GAMES OF CHANCE? IF YES, COMPLETE SECTION 20.

SECTION 4 - AUTHORIZED SIGNATURE

I, THE UNDERSIGNED, DECLARE UNDER THE PENALTIES OF PERJURY THAT THE STATEMENTS CONTAINED HEREIN ARE TRUE, CORRECT AND COMPLETE.

AUTHORIZED SIGNATURE

TYPE OR PRINT NAME

JAMES CALDWELL

TITLE

GEN. MGR.

DATE

5-31-96

PREPARER'S SIGNATURE (IF OTHER THAN OWNER, PARTNER OR CORPORATE OFFICER)

TITLE

TYPE OR PRINT NAME

NO. 165 P.5

TELEPHONE NUMBER

DATE

TROESE & ASSOCIATES (1)

IN THE COURT OF COMMON PLEAS OF
JEFFERSON COUNTY, PENNSYLVANIA

DOCKET # 929-2000 CD

DATE ENTERED 12-11-2000

CERTIFIED COPY OF LIEN

TO THE PROTHONOTARY OF SAID COURT:

Pursuant to Section 308.1 of the
Pennsylvania Unemployment
Compensation Law, 43 P.S. § 788.1,
this is a Certified Copy of Lien for
unpaid unemployment compensation
contributions, interest and penalties to
be entered of record by you and
indexed as judgments are indexed.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY
TO THE USE OF THE
UNEMPLOYMENT COMPENSATION FUND

vs.

• CALDWELL HOLDING LTD
(A CORPORATION)
T/A EAST FORK CONTRACTING
61 S PICKERING STREET
BROOKVILLE PA 15825

PENNSYLVANIA EMPLOYER

ACCOUNT NUMBER: 33-6301 6

AD Number: 287370

CTR/YR.	CONTRIBUTION			INTEREST DUE ON UNPAID CONTRIBUTION AND / OR CONTRIBUTION PAID LATE.	PENALTY DUE - LATE REPORT/ DISHONORED CHECK
	DUE	PAID/CREDIT	BALANCE		
1-00	WE .00		.00	.00	.00
1-00		590.44	.00	590.44	59.04
1-00	CP				100.00
2-00	WE .00		.00	.00	.00
2-00		345.28	.00	345.28	.00
2-00	CP				100.00
			sub-total	935.72	36.77
					259.04

ional interest is to be computed on the above balance of unpaid unemployment compensation contributions at the rate determined by the Secretary of Revenue or Section 806 of the Fiscal Code, 72 P.S. § 806, per month, or fraction of a month, from 11/30/2000 .

The undersigned, Director, Bureau of Employer Tax Operations, Department of Labor and Industry, certifies that the above unemployment compensation contributions, interest and penalties are due and payable by the above named defendant under the provisions of the Pennsylvania Unemployment Compensation Law. Pursuant to Section 308.1 of said Law, 43 P.S. § 788.1, the above contributions, interest and penalties are a lien upon the franchises and property, both real and personal, including after acquired property, of the above named defendant and attach thereto from the date of entry of this Certified Copy of Lien.

R. SCOT MIEDRICH

Assistant Director, Bureau of Employer Tax Operations

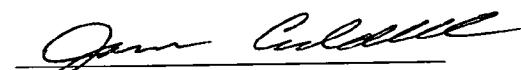
11/08/2000

DATE

EMPLOYER COPY

VERIFICATION

I verify that the answers to the forgoing Answer to Requests are true and correct to the best of my knowledge, information and belief. I understand that false statements herein made are subject to the penalties of 18 Pa.C.S.A. Section 4904, relating to unsworn falsification to authorities.



James Caldwell
James Caldwell

FILED

MAY 14 2001
2001-23100CC
William A. Shaw
Prothonotary
EAT



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

Notice of Proposed Termination of Court Case

OCTOBER 29, 2004

FILED

OCT 29 2004

AS William J. Stellabuto
Prothonotary Clearfield County

RE: 00-1207-CD

Jim Stellabuto's Everything Under Foot vs. James Caldwell

Dear David Hopkins, Esquire:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **January 7, 2005**.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,

David S. Meholick

David S. Meholick
Court Administrator



**OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA**

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

Notice of Proposed Termination of Court Case

OCTOBER 29, 2004

RE: 00-1207-CD

Jim Stellabuto's Everything Under Foot vs. James Caldwell

Dear John C. Dennison, II, Esquire:

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If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,

A handwritten signature in black ink, appearing to read "DAVID S. MEHOLICK".

David S. Meholic
Court Administrator

Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division

Jim Stellabuto's Everything Under Foot

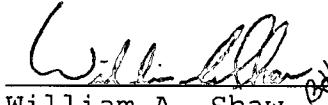
Vs.

00-1207-CD

James Caldwell

Termination of Inactive Case

This case is hereby terminated with prejudice
this 21st day of January, 2005, as per Rule 230.2



William A. Shaw
Prothonotary

WILLIAM A. SHAW
Prothonotary
Common Pleas Court
Clearfield County, Pennsylvania