

00-1600-CD
DAVID P. JACKSON t/d/b/a -vs- RONALD DAVES et al
JACKSON CONTRACTING

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

DAVID P. JACKSON t/d/b/a :
JACKSON CONTRACTING, :
Claimant :

vs. : No. 2000-1600-CD.

RONALD DAWES and : Mechanics' Lien
BEVERLY DAWES, :
Owners :

MECHANICS' LIEN CLAIM

Claimant, David P. Jackson, t/d/b/a Jackson Contracting, through the undersigned counsel, files this claim against the improvements and property at Treasure Lake, DuBois, Clearfield County, Pennsylvania consisting of a lot and partially constructed one and a half story house for the payment of a debt due to claimant as a contractor for labor/materials furnished by claimant in the erection and construction of the improvements. In support of the claim, the claimant makes the following statement:

1. The owner of the property is Ronald Dawes and Beverly Dawes, husband and wife, whose address is Kelly Street, Benezette, Pennsylvania, 15821.

2. The improvement and the property which are subject to this claim are a partially constructed one and a half story frame house, with appurtenant land located in Sandy Township, Treasure Lake, DuBois, Clearfield County, Pennsylvania, and is described as follows:

FILED

DEC 28 2000

12:35/14
William A. Shaw
Prothonotary

2 SENT TO ATTY

ALL that certain tract of land designated as Lot No. 223 of Section #7-C, in the Treasure Lake Sub-division in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds Office in Misc. Docket Map File No. 25.

EXCEPTING AND RESERVING THEREFROM AND SUBJECT TO:

1. All easements, rights of way, reservations, restrictions, and limitations shown or contained in prior instruments of records and in the aforesaid recorded plan.
2. The Declaration of Restrictions, Treasure Lake, Inc. recorded in Misc. Book Vol. 145, Page 476; all of said restrictions being covenants which run with the land.
3. All minerals and mining rights of every kind and nature.
4. A lien for all unpaid charges or assessments as may be made by Treasure Lake, Inc., or Treasure Lake Property Owners Association, Inc., which lien shall run with the land and be an encumbrance against it.

BEING the same premises granted and conveyed unto the Owners herein by deed of Laurel J. Hummel dated July 23, 1999, and recorded in the office of the Recorder of Deeds of Clearfield County, Pennsylvania, as Instrument No. 199912138.

3. The labor/materials for which the debt is now due were those items furnished for an agreed sum of \$26,050.00 which was the cost charged to partially and substantially erect a one and a half story structure on the land together with additional work consisting of excavation, garage doors, backfilling, and landscaping pursuant to an oral contract entered into by the contractor with the owner on or about August 16, 2000.

4. The labor/materials for which the debt is due were furnished pursuant to an oral agreement with the owners, under which the contractor was to be paid for time and materials

furnished by him at the standard labor rates and prices normally charged by the contractor for such services.

5. The manner in which the labor/materials were furnished consisted of the following and was subject to a payment schedule as hereinafter set forth:

| | |
|---------------------------------|----------------|
| Foundation digging complete | \$5000.00 |
| Backfilling completed | 800.00 |
| Concrete floor poured | 1550.00 |
| Walls up | 5000.00 |
| Under roof with windows & doors | 5000.00 |
| Upon completion | <u>8700.00</u> |
| Total | \$26050.00 |

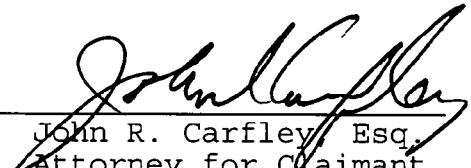
6. In general the contractor was to supply the labor to excavate, construct, finish, backfill and landscape the premises with the owner to supply the materials used in the construction of the project except as otherwise requested. Contractor did, however, at the direction of the owners provide certain materials consisting of stone, garage doors and other miscellaneous items.

7. The claimant had substantially completed his work on the property on November 4, 2000, which is less than four months before the filing of this claim.

8. On or about November 4, 2000, the claimant was locked out of the Treasure Lake Subdivision at the direction of the owners as a result of which he was unable to complete the work on the structure. It is averred, however, that at the time of this action by the owners the structure was substantially complete.

9. Claimant has been paid \$16,050.00 toward the debt due claimant for the stated labor/materials as a result of which there is due and owing a balance of \$10,000.00 for which claim is made

together with interest thereon and costs.



John R. Carfley Esq.
Attorney for Claimant
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: December 27, 2000

VERIFICATION

I hereby verify that the statements made in this instrument 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.

A handwritten signature in black ink, consisting of a stylized 'D' followed by a series of loops and a horizontal line at the end.

Dated: 12/27/00

JAN. 31, 2001 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

C. W. As
Deputy Prothonotary

2 ~~cert~~ to Atty
Gen.

| | | | |
|--|---|----------------------|---|
| IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA. NO. | DAVID JACKSON, t/d/b/a JACKSON CONTRACTING VS. RONALD DAWES and BEVERLY DAWES | MECHANICS LIEN CLAIM | JOHN R. CARLEY ATTORNEY AT LAW 222 PRESQUEISLE STREET PHILPSBURG, PENNSYLVANIA 16866 |
|--|---|----------------------|---|

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

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,
Claimant

:

:

vs.

: No. 2000-1600-CD

RONALD DAWES and
BEVERLY DAWES,
Owners

: Mechanics' Lien

:

AFFIDAVIT OF SERVICE OF NOTICE OF FILING OF MECHANICS' LIEN CLAIM

Robert Snyder, Deputy Sheriff, being duly sworn
according to law deposes and says that on January 29 2001, he
served the attached Notice of Filing of Mechanics Lien Claim upon
Ronald Dawes and Beverly Dawes, the owners of the property against
which the claim was filed by hand delivery of the same
to Ronald Dawes (2 copies)
at residence, 1564 Treasure Lake, DuBois, Clearfield County, Pennsylvania

Robert Snyder by Maelyn Harner
Server

SWORN TO AND SUBSCRIBED

BEFORE ME THIS 30th DAY

OF January, 2001.

William A. Shaw
Notary Public

WILLIAM A. SHAW

Prothonotary

My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

FILED

JAN 30 2001

01234/no cc
William A. Shaw
Prothonotary

Jackie,
See attached
② Returns.

Marilyn

WILLIAM A. CHAW
Protector
My Commission Expires
Friday Jan 1982
Cleveland Co. Clearing, PA.

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10552

JACKSON, DAVID P. T/D/B/A JACKSON CONTRACTING

00-1600-CD

VS.

DAWES, RONALD and BEVERLY

NOTICE & MECHANIC'S LIEN CLAIM

SHERIFF RETURNS

NOW JANUARY 9, 2001, TOM KONTES, SHERIFF OF ELK COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN NOTICE & MECHANIC'S LIEN CLAIM ON RONALD & BEVERLY DAWES, DEFENDANTS.

NOW JANUARY 23, 2001 ATTEMPTED TO SERVE THE WITHIN NOTICE & MECHANIC'S LIEN CLAIM ON RONALD & BEVERLY DAWES, DEFENDANTS BY DEPUTIZING THE SHERIFF OF ELK COUNTY. THE RETURN OF SHERIFF KONTES IS HERETO ATTACHED AND MADE A PART OF THIS RETURN "NOT FOUND". NEW ADDRESS, 1564 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PA.

NOW JANUARY 29, 2001 AT 5:20 PM EST SERVED THE WITHIN NOTICE & MECHANIC'S LIEN CLAIM ON RONALD DAWES, DEFENDANT AT RESIDENCE, 1564 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO RONALD DAWES A TRUE AND ATTESTED COPY OF THE ORIGINAL NOTICE & MECHANIC'S LIEN CLAIM AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: SNYDER

NOW JANUARY 29, 2001 AT 5:20 PM EST SERVED THE WITHIN NOTICE & MECHANIC'S LIEN CLAIM ON BEVERLY DAWES, DEFENDANT AT RESIDENCE, 1564 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO RONALD DAWES, HUSBAND A TRUE AND ATTESTED COPY OF THE ORIGINAL NOTICE & MECHANIC'S LIEN CLAIM AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: SNYDER

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10552

JACKSON, DAVID P. T/D/B/A JACKSON CONTRACTING

00-1600-CD

VS.

DAWES, RONALD and BEVERLY

NOTICE & MECHANIC'S LIEN CLAIM

SHERIFF RETURNS

Return Costs

| Cost | Description |
|-------|------------------------------|
| 34.10 | SHFF. HAWKINS PAID BY: ATTY. |
| 54.36 | SHFF. KONTES PAID BY: ATTY. |
| 20.00 | SURCHARGE PAID BY: ATTY. |

FILED

JAN 30 2001

012:33 pm

William A. Shaw

Prothonotary

Sworn to Before Me This

30th Day Of January 2001
William A. Shaw

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

So Answers,

Chester A. Hawkins
by Mark H. Hays
Chester A. Hawkins
Sheriff



OFFICE (814) 765-2641
AFTER 4.00 P.M. (814) 765-1533
CLEARFIELD COUNTY FAX
(814) 765-6089

Sheriff's Office Clearfield County

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

CHESTER A. HAWKINS
SHERIFF

DARLENE SHULTZ
CHIEF DEPUTY
MARGARET PUTT
OFFICE MANAGER

MARILYN HAMM
DEPT. CLERK
PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING

VS

RONALD & BEVERLY DAWES

NO. 00-1600-CD

ACTION: NOTICE & MECHANIC'S LIEN CLAIM

SERVE BY: 1/27/01

or

HEARING DATE:

SERVE: RONALD and BEVERLY DAWES

ADDRESS: Kelly St., Benezette, Pa.

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

This deputation being made at the request and risk of the plaintiff
this 9th day of JANUARY ~~2000~~. 2001

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

MAKE REFUND PAYABLE TO: JOHN R. CARFLEY, Attorney

David P. Jackson t/d/b/a Jackson Contracting

IN THE COURT OF COMMON PLEAS
OF ELK COUNTY

vs.

No. 00-1600

Ronald Dawes and Beverly Dawes

STATE OF PENNSYLVANIA
COUNTY OF ELK

Heath L. Boyer, Deputy Sheriff, being duly sworn according to law, deposes and says, that he attempted to serve Ronald and Beverly Dawes at Kelley St., Benezette, Elk County, PA and was advised by the Benezette Post Master that their new address is 1564 Treasure Lake, DuBois, Clearfield County, PA 15801


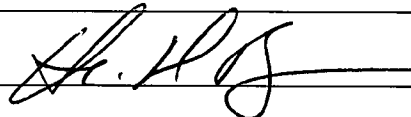
Elk Co. Sheriff's Costs - \$54.36 PAID

So Answers:

Sworn to and subscribed before me this 23rd

day of January A.D. 2001


My Commission Expires
January 5, 2004 Prothonotary


Sheriff

Deputy

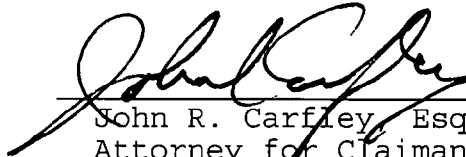
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

DAVID P. JACKSON t/d/b/a :
JACKSON CONTRACTING, :
Claimant :
vs. : No.00-1600
RONALD DAWES and : Mechanics' Lien
BEVERLY DAWES, :
Owners :

PRAECIPE

TO THE PROTHONOTARY:

PLEASE reinstate the Mechanics' Lien Claim filed in the above captioned matter and transmit the same to the Sheriff of Clearfield County, Pennsylvania, for service.


John R. Carfley, Esq.
Attorney for Claimant
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: January 30, 2001

FILED

JAN 31 2001
0/10:48/443
William A. Shaw
Prothonotary

~~2~~
NO COURT COPIES
E
425

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10552

JACKSON, DAVID P. T/D/B/A JACKSON CONTRACTING

00-1600-CD

VS.

DAWES, RONALD and BEVERLY

NOTICE & MECHANIC'S LIEN CLAIM

SHERIFF RETURNS

NOW FEBRUARY 6, 2001 AT 10:00 AM EST SERVED THE WITHIN NOTICE & MECHANIC'S LIEN CLAIM ON RONALD DAWES, DEFENDANT AT RESIDENCE, 1564 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO RONALD DAWES A TRUE AND ATTESTED COPY OF THE ORIGINAL NOTICE & MECHANIC'S LIEN CLAIM AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: COUDRIET

NOW FEBRUARY 6, 2001 AT 10:00 AM EST SERVED THE WITHIN NOTICE & MECHANIC'S LIEN CLAIM ON BEVERLY DAWES, DEFENDANT AT RESIDENCE, 1564 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO RONALD DAWES, HUSBAND A TRUE AND ATTESTED COPY OF THE ORIGINAL NOTICE & MECHANIC'S LIEN CLAIM AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: COUDRIET

Return Costs

| Cost | Description |
|------|-------------|
| | NO COSTS |

FILED

FEB 08 2001

012:01
William A. Shaw
Prothonotary

WAS

Sworn to Before Me This

8th Day of *February* 2001
William A. Shaw

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

So Answers,

Chester A. Hawkins
My Naulyn Harris
Chester A. Hawkins
Sheriff

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

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,
Claimant

:

:

vs.

: No. 00-1600-CD

RONALD DAWES and
BEVERLY DAWES,
Owners

: Document filed: Complaint

: Filed on behalf of: Plaintiff

: Counsel for this Party:
John R. Carfley, Esquire
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

FILED

MAR 21 2001

William A. Shaw
Prothonotary

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

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,
Claimant

:

:

vs.

: No. 00-1600-CD

RONALD DAWES and
BEVERLY DAWES,
Owners

:

:

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claims 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 FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
COURTHOUSE
CLEARFIELD, PA., 16830
(814) 765-2641

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

DAVID P. JACKSON t/d/b/a :
JACKSON CONTRACTING, :
Plaintiff :
vs. : No. 00-1600-CD
RONALD DAWES and : Mechanics' Lien
BEVERLY DAWES, :
Defendants :

COMPLAINT

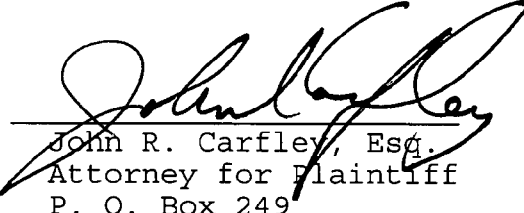
1. Plaintiff, David P. Jackson, t/d/b/a Jackson Contracting with an address at R. R. 1, Box 298A, Philipsburg, Pennsylvania, 16866.

2. Defendants are Ronald Dawes and Beverly Dawes, adult individuals, husband and wife, whose present address is 1564 Treasure Lake, DuBois, Clearfield County, Pennsylvania, 15801.

3. Plaintiff filed a mechanics' lien claim on December 28, 2000, in the Court of Common Pleas of Clearfield County, Pennsylvania, to the above term and number, a copy of which is attached hereto as Exhibit "A".

4. The amount of Plaintiff's claim is \$10,000.00.

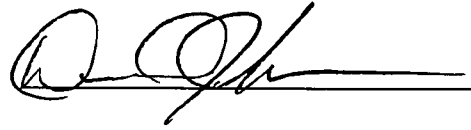
WHEREFORE, Plaintiff demands judgment against the defendants in the sum of \$10,000.00, with interest from November 4, 2000, and costs.


John R. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: March 20, 2001

VERIFICATION

I hereby verify that the statements made in this instrument 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.

A handwritten signature in black ink, consisting of a stylized 'A' followed by a series of loops and a long horizontal stroke, positioned above a solid horizontal line.

Dated: March 20, 2001

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

DAVID P. JACKSON t/d/b/a :
JACKSON CONTRACTING, :
Claimant :

vs. : No. 2000 - 1600 - 60

RONALD DAWES and : Mechanics' Lien
BEVERLY DAWES, :
Owners :

MECHANICS' LIEN CLAIM

Claimant, David P. Jackson, t/d/b/a Jackson Contracting, through the undersigned counsel, files this claim against the improvements and property at Treasure Lake, DuBois, Clearfield County, Pennsylvania consisting of a lot and partially constructed one and a half story house for the payment of a debt due to claimant as a contractor for labor/materials furnished by claimant in the erection and construction of the improvements. In support of the claim, the claimant makes the following statement:

1. The owner of the property is Ronald Dawes and Beverly Dawes, husband and wife, whose address is Kelly Street, Benezette, Pennsylvania, 15821.

2. The improvement and the property which are subject to this claim are a partially constructed one and a half story frame house, with appurtenant land located in Sandy Township, Treasure Lake, DuBois, Clearfield County, Pennsylvania, and is described as follows:

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

Exhibit A

DEC 28 2000

Attest

ALL that certain tract of land designated as Lot No. 223 of Section #7-C, in the Treasure Lake Sub-division in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds Office in Misc. Docket Map File No. 25.

EXCEPTING AND RESERVING THEREFROM AND SUBJECT TO:

1. All easements, rights of way, reservations, restrictions, and limitations shown or contained in prior instruments of records and in the aforesaid recorded plan.
2. The Declaration of Restrictions, Treasure Lake, Inc. recorded in Misc. Book Vol. 145, Page 476; all of said restrictions being covenants which run with the land.
3. All minerals and mining rights of every kind and nature.
4. A lien for all unpaid charges or assessments as may be made by Treasure Lake, Inc., or Treasure Lake Property Owners Association, Inc., which lien shall run with the land and be an encumbrance against it.

BEING the same premises granted and conveyed unto the Owners herein by deed of Laurel J. Hummel dated July 23, 1999, and recorded in the office of the Recorder of Deeds of Clearfield County, Pennsylvania, as Instrument No. 199912138.

3. The labor/materials for which the debt is now due were those items furnished for an agreed sum of \$26,050.00 which was the cost charged to partially and substantially erect a one and a half story structure on the land together with additional work consisting of excavation, garage doors, backfilling, and landscaping pursuant to an oral contract entered into by the contractor with the owner on or about August 16, 2000.

4. The labor/materials for which the debt is due were furnished pursuant to an oral agreement with the owners, under which the contractor was to be paid for time and materials,

furnished by him at the standard labor rates and prices normally charged by the contractor for such services.

5. The manner in which the labor/materials were furnished consisted of the following and was subject to a payment schedule as hereinafter set forth:

| | |
|---------------------------------|----------------|
| Foundation digging complete | \$5000.00 |
| Backfilling completed | 800.00 |
| Concrete floor poured | 1550.00 |
| Walls up | 5000.00 |
| Under roof with windows & doors | 5000.00 |
| Upon completion | <u>8700.00</u> |
| Total | \$26050.00 |

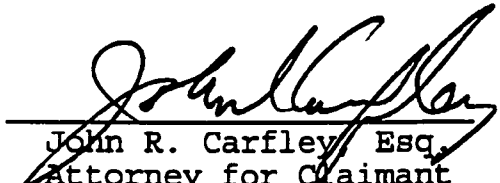
6. In general the contractor was to supply the labor to excavate, construct, finish, backfill and landscape the premises with the owner to supply the materials used in the construction of the project except as otherwise requested. Contractor did, however, at the direction of the owners provide certain materials consisting of stone, garage doors and other miscellaneous items.

7. The claimant had substantially completed his work on the property on November 4, 2000, which is less than four months before the filing of this claim.

8. On or about November 4, 2000, the claimant was locked out of the Treasure Lake Subdivision at the direction of the owners as a result of which he was unable to complete the work on the structure. It is averred, however, that at the time of this action by the owners the structure was substantially complete.

9. Claimant has been paid \$16,050.00 toward the debt due claimant for the stated labor/materials as a result of which there is due and owing a balance of \$10,000.00 for which claim is made

together with interest thereon and costs.



John R. Carfley Esq.
Attorney for Claimant
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: December 27, 2000

VERIFICATION

I hereby verify that the statements made in this instrument 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.

A handwritten signature in dark ink, consisting of a stylized 'D' followed by a series of loops and a final horizontal stroke, positioned above a solid horizontal line.

Dated: 12/27/00

FILED

MAR 21 2001

01:12:17 p.m.

William A. Shaw
Prothonotary

One (1) Out to All

EWS

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

DAVID P. JACKSON, t/d/b/a
JACKSON CONTRACTING,
Claimant

vs.

RONALD DAWES and BEVERLY
DAWES,
Owners

No. 00-1600-CD

Type of Pleading: Preliminary
Objections to Plaintiffs' Complaint

Filed on Behalf of: Owners,
Ronald Dawes and Beverly Dawes

Counsel of Record for this party:

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No.: 83998

900 Beaver Drive
DuBois, PA 15801

(814) 375-0300

FILED

APR 09 2001

mla:al noc
William A. Shaw
Prothonotary

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

| | | |
|---------------------------|---|----------------|
| DAVID P. JACKSON, t/d/b/a | : | |
| JACKSON CONTRACTING, | : | No. 00-1600-CD |
| Claimant | : | |
| | : | |
| vs. | : | |
| | : | |
| RONALD DAWES and BEVERLY | : | |
| DAWES, | : | |
| Owners | : | |

PRELIMINARY OBJECTIONS TO PLAINTIFFS' COMPLAINT

Ronald Dawes and Beverly Dawes, by and through their attorneys, The Hopkins Law Firm, makes this preliminary objection pursuant to 49 Pa. Stat. Ann. §1501(a) to strike off Mechanic's Lien Claim of Plaintiff, David P. Jackson, t/d/b/a Jackson Contracting and in support avers the following:

1. Claimant's Mechanic's Lien claim, a copy of which is attached hereto as Exhibit "A", was filed against Defendants' property located at Lot No. 223 of Section 7C in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania.
2. Claimant claims a lien amount of Ten Thousand Dollars (\$10,000.00) for labor and materials furnished in the partial erection of a log home.
3. The Owner, Ronald Dawes, is also the prime contractor who hired the Claimant, David P. Jackson, as a subcontractor.

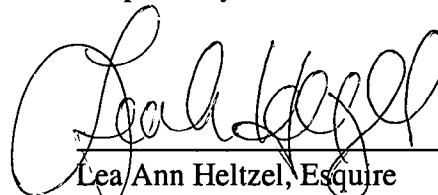
4. No claim by a subcontractor for alterations or repairs shall be valid unless he shall have given to the owner, on or before the date of completion of his work, a written preliminary notice of this intention to file a claim if the amount due is not paid.

5. No claim by a subcontractor shall be valid unless thirty (30) days before same is filed he shall have given owner formal written notice of his intention to file a claim.

6. Claimant's Mechanic's Lien claim is barred because Claimant never filed the written preliminary notice in accordance with the requirements of 49 Pa. Stat. Ann. §1501(a) or the formal written notice in accordance with 49 Pa. Stat. Ann § 1501(b).

WHEREFORE, Ronald Dawes and Beverly Dawes, as owners of the property at issue, request that this Court strike off Claimant's Mechanic's Lien claim.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Lea Ann Heltzel", is written over a horizontal line.

Lea Ann Heltzel, Esquire
Attorney for Owners

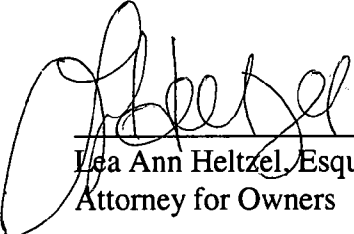
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

| | | |
|---------------------------|---|----------------|
| DAVID P. JACKSON, t/d/b/a | : | |
| JACKSON CONTRACTING, | : | No. 00-1600-CD |
| Claimant | : | |
| | : | |
| vs. | : | |
| | : | |
| RONALD DAWES and BEVERLY | : | |
| DAWES, | : | |
| Owners | : | |

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Preliminary Objections to Plaintiffs' Complaint, filed on behalf of Owners, Ronald Dawes and Beverly Dawes, was forwarded on the 6th day of April, 2001, by U.S. Mail, postage prepaid, to all counsel of record, addressed as follows:

John R. Carfley, Esquire
P.O. Box 249
Philipsburg, PA 16866



Lea Ann Heltzel, Esquire
Attorney for Owners

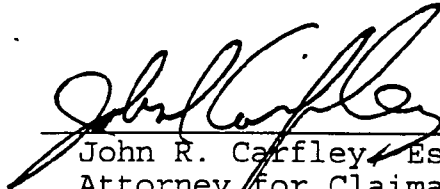
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

DAVID P. JACKSON t/d/b/a :
JACKSON CONTRACTING, :
Claimant :
vs. : No. 2000-1600-CD
RONALD DAWES and : Mechanics' Lien
BEVERLY DAWES, :
Owners :

NOTICE TO OWNER OF FILING OF MECHANICS' LIEN CLAIM

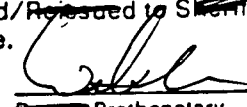
TO: Ronald Dawes
Beverly Dawes
Lot No. 223 - Sec. 7-C
1564 Treasure Lake
DuBois, Pa., 15801

You are notified that a mechanics' lien claim in the amount of \$10,000.00 has been filed on behalf of David P. Jackson t/d/b/a Jackson Contracting, against the property at Treasure Lake, DuBois, Sandy Township, Clearfield County, Pennsylvania, of which you are the owners or reputed owners. The claim was filed on December 28, 2000, in the Court of Common Pleas of Clearfield County, to No. 2000-1600-CD, a copy of the claim is attached.


John R. Carfley, Esq.
Attorney for Claimant
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: January 30, 2001

JAN. 31, 2001 Document
Reinstated/Reissued to Sheriff/Attorney
for service.


Deputy Prothonotary

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

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,
Claimant

:

:

vs.

: No. 2000 - 1600 - 07

RONALD DAWES and
BEVERLY DAWES,
Owners

: Mechanics' Lien

:

MECHANICS' LIEN CLAIM

Claimant, David P. Jackson, t/d/b/a Jackson Contracting, through the undersigned counsel, files this claim against the improvements and property at Treasure Lake, DuBois, Clearfield County, Pennsylvania consisting of a lot and partially constructed one and a half story house for the payment of a debt due to claimant as a contractor for labor/materials furnished by claimant in the erection and construction of the improvements. In support of the claim, the claimant makes the following statement:

1. The owner of the property is Ronald Dawes and Beverly Dawes, husband and wife, whose address is Kelly Street, Benezette, Pennsylvania, 15821.

2. The improvement and the property which are subject to this claim are a partially constructed one and a half story frame house, with appurtenant land located in Sandy Township, Treasure Lake, DuBois, Clearfield County, Pennsylvania, and is described as follows:

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

DEC 28 2000

Attest.

ALL that certain tract of land designated as Lot No. 223 of Section #7-C, in the Treasure Lake Sub-division in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds Office in Misc. Docket Map File No. 25.

EXCEPTING AND RESERVING THEREFROM AND SUBJECT TO:

1. All easements, rights of way, reservations, restrictions, and limitations shown or contained in prior instruments of records and in the aforesaid recorded plan.
2. The Declaration of Restrictions, Treasure Lake, Inc. recorded in Misc. Book Vol. 145, Page 476; all of said restrictions being covenants which run with the land.
3. All minerals and mining rights of every kind and nature.
4. A lien for all unpaid charges or assessments as may be made by Treasure Lake, Inc., or Treasure Lake Property Owners Association, Inc., which lien shall run with the land and be an encumbrance against it.

BEING the same premises granted and conveyed unto the Owners herein by deed of Laurel J. Hummel dated July 23, 1999, and recorded in the office of the Recorder of Deeds of Clearfield County, Pennsylvania, as Instrument No. 199912138.

3. The labor/materials for which the debt is now due were those items furnished for an agreed sum of \$26,050.00 which was the cost charged to partially and substantially erect a one and a half story structure on the land together with additional work consisting of excavation, garage doors, backfilling, and landscaping pursuant to an oral contract entered into by the contractor with the owner on or about August 16, 2000.

4. The labor/materials for which the debt is due were furnished pursuant to an oral agreement with the owners, under which the contractor was to be paid for time and materials

furnished by him at the standard labor rates and prices normally charged by the contractor for such services.

5. The manner in which the labor/materials were furnished consisted of the following and was subject to a payment schedule as hereinafter set forth:

| | |
|---------------------------------|----------------|
| Foundation digging complete | \$5000.00 |
| Backfilling completed | 800.00 |
| Concrete floor poured | 1550.00 |
| Walls up | 5000.00 |
| Under roof with windows & doors | 5000.00 |
| Upon completion | <u>8700.00</u> |
| Total | \$26050.00 |

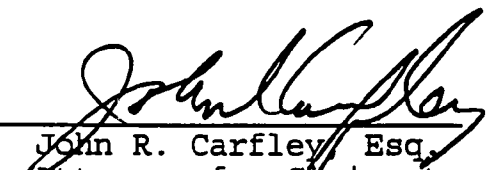
6. In general the contractor was to supply the labor to excavate, construct, finish, backfill and landscape the premises with the owner to supply the materials used in the construction of the project except as otherwise requested. Contractor did, however, at the direction of the owners provide certain materials consisting of stone, garage doors and other miscellaneous items.

7. The claimant had substantially completed his work on the property on November 4, 2000, which is less than four months before the filing of this claim.

8. On or about November 4, 2000, the claimant was locked out of the Treasure Lake Subdivision at the direction of the owners as a result of which he was unable to complete the work on the structure. It is averred, however, that at the time of this action by the owners the structure was substantially complete.

9. Claimant has been paid \$16,050.00 toward the debt due claimant for the stated labor/materials as a result of which there is due and owing a balance of \$10,000.00 for which claim is made

together with interest thereon and costs.



John R. Carfley Esq.
Attorney for Claimant
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: December 27, 2000

VERIFICATION

I hereby verify that the statements made in this instrument 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.

A handwritten signature in black ink, consisting of a stylized 'D' followed by a series of loops and a horizontal line at the end.

Dated: 12/27/00

CA

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

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,
Claimant

:

:

vs.

: No. 00-1600-CD

RONALD DAWES and
BEVERLY DAWES,
Owners

: Document filed: Plaintiff's
Preliminary Objections
: Filed on behalf of: Plaintiff

: Counsel for this Party:
John R. Carfley, Esquire
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

FILED

APR 16 2001

m/110/ndrc
William A. Shaw

Prothonotary

129

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

DAVID P. JACKSON t/d/b/a :
JACKSON CONTRACTING, :
Plaintiff :
vs. : No. 00-1600-CD
RONALD DAWES and : Mechanics' Lien
BEVERLY DAWES, :
Defendants :

PLAINTIFF'S PRELIMINARY OBJECTIONS TO DEFENDANTS
PRELIMINARY OBJECTIONS

AND NOW, comes the plaintiff, David P. Jackson, t/d/b/a Jackson Contracting, who by and through his attorney, John R. Carfley, Esquire, files the within Preliminary Objections to Defendants' Preliminary Objections to Plaintiff's Complaint:

MOTION TO STRIKE

1. Claimant filed his Mechanic's Lien Claim against the owner of the property on or about the December 28, 2000. A true and correct copy of said Mechanic's Lien Claim is attached hereto and marked Exhibit A.

2. The Mechanic's Lien Claim filed by the Claimant specifically states that the Plaintiff acted as the general contractor on the project and not as a subcontractor thus negating the need for preliminary notice to the owner. No response was filed to the Mechanic's Lien Claim nor were preliminary objections filed by the owner or anyone acting on behalf of the owner within the time specified by the Rules of Civil Procedure and/or the Mechanics Lien Law 49 P.S. §1101 et. seq.

3. The purpose of requiring preliminary notice of a claimant's intent to file a claim upon an owner in situations

involving a subcontractor is to prevent fraud from occurring, specifically where the contractor may fail to pay a subcontractor for services and/or materials provided and thus subject the owner to liability to the subcontractor.

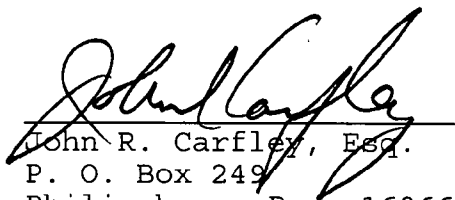
4. The further purpose of the preliminary notice is to allow the owner to pay the subcontractor directly thus avoiding payment to an unscrupulous contractor who does not pay his subs thus exposing the owner to duplicate liability.

5. It is believed and therefore averred, however, that an owner may not hold himself out as a general contractor solely to avoid liability to a legitimate contractor thus manipulating the provisions of the Mechanics Lien Law which provides an extraordinary statutory remedy to a legitimate contractor.

6. The intent of the owner in this instance is to defraud Plaintiff as a legitimate contractor by holding himself out as a general contractor on the project thus relegating the claimant to a position of a subcontractor.

7. Under the circumstances of this case, the preliminary objections asserted by the owner should be declared void and should be stricken as a matter of course.

WHEREFORE, Plaintiff respectfully requests that owner's preliminary objections be stricken.


John R. Carfley, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: April 10, 2001

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

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,
Claimant

:

:

vs.

: No. 2000-1600-CN

RONALD DAWES and
BEVERLY DAWES,
Owners

: Mechanics' Lien

:

MECHANICS' LIEN CLAIM

Claimant, David P. Jackson, t/d/b/a Jackson Contracting, through the undersigned counsel, files this claim against the improvements and property at Treasure Lake, DuBois, Clearfield County, Pennsylvania consisting of a lot and partially constructed one and a half story house for the payment of a debt due to claimant as a contractor for labor/materials furnished by claimant in the erection and construction of the improvements. In support of the claim, the claimant makes the following statement:

1. The owner of the property is Ronald Dawes and Beverly Dawes, husband and wife, whose address is Kelly Street, Benezette, Pennsylvania, 15821.

2. The improvement and the property which are subject to this claim are a partially constructed one and a half story frame house, with appurtenant land located in Sandy Township, Treasure Lake, DuBois, Clearfield County, Pennsylvania, and is described as follows:

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

ALL that certain tract of land designated as Lot No. 223 of Section #7-C, in the Treasure Lake Sub-division in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds Office in Misc. Docket Map File No. 25.

EXCEPTING AND RESERVING THEREFROM AND SUBJECT TO:

1. All easements, rights of way, reservations, restrictions, and limitations shown or contained in prior instruments of records and in the aforesaid recorded plan.
2. The Declaration of Restrictions, Treasure Lake, Inc. recorded in Misc. Book Vol. 145, Page 476; all of said restrictions being covenants which run with the land.
3. All minerals and mining rights of every kind and nature.
4. A lien for all unpaid charges or assessments as may be made by Treasure Lake, Inc., or Treasure Lake Property Owners Association, Inc., which lien shall run with the land and be an encumbrance against it.

BEING the same premises granted and conveyed unto the Owners herein by deed of Laurel J. Hummel dated July 23, 1999, and recorded in the office of the Recorder of Deeds of Clearfield County, Pennsylvania, as Instrument No. 199912138.

3. The labor/materials for which the debt is now due were those items furnished for an agreed sum of \$26,050.00 which was the cost charged to partially and substantially erect a one and a half story structure on the land together with additional work consisting of excavation, garage doors, backfilling, and landscaping pursuant to an oral contract entered into by the contractor with the owner on or about August 16, 2000.

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|---------------------------------|----------------|
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| Concrete floor poured | 1550.00 |
| Walls up | 5000.00 |
| Under roof with windows & doors | 5000.00 |
| Upon completion | <u>8700.00</u> |
| Total | \$26050.00 |

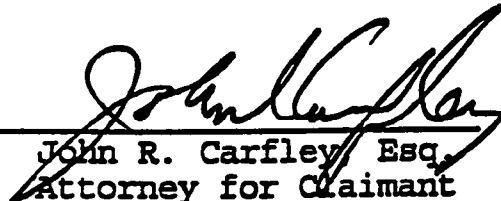
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7. The claimant had substantially completed his work on the property on November 4, 2000, which is less than four months before the filing of this claim.

8. On or about November 4, 2000, the claimant was locked out of the Treasure Lake Subdivision at the direction of the owners as a result of which he was unable to complete the work on the structure. It is averred, however, that at the time of this action by the owners the structure was substantially complete.

9. Claimant has been paid \$16,050.00 toward the debt due claimant for the stated labor/materials as a result of which there is due and owing a balance of \$10,000.00 for which claim is made

together with interest thereon and costs.



John R. Carfley Esq.
Attorney for Claimant
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: December 27, 2000

VERIFICATION

I hereby verify that the statements made in this instrument 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.

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line and a flourish.

Dated: 12/27/00

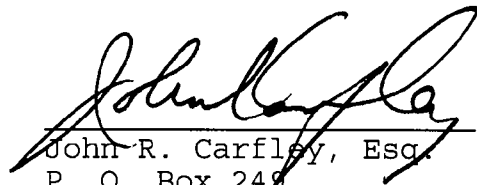
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

DAVID P. JACKSON t/d/b/a :
JACKSON CONTRACTING, :
Plaintiff :
vs. : No. 00-1600-CD
RONALD DAWES and : Mechanics' Lien
BEVERLY DAWES, :
Defendants :

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the within
Plaintiff's Preliminary Objections to Defendants' Preliminary
Objections on Defendants' Counsel by regular United States Mail,
postage prepaid this 12th day of April, 2001 as follows:

Lee Ann Heltzel, Esq.
The HOPKINS LAW FIRM
900 Beaver Drive
DuBois, Pa., 15801


John R. Carfley, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

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

CIVIL ACTION - LAW

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,

Claimant

vs.

RONALD DAWES and
BEVERLY DAWES, his wife,

Owners

No. 2000-1600-CD

TYPE OF PLEADING:
PRAECIPE FOR WITHDRAWAL
OF APPEARANCE
PRAECIPE FOR ENTRY OF
APPEARANCE

FILED ON BEHALF OF:
OWNERS

ATTORNEY FOR OWNERS:
David C. Mason, Esquire
Supreme Court ID #39180
MASON LAW OFFICE
P.O. Box 28
Philipsburg, PA 16866
(814) 342-2240

FILED

JAN 25 2002

William A. Shaw
Prothonotary

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

CIVIL ACTION - LAW

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,

Claimant

vs.

RONALD DAWES and
BEVERLY DAWES, his wife,

Owners

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No. 2000-1600-CD

PRAECIPE TO WITHDRAW

TO THE PROTHONOTARY OF SAID COURT:

Kindly withdraw my appearance on behalf of the above-named Owners.

David J. Hopkins, Esquire

By: 

DATED:

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY OF SAID COURT:

Kindly enter my appearance on the behalf of the above-named Owners.

MASON LAW OFFICE

DATED: *Jan 22, 2002*

By: 

David C. Mason, Esquire,
Attorney for Owners

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

DAVID P. JACKSON, t/d/b/a
JACKSON CONTRACTING,
Claimant

-vs-

RONALD DAWES and
BEVERLY DAWES,
Owners

No. 00 – 1600 – CD

OPINION AND ORDER

On August 14, 2000, the parties above-named entered into an oral contract under the terms of which claimant was to complete at least a portion of a log home on owners' property for the agreed upon sum of \$26,050. Disagreements arose and the owners above-named terminated the work and paid to claimant the sum of \$16,050. In an effort to collect the remaining \$10,000, claimant filed a Mechanics Lien Claim seeking payment of that amount. Owners have filed Preliminary Objections to said claim and claimant has filed Preliminary Objections seeking to strike owners Preliminary Objections. The owners, Ronald and Beverly Dawes argue that the claimant's Mechanics Lien should be stricken because notice was not given as required by statute, specifically 49 Pa. C.S.A. §1501 which reads as follows:

- a) No claim by a subcontractor for alterations or repairs shall be valid unless in addition to formal notice required by subsection (b) of this section, he shall have given the owner, on or before the date of completion of his work, a written preliminary notice of his intention to file a claim if the amount due or to become due is not paid.
- b) No claim by a subcontractor, whether for erection or construction or for alterations or repairs, shall be valid unless at least thirty (30) days before the same is filed, he shall have given to the owner a formal written notice of his intention to file a claim.

FILED

FEB 27 2002

William A. Shaw
Prothonotary

Claimant admits that notice was not given to the Dawes as the owners of the premises, but argues that the statute applies only to subcontractors whereas he, trading and doing business as Jackson Contracting, was the general contractor for purposes of this action. In support of his argument, claimant cites Owen v. Johnson, 174 Pa. 99, 34 A. 549 for the proposition that:

Where the owner acts as builder and makes contracts for separate portions of the work, those contracting with him are contractors and not subcontractors; and persons furnishing labor or materials to them, on the credit of the building, are entitled to liens.

Further, that the Supreme Court of Pennsylvania held that:

One objection urged to the lien is that Johnson was both owner and contractor, and Schaefer, therefore, a subcontractor, without power to bind the buildings. As to other parts of the construction Johnson was both owner and contractor, but as to the painting and plumbing he was owner only, and for the plumbing Schaefer was the contractor.

....

The power of a contractor to bind a building for materials furnished is not limited by the fact that the contract is not for the whole buildings. Where the owner makes contracts for different parts of the work, those furnishing materials are entitled to a lien as fully as if there had been but one contractor for the whole building.

While this Court notes that Owen was decided by the Supreme Court of Pennsylvania in 1896, it still stands as a correct statement of the law. Claimant further cites Howe v. Beloff, 162 Pa. Super. 33, 56 A.2d 352 (1948), for the proposition that where the mechanics lien claimant did not give statutory notice to owners of intention to claim lien, which notice must be given by a subcontractor, so that validity of lien depended upon whether claimant was a prime contractor, determination of such question was not to be made without taking testimony and evidence.

Further, section 1201(4) of the statute defines "contractor" as follows:

"one who, by contract with the owner, express or implied, erects, constructs, alters, or repairs an improvement or any part thereof or

furnishes labor, skill or superintendence thereto; or supplies or hauls materials, fixtures, machinery or equipment reasonably necessary for and actually used therein; or any or all of the foregoing, whether as superintendent, builder, or materialman."

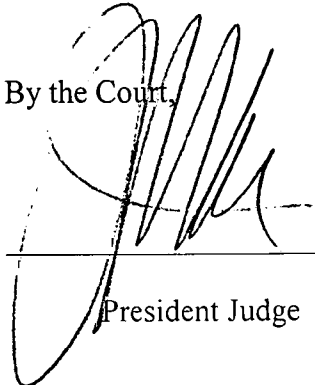
Clearly, therefore, the owner of the property cannot escape liability to one who contracts with him by arguing that he, the owner, is in fact the general contractor and the one with whom he contracts is a subcontractor and therefore required to give the above statutory notice.

WHEREFORE, the Court enters the following:

ORDER

NOW, this 26th day of February, 2002, following argument and briefs into the above-captioned Preliminary Objections filed on behalf of both parties, it is the ORDER of this Court that consistent with the foregoing Opinion, the Preliminary Objections filed on behalf of David P. Jackson, claimant above named to the Preliminary Objections filed on behalf of Ronald and Beverly Dawes, owners above-named, shall be and are hereby sustained and said owners' Preliminary Objections stricken.

By the Court,



President Judge

FILED

FEB 27 2002

019.281

William A. Shaw
Prothonotary

1cc atty Conley

1cc atty Heltyel

1 copy Muckell



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

CIVIL ACTION - LAW

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,

Claimant

vs.

RONALD DAWES and
BEVERLY DAWES, his wife,

Owners

No. 2000-1600-CD

TYPE OF PLEADING:
CERTIFICATE OF SERVICE

FILED ON BEHALF OF:
Ronald Dawes & Beverly
Dawes, Owners

COUNSEL OF RECORD FOR
OWNERS:

David C. Mason, Esq.
Supreme Court No. 39180
Attorney at Law
P.O. Box 28
Philipsburg, PA 16866
(814) 342-2240

COUNSEL OF RECORD FOR
CLAIMANT:

John R. Carfley, Esquire
Supreme Court ID# 17621
P.O. Box 249
Philipsburg, PA 16866
(814) 342-5581

FILED

MAR 19 2002

m/10:46/NDCC

William A. Shaw
Prothonotary

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

CIVIL ACTION - LAW

**DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,**

Claimant

vs.

**RONALD DAWES and
BEVERLY DAWES, his wife,**

Owners

No. 2000-1600-CD

CERTIFICATE OF SERVICE

I, DAVID C. MASON, Esquire, do hereby certify that I served a true and correct copy of an ANSWER CONTAINING NEW MATTER TO CLAIMANT'S COMPLAINT filed to the above captioned action, by placing the same in the United States mail, postage prepaid and addressed as follows:

John R. Carfley, Esquire
P.O. Box 249
Philipsburg, PA 16866

MASON LAW OFFICE

DATED: 3/18/02

BY:

David C. Mason, Esquire

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

CIVIL ACTION - LAW

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,

Claimant

vs.

RONALD DAWES and
BEVERLY DAWES, his wife,

Owners

No. 2000-1600-CD

TYPE OF PLEADING:

ANSWER CONTAINING NEW
MATTER TO CLAIMANT'S
COMPLAINT

FILED ON BEHALF OF:
OWNERS

ATTORNEY FOR OWNERS:

David C. Mason, Esquire
Supreme Court ID #39180
MASON LAW OFFICE
P.O. Box 28
Philipsburg, PA 16866
(814) 342-2240

ATTORNEY FOR CLAIMANT:

John R. Carfley, Esquire
Supreme Court ID #17621
P.O. Box 249
Philipsburg, PA 16866
(814) 342-5581

FILED

MAR 10 2002

m110:46120cc

William A. Shaw
Prothonotary

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

CIVIL ACTION - LAW

**DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,**

Claimant

VS.

**RONALD DAWES and
BEVERLY DAWES, his wife,**

Owners

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*
*
*

No. 2000-1600-CD

NOTICE TO PLEAD

You are hereby required to plead to the within New Matter within twenty (20) days
from the date of service hereof.

MASON LAW OFFICE

By: _____

David C. Mason, Esquire

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

CIVIL ACTION - LAW

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,

Claimant

vs.

RONALD DAWES and
BEVERLY DAWES, his wife,

Owners

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No. 2000-1600-CD

ANSWER CONTAINING NEW MATTER
TO CLAIMANT'S COMPLAINT

AND NOW, come the Owners, **RONALD DAWES** and **BEVERLY DAWES**, by and through their attorney, David C. Mason, Esquire, who Answers the Claimant's Complaint, and in support thereof aver as follows:

1. **ADMITTED.**

2. **ADMITTED.**

3. **ADMITTED.**

4. **ADMITTED IN PART AND DENIED IN PART.** It is **ADMITTED** that Contractor's claim is in the amount of \$10,000.00. For the reasons set forth in the following **NEW MATTER**, incorporated herein by reference, Owners aver that nothing is due.

WHEREFORE, Owners pray for the entry of an Order of Court dismissing Claimant's Complaint and striking the Mechanics' Lien, with prejudice, and awarding to the Owners legal fees, interest, costs of suit and actual damages as permitted by law.

NEW MATTER

5. The Mechanics' Lien Claim filed by the Claimant must be stricken because it was filed in contravention of law in the following material respects:

A. The service of the notice of the Mechanics' Lien Claim was on January 29, 2001, more than one month after the claim was filed on December 28, 2000. **Title 49 P.S. §1502(a)(2)**.

B. The Mechanics' Lien Claim was amended without leave of court (**Title 49 P.S. §1504**) and the amended Claim was "Reinstated" on January 30, 2001, and served on February 6, 2001.

C. Pursuant to **Title 49 P.S. §1502(a)(2)**, an "Affidavit of Service" must be filed within twenty (20) days of proper service of the Claim. No Affidavit of Service was filed within twenty (20) days of service of either the first or reinstated Claim.

D. The original Mechanics' Lien Claim, filed on December 28, 2000, described the wrong property. A Mechanics' Lien Claim is an action *in rem*, and as such, must properly describe the property to which it is to attach.

E. The Claimant filed a new Mechanics' Lien Claim to the same cocket number with a different property address without leave of court or consent of the adverse party. **Title 49 P. S. §1504**.

6. The Mechanics' Lien Claim filed by the Claimant fails to accurately set forth the

amount of the claim in hours worked or material provided. Rather, it sets forth what the Claimant believes to be the balance due under the contract, if it had been completed, which includes work which was not performed, profit, overhead, and other improper items. Further, the Mechanics' Lien Claim seeks payment to the Contractor for improvements to have been performed, but which were not performed, due to the Claimant's breach of the contract and his failure to perform the work in a substantial workmanlike manner. **Title 49 P. S. §1503.** B&B BUILDERS, INC. v. TCR BYBERRY CREEK LIMITED PARTNERSHIP, 27 Phila. 556, 1994 Phila. Cty. Rptr.

7. The Claimant may not assert a Mechanics' Lien because the building project was not completed, and the Claimant was not free from fault in failing to complete the project. **Title 49 P. S. §1305.**

8. The Owners have suffered monetary loss due to the failure of the Claimant to construct the building in a proper, workmanlike manner, in that:

a. Sill plate not fastened to foundation in accordance with "Builder's Procedure Booklet" provided by manufacturer and provided to contractor by owner three weeks prior to delivery of foundation walls. This deliberate violation by contractor voided fifteen (15) year warranty and caused movement of walls and compromised foundation integrity.

b. Subfloor installed backwards ---- not in accordance with manufacturer's warning stamp on facing of boards, resulting in compromising structural integrity of floor, swelling of joints and warpage of floor.

c. During log wall erection, several important steps were omitted; on Row M

on West side of house, a spline and caulking was not installed resulting in an open gap where daylight, wind and rain can seep through wall. These logs are also twisting. Also on same log, the head was chopped off because contractor misread blueprints as to where back porch roof beams were to integrate with logs.

d. Basement stairwell not constructed square ---- off by one (1") inch resulting in misalignment of support posts. Stability of upper floors compromised.

e. Basement stair stringers and risers were miscut. Stairs too steep and hazardous. Had to be removed and new lumber and hardware purchased, then recut and reinstalled by another contractor.

f. Roof rafters didn't meet walls. Gaps range from 3/8" to 1" due to back wall not being plumb.

g. Windows and doors not installed properly. Jambs cut too short, creating pressure on windows as home settled. One window has cracked and has been replaced. Doors warped.

h. Contractor twice drove nails through electric wires in door jambs as the result of the faulty installation of front and rear entrance doors. On both occasions, damaged wire had to be removed, new wire purchased and reinstalled.

i. Interior wall support posts in living room were not installed correctly as specified in both blueprints and construction manual. This caused pressure on loft support beams, causing beams to raise, flooring boards to bend (warp) and crack and logs to separate in adjacent area on West wall.

j. Back porch support posts were misaligned with second floor roof posts and rafters and did not support weight of porch safely. Posts were set twice incorrectly.

k. Garage door never installed properly. Had to be re-installed and opener completely rewired.

l. Roof sheathing installed backwards and not in accordance with manufacturer's instructions as stamped on boards.

m. Flashing was deliberately omitted over box beam at back porch even though Asperline representative, construction manual, and blueprints require it and contractor was advised during the construction of back porch, but chose to ignore request by owner to install flashing.

n. Contractor used wrong hardware (fasteners) to install loft flooring. He used 8d finishing nails rather than the 16d as specified by blueprints, consequently floor boards are loose and squeak.

o. Contractor incorrectly installed loft beam over bathroom area.

9. Contractor was paid Five Thousand (\$5,000.00) Dollars for excavation work, or eighty-seven (87%) percent of the total excavation contract price, yet Contractor did not backfill the foundation, did not dig the utilities, and did not complete the final grade.

10. At Contractor's specific request and insistence, the Owners paid Contractor One Thousand (\$1,000.00) Dollars to order the specialty roofing product. Contractor never ordered the specialty roofing product and Owners had to purchase roofing materials elsewhere.

11. Owners terminated the Contractor's engagement as the result of intentional, specific and fraudulent business practice committed by the Claimant.

12. Contractor misrepresented his experience and competence in the erection of a log home.

13. Contractor's misrepresentation regarding his experience and expertise in building log homes was a significant contributing factor to the poor construction of Owners' home, and Owners' damages.

14. Owners have filed a Civil Action - Law for the recovery of their damages, which Action has been docketed to #01-862-CD.

WHEREFORE, Owners pray for the entry of an Order striking the Mechanics' Lien Claim filed by the Claimant, and awarding the Owners legal fees, interest, costs of suit and actual and exemplary damages as are permitted by law.

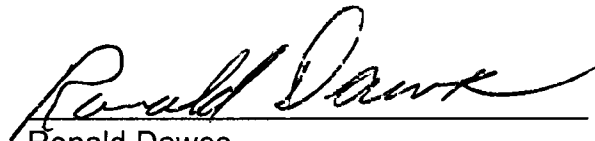
Respectfully submitted,

By: 

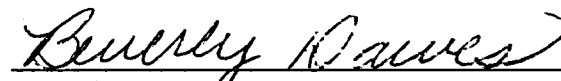
David C. Mason, Esquire
Attorney for Owners

VERIFICATION

We, **RONALD DAWES** and **BEVERLY DAWES**, his wife, verify that the statements made in the foregoing ANSWER CONTAINING NEW MATTER TO CLAIMANT'S COMPLAINT are true and correct to the best of our knowledge, information and belief. We understand that false statements herein are made subject to the penalties of 18 PA. C.S. §4904 relating to unsworn falsification to authorities.



Ronald Dawes



Beverly Dawes

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

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,
Claimant

:

:

vs.

: No. 00-1600-CD

RONALD DAWES and
BEVERLY DAWES,
Owners

: Document filed:

REPLY TO NEW MATTER

: Filed on behalf of: Plaintiff

: Counsel for this Party:

John R. Carfley, Esquire

P. O. Box 249

Philipsburg, Pa., 16866

(814) 342-5581

ID# 17621

FILED

MAR 28 2002

M/S/110
William A. Shaw
Prothonotary

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

DAVID P. JACKSON t/d/b/a :
JACKSON CONTRACTING, :
Plaintiff :
vs. : No. 2000-1600-CD
RONALD DAWES and : Mechanics' Lien
BEVERLY DAWES, :
Defendants :

PLAINTIFF'S REPLY TO DEFENDANTS NEW MATTER

AND NOW, comes the defendant, David P. Jackson, t/d/b/a Jackson Contracting, who by and through his attorney, John R. Carfley, Esquire, replies to plaintiff's Answer/New Matter in the following manner:

5. Denied. On the contrary it is averred that the arguments asserted by plaintiffs in Paragraphs 5A through 5E were the subject of preliminary objections filed on behalf of the same individuals when they were defendants in the Mechanics Lien Claim filed on behalf of David P. Jackson t/d/b/a Jackson Contracting which order was entered by the court on February 26, 2002, and which renders moot the issues set forth herein.

6. Denied. On the contrary it is averred that Paragraph 6 of Defendants' New Matter states a conclusion of law as to which no further response is required. By way of further answer it is averred that such objection in order to be timely needed to be raised by preliminary objections and in the absence of any mention in the preliminary objections of said objection the same is deemed to be waived.

7. Denied. On the contrary it is averred that Paragraph 7 states a conclusion of law as to which no response is required.

8. Denied. On the contrary it is averred that after reasonable investigation, plaintiff is without knowledge sufficient to form a belief as to the truth of the averment set forth in Paragraph 8-A through 8-O and insofar as relevant proof thereof is demanded at time of trial.

9. Denied. On the contrary it is averred that Plaintiff completed as much of the excavation work and backfill and other related activities as he was permitted to do. By way of further answer it is averred that the plaintiff was denied access to the site by the defendants causing the plaintiff to be unable to complete certain aspects of the work including those items mentioned in Paragraph 9.

10. Denied. On the contrary it is averred that after reasonable investigation, plaintiff is without knowledge sufficient to form a belief as to the truth of the averment set forth therein and insofar as relevant, proof thereof is demanded at time of trial.

11. Denied. On the contrary it is averred that Paragraph 11 states a conclusion of law as to which no response is required.

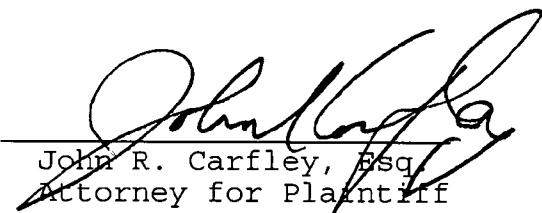
12. Denied. On the contrary it is averred that Paragraph 12 states a conclusion of law as to which no response is required.

13. Denied. On the contrary it is averred that after reasonable investigation, plaintiff is without knowledge sufficient to form a belief as to the truth of the averment set forth therein and insofar as relevant, proof thereof is demanded at time of

trial.

14. Denied. On the contrary it is averred that after reasonable investigation, plaintiff is without knowledge sufficient to form a belief as to the truth of the averment set forth therein and insofar as relevant, proof thereof is demanded at time of trial.

WHEREFORE, Plaintiff requests this Honorable Court affirming Plaintiff's Mechanic's Lien Claim and awarding damages as specified therein while at the same time dismissing Defendant's Answer, New Matter and Counterclaim.

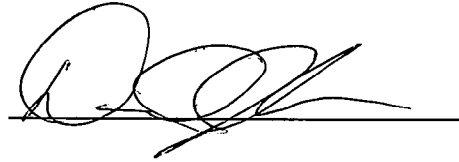


John R. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

Dated: March 26, 2002

VERIFICATION

I hereby verify that the statements made in this instrument 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.

A handwritten signature in black ink, consisting of a large, stylized 'Q' followed by several loops and a final flourish, written over a horizontal line.

Dated: March 25, 2002

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

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,
Plaintiff

:

:

vs.

: No. 00-1600-CD

RONALD DAWES and
BEVERLY DAWES,
Defendants

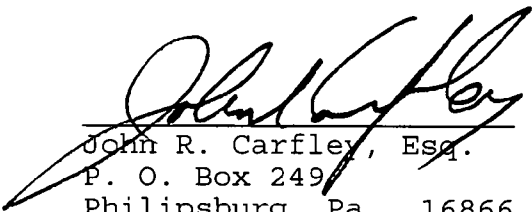
: Mechanics' Lien

:

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the within
Plaintiff's Reply to Defendants' New Matter by regular United
States Mail, postage prepaid this 27th day of March, 2002, as
follows:

David Mason, Esq.
P. O. Box 28
Philipsburg, Pa., 16866


John R. Carflex, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581
ID# 17621

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

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING

-vs-

RONALD DAWES and
BEVERLY DAWES, his wife

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No. 00 – 1600 – CD

ORDER

NOW, this 16th day of May, 2002, this being the day and date set for argument and hearing in the above-captioned matter, Defendant having objected to the lien as being improperly filed and the Court having examined the objection with regards to 49 P.S. §1502, it is the ORDER of this Court that said objection be and is hereby sustained, the Mechanics' Lien stricken, and further proceedings in this matter shall be held exclusively to No. 01-862-CD, Ronald Dawes and Beverly Dawes, his wife, vs. David P. Jackson t/d/b/a Jackson Contracting.

By the Court,



President Judge

FILED

MAY 16 2002

William A. Shaw
Prothonotary

FILED

03:46 PM
MAY 16 2002

1cc Atty Castley
1cc Atty Mason

KEB

William A. Shaw
Prothonotary

CA

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

DAVID P. JACKSON, t/d/b/a
JACKSON CONTRACTING

vs.

RONALD DAWES and
BEVERLY DAWES, his wife

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: No. 00-1600-CD
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ORDER


AND NOW, this 21ST day of January, 2004, it is the ORDER of the
Court that a status conference in the above matter has been scheduled for **Friday,**
February 6, 2004 at 9:15 A.M., in Courtroom No. 1, Clearfield County Courthouse,
Clearfield, PA.

FILED

JAN 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED 1cc Atty's Mason, Castley
01/02/04
JAN 21 2004 *Ekes*

William A. Shaw
Prothonotary/Clerk of Courts

CA

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

DAVID P. JACKSON t/d/b/a :
JACKSON CONTRACTING, :
Plaintiff :
vs. : No. 00-1600-CD
RONALD DAWES and : Mechanics' Lien
BEVERLY DAWES, :
Defendants :

ORDER OF COURT

AND NOW, this 4th day of February, 2004, upon consideration of the foregoing petition, a rule is granted upon DAVID P. JACKSON, Plaintiff to appear and show cause why the prayer of said petition should not be granted.

Rule returnable the 6th day of February 2004, at 9:15
A M. in Room No. 1, Clearfield County Courthouse, Clearfield,
Pennsylvania.

BY THE COURT:



P. J.

FILED

FEB 05 2004

William A. Shaw
Prothonotary

FILED

010-03 84 sec etty Conley

FEB 05 2004

[Signature]

William A. Shaw
Prothonotary

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

DAVID P. JACKSON t/d/b/a :
JACKSON CONTRACTING, :
Plaintiff :
vs. : No. 00-1600-CD
RONALD DAWES and : Mechanics' Lien
BEVERLY DAWES, :
Defendants :

FILED

FEB 04 2004

William A. Shaw
Prothonotary/Clerk of Courts

PETITION TO WITHDRAW AS COUNSEL

AND NOW comes your petitioner, John R. Carfley, Esquire, who moves this court for leave to withdraw as counsel in the above matter and in support thereof avers as follows:

1. Your petitioner initially undertook to represent the above named plaintiff in the action filed to the above term and number and in a companion suit filed to No. 01-862-CD.

2. Substantial services were provided to the plaintiff including conferences, correspondence, legal research, court appearances at hearings and other proceedings as well as filings of pleadings and other documents.

3. All steps necessary to protect the interest of the plaintiff were taken by your petitioner.

4. Your petitioner is a sole practitioner and has expended a considerable number of man hours in the preparation and litigation of this matter.

5. Despite repeated demands the plaintiff has failed to fulfill his contractual obligation in that he has failed to satisfy statements presented by counsel for legal services and costs and he

has further failed to cooperate with counsel to develop a meaningful and reasonable strategy to resolve the issues currently pending before this court.

6. Plaintiff's unwillingness and/or inability to assist in the formulation of a reasonable demand for settlement and/or in the alternative to advance sums sufficient to allow for the orderly administration of the proceeding has frustrated all efforts by counsel to bring about an effective and reasonable resolution of the matter.

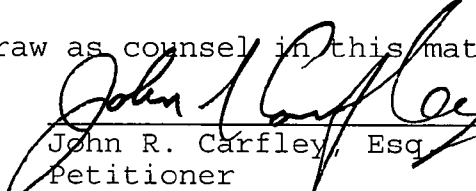
7. Petitioner has not had contact with Plaintiff since the last hearing before this Court and the matter is now scheduled for a status conference on February 6, 2004.

8. Copies of all documents, pleadings and other court information have been forwarded to Plaintiff by Petitioner upon receipt from the court and opposing counsel and Plaintiff has not made any type of arrangement to otherwise assist counsel in the preparation or defense of the case.

9. Your petitioner does not wish to continue representation of the client under the circumstances of this case.

10. It is believed and therefore averred that this would be the appropriate time to allow counsel to withdraw as counsel in these matters and to order the plaintiff to retain other counsel to conclude this case.

WHEREFORE, Petitioner requests this Honorable Court to issue a rule directed to the plaintiff to show cause why your petitioner should not be permitted to withdraw as counsel in this matter.


John R. Carfley, Esq.
Petitioner
P. O. Box 249
Philipsburg, Pa., 16866
ID# 17621
(814) 342-5581

Dated: February 3, 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED ^{2cc}
01/15/04
FEB 04 2004
Angela S. Leary

CA

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

DAVID P. JACKSON, t/d/b/a
JACKSON CONTRACTING,
Plaintiff

vs.

RONALD DAWES and
BEVERLY DAWES, his wife
Defendants

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NO. 2000-1600-C.D.

FILED

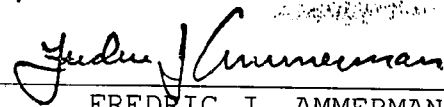
FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

ORDER

NOW, this 5th day of February, 2004, the Court noting that a Status Conference is scheduled for Friday, February 6, 2004; due to the forecasted inclement weather conditions which are to arrive in Clearfield County and surrounding areas sometime tonight, it is the ORDER of this Court that said Status Conference be and is hereby cancelled. Counsel for the parties shall have no more than twenty (20) days from the date of this Order to present the Court with a letter detailing the status of the above captioned action.

By the Court,



FREDRIC J. AMMERMAN
PRESIDENT JUDGE

FILED

dl:dl
FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

- 2 certified copies to John R. Carfley, Esquire
- 2 certified copies to David C. Mason, Esquire
- 1 copy to Judge Ammerman
- 1 copy to Court Administrator

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.
CIVIL ACTION - LAW

RONALD DAWES and
BEVERLY DAWES, his wife,
Plaintiffs

vs.

DAVID P. JACKSON, t/d/b/a
JACKSON CONTRACTING,
Defendants

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No. 01-862-CD

DAVID P. JACKSON t/d/b/a
JACKSON CONTRACTING,
Claimant

vs.

RONALD DAWES and
BEVERLY DAWES, his wife,
Owners

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No. 2000-1600-CD

**JOINT PRAECIPE TO
SETTLE AND DISCONTINUE**

TO THE PROTHONOTARY OF SAID COURT:

AND NOW, come the parties by and through their respective counsel and file

a Joint Praecipe to Settle and Discontinue the above captioned actions.

DATED: 2/27/04

BY David P. Jackson
David P. Jackson

DATED: 3/3/04

By: John R. Carley
John R. Carley, Attorney for
Defendants/Claimant.

DATED: 3-5-04

By: David C. Mason
David C. Mason, Attorney for
Plaintiffs/Owners

FILED

MAR 08 2004

William A. Shaw
Prothonotary