

01-1213-CD
Michael Powers vs Scott Foradora



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS CONSTRUCTION,
Plaintiff

CIVIL DIVISION

No. 01 - 1213 - CD

Vs.

SCOTT H. FORADORA and PAULA A.
FORADORA, husband and wife,
Defendants

COMPLAINT

Filed on Behalf of:

Plaintiff, MICHAEL E. POWERS

Counsel of Record for This
Party:

JOHN R. RYAN, ESQUIRE
Pa. I.D. #38739

COLAVECCHI RYAN & COLAVECCHI
221 East Market Street
P. O. Box 131
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED

JUL 27 2001

William A. Shaw
Prothonotary

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

MICHAEL E. POWERS, d/b/a :
MICHAEL E. POWERS CONSTRUCTION, : No. 01 - - CD
Plaintiff :
:
Vs. :
:
SCOTT H. FORADORA and PAULA A. :
FORADORA, husband and wife, :
Defendants:

NOTICE

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

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

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
Second and Market Streets
Clearfield, PA 16830
Phone 814/765-2641 Ex. 5982

LAW OFFICES OF
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CLEARFIELD, PA

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

MICHAEL E. POWERS, d/b/a MICHAEL :
E. POWERS CONSTRUCTION, : No. 01 - - CD
Plaintiff :
:
Vs. :
:
SCOTT H. FORADORA and PAULA A. :
FORADORA, husband and wife, :
Defendants:

COMPLAINT

1. The Plaintiff is Michael E. Powers, d/b/a Michael E. Powers Construction, of 970 Treasure Lake, DuBois, Pennsylvania 15801.

2. The Defendants are Scott H. Foradora and Paula A. Foradora, husband and wife, of 1408 Treasure Lake, DuBois, Pennsylvania 15801.

3. On March 24, 2000, Defendants entered into a Contract with Plaintiff whereby Plaintiff was to erect and construct for the Defendants a dwelling at Treasure Lake in DuBois, Pennsylvania. A true and correct copy of the said Contract is attached hereto, marked Exhibit "A" and incorporated by reference as if set forth at length.

4. Pursuant to this Contract, Plaintiff furnished materials and performed labor in the construction of the residential dwelling. The performance by Plaintiff of the labor and furnishing

of materials was commenced in June of 2000 and the last such work was done on April 4, 2001.

5. On or about April 10, 2001, Defendants advised Plaintiff in writing that they were terminating the Contract.

6. There is due and owing to Plaintiff from the Defendants, the sum of Fifty-two Thousand Dollars (\$52,000.00).

7. On April 18, 2001, Plaintiff for record in the Office of the Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, a Claim of Mechanics Lien on the real estate of the Defendants which is designated and described as Lot No. 5, Section 6 "Bermuda" in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds Office in Miscellaneous Book Map File 24. A true and correct copy of said Claim is attached hereto, marked Exhibit "B" and incorporated by reference as is set forth at length.

8. Plaintiff has been compelled to employ an attorney to prosecute this action and will incur attorney's fees and costs.

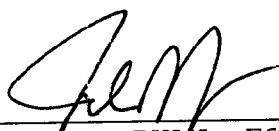
WHEREFORE Plaintiff prays:

1. For judgment against the Defendants in the amount of Fifty-two Thousand Dollars (\$52,000.00), together with interest from April 18, 2001;

2. For foreclosure of the lien against the above described property of Defendants by judicial sale of the premises

and application of the proceeds to the satisfaction of the said judgment;

3. For reasonable attorney's fees;
4. For costs of suit; and,
5. For such other and further relief as the Court deems just and equitable.



JOHN R. RYAN, ESQUIRE
Attorney for Plaintiff

LAW OFFICES OF
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RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
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P. O. BOX 131
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VERIFICATION

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



MICHAEL E. POWERS

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

AGREEMENT

MICHAEL E. POWERS AND HOMEOWNERS

THIS AGREEMENT, MADE THIS 24th DAY OF MARCH, 2000, BY
AND BETWEEN MICHAEL E. POWERS CONSTRUCTION, HEREINAFTER
CALLED THE CONTRACTOR, AND SCOTT AND PALLA FORADORA,
HEREINAFTER CALLED THE OWNERS, WITNESSETH;

THAT THE CONTRACTOR AND OWNER FOR THE CONSIDERATION
HEREINAFTER NAMED AGREE AS FOLLOWS;

ARTICLE 1: THE CONTRACTOR AGREES TO PROVIDE ALL THE MATERIALS
AS SPECIFIED AND TO PERFORM ALL THE LABOR INDICATED IN THE
SPECIFICATIONS FOR THE ERECTION OF A DWELLING FOR THE OWNER,
THE FORADORA'S AT TREASURE LAKE IN THE CITY
OF DUBOIS, STATE OF PENNSYLVANIA.

ARTICLE 2: THE OWNER AGREES TO PAY THE CONTRACTOR IN CURRENT
FUND FOR THE PERFORMANCE OF THE CONTRACT THE AMOUNT
OF TWO HUNDRED EIGHTY THOUSAND DOLLARS (\$280,000.00),
SUBJECT TO ANY ADDITIONS OR DEDUCTIONS TO THE GENERAL
CONDITIONS OF THE CONTRACT AGREED UPON IN WRITING AND TO MAKE
PAYMENTS ON ACCOUNT HEREOF UPON PRESENTATION OF PROPER LIEN
WAIVERS, AS THE WORK PROGRESSES AND AS FOLLOWS;

PAYMENT SCHEDULE:

<u>50,000.00</u>	COMPLETION OF FOUNDATION
<u>125,000.00</u>	COMPLETION OF ROUGH FRAME
<u>45,000.00</u>	COMPLETION OF ROUGH MECHANICS
<u>40,000.00</u>	COMPLETION OF DRYWALL
<u>20,000.00</u>	COMPLETION OF CONTRACT

ARTICLE 3: FINAL PAYMENT SHALL BE DUE IMMEDIATELY IN FULL AFTER
COMPLETION OF THE WORK ABOVE MENTIONED. UNTIL SUCH FINAL
PAYMENT IS MADE, OWNER SHALL NOT TAKE UP RESIDENCE OR MOVE ANY
PERSONAL PROPERTY INTO THE HOUSE. IF THE SAME SHOULD OCCUR,
THIS SHALL BE CONSTRUED AS POSSESSION BY THE OWNER AND
ACCEPTANCE OF ALL WORK AS IS, AND COMPLETION IN FULL OF THE
CONTRACT HEREIN SET FORTH. UPON FINAL PAYMENT, THE PROPER
KEYS WILL BE DELIVERED TO THE OWNER AT THAT TIME.

ARTICLE 4: IN THE EVENT THAT CONSTRUCTION CANNOT COMMENCE
WITHIN SIXTY DAYS FROM THE DATE OF THIS AGREEMENT AND IF THE
REASON FOR THE SAME IS BECAUSE THE OWNER HAS NOT YET OBTAINED
FINANCING OR FOR ANY OTHER REASON DOES NOT PROCEED, THEN IT IS
UNDERSTOOD, THAT IF PRICE CHANGES IN MATERIALS SHALL OCCUR

Exhibit

"A"

AFTER THAT SIXTY DAY PERIOD, THE PRICE OF THIS CONTRACT SHALL BE ADJUSTED TO PROPORTIONATELY REFLECT SUCH ADDITIONAL COSTS ATTRIBUTED TO PRICE INCREASES. HOWEVER, IF CONSTRUCTION DOES NOT COMMENCE WITHIN SIXTY DAYS FROM THE DATE OF THIS AGREEMENT BECAUSE CONTRACTOR CANNOT OR DOES NOT BEGIN, THEN ANY SUCH PRICE INCREASES SHALL NOT AFFECT THE BASE PRICE OF THIS CONTRACT.

ARTICLE 5: UPON THE COMMENCEMENT OF CONSTRUCTION, THE OWNER WILL PROVIDE FOR FIRE, VANDALISM, AND OTHER CASUALTY AND LIABILITY INSURANCE. (HOMEOWNERS POLICY).

ARTICLE 6: THE OWNER WILL ALSO SUPPLY ELECTRIC AND FUEL SERVICE AND PAY THE COST OF SUCH SERVICE AFTER THE COMMENCEMENT OF CONSTRUCTION AND AT THE APPROPRIATE TIME.

ARTICLE 7: CONTRACTOR DOES NOT AND CANNOT ASSUME ANY LIABILITY OR RESPONSIBILITY FOR WORK DONE BY THE CUSTOMER/OWNER, NOR SHALL ANY CREDIT BE GIVEN TO THE OWNER FOR WORK OR LABOR PERFORMED UNLESS THE SAME IS APPROVED BEFOREHAND BY THE CONTRACTOR.

ARTICLE 8: IN THE EVENT THAT THERE ARE ANY SPECIAL CODES FOR REGULATIONS OTHER THAN NORMAL ZONING LAWS AND RESTRICTIONS, THE CUSTOMER SHALL NOTIFY THE CONTRACTOR OF THE SAME.

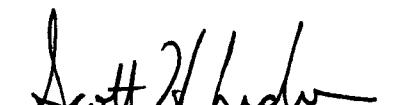
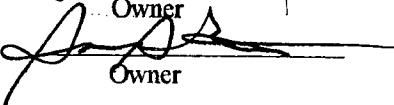
ARTICLE 9: IF ANY CHANGES ARE TO BE MADE TO THIS CONTRACT, SPECIFICATIONS OR THE WORK CALLED FOR HEREIN, AND IF SUCH CHANGES ENTAIL AN INCREASE OR DECREASE IN THE COST OF CONSTRUCTION, A CHANGE ORDER MUST BE EXECUTED IN WRITING BY BOTH OF THE PARTIES HERETO, AND SUCH MODIFICATIONS OR CHANGES PAID FOR BEFORE THERE IS AN OBLIGATION TO THE SAME.

ARTICLE 10: THE CONTRACTOR AND OWNER FURTHER AGREE THAT THE GENERAL SPECIFICATIONS, CONDITIONS, AND BLUEPRINTS TOGETHER WITH THIS AGREEMENT FORM THE ENTIRE CONTRACT, SUCH SPECIFICATIONS, PRINTS, AND CONDITIONS TO BE ATTACHED HERETO.

ARTICLE 11: THE CONTRACTOR RECOGNIZES THE 3-DAY RIGHT TO CANCEL CLAUSE THAT IS MANDATED BY STATE LAW. AFTER SIGNING THIS AGREEMENT, THE CUSTOMER HAS THE RIGHT TO CANCEL THE CONTRACT AND ALL PRECEDING STATEMENTS WILL BE CONSIDERED NULL AND VOID.

THUS, THE CONTRACTOR AND OWNERS HAVE SET THEIR HANDS AND SEALS THE DAY AND YEAR FIRST ABOVE WRITTEN.


Michael E. Powers, Contractor


Scott J. Hudson
Owner

John S. Powers
Owner

01-557-CD

CLAIM FOR MECHANICS LIEN

TO: WILLIAM A. SHAW, PROTHONOTARY

Michael E. Powers, d/b/a Michael E. Powers Construction, Lienor herein, first being duly sworn, deposes and says:

1. That he is a resident of Sandy Township, Clearfield County, Pennsylvania.

2. That between the dates of June, 2000 and April 2001, he furnished certain labor and materials, as specifically set forth in the contract attached hereto and made part hereof, for the construction of a residential dwelling situated on the land herein described, pursuant to the said contract entered into with Scott H. Foradora and Paula A. Foradora, husband and wife.

3. That a true and correct copy of the contract dated March 24, 2000, is attached hereto, marked Exhibit "A" and made part hereof.

4. That the performance of such labor and the furnishing of materials was begun in June of 2000, and the last of such work was done on April 4, 2001.

5. That there is justly due deponent from Scott H. Foradora and Paula A. Foradora, over and above all legal setoffs, the sum of Fifty Two Thousand Dollars (\$52,000.00), for which deponent claims a lien on said property of Scott H. Foradora and Paula A. Foradora.

6. That the land against which the lien is sought is described and designated as Lot No. 5, Section 6 "Bermuda" in the

Exhibit

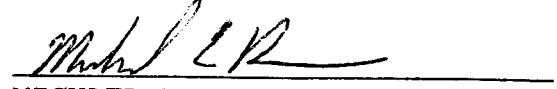
"B"

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds Office in Miscellaneous Book Map File No. 24.

7. That the names of the owners of the land on which the lien is claimed are Scott H. Foradora and Paula A. Foradora, husband and wife; and since January of 1996 they have been residents of Sandy Township, Clearfield County, Pennsylvania.

Dated: April 18, 2001


MICHAEL E. POWERS

I certify this to be a true copy of the original document in this case.

APR 18 2001

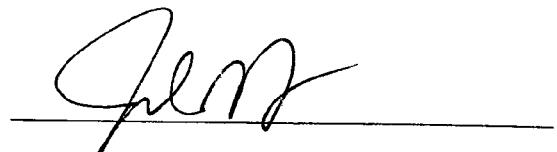
Attest.


William L. Shaw
Prothonotary

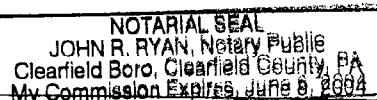
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CLEARFIELD, PA

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF CLEARFIELD : SS :
:

Before me, the undersigned officer, personally appeared MICHAEL E. POWERS, who, being duly sworn according to law, deposes and says that the statements as set forth in the foregoing instrument are true and correct to the best of his knowledge, information and belief.



Sworn to and subscribed before me
this 18th day of April 2001.



LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

—Lap over margin—

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

CIVIL DIVISION

No. 01 — — CD

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS CONSTRUCTION,
Plaintiff

vs.

SCOTT H. FORADORA and PAULA A.
FORADORA, husband and wife,
Defendants

COMPLAINT

NOTICE TO DEFENDANTS:

YOU are hereby notified
that you are required to file
an Answer to the within Complaint
within twenty (20) days after
service upon you or judgment
may be entered ~~against~~ you.

John R. Ryan

JOHN R. RYAN, ESQUIRE
Attorney for Plaintiff

COLAVECCHI
RYAN & COLAVECCHI

ATTORNEYS AT LAW
221 EAST MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA 16830

FILED 3cc
Atty
JUL 10 2001
William A. Shaw
Atty pd \$0.00
Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 11305

POWERS, MICHAEL E. D/B/A MICHAEL E. POWERS CONSTRUCTION

01-1213-CD

VS.

FORADORA, SCOTT H. AND PAULA A.

COMPLAINT

SHERIFF RETURNS

NOW AUGUST 2, 2001 AT 6:30 PM DST SERVED THE WITHIN COMPLAINT ON PAULA A. FORADORA, DEFENDANT AT RESIDENCE, 1408 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO PAULA A. FORADORA A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: SNYDER

NOW AUGUST 2, 2001 AT 6:30 PM DST SERVED THE WITHIN COMPLAINT ON SCOTT H. FORADORA, DEFENDANT AT RESIDENCE, 1408 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO PAULA FORADORA, WIFE, A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: SNYDER

Return Costs

Cost	Description
36.69	SHFF. HAWKINS PAID BY: ATTY.
20.00	SURCHARGE PAID BY: ATTY.

FILED

AUG 07 2001

Sworn to Before Me This

7 Day Of AUG 2001
W.A. Shaw

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

So Answers,

Chester A. Hawkins
Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS CONSTRUCTION,

CIVIL DIVISION

Plaintiff

No 01 - 1213 - CD

vs.

ANSWER TO PRELIMINARY OBJECTIONS

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,

Filed on behalf of:

Defendant

Plaintiff, MICHAEL E. POWERS,
d/b/a MICHAEL E. POWERS
CONSTRUCTION

Counsel of Record for this
Party:

JOHN R. RYAN, ESQUIRE
PA I.D. 38639

COLAVECCHI RYAN & COLAVECCHI
221 East Market Street
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Clearfield, PA 16830

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CLEARFIELD, PA

FILED

AUG 10 2001

01.28/01

William A. Shaw

Prothonotary

3 CERT TO ATT

See

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

MICHAEL E. POWERS, d/b/a :
MICHAEL E. POWERS CONSTRUCTION, :
Plaintiff :
:
vs. : No. 01 - 1213 - CD
SCOTT H. FORADORA and :
PAULA A. FORADORA, Husband and :
Wife, :
Defendants :

ANSWER TO PRELIMINARY OBJECTIONS

NOW COMES, Michael E. Powers, d/b/a Michael E. Powers Construction, Plaintiff above named, and by his Attorney, John R. Ryan, Esquire, files his Answer to the Preliminary Objections of Defendants as follows:

1. Admitted. By way of further response, the Claim for Mechanic's Lien was filed in the Office of the Prothonotary of Clearfield County on April 18, 2001 to No. 01-557-CD and was served on the Defendants by the Clearfield County Sheriff on April 26, 2001. Subsequently, the Complaint seeking entry of judgment on the said Mechanic's Lien was filed by the Plaintiff on July 27, 2001.

2. Admitted.

3. Denied. On the contrary, the Plaintiff was ordered to cease work and leave the job by a letter from the Defendants dated April 10, 2001 at which time the Plaintiff was owed the sum of \$52,000.00 under the said contract. Plaintiff was ready, willing

and able to complete the construction required by the contract but was prevented from doing so by the Defendants.

4. Admitted insofar as the Lien was entered in the amount of \$52,000.00. Defendants owe that sum to Plaintiff, which represents the amount of \$12,000.00 from the third draw of the payment schedule set forth in the contract (titled "completion of rough mechanics") and the amount of \$40,000.00 from the fourth draw (titled "completion of drywall").

5. Denied for the reasons set forth at Paragraph 3 herein above.

6. Denied. Defendants failed to file the Motion to Strike until August 6, 2001, nearly four (4) months after the filing of the original Mechanic's Lien Claim.

7. Admitted insofar as the contract in question was for an agreed sum. The remaining averments of Paragraph 7 are denied in that the claim describes the contract as being for the construction of a residential dwelling, and the contract itself is attached to and incorporated into the claim as an exhibit, and which shows that the labor to be performed by Plaintiff is the construction of a foundation, rough framing, rough mechanics and drywall. Pursuant to 49 P.S. 1503(5), where the claim is filed by a contractor for an agreed sum, only an identification of the contract and a "general

statement" of the kind and character of the labor and materials is required.

8. Denied for the reasons set forth in Paragraph 4 herein above, and for the reason that the said statute does not set forth a requirement that the amount of the claim coincide with any specific amount under the contract.

9. Denied for the reasons set forth at Paragraph 7 herein above.

WHEREFORE, Plaintiff requests that the Preliminary Objections of Defendant be dismissed, and that Defendants be directed to file their Answer to the Complaint.



JOHN R. RYAN, ESQUIRE
Attorney for Plaintiff

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
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P. O. BOX 131
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—Lap over margin—

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION
No. 01 - 1213 - CD

MICHAEL E. POWERS, d/b/a/
MICHAEL E. POWERS CONSTRUCTION,
Plaintiff

vs.

SCOTT H. FORADORA and PAULA A.
FORADORA, Husband and Wife,
Defendants

ANSWER TO PRELIMINARY OBJECTIONS

FILED

AUG 10 2001

William A. Shaw
Prothonotary

COLAVECCHI
RYAN & COLAVECCHI

ATTORNEYS AT LAW
221 EAST MARKET STREET
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CD

PONTZER & FORADORA
ATTORNEYS AT LAW
9 SOUTH MILL STREET
RIDGWAY, PENNSYLVANIA 15853
814-773-3108
FAX 814-773-3109

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL E. POWERS, d/b/a	:	CIVIL DIVISION
MICHAEL E. POWERS CONSTRUCTION,	:	
<i>Plaintiff,</i>	:	NO. 01-1213-CD
	:	
Vs.	:	Type of Pleading:
	:	PRELIMINARY OBJECTIONS
SCOTT H. FORADORA and	:	
PAULA A. FORADORA, Husband and Wife,	:	
<i>Defendants.</i>	:	Filed on behalf of Defendants
	:	
FILED	:	Counsel of Record:
	:	John H. Foradora, Esquire
	:	PONTZER & FORADORA
	:	220 Center Street
	:	Ridgway, PA 15853
	:	(814)773-3108
William A. Shaw	:	Atty. I.D. No. 63413
Prothonotary	:	

PRELIMINARY OBJECTIONS

AND NOW, comes the Defendants, Scott H. Foradora and Paula A. Foradra, Husband and Wife, by and through their attorneys, Pontzer & Foradora, and alleges the following:

1. The case involves a claim for Mechanics Lien which was filed under the Mechanics Lien Law, 49 Pa.C.S.A. §1101, *et. seq.*
2. Under 49 Pa.C.S.A. §1502(a)(1), "in order to perfect a lien every claimant must file a claim with the prothonotary as provided by this act within four (4) months after the **completion of his work**."
3. The Claimant has not completed his work under the contract.
4. The Mechanics Lien Claim is for \$52,000.00, examination of the contract will show no amount at any stage for \$52,000.00.

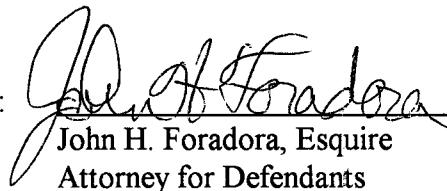
5. The Mechanics Lien Claim is improper because the work was not completed and the contractor left the job prior to completion of his work.
6. Motion to Strike Off Mechanics Lien Claim has been filed and it is believed, and therefore averred, Mechanics Lien Claim will be stricken.
7. The contract between Contractor and Foradora was for an agreed sum under 49 Pa.C.S.A. §1503, the claim does not set forth the character of the labor or materials furnished.
8. The contract between Contractor and Foradora was for an agreed sum under 49 Pa.C.S.A. §1503, the claim does not set forth an agreed sum which coincides with any of the agreed sums on the contract.
9. The contract between Contractor and Foradora was for an agreed sum under 49 Pa.C.S.A. §1503, the claim does not set forth a detailed statement of the kind and character, labor and materials furnished and fails to set forth any basis for the sum alleged to be due and owing.

WHEREFORE, the Defendants respectfully request this Honorable Court to grant the Preliminary Objections and dismiss the Complaint.

Respectfully Submitted:

PONTZER & FORADORA

By:



John H. Foradora, Esquire
Attorney for Defendants

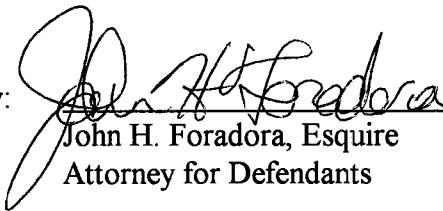
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Preliminary Objections was served upon the following counsel and parties of record by United States Mail, first class, postage prepaid, this 6th day of August, 2001.

Addressed As Follows:

John R. Ryan, Esquire
Colavecchi, Ryan & Colavecchi
221 E. Market Street
P.O. Box 131
Clearfield, PA 16830

PONTZER & FORADORA

By: 

John H. Foradora, Esquire
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

MICHAEL E. POWERS, d/b/a MICHAEL :

E. POWERS CONSTRUCTION :

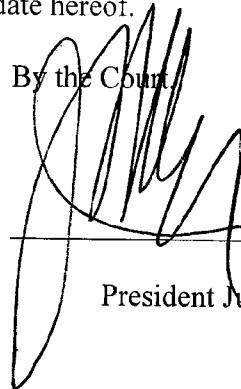
-vs- : No. 01 - 1213 - CD

SCOTT H. FORADORA and :

PAULA A FORADORA, Husband and Wife:

ORDER

NOW, this 4th day of December, 2001, following argument and briefs into Preliminary Objections filed on behalf of Defendants above-named seeking to dismiss the Complaint and a Motion to Strike Off Mechanics Lien, it is the ORDER of this Court that said Preliminary Objections are dismissed and Motion denied and Defendants directed to file Responsive Pleadings within 20 days from date hereof.

By the Court

President Judge

FILED

DEC 04 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

MICHAEL E. POWERS, d/b/a MICHAEL :

E. POWERS CONSTRUCTION :

-vs- : No. 01-1213-CD

SCOTT H. FORADORA and :

PAULA A FORADORA, Husband and Wife:

ORDER

NOW, this 4th day of December, 2001, following argument and briefs into Preliminary Objections filed on behalf of Defendants above-named seeking to dismiss the Complaint and a Motion to Strike Off Mechanics Lien, it is the ORDER of this Court that said Preliminary Objections are dismissed and Motion denied and Defendants directed to file Responsive Pleadings within 20 days from date hereof.

By the Court,

/s/ JOHN K. REILLY, JR.

President Judge

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

FILED

DEC 10 2001

m/10:31 a.m.
William A. Shaw
Prothonotary

*Order was returned
by mail*

*Resent to: 220 Center St.
Ridway, PA 15853
also sent by Fax*

DEC 04 2001

Attest.

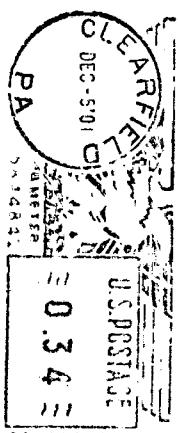
W. A. Shaw
Prothonotary/
Clerk of Courts

GRB

**WILLIAM A. SHAW,
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830**

John H. Foradora
Foradora & Foradora

RTS INSUFFICIENT ADDRESS
 ATTEMPTED NOT KNOWN
 NO SUCH NUMBER/ STREET
 NOT DELIVERABLE AS ADDRESSED
 OTHER
 - UNABLE TO FORWARD



PONTZER & FORADORA
ATTORNEYS AT LAW
9 SOUTH MILL STREET
RIDGWAY, PENNSYLVANIA 15853
814-773-3108
FAX 814-773-3109

**IN THE COURT OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION**

SCOTT H. FORADORA and :
PAULA A. FORADORA, Husband and Wife, : No. 2001-123-C.D.
Plaintiffs, :
Vs. : Type of Pleading:
MICHAEL E. POWERS, d/b/a : Filed on behalf of Plaintiffs
MICHAEL E. POWERS CONSTRUCTION, :
Defendants. : Counsel of Record:
: John H. Foradora, Esquire
: PONTZER & FORADORA
: 220 Center Street
: Ridgway, PA 15853
: (814)773-3108
: Atty. I.D. No. 63413
: JURY TRIAL DEMANDED

NOTICE TO ANSWER

TO: Michael E. Powers, d/b/a Michael E. Powers Construction

YOU are hereby notified that you are required to answer the **NEW MATTER** herein set forth within twenty (20) days and, if you fail to do so, the allegations therein contained will be taken as admitted and can be used as admissions at the trial of this case.

By:

~~John H. Foradora, Esquire
Attorney for Defendant~~

FILED

DEC 24 2001

01103812 cc atty

William A. Shaw
Prothematist

Proprietary Material
E
9/21

is attached as Exhibit "C" to this contract and incorporated by reference as if more fully set forth at length.

4. Admitted in part, Denied in part. It is admitted that Plaintiff furnished materials and performed labor in the construction of a residential dwelling. It is admitted that he first began in June of 2000 and left the job in April of 2001. However, it is denied that he was not paid for the labor and construction, which he performed on this residential dwelling. Further, it is alleged that he made a profit for the time period on which he was working on the residential dwelling.
5. Admitted in part, Denied in part. It is admitted that a letter was sent on April 10, 2001, a copy of which is attached as Exhibit "D" and incorporated herein by reference as though more fully set forth at length; however, it is denied that the contract had to be terminated by the Defendants due to the fact that the Plaintiff had vacated the job on April 4, 2001, and never returned.
6. Denied. It is denied that Plaintiff is owed any money, and on the contrary it is averred that he has already received a profit from the work he performed on the Defendants' property and as such, any recovery under Mechanics' Lien is not appropriate.
7. Admitted in part, Denied in part. It is admitted that the document was filed, however, it is denied that its allegations are true. The answer to the Plaintiff's Mechanics' Lien filed against the Defendants is attached as Exhibit "E" and incorporated herein by reference as though more fully set forth at length, and these admissions and denials are further averred as though more fully set forth at length.
8. Denied. Denied, and on the contrary it is averred that the Plaintiff has already recovered all amounts due and owing to him and it is through his own record keeping

and workmanship that he feels that he is still due and owing money, and as such, he should not recover any fees. It is further averred that because of this, the Defendants had to incur legal fees and costs.

WHEREFORE, the Defendants respectfully requests this Honorable Court to enter judgment for the Defendants and against the Plaintiffs.

NEW MATTER

9. Paragraphs 1 through 8 are incorporated herein as though more fully set forth at length.
10. The contract in question was to be started within sixty days. Prior to starting the contract, the Plaintiff called and asked for many extensions of time, which resulted in his not starting the contract until June of 2000, which was the first of many delays caused by the Plaintiff.
11. From June of 2000 until March of 2001, many delays and deficiencies occurred on the job. These delays and deficiencies caused concern to the Plaintiffs and numerous meetings took place to discuss the problems with the final meeting held on March 7, 2001 in an attempt to avoid any further delays or deficiencies in the work.
12. The result of this meeting was a signed Notice of Assurance, wherein Defendant agreed that he would work forty (40) hours per week until all duties and items on the job were completed. A copy of this Notice of Assurance is attached as Exhibit "F" and incorporated herein by reference as though more fully set forth at length.
13. Even though under the Notice of Assurance, the Defendant had agreed to work forty (40) hours per week, he never did perform forty (40) hours per week at the residence from that point until he left the job on April 4, 2001.

14. On Wednesday afternoon, April 4, 2001, Defendant loaded all of his tools into his truck and left the job site.
15. As of Monday, April 9, 2001, the Defendant had not been on the job, nor made any effort to return to the job or telephone the Plaintiffs. The Plaintiffs phoned Defendant on this date and verbally informed him that the contract was terminated.
16. The Plaintiffs sent a letter to the Defendant dated April 10, 2001, indicating that he had abandoned the Contract and as such, it was terminated. At the time of sending this letter, completion was already five months past the date by which Defendant told Plaintiffs their house would be completed with a substantial part of the work remaining to be done on the house. A copy of the letter dated April 10, 2001, is attached as Exhibit "G" and incorporated herein by reference as though more fully set forth at length.
17. Plaintiffs then assumed the role of general contractor, contracted with individuals to finish the construction of their dwelling house.
18. The house was completed to the extent of the completion of the Defendant's contract with workers working full-time in excess of sixty (60) hours a week from April 6, 2000 through September 15, 2001, and on that date, Plaintiffs moved into their residence.

COUNT I

COST OVERRUN FROM FAILURE TO COMPLETE CONTRACT

19. Paragraphs 1 through 18 are incorporated herein as though more fully set forth at length.

20. Based on the Contract attached as Exhibit "H" at the time Defendant left his performance of this contract, the project would have been completed for an additional \$72,000.00.
21. Defendant failed or refused to complete the Contract in a timely fashion, and as such, other contractors and individuals had to be hired to complete the contract.
22. The total cost of completion of the project of Plaintiffs and Defendant's Contract overran the \$72,000.00 amount by \$48,000.00.
23. The cost of \$48,000.00 was due to the Defendant's failure or refusal to complete the Contract in a timely manner according to the Contract.

WHEREFORE, Plaintiffs respectfully requests this Honorable Court to enter judgment for the Plaintiffs and against the Defendant in the amount of \$48,000, plus interest and costs of suit.

Jury trial demanded.

COUNT II

FAILURE TO PERFORM CONTRACT - DEFICIENCIES ON HOME

24. Paragraphs 1 through 23 are incorporated herein as though more fully set forth at length.
25. Due to the Contractors negligence and failure to properly complete the Contract, the following items were not performed according to Contract with regard to the foundation and concrete:
 - (A) No two-inch blue board around the foundation, the homeowner put one inch in on his own;
 - (B) Two rebars put in footer as opposed to three;
 - (C) Hooks on rebar coming out of the footer every four inches were not put in;

- (D) Flexible water proof membrane was not put around footer;
- (E) A six inch drop into the garage was not achieved;
- (F) There were two courses of six inch block to be in the garage according to the plans, the Defendant used one;
- (G) The footer for the chimney was to be put at the same level as the back of the house, this was not done;
- (H) Step footer was to be used on the house, Defendant used lentils;
- (I) The chimney footer was suppose to be nine feet by eight feet, it was only poured five feet by six feet;
- (J) The top course of blocks was not filled solid;
- (K) A twenty-five foot by two-feet by eight-inch slab was to run under the support columns in basement was not used; and,
- (L) Two floor drains were not put in the house - the bathroom and utility room.

26. Due to the Contractors negligence and failure to properly complete the Contract, the following items were not performed according to Contract with regard to the framing of the house:

- (A) No anchor clips were used for the truss system;
- (B) Four decorative and load bearing brackets were to be made for the house;
- (C) Deck roof was to be stick built with a vaulted ceiling and the vaulted ceiling was not done;
- (D) Louvers on the house were to be working, which they did not;
- (E) Blocking was not put into the walls;
- (F) Eighteen inch overhangs on all roof lines was missed on the gable ends;
- (G) Two step entryway was not accomplished in the house;
- (H) The six inch step down on to the deck was missed;

- (I) Ridge vents were to put on the louvers and they were not;
- (J) The drip edge is the wrong color;
- (K) Faulty installation of the roof, due to the fact that not enough nails were used and the shingles were overlapped incorrectly;
- (L) Twelve inch minimum overhang over master bedroom windows which was not achieved;
- (M) One window in the master bedroom is in the wrong place;
- (N) One window in the kitchen is in the wrong place;
- (O) Passage vent was to be cut between the attic roofs which was not done;
- (P) Five and a quarter inch by sixteen inch by thirty-eight feet parallam was not used in the basement, instead three rim boards were nailed together;
- (Q) The roof window was not installed; and,
- (R) Framing running on eleven feet four inches of the northwest side of the house was done incorrectly by four inches, which caused the roof truss system to overhang incorrectly.

27. Due to the Contractor's negligence and failure to properly complete the Contract, the following items were performed by the Plaintiffs, which were the responsibility of the Defendant:

- (A) All clean-up and disposal;
- (B) Screw all floors down throughout the house and install cement backer board for tile;
- (C) Sealing up the house for winter;
- (D) Research of floor truss system to get it right;
- (E) Brackets for support columns;
- (F) Jacks to put columns in place;

- (G) Research to correct for missed foyer steps without any form of assistance by Contractor;
- (H) Had to obtain columns from Shakespeare and design them without any form of assistance by Contractor;
- (I) Research on stone and design was done by the Plaintiffs themselves without any form of assistance by Contractor;
- (J) Research and lay out of all windows was done by the Plaintiffs themselves without any form of assistance by Contractor;
- (K) Research of all internal materials done by the Plaintiffs themselves without any form of assistance by Contractor;
- (L) Research of all roofing materials was done by the Plaintiffs themselves without any form of assistance by Contractor.

28. Refusal of Contractor to meet with or discuss products with Plaintiffs subcontractors, for example, electrical subcontractor and kitchen supplier.

29. Contractor's negligence on installing items to manufacturer specifications, therefore voiding numerous product warranties.

30. These deficiencies, labor and materials that were not used are solely the fault of the Defendant, without any fault of the Plaintiffs and they have reduced the value of their home and caused them damage.

WHEREFORE, the Plaintiffs respectfully requests this Honorable Court to enter a judgment for the Plaintiffs and against the Defendant in an amount in excess of \$25,000.00, plus interest and costs of suit. **Jury trial demanded.**

COUNT III

FRAUDULENT INDUCEMENT

31. Paragraphs 1 through 30 are incorporated herein as though more fully set forth at length.

32. Defendant misrepresented the fact that he had the ability to be a general contractor to the Plaintiffs.
33. Defendant, at the time of telling the Plaintiffs that he had the capabilities to be a general contractor, knew that he did not have these capabilities.
34. Defendant made these assertions to the Plaintiffs to induce the Plaintiffs to sign the contract for the Defendant to built their house.
35. Plaintiffs were justified in relying on the representations made by the Defendant that he was a general contractor and capable of handling the duties of a general contractor.
36. Because of the Defendant's fraudulent statements and encouragement to enter into this contract, the Plaintiffs suffered the damages laid out above, in that certain deficiencies and items were left out of the Plaintiffs residence.
37. Plaintiffs also suffered the damage of having to act as a general contractor throughout the Contract to a large degree and to a full degree for approximately six months until the completion of the project.
38. Plaintiffs also suffered the damage of having to act as a general contractor when the Defendant was on the job; due to the fact that the Defendant failed or refused to carry out his duties as a general contractor by providing information and asking for questions and comments.
39. Plaintiff had an accord and satisfaction on his services, when he voluntarily left the job site on April 4, 2001, when he knew that he was under agreement to provide forty (40) hours per week of service.
40. Plaintiff consented to this termination when he raised no objection or defense to leaving the job and having the contract terminated.

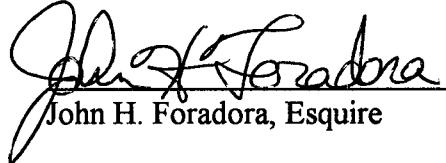
41. The consideration of Plaintiff had failed, in that he performed the faulty work as outlined earlier in this Answer.
42. The claim under Mechanics' Lien includes factors of profit and is not for simply labor and materials, and as such, Mechanics' Lien is inappropriate.

WHEREFORE, Defendants respectfully requests this Honorable Court to offset the Plaintiff's request by \$52,000.00, and find against the Plaintiff and for the Defendants.

Respectfully Submitted:

PONTZER & FORADORA

By:



John H. Foradora

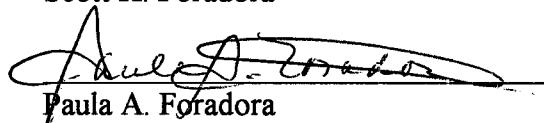
John H. Foradora, Esquire

Verification

We, Scott H. Foradora and Paula A. Foradora verify that the statements made in this Answer and New Matter are true and correct to the best of our knowledge, information and belief. We understand that false statements herein made are subject to the penalties of 18 P.A.C.S.A. §4904, relating to unsworn falsification to authorities.



Scott H. Foradora



Paula A. Foradora

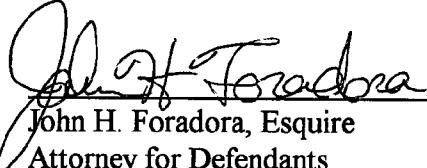
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer and New Matter was served upon the following counsel and parties of record by United States Mail, first class, postage prepaid, this 24th day of December, 2001.

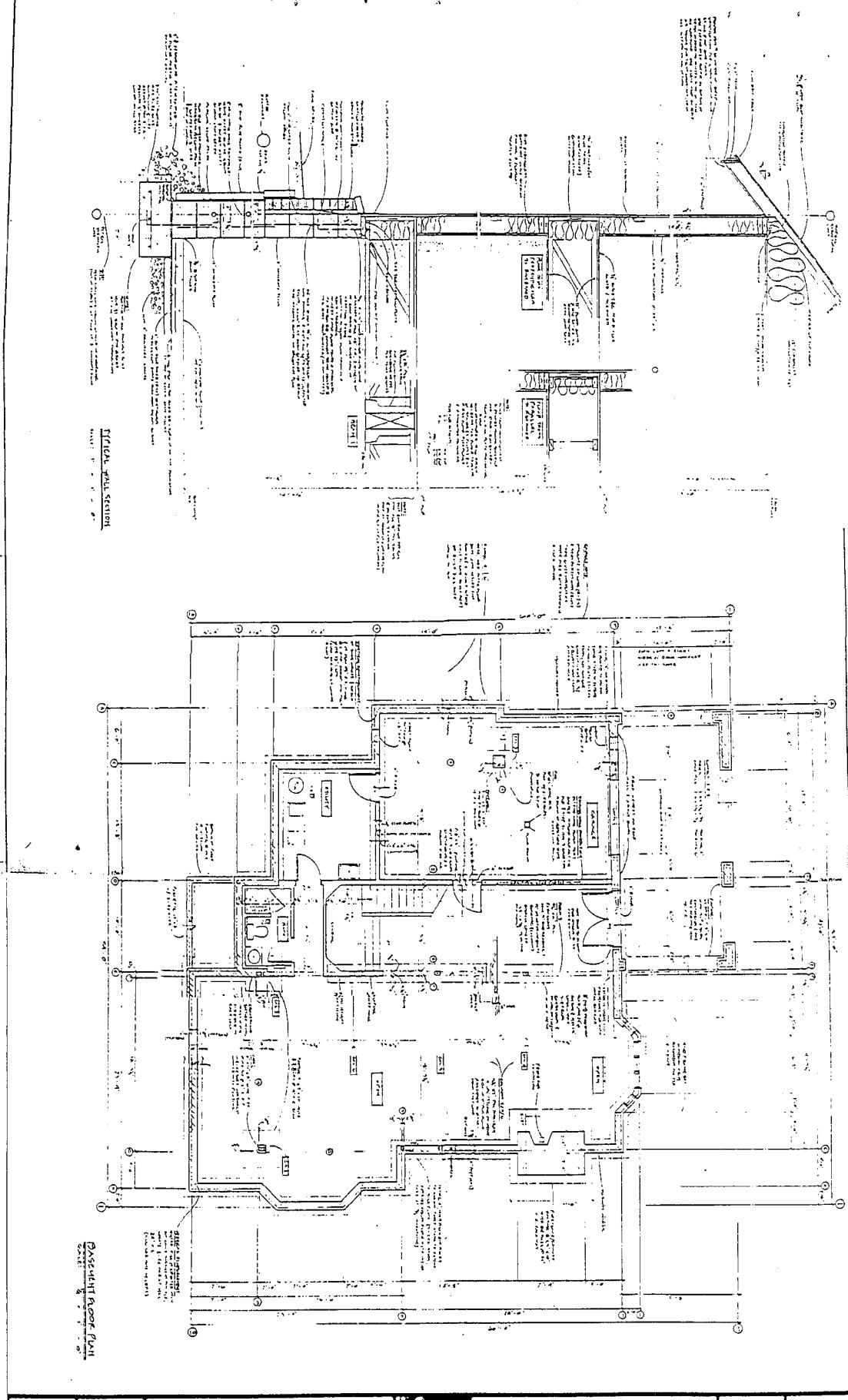
Addressed As Follows:

John R. Ryan, Esquire
Colavecchi, Ryan & Colavecchi
221 E. Market Street
P.O. Box 131
Clearfield, PA 16830

PONTZER & FORADORA

By: 

John H. Foradora, Esquire
Attorney for Defendants



	NEW RESIDENCE for SCOTT and PAULA FORADORA		KTH ARCHITECTS	
1400 Treasure Lane Dallas, Texas 75243	1000 FIFTH AVENUE PENNSYLVANIA, 15201	100 FIFTH AVENUE PENNSYLVANIA, 15201 PHONE 412-227-8800 FAX 412-227-8800	NICHOLAS TIPPLER, AIA ROBERT J. MALLIN, AIA ROBERT J. MALLIN, AIA	

EXHIBIT "A"

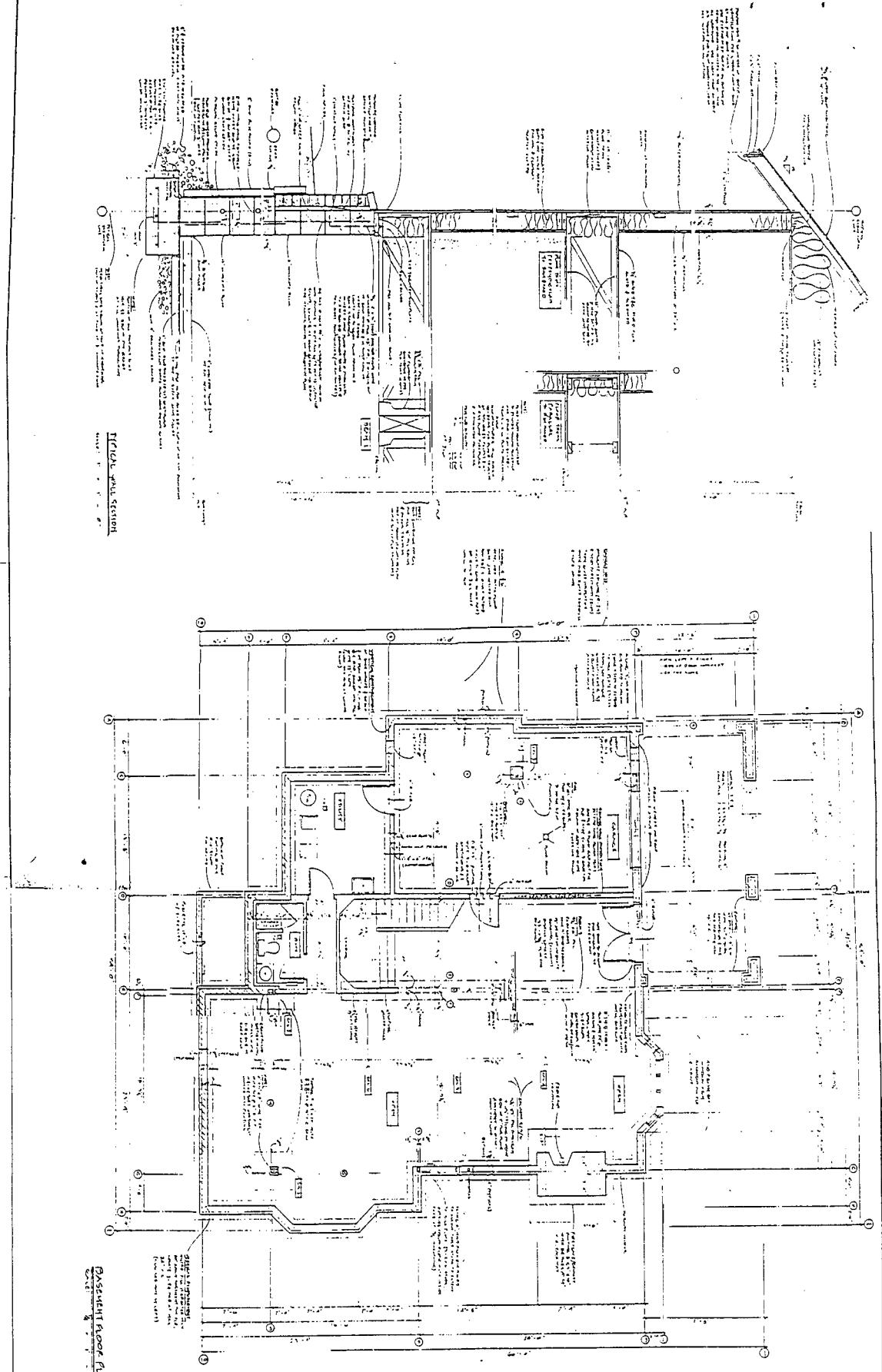
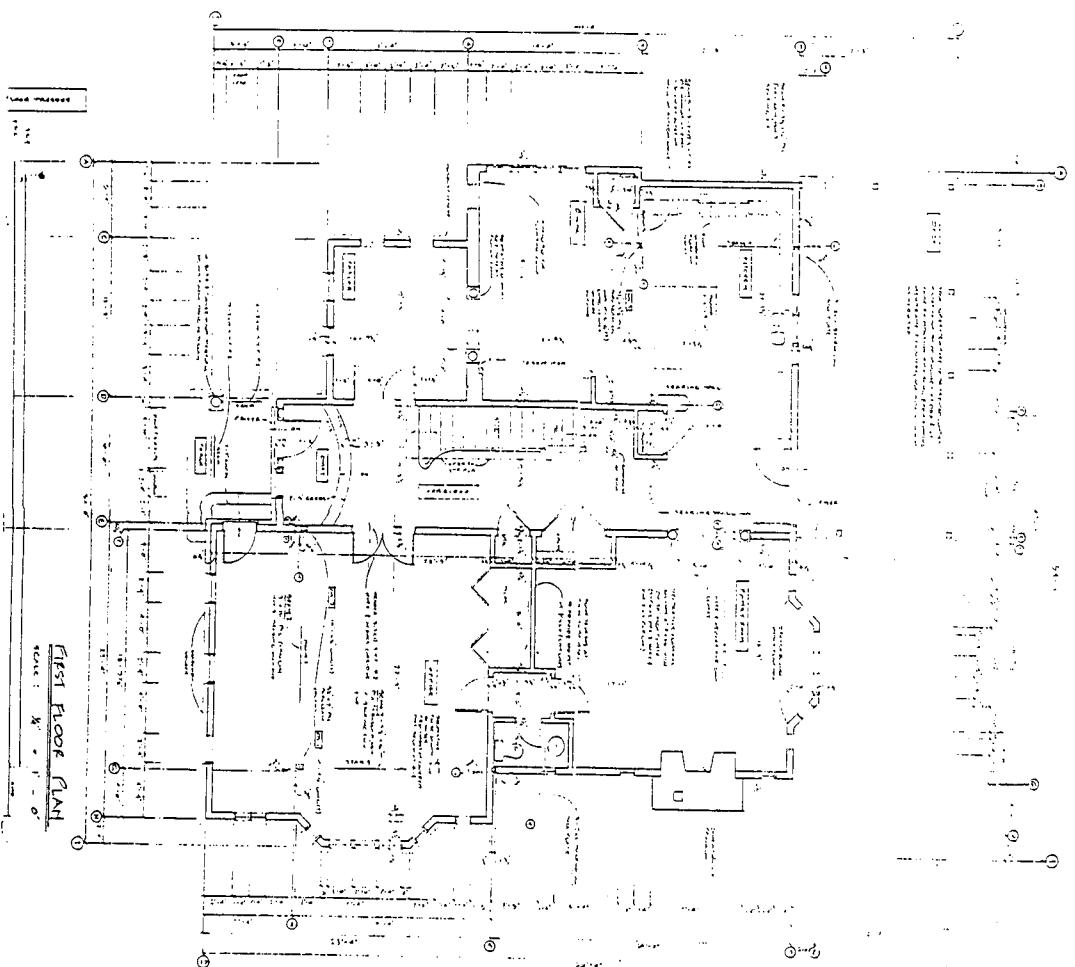
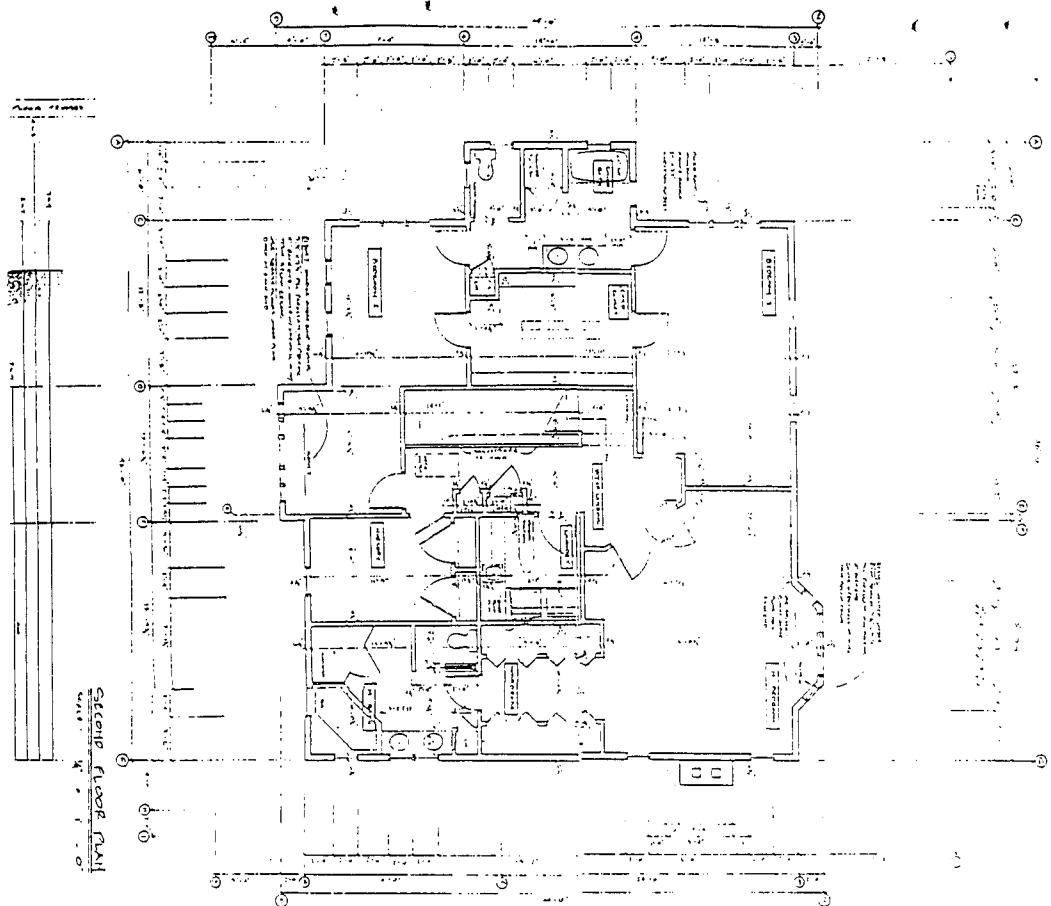
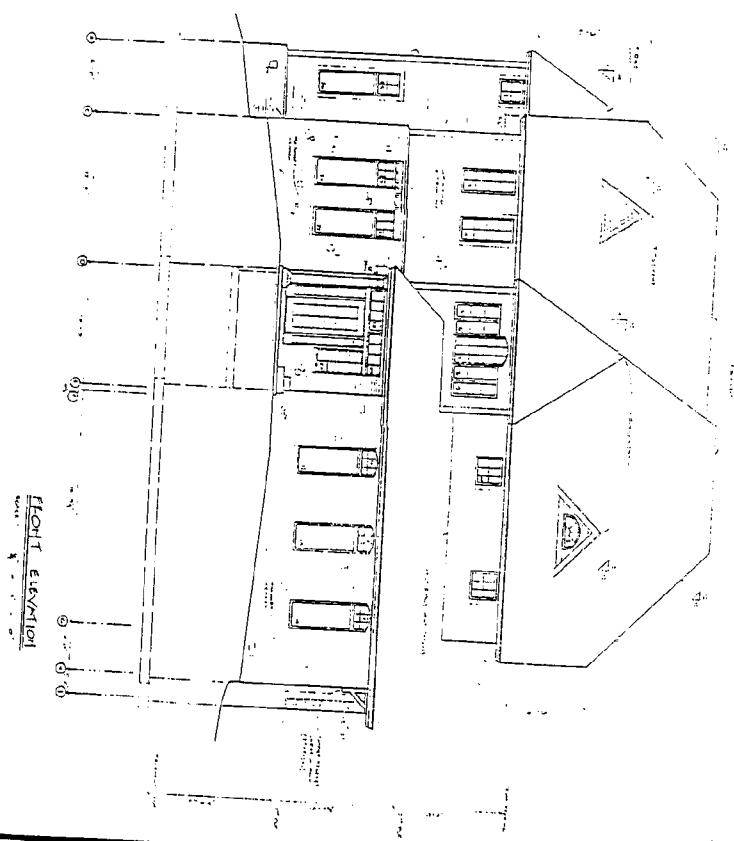
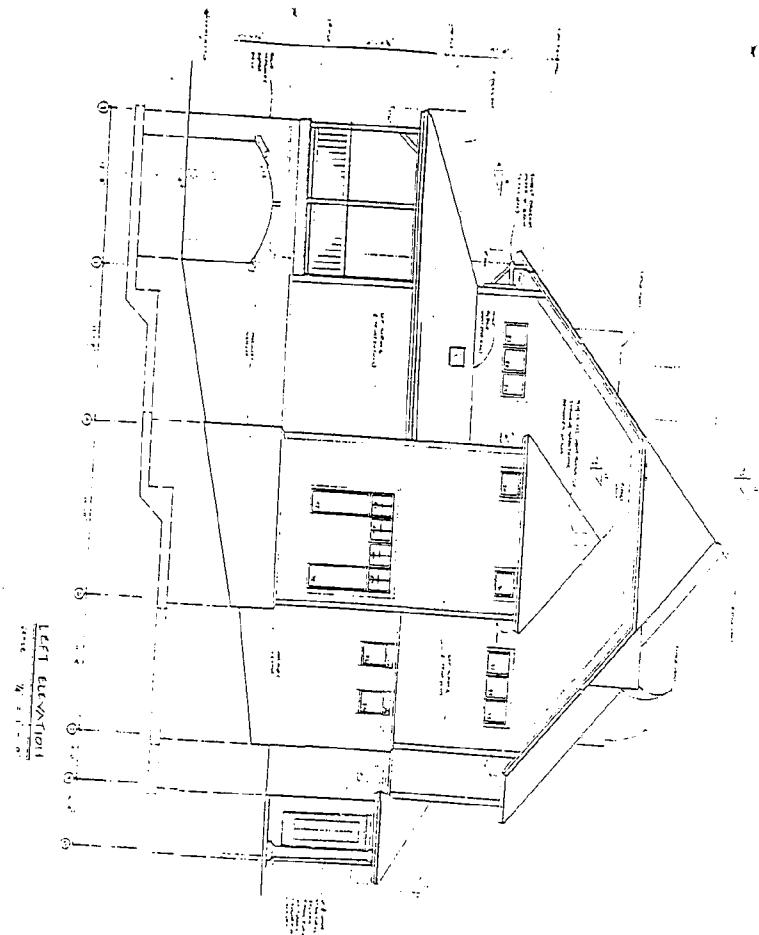
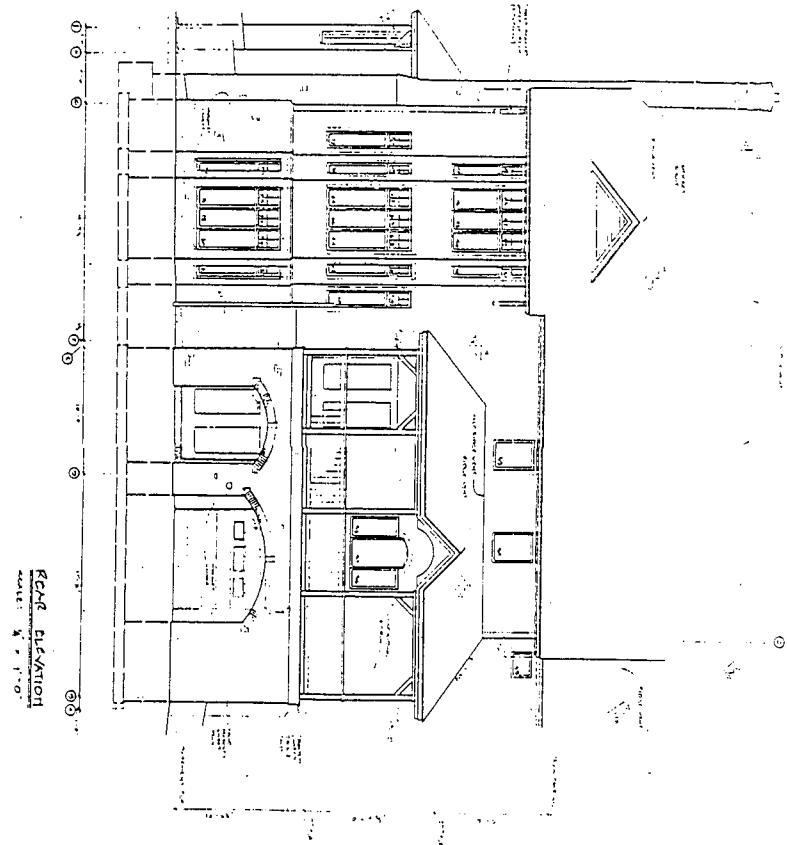
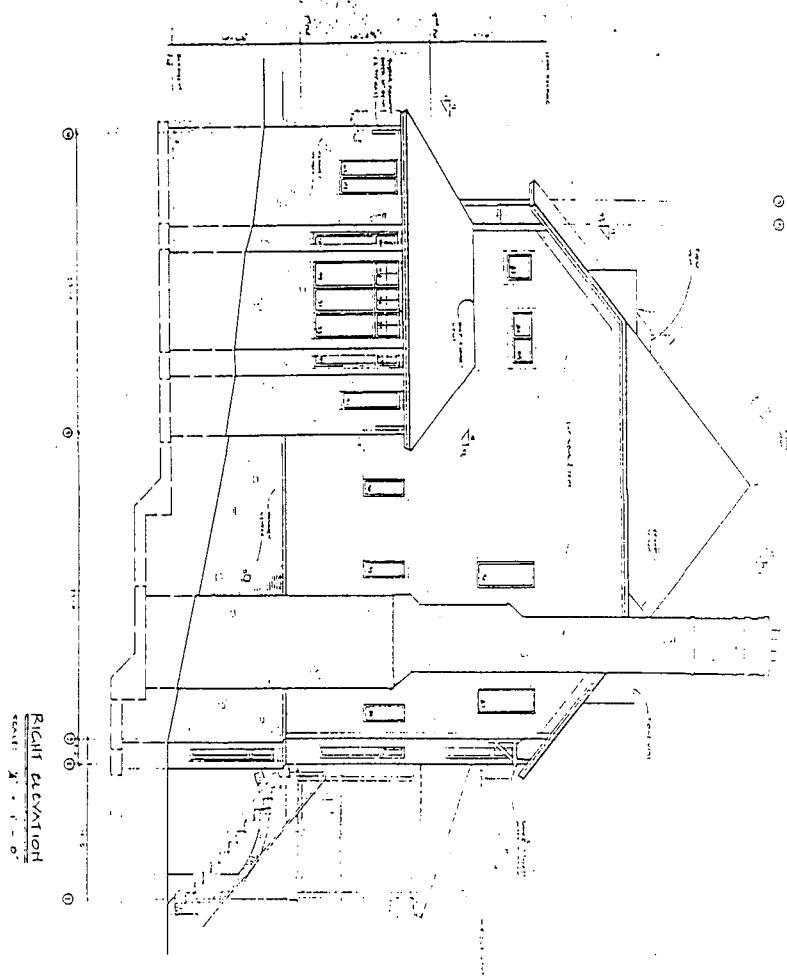
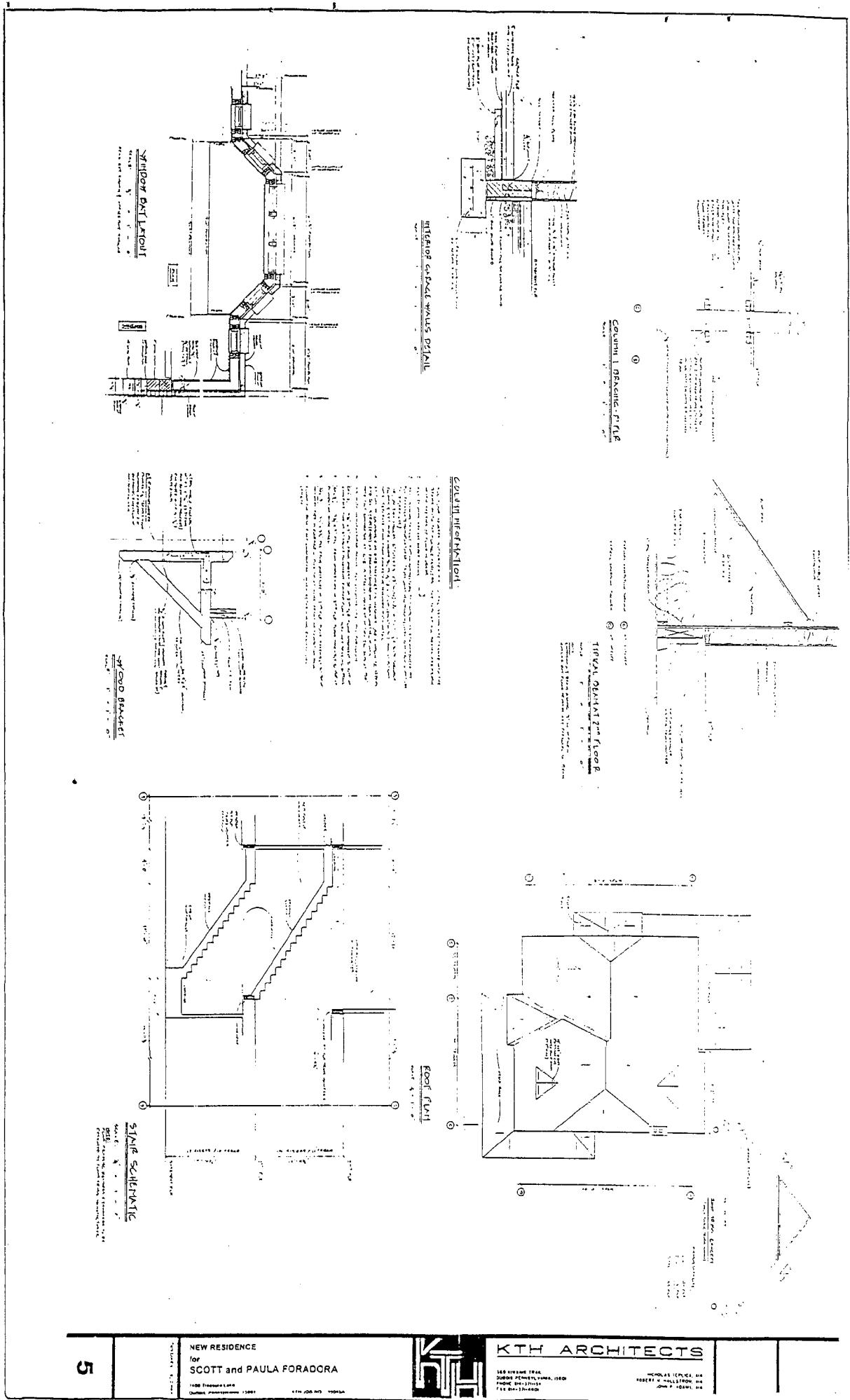


EXHIBIT "A"









Michael E. Powers Construction

970 Treasure Lake
DuBois, Pa 15801
814-375-2688

CONTRACT SPECIFICATIONS

NAME SCOTT AND PAULA FARADORA PHONE 371-1664

PROPERTY ADDRESS TREASURE LAKE DUBOIS, PA

TYPE OF
HOUSE 2 STORY GARAGE _____

TOTAL SQUARE FOOTAGE OF FINISHED LIVING
AREA APPRX. 3800 SQ/FT

FIRST FLOOR _____ SECOND
FLOOR _____ BASEMENT _____

GARAGE _____ OTHER _____

EXCAVATION - ALL EXCAVATION TO BE PROVIDED BY HOMEOWNERS.

- Clear lot, stumps and debris necessary for house construction and driveway only.
- Dig foundation and footers.
- Dig runoff ditch for footer drains.
- Dig ditch for utilities and install - 60' max. - additional distance is extra.
- Shale or crushed stone for driveway base - 60' max. - additional is extra
- Backfill with material on site. If additional drainage material is necessary, shale will be provided at an additional cost to the homebuyer.
- Fill material for house, garage, porches.
- Rough grading.
- Finish grading.
- Standard "rock clause" applies to excavation.
- Gravel or crushed stone for driveway at 60' max.
- Survey, building permits and POA fees for Treasure Lake homes to be provided by contractor.

<<<<ADDITIONAL>>>>

[] Culvert pipe for driveway _____

[] Downspouts piped into drain pipe to gravity _____

[] Additional fill needed or removed _____

[] Water tap on fee, if required _____

[] Landscaping and/or Topsoil _____

[] Natural Gas tap on fee, if required _____

[] _____

FOUNDATION

[✓] Footer: 8" x 18" formed. 10" x 24"

[✓] Footer drains: 4" pipe on gravel base, covered with gravel.

[✓] Floor drains: _____ | basement _____ | garage _____

[✓] Rough grade basement floor: 2" average gravel

[✓] Foundation walls: $\frac{13}{12}$ course 10" block for house foundations: 4 courses minimum 8" block for garages, porches, etc. 4 courses minimum 10" block for step footers.

[✓] Waterproofing: Parge and Tar _____

[✓] Cellar windows: 2 2-block standard _____

[✓] Garage _____

[✓] Porches FRONT AS PER PLAN.

[✓] Anchor bolts 1/2" x 10"

<<<<ADDITIONAL>>>>

[] Additional block courses over 5 for porches, garages, etc. will be charged to the homeowner at a per-block price _____

FRAMING

[✓] 2" x 6" treated sill plates with sill sealer _____

[✓] 12" x 10" main beam GLUE LAMP OR L.V.L.'s _____

[✓] 4" steel beam support columns _____

2" x 10" floor joists O.F.J. 2000

3/4" subfloor tongue and groove plywood, nailed and glued OR O.S.B.

2" x 6" exterior wall plates with double top plate

2" x 6" exterior stud walls 16" on center

2" x 10" window and door headers

7/16" OSB exterior wall sheathing

2" x 4" interior stud walls 16" on center

Roof trusses

Rafters and ceiling joists

Vaulted ceilings

Cathedral ceilings

Tray ceilings

1/8" OSB roof sheathing

15# felt paper

240# fiberglass shingles 30 YR. - LANDMARK

Ridge vent

2" x 6" sub-fascia

12" overhangs: front, rear, gable

Windows and doors: (see windows and doors schedule)

<<<<ADDITIONAL>>>>

Sunken living room area

Shutters

Sky lights

Dimensional shingles - LANDMARK

Tyvek or Barricade housewrap

SIDING, SOFFIT/FASCIA, GUTTERS

Vinyl siding: Alcoa Brentwood LIBERTY ELITE

Soffit: 12" vinyl

Fascia: aluminum

Gutters: seamless aluminum: downspouts run to grade

<<<<ADDITIONAL>>>>

Siding: Cedar () 1/2" x 8" lap, () tongue and groove, () 1" x 10" channel rustic
T-1-11 Other

Soffit: exterior grade plywood

Fascia: wood

Trim boards

Decorative trims

Stain

Porch posts FRONT ELEVATION - ALUMINUM

[]

MASONRY

Brickwork 3 13,000.00 ALLOWANCE

Concrete: () Basement floor, 4" average Garage floor, 4" average Porches and patios FRONT - AS PER PLAN

<<<<ADDITIONAL>>>>

Stonework

Walkways

Driveway

Colored Mortar

Brick to grade

FIREPLACE: ON 12,000.00 ALLOWANCE. CUSTOMERS' ALLOWANCE TO INCLUDE ANY AND ALL OF THE FOLLOWING ITEMS FOR THE FIREPLACE IN THE HOME. ANYTHING ABOVE ALLOWANCE AMOUNT IS CUSTOMERS' RESPONSIBILITY TO

PURCHASE. - MASONRY.

Fireplace Unit, Brick, Stone, Marble, Granite, Mantel, Hearth, Woodburner, Flue, and Labor.

PLUMBING

Exterior frost-free spigots-2 _____

Hot water heater 80 GAL NAT. GAS _____

Supply lines: copper _____

PVC waste lines _____

Washer/Dryer hook-ups _____

Kitchen sink: DBSS _____

<<<<ADDITIONAL>>>>

Laundry Tub _____

Basement stub-ups _____

Central Vac _____

Laundry Chute _____

Appliance Hook-ups _____

ELECTRIC

Exterior outlets - 2 6 _____

200 amp breaker service _____

Smoke alarms 3 _____

Phone and cable jacks 6 EACH - NOT INCLUDING OFFICE AREA. - 4 office _____

Ceiling lights _____

<<<<ADDITIONAL>>>>

Closet lights _____

Security system _____

Carbon monoxide detectors _____

HEATING

Electric baseboard _____

Propane gas baseboard hot water _____

Propane gas forced air _____

Natural gas baseboard hot water HIGH EFFICIENCY _____

Natural gas forced air _____

Fuel oil baseboard hot water _____

<<<<ADDITIONAL>>>>

Air conditioning _____

Basement heat: minimum _____

Basement heat: living space _____

Garage heat _____

BASEMENT TO HAVE HEAT IN CONCRETE FLOOR. _____

INSULATION

6" fiberglass exterior walls R-19 UPGRADE TO R-25 IN WALLS AS DISCUSSED _____

12" fiberglass ceilings R-38 _____

6" basement ceilings UNDER GARAGE AREA _____

3 1/2" basement exterior walls _____

<<<<ADDITIONAL>>>>

Garage _____

BATHROOMS: ON _____ ALLOWANCE. CUSTOMERS' ALLOWANCE AMOUNT IS TO INCLUDE ANY AND ALL OF THE FOLLOWING ITEMS FOR ALL BATHROOMS IN THE HOME. ANYTHING ABOVE ALLOWANCE AMOUNT IS CUSTOMERS' RESPONSIBILITY TO PURCHASE.

Mirrors, Vanities and vanity tops, toilets, tubs/showers, spigots, exhaust fan/light, light bars, paperholders, towel bars, whirlpool, garden tubs, stub-ups, medicine cabinets, shower doors (and

BUILDER TO SUPPLY LABOR ONLY.

labor to install-this pertains to shower doors.)

KITCHEN: ON _____ ALLOWANCE. CUSTOMERS' ALLOWANCE AMOUNT IS TO INCLUDE ANY AND ALL OF THE FOLLOWING ITEMS FOR ALL KITCHEN ITEMS IN THE HOME. ANYTHING ABOVE ALLOWANCE AMOUNT IS CUSTOMERS' RESPONSIBILITY TO PURCHASE.

Wall and base cabinets and labor to install, countertops, sink, faucets, garbage disposal, trash compactor.

BUILDER TO SUPPLY LABOR ONLY.

<<<<ADDITIONAL>>>>

Hardware _____

Utility Room cabinetry _____

Appliances _____

INTERIOR WALL AND CEILING FINISHES

1/2" drywall- hung and finished _____

Kal-Kote/Plaster-ceilings only _____

Paint - 1 coat prime, 1 coat finish _____

CEILINGS TO BE DRYWALLED AND PAINTED.

<<<<ADDITIONAL>>>>

Wallpaper _____

Suspended ceiling tiles _____

Panelling: () 1/2" tongue & groove spruce, () 1" x 10" channel rustic, () other _____

Garage _____

INTERIOR WOODWORK FINISH AND TRIMWORK

Interior doors: () Flush oak veneer, () 6-panel masonite, () other _____

Hardware: Kwikset or Schlage-standard _____

Window and door casings: () Pine-colonial or ranch, () Oak-colonial or ranch, () other POPLAR

Shelving: Closet-maid, standard _____

Basement treads

Interior wood finish: () 1 coat stain, 1 coat sand sealer, () 1 coat polyurethane, () varnish.
<<<<ADDITIONAL>>>>

Interior doors: () 6-panel solid pine BUILDER TO SUPPLY UPSTAIRS DOORS.

Hardware

Chair rail

Stair rail AS DISCUSSED.

Crown molding

Cased openings AND ARCHED OPENINGS.

Oversized windowsills

Interior wood finish - paint

Bookshelves

Specialty items 2 1/2" CASING, APPX. 1" BASE

FLOOR COVERINGS: ON _____ ALLOWANCE. CUSTOMERS' ALLOWANCE TO INCLUDE ANY AND ALL OF THE FOLLOWING ITEMS FOR ALL FLOORING IN THE HOME. ANYTHING ABOVE ALLOWANCE AMOUNT IS CUSTOMERS' RESPONSIBILITY TO PURCHASE.

BUILDER TO SUPPLY LABOR ONLY.
Vinyl, Carpet, Pad, Ceramic tile, Hardwood, and all labor charges.

LIGHTING: ON _____ ALLOWANCE. CUSTOMERS' ALLOWANCE TO INCLUDE ANY AND ALL OF THE FOLLOWING ITEMS FOR LIGHTING OF THE HOME. ANYTHING ABOVE THE ALLOWANCE AMOUNT IS CUSTOMERS' RESPONSIBILITY TO PURCHASE.

Paddle fans, Ceiling lights, Closet lights, Chandeliers, Recessed lights, Track lighting, Exterior lights, Doorbell.

BUILDER TO SUPPLY LABOR ONLY.
DECKS AND PORCHES

Front CONCRETE - AS PER PLAN

Rear TREATED AS PER PLAN.

Side _____

Combination _____

<<<<ADDITIONAL>>>>

Screened in _____

Aluminum columns 1 - FRONT _____

Added stairs, spindles, railing _____

Painting, staining _____

OTHER

Additional square footage _____

Additional living areas to be finished _____

Other items not included above: BASEMENT BATH TO BE FINISHED.

DOORS

FRONT DOOR ON \$1700.00 ALLOWANCE, INCLUDING LOCKSET AND LABOR TO PAINT OR STAIN AND FINISH. ANY AMOUNT ABOVE ALLOWANCE AMOUNT, CUSTOMER IS RESPONSIBLE FOR.

Patio doors AS PER PLAN _____

French Swing-set _____

Sliders _____

Steel man-doors _____

GARAGE DOORS

Size 9' x 7' _____

Insulated 2" _____

Style _____

<<<<ADDITIONAL>>>>

Openers _____

Bilco door _____

WINDOWS AS PER PLAN

Andersen Hi-Performance (Terratone, White or Sandstone) _____

Screens _____

Grilles-front elevation only AS PER PLAN

Casements _____

Double-hungs _____

Fixed _____

Trapezoid _____

Octagon _____

Round _____

AWNING _____

<<<<ADDITIONAL>>>>

WINDOW/DOOR SCHEDULE

Living Room _____

Foyer/Entry _____

Dining Room _____

Kitchen _____

Breakfast Nook _____

Laundry/Mud room _____

Baths: _____

Master _____

Main _____

Powder or 1/2 _____

Other _____

Beds: _____

Master _____

Bed #2 _____
Bed #3 _____
Bed #4 _____
Other _____
Family _____
Garage _____
Den/Study _____
Basement _____
Other _____

Notice of Assurance

This agreement is made by and between homeowners, Scott H. Foradora and Paula A. Foradora (client), and general contractor Michael E. Powers (contractor) on March 7, 2001 in order to assure that the delays and delinquencies observed on the job site to date will cease.

The following is hereby agreed to:

- 1.) Contractor and all sub-contractors brought on site will complete work in a neat, orderly, professional and consistent fashion until their responsibilities are completed. The general contractor shall assure the clients that the contractor and laborers will work approximately 40 hours per week until their responsibilities on the job are completed.
- 2.) SHF Contractor will advise clients, in an unbiased and professional manner, regarding all construction and finishing details necessary to complete the project.
- 3.) Contractor assures there will be no work stoppages for any reason and thoughtful consideration will be paid to the ordering and scheduling of all sub-contractors and materials in order to assure as such.
- 4.) SHF Contractor assures all materials and applications will be installed with the utmost care and attention to detail and based upon manufacturer's specifications. SHF Contractor agrees to discuss the applications and materials with the client.
- 5.) Due to the delayed progress of the job to date, contractor and client agree \$12,000 from installment payment number three will be held by the client and paid to the contractor at the completion of all internal work. Completion of internal work is defined as: all work completed and ready for move in by the client.
- 6.) Client agrees to reimburse the contractor for stone materials on site. Contractor assures the client that all materials delivered on site to date have been paid in full by the contractor. Contractor hereby relinquishes title to all materials on site upon receipt of these funds.
- 7.) Contractor assures that Matthew McGarry will complete stonework for stone work SHF competitive and satisfactory. For the price of \$5.50 per square foot for four inch stone and \$6.50 for veneer stone. Client acknowledges there will be some additional charges for window seals and quoined corners as consistent with previous invoices. If in the event Matt McGarry does not complete job. Then SHF Contractor agrees to find masons to complete job at competitive price. Then clients acknowledge acknowledge agreement of stone work.

The foregoing is hereby agreed to by and between homeowners, Scott H. Foradora and Paula A. Foradora, and Michael E. Powers, contractor, on this seventh day of March 2001.

Michael E. Powers



Scott H. Foradora



Paula A. Foradora

→ THE contractor shall not be responsible for any delays caused by homeowners in ordering of the required materials to complete job.

SHF

Michael E. Powers
970 Treasure Lake
DuBois, PA 15801

April 10, 2001

Re: Foradora House Construction Contract

Dear Mr. Powers:

Based on the assurance commitment that you recently signed, you had agreed to work 40 hours per week to complete our residential construction. You have not done this. Completion now has already been delayed for a period of six months. This letter is notice that we are hereby terminating your contract for your failure to proceed and for your continued refusal in the past to proceed on a timely basis, and perform the services as required by the specifications.

At the present time, there is \$72,000 left to be paid on the contract, assuming all work has been done and all materials installed. There are numerous items that remain to be completed both inside and outside the home. We will proceed to have the home construction completed per the plans and agreed upon specifications. The cost of completion will be paid from the remaining balance of the contract and properly accounted. If the cost of completion exceeds the remaining contract balance, we have the right to hold you responsible.

Thank you for your attention to this matter.

Sincerely:



Scott H. Foradora



Paula A. Foradora

Cc: Robert M. Hanak, Atty., Hanak, Guido and Taladay
John H. Foradora, Atty., Pontzer & Foradora

EXHIBIT "D"

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL E. POWERS, d/b/a : CIVIL DIVISION
MICHAEL E. POWERS CONSTRUCTION, :
Plaintiff, :
Vs. : NO. 01-557-CD
: Type of Pleading:
SCOTT H. FORADORA and : ANSWER AND NEW MATTER
PAULA A. FORADORA, Husband and Wife, :
Defendants. : Filed on behalf of Defendants
: Counsel of Record:
: John H. Foradora, Esquire
: PONTZER & FORADORA
: 220 Center Street
: Ridgway, PA 15853
: (814)773-3108
: Atty. I.D. No. 63413

NOTICE TO ANSWER

TO: Michael E. Powers, d/b/a Michael E. Powers Construction

YOU are hereby notified that you are required to answer the NEW MATTER herein set forth within twenty (20) days and, if you fail to do so, the allegations therein contained will be taken as admitted and can be used as admissions at the trial of this case.

By:


John H. Foradora, Esquire
Attorney for Defendant

Exhibit "E"

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL E. POWERS, d/b/a : CIVIL DIVISION
MICHAEL E. POWERS CONSTRUCTION, :
Plaintiff, : NO. 01-557-CD
Vs. :
Type of Pleading:
SCOTT H. FORADORA and : ANSWER AND NEW MATTER
PAULA A. FORADORA, Husband and Wife, :
Defendants. : Filed on behalf of Defendants
: Counsel of Record:
: John H. Foradora, Esquire
: PONTZER & FORADORA
: 220 Center Street
: Ridgway, PA 15853
: (814)773-3108
: Atty. I.D. No. 63413

ANSWER

AND NOW, comes Scott and Paula Foradora, by and through their attorneys, Pontzer & Foradora and alleges the following:

1. Admitted.
2. Admitted in part, Denied in part. It is admitted that Mr. Powers performed labor and provided materials pursuant to a contract. It is denied that he specifically followed or provided all of the materials listed in the contract. It is further denied that he ever finished the contract and it is also denied that he is due and owing any money for labor and materials, as he was paid in full for the work he completed.
3. Admitted.
4. Admitted in part, Denied in part. It is admitted that he first came to the property in June of 2000 and it is further admitted that he left the property on April 4, 2001. It

is denied that the furnishing of materials and work was done appropriately, and on the contrary it is averred that his work was not completed and he is not due and owing any money.

5. Denied, and on the contrary it is averred that there is no money due and owing from the Plaintiff's to the Defendant and that a lien on the property is inappropriate, in that the contract was not completed, the contractor voluntarily left the job, his claim is for profit, and as such, is not collectable under Mechanics' Lien and further that he voluntarily left the job.
6. Admitted.
7. Admitted.

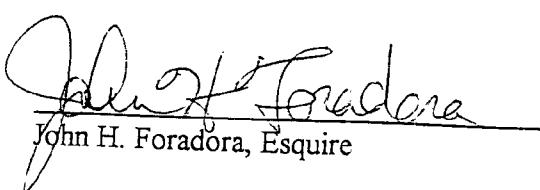
NEW MATTER

8. Paragraphs 1 through 7 are hereby incorporated as though more fully set forth at length herein.
9. The new matter to Complaint filed at 01-1213-C.D. attached as Exhibit "A" is hereby incorporated completely and alleged as though more fully set forth at length.

Respectfully Submitted:

PONTZER & FORADORA

By:


John H. Foradora, Esquire

VERIFICATION

We, Scott H. Foradora and Paula A. Foradora, verify that the statements made in this 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.A. §4904 relating to unsworn falsification to authorities.

Scott H. Foradora
Scott H. Foradora, Plaintiff
Paula A. Foradora
Paula A. Foradora, Plaintiff

CERTIFICATE OF SERVICE

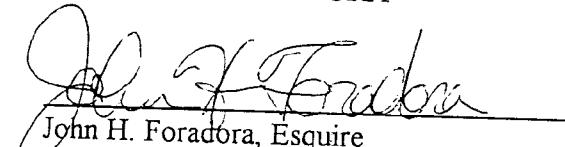
I hereby certify that a true and correct copy of the foregoing Answer and New Matter was served upon the following counsel and parties of record by United States Mail, first class, postage prepaid, this 24th day of December, 2001.

Addressed As Follows:

John R. Ryan, Esquire
Colavecchi, Ryan & Colavecchi
221 E. Market Street
P.O. Box 131
Clearfield, PA 16830

PONTZER & FORADORA

By:



John H. Foradora, Esquire
Attorney for Defendants

Notice of Assurance

This agreement is made by and between homeowners, Scott H. Foradora and Paula A. Foradora (client), and general contractor Michael E. Powers (contractor) on March 7, 2001 in order to assure that the delays and delinquencies observed on the job site to date will cease.

The following is hereby agreed to:

- 1.) ~~Contractor and all sub-contractors brought on site will complete work in a neat, orderly, professional and consistent fashion until their responsibilities are completed.~~ The general contractor shall assure the clients that the contractor and laborers will work approximately 40 hours per week until their responsibilities on the job are completed. ~~Contractor~~
- 2.) ~~Contractor will advise clients, in an unbiased and professional manner, regarding all construction and finishing details necessary to complete the project.~~
- 3.) Contractor assures there will be no work stoppages for any reason and thoughtful consideration will be paid to the ordering and scheduling of all sub-contractors and materials in order to assure as such.
- 4.) ~~Contractor assures all materials and applications will be, installed with the utmost care and attention to detail and based upon manufacturer specifications.~~ ~~Contractor agrees to discuss the applications and materials with the client.~~ SHF
- 5.) Due to the delayed progress of the job to date, contractor and client agree \$12,000 from installment payment number three will be held by the client and paid to the contractor at the completion of all internal work. Completion of internal work is defined as: all work completed and ready for move in by the client.
- 6.) Client agrees to reimburse the contractor for stone materials on site. Contractor assures the client that all materials delivered on site to date have been paid in full by the contractor. Contractor hereby relinquishes title to all materials on site upon receipt of these funds. ~~Contractor will not charge price for stone work~~ SHF
- 7.) Contractor assures that Matthew McGarry will complete stonework ~~competent and satisfactory manner for the price of \$5.50 per square foot for four inch stone and \$6.50 for veneer stone.~~ Client acknowledges there will be some additional charges for window seals and quoined corners as consistent with previous invoices. ~~If in the event Matt McGarry does not complete job. Then Contractor agrees to find masons to complete job at competitive price.~~ ~~Client~~ ~~ACKNOWLEDGE AGREEMENT OF STONE WORK~~ SHF

The foregoing is hereby agreed to by and between homeowners, Scott H. Foradora and Paula A. Foradora, and Michael E. Powers, contractor, on this seventh day of March 2001.

Michael E. Powers

Scott H. Foradora

Paula A. Foradora

→ THE contractor shall not be responsible for any delays caused by homeowners in ordering of the required materials to complete job.

SHF

AGREEMENT

MICHAEL E. POWERS AND HOMEOWNERS

THIS AGREEMENT, MADE THIS 24TH DAY OF MARCH, 2000, BY
AND BETWEEN MICHAEL E. POWERS CONSTRUCTION, HEREINAFTER
CALLED THE CONTRACTOR, AND SCOTT AND PAULA FORADORA,
HEREINAFTER CALLED THE OWNERS, WITNESSETH,

THAT THE CONTRACTOR AND OWNER FOR THE CONSIDERATION
HEREINAFTER NAMED AGREE AS FOLLOWS;

ARTICLE 1: THE CONTRACTOR AGREES TO PROVIDE ALL THE MATERIALS
AS SPECIFIED AND TO PERFORM ALL THE LABOR INDICATED IN THE
SPECIFICATIONS FOR THE ERECTION OF A DWELLING FOR THE OWNER,
THE FORADORA'S AT TREASURE LAKE IN THE CITY
OF DUBOIS STATE OF PENNSYLVANIA.

ARTICLE 2: THE OWNER AGREES TO PAY THE CONTRACTOR IN CURRENT
Funds FOR THE PERFORMANCE OF THE CONTRACT THE AMOUNT
OF Two hundred eighty thousand dollars (280,000.00),
SUBJECT TO ANY ADDITIONS OR DEDUCTIONS TO THE GENERAL
CONDITIONS OF THE CONTRACT AGREED UPON IN WRITING AND TO MAKE
PAYMENTS ON ACCOUNT HEREOF UPON PRESENTATION OF PROPER LEIN
WAIVERS, AS THE WORK PROGRESSES AND AS FOLLOWS;

PAYMENT SCHEDULE:

<u>50,000.00</u>	COMPLETION OF FOUNDATION
<u>135,000.00</u>	COMPLETION OF ROUGH FRAME
<u>45,000.00</u>	COMPLETION OF ROUGH MECHANICS
<u>40,000.00</u>	COMPLETION OF DRYWALL
<u>20,000.00</u>	COMPLETION OF CONTRACT

ARTICLE 3: FINAL PAYMENT SHALL BE DUE IMMEDIATELY IN FULL AFTER
COMPLETION OF THE WORK ABOVE MENTIONED. UNTIL SUCH FINAL
PAYMENT IS MADE, OWNER SHALL NOT TAKE UP RESIDENCE OR MOVE ANY
PERSONAL PROPERTY INTO THE HOUSE. IF THE SAME SHOULD OCCUR,
THIS SHALL BE CONSTRUED AS POSSESSION BY THE OWNER AND
ACCEPTANCE OF ALL WORK AS IS, AND COMPLETION IN FULL OF THE
CONTRACT HEREIN SET FORTH. UPON FINAL PAYMENT, THE PROPER
KEYS WILL BE DELIVERED TO THE OWNER AT THAT TIME.

ARTICLE 4: IN THE EVENT THAT CONSTRUCTION CANNOT COMMENCE
WITHIN SIXTY DAYS FROM THE DATE OF THIS AGREEMENT AND IF THE
REASON FOR THE SAME IS BECAUSE THE OWNER HAS NOT YET OBTAINED
FINANCING OR FOR ANY OTHER REASON DOES NOT PROCEED, THEN IT IS
UNDERSTOOD, THAT IF PRICE CHANGES IN MATERIALS SHALL OCCUR

AFTER THAT SIXTY DAY PERIOD, THE PRICE OF THIS CONTRACT SHALL BE ADJUSTED TO PROPORTIONATELY REFLECT SUCH ADDITIONAL COSTS ATTRIBUTED TO PRICE INCREASES. HOWEVER, IF CONSTRUCTION DOES NOT COMMENCE WITHIN SIXTY DAYS FROM THE DATE OF THIS AGREEMENT BECAUSE CONTRACTOR CANNOT OR DOES NOT BEGIN, THEN ANY SUCH PRICE INCREASES SHALL NOT AFFECT THE BASE PRICE OF THIS CONTRACT.

ARTICLE 5: UPON THE COMMENCEMENT OF CONSTRUCTION, THE OWNER WILL PROVIDE FOR FIRE, VANDALISM, AND OTHER CASUALTY AND LIABILITY INSURANCE. (HOMEOWNERS POLICY).

ARTICLE 6: THE OWNER WILL ALSO SUPPLY ELECTRIC AND FUEL SERVICE AND PAY THE COST OF SUCH SERVICE AFTER THE COMMENCEMENT OF CONSTRUCTION AND AT THE APPROPRIATE TIME.

ARTICLE 7: CONTRACTOR DOES NOT AND CANNOT ASSUME ANY LIABILITY OR RESPONSIBILITY FOR WORK DONE BY THE CUSTOMER/OWNER, NOR SHALL ANY CREDIT BE GIVEN TO THE OWNER FOR WORK OR LABOR PERFORMED UNLESS THE SAME IS APPROVED BEFOREHAND BY THE CONTRACTOR.

ARTICLE 8: IN THE EVENT THAT THERE ARE ANY SPECIAL CODES FOR REGULATIONS OTHER THAN NORMAL ZONING LAWS AND RESTRICTIONS, THE CUSTOMER SHALL NOTIFY THE CONTRACTOR OF THE SAME.

ARTICLE 9: IF ANY CHANGES ARE TO BE MADE TO THIS CONTRACT, SPECIFICATIONS OR THE WORK CALLED FOR HEREIN, AND IF SUCH CHANGES ENTAIL AN INCREASE OR DECREASE IN THE COST OF CONSTRUCTION, A CHANGE ORDER MUST BE EXECUTED IN WRITING BY BOTH OF THE PARTIES HERETO, AND SUCH MODIFICATIONS OR CHANGES PAID FOR BEFORE THERE IS AN OBLIGATION TO THE SAME.

ARTICLE 10: THE CONTRACTOR AND OWNER FURTHER AGREE THAT THE GENERAL SPECIFICATIONS, CONDITIONS, AND BLUEPRINTS TOGETHER WITH THIS AGREEMENT FORM THE ENTIRE CONTRACT, SUCH SPECIFICATIONS, PRINTS, AND CONDITIONS TO BE ATTACHED HERETO.

ARTICLE 11: THE CONTRACTOR RECOGNIZES THE 3-DAY RIGHT TO CANCEL CLAUSE THAT IS MANDATED BY STATE LAW. AFTER SIGNING THIS AGREEMENT, THE CUSTOMER HAS THE RIGHT TO CANCEL THE CONTRACT AND ALL PRECEDING STATEMENTS WILL BE CONSIDERED NULL AND VOID.

THUS, THE CONTRACTOR AND OWNERS HAVE SET THEIR HANDS AND SEALS THE DAY AND YEAR FIRST ABOVE WRITTEN.

Michael E. Powers
Michael E. Powers, Contractor

Scott H. Brown
Owner
Janet S.
Owner

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL E. POWERS, d/b/a : CIVIL DIVISION
MICHAEL E. POWERS CONSTRUCTION, :
Plaintiff, :
Vs. : NO. 01-1213-CD
: Type of Pleading:
SCOTT H. FORADORA and :
PAULA A. FORADORA, Husband and Wife, :
Defendants. : PRAECIPE

PRAECIPE TO WITHDRAW APPEARANCE

TO THE PROTHONOTARY:

Kindly withdraw my appearance on behalf of the Defendants in the above captioned case, term and number.

FILED

JAN 10 2002
m 10:48 hcc
William A. Shaw
Prothonotary *KCB*

Respectfully Submitted:

PONTZER & FORADORA

By:

John H. Foradora
John H. Foradora, Esquire
220 Center Street
Ridgway, PA 15853
(814) 773-3108
Atty. I.D. No. 63413

PRAECIPE TO ENTER APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of the Defendants in the above captioned case, term and number.

Respectfully Submitted:

HANAK, GUIDO & TALADAY

By:

Matthew Taladay
Matthew Taladay, Esquire
498 Jeffers Street
P.O. Box 489
DuBois, PA 15801
(814)371-7768

CP

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,
Plaintiff

-vs-

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,
Defendants

CIVIL ACTION - AT LAW

No. 01-1213-CD

Type of Pleading:

Petition to Stay
Proceedings

Filed on Behalf of:

Defendants

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801

814-371-7768

FILED

JAN 16 2002

William A. Shaw
Prothonotary

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

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,

Plaintiff

-vs-

No. 01-1213-CD

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,

Defendants

PETITION TO STAY PROCEEDINGS

AND NOW, comes the Defendants, Scott H. Foradora and Paula A. Foradora, by their attorneys, Hanak, Guido and Taladay and hereby bring this Petition to Stay Proceedings averring as follows:

1. Defendants are Scott H. and Paula A. Foradora, Defendants in the above captioned mechanic's lien claim.
2. The above captioned proceeding is an action to enforce a mechanic's lien filed at 01-557-CD. The mechanic's lien at issue involves a contract for construction of a home dated March 24, 2000.
3. Michael E. Powers, d/b/a Michael E. Powers Construction, has filed an action to enforce Mechanic's Lien at No. 01-1213-CD.
4. Also filed before this Honorable Court is an action at No. 2001-1779-CD wherein Scott H. Foradora and Paula A. Foradora

have asserted a claim for breach of contract arising out of the above referenced contract of March 24, 2000.

5. With regard to the action at No. 2001-1779-CD, Michael E. Powers has filed a Counterclaim stated in breach of contact but setting forth and incorporating the claim for relief set forth in the above captioned action to enforce mechanic's lien.

6. Because of provisions of Pennsylvania Rules of Civil Procedure, the action in mechanic's lien cannot be incorporated with the action at No. 2001-1779-CD.

7. A determination of the action at No. 2001-1779-CD would effectively resolve all issues pending in both the breach of contract claim and also in the action to enforce mechanic's lien under the principle of collateral estoppel.

8. The interests of judicial economy and fairness to the parties would best be served by staying the above action pending resolution of the action at No. 2001-1779-CD.

9. Wherefore, it is requested that this Court issue an Order suspending proceedings in the above captioned action until a final determination has been made in the action at No. 2001-1779-CD.

WHEREFORE, it is respectfully requested that this Petition to Stay Proceedings be granted.

Respectfully submitted,

HANAK, GUIDO AND TALADAY

By

Matthew B. Taladay

FILED

JAN 16 2007

01/20/07 SCOTT TAKADAY
William A. Shaw
Prothonotary

filed

01/20/07

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

MICHAEL E. POWERS, d/b/a :
MICHAEL E. POWERS :
CONSTRUCTION, :
Plaintiff :
:

-vs- : No. 01-1213-CD

SCOTT H. FORADORA and :
PAULA A. FORADORA, Husband :
and Wife, :
Defendants :
:

RULE TO SHOW CAUSE ORDER

AND NOW, this 21st day of January, 2002,

Rule is hereby issued upon Plaintiff to show cause, if any, why
Defendants' Petition to Stay Proceedings should not be granted.

Rule Returnable the 27 day of February,
2002, at 9:00 A M. in Courtroom No. 1 of the Clearfield
County Courthouse, Second & Market Streets, Clearfield, Pennsylvania.

BY THE COURT,


J.

FILED

JAN 21 2002

William A. Shaw
Prothonotary

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

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,
Plaintiff

-vs-

No. 01-1213-CD

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,
Defendants

O R D E R

AND NOW, this _____ day of _____, 2002,
upon Petition of Scott H. Foradora and Paula A. Foradora,

IT IS HEREBY ORDERED that the proceedings in the
action to enforce mechanic's lien above captioned shall be stayed and
suspended pending final disposition of the action at 2001-1779-CD
pending before this Court.

BY THE COURT,

J.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,

Plaintiffs

-vs-

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,

Defendant

CIVIL ACTION - AT LAW

No. 2001-1213-CD

Type of Pleading:

Certificate
of Service

Filed on Behalf of:

Plaintiffs

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801

814-371-7768

FILED

JAN 25 2002

william a. shaw
Prothonotary

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

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,

Plaintiffs

-vs-

No. 2001-1779-CD

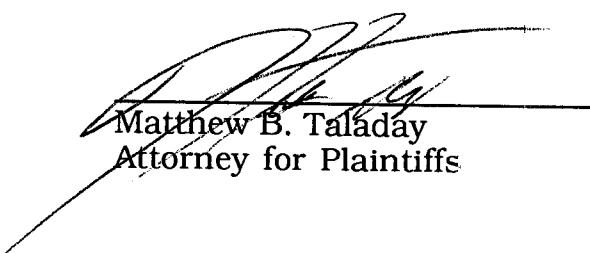
MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,

Defendant

CERTIFICATE OF SERVICE

I certify that on the 24th day of January, 2002, a true and correct copy of the Plaintiffs' Petition to Stay Proceedings and Show Cause Order was sent via first class mail, postage prepaid, to the following:

John R. Ryan, Esq.
Attorney for Defendant
Colavecchi, Ryan & Colavecchi
P.O. Box 131
Clearfield, PA 16830


Matthew B. Taladay
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,
Plaintiff

-vs-

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,
Defendants

CIVIL ACTION - AT LAW

No. 01-1213-CD

Type of Pleading:

Praecipe to Withdraw
New Matter & Counterclaim

Filed on Behalf of:

Defendants

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801

814-371-7768

FILED

JAN 26 2002

William A. Shaw
Prothonotary

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

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,
Plaintiff

-vs-

No. 01-1213-CD

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,

Defendants

PRAECIPE TO WITHDRAW NEW MATTER & COUNTERCLAIM

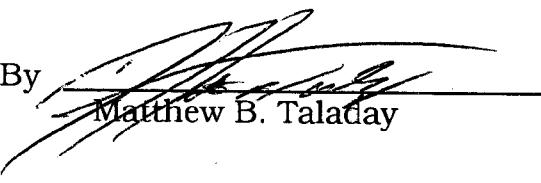
TO THE PROTHONOTARY:

Kindly withdraw the New Matter & Counterclaim filed by
the Defendants, Scott H. Foradora and Paula A. Foradora, in the above
referenced matter.

Respectfully submitted,

HANAK, GUIDO AND TALADAY

By


Matthew B. Taladay

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

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,
Plaintiff

-vs-

No. 01-1213-CD

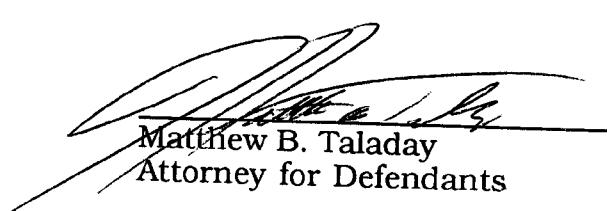
SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,

Defendants

CERTIFICATE OF SERVICE

I certify that on the 25th day of January, 2002, a true and correct copy of the foregoing Petition was sent via first class mail, postage prepaid, to the following:

John R. Ryan, Esq.
Attorney for Plaintiff
Colavecchi, Ryan & Colavecchi
P.O. Box 131
Clearfield, PA 16830


Matthew B. Taladay
Attorney for Defendants

FILED

JAN 28 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,
Plaintiff

-vs-

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,
Defendants

CIVIL ACTION - AT LAW

No. 01-1213-CD

Type of Pleading:

Amended Answer

Filed on Behalf of:

Defendants

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801

814-371-7768

FILED

JAN 28 2002

M 10:10 AM

William A. Shaw
Prothonotary



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

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,
Plaintiff

-vs-

No. 01-1213-CD

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,
Defendants

AMENDED ANSWER

AND NOW, come the Defendants, Scott H. Foradora and Paula A. Foradora, and through their attorneys, Hanak, Guido and Taladay, and hereby file an Amended Answer, filed to supersede and nullify Answer and New Matter previously filed in this matter, averring as follows:

1. Admitted.

2. Admitted.

3. Admitted in part, denied in part. It is admitted that the contract which was attached was entered into between Plaintiff and Defendants. It is denied that this contract is the complete and entire contract as there were plans which were specifically incorporated into the contract and which were attached to Answer and New Matter previously filed as Exhibit "A" and incorporated herein more fully by reference as if set forth at length, list of contract specifications which were attached to Answer and New Matter which were previously filed and which are incorporated herein by reference

as Exhibit "B", and Notice of Assurance which was attached to Answer and New Matter previously filed as Exhibit "C" and which is incorporated herein by reference.

4. Admitted in part and denied in part. It is admitted that Plaintiff furnished materials and performed labor in the construction of a residential dwelling. It is admitted that he first began work in June of 2000 and left the job in April of 2001. However, it is denied that he was not paid for the labor and construction, which he performed on this residential dwelling. Further, it is alleged that he made a profit for the time period on which he was working on the residential building.

5. Admitted in part and denied in part. It is admitted that a letter was sent on April 10, 2001, a copy of April 10 which was attached to Answer and New Matter previously filed as Exhibit "D" and incorporated herein by reference; however, it is denied that the contract had to be terminated by the Defendants due to the fact that the Plaintiff had vacated the job on April 4, 2001, and never returned.

6. Denied. It is denied that Plaintiff is owed any money, and on the contrary it is averred that he has already received a profit from the work he performed on the Defendants' property and as such, any recovery under Mechanics' Lien is not appropriate.

7. Admitted in part and denied in part. It is admitted that the document was filed, however, it is denied that its allegations are true.

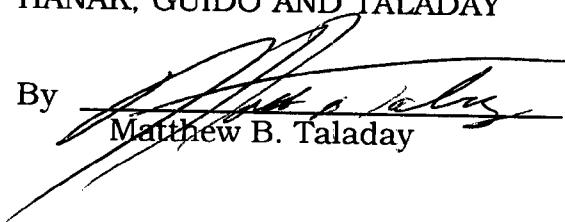
8. Denied. On the contrary, it is averred that Plaintiff has already recovered all amounts due and owing to him, and Defendant herein have no obligations to Plaintiff in this action.

WHEREFORE, Defendants respectfully request this Court
to enter judgment in their favor and against the Plaintiff.

Respectfully submitted,

HANAK, GUIDO AND TALADAY

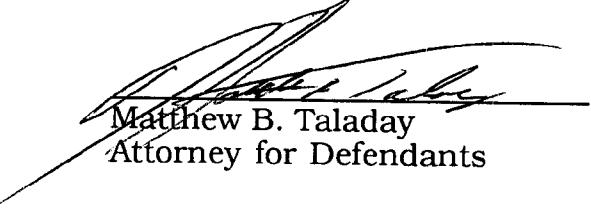
By


Matthew B. Taladay

VERIFICATION

I, Matthew B. Taladay, hereby verify that the statements contained in the foregoing Amended Answer are correct to the best of my personal knowledge or information and belief based on information provided to me and I am authorized to make this verification on behalf of Defendant because of my position as counsel of record.

January 25, 2002


Matthew B. Taladay
Attorney for Defendants

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

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,
Plaintiff

-vs-

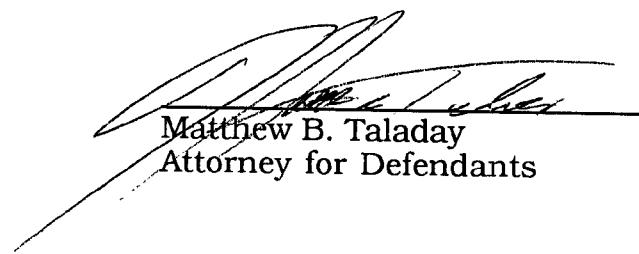
No. 01-1213-CD

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,
Defendants

CERTIFICATE OF SERVICE

I certify that on the 25th day of January, 2002, a true and correct copy of the Defendants' Amended Answer was sent via first class mail, postage prepaid, to the following:

John R. Ryan, Esq.
Attorney for Plaintiff
Colavecchi, Ryan & Colavecchi
P.O. Box 131
Clearfield, PA 16830


Matthew B. Taladay
Attorney for Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,
Plaintiff

-vs-

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,
Defendants

CIVIL ACTION - AT LAW

No. 01-1213-CD

Type of Pleading:

Consent Order

Filed on Behalf of:

Defendants

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801

814-371-7768

FILED

FEB 11 2002

**William A. Shaw
Prothonotary**

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

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,
Plaintiff

-vs-

No. 01-1213-CD

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,
Defendants

CONSENT ORDER

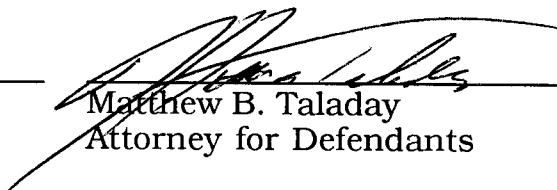
AND NOW, this 5th day of February, 2002,
upon consent of the parties, the Petition to Stay Proceedings filed by
Defendants in the above matter is hereby granted. Proceedings in the
above captioned action shall be suspended pending resolution of the
claims at 2001-1779 C.D. or until further Order of Court. Hearing
scheduled for February 27, 2002 is hereby canceled.

BY THE COURT,

J.

Consented to by:


John R. Ryan
Attorney for Plaintiff


Matthew B. Taladay
Attorney for Defendants

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

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,

Plaintiff

-vs-

No. 01-1213-CD

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,

Defendants

CONSENT ORDER

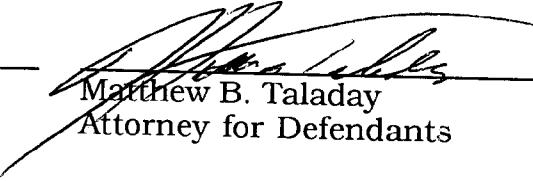
AND NOW, this 5th day of February, 2002,
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scheduled for February 27, 2002 is hereby canceled.

BY THE COURT,

J.

Consented to by:


John R. Ryan
Attorney for Plaintiff


Matthew B. Taladay
Attorney for Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,
Plaintiff

-vs-

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,

Defendants

CIVIL ACTION - AT LAW

No. 01-1213-CD

Type of Pleading:

Certificate of
Service

Filed on Behalf of:

Defendants

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801

814-371-7768

FILED

FEB 15 2002

William A. Shaw
Prothonotary

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

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,

Plaintiff

-vs-

No. 01-1213-CD

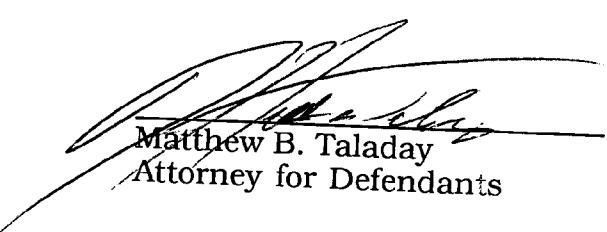
SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,

Defendants

CERTIFICATE OF SERVICE

I certify that on the 14th day of February, 2002, a Court
certified copy of the Consent Order was sent via first class mail,
postage prepaid, to the following:

John R. Ryan, Esq.
Attorney for Plaintiff
Colavecchi, Ryan & Colavecchi
P.O. Box 131
Clearfield, PA 16830


Matthew B. Taladay
Attorney for Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,
Plaintiff

-vs-

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,
Defendants

CIVIL ACTION - AT LAW

No. 01-1213-CD

Type of Pleading:

Praecipe for
Discontinuance

Filed on Behalf of:

Plaintiff

Counsel of Record for This
Party:

John R. Ryan, Esq.
Supreme Court No. 38639
Colavecchi Ryan & Colavecchi
221 East Market Street
P. O. Box 131
Clearfield, PA 16830

814-765-1566

FILED

OCT 01 2002

William A. Shaw
Prothonotary

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

MICHAEL E. POWERS, d/b/a
MICHAEL E. POWERS
CONSTRUCTION,

Plaintiff

-vs-

No. 01-1213-CD

SCOTT H. FORADORA and
PAULA A. FORADORA, Husband
and Wife,

Defendants

PRAECIPE FOR DISCONTINUANCE

TO THE PROTHONOTARY:

Kindly mark the above referenced matter settled and
discontinued.



John R. Ryan

Attorney for Plaintiff

FILED

Cert of Disc to Atty
Copy of Disc to CJA
02/01/2002

2/26

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COPY

CIVIL DIVISION

**Michael E. Powers d/b/a
Michael E. Powers Construction**

Vs. No. 2001-01213-CD
**Scott H. Foradora
Paula A. Foradora**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on October 1, 2002, marked:

Settled and Discontinued

Record costs in the sum of \$136.69 have been paid in full by John R. Ryan, Esq..

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 1st day of October A.D. 2002.

William A. Shaw, Prothonotary