

01-1318-CD
RICHARD FRANOLICH et ux -vs- FLEETWOOD ENTERPRISES, INC. et al

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

CIVIL DIVISION
NO. 01-1318-CD

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife, Plaintiffs

vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA., INC.
Defendants

APPEARANCE

FILED

SEP 28 2001

01/16/03 10:00

William A. Shaw

Prothonotary



BELL, SILBERBLATT & WOOD
ATTORNEYS AT LAW
318 EAST LOCUST STREET
P. O. BOX 670
CLEARFIELD, PA. 16830

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

RICHARD FRANOLICH, and :
JANET FRANOLICH, husband and :
wife, :
PLAINTIFFS, :
CIVIL ACTION NO. :
01-1318-CD
v. :
FLEETWOOD ENTERPRISES, INC., :
and LARRY'S HOMES OF PA, INC., :
DEFENDANTS. :
TYPE OF PLEADING: :
CIVIL COMPLAINT
FILED BY: :
PLAINTIFF
COUNSEL FOR THIS PARTY: :
THERON G. NOBLE, ESQUIRE
FERRARACCIO & NOBLE
301 EAST PINE STREET
CLEARFIELD, PA 16830
814-375-2221
PA I.D.#: 55942
FILED
AUG 15 2001
11:55 AM
William A. Shaw
Prothonotary
PP 80
2 Cents to A

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.)
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)
)

No. 01-_____ -CD

©NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claim 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 judgement may be entered against you by the Court without further notice for any claim in the Complaint or for any other claim or relief requested by the Plaintiffs. 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 AN ATTORNEY, OR CANNOT FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
(814)-765-2641

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.)
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)
)
No. 01-_____ -CD

CIVIL COMPLAINT

NOW COMES, the Plaintiffs, Richard and Janet Franolich, by and through their counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of their CIVIL COMPLAINT:

The Parties

1. First Plaintiff is Richard Franolich, who now resides at 124 Hatler Street, Fort Leonard Wood, Missouri 65473, but at all relevant and material times did reside at 46 Ponderosa Drive, Penfield, Clearfield County, Pennsylvania.
2. Second Plaintiff is Janet Franolich, who now resides at 124 Hatler Street, Fort Leonard Wood, Missouri 65473, but at all relevant and material times did reside at 46 Ponderosa Drive, Penfield, Clearfield County, Pennsylvania.
3. That first defendant is Fleetwood Enterprises, Inc., upon information and belief a duly formed and existing corporation lawfully doing business in Pennsylvania, with a principal corporate address of 3125 Myers Street, Riverside, Orange County, California 92513-7638.
4. That second defendant is Larry's Homes of PA, Inc., upon information and belief a duly formed and existing Pennsylvania corporation with a registered address of c/o C.T. Corp. Systems, 1515 Market Street, Suite 1210, Philadelphia, PA 19112.

Background

5. That Richard and Janet Franolich are, and at all relevant and material times were, husband and wife living together at the current and aformentioned addresses, hereinafter "The Franoliches".
6. That Defendant Fleetwood Enterprises, Inc., hereinafter "Fleetwood", is and at all material times was engaged in the business of manufacturing and sale of mobile homes.
7. That Defendant Larry's Homes of PA, Inc., hereinafter "Larry's Homes", is and at all material times was engaged in the business of retail sale of mobile homes, including those manufactured by Fleetwood.
8. That the Franoliches in May, 1998, purchased a home, best described as 28' x 56' mobile home, with serial number NCAFLTB03753AB, which had been manufactured by Fleetwood in 1996 and sold and installed by Larry's Homes, also in 1996.
9. Said home was originally purchased by Jim and Denise Burkett and remained at the same location upon purchase by the Franoliches, who also kept said home at the same location until September 6, 1999.
10. That on September 6, 1999, while the Franoliches were not at home, the home caught fire and the home as well as their entire earthly possessions were destroyed by fire and/or smoke damage.
11. That upon information and belief, the fire was entirely caused in that the wiring used in the manufacture and installation of the home, being the wires running underneath the masterbedroom, was placed such that it was exposed to the elements, not inside the plastic under-wrap, nor placed through the holes in the support beams, and indoor type wiring was used.
12. That upon information and belief, since the wires were not placed through the holes cut for the wire in the support beams, the wires dangled and since the wires were exposed to the elements, wind would cause the wires to grind against each other and the structure, which eventually caused the cover of the wires to erode. Furthermore, once the bare wires were exposed to the wood beams and/or insulation material, the heat caused by the electricity running through the wires initiated the fire.

13. That as a result of such fire and smoke damage, the Franoliches suffered the following losses:

- (a) The value of their home, with the extras including an air conditioning unit and deck, estimated to be \$60,000, to be more fully determined at time of trial;
- (b) The contents of their homes, including clothing, furniture, jewelery, dishwasher, stove, washer, dryer, stereo, computer, and similar type items, together estimated to be \$60,000, to be more fully determined at time of trial;
- (c) The cost of finding living arrangements, for the Franoliches and their three (3) minor children, until they could reasonably find and afford alternative housing arrangements, estimated at a cost of \$10,000, to be more fully determined at time of trial;
- (d) Losses of income to each Plaintiff, as a result of them missing work to handle the numerous issues created by the above and effects on each of their careers caused by the circumstances, in amounts to be determined at time of trial;
- (e) The cost of clean up and removal of the debris which was their home and contents, estimated to be \$5,000, in an amount to be more fully determined at time of trial;
- (f) Their family pets, including a cat and guinea pig, were consumed in said fire, in an amount to be determined at time of trial; and
- (g) Emotional distress, in an amount to be determined, caused by the loss of their home, contents, valuables as well as sentimental items such as wedding photographs and deceased family members.

14. That, upon information and belief, Defendant Larry's Homes was an agent of Defendant Fleetwood, who is liable for the acts and omissions of Defendant Larry's Homes.

Count I: v. Fleetwood;
Breach of Express Contract

15. That the averments of paragraphs 1 - 14, inclusive, are hereby incorporated as if again fully set forth at length.

16. That the home acquired by the Franoliches was covered by an express warranty, which included a five (5) year warranty for "Home Electrical System: wiring, fittings, connections, fixture boxes, junction boxes, main and sub-panel boxes". (See page 8 of the applicable homeowner's guide attached as Exhibit "A").

17. That for the aforementioned reasons, Defendant Fleetwood breached the express warranty in that the wiring used underneath the master-bedroom was the wrong type for the manner in which it was actually installed, thereby being either a defect in the manufactured components or a defect in the workmanship.

18. That the damages suffered by the Franoliches were the direct and proximate cause of the breach of the express warranty by Defendant Fleetwood.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000 together with interest and costs of suit.

Count II: v. Fleetwood;
Breach of Implied Warranties

19. That the averments of paragraphs 1 - 18, inclusive, are hereby incorporated as if again fully set forth at length.

20. That the home manufactured and sold by Defendant Fleetwood was subject to implied warranties of merchantability and fitness for a particular purpose.

21. That the improperly designed, manufactured and/or installed wiring breached these implied warranties in that the wiring created a substantial risk of fire such that the home was not adequate use for a reasonable length of time nor properly suited for residential home use as intended.

22. That the breaches of the aforementioned implied warranties, concerning the type of wiring and location of the same, was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest and costs of suit.

Count III: v. Fleetwood;
Negligence

23. That the averments of paragraphs 1 - 22, inclusive, are hereby incorporated as if again fully set forth at length.

24. That Defendant Fleetwood was negligent in that:

- (a) It failed to ensure the wiring was installed in said home in a manner in which it was actually designed;
- (b) It failed to use wiring suitable for outdoor use when in fact the wiring as installed was exposed to the elements; and
- (c) It failed to properly train and supervise its agents, in particular Defendant Larry's Homes, in the craft of installation of its manufactured homes as relating to the wiring.

25. The aforementioned negligence of Defendant Fleetwood was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest and costs of suit.

Count IV: v. Fleetwood;
Recklessness

26. That the averments of paragraphs 1 - 25, inclusive, are hereby incorporated as if again fully set forth at length.

27. That Defendant Fleetwood was reckless in that:

- (a) It failed to ensure the wiring was installed in a manner in which it was designed to be installed; and
- (b) Indoor grade wiring was used when in fact outdoor grade wiring should have been used considering the manner in which it was actually installed.

28. That the aforementioned recklessness of Defendant Fleetwood was a direct and proximate cause of the damages suffered by the Franoliches.

29. In addition, Defendant Fleetwood should pay punitive damages to assure that homes manufactured and sold by them will not so expose other consumers to such catastrophic losses, including potential loss of life, in an amount to be determined.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest, costs of suit, punitive damages and reasonable attorney's fees.

Count V: v. Larry's Homes;
Breach of Express Warranties

30. That the averments of paragraphs 1 - 14, inclusive, are hereby incorporated as if again fully set forth at length.

31. That the home acquired by the Franoliches was covered by an express warranty, which included a five (5) year warranty for "Home Electrical System: wiring, fittings, connections, fixture boxes, junction boxes, main and sub-panel boxes". (See page 8 of the applicable homeowner's guide attached as Exhibit "A").

32. That as agent for Defendant Fleetwood, Defendant Larry's Homes is bound by such express warranty.

33. That for the aforementioned reasons, Defendant Larry's Homes breached the express warranty in that the wiring used underneath the master-bedroom was the wrong type for the manner in which it was actually installed.

34. That the damages suffered by the Franoliches was the direct and proximate cause of the breach of the express warranty by Defendant Larry's Homes.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000 together with interest and costs of suit.

Count VI: v. Larry's Homes;
Breach of Implied Warranties

35. That the averments of paragraphs 1 - 14 and 30 - 34, inclusive, are hereby incorporated as if again fully set forth at length.

36. That the home sold and installed by Defendant Larry's Homes was subject to implied warranties of merchantability and fitness for a particular purpose.

37. That the improperly designed, manufactured and/or installed wiring breached these implied warranties in that the wiring created a substantial risk of fire such that the home was not of adequate use for a reasonable length of time nor properly suited for residential home use as intended.

38. That the breaches of the aforementioned implied warranties, concerning the type of wiring and location of the same, was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest and costs of suit.

Count VI: v. Fleetwood;
Negligence

39. That the averments of paragraphs 1 - 14 and 30 - 38, inclusive, are hereby incorporated as if again fully set forth at length.

40. That Defendant Fleetwood was negligent in that:

- (a) It failed to ensure the wiring was installed in said home in a manner in which it was actually designed;
- (b) It failed to use wiring suitable for outdoor use when in fact the wiring as installed was exposed to the elements; and
- (c) It failed to properly train and supervise the electrician, an agent, employee, or sub-contractor who actually performed the installation of the wiring, to ensure the wiring was suitable.

41. The aforementioned negligence of Defendant Larry's Homes was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest and costs of suit.

Count VIII: v. Larry's Homes;
Recklessness

42. That the averments of paragraphs 1 - 14 and 30 - 41, inclusive, are hereby incorporated as if again fully set forth at length.

43. That Defendant Larry's Homes was reckless in that:

- (a) It failed to ensure the wiring was installed in a manner in which it was designed to be installed; and
- (b) Indoor grade wiring was used when in fact outdoor grade wiring should have been used considering the manner in which it was actually installed.

44. That the aforementioned recklessness of Defendant Larry's Homes was a direct and proximate cause of the damages suffered by the Franoliches.

45. In addition, Defendant Larry's Homes should pay punitive damages to assure that homes sold and installed by them will not so expose other consumers to such catastrophic losses, including potential loss of life, in an amount to be determined.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest, costs of suit, punitive damages and reasonable attorney's fees.

Miscelaneous

46. That defendants have joint and severable liability.

47. That venue is proper.

48. That jurisdiction is proper.

WHEREFORE, Plaintiffs request that judgments be entered in their favor, and against Defendant Fleetwood and Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest, costs of suit, reasonable attorney's fees and punitive damages.

Respectfully Submitted,



T. G. Noble, Esquire
Ferraraccio & Noble
Attorney for Plaintiffs
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

FIVE-YEAR

A Reminder: The five-year coverage is in effect for the 5 years after first delivery of the home. Basically, it lengthens the coverage of the structural electrical and plumbing systems as stated below.

- ▼ Frame: tow bar, steel support frame beneath floor of home
- ▼ Roof Structure or Rafters: roof rafters, main support beams, insulation, roof decking, all support lumber contained within the roof, shingles, metal roofing
- ▼ Sub-Floor Structure: floor decking, wood joists supporting decking, insulation, all support lumber contained within the floor
- ▼ Exterior and Interior Walls and Ceilings: exterior siding, stud insulation, framing members, all support lumber contained within the outside and inside walls
- ▼ Home Electrical System: wiring, fittings, connections, fixture junction boxes, main and sub-panel boxes
- ▼ Plumbing System: water pipes, drain pipes, gas pipes, fitting connections, fixture and appliance connections

Exhibit "A"

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.)
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)
)
No. 01- _____-CD

VERIFICATION

We, Richard Franolich and Janet Franolich, adult individuals, Plaintiffs in the foregoing and attached CIVIL COMPLAINT, state that we have read the same and the information therein contained is true and accurate to the best of our knowledge, information and belief. We further understand that the same is made pursuant to 18 Pa.C.S.A. 4904 relating to unsworn falsification to authorities.



Richard Franolich, Plaintiff



Janet Franolich, Plaintiff

Made this 13th day of August, 2001.

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

PLAINTIFFS

NO. 01-1318-CD

Type of Pleading
APPEARANCE

vs

FLEETWOOD ENTERPRISES, INC.
and LARRY'S HOMES OF PA, INC.
Plaintiff

DEFENDANTS

Filed on Behalf of:
FLEETWOOD ENTERPRISES, INC.

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED

SEP 28 2001

William A. Shaw
Prothonotary

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

NO. 01-1318-CD

PLAINTIFFS

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

APPEARANCE

To William A. Shaw, Prothonotary:

Please enter my Appearance in the above matter on behalf of
FLEETWOOD ENTERPRISES, INC., one of the above named Defendants.

BELL, SILBERBLATT & WOOD
BY

Dated: 9-28-01


RICHARD A. BELL
RICHARD A. BELL, ESQUIRE

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a copy of my Appearance in the above matter was
mailed the 28 day of Sept., 2001 by regular mail postage
prepaid at the post office in Clearfield, PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830



Richard A. Bell, Esquire
Attorney for Defendant
Fleetwood Enterprises, Inc.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA
CIVIL DIVISION
NO. 01-1318-CD

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife, Plaintiffs
vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY S. HOMES OF PA, INC.
Defendants

ANSWER AND NEW MATTER OF
FLEETWOOD ENTERPRISES, INC.,
TO THE COMPLAINT OF THE
PLAINTIFFS

FILED

SEP 28 2001

Q11431105 CC
William A. Shaw
Prothonotary

BELL, SILBERBLATT & WOOD
ATTORNEYS AT LAW
318 EAST LOCUST STREET
P. O. BOX 670
CLEARFIELD, PA 16830

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

PLAINTIFFS

NO. 01-1318-CD

Type of Pleading
ANSWER AND NEW MATTER

vs

FLEETWOOD ENTERPRISES, INC.
and LARRY'S HOMES OF PA, INC.
Plaintiff

DEFENDANTS

Filed on Behalf of:
FLEETWOOD ENTERPRISES, INC.

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED

SEP 28 2001

William A. Shaw
Prothonotary

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

NOTICE TO PLEAD

TO: Richard Franolich and
Janet Franolich, husband and wife
Plaintiffs
c/o Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

You are hereby notified to file a written response to the enclosed New Matter
within twenty (20) days from service hereof or a judgment may be entered against
you.

BELL, SILBERBLATT & WOOD
BY


Richard A. Bell, Esquire
Attorney for Defendant
Fleetwood Enterprises, Inc.

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

ANSWER AND NEW MATTER OF FLEETWOOD ENTERPRISES, INC.
TO THE COMPLAINT OF THE PLAINTIFFS

NOW COMES, Fleetwood Enterprises, Inc., one of the Defendants by its
attorney Richard A. Bell, Esquire of Bell, Silberblatt & Wood, and answers the
Complaint of the Plaintiffs as follows:

1. Admitted.

2. Admitted.

3. Admitted, except as modified by other paragraphs of this Answer and New
Matter.

4. Admitted, but this Defendant is not aware of the registered address of
Larry's Homes Of Pa, Inc.

5. Admitted.

6. It is denied that Fleetwood Enterprises, Inc., was engaged in the business of manufacturing and sales of mobile homes. Fleetwood Enterprises, Inc., is the parent corporation of Fleetwood Homes Of North Carolina, Inc., the manufacturer of the home in question.

7. Admitted.

8. After reasonable investigation this Defendant is without sufficient knowledge or information to ascertain the truth of the averments of this paragraph, and the same are therefore denied, and strict proof demanded.

9. It is admitted that the home was purchased by Jim and Denise Burkett but as to the rest of the paragraph, this defendant is without sufficient information or knowledge to ascertain the truth of the averments, and the same are therefore denied and strict proof demanded.

10. After reasonable investigation this Defendant is without sufficient knowledge or information to ascertain the truth of the averments of this paragraph, and the same are therefore denied, and strict proof demanded.

11. The averments of paragraph eleven are denied. It is specifically denied that the fire in question was caused by wiring used in the manufacture and installation of the home, and it is also denied that any wiring used in the manufacturing process was exposed to the elements, but rather it is alleged that all such wiring was properly protected and inside the protective wrap.

12. The allegations of paragraph twelve are denied, specifically the cause of the fire as alleged in paragraph twelve is denied and strict proof demanded.

13. After reasonable investigation this Defendant is without sufficient knowledge or information to ascertain the truth as to the losses suffered by the Franolichs, and therefore the same are denied and strict proof demanded. It is specifically denied that any losses suffered by the Franolichs were caused in any way by this Defendant. Therefore paragraph thirteen and all of its subparagraphs are denied.

14. It is specifically denied that Larry's Homes Of Pa, Inc., was an Agent of this Defendant for any purpose.

COUNT I

15. The answers to the averments one through fourteen are included herein by

reference.

16. Admitted.

17. It is denied that there was any breach of warranty on behalf of this Defendant, and further alleged that the wiring used in the entire mobile home was the kind and quality required, and properly installed.

18. It is specifically denied that any damages suffered by the Franolichs were caused by a breach of any warranty on behalf of this Defendant.

COUNT II

19. The answers to paragraphs one through eighteen are hereby incorporated by reference.

20. Inasmuch as this home was not manufactured and sold by this Defendant, the averments of paragraph twenty are denied.

21. It is denied that there was anything improper in the design, manufacture or installation of wiring, and therefore the allegations to this paragraph are denied.

22. This paragraph is denied in that there were no breaches of any warranties expressed or implied by this Defendant.

COUNT III

23. The answers to paragraphs one through twenty-two are incorporated herein by referenced.

24. The allegations of paragraph twenty-four and its subparagraphs are denied as follows:

(a). This subparagraph is denied and rather it is alleged that all wiring installed in the home was done properly.

(b). This subparagraph is denied and rather it is alleged that all wiring was of the size and quality required.

(c). The allegations of this paragraph are denied. It is denied that there was any duty on behalf of this Defendant or its manufacturing subsidiary to train Larry's Homes Of Pa, Inc., as to installation.

25. It is denied that there is any negligence on the part of this Defendant at all

or that it was a direct and proximate cause of the losses suffered by Franolichs.

COUNT IV

26. The answers to paragraphs one through paragraphs twenty-five are incorporated herein by reference.

27. Paragraphs twenty-seven and its two subparagraphs are denied, and it is alleged that to assert that this Defendant was reckless in the manner stated in subparagraphs (a) and (b) is a frivolous and improper pleading.

28. It is denied that there was any recklessness of this Defendant or any act done which was the cause of the losses suffered by the Franolichs.

29. Paragraph twenty-nine is a conclusion of law and no answer is required. To the extent that an answer is required, it is denied that there is any obligation on this Defendant to pay punitive damages and any allegation that such is required is a frivolous and improper pleading.

COUNT V

30.-34. This Count is not applicable to this Defendant.

COUNT VI

35.-38. This Count is not applicable to this Defendant.

COUNT VI

This Count alleged to be against Fleetwood Enterprises, Inc., but the name of Fleetwood and the name of Larry's Homes Of Pa, Inc., are used interchangeably in this Count. If this Count is intended to be directed toward Fleetwood Enterprises, Inc., it is a repetition of Count III. This Defendant believes the Count is intended to be against Larry's Homes Of Pa, Inc., and as such it is not applicable to this Defendant. The Count is designated as Count VI, but this Defendant believes it was intended to be Count VII.

COUNT VIII

Paragraphs forty-two through forty-five. This Count is not directed toward this Defendant and therefore is not applicable to this Defendant.

46. It is denied that these Defendants have joint and severable liability although this is a conclusion of law and does not require an Answer.

47. Admitted.

48. Admitted.

NEW MATTER

In further Answer to the Complaint of the Plaintiffs, Fleetwood Enterprises, Inc., one of the Defendants alleges the following New Matter:

49. It is denied that Fleetwood Enterprises, Inc., is properly a Defendant since it does not manufacture mobile homes, and did not manufacture the mobile home in question. Rather that mobile home was manufactured by Fleetwood Homes Of N.C., Inc., with an address of Route 6, Highway 74 West, P.O. Box 1187, Lumberton, North Carolina 28359. This Defendant is the parent corporation of Fleetwood Homes Of N.C., Inc., but is not as such liable for its acts.

50. The manufacturer of this mobile home was subject to the National Manufactured Housing Construction And Safety Standards Act, and its Regulations. Further, it is alleged that the materials, workmanship and manufacture of this home were in accord with the Act and complied with it in every respect.

51. On information received this Defendant believes and therefore avers that

the fire in question originated within the mobile home and was due to acts or omissions of the Plaintiffs.

52. Insofar as negligence has been alleged, provisions of the Comparative Negligence Act are pled.

53. Any warranties issued or implied applicable to the manufacturer of this mobile home were not made by this Defendant, but were issued on behalf of Fleetwood Homes Of N.C., Inc., the manufacturer of the mobile home.

WHEREFORE, Defendant Fleetwood Enterprises, Inc., respectfully requests that the Complaint be dismissed as to it.

BELL, SILBERBLATT & WOOD
BY



Richard A. Bell, Esquire
Attorney for Defendant Fleetwood
Enterprises, Inc.

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

VERIFICATION

The undersigned verifies that he is the Attorney of record of Defendant, Fleetwood Enterprises, Inc., named in the within action, that as such Attorney, he is authorized to make this verification, and that the statements made in the foregoing Answer and New Matter, are true and correct not from his own knowledge, but from information supplied to him and believed to be true, and that this Verification is filed by him for the purposes of expediting this litigation, and in the event a Verification from Defendant Fleetwood Enterprises, Inc., or their representatives is required, same will be supplied. The undersigned understands that false statements made herein are subject to the penalties of 18 PA. CS. 4904 relating to unsworn falsification to authorities.

Dated: 9/28/01


Richard A. Bell, Esquire

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Answer and New Matter filed on behalf of
Fleetwood Enterprises, Inc., in the above matter was mailed the 28 day of
Sept., 2001 by regular mail postage prepaid at the post office in Clearfield,
PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830



Richard A. Bell, Esquire
Attorney for Defendant
Fleetwood Enterprises, Inc.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA

CIVIL DIVISION

NO. 01-1318-CD

RICHARD FRANOLICH, et ux
Plaintiffs

VS.

FLEETWOOD ENTERPRISES, INC.,
et al, Defendants

VERIFICATION

BELL, SILBERBLATT & WOOD
ATTORNEYS AT LAW
318 EAST LOCUST STREET
P. O. BOX 670
CLEARFIELD, PA. 16830

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 11386

FRANOLICH, RICHARD & JANET

01-1318-CD

VS.

FLEETWOOD ENTERPRISES, INC. and LARRY'S HOMES OF PA. INC.

COMPLAINT

SHERIFF RETURNS

NOW AUGUST 21, 2001 SERVED THE WITHIN COMPLAINT ON FLEETWOOD ENTERPRISES, INC., DEFENDANT BY CERT. MAIL # 7000 0600 0022 9001 8386 AT 3125 MYERS ST., RIVERSIDE, CA. 92513-7638 BEING THEIR LAST KNOWN ADDRESS. THE RETURN RECEIPT IS HERETO ATTACHED AND MADE A PART OF THIS RETURN ENDORSED BY PETER DEVRIES, AGENT.

NOW AUGUST 16, 2001, JOHN GREEN, SHERIFF OF PHILADELPHIA WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON LARRY'S HOMES OF PA. INC., DEFENDANT.

NOW AUGUST 29, 2001 SERVED THE WITHIN COMPLAINT ON LARRY'S HOMES OF PA INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF PHILADELPHIA. THE RETURN OF SHERIFF GREEN IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED SANDRA SOLOMON, AGENT.

Return Costs

Cost	Description
-------------	--------------------

38.29 SHFF. HAWKINS PAID BY : ATTY.

116.00 SHFF. GREEN PAID BY: ATTY.

20.00 SURCHARGE PAID BY: ATTY.

FILED
07 25 2001
OCT 09 2001
William A. Shaw
Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 11386

FRANOLICH, RICHARD & JANET

01-1318-CD

VS.

FLEETWOOD ENTERPRISES, INC. and LARRY'S HOMES OF PA. INC.

COMPLAINT

SHERIFF RETURNS

Sworn to Before Me This

9th Day Of October 2001
William C. Hawkins

So Answers,



**Chester A. Hawkins
Sheriff**



- Sender: Please print your name, address, and ZIP+4 in this box •

CHESTER A HAWKINS
Sheriff of Clearfield County
1 N. 2nd St. Suite 116
Clearfield, Pa. 16830

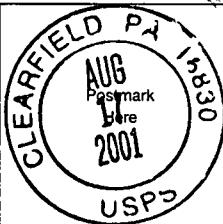
C-11386

52 [REDACTED]

CERTIFIED MAIL RECEIPT*(Domestic Mail Only; No Insurance Coverage Provided)*

Article Sent To:

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.40

Name (Please Print Clearly) (to be completed by mailer)
FLEETWOOD ENTERPRISES INC

Street, Apt. No., or P.O. Box No.

3125 Myers St.

City, State, ZIP-4

Riverside, CA. 92513-7638

PS Form 3800 July 1999

See Reverse for Instructions

Certified Mail Provides:

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

Important Reminders:

- Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- Certified Mail is not available for any class of international mail.
- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a *Return Receipt* may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required. *Y2U*
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

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

SHERIFF'S RETURN - SUMMONS/COMPLAINT

RICHARD & JANET FRANOLICH

COMMON PLEAS NO.
COUNTY COURT

VERSUS

TERM, 2001

LARRY'S HOMES OR PA INC.

NO. 1318

C/O CT CORP

 Defendant

SERVED AND MADE KNOWN TO ABOVE NAMED Defendant Company
 by handing a true and attested copy of the within Summons/Complaint, issued in the above captioned matter
 on AUG 29, 2001, at 10:00 o'clock, A M., E.S.T./~~EST~~.
 at 1515 MARKET ST., 12TH FL, in the County of Philadelphia,
 State of Pennsylvania, to SANDRA SOLOMON

- (1) the aforesaid defendant, personally;
- (2) an adult member of the family of said defendant, with whom said defendant resides, who stated that his/her relationship to said defendant is that of _____;
- (3) an adult person in charge of defendant's residence; the said adult person having refused, upon request, to give his/her name and relationship to said defendant;
- (4) the manager/clerk of the place of lodging in which said defendant resides;
- (5) agent or person for the time being in charge of defendant's office or usual place of business.
- (6) the _____ and officer of said defendant Company;

So Answers,

JOHN D. GREEN, Sheriff

By: John A. Talamini
 Deputy Sheriff



Sheriff's Office Clearfield County

OFFICE (814) 765-2641
AFTER 4:00 P.M. (814) 765-1533

CLEARFIELD COUNTY FAX
(814) 765-5915

CHESTER A. HAWKINS
SHERIFF

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

DARLENE SHULTZ
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

MARGARET PUTT
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD
~~RICHARD~~ & JANET FRANOLICH

SERVE BY: 9/14/01

VS:

or
HEARING DATE:

FLEETWOOD ENTERPRISES INC al

TERM & NO.: 01-1318-CD

DOCUMENT TO BE SERVED:
COMPLAINT

SERVE: LARRY'S HOMES OF PA. INC.

ADDRESS: c/o C.T. Corp. Systems, 1515 Market ST. Suite 1210
Philadelphia, Pa. 19112

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 PHILADELPHIA County Pennsylvania to execute this writ.

This Deputation being made at the request and risk of the Plaintiff this 16th day of AUGUST 2001.

MAKE REFUND PAYABLE TO: FERRARACCIO & NOBLE, Attorneys

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

CASH RECEIPT		OFFICE OF THE SHERIFF		BOOK	
APPEARANCE DOCKET		CITY AND COUNTY OF PHILADELPHIA		SERIAL NO.	
No. F 62116	COURT	TERM		PROTH. NO.	
<i>Paula - O'Neil</i> vs. <i>K. M. L.</i>					
IN PAYMENT OF THE FOLLOWING ITEMS					
FEES	CODE	AMOUNT	DEPOSITS AND COSTS	CODE	AMOUNT
Sheriff's Fee	311	<i>111</i>	Advertising	331	
Registered Mail	311	<i>111</i>	Deputized Service	332	
			State Fee	335	
Mileage	312	<i>111</i>	Affidavit	339	
			Other Costs	340	<i>111</i>
			TOTAL	301	<i>111</i>
ATTORNEY			APPEARANCE CLERK		

12-77 (Rev. 1/74)

RECEIPT NOT VALID UNLESS MACHINE IMPRINTED

CUSTOMER'S COPY

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

FILED

OCT 18 2001

William A. Shaw
Prothonotary

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
)
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
)
DEFENDANTS.)

PLAINTIFFS' REPLY TO NEW MATTER OF
DEFENDANT FLEETWOOD ENTERPRISES, INC.

AND NOW, comes the Plaintiffs, Richard and Janet Franolich, by and through their counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows as their REPLY TO NEW MATTER OF DEFENDANT FLEETWOOD ENTERPRISES, INC.:

49. Denied. The same is a conclusion of law for which no response is deemed necessary. However, to the extent such a response might be deemed necessary it is specifically DENIED that Defendant Fleetwood Enterprises, Inc., does not have liability in this matter as the materials supplied to the purchaser of the home, including the warranty as contained in the homeowners's guide, indicates said Defendant is liable for Plaintiffs' claims.

50. Denied. The same is a conclusion of law for which no response is deemed necessary. To the extent such a response might be deemed necessary it is specifically DENIED said home comported to the standards of the NATIONAL MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS ACT for the reason set forth in Plaintiffs' CIVIL COMPLAINT, which is hereby incorporated.

51. Denied. For the reasons set forth in Plaintiffs' CIVIL COMPLAINT, which is hereby incorporated, it is specifically DENIED that Plaintiffs in any manner caused or contributed to the origination of the fire.

52. Denied. The same is a conclusion of law for which no response is deemed necessary. To the extent such a response might be deemed necessary, for the reasons set forth in response to averment 51, it is specifically DENIED Plaintiffs in any manner caused or contributed to the origination of such fire.

53. Plaintiffs hereby incorporate the response to averment 49 as if the same were again fully set forth at length.

WHEREFORE, Plaintiffs request JUDGMENT be entered in their favor as prayed for in their CIVIL COMPLAINT.

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
DEFENDANTS.)

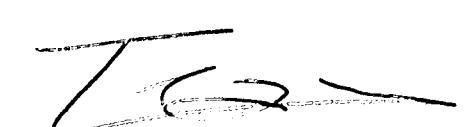
CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiffs, does hereby certify this 17th day of October, 2001, that I did mail a true and correct copy of Plaintiffs' REPLY TO NEW MATTER OF DEFENDANT FLEETWOOD ENTERPRISES, INC., to the below indicated persons, being either parties or their counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

Larry's Homes of PA, Inc.
c/o C.T. Corp. Systems
1515 Market Street, Suite 1210
Philadelphia, PA 19112

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants.

No. 01-1318-CD

PRELIMINARY OBJECTIONS

Filed on behalf of:
Defendant, Larry's Homes of PA, Inc.

Counsel of Record for this party:

Raymond J. Conlon, Esquire
Pa. I.D. #49495

Cynthia P. Cafaro, Esquire
Pa. I.D. #80021

ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY
Firm # 920
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001

(724) 285-6677

FILED

OCT 22 2001
m10:411nocc
William A. Shaw
Prothonotary (jk)

PRELIMINARY OBJECTIONS TO PLAINTIFFS' COMPLAINT

And Now, comes Defendant, Larry's Homes of PA, Inc., by and through its attorneys, Zimmer Kunz, and files the within Preliminary Objections to Plaintiffs' Complaint.

1. Plaintiffs filed a Complaint against Defendant, Larry's Homes of PA (hereinafter "Larry's Homes") alleging causes of action for breach of express warranties (Count V), breach of implied warranties (Count VI), negligence (Count VII) and recklessness (Count VIII).
2. Plaintiffs allege that Larry's Homes improperly installed electrical wiring and/or installed the wrong type of wiring in Plaintiffs' master bedroom.
3. Plaintiffs' home was destroyed by fire on September 6, 1999. Plaintiffs' allege that the faulty wiring caused the fire.

I. DEMURRER AS TO PUNITIVE DAMAGES AND ATTORNEYS FEES

4. Under Count VIII of the Complaint, Plaintiffs seek punitive damages from Defendant.
5. In reviewing the allegations set forth in Plaintiffs' Complaint, it is clear that all of the allegations are of ordinary negligent conduct, or, at worst, gross negligence.
6. Under Pennsylvania law punitive damages may only be awarded where the Defendant's conduct is malicious, wanton, reckless, willful or oppressive. Rizzo v. Hayes, 555 A.2d 58, 69 (Pa.1989); Feld v. Merriam, 485 A.2d 742, 747-748 (Pa.1984); Houston v. Texaco, Inc., 538 A.2d 502, 505 (Pa.Super.1988).
7. Punitive damages may not be awarded for misconduct which constitutes ordinary negligence. McDaniel v. Merck, Sharp and Dhome, 533 A.2d 436, 447 (Pa.Super.1987).
8. Further, Plaintiffs' Complaint fails to set forth an adequate basis for an award of counsel fees.

WHEREFORE, Defendant, Larry's Homes of PA, Inc., requests that these Preliminary Objections be sustained and Plaintiffs' request for punitive damages and counsel fees be stricken.

II. DEMURRER TO COUNT VIII - RECKLESSNESS

9. Defendant incorporates paragraphs 1-8 above.
10. There are no facts alleged in the Complaint which support Plaintiffs' claim that Defendant acted recklessly. Although Count VIII is entitled "Recklessness", this is not a separate and legally recognizable cause of action.
11. In paragraph 43 of the Complaint, Plaintiffs merely reiterate the same actions by Defendant which they use to support their causes of action for negligence and breach of warranty. There are no allegations of conduct that would rise to the level of outrageous, reckless, willful or wanton.
12. Accordingly, Count VIII of the Complaint should be dismissed for failure to state a claim upon which relief can be granted pursuant to Pa.R.C.P. 1028 (a)(4).

WHEREFORE, the Defendant, Larry's Homes of PA, Inc. respectfully requests that Count VIII of the Complaint be dismissed with prejudice for failure to state a claim upon which relief can be granted.

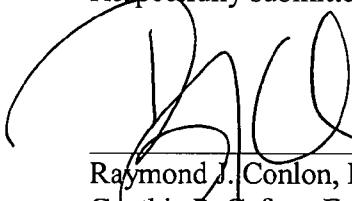
III. FAILURE TO ATTACH WRITING PURSUANT TO PA R.C.P. 1019(h)

13. Count V of the Complaint, Breach of Express Warranty, is based on a warranty contained in a homeowner's manual that Plaintiffs reference as Exhibit "A".
14. Exhibit "A" is only one page of a document that Defendant is unable to identify.
15. Pursuant to Pa.R.C.P. 1019(h), if any claim is based on a writing, the writing, or the material part thereof, shall be attached to the Complaint.

16. Plaintiffs failed to attach the entire writing, or at least, a material part of the writing so that the Defendant can determine what writing upon which Count V is based.

WHEREFORE, Defendant, Larry's Homes of PA, Inc., respectfully requests that Count V of the Complaint be dismissed with prejudice for failure to conform to rule of court. In the alternative, Defendant requests that Plaintiffs file an amended Complaint which attaches the writing referenced in Count V in its entirety.

Respectfully submitted,



Raymond J. Conlon, Esquire
Cynthia P. Cafaro, Esquire
ZIMMER KUNZ

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants.

JURY TRIAL DEMANDED

FILED

OCT 22 2001
m/10:40/ncc
William A. Shaw
Prothonotary

CIVIL DIVISION

NO. 01-1318 C.D.

PRAECIPE FOR ENTRY OF APPEARANCE

Filed on behalf of:

Defendant Larry's Homes of PA, Inc.

Counsel of Record for this party:

Raymond J. Conlon

Pa. I.D. #49495

Cynthia P. Cafaro

Pa. I.D. #80021

ZIMMER KUNZ

**PROFESSIONAL LIMITED LIABILITY
COMPANY**

Firm #920

Morgan Center, Suite 218
101 East Diamond Street
Butler, PA 16001

(724) 285-6677

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants.

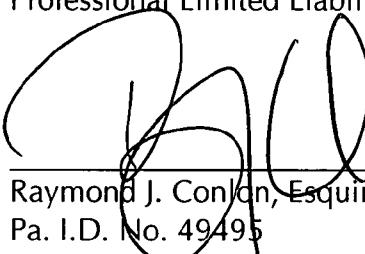
PRAECIPE FOR ENTRY OF APPEARANCE

TO: THE PROTHONOTARY OF CLEARFIELD COUNTY

Kindly enter the appearance of the undersigned on behalf of the Defendant, **Larry's Homes of PA, Inc.**, in the above captioned matter.

Respectfully submitted,

ZIMMER KUNZ
Professional Limited Liability Company


Raymond J. Conlon, Esquire
Pa. I.D. No. 49495

Cynthia P. Cafaro, Esquire
Pa. I.D. No. 80021

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within document was served upon counsel named below on the 18th day of October, 2001 by first class, U.S. mail, postage prepaid.

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Attorney for Plaintiffs

ZIMMER KUNZ
Professional Limited Liability Company

Conlon Cafaro
Raymond J. Conlon, Esquire
Cynthia P. Cafaro, Esquire
Attorneys for Defendant

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

PLAINTIFFS

NO. 01-1318-CD

Type of Pleading
VERIFICATION

VS

FLEETWOOD ENTERPRISES, INC.
and LARRY'S HOMES OF PA, INC.

Filed on Behalf of:
FLEETWOOD ENTERPRISES, INC.

DEFENDANTS

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED

OCT 29 2001

W.A. Shaw
William A. Shaw
Notary Public

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

VERIFICATION

Forrest Theobald, being duly sworn, deposes and says that he is the Vice President - General Counsel of FLEETWOOD ENTERPRISES, INC., that he has read the foregoing ANSWER AND NEW MATTER, knows the contents thereof, and while he does not have personal knowledge of all the facts recited in the Answer, the information contained therein has been collected and made available to him by others, and said Answer is true to the best of his knowledge and belief.

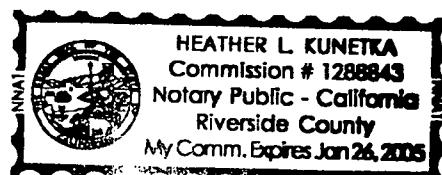
FLEETWOOD ENTERPRISES, INC.

By: 
Forrest Theobald, Vice President

SWORN TO AND SUBSCRIBED before me
this 17 day of OCTOBER, 2001.


Notary Public

My Commission Expires: 1/26/05



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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a copy of a Verification sworn to by Forrest Theobald, Vice President of Fleetwood Enterprises, Inc., filed on behalf of Fleetwood Enterprises, Inc., in the above matter was mailed the 29rd day of October, 2001 by regular mail postage prepaid at the post office in Clearfield, PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

Larry's Homes of PA, Inc.
C/o C.T. Corp Systems
1515 Market Street, Suite 1210
Philadelphia, PA 19112



Richard A. Bell, Esquire
Attorney for Defendant
Fleetwood Enterprises, Inc.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
CIVIL DIVISION
NO. 01-1318-CD

RICHARD FRANOLICH, and
JANET FRANOLICH, husband
and wife, Plaintiffs
vs.
FLEETWOOD ENTERPRISES, INC.
AND LARRY'S HOMES OF PA, INC.
Defendants

ANSWER AND NEW ATTTER TO THE
AMENDED COMPLAINT OF THE
PLAINTIFFS

FILED
01/04/02
MAR 12 2002

16
cc
RPL

William A. Shaw
Prothonotary

BELL, SILBERBLATT & WOOD
ATTORNEYS AT LAW
318 EAST LOCUST STREET
P. O. BOX 670
CLEARFIELD, PA. 16830

ZIMMER KUNZ

PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

HARRY J. ZIMMER
RAYMOND H. CONAWAY (PA & WV)
GEORGE N. STEWART (PA & WV)
JONI M. MANGINO (PA & WV)
JOSEPH W. SELEP (PA & WV)
RAYMOND J. CONLON
EDWARD K. DIXON
MARK R. HAMILTON
ALEXANDER P. BICKET (PA & WV)
JOHN W. ZOTTER (PA & OH)
JEFFREY A. RAMALEY (PA & OH)
THOMAS P. McGINNIS (PA & WV)
DARA A. DECOURCY (PA & WV)

DANIEL E. KRAUTH
ROBERT W. MURDOCH
ANTHONY C. CARONE (PA & WV)
MEGHAN F. WISE
GEORGE R. FARNETH II
JOHN K. BRYAN
MARK T. CALOYER
CHRISTOPHER T. YOSKOSKY
CARMEN A. MARTUCCI
JOHN W. BRUNI (PA & OH)
MACEL E. RHODES (WV ONLY)
CLAIRE A. CONAWAY
REBECCA A. SEMBER

JEFFREY S. TARKER
HILARY C. BONENBERGER (PA & WV)
ALAN G. STAHL (PA & TX)
JOSEPH F. BUTCHER
ROBERT W. GALBRAITH
CYNTHIA P. CAFARO
OF COUNSEL
JOHN E. KUNZ
ANDREW J. BANYAS, III
THOMAS A. LAZAROFF

3300 USX TOWER
PITTSBURGH, PA 15219-2702
(412) 281-8000
FAX (412) 281-1765

MORGANTOWN OFFICE:
206 SPRUCE STREET
MORGANTOWN, WV 26505
(304) 292-8531
FAX (304) 292-7529

BUTLER OFFICE:
MORGAN CENTER, SUITE 218
101 EAST DIAMOND STREET
BUTLER, PA 16001
(724) 285-6677
FAX (724) 431-2490

GREENSBURG OFFICE
132 SOUTH MAIN STREET, SUITE B
GREENSBURG, PA 15601
(724) 836-5400
FAX (724) 836-5149

REPLY TO BUTLER OFFICE

E-mail: conlon@zklaw.com

October 18, 2001

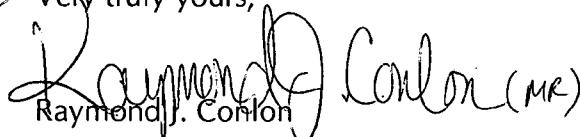
William A. Shaw, Prothonotary
Clearfield County Courthouse
One North 2nd Street
P.O. Box 549
Clearfield, PA 16830

RE: Richard Franolich and Janet Franolich, husband and wife, vs. Fleetwood Enterprises, Inc., and Larry's Homes of PA, Inc., No. 01-1318 C.D.

Dear Mr. Shaw:

Enclosed please find a Praecept for Entry of Appearance and Preliminary Objections to Plaintiff's Complaint and Brief in Support on behalf of Defendant Larry's Homes of PA, Inc. Please file these documents with the Court. I have also enclosed a copy of the cover page of both of these documents. I ask that you date stamp these copies and return them to me in the envelope provided. ~~Please see that the Preliminary Objections are listed for arguments.~~ Thank you for your attention to this matter.

Very truly yours,


Raymond J. Conlon (MR)

RJC/mar
Enclosures
cc: Theron G. Noble, Esquire (w/encl.)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

RICHARD FRANOLICH and JANET : :

FRANOLICH, husband and wife : :

-vs- : :

No. 01-1318-CD

FLEETWOOD ENTERPRISES, INC. : :

and LARRY'S HOMES OF PA, INC. : :

FILED

JAN 20 2002

ORDER

William A. Shaw
Prothonotary

NOW, this 28th day of January, 2002, following argument and briefs into

Preliminary Objections filed on behalf of Defendant Larry's Homes of PA, Inc., upon agreement of the parties, it is the ORDER of this Court that all claims in Plaintiffs' Complaint seeking attorneys fees shall be and are hereby dismissed and Plaintiffs shall file, within twenty (20) days from date hereof, an Amended Complaint setting forth the factual basis for its claims of reckless conduct on behalf of Larry's Homes of PA, Inc.

It is the further ORDER of this Court that, within 20 days, Plaintiffs shall supply to Defendant Larry Homes of PA, Inc. the owners manual from which its Exhibit A as attached to their Complaint, is extracted.

By the Court
President Judge

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

RICHARD FRANOLICH, and :
JANET FRANOLICH, husband and :
wife, :
:
PLAINTIFFS, : CIVIL ACTION NO.
v. : 01- 1318 -CD
:
FLEETWOOD ENTERPISES, INC., :
and LARRY'S HOMES OF PA, INC., :
:
DEFENDANTS. : TYPE OF PLEADING:
: AMENDED CIVIL COMPLAINT
:
: FILED BY:
: PLAINTIFFS
:
: COUNSEL FOR THIS PARTY:
: Theron G. Noble, Esquire
: Ferraraccio & Noble
: 301 East Pine Street
: Clearfield, PA 16830
: 814-375-2221
: PA I.D.#: 55942

FILED

JAN 30 2002
m | 1:4|NCC C
William A. Shaw
Prothonotary

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.) No. 01- 1318 -CD
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claim 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 judgement may be entered against you by the Court without further notice for any claim in the Complaint or for any other claim or relief requested by the Plaintiffs. 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 AN ATTORNEY, OR CANNOT FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
(814)-765-2641

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.) No. 01- 1318 -CD
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)

AMENDED CIVIL COMPLAINT

NOW COMES, the Plaintiffs, Richard and Janet Franolich, by and through their counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of their AMENDED CIVIL COMPLAINT:

The Parties

1. First Plaintiff is Richard Franolich, who now resides at 124 Hatler Street, Fort Leonard Wood, Missouri 65473, but at all relevant and material times did reside at 46 Ponderosa Drive, Penfield, Clearfield County, Pennsylvania.
2. Second Plaintiff is Janet Franolich, who now resides at 124 Hatler Street, Fort Leonard Wood, Missouri 65473, but at all relevant and material times did reside at 46 Ponderosa Drive, Penfield, Clearfield County, Pennsylvania.
3. That first defendant is Fleetwood Enterprises, Inc., upon information and belief a duly formed

and existing corporation lawfully doing business in Pennsylvania, with a principal corporate address of 3125 Myers Street, Riverside, Orange County, California 92513-7638.

4. That second defendant is Larry's Homes of PA, Inc., upon information and belief a duly formed and existing Pennsylvania corporation with a registered address of c/o C.T. Corp. Systems, 1515 Market Street, Suite 1210, Philadelphia, PA 19112.

Background

5. That Richard and Janet Franolich are, and at all relevant and material times were, husband and wife living together at the current and aforementioned addresses, hereinafter "The Franoliches".

6. That Defendant Fleetwood Enterprises, Inc., hereinafter "Fleetwood", is and at all material times was engaged in the business of manufacturing and sale of mobile homes.

7. That Defendant Larry's Homes of PA, Inc., hereinafter "Larry's Homes", is and at all material times was engaged in the business of retail sale of mobile homes, including those manufactured by Fleetwood.

8. That the Franoliches in May, 1998, purchased a home, best described as 28' x 56' mobile home, with serial number NCAFLTB03753AB, which had been manufactured by Fleetwood in 1996 and sold and installed by Larry's Homes, also in 1996.

9. Said home was originally purchased by Jim and Denise Burkett and remained at the same location upon purchase by the Franoliches, who also kept said home at the same location until September 6, 1999.

10. That on September 6, 1999, while the Franoliches were not at home, the home caught fire and the home as well as their entire earthly possessions were destroyed by fire and/or smoke damage.

11. That upon information and belief, the fire was entirely caused in that the wiring used in the manufacture and installation of the home, being the wires running underneath the master-bedroom, was placed such that it was exposed to the elements, not inside the plastic under-wrap, nor placed through the holes in the support beams, and indoor type wiring was used.

12. That upon information and belief, since the wires were not placed through the holes cut for the wire in the support beams, the wires dangled and since the wires were exposed to the

elements, wind would and did cause the wires to grind against each other and the structure, which eventually caused the cover of the wires to erode. Furthermore, once the bare wires were exposed to the wood beams and/or insulation material, the heat caused by the electricity running through the wires initiated the fire.

13. That as a result of such fire and smoke damage, the Franoliches suffered the following losses:

- (a) The value of their home, with the extras including an air conditioning unit and deck, estimated to be \$60,000, to be more fully determined at time of trial;
- (b) The contents of their homes, including clothing, furniture, jewelry, dishwasher, stove, washer, dryer, stereo, computer, and similar type items, together estimated to be \$60,000, to be more fully determined at time of trial;
- (c) The cost of finding living arrangements, for the Franoliches and their three (3) minor children, until they could reasonably find and afford alternative housing arrangements, estimated at a cost of \$10,000, to be more fully determined at time of trial;
- (d) Losses of income to each Plaintiff, as a result of them missing work to handle the numerous issues created by the above and effects on each of their careers caused by the circumstances, in amounts to be determined at time of trial;
- (e) The cost of clean up and removal of the debris which was their home and contents, estimated to be \$5,000, in an amount to be more fully determined at time of trial;
- (f) Their family pets, including a cat and guinea pig, were consumed in said fire, in an amount to be determined at time of trial; and
- (g) Emotional distress, in an amount to be determined, caused by the loss of their home, contents, valuables as well as sentimental items such as wedding photographs and deceased family members.

14. That, upon information and belief, Defendant Larry's Homes was an agent of Defendant Fleetwood, who is liable for the acts and omissions of Defendant Larry's Homes.

Count I: v. Fleetwood;
Breach of Express Contract

15. That the averments of paragraphs 1 - 14, inclusive, are hereby incorporated as if again fully

set forth at length.

16. That the home acquired by the Franoliches was covered by an express warranty, which included a five (5) year warranty for "Home Electrical System: wiring, fittings, connections, fixture boxes, junction boxes, main and sub-panel boxes". (See page 8 of the applicable homeowner's guide attached as Exhibit "A").
17. That for the aforementioned reasons, Defendant Fleetwood breached the express warranty in that the wiring used underneath the master-bedroom was the wrong type for the manner in which it was actually installed, thereby being either a defect in the manufactured components or a defect in the workmanship.
18. That the damages suffered by the Franoliches were the direct and proximate cause of the breach of the express warranty by Defendant Fleetwood.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000 together with interest and costs of suit.

Count II: v. Fleetwood;
Breach of Implied Warranties

19. That the averments of paragraphs 1 - 18, inclusive, are hereby incorporated as if again fully set forth at length.
20. That the home manufactured and sold by Defendant Fleetwood was subject to implied warranties of merchantability and fitness for a particular purpose.
21. That the improperly designed, manufactured and/or installed wiring breached these implied warranties in that the wiring created a substantial risk of fire such that the home was not adequate use for a reasonable length of time nor properly suited for residential home use as intended.
22. That the breaches of the aforementioned implied warranties, concerning the type of wiring and location of the same, was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest and costs of suit.

Count III: v. Fleetwood;
Negligence

23. That the averments of paragraphs 1 - 22, inclusive, are hereby incorporated as if again fully set forth at length.

24. That Defendant Fleetwood was negligent in that:

- (a) It failed to ensure the wiring was installed in said home in a manner in which it was actually designed;
- (b) It failed to use wiring suitable for outdoor use when in fact the wiring as installed was exposed to the elements; and
- (c) It failed to properly train and supervise its agents, in particular Defendant Larry's Homes, in the craft of installation of its manufactured homes as relating to the wiring.

25. The aforementioned negligence of Defendant Fleetwood was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest and costs of suit.

Count IV: v. Fleetwood;
Recklessness

26. That the averments of paragraphs 1 - 25, inclusive, are hereby incorporated as if again fully set forth at length.

27. That Defendant Fleetwood was reckless in that:

- (a) It failed to ensure the wiring was installed in a manner in which it was designed to be installed; and

(b) Indoor grade wiring was used when in fact outdoor grade wiring should have been used considering the manner in which it was actually installed.

28. That the aforementioned recklessness of Defendant Fleetwood was a direct and proximate cause of the damages suffered by the Franoliches.

29. In addition, Defendant Fleetwood should pay punitive damages to assure that homes manufactured and sold by them will not so expose other consumers to such catastrophic losses, including potential loss of life, in an amount to be determined.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest, costs of suit and punitive damages.

Count V: v. Larry's Homes;
Breach of Express Warranties

30. That the averments of paragraphs 1 - 14, inclusive, are hereby incorporated as if again fully set forth at length.

31. That the home acquired by the Franoliches was covered by an express warranty, which included a five (5) year warranty for "Home Electrical System: wiring, fittings, connections, fixture boxes, junction boxes, main and sub-panel boxes". (See page 8 of the applicable homeowner's guide attached as Exhibit "A").

32. That as agent for Defendant Fleetwood, Defendant Larry's Homes is bound by such express warranty.

33. That for the aforementioned reasons, Defendant Larry's Homes breached the express warranty in that the wiring used underneath the master-bedroom was the wrong type for the manner in which it was actually installed.

34. That the damages suffered by the Franoliches were the direct and proximate cause of the breach of the express warranty by Defendant Larry's Homes.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000 together with interest and

costs of suit.

Count VI: v. Larry's Homes;
Breach of Implied Warranties

35. That the averments of paragraphs 1 - 14 and 30 - 34, inclusive, are hereby incorporated as if again fully set forth at length.

36. That the home sold and installed by Defendant Larry's Homes was subject to implied warranties of merchantability and fitness for a particular purpose.

37. That the improperly designed, manufactured and/or installed wiring breached these implied warranties in that the wiring created a substantial risk of fire such that the home was not of adequate use for a reasonable length of time nor properly suited for residential home use as intended.

38. That the breaches of the aforementioned implied warranties, concerning the type of wiring and location of the same, was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest and costs of suit.

Count VII: v. Larry's Homes;
Negligence

39. That the averments of paragraphs 1 - 14 and 30 - 38, inclusive, are hereby incorporated as if again fully set forth at length.

40. That Defendant Larry's Homes was negligent in that:

- (a) It failed to ensure the wiring was installed in said home in a manner in which it was actually designed;
- (b) It failed to use wiring suitable for outdoor use when in fact the wiring as installed was exposed to the elements; and

(c) It failed to properly train and supervise the electrician, an agent, employee, or sub-contractor who actually performed the installation of the wiring, to ensure the wiring was suitable.

41. The aforementioned negligence of Defendant Larry's Homes was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest and costs of suit.

Count VIII: v. Larry's Homes;
Recklessness

42. That the averments of paragraphs 1 - 14 and 30 - 41, inclusive, are hereby incorporated as if again fully set forth at length.

43. That Defendant Larry's Homes was reckless in that:

- (a) It failed to ensure the wiring was installed in a manner in which it was designed to be installed, i.e. placed through the manufactured holes inside of the insulation, thus exposing indoor wiring to the elements, which was its duty to do so, which it knew created an unreasonable risk of serious physical harm, substantially greater than that of negligent conduct ;
- (b) Indoor grade wiring was used when in fact outdoor grade wiring should have been used, which was its duty to do so considering the manner in which it was actually installed, thus creating an unreasonable risk of serious physical harm, substantially greater than that of negligent conduct; and
- (c) Failing to properly train, supervise and employ qualified individuals, which was its duty to do so, concerning the installation of the subject home regarding the wiring knowing that the aforementioned improperly installed wiring will likely result in an unreasonable risk of physical harm, substantially greater than that of negligent conduct.

44. That the aforementioned recklessness of Defendant Larry's Homes was a direct and proximate cause of the damages suffered by the Franoliches.

45. In addition, Defendant Larry's Homes should pay punitive damages to assure that homes sold and installed by them will not so expose other consumers to such catastrophic losses, including potential loss of life, in an amount to be determined.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest, costs of suit and punitive damages.

Miscellaneous

46. That defendants have joint and several liability.

47. That venue is proper.

48. That jurisdiction is proper.

WHEREFORE, Plaintiffs request that judgments be entered in their favor, and against Defendant Fleetwood and Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest, costs of suit and punitive damages.

Respectfully Submitted,



Theron G. Noble, Esquire
Ferraraccio & Noble
Attorney for Plaintiffs
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

FIVE-YEAR

A Reminder: The five-year coverage is in effect for the 5 years after first delivery of the home. Basically, it lengthens the coverage of the structural, electrical and plumbing systems as stated below.

- ▼ Frame: tow bar, steel support frame beneath floor of home
- ▼ Roof Structure or Rafters: roof rafters, main support beams, insulation, roof decking, all support lumber contained within the roof, shingles, metal roofing
- ▼ Sub-Floor Structure: floor decking, wood joists supporting drywall, insulation, all support lumber contained within the floor
- ▼ Exterior and Interior Walls and Ceilings: exterior siding, stud walls, insulation, framing members, all support lumber contained within the outside and inside walls
- ▼ Home Electrical System: wiring, fittings, connections, fixture junction boxes, main and sub-panel boxes
- ▼ Plumbing System: water pipes, drain pipes, gas pipes, fitting connections, fixture and appliance connections

— Exhibit "A" —

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
)
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
)
DEFENDANTS.)

CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiffs, does hereby certify this 30th day of January, 2002, that I did mail a true and correct copy of Plaintiffs' AMENDED CIVIL COMPLAINT, to the below indicated persons, being either parties or their counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

Raymond J. Conlon, Esquire
Zimmer Kunz, LLC
101 E. Diamond Street
Butler, PA 16001

Respectfully Submitted,



TGN

Teron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

No. 01-1318-CD

**DEFENDANT LARRY'S HOMES
OF PA, INC.'S ANSWER AND
NEW MATTER TO
PLAINTIFFS' AMENDED
COMPLAINT**

Filed on behalf of:
Defendant, Larry's Homes of PA,

Counsel of Record for this party:

Raymond J. Conlon, Esquire
Pa. I.D. #49495

Cynthia P. Cafaro, Esquire
Pa. I.D. #80021

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm # 920
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001

(724) 285-6677

TO: Plaintiff

You are hereby notified to file a written response to the enclosed New Matter within twenty (20) days from service hereof or a judgment may be entered against you.

Cynthia P. Cafaro
Cynthia P. Cafaro, Esquire

FILED

FEB 21 2002
milla@msn.com
William A. Shaw
Prothonotary
Ket

**DEFENDANT LARRY'S HOMES
OF PA, INC.'S ANSWER AND
NEW MATTER TO PLAINTIFFS' AMENDED COMPLAINT**

AND NOW comes the Defendant, Larry's Homes Incorporated, by and through its' counsel, ZIMMER KUNZ, PLLC, and files the within Answer and New Matter to the Plaintiffs' Amended Complaint, and in support thereof avers as follows:

1. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
2. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
3. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
4. Admitted.
5. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
6. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
7. Admitted.
8. It is admitted that defendant Larry's Homes of PA, Inc. sold and installed a 28 X 56 mobile home with serial number NCAFLTB03753AB to certain individuals in 1996. After reasonable investigation, defendant is without knowledge to either admit or deny when or if plaintiffs purchased this home.

9. It is admitted that said home was originally purchased by Jim and Denise Burkett.

After reasonable investigation, defendant is without sufficient information as to when and if the Franoliches occupied the home.

10. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

11. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

12. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

13. (a) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(b) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(c) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(d) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(e) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(f) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(g) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

14. Denied. It is specifically denied that Larry's Homes was an agent of the defendant Fleetwood.

COUNT I - IV

15-29. Paragraphs 15-29 are directed to a party other than this Defendant and no response is required. To the extent a response is deemed necessary, the allegations of paragraphs 15-29 are denied.

COUNT V

30. Defendant incorporates by references paragraphs 1 through 29 as if set forth fully herein.

31. It is denied that the defendant, Larry's Homes of PA, Inc. provided any express or implied warranties to the plaintiffs in this case. To the contrary, Defendant did not provide any warranty, either express or implied, to the Plaintiffs.

32-34. Paragraphs 32-34 are legal conclusions to which no response is required. To the extent that a response is deemed necessary the allegations of paragraphs 32-34 are denied.

COUNT VI

35. Defendant incorporates by references paragraphs 1 through 34 as if set forth fully herein.

36-38. Paragraphs 36-38 are legal conclusions to which no response is required. To the extent that a response is deemed necessary the allegations of paragraphs 36-38 are denied.

COUNT VII

39. Defendant incorporates by references paragraphs 1 through 38 as if set forth fully herein.

40. Paragraph 40(a) – (c) is a legal conclusion to which no response is required. To the extent that a response is deemed necessary the allegations of paragraph 40(a) – (c) are specifically denied.

41. Denied. It is specifically denied that the defendant was negligent and/or caused any alleged damages suffered by the plaintiffs. To the contrary, Defendant at all times acted in a cautious, careful and prudent manner,

COUNT VIII

42. Defendant incorporates by references paragraphs 1 through 41 as if set forth fully herein.

43. Paragraph 43(a) – (c) is a legal conclusion to which no response is required. To the extent that a response is deemed necessary the allegations of paragraph 43(a) – (c) are specifically denied.

44. Denied. It is specifically denied that the defendant was negligent and/or caused any alleged damages suffered by the plaintiffs. To the contrary, Defendant at all times acted in a cautious, careful and prudent manner,

45-48. Paragraphs 45-48 are legal conclusions to which no response is required. To the extent that a response is deemed necessary the allegations of paragraphs 45-48 are denied.

WHEREFORE, the defendant, Larry's Homes of PA, Inc. denies that it is indebted to the plaintiffs in any amount whatsoever and demands that judgment be entered in its favor plus costs of suit as sustained.

NEW MATTER

49. Plaintiffs' action is barred by the statute of limitations.
50. Any damages suffered by the plaintiffs was the result of plaintiffs' contributory and/or comparative negligence.
51. Any damages suffered by plaintiffs was the result of plaintiffs' assumption of the risks.
52. Any damages suffered by the plaintiffs was the result of the negligence of third parties other than this defendant.
53. Defendant avers that plaintiffs' Complaint fails to state a cause of action upon which recovery may be made.
54. Defendant did not provide any warranties to the plaintiff either express or implied.
55. Any damages suffered by the plaintiffs were the result of superseding or intervening causes from the time of the sale of the home.
56. Any damages suffered by the plaintiffs were the result of the material alterations of the home performed by someone other than the defendant, Larry's Homes.

WHEREFORE, the defendant, Larry's Homes of PA, Inc., avers that it has a true, just, complete and legal defense to all of the claims raised against it and demands that judgment be entered in its favor plus costs of suit as sustained.

ZIMMER KUNZ, PLLC

By: Cynthia P. Cafaro
RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **DEFENDANT LARRY'S HOMES OF PA, INC.'S ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT** was forwarded to the below named individuals by United States Mail on the 18th day of February, 2002

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Richard A. Bell, Esquire
Bell, Silverblatt and Wood
P.O. Box 670
Clearfield, PA 16830

Jim and Denise Burkett
440 Treasure Lk
DuBois, PA 15801

ZIMMER KUNZ, PLLC

By: Cynthia P. Gofus

VERIFICATION

I, CYNTHIA P. CAFARO, ESQUIRE, counsel of record for the Defendant, Larry's Homes of PA, Inc. depose and say that I am counsel for said party in the above matter; that I am authorized to make this verification on behalf of said party; that the facts set forth in the foregoing are true and correct, not of my own knowledge, but from information supplied to me by said party; that the foregoing pleading includes conclusions of law and averments of fact averred by other party to this action and not within the personal knowledge of the Defendant; that the purpose of this verification is to expedite litigation; this verification is made pursuant to Rule 1024(c) of the Pennsylvania Rules of Civil Procedure; and that a verification by this party will be furnished. This statement is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



CYNTHIA P. CAFARO
Counsel for Defendant,
Larry's Homes of PA, Inc.

Dated: February 18, 2002

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

No. 01-1318-CD

**DEFENDANT LARRY'S HOMES
OF PA, INC.'S VERIFICATION
TO ANSWER AND NEW
MATTER TO PLAINTIFFS'
AMENDED COMPLAINT**

Filed on behalf of :
Defendant, Larry's Homes of PA,

Counsel of Record for this party:

**Raymond J. Conlon, Esquire
Pa. I.D. #49495**

**Cynthia P. Cafaro, Esquire
Pa. I.D. #80021**

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm # 920
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001

(724) 285-6677

FILED

FEB 25 2002
018571/mrc
William A. Shaw
Prothonotary

VERIFICATION

I, Kathleen G. Shea, in my capacity as Representative of Larry's Homes of PA, Inc., have read the within **DEFENDANT LARRY'S HOMES OF PA, INC.'S ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT**. The statements contained therein are true and correct to the best of my personal knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S.A. §4904 related to unsworn fabrication to authorities, which provides that if I knowingly make false averments, I may be subject to criminal penalties.

Date: 2-18-02

#7080.1147

Kathleen G. Shea
Representative
Larry's Homes Inc.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **DEFENDANT**
LARRY'S HOMES OF PA, INC.'S VERIFICATION TO ANSWER AND NEW MATTER
TO PLAINTIFFS' COMPLAINT was forwarded to the below named individuals by United
States Mail on the 20th day of February, 2002

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Richard A. Bell, Esquire
Bell, Silverblatt and Wood
P.O. Box 670
Clearfield, PA 16830

Jim and Denise Burkett
440 Treasure Lk
DuBois, PA 15801

ZIMMER KUNZ, PLLC

By: Cyrus C. Abu

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

PLAINTIFFS,

v.

FLEETWOOD ENTERPISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS.

TYPE OF PLEADING:

**PLAINTIFF'S REPLY TO NEW MATTER
OF DEFENDANT LARRY'S HOMES**

FILED BY:

PLAINTIFFS

1. COUNSEL FOR THIS PARTY:

: Theron G. Noble, Esquire
Ferraraccio & Noble
: 301 East Pine Street
Clearfield, PA 16830
: 814-375-2221
PA I.D.#: 55942

MAR 05 2002

middle

William A. Shaw
Prothonotary

FILED

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
)
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
DEFENDANTS.)

PLAINTIFFS' REPLY TO NEW MATTER OF
DEFENDANT LARRY'S HOMES OF PA, INC.

AND NOW, comes the Plaintiffs, Richard Franolich and Janet Franolich, by and through their counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in response to NEW MATTER raised by Defendant Larry's Homes of PA, Inc.:

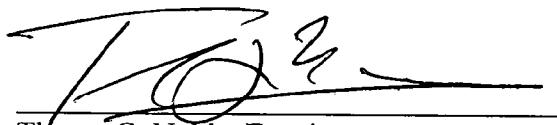
49. The same is a legal conclusion for which no response is deemed necessary.
50. For the reasons set forth in Plaintiffs' CIVIL COMPLAINT, it is strictly DENIED that Plaintiffs were in any manner comparatively or contributorily negligent. Strict proof of the same is demanded at time of trial.
51. It is strictly DENIED that Plaintiffs in any manner assumed any known risk. Strict proof of the same, as well as notice of any defect, is demanded at time of trial.
52. The same is a legal conclusion for which no response is deemed necessary.
53. The same is a legal conclusion for which no response is deemed necessary.
54. For the reasons set forth in Plaintiffs' CIVIL COMPLAINT, it is strictly DENIED that said Defendant did not provide either an express or implied warranty. Strict proof of the same is demanded at time of trial.

55. The same is a legal conclusion for which no response is deemed necessary.

56. For the reasons set forth in Plaintiffs' CIVIL COMPLAINT, it is strictly DENIED that any damages suffered by Plaintiffs were in any manner caused by material alterations. Strict proof of the same is demanded at time of trial.

WHEREFORE, Plaintiffs requests JUDGMENT be entered in their favor as prayed for in their CIVIL COMPLAINT.

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
DEFENDANTS.)

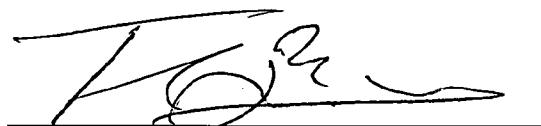
CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiffs, does hereby certify this 4th day of March, 2002, that I did mail a true and correct copy of Plaintiffs' REPLY TO NEW MATTER OF DEFENDANT LARRY'S HOMES OF PA, INC., to the below indicated persons, being either parties or their counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

Raymond J. Conlon, Esquire
Zimmer Kunz, LLC
101 E. Diamond Street
Butler, PA 16001

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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

RICHARD FRANOLICH, and :
JANET FRANOLICH, husband and :
wife, :
PLAINTIFFS, :
v. : CIVIL ACTION NO.
FLEETWOOD ENTERPISES, INC., :
and LARRY'S HOMES OF PA, INC., :
DEFENDANTS. :
: TYPE OF PLEADING:
: PLAINTIFF'S VERIFICATION AS TO
AMENDED CIVIL COMPLAINT
: FILED BY:
: PLAINTIFFS
: COUNSEL FOR THIS PARTY:
: Theron G. Noble, Esquire
: Ferraraccio & Noble
: 301 East Pine Street
: Clearfield, PA 16830
: 814-375-2221
: PA I.D.#: 55942

FILED

MAR 05 2002
m 140/10cc
William A. Shaw
Prothonotary

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.) No. 01-__1318__-CD
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)

VERIFICATION

We, Richard Franolich and Janet Franolich, adult individuals, Plaintiffs in the foregoing and attached AMENDED CIVIL COMPLAINT, state that we have read the same and the information therein contained is true and accurate to the best of our knowledge, information and belief. We further understand that the same is made pursuant to 18 Pa.C.S.A. 4904 relating to unsworn falsification to authorities.



Richard Franolich, Plaintiff



Janet Franolich, Plaintiff

Made this 10 day of February, 2002.

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
)
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
)
DEFENDANTS.)

CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiffs, does hereby certify this 4th day of March, 2002, that I did mail a true and correct copy of Plaintiffs' VERIFICATION as to their AMENDED CIVIL COMPLAINT to the below indicated persons, being either parties or their counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

Raymond J. Conlon, Esquire
Zimmer Kunz, LLC
101 E. Diamond Street
Butler, PA 16001

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

vs

FLEETWOOD ENTERPRISES, INC.
and LARRY'S HOMES OF PA, INC.

NO. 01-1318-CD

Type of Pleading
ANSWER AND NEW MATTER
TO THE AMENDED COMPLAINT
OF THE PLAINTIFFS

Filed on Behalf of:
FLEETWOOD ENTERPRISES, INC.

DEFENDANTS

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED

MAR 12 2002

William A. Shaw
Prothonotary

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

ANSWER AND NEW MATTER OF FLEETWOOD ENTERPRISES, INC.
TO THE AMENDED COMPLAINT OF THE PLAINTIFFS

NOW COMES, Fleetwood Enterprises, Inc., one of the Defendants by its attorney Richard A. Bell, Esquire of Bell, Silberblatt & Wood, and answers the Amended Complaint of the Plaintiffs as follows:

Since the changes in the Amended Complaint of the Plaintiffs from the original Complaint are directed solely to Defendant Larry's Homes Of Pa., Inc., and do not affect the Defendant Fleetwood Enterprises, Inc., the Answer and New Matter of Fleetwood Enterprises, Inc., to the Original Complaint of the Plaintiffs is incorporated herein and constitute the Answer and New Matter to the Amended Complaint.

WHEREFORE, Defendant Fleetwood Enterprises, Inc., respectfully requests that the Amended Complaint be dismissed as to it.

BELL, SILBERBLATT & WOOD
BY


Richard A. Bell, Esquire
Attorney for Defendant Fleetwood
Enterprises, Inc.

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

VERIFICATION

The undersigned verifies that he is the Attorney of record of Defendant, Fleetwood Enterprises, Inc., named in the within action, that as such Attorney, he is authorized to make this verification, and that the statements made in the foregoing Answer and New Matter to the Amended Complaint, are true and correct not from his own knowledge, but from information supplied to him and believed to be true, and that this Verification is filed by him for the purposes of expediting this litigation, and in the event a Verification from Defendant Fleetwood Enterprises, Inc., or their representatives is required, same will be supplied. The undersigned understands that false statements made herein are subject to the penalties of 18 PA. CS. 4904 relating to unsworn falsification to authorities.

Dated: Mar 12, 2002



Richard A. Bell, Esquire

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Answer and New Matter to the Amended Complaint of Plaintiffs, filed on behalf of Fleetwood Enterprises, Inc., in the above matter was mailed the 12th day of March, 2002, by regular mail postage prepaid at the post office in Clearfield, PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

Cynthia P. Cafaro, Esquire
ZIMMER KUNZ, LLC
101 E. Diamond Street
Butler, PA 16001


Richard A. Bell, Esquire
Attorney for Defendant
Fleetwood Enterprises, Inc.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY
CIVIL DIVISION NO. 01-1318-CD

Richard Franolich, and
Janet Franolich, husband and wife
Plaintiffs

Fleetwood Enterprises, INC. and
Larry's Homes of PA, INC.
Defendants

VS.

Jim Burkett and Denise Burkett,

Additional Defendants

Defendant Fleetwood
Enterprises, INC.'s reply
to additional Defendant's
new matter

BELL, SILBERBLATT & WOOD
ATTORNEYS AT LAW
318 EAST LOCUST STREET
P. O. BOX 670
CLEARFIELD, PA. 16830

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

No. 01-1318-CD

Plaintiffs,

v.
FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

**COMPLAINT TO JOIN
ADDITIONAL DEFENDANTS**

Filed on behalf of:
Defendant, Larry's Homes of PA,

Counsel of Record for this party:

Raymond J. Conlon, Esquire
Pa. I.D. #49495

Defendants,
v.
JIM BURKETT and DENISE BURKETT,
Husband and wife,

Cynthia P. Cafaro, Esquire
Pa. I.D. #80021

Additional Defendants.

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm # 920
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001

(724) 285-6677

FILED

MAR 14 2002

m 11031 acs Sherry
William A. Shaw
Prothonotary
8
FED

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

No. 01-1318-CD

Plaintiffs,

**COMPLAINT TO JOIN
ADDITIONAL DEFENDANTS**

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this 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 WHERE YOU CAN GET LEGAL HELP.

Prothonotary's Office
P.O. Box 549
Clearfield, PA 16830
(814) 765-2641

COMPLAINT TO JOIN ADDITIONAL DEFENDANTS

AND NOW comes the Defendant, Larry's Homes Incorporated, by and through its' counsel, ZIMMER KUNZ, PLLC, and files the within Complaint to Join Additional Defendants and in support thereof avers as follows:

1. The Plaintiffs, Richard and Janet Franolich are adult individuals who resided, at all times material hereto, 46 Pondeross Drive, Clearfield County, Pennsylvania.

2. Defendant, Larry's Homes Inc. (hereinafter "LHI") was at all times material hereto a corporation with its principal place of business located at 14 Village Square, Smyrna, Delaware, 19977.

3. The Additional Defendants, Jim Burkett and Denise Burkett, are adult individuals residing at 440 Treasure Lk., DuBois, PA 15801.

4. Plaintiffs were the owners of a mobile home located at 46 Pondeross Drive, Clearfield County, Pennsylvania, and manufactured by Defendant, Fleetwood Enterprises, Inc.

5. The mobile home was originally sold by LHI to Additional Defendants, Jim and Denise Burkett.

6. Plaintiffs purchased the mobile home from Additional Defendants in May, 1998.

7. According to the Plaintiffs' Complaint, on September 6, 1999, while the Plaintiffs were not at home, their mobile home caught fire, and the home as well as all contents of the home were allegedly destroyed by fire and smoke damage. A true and correct copy of Plaintiffs' Complaint is attached hereto and marked as Exhibit "A."

8. Plaintiffs allege that the destruction of their home and all of their personal belongings was caused by the negligence of defendant, Larry's Homes Inc.

9. This Defendant filed an Answer and New Matter denying any and all liability and that Answer and New Matter is attached hereto as Exhibit "B".

COUNT I – NEGLIGENCE

Larry's Homes Incorporated
v. Jim Burkett and Denise Burkett

10. The averments of paragraphs 1 through 8 inclusive are hereby incorporated as if fully set forth at length.

11. This Defendant denied, and continues to deny any and all liability to the Plaintiffs. In the event that it is judicially determined that the Plaintiffs sustained damages for which this Defendant is liable, then it is averred that the additional Defendants, Jim and Denise Burkett, are solely liable to the Plaintiff, are jointly and severally liable to the Plaintiffs, and/or are liable for contribution or indemnity to the Defendant.

12. Additional defendants, Jim and Denise Burkett, were negligent generally and in the following particulars:

- (a) Failing to ensure the wiring was installed in said home in a manner in which it was actually designed.
- (b) In failing to use wiring suitable for outdoor use.
- (c) In failing to properly employ the services of an electrician to ensure the wiring was suitable.
- (d) In failing to disclose to plaintiffs information regarding the condition of the wiring.
- (e) In negligently wiring the mobile home.

- (f) In materially altering the mobile home.

13. Any damages allegedly sustained by the plaintiffs were caused in whole or in part by the negligence of additional defendants as stated above.

14. These damages include:

- (a) Total loss of mobile home.
- (b) Total loss of the contents of the mobile home including clothing, furniture, jewelry, dishwasher, stove, washer, dryer, stereo, computer.
- (c) Cost of finding living arrangements for the plaintiffs and their three minor children at the cost of approximately \$10,000.
- (d) Loss of income to each plaintiff as a result of them missing work to handle numerous issues created by the destruction of the home.
- (e) Cost of clean-up and removal of the debris which was which was approximately \$5,000.
- (f) Destruction of two family pets including a cat and guinea pig.
- (g) Emotional distress.

15. It was the additional defendants' negligence and failure to properly repair and/or maintain their home which ultimately caused damage to the plaintiffs.

16. If it is proven at any time up to and including the time of trial that the plaintiffs are entitled to recovery, which is expressly denied, then additional defendants are solely liable to the plaintiff.

17. If anyone is liable or responsible for the plaintiffs' damages other than the plaintiffs themselves, and if the incident in question resulted from anyone's negligence, then additional defendants are liable for reasons set forth by the plaintiffs in the Complaint which averments are incorporated herein by reference solely for the purpose of this cross-claim and without admitting or averring liability on the part of this defendant.

18. If anyone is liable to the plaintiff, then additional defendants are solely liable or, in the alternative, are liable over to defendant for contribution and/or indemnity for any and all such sums which the plaintiffs may recover. In the alternative, additional defendants are jointly and severally liable to the plaintiffs although the existence of any liability on the part of the defendant is expressly denied.

WHEREFORE, defendant, Larry's Homes, Inc. denies any and all liability to any of the parties hereto and demands judgment in its favor. Furthermore, defendant avers that additional defendants are solely liable to the plaintiffs or are liable over to defendant for any and all sums which plaintiffs may recover or they are jointly and severally liable.

ZIMMER KUNZ, PLLC

By: 
RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorneys for Defendants

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

PLAINTIFFS,

CIVIL ACTION NO.

01-1318-CD

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS.

TYPE OF PLEADING:
CIVIL COMPLAINT

FILED BY:

PLAINTIFF

COUNSEL FOR THIS PARTY:

THERON G. NOBLE, ESQUIRE
FERRARACCIO & NOBLE
301 EAST PINE STREET
CLEARFIELD, PA 16830
814-375-2221
PA I.D.#: 55942

FILED

AUG 15 2001

11:55 AM
William A. Shaw
Prothonotary PP 80-
7 (for to AMT)

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.)
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)
)

No. 01- _____ -CD

©NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claim 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 judgement may be entered against you by the Court without further notice for any claim in the Complaint or for any other claim or relief requested by the Plaintiffs. 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 AN ATTORNEY, OR CANNOT FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
(814)-765-2641

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.) No. 01- _____ -CD
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)

CIVIL COMPLAINT

NOW COMES, the Plaintiffs, Richard and Janet Franolich, by and through their counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of their CIVIL COMPLAINT:

The Parties

1. First Plaintiff is Richard Franolich, who now resides at 124 Hatler Street, Fort Leonard Wood, Missouri 65473, but at all relevant and material times did reside at 46 Ponderosa Drive, Penfield, Clearfield County, Pennsylvania.
2. Second Plaintiff is Janet Franolich, who now resides at 124 Hatler Street, Fort Leonard Wood, Missouri 65473, but at all relevant and material times did reside at 46 Ponderosa Drive, Penfield, Clearfield County, Pennsylvania.
3. That first defendant is Fleetwood Enterprises, Inc., upon information and belief a duly formed and existing corporation lawfully doing business in Pennsylvania, with a principal corporate address of 3125 Myers Street, Riverside, Orange County, California 92513-7638.
4. That second defendant is Larry's Homes of PA, Inc., upon information and belief a duly formed and existing Pennsylvania corporation with a registered address of c/o C.T. Corp. Systems, 1515 Market Street, Suite 1210, Philadelphia, PA 19112.

Background

5. That Richard and Janet Franolich are, and at all relevant and material times were, husband and wife living together at the current and aformentioned addresses, hereinafter "The Franoliches".

6. That Defendant Fleetwood Enterprises, Inc., hereinafter "Fleetwood", is and at all material times was engaged in the business of manufacturing and sale of mobile homes.

7. That Defendant Larry's Homes of PA, Inc., hereinafter "Larry's Homes", is and at all material times was engaged in the business of retail sale of mobile homes, including those manufactured by Fleetwood.

8. That the Franoliches in May, 1998, purchased a home, best described as 28' x 56' mobile home, with serial number NCAFLTB03753AB, which had been manufactured by Fleetwood in 1996 and sold and installed by Larry's Homes, also in 1996.

9. Said home was originally purchased by Jim and Denise Burkett and remained at the same location upon purchase by the Franoliches, who also kept said home at the same location until September 6, 1999.

10. That on September 6, 1999, while the Franoliches were not at home, the home caught fire and the home as well as their entire earthly possessions were destroyed by fire and/or smoke damage.

11. That upon information and belief, the fire was entirely caused in that the wiring used in the manufacture and installation of the home, being the wires running underneath the masterbedroom, was placed such that it was exposed to the elements, not inside the plastic under-wrap, nor placed through the holes in the support beams, and indoor type wiring was used.

12. That upon information and belief, since the wires were not placed through the holes cut for the wire in the support beams, the wires dangled and since the wires were exposed to the elements, wind would cause the wires to grind against each other and the structure, which eventually caused the cover of the wires to erode. Furthermore, once the bare wires were exposed to the wood beams and/or insulation material, the heat caused by the electricity running through the wires initiated the fire.

13. That as a result of such fire and smoke damage, the Franoliches suffered the following losses:

(a) The value of their home, with the extras including an air conditioning unit and deck, estimated to be \$60,000, to be more fully determined at time of trial;

(b) The contents of their homes, including clothing, furniture, jewelery, dishwasher, stove, washer, dryer, stereo, computer, and similar type items, together estimated to be \$60,000, to be more fully determined at time of trial;

(c) The cost of finding living arrangements, for the Franoliches and their three (3) minor children, until they could reasonably find and afford alternative housing arrangements, estimated at a cost of \$10,000, to be more fully determined at time of trial;

(d) Losses of income to each Plaintiff, as a result of them missing work to handle the numerous issues created by the above and effects on each of their careers caused by the circumstances, in amounts to be determined at time of trial;

(e) The cost of clean up and removal of the debris which was their home and contents, estimated to be \$5,000, in an amount to be more fully determined at time of trial;

(f) Their family pets, including a cat and guinea pig, were consumed in said fire, in an amount to be determined at time of trial; and

(g) Emotional distress, in an amount to be determined, caused by the loss of their home, contents, valuables as well as sentimental items such as wedding photographs and deceased family members.

14. That, upon information and belief, Defendant Larry's Homes was an agent of Defendant Fleetwood, who is liable for the acts and omissions of Defendant Larry's Homes.

Count I: v. Fleetwood;
Breach of Express Contract

15. That the averments of paragraphs 1 - 14, inclusive, are hereby incorporated as if again fully set forth at length.

16. That the home acquired by the Franoliches was covered by an express warranty, which included a five (5) year warranty for "Home Electrical System: wiring, fittings, connections, fixture boxes, junction boxes, main and sub-panel boxes". (See page 8 of the applicable homeowner's guide attached as Exhibit "A").

17. That for the aforementioned reasons, Defendant Fleetwood breached the express warranty in that the wiring used underneath the master-bedroom was the wrong type for the manner in which it was actually installed, thereby being either a defect in the manufactured components or a defect in the workmanship.

18. That the damages suffered by the Franoliches were the direct and proximate cause of the breach of the express warranty by Defendant Fleetwood.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000 together with interest and costs of suit.

Count II: v. Fleetwood;
Breach of Implied Warranties

19. That the averments of paragraphs 1 - 18, inclusive, are hereby incorporated as if again fully set forth at length.

20. That the home manufactured and sold by Defendant Fleetwood was subject to implied warranties of merchantability and fitness for a particular purpose.

21. That the improperly designed, manufactured and/or installed wiring breached these implied warranties in that the wiring created a substantial risk of fire such that the home was not adequate use for a reasonable length of time nor properly suited for residential home use as intended.

22. That the breaches of the aforementioned implied warranties, concerning the type of wiring and location of the same, was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest and costs of suit.

Count III: v. Fleetwood;
Negligence

23. That the averments of paragraphs 1 - 22, inclusive, are hereby incorporated as if again fully set forth at length.

24. That Defendant Fleetwood was negligent in that:

(a) It failed to ensure the wiring was installed in said home in a manner in which it was actually designed;

(b) It failed to use wiring suitable for outdoor use when in fact the wiring as installed was exposed to the elements; and

(c) It failed to properly train and supervise its agents, in particular Defendant Larry's Homes, in the craft of installation of its manufactured homes as relating to the wiring.

25. The aforementioned negligence of Defendant Fleetwood was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest and costs of suit.

Count IV: v. Fleetwood;
Recklessness

26. That the averments of paragraphs 1 - 25, inclusive, are hereby incorporated as if again fully set forth at length.

27. That Defendant Fleetwood was reckless in that:

(a) It failed to ensure the wiring was installed in a manner in which it was designed to be installed; and

(b) Indoor grade wiring was used when in fact outdoor grade wiring should have been used considering the manner in which it was actually installed.

28. That the aforementioned recklessness of Defendant Fleetwood was a direct and proximate cause of the damages suffered by the Franoliches.

29. In addition, Defendant Fleetwood should pay punitive damages to assure that homes manufactured and sold by them will not so expose other consumers to such catastrophic losses, including potential loss of life, in an amount to be determined.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest, costs of suit, punitive damages and reasonable attorney's fees.

Count V: v. Larry's Homes;
Breach of Express Warranties

30. That the averments of paragraphs 1 - 14, inclusive, are hereby incorporated as if again fully set forth at length.

31. That the home acquired by the Franoliches was covered by an express warranty, which included a five (5) year warranty for "Home Electrical System: wiring, fittings, connections, fixture boxes, junction boxes, main and sub-panel boxes". (See page 8 of the applicable homeowner's guide attached as Exhibit "A").

32. That as agent for Defendant Fleetwood, Defendant Larry's Homes is bound by such express warranty.

33. That for the aforementioned reasons, Defendant Larry's Homes breached the express warranty in that the wiring used underneath the master-bedroom was the wrong type for the manner in which it was actually installed.

34. That the damages suffered by the Franoliches was the direct and proximate cause of the breach of the express warranty by Defendant Larry's Homes.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000 together with interest and costs of suit.

Count VI: v. Larry's Homes;
Breach of Implied Warranties

35. That the averments of paragraphs 1 - 14 and 30, - 34, inclusive, are hereby incorporated as if again fully set forth at length.

36. That the home sold and installed by Defendant Larry's Homes was subject to implied warranties of merchantability and fitness for a particular purpose.

37. That the improperly designed, manufactured and/or installed wiring breached these implied warranties in that the wiring created a substantial risk of fire such that the home was not of adequate use for a reasonable length of time nor properly suited for residential home use as intended.

38. That the breaches of the aforementioned implied warranties, concerning the type of wiring and location of the same, was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest and costs of suit.

Count VI: v. Fleetwood;
Negligence

39. That the averments of paragraphs 1 - 14 and 30 - 38, inclusive, are hereby incorporated as if again fully set forth at length.

40. That Defendant Fleetwood was negligent in that:

(a) It failed to ensure the wiring was installed in said home in a manner in which it was actually designed;

(b) It failed to use wiring suitable for outdoor use when in fact the wiring as installed was exposed to the elements; and

(c) It failed to properly train and supervise the electrician, an agent, employee, or sub-contractor who actually performed the installation of the wiring, to ensure the wiring was suitable.

41. The aforementioned negligence of Defendant Larry's Homes was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest and costs of suit.

Count VIII: v. Larry's Homes;
Recklessness

42. That the averments of paragraphs 1 - 14 and 30 - 41, inclusive, are hereby incorporated as if again fully set forth at length.

43. That Defendant Larry's Homes was reckless in that:

(a) It failed to ensure the wiring was installed in a manner in which it was designed to be installed; and

(b) Indoor grade wiring was used when in fact outdoor grade wiring should have been used considering the manner in which it was actually installed.

44. That the aforementioned recklessness of Defendant Larry's Homes was a direct and proximate cause of the damages suffered by the Franoliches.

45. In addition, Defendant Larry's Homes should pay punitive damages to assure that homes sold and installed by them will not so expose other consumers to such catastrophic losses, including potential loss of life, in an amount to be determined.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest, costs of suit, punitive damages and reasonable attorney's fees.

Miscellaneous

46. That defendants have joint and severable liability.

47. That venue is proper.

48. That jurisdiction is proper.

WHEREFORE, Plaintiffs request that judgments be entered in their favor, and against Defendant Fleetwood and Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest, costs of suit, reasonable attorney's fees and punitive damages.

Respectfully Submitted,



Theron G. Noble, Esquire
Ferraraccio & Noble
Attorney for Plaintiffs
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

FIVE-YEAR

A Reminder: The five-year coverage is in effect for the 5 years after first delivery of the home. Basically, it lengthens the coverage of the structural, electrical and plumbing systems as stated below.

- ▼ Frame: tow bar, steel support frame beneath floor of home
- ▼ Roof Structure or Rafters: roof rafters, main support beams, insulation, roof decking, all support lumber contained within the roof, shingles, metal roofing
- ▼ Sub-Floor Structure: floor decking, wood joists supporting decking, insulation, all support lumber contained within the floor
- ▼ Exterior and Interior Walls and Ceilings: exterior siding, stud insulation, framing members, all support lumber contained within the outside and inside walls
- ▼ Home Electrical System: wiring, fittings, connections, fixture junction boxes, main and sub-panel boxes
- ▼ Plumbing System: water pipes, drain pipes, gas pipes, fitting connections, fixture and appliance connections

Exhibit "A"

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.) No. 01- _____ -CD
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)

VERIFICATION

We, Richard Franolich and Janet Franolich, adult individuals, Plaintiffs in the foregoing and attached CIVIL COMPLAINT, state that we have read the same and the information therein contained is true and accurate to the best of our knowledge, information and belief. We further understand that the same is made pursuant to 18 Pa.C.S.A. 4904 relating to unsworn falsification to authorities.



Richard Franolich, Plaintiff



Janet Franolich, Plaintiff

Made this 13th day of August, 2001.

VERIFICATION

I, CYNTHIA P. CAFARO, ESQUIRE, counsel of record for the Defendant, Larry's Homes of PA, Inc. depose and say that I am counsel for said party in the above matter; that I am authorized to make this verification on behalf of said party; that the facts set forth in the foregoing are true and correct, not of my own knowledge, but from information supplied to me by said party; that the foregoing pleading includes conclusions of law and averments of fact averred by other party to this action and not within the personal knowledge of the Defendant; that the purpose of this verification is to expedite litigation; this verification is made pursuant to Rule 1024(c) of the Pennsylvania Rules of Civil Procedure; and that a verification by this party will be furnished. This statement is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



CYNTHIA P. CAFARO
Counsel for Defendant,
Larry's Homes of PA, Inc.

Dated: March 6, 2002

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

No. 01-1318-CD

**SUBSTITUTION OF
VERIFICATION TO
COMPLAINT TO JOIN
ADDITIONAL DEFENDANTS**

Filed on behalf of:
Defendant, Larry's Homes of PA,

Counsel of Record for this party:

Raymond J. Conlon, Esquire
Pa. I.D. #49495

Cynthia P. Cafaro, Esquire
Pa. I.D. #80021

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm # 920
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001

(724) 285-6677

FILED

APR 12 2002

7110:581nocc
William A. Shaw
Prothonotary

VERIFICATION

I, _____, in my capacity as _____ of Larry's
Homes Inc., have read the within Complaint to Join Additional Defendants. The statements
contained therein are true and correct to the best of my personal knowledge, information and
belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S.A. §4904
related to unsworn fabrication to authorities, which provides that if I knowingly make false
averments, I may be subject to criminal penalties.

Date: 3/22/02

#7080.1147

Larry McTulley
Representative
Larry's Homes Inc.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within SUBSTITUTION OF
VERIFICATION TO COMPLAINT TO JOIN ADDITIONAL DEFENDANTS was forwarded
to the below named individuals by United States Mail on the 8th day of April,
2002.

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Richard A. Bell, Esquire
Bell, Silverblatt and Wood
P.O. Box 670
Clearfield, PA 16830

ZIMMER KUNZ, PLLC

By: Cynth P. Goff

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

RICHARD FRANOLICH and : NO. 01 - 1318 - CD
JANET FRANOLICH, husband and wife :
Plaintiffs : TYPE OF PLEADING:
vs. : Praeclipe to Enter Appearance
FLEETWOOD ENTERPRISES, INC. :
and LARRY'S HOMES OF PA, INC., :
Defendants. : FILING PARTIES:
vs. : Additional Defendants
: COUNSEL FOR FILING PARTIES:
JIM BURKETT and DENISE BURKETT, : EVEY, ROUTCH, BLACK, DOREZAS,
Husband and wife, : MAGEE & LEVINE, LLP
Additional Defendants. : 401 Allegheny Street
: P.O. Box 415
: Hollidaysburg, PA 16648
: (814) 695-7581

FILED

APR 12 2002

William A. Shaw
Prothonotary

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

RICHARD FRANOLICH and : NO. 01 - 1318 - CD
JANET FRANOLICH, husband and wife :
Plaintiffs :
:
vs. :
:
FLEETWOOD ENTERPRISES, INC. :
and LARRY'S HOMES OF PA, INC., :
Defendants. :
:
vs. :
:
JIM BURKETT and DENISE BURKETT, :
Husband and wife, :
Additional Defendants. :
:

PRAECIPE FOR ENTRY OF APPEARANCE

TO PROTHONOTARY OF CLEARFIELD COUNTY:

Please note the appearance of the undersigned as counsel of record for JIM AND DENISE BURKETT, Additional Defendants named in the above matter, noting that all papers and process for service upon said party may be served upon the undersigned at 401 Allegheny Street, P. O. Box 415, Hollidaysburg, Pennsylvania 16648.

EVEY, ROUTCH, BLACK, DOREZAS & MAGEE

By: 
J. Michael Dorezas, Esq.
Attorney for Additional Defendants
PA I.D. No. 17460

Dated: April 11, 2002

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PRAECIPE FOR ENTRY OF APPEARANCE was served on the // day of *April*, 2002, by United States Mail, First Class, postage prepaid, addressed to the following:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 E. Pine Street
Clearfield, PA 16830

Raymond J. Conlon, Esquire
Cynthia P. Cafaro, Esquire
ZIMMER, KUNZ, PLLC
Morgan Center, Suite 218
101 E. Diamond Street
Butler, PA 16001

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
318 E. Locust Street
P.O. Box 670
Clearfield, PA 16830

EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP

BY: *J. Michael Dorezas*
J. Michael Dorezas, Esq.
Attorney for Additional Defendants

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

RICHARD FRANOLICH and	:	NO. 01 - 1318 - CD
JANET FRANOLICH, husband and wife	:	
Plaintiffs	:	TYPE OF PLEADING:
	:	Preliminary Objections to Complaint
	:	Joining Jim Burkett and Denise
	:	Burkett as Additional Defendants
vs.	:	
	:	FILING PARTIES:
FLEETWOOD ENTERPRISES, INC.	:	Additional Defendants
and LARRY'S HOMES OF PA, INC.,	:	
Defendants.	:	
vs.	:	COUNSEL FOR FILING PARTIES:
JIM BURKETT and DENISE BURKETT,	:	J. Michael Dorezas, Esquire
Husband and wife,	:	PA I.D. #17460
Additional Defendants.	:	
	:	EVEY, ROUTCH, BLACK, DOREZAS,
	:	MAGEE & LEVINE, LLP
	:	401 Allegheny Street
	:	P.O. Box 415
	:	Hollidaysburg, PA 16648
	:	(814) 695-7581

FILED

APR 18 2002

William A. Shaw
Prothonotary

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

RICHARD FRANOLICH and : NO. 01 - 1318 - CD
JANET FRANOLICH, husband and wife :
Plaintiffs :
:
vs.
:
FLEETWOOD ENTERPRISES, INC. :
and LARRY'S HOMES OF PA, INC., :
Defendants.
:
vs.
:
JIM BURKETT and DENISE BURKETT, :
Husband and wife, :
Additional Defendants. :
:

**PRELIMINARY OBJECTIONS TO COMPLAINT JOINING
JIM BURKETT AND DENISE BURKETT AS ADDITIONAL DEFENDANTS**

AND NOW, come the Additional Defendants, JIM BURKETT and DENISE BURKETT, by and through their attorneys, EVEY, ROUTCH, BLACK, DOREZAS, MAGEE & LEVINE, LLP and file the following Preliminary Objections to Defendant's Complaint to Join:

PROCEDURAL BACKGROUND

1. The Plaintiffs commenced this action by filing a Complaint on August 15, 2001 against the original Defendants to recover damages allegedly sustained as a result of a fire that occurred on September 6, 1999.
2. On September 28, 2001, Defendant, Fleetwood Enterprises, Inc., filed an Answer and New Matter to Plaintiffs' Complaint.
3. On October 22, 2001, the Defendant, Larry's Homes of PA, Inc., filed Preliminary Objections to Plaintiffs' Complaint.

4. On January 30, 2002, Plaintiff filed an Amended Complaint.
5. On February 21, 2002, the Defendant Larry's Homes of PA, Inc. filed an Answer and New Matter to the Amended Complaint.
6. On March 14, 2002, one of the original Defendants, Larry's Homes of PA, Inc. filed a Complaint to Join as Additional Defendants Jim Burkett and Denise Burkett.

I. MOTION TO STRIKE AND/OR FOR A MORE SPECIFIC PLEADING

7. Pa.R.C.P. 1019(a) requires:

The material facts upon which a cause of action or defense is based shall be stated in concise and summary form.

8. The original Defendant's Complaint filed against the Additional Defendants at paragraph 12 and 12(f.) states:

"12. Additional Defendants, Jim and Denise Burkett, were negligent generally and in the following particulars: . . .
f. In materially altering the home;
9. Paragraph 15 of the Complaint joining the Additional Defendants states as follows:

"It was the Additional Defendants' negligence and failure to properly repair and/or maintain their home which ultimately caused damages to the Plaintiffs."

10. Pennsylvania is a fact pleading state and requires the Complaint to contain the facts essential to support the claim. See Alpha Tau Omega Fraternity v. University of Pennsylvania, 464 A.2d 1349 (Pa. Super 1983).

11. The allegations in the complaint to join of paragraph 12, 12(f) and paragraph 15 of the Complaint joining the Additional Defendants fails to set forth with particularity and specificity the facts giving rise to the allegations of negligence as required by Pennsylvania Rules of Civil Procedure.

12. By permitting the language set forth in the introductory portion of paragraph 12 and 12(f) and paragraph 15 to remain in the Complaint joining the Additional Defendants with the lack of requisite specificity of factual averments prohibits the Additional Defendants from properly answering the Complaint.

13. The Complaint joining the Additional Defendants in paragraph 12, 12(f), and paragraph 15 contain broad, general boilerplate allegations such as prohibited by the case law of this Commonwealth. See Connor v. Allegheny General Hospital, 461 A.2d 600 (1983).

14. The Complaint joining the Additional Defendants in paragraphs 12, 12(f), and 15 as filed would permit the theory against the Additional Defendants to change as the case progresses. See Connor v. Allegheny General Hospital, 461 A.2d 600 (1983).

WHEREFORE, the Additional Defendants, JIM BURKETT and DENISE BURKETT, pray that the allegations of paragraph 12, 12(f), and 15 of the Complaint joining them as Additional Defendants be stricken or on the alternative specific averments of fact be set forth.

II. MOTION FOR A MORE SPECIFIC PLEADING

15. In the Complaint joining the Additional Defendants, the original Defendants in paragraph 7 attach as an exhibit to the joinder Complaint Exhibit "A" which was a copy of the original Complaint.

16. The original Defendants have failed to, as required by the Pennsylvania Rules of Civil Procedure attach to the pleading a copy of the Amended Complaint filed by the Plaintiffs.

17. In paragraph 9 of the Complaint joining the Additional Defendants, the

original Defendant states that it has attached a copy of its Answer and New Matter as Exhibit "B" to the Complaint joining the Additional Defendants.

18. The original Defendant, Larry's Homes of Pennsylvania, Inc. has failed to attach a copy of the Answer and New Matter to the Complaint joining the Additional Defendants..

WHEREFORE, the Additional Defendants, JIM BURKETT and DENISE BURKETT, pray that the original Defendant Larry's Homes of Pennsylvania, Inc. be ordered to file an Amended Complaint joining the Additional Defendants wherein the Amended Complaint and a copy of the Answer and New Matter filed by the original Defendant is attached, or in the alternative, that the Complaint joining the Additional Defendants be stricken for failure to comply with the Pa.R.C.P.

Respectfully submitted,

EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP

BY: 
J. Michael Dorezas, Esquire
PA I.D. #17460
401 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648
(814) 695-7581
Attorney for Additional Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PRELIMINARY OBJECTIONS TO COMPLAINT TO JOIN was served on the 17 day of April, 2002, by United States Mail, First Class, postage prepaid, addressed to the following:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 E. Pine Street
Clearfield, PA 16830

Raymond J. Conlon, Esquire
Cynthia P. Cafaro, Esquire
ZIMMER, KUNZ, PLLC
Morgan Center, Suite 218
101 E. Diamond Street
Butler, PA 16001

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
318 E. Locust Street
P.O. Box 670
Clearfield, PA 16830

EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP

BY: J. Michael Dorezas
J. Michael Dorezas, Esq.
Attorney for Additional Defendants

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

No. 01-1318-CD

Plaintiffs,

**AMENDED COMPLAINT TO
JOIN ADDITIONAL
DEFENDANTS**

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Filed on behalf of:
Defendant, Larry's Homes of PA,

Defendants,

Counsel of Record for this party:

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Raymond J. Conlon, Esquire
Pa. I.D. #49495

Additional Defendants.

Cynthia P. Cafaro, Esquire
Pa. I.D. #80021

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm # 920
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001

(724) 285-6677

FILED

APR 29 2002
M18.55110CC
William A. Shaw
Prothonotary *EAD*

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

No. 01-1318-CD

Plaintiffs,

**AMENDED
COMPLAINT TO JOIN
ADDITIONAL DEFENDANTS**

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this 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 WHERE YOU CAN GET LEGAL HELP.

Prothonotary's Office
P.O. Box 549
Clearfield, PA 16830
(814) 765-2641

AMENDED COMPLAINT TO JOIN ADDITIONAL DEFENDANTS

AND NOW comes the Defendant, Larry's Homes Incorporated, by and through its' counsel, ZIMMER KUNZ, PLLC, and files the within Complaint to Join Additional Defendants and in support thereof avers as follows:

1. The Plaintiffs, Richard and Janet Franolich are adult individuals who resided, at all times material hereto, 46 Pondeross Drive, Clearfield County, Pennsylvania.

2. Defendant, Larry's Homes Inc. (hereinafter "LHI") was at all times material hereto a corporation with its principal place of business located at 14 Village Square, Smyrna, Delaware, 19977.

3. The Additional Defendants, Jim Burkett and Denise Burkett, are adult individuals residing at 440 Treasure Lk., DuBois, PA 15801.

4. Plaintiffs were the owners of a mobile home located at 46 Pondeross Drive, Clearfield County, Pennsylvania, and manufactured by Defendant, Fleetwood Enterprises, Inc.

5. The mobile home was originally sold by LHI to Additional Defendants, Jim and Denise Burkett.

6. Plaintiffs purchased the mobile home from Additional Defendants in May, 1998.

7. According to the Plaintiffs' Complaint, on September 6, 1999, while the Plaintiffs were not at home, their mobile home caught fire, and the home as well as all contents of the home were allegedly destroyed by fire and smoke damage. A true and correct copy of Plaintiffs' Complaint is attached hereto and marked as Exhibit "A."

8. Plaintiffs allege that the destruction of their home and all of their personal belongings was caused by the negligence of defendant, Larry's Homes Inc.

9. This Defendant filed an Answer and New Matter denying any and all liability and that Answer and New Matter is attached hereto as Exhibit "B".

COUNT I - NEGLIGENCE

Larry's Homes Incorporated
v. Jim Burkett and Denise Burkett

10. The averments of paragraphs 1 through 8 inclusive are hereby incorporated as if fully set forth at length.

11. This Defendant denied, and continues to deny any and all liability to the Plaintiffs. In the event that it is judicially determined that the Plaintiffs sustained damages for which this Defendant is liable, then it is averred that the additional Defendants, Jim and Denise Burkett, are solely liable to the Plaintiff, are jointly and severally liable to the Plaintiffs, and/or are liable for contribution or indemnity to the Defendant.

12. Additional defendants, Jim and Denise Burkett, were negligent generally and in the following particulars:

- (a) Failing to ensure the wiring was installed in said home in a manner in which it was actually designed.
- (b) In failing to use wiring suitable for outdoor use.
- (c) In failing to properly employ the services of an electrician to ensure the wiring was suitable.
- (d) In failing to disclose to plaintiffs information regarding

the condition of the wiring.

- (e) In negligently wiring the mobile home.
- (f) In materially altering the electrical wiring of the home, or allowing the home to be altered in such a way that the electrical wiring was affected;

13. Any damages allegedly sustained by the plaintiffs were caused in whole or in part by the negligence of additional defendants as stated above.

14. These damages include:

- (a) Total loss of mobile home.
- (b) Total loss of the contents of the mobile home including clothing, furniture, jewelry, dishwasher, stove, washer, dryer, stereo, computer.
- (c) Cost of finding living arrangements for the plaintiffs and their three minor children at the cost of approximately \$10,000.
- (d) Loss of income to each plaintiff as a result of them missing work to handle numerous issues created by the destruction of the home.
- (e) Cost of clean-up and removal of the debris which was which was approximately \$5,000.
- (f) Destruction of two family pets including a cat and guinea pig.
- (g) Emotional distress.

15. Any damages to the plaintiffs were caused by the additional defendants' negligence and failure to properly repair and/or maintain the electrical wiring and/or entire electrical system of their home.

16. If it is proven at any time up to and including the time of trial that the plaintiffs are entitled to recovery, which is expressly denied, then additional defendants are solely liable to the plaintiff.

17. If anyone is liable or responsible for the plaintiffs' damages other than the plaintiffs themselves, and if the incident in question resulted from anyone's negligence, then additional defendants are liable for reasons set forth by the plaintiffs in the Complaint which averments are incorporated herein by reference solely for the purpose of this cross-claim and without admitting or averring liability on the part of this defendant.

18. If anyone is liable to the plaintiff, then additional defendants are solely liable or, in the alternative, are liable over to defendant for contribution and/or indemnity for any and all such sums which the plaintiffs may recover. In the alternative, additional defendants are jointly and severally liable to the plaintiffs although the existence of any liability on the part of the defendant is expressly denied.

WHEREFORE, defendant, Larry's Homes, Inc. denies any and all liability to any of the parties hereto and demands judgment in its favor. Furthermore, defendant avers that additional

defendants are solely liable to the plaintiffs or are liable over to defendant for any and all sums which plaintiffs may recover or they are jointly and severally liable.

ZIMMER KUNZ, PLLC

By: 
RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorneys for Defendants

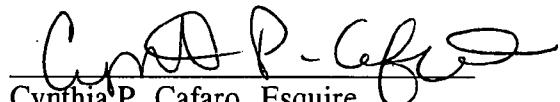
VERIFICATION

I, CYNTHIA P. CAFARO, Esquire, have read the foregoing Amended Complaint to Join Additional Defendants. The statements contained therein are true and correct to the best of my personal knowledge, information and belief.

These statements and verifications are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

I am authorized to make this verification because of my position as Counsel of Record for Defendant Larry's Homes of PA, INC.

DATE: April 25, 2002


Cynthia P. Cafaro, Esquire
Counsel of Record for Defendant
Larry's Homes of PA, INC.

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

RICHARD FRANOLICH, and :
JANET FRANOLICH, husband and :
wife, :
:

PLAINTIFFS, :
: CIVIL ACTION NO.
: 01-1318-CD

v.

FLEETWOOD ENTERPISES, INC., :
and LARRY'S HOMES OF PA, INC., :
:

DEFENDANTS. :
: TYPE OF PLEADING:
: AMENDED CIVIL COMPLAINT

:
: FILED BY:
: PLAINTIFFS

:
: COUNSEL FOR THIS PARTY:
: Theron G. Noble, Esquire
: Ferraraccio & Noble
: 301 East Pine Street
: Clearfield, PA 16830
: 814-375-2221
: PA I.D.#: 55942

EXHIBIT

tabbies®

A

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.)
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)

NO. 01- 1318 -CD

©NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claim 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 judgement may be entered against you by the Court without further notice for any claim in the Complaint or for any other claim or relief requested by the Plaintiffs. 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 AN ATTORNEY, OR CANNOT FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
(814)-765-2641

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.) No. 01- 1318 -CD
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)

AMENDED CIVIL COMPLAINT

NOW COMES, the Plaintiffs, Richard and Janet Franolich, by and through their counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of their **AMENDED CIVIL COMPLAINT**:

The Parties

1. First Plaintiff is Richard Franolich, who now resides at 124 Hatler Street, Fort Leonard Wood, Missouri 65473, but at all relevant and material times did reside at 46 Ponderosa Drive, Penfield, Clearfield County, Pennsylvania.

2. Second Plaintiff is Janet Franolich, who now resides at 124 Hatler Street, Fort Leonard Wood, Missouri 65473, but at all relevant and material times did reside at 46 Ponderosa Drive, Penfield, Clearfield County, Pennsylvania.

3. That first defendant is Fleetwood Enterprises, Inc., upon information and belief a duly formed

and existing corporation lawfully doing business in Pennsylvania, with a principal corporate address of 3125 Myers Street, Riverside, Orange County, California 92513-7638.

4. That second defendant is Larry's Homes of PA, Inc., upon information and belief a duly formed and existing Pennsylvania corporation with a registered address of c/o C.T. Corp. Systems, 1515 Market Street, Suite 1210, Philadelphia, PA 19112.

Background

5. That Richard and Janet Franolich are, and at all relevant and material times were, husband and wife living together at the current and aforementioned addresses, hereinafter "The Franoliches".

6. That Defendant Fleetwood Enterprises, Inc., hereinafter "Fleetwood", is and at all material times was engaged in the business of manufacturing and sale of mobile homes.

7. That Defendant Larry's Homes of PA, Inc., hereinafter "Larry's Homes", is and at all material times was engaged in the business of retail sale of mobile homes, including those manufactured by Fleetwood.

8. That the Franoliches in May, 1998, purchased a home, best described as 28' x 56' mobile home, with serial number NCAFLTB03753AB, which had been manufactured by Fleetwood in 1996 and sold and installed by Larry's Homes, also in 1996.

9. Said home was originally purchased by Jim and Denise Burkett and remained at the same location upon purchase by the Franoliches, who also kept said home at the same location until September 6, 1999.

10. That on September 6, 1999, while the Franoliches were not at home, the home caught fire and the home as well as their entire earthly possessions were destroyed by fire and/or smoke damage.

11. That upon information and belief, the fire was entirely caused in that the wiring used in the manufacture and installation of the home, being the wires running underneath the master-bedroom, was placed such that it was exposed to the elements, not inside the plastic under-wrap, nor placed through the holes in the support beams, and indoor type wiring was used.

12. That upon information and belief, since the wires were not placed through the holes cut for the wire in the support beams, the wires dangled and since the wires were exposed to the

elements, wind would and did cause the wires to grind against each other and the structure, which eventually caused the cover of the wires to erode. Furthermore, once the bare wires were exposed to the wood beams and/or insulation material, the heat caused by the electricity running through the wires initiated the fire.

13. That as a result of such fire and smoke damage, the Franoliches suffered the following losses:

- (a) The value of their home, with the extras including an air conditioning unit and deck, estimated to be \$60,000, to be more fully determined at time of trial;
- (b) The contents of their homes, including clothing, furniture, jewelry, dishwasher, stove, washer, dryer, stereo, computer, and similar type items, together estimated to be \$60,000, to be more fully determined at time of trial;
- (c) The cost of finding living arrangements, for the Franoliches and their three (3) minor children, until they could reasonably find and afford alternative housing arrangements, estimated at a cost of \$10,000, to be more fully determined at time of trial;
- (d) Losses of income to each Plaintiff, as a result of them missing work to handle the numerous issues created by the above and effects on each of their careers caused by the circumstances, in amounts to be determined at time of trial;
- (e) The cost of clean up and removal of the debris which was their home and contents, estimated to be \$5,000, in an amount to be more fully determined at time of trial;
- (f) Their family pets, including a cat and guinea pig, were consumed in said fire, in an amount to be determined at time of trial; and
- (g) Emotional distress, in an amount to be determined, caused by the loss of their home, contents, valuables as well as sentimental items such as wedding photographs and deceased family members.

14. That, upon information and belief, Defendant Larry's Homes was an agent of Defendant Fleetwood, who is liable for the acts and omissions of Defendant Larry's Homes.

Count I: v. Fleetwood;
Breach of Express Contract

15. That the averments of paragraphs 1 - 14, inclusive, are hereby incorporated as if again fully

set forth at length.

16. That the home acquired by the Franoliches was covered by an express warranty, which included a five (5) year warranty for "Home Electrical System: wiring, fittings, connections, fixture boxes, junction boxes, main and sub-panel boxes". (See page 8 of the applicable homeowner's guide attached as Exhibit "A").

17. That for the aforementioned reasons, Defendant Fleetwood breached the express warranty in that the wiring used underneath the master-bedroom was the wrong type for the manner in which it was actually installed, thereby being either a defect in the manufactured components or a defect in the workmanship.

18. That the damages suffered by the Franoliches were the direct and proximate cause of the breach of the express warranty by Defendant Fleetwood.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000 together with interest and costs of suit.

Count II: v. Fleetwood;
Breach of Implied Warranties

19. That the averments of paragraphs 1 - 18, inclusive, are hereby incorporated as if again fully set forth at length.

20. That the home manufactured and sold by Defendant Fleetwood was subject to implied warranties of merchantability and fitness for a particular purpose.

21. That the improperly designed, manufactured and/or installed wiring breached these implied warranties in that the wiring created a substantial risk of fire such that the home was not adequate use for a reasonable length of time nor properly suited for residential home use as intended.

22. That the breaches of the aforementioned implied warranties, concerning the type of wiring and location of the same, was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest and costs of suit.

Count III: v. Fleetwood:

Negligence

23. That the averments of paragraphs 1 - 22, inclusive, are hereby incorporated as if again fully set forth at length.

24. That Defendant Fleetwood was negligent in that:

- (a) It failed to ensure the wiring was installed in said home in a manner in which it was actually designed;
- (b) It failed to use wiring suitable for outdoor use when in fact the wiring as installed was exposed to the elements; and
- (c) It failed to properly train and supervise its agents, in particular Defendant Larry's Homes, in the craft of installation of its manufactured homes as relating to the wiring.

25. The aforementioned negligence of Defendant Fleetwood was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest and costs of suit.

Count IV: v. Fleetwood:

Recklessness

26. That the averments of paragraphs 1 - 25, inclusive, are hereby incorporated as if again fully set forth at length.

27. That Defendant Fleetwood was reckless in that:

- (a) It failed to ensure the wiring was installed in a manner in which it was designed to be installed; and

(b) Indoor grade wiring was used when in fact outdoor grade wiring should have been used considering the manner in which it was actually installed.

28. That the aforementioned recklessness of Defendant Fleetwood was a direct and proximate cause of the damages suffered by the Franoliches.

29. In addition, Defendant Fleetwood should pay punitive damages to assure that homes manufactured and sold by them will not so expose other consumers to such catastrophic losses, including potential loss of life, in an amount to be determined.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest, costs of suit and punitive damages.

Count V: v. Larry's Homes;
Breach of Express Warranties

30. That the averments of paragraphs 1 - 14, inclusive, are hereby incorporated as if again fully set forth at length.

31. That the home acquired by the Franoliches was covered by an express warranty, which included a five (5) year warranty for "Home Electrical System: wiring, fittings, connections, fixture boxes, junction boxes, main and sub-panel boxes". (See page 8 of the applicable homeowner's guide attached as Exhibit "A").

32. That as agent for Defendant Fleetwood, Defendant Larry's Homes is bound by such express warranty.

33. That for the aforementioned reasons, Defendant Larry's Homes breached the express warranty in that the wiring used underneath the master-bedroom was the wrong type for the manner in which it was actually installed.

34. That the damages suffered by the Franoliches were the direct and proximate cause of the breach of the express warranty by Defendant Larry's Homes.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000 together with interest and

costs of suit.

Count VI: v. Larry's Homes;
Breach of Implied Warranties

35. That the averments of paragraphs 1 - 14 and 30 - 34, inclusive, are hereby incorporated as if again fully set forth at length.

36. That the home sold and installed by Defendant Larry's Homes was subject to implied warranties of merchantability and fitness for a particular purpose.

37. That the improperly designed, manufactured and/or installed wiring breached these implied warranties in that the wiring created a substantial risk of fire such that the home was not of adequate use for a reasonable length of time nor properly suited for residential home use as intended.

38. That the breaches of the aforementioned implied warranties, concerning the type of wiring and location of the same, was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest and costs of suit.

Count VII: v. Larry's Homes;
Negligence

39. That the averments of paragraphs 1 - 14 and 30 - 38, inclusive, are hereby incorporated as if again fully set forth at length.

40. That Defendant Larry's Homes was negligent in that:

- (a) It failed to ensure the wiring was installed in said home in a manner in which it was actually designed;
- (b) It failed to use wiring suitable for outdoor use when in fact the wiring as installed was exposed to the elements; and

(c) It failed to properly train and supervise the electrician, an agent, employee, or sub-contractor who actually performed the installation of the wiring, to ensure the wiring was suitable.

41. The aforementioned negligence of Defendant Larry's Homes was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest and costs of suit.

Count VIII: v. Larry's Homes;
Recklessness

42. That the averments of paragraphs 1 - 14 and 30 - 41, inclusive, are hereby incorporated as if again fully set forth at length.

43. That Defendant Larry's Homes was reckless in that:

(a) It failed to ensure the wiring was installed in a manner in which it was designed to be installed, i.e. placed through the manufactured holes inside of the insulation, thus exposing indoor wiring to the elements, which was its duty to do so, which it knew created an unreasonable risk of serious physical harm, substantially greater than that of negligent conduct ;

(b) Indoor grade wiring was used when in fact outdoor grade wiring should have been used, which was its duty to do so considering the manner in which it was actually installed, thus creating an unreasonable risk of serious physical harm, substantially greater than that of negligent conduct; and

(c) Failing to properly train, supervise and employ qualified individuals, which was its duty to do so, concerning the installation of the subject home regarding the wiring knowing that the aforementioned improperly installed wiring will likely result in an unreasonable risk of physical harm, substantially greater than that of negligent conduct.

44. That the aforementioned recklessness of Defendant Larry's Homes was a direct and proximate cause of the damages suffered by the Franoliches.

45. In addition, Defendant Larry's Homes should pay punitive damages to assure that homes sold and installed by them will not so expose other consumers to such catastrophic losses, including potential loss of life, in an amount to be determined.

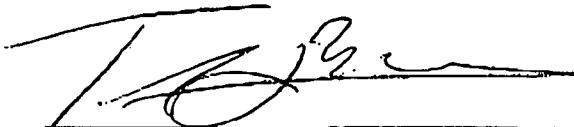
WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest, costs of suit and punitive damages.

Miscellaneous

46. That defendants have joint and several liability.
47. That venue is proper.
48. That jurisdiction is proper.

WHEREFORE, Plaintiffs request that judgments be entered in their favor, and against Defendant Fleetwood and Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest, costs of suit and punitive damages.

Respectfully Submitted,



Theron G. Noble, Esquire
Ferraraccio & Noble
Attorney for Plaintiffs
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

FIVE-YEAR

A Reminder: The five-year coverage is in effect for the 5 years after final delivery of the home. Basically, it lengthens the coverage of the structural, electrical and plumbing systems as stated below.

- ▼ Frame: tow bar, steel support frame beneath floor of home
- ▼ Roof Structure or Rafters: roof rafters, main support beams, insulation, roof decking, all support lumber contained within the roof, shingles, metal roofing
- ▼ Sub-Floor Structure: floor decking, wood joists supporting drywall, insulation, all support lumber contained within the floor
- ▼ Exterior and Interior Walls and Ceilings: exterior siding, studding, insulation, framing members, all support lumber contained within the outside and inside walls
- ▼ Home Electrical System: wiring, fittings, connections, fixtures, junction boxes, main and sub-panel boxes
- ▼ Plumbing System: water pipes, drain pipes, gas pipes, fitting connections, fixture and appliance connections

— Exhibit "A" —

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
FLEETWOOD ENTERPRISES, INC.. and)
LARRY'S HOMES OF PA, INC.,)
DEFENDANTS.)

CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiffs, does hereby certify this 30th day of January, 2002, that I did mail a true and correct copy of Plaintiffs' AMENDED CIVIL COMPLAINT, to the below indicated persons, being either parties or their counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

Raymond J. Conlon, Esquire
Zimmer Kunz, LLC
101 E. Diamond Street
Butler, PA 16001

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

No. 01-1318-CD

**DEFENDANT LARRY'S HOMES
OF PA, INC.'S ANSWER AND
NEW MATTER TO
PLAINTIFFS' AMENDED
COMPLAINT**

Filed on behalf of:
Defendant, Larry's Homes of PA,

Counsel of Record for this party:

**Raymond J. Conlon, Esquire
Pa. I.D. #49495**

**Cynthia P. Cafaro, Esquire
Pa. I.D. #80021**

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm # 920
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001

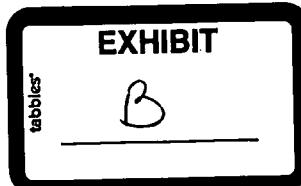
(724) 285-6677

TO: Plaintiff

You are hereby notified to file a written
response to the enclosed New Matter
within twenty (20) days from service
hereof or a judgment may be entered
against you.

Cynthia P. Cafaro
Cynthia P. Cafaro, Esquire

Document #: 269832
7080.1147



FILED
FEB 21 2008
milla
William A. Shaw
Prothonotary

**DEFENDANT LARRY'S HOMES
OF PA, INC.'S ANSWER AND
NEW MATTER TO PLAINTIFFS' AMENDED COMPLAINT**

AND NOW comes the Defendant, Larry's Homes Incorporated, by and through its' counsel, ZIMMER KUNZ, PLLC, and files the within Answer and New Matter to the Plaintiffs' Amended Complaint, and in support thereof avers as follows:

1. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
2. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
3. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
4. Admitted.
5. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
6. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
7. Admitted.
8. It is admitted that defendant Larry's Homes of PA, Inc. sold and installed a 28 X 56 mobile home with serial number NCAFLTB03753AB to certain individuals in 1996. After reasonable investigation, defendant is without knowledge to either admit or deny when or if plaintiffs purchased this home.

9. It is admitted that said home was originally purchased by Jim and Denise Burkett.

After reasonable investigation, defendant is without sufficient information as to when and if the Franoliches occupied the home.

10. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

11. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

12. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

13. (a) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(b) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(c) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(d) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(e) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(f) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(g) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

14. Denied. It is specifically denied that Larry's Homes was an agent of the defendant Fleetwood.

COUNT I - IV

15-29. Paragraphs 15-29 are directed to a party other than this Defendant and no response is required. To the extent a response is deemed necessary, the allegations of paragraphs 15-29 are denied.

COUNT V

30. Defendant incorporates by references paragraphs 1 through 29 as if set forth fully herein.

31. It is denied that the defendant, Larry's Homes of PA, Inc. provided any express or implied warranties to the plaintiffs in this case. To the contrary, Defendant did not provide any warranty, either express or implied, to the Plaintiffs.

32-34. Paragraphs 32-34 are legal conclusions to which no response is required. To the extent that a response is deemed necessary the allegations of paragraphs 32-34 are denied.

COUNT VI

35. Defendant incorporates by references paragraphs 1 through 34 as if set forth fully herein.

36-38. Paragraphs 36-38 are legal conclusions to which no response is required. To the extent that a response is deemed necessary the allegations of paragraphs 36-38 are denied.

COUNT VII

39. Defendant incorporates by references paragraphs 1 through 38 as if set forth fully herein.

40. Paragraph 40(a) - (c) is a legal conclusion to which no response is required. To the extent that a response is deemed necessary the allegations of paragraph 40(a) - (c) are specifically denied.

41. Denied. It is specifically denied that the defendant was negligent and/or caused any alleged damages suffered by the plaintiffs. To the contrary, Defendant at all times acted in a cautious, careful and prudent manner,

COUNT VIII

42. Defendant incorporates by references paragraphs 1 through 41 as if set forth fully herein.

43. Paragraph 43(a) - (c) is a legal conclusion to which no response is required. To the extent that a response is deemed necessary the allegations of paragraph 43(a) - (c) are specifically denied.

44. Denied. It is specifically denied that the defendant was negligent and/or caused any alleged damages suffered by the plaintiffs. To the contrary, Defendant at all times acted in a cautious, careful and prudent manner,

45-48. Paragraphs 45-48 are legal conclusions to which no response is required. To the extent that a response is deemed necessary the allegations of paragraphs 45-48 are denied.

WHEREFORE, the defendant, Larry's Homes of PA, Inc. denies that it is indebted to the plaintiffs in any amount whatsoever and demands that judgment be entered in its favor plus costs of suit as sustained.

NEW MATTER

49. Plaintiffs' action is barred by the statute of limitations.
50. Any damages suffered by the plaintiffs was the result of plaintiffs' contributory and/or comparative negligence.
51. Any damages suffered by plaintiffs was the result of plaintiffs' assumption of the risks.
52. Any damages suffered by the plaintiffs was the result of the negligence of third parties other than this defendant.
53. Defendant avers that plaintiffs' Complaint fails to state a cause of action upon which recovery may be made.
54. Defendant did not provide any warranties to the plaintiff either express or implied.
55. Any damages suffered by the plaintiffs were the result of superseding or intervening causes from the time of the sale of the home.
56. Any damages suffered by the plaintiffs were the result of the material alterations of the home performed by someone other than the defendant, Larry's Homes.

WHEREFORE, the defendant, Larry's Homes of PA, Inc., avers that it has a true, just, complete and legal defense to all of the claims raised against it and demands that judgment be entered in its favor plus costs of suit as sustained.

ZIMMER KUNZ, PLLC

By: Cynthia P. Cafaro
RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within DEFENDANT
LARRY'S HOMES OF PA, INC.'S ANSWER AND NEW MATTER TO PLAINTIFFS'
COMPLAINT was forwarded to the below named individuals by United States Mail on the
18th day of February, 2002

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Richard A. Bell, Esquire
Bell, Silverblatt and Wood
P.O. Box 670
Clearfield, PA 16830

Jim and Denise Burkett
440 Treasure Lk
DuBois, PA 15801

ZIMMER KUNZ, PLLC

By: Cynthia P. Ghee

VERIFICATION

I, CYNTHIA P. CAFARO, ESQUIRE, counsel of record for the Defendant, Larry's Homes of PA, Inc. depose and say that I am counsel for said party in the above matter; that I am authorized to make this verification on behalf of said party; that the facts set forth in the foregoing are true and correct, not of my own knowledge, but from information supplied to me by said party; that the foregoing pleading includes conclusions of law and averments of fact averred by other party to this action and not within the personal knowledge of the Defendant; that the purpose of this verification is to expedite litigation; this verification is made pursuant to Rule 1024(c) of the Pennsylvania Rules of Civil Procedure; and that a verification by this party will be furnished. This statement is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



CYNTHIA P. CAFARO
Counsel for Defendant,
Larry's Homes of PA, Inc.

Dated: February 18, 2002

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

No. 01-1318-CD

**DEFENDANT LARRY'S HOMES
OF PA, INC.'S VERIFICATION
TO ANSWER AND NEW
MATTER TO PLAINTIFFS'
AMENDED COMPLAINT**

Filed on behalf of:
Defendant, Larry's Homes of PA,

Counsel of Record for this party:

**Raymond J. Conlon, Esquire
Pa. I.D. #49495**

**Cynthia P. Cafaro, Esquire
Pa. I.D. #80021**

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm # 920
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001

(724) 285-6677

FILED
FEB 26 2002
mbo/Am
William A. Shaw
Prothonotary

VERIFICATION

I, Kathleen C. Shea, in my capacity as Representative of Larry's Homes of PA, Inc., have read the within **DEFENDANT LARRY'S HOMES OF PA, INC.'S ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT**. The statements contained therein are true and correct to the best of my personal knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S.A. §4904 related to unsworn fabrication to authorities, which provides that if I knowingly make false averments, I may be subject to criminal penalties.

Date: 2-18-02

#7080.1147

Kathleen C. Shea
Representative
Larry's Homes Inc.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **DEFENDANT**
LARRY'S HOMES OF PA, INC.'S VERIFICATION TO ANSWER AND NEW MATTER
TO PLAINTIFFS' COMPLAINT was forwarded to the below named individuals by United
States Mail on the 20th day of February, 2002

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Richard A. Bell, Esquire
Bell, Silverblatt and Wood
P.O. Box 670
Clearfield, PA 16830

Jim and Denise Burkett
440 Treasure Lk
DuBois, PA 15801

ZIMMER KUNZ, PLLC

By: Cyrstl Cefus

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within AMENDED
COMPLAINT TO JOIN ADDITIONAL DEFENDANTS was forwarded to the below named
individuals by United States Mail on the 25th day of April, 2002

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

Attorney for Fleetwood Enterprises, INC.

J. Michael Dorezas, Esquire
Evey, Routh, Black, Dorezas, Magee & Levine LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648

Attorney for Jim and Denise Burkett

ZIMMER KUNZ, PLLC

By: Cynthia R. Cifaro

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO. 01-1318 C.D.

**MOTION FOR LEAVE OF COURT TO
JOIN ADDITIONAL DEFENDANT**

Filed on behalf of:
Defendant Larry's Homes of PA, Inc.

Counsel of Record for this party:
Raymond J. Conlon
Pa. I.D. #49495

Cynthia P. Cafaro
Pa. I.D. #80021

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY
COMPANY
Firm #920
Morgan Center, Suite 218
101 East Diamond Street
Butler, PA 16001

(724) 285-6677

FILED

MAY 02 2002

M 10:47:100C
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

CIVIL DIVISION

NO. 01-1318 C.D.

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

MOTION FOR LEAVE OF COURT TO JOIN ADDITIONAL DEFENDANT

And now comes the Defendant, Larry's Homes INC., by and through its attorneys, Raymond J. Conlon, Esquire, Cynthia P. Cafaro, Esquire and Zimmer Kunz, PLLC, and files the within Motion of Leave for Court to Join an Additional Defendant and hereby avers as follows:

1. This lawsuit arises out of a fire which occurred on or about September 6, 1999, at Plaintiffs' mobile home located at 46 Pondeross Drive, Clearfield County, Pennsylvania.
2. The mobile home was manufactured by Fleetwood Enterprises, Inc., and sold by Defendant, Larry's Homes, INC., to Additional Defendants, Jim and Denise Burkett.

3. In May of 1998, the Burketts sold the mobile home to a dealer who then sold the home to Plaintiffs, Richard and Janet Franolich.

4. In September, 1999, the home was totally destroyed by fire.

5. Plaintiffs initiated this action against the Defendant, Larry's Homes, INC. ("LHI") and Fleetwood Enterprises, in September, 2001. Plaintiffs allege that the Defendants were responsible for the fire in the home.

6. Subsequently, Defendant filed Preliminary Objections to the complaint and an Amended Complaint was filed on or about January 30, 2002. LHI filed an Answer and New Matter to the Complaint, denying all liability to the Plaintiffs.

7. On March 14, 2002, LHI filed a Complaint to Join Additional Defendants, Jim and Denise Burkett.

8. On or about April 11, 2002, counsel for Jim and Denise Burkett, Michael Dorezas, Esquire, informed the undersigned that the Burketts had not sold the home directly to the Plaintiffs, Richard and Janet Franolich. Rather, the Burketts had sold the home to a mobile home dealer who then sold the home to Mr. and Mrs. Franolich.

9. Preliminary discovery has revealed that the cause of the fire in the mobile home was faulty electric wiring.

10. Plaintiffs alleged that the faulty wiring was the result of LHI's negligent installation of the wiring.

11. If, in fact, faulty wiring was the cause of the fire in the mobile home, it is Defendant's position that the wiring was altered in some fashion by someone subsequent to the sale of the home to the Burketts, or by co-Defendant Fleetwood Enterprises.

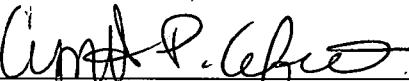
12. LHI requested that Attorney Dorezas provide counsel for LHI with the name of the mobile home dealer to whom Mr. and Mrs. Burkett sold the mobile home. Counsel is currently waiting for Mr. Dorezas to respond.

13. Since more than sixty (60) days have passed since the filing of the Amended Complaint, Defendant, Larry's Homes, INC., seeks leave of court to join the entity which sold the mobile home to the Plaintiffs. Pa. R.C.P. 2253

Wherefore, Defendant respectfully requests that this Court grant its Motion for Leave of Court to Join Additional Defendant, and allow the Defendant, Larry's Homes, INC., to file a Complaint to Join Additional Defendant.

Respectfully submitted,

ZIMMER KUNZ, PLLC

By: 
RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorney for Defendant
Larry's Homes, INC.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

CIVIL DIVISION

NO. 01-1318 C.D.

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

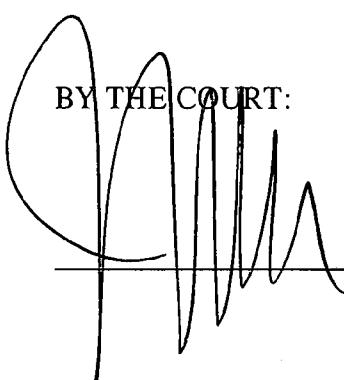
JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

ORDER OF COURT

And now this 10th day of September, 2002, upon consideration of the
foregoing Motion for Leave of Court to Join Additional Defendant, it is hereby ordered that
the Motion is granted and the Defendant, Larry's Homes, INC., is granted Leave of Court to
file a Complaint to Join Additional Defendant.

BY THE COURT:



J.

FILED

SEP 10 2002



CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within MOTION FOR
LEAVE OF COURT TO JOIN ADDITIONAL DEFENDANTS was forwarded to the below
named individuals by United States Mail on the 30th day of April, 2002

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

Attorney for Fleetwood Enterprises, INC.

J. Michael Dorezas, Esquire
Evey, Routh, Black, Dorezas, Magee & Levine LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648

Attorney for Jim and Denise Burkett

ZIMMER KUNZ, PLLC

By: Cynthia P. Cefur

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 12245

FRANOLICH, RICHARD & JANET -vs-

01-1318-CD

VS.

FLEETWOOD ENTERPRISE -vs- BURKETT, JIM & DENISE

COMPLAINT TO JOIN ADDITIONAL DEFENDANTS

SHERIFF RETURNS

**NOW MARCH 22, 2002 AT 11:16 AM EST SERVED THE WITHIN COMPLAINT
TO JOIN ADDITIONAL DEFENDANT ON JIM BURKETT, DEFENDANT AT
RESIDENCE, 440 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA
BY HANDING TO JIM BURKETT A TRUE AND ATTESTED COPY OF THE ORIGINAL
COMPLAINT TO JOIN ADDITIONAL DEFENDANT AND MADE KNOWN TO HIM THE
CONTENTS THEREOF.**

SERVED BY: SNYDER/GRASSO

**NOW MARCH 22, 2002 AT 11:16 AM EST SERVED THE WITHIN COMPLAINT
TO JOIN ADDITIONAL DEFENDANT ON DENISE BURKETT, DEFENDANT AT
RESIDENCE, 440 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA
BY HANDING TO JIM BURKETT, HUSBAND A TRUE AND ATTESTED COPY OF
THE ORIGINAL COMPLAINT TO JOIN ADDITIONAL DEFENDANT AND MADE KNOWN
TO HIM THE CONTENTS THEREOF.**

SERVED BY: SNYDER/GRASSO

Return Costs

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

FILED

01410
MAY 02 2002

William A. Shaw
Prothonotary

Exe

Sworn to Before Me This

2nd Day Of May 2002
William A. Shaw

So Answers,

*Chester A. Hawkins
by Maelyn Harris*
Chester A. Hawkins
Sheriff

WILLIAM A. SHAW
Prothonotary
My Commission Expires
15th day in Jan. 2006
Clearfield Co. Clearfield, PA

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

RICHARD FRANOLICH and JANET FRANOLICH, husband and wife Plaintiffs	vs.	NO. 01 - 1318 - CD
		TYPE OF PLEADING: Answer and New Matter of Additional Defendants to Amended Complaint Joining Additional Defendants
FLEETWOOD ENTERPRISES, INC. and LARRY'S HOMES OF PA, INC., Defendants.		FILING PARTIES: Additional Defendants
	vs.	COUNSEL FOR FILING PARTIES: J. Michael Dorezas, Esquire PA I.D. #17460
JIM BURKETT and DENISE BURKETT, Husband and wife, Additional Defendants.		EVEY, ROUTCH, BLACK, DOREZAS, MAGEE & LEVINE, LLP 401 Allegheny Street P.O. Box 415 Hollidaysburg, PA 16648 (814) 695-7581

FILED

MAY 08 2002

William A. Shaw
Prothonotary

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

RICHARD FRANOLICH and : NO. 01 - 1318 - CD
JANET FRANOLICH, husband and wife :
Plaintiffs :

vs. :

FLEETWOOD ENTERPRISES, INC. :
and LARRY'S HOMES OF PA, INC., :
Defendants. :

vs. :

JIM BURKETT and DENISE BURKETT, :
Husband and wife, :
Additional Defendants. :

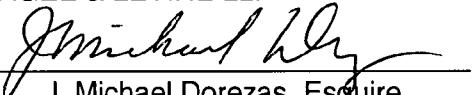
NOTICE TO PLEAD

TO: FLEETWOOD ENTERPRISES, INC.
c/o Richard A. Bell, Esquire
Bell, Silberblatt & Wood
318 E. Locust Street
P.O. Box 670
Clearfield, PA 16830

LARRY'S HOMES OF PA, INC.
c/o Raymond J. Conlon, Esquire
Cynthia P. Cafaro, Esquire
ZIMMER, KUNZ, PLLC
Morgan Center, Suite 218
101 E. Diamond Street
Butler, PA 16001

In accordance with the Pennsylvania Rules of Civil Procedure, you are hereby notified to file a written response to the enclosed New Matter within twenty (20) days from service hereof or a judgment may be entered against you.

Respectfully submitted,
EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE LLP

By: 
J. Michael Dorezas, Esquire
Attorney I.D. #:17460
401 Allegheny Street
Hollidaysburg PA 16648
(814) 695-7581
Attorney for Additional Defendants

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

RICHARD FRANOLICH and : NO. 01 - 1318 - CD
JANET FRANOLICH, husband and wife :
Plaintiffs :

vs.

FLEETWOOD ENTERPRISES, INC. :
and LARRY'S HOMES OF PA, INC., :
Defendants. :

vs.

JIM BURKETT and DENISE BURKETT, :
Husband and wife, :
Additional Defendants. :

**ANSWER AND NEW MATTER OF ADDITIONAL DEFENDANTS TO
AMENDED COMPLAINT JOINING ADDITIONAL DEFENDANTS**

AND NOW, comes the Additional Defendants, JIM BURKETT and DENISE BURKETT, Husband and wife, by and through their attorneys, EVEY, ROUTCH, BLACK, DOREZAS, MAGEE & LEVINE, LLP, and do file the following Answer and New Matter to an Amended Complaint joining them as Additional Defendants whereof the following is a more complete statement:

1. Denied.
2. Denied.
3. Denied as stated. The Additional Defendant's correct name is Leonard J. Burkett, the remaining averments are admitted.
4. Denied.
5. It is admitted that on June 1, 1996, the Additional Defendants purchased a Fleetwood Country Manor 1996 mobile home from Larry's Homes, Inc., as to whether this was the mobile home of Plaintiffs that suffered a fire loss, the Additional Defendants are without

knowledge or information sufficient to form a belief as to the truth thereof, the same is therefore denied and strict proof thereof is demanded at the trial of the cause.

6. Denied. By way of further answer, see New Matter.

7. Admitted in part and denied in part. It is admitted that a copy of Plaintiffs' Amended Complaint was attached as Exhibit "A" joining the answering parties as Additional Defendants. As to the allegations of Plaintiff in the original Complaint and the Amended Complaint, the same are directed to parties other than these Additional Defendants and therefore require no response by these Answering Additional Defendants. To the extent any response is deemed necessary, the Additional Defendants set forth that after reasonable investigation, they are without knowledge or information sufficient to form a belief as to the truth of the same, the same are therefore denied and to the extent relevant, strict proof thereof is demanded at the trial of the cause.

8. Admitted.

9. Admitted.

COUNT I

10. Paragraphs 1 - 9 of this Answer are incorporated herein by reference as if the same were set forth at length.

11. The averments of paragraph 11 are conclusions of law to which no response is necessary. To the extent any response is deemed necessary, the same are denied. By way of further answer, see Additional Defendants' New Matter.

12. The introductory statement of paragraph 12 is a conclusion of law to which no reply is necessary; as to the subparagraphs of paragraph 12 (a) - (f), the Additional Defendants set forth as follows:

a. Denied, pursuant to Pa.R.C.P. 1029(e).

b. Denied, pursuant to Pa.R.C.P. 1029(e).

c. Denied, pursuant to Pa.R.C.P. 1029(e).
d. Denied, pursuant to Pa.R.C.P. 1029(e).
e. The averment is a conclusion of law, to the extent an Answer is deemed necessary, denied, pursuant to Pa.R.C.P. 1029(e).

f. Denied, pursuant to Pa.R.C.P. 1029(e).

13. The averments of paragraph 13 are conclusions of law to which no reply is necessary, to the extent any answer is deemed necessary, see answer set forth above in paragraph 12 hereof and New Matter.

14. The introductory of paragraph 14 is a conclusion of law to which no reply is necessary; as to the subparagraphs of paragraph 14 (a) - (g), the Additional Defendants set forth as follows:

- a. Denied, pursuant to Pa.R.C.P. 1029(e).
- b. Denied, pursuant to Pa.R.C.P. 1029(e).
- c. Denied, the Additional Defendants after reasonable investigation are without information or knowledge sufficient to form a belief and the same is therefore denied and to the extent relevant, strict proof is demanded.
- d. Denied, the Additional Defendants after reasonable investigation are without information or knowledge sufficient to form a belief and the same is therefore denied and to the extent relevant, strict proof is demanded.
- e. Denied, the Additional Defendants after reasonable investigation are without information or knowledge sufficient to form a belief and the same is therefore denied and to the extent relevant, strict proof is demanded.
- f. Denied, the Additional Defendants after reasonable investigation are without information or knowledge sufficient to form a belief and the same is therefore denied and to the extent relevant, strict proof is demanded.

g. Denied, the Additional Defendants after reasonable investigation are without information or knowledge sufficient to form a belief and the same is therefore denied and to the extent relevant, strict proof is demanded.

15. The averments of paragraph 15 are conclusions of law to which no reply is necessary, to the extent any reply is deemed necessary the same is denied.

16. The averments of paragraph 16 are conclusions of law to which no reply is necessary. By way of further answer, see Additional Defendants' New Matter.

17. The averments in Plaintiff's Complaint are directed to parties other than these Additional Defendants and therefore those averments are incapable of imposing liability upon these Additional Defendants upon any theory. To the extent any reply is deemed necessary, the same is denied.

18. The averments of paragraph 18 are conclusions of law to which no reply is necessary. By way of further answer, see Additional Defendants' New Matter.

WHEREFORE, the Additional Defendants, JIM BURKETT and DENISE BURKETT, Husband and wife, demand that the Complaint joining them as Additional Defendants be dismissed and judgment be entered in their favor.

NEW MATTER

19. The Plaintiffs' claims and the claim of the original Defendant Larry's Homes, Inc. against the Additional Defendants on the basis of sole liability is barred by the applicable statute of limitations.

20. The Complaint joining these Additional Defendants fails to state a cause of action against the Additional Defendants.

21. Any action against these Additional Defendants is barred by application of the doctrine of spoliation of evidence.

22. The Additional Defendants reserve the affirmative defense of contributory negligence.

23. The Plaintiffs have failed at all times to mitigate damages.

24. The action against these Additional Defendants is barred by application of comparative negligence.

25. The Additional Defendants at no time altered, repaired, or replaced electrical wiring on the mobile home that they purchased from Larry's Homes of PA, Inc.

26. The Additional Defendants at no time sold a mobile home to the Plaintiffs.

WHEREFORE, the Additional Defendants, JIM BURKETT and DENISE BURKETT, Husband and wife, demand that the Complaint joining them as Additional Defendants be dismissed and judgment be entered in their favor.

**NEW MATTER PURSUANT TO R.C.P. 2252(d) AGAINST
LARRY'S HOMES OF PA, INC.**

27. The damages as alleged in Plaintiffs' Amended Complaint and which are incorporated by the original Defendants' amended joinder Complaint are proven, which damages are specifically denied, then the damages allegedly sustained by the Plaintiffs were the direct and proximate result of the negligence and recklessness of Larry's Homes of PA, Inc. as set forth in Plaintiff's Amended Complaint in paragraph 40, subparagraphs (a), (b), and (c) of Count VII and as set forth in Count VIII at paragraph 43 and subparagraphs (a), (b), and (c). The aforesaid paragraphs of Plaintiffs' Amended Complaint of Counts VII and VIII are incorporated herein by reference and are made a part hereof as if set forth in their entirety.

28. If the damages as alleged in Plaintiffs' Amended Complaint and which are incorporated in the original Defendant's amended joinder Complaint are proven, which damages are specifically denied, then the damages allegedly sustained by the Plaintiffs were caused by the breach of warranties, by Larry's Homes of PA, Inc., both express and the implied warranties of merchantability and fitness, all which are fully set forth in paragraphs 30-34 of

Count V and paragraphs 35-38 of Count VI in Plaintiffs' Amended Complaint. These paragraphs are incorporated by reference herein and made a part hereof as if fully set forth.

29. Additional Defendants believe and therefore aver that if Plaintiffs are entitled to any recovery, which entitlement is specifically denied, the original Defendant, Larry's Homes of PA, Inc. is alone liable, or liable over to the Plaintiffs for the causes of action asserted.

30. The Additional Defendants join Larry's Homes of PA, Inc. to protect their right to contribution in the event that it is judicially determined that the original Defendant Larry Homes of PA, Inc. and the Additional Defendants are jointly or severally liable to the Plaintiffs, with the existence of any liability on the part of these Additional Defendants being expressly denied.

31. The Additional Defendants hereby assert that if are entitled to indemnification from the original Defendants, Larry's Homes of PA, Inc., that Additional Defendants hereby assert a claim therefore.

WHEREFORE, the Additional Defendants, JIM BURKETT and DENISE BURKETT, Husband and wife, demand that the Complaint joining them as Additional Defendants be dismissed and judgment be entered in their favor and against the original Defendant Larry's Homes of PA, Inc.

**NEW MATTER PURSUANT TO PA. R.C.P. 2252(d) AGAINST
FLEETWOOD ENTERPRISES, INC.**

32. If the damages as alleged in Plaintiff's Amended Complaint and incorporated in the original Defendant's amended joinder Complaint are proven, which damages are specifically denied, then the damages allegedly sustained by the Plaintiff were the direct and proximate result of the negligence, carelessness, and recklessness of the original Defendant, Fleetwood Enterprises, Inc. as fully set forth in Plaintiff's Amended Complaint in paragraph 24, subparagraphs (a), (b), and (c) of Count III and as set forth in Count IV at paragraph 27 and

subparagraphs (a) and (b). The aforesaid paragraphs of Plaintiff's Amended Complaint of Counts III and IV are incorporated herein by reference and made a part hereof as if fully set forth in their entirety.

33. If the damages as alleged in Plaintiff's Amended Complaint and which are incorporated in the original Defendant's amended joinder Complaint are proven, which damages are specifically denied, then the damages allegedly sustained by the Plaintiffs were the result of the original Defendant's Fleetwood Enterprises, Inc. breach of the express and implied warranties as fully set forth in Count I paragraphs 31 through 34 of Plaintiff's Amended Complaint and at Count II in paragraphs 20-22. The aforesaid paragraphs of Plaintiffs' Amended Complaint incorporated herein by reference and made a part hereof as if fully set forth in their entirety.

34. The Additional Defendants believe and thus aver that if the Plaintiffs are entitled to any recovery, which entitlement is specifically, the original Defendant Fleetwood Enterprises, Inc. is alone liable, or liable over to the Plaintiffs for causes of action asserted.

35. The Additional Defendants join the original Defendant Fleetwood Enterprises, Inc. to protect their right to contribution in the event that is judicially determined that the original Defendant Fleetwood Enterprises, Inc. and the Additional Defendants are jointly, or jointly and severally liable to the Plaintiffs. The existence of any liability on the part of the Additional Defendants being expressly denied.

36. The Additional Defendants hereby assert that they are entitled to indemnification from original Defendant, Fleetwood Enterprises, Inc. the Additional Defendants hereby make claim therefore.

WHEREFORE, the Additional Defendants demand that judgment be entered in their favor and against the original Defendant, Fleetwood Enterprises, Inc..

Respectfully submitted,

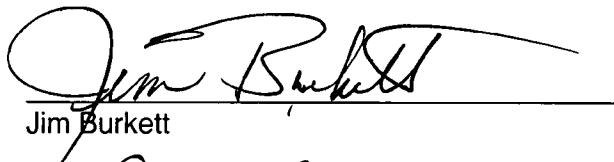
EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP

BY: 

J. Michael Dorezas, Esquire
PA I.D. 17460
401 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648
(814) 695-7581
Attorney for Additional Defendants

VERIFICATION

We, JIM BURKETT and DENISE BURKETT, the undersigned aver that the statements contained in the foregoing ANSWER AND NEW MATTER are true and correct to the best of our knowledge, information and belief, and are made subject to the penalties of 18 Pa. Con. Stat. Ann. Section 4904 relating to unsworn falsification to authorities.



Jim Burkett



Denise Burkett

Date: 5/8/02

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER AND NEW MATTER was served on the 8 day of May, 2002, by United States Mail, First Class, postage prepaid, addressed to the following:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 E. Pine Street
Clearfield, PA 16830

Raymond J. Conlon, Esquire
Cynthia P. Cafaro, Esquire
ZIMMER, KUNZ, PLLC
Morgan Center, Suite 218
101 E. Diamond Street
Butler, PA 16001

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
318 E. Locust Street
P.O. Box 670
Clearfield, PA 16830

EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP

BY: 
J. Michael Dorezas, Esq.
Attorney for Additional Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO. 01-1318 C.D.

**DEFENDANT LARRY'S HOMES OF PA,
INC., REPLY TO ADDITIONAL
DEFENDANTS' NEW MATTER**

Filed on behalf of:
Defendant Larry's Homes of PA, Inc.

Counsel of Record for this party:
Raymond J. Conlon
Pa. I.D. #49495

Cynthia P. Cafaro
Pa. I.D. #80021

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY
COMPANY
Firm #920
Morgan Center, Suite 218
101 East Diamond Street
Butler, PA 16001

(724) 285-6677

FILED

MAY 17 2002

**William A. Shaw
Prothonotary**

**DEFENDANT LARRY'S HOMES OF PA, INC., REPLY TO ADDITIONAL
DEFENDANTS' NEW MATTER**

AND NOW come the Defendant, Larry's Homes of PA, Inc., by and through their counsel, Zimmer Kunz, PLLC and file the within Reply to Additional Defendants' New Matter and in support thereof aver as follows:

19. The averments of paragraph 19 are conclusions of law to which no reply is necessary. By way of further answer, it is denied that this claim is barred by the applicable statute of limitations.

20. The averments of paragraph 20 are conclusions of law to which no reply is necessary. By way of further response, it is denied that the complaint fails to state a cause of action against the Additional Defendants.

21. The averments of paragraph 21 are conclusions of law to which no response is required. By way of further response, it is denied that this action is barred by application of the doctrine of spoliation of evidence.

22. The averments of paragraph 22 are conclusions of law to which no response is required.

23. The averments of paragraph 23 are legal conclusions to which no response is required.

24. The averments of paragraph 24 are legal conclusions to which no response is required.

25. After responsible investigation, Defendant is without sufficient information to either admit or deny the allegations of paragraph 25. Same are therefore denied and strict proof thereof is demanded at the time of trial.

26. After responsible investigation, Defendant is without sufficient information to either admit or deny the allegations of paragraph 25. Same are therefore denied and strict proof thereof is demanded at the time of trial.

27. Denied.

28. Denied.

29. Denied.

30. Paragraph 30 contains legal conclusions to which no response is required.

31. Paragraph 31 contains legal conclusions to which no response is required. By way of further response, it is denied that Additional Defendants are entitled to indemnification from Defendant Larry's Homes of PA, Inc.

Respectfully submitted,

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY

By: Raymond J. Conlon
RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorneys for Defendants

VERIFICATION

I, CYNTHIA P. CAFARO, ESQUIRE, counsel of record for the Defendant, Larry's Homes of Pa., Inc. depose and say that I am counsel for said party in the above matter; that I am authorized to make this verification on behalf of said party; that the facts set forth in the foregoing are true and correct, not of my own knowledge, but from information supplied to me by said party; that the foregoing pleading includes conclusions of law and averments of fact averred by other party to this action and not within the personal knowledge of the Defendant; that the purpose of this verification is to expedite litigation; this verification is made pursuant to Rule 1024(c) of the Pennsylvania Rules of Civil Procedure; and that a verification by this party will be furnished. This statement is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



CYNTHIA P. CAFARO
Counsel for Defendant

Dated: May 14, 2002

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within document was forwarded to the below named individuals by United States Mail on the 14th day of May, 2002.

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

Attorney for Fleetwood Enterprises, INC.

J. Michael Dorezas, Esquire
Evey, Routch, Black, Dorezas, Magee & Levine LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648

Attorney for Jim and Denise Burkett

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY

By: Cynthia P. Gifford

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO. 01-1318 C.D.

**MOTION FOR LEAVE OF COURT TO
JOIN ADDITIONAL DEFENDANT
FLEETWOOD HOMES OF N.C.**

Filed on behalf of:

Defendant Larry's Homes of PA, Inc.

Counsel of Record for this party:

Raymond J. Conlon

Pa. I.D. #49495

Cynthia P. Cafaro

Pa. I.D. #80021

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY
COMPANY**

Firm #920

Morgan Center, Suite 218

101 East Diamond Street

Butler, PA 16001

(724) 285-6677

FILED

JUN 03 2002

m10:281noce

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

CIVIL DIVISION

NO. 01-1318 C.D.

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

**MOTION FOR LEAVE OF COURT TO JOIN ADDITIONAL DEFENDANT
FLEETWOOD HOMES OF N.C.**

And now comes the Defendant, Larry's Homes INC., by and through its attorneys, Raymond J. Conlon, Esquire, Cynthia P. Cafaro, Esquire and Zimmer Kunz, PLLC, and files the within Motion of Leave for Court to Join an Additional Defendant and hereby avers as follows:

1. This lawsuit arises out of a fire which occurred on or about September 6, 1999, at Plaintiffs' mobile home located at 46 Ponderosa Drive, Clearfield County, Pennsylvania.
2. The mobile home was manufactured by Fleetwood Homes of N.C., a subsidiary of Fleetwood Enterprises, Inc., and sold by Defendant, Larry's Homes, INC., to Additional Defendants, Jim and Denise Burkett.

3. In May of 1998, the Burkett's sold the mobile home to a dealer who then sold the home to Plaintiffs, Richard and Janet Franolich.

4. In September, 1999, the home was totally destroyed by fire.

5. Plaintiffs initiated this action against the Defendant, Larry's Homes, INC. ("LHI") and Fleetwood Enterprises, in September, 2001. Plaintiffs allege that the Defendants were responsible for the fire in the home.

6. Subsequently, Defendant filed Preliminary Objections to the complaint and an Amended Complaint was filed on or about January 30, 2002. LHI filed an Answer and New Matter to the Complaint, denying all liability to the Plaintiffs.

7. On March 14, 2002, LHI filed a Complaint to Join Additional Defendants, Jim and Denise Burkett.

8. On or about April 30, 2002, this Defendant filed a Motion for Leave of Court to Join Additional Defendant, Hawk Manufactured Homes of Lantz Corners, who sold the home to Plaintiffs. As of this date, no ruling has been made on that Motion.

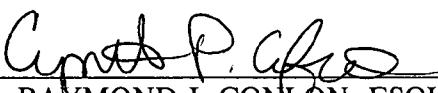
9. Subsequently, this Defendant became aware that Defendant, Fleetwood Enterprises, is the parent company of the actual manufacturer of the mobile home, Fleetwood Homes of N. C., Inc.

10. Since more than sixty (60) days have passed since the filing of the Amended Complaint, Defendant, Larry's Homes, INC., seeks leave of court to join Fleetwood Homes of N.C.

Wherefore, Defendant respectfully requests that this Court grant its Motion for Leave of Court to Join Additional Defendant, and allow the Defendant, Larry's Homes, INC., to file a Complaint to Join Additional Defendant Fleetwood Homes of N.C. Additionally, Defendant renews its request that this Court grant its previously filed Motion to Join Additional Defendant Hawk Manufactured Homes of Lantz Corners.

Respectfully submitted,

ZIMMER KUNZ, PLLC

By: 
RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorney for Defendant
Larry's Homes, INC.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

CIVIL DIVISION

NO. 01-1318 C.D.

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

ORDER OF COURT

And now this _____ day of _____, 2002, upon consideration of the
foregoing Motion for Leave of Court to Join Additional Defendant, it is hereby ordered that
the Motion is granted and the Defendant, Larry's Homes, INC., is granted Leave of Court to
file a Complaint to Join Additional Defendant Fleetwood Homes of N.C.

BY THE COURT:

J.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within MOTION FOR
LEAVE OF COURT TO JOIN ADDITIONAL DEFENDANTS was forwarded to the below
named individuals by United States Mail on the 30th day of May, 2002

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

Attorney for Fleetwood Enterprises, INC.

J. Michael Dorezas, Esquire
Evey, Routh, Black, Dorezas, Magee & Levine LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648

Attorney for Jim and Denise Burkett

ZIMMER KUNZ, PLLC

By: Cynthie

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

PLAINTIFFS

vs

FLEETWOOD ENTERPRISES, INC.
and LARRY'S HOMES OF PA, INC.

NO. 01-1318-CD

Type of Pleading

DEFENDANT FLEETWOOD
ENTERPRISES, INC.'S REPLY
TO ADDITIONAL DEFENDANT'S
NEW MATTER

Filed on Behalf of:

FLEETWOOD ENTERPRISES, INC.

DEFENDANTS

vs.

JIM BURKETT and DENISE BURKETT

ADDITIONAL DEFENDANTS

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED

JUN 03 2002
03:13:00 PM
William A. Shaw
Prothonotary

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

NO. 01-1318-CD

PLAINTIFFS

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

Vs.

JIM BURKETT and DENISE BURKETT,
husband and wife

ADDITIONAL DEFENDANTS

Richard Franolich and Janet Franolich
Plaintiffs C/O
Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

Larry's Homes Of PA, Inc.
Defendant C/O
Cynthia P. Cafaro, Esquire
ZIMMER KUNZ, LLC
101 E. Diamond Street
Butler, PA 16001

Jim Burkett and Denise Burkett
Additional Defendants C/O
Michael Dorezas, Esquire
EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648-0415

NOTICE TO PLEAD

You are hereby notified to file a written response to the enclosed Cross-claim

within twenty (20) days from service hereof or a judgment may be entered against you.


Richard A. Bell, Esquire
Attorney for Defendant
Fleetwood Enterprises, Inc.,

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

NO. 01-1318-CD

PLAINTIFFS

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

Vs.

JIM BURKETT and DENISE BURKETT,
husband and wife

ADDITIONAL DEFENDANTS

DEFENDANT FLEETWOOD ENTERPRISES, INC., REPLY TO
ADDITIONAL DEFENDANT'S NEW MATTER

NOW COMES, Defendant Fleetwood Enterprises, Inc., by its attorney Richard
A. Bell, Esquire of Bell, Silberblatt & Wood, and files its Reply To Additional
Defendant's New Matter as follows:

32. Defendant Fleetwood Enterprises, Inc., denies that it was negligent,
careless or reckless in any respect, and further denies that it has any liability to the
Plaintiff, Defendant, Larry's Homes Of PA., Inc., or the Additional Defendant.

CROSS-CLAIM UNDER PA. R.C.P. 2252(d) BY DEFENDANT FLEETWOOD ENTERPRISES, INC.

33. Pursuant to PA. R.C.P. 2252, Defendant Fleetwood Enterprises, Inc., denies that it is in anyway liable to the Plaintiffs and allege that Additional Defendants Jim Burkett and Denise Burkett are alone liable to the Plaintiffs or in the event that Defendant Fleetwood Enterprises, Inc., is liable to the Plaintiffs than the Additional Defendants are liable over to Defendant Fleetwood Enterprises, Inc., or are jointly or severely liable with Defendant Fleetwood Enterprises, Inc., or are liable to Fleetwood Enterprises, Inc., directly by way of indemnification or contribution.

34. Pursuant to PA R.C.P. 2252, Defendant Fleetwood Enterprises, Inc., denies that it is in anyway liable to the Plaintiffs and allege that Defendant Larry's Homes Of PA., Inc., is alone liable to the Plaintiffs or in the event that Defendant Fleetwood Enterprises, Inc, are liable to the Plaintiffs than Defendant Larry's Homes Of PA, Inc., is liable over to Fleetwood Enterprises, Inc, or are jointly or severely liable to Defendant Fleetwood Enterprises, Inc., or is liable to Fleetwood Enterprises, Inc., directly by way of indemnification or contribution.

WHEREFORE, Defendant Fleetwood Enterprises, Inc., respectfully requests that Judgment be entered in its favor and against the Plaintiffs and against the other

Defendant and the Additional Defendants, and that the Plaintiffs' Complaint be dismissed as to it.

BELL, SILBERBLATT & WOOD
BY



Richard A. Bell, Esquire
Attorney for Defendant Fleetwood
Enterprises, Inc.

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

RICHARD FRANOLICH, and

JANET FRANOLICH, husband and
wife,

PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

Vs.

JIM BURKETT and DENISE BURKETT,
husband and wife

ADDITIONAL DEFENDANTS

VERIFICATION

The undersigned verifies that he is the Attorney of record of Defendant, Fleetwood Enterprises, Inc., named in the within action, that as such Attorney, he is authorized to make this verification, and that the statements made in the foregoing Defendant Fleetwood Enterprises, Inc.,'s Reply To Additional Defendant's New Matter are true and correct not from his own knowledge, but from information supplied to him and believed to be true, and that this Verification is filed by him for the purposes of expediting this litigation, and in the event a Verification from Defendant Fleetwood Enterprises, Inc., or their representatives is required, same will be supplied. The undersigned understands that false statements made herein are subject to the penalties of 18 PA. CS. 4904 relating to unsworn falsification to authorities.

Dated: 6-3-02


Richard A. Bell, Esquire

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

Vs.

JIM BURKETT and DENISE BURKETT

ADDITIONAL DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendant Fleetwood Enterprises, Inc's. Reply To
Additional Defendant's New Matter in the above matter was mailed the 3rd day of
June, 2002, by regular mail postage prepaid at the post office in
Clearfield, PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

Cynthia P. Cafaro, Esquire
ZIMMER KUNZ, LLC
101 E. Diamond Street
Butler, PA 16001

Michael Dorezas, Esquire
EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648-0415


Richard A. Bell, Esquire
Attorney for Defendant
Fleetwood Enterprises, Inc.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. 01-1318-CD

RICHARD FRANOLICH and
JANET FRANOLICH, husband and wife
Plaintiffs

vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA INC.,
Defendants

vs.

JIM BURKETT and DENISE BURKETT
Additional Defendants

MOTION

FILED *no*
01/11/01 8:44 AM
OCT 25 2002
ES

William A. Shaw
Prothonotary

BELL, SILBERBLATT & WOOD
ATTORNEYS AT LAW
318 EAST LOCUST STREET
P. O. BOX 670
CLEARFIELD, PA. 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO. 01-1318 C.D.

**DEFENDANT LARRY'S HOMES OF PA,
INC., VERIFICATION TO REPLY TO
ADDITIONAL DEFENDANTS NEW
MATTER**

Filed on behalf of:

Defendant Larry's Homes of PA, Inc.

Counsel of Record for this party:

Raymond J. Conlon

Pa. I.D. #49495

Cynthia P. Cafaro

Pa. I.D. #80021

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY
COMPANY**

Firm #920

Morgan Center, Suite 218
101 East Diamond Street
Butler, PA 16001

(724) 285-6677

FILED

JUN 17 2002
m 19:131 noc
William A. Shaw
Prothonotary

VERIFICATION

I, _____, Authorized Representative of
Larry's Homes of PA, Inc., have read the within REPLY TO ADDITIONAL
DEFENDANT'S NEW MATTER. The statements contained therein are true and correct to
the best of my personal knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S. § 4904
relating to unsworn fabrication to authorities, which provides that if I make knowingly false
averments, I may be subject to criminal penalties.

DATE: 6-5-02

Larry Mc Kinley
Authorized Representative of
LARRY'S HOMES OF PA, INC

Name typed or printed

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within DEFENDANT
LARRY'S HOMES OF PA, INC., VERIFICATION TO REPLY TO ADDITIONAL
DEFENDANTS NEW MATTER was served on counsel for the Defendant on the 14th day
of June, 2002.

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

Attorney for Fleetwood Enterprises, INC.

J. Michael Dorezas, Esquire
Evey, Routh, Black, Dorezas, Magee & Levine LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648

Attorney for Jim and Denise Burkett

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY

By: Cynthia A. Kunkle

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
)
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
)
DEFENDANTS.)

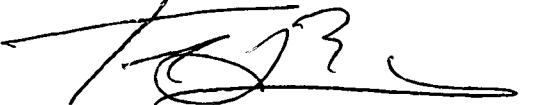
NOTICE OF SERVICE

To: William A. Shaw, Prothonotary

I, Theron G. Noble, Esquire, counsel for Plaintiffs, does hereby certify this 9th day of September, 2002, that I did propound Plaintiffs' FIRST SET OF DISCOVERY MATERIALS, to the below indicated persons, being all counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire Bell, Silberblatt & Wood P.O. Box 670 Clearfield, PA 16830	Raymond J. Conlon, Esquire Zimmer Kunz, LLC 101 E. Diamond Street Butler, PA 16001	Michael Dorezas, Esquire Evey, Routh & Black, et.al. P.O. Box 415 Hollidaysburg, PA 16648-0415
----------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------

Respectfully Submitted,



THERON G. NOBLE

Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

FILED

SEP 11 2002
M11031/NOCC
William A. Shaw E
Prothonotary KPS

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

RICHARD FRANOLICH and : NO. 01 - 1318 - CD

JANET FRANOLICH, husband and wife :
Plaintiffs :

vs. :

FLEETWOOD ENTERPRISES, INC. :
and LARRY'S HOMES OF PA, INC., :
Defendants. :

vs. :

JIM BURKETT and DENISE BURKETT, :
Husband and wife, :
Additional Defendants. :

FILED

11/01/02
OCT 01 2002
E/S

William A. Shaw
Prothonotary

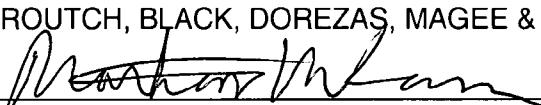
**NOTICE OF SERVICE OF INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS (FIRST SET)**

You are hereby notified that on the 25th day of Sept., 2002, JIM BURKETT and DENISE BURKETT, husband and wife, served Interrogatories and Request for Production of Documents (First Set) directed to Defendants Fleetwood Enterprises, Inc. and Larry's Homes of PA, Inc. by mailing the original Answers via First-Class United States Mail, postage prepaid, addressed to the following:

Raymond J. Conlon, Esquire
Cynthia P. Cafaro, Esquire
ZIMMER, KUNZ, PLLC
Morgan Center, Suite 218
101 E. Diamond Street
Butler, PA 16001
(Counsel for Larry's Homes of PA, Inc.)

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
318 E. Locust Street
P.O. Box 670
Clearfield, PA 16830
(Counsel for Fleetwood Enterprises, Inc.)

EVEY, ROUTCH, BLACK, DOREZAS, MAGEE & LEVINE, LLP

BY: 

J. Michael Dorezas, Esquire
Nathan W. Karn, Esquire
Attorney for Additional Defendants

pc: Theron G. Noble, Esquire

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

No. 01-1318-CD

Plaintiffs,

**COMPLAINT TO
JOIN ADDITIONAL
DEFENDANT, HAWK
MANUFACTURED HOMES**

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Filed on behalf of:
Defendant, Larry's Homes of PA,

Defendants,

Raymond J. Conlon, Esquire
Pa. I.D. #49495

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES.

Cynthia P. Cafaro, Esquire
Pa. I.D. #80021

Additional Defendants.

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm # 920
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001

(724) 285-6677

FILED

OCT 02 2002

**William A. Shaw
Prothonotary**

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

No. 01-1318-CD

Plaintiffs,

**COMPLAINT TO JOIN
ADDITIONAL DEFENDANT**

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES,

Additional Defendants.

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this 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 WHERE YOU CAN GET LEGAL HELP.

Prothonotary's Office
P.O. Box 549
Clearfield, PA 16830
(814) 765-2641

COMPLAINT TO JOIN ADDITIONAL DEFENDANT

AND NOW comes the Defendant, Larry's Homes Incorporated, by and through its' counsel, ZIMMER KUNZ, PLLC, and files the within Complaint to Join Additional Defendant and in support thereof avers as follows:

1. The Plaintiffs, Richard and Janet Franolich are adult individuals who resided, at all times material hereto, 46 Pondeross Drive, Clearfield County, Pennsylvania.
2. Defendant, Larry's Homes Inc. (hereinafter "LHI") was at all times material hereto a corporation with its principal place of business located at 14 Village Square, Smyrna, Delaware, 19977.
3. The Additional Defendants, Jim Burkett and Denise Burkett, are adult individuals residing at 440 Treasure Lk., DuBois, PA 15801.
4. The Additional Defendant, Hawk Manufactured Homes, is a corporation with a place of business at Route 219 & 6 Mount Jewett, PA 16740.
5. Plaintiffs were the owners of a mobile home located at 46 Pondeross Drive, Clearfield County, Pennsylvania, and manufactured by Defendant, Fleetwood Enterprises, Inc.
6. The mobile home was originally sold by LHI to Additional Defendants, Jim and Denise Burkett.
7. Jim and Denise Burkett sold the home to Hawk Manufactured Homes in 1998.
8. Plaintiffs purchased the mobile home from Additional Defendant, Hawk Manufactured Homes, in May, 1998.

8. According to the Plaintiffs' Complaint, on September 6, 1999, while the Plaintiffs were not at home, their mobile home caught fire, and the home as well as all contents of the home were allegedly destroyed by fire and smoke damage. A true and correct copy of Plaintiffs' Complaint is attached hereto and marked as Exhibit "A."

9. Plaintiffs allege that the destruction of their home and all of their personal belongings was caused by the negligence of defendant, Larry's Homes Inc.

10. This Defendant filed an Answer and New Matter denying any and all liability and that Answer and New Matter is attached hereto as Exhibit "B".

11. On September 10, 2002, Judge John K. Reilly, Jr. granted this Defendant leave of court to join Hawk Manufactured Homes as an Additional Defendant. See Exhibit "C".

COUNT I - NEGLIGENCE

Larry's Homes Incorporated v. Hawk Manufactured Homes

12. The averments of paragraphs 1 through 11 inclusive are hereby incorporated as if fully set forth at length.

13. This Defendant denied, and continues to deny any and all liability to the Plaintiffs. In the event that it is judicially determined that the Plaintiffs sustained damages for which this Defendant is liable, then it is averred that the additional Defendant, Hawk Manufactured Homes, is solely liable to the Plaintiff, is jointly and severally liable to the Plaintiffs, and/or is liable for contribution or indemnity to the Defendant.

14. Additional defendant, Hawk Manufactured Homes, was negligent generally and in the following particulars:

- (a) Failing to ensure the wiring was installed in said home in a manner in which it was actually designed.
- (b) In failing to use wiring suitable for outdoor use.
- (c) In failing to properly employ the services of an electrician to ensure the wiring was suitable.
- (d) In failing to disclose to plaintiffs information regarding the condition of the wiring.
- (e) In negligently wiring the mobile home.
- (f) In materially altering the electrical wiring of the home, or allowing the home to be altered in such a way that the electrical wiring was affected;

15. Any damages allegedly sustained by the plaintiffs were caused in whole or in part by the negligence of additional defendant as stated above.

16. These damages include:

- (a) Total loss of mobile home.
- (b) Total loss of the contents of the mobile home including clothing, furniture, jewelry, dishwasher, stove, washer, dryer, stereo, computer.
- (c) Cost of finding living arrangements for the plaintiffs and their three minor children at the cost of approximately \$10,000.
- (d) Loss of income to each plaintiff as a result of them missing work to handle numerous issues created by the destruction

of the home.

- (e) Cost of clean-up and removal of the debris which was which was approximately \$5,000.
- (f) Destruction of two family pets including a cat and guinea pig.
- (g) Emotional distress.

17. Any damages to the plaintiffs were caused by the additional defendant's negligence and failure to properly repair and/or maintain the electrical wiring and/or entire electrical system of the home.

18. If it is proven at any time up to and including the time of trial that the plaintiffs are entitled to recovery, which is expressly denied, then additional defendant is solely liable to the plaintiff.

19. If anyone is liable or responsible for the plaintiffs' damages other than the plaintiffs themselves, and if the incident in question resulted from anyone's negligence, then additional defendant is liable for reasons set forth by the plaintiffs in the Complaint which averments are incorporated herein by reference solely for the purpose of this cross-claim and without admitting or averring liability on the part of this defendant.

20. If anyone is liable to the plaintiff, then additional defendant is solely liable or, in the alternative, is liable over to defendant for contribution and/or indemnity for any and all such sums which the plaintiffs may recover. In the alternative, additional defendant is jointly and severally liable to the plaintiffs although the existence of any liability on the part of the defendant is expressly denied.

WHEREFORE, defendant, Larry's Homes, Inc. denies any and all liability to any of the parties hereto and demands judgment in its favor. Furthermore, defendant avers that additional defendant are solely liable to the plaintiffs or are liable over to defendant for any and all sums which plaintiffs may recover or they are jointly and severally liable.

ZIMMER KUNZ, PLLC

By: 

RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorneys for Defendants

VERIFICATION

I, CYNTHIA P. CAFARO, Esquire, have read the foregoing Amended Complaint to Join Additional Defendants. The statements contained therein are true and correct to the best of my personal knowledge, information and belief.

These statements and verifications are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

I am authorized to make this verification because of my position as Counsel of Record for Defendant Larry's Homes of PA, INC.

DATE: 9-27-02


Cynthia P. Cafaro, Esquire
Counsel of Record for Defendant
Larry's Homes of PA, INC.

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

PLAINTIFFS,

: CIVIL ACTION NO.

: 01-1318-CD

v.

FLEETWOOD ENTERPISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS.

: TYPE OF PLEADING:
AMENDED CIVIL COMPLAINT

: FILED BY:

: PLAINTIFFS

: COUNSEL FOR THIS PARTY:

: Theron G. Noble, Esquire
Ferraraccio & Noble
: 301 East Pine Street
Clearfield, PA 16830
: 814-375-2221
PA I.D.#: 55942

EXHIBIT

A

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.)
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)

No. 01- 1318 -CD

©NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claim 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 judgement may be entered against you by the Court without further notice for any claim in the Complaint or for any other claim or relief requested by the Plaintiffs. 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 AN ATTORNEY, OR CANNOT FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
(814)-765-2641

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.) No. 01- 1318 -CD
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)

AMENDED CIVIL COMPLAINT

NOW COMES, the Plaintiffs, Richard and Janet Franolich, by and through their counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of their AMENDED CIVIL COMPLAINT:

The Parties

1. First Plaintiff is Richard Franolich, who now resides at 124 Hatler Street, Fort Leonard Wood, Missouri 65473, but at all relevant and material times did reside at 46 Ponderosa Drive, Penfield, Clearfield County, Pennsylvania.

2. Second Plaintiff is Janet Franolich, who now resides at 124 Hatler Street, Fort Leonard Wood, Missouri 65473, but at all relevant and material times did reside at 46 Ponderosa Drive, Penfield, Clearfield County, Pennsylvania.

3. That first defendant is Fleetwood Enterprises, Inc., upon information and belief a duly formed

and existing corporation lawfully doing business in Pennsylvania, with a principal corporate address of 3125 Myers Street, Riverside, Orange County, California 92513-7638.

4. That second defendant is Larry's Homes of PA, Inc., upon information and belief a duly formed and existing Pennsylvania corporation with a registered address of c/o C.T. Corp. Systems, 1515 Market Street, Suite 1210, Philadelphia, PA 19112.

Background

5. That Richard and Janet Franolich are, and at all relevant and material times were, husband and wife living together at the current and aforementioned addresses, hereinafter "The Franoliches".

6. That Defendant Fleetwood Enterprises, Inc., hereinafter "Fleetwood", is and at all material times was engaged in the business of manufacturing and sale of mobile homes.

7. That Defendant Larry's Homes of PA, Inc., hereinafter "Larry's Homes", is and at all material times was engaged in the business of retail sale of mobile homes, including those manufactured by Fleetwood.

8. That the Franoliches in May, 1998, purchased a home, best described as 28' x 56' mobile home, with serial number NCAFLTB03753AB, which had been manufactured by Fleetwood in 1996 and sold and installed by Larry's Homes, also in 1996.

9. Said home was originally purchased by Jim and Denise Burkett and remained at the same location upon purchase by the Franoliches, who also kept said home at the same location until September 6, 1999.

10. That on September 6, 1999, while the Franoliches were not at home, the home caught fire and the home as well as their entire earthly possessions were destroyed by fire and/or smoke damage.

11. That upon information and belief, the fire was entirely caused in that the wiring used in the manufacture and installation of the home, being the wires running underneath the master-bedroom, was placed such that it was exposed to the elements, not inside the plastic under-wrap, nor placed through the holes in the support beams, and indoor type wiring was used.

12. That upon information and belief, since the wires were not placed through the holes cut for the wire in the support beams, the wires dangled and since the wires were exposed to the

elements, wind would and did cause the wires to grind against each other and the structure, which eventually caused the cover of the wires to erode. Furthermore, once the bare wires were exposed to the wood beams and/or insulation material, the heat caused by the electricity running through the wires initiated the fire.

13. That as a result of such fire and smoke damage, the Franoliches suffered the following losses:

- (a) The value of their home, with the extras including an air conditioning unit and deck, estimated to be \$60,000, to be more fully determined at time of trial;
- (b) The contents of their homes, including clothing, furniture, jewelry, dishwasher, stove, washer, dryer, stereo, computer, and similar type items, together estimated to be \$60,000, to be more fully determined at time of trial;
- (c) The cost of finding living arrangements, for the Franoliches and their three (3) minor children, until they could reasonably find and afford alternative housing arrangements, estimated at a cost of \$10,000, to be more fully determined at time of trial;
- (d) Losses of income to each Plaintiff, as a result of them missing work to handle the numerous issues created by the above and effects on each of their careers caused by the circumstances, in amounts to be determined at time of trial;
- (e) The cost of clean up and removal of the debris which was their home and contents, estimated to be \$5,000, in an amount to be more fully determined at time of trial;
- (f) Their family pets, including a cat and guinea pig, were consumed in said fire, in an amount to be determined at time of trial; and
- (g) Emotional distress, in an amount to be determined, caused by the loss of their home, contents, valuables as well as sentimental items such as wedding photographs and deceased family members.

14. That, upon information and belief, Defendant Larry's Homes was an agent of Defendant Fleetwood, who is liable for the acts and omissions of Defendant Larry's Homes.

Count I: v. Fleetwood;
Breach of Express Contract

15. That the averments of paragraphs 1 - 14, inclusive, are hereby incorporated as if again fully

set forth at length.

16. That the home acquired by the Franoliches was covered by an express warranty, which included a five (5) year warranty for "Home Electrical System: wiring, fittings, connections, fixture boxes, junction boxes, main and sub-panel boxes". (See page 8 of the applicable homeowner's guide attached as Exhibit "A").
17. That for the aforementioned reasons, Defendant Fleetwood breached the express warranty in that the wiring used underneath the master-bedroom was the wrong type for the manner in which it was actually installed, thereby being either a defect in the manufactured components or a defect in the workmanship.
18. That the damages suffered by the Franoliches were the direct and proximate cause of the breach of the express warranty by Defendant Fleetwood.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000 together with interest and costs of suit.

Count II: y. Fleetwood;
Breach of Implied Warranties

19. That the averments of paragraphs 1 - 18, inclusive, are hereby incorporated as if again fully set forth at length.
20. That the home manufactured and sold by Defendant Fleetwood was subject to implied warranties of merchantability and fitness for a particular purpose.
21. That the improperly designed, manufactured and/or installed wiring breached these implied warranties in that the wiring created a substantial risk of fire such that the home was not adequate use for a reasonable length of time nor properly suited for residential home use as intended.
22. That the breaches of the aforementioned implied warranties, concerning the type of wiring and location of the same, was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest and costs of suit.

Count III: v. Fleetwood;
Negligence

23. That the averments of paragraphs 1 - 22, inclusive, are hereby incorporated as if again fully set forth at length.

24. That Defendant Fleetwood was negligent in that:

- (a) It failed to ensure the wiring was installed in said home in a manner in which it was actually designed;
- (b) It failed to use wiring suitable for outdoor use when in fact the wiring as installed was exposed to the elements; and
- (c) It failed to properly train and supervise its agents, in particular Defendant Larry's Homes, in the craft of installation of its manufactured homes as relating to the wiring.

25. The aforementioned negligence of Defendant Fleetwood was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest and costs of suit.

Count IV: v. Fleetwood;
Recklessness

26. That the averments of paragraphs 1 - 25, inclusive, are hereby incorporated as if again fully set forth at length.

27. That Defendant Fleetwood was reckless in that:

- (a) It failed to ensure the wiring was installed in a manner in which it was designed to be installed; and

(b) Indoor grade wiring was used when in fact outdoor grade wiring should have been used considering the manner in which it was actually installed.

28. That the aforementioned recklessness of Defendant Fleetwood was a direct and proximate cause of the damages suffered by the Franoliches.

29. In addition, Defendant Fleetwood should pay punitive damages to assure that homes manufactured and sold by them will not so expose other consumers to such catastrophic losses, including potential loss of life, in an amount to be determined.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest, costs of suit and punitive damages.

Count V: y. Larry's Homes;
Breach of Express Warranties

30. That the averments of paragraphs 1 - 14, inclusive, are hereby incorporated as if again fully set forth at length.

31. That the home acquired by the Franoliches was covered by an express warranty, which included a five (5) year warranty for "Home Electrical System: wiring, fittings, connections, fixture boxes, junction boxes, main and sub-panel boxes". (See page 8 of the applicable homeowner's guide attached as Exhibit "A").

32. That as agent for Defendant Fleetwood, Defendant Larry's Homes is bound by such express warranty.

33. That for the aforementioned reasons, Defendant Larry's Homes breached the express warranty in that the wiring used underneath the master-bedroom was the wrong type for the manner in which it was actually installed.

34. That the damages suffered by the Franoliches were the direct and proximate cause of the breach of the express warranty by Defendant Larry's Homes.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000 together with interest and

costs of suit.

Count VI: v. Larry's Homes;
Breach of Implied Warranties

35. That the averments of paragraphs 1 - 14 and 30 - 34, inclusive, are hereby incorporated as if again fully set forth at length.

36. That the home sold and installed by Defendant Larry's Homes was subject to implied warranties of merchantability and fitness for a particular purpose.

37. That the improperly designed, manufactured and/or installed wiring breached these implied warranties in that the wiring created a substantial risk of fire such that the home was not of adequate use for a reasonable length of time nor properly suited for residential home use as intended.

38. That the breaches of the aforementioned implied warranties, concerning the type of wiring and location of the same, was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest and costs of suit.

Count VII: v. Larry's Homes;
Negligence

39. That the averments of paragraphs 1 - 14 and 30 - 38, inclusive, are hereby incorporated as if again fully set forth at length.

40. That Defendant Larry's Homes was negligent in that:

- (a) It failed to ensure the wiring was installed in said home in a manner in which it was actually designed;
- (b) It failed to use wiring suitable for outdoor use when in fact the wiring as installed was exposed to the elements; and

(c) It failed to properly train and supervise the electrician, an agent, employee, or sub-contractor who actually performed the installation of the wiring, to ensure the wiring was suitable.

41. The aforementioned negligence of Defendant Larry's Homes was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest and costs of suit.

Count VIII: v. Larry's Homes;
Recklessness

42. That the averments of paragraphs 1 - 14 and 30 - 41, inclusive, are hereby incorporated as if again fully set forth at length.

43. That Defendant Larry's Homes was reckless in that:

(a) It failed to ensure the wiring was installed in a manner in which it was designed to be installed, i.e. placed through the manufactured holes inside of the insulation, thus exposing indoor wiring to the elements, which was its duty to do so, which it knew created an unreasonable risk of serious physical harm, substantially greater than that of negligent conduct ;

(b) Indoor grade wiring was used when in fact outdoor grade wiring should have been used, which was its duty to do so considering the manner in which it was actually installed, thus creating an unreasonable risk of serious physical harm, substantially greater than that of negligent conduct; and

(c) Failing to properly train, supervise and employ qualified individuals, which was its duty to do so, concerning the installation of the subject home regarding the wiring knowing that the aforementioned improperly installed wiring will likely result in an unreasonable risk of physical harm, substantially greater than that of negligent conduct.

44. That the aforementioned recklessness of Defendant Larry's Homes was a direct and proximate cause of the damages suffered by the Franoliches.

45. In addition, Defendant Larry's Homes should pay punitive damages to assure that homes sold and installed by them will not so expose other consumers to such catastrophic losses, including potential loss of life, in an amount to be determined.

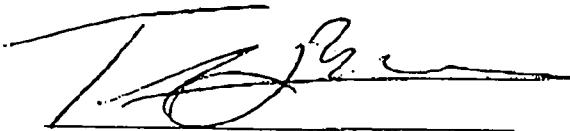
WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest, costs of suit and punitive damages.

Miscellaneous

46. That defendants have joint and several liability.
47. That venue is proper.
48. That jurisdiction is proper.

WHEREFORE, Plaintiffs request that judgments be entered in their favor, and against Defendant Fleetwood and Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest, costs of suit and punitive damages.

Respectfully Submitted,



Theron G. Noble, Esquire
Ferraraccio & Noble
Attorney for Plaintiffs
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

FIVE-YEAR

A Reminder: The five-year coverage is in effect for the 5 years after fit delivery of the home. Basically, it lengthens the coverage of the structural, electrical and plumbing systems as stated below.

- ▼ Frame: tow bar, steel support frame beneath floor of home
- ▼ Roof Structure or Rafters: roof rafters, main support beams, insulation, roof decking, all support lumber contained within the roof, shingles, metal roofing
- ▼ Sub-Floor Structure: floor decking, wood joists supporting drywall, insulation, all support lumber contained within the floor
- ▼ Exterior and Interior Walls and Ceilings: exterior siding, stud walls, insulation, framing members, all support lumber contained within the outside and inside walls
- ▼ Home Electrical System: wiring, fittings, connections, fixture junction boxes, main and sub-panel boxes
- ▼ Plumbing System: water pipes, drain pipes, gas pipes, fitting connections, fixture and appliance connections

— Exhibit "A" —

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
v.)
PLAINTIFFS,)
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
DEFENDANTS.)
No. 01-1318-CD

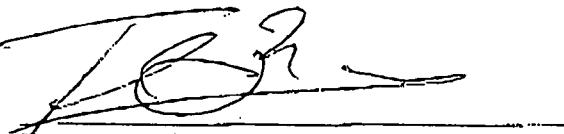
CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiffs, does hereby certify this 30th day of January, 2002, that I did mail a true and correct copy of Plaintiffs' AMENDED CIVIL COMPLAINT, to the below indicated persons, being either parties or their counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

Raymond J. Conlon, Esquire
Zimmer Kunz, LLC
101 E. Diamond Street
Butler, PA 16001

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

No. 01-1318-CD

**DEFENDANT LARRY'S HOMES
OF PA, INC.'S ANSWER AND
NEW MATTER TO
PLAINTIFFS' AMENDED
COMPLAINT**

Filed on behalf of:
Defendant, Larry's Homes of PA,

Counsel of Record for this party:

**Raymond J. Conlon, Esquire
Pa. I.D. #49495**

**Cynthia P. Cafaro, Esquire
Pa. I.D. #80021**

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm # 920
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001

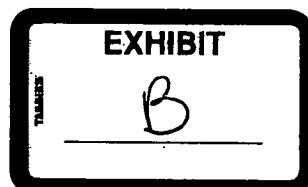
(724) 285-6677

TO: Plaintiff

You are hereby notified to file a written
response to the enclosed New Matter
within twenty (20) days from service
hereof or a judgment may be entered
against you.

Cynthia P. Cafaro
Cynthia P. Cafaro, Esquire

FILED
FEB 21 2008
miller
William A. Shaw
Prothonotary



**DEFENDANT LARRY'S HOMES
OF PA, INC.'S ANSWER AND
NEW MATTER TO PLAINTIFFS' AMENDED COMPLAINT**

AND NOW comes the Defendant, Larry's Homes Incorporated, by and through its' counsel, ZIMMER KUNZ, PLLC, and files the within Answer and New Matter to the Plaintiffs' Amended Complaint, and in support thereof avers as follows:

1. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
2. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
3. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
4. Admitted.
5. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
6. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
7. Admitted.
8. It is admitted that defendant Larry's Homes of PA, Inc. sold and installed a 28 X 56 mobile home with serial number NCAFLTB03753AB to certain individuals in 1996. After reasonable investigation, defendant is without knowledge to either admit or deny when or if plaintiffs purchased this home.

9. It is admitted that said home was originally purchased by Jim and Denise Burkett.

After reasonable investigation, defendant is without sufficient information as to when and if the Franoliches occupied the home.

10. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

11. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

12. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

13. (a) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(b) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(c) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(d) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(e) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(f) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(g) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

14. Denied. It is specifically denied that Larry's Homes was an agent of the defendant Fleetwood.

COUNT I - IV

15-29. Paragraphs 15-29 are directed to a party other than this Defendant and no response is required. To the extent a response is deemed necessary, the allegations of paragraphs 15-29 are denied.

COUNT V

30. Defendant incorporates by references paragraphs 1 through 29 as if set forth fully herein.

31. It is denied that the defendant, Larry's Homes of PA, Inc. provided any express or implied warranties to the plaintiffs in this case. To the contrary, Defendant did not provide any warranty, either express or implied, to the Plaintiffs.

32-34. Paragraphs 32-34 are legal conclusions to which no response is required. To the extent that a response is deemed necessary the allegations of paragraphs 32-34 are denied.

COUNT VI

35. Defendant incorporates by references paragraphs 1 through 34 as if set forth fully herein.

36-38. Paragraphs 36-38 are legal conclusions to which no response is required. To the extent that a response is deemed necessary the allegations of paragraphs 36-38 are denied.

COUNT VII

39. Defendant incorporates by references paragraphs 1 through 38 as if set forth fully herein.

40. Paragraph 40(a) – (c) is a legal conclusion to which no response is required. To the extent that a response is deemed necessary the allegations of paragraph 40(a) – (c) are specifically denied.

41. Denied. It is specifically denied that the defendant was negligent and/or caused any alleged damages suffered by the plaintiffs. To the contrary, Defendant at all times acted in a cautious, careful and prudent manner,

COUNT VIII

42. Defendant incorporates by references paragraphs 1 through 41 as if set forth fully herein.

43. Paragraph 43(a) – (c) is a legal conclusion to which no response is required. To the extent that a response is deemed necessary the allegations of paragraph 43(a) – (c) are specifically denied.

44. Denied. It is specifically denied that the defendant was negligent and/or caused any alleged damages suffered by the plaintiffs. To the contrary, Defendant at all times acted in a cautious, careful and prudent manner,

45-48. Paragraphs 45-48 are legal conclusions to which no response is required. To the extent that a response is deemed necessary the allegations of paragraphs 45-48 are denied.

WHEREFORE, the defendant, Larry's Homes of PA, Inc. denies that it is indebted to the plaintiffs in any amount whatsoever and demands that judgment be entered in its favor plus costs of suit as sustained.

NEW MATTER

49. Plaintiffs' action is barred by the statute of limitations.
50. Any damages suffered by the plaintiffs was the result of plaintiffs' contributory and/or comparative negligence.
51. Any damages suffered by plaintiffs was the result of plaintiffs' assumption of the risks.
52. Any damages suffered by the plaintiffs was the result of the negligence of third parties other than this defendant.
53. Defendant avers that plaintiffs' Complaint fails to state a cause of action upon which recovery may be made.
54. Defendant did not provide any warranties to the plaintiff either express or implied.
55. Any damages suffered by the plaintiffs were the result of superseding or intervening causes from the time of the sale of the home.
56. Any damages suffered by the plaintiffs were the result of the material alterations of the home performed by someone other than the defendant, Larry's Homes.

WHEREFORE, the defendant, Larry's Homes of PA, Inc., avers that it has a true, just, complete and legal defense to all of the claims raised against it and demands that judgment be entered in its favor plus costs of suit as sustained.

ZIMMER KUNZ, PLLC

By: Raymond J. Conlon
RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **DEFENDANT**
LARRY'S HOMES OF PA, INC.'S ANSWER AND NEW MATTER TO PLAINTIFFS'
COMPLAINT was forwarded to the below named individuals by United States Mail on the
18th day of February, 2002

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Richard A. Bell, Esquire
Bell, Silverblatt and Wood
P.O. Box 670
Clearfield, PA 16830

Jim and Denise Burkett
440 Treasure Lk
DuBois, PA 15801

ZIMMER KUNZ, PLLC

By: Cynthia P. Goff

VERIFICATION

I, CYNTHIA P. CAFARO, ESQUIRE, counsel of record for the Defendant, Larry's Homes of PA, Inc. depose and say that I am counsel for said party in the above matter; that I am authorized to make this verification on behalf of said party; that the facts set forth in the foregoing are true and correct, not of my own knowledge, but from information supplied to me by said party; that the foregoing pleading includes conclusions of law and averments of fact averred by other party to this action and not within the personal knowledge of the Defendant; that the purpose of this verification is to expedite litigation; this verification is made pursuant to Rule 1024(c) of the Pennsylvania Rules of Civil Procedure; and that a verification by this party will be furnished. This statement is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



CYNTHIA P. CAFARO
Counsel for Defendant,
Larry's Homes of PA, Inc.

Dated: February 18, 2002

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

ORDER OF COURT

And now this 18th day of September, 2002, upon consideration of the foregoing Motion for Leave of Court to Join Additional Defendant, it is hereby ordered that the Motion is granted and the Defendant, Larry's Homes, INC., is granted Leave of Court to file a Complaint to Join Additional Defendant.

BY THE COURT:

/s/ JOHN X. REILLY, JR.

President Judge

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

SEP 10 2002

EXHIBIT

C

Attest.

William L. Reilly
Prothonotary/
Clerk of Courts

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO. 01-1318 C.D.

**MOTION FOR LEAVE OF COURT TO
JOIN ADDITIONAL DEFENDANT**

Filed on behalf of:
Defendant Larry's Homes of PA, Inc.

Counsel of Record for this party:
Raymond J. Conlon
Pa. I.D. #49495

Cynthia P. Cafaro
Pa. I.D. #80021

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY
COMPANY
Firm #920
Morgan Center, Suite 218
101 East Diamond Street
Butler, PA 16001

(724) 285-6677

FILED
MAY 6 2002
mhc/jam
WILLIAM A. Shaw
Prothonotary

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO. 01-1318 C.D.

**MOTION FOR LEAVE OF COURT TO
JOIN ADDITIONAL DEFENDANT**

Filed on behalf of:
Defendant Larry's Homes of PA, Inc.

Counsel of Record for this party:
Raymond J. Conlon
Pa. I.D. #49495

Cynthia P. Cafaro
Pa. I.D. #80021

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY
COMPANY
Firm #920
Morgan Center, Suite 218
101 East Diamond Street
Butler, PA 16001

(724) 285-6677

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

CIVIL DIVISION

NO. 01-1318 C.D.

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

MOTION FOR LEAVE OF COURT TO JOIN ADDITIONAL DEFENDANT

And now comes the Defendant, Larry's Homes INC., by and through its attorneys, Raymond J. Conlon, Esquire, Cynthia P. Cafaro, Esquire and Zimmer Kunz, PLLC, and files the within Motion of Leave for Court to Join an Additional Defendant and hereby avers as follows:

1. This lawsuit arises out of a fire which occurred on or about September 6, 1999, at Plaintiffs' mobile home located at 46 Pondeross Drive, Clearfield County, Pennsylvania.

2. The mobile home was manufactured by Fleetwood Enterprises, Inc., and sold by Defendant, Larry's Homes, INC., to Additional Defendants, Jim and Denise Burkett.

3. In May of 1998, the Burkett's sold the mobile home to a dealer who then sold the home to Plaintiffs, Richard and Janet Franolich.

4. In September, 1999, the home was totally destroyed by fire.

5. Plaintiffs initiated this action against the Defendant, Larry's Homes, INC. ("LHI") and Fleetwood Enterprises, in September, 2001. Plaintiffs allege that the Defendants were responsible for the fire in the home.

6. Subsequently, Defendant filed Preliminary Objections to the complaint and an Amended Complaint was filed on or about January 30, 2002. LHI filed an Answer and New Matter to the Complaint, denying all liability to the Plaintiffs.

7. On March 14, 2002, LHI filed a Complaint to Join Additional Defendants, Jim and Denise Burkett.

8. On or about April 11, 2002, counsel for Jim and Denise Burkett, Michael Dorezas, Esquire, informed the undersigned that the Burkett's had not sold the home directly to the Plaintiffs, Richard and Janet Franolich. Rather, the Burkett's had sold the home to a mobile home dealer who then sold the home to Mr. and Mrs. Franolich.

9. Preliminary discovery has revealed that the cause of the fire in the mobile home was faulty electric wiring.

10. Plaintiffs alleged that the faulty wiring was the result of LHI's negligent installation of the wiring.

11. If, in fact, faulty wiring was the cause of the fire in the mobile home, it is Defendant's position that the wiring was altered in some fashion by someone subsequent to the sale of the home to the Burkett's, or by co-Defendant Fleetwood Enterprises.

12. LHI requested that Attorney Dorezas provide counsel for LHI with the name of the mobile home dealer to whom Mr. and Mrs. Burkett sold the mobile home. Counsel is currently waiting for Mr. Dorezas to respond.

13. Since more than sixty (60) days have passed since the filing of the Amended Complaint, Defendant, Larry's Homes, INC., seeks leave of court to join the entity which sold the mobile home to the Plaintiffs. Pa. R.C.P. 2253

Wherefore, Defendant respectfully requests that this Court grant its Motion for Leave of Court to Join Additional Defendant, and allow the Defendant, Larry's Homes, INC., to file a Complaint to Join Additional Defendant.

Respectfully submitted,

ZIMMER KUNZ, PLLC

By: Cynthia P. Cafaro

RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorney for Defendant
Larry's Homes, INC.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET FRANOLICH, husband and wife, Plaintiffs, CIVIL DIVISION
· NO. 01-1318 C.D.

V.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

1

JIM BURKETT and DENISE BURKETT,
Husband and wife.

Additional Defendants

ORDER OF COURT

And now this _____ day of _____, 2002, upon consideration of the foregoing Motion for Leave of Court to Join Additional Defendant, it is hereby ordered that the Motion is granted and the Defendant, Larry's Homes, INC., is granted Leave of Court to file a Complaint to Join Additional Defendant

BY THE COURT:

1

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within MOTION FOR
LEAVE OF COURT TO JOIN ADDITIONAL DEFENDANTS was forwarded to the below
named individuals by United States Mail on the 30th day of April, 2002

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

Attorney for Fleetwood Enterprises, INC.

J. Michael Dorezas, Esquire
Evey, Routch, Black, Dorezas, Magee & Levine LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648

Attorney for Jim and Denise Burkett

ZIMMER KUNZ, PLLC

By: Cynthia P. Cefalo

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within AMENDED
COMPLAINT TO JOIN ADDITIONAL DEFENDANTS was forwarded to the below named
individuals by United States Mail on the 30th day of September, 2002

~~HAWK MANUFACTURED HOMES~~
~~Route 219 & 6~~
~~Mount Jewett, PA 16740~~

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

Attorney for Fleetwood Enterprises, INC.

J. Michael Dorezas, Esquire
Evey, Routh, Black, Dorezas, Magee & Levine LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648

Attorney for Jim and Denise Burkett

ZIMMER KUNZ, PLLC

By:



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO. 01-1318 C.D.

**NOTICE OF SERVICE OF DEFENDANT
LARRY'S HOMES OF PA, INC., FIRST SET OF
INTERROGATORIES AND FIRST REQUEST
FOR PRODUCTION OF
DOCUMENTS DIRECTED TO PLAINTIFFS**

Filed on behalf of:
Defendant Larry's Homes of PA, Inc.

Counsel of Record for this party:
Raymond J. Conlon
Pa. I.D. #49495

Cynthia P. Cafaro
Pa. I.D. #80021

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY
COMPANY**
Firm #920
Morgan Center, Suite 218
101 East Diamond Street
Butler, PA 16001

(724) 285-6677

FILED

OCT 15 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

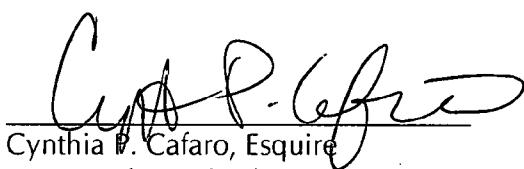
**NOTICE OF SERVICE OF DEFENDANT LARRY'S HOMES OF PA, INC., FIRST SET OF
INTERROGATORIES AND FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS DIRECTED TO PLAINTIFFS**

You are hereby notified that on the 27th day of September 2002 Larry's Homes of PA, Inc. served Interrogatories and Requests for Production of Documents on the Plaintiffs, Richard and Janet Franolich, by mailing the Interrogatories First Class United States Mail, postage pre-paid addressed to the following:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Respectfully submitted,

ZIMMER KUNZ
Professional Limited Liability Company



Cynthia P. Cafaro, Esquire
Attorney for Defendant
Larry's Homes of PA, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within document was served upon counsel named below on the 3rd day of October 2002, by first class, U.S. mail, postage prepaid.

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

Attorney for Fleetwood Enterprises, INC.

J. Michael Dorezas, Esquire
Evey, Routch, Black, Dorezas, Magee & Levine LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648

Attorney for Jim and Denise Burkett

ZIMMER KUNZ
Professional Limited Liability Company



Cynthia P. Cafaro, Esquire
Attorney for Defendant
Larry's Homes of PA, Inc.

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
)
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
)
DEFENDANTS.)

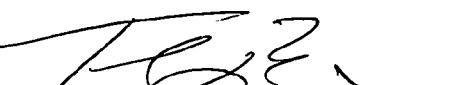
NOTICE OF SERVICE

To: William A. Shaw, Prothonotary

I, Theron G. Noble, Esquire, counsel for Plaintiffs, does hereby certify this 17th day of October, 2002, that I did propound Plaintiffs' SECOND SET OF DISCOVERY MATERIALS DIRECTED TO DEFENDANT LARRY's HOMES OF PA, INC., to the below indicated persons, being all counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire Bell, Silberblatt & Wood P.O. Box 670 Clearfield, PA 16830	Raymond J. Conlon, Esquire Zimmer Kunz, LLC 101 E. Diamond Street Butler, PA 16001	Michael Dorezas, Esquire Evey, Routh & Black, et.al. P.O. Box 415 Hollidaysburg, PA 16648-0415
----------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

FILED
m 11:07 8/11 NO CC
OCT 18 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION
01-1318-CD

RICHARD FRANOLICH and
JANET FRANOLICH, husband and wife
Plaintiffs
vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA INC.,

Defendant

vs.

JIM BURKETT and DENISE BURKETT

Additional Defendants

ORDER OF COURT

FILED

Oct 11/17/02
0ct 28 2002

William A. Shaw
Prothonotary

1cc
Atty Bell
F. R. Bell

BELL, SILBERBLATT & WOOD
ATTORNEYS AT LAW
318 EAST LOCUST STREET
P. O. BOX 670
CLEARFIELD, PA. 16830

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

PLAINTIFFS

NO. 01-1318-CD

Type of Pleading
MOTION

vs

FLEETWOOD ENTERPRISES, INC.
and LARRY'S HOMES OF PA, INC.

Filed on Behalf of:
FLEETWOOD ENTERPRISES, INC.

DEFENDANTS

vs.

JIM BURKETT and DENISE BURKETT

ADDITIONAL DEFENDANTS

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED

OCT 25 2002

William A. Shaw
Prothonotary

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

Vs.

JIM BURKETT and DENISE BURKETT

ADDITIONAL DEFENDANTS

TO: The Honorable John K. Reilly, Jr.
President Judge Of Said Court

MOTION FOR SUBSTITUTION OF A PARTY

Richard A. Bell, Esquire of Bell, Silberblatt & Wood, counsel for Fleetwood Enterprises, Inc., hereby submits the following Motion to the Court:

1. As shown by the caption above, Fleetwood Enterprises, Inc., was an original Defendant in this lawsuit.
2. The lawsuit involves among other things the wiring in the mobile home in question.
3. Fleetwood Enterprises, Inc., did not manufacture the mobile home.

Fleetwood Enterprises, Inc., is the parent company of Fleetwood Homes Of NC which did manufacture the mobile home.

4. Fleetwood Homes Of NC is the proper Defendant in the lawsuit rather than Fleetwood Enterprises, Inc.

5. Counsel for all of the parties have signed a Stipulation agreeing that Fleetwood Homes Of NC shall be substituted on the record in place of Fleetwood Enterprises, Inc. A copy of the Stipulation is attached hereto.

THEREFORE, Fleetwood Enterprises, Inc. by its counsel hereby moves your Honorable Court to remove it as a Defendant in the action and in it's place to substitute Fleetwood Homes Of NC.

BELL, SILBERBLATT & WOOD
BY



Richard A. Bell, Esquire
Attorney For Fleetwood Enterprises, Inc.

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

NO. 01-1318-CD

PLAINTIFFS

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

Vs.

JIM BURKETT and DENISE BURKETT

ADDITIONAL DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendant Fleetwood Enterprises, Inc's Motion
For Substitution Of A Party and proposed Order Of Court in the above matter
was mailed the 25th day of October, 2002, by regular mail postage prepaid
at the post office in Clearfield, PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

Cynthia P. Cafaro, Esquire
ZIMMER KUNZ, LLC
101 E. Diamond Street
Butler, PA 16001

Michael Dorezas, Esquire
EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648-0415



Richard A. Bell, Esquire
Attorney for Defendant
Fleetwood Enterprises, Inc.

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

Vs.

JIM BURKETT and DENISE BURKETT

ADDITIONAL DEFENDANTS

STIPULATION

It is hereby Stipulated by and between Theron G. Noble, Esquire, of Ferraraccio & Noble , attorneys for Plaintiffs, Richard Franolich and Janet Franolich, Richard A. Bell, Esquire, of Bell, Silberblatt & Wood, attorneys for Defendant, Fleetwood Enterprises, Inc., Cynthia P. Cafaro, Esquire of Zimmer Kunz, attorneys for Defendant Larry's Homes Of Pa, Inc., and Michael Dorezas, Esquire, of Evey, Routh, Black, Dorezas, MaGee & Levine, attorneys for Additional Defendants Jim Burkett and Denise Burkett as follows:

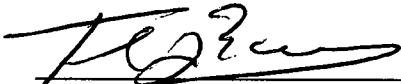
1. The mobile home in question in this case was manufactured by Fleetwood Homes of N.C.

2. Fleetwood Enterprises, Inc., is the parent company of Fleetwood Homes of N.C.

3. Fleetwood Homes of N.C. shall be substituted on the record in place of Fleetwood Enterprises, Inc. All pleadings, petitions, motions, discovery and court orders previously filed which were applicable to Fleetwood Enterprises, Inc., are applicable to Fleetwood Homes of N.C.

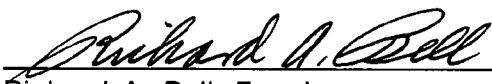
4. Fleetwood Homes of N.C. is a proper defendant in this case rather than Fleetwood Enterprises, Inc.

5. Richard A. Bell, Esquire of Bell, Silberblatt & Wood who was counsel for Fleetwood Enterprises, Inc., will now be counsel on the record for Fleetwood Homes of N.C.

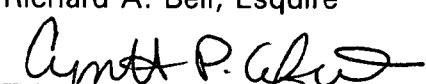


T.G.N.

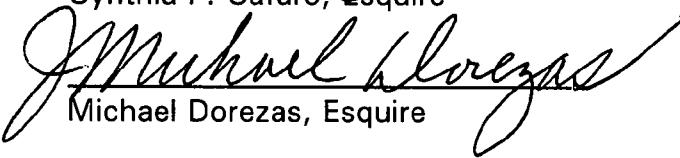
Theron G. Noble, Esquire



Richard A. Bell, Esquire



Cynthia P. Cafaro, Esquire



Michael Dorezas, Esquire

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

FILED

OCT 28 2002

Vs.

JIM BURKETT and DENISE BURKETT

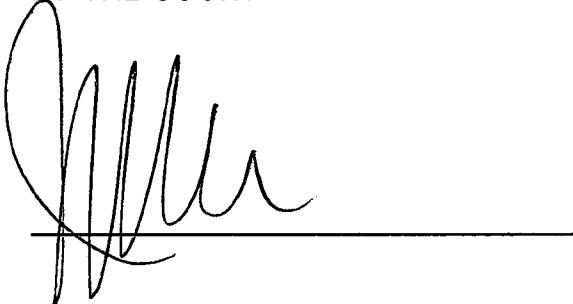
William A. Shaw
Prothonotary

ADDITIONAL DEFENDANTS

ORDER OF COURT

NOW THIS 25 day of October, 2002, upon consideration of the
within Motion and the Stipulation attached to it, it is hereby Ordered that Fleetwood
Enterprises, Inc., is removed as a Defendant in the action and Fleetwood Homes Of
N.C., shall be substituted as a Defendant in its place. All pleadings, petitions, motions,
discovery and court orders previously filed which were applicable to Fleetwood
Enterprises, Inc., are now applicable to Fleetwood Homes Of N.C.

BY THE COURT



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

RICHARD FRANOLICH and : NO. 01 - 1318 - CD
JANET FRANOLICH, husband and wife :
Plaintiffs :
: TYPE OF PLEADING:
: Amended Answer and New Matter of
: Additional Defendants to Amended
: Complaint Joining Additional
: Defendants
: vs.
: FILING PARTIES:
: Additional Defendants
: vs. : COUNSEL FOR FILING PARTIES:
: J. Michael Dorezas, Esquire
: PA I.D. #17460
: vs. : EVEY, ROUTCH, BLACK, DOREZAS,
: MAGEE & LEVINE, LLP
: 401 Allegheny Street
: P.O. Box 415
: Hollidaysburg, PA 16648
: (814) 695-7581

FILED

OCT 25 2002

William A. Shaw
Prothonotary

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

RICHARD FRANOLICH and	:	NO. 01 - 1318 - CD
JANET FRANOLICH, husband and wife	:	
Plaintiffs	:	
	:	
VS.	:	
	:	
FLEETWOOD ENTERPRISES, INC.	:	
and LARRY'S HOMES OF PA, INC.,	:	
Defendants.	:	
	:	
VS.	:	
	:	
JIM BURKETT and DENISE BURKETT,	:	
Husband and wife,	:	
Additional Defendants.	:	

**ADDITIONAL DEFENDANTS' AMENDED
ANSWER AND NEW MATTER**

AND NOW, comes the Additional Defendants, JIM BURKETT and DENISE BURKETT, Husband and wife, by and through their attorneys, EVEY, ROUTCH, BLACK, DOREZAS, MAGEE & LEVINE, LLP, and do file the following Amended Answer and New Matter to an Amended Complaint joining them as Additional Defendants whereof the following is a more complete statement:

37. Paragraphs 1 through 36 of the Answer and New Matter to the Amended Complaint Joining Additional Defendants filed by Jim Burkett and Denise Burkett are incorporated herein by reference as if the same were set forth at length.
38. Subsequent to Additional Defendants Jim Burkett and Denise Burkett filing their Answer and New Matter to the Amended Complaint joining Additional Defendants, Defendant Larry Homes of Pennsylvania filed a Complaint joining another Additional Defendant, Hawk Manufactured Homes. See Exhibit "A" attached hereto.

**NEW MATTER PURSUANT TO PA R.C.P. 2252(d)
AGAINST HAWK MANUFACTURED HOMES**

39. If the damages as alleged in Plaintiffs' Amended Complaint and which are incorporated by original Defendants' Amended Joinder Complaint are proven, which damages are specifically denied, then the damages allegedly sustained by the Plaintiffs were the direct and proximate result of the negligence and recklessness of Hawk Manufactured Homes as set forth in Defendant Larry's Homes of PA, Inc.'s Complaint to Join Additional Defendant Hawk Manufactured Homes as set forth in Count I therein.

40. Count I of Defendant Larry's Homes of PA, Inc.'s Complaint to Join Additional Defendant Hawk Manufactured Homes is incorporated herein by reference and is made a part hereof as if set forth in its entirety.

41. Additional Defendants Jim Burkett and Denise Burkett believe and aver that if Plaintiffs are entitled to any recovery, which entitlement is specifically denied, the Additional Defendant Hawk Manufactured Homes is alone liable or liable over to the Plaintiffs for the causes of action asserted.

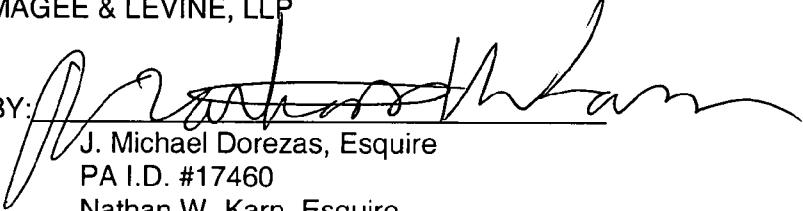
42. The Additional Defendants Jim Burkett and Denise Burkett join Hawk Manufactured Homes to protect their right to contribution in the event that it is judicially determined that the Additional Defendant Hawk Manufactured Homes and Jim Burkett and Denise Burkett and the original Defendants Fleetwood Enterprises, Inc. and Larry's Homes of PA, Inc. are jointly or severally liable to the Plaintiffs, with the existence of any liability on the part of Additional Defendants Jim Burkett and Denise Burkett being expressly denied.

43. The Additional Defendants Jim Burkett and Denise Burkett assert that if they are entitled to indemnification from the Additional Defendant Hawk Manufactured Homes, that Additional Defendants Jim Burkett and Denise Burkett hereby assert a claim therefore.

WHEREFORE, the Additional Defendants, JIM BURKETT and DENISE BURKETT demand that judgment be entered in their favor and against all other parties.

Respectfully submitted,

EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP

BY: 

J. Michael Dorezas, Esquire
PA I.D. #17460
Nathan W. Karn, Esquire
PA I.D. #86068
401 Allegheny Street
Hollidaysburg, PA 16648
(814) 695-7581
Attorneys for Additional Defendants,
JIM BURKETT and DENISE BURKETT

COPY

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES.

Additional Defendants.

No. 01-1318-CD

**COMPLAINT TO
JOIN ADDITIONAL
DEFENDANT, HAWK
MANUFACTURED HOMES**

Filed on behalf of:
Defendant, Larry's Homes of PA,

Counsel of Record for this party:

**Raymond J. Conlon, Esquire
Pa. I.D. #49495**

**Cynthia P. Cafaro, Esquire
Pa. I.D. #80021**

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm # 920
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001

(724) 285-6677

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

No. 01-1318-CD

Plaintiffs,

**COMPLAINT TO JOIN
ADDITIONAL DEFENDANT**

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES,

Additional Defendants.

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this 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 WHERE YOU CAN GET LEGAL HELP.

Prothonotary's Office
P.O. Box 549
Clearfield, PA 16830
(814) 765-2641

COMPLAINT TO JOIN ADDITIONAL DEFENDANT

AND NOW comes the Defendant, Larry's Homes Incorporated, by and through its' counsel, ZIMMER KUNZ, PLLC, and files the within Complaint to Join Additional Defendant and in support thereof avers as follows:

1. The Plaintiffs, Richard and Janet Franolich are adult individuals who resided, at all times material hereto, 46 Pondeross Drive, Clearfield County, Pennsylvania.

2. Defendant, Larry's Homes Inc. (hereinafter "LHI") was at all times material hereto a corporation with its principal place of business located at 14 Village Square, Smyrna, Delaware, 19977.

3. The Additional Defendants, Jim Burkett and Denise Burkett, are adult individuals residing at 440 Treasure Lk., DuBois, PA 15801.

4. The Additional Defendant, Hawk Manufactured Homes, is a corporation with a place of business at Route 219 & 6 Mount Jewett, PA 16740.

5. Plaintiffs were the owners of a mobile home located at 46 Pondeross Drive, Clearfield County, Pennsylvania, and manufactured by Defendant, Fleetwood Enterprises, Inc.

6. The mobile home was originally sold by LHI to Additional Defendants, Jim and Denise Burkett.

7. Jim and Denise Burkett sold the home to Hawk Manufactured Homes in 1998.

8. Plaintiffs purchased the mobile home from Additional Defendant, Hawk Manufactured Homes, in May, 1998.

8. According to the Plaintiffs' Complaint, on September 6, 1999, while the Plaintiffs were not at home, their mobile home caught fire, and the home as well as all contents of the home were allegedly destroyed by fire and smoke damage. A true and correct copy of Plaintiffs' Complaint is attached hereto and marked as Exhibit "A."

9. Plaintiffs allege that the destruction of their home and all of their personal belongings was caused by the negligence of defendant, Larry's Homes Inc.

10. This Defendant filed an Answer and New Matter denying any and all liability and that Answer and New Matter is attached hereto as Exhibit "B".

11. On September 10, 2002, Judge John K. Reilly, Jr. granted this Defendant leave of court to join Hawk Manufactured Homes as an Additional Defendant. See Exhibit "C".

COUNT I - NEGLIGENCE

Larry's Homes Incorporated
v. Hawk Manufactured Homes

12. The averments of paragraphs 1 through 11 inclusive are hereby incorporated as if fully set forth at length.

13. This Defendant denied, and continues to deny any and all liability to the Plaintiffs. In the event that it is judicially determined that the Plaintiffs sustained damages for which this Defendant is liable, then it is averred that the additional Defendant, Hawk Manufactured Homes, is solely liable to the Plaintiff, is jointly and severally liable to the Plaintiffs, and/or is liable for contribution or indemnity to the Defendant.

14. Additional defendant, Hawk Manufactured Homes, was negligent generally and in the following particulars:

- (a) Failing to ensure the wiring was installed in said home in a manner in which it was actually designed.
- (b) In failing to use wiring suitable for outdoor use.
- (c) In failing to properly employ the services of an electrician to ensure the wiring was suitable.
- (d) In failing to disclose to plaintiffs information regarding the condition of the wiring.
- (e) In negligently wiring the mobile home.
- (f) In materially altering the electrical wiring of the home, or allowing the home to be altered in such a way that the electrical wiring was affected;

15. Any damages allegedly sustained by the plaintiffs were caused in whole or in part by the negligence of additional defendant as stated above.

16. These damages include:

- (a) Total loss of mobile home.
- (b) Total loss of the contents of the mobile home including clothing, furniture, jewelry, dishwasher, stove, washer, dryer, stereo, computer.
- (c) Cost of finding living arrangements for the plaintiffs and their three minor children at the cost of approximately \$10,000.
- (d) Loss of income to each plaintiff as a result of them missing work to handle numerous issues created by the destruction

of the home.

- (e) Cost of clean-up and removal of the debris which was which was approximately \$5,000.
- (f) Destruction of two family pets including a cat and guinea pig.
- (g) Emotional distress.

17. Any damages to the plaintiffs were caused by the additional defendant's negligence and failure to properly repair and/or maintain the electrical wiring and/or entire electrical system of the home.

18. If it is proven at any time up to and including the time of trial that the plaintiffs are entitled to recovery, which is expressly denied, then additional defendant is solely liable to the plaintiff.

19. If anyone is liable or responsible for the plaintiffs' damages other than the plaintiffs themselves, and if the incident in question resulted from anyone's negligence, then additional defendant is liable for reasons set forth by the plaintiffs in the Complaint which averments are incorporated herein by reference solely for the purpose of this cross-claim and without admitting or averring liability on the part of this defendant.

20. If anyone is liable to the plaintiff, then additional defendant is solely liable or, in the alternative, is liable over to defendant for contribution and/or indemnity for any and all such sums which the plaintiffs may recover. In the alternative, additional defendant is jointly and severally liable to the plaintiffs although the existence of any liability on the part of the defendant is expressly denied.

WHEREFORE, defendant, Larry's Homes, Inc. denies any and all liability to any of the parties hereto and demands judgment in its favor. Furthermore, defendant avers that additional defendant are solely liable to the plaintiffs or are liable over to defendant for any and all sums which plaintiffs may recover or they are jointly and severally liable.

ZIMMER KUNZ, PLLC

By: 
RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorneys for Defendants

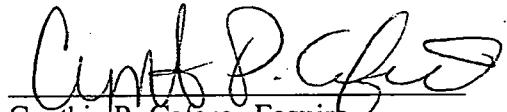
VERIFICATION

I, CYNTHIA P. CAFARO, Esquire, have read the foregoing Amended Complaint to Join Additional Defendants. The statements contained therein are true and correct to the best of my personal knowledge, information and belief.

These statements and verifications are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

I am authorized to make this verification because of my position as Counsel of Record for Defendant Larry's Homes of PA, INC.

DATE: 9-27-02



Cynthia P. Cafaro, Esquire
Counsel of Record for Defendant
Larry's Homes of PA, INC.

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

PLAINTIFFS,

: CIVIL ACTION NO.

: 01- 1318 -CD

v.

FLEETWOOD ENTERPISES, INC.,
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS.

: TYPE OF PLEADING:
AMENDED CIVIL COMPLAINT

: FILED BY:

: PLAINTIFFS

: COUNSEL FOR THIS PARTY:

: Theron G. Noble, Esquire
Ferraraccio & Noble
: 301 East Pine Street
Clearfield, PA 16830
: 814-375-2221
PA I.D.#: 55942

EXHIBIT

A

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)RICHARD FRANOLICH, and
JANET FRANOLICH, husband
and wife,

PLAINTIFFS,

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES OF PA,
INC.,

DEFENDANTS.

No. 01- 1318 -CD

©NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claim 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 judgement may be entered against you by the Court without further notice for any claim in the Complaint or for any other claim or relief requested by the Plaintiffs. 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 AN ATTORNEY, OR CANNOT FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
(814)-765-2641

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

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband)
and wife,)
PLAINTIFFS,)
v.) No. 01- 1318 -CD
FLEETWOOD ENTERPRISES, INC.,)
and LARRY'S HOMES OF PA,)
INC.,)
DEFENDANTS.)

AMENDED CIVIL COMPLAINT

NOW COMES, the Plaintiffs, Richard and Janet Franolich, by and through their counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of their AMENDED CIVIL COMPLAINT:

The Parties

1. First Plaintiff is Richard Franolich, who now resides at 124 Hatler Street, Fort Leonard Wood, Missouri 65473, but at all relevant and material times did reside at 46 Ponderosa Drive, Penfield, Clearfield County, Pennsylvania.
2. Second Plaintiff is Janet Franolich, who now resides at 124 Hatler Street, Fort Leonard Wood, Missouri 65473, but at all relevant and material times did reside at 46 Ponderosa Drive, Penfield, Clearfield County, Pennsylvania.
3. That first defendant is Fleetwood Enterprises, Inc., upon information and belief a duly formed

and existing corporation lawfully doing business in Pennsylvania, with a principal corporate address of 3125 Myers Street, Riverside, Orange County, California 92513-7638.

4. That second defendant is Larry's Homes of PA, Inc., upon information and belief a duly formed and existing Pennsylvania corporation with a registered address of c/o C.T. Corp. Systems, 1515 Market Street, Suite 1210, Philadelphia, PA 19112.

Background

5. That Richard and Janet Franolich are, and at all relevant and material times were, husband and wife living together at the current and aforementioned addresses, hereinafter "The Franoliches".

6. That Defendant Fleetwood Enterprises, Inc., hereinafter "Fleetwood", is and at all material times was engaged in the business of manufacturing and sale of mobile homes.

7. That Defendant Larry's Homes of PA, Inc., hereinafter "Larry's Homes", is and at all material times was engaged in the business of retail sale of mobile homes, including those manufactured by Fleetwood.

8. That the Franoliches in May, 1998, purchased a home, best described as 28' x 56' mobile home, with serial number NCAFLTB03753AB, which had been manufactured by Fleetwood in 1996 and sold and installed by Larry's Homes, also in 1996.

9. Said home was originally purchased by Jim and Denise Burkett and remained at the same location upon purchase by the Franoliches, who also kept said home at the same location until September 6, 1999.

10. That on September 6, 1999, while the Franoliches were not at home, the home caught fire and the home as well as their entire earthly possessions were destroyed by fire and/or smoke damage.

11. That upon information and belief, the fire was entirely caused in that the wiring used in the manufacture and installation of the home, being the wires running underneath the master-bedroom, was placed such that it was exposed to the elements, not inside the plastic under-wrap, nor placed through the holes in the support beams, and indoor type wiring was used.

12. That upon information and belief, since the wires were not placed through the holes cut for the wire in the support beams, the wires dangled and since the wires were exposed to the

elements, wind would and did cause the wires to grind against each other and the structure, which eventually caused the cover of the wires to erode. Furthermore, once the bare wires were exposed to the wood beams and/or insulation material, the heat caused by the electricity running through the wires initiated the fire.

13. That as a result of such fire and smoke damage, the Franoliches suffered the following losses:

- (a) The value of their home, with the extras including an air conditioning unit and deck, estimated to be \$60,000, to be more fully determined at time of trial;
- (b) The contents of their homes, including clothing, furniture, jewelry, dishwasher, stove, washer, dryer, stereo, computer, and similar type items, together estimated to be \$60,000, to be more fully determined at time of trial;
- (c) The cost of finding living arrangements, for the Franoliches and their three (3) minor children, until they could reasonably find and afford alternative housing arrangements, estimated at a cost of \$10,000, to be more fully determined at time of trial;
- (d) Losses of income to each Plaintiff, as a result of them missing work to handle the numerous issues created by the above and effects on each of their careers caused by the circumstances, in amounts to be determined at time of trial;
- (e) The cost of clean up and removal of the debris which was their home and contents, estimated to be \$5,000, in an amount to be more fully determined at time of trial;
- (f) Their family pets, including a cat and guinea pig, were consumed in said fire, in an amount to be determined at time of trial; and
- (g) Emotional distress, in an amount to be determined, caused by the loss of their home, contents, valuables as well as sentimental items such as wedding photographs and deceased family members.

14. That, upon information and belief, Defendant Larry's Homes was an agent of Defendant Fleetwood, who is liable for the acts and omissions of Defendant Larry's Homes.

Count I: v. Fleetwood;
Breach of Express Contract

15. That the averments of paragraphs 1 - 14, inclusive, are hereby incorporated as if again fully

set forth at length.

16. That the home acquired by the Franoliches was covered by an express warranty, which included a five (5) year warranty for "Home Electrical System: wiring, fittings, connections, fixture boxes, junction boxes, main and sub-panel boxes". (See page 8 of the applicable homeowner's guide attached as Exhibit "A").

17. That for the aforementioned reasons, Defendant Fleetwood breached the express warranty in that the wiring used underneath the master-bedroom was the wrong type for the manner in which it was actually installed, thereby being either a defect in the manufactured components or a defect in the workmanship.

18. That the damages suffered by the Franoliches were the direct and proximate cause of the breach of the express warranty by Defendant Fleetwood.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000 together with interest and costs of suit.

Count II: v. Fleetwood;
Breach of Implied Warranties

19. That the averments of paragraphs 1 - 18, inclusive, are hereby incorporated as if again fully set forth at length.

20. That the home manufactured and sold by Defendant Fleetwood was subject to implied warranties of merchantability and fitness for a particular purpose.

21. That the improperly designed, manufactured and/or installed wiring breached these implied warranties in that the wiring created a substantial risk of fire such that the home was not adequate use for a reasonable length of time nor properly suited for residential home use as intended.

22. That the breaches of the aforementioned implied warranties, concerning the type of wiring and location of the same, was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest and costs of suit.

Count III: v. Fleetwood;
Negligence

23. That the averments of paragraphs 1 - 22, inclusive, are hereby incorporated as if again fully set forth at length.
24. That Defendant Fleetwood was negligent in that:
 - (a) It failed to ensure the wiring was installed in said home in a manner in which it was actually designed;
 - (b) It failed to use wiring suitable for outdoor use when in fact the wiring as installed was exposed to the elements; and
 - (c) It failed to properly train and supervise its agents, in particular Defendant Larry's Homes, in the craft of installation of its manufactured homes as relating to the wiring.
25. The aforementioned negligence of Defendant Fleetwood was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest and costs of suit.

Count IV: v. Fleetwood;
Recklessness

26. That the averments of paragraphs 1 - 25, inclusive, are hereby incorporated as if again fully set forth at length.
27. That Defendant Fleetwood was reckless in that:
 - (a) It failed to ensure the wiring was installed in a manner in which it was designed to be installed; and

(b) Indoor grade wiring was used when in fact outdoor grade wiring should have been used considering the manner in which it was actually installed.

28. That the aforementioned recklessness of Defendant Fleetwood was a direct and proximate cause of the damages suffered by the Franoliches.

29. In addition, Defendant Fleetwood should pay punitive damages to assure that homes manufactured and sold by them will not so expose other consumers to such catastrophic losses, including potential loss of life, in an amount to be determined.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Fleetwood, in an amount in excess of \$25,000, together with interest, costs of suit and punitive damages.

Count V: v. Larry's Homes;
Breach of Express Warranties

30. That the averments of paragraphs 1 - 14, inclusive, are hereby incorporated as if again fully set forth at length.

31. That the home acquired by the Franoliches was covered by an express warranty, which included a five (5) year warranty for "Home Electrical System: wiring, fittings, connections, fixture boxes, junction boxes, main and sub-panel boxes". (See page 8 of the applicable homeowner's guide attached as Exhibit "A").

32. That as agent for Defendant Fleetwood, Defendant Larry's Homes is bound by such express warranty.

33. That for the aforementioned reasons, Defendant Larry's Homes breached the express warranty in that the wiring used underneath the master-bedroom was the wrong type for the manner in which it was actually installed.

34. That the damages suffered by the Franoliches were the direct and proximate cause of the breach of the express warranty by Defendant Larry's Homes.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000 together with interest and

costs of suit.

Count VI: v. Larry's Homes;
Breach of Implied Warranties

35. That the averments of paragraphs 1 - 14 and 30 - 34, inclusive, are hereby incorporated as if again fully set forth at length.

36. That the home sold and installed by Defendant Larry's Homes was subject to implied warranties of merchantability and fitness for a particular purpose.

37. That the improperly designed, manufactured and/or installed wiring breached these implied warranties in that the wiring created a substantial risk of fire such that the home was not of adequate use for a reasonable length of time nor properly suited for residential home use as intended.

38. That the breaches of the aforementioned implied warranties, concerning the type of wiring and location of the same, was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest and costs of suit.

Count VII: v. Larry's Homes;
Negligence

39. That the averments of paragraphs 1 - 14 and 30 - 38, inclusive, are hereby incorporated as if again fully set forth at length.

40. That Defendant Larry's Homes was negligent in that:

(a) It failed to ensure the wiring was installed in said home in a manner in which it was actually designed;

(b) It failed to use wiring suitable for outdoor use when in fact the wiring as installed was exposed to the elements; and

(c) It failed to properly train and supervise the electrician, an agent, employee, or sub-contractor who actually performed the installation of the wiring, to ensure the wiring was suitable.

41. The aforementioned negligence of Defendant Larry's Homes was a direct and proximate cause of the damages suffered by the Franoliches.

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest and costs of suit.

Count VIII: v. Larry's Homes;
Recklessness

42. That the averments of paragraphs 1 - 14 and 30 - 41, inclusive, are hereby incorporated as if again fully set forth at length.

43. That Defendant Larry's Homes was reckless in that:

- (a) It failed to ensure the wiring was installed in a manner in which it was designed to be installed, i.e. placed through the manufactured holes inside of the insulation, thus exposing indoor wiring to the elements, which was its duty to do so, which it knew created an unreasonable risk of serious physical harm, substantially greater than that of negligent conduct ;
- (b) Indoor grade wiring was used when in fact outdoor grade wiring should have been used, which was its duty to do so considering the manner in which it was actually installed, thus creating an unreasonable risk of serious physical harm, substantially greater than that of negligent conduct; and
- (c) Failing to properly train, supervise and employ qualified individuals, which was its duty to do so, concerning the installation of the subject home regarding the wiring knowing that the aforementioned improperly installed wiring will likely result in an unreasonable risk of physical harm, substantially greater than that of negligent conduct.

44. That the aforementioned recklessness of Defendant Larry's Homes was a direct and proximate cause of the damages suffered by the Franoliches.

45. In addition, Defendant Larry's Homes should pay punitive damages to assure that homes sold and installed by them will not so expose other consumers to such catastrophic losses, including potential loss of life, in an amount to be determined.

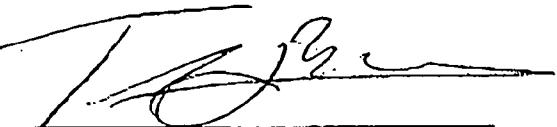
WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest, costs of suit and punitive damages.

Miscellaneous

46. That defendants have joint and several liability.
47. That venue is proper.
48. That jurisdiction is proper.

WHEREFORE, Plaintiffs request that judgments be entered in their favor, and against Defendant Fleetwood and Defendant Larry's Homes, in an amount in excess of \$25,000, together with interest, costs of suit and punitive damages.

Respectfully Submitted,



Theron G. Noble, Esquire
Ferraraccio & Noble
Attorney for Plaintiffs
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

FIVE-YEAR

A Reminder: The five-year coverage is in effect for the 5 years after first delivery of the home. Basically, it lengthens the coverage of the structural, electrical and plumbing systems as stated below.

- ▼ Frame: tow bar, steel support frame beneath floor of home
- ▼ Roof Structure or Rafters: roof rafters, main support beams, insulation, roof decking, all support lumber contained within roof, shingles, metal roofing
- ▼ Sub-Floor Structure: floor decking, wood joists supporting decking, insulation, all support lumber contained within the floor
- ▼ Exterior and Interior Walls and Ceilings: exterior siding, stucco, insulation, framing members, all support lumber contained within the outside and inside walls
- ▼ Home Electrical System: wiring, fittings, connections, fixtures, junction boxes, main and sub-panel boxes
- ▼ Plumbing System: water pipes, drain pipes, gas pipes, fitting connections, fixture and appliance connections

— Exhibit "A" —

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
)
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
)
DEFENDANTS.)

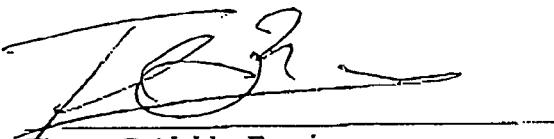
CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiffs, does hereby certify this 30th day of January, 2002, that I did mail a true and correct copy of Plaintiffs' AMENDED CIVIL COMPLAINT, to the below indicated persons, being either parties or their counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

Raymond J. Conlon, Esquire
Zimmer Kunz, LLC
101 E. Diamond Street
Butler, PA 16001

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

No. 01-1318-CD

DEFENDANT LARRY'S HOMES
OF PA, INC.'S ANSWER AND
NEW MATTER TO
PLAINTIFFS' AMENDED
COMPLAINT

Filed on behalf of:
Defendant, Larry's Homes of PA,

Counsel of Record for this party:

Raymond J. Conlon, Esquire
Pa. I.D. #49495

Cynthia P. Cafaro, Esquire
Pa. I.D. #80021

ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY
Firm # 920
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001

(724) 285-6677

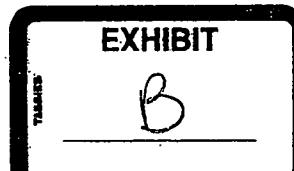
TO: Plaintiff

You are hereby notified to file a written
response to the enclosed New Matter
within twenty (20) days from service
hereof or a judgment may be entered
against you.

Cynthia P. Cafaro
Cynthia P. Cafaro, Esquire

Document #: 269832
7080.1147

FILED
FEB 21 2002
m11as
William A. Shaw
Prothonotary



DEFENDANT LARRY'S HOMES
OF PA, INC.'S ANSWER AND
NEW MATTER TO PLAINTIFFS' AMENDED COMPLAINT

AND NOW comes the Defendant, Larry's Homes Incorporated, by and through its' counsel, ZIMMER KUNZ, PLLC, and files the within Answer and New Matter to the Plaintiffs' Amended Complaint, and in support thereof avers as follows:

1. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
2. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
3. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
4. Admitted.
5. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
6. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.
7. Admitted.
8. It is admitted that defendant Larry's Homes of PA, Inc. sold and installed a 28 X 56 mobile home with serial number NCAFLTB03753AB to certain individuals in 1996. After reasonable investigation, defendant is without knowledge to either admit or deny when or if plaintiffs purchased this home.

9. It is admitted that said home was originally purchased by Jim and Denise Burkett.

After reasonable investigation, defendant is without sufficient information as to when and if the Franoliches occupied the home.

10. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

11. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

12. After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

13. (a) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(b) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(c) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(d) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(e) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(f) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

(g) After reasonable investigation, defendant is without sufficient information to admit or deny this allegation and same is therefore denied.

14. Denied. It is specifically denied that Larry's Homes was an agent of the defendant Fleetwood.

COUNT I - IV

15-29. Paragraphs 15-29 are directed to a party other than this Defendant and no response is required. To the extent a response is deemed necessary, the allegations of paragraphs 15-29 are denied.

COUNT V

30. Defendant incorporates by references paragraphs 1 through 29 as if set forth fully herein.

31. It is denied that the defendant, Larry's Homes of PA, Inc. provided any express or implied warranties to the plaintiffs in this case. To the contrary, Defendant did not provide any warranty, either express or implied, to the Plaintiffs.

32-34. Paragraphs 32-34 are legal conclusions to which no response is required. To the extent that a response is deemed necessary the allegations of paragraphs 32-34 are denied.

COUNT VI

35. Defendant incorporates by references paragraphs 1 through 34 as if set forth fully herein.

36-38. Paragraphs 36-38 are legal conclusions to which no response is required. To the extent that a response is deemed necessary the allegations of paragraphs 36-38 are denied.

COUNT VII

39. Defendant incorporates by references paragraphs 1 through 38 as if set forth fully herein.

40. Paragraph 40(a) - (c) is a legal conclusion to which no response is required. To the extent that a response is deemed necessary the allegations of paragraph 40(a) - (c) are specifically denied.

41. Denied. It is specifically denied that the defendant was negligent and/or caused any alleged damages suffered by the plaintiffs. To the contrary, Defendant at all times acted in a cautious, careful and prudent manner,

COUNT VIII

42. Defendant incorporates by references paragraphs 1 through 41 as if set forth fully herein.

43. Paragraph 43(a) - (c) is a legal conclusion to which no response is required. To the extent that a response is deemed necessary the allegations of paragraph 43(a) - (c) are specifically denied.

44. Denied. It is specifically denied that the defendant was negligent and/or caused any alleged damages suffered by the plaintiffs. To the contrary, Defendant at all times acted in a cautious, careful and prudent manner,

45-48. Paragraphs 45-48 are legal conclusions to which no response is required. To the extent that a response is deemed necessary the allegations of paragraphs 45-48 are denied.

WHEREFORE, the defendant, Larry's Homes of PA, Inc. denies that it is indebted to the plaintiffs in any amount whatsoever and demands that judgment be entered in its favor plus costs of suit as sustained.

NEW MATTER

49. Plaintiffs' action is barred by the statute of limitations.
50. Any damages suffered by the plaintiffs was the result of plaintiffs' contributory and/or comparative negligence.
51. Any damages suffered by plaintiffs was the result of plaintiffs' assumption of the risks.
52. Any damages suffered by the plaintiffs was the result of the negligence of third parties other than this defendant.
53. Defendant avers that plaintiffs' Complaint fails to state a cause of action upon which recovery may be made.
54. Defendant did not provide any warranties to the plaintiff either express or implied.
55. Any damages suffered by the plaintiffs were the result of superseding or intervening causes from the time of the sale of the home.
56. Any damages suffered by the plaintiffs were the result of the material alterations of the home performed by someone other than the defendant, Larry's Homes.

WHEREFORE, the defendant, Larry's Homes of PA, Inc., avers that it has a true, just, complete and legal defense to all of the claims raised against it and demands that judgment be entered in its favor plus costs of suit as sustained.

ZIMMER KUNZ, PLLC

By: Cynthia P. Cafaro

RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within DEFENDANT
LARRY'S HOMES OF PA, INC.'S ANSWER AND NEW MATTER TO PLAINTIFFS'
COMPLAINT was forwarded to the below named individuals by United States Mail on the

18th day of February, 2002

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Richard A. Bell, Esquire
Bell, Silverblatt and Wood
P.O. Box 670
Clearfield, PA 16830

Jim and Denise Burkett
440 Treasure Lk
DuBois, PA 15801

ZIMMER KUNZ, PLLC

By: Cynthia P. Coffey

VERIFICATION

I, CYNTHIA P. CAFARO, ESQUIRE, counsel of record for the Defendant, Larry's Homes of PA, Inc. depose and say that I am counsel for said party in the above matter; that I am authorized to make this verification on behalf of said party; that the facts set forth in the foregoing are true and correct, not of my own knowledge, but from information supplied to me by said party; that the foregoing pleading includes conclusions of law and averments of fact averred by other party to this action and not within the personal knowledge of the Defendant; that the purpose of this verification is to expedite litigation; this verification is made pursuant to Rule 1024(c) of the Pennsylvania Rules of Civil Procedure; and that a verification by this party will be furnished. This statement is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



CYNTHIA P. CAFARO
Counsel for Defendant,
Larry's Homes of PA, Inc.

Dated: February 18, 2002

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

CIVIL DIVISION

NO. 01-1318 C.D.

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

ORDER OF COURT

And now this 10th day of September, 2002, upon consideration of the foregoing Motion for Leave of Court to Join Additional Defendant, it is hereby ordered that the Motion is granted and the Defendant, Larry's Homes, INC., is granted Leave of Court to file a Complaint to Join Additional Defendant.

BY THE COURT:

/s/ JOHN K. REILLY, JR.

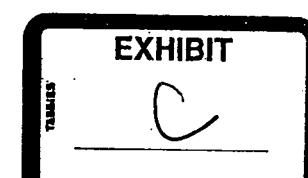
President Judge

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

SEP 10 2002

Attest.

William E. Reilly
Prothonotary/
Clerk of Courts



COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

/
JURY TRIAL DEMANDED

CIVIL DIVISION

NO. 01-1318 C.D.

**MOTION FOR LEAVE OF COURT TO
JOIN ADDITIONAL DEFENDANT**

Filed on behalf of:
Defendant Larry's Homes of PA, Inc.

Counsel of Record for this party:
Raymond J. Conlon
Pa. I.D. #49495

Cynthia P. Cafaro
Pa. I.D. #80021

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY
COMPANY**
Firm #920
Morgan Center, Suite 218
101 East Diamond Street
Butler, PA 16001

(724) 285-6677

FILED
MAY 6 2002
MICHAL AM
WILLIAM A. SHAW
Prothonotary

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO. 01-1318 C.D.

**MOTION FOR LEAVE OF COURT TO
JOIN ADDITIONAL DEFENDANT**

Filed on behalf of:
Defendant Larry's Homes of PA, Inc.

Counsel of Record for this party:
Raymond J. Conlon
Pa. I.D. #49495

Cynthia P. Cafaro
Pa. I.D. #80021

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY
COMPANY**
Firm #920
Morgan Center, Suite 218
101 East Diamond Street
Butler, PA 16001

(724) 285-6677

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

CIVIL DIVISION

NO. 01-1318 C.D.

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

MOTION FOR LEAVE OF COURT TO JOIN ADDITIONAL DEFENDANT

And now comes the Defendant, Larry's Homes INC., by and through its attorneys, Raymond J. Conlon, Esquire, Cynthia P. Cafaro, Esquire and Zimmer Kunz, PLLC, and files the within Motion of Leave for Court to Join an Additional Defendant and hereby avers as follows:

1. This lawsuit arises out of a fire which occurred on or about September 6, 1999, at Plaintiffs' mobile home located at 46 Pondeross Drive, Clearfield County, Pennsylvania.
2. The mobile home was manufactured by Fleetwood Enterprises, Inc., and sold by Defendant, Larry's Homes, INC., to Additional Defendants, Jim and Denise Burkett.

3. In May of 1998, the Burkett's sold the mobile home to a dealer who then sold the home to Plaintiffs, Richard and Janet Franolich.

4. In September, 1999, the home was totally destroyed by fire.

5. Plaintiffs initiated this action against the Defendant, Larry's Homes, INC. ("LHI") and Fleetwood Enterprises, in September, 2001. Plaintiffs allege that the Defendants were responsible for the fire in the home.

6. Subsequently, Defendant filed Preliminary Objections to the complaint and an Amended Complaint was filed on or about January 30, 2002. LHI filed an Answer and New Matter to the Complaint, denying all liability to the Plaintiffs.

7. On March 14, 2002, LHI filed a Complaint to Join Additional Defendants, Jim and Denise Burkett.

8. On or about April 11, 2002, counsel for Jim and Denise Burkett, Michael Dorezas, Esquire, informed the undersigned that the Burkett's had not sold the home directly to the Plaintiffs, Richard and Janet Franolich. Rather, the Burkett's had sold the home to a mobile home dealer who then sold the home to Mr. and Mrs. Franolich.

9. Preliminary discovery has revealed that the cause of the fire in the mobile home was faulty electric wiring.

10. Plaintiffs alleged that the faulty wiring was the result of LHI's negligent installation of the wiring.

11. If, in fact, faulty wiring was the cause of the fire in the mobile home, it is Defendant's position that the wiring was altered in some fashion by someone subsequent to the sale of the home to the Burkett's, or by co-Defendant Fleetwood Enterprises.

12. LHI requested that Attorney Dorezas provide counsel for LHI with the name of the mobile home dealer to whom Mr. and Mrs. Burkett sold the mobile home. Counsel is currently waiting for Mr. Dorezas to respond.

13. Since more than sixty (60) days have passed since the filing of the Amended Complaint, Defendant, Larry's Homes, INC., seeks leave of court to join the entity which sold the mobile home to the Plaintiffs. Pa. R.C.P. 2253

Wherefore, Defendant respectfully requests that this Court grant its Motion for Leave of Court to Join Additional Defendant, and allow the Defendant, Larry's Homes, INC., to file a Complaint to Join Additional Defendant.

Respectfully submitted,

ZIMMER KUNZ, PLLC

By:


RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorney for Defendant
Larry's Homes, INC.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

CIVIL DIVISION

NO. 01-1318 C.D.

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife,

Additional Defendants.

ORDER OF COURT

And now this _____ day of _____, 2002, upon consideration of the foregoing Motion for Leave of Court to Join Additional Defendant, it is hereby ordered that the Motion is granted and the Defendant, Larry's Homes, INC., is granted Leave of Court to file a Complaint to Join Additional Defendant.

BY THE COURT:

J.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within MOTION FOR
LEAVE OF COURT TO JOIN ADDITIONAL DEFENDANTS was forwarded to the below
named individuals by United States Mail on the 30th day of April, 2002

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

Attorney for Fleetwood Enterprises, INC.

J. Michael Dorezas, Esquire
Evey, Routh, Black, Dorezas, Magee & Levine LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648

Attorney for Jim and Denise Burkett

ZIMMER KUNZ, PLLC

By: Cynthia P. Cebu

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within AMENDED COMPLAINT TO JOIN ADDITIONAL DEFENDANTS was forwarded to the below named individuals by United States Mail on the 30th day of September, 2002

~~HAWK MANUFACTURED HOMES
Route 219 & 6
Mount Jewett, PA 16740~~

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

Attorney for Fleetwood Enterprises, INC.

J. Michael Dorezas, Esquire
Evey, Routh, Black, Dorezas, Magee & Levine LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648

Attorney for Jim and Denise Burkett

ZIMMER KUNZ, PLLC

By:



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing AMENDED ANSWER AND NEW MATTER was served on the 23rd day of Oct , 2002, by United States Mail, First Class, postage prepaid, addressed to the following:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 E. Pine Street
Clearfield, PA 16830

Raymond J. Conlon, Esquire
Cynthia P. Cafaro, Esquire
ZIMMER, KUNZ, PLLC
Morgan Center, Suite 218
101 E. Diamond Street
Butler, PA 16001

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
318 E. Locust Street
P.O. Box 670
Clearfield, PA 16830

EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP

BY: J/Michael Dorezas
J. Michael Dorezas, Esquire
Nathan W. Karn, Esquire
Attorneys for Additional Defendants

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

RICHARD FRANOLICH and	:	NO. 01 - 1318 - CD
JANET FRANOLICH, husband and wife	:	
Plaintiffs	:	
vs.	:	
FLEETWOOD ENTERPRISES, INC.	:	
and LARRY'S HOMES OF PA, INC.,	:	
Defendants.	:	
vs.	:	
JIM BURKETT and DENISE BURKETT,	:	
Husband and wife,	:	
Additional Defendants.	:	

NOTICE OF SERVICE OF ANSWERS TO INTERROGATORIES
AND RESPONSE TO REQUEST FOR PRODUCTION OF MATERIALS

You are hereby notified that on the 24th day of October, 2002, JIM BURKETT and DENISE BURKETT, Additional Defendants, served Answers to Plaintiffs' Interrogatories and Response to Request for Production of Materials by mailing the same via First-Class United States Mail, postage prepaid, addressed to the following:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Raymond J. Conlon, Esquire
Cynthia P. Cafaro, Esquire
ZIMMER, KUNZ, PLLC
Morgan Center, Suite 218
101 E. Diamond Street
Butler, PA 16001

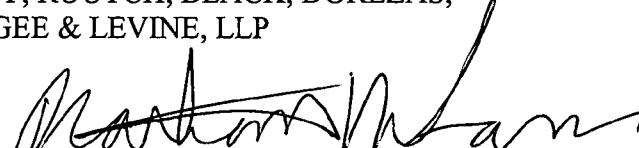
FILED

OCT 25 2002

William A. Shaw
Prothonotary

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
318 E. Locust Street
P.O. Box 670
Clearfield, PA 16830

EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE, LLP

BY: 

Nathan W. Karn, Esquire
Attorney for Additional Defendants

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA**

RICHARD FRANOLICH and JANET
FRANOLICH, husband and wife,

Plaintiffs,

vs.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES of PA, INC.,

Defendants,

vs.

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES,

Additional Defendants.

CIVIL DIVISION

No. 01-1318-CD

Issue No.

JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

Code:

Filed on behalf of HAWK HOMES, Additional
Defendant

Counsel of Record for this Party:

Mark R. Lane, Esquire
Pa. I.D. #: 61923

DELL, MOSER, LANE & LOUGHNEY, LLC
Firm #753

1300 Frick Building
Pittsburgh, PA 15219

Phone: (412) 471-1180
Fax: (412) 471-9012

FILED

NOV 05 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

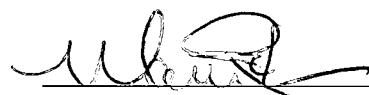
RICHARD FRANOLICH and JANET)
FRANOLICH, husband and wife,,)
Plaintiffs,)
v.) CIVIL ACTION
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES of PA, INC.,) Docket No: 01-1318-CD
Defendants,)
Vs.)
JIM BURKETT and DENISE BURKETT, Husband)
and wife, and HAWK HOMES,)
Additional Defendants.

PRAECIPE FOR APPEARANCE

TO: William A. Shaw, Prothonotary

Kindly enter our appearance on behalf of Hawk Homes, Defendant in the above-captioned matter.

DELL, MOSER, LANE & LOUGHNEY, LLC



Mark R. Lane, Esq.
Attorneys for Hawk Homes, Defendant

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **Praecipe for Appearance** has been served upon all counsel of record by U.S. Mail, postage prepaid, this 1st day of November 2002.

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830
Attorney for Fleetwood Enterprises, Inc.

J. Michaael Dorezas, Esquire
Evey, Rourch, Black Dorezas, Magee & Levine, LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648
Attorney for Jim and Denise Burkett

Cynthia P. Cafaro, Esquire
Raymond J. Conlon, Esquire
Zimmer Kunz Professional Limited Liability Company
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001
Attorney for Larry's Homes of PA., Inc.



Mark R. Lane, Esq.

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

RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife,

Plaintiffs,

No. 01-1318-CD

v.
FLEETWOOD ENTERPRISES, INC.,
and LARRY'S HOMES of PA, INC.

Defendants,

**VERIFICATION OF
JANE ZINGARO**

Filed on behalf of :
Defendant, Larry's Homes of PA,

Counsel of Record for this party:

Raymond J. Conlon, Esquire
Pa. I.D. #49495

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES.

Additional Defendants.

Cynthia P. Cafaro, Esquire
Pa. I.D. #80021

**ZIMMER KUNZ
PROFESSIONAL LIMITED
LIABILITY COMPANY**
Firm # 920
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001

(724) 285-6677

FILED

DEC 02 2002

William A. Shaw
Prothonotary

VERIFICATION

I, Paul A. Zingaro, in my capacity as representative of Larry's Homes of PA, Inc., have read the within **COMPLAINT TO JOIN ADDITIONAL DEFENDANT, HAWK MANUFACTURED HOMES**. The statements contained therein are true and correct to the best of my personal knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S.A. §4904 related to unsworn fabrication to authorities, which provides that if I knowingly make false averments, I may be subject to criminal penalties.

Date: 11/19/2002

Paul A. Zingaro
Representative
Larry's Homes Inc.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within Verification of Jane Zingaro was forwarded to the below named individuals by United States Mail on the 26th day of November, 2002

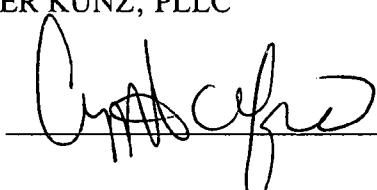
Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830
Attorney for Fleetwood Enterprises, INC.

J. Michael Dorezas, Esquire
Evey, Routh, Black, Dorezas, Magee & Levine LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648
Attorney for Jim and Denise Burkett

Mark Lane, Esquire
Dell, Moser, Lane & Loughney, LLC
1300 Frick Building
Pittsburgh, PA 15219
Attorney for Hawk Homes

ZIMMER KUNZ, PLLC

By: 

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
)
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
DEFENDANTS.)

NOTICE OF SERVICE

To: William A. Shaw, Prothonotary

I, Theron G. Noble, Esquire, counsel for Plaintiffs, does hereby certify this 29th day of November, 2002, that I did serve Plaintiffs' responses to Defendant Larry Homes of PA, Inc.,'s discovery requests , to the below indicated persons, being all counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire Bell, Silberblatt & Wood P.O. Box 670 Clearfield, PA 16830	Cynthia P. Cafaro, Esquire Zimmer Kunz, LLC 101 E. Diamond Street Butler, PA 16001	Michael Dorezas, Esquire Evey, Routh & Black,et.al. P.O. Box 415 Hollidaysburg, PA 16648-0415	Mark R. Lane, Esquire Dell, Moser, Lane & Loughney, LLC 437 Grant Street 1300 Frick Building Pittsburgh, PA 15219-6002
----------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

FILED

DEC 02 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD FRANOLICH and JANET
FRANOLICH, husband and wife,

Plaintiffs,

vs.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES of PA, INC.,

Defendants,

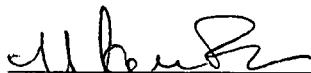
vs.

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES,

Additional Defendants.

TO: ALL PARTIES:

You are hereby notified to file a written response to the enclosed ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO PA. R.C.P. 2252(d) within twenty (20) days from service hereof or judgment will be entered against you.



Mark R. Lane, Esquire
Attorney for Hawk Manufactured Homes, Inc.,
Additional Defendant

CIVIL DIVISION

No. 01-1318-CD

Issue No.

JURY TRIAL DEMANDED

**ANSWER, NEW MATTER AND NEW
MATTER PURSUANT TO Pa. R.C.P. 2252(d)**

Code:

Filed on behalf of Hawk Manufactured Homes,
Inc., Additional Defendant

Counsel of Record for this Party:

Mark R. Lane, Esquire
Pa. I.D. #: 61923

DELL, MOSER, LANE & LOUGHNEY, LLC
Firm #753

1300 Frick Building
Pittsburgh, PA 15219

Phone: (412) 471-1180
Fax: (412) 471-9012

FILED

DEC 20 2002

12/20/02 no cc
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD FRANOLICH and JANET)
FRANOLICH, husband and wife,)
Plaintiffs,)
v.) CIVIL ACTION
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES of PA, INC.,)
Defendants,)
vs.)
JIM BURKETT and DENISE BURKETT, Husband)
and wife, and HAWK HOMES,)
Additional Defendants.)

**ADDITIONAL DEFENDANT HAWK MANUFACTURED HOMES, INC.'S
ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO Pa. R.C.P. 2252(d)**

AND NOW, comes additional defendant, Hawk Manufactured Homes, Inc., (incorrectly designated as, but hereinafter referred to as "Hawk Homes"), by and through its attorneys, Dell, Moser, Lane & Loughney, LLC and Mark R. Lane, Esquire, and files the within Answer, New Matter and New Matter Pursuant to Pa. R.C.P. 2252(d).

ANSWER

1. The allegations contained within Paragraph 1 of the Complaint to Join Additional Defendant are admitted. However, the proper spelling of Plaintiffs' street address is "Ponderosa Drive."

2. After reasonable investigation or lack of opportunity to investigate, Hawk Homes is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained within Paragraph 2 of the Complaint to Join Additional Defendant. Therefore, the same are specifically denied and strict proof thereof is demanded at the time of trial.

3. After reasonable investigation or lack of opportunity to investigate, Hawk Homes is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained within Paragraph 3 of the Complaint to Join Additional Defendant. Therefore, the same are specifically denied and strict proof thereof is demanded at the time of trial.

4. The allegations contained within Paragraph 4 of the Complaint to Join Additional Defendant are admitted.

5. The allegations contained within Paragraph 5 of the Complaint to Join Additional Defendant are admitted. However, the proper spelling of Plaintiffs' street address is "Ponderosa."

6. The allegations contained within Paragraph 6 of the Complaint to Join Additional Defendant are admitted.

7. The allegations contained in Paragraph 7 of the Complaint to Join Additional Defendant are denied. Jim and Denise Burkett did not sell the home which is the subject of this action to Hawk Homes. The Burkettts traded in the home to Hawk Homes to obtain credit toward the purchase of a new home from Hawk Homes.

8. The allegations contained within both paragraphs identified as Paragraph 8 of the Complaint to Join Additional Defendant are admitted.

9. The allegations contained within Paragraph 9 of the Complaint to Join Additional Defendant are admitted.

10. The allegations contained within Paragraph 10 of the Complaint to Join Additional Defendant are admitted.

11. The allegations contained within Paragraph 11 of the Complaint to Join Additional Defendant are admitted.

COUNT I – NEGLIGENCE

Larry's Homes of PA, Inc. vs. Hawk Manufactured Homes

12. In response to the allegations contained within Paragraph 12 of the Complaint to Join, this Defendant incorporates all averments contained within Paragraphs 1 through 11 of the instant Answer as though fully set forth at length herein.

13. The allegations contained within Paragraph 13 of the Complaint to Join Additional Defendant are conclusions of law to which no response is required. However, to the extent a response is deemed necessary, said allegations are denied pursuant to Pa. R.C.P. 1029(e).

14. The allegations contained within Paragraph 14 of the Complaint to Join Additional Defendant and its subparts are conclusions of law to which no response is required. However, to the extent a response is deemed necessary, said allegations are denied pursuant to Pa. R.C.P. 1029(e).

15. The allegations contained within Paragraph 15 of the Complaint to Join Additional Defendant are conclusions of law to which no response is required. However, to the extent a response is deemed necessary, said allegations are denied pursuant to Pa. R.C.P. 1029(e).

16. After reasonable investigation or lack of opportunity to investigate, Hawk Homes is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained within Paragraph 16 of the Complaint to Join Additional Defendant and its subparts. Therefore, the same are specifically denied and strict proof is demanded at the time of trial.

17. The allegations contained within Paragraph 17 of the Complaint to Join Additional Defendant are denied pursuant to Pa.R.C.P. 1029(e).

18. The allegations contained within Paragraph 18 of the Complaint to Join Additional Defendant are conclusions of law to which no response is required. However, to the extent a response is deemed necessary, said allegations are denied pursuant to Pa. R.C.P. 1029(e).

19. The allegations contained within Paragraph 19 of the Complaint to Join Additional Defendant are conclusions of law to which no response is required. However, to the extent a response is deemed necessary, said allegations are denied pursuant to Pa. R.C.P. 1029(e).

20. The allegations contained within Paragraph 20 of the Complaint to Join Additional Defendant are conclusions of law to which no response is required. However, to the extent a response is deemed necessary, said allegations are denied pursuant to Pa. R.C.P. 1029(e).

WHEREFORE, Additional Defendant Hawk Manufactured Homes, Inc. denies liability to any party in this action and demands judgment in its favor along with costs of suit and other relief which this Court seems just.

NEW MATTER

21. Any damages suffered by Plaintiffs were caused, either in whole or in part, by their own negligence, recklessness, or carelessness.

22. Any property damage sustained by Plaintiffs was caused, either in whole or in part, by the negligence, recklessness, or carelessness of Fleetwood Enterprises, Inc., Larry's Homes of PA, Inc., Jim Burkett and/or Denise Burkett.

23. Any direct claims available to the Plaintiffs against Hawk Homes are barred by the statute of limitations.

24. If Plaintiffs are entitled to a recovery, Hawk Homes may only be subject to liability for contribution and/or indemnification to the remaining liable parties.

25. A modular home is not considered a "product" according to the Restatement (Second) of Torts § 402A. Accordingly, Hawk Homes cannot be held strictly liable in tort for any damages sustained by the Plaintiffs.

26. Should Plaintiffs prove injuries or any damages, then the damages must be reduced to the extent Plaintiffs failed to mitigate their losses.

27. Hawk Homes did not perform any type of modification to the electrical system of Plaintiffs' home.

28. Plaintiffs purchased the modular home which is the subject of this action "as is" with "no warranties-- written or implied." *See, Purchase Agreement attached hereto as Exhibit "A."*

29. Plaintiffs' claims are limited by the terms of their Contract with Hawk Homes and the limitations of warranties contained therein.

30. Plaintiffs' claims are limited by Section 10 of the Additional Terms and Conditions of the Purchase Agreement attached hereto as Exhibit "A" between Plaintiffs and Hawk Homes which states:

10. **EXCLUSION OF WARRANTIES**

I UNDERSTAND THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES EXPRESS OR IMPLIED ARE EXCLUDED BY YOU FROM THIS TRANSACTION AND SHALL NOT APPLY TO THE GOODS SOLD. I UNDERSTAND THAT YOU MAKE NO WARRANTIES WHATSOEVER REGARDING THE UNIT OR ANY APPLIANCE OR COMPONENT CONTAINED THEREIN, EXCEPT THAT AS MAY BE REQUIRED UNDER APPLICABLE STATE LAW.

31. Plaintiffs' claims are limited by Section 11 of the Additional Terms and Conditions of the Purchase Agreement attached hereto as Exhibit "A" between Plaintiffs and Hawk Homes which states:

11. **MANUFACTURERS WARRANTIES**

I UNDERSTAND THAT THERE MAY BE WRITTEN WARRANTIES COVERING THE UNIT PURCHASED, OR ANY APPLIANCE(S) OR COMPONENT(S), WHICH HAVE BEEN PROVIDED BY THE MANUFACTURER OF THE UNIT OR MANUFACTURER OF THE APPLIANCE(S) OR COMPONENT(S). YOU WILL GIVE ME COPIES OF ANY AND ALL WARRANTIES SUPPLIED BY THE MANUFACTURERS. DELIVERY BY YOU TO ME OF THE WARRANTY BY THE MANUFACTURER OF THE UNIT PURCHASED, OR ANY APPLIANCE(S) OR COMPONENT(S) DOES NOT MEAN YOU ADOPT THE WARRANTY(S) OF SUCH MANUFACTURER(S). I ACKNOWLEDGE

THAT THESE EXPRESS WARRANTIES MADE BY THE MANUFACTURER(S) HAVE NOT BEEN MADE BY YOU EVEN IF THEY SAY YOU MADE THEM OR SAY YOU MADE SOME OTHER EXPRESS WARRANTY. YOU ARE NOT AN AGENT OF THE MANUFACTURER(S) FOR WARRANTY PURPOSES EVEN IF YOU COMPLETE OR ATTEMPT TO COMPLETE REPAIRS FOR THE MANUFACTURER(S).

32. Plaintiffs' claims are limited by Section 12 of the Additional Terms and Conditions of the Purchase Agreement attached hereto as Exhibit "A" between Plaintiffs and Hawk Homes which states:

12. **LIMITATION OF DAMAGES**

IF THE MANUFACTURER(S) WARRANTY IS LIMITED TO REPAIR OR REPLACEMENT AND SUCH WARRANTY FAILS BECAUSE OF AN ATTEMPT AT REPAIRS ARE NOT COMPLETED WITHIN A REASONABLE TIME OR THE MANUFACTURER(S) HAS (HAVE) GONE OUT OF BUSINESS, I AGREE, THAT IF I AM ENTITLED TO ANY DAMAGES AT ALL AGAINST YOU, MY DAMAGES ARE LIMITED TO THE LESSER OF EITHER THE COST OF NEEDED REPAIRS OR REDUCTION IN THE MARKET VALUE OF THE UNIT CAUSED BY THE LACK OF REPAIRS. IN ANY CASE, YOU WILL NOT BE REQUIRED TO PAY ME ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES. I ALSO AGREE THAT ONCE I HAVE ACCEPTED THE UNIT, EVEN THOUGH THE MANUFACTURER(S) WARRANTY DOES NOT ACCOMPLISH IT'S PURPOSE, THAT I CANNOT RETURN THE UNIT TO YOU AND SEEK A REFUND FOR ANY REASON.

33. Plaintiffs' claims are limited by Section 15 of the Additional Terms and Conditions of the Purchase Agreement attached hereto as Exhibit "A" between Plaintiffs and Hawk Homes which states:

15. **ONE-YEAR PERIOD OF LIMITATION**

I understand and agree that-if either of us should breach this contract-the other of us shall have only one year, after the occurrence of that breach, in which to commence an action for breach of contract.

34. Plaintiffs' damages were caused by unforeseeable events beyond the control of Hawk Homes.

NEW MATTER PURSUANT TO Pa.R.C.P. 2252(d)

35. Without admitting any allegations contained within Plaintiffs' Amended Complaint, and solely to preserve its rights to contribution and/or indemnification, Hawk Homes incorporates herein by reference thereto the allegations contained within Plaintiffs' Amended Complaint and Larry's Homes of PA, Inc.'s Complaint to Join against all other defendants.

36. If it is determined at the time of trial that the Plaintiffs are entitled to a recovery, which is specifically denied by Hawk Homes, then, Hawk Homes avers that any damages allegedly sustained by Plaintiffs are the direct and proximate result of the actions, negligence and/or carelessness of Fleetwood Enterprises, Inc., Larry's Homes of PA, Inc., Jim Burkett and/or Denise Burkett and that Fleetwood Enterprises, Inc., Larry's Homes of PA, Inc., Jim Burkett and/or Denise Burkett are solely, jointly and/or severally liable to the Plaintiffs.

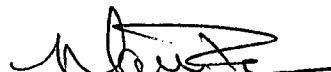
37. As Hawk Homes made no modifications to the Plaintiffs' home before its sale to the Plaintiffs, then the co-defendants, if anyone, must be liable to the Plaintiffs for their

negligence, breach of warranty, breach of contract and/or sale of a defective product, in the event the home or any of its component parts are considered products.

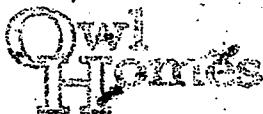
38. In the event that the home or its component parts are considered products, then Hawk Homes is entitled to indemnification from Larry's Homes of PA, Inc., as Hawk Homes was simply a pass-through seller and Larry's Homes of PA, Inc. would be primarily liable to the Plaintiffs.

WHEREFORE, Additional Defendant Hawk Homes demands that if it is determined at the time of trial that Plaintiffs are entitled to recovery, Defendants Fleetwood Enterprises, Inc., Larry's Homes of PA, Inc., Jim Burkett and/or Denise Burkett are solely, jointly and/or severally liable to the Plaintiffs and Hawk Homes demands judgment in its favor and against said defendants for indemnification and/or contribution along with costs, attorneys' fees and other relief which this Court deems appropriate.

DELL MOSER LANE & LOUGHNEY, LLC



Mark R. Lane, Esquire
Attorneys for Hawk Manufactured Homes,
Inc., Additional Defendant



ALLEGANY
Route 417 W #3
ALLEGANY, NY 14706
(716) 873-2222

WYOMING
P.O. Box 31300
BATH, NY 14310
(601) 773-0151

WYOMING
P.O. Box 31300
BATH, NY 14310
(601) 773-0151

WYOMING
Route 8 E 27 • P.O. Box 209
DUBOIS, PA 15801
(614) 529-3435

New York and Pennsylvania States Largest Mobile Home & Modular Dealer

In this contract the words, I, ME, and MY refer to the Buyer and Co-Buyer signing this contract. The words YOU and YOUR refer to the Dealer. Subject to the terms and conditions on both sides of this agreement you agree to sell and I agree to purchase the following described unit.

BUYER'S ADDRESS DELIVERY ADDRESS	RICHARD FRANOLICH US ARMY 203 N. BRADY ST. DUBOIS PA 15801 N/A	PHONE (814) 374-8311 (614)	DATE 6-13-98
SALESPERSON	SHELLY/PAKK		

MAKE & MODEL	YEAR	BD. ROOMS	FLOOR SIZE	HITCH SIZE	STOCK NUMBER
Elkwood Linnerton	96	4	50' W 28' L	W	
SERIAL NUMBER	COLOR	PROPOSED DELIVERY DATE			KEY NUMBERS
NAELT41A03753	White	N/A			

OPTIONAL EQUIPMENT, LABOR AND ACCESSORIES		BASE PRICE OF UNIT	\$ 39,200.00
<input type="checkbox"/> NEW	<input checked="" type="checkbox"/> USED	\$	

		OPTIONAL EQUIPMENT	
		SUB-TOTAL	\$

HOME SOLD AS IS		SALES TAX	
		NON-TAXABLE ITEMS	TITLE 27.50

NO WARRANTIES		VARIOUS FEES AND INSURANCE	
WRITTEN OR IMPLIED			

		1. CASH PURCHASE PRICE	\$ 39,200.00
		TRADE-IN ALLOWANCE	\$

		LESS BAL. DUE on above	\$
		NET ALLOWANCE	\$
		CASH DOWN PAYMENT	\$ 4000.00
		CASH AS AGREED SEE REMARKS	\$

		2. LESS TOTAL CREDITS	\$ 35,227.50
		SUB-TOTAL	\$ 35,227.50

		SALES TAX (If Not Included Above)	
		3. Unpaid Balance of Cash Sale Price	\$ 35,227.50

		REMARKS: BALANCE DUE AT OR BEFORE DELIVERY.	
--	--	---------------------------------------------	--

EXHIBIT A

NOTICE:

THIS COMPANY IS NOT RESPONSIBLE FOR COST OF EXTRA EQUIPMENT NECESSARY TO PLACE YOUR HOME ON YOUR LOT.

BALANCE CARRIED TO OPTIONAL EQUIPMENT \$

NOTE: WARRANTY AND EXCLUSIONS AND LIMITATIONS OF DAMAGES ON THE REVERSE SIDE.

DESCRIPTION OF TRADE-IN	YEAR	SIZE
		X

MAKE	MODEL	BEDROOMS
------	-------	----------

TITLE NO.	SERIAL NO.	COLOR
-----------	------------	-------

AMOUNT OWING TO WHOM

ANY DEBT I OWE ON THE TRADE-IN IS TO BE PAID BY YOU ME

THIS AGREEMENT CONTAINS THE ENTIRE UNDERSTANDING BETWEEN YOU AND ME AND NO OTHER REPRESENTATION OR INDUCEMENT, VERBAL OR WRITTEN, HAS BEEN MADE WHICH IS NOT CONTAINED IN THIS CONTRACT.
I, OR WE, ACKNOWLEDGE RECEIPT OF A COPY OF THIS ORDER AND THAT I, OR WE, HAVE READ AND UNDERSTAND THE BACK OF THIS AGREEMENT.

OWL HOMES OF ALLEGANY

Not Valid Unless Signed and Accepted by an Officer of the Company or an Authorized Agent

By *Richard Franolich*
Approved.

SIGNED X *[Signature]* BUYER

DEALER SOCIAL SECURITY NO. / / / / / /

SIGNED X *[Signature]* BUYER

SOCIAL SECURITY NO. / / / / / /

ADDITIONAL TERMS AND CONDITIONS

In this contract the words I, me, and my refer to the Buyer and Co-Buyer signing this contract. The words you and your refer to the Dealer. I, further agree (continued from other side of Contract):

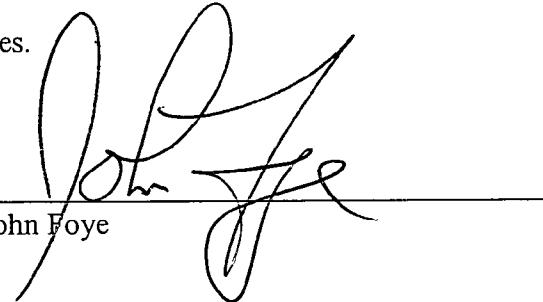
1. **IF NOT A CASH TRANSACTION.** If I do not complete this purchase as a cash transaction, I know before or at the time of delivery of the unit purchased, I will enter into a retail installment contract and sign a security agreement or other agreement as may be required to finance my purchase.
2. **TITLE.** Title to the unit purchased will remain in you until the agreed upon purchase price is paid in full in cash, or I have signed a retail installment contract and it has been accepted by a bank or finance company, at which time title passes to me even though the actual delivery of the unit purchased may be made at a later date.
3. **TRADE-IN.** If I am trading in a used car, manufactured home, trailer, or other vehicle, I will give you the original bill of sale or the title to the trade-in. I promise that any trade-in which I give is owned by me and is free of any lien or other claim except as noted on the other side of this contract. I promise that all taxes of every kind levied against the trade-in have been fully paid. If any government agency makes a levy or claims a tax lien or demand against the trade-in, you may, at your option, either pay it and I will reimburse you on demand, or you may add that amount to this contract as if it had been originally included.
4. **REGISTRATION OR LICENSE OF TRADE-IN.** If I have a trade-in and it is registered or licensed in a state outside of the one where this order is written, I will immediately have the trade-in registered or licensed in the state you indicate and I will pay any and all expenses and registration or licensing fees required. If you handle the registration or licensing of the trade-in, I will reimburse you for the expense on demand or you may add that amount to this contract as if it had been originally included.
5. **REAPPRAISAL OF TRADE-IN.** If I am making a trade-in and it is not delivered to you at the time of the original appraisal and if later, on delivery, it appears to you that there have been material changes made in the furnishings or accessories, or in its general physical condition, you may make a reappraisal. This later appraisal value will then determine the allowance to be made for the trade-in.
6. **FAILURE TO COMPLETE PURCHASE.** If I fail or refuse to complete this purchase within the time frame specified in this contract or as specified in the Uniform Commercial Code of the state in which I sign this contract, or within an agreed upon extension of time, for any reason (other than cancellation because of any increase in price), you may keep that portion of my cash deposit which will adequately compensate you for your consequential damages, incidental damages, and all other damages, expenses, or losses which you incur because I fail to complete my purchase. I agree, however, that this contract shall not be interpreted as containing a "liquidated damages" provision. If I have not given you a cash deposit or it is inadequate and I have given you a trade-in, you may sell the trade-in at public or private sale, and deduct from the money received an amount that will adequately compensate you for any or all of the above mentioned damages, expenses, and losses incurred because I failed to complete this purchase. I understand that you shall have all the rights of a seller upon breach of contract under the Uniform Commercial Code, except the right to seek and collect "liquidated damages" under Section 2-718. If you prevail in any legal action which you bring against me, or which I bring against you, concerning this contract, I agree to reimburse you for your reasonable attorney's fees, court costs and expenses which you incur in prosecuting or defending against that legal action.
7. **CHANGES BY MANUFACTURER.** I understand that the manufacturer may make any changes in the model, or designs, or any accessories and parts from time to time, and at any time, if the manufacturer does make changes, neither you nor the manufacturer are obligated to make the same changes in the unit I am purchasing and covered by this order, either before or after it is delivered to me.
8. **DELAYS.** I will not hold you liable for delays caused by the manufacturer, accidents, strikes, fires, or any other cause beyond your control.
9. **INSPECTION.** I have examined the product and find it suitable for my particular needs. I have relied upon my own judgement and inspection in determining that it is of acceptable quality. On the special unit ordered, I have relied on my inspection of the display model(s), the brochures and bulletins and/or the floor plan provided to you by the Manufacturer, in making my decision to purchase the unit described on the reverse side of this agreement.
10. **EXCLUSION OF WARRANTIES.** I UNDERSTAND THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES EXPRESS OR IMPLIED ARE EXCLUDED BY YOU FROM THIS TRANSACTION AND SHALL NOT APPLY TO THE GOODS SOLD. I UNDERSTAND THAT YOU MAKE NO WARRANTIES WHATSOEVER REGARDING THE UNIT OR ANY APPLIANCE OR COMPONENT CONTAINED THEREIN, EXCEPT THAT AS MAY BE REQUIRED UNDER APPLICABLE STATE LAW.
11. **MANUFACTURERS WARRANTIES.** I UNDERSTAND THAT THERE MAY BE WRITTEN WARRANTIES COVERING THE UNIT PURCHASED, OR ANY APPLIANCE(S) OR COMPONENT(S), WHICH HAVE BEEN PROVIDED BY THE MANUFACTURER OF THE UNIT OR MANUFACTURER OF THE APPLIANCE(S) OR COMPONENT(S). YOU WILL GIVE ME COPIES OF ANY AND ALL WRITTEN WARRANTIES SUPPLIED BY THE MANUFACTURERS. DELIVERY BY YOU TO ME OF THE WARRANTY BY THE MANUFACTURER OF THE UNIT PURCHASED, OR ANY APPLIANCE(S) OR COMPONENT(S) DOES NOT MEAN YOU ADOPT THE WARRANTY(S) OF SUCH MANUFACTURER(S). I ACKNOWLEDGE THAT THESE EXPRESS WARRANTIES MADE BY THE MANUFACTURER(S) HAVE NOT BEEN MADE BY YOU EVEN IF THEY SAY YOU MADE THEM OR SAY YOU MADE SOME OTHER EXPRESS WARRANTY. YOU ARE NOT AN AGENT OF THE MANUFACTURER(S) FOR WARRANTY PURPOSES EVEN IF YOU COMPLETE, OR ATTEMPT TO COMPLETE REPAIRS FOR THE MANUFACTURER(S).
12. **LIMITATION OF DAMAGES.** IF THE MANUFACTURER(S) WARRANTY IS LIMITED TO REPAIR OR REPLACEMENT AND SUCH WARRANTY FAILS BECAUSE OF ATTEMPT AT REPAIRS ARE NOT COMPLETED WITHIN A REASONABLE TIME OR THE MANUFACTURER(S) HAS (HAVE) GONE OUT OF BUSINESS, I AGREE, THAT IF I AM ENTITLED TO ANY DAMAGES AT ALL AGAINST YOU, MY DAMAGES ARE LIMITED TO THE LESSER OF EITHER THE COST OF NEEDED REPAIRS OR REDUCTION IN THE MARKET VALUE OF THE UNIT CAUSED BY THE LACK OF REPAIRS. IN ANY CASE, YOU WILL NOT BE REQUIRED TO PAY ME ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES. I ALSO AGREE THAT ONCE I HAVE ACCEPTED THE UNIT, EVEN THOUGH THE MANUFACTURER(S) WARRANTY DOES NOT ACCOMPLISH IT'S PURPOSE, THAT I CANNOT RETURN THE UNIT TO YOU AND SEEK A REFUND FOR ANY REASON.
13. **INSURANCE.** I understand that I am not covered by insurance on the unit purchased until accepted by an insurance company, and I agree to hold you harmless from any and all claims due to loss or damage prior to acceptance of insurance coverage by an insurance company.
14. **CONTROLLING LAW AND PLACE OF SUIT.** The law of the State, in which I sign this contract, is the law which is to be used in interpreting the terms of the contract. You and I agree that if any dispute between us is submitted to a court for resolution, such legal proceeding shall take place in the county in which your principle offices are located. If under state law a special dispute resolution procedure or complaint process is available, I agree to the extent permitted by law that procedure shall be the only method of resolution and source of remedies available to me.
15. **ONE-YEAR PERIOD OF LIMITATION.** I understand and agree that - if either of us should breach this contract - the other of us shall have only one year, after the occurrence of that breach, in which to commence an action for a breach of contract.
16. **IF PART INVALID REST OF CONTRACT SAVED.** You and I agree that each portion of this contract is independent and if any paragraph or provision violates the law and is unenforceable, the rest of the contract will be valid.
17. **DELIVERY AND PLACEMENT.** If you have included delivery of the unit purchased in the purchase price, or if you quote a charge for delivery to my destination, your agreement to transport the unit purchased, as well as the price quotation made, is based upon my assurance that travel is along acceptable all-weather surfaced roads, fully open and accessible, from point of origin to point of delivery, during the period required for transportation. I assume all responsibility for the proper preparation of my property to both receive and locate the unit purchased. If you must hire extra labor and/or equipment in order to deliver and place the unit purchased because of something not previously disclosed to you, I will pay for all those additional costs. I understand that you do not guarantee proper placement unless a concrete pier, running below the frost line, has first been prepared. I will pay for all labor and material costs to re-set the unit when caused by future settling or sinking resulting from failure to provide a foundation approved by the State or Local Code in which the home is sited. I understand that the sewer must be stubbed out of the ground, the waterline must be capped and the electric line connected to a meter pole with a proper receptacle within 20 feet of the electric box inside of the home. I understand that unless otherwise provided on the other side of this contract, the unit purchased is sold by you F.O.B. your lot and I am responsible for transporting it.
18. **CONNECTIONS, PERMITS AND CHANGES.** I understand that you are not permitted to make plumbing or electrical connections or connection of certain natural gas or propane appliances where state or local ordinance require a licensed plumber or electrician to do the work. I understand that you are not responsible for obtaining health or sanitation permits, nor for any local, county, or state permits required because of restrictive zoning. I understand that you are not responsible for making changes to plumbing, electrical or construction changes required by special building ordinances or laws. I will pay the costs of any changes needed for compliance with local, county or state laws or zoning requirements.
19. **NOTICE OF WIDTH LIMITATIONS.** I have been informed of the length and width limitations, as of the date of this contract, now enforced in the several states, or provinces of Canada, as they may apply to the movement of manufactured homes over the public highways, and the fact that special permits are required. I understand that some states, or the provinces of Canada, may not grant the required permits where the size exceeds the statutory maximum. I release you and your assigns, and the manufacturer and its assigns, from any and all demands, suits or counterclaims, based on the size of the unit purchased, if it exceeds the limitations which are now, or may later be, imposed by any state or province.

VERIFICATION

I verify that the averments of fact made in this foregoing **Additional Defendant Hawk Manufactured Homes, Inc.'s Answer, New Matter and New Matter Pursuant To Pa. R.C.P. 2252(d)** are true and correct and based upon my personal knowledge, information or belief. I understand that averments of fact in said document are made subject to the penalties of 18 Pa. C.S. §4904, relating to the unsworn falsifications to authorities.

Date: 12-16-02

John Foye

A handwritten signature in black ink, appearing to read "John Foye", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized 'J' at the beginning.

CERTIFICATE OF SERVICE

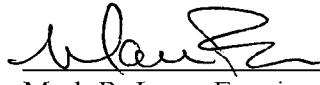
I hereby certify that a true and correct copy of the within **Additional Defendant Hawk Manufactured Homes, Inc.'s Answer, New Matter and New Matter Pursuant to Pa.R.C.P. 2252(d)** has been served upon all counsel of record by U.S. Mail, postage prepaid, this 18th day of December 2002.

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
Counsel for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830
Counsel for Fleetwood Enterprises, Inc.

J. Michael Dorezas, Esquire
Evey, Rourch, Black, Dorezas, Magee & Levine, LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648
Counsel for Jim and Denise Burkett

Cynthia P. Cafaro, Esquire
Raymond J. Conlon, Esquire
Zimmer Kunz Professional Limited Liability Company
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001
Counsel for Larry's Homes of PA., Inc.



Mark R. Lane, Esquire

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

RICHARD FRANOLICH and : NO. 01 - 1318 - CD
JANET FRANOLICH, husband and wife :
Plaintiffs :
vs. :
FLEETWOOD ENTERPRISES, INC. :
and LARRY'S HOMES OF PA, INC., :
vs. :
Defendants. :
vs. :
JIM BURKETT and DENISE BURKETT, :
Husband and wife and HAWK HOMES, :
Additional Defendants. :
Plaintiffs :
vs. :
FILING PARTIES: :
Additional Defendants JIM BURKETT and :
DENISE BURKETT :
vs. :
COUNSEL FOR FILING PARTIES: :
J. Michael Dorezas, Esquire :
PA I.D. #17460 :
vs. :
EVEY, ROUTCH, BLACK, DOREZAS, :
MAGEE & LEVINE, LLP :
401 Allegheny Street :
P.O. Box 415 :
Hollidaysburg, PA 16648 :
(814) 695-7581 :
vs. :

FILED

JAN 13 2003

William A. Shaw
Prothonotary

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

RICHARD FRANOLICH and : NO. 01 - 1318 - CD
JANET FRANOLICH, husband and wife :
Plaintiffs :
:

vs. :

FLEETWOOD ENTERPRISES, INC. :
and LARRY'S HOMES OF PA, INC., :
Defendants. :
:

vs. :

JIM BURKETT and DENISE BURKETT, :
Husband and wife and HAWK HOMES :
Additional Defendants. :
:

**ADDITIONAL DEFENDANTS, JIM BURKETT and DENISE BURKETT,
REPLY TO NEW MATTER AND NEW MATTER PURSUANT TO
PA R.C.P. RULE 2252(d) OF HAWK MANUFACTURED HOMES, INC.**

AND NOW, come the Additional Defendants, JIM BURKETT and DENISE BURKETT, by and through their attorneys, EVEY, ROUTCH, BLACK, DOREZAS, MAGEE & LEVINE, LLP, file the following Reply to New Matter and New Matter Pursuant to Pa.R.C.P. Rule 2252(d) of Hawk Manufactured Homes, Inc. a/k/a Hawk Homes.

1. The allegations of paragraph 21 are conclusions of law to which no reply is necessary.
2. The allegations of paragraph 22 are conclusions of law to which no reply is necessary. To the extent any reply on the part of Jim Burkett and/or Denise Burkett is necessary, said allegations are denied pursuant to Pa.R.C.P. 1029(e).
3. The allegations of paragraph 23 are conclusions of law to which no reply is necessary.
4. The allegations of paragraph 24 are conclusions of law to which no reply is necessary.

5. The allegations of paragraph 25 are conclusions of law to which no reply is necessary.

6. The allegations of paragraph 26 are conclusions of law to which no reply is necessary.

7. The allegations of paragraph 27 are conclusions of law to which no reply is necessary.

8. The allegations of paragraph 28 are conclusions of law to which no reply is necessary.

9. The allegations of paragraph 29 are conclusions of law to which no reply is necessary.

10. The allegations of paragraph 30 are conclusions of law to which no reply is necessary.

11. The allegations of paragraph 31 are conclusions of law to which no reply is necessary.

12. The allegations of paragraph 32 are conclusions of law to which no reply is necessary.

13. The allegations of paragraph 33 are conclusions of law to which no reply is necessary.

14. The allegations of paragraph 34 are conclusions of law to which no reply is necessary.

NEW MATTER PURSUANT TO PA.R.C.P. 2252(d)

15. These answering Additional Defendants, Jim Burkett and Denise Burkett hereby incorporate by reference and make a part hereof their Answer previously filed to Larry's Homes of PA, Inc.'s Complaint to Join these answering Additional Defendants.

16. The averments of paragraph 36 are conclusions of law to which no reply is necessary. To the extent any reply is deemed necessary, the same are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

17. The averments of paragraph 37 are conclusions of law to which no reply is necessary. To the extent any reply is deemed necessary, the same are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

18. The averments of paragraph 38 are conclusions of law to which no reply is necessary.

WHEREFORE, the Additional Defendants JIM BURKETT and DENISE BURKETT demand that the New Matter pursuant to Pa.R.C.P. 2252(d) filed by Hawk Manufactured Homes, Inc. against said Jim Burkett and Denise Burkett be dismissed, and that judgment be entered in their favor and against Hawk Manufactured Homes, Inc. t/d/b/a Hawk Homes along with costs, attorney's fees and other relief that this court deems appropriate.

Respectfully submitted,

EVEY, ROUTCH, BLACK, DOREZAS
MAGEE & LEVINE, LLP

BY: 
J. Michael Dorezas, Esquire
PA I.D. #17460
401 Allegheny Street
Hollidaysburg, PA 16648
(814) 695-7581
Attorney for Additional Defendants,
JIM BURKETT and DENISE BURKETT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Additional Defendants Jim Burkett and Denise Burkett's foregoing Reply to New Matter and New Matter Pursuant to Pa.R.C.P. 2252(d) of Hawk Manufactured Homes, Inc. a/k/a Hawk Homes, was served on the 10th day of January, 2003, by United States Mail, postage pre-paid, addressed to the following:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

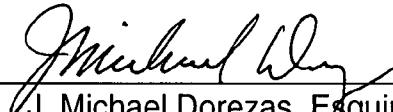
Raymond J. Conlon, Esquire
Cynthia P. Cafaro, Esquire
ZIMMER, KUNZ, PLLC
Morgan Center, Suite 218
101 E. Diamond Street
Butler, PA 16001

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
318 E. Locust Street
P.O. Box 670
Clearfield, PA 16830

Mark R. Lane, Esquire
Dell, Moser, Lane & Loughney, LLC
1300 Frick Bldg.
437 Grant Street
Pittsburgh, PA 15219-6002

EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE LLP

BY:


J. Michael Dorezas, Esquire
Attorney for Additional Defendants
JIM BURKETT and DENISE BURKETT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES,

Additional Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO. 01-1318 C.D.

**DEFENDANT LARRY'S HOMES OF PA,
INC., REPLY TO ADDITIONAL
DEFENDANT HAWK HOMES' NEW
MATTER**

Filed on behalf of:

Defendant Larry's Homes of PA, Inc.

Counsel of Record for this party:

Raymond J. Conlon
Pa. I.D. #49495

Cynthia P. Cafaro
Pa. I.D. #80021

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY
COMPANY
Firm #920
Morgan Center, Suite 218
101 East Diamond Street
Butler, PA 16001

(724) 285-6677

FILED

JAN 17 2003

*William A. Shaw
Prothonotary*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES.

Additional Defendants.

**DEFENDANT LARRY'S HOMES OF PA, INC., REPLY TO ADDITIONAL
DEFENDANT HAWK HOMES' NEW MATTER**

AND NOW come the Defendant, Larry's Homes of PA, Inc., by and through their counsel, Zimmer Kunz, PLLC and file the within Reply to Additional Defendants Hawk Homes' New Matter and in support thereof aver as follows:

21. Paragraph 21 applies to a party other than Defendant Larry's Homes of PA, Inc.
22. Denied. It is specifically denied that damages sustained by the Plaintiffs were caused by the negligence, recklessness or carelessness of Larry's Homes of PA, Inc.
23. Paragraph 23 is a legal conclusion to which no response is required.
24. Paragraph 24 is a legal conclusion to which no response is required.
25. Paragraph 25 is a legal conclusion to which no response is required.
26. Paragraph 26 applies to a party other than Defendant Larry's Homes of PA, Inc.

27. After reasonable investigation, Defendant is without sufficient information to either admit or deny Paragraph 27. Same is therefore denied and strict proof thereof is demanded.

28. Admitted in part and denied in part. It is admitted that purchase agreement attached to Additional Defendants' Answer and New Matter states that the modular home was sold "as is and no warranties written or implied." Defendant Larry's Homes is without sufficient information to either admit or deny the remaining allegations of Paragraph 28.

29. Paragraph 29 is a legal conclusion to which no response is required.

30. Paragraph 30 is a legal conclusion to which no response is required.

31. Paragraph 31 is a legal conclusion to which no response is required.

32. Paragraph 32 is a legal conclusion to which no response is required.

33. Paragraph 33 is a legal conclusion to which no response is required.

34. After reasonable investigation, the Defendant Larry's Homes of PA, Inc., is without sufficient information to either admit or deny Paragraph 34.

35. Defendant Larry's Homes of PA incorporates by reference Complaint to Join all other Defendants and Additional Defendants.

36. Denied. It is specifically denied that Defendant Larry's Homes of PA was negligent, reckless and/or careless in any manner. To the contrary, Larry's Homes of PA acted with reasonable care under the circumstances at all times.

37. Paragraph 37 is a legal conclusion to which no response is required.

38. Paragraph 38 is a legal conclusion to which no response is required. However, to the extent a response is deemed necessary, the Additional Defendant Hawk Homes is not entitled to indemnification from Larry's Homes of PA.

Respectfully submitted,

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY

By: 
RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorneys for Defendants

VERIFICATION

I, Jane A. Zingaro, Authorized Representative of Larry's Homes of PA, Inc., have read the within REPLY TO ADDITIONAL DEFENDANT HAWK HOMES' NEW MATTER. The statements contained therein are true and correct to the best of my personal knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.

DATE: 1/2/03

Jane A. Zingaro
Authorized Representative of
LARRY'S HOMES OF PA, INC

Jane A. ZINGARO
Name typed or printed

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within document was forwarded to the below named individuals by United States Mail on the 9th day of January, 2002.

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830
Attorney for Fleetwood Enterprises, INC.

J. Michael Dorezas, Esquire
Evey, Routh, Black, Dorezas, Magee & Levine LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648
Attorney for Jim and Denise Burkett

Mark Lane, Esquire
Dell, Moser, Lane & Loughney, LLC
1300 Frick Building
Pittsburgh, PA 15219
Attorney for Hawk Homes

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY

By: Cynthia J. Kunz

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 13124

FRANOLICH, RICHARD & JANET

01-1318-CD

VS.

FLEETWOOD ENTERPRISES INC. -VS- BURKETT, JIM al

COMPLAINT TO JOIN ADDITIONAL DEFENDANT, HAWK MANUFACTURED HOMES

SHERIFF RETURNS

NOW OCTOBER 9, 2002, DONALD MOREY, SHERIFF OF MCKEAN COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT TO JOIN ADDITIONAL DEFENDANT ON HAWK HOMES, ADDL. DEFENDANT.

NOW OCTOBER 15, 2002 SERVED THE WITHIN COMPLAINT TO JOIN ADDITIONAL DEFENDANT ON HAWK HOMES, ADDL. DEFT. BY DEPUTIZING THE SHERIFF OF MCKEAN COUNTY. THE RETURN OF SHERIFF MOREY IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATNIG THAT HE SERVED SHELLEY WEAVER, P.I.C.

Return Costs

Cost	Description
34.90	SHFF. HAWKINS PAID BY: ATTY.
35.60	SHFF. MOREY PAID BY: ATTY.
<u>10.00</u>	<u>SURCHARGE PAID BY; ATTY.</u>
<u>80.50</u>	

FILED

JAN 22 2003

Shaw
William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

22nd Day Of January 2003
Shaw

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,

Chester A. Hawkins

Chester A. Hawkins
Sheriff

SHERIFF'S RETURN

IN THE COURT OF COMMON PLEAS
OF McKEAN COUNTY

NO. Clearfield County, PA

PLAINTIFF: Richard and Janet Franolich

DEFENDANT: Fleetwood Enterprises, Inc.

AFFIDAVIT OF SERVICE

Now, October 15 20 02, at 10:10 AM., served the within Complaint to
Join Additional Defendant upon Hawk Homes
at Rt. 219, Lantz Corners, Mt. Jewett, PA 16740 by handing to
Shelley Weaver, salesperson in charge true and attested copy thereof and made
known to her the contents therein.

Sworn to and subscribed before me this

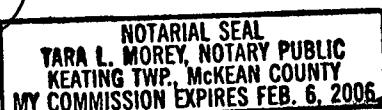
16th day of October 20 02

Tara L. Morey
Notary Public, Notary Public
Keating Twp., McKEAN COUNTY

Sheriff's costs \$ 35.60

Donald H. Morey
Sheriff of McKEAN County

Deputy Julie Buehler
Deputy Sheriff



IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
)
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
)
DEFENDANTS.)

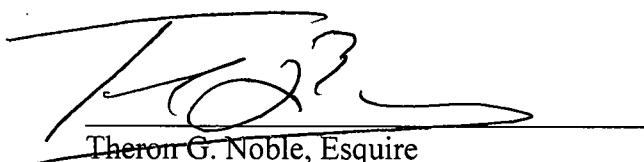
NOTICE OF SERVICE

To: William A. Shaw, Prothonotary

I, Theron G. Noble, Esquire, counsel for Plaintiffs, does hereby certify this 16th day of June, 2003, that I did serve Plaintiffs' Second Request for Production of Documents, to the below indicated persons, being all counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire Bell, Silberblatt & Wood P.O. Box 670 Clearfield, PA 16830	Cynthia P. Cafaro, Esquire Zimmer Kunz, LLC 101 E. Diamond Street Butler, PA 16001	Michael Dorezas, Esquire Evey, Routch & Black, et.al. P.O. Box 415 Hollidaysburg, PA 16648-0415	Mark R. Lane, Esquire Dell, Moser, Lane & Loughney, LLC 437 Grant Street 1300 Frick Building Pittsburgh, PA 15219-6002
----------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

FILED

JUN 17 2003

William A. Shaw
Prothonotary

A

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA**

RICHARD FRANOLICH and JANET
FRANOLICH, husband and wife,

Plaintiffs,

vs.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES of PA, INC.,

Defendants,

vs.

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES,

Additional Defendants.

CIVIL DIVISION

No. 01-1318-CD

Issue No.

JURY TRIAL DEMANDED

**ADDITIONAL DEFENDANT HAWK
MANUFACTURED HOMES, INC.'S
MOTION FOR SUMMARY JUDGMENT**

Code:

Filed on behalf of Hawk Manufactured Homes,
Inc. (incorrectly designated as "Hawk Homes"),
Additional Defendant

Counsel of Record for this Party:

Mark R. Lane, Esquire
Pa. I.D. #: 61923

DELL, MOSER, LANE & LOUGHNEY, LLC
Firm #753

1300 Frick Building
Pittsburgh, PA 15219

Phone: (412) 471-1180
Fax: (412) 471-9012

FILED

in 203 RR NO 06

SEP 19 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD FRANOLICH and JANET)
FRANOLICH, husband and wife,)
Plaintiffs,) CIVIL ACTION
v.) Docket No: 01-1318-CD
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES of PA, INC.,)
Defendants,)
Vs.)
JIM BURKETT and DENISE BURKETT, Husband)
and wife, and HAWK HOMES,)
Additional Defendants.

MOTION FOR SUMMARY JUDGMENT

AND NOW, comes Additional Defendant, Hawk Manufactured Homes, Inc. (incorrectly designated and hereinafter referred to as "Hawk Homes"), by and through its attorneys, DELL, MOSER, LANE & LOUGHNEY, LLC and Mark R. Lane, Esquire, and files the within Motion for Summary Judgment and in support thereof sets forth the following:

1. In 1996, Additional Defendants, Jim and Denise Burkett, purchased a Fleetwood Enterprises, Inc. pre-fabricated modular-mobile home from Defendant Larry's Homes of PA, Inc., a local retailer of Fleetwood products. *See, Complaint to Join Additional Defendant, ¶ 6.*
2. Larry's Homes of PA, Inc. was responsible for the placement and the erection of the home on site. *See, Amended Complaint, ¶ 8.*

3. Subsequently, on April 6, 1998, the Burkettts sold their home to Hawk Homes as a “trade-in” in order to obtain credit toward a different model they intended to purchase from Hawk Homes. *See, Purchase Agreement dated 4/6/98 attached hereto as Exhibit “A.”* Importantly, no evidence has been produced demonstrating that the home was ever removed or transported from its original site.

4. Thereafter, on or about June 13, 1998, the Plaintiffs purchased the same mobile home from Hawk Homes. *See, Purchase Agreement dated 6/13/98 attached hereto as Exhibit “B.”*

5. Pursuant to the Purchase Agreement, the Plaintiffs purchased the home “as is, no warranties written or implied.” *See, Purchase Agreement dated 6/13/98 attached hereto as Exhibit “B” and Affidavit of John Foye attached hereto as Exhibit “C.”*

6. Furthermore, the Purchase Agreement detailed certain “Additional Terms and Conditions” which excluded all implied warranties. *See, Purchase Agreement dated 6/13/98 attached hereto as Exhibit “B.”*

7. On or about September 6, 1999, a fire damaged certain portions of the Plaintiffs’ home. *See, Amended Complaint, ¶ 10.*

8. Upon completion of the investigation by the Plaintiffs’ experts, it was determined that the cause of the fire was a defect in the electrical system. *See, Report of Rudolf, Bartel & Associates attached hereto as Exhibit “D” and Report of Tsikalas Investigators attached as Exhibit “E.” These Exhibits do not include the photographs of the scene that were attached as Exhibits to the Reports.*

9. As a result of the fire, on or about August 15, 2001, Plaintiffs filed suit against Fleetwood Enterprises, Inc., the manufacturer of the home, and Larry’s Homes of PA, Inc., the retailer from which the original owners, the Burkettts, purchased the home and the entity that

erected the home on site, asserting claims against both for negligence and breach of warranty pertaining to the allegedly defective electrical system. *See, Amended Complaint.*

10. Thereafter, on or about October 25, 2002, Defendant Larry's Homes of PA, Inc. joined Hawk Homes an additional defendant, alleging a cause of action in negligence. *See, Complaint to Join Additional Defendant.* .

11. Specifically, Larry's Homes of PA, Inc. alleged the following acts of negligence against Hawk Homes:

- a) failing to ensure the wiring was installed in said home in a manner in which it was actually designed;
- b) in failing to use wiring suitable for outdoor use;
- c) in failing to properly employ the services of an electrician to ensure the wiring was suitable;
- d) in failing to disclose to plaintiffs information regarding the condition of the wiring;
- e) in negligently wiring the mobile home; and
- f) in materially altering the electrical wiring of the home, or allowing the home to be altered in such a way that the electrical wiring was affected.

See, Complaint to Join Additional Defendant, ¶ 14.

12. In order to defeat Defendant Larry's Homes of PA, Inc.'s Motion for Summary Judgment, it is Larry's Homes of PA, Inc.'s burden to offer competent evidence that Hawk Homes was negligent in the installation, repair or service of the electrical system in the Plaintiffs' home. *See, Ertel v. Patriot-News Co.*, 674 A.2d 1038 (Pa. 1996).

13. In accordance with *Ertel*, "a non-moving party must adduce sufficient evidence on an issue essential to his case and on which he bears the burden of proof such that a jury can return a verdict in its favor. Failing to adduce sufficient evidence establishes that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." *Ertel*, 674 A.2d at 1042.

14. In the present case, Larry's Homes of PA, Inc. has failed to establish *any* definitive evidence supporting its allegation that Hawk Homes breached any duty of care owed

to it or to the Plaintiffs. Specifically, no evidence has been adduced supporting Larry's Homes of PA, Inc.'s allegation that Hawk Homes negligently installed, repaired or maintained the electrical system in the Plaintiffs' home.

15. Furthermore, pursuant to the Purchase Agreement, Hawk Homes sold the home to the Plaintiffs "as is" and offered no additional warranties, written or implied. Therefore, Hawk Homes cannot be held liable for any damage resulting from its alleged negligent installation, repair, or maintenance of the electrical system in the Plaintiffs' home even if such evidence had been produced.

A. There is absolutely no evidence of negligence on the part of Hawk Manufactured Homes, Inc.

16. In Larry's Homes of PA, Inc.'s Responses to Additional Defendant Hawk Manufactured Homes, Inc.'s First Request for Admissions and Interrogatory, Larry's Homes affirmed that it possesses no evidence to demonstrate that Hawk Homes performed any maintenance and/or repairs to the electrical system in the Plaintiffs' home at any time. *See, Larry's Homes of PA, Inc.'s Responses to Hawk Manufactured Homes, Inc.'s First Request for Admissions and Interrogatory -- No. 6 attached hereto as Exhibit "F".*

17. Additional Defendant Hawk Homes served its First Request for Admissions and Interrogatory directed to the Plaintiffs on or about January 23, 2003. As of this date, Hawk Homes has yet to receive a response, nor have Plaintiffs requested an extension of time to respond or filed a Motion requesting such relief. Accordingly, pursuant to Pa.R.C.P. 4014, all matters contained within Hawk Manufactured Homes, Inc.'s First Request for Admissions and Interrogatory directed to the Plaintiffs must be deemed admitted.

18. Pursuant to Plaintiffs' admissions, Hawk Homes had no involvement in any type of maintenance, service or repair the Plaintiffs' home, specifically to the electrical system, subsequent to their purchase of the home in June of 1998. *See, Additional Defendant Hawk*

Manufactured Homes, Inc.'s First Request for Admissions and Interrogatory Directed to the Plaintiffs attached hereto as Exhibit "G."

19. Moreover, no evidence has been established that Hawk Homes had possession or control of the home at issue or performed any electrical maintenance from the time that it was originally purchased from Larry's Homes by the Burkettts, until the Burkettts traded it in to Hawk Homes to purchase an upgraded model.

20. Furthermore, no party has produced any evidence that Hawk Homes had notice of any allegedly defective condition of the electrical wiring.

21. As Larry's Homes has failed to adduce sufficient evidence supporting its allegations of Hawk Homes' negligence, no genuine issue of material fact exists with regard to the central issue upon which Larry's Homes bears the burden of proof. Accordingly, Hawk Homes is entitled to judgment as a matter of law.

WHEREFORE, Additional Defendant Hawk Manufactured Homes, Inc. respectfully requests that this Honorable Court grant its Motion for Summary Judgment and dismiss all claims against Hawk Homes with prejudice.

B. As the Purchase Agreement documenting the Plaintiffs' purchase of the home contained an "as is" clause that disclaimed all implied warranties, Hawk Homes cannot be liable for any alleged negligent acts resulting in the fire at issue.

22. As the Purchase Agreement stated that the Plaintiffs' home was purchased "as is" and thereafter, clearly and specifically, disclaimed any and all written and implied warranties attendant to the purchase of the home, it cannot be held liable for any alleged defect existing within the electrical system that caused the fire at issue even if such evidence had been produced.

23. Other jurisdictions have examined the effect of an "as is" clause in a contract for the sale of real property with an existing physical structure, upon the discovery of a defect subsequent to the sale of such property. These jurisdictions have recognized that the existence of

an “as is” clause in a contract for the sale of property places a buyer on notice that there may be liabilities attendant to the purchase. Furthermore, the implied warranties that typically attach are excluded when the buyer agrees to accept the goods in the condition in which they existed at the time of purchase. *Lenawee County Board of Health v. Messerly*, 331 N.W. 2d 203 (Mich. 1982); *Brewer v. Brothers*, 611 N.E. 2d 492 (Ohio App. 12 Dist. 1992); *1845 Ocean Associates v. Stein*, 449 N.Y.S. 2d 54 (App. Div. 1982).

24. As the Purchase Agreement between the Plaintiffs and Hawk Homes clearly states that the sale was “as is” with no warranties express or implied, no liability on the part of Hawk Homes may attach for any alleged negligence regarding the installation, maintenance or repair of the electrical system or its alleged failure to warn the Plaintiffs of the allegedly faulty condition of the wiring.

25. Therefore, Hawk Manufactured Homes, Inc. cannot be liable even if evidence had been established that it negligently installed, repaired or maintained the electrical system of the Plaintiffs’ home or failed to warn Plaintiffs of the allegedly defective condition prior to their purchase of the home.

WHEREFORE, Additional Defendant, Hawk Manufactured Homes, Inc., respectfully requests that this Honorable Court grant its Motion for Summary Judgment and dismiss all claims against it with prejudice.

Respectfully Submitted,



Mark R. Lane, Esquire
Attorneys for Additional Defendant, Hawk
Manufactured Homes, Inc.

JURY TRIAL DEMANDED



of ALLEGANY
Route 417 West
ALLEGANY, NY 14706
(716) 372-2222

of BATH
Route 54 North
BATH, NY 14410
(607) 776-4191

MANUFACTURED HOMES INC.

of LANTZ CORNERS
Routes 219 & 6 • P.O. Box 660
MT. JEVETT, PA 16740
(814) 778-6611

of WARRE
Routes 8 & 27 • P.O.
PITTSFIELD, PA
(814) 563-335

New York and Pennsylvania States Largest Mobile Home & Modular Dealer

In this contract the words, I, ME, and MY refer to the Buyer and Co-Buyer signing this contract. The words YOU and YOUR refer to the Dealer. Subject to the terms and conditions on both sides of this agreement you agree to sell and I agree to purchase the following described unit.

BUYER'S NAME RICHARD FRANOLICH PHONE (814) 371-8310 (W) DATE 6-13-02
ADDRESS US ARMY 203 N. BRADY ST. DUBOIS, PA 15801 SALESPERSON SHELY/PAIK

DELIVERY ADDRESS N/A

MAKE & MODEL Fleetwood Lumberton

YEAR 96 BD. ROOMS 4 FLOOR SIZE 56' x 28' HITCH SIZE L STOCK NUMBER
SERIAL NUMBER NCAFLT46B03753 COLOR White PROPOSED DELIVERY DATE N/A KEY NUMBERS

OPTIONAL EQUIPMENT, LABOR AND ACCESSORIES BASE PRICE OF UNIT \$ 39,200

HOME SOLD AS IS OPTIONAL EQUIPMENT SUB-TOTAL \$

NO WARRANTIES SALES TAX NON-TAXABLE ITEMS TITLE 27
WRITTEN OR IMPLIED. VARIOUS FEES AND INSURANCE

HOME IS CURRENTLY IN 1. CASH PURCHASE PRICE \$ 39,200

MOVE IN CONDITION. TRADE-IN ALLOWANCE \$
LESS BAL. DUE on above \$
NET ALLOWANCE \$
CASH DOWN PAYMENT \$ 4000.00
CASH AS AGREED SEE REMARKS \$

2. LESS TOTAL CREDITS 35227 SUB-TOTAL \$

SALES TAX (If Not Included Above) 3. Unpaid Balance of Cash Sale Price \$ 25,227

REMARKS: BALANCE DUE AT OR BEFORE DELIV

RECEIVED

OCT 24 2002

SLOWE MELHUISH & CO. RECEIVED
OCT 25 2002

NOTICE:

THIS COMPANY IS NOT RESPONSIBLE FOR COSTS
EXTRA EQUIPMENT NECESSARY TO PLACE YOUR
HOME ON YOUR LOT.



BALANCE CARRIED TO OPTIONAL EQUIPMENT \$

NOTE: WARRANTY AND EXCLUSIONS AND LIMITATIONS OF DAMAGES ON THE REVERSE SIDE

DESCRIPTION OF TRADE-IN YEAR 92
MAKE MODEL BEDROOMS 4
TITLE NO. SERIAL NO. 60369
AMOUNT OWING TO WHOM N/A

ANY DEBT I OWE ON THE TRADE-IN IS TO BE PAID BY YOU ME

THIS AGREEMENT CONTAINS THE ENTIRE UNDERSTANDING BETWEEN YOU AND ME AND NO OTHER REPRESENTATION OR INDUCEMENT, VERBAL OR WRITTEN, HAS BEEN MADE WHICH IS NOT CONTAINED IN THIS CONTRACT.
I, OR WE, ACKNOWLEDGE RECEIPT OF A COPY OF THIS ORDER AND THAT I, OR WE, HAVE READ AND UNDERSTAND THE SAME.

OWL HOMES OF ALLEGANY

DEALER

Not Valid Unless Signed and Accepted by an Officer of the Company or an Authorized Agent

By Patrick J. Seay Approved

You and I certify that the additional terms and conditions printed on the other side of this contract are agreed to as of this agreement, the same as if printed above the signature. I am purchasing the above described trailer, manufactured or vehicle; the optional equipment and accessories, the same as described has been voluntary; that my trade-in from all claims whatsoever, except as noted.

SIGNED X John P. Seay

SOCIAL SECURITY NO. 1 1 1

SIGNED X

SOCIAL SECURITY NO. 1 1 1

NOTARIZED BY

22-CT 2002-07-100

ADDITIONAL TERMS AND CONDITIONS

In this contract the words I, me, and my refer to the Buyer and Co-Buyer signing this contract. The words you and your refer to the Dealer. I further agree (continued from other side of Contract):

1. **IF NOT A CASH TRANSACTION.** If I do not complete this purchase as a cash transaction, I know before or at the time of delivery of the unit purchased, I will enter into a retail installment or finance company, at which time title passes to me even though the actual delivery of the unit purchased may be made at a later date.
2. **TITLE.** Title to the unit purchased will remain in you until the agreed upon purchase price is paid in full in cash, or I have signed a retail installment contract and it has been accepted by a bank or finance company, at which time title passes to me even though the actual delivery of the unit purchased may be made at a later date.
3. **TRADE-IN.** If I am trading in a used car, manufactured home, trailer, or other vehicle, I will give you the original bill of sale or the title to the trade-in. I promise that any trade-in which I give is owned by me and free of any lien or other claim except as noted on the other side of this contract. I promise that all taxes of every kind levied against the trade-in have been fully paid. If any government agency makes a claim or demands a tax lien or demand against the trade-in, you may, at your option, either pay it and I will reimburse you on demand, or you may add that amount to this contract as if it had been originally included.
4. **REGISTRATION OR LICENSE OF TRADE-IN.** If I have a trade-in and it is registered or licensed in a state outside of the one where this order is written, I will immediately have the trade-in registered or licensed in the state you indicate and I will pay any and all expenses and registration or licensing fees required. If you handle the registration or licensing of the trade-in, I will reimburse you for the expense on demand or you may add that amount to this contract as if it had been originally included.
5. **REAPPRAISAL OF TRADE-IN.** If I am making a trade-in and it is not delivered to you at the time of the original appraisal and if later, on delivery, it appears to you that there have been material changes made in the furnishings or accessories, or in its general physical condition, you may make a reappraisal. This later appraisal value will then determine the allowance to be made for the trade-in.
6. **FAILURE TO COMPLETE PURCHASE.** If I fail or refuse to complete this purchase within the time frame specified in this contract or as specified in the Uniform Commercial Code of the state in which I sign this contract, or within an agreed upon extension of time, for any reason (other than cancellation because of any increase in price), you may keep that portion of my cash deposit which will adequately compensate you for your consequential damages, incidental damages, and all other damages, expenses, or losses which you incur because I fail to complete my purchase. I agree, however, that this contract shall not be interpreted as containing a "liquidated damages" provision. If I have not given you a cash deposit or it is inadequate and I have given you a trade-in, you may sell the trade-in at public or private sale and deduct from the money received an amount that will adequately compensate you for any or all of the above mentioned damages, expenses, and losses incurred because I failed to complete this purchase. I understand that you shall have all the rights of a seller upon breach of contract under the Uniform Commercial Code, except the right to seek and collect "liquidated damages" under Section 2-718. If you prosecute or defend against me, or which I bring against you, concerning this contract, I agree to reimburse you for your reasonable attorney's fees, court costs and expenses which you incur in prosecuting or defending against that legal action.
7. **CHANGES BY MANUFACTURER.** I understand that the manufacturer may make any changes in the model, or designs, or any accessories and parts from time to time, and at any time, if the manufacturer does make changes, neither you nor the manufacturer are obligated to make the same changes in the unit I am purchasing and covered by this order, either before or after it is delivered to me.
8. **DELAYS.** I will not hold you liable for delays caused by the manufacturer, accidents, strikes, fires, or any other cause beyond your control.
9. **INSPECTION.** I have examined the product and find it suitable for my particular needs. I have relied upon my own judgement and inspection in determining that it is of acceptable quality. On the special unit ordered, I have relied on my inspection of the display model(s), the brochures and bulletins and/or the floor plan provided to you by the Manufacturer, in making my decision to purchase the unit described on the reverse side of this agreement.
10. **EXCLUSION OF WARRANTIES.** I UNDERSTAND THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES EXPRESS OR IMPLIED ARE EXCLUDED BY YOU FROM THIS TRANSACTION AND SHALL NOT APPLY TO THE GOODS SOLD. I UNDERSTAND THAT YOU MAKE NO WARRANTY WHATSOEVER REGARDING THE UNIT OR ANY APPLIANCE OR COMPONENT CONTAINED THEREIN, EXCEPT THAT AS MAY BE REQUIRED UNDER APPLICABLE STATE LAW.
11. **MANUFACTURERS WARRANTIES.** I UNDERSTAND THAT THERE MAY BE WRITTEN WARRANTIES COVERING THE UNIT PURCHASED, OR ANY APPLIANCE(S) OR COMPONENT(S), WHICH HAVE BEEN PROVIDED BY THE MANUFACTURER OF THE UNIT OR MANUFACTURER OF THE APPLIANCE(S) OR COMPONENT(S). YOU WILL GIVE ME COPIES OF ANY AND ALL WRITTEN WARRANTIES SUPPLIED BY THE MANUFACTURERS. DELIVERY BY YOU TO ME OF THE WARRANTY BY THE MANUFACTURER OF THE UNIT PURCHASED, OR ANY APPLIANCE(S) OR COMPONENT(S) DOES NOT MEAN YOU ADOPT THE WARRANTY(S) OF SUCH MANUFACTURER(S). I ACKNOWLEDGE THAT THESE EXPRESS WARRANTIES MADE BY THE MANUFACTURER(S) HAVE NOT BEEN MADE BY YOU EVEN IF THEY SAY YOU MADE THEM OR SAY YOU MADE SOME OTHER EXPRESS WARRANTY. YOU ARE NOT AN AGENT OF THE MANUFACTURER(S) FOR WARRANTY PURPOSES EVEN IF YOU COMPLETE, OR ATTEMPT TO COMPLETE REPAIRS FOR THE MANUFACTURER(S).
12. **LIMITATION OF DAMAGES.** IF THE MANUFACTURER(S) WARRANTY IS LIMITED TO REPAIR OR REPLACEMENT AND SUCH WARRANTY FAILS BECAUSE OF ATTEMPT AT REPAIRS ARE NOT COMPLETED WITHIN A REASONABLE TIME OR THE MANUFACTURER(S) HAS (HAVE) GONE OUT OF BUSINESS, I AGREE, THAT IF I AM ENTITLED TO ANY DAMAGES AT ALL AGAINST YOU, MY DAMAGES ARE LIMITED TO THE LESSER OF EITHER THE COST OF NEEDED REPAIRS OR REDUCTION IN THE MARKET VALUE OF THE UNIT CAUSED BY THE LACK OF REPAIRS. IN ANY CASE, YOU WILL NOT BE REQUIRED TO PAY ME ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES. I ALSO AGREE THAT ONCE I HAVE ACCEPTED THE UNIT, EVEN THOUGH THE MANUFACTURER(S) WARRANTY DOES NOT ACCOMPLISH IT'S PURPOSE, THAT I CANNOT RETURN THE UNIT TO YOU AND SEEK A REFUND FOR ANY REASON.
13. **INSURANCE.** I understand that I am not covered by insurance on the unit purchased until accepted by an insurance company, and I agree to hold you harmless from any and all claims due to loss or damage prior to acceptance of insurance coverage by an insurance company.
14. **CONTROLLING LAW AND PLACE OF SUIT.** The law of the State, in which I sign this contract, is the law which is to be used in interpreting the terms of the contract. You and I agree that if any dispute between us is submitted to a court for resolution, such legal proceeding shall take place in the county in which your principle offices are located. If under state law a special dispute resolution procedure or complaint process is available, I agree to the extent permitted by law that procedure shall be the only method of resolution and source of remedies available to me.
15. **ONE-YEAR PERIOD OF LIMITATION.** I understand and agree that - if either of us should breach this contract - the other of us shall have only one year, after the occurrence of that breach, in which to commence an action for a breach of contract.
16. **IF PART INVALID REST OF CONTRACT SAVED.** You and I agree that each portion of this contract is independent and if any paragraph or provision violates the law and is unenforceable, the rest of the contract will be valid.
17. **DELIVERY AND PLACEMENT.** If you have included delivery of the unit purchased in the purchase price, or if you quote a charge for delivery to my destination, your agreement to transport the unit purchased, as well as the price quotation made, is based upon my assurance that travel is along acceptable all-weather surfaced roads, fully open and accessible, from point of origin to point of delivery, during the period required for transportation. I assume all responsibility for the proper preparation of my property to both receive and locate the unit purchased. If you must hire extra labor and/or equipment in order to deliver and place the unit purchased because of something not previously disclosed to you, I will pay for all those additional costs. I understand that you do not guarantee proper placement unless a concrete pier, running below the frost line, has first been prepared. I will pay for all labor and material costs to re-set the unit when caused by future settling or sinking resulting from failure to provide a foundation approved by the State or Local Code in which the home is sited. I understand that the sewer must be stubbed out of the ground, the waterline must be capped and the electric line connected to a meter pole with a proper receptacle within 20 feet of the electric box inside of the home. I understand that unless otherwise provided on the other side of this contract, the unit purchased is sold by you F.O.B. your lot and I am responsible for transporting it.
18. **CONNECTIONS, PERMITS AND CHANGES.** I understand that you are not permitted to make plumbing or electrical connections or connection of certain natural gas or propane appliances where state or local ordinance require a licensed plumber or electrician to do the work. I understand that you are not responsible for obtaining health or sanitation permits, nor for any local, county, or state permits required because of restrictive zoning. I understand that you are not responsible for making changes to plumbing, electrical or construction changes required by special building ordinances or laws. I will pay the costs of any changes needed for compliance with local, county or state laws or zoning requirements.
19. **NOTICE OF WIDTH LIMITATIONS.** I have been informed of the length and width limitations, as of the date of this contract, now enforced in the several states, or provinces of Canada, as they may apply to the movement of manufactured homes over the public highways, and the fact that special permits are required. I understand that some states, or the provinces of Canada, may not grant the required permits where the size exceeds the statutory maximum. I release you and your assigns, and the manufacturer and its assigns, from any and all demands, suits or counterclaims, based on the size of the unit purchased, if it exceeds the limitations which are now, or may later be, imposed by any state or province.

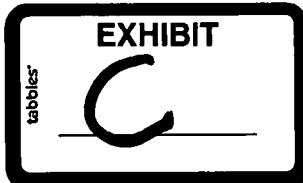
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD FRANOLICH and JANET)
FRANOLICH, husband and wife,,)
Plaintiffs,)
v.) CIVIL ACTION
FLEETWOOD ENTERPRISES, INC., and) Docket No: 01-1318-CD
LARRY'S HOMES of PA, INC.,)
Defendants,)
Vs.)
JIM BURKETT and DENISE BURKETT, Husband)
and wife, and HAWK HOMES,)
Additional Defendants.

AFFIDAVIT OF JOHN FOYE

I, John Foye, first being duly sworn and deposed, hereby affirm the following as true and accurate statements of fact:

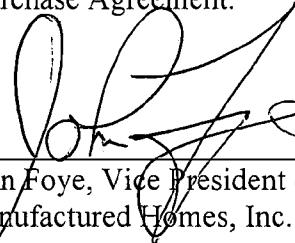
1. I am the vice-president of Hawk Manufactured Homes, Inc.
2. The Purchase Agreement dated June 13, 1998 attached hereto as Exhibit "1" is a true and correct copy of the original document for the sale of a used 1996 Fleetwood Lumberton with a serial number of NCAFLT46B03753 to Richard Franolich by Hawk Manufactured Homes, Inc.
3. The attached Purchase Agreement indicates that the "home was sold as is, no warranties, written or implied." Such language appears in the Purchase Agreement and speaks for itself.



4. The "Additional Terms and Conditions" attached hereto as page two of Exhibit "1" are those that appeared on the reverse side of the Purchase Agreement.

8-28-2003

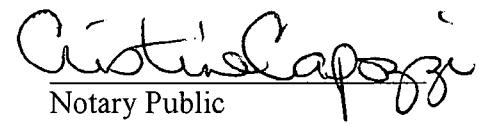
Date



John Foye, Vice President of Hawk
Manufactured Homes, Inc.

Taken, sworn to and subscribed before me, a Notary Public in and for the county and state
aforesaid, this 28 day of August, 2003.

Cristine Capozzi
Notary Public, State of New York
Registration #01CA5044041
Qualified in Cattaraugus County
My Commission Expires May 22²⁰⁰⁷



Cristine Capozzi
Notary Public



of ALLEGANY
Route 417 West
ALLEGANY, NY 14706
(716) 372-2322

of BATH
Route 54 North
BATH, NY 14410
(607) 776-4191

MANUFACTURED HOMES INC.

of LANTZ CORNERS
Routes 219 & 6 • P.O. Box 660
MT. JEVETT, PA 18740
(814) 778-6511

of WARREN
Routes 8 & 27 • P.O. Box
PITTSFIELD, PA 16342
(814) 563-3555

New York and Pennsylvania States Largest Mobile Home & Modular Dealer

In this contract the words, I, ME, and MY refer to the Buyer and Co-Buyer signing this contract. The words YOU and YOUR refer to the Dealer. Subject to the terms and conditions on both sides of this agreement you agree to sell and I agree to purchase the following described unit.

BUYER'S NAME RICHARD FRANOLICH PHONE (814) 371-8310 (W) DATE 6-13-98
ADDRESS US ARMY 203 N. BRADY ST. DUBOIS PA 15801 SALESPERSON SHELLY DIAZ
DELIVERY ADDRESS N/A

MAKE & MODEL Fleetwood Lumberton YEAR 96 BD. ROOMS 4 FLOOR SIZE 56' x 28' HITCH SIZE L STOCK NUMBER
SERIAL NUMBER NCAFLT46B03753 COLOR White PROPOSED DELIVERY DATE N/A KEY NUMBERS

OPTIONAL EQUIPMENT, LABOR AND ACCESSORIES \$ BASE PRICE OF UNIT \$ 39,200.00

HOME SOLD AS IS OPTIONAL EQUIPMENT \$ SUB-TOTAL \$

NO WARRANTIES SALES TAX \$

WRITTEN OR IMPLIED NON-TAXABLE ITEMS \$ TITLE \$ 27.50

VARIOUS FEES AND INSURANCE

1. CASH PURCHASE PRICE \$ 39,227.50

TRADE-IN ALLOWANCE \$

LESS BAL. DUE on above \$

NET ALLOWANCE \$

CASH DOWN PAYMENT \$ 4000.00

CASH AS AGREED SEE REMARKS \$

2. LESS TOTAL CREDITS \$ 35,227.50

SUB-TOTAL \$

SALES TAX (If Not Included Above) \$

3. Unpaid Balance of Cash Sale Price \$ 25,227.50

REMARKS: BALANCE DUE AT OR BEFORE DELIVER

RECEIVED

OCT 24 2002

RECEIVED
SLONE MELHUISH & CO. OCT 25 2002

NOTICE:

THIS COMPANY IS NOT RESPONSIBLE FOR COST OF EXTRA EQUIPMENT NECESSARY TO PLACE YOUR HOME ON YOUR LOT.



BALANCE CARRIED TO OPTIONAL EQUIPMENT \$

NOTE: WARRANTY AND EXCLUSIONS AND LIMITATIONS OF DAMAGES ON THE REVERSE SIDE

DESCRIPTION OF TRADE-IN YEAR SIZE
MAKE MODEL BEDROOMS

TITLE NO. SERIAL NO. COLOR

AMOUNT OWEING TO WHOM 10/11

ANY DEBT I OWE ON THE TRADE-IN IS TO BE PAID BY YOU ME

THIS AGREEMENT CONTAINS THE ENTIRE UNDERSTANDING BETWEEN YOU AND ME AND NO OTHER REPRESENTATION OR INDUCEMENT, VERBAL OR WRITTEN, HAS BEEN MADE WHICH IS NOT CONTAINED IN THIS CONTRACT. I, OR WE, ACKNOWLEDGE RECEIPT OF A COPY OF THIS ORDER, AND THAT I, OR WE, HAVE READ AND UNDERSTAND THE BACK OF THIS AGREEMENT.

OWL HOMES OF ALLEGANY

DEALER

Patricia Saylor
Not Valid Unless Signed and Accepted by an Officer of the Company or an Authorized Agent

By *Patricia Saylor*
Approved

SIGNED *Patricia Saylor* BUY

SOCIAL SECURITY NO. 1 1 1

SIGNED *Patricia Saylor* BUY

SOCIAL SECURITY NO. 1 1 1

DC-25-2002 15:22 SLONE MELHUISH

ADDITIONAL TERMS AND CONDITIONS

In this contract the words I, me, and my refer to the Buyer and Co-Buyer signing this contract. The words you and your refer to the Dealer.

I, further agree (continued from other side of Contract):

1. **IF NOT A CASH TRANSACTION.** If I do not complete this purchase as a cash transaction, I know before or at the time of delivery of the unit purchased, I will enter into a retail installment contract and sign a security agreement or other agreement as may be required to finance my purchase.
2. **TITLE.** Title to the unit purchased will remain in you until the agreed upon purchase price is paid in full in cash, or I have signed a retail installment contract and it has been accepted by a bank or finance company, at which time title passes to me even though the actual delivery of the unit purchased may be made at a later date.
3. **TRADE-IN.** If I am trading in a used car, manufactured home, trailer, or other vehicle, I will give you the original bill of sale or the title to the trade-in. I promise that any trade-in which I give is owned by me and is free of any lien or other claim except as noted on the other side of this contract. I promise that all taxes of every kind levied against the trade-in have been fully paid. If any government agency makes a levy or claims a tax lien or demand against the trade-in, you may, at your option, either pay it and I will reimburse you on demand, or you may add that amount to this contract as if it had been originally included.
4. **REGISTRATION OR LICENSE OF TRADE-IN.** If I have a trade-in and it is registered or licensed in a state outside of the one where this order is written, I will immediately have the trade-in registered or licensed in the state you indicate and I will pay any and all expenses and registration or licensing fees required. If you handle the registration or licensing of the trade-in, I will reimburse you for the expense on demand or you may add that amount to this contract as if it had been originally included.
5. **REAPPRAISAL OF TRADE-IN.** If I am making a trade-in and it is not delivered to you at the time of the original appraisal and if later, on delivery, it appears to you that there have been material changes made in the furnishings or accessories, or in its general physical condition, you may make a reappraisal. This later appraisal value will then determine the allowance to be made for the trade-in.
6. **FAILURE TO COMPLETE PURCHASE.** If I fail or refuse to complete this purchase within the time frame specified in this contract or as specified in the Uniform Commercial Code of the state in which I sign this contract, or within an agreed upon extension of time, for any reason (other than cancellation because of any increase in price), you may keep that portion of my cash deposit which will adequately compensate you for your consequential damages, incidental damages, and all other damages, expenses, or losses which you incur because I fail to complete my purchase. I agree, however, that this contract shall not be interpreted as containing a "liquidated damages" provision. If I have not given you a cash deposit or it is inadequate and I have given you a trade-in, you may sell the trade-in at public or private sale, and deduct from the money received an amount that will adequately compensate you for any or all of the above mentioned damages, expenses, and losses incurred because I failed to complete this purchase. I understand that you shall have all the rights of a seller upon breach of contract under the Uniform Commercial Code, except the right to seek and collect "liquidated damages" under Section 2-718. If you prevail in any legal action which you bring against me, or which I bring against you, concerning this contract, I agree to reimburse you for your reasonable attorney's fees, court costs and expenses which you incur in prosecuting or defending against that legal action.
7. **CHANGES BY MANUFACTURER.** I understand that the manufacturer may make any changes in the model, or designs, or any accessories and parts from time to time, and at any time, if the manufacturer does make changes, neither you nor the manufacturer are obligated to make the same changes in the unit I am purchasing and covered by this order, either before or after it is delivered to me.
8. **DELAYS.** I will not hold you liable for delays caused by the manufacturer, accidents, strikes, fires, or any other cause beyond your control.
9. **INSPECTION.** I have examined the product and find it suitable for my particular needs. I have relied upon my own judgement and inspection in determining that it is of acceptable quality. On the special unit ordered, I have relied on my inspection of the display model(s), the brochures and bulletins and/or the floor plan provided to you by the Manufacturer, in making my decision to purchase the unit described on the reverse side of this agreement.
10. **EXCLUSION OF WARRANTIES.** I UNDERSTAND THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES EXPRESS OR IMPLIED ARE EXCLUDED BY YOU FROM THIS TRANSACTION AND SHALL NOT APPLY TO THE GOODS SOLD. I UNDERSTAND THAT YOU MAKE NO WARRANTIES WHATSOEVER REGARDING THE UNIT OR ANY APPLIANCE OR COMPONENT CONTAINED THEREIN, EXCEPT THAT AS MAY BE REQUIRED UNDER APPLICABLE STATE LAW.
11. **MANUFACTURERS WARRANTIES.** I UNDERSTAND THAT THERE MAY BE WRITTEN WARRANTIES COVERING THE UNIT PURCHASED, OR ANY APPLIANCE(S) OR COMPONENT(S), WHICH HAVE BEEN PROVIDED BY THE MANUFACTURER OF THE UNIT OR MANUFACTURER OF THE APPLIANCE(S) OR COMPONENT(S). YOU WILL GIVE ME COPIES OF ANY AND ALL WRITTEN WARRANTIES SUPPLIED BY THE MANUFACTURERS. DELIVERY BY YOU TO ME OF THE WARRANTY BY THE MANUFACTURER OF THE UNIT PURCHASED, OR ANY APPLIANCE(S) OR COMPONENT(S) DOES NOT MEAN YOU ADOPT THE WARRANTY(S) OF SUCH MANUFACTURER(S). I ACKNOWLEDGE THAT THESE EXPRESS WARRANTIES MADE BY THE MANUFACTURER(S) HAVE NOT BEEN MADE BY YOU EVEN IF THEY SAY YOU MADE THEM OR SAY YOU MADE SOME OTHER EXPRESS WARRANTY. YOU ARE NOT AN AGENT OF THE MANUFACTURER(S) FOR WARRANTY PURPOSES EVEN IF YOU COMPLETE, OR ATTEMPT TO COMPLETE REPAIRS FOR THE MANUFACTURER(S).
12. **LIMITATION OF DAMAGES.** IF THE MANUFACTURER(S) WARRANTY IS LIMITED TO REPAIR OR REPLACEMENT AND SUCH WARRANTY FAILS BECAUSE OF ATTEMPT AT REPAIRS ARE NOT COMPLETED WITHIN A REASONABLE TIME OR THE MANUFACTURER(S) HAS (HAVE) GONE OUT OF BUSINESS, I AGREE, THAT IF I AM ENTITLED TO ANY DAMAGES AT ALL AGAINST YOU, MY DAMAGES ARE LIMITED TO THE LESSER OF EITHER THE COST OF NEEDED REPAIRS OR REDUCTION IN THE MARKET VALUE OF THE UNIT CAUSED BY THE LACK OF REPAIRS. IN ANY CASE, YOU WILL NOT BE REQUIRED TO PAY ME ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES. I ALSO AGREE THAT ONCE I HAVE ACCEPTED THE UNIT, EVEN THOUGH THE MANUFACTURER(S) WARRANTY DOES NOT ACCOMPLISH IT'S PURPOSE, THAT I CANNOT RETURN THE UNIT TO YOU AND SEEK A REFUND FOR ANY REASON.
13. **INSURANCE.** I understand that I am not covered by insurance on the unit purchased until accepted by an insurance company, and I agree to hold you harmless from any and all claims due to loss or damage prior to acceptance of insurance coverage by an insurance company.
14. **CONTROLLING LAW AND PLACE OF SUIT.** The law of the State, in which I sign this contract, is the law which is to be used in interpreting the terms of the contract. You and I agree that if any dispute between us is submitted to a court for resolution, such legal proceeding shall take place in the county in which your principle offices are located. If under state law a special dispute resolution procedure or complaint process is available, I agree to the extent permitted by law that procedure shall be the only method of resolution and source of remedies available to me.
15. **ONE-YEAR PERIOD OF LIMITATION.** I understand and agree that - if either of us should breach this contract - the other of us shall have only one year, after the occurrence of that breach, in which to commence an action for a breach of contract.
16. **IF PART INVALID REST OF CONTRACT SAVED.** You and I agree that each portion of this contract is independent and if any paragraph or provision violates the law and is unenforceable, the rest of the contract will be valid.
17. **DELIVERY AND PLACEMENT.** If you have included delivery of the unit purchased in the purchase price, or if you quote a charge for delivery to my destination, your agreement to transport the unit purchased, as well as the price quotation made, is based upon my assurance that travel is along acceptable all-weather surfaced roads, fully open and accessible, from point of origin to point of delivery, during the period required for transportation. I assume all responsibility for the proper preparation of my property to both receive and locate the unit purchased. If you must hire extra labor and/or equipment in order to deliver and place the unit purchased because of something not previously disclosed to you, I will pay for all those additional costs. I understand that you do not guarantee proper placement unless a concrete pier, running below the frost line, has first been prepared. I will pay for all labor and material costs to re-set the unit when caused by future settling or sinking resulting from failure to provide a foundation approved by the State or Local Code in which the home is sited. I understand that the sewer must be stubbed out of the ground, the waterline must be capped and the electric line connected to a meter pole with a proper receptacle within 20 feet of the electric box inside of the home. I understand that unless otherwise provided on the other side of this contract, the unit purchased is sold by you F.O.B. your lot and I am responsible for transporting it.
18. **CONNECTIONS, PERMITS AND CHANGES.** I understand that you are not permitted to make plumbing or electrical connections or connection of certain natural gas or propane appliances where state or local ordinance require a licensed plumber or electrician to do the work. I understand that you are not responsible for obtaining health or sanitation permits, nor for any local, county, or state permits required because of restrictive zoning. I understand that you are not responsible for making changes to plumbing, electrical or construction changes required by special building ordinances or laws. I will pay the costs of any changes needed for compliance with local, county or state laws or zoning requirements.
19. **NOTICE OF WIDTH LIMITATIONS.** I have been informed of the length and width limitations, as of the date of this contract, now enforced in the several states, or provinces of Canada, as they may apply to the movement of manufactured homes over the public highways, and the fact that special permits are required. I understand that some states, or the provinces of Canada, may not grant the required permits where the size exceeds the statutory maximum. I release you and your assigns, and the manufacturer and its assigns, from any and all demands, suits or counterclaims, based on the size of the unit purchased, if it exceeds the limitations which are now, or may later be, imposed by any state or province.

8005

INVESTIGATION REPORT

Franolich

vs

Fleetwood Homes, Inc.

Date of Loss: September 6, 1999

Our File No.: 00-4

prepared for

Ferraraccio & Noble

Mr. Theron G. Noble, Esquire

by

BARTEL, RUDOLF & ASSOCIATES

5578 Aiken Road

McKees Rocks, PA 15136

(412) 787-8166 or (412) 741-4141

Eugene W. Bartel, Ph.D., P.E., C.F.I. & B.C.F.E.

and

Rowland C. Rudolf III, Elec. Eng. & B.C.F.E.

June 16, 2000



We have been asked to conduct an engineering evaluation of the scene of a fire that occurred on September 6th, 1999 at the residence of Richard and Janet Franolich located at 46 Ponderosa Drive in Penfield, Pennsylvania and to determine, to a reasonable degree of engineering certainty, what factors caused this fire. We became involved in this investigation at the request of attorney Theron G. Noble of the law firm of Ferraraccio and Noble. Attorney Noble indicated that he represented the interests of Richard and Janet Franolich and that Mr. and Mrs. Franolich and their family lived in a double wide mobile home located in a trailer park near Penfield, which is northeast of Dubois, Pennsylvania. All conclusions, opinions, and observations put forth in this report were arrived at to a reasonable degree of engineering certainty. We reserve the right to supplement this report when and if additional information and materials become available. In conjunction with this investigation, we have had the opportunity to perform the following:

1. Review the Preliminary Report prepared by Mr. Larry West and dated October 26th, 1999.
2. Review the Pennsylvania State Police Incident Report No. CO4-0613498 which related to this fire.
3. Review the Fire Incident Investigation Report prepared by Mr. James M. Tsikalias and dated March 13th, 2000.
4. Visit and examine the scene of this fire on February 21st, 2000.
5. Examine various diagrams of the Franolich's trailer which depict the location of various household and electrical items.
6. Examine various pieces of evidence recovered from the scene of this fire by the various investigators who evaluated the fire scene.
7. Examine and analyze a floor plan diagram prepared by Fleetwood Enterprises, Inc., the manufacturer of the Franolich's double wide mobile home.

Background:

The following background summary of events relating to this fire is based upon the information provided by Mr. Larry West, Mr. James Tsikalas, Mr. Richard Franolich, and Mrs. Janet Franolich. Mr. and Mrs. Franolich purchased the previously owned double wide mobile home from Hawk Homes in Manns Corners during May of 1998. The Franolichs moved into the mobile home in June of 1998 after the previous occupants had moved out. During the time the Franolichs lived in the mobile home and until the date of this fire on September 9th, 1999, they reported no major problems, but were aware of several minor occurrences, which may have a bearing upon the cause of this fire. The Franolichs reported that the clock in their bedroom located in the northeast corner of the mobile home had reset itself on several occasions as if there had been a power outage. Since the Franolichs were not aware of any power outages, they attributed the reset instances to their youngest child. Mr. Franolich also reported that he noticed that the lights on the north half of the mobile home, which included the master bedroom, would dim on occasions for no apparent reason. The lights would reduce in intensity by an estimated 50% and the television set would blink and go off.

Mr. Franolich indicated he left his home at 8:00 AM on September 3rd, 1999 to take his children to visit his parents in New Jersey. Mrs. Franolich stayed behind at the mobile home because of her job at a local K-Mart. On September 9th, 1999, Janet Franolich got up between 6:00 and 6:30 AM to prepare to go to work. Mrs. Franolich went into the bathroom that was adjacent to the master bedroom. Mrs. Franolich indicated she took a shower and noticed nothing unusual while she was in the bathroom and master bedroom. After exiting the shower, she indicated she utilized her curling iron to curl her hair. About this time, estimated to be 7:30 AM, Mrs. Franolich recalled lighting a three wick round candle, which she did frequently, and

placing the candle on the south end of her dresser located along the west wall of the master bedroom. Mrs. Franolich indicated she lit only two of the three wicks in the candle since she was unable to light the third wick. Mrs. Franolich then continued to get ready for work and to clean up around the house. At approximately 8:45 AM, Mrs. Franolich blew out the candle wicks and then proceeded to take items out to her car for her work activities. After loading her car, she returned to the mobile home and made one last make-up check in the master bathroom. She was certain that the candle wicks were extinguished since she looked at them again as she went into the bedroom the last time before leaving the house at approximately 9:00 AM. Mrs. Franolich reported no unusual events or odors prior to her departure from the mobile home.

At approximately 11:40 AM on September 9th, Ms. Sandy Sagall called Richard Franolich at his parent's home in New Jersey to report that smoke was observed pouring out of the eaves of the mobile home. Mr. Franolich then called his wife at her place of work and let her know about the smoke coming from their home. Ms. Sagall then called Mr. Franolich again at approximately 12:00 PM to let him know that the roof of his home was now on fire. The fire investigation report indicates that the alarm was sounded at 12:30 PM. The fire department eventually responded to the fire scene and extinguished the flames, but not before the majority of the northeast quadrant of the mobile home was consumed by the fire and the remainder of the structure was severely damaged by the intense heat and smoke produced by the blaze.

Investigation:

The scene of this fire was visited and examined on February 21st, 2000. The exterior of the mobile home was examined first (photos 1 thru 5) and

revealed that the most severe fire damage occurred in the northeast quadrant of the structure (photo 5). The LP gas meter for the mobile home was situated to the northeast of the mobile home (photo 6). The LP gas supply tanks for the mobile home park were located to the east of the unit (photos 7 & 8), as was the electrical supply for the Franolich mobile home (photos 9 & 10). The electrical power to the mobile home was routed underground to the rear southeast quadrant of the home and fed upward to the circuit breaker panel (photos 11 & 12) which was located in the utility room of the home. The water supply to the mobile home also fed upward into the structure in the southeast quadrant (photos 13 thru 15). The water supply line had been wrapped with heat tape to prevent freezing and the heat tape was plugged in at the time of this inspection. There was no evidence that the heat tape had failed or overheated and there was no fire damage around the water supply line. An examination of the crawl space beneath the mobile home from the vantage point of the water supply line revealed little to indicate that a fire occurred in the unit (photos 16 thru 18). The plastic sheet vapor barrier that covered the bottom of the mobile home was still intact in the area of the water pipe entry.

The interior of the mobile home was examined next. Entry into the unit was gained via the front or north main entry doorway (photo 19). The western half of the home exhibited no signs of fire burn damage, but clearly had been subjected to intense heat and smoke during the course of this fire (photos 20 thru 27). This fire did not originate in the western half of the mobile home.

The kitchen portion of the mobile home was examined next (photos 28 thru 34). The kitchen was located in the central portion of the southern half of the mobile home. The kitchen exhibited slightly more damage than was evident in the western half of the home, but again the damage appeared to be due primarily to exposure to intense heat and smoke. There was little direct burn damage in the kitchen area with the exception of the northeast entry

doorway from the living room area. This fire did not originate in the kitchen of this mobile home.

The utility room was examined next (photos 35 & 36). The utility room contained a washing machine, an electric clothes dryer, a LP gas furnace, a 100 ampere circuit breaker panel, an exhaust fan and lighting. The damage evident in the utility room was again primarily from heat and smoke exposure. There was little evidence of direct flame burn damage. The LP gas furnace was examined (photos 37 thru 41) and no signs of overheating or failure were found. The circuit breaker panel was also examined. The circuit breaker panel had already been examined by several other parties prior to this site inspection and as a result, breakers were missing and had been dislodged (photos 42 thru 49). Several breakers were found in a tripped position at the time of this inspection, but due to the changes that had been made to the panel, no immediate conclusion could be reached regarding the relationship of these tripped breakers to the origin of this fire. The interior of the panel, however, exhibited no signs of failure or malfunction. This fire did not originate in the utility room of this mobile home.

The living room located in the central portion of the northern half of the mobile home was examined next (photos 50 thru 62). The western end of the living room (photos 50 & 51) exhibited damage similar to that found in the previously examined areas of the mobile home. The eastern portion of the living room, however, exhibited evidence of severe fire exposure (photos 52 thru 55). In fact, the entire eastern wall of the living room was missing and mostly consumed by the fire. A small portion of the floor at the eastern end of the living room was also missing with a larger hole extending into the master bedroom area in the northeast corner of the mobile home.

The master bedroom and bathroom located in the northeast corner of the mobile home clearly exhibited the greatest degree of fire damage when

compared to the remainder of the mobile home (photos 63 thru 115). The roof over the master bedroom was completely consumed by the flames and the floor of the master bedroom along the common wall with the living room had also been consumed. The electric water heater for the mobile home was located in the closet south of the master bedroom (photos 66 thru 69). The hot water heater exhibited little evidence of fire damage and clearly was not the source of this fire.

The interior of the master bathroom was examined (photos 75 thru 90). The master bathroom was found to be severely fire damaged, but not as severely as was the master bedroom. The items found in the bathroom included lighting, an exhaust fan, a stereo, switches, and wall receptacles. Each of these items was examined in detail for any evidence of the source of this fire. Only one item was found to be plugged into the bathroom wall receptacle and this item was the stereo unit (photos 81 & 82). The power cord for the stereo unit was found to exhibit evidence of electrical arcing at a point approximately 29 inches from the wall receptacle. Arcing at this point in the power cord indicates it was exposed to fire while it was still energized. The curling iron Mrs. Franolich had been using immediately prior to this fire was not plugged into the bathroom wall receptacle and was not found on the bathroom sink counter top. The remainder of the electrical wiring in the walls and ceiling of the master bathroom were traced and examined in detail for any evidence of electrical failure, but no further evidence of electrical arcing was found. The tracing verified that the master bathroom wiring was power by a different electrical circuit from that which powered the master bedroom. The lack of any additional evidence of electrical arcing in the bathroom electrical circuit indicates this circuit was de-energized prior to the time the fire penetrated the bathroom walls and ceiling and most probably when the stereo power cord faulted.

The master bedroom electrical wiring was also examined and traced. The master bedroom electrical circuit was traced and found to be separate from the master bathroom electrical circuit. The electrical wiring in the west master bedroom common wall with the living room was devoid of its insulation covering (photos 91 thru 93), but the wiring in the north and east exterior bedroom walls still had its insulation covering in tact (photos 94 thru 97). Two items were found to be plugged into the wall receptacle in the north master bedroom wall (photo 97). The remains of the power cord plugged into the receptacle were traced and both appeared to relate to the water bed that was located in the center of the north master bedroom wall. Reportedly, one plug was for the water bed heater and the other was for lights in the bed's headboard. No evidence of electrical arcing was found in the power cord or in the water bed heater. The fire damaged electrical wiring in the west master bedroom wall was examined briefly at the fire scene and no evidence of electrical arcing was found in the wall wiring. The total lack of any evidence of electrical arcing on the power cords that were interior to the master bedroom and in wiring in the west bedroom wall indicates these wires were de-energized by the time this fire attacked the wires internal to the master bedroom and the wires in the west bedroom wall. An electrical fault had apparently occurred in a portion of the master bedroom electrical circuit that was neither internal to the master bedroom walls or ceiling or internal to the bedroom itself.

The western portion of the master bedroom floor was totally consumed by this fire and a large hole remained in its place (photos 98 thru 102). Previous fire scene investigators had examined the area of this large hole and had removed wiring from this area. The recovered materials were turned over for further laboratory evaluation, along with the electrical wiring from the west master bedroom wall. Additional pieces of electrical wire were also found in the snow that partially filled the large hole at the time of this site inspection

(photos 103 & 104). These additional wires were also preserved for further laboratory evaluation.

The floor boards and joists that surrounded the hole were examined (photos 105 thru 111). The floor materials and joists were totally consumed by the fire. The electrical cables that supplied power to the northern half of the double wide mobile home had been routed through the area of this hole. The tracing of the electrical circuits in the mobile home revealed that only two circuit breakers supplied power to the northern half of the double wide unit. The remains of the electrical supply cables and the two circuit breakers had been removed by previous investigators. The two cables that were to have supplied power to the northern half of the mobile home were intended to be routed through pre-drilled holes in the floor joists (see arrow in photo 111). The previous investigator, however, indicated that these two supply cables were NOT routed through the pre-drilled holes, but had been left dangling in the crawl space beneath the double wide mobile home. An examination of the remaining pre-drilled holes and the photographs taken during the earlier scene examinations confirmed that the cables were not properly routed through the pre-drilled holes. The cables that supplied power to the northern half of the mobile home had, in fact, been routed beneath the plastic sheet vapor barrier.

The damage to the wooden frame of the master bedroom water bed was examined (photos 112 thru 115). The damage to the remaining bed frame indicated the fire impinged upon the bed frame from beneath the bed rather than from above, as would typically occur in the room fire. The damage pattern present on the bed frame indicated this fire attacked the wooden bed frame from below and not from above. This damage pattern indicates this fire originated beneath the floor to the west of the water bed's location. The plastic sheet vapor barrier in the vicinity of the hole in the master bedroom floor was totally consumed during this fire. The vapor barrier, however, was found to be

intact to the west and south of the hole in the master bedroom floor, which further indicates that this fire originated beneath the master bedroom floor area to the west of the water bed location.

Laboratory Examination:

The evidence recovered from the fire scene (photos 116 thru 118) included:

1. Two circuit breakers (photos 119 thru 121) that supplied power to the northern half of the mobile home,
2. The remains of the west wall from the master bedroom and its related electrical wiring (photo 122 thru 153),
3. The two romex cables that supplied electrical power from the southern half of the mobile home to the northern half (photos 154 thru 173),
4. The loose wires and items found in the debris below the hole in the master bedroom floor (photos 174 thru 193), and
5. The romex cable that supplied power to the western portion of the northern half of the mobile home (photos 194 thru 217).

Circuit Breakers:

The northern half of the mobile home had only two electrical circuits. The one circuit serviced the north wall of the living room, the common wall that divided the living room from the master bedroom, and the ceiling, north wall and east wall of the master bedroom. The other circuit serviced the west living room wall and the two other bedrooms located in the northwest quadrant of the mobile home. Both circuits were powered through 15 ampere ITE circuit breakers (photos 119 thru 121). Both circuit breakers, according to previous investigators, were found in a tripped position immediately following the fire. The fact that both circuit breakers were found in a tripped position after the fire, indicates that electrical faults occurred in both circuits during the course

of this fire. The circuit breakers were examined and no evidence of malfunction was found.

Remains of West Master Bedroom Wall:

The remaining portions of the west master bedroom wall and its related electrical wiring were recovered from the fire scene by Mr. Tsikalias (photos 122 thru 153). The remains consisted of two partially burned wooden wall studs, two partially burned wall receptacles, several electrical wires, and the remains of a light switch. The remains of the two wooden wall studs were found to be more severely fire damaged on the face toward the master bedroom than they were damaged on the living room side. The two wall receptacles were examined and both exhibited evidence of fire damage. The face and plastic wall work box for one receptacle were both badly fire damaged (photos 131 thru 134). This receptacle was determined to have faced into the master bedroom. The face of the second receptacle was only slightly fire damaged while the rear of its plastic wall work box was badly melted (photos 124, 127 & 128). This second receptacle had faced into the living room side of the wall. The damage to the two wall studs, the two receptacles, and the work boxes indicates this fire attacked the common wall between the living room and master bedroom from the bedroom side first. The electrical wiring from this common wall was found to pass through steel tubes where the wires passed through wall studs (photo 130). The electrical receptacles, the wall switch, the wires and the steel tubes were all examined and no evidence of electrical activity was found (photos 135 thru 149). Two wire nuts and one crimp connector were found in the wall wiring such that they would have been located near the top of the wall above the light switch location (photos 135 thru 142). It was later determined that this was where a wall mounted smoke detector had been mounted to the living room side of the common wall. The remains of the wall switch were also examined and no evidence of electrical

failure was found in the remains of the switch (photos 143 thru 149). The power feed wires for the common wall electrical items and for the master bedroom electrical circuitry originated at three conductors that entered the wall switch from beneath the mobile hole. The ends of these three power supply conductors were found to be broken and exhibited severe heat damage. The lack of any evidence of electrical arcing in the fire damaged wall conductors indicates these wires were de-energized by the time the fire attacked the common wall wiring.

The Two Romex Power Supply Cables for the Northern Half of the Mobile Home:

Two #14 with ground NM-B type indoor romex cables were found to supply power to the entire northern half of the mobile home. Each cable was powered by a 15 ampere circuit breaker located in the main breaker panel in the utility room. These cables had been removed from the fire scene by Mr. Tsikalas. The two cables had been routed downward from the circuit breaker panel and into the crawl space beneath the mobile home. The two cables then entered a plastic junction box that was mounted beneath the southern half of the mobile home (photos 156 thru 158). The junction box was used to splice the two cables coming from the circuit breaker panel to the two cables that supplied power to the northern half of the mobile home. This junction box was the type intended for indoor applications and was not meant for usage where it would be exposed to moisture. These two cables were undamaged by the fire from the point where they had been attached to the circuit breakers down to the point where they were spliced in the junction box (photos 159 thru 162), and to a point between 12 to 16 inches north of the junction box. The portion of the cables that had been under the northern half of the mobile home were devoid of insulation (photos 163 thru 173). These cables were examined for evidence of electrical failure, but no clear evidence of electrical arcing was

found. The wire conductors, however, did contain areas of melting and potential electrical arcing damage (photos 164 thru 166 & 168 thru 170). The usage of two #14 cables to supply electrical power to the entire northern half of the mobile home is questionable and not indicative of a good electrical design or a good installation. Since numerous electrical receptacles and lights were present in the northern half of the mobile home, it would have been more appropriate to utilize #12 type electrical cable rather than #14.

Loose Wires Found Under Master Bedroom:

Several loose #14 solid copper conductors were found on the ground beneath the hole in the master bedroom floor (photos 174 thru 193). Each of these wires were examined for any evidence of electrical arcing, but none was found.

Romex Cable that Powered the Northwest Corner of the Mobile Home:

The romex cable that supplied power to the northwest quadrant of the mobile home was also found to be a #14 with ground NM-B type indoor romex cable (photos 194 thru 217). This cable had been removed from the fire scene by Mr. Tsikalias. Mr. Tsikalias had cut this cable at a point where it entered an electrical receptacle work box in the west wall of the living room. Mr. Tsikalias indicated that this cable was hanging free beneath the living room floor and in the crawl space beneath the mobile home. The cable was undamaged from the point where it had entered the receptacle work box to a point approximately 29 feet back toward where the cable passed under the east living room common wall with the master bedroom. At this point, the cable was devoid of insulation covering for approximately 6 feet. Two of the three bare conductor ends were found to be broken (photos 198 & 199). The end of the hot conductor in this cable, however, was found to exhibit a strange damage pattern (photos 200 thru 217). The end of this conductor was found to be melted along one side, but not

its other. This damage pattern is not consistent with typical fire damage, but appears to be due to electrical activity.

Laboratory Testing:

In an attempt to understand the damage pattern found on the cable conductor that powered the northwest corner of the mobile home, tests were conducted to simulate what would happen were a wire to be dragged over a grounded metal floor support. The indoor romex cables were known to have been dangling down under the mobile home and plastic sheet vapor barrier. This position would permit the indoor type cable to rest on the edges of the "L" shaped steel cross members used to support the floor of the mobile home. The normal movement of the mobile home during windy days and when people walk on the floor above would cause these wires to move against the edge of the steel supports. The movement can cause the insulation covering to become damaged and thereby expose the internal conductors. This testing was to evaluate the effect this type of damage might have on the copper conductors in the cable. The insulation covering on several lengths of #14 solid copper conductor that had been removed from a section of romex cable was deliberately damaged to simulate long term rubbing on the edge of a piece of steel "L" channel. The damaged sections of conductor were then connected to a household electrical supply that had its current limited to a value less than the normal instantaneous trip range of a 15 ampere circuit breaker (less than 40 amperes). The damaged sections of #14 conductor were then pulled over the edge of a grounded steel "L" channel section. As the conductors were pulled over the "L" channel, sparks and molten debris were observed to be emitted from the area of contact. After several passes, the conductors were examined under a microscope and photographed (see Appendix A). The test wire sections were found to exhibit a damage pattern very similar to that found on the cable

conductor that powered the northwest corner of the mobile home (See Appendix B).

Summary:

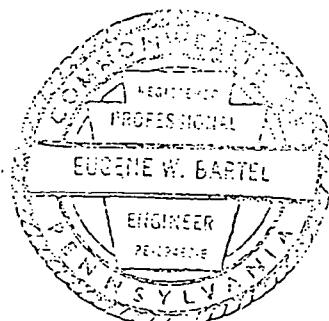
The examination of the fire scene damage indicates that the fire that destroyed the double wide mobile home owned by Richard and Janet Franolich on September 6th, 1999 originated in the northeast quadrant of the structure. The total lack of any evidence of electrical arcing internal to the master bedroom and the wiring in its walls and ceiling, coupled with the fire burn damage patterns, indicates this fire originated in the vicinity of the electrical supply cables that were located under the bedroom floor. The fact that Mr. and Mrs. Franolich had experienced several instances involving electrical power fluctuation to the northern half of their home indicates there was some festering electrical problem in the two cables that supplied power to this portion of their mobile home. The exact nature of this electrical problem is uncertain due to the severe fire damage, but most probably the cables that supplied power to the northern half of the mobile home were rubbing against the steel cross braces that supported the home. The supply cables had been left dangling beneath the mobile home rather than having been properly secured to the floor joists. Holes had been pre-drilled in the floor joists to accommodate the electrical supply cables, but for some reason the cables were left dangling beneath the home and resting on the earth and steel cross members below the home. The electrical supply cables were type NM-B romex cable rated for indoor usage and should not have been permitted to dangle beneath the mobile home where they were exposed to the elements. The splice box used to connect the two cables that supplied power to the northern half of the mobile home was also exposed beneath the home and was not the type required for outdoor applications. The junction box should have been the type rated for outdoor

application and which was waterproof to prevent moisture from entering the junction box. The electrical arcing damage pattern found on the section of #14 solid copper conductor which supplied power to the northwest section of the mobile home is indicative of damage produced when a cable is pulled over a grounded steel "L" channel, thereby causing damage to the cable insulation. The electrical damage and currents resulting from moving a damaged cable over a grounded "L" channel would produce voltage fluctuations in the affected circuits and these voltage fluctuations would, in turn, cause the lights to dim and a television set to turn off, which is exactly what was observed by the Franolichs. The electrical sparks and arcing, which occurs when an energized wire is abraded by the rough edge of an "L" channel, would produce molten debris and heat which can easily ignite nearby combustible materials such as the plastic vapor barrier or leaves and papers blown under the home.

Conclusions:

Based upon the presently available information and evidence, we have, to a reasonable degree of engineering certainty, arrived at the following conclusions:

1. The fire that occurred on September 6th, 1999 in the residence of Richard and Janet Franolich located at 46 Ponderosa Drive in Penfield, Pennsylvania originated beneath the northeast floor of the master bedroom in their double wide mobile home.
2. The fire was caused by electrical arcing and sparking due to an electrical supply cable being permitted to rest upon and move across the edges of steel supports under the mobile home which resulted in damage to the energized cables and the electrical faulting that caused this fire.
3. The energized electrical cables were permitted to rest upon the steel supports due to improper design, construction and installation of the mobile home which included:
 - a. The failure to properly support and route electrical cables.
 - b. The usage of indoor cable in an application requiring outdoor type cable.
 - c. The usage of an electrical splice box which was not waterproof and required for outdoor applications.

A handwritten signature in cursive script that reads "Eugene W. Bartel".

Eugene W. Bartel, Ph.D., P.E., C.F.I. & B.C.F.E.

A handwritten signature in cursive script that reads "Rowland C. Rudolf III".

Rowland C. Rudolf III, Elec. Eng. & B.C.F.E.



Tsikalas Investigations
FIRE INCIDENT INVESTIGATION REPORT

Subject: Structure fire
Insured: Richard Franolich
D/L: September 6, 1999
CLAIM NUMBER: 38-P283-286

FERRARACCIO & NOBLE





TSIKALAS INVESTIGATIONS

3423 WILLIAM PENN AVENUE JOHNSTOWN PENNSYLVANIA 15909

PAGER: 800-668-1860 • PHONE: 814-322-4909 • FAX: 814-322-3310 • Cellular 814-241-2466
Web-Site: (<http://members.aol.com/TSIKALAS>) E-MAIL: TSIKALAS@aol.com

FIRE INCIDENT INVESTIGATION REPORT

Privileged and Confidential

To: Terry Noble, Esq.
301 E. Pine Street
Clearfield, Pa. 16830

From: James M. Tsikalas, C.F.I.
Tsikalas Investigations
3423 William Penn Avenue
Johnstown, PA 15909

CASE #: 38-P283-286

Report Date: March 13, 2000

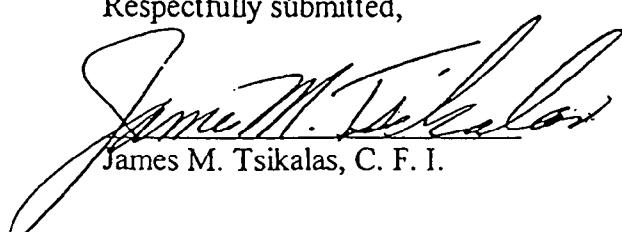
Subject: Residential Structure Fire

Date of Loss: September 6, 1999

Insured: Richard Franolich

Claim #: 38-P283-286

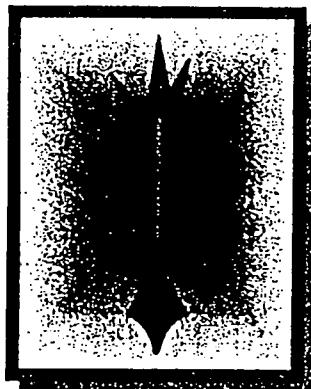
Respectfully submitted,



James M. Tsikalas, C. F. I.

NOTIFICATION
ATTACHED DOCUMENTATION

TSIKALAS INVESTIGATIONS



***RICHARD FRANOLICH
RESIDENTIAL FIRE
INVESTIGATION***

OVERALL CONCLUSION
FINDINGS

SCENE EXAMINATION

PHOTOGRAPH INDEX

35mm. PHOTOGRAPHS

EVIDENCE

PROPERTY RECORDS

PA STATE POLICE

FIRE MARSHAL REPORT

FIRE SCENE DIAGRAMS

WITNESS INTERVIEWS

NOTIFICATION
ATTACHED DOCUMENTATION

NOTIFICATION

Phone call from: Terry Noble, Esq / Ferraraccio & Noble

Date of Request: November 9, 1999

Request:

1. Conduct a cause and origin investigation:
2. Document with photographs
3. Determine responsibility
4. Property Record / Evidence if applicable

Subject: Structure Fire: Modular Residence

Insured: Richard Franolich
203 N. Brady Street
DuBois, Pa. 15801-2419

Claim Number: 38-P283-286

ATTACHED DOCUMENTATION

1. Notification & Attached Documentation
2. Overall Findings & Conclusion
3. Scene Examination
4. Photograph Index / 35-mm Photographs
5. Evidence / Property Report
6. State Police Fire Marshal Report
7. Fire Scene Diagrams
8. Witness Interviews

**OVERALL FINDINGS
CONCLUSION**

OVERALL FINDINGS AND CONCLUSION:

After conducting the scene examination, reviewing the scene photographs and conducting witness interviews, together with the education and experience of this investigator, it is my professional opinion, within a reasonable degree of scientific certainty, that the fire at Richard Franolich's residence at 46 Ponderosa Dr., Penfield, Pa. 15849, County of Clearfield, Commonwealth of Pennsylvania was accidental in nature.

It is also the opinion of this investigator, within a reasonable degree of scientific certainty, the fire originated at the Northeast sector of the structure, namely at the master bedroom directly underneath the flammable vapor barrier where the 14 gauge electrical wiring had traversed to the interior wall at the duplex outlet. The incipient stage of the fire occurred as the electrical wiring insulation had frayed due to the insecure and improper method of the nonexistent attachment underneath the double wide. Two factors then took place as pyrolysis to the insulation was enhanced and thermal resistance then occurred due to the breakdown of the insulation of the indoor type 14 gauge electrical wiring. As excessive heat traveled through the 14 gauge electrical wiring, the incipient stage of the fire occurred as the ignition temperature of the insulation lowered from the pyrolysis effect. The free burning stage of the fire happened as the burning insulation directly transferred to the flammable vapor barrier. The fire then impinged to the floor joists and through the flooring of the double wide mobile home.

The fire resulted from improper installation of the double wide mobile home. As the two halves of the double wide mobile home were being joined together, two sections of fourteen gauge electrical wiring were strewn underneath the mobile home from the electrical service panel box, located at the South front of the structure. The electrical wiring was attached to two fifteen amp breakers at the top left of the 100 amp *Siemens* electrical service panel box. The electrical wiring had then been placed underneath the vapor barrier from the South front of the structure. The installers had by-passed the pre-drilled holes in the floor joists as they had traversed the electrical wiring underneath the floor joists, insulation and vapor barrier. A junction box had been improperly installed underneath the double wide as the two fourteen gauge electrical wires were too short to accommodate the jointure at two sections of the Northern half. One section of fourteen gauge electrical wiring traversed from the junction box to the West interior wall and connected to the duplex outlet at the interior wall separating the living room from the master bedroom. This section of electrical wiring serviced the Northeast section of the double wide including the master bedroom, the area of origin of the fire. The other fourteen gauge wire had been placed underneath the double wide, however not in the pre-drilled holes for the electrical wiring to pass through the floor joists. This fourteen gauge electrical wire had been joined to the electrical duplex outlet at the Western section of the living room as it serviced the Northwestern section of the double wide including the rear bedrooms and living room.

Numerous National electrical code violations were observed as the scene examination was maintained:

- ① Improper mounting of the electrical junction box
- ② Improper two sections of fourteen gauge electrical wiring (indoor type)
- ③ Improper gauge electrical wiring used as main power sources (should have been 12 gauge electrical wiring, outdoor type.)
- ④ Electrical wiring not placed in designated mount holes through floor joists
- ⑤ Electrical wiring placed directly underneath vapor barrier, a flammable material.

POINT OF ORIGIN INDICATORS:

- ① Distinct "V" pattern at North rear wall.
- ② Arcing, beading and dark discoloration to the electrical wiring.
- ③ The presence of more thermal exposure at the area of origin.
- ④ Significantly more fire damage at master bedroom as contrasted to other areas including living room.
- ⑤ Truncated cone effect above the point of origin creating massive fire damage to roof.
- ⑥ Spalling of the concrete blocks (used for support at the Northeast sector.)
- ⑦ Thermal stress to the fourteen gauge electrical wiring leading to the duplex outlet at the Western interior wall of the master bedroom separating the living room.
- ⑧ Arcing, beading and discoloration of the electrical wiring.
- ⑨ Elimination of insulation of the electrical wiring at the area of origin.
- ⑩ Greatest amount of wood char at area of origin.
 - a. Number 2 pine burns at the rate of 1 inch per 45 minutes.

ELIMINATION FACTORS:

- ① Elimination of lightening strikes and all other natural fire causes.
- ② Elimination of the aerial electrical service entrance as a fire cause.
- ③ Elimination of the electrical service panel as a fire cause.
- ④ Elimination of a candle on the dresser in the master bedroom.
- ⑤ Elimination of the heating system as a fire cause.
- ⑥ Elimination of spontaneous combustion.

SCENE EXAMINATION

SCENE EXAMINATION

EXTERIOR SOUTH VIEW (FRONT) OF STRUCTURE

A systematic counter-clockwise examination of the structure was conducted. The South front of the structure was in remarkable condition. The open door on this side had a carbon residue from the middle to the top of the door indicating the fire was less intense in this area.

Refer to photos # 1 thru 2 inclusive

ELECTRICAL SERVICE PANEL & FURNACE.

The electrical service panel was examined and was identified as a *Siemens 100 amp electrical service panel box*. It contained 4-15 amp breakers and 2-20 amp breakers in the tripped position. The service panel was in unremarkable condition, thus eliminating it as a fire cause.

The hot-air forced LP gas furnace was examined and to be fed through a line form underneath the structure. It was identified by model #COAT066BDB and serial #950718196. There was a main LP gas tank that supplied this furnace at the Northeast sector. The LP gas hot-air force furnace has a *Robertshaw-Grayson valve* and also contained a *Honeywell Igniter*. The furnace was found to have no carbon residue or fire damage and was in unremarkable condition. For this reason, it was eliminated from fire causation.

Refer to photos # 3 thru 17 inclusive

EAST VIEW OF STRUCTURE

The east side of the structure was examined and illustrated fire damage to the North rear side. The most severe damage was found to be in the Northeast corner. A "V" pattern illustrated on the wall extended upward toward the South indicating the fire came from the North rear sector. The fire damage had also totally damaged the roof at the Northeast sector, the area of the master bedroom. The roof on the South side of the structure was intact and found to have heat and smoke damage. The vinyl siding was burned away on the North side, but was intact on the South side indicating that the fire emanated from the Northeast sector.

EXTERIOR NORTH (REAR) VIEW OF STRUCTURE

The North side of the structure was examined and it illustrated severe fire damage at the Northeast sector. As mentioned, the roof in this area was completely burned away from the fire damage. This area that was severely damaged was the master bedroom of the structure fire. A "V" pattern was found on the outside of the structure indicating the fire traveled from the East within the room of the master bedroom. The Northeast corner of the structure was burned to the wood frame structure. The vinyl siding on the structure was melted and also burned away in this area. Fire debris that was located on the outside of the structure was found and supported the theory of a slow burning intense fire. The wooden wall studs, from the exterior, illustrated a char pattern of a low burning.

Refer to photos # 18 thru 24 inclusive

UNDERNEATH VIEW OF STRUCTURE

An examination of the underneath of the structure yielded a partially burned dryer vent coil that was burnt on the side closest to the origin of the fire. The LP gas line and 14 gauge wiring was also found to be underneath of the structure. Fire damage in this area was severe. The LP gas line was examined and illustrated intense heat damage. The protective covering for the line was totally burnt away and displayed discoloration. The 14 gauge wiring cover was also completely burnt away in this area. The steel I beams were examined and illustrated some discoloration in the area of the wiring, indicating an area of intense heat.

The presence of a candle on the dresser, at the West interior wall was eliminated as fire causation. According to the insured's wife, the candle had not been lit when she left the residence on the day of the fire. The candle's description was approximately three inches in diameter evidencing that the candle would have to have been knocked over if it had been lit.

Note: Also studies and experiments with candles according to "Fire Findings" proves that very few fires have been set with this type of candle. If the candle would have been knocked over, the wick would have been extinguished by the surrounding atmosphere as it was falling to the floor. According to the witness's interview, the fire was not in the position of the discovery of the fire.

Refer to photos # 25 thru 32 inclusive

KITCHEN

The kitchen on the South front side was examined and found to have suffered heat and smoke damage. Most of the damage was contained to the upper walls and ceiling level. The top North side of the kitchen suffered burn through indicating the fire had traveled from that area. The cupboards in this area suffered heat damage and the damage minimized toward the South front of the structure. This would also indicate the fire came from the North. The range in the kitchen was examined and found to be in unremarkable condition. The range depicted signs of light carbon residue and had fire debris on it and can be attributed to drop down. All knobs of the range were in the "off" position. The range was eliminated as a fire cause.

Refer to photos # 33 thru 37 inclusive

LIVING ROOM

The living room was examined and found to have suffered heavy fire and heat damage. The roof was intact in this area and the covering to the sofa was only burnt along the top. The partition between the master bedroom and the living room was nonexistent. The windows of the living room displayed a smoke pattern which was heavier on the eastern side indicating the fire came from the area of the master bedroom. Heavy carbon residue on the interior of the window glass indicated the fire impinged to the living room from the area of origin, in the master bedroom. This area was eliminated as a fire cause due to these factors.

Refer to photos # 38 thru 40 inclusive

UTILITY ROOM

The utility room was examined and found to have fire debris in it. It also contained a water heater that was in unremarkable condition. The electric wiring from the heater were intact and found to have no evidence of electrical malfunction. The water heater was eliminated from fire causation.

MASTER BEDROOM / AREA OF ORIGIN

An examination of the master bedroom depicted heavy fire damage. The roof of the master bedroom was completely burned away. A "V" pattern was illustrated on the interior wall studs at the North wall, an indication that the fire came from a low origin. The "V" pattern was created from the severe charring at the inside of the "V" as compared to minimal fire damage at the outside of the "V". A burn through was located on the floor of the master bedroom indicating the fire originated in this area. Upon further examination of the wall studs at the North interior

wall, a cut out with a metal protector where the 14 gauge wire traversed through, was established. The insulation on the wiring was intact and the stud had charring on the opposite side indicating the fire traveled from the other side. The electrical wiring was also examined at the West interior wall of the master bedroom. The wall separated the master bedroom from the living room. The interior wall sustained heavy fire damage from the master bedroom as the living room had been eliminated from fire causation. The mentioned 14 gauge electric wire that traversed from the junction box, underneath the double wide home, from the South half of the double wide was traced by it's length to the West interior wall as the electric wire had been strewn through the flooring at a duplex outlet so that electricity could be provided to the Northern half at the Northeast sector.

The burn through, which consisted of a 6' by 3' hole in the flooring, was further examined. A plastic coated metal LP gas line traversed underneath the wooden support studs and steel "I" beams. The LP gas line exhibited a distinct line of demarcation indicating it was in the area of origin. The plastic protective covering was burned away in the area of the burn through, however the gas line illustrated the protective covering further away from the area of origin. The LP gas line also displayed signs of discoloration indicating an area of intense heat. The LP gas line was examined and no visible evidence indicated that the line had leaked gas. The 14 gauge electrical wiring was also found in this area and it was underneath the steel I beams and wooden support studs as well.

The 14 gauge wiring in this area was closely examined. It had traversed underneath the steel I beams and the wooden support studs. The remainder of the wooden support studs in the area were found to have fabricated holes to pass the electric wire through, however the wire did not pass through the pre-drilled holes. The wiring had been installed underneath the flooring and vapor barrier. The 14 gauge wire illustrated arcing, melting and beading in the area of the burn through, underneath the steel I beams and the wooden support studs. The vapor barrier had also been totally exhumed by the fire at this area. It was also in the area of the LP gas line that accounted for the gas line's protective covering being burned away in this area. The wires were actually melted together in this area and were blue in color indicative of thermal stress.

The wooden support studs in the area of the burn through were burned completely away, as well as the carpeting. The char pattern on the wooden studs was burned in an angle indicating the fire traveled from below. This was also consistent with the char patterns on the foam cushion and the carpeting. The carpeting had charring on the bottom, but was in favorable condition on the top indicating that the fire originated from underneath the flooring.

Note: With this internal heating being present, the heat was unable to dissipate and slowly burn through the insulation causing a direct heat transfer to the vapor barrier causing the incipient stage of the fire. The arcing, melting and beading of the wire, the burn patterns on the LP gas line and the burn patterns on the steel I beams and wooden support studs are conclusive evidence to support this cause.

Refer to photos # 41 thru 97 inclusive

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES,

Additional Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

NO. 01-1318 C.D.

**DEFENDANT LARRY'S HOMES OF PA,
INC., RESPONSES TO ADDITIONAL
DEFENDANT HAWK HOMES'
REQUEST FOR ADMISSIONS AND
INTERROGATORY**

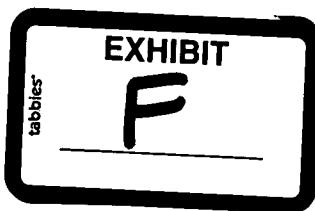
Filed on behalf of:
Defendant Larry's Homes of PA, Inc.

Counsel of Record for this party:
Raymond J. Conlon
Pa. I.D. #49495

Cynthia P. Cafaro
Pa. I.D. #80021

**ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY
COMPANY**
Firm #920
Morgan Center, Suite 218
101 East Diamond Street
Butler, PA 16001

(724) 285-6677



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICHARD FRANOLICH, and JANET
FRANOLICH, husband and wife,

CIVIL DIVISION

NO. 01-1318 C.D.

Plaintiffs,

v.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES OF PA, INC.,

Defendants,

v.

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES.

Additional Defendants.

**DEFENDANT LARRY'S HOMES OF PA, INC.,
RESPONSES TO ADDITIONAL DEFENDANT HAWK HOMES'
REQUEST FOR ADMISSIONS AND INTERROGATORY**

AND NOW come the Defendant, Larry's Homes of PA, Inc., by and through their counsel, Zimmer Kunz, PLLC and file the within Responses to Additional Defendants Hawk Homes' Request for Admissions and Interrogatories and in support thereof aver as follows:

1. Larry's Homes had possession and control of the mobile home which is the subject of this action from the time it was delivered by Fleetwood Homes to the date upon which the Burketts purchased it.

Admitted: X

Denied: _____

2. Larry's Homes did not request that Hawk Homes perform any installation, maintenance and/or repairs to the electrical system of the mobile home which is the subject of this action.

Admitted: X

Denied: _____

3. Hawk Manufactured Homes, Inc. did not perform any maintenance and/or repairs to the mobile home which is the subject of this action while the mobile home was in Larry's Homes' possession and control.

Admitted: X

Denied: _____

4. Hawk Manufactured Homes, Inc. did not install, maintain and/or repair the electrical wiring installed in the mobile home while the mobile home was in Larry's Homes' possession and control.

Admitted: X

Denied: _____

5. Hawk Manufactured Homes, Inc. did not employ the services of an electrician or any individual to install, maintain and/or repair the electrical wiring in the mobile home which is the subject of its action while the mobile home was in Larry's Homes' possession and control.

Admitted: X

Denied: _____

6. Larry's Homes of PA, Inc. possesses no evidence to demonstrate that Hawk Manufactured Homes, Inc. modified the electrical wiring in the mobile home which is the subject of this action at any time.

Admitted: X

Denied: _____

7. Larry's Homes of PA, Inc. possesses no evidence to demonstrate that Hawk Manufactured Homes, Inc. committed any acts or omissions that contributed to the fire which is the subject of this action.

Admitted:

Denied: X

ANSWER: The fire in this case occurred after Additional Defendant Hawk Manufactured Homes sold the home to the Plaintiffs. If in fact the wiring was faulty as alleged by Plaintiffs, the Additional Defendant Hawk Manufactured Homes, failed to inspect and/or otherwise detect any problems in the wiring before selling the home to the Plaintiffs.

Answer to Interrogatory

1. If your answer to any of the Request for Admissions is anything but an unqualified admission, please set forth:

a) all facts known to you which support your refusal to admit such request;

- b) all information believed by you which support your refusal to admit such request;
- c) the name, address and telephone number of any person known to you with knowledge of the information set forth in your responses to parts (a) and (b); and
- d) produce and documents in your possession, custody or control that support your refusal to admit such request.

ANSWER:

- a) see response to Request for Admission 7;
- b) Larry's Homes of PA, Inc. has denied any and all liability to the Plaintiffs with respect to this case. It is the position of Larry's Homes of PA, Inc., that if there was a problem with the wiring of this home, it occurred after the sale of the home to Jim and Denise Burkett and was caused by the negligence of one or more of the other Defendants or Additional Defendants;
- c) See documents referenced in sub-part (d).
- d) The documents produced with respect to this litigation thus far which are already in possession of counsel for Hawk Manufactured Homes, show evidence that there were modifications to the home and releveling of the home which was done after Mr. and Mrs. Burkett moved into the home. Most modifications to the home and the releveling were not performed by Larry's Homes of PA. Specifically, see documents produced by Additional Defendants Jim and Denise Burkett which are in the possession of counsel for Hawk Manufactured Homes.

Respectfully submitted,

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY

By: 
RAYMOND J. CONLON, ESQUIRE
CYNTHIA P. CAFARO, ESQUIRE
Attorneys for Defendants

VERIFICATION

I, Jane A Zingaro, Authorized Representative of Larry's Homes of PA, Inc., have read the within Responses to Additional Defendant Hawk Homes' Request for Admissions and Interrogatory. The statements contained therein are true and correct to the best of my personal knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.

DATE: 2/6/03

Jane A Zingaro
Jane Zingaro

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within document was forwarded to the below named individuals by United States Mail on the 12th day of February 2003.

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
Attorney for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830
Attorney for Fleetwood Enterprises, INC.

J. Michael Dorezas, Esquire
Evey, Routch, Black, Dorezas, Magee & Levine LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648
Attorney for Jim and Denise Burkett

Mark Lane, Esquire
Dell, Moser, Lane & Loughney, LLC
1300 Frick Building
Pittsburgh, PA 15219
Attorney for Hawk Homes

ZIMMER KUNZ
PROFESSIONAL LIMITED LIABILITY COMPANY

By: Cynthia C. Fink

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD FRANOLICH and JANET
FRANOLICH, husband and wife,

Plaintiffs,

vs.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES of PA, INC.,

Defendants,

vs.

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES,

Additional Defendants.

CIVIL DIVISION

No. 01-1318-CD

Issue No.

JURY TRIAL DEMANDED

**ADDITIONAL DEFENDANT HAWK
MANUFACTURED HOMES, INC.'S FIRST
REQUEST FOR ADMISSIONS AND
INTERROGATORY DIRECTED TO
PLAINTIFFS**

Code:

Filed on behalf of Hawk Manufactured Homes,
Inc. (incorrectly designated as "Hawk Homes"),
Additional Defendant

Counsel of Record for this Party:

Mark R. Lane, Esquire
Pa. I.D. #: 61923

DELL, MOSER, LANE & LOUGHNEY, LLC
Firm #753

1300 Frick Building
Pittsburgh, PA 15219

Phone: (412) 471-1180
Fax: (412) 471-9012



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD FRANOLICH and JANET)
FRANOLICH, husband and wife,,)
Plaintiffs,) CIVIL ACTION
v.) Docket No: 01-1318-CD
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES of PA, INC.,)
Defendants,)
vs.)
JIM BURKETT and DENISE BURKETT, Husband)
and wife, and HAWK HOMES,)
Additional Defendants.)

ADDITIONAL DEFENDANT HAWK MANUFACTURED HOMES, INC.'S
FIRST REQUEST FOR ADMISSIONS AND INTERROGATORY

TO: Richard and Janet Franolich
C/o Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, Pa 16830

Pursuant to Pa.R.C.P. 4014, Additional Defendant, Hawk Manufactured Homes, Inc.,
requests that Plaintiffs, within thirty (30) days after service of this Request, make the following
admissions:

1. Plaintiffs purchased the mobile home which is the subject of this action "as is"
with "no warranties-express or implied" from Hawk Manufactured Homes, Inc. *See, Purchase
Agreement attached hereto as Exhibit "A."*

Admitted: _____

Denied: _____

2. Hawk Manufactured Homes, Inc. did not perform any maintenance and/or repairs to the mobile home which is the subject of this action after purchase by the Plaintiffs.

Admitted: _____

Denied: _____

3. Hawk Manufactured Homes, Inc. did not transport the mobile home which is the subject of this action after Plaintiffs purchased the home.

Admitted: _____

Denied: _____

4. Hawk Manufactured Homes, Inc. did not install, maintain and/or repair the electrical wiring installed in the mobile home after purchase by the Plaintiffs.

Admitted: _____

Denied: _____

5. Hawk Manufacturing Homes, Inc. did not employ the services of an electrician or any individual to install, maintain and/or repair the electrical wiring in the mobile home which is the subject of this action after purchase by the Plaintiffs.

Admitted: _____

Denied: _____

6. Plaintiffs possess no evidence to demonstrate that Hawk Manufactured Homes, Inc. modified the electrical wiring in their mobile home at any time.

Admitted: _____

Denied: _____

INTERROGATORY

1. If your answer to any of the Request for Admissions is anything but an unqualified admission, please set forth:

- a) All facts known to you which support your refusal to admit such request;
- b) All information believed by you which support your refusal to admit such request;
- c) The name, address, and telephone number of any person known to you with knowledge of the information set forth in your responses to parts (a) and (b); and
- d) Produce any documents in your possession, custody or control that support your refusal to admit such request.

DELL MOSER LANE & LOUGHNEY, LLC



Mark R. Lane, Esquire
Attorneys for Hawk Manufactured Homes,
Inc., Additional Defendant

OWL HOMES

of ALLEGANY
Route 417 West
ALLEGANY, NY 14706
(716) 372-2322

of BATH
Route 54 North
BATH, NY 14810
(607) 776-4191

MELHUISH
MANUFACTURED HOMES INC.

of LANTZ CORNERS
Routes 219 & 6 • P.O. Box 550
MT. JEWETT, PA 18740
(814) 778-6511

of WARR.
Routes 6 & 27 • P.C.
PITTSFIELD, PA
(814) 563-32

New York and Pennsylvania States Largest Mobile Home & Modular Dealer

In this contract the words, I, ME, and MY refer to the Buyer and Co-Buyer signing this contract. The words YOU and YOUR refer to the Dealer. Subject to the terms and conditions on both sides of this agreement you agree to sell and I agree to purchase the following described unit.

BUYER'S NAME RICHARD FRANOLICH PHONE (814) 371-8310 (W) DATE 10-13-02
ADDRESS US ARMY 703 N. BRADY ST. DUBOIS PA 15801 SALESPERSON SHELLY/PAT
DELIVERY ADDRESS N/A

MAKE & MODEL	YEAR	BD. ROOMS	FLOOR SIZE	HITCH SIZE	STOCK NUMBER
<u>Fleetwood Lumberton</u>	<u>96</u>	<u>4</u>	<u>56' x 28'</u>	<u>L</u>	<u>W</u>
SERIAL NUMBER	COLOR	PROPOSED DELIVERY DATE			KEY NUMBER
<u>NCAFLT46B03753</u>	<u>White</u>	<u>N/A</u>			

OPTIONAL EQUIPMENT, LABOR AND ACCESSORIES

\$	BASE PRICE OF UNIT	\$ <u>39,200</u>
	OPTIONAL EQUIPMENT	
	SUB-TOTAL	\$

HOME SOLD AS IS

	SALES TAX	
	NON-TAXABLE ITEMS	<u>TITLE</u>
	VARIOUS FEES AND INSURANCE	<u>27</u>

NO WARRANTIES

WRITTEN OR IMPLIED.

HOME IS CURRENTLY IN

MOVE IN CONDITION.

1. CASH PURCHASE PRICE \$ 39,200

TRADE-IN ALLOWANCE \$ 0
LESS BAL. DUE on above \$ 0

NET ALLOWANCE \$ 0
CASH DOWN PAYMENT \$ 4000.00

CASH AS AGREED SEE REMARKS \$ 0
2. LESS TOTAL CREDITS \$ 35,227

SUB-TOTAL

SALES TAX (If Not Included Above)

3. Unpaid Balance of Cash Sale Price \$ 35,227

REMARKS: BALANCE DUE AT OR BEFORE DELI

RECEIVED

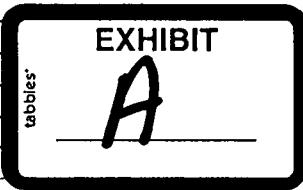
OCT 24 2002

SLOANE MELHUISH & CO. RECEIVED

OCT 25 2002

NOTICE:

THIS COMPANY IS NOT RESPONSIBLE FOR CO:
EXTRA EQUIPMENT NECESSARY TO PLACE
HOME ON YOUR LOT.



BALANCE CARRIED TO OPTIONAL EQUIPMENT \$

NOTE: WARRANTY AND EXCLUSIONS AND LIMITATIONS OF DAMAGES ON THE REVERSE SIDE

DESCRIPTION OF TRADE-IN YEAR SIZE

MAKE MODEL BEDROOMS

TITLE NO. SERIAL NO. COLOR

AMOUNT OWING TO WHOM

ANY DEBT I OWE ON THE TRADE-IN IS TO BE PAID BY YOU ME

THIS AGREEMENT CONTAINS THE ENTIRE UNDERSTANDING BETWEEN YOU AND ME AND NO OTHER REPRESENTATION OR INDUCEMENT, VERBAL OR WRITTEN, HAS BEEN MADE WHICH IS NOT CONTAINED IN THIS CONTRACT.
I, OR WE, ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT AND THAT I, OR WE, HAVE READ AND UNDERSTAND THE SAME.

You and I certify that the additional terms and conditions printed on the other side of this contract are agreed to as of this agreement, the same as if printed above the signature am purchasing the above described trailer, manufactured or vehicle; the optional equipment and accessories, the same as described has been voluntary; that my trade-in from all claims whatsoever, except as noted.

SIGNED X John P. Melhuish

SOCIAL SECURITY NO. 1 1 1

SIGNED X John P. Melhuish

SOCIAL SECURITY NO. 1 1 1

Not Valid Unless Signed and Accepted by an Officer of the Company or an Authorized Agent

By John P. Melhuish Approved John P. Melhuish

1-7000004 10/02

SLOANE MELHUISH

OCT-25-2002 15:22

ADDITIONAL TERMS AND CONDITIONS

In this contract the words I, me, and my refer to the Buyer and Co-Buyer signing this contract. The words you and your refer to the Dealer.

1. **IF NOT A CASH TRANSACTION.** If I do not complete this purchase as a cash transaction, I know before or at the time of delivery of the unit purchased, I will enter into a retail installment contract and sign a security agreement or other agreement as may be required to finance my purchase.
2. **TITLE.** Title to the unit purchased will remain in you until the agreed upon purchase price is paid in full in cash, or I have signed a retail installment contract and it has been accepted by a bank or finance company, at which time title passes to me even though the actual delivery of the unit purchased may be made at a later date.
3. **TRADE-IN.** If I am trading in a used car, manufactured home, trailer, or other vehicle, I will give you the original bill of sale or the title to the trade-in. I promise that any trade-in which I give is owned by me and is free of any lien or other claim except as noted on the other side of this contract. I promise that all taxes of every kind levied against the trade-in have been fully paid. If any government agency makes a levy or claims a tax lien or demand against the trade-in, you may, at your option, either pay it and I will reimburse you on demand, or you may add that amount to this contract as if it had been originally included.
4. **REGISTRATION OR LICENSE OF TRADE-IN.** If I have a trade-in and it is registered or licensed in a state outside of the one where this order is written, I will immediately have the trade-in registered or licensed in the state you indicate and I will pay any and all expenses and registration or licensing fees required. If you handle the registration or licensing of the trade-in, I will reimburse you for the expense on demand or you may add that amount to this contract as if it had been originally included.
5. **REAPPRAISAL OF TRADE-IN.** If I am making a trade-in and it is not delivered to you at the time of the original appraisal and if later, on delivery, it appears to you that there have been material changes made in the furnishings or accessories, or in its general physical condition, you may make a reappraisal. This later appraisal value will then determine the allowance to be made for the trade-in.
6. **FAILURE TO COMPLETE PURCHASE.** If I fail or refuse to complete this purchase within the time frame specified in this contract or as specified in the Uniform Commercial Code of the state in which I sign this contract, or within an agreed upon extension of time, for any reason (other than cancellation because of any increase in price), you may keep that portion of my cash deposit which will adequately compensate you for your consequential damages, incidental damages, and all other damages, expenses, or losses which you incur because I fail to complete my purchase. I agree, however, that this contract shall not be interpreted as containing a "liquidated damages" provision. If I have not given you a cash deposit or it is inadequate and I have given you a trade-in, you may sell the trade-in at public or private sale and deduct from the money received an amount that will adequately compensate you for any or all of the above mentioned damages, expenses, and losses incurred because I failed to complete this purchase. I understand that you shall have all the rights of a seller upon breach of contract under the Uniform Commercial Code, except the right to seek and collect "liquidated damages" under Section 2-718. If you prevail in any legal action which you bring against me, or which I bring against you, concerning this contract, I agree to reimburse you for your reasonable attorney's fees, court costs and expenses which you incur in prosecuting or defending against that legal action.
7. **CHANGES BY MANUFACTURER.** I understand that the manufacturer may make any changes in the model, or designs, or any accessories and parts from time to time, and at any time, if the manufacturer does make changes, neither you nor the manufacturer are obligated to make the same changes in the unit I am purchasing and covered by this order, either before or after it is delivered to me.
8. **DELAYS.** I will not hold you liable for delays caused by the manufacturer, accidents, strikes, fires, or any other cause beyond your control.
9. **INSPECTION.** I have examined the product and find it suitable for my particular needs. I have relied upon my own judgement and inspection in determining that it is of acceptable quality. On the special unit ordered, I have relied on my inspection of the display model(s), the brochures and bulletins and/or the floor plan provided to you by the Manufacturer, in making my decision to purchase the unit described on the reverse side of this agreement.
10. **EXCLUSION OF WARRANTIES.** I UNDERSTAND THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES EXPRESS OR IMPLIED ARE EXCLUDED BY YOU FROM THIS TRANSACTION AND SHALL NOT APPLY TO THE GOODS SOLD. I UNDERSTAND THAT YOU MAKE NO WARRANTIES WHATSOEVER REGARDING THE UNIT OR ANY APPLIANCE OR COMPONENT CONTAINED THEREIN, EXCEPT THAT AS MAY BE REQUIRED UNDER APPLICABLE STATE LAW.
11. **MANUFACTURERS WARRANTIES.** I UNDERSTAND THAT THERE MAY BE WRITTEN WARRANTIES COVERING THE UNIT PURCHASED, OR ANY APPLIANCE(S) OR COMPONENT(S), WHICH HAVE BEEN PROVIDED BY THE MANUFACTURER OF THE UNIT OR MANUFACTURER OF THE APPLIANCE(S) OR COMPONENT(S). YOU WILL GIVE ME COPIES OF ANY AND ALL WRITTEN WARRANTIES SUPPLIED BY THE MANUFACTURERS. DELIVERED BY YOU TO ME OF THE WARRANTY BY THE MANUFACTURER OF THE UNIT PURCHASED, OR ANY APPLIANCE(S) OR COMPONENT(S) DOES NOT MEAN YOU ADOPT THE WARRANTY(S) OF SUCH MANUFACTURER(S). I ACKNOWLEDGE THAT THESE EXPRESS WARRANTIES MADE BY THE MANUFACTURER(S) HAVE NOT BEEN MADE BY YOU EVEN IF THEY SAY YOU MADE THEM OR SAY YOU MADE SOME OTHER EXPRESS WARRANTY. YOU ARE NOT AN AGENT OF THE MANUFACTURER(S) FOR WARRANTY PURPOSES EVEN IF YOU COMPLETE, OR ATTEMPT TO COMPLETE REPAIRS FOR THE MANUFACTURER(S).
12. **LIMITATION OF DAMAGES.** IF THE MANUFACTURER(S) WARRANTY IS LIMITED TO REPAIR OR REPLACEMENT AND SUCH WARRANTY FAILS BECAUSE OF ATTEMPT AT REPAIRS AND NOT COMPLETED WITHIN A REASONABLE TIME OR THE MANUFACTURER(S) HAS (HAVE) GONE OUT OF BUSINESS, I AGREE, THAT IF I AM ENTITLED TO ANY DAMAGES AT ALL AGAINST YOU, MY DAMAGES ARE LIMITED TO THE LESSER OF EITHER THE COST OF NEEDED REPAIRS OR REDUCTION IN THE MARKET VALUE OF THE UNIT CAUSED BY THE LACK OF REPAIRS. IN ANY CASE, YOU WILL NOT BE REQUIRED TO PAY ME ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES. I ALSO AGREE THAT ONCE I HAVE ACCEPTED THE UNIT, EVEN THOUGH THE MANUFACTURER(S) WARRANTY DOES NOT ACCOMPLISH IT'S PURPOSE, THAT I CANNOT RETURN THE UNIT TO YOU AND SEEK A REFUND FOR ANY REASON.
13. **INSURANCE.** I understand that I am not covered by insurance on the unit purchased until accepted by an insurance company, and I agree to hold you harmless from any and all claims due to loss or damage prior to acceptance of insurance coverage by an insurance company.
14. **CONTROLLING LAW AND PLACE OF SUIT.** The law of the State, in which I sign this contract, is the law which is to be used in interpreting the terms of the contract. You and I agree that if a dispute between us is submitted to a court for resolution, such legal proceeding shall take place in the county in which your principle offices are located. If under state law a special dispute resolution procedure or complaint process is available, I agree to the extent permitted by law that procedure shall be the only method of resolution and source of remedies available to me.
15. **ONE-YEAR PERIOD OF LIMITATION.** I understand and agree that - if either of us should breach this contract - the other of us shall have only one year, after the occurrence of that breach, in which to commence an action for a breach of contract.
16. **IF PART INVALID REST OF CONTRACT SAVED.** You and I agree that each portion of this contract is independent and if any paragraph or provision violates the law and is unenforceable, the rest of the contract will be valid.
17. **DELIVERY AND PLACEMENT.** If you have included delivery of the unit purchased in the purchase price, or if you quote a charge for delivery to my destination, your agreement to transport the unit purchased, as well as the price quotation made, is based upon my assurance that travel is along acceptable all-weather surfaced roads, fully open and accessible, from point of origin to point of delivery, during the period required for transportation. I assume all responsibility for the proper preparation of my property to both receive and locate the unit purchased. If you must hire extra labor and/or equipment in order to deliver and place the unit purchased because of something not previously disclosed to you, I will pay for all those additional costs. I understand that you do not guarantee proper placement unless a concrete pier, running below the frost line, has first been prepared. I will pay for all labor and material costs to re-set the unit when caused by future settling or sinking resulting from failure to provide a foundation approved by the State or Local Code in which the home is sited. I understand that the sewer must be stubbed out of the ground, the water must be capped and the electric line connected to a meter pole with a proper receptacle within 20 feet of the electric box inside of the home. I understand that unless otherwise provided on the other side of this contract, the unit purchased is sold by you F.O.B. your lot and I am responsible for transporting it.
18. **CONNECTIONS, PERMITS AND CHANGES.** I understand that you are not permitted to make plumbing or electrical connections or connection of certain natural gas or propane appliances where state or local ordinance require a licensed plumber or electrician to do the work. I understand that you are not responsible for obtaining health or sanitation permits, nor for any local, county, or state permits required because of restrictive zoning. I understand that you are not responsible for making changes to plumbing, electrical or construction changes required by special building ordinances or laws. I will pay the costs of any changes needed for compliance with local, county or state laws or zoning requirements.
19. **NOTICE OF WIDTH LIMITATIONS.** I have been informed of the length and width limitations, as of the date of this contract, now enforced in the several states, or provinces of Canada, as they may apply to the movement of manufactured homes over the public highways, and the fact that special permits are required. I understand that some states, or the provinces of Canada, may not grant the required permits where the size exceeds the statutory maximum. I release you and your assigns, and the manufacturer and its assigns, from any and all demands, suits or counterclaims based on the size of the unit purchased, if it exceeds the limitations which are now, or may later be, imposed by any state or province.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **Additional Defendant Hawk Manufactured Homes, Inc.'s First Request for Admissions and Interrogatory Directed to Plaintiffs** has been served upon all counsel of record by U.S. Mail, postage prepaid, this 23rd day of January 2003.

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
Counsel for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830
Counsel for Fleetwood Enterprises, Inc.

J. Michael Dorezas, Esquire
Evey, Rourch, Black, Dorezas, Magee & Levine, LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648
Counsel for Jim and Denise Burkett

Cynthia P. Cafaro, Esquire
Raymond J. Conlon, Esquire
Zimmer Kunz Professional Limited Liability Company
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001
Counsel for Larry's Homes of PA, Inc.



Mark R. Lane, Esquire

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **Additional Defendant Hawk Manufactured Homes, Inc.'s Motion for Summary Judgment** has been served upon all counsel of record by U.S. Mail, postage prepaid, this 18th day of Sept, 2003.

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
Counsel for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830
Counsel for Fleetwood Enterprises, Inc.

J. Michael Dorezas, Esquire
Evey, Rourch, Black, Dorezas, Magee & Levine, LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648
Counsel for Jim and Denise Burkett

Cynthia P. Cafaro, Esquire
Raymond J. Conlon, Esquire
Zimmer Kunz Professional Limited Liability Company
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001
Counsel for Larry's Homes of PA., Inc.


Mark R. Lane, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD FRANOLICH and JANET)
FRANOLICH, husband and wife,)
Plaintiffs,)
v.) CIVIL ACTION
FLEETWOOD ENTERPRISES, INC., and) Docket No: 01-1318-CD
LARRY'S HOMES of PA, INC.,)
Defendants,)
Vs.)
JIM BURKETT and DENISE BURKETT, Husband)
and wife, and HAWK HOMES,)
Additional Defendants.

ORDER OF COURT

AND NOW, on this _____ day of _____, 2003, it is hereby ORDERED,
ADJUDGED and DECREED that Additional Defendant Hawk Manufactured Homes, Inc.'s
Motion for Summary Judgment is GRANTED and all claims against it are dismissed with
prejudice.

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD FRANOLICH and JANET
FRANOLICH, husband and wife,

Plaintiffs,

vs.

FLEETWOOD ENTERPRISES, INC., and
LARRY'S HOMES of PA, INC.,

Defendants,

vs.

JIM BURKETT and DENISE BURKETT,
Husband and wife, and HAWK HOMES,

Additional Defendants.

CIVIL DIVISION

No. 01-1318-CD

Issue No.

JURY TRIAL DEMANDED

**ADDITIONAL DEFENDANT HAWK
MANUFACTURED HOMES, INC.'S
PRAECIPE FOR ARGUMENT OF MOTION
FOR SUMMARY JUDGMENT**

Code:

Filed on behalf of Hawk Manufactured Homes,
Inc. (incorrectly designated as "Hawk Homes"),
Additional Defendant

Counsel of Record for this Party:

Mark R. Lane, Esquire
Pa. I.D. #: 61923

DELL, MOSER, LANE & LOUGHNEY, LLC
Firm #753

1300 Frick Building
Pittsburgh, PA 15219

Phone: (412) 471-1180
Fax: (412) 471-9012

FILED

SEP 19 2003

8/4/03

William A. Shaw

Prothonotary/Clerk of Courts

No. 1318-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RICHARD FRANOLICH and JANET)
FRANOLICH, husband and wife,)
Plaintiffs,)
) CIVIL ACTION
v.)
) Docket No: 01-1318-CD
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES of PA, INC.,)
Defendants,)
Vs.)
JIM BURKETT and DENISE BURKETT, Husband)
and wife, and HAWK HOMES,)
Additional Defendants.

PRAECIPE FOR ARGUMENT

TO: The Court Administrator

Please place Additional Defendant Hawk Manufactured Homes, Inc.'s Motion for Summary Judgment on the next available argument list.

Respectfully Submitted,
DELL, MOSER, LANE & LOUGHNEY, LLC



Mark R. Lane, Esq.
Attorneys for Hawk Manufactured Homes,
Additional Defendant

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **Additional Defendant Hawk Manufactured Homes, Inc.'s Praecipe for Argument of Motion for Summary Judgment** has been served upon all counsel of record by U.S. Mail, postage prepaid, this 18th day of September, 2003.

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
Counsel for Plaintiffs

Richard Bell, Esquire
Bell, Siberblatt & Wood
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830
Counsel for Fleetwood Enterprises, Inc.

J. Michael Dorezas, Esquire
Evey, Rourch, Black, Dorezas, Magee & Levine, LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648
Counsel for Jim and Denise Burkett

Cynthia P. Cafaro, Esquire
Raymond J. Conlon, Esquire
Zimmer Kunz Professional Limited Liability Company
Morgan Center, Suite 218
101 E. Diamond St.
Butler, PA 16001
Counsel for Larry's Homes of PA., Inc.

Mark R. Lane, Esq.
Mark R. Lane, Esquire

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA
CIVIL DIVISION
NO. 01-1318-CD

**RICHARD FRANOLICH and
JANET FRANOLICH, husband
and wife, Plaintiffs**

vs.

**FLEETWOOD HOMES OF NC
and LARRY'S OF PA, INC.
Defendants**

**JIM BURKETT and DENISE
BURKETT and HAWK HOMES,
Additional Defendants**

DEFENDANT FLEETWOOD HOMES
OF NC'S AMENDED ANSWER AND
NEW MATTER TO THE ORIGINAL
COMPLAINT AND AMENDED
COMPLAINT OF THE PLAINTIFFS

FILED
Oct 22 2003
KJD

William A. Shaw
Prothonotary/Clerk of Courts

BELL, SILBERBLATT & WOOD
ATTORNEYS AT LAW
318 EAST LOCUST STREET
P. O. BOX 670
CLEARFIELD, PA. 16830

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

PLAINTIFFS

NO. 01-1318-CD

Type of Pleading

DEFENDANT FLEETWOOD
HOMES OF NC'S AMENDED
ANSWER AND NEW MATTER
TO THE ORIGINAL COMPLAINT
AND AMENDED COMPLAINT OF
THE PLAINTIFFS

vs

FLEETWOOD HOMES OF NC
and LARRY'S HOMES OF PA, INC.

Filed on Behalf of:

FLEETWOOD HOMES OF NC

DEFENDANTS

vs.

JIM BURKETT and DENISE BURKETT
and HAWK HOMES
ADDITIONAL DEFENDANTS

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED

OCT 22 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD HOMES OF NC
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

Vs.

JIM BURKETT and DENISE BURKETT
and HAWK HOMES
ADDITIONAL DEFENDANTS

DEFENDANT FLEETWOOD HOMES OF NC'S AMENDED ANSWER AND
NEW MATTER TO
THE ORIGINAL COMPLAINT AND AMENDED COMPLAINT OF THE PLAINTIFFS

NOW COMES, Fleetwood Homes of NC one of the Defendants by its attorney Richard A. Bell, Esquire of Bell, Silberblatt & Wood, and amends its Answer and New Matter to the Complaint and Amended Complaint of the Plaintiffs as follows:

NEW MATTER

54. Fleetwood Homes of NC pleads all applicable statutes of limitation.

WHEREFORE, Defendant Fleetwood Homes of NC respectfully requests that the Original Complaint and Amended Complaint of the Plaintiffs' be dismissed as to it.

BELL, SILBERBLATT & WOOD
BY


Richard A. Bell, Esquire
Attorney for Defendant Fleetwood
Homes of NC

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

NO. 01-1318-CD

PLAINTIFFS

Vs.

FLEETWOOD HOMES OF NC
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

Vs.

JIM BURKETT and DENISE BURKETT,
husband and wife and HAWK HOMES

ADDITIONAL DEFENDANTS

VERIFICATION

The undersigned verifies that he is the Attorney of record of Defendant, Fleetwood Homes of NC named in the within action, that as such Attorney, he is authorized to make this verification, and that the statements made in the foregoing Defendant Fleetwood Homes of NC's Amended Answer and New Matter to the Original Complaint and Amended Complaint of the Plaintiffs are true and correct not from his own knowledge, but from information supplied to him and believed to be true, and that this Verification is filed by him for the purposes of expediting this litigation, and in the event a Verification from Defendant Fleetwood Homes of NC or their representatives is required, same will be supplied. The undersigned understands that false statements made herein are subject to the penalties of 18 PA. CS. 4904 relating to unsworn falsification to authorities.

Dated: Oct 22, 2003


Richard A. Bell, Esquire

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,
PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD HOMES OF NC
and LARRY'S HOMES OF PA, INC.,

DEFENDANTS

Vs.

JIM BURKETT and DENISE BURKETT
Husband and Wife and HAWK HOMES
ADDITIONAL DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendant Fleetwood Homes Of NC's Amended Answer and New Matter to the Original Complaint and Amended Complaint of the Plaintiffs in the above matter was mailed the 22 day of October 2003, by regular mail postage prepaid at the post office in Clearfield, PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

Michael Dorezas, Esquire
EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648-0415

Cynthia P. Cipoletti, Esquire
ZIMMER KUNZ, LLC
101 E. Diamond Street
Butler, PA 16001

Mark R. Lane, Esquire
DELL, MOSER, LANE & LOUGHNEY,
1300 Frick Building
Pittsburgh, PA 15219


Richard A. Bell, Esquire
Attorney for Defendant
Fleetwood Homes of NC

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
)
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
)
DEFENDANTS.)

NOTICE OF SERVICE

To: William A. Shaw, Prothonotary

I, Theron G. Noble, Esquire, counsel for Plaintiffs, does hereby certify this 30th day of October, 2003, that I did serve Plaintiffs' NOTICE OF DEPOSITION (as to Additional Defendants Jim and Denise Burkett), to the below indicated persons, being all counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire Bell, Silberblatt & Wood P.O. Box 670 Clearfield, PA 16830	Cynthia P. Cafaro, Esquire Zimmer Kunz, LLC 101 E. Diamond Street Butler, PA 16001	Michael Dorezas, Esquire Evey, Routh & Black, et.al. P.O. Box 415 Holidaysburg, PA 16648-0415	Mark R. Lane, Esquire Dell, Moser, Lane & Loughney, LLC 437 Grant Street 1300 Frick Building Pittsburgh, PA 15219-6002
----------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

FILED

NOV 03 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

RICHARD FRANOLICH, and
JANET FRANOLICH, husband and
wife,

PLAINTIFFS

vs

FLEETWOOD HOMES OF NC
and LARRY'S HOMES OF PA, INC.

NO. 01-1318-CD

Type of Pleading
Withdrawal and Entry
Of Appearance

Filed on Behalf of:
FLEETWOOD ENTERPRISES, INC.

DEFENDANTS

vs.

JIM BURKETT and DENISE BURKETT
Husband and Wife and HAWK HOMES
ADDITIONAL DEFENDANTS

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED

NOV 07 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

RICHARD FRANOLICH and :
JANET FRANOLICH, Husband and :
Wife, :
Plaintiffs :
No. 01-1318-CD
v. :
FLEETWOOD HOMES OF NC and :
LARRY'S HOME OS PA, INC., :
Defendants :
v. :
JIM BURKETT and DENISE BURKETT, :
Husband and Wife and HAWK HOMES, :
Additional Defendants :
v. :

WITHDRAW AND ENTRY OF APPEARANCE

TO: **PROTHONOTARY**

Please withdraw the appearance of Richard A. Bell, Esquire and Bell, Silberblatt & Wood as counsel for the Defendant Fleetwood Homes of NC, substituted for Fleetwood Enterprises, Inc. in the above-referenced case. Please enter the appearance of McNees Wallace & Nurick LLC as counsel of record for Fleetwood Homes of NC in the above-referenced case.

McNEES WALLACE & NURICK LLC

By 
Curtis N. Stambaugh
I.D. No. 80565
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
(717) 232-8000

BELL, SILBERBLATT & WOOD

By 
Richard A. Bell
I.D. No. 06803
P.O. Box 670
Clearfield, PA 16830
(814) 765-5537

Dated: November 5, 2003

Dated: November 7, 2003

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

RICHARD FRANOLICH, and

JANET FRANOLICH, husband and
wife, PLAINTIFFS

NO. 01-1318-CD

Vs.

FLEETWOOD HOMES OF NC
and LARRY'S HOMES OF PA, INC.,
DEFENDANTS

Vs.

JIM BURKETT and DENISE BURKETT
Husband and Wife and HAWK HOMES
ADDITIONAL DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a copy of Withdrawal and Entry of Appearance dated November 5 & 7, 2003 was filed this date with the Prothonotary of Clearfield County, Pennsylvania in the above matter and mailed the 7th day of November 2003, by regular mail postage prepaid at the post office in Clearfield, PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

Michael Dorezas, Esquire
EVEY, ROUTCH, BLACK, DOREZAS,
MAGEE & LEVINE LLP
401-03 Allegheny Street
P.O. Box 415
Hollidaysburg, PA 16648-0415

Curtis N. Stambaugh, Esquire
100 Pine Street,
P.O. Box 1166
Harrisburg, PA 17108-1166

Cynthia P. Cipoletti, Esquire
ZIMMER KUNZ, LLC
101 E. Diamond Street
Butler, PA 16001

Mark R. Lane, Esquire
DELL, MOSER, LANE & LOUGHNEY,
1300 Frick Building
Pittsburgh, PA 15219


Richard A. Bell, Esquire

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

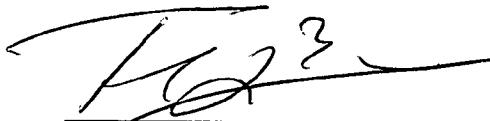
RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
v.)
PLAINTIFFS,)
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
DEFENDANTS.)
No. 01-1318-CD

PRAECIPE TO DISCONTINUE

To: William A. Shaw, Prothonotary

Please mark the above captioned case, SETTLED, ENDED and forever
DISCONTINUED, with prejudice.

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

FILED

MAY 03 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(Civil Division)

RICHARD FRANOLICH, and)
JANET FRANOLICH, husband and)
wife,)
PLAINTIFFS,)
v.) No. 01-1318-CD
)
FLEETWOOD ENTERPRISES, INC., and)
LARRY'S HOMES OF PA, INC.,)
)
DEFENDANTS.)

NOTICE OF SERVICE

To: William A. Shaw, Prothonotary

I, Theron G. Noble, Esquire, counsel for Plaintiffs, does hereby certify this 3rd day of May, 2004, that I did serve Plaintiffs' PRAECIPE TO DISCONTINUE, to the below indicated persons, being all counsel of record, via United States Mail, postage prepaid, first class:

Cynthia P. Cafaro, Esquire Zimmer Kunz, LLC 101 E. Diamond Street Butler, PA 16001	Michael Dorezas, Esquire Evey, Routh & Black, et.al. P.O. Box 415 Hollidaysburg, PA 16648-0415	Mark R. Lane, Esquire Dell, Moser, Lane & Loughney, LLC 437 Grant Street 1300 Frick Building Pittsburgh, PA 15219-6002	Curtis M. Stambaugh, Esquire McNees, Wallace & Nurick, 100 Pine Street Harrisburg, PA 17108-1166
---------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiffs
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. No.: 55942

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA**

CIVIL DIVISION

**Richard Franolich
Janet Franolich**

Vs.

No. 2001-01318-CD

**Larry's Homes of PA, Inc.
Jim Burkett
Denise Burkett
Hawk Manufactured Homes, Inc.
Fleetwood Homes of N.C.**

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 May 3, 2004, marked:

Discontinued, settled and ended.

Record costs in the sum of \$391.48 have been paid in full by Attorney.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 3rd day of May A.D. 2004.

William A. Shaw, Prothonotary