

02-200-00  
CERTIFIED BUILDERS WHOLESALE, INC. -vs- BILL McCACKEN et al

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

CERTIFIED BUILDERS WHOLESALE,  
INC., :  
Plaintiff :  
vs. : No. 02-200-C.D.  
BILL McCACKEN A/K/A WILLIAM  
McCACKEN AND DONNA  
McCACKEN, his wife, and  
CLIFTON CHARLES, i/a/t/d/b/a *✓* :  
B & C CONTRACTING :  
Defendant :

**PRAECIPE TO SATISFY  
JUDGMENT**

Filed on behalf of:  
Plaintiff

Counsel of Record for  
this Party:

David R. Thompson, Esquire  
Attorney-At-Law

Pa. I.D. 73053

P.O. Box 587  
Philipsburg, PA 16866  
(814) 342-4100

FILED <sup>6K</sup>  
300  
02-3601 Atty K. Kubista  
JUL 22 2005  
Atty Kubista  
William A. Shaw  
Prothonotary/Clerk of Courts  
pd. 7.00

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

CERTIFIED BUILDERS WHOLESALE, :  
INC., :  
Plaintiff :  
vs. : No. 02 - 200 - C.D.  
BILL McCACKEN A/K/A WILLIAM :  
McCACKEN AND DONNA :  
McCACKEN, his wife, and :  
CLIFTON CHARLES, i/a/t/d/b/a :  
B & C CONTRACTING :  
Defendant :

**PRAECIPE TO SATISFY JUDGMENT**

TO: WILLIAM SHAW, PROTHONOTARY

Please satisfy the judgment, which Plaintiff has against the Defendant in the above-captioned action.



\_\_\_\_\_  
David R. Thompson, Esquire  
Attorney for Plaintiff

JUL 22 2005

**BELIN & KUBISTA**  
ATTORNEYS AT LAW  
15 NORTH FRONT STREET  
P. O. BOX 1  
CLEARFIELD, PENNSYLVANIA 16830

LEHMAN & KASUBICK  
611 BRISBIN STREET  
HOUTZDALE, PA 16651  
(814) 378-7840

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

 COPY

**CERTIFICATE OF SATISFACTION OF JUDGMENT**

No.: 2002-00200-CD

Certified Builders Wholesale, Inc.

Debt: \$13,328.98

Vs.

Atty's Comm.:

Bill McCracken  
Donna M. McCracken  
Clifton P. Charles Jr.  
B & C Contracting

Interest From:

Cost: \$7.00

NOW, Friday, July 22, 2005 , directions for satisfaction having been received, and all costs having been paid, SATISFACTION was entered of record.

Certified from the record this 22nd day of July, A.D. 2005.

---

Prothonotary

**IN THE COURT OF COMMON PLEASE OF CLEARFIELD COUNTY, PA**

**CIVIL DIVISION - LAW**

CERTIFIED BUILDERS WHOLESALE, INC.

\*  
\* No. 02- 200 - CO

Plaintiffs

\*

\*

VS.

\*

\*

BILL MCCRACKEN A/K/A WILLIAM  
MCCRACKEN AND DONNA MCCRACKEN,  
HIS WIFE, AND CLIFTON CHARLES,  
I/A/T/D/B/A B & C CONTRACTING,

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**FILED**

**FEB 12 2002**

**William A. Shaw  
Prothonotary**

**IN THE COURT OF COMMON PLEASE OF CLEARFIELD COUNTY, PA**

**CIVIL DIVISION - LAW**

**CERTIFIED BUILDERS WHOLESALE, INC.**

\*

No. 02-

**Plaintiffs**

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**Defendants**

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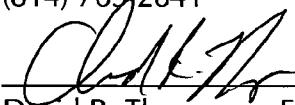
\*

**NOTICE**

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

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

Court Administrator  
Clearfield County Courthouse  
Clearfield PA 16830  
(814) 765-2641

  
\_\_\_\_\_  
David R. Thompson, Esquire

**IN THE COURT OF COMMON PLEASE OF CLEARFIELD COUNTY, PA**

**CIVIL DIVISION - LAW**

CERTIFIED BUILDERS WHOLESALE, INC.	*
	*
Plaintiffs	No. 02-
	*
	*
vs.	*
	*
	*
BILL MCCRACKEN A/K/A WILLIAM MCCRACKEN AND DONNA MCCRACKEN, HIS WIFE, AND CLIFTON CHARLES, I/A/T/D/B/A B & C CONTRACTING,	*
	*
	*
Defendants	*
	*

***COMPLAINT***

AND NOW, comes the Plaintiff, by and through its attorney, David R. Thompson, and files this Complaint against the Defendants of which the following are averment of fact:

1. The Plaintiff, Certified Builders Wholesale, Inc., is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with an office and place of business at 1212 Walton Street, Clearfield County, Philipsburg, Pennsylvania, 16866.
2. Defendants, Bill McCracken a/k/a William McCracken and Donna McCracken, his wife, i/a/t/d/b/a B & C Contracting, are individuals whose last known address was RD 1, Box 227, West Decatur, Clearfield County, Pennsylvania, 16878.
3. Defendant, Clifton Charles, is an individual, who has a business address of 414 Park Place, Clearfield, Pennsylvania, 16830.
4. Defendant B & C Contracting is believed to be an unincorporated business association owned and operated by the Defendants, Bill McCracken a/k/a William

McCracken, Donna McCracken and Clifton Charles.

5. At all times material hereto Plaintiff was engaged in the operation of a wholesale building supply store at 1212 Walton Street, Philipsburg, Pennsylvania, 16866.

6. Defendant purchased building materials from the Plaintiff for use in his trade, business or occupation of being a general building contractor, and charged said purchases to the account of Defendants.

7. Defendant has failed and refused and continues to fail and refuse to pay the balance of the account due despite Plaintiff's repeated requests to do so.

8. The remaining balance of the account as of January 29, 2002, is \$13,328.98, as shown on the Statement of Account, a photocopy of which is attached hereto as Exhibit "A", and incorporated herein by reference.

9. The contractual arrangements calls for the payment of counsel fees in the event collection proceedings become necessary.

10. The Plaintiff has had to hire legal counsel to assist them in the prosecution of this action, and is paying said counsel at the rate of \$85.00 per hour. Plaintiff prays for an award of counsel fees in his Court's discretion, as shall be determined by a hearing.

---

***COUNT I - BREACH OF CONTRACT***

***CERTIFIED BUILDERS WHOLESALE  
VS.***

***BILL MCCRACKEN A/K/A WILLIAM MCCRACKEN  
AND DONNA MCCRACKEN, HIS WIFE, AND CLIFTON  
CHARLES, I/A/T/D/B/A B & C CONTRACTING***

---

Paragraphs 1 through 10 are incorporated by reference as though the same were set forth at length herein.

11. Defendants received goods from Plaintiff on credit in the amount of \$13,328.98, which includes interest through January 29, 2002.

12. Plaintiff has requested on numerous occasions that Defendants pay said amount, but Defendants have failed and refused, and continue to fail and refuse to pay said amount in full. By way of further pleading, Plaintiff spoke with Donna McCracken who indicated to Plaintiff that the whereabouts of her husband, Bill McCracken a/k/a William McCracken were unknown.

13. On January 28, 2002, Defendant Bill McCracken did receive goods and pay cash for said goods in the amount of \$701.41. Since that time, Defendant Bill McCracken has been unable to be located.

14. Defendants have failed to pay the balance of \$13,328.98, despite having received goods from the Plaintiff.

15. Defendants are in breach of a credit contract as the balance of \$13,328.98, remains due and owed the Plaintiff.

WHEREFORE, Plaintiff demands judgment to be entered in its favor and against the Defendants, jointly and severally, in the amount of \$13,328.98, plus interest at the rate of eighteen (18%) percent per annum ongoing, plus costs of suit and reasonable attorney's fees.

---

**COUNT II - QUANTUM MERUIT**

**CERTIFIED BUILDERS WHOLESALE**  
**VS.**

**BILL MCCRACKEN A/K/A WILLIAM MCCRACKEN  
AND DONNA MCCRACKEN, HIS WIFE, AND CLIFTON  
CHARLES, I/A/T/D/B/A B & C CONTRACTING**

---

Paragraphs 1 through 15 are incorporated by reference as though the same were set forth at length herein.

16. Defendants have received goods from the Plaintiff on credit to a total purchase price of \$13,328.98.

17. Despite being requested to do so, the Defendants have failed to pay the said balance in full although they have already received the goods in question.

18. The fair market price for said goods received from the Defendant and owed to the Plaintiff is the agreed upon price of \$13,328.98.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to enter judgment in its favor and against the Defendants jointly and severally in the amount of \$13,328.98.

---

**COUNT III - UNJUST ENRICHMENT**

**CERTIFIED BUILDERS WHOLESALE**  
**VS.**

**BILL MCCRACKEN A/K/A WILLIAM MCCRACKEN  
AND DONNA MCCRACKEN, HIS WIFE, AND CLIFTON  
CHARLES, I/A/T/D/B/A B & C CONTRACTING**

---

Paragraphs 1 through 18 are incorporated by reference as though the same were set forth at length herein.

19. Defendants have received goods from the Plaintiff on credit with a value of \$13,328.98.

20. Plaintiff has requested that the Defendants pay said amount, but Defendant have failed to do so.

21. Defendants have been unjustly enriched by having the benefit of receiving the goods without paying Plaintiff for them.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to enter judgment against the Defendants, jointly and severally in the amount of \$13,328.98, plus costs of suit.

---

***COUNT IV - ATTORNEY'S FEES***

***CERTIFIED BUILDERS WHOLESALE***  
***VS.***  
***BILL MCCRACKEN A/K/A WILLIAM MCCRACKEN***  
***AND DONNA MCCRACKEN, HIS WIFE, AND CLIFTON***  
***CHARLES, I/A/T/D/B/A B & C CONTRACTING***

---

Paragraphs 1 through 21 are incorporated by reference as though the same were set forth at length herein.

22. The Plaintiff has had to hire legal counsel to assist them in the prosecution of this action and is paying said counsel at a rate of \$85.00 per hour.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to enter judgment in its favor and against the Defendant jointly and severally for the payment of reasonable attorney's fees to be determined by hearing of the Court.

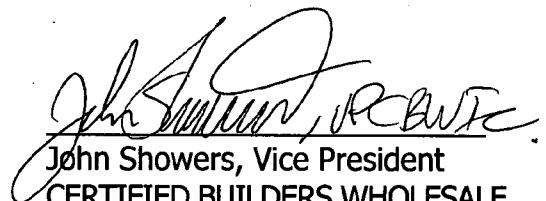
Respectfully submitted,



David R. Thompson, Esquire  
Attorney for Plaintiff

**VERIFICATION**

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



John Showers, Vice President  
CERTIFIED BUILDERS WHOLESALE

CERTIFIED BUILDERS WHOLESALE

1212 WALTON STREET  
PHILIPSBURG PA 16866  
(814)342-6540

1/29/2002

\*\*\*\*\*  
\* STATEMENT \*  
\*\*\*\*\*

Your account number  
is: B C H0

B & C CONTRACTING  
BILL MCCRACKEN  
RD 1 BOX 227  
WEST DECATUR PA 16878

Reference Date	Reference Number	Payments on ORDERS	INVOICES
12/21/01	BEGINNING BALANCE		13022.42
1/28/02	I# 65822 CASH SALE		701.41
1/28/02	D# 48323 Check # C		-701.41
1/29/02	I# 65845 Finance Charge.		306.56
1/29/02	ENDING BALANCE		13328.98

CURRENT	30 DAY	60 DAY	90 DAY	120 DAY	TOTAL DUE
306.56	188.11	1246.55	11587.76		13328.98



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CERTIFIED BUILDERS WHOLESALE,  
INC.,

Plaintiff

CIVIL DIVISION

No. 02 - 200 - CD

Vs.

BILL McCRACKEN a/k/a WILLIAM  
McCRACKEN and DONNA McCRACKEN,  
his wife, and CLIFTON CHARLES,  
i/a/t/d/b/a B & C CONTRACTING,

Defendants

PRAECIPE FOR APPEARANCE

Filed on Behalf of:

Defendant, DONNA McCRACKEN

Counsel of Record for This  
Party:

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

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

814/765-1566

**FILED**

MAR 28 2002

0111441cc atty  
William A. Shaw  
Prothonotary  
Ryan  
E.A.

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

CERTIFIED BUILDERS WHOLESALE, INC.,:

Plaintiff : No. 02 - 200 - CD

:  
Vs. :  
:

BILL McCRACKEN a/k/a WILLIAM :  
McCRACKEN and DONNA McCRACKEN, :  
his wife, and CLIFTON CHARLES, :  
i/a/t/d/b/a B & C CONTRACTING, :  
:

Defendants:

**PRAECIPE FOR APPEARANCE**

TO: WILLIAM SHAW, PROTHONOTARY

Please enter my appearance on behalf of the Defendant, DONNA  
McCRACKEN, in the above-captioned action.

  
\_\_\_\_\_  
JOHN R. RYAN, ESQUIRE  
Attorney for DONNA McCRACKEN

3/27/02

DATE

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
CIVIL DIVISION  
No. 02 - 200 - CD

CERTIFIED BUILDERS WHOLESALE,  
INC.,

Plaintiff

vs.

BILL McCACKEN a/k/a WILLIAM  
McCACKEN and DONNA McCACKEN,  
his wife, and CLIFTON CHARLES,  
i/a/t/d/b/a B & C CONTRACTING,  
Defendants

PRAECIPE FOR APPEARANCE

**COLAVECCHI**  
**RYAN & COLAVECCHI**

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CERTIFIED BUILDERS WHOLESALE,  
INC.,

Plaintiff

CIVIL DIVISION

No. 02 - 200 - CD

Vs.

BILL McCRACKEN a/k/a WILLIAM  
McCRACKEN and DONNA McCRACKEN,  
his wife, and CLIFTON CHARLES,  
i/a/t/d/b/a B & C CONTRACTING,

Defendants

PRELIMINARY OBJECTIONS

Filed on Behalf of:

Defendant, DONNA McCRACKEN

Counsel of Record for This  
Party:

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

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

814/765-1566

**FILED**

MAR 28 2002  
011443ccatty Ryan  
William A. Shaw  
Prothonotary  
KCB

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

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

CERTIFIED BUILDERS WHOLESALE, INC.,:

Plaintiff : No. 02 - 200 - CD

:  
Vs. :  
:

BILL McCRACKEN a/k/a WILLIAM :  
McCRACKEN and DONNA McCRACKEN, :  
his wife, and CLIFTON CHARLES, :  
i/a/t/d/b/a B & C CONTRACTING, :  
Defendants:

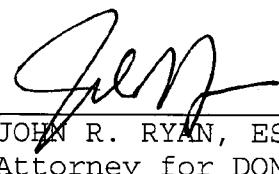
**PRELIMINARY OBJECTIONS**

NOW COMES, Donna McCracken, Defendant above named, and by her attorney, John R. Ryan, Esquire, files her Preliminary Objections to the Complaint of Plaintiff as follows:

1. Plaintiff commenced the above-captioned action by the filing of a Complaint on February 12, 2002.
2. Said Complaint alleges that Defendant, Donna McCracken, together with the other Defendants are liable for certain amounts owed to the Plaintiff for the purchase of building material and supplies.
3. The Complaint makes various references to provisions of a Contract between the Plaintiff and the Defendants, including Defendant, Donna McCracken.
4. Plaintiff has failed to attach a copy of the Contract in its entirely or in material part to the Complaint, which failure

represents a lack of conformity to law or rule of Court under Pennsylvania Rule of Civil Procedure 1028(a)(2).

WHEREFORE, Defendant, Donna McCracken, respectfully requests to strike the Complaint of Plaintiff for lack of conformity to law or rule of Court.



JOHN R. RYAN, ESQUIRE  
Attorney for DONNA McCRAKEN

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

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
CIVIL DIVISION  
No. 02 - 200 - CD

CERTIFIED BUILDERS WHOLESALE,  
INC.,

Plaintiff

vs.

BILL McCACKEN a/k/a WILLIAM  
McCACKEN and DONNA McCACKEN,  
his wife, and CLIFTON CHARLES,  
i/a/t/d/b/a B & C CONTRACTING,  
Defendants

PRELIMINARY OBJECTIONS

**COLAVECCHI  
RYAN & COLAVECCHI**

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

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

Sheriff Docket # 12092

**CERTIFIED BUILDERS WHOLESALE, INC.**

**02-200-CD**

**VS.**

**MCCRACKEN, BILL a/k/a WILLIAM MCCRACKEN a/l**

**COMPLAINT**

**SHERIFF RETURNS**

---

**NOW FEBRUARY 15, 2002 AT 11:33 AM EST SERVED THE WITHIN COMPLAINT  
ON DONNA MCCRACKEN I/a/t/d/b/a B&C CONTRACTING, DEFENDANT AT  
RESIDENCE, RD#1 BOX 227, WEST DECATUR, CLEARFIELD COUNTY,  
PENNSYLVANIA BY HANDING TO DONNA MCCRACKEN A TRUE AND ATTESTED  
COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS  
THEREOF.**

**SERVED BY: MCCLEARY**

**NOW FEBRUARY 15, 2002 AT 11:33 AM EST SERVED THE WITHIN COMPLAINT  
ON BILL MCCRACKEN a/k/a WILLIAM MCCRACKEN I/a/t/d/b/a B&C CONTRACTING,  
DEFENDANT AT RESIDENCE, RD#1 BOX 227, WET DECATUR, CLEARFIELD  
COUNTY, PENNSYLVANIA BY HANDING TO DONNA MCCRACKEN, WIFE A TRUE  
AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER  
THE CONTENTS THEREOF.**

**SERVED BY: MCCLEARY**

**NOW FEBRUARY 21, 2002 AT 3:06 PM EST SERVED THE WITHIN COMPLAINT  
ON CLIFRTON CHARLES I/a/t/d/b/a B&C CONTRACTING, DEFENDANT AT  
EMPLOYMENT, CHARLES HEATING, 414 PARK PLACE, CLEARFIELD,  
CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO CLIFTON CHARLES A  
TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN  
TO HIM THE CONTENTS THEREOF.**

**SERVED BY: COUDRIET**

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**Return Costs**

<b>Cost</b>	<b>Description</b>
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**43.49 SHFF. HAWKINS PAID BY: ATTY.**

**30.00 SURCHARGE PAID BY: ATTY.**

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 12092

CERTIFIED BUILDERS WHOLESALE, INC.

02-200-CD

VS.

MCCRACKEN, BILL a/k/a WILLIAM MCCRACKEN a/k/a

COMPLAINT

**SHERIFF RETURNS**

Sworn to Before Me This

15th day of April, 2002

William A. Shaw

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA

So Answers,

*Chester A. Hawkins  
by Marilyn Harris*  
Chester A. Hawkins  
Sheriff

**FILED**

APR 15 2002  
011:50  
William A. Shaw  
Prothonotary

**IN THE COURT OF COMMON PLEASE OF CLEARFIELD COUNTY, PA**

**CIVIL DIVISION - LAW**

**COPY**

CERTIFIED BUILDERS WHOLESALE, INC.

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No. 02-200-CD

Plaintiffs

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TYPE OF CASE:  
Civil Division

FILED ON BEHALF OF:

Plaintiff

COUNSEL OF RECORD

FOR THIS PARTY:

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

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

FEB 12 2002

Attest.

*William L. Thompson*  
Prothonotary

**IN THE COURT OF COMMON PLEASE OF CLEARFIELD COUNTY, PA**

**CIVIL DIVISION - LAW**

**CERTIFIED BUILDERS WHOLESALE, INC.**

\*

**No. 02-**

**Plaintiffs**

\*

\*

**vs.**

\*

\*

**BILL MCCRACKEN A/K/A WILLIAM  
MCCRACKEN AND DONNA MCCRACKEN,  
HIS WIFE, AND CLIFTON CHARLES,  
I/A/T/D/B/A B & C CONTRACTING,**

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**Defendants**

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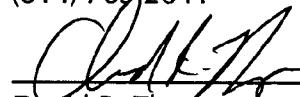
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**NOTICE**

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

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

Court Administrator  
Clearfield County Courthouse  
Clearfield PA 16830  
(814) 765-2641



David R. Thompson, Esquire

**IN THE COURT OF COMMON PLEASE OF CLEARFIELD COUNTY, PA**

**CIVIL DIVISION - LAW**

CERTIFIED BUILDERS WHOLESALE, INC.

\*

No. 02-

Plaintiffs

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Defendants

***COMPLAINT***

AND NOW, comes the Plaintiff, by and through its attorney, David R. Thompson, and files this Complaint against the Defendants of which the following are averment of fact:

1. The Plaintiff, Certified Builders Wholesale, Inc., is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with an office and place of business at 1212 Walton Street, Clearfield County, Philipsburg, Pennsylvania, 16866.
2. Defendants, Bill McCracken a/k/a William McCracken and Donna McCracken, his wife, i/a/t/d/b/a B & C Contracting, are individuals whose last known address was RD 1, Box 227, West Decatur, Clearfield County, Pennsylvania, 16878.
3. Defendant, Clifton Charles, is an individual, who has a business address of 414 Park Place, Clearfield, Pennsylvania, 16830.
4. Defendant B & C Contracting is believed to be an unincorporated business association owned and operated by the Defendants, Bill McCracken a/k/a William

McCracken, Donna McCracken and Clifton Charles.

5. At all times material hereto Plaintiff was engaged in the operation of a wholesale building supply store at 1212 Walton Street, Philipsburg, Pennsylvania, 16866.

6. Defendant purchased building materials from the Plaintiff for use in his trade, business or occupation of being a general building contractor, and charged said purchases to the account of Defendants.

7. Defendant has failed and refused and continues to fail and refuse to pay the balance of the account due despite Plaintiff's repeated requests to do so.

8. The remaining balance of the account as of January 29, 2002, is \$13,328.98, as shown on the Statement of Account, a photocopy of which is attached hereto as Exhibit "A", and incorporated herein by reference.

9. The contractual arrangements calls for the payment of counsel fees in the event collection proceedings become necessary.

10. The Plaintiff has had to hire legal counsel to assist them in the prosecution of this action, and is paying said counsel at the rate of \$85.00 per hour. Plaintiff prays for an award of counsel fees in his Court's discretion, as shall be determined by a hearing.

---

***COUNT I - BREACH OF CONTRACT***

***CERTIFIED BUILDERS WHOLESALE  
VS.***

***BILL MCCRACKEN A/K/A WILLIAM MCCRACKEN  
AND DONNA MCCRACKEN, HIS WIFE, AND CLIFTON  
CHARLES, I/A/T/D/B/A B & C CONTRACTING***

---

Paragraphs 1 through 10 are incorporated by reference as though the same were set forth at length herein.

11. Defendants received goods from Plaintiff on credit in the amount of \$13,328.98, which includes interest through January 29, 2002.

12. Plaintiff has requested on numerous occasions that Defendants pay said amount, but Defendants have failed and refused, and continue to fail and refuse to pay said amount in full. By way of further pleading, Plaintiff spoke with Donna McCracken who indicated to Plaintiff that the whereabouts of her husband, Bill McCracken a/k/a William McCracken were unknown.

13. On January 28, 2002, Defendant Bill McCracken did receive goods and pay cash for said goods in the amount of \$701.41. Since that time, Defendant Bill McCracken has been unable to be located.

14. Defendants have failed to pay the balance of \$13,328.98, despite having received goods from the Plaintiff.

15. Defendants are in breach of a credit contract as the balance of \$13,328.98, remains due and owed the Plaintiff.

WHEREFORE, Plaintiff demands judgment to be entered in its favor and against the Defendants, jointly and severally, in the amount of \$13,328.98, plus interest at the rate of eighteen (18%) percent per annum ongoing, plus costs of suit and reasonable attorney's fees.

---

**COUNT II - QUANTUM MERUIT**

**CERTIFIED BUILDERS WHOLESALE**  
**VS.**

**BILL MCCRACKEN A/K/A WILLIAM MCCRACKEN  
AND DONNA MCCRACKEN, HIS WIFE, AND CLIFTON  
CHARLES, I/A/T/D/B/A B & C CONTRACTING**

---

Paragraphs 1 through 15 are incorporated by reference as though the same were set forth at length herein.

16. Defendants have received goods from the Plaintiff on credit to a total purchase price of \$13,328.98.

17. Despite being requested to do so, the Defendants have failed to pay the said balance in full although they have already received the goods in question.

18. The fair market price for said goods received from the Defendant and owed to the Plaintiff is the agreed upon price of \$13,328.98.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to enter judgment in its favor and against the Defendants jointly and severally in the amount of \$13,328.98.

---

**COUNT III - UNJUST ENRICHMENT**

**CERTIFIED BUILDERS WHOLESALE**  
**VS.**

**BILL MCCRACKEN A/K/A WILLIAM MCCRACKEN  
AND DONNA MCCRACKEN, HIS WIFE, AND CLIFTON  
CHARLES, I/A/T/D/B/A B & C CONTRACTING**

---

Paragraphs 1 through 18 are incorporated by reference as though the same were set forth at length herein.

19. Defendants have received goods from the Plaintiff on credit with a value of \$13,328.98.

20. Plaintiff has requested that the Defendants pay said amount, but Defendant have failed to do so.

21. Defendants have been unjustly enriched by having the benefit of receiving the goods without paying Plaintiff for them.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to enter judgment against the Defendants, jointly and severally in the amount of \$13,328.98, plus costs of suit.

---

***COUNT IV - ATTORNEY'S FEES***

***CERTIFIED BUILDERS WHOLESALE  
VS.***

***BILL MCCRACKEN A/K/A WILLIAM MCCRACKEN  
AND DONNA MCCRACKEN, HIS WIFE, AND CLIFTON  
CHARLES, I/A/T/D/B/A B & C CONTRACTING***

---

Paragraphs 1 through 21 are incorporated by reference as though the same were set forth at length herein.

22. The Plaintiff has had to hire legal counsel to assist them in the prosecution of this action and is paying said counsel at a rate of \$85.00 per hour.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to enter judgment in its favor and against the Defendant jointly and severally for the payment of reasonable attorney's fees to be determined by hearing of the Court.

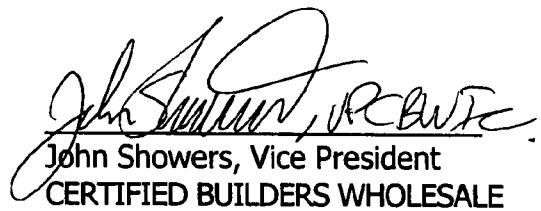
Respectfully submitted,



David R. Thompson, Esquire  
Attorney for Plaintiff

**VERIFICATION**

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



John Showers, Vice President  
CERTIFIED BUILDERS WHOLESALE

CERTIFIED BUILDERS WHOLESALE

1212 WALTON STREET  
PHILIPSBURG PA 16866  
(814)342-6540

1/29/2002

\*\*\*\*\*  
\* S T A T E M E N T \*  
\*\*\*\*\*

Your account number  
is: B C H0

B & C CONTRACTING  
BILL MCCRACKEN  
RD 1 BOX 227  
WEST DECATUR PA 16878

Reference Date	Reference Number	Payments on ORDERS	INVOICES
12/21/01	BEGINNING BALANCE		13022.42
1/28/02	I# 65822 CASH SALE		701.41
1/28/02	D# 48323 Check # C		-701.41
1/29/02	I# 65845 Finance Charge.		306.56
1/29/02	ENDING BALANCE		13328.98

CURRENT	30 DAY	60 DAY	90 DAY	120 DAY	TOTAL DUE
306.56	188.11	1246.55	11587.76		13328.98

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CERTIFIED BUILDERS WHOLESALE,  
INC.,

Plaintiff

CIVIL DIVISION

No. 02 - 200 - CD

Vs.

BILL McCRACKEN a/k/a WILLIAM  
McCRACKEN and DONNA McCRACKEN,  
his wife, and CLIFTON CHARLES,  
i/a/t/d/b/a B & C CONTRACTING,

Defendants

ORDER

Filed on Behalf of:

Defendant, DONNA McCRACKEN

Counsel of Record for This  
Party:

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

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

814/765-1566

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

FILED

APR 22 2002

William A. Shaw  
Prothonotary

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

CERTIFIED BUILDERS WHOLESALE, INC.,:

Plaintiff : No. 02 - 200 - CD

vs.

BILL McCRACKEN a/k/a WILLIAM  
McCRACKEN and DONNA McCRACKEN,  
his wife, and CLIFTON CHARLES,  
i/a/t/d/b/a B & C CONTRACTING,

Defendants:

ORDER

AND NOW, this 20<sup>th</sup> day of April, 2002,  
upon consideration of the foregoing Preliminary Objections filed on  
behalf of the Defendant, Donna McCracken, a Rule is issued upon the  
Plaintiff to appear and show cause why the relief requested therein  
should not be granted.

Rule made returnable for hearing the 12<sup>th</sup> day of  
June, 2002, at 1:30 P.M., Clearfield County  
Courthouse, Courtroom No. 1.

A total of One-half (1/2) hour has been set aside for this  
hearing.

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

BY THE COURT:

JUDGE

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
CIVIL DIVISION  
No. 02 - 200 - CD

CERTIFIED BUILDERS WHOLESALE,  
INC.,

Plaintiff

vs.

BILL McCACKEN a/k/a WILLIAM  
McCACKEN and DONNA McCACKEN,  
his wife, and CLIFTON CHARLES,  
i/a/t/d/b/a B & C CONTRACTING,  
Defendants

ORDER

FILED 3cc  
04/22/02  
APR 22 2002  
A.J. Ryan

William A. Shaw  
Prothonotary

**COLAVECCHI**

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

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 13438

CERTIFIED BUILDERS WHOLESALE, INC.

02-200-CD

VS.

MCCRACKEN, BILL

WRIT OF EXECUTION PERSONAL PROPERTY

**SHERIFF RETURNS**

NOW, JANUARY 14, 2003 @ 1:49 P.M. O'CLOCK SERVED WRIT OF EXECUTION TO WILLIAM MCCRACKEN, DEFENDANT, AT THE CLEARFIELD COUNTY COURTHOUSE, ONE NORTH SECOND STREET, SUITE 116, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO WILLIAM MCCRACKEN, DEFENDANT, A TRUE AND ATTESTED COPY OF AN ORIGINAL WRIT OF EXECUTION AND MAKING KNOWN TO HIM THE CONTENTS THEREOF..

2

NOW, JANUARY 14, 2003 @ 1:49 P.M. O'CLOCK SERVED WRIT OF EXECUTION TO B & C CONTRACTING, DEFENDANT, AT THE CLEARFIELD COUNTY COURTHOUSE, ONE NORTH SECOND STREET, SUITE 116, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO WILLIAM MCCRACKEN, OWNER OF B & C CONTRACTING, DEFENDANT, A TRUE AND ATTESTED COPY OF AN ORIGINAL WRIT OF EXECUTION AND MAKING KNOWN TO HIM THE CONTENTS THEREOF.

NOW, JANUARY 14, 2003 DEPUTIES ATTEMPTED TO LEVY ON PROPERTY OF THE DEFENDANT. DEPUTIES WERE UNABLE TO FIND ANY PERSONAL PROPERTY TO LEVY.

NOW, APRIL 24, 2003 RETURN WRIT AS DEFENDANTS HAVE NO PERSONAL PROPERTY TO LEVY. PAID COSTS FROM ADVANCE AND MADE REFUND OF UNUSED ADVANCE TO THE ATTORNEY.

SHERIFF HAWKINS \$110.78

SURCHARGE \$40.00

PAID BY ATTORNEY

**FILED**

01/11/2003  
APR 24 2003

William A. Shaw  
Prothonotary

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

**CERTIFIED BUILDERS WHOLESALE, INC.**

**Sheriff Docket #**

**13438**

**02-200-CD**

**VS.**  
**MCCRACKEN, BILL**

**WRIT OF EXECUTION      PERSONAL PROPERTY**

**SHERIFF RETURNS**

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**Sworn to Before Me This**

24<sup>th</sup> Day Of April 2003  
William A. Shaw

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA

**So Answers,**

Chester Hawkins  
By Cynthia Butler Deputy Sheriff  
**Chester A. Hawkins**  
**Sheriff**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

CERTIFIED BUILDERS WHOLESALE, INC.,

\*  
\* No. 02-200-CD  
\*

Plaintiff

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\*

VS.

BILL MCCRACKEN A/K/A WILLIAM  
MCCRACKEN AND DONNA MCCRACKEN, his  
wife, and CLIFTON CHARLES, I/a/t/d/b/a  
B & C CONTRACTING,

Defendant

\*

To the Sheriff of Clearfield County:

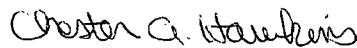
To satisfy the judgment, interest and costs against Bill McCracken a/k/a William McCracken  
i/a/t/d/b/a B & C CONTRACTING

(I) You are directed to levy upon the personal property of the Defendant and to sell his  
interest therein;

Amount Due	\$13,328.98
Interest from 6/21/02	\$ 361.35 a/o 12/7/02
[Costs to be added]	\$
Total Due	\$13,690.33
Prothonotary Costs	100.00

  
\_\_\_\_\_  
Prothonotary

Received 12-13-02 @ 2:30 P.M.

  
\_\_\_\_\_  
By Cynthia Butler Alford Daugh

By: \_\_\_\_\_  
Deputy

## PERSONAL PROPERTY

## SCHEDULE OF DISTRIBUTION

NAME: MCCRACKEN NO. 02-200-CD

NOW, by virtue of the writ hereunto attached, after having given due and legal Notice of the time and place of sale, by handbills posted on the premises, setting forth the time and place of sale, I sold on the day of 2002, the defendant's personal property for and made the following appropriations.

<b>SHERIFF COSTS:</b>		<b>DEBT &amp; INTEREST</b>	
RDR	9.00	DEBT	13,328.98
SERVICE	9.00	INTEREST	361.35
MILEAGE	7.15		
LEVY	20.00	<b>TOTAL DEBT &amp; INTEREST</b>	13,690.33
MILEAGE	7.15		
POSTING	9.00		
HANDBILLS	10.00	<b>COSTS:</b>	
COMMISSION		ATTORNEY PAID	
UNABLE TO LEVY (9.00)	9.00	ATTORNEY FEES	
POSTAGE	1.48	COSTS TO PROTHONOTARY	120.00
ADD'L SERVICE	9.00	SHERIFF'S COSTS	110.78
ADD'L MILEAGE-DEPUTIZE		REFUND OF ADVANCE	
ADD'L POSTING		REFUND OF SURCHARGE	
COPIES/BILLING	15.00		
BID			
RETURN OF INTERROGATORIES		COSTS	
PHONE CALLS	5.00	OTHER COSTS-PREVIOUS	
<b>TOTAL SHERIFF COSTS</b>	<b>110.78</b>	<b>TOTAL COSTS</b>	230.78
		<b>TOTAL DEBT AND COSTS</b>	13,921.11

COMMISSION 2% ON THE FIRST \$100,000.00 AND 1/2% ON ALL OVER THAT. DISTRIBUTION WILL BE MADE IN ACCORDANCE WITH THE ABOVE SCHEDULE UNLESS EXCEPTIONS ARE FILED WITH THIS OFFICE WITHIN TEN (10) DAYS FROM THIS DATE.

**Chester A. Hawkins, Sheriff**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL ACTION - LAW

CERTIFIED BUILDERS WHOLESALE, INC.,

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No. 02-200

Plaintiff

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TYPE OF CASE:  
Civil Division

TYPE OF PLEADING:  
Certificate of Service

FILED ON BEHALF OF:

Plaintiff

COUNSEL OF RECORD FOR  
THIS PARTY:

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

FILED

MAY 13 2002

William A. Shaw  
Prothonotary

**CERTIFICATE OF SERVICE**

I, David R. Thompson, Esquire, hereby certify that an original copy of the Plaintiff's 10 Day Default Notice was served upon Defendant, Bill McCracken a/k/a William McCracken i/a/t/d/b/a B & C CONTRACTING , by First Class U.S. Mail, postage prepaid, this 2<sup>nd</sup> day of May, 2002, at the following address:

Bill McCracken a/k/a William McCracken  
i/a/t/d/b/a B & C CONTRACTING  
RD #1 Box 227  
West Decatur PA 16878

  
\_\_\_\_\_  
David R. Thompson, Esquire  
Attorney for Plaintiff

**FILED**

MAY 13 2002

01/146/11C

at/ Thompson  
William A. Shaw  
Prothonotary

*CC*  
*ESB*

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

CERTIFIED BUILDERS WHOLESALE, INC. :  
Plaintiff :  
:  
vs. : No. 02 - 200 - CD  
:  
BILL McCRACKEN, a/k/a WILLIAM :  
McCRACKEN, and DONNA McCRACKEN, :  
his wife, and CLIFTON CHARLES, :  
I/A/T/D/B/A B & C CONTRACTING, :  
Defendants :  
:

**BRIEF ON BEHALF OF PRELIMINARY OBJECTIONS  
FILED BY DEFENDANT, DONNA McCRACKEN**

**A. STATEMENT OF THE CASE**

Certified Builders Wholesale, Inc. has filed a Complaint against the above-named Defendants alleging that the Defendants purchased building materials from the Plaintiff on account and have failed to pay the balance due on said account in the amount of Thirteen Thousand Three Hundred Twenty-eight Dollars and Ninety-eight Cents (\$13,328.98).

The Complaint alleges that the individual Defendants are doing business as B & C Contracting which the Plaintiff alleges is an unincorporated business association owned and operated by the Defendants, William and Donna McCracken, and Clifton Charles.

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

**RECEIVED**

**MAY 09 2002**

**COURT ADMINISTRATOR'S  
OFFICE**

The Complaint further alleges the existence of a contract between the Defendants and the Plaintiff which in part calls for the payment of Counsel fees when collection proceedings become necessary, and further alleges that the Defendants have breached that contract by failing to pay for goods purchased.

Further, the Complaint alleges in part that the Defendants are liable for interest at the rate of eighteen (18%) percent per annum which would have to be a contractual rate of interest.

Defendant, Donna McCracken, through Counsel, has filed Preliminary Objections to the Complaint alleging a lack of conformity to law or rule of court in that the Plaintiff has failed to attached a copy of the contract in question in its entirety or in material part to the Complaint.

The Court has issued a briefing schedule and has scheduled oral Argument for June 12, 2002 at 1:30 p.m. This Brief is submitted on behalf of the Defendant in accordance with the Court's briefing schedule.

#### **B. Issue**

Whether Plaintiff's Complaint fails to comply with the Rules of Civil Procedure in that Plaintiff has failed to attach a true and correct copy of its contract with the Defendants to its Complaint?

Answered in the affirmative.

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

### C. Argument

Pennsylvania Rule of Civil Procedure 1028(a)(2) specifically states that Preliminary Objections may be filed by any party to any pleading based on the failure of a pleading to conform to law or rule of court. In the case at hand, Defendant, Donna McCracken, has filed Preliminary Objections based upon the Plaintiff's failure to include a true and correct copy of its contract with the Defendant or Defendants despite the fact that in the Complaint Plaintiff repeatedly refers to the existence of a contract and bases its claim for relief on alleged contractual terms.

In addition, Pennsylvania Rule of Civil Procedure 1019 specifically requires at Subsection (i) that when any claim or defense is based upon a writing, the pleader shall attach a copy of the writing or the material part thereof. Rule 1019(i) goes on to state that if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and is set forth the substance in writing.

In the case at hand, clearly a number of the claims raised by the Plaintiff is based upon the existence of a contract between the Defendants and the Plaintiff. Accordingly, pursuant to Rule 1019, a copy of the contract or at least the material parts thereof must be attached to the Complaint.

The law is clear that ordinarily a Complaint should be stricken for failure to attach essential documents. Adamo v. Cini, \_\_\_ Pa. Comm. \_\_\_, 656, A.2d 576 (1995).

Further, the Courts have held that in a proceeding on a Complaint in Assumpsit for Damages in connection with the alleged breach of contract for construction, the Defendant was entitled to have appended to the Complaint those documents which formed the basis for the Plaintiff's demand. General State Authority v. Lawrie and Green, 24 Pa. Comm. 407, 356 A.2d 851 (1976).

Clearly, the Plaintiff's Complaint is deficient for failure to attach the contract. The Complaint alleges at Paragraph 9 that the contractual arrangements call for payment of Counsel fees in the event collection proceedings become necessary. The Court is well aware that there is no obligation on the part of Defendants to pay Counsel fees unless pursuant to certain statutory requirements, or without a contractual obligation to do so. Again, there is no contract attached.

Further, the Complaint alleges at Paragraph 15 that the Defendants are in breach of a credit contract and appraised for interest at the rate of eighteen (18%) percent per annum. Again, there is no contract attached showing the basis for these claims. It is clear that Plaintiff would not be entitled to interest at the rate of eighteen (18%) percent per annum without a contractual provision to that effect.

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

**D. CONCLUSION**

For the reasons above stated, it is clear that the Preliminary Objections of Defendant, Donna McCracken, should be granted and the Complaint be stricken.

Respectfully submitted:



JOHN R. RYAN, ESQUIRE  
Attorney for Defendant,  
Donna McCracken

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

LAW OFFICES  
**COLAVECCHI RYAN & COLAVECCHI**  
221 EAST MARKET STREET  
(Across from Courthouse)  
P.O. BOX 131  
CLEARFIELD, PENNSYLVANIA 16830  
(814) 765-1566

FAX  
(814) 765-4570

May 8, 2002

Office of Court Administrator  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

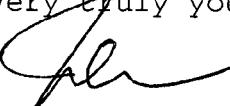
Attention: Marcy Kelley

In Re: Certified Builders Wholesale, Inc. vs.  
Bill McCracken, a/k/a William McCracken,  
and Donna McCracken, his wife, and  
Clifton Charles, I/A/T/D/B/A  
B & C Contracting; No. 02-200-CD

Dear Marcy:

I am enclosing the Brief being submitted on behalf of the Defendant, Donna McCracken, in support of her Preliminary Objections.

This Brief is submitted in accordance with the Court's Briefing Schedule set forth in your letter dated April 22, 2002.

Very truly yours,  
  
John R. Ryan

JRR:lz  
Enclosure

cc: David Thompson, Esquire  
Donna McCracken

RECEIVED  
MAY 09 2002  
COURT ADMINISTRATOR'S OFFICE

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION  
No. 02 - 200 - CD

CERTIFIED BUILDERS WHOLESALE,  
INC.,

Plaintiff

vs.

BILL McCACKEN, a/k/a WILLIAM  
McCACKEN, and DONNA McCACKEN,  
his wife, and CLIFTON CHARLES,  
I/A/T/D/B/A B & C CONTRACTING,  
Defendants

BRIEF ON BEHALF OF PRELIMINARY  
OBJECTIONS FILED BY DEFENDANT,  
DONNA McCACKEN

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



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

CERTIFIED BUILDERS WHOLESALE, INC.,

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Plaintiff

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No. 02-200-CD

\*

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vs.

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BILL MCCRACKEN A/K/A WILLIAM  
MCCRACKEN AND DONNA MCCRACKEN,  
his wife, and CLIFTON CHARLES, I/a/t/d/b/a  
B & C CONTRACTING,

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Defendant

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**PRAECLPICE TO DISCONTINUE ACTION AGAINST DEFENDANT  
DONNA MCCRACKEN**

TO THE PROTHONOTARY:

Kindly mark the above-referenced matter as discontinued against Defendant  
Donna McCracken.

Respectfully submitted,



David R. Thompson, Esquire  
Attorney for Plaintiff

**FILED**

06/25/02  
JUN 13 2002

200  
Amy Thompson

William A. Shaw  
Prothonotary

Co  
FBI

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

CERTIFIED BUILDERS WHOLESALE, INC.,

Plaintiff

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No. 02-200-CD

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TYPE OF CASE:  
Civil Division

TYPE OF PLEADING:  
Certificate of Service

FILED ON BEHALF OF:  
Plaintiff

COUNSEL OF RECORD FOR  
THIS PARTY:

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

FILED

JUN 13 2002

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

CERTIFIED BUILDERS WHOLESALE, INC.,

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Plaintiff

No. 02-200-CD

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BILL MCCRACKEN A/K/A WILLIAM  
MCCRACKEN AND DONNA MCCRACKEN,  
his wife, and CLIFTON CHARLES, I/a/t/d/b/a  
B & C CONTRACTING,

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Defendant

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CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

I, DAVID R. THOMPSON, ESQUIRE, do hereby certify that I served a true and correct copy of the **PRAECIPE TO DISCONTINUE ACTION AGAINST DEFENDANT DONNA MCCRACKEN**, in the above captioned matter by depositing the same in the U.S. First Class Mail, postage prepaid, addressed as follows:

John R. Ryan, Esquire  
COLAVECCHI RYAN & COLAVECCHI  
221 E Market Street  
Clearfield PA 16830

DATE:

BY:

David R. Thompson, Esquire

FILED

012-5084-2cc  
JUN 13 2002  
Atty Thompson

William A. Shaw  
Prothonotary

*WAT*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

CERTIFIED BUILDERS WHOLESALE, INC.,

\*

\*

Plaintiff

\* No. 02-200-CD

\*

vs.

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\*

BILL MCCRACKEN A/K/A WILLIAM  
MCCRACKEN AND DONNA MCCRACKEN,  
his wife, and CLIFTON CHARLES, I/a/t/d/b/a  
B & C CONTRACTING,

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TYPE OF CASE:  
Civil Division - Law

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

## CIVIL DIVISION - LAW

## CERTIFIED BUILDERS WHOLESALE,

\*  
\* No. 02-200

**Plaintiff**

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**PRAECIPE FOR ENTRY OF JUDGMENT**

## TO THE PROTHONOTARY:

Would you kindly enter a Default Judgment in the above captioned matter against the Defendant, Bill McCracken a/k/a William McCracken I/a/t/d/b/a B & C CONTRACTING and in favor of the Plaintiff in the amount of \$13,328.98, plus interest at the rate of 6% per annum, plus costs of suit.

DATED 6-20-02

  
\_\_\_\_\_  
David R. Thompson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

CERTIFIED BUILDERS WHOLESALE,

\*

No. 02-200

Plaintiff

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BILL MCCRACKEN A/K/A WILLIAM  
MCCRACKEN AND DONNA MCCRACKEN,  
HIS WIFE, and CLIFTON CHARLES,  
I/a/t/d/b/a B & C CONTRACTING,

Defendant

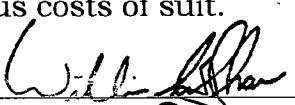
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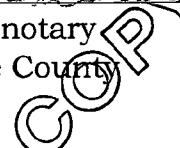
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TO: Bill McCracken a/k/a William McCracken  
I/a/t/d/b/a B & C CONTRACTING  
RD #1 Box 227  
West Decatur PA 16878

**NOTICE**

NOTICE is hereby given that a Judgment was entered against the Defendant, BILL MCCRACKEN A/K/A WILLIAM MCCRACKEN I/A/T/D/B/A B & C CONTRACTING and in favor of the Plaintiff CERTIFIED BUILDERS WHOLESALE, this 25<sup>th</sup> day of June, 2002, in the amount of \$13,328.98, plus interest at 6% per annum, plus costs of suit.

  
Prothonotary  
Centre County

  
Deputy

**FILED**

JUN 21 2002

John C. Thompson

William A. Shaw

Prothonotary

PD \$ 20.00

Not to be  
sent to atty.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
STATEMENT OF JUDGMENT

COPY

Certified Builders Wholesale, Inc.  
Plaintiff(s)

No.: 2002-00200-CD

Real Debt: \$13,328.98

Atty's Comm:

Vs.

Costs: \$

Int. From:

Bill McCracken a/k/a William  
McCracken and Donna M.  
McCracken, his wife and  
Clifton Charles i/a/t/d/b/a  
B & C Contracting  
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: June 21, 2002

Expires: June 21, 2007

Certified from the record this 21st of June, 2002



William A. Shaw, Prothonotary

\*\*\*\*\*

SIGN BELOW FOR SATISFACTION

Received on \_\_\_\_\_, \_\_\_\_\_, of defendant full satisfaction of this Judgment,  
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

\_\_\_\_\_  
Plaintiff/Attorney

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

CIVIL ACTION - LAW

CERTIFIED BUILDERS WHOLESALE, INC.,

Plaintiff

\*  
\* No. 02-200-CD  
\*  
\*

\* TYPE OF CASE:  
\* Civil Action - Law  
\*  
\*

VS.

BILL MCCRACKEN A/K/A WILLIAM  
MCCRACKEN AND DONNA MCCRACKEN, his  
wife, and CLIFTON CHARLES, I/a/t/d/b/a  
B & C CONTRACTING,

Defendant

\*  
\* TYPE OF PLEADING:  
\* Praecep to Issue Writ of  
\* Execution  
\*  
\*

\* FILED ON BEHALF OF:  
\* Plaintiff  
\*  
\*

\* COUNSEL OF RECORD FOR  
\* THIS PARTY:  
\*  
\*

David R. Thompson, Esquire  
Supreme Court I.D. No. 73053  
P.O. Box 587  
Philipsburg PA 16866  
(814) 342-4100

FILED

DEC 13 2002

William A. Shaw  
Prothonotary

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

CIVIL ACTION - LAW

CERTIFIED BUILDERS WHOLESALE,	*
	*
	No. 02-200-CD
	*
Plaintiff	*
	*
	*
vs.	*
	*
	*
BILL MCCRACKEN A/K/A WILLIAM	*
MCCRACKEN AND DONNA MCCRACKEN, his	*
wife, and CLIFTON CHARLES, I/a/t/d/b/a	*
B & C CONTRACTING,	*
	*
Defendant	*
	*

***PRAECIPE TO ISSUE WRIT OF EXECUTION***

TO THE PROTHONOTARY:

Kindly withdraw the Writ of Execution in the above-captioned matter.

Respectfully submitted,

DATE: 12-9-02

  
\_\_\_\_\_  
David R. Thompson, Esquire  
Attorney for Plaintiff

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

CIVIL ACTION - LAW

CERTIFIED BUILDERS WHOLESALE, INC.,

\*

No. 02-200-CD

Plaintiff

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TYPE OF CASE:

Civil Action - Law

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TYPE OF PLEADING:

Writ of Execution

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BILL MCCRACKEN A/K/A WILLIAM  
MCCRACKEN AND DONNA MCCRACKEN, his  
wife, and CLIFTON CHARLES, I/a/t/d/b/a  
B & C CONTRACTING,

Defendant

FILED ON BEHALF OF:

Plaintiff

COUNSEL OF RECORD FOR  
THIS PARTY:

David R. Thompson, Esquire  
Supreme Court I.D. No. 73053  
P.O. Box 587  
Philipsburg PA 16866  
(814) 342-4100

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

CERTIFIED BUILDERS WHOLESALE, INC.,

\*

No. 02-200-CD

\*

Plaintiff

\*

\*

VS.

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\*

BILL MCCRACKEN A/K/A WILLIAM  
MCCRACKEN AND DONNA MCCRACKEN, his  
wife, and CLIFTON CHARLES, I/a/t/d/b/a  
B & C CONTRACTING,

\*

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Defendant

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**PRAECLYPE FOR WRIT OF EXECUTION**

TO THE PROTHONOTARY:

Please issue Writ of Execution in the above matter,

(1) directed to the Sheriff of Clearfield County

(2) against Bill McCracken;

(3) against William McCracken;

(4) against B & C Contracting;

(5) index this writ:

(a) against Bill McCracken, an individual, a/k/a William McCracken, an individual, and  
t/d/b B & C Contracting.

(6) Amount Due \$13,328.98

Interest from 6/21/02 \$ 361.35 a/o 12/7/02

[Costs to be added]

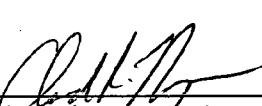
\$

Total Due \$13,690.33

DATE: 12-9-02

Prothonotary Costs

180.00

  
\_\_\_\_\_  
David R. Thompson, Esquire  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

CERTIFIED BUILDERS WHOLESALE, INC.,

\*  
\* No. 02-200-CD  
\*

Plaintiff

\*  
\*

vs.

\*  
\*

BILL MCCRACKEN A/K/A WILLIAM  
MCCRACKEN AND DONNA MCCRACKEN, his  
wife, and CLIFTON CHARLES, I/a/t/d/b/a  
B & C CONTRACTING,

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Defendant

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**NOTICE OF ISSUANCE**  
**OF**  
**WRIT OF EXECUTION**

TO: Bill McCracken a/k/a William McCracken  
i/a/t/d/b/a B & C CONTRACTING  
RD 1 Box 227  
West Decatur PA 16827

Kindly take notice that on the \_\_\_\_\_ day of \_\_\_\_\_, 2002, upon Praeclipe  
of the Attorney for the Plaintiff above named, the Court of Common Pleas of Clearfield  
County issued a Writ or Writs of Execution for satisfaction of the judgment entered to the  
above term and number.

---

Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

CERTIFIED BUILDERS WHOLESALe, INC.,

\*

No. 02-200-CD

\*

Plaintiff

\*

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VS.

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\*

BILL MCCRACKEN A/K/A WILLIAM  
MCCRACKEN AND DONNA MCCRACKEN, his  
wife, and CLIFTON CHARLES, I/a/t/d/b/a  
B & C CONTRACTING,

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Defendant

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WRIT OF EXECUTION  
NOTICE

This paper is a Writ of Execution. It has been issued because there is a judgment against you. It may cause your property to be held or taken to pay the judgment. You may have legal rights to prevent your property from being taken. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, you must act promptly.

This law provides that certain property cannot be taken. Such property is said to be exempt. There is a debtor's exemption of \$300.00. There are other exemptions which may be applicable to you. Attached is a summary of some of the major exemptions. You may have other exemptions or other rights.

If you have an exemption, you should do the following promptly: (1) Fill out the attached claim form and demand for a prompt hearing. (2) Deliver the form or mail it to the Sheriff's Office at the address noted.

You should come to Court ready to explain your exemption. If you do not come to court and prove your exemption, you may lose some of your property.

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

Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830  
(814) 765-2641

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

CERTIFIED BUILDERS WHOLESALE, INC.,	*
	*
	No. 02-200-CD
	*
Plaintiff	*
	*
vs.	*
	*
	*
BILL MCCRACKEN A/K/A WILLIAM	*
MCCRACKEN AND DONNA MCCRACKEN, his	*
wife, and CLIFTON CHARLES, I/a/t/d/b/a	*
B & C CONTRACTING,	*
	*
Defendant	*
	*

To the Sheriff of Clearfield County:

To satisfy the judgment, interest and costs against Bill McCracken a/k/a William McCracken  
i/a/t/d/b/a B & C CONTRACTING

(I) You are directed to levy upon the personal property of the Defendant and to sell his  
interest therein;

Amount Due	\$13,328.98
Interest from 6/21/02	\$ 361.35 a/o 12/7/02
[Costs to be added]	\$
Total Due	<u>\$13,690.33</u>
Prothonotary Costs	120.00

\_\_\_\_\_  
Prothonotary

By: \_\_\_\_\_  
Deputy

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

CERTIFIED BUILDERS WHOLESALE, INC.,	*
	*
	No. 02-200-CD
	*
Plaintiff	*
	*
	*
vs.	*
	*
	*
BILL MCCRACKEN A/K/A WILLIAM	*
MCCRACKEN AND DONNA MCCRACKEN, his	*
wife, and CLIFTON CHARLES, I/a/t/d/b/a	*
B & C CONTRACTING,	*
	*
Defendant	*

MAJOR EXEMPTIONS UNDER

PENNSYLVANIA AND

FEDERAL LAW

1. \$300.00 statutory exemption.
2. Bibles, school books, sewing machines, uniforms and equipment.
3. Most wages and unemployment compensation.
4. Social Security benefits.
5. Certain retirement funds and accounts.
6. Certain veteran and armed forces benefits.
7. Certain insurance proceeds.
8. Such other exemptions as may be provided by law.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

CERTIFIED BUILDERS WHOLESALE, INC.,

\*

\* No. 02-200-CD

\*

Plaintiff

\*

\*

vs.

\*

\*

BILL MCCRACKEN A/K/A WILLIAM  
MCCRACKEN AND DONNA MCCRACKEN, his  
wife, and CLIFTON CHARLES, I/a/t/d/b/a  
B & C CONTRACTING,

\*

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Defendant

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CLAIM FOR EXEMPTION

TO THE SHERIFF:

I, the above-named Defendant, claim exemption of property from levy or attachment:

(1) From my personal property in my possession which has been levied upon,

(a) I desire that my \$300.00 statutory exemption be

(I) set aside in kind (specify property be set in kind):

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;

(ii) paid in cash following the sale of the property levied upon; or

(b) I claim the following exemption (specify property and basis of exemption):

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;

2. From my property which is in the possession of a third party, I claim the following exemptions:

(a) my \$300.00 statutory exemption:

in cash;

in kind (specify property): \_\_\_\_\_;

(b) Social Security benefits on deposit in the amount of \$\_\_\_\_\_;

(c) Other (specify amount and basis of exemption):  
\_\_\_\_\_

I request a prompt court hearing to determine the exemption. Notice of the hearing should be given to me at: \_\_\_\_\_

Address  
\_\_\_\_\_

(Telephone Number)  
\_\_\_\_\_

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

Date: \_\_\_\_\_

Defendant

**THIS CLAIM TO BE FILED WITH  
THE OFFICE OF THE SHERIFF  
OF CLEARFIELD COUNTY:  
CLEARFIELD COUNTY COURTHOUSE  
CLEARFIELD PA 16830  
(814) 765-2641 (Ext. 27)**

**FILED**

02:58 PM  
DEC 13 2002

2ccalments to Sng  
Any ad. 20.00

William A. Shaw  
Prothonotary



④

D-~~5/30~~  
P- 6-3-02

Arg - 6-12-02-130

OFFICE OF COURT ADMINISTRATOR  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

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

DAVID S. MEHOLICK  
COURT ADMINISTRATOR

PHONE: (814) 765-2641  
FAX: 1-814-765-~~6669~~ 7649

MARCY KELLEY  
DEPUTY COURT ADMINISTRATOR

April 22, 2002

David R. Thompson, Esquire  
Attorney at Law  
Post Office Box 587  
Plilipsburg, PA 16866

John R. Ryan, Esquire  
Colavecchi, Ryan & Colavecchi  
Post Office Box 131  
Clearfield, PA 16830

RE: CERTIFIED BUILDERS WHLESALE, INC.

vs.

BILL MCCRACKEN, al  
No. 02-200-CD

Dear Counsel:

With regard to the above matter, Attorney Ryan has filed Preliminary Objections on behalf of Defendant Donna McCracken. His Brief will be due on or before Monday, May 13, 2002. Attorney Thompson's reply Brief will be due on or before Monday, June 3, 2002.

Oral argument in this case in this case is scheduled for Wednesday, June 12, 2002 at 1:30 P.M., in Chambers, Clearfield County Courthouse, Clearfield, PA.

You should file your original Brief with the undersigned and forward copies to opposing parties.

Very truly yours,  
  
Marcy Kelley  
Deputy Court Administrator

cc: Honorable John K. Reilly, Jr.  
William McCracken  
Clifton Charles