

DOCKET NO. 174

NUMBER	TERM	YEAR
110	September	1961

Rich & Kory Construction Company

VERSUS

Fred Baum

Blanche Baum

In the Court of Common Pleas of Clearfield County, Pennsylvania

RICH & KORY

CONSTRUCTION COMPANY

versus

FRED BAUM and

BLANCHE BAUM

No. **123**, **September** Term, 19 **56**

No. **35** **February** Term **1961**

No. **110** **September** Term **1961**

To Prothonotary of said Court,

Sir: **Mark the records in the above case settled and discontinued upon payment of costs by the Defendant.**

Clearfield, Pa., **November 16,** 19**67**


Attorney for **Plaintiff**

In the Court of Common Pleas of Clearfield County, Pennsylvania

RICH & KORY

CONSTRUCTION COMPANY

versus

FRED BAUM and

BLANCHE BAUM

No. 123, September Term, 19 56

No. 35 February Term 1961

No. 110 September Term 1961

To Prothonotary of said Court,

Sir: **Mark the records in the above case settled and discontinued upon payment of costs by the Defendant.**

Clearfield, Pa., November 16, 1967



Attorney for **Plaintiff**

Set
RICH & KORY CONSTRUCTION
COMPANY

Versus

32 FRED BAUM *Sat*
12 BLANCHE BAUM *Sat*

In the Court of Common Pleas
Clearfield County, Pennsylvania

028 8.1
No. 110 Sept. Term, 1961

Revising Judgment entered to

Set
No. 123 Sept Term, 19 56

CERTIFICATE OF DISCONTINUANCE

Commonwealth of Pennsylvania
County of Clearfield

} SS

I, **Archie Hill**, Prothonotary of the Court of Common Pleas, in and for
the County and Commonwealth aforesaid, do hereby certify that the above stated case was this day,
the **28th** day of **November** A. D. 19**67** marked settled, and discontinued.

Record costs in the sum of \$ **35.40** have been paid in full by
Bell, Silberblatt & Swoope.

In Witness Whereof, I have hereunto affixed my hand and seal of this Court at Clearfield,
Clearfield County, Pennsylvania, this **28th** day of **November** A. D. 19**67**

Prothonotary

New, October 24, 1961, Service of the within Reply to
New Matter accepted and copy received
Bell, S. Herbert & George
by: *[Signature]*
Attorneys for Defendants.

<i>Harry Bell, Jr.</i>	
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.	
No. 110 September Term, 1961	
JOHN S. MOFF CONSTRUCTION COMPANY	
VS	
FRED BAUM and BLANCHE BAUM	
<u>REPLY TO NEW MATTER</u>	
<div>③ FILED JUL 12 1961 WM. T. HAGERTY PROTHONOTARY</div>	
UREY & MIKESELL ATTORNEYS AT LAW CLEARFIELD TRUST COMPANY BUILDING CLEARFIELD, PA.	
COMMERCIAL PRINTING CO., CLEARFIELD, PA.	

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICH & KORY CONSTRUCTION
COMPANY

-vs-

FRED BAUM and
BLANCHE BAUM

:
:
: No. 110 September Term, 1961
:
:
:

REPLY TO NEW MATTER

NOW, comes the Plaintiff, Rich & Kory Construction Company, in the above entitled matter, and by its Attorney files this Reply to New Matter as follows:


(12). It is denied that the Defendants are now unable to obtain matching siding to complete the construction under the contract marked Exhibit "A", but on the contrary it is averred that the siding used was Mint-Green Insel-Wood which is manufactured by Mastic Asphalt Corporation of Elizabeth, New Jersey, and distributed by Jones and Brown of Pittsburgh, Pennsylvania. It is a standard product and can be obtained in any quantity desired. It is further averred that there is no need for the Defendants to obtain additional siding to complete the work covered by the contract marked Exhibit "A", as said contract was fully performed by the Plaintiff.

(13). It is denied that the Plaintiff failed to complete the performance under their contract marked Exhibit "A"; it is further denied that it is necessary for the Defendants to remove any siding applied by the Plaintiff, but on the contrary it is averred that the Plaintiff fully performed all work required under the contract marked Exhibit "A", and further that there is no need to remove any siding or apply additional siding, in order to complete the Plaintiffs' obligation under the contract marked Exhibit "A".

(14). It is denied that the Plaintiff breached its contract or failed to perform any terms of said contract as set forth in Exhibit "A", and it is denied that the Defendants have been damaged in any amount.

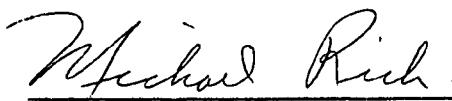
WHEREFORE, the Plaintiffs pray your Honorable Court to be permitted to enter Judgment on the Scire Facias to Revive the Judgment filed to No. 123 September Term, 1956, and to continue the lien thereof, and further that the Defendants' motion that the Judgment be opened be dismissed.

UREY & MIKESELL

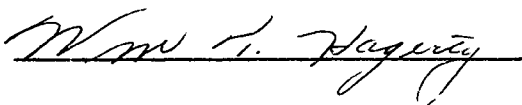
By 
Attorneys for the Plaintiff

STATE OF PENNSYLVANIA :
:SS
COUNTY OF CLEARFIELD :

MICHAEL RICH, being duly sworn according to law, deposes and says that the facts set forth in the forgoing Reply to New Matter, are true and correct to the best of his knowledge, information and belief.


Michael Rich

Sworn and subscribed to
before me this 18th day of
Oct, 1961.



PROTHONOTARY
My Commission Expires
1st Monday Jan. 1962

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

No. *110* September Term 1961

RICH & KOBY
CONSTRUCTION COMPANY

VS

FRED BAUM and
BLANCHE BAUM

PRECEIPE FOR SCIRE FACIAS
TO REVIVE JUDGMENT

(483)

found

FILED
SEP 20 1961
WM. T. HAGERTY
PROTHONOTARY

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02. App 3.30 Pro. 6.50

UREY & MIKESSELL
ATTORNEYS AT LAW
CLEARFIELD TRUST COMPANY BUILDING
CLEARFIELD, PA.

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

—Laid over margin—

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICH & KORY CONSTRUCTION COMPANY, :
Plaintiff, :

vs

:No. 110 September Term, 1961
:
:

FRED BAUM and :
BLANCHE BAUM, Defendants, R. D. :
No. 1, Grampian, Pa. :

Præcipe for Scire Facias to Revive Judgment

To William T. Hagerty, Prothonotary

Sir:- Issue Writ of Scire Facias to Revive Judgment No. 123
September Term 1956, and to continue the lien thereof.

Returnable according to law.

UREY & MIKESELL

By

John M. Urey
Attorneys for Plaintiff

Clearfield, Pennsylvania

September 20, 1961

Clearfield County, ss.

The Commonwealth of Pennsylvania to the Sheriff of Said County, Greeting:

WHEREAS Rich & Kory Construction Co.

on the 20th day of September in the year of our Lord
one thousand nine hundred fifty six obtained judgment in our
County Court of Common Pleas of Clearfield county aforesaid, before our Judge, at Clearfield,
against Fred Baum and Blanche Baum

late of your county yeoman, as well as a certain debt of \$ 1217.40
lawful money of the United States, with interest from September 19, 1956 as also
\$ the money, which to the said plaintiff, in our said court we awarded and
adjudged for their damages, which they sustained by occasion of the de-
tention of that debt, whereof the said Defendant s are convict, as appears to us of rec-
ord &c., yet execution of said judgment still remains to be made as we have given to understand
by the said Rich & Kory Construction Co. who has besought to provide
for themselves a proper remedy in that behalf;

 and we being willing that what is right in that behalf should be done, therefore,

WE COMMAND YOU, That by honest and lawful men of your bailiwick, you make known
unto the said Fred Baum and Blanche Baum

that they be and appear before our Judge at Clearfield, at our County of Common Pleas,
there to be held at Clearfield, on the 1st Monday of October next, to show if any-
thing for themselves has or known to say why the said Plaintiff should not have the
above judgment revived to continue the lien, and also why said Plaintiff should not have execu-
tion against them for the said debt and damages, according to the form, force
and effect of the recovery and judgment aforesaid, if to them shall seem expedient.

AND FURTHER, to do and receive what our said Court shall direct in that behalf consider
and direct. And have you then and there the names of those by whom you shall make it known
unto them and this writ.

WITNESS the HON. John J. Pentz President
of our said Court at Clearfield, Pa., the 20th
day of September, Anno Domini one thousand
nine hundred and sixty one

John T. Hagerly
Prothonotary

No. 110 September Term, 19 61

Rich & Kory Construction Company

Versus

Fred Baum and

Blanche Baum

RD #1, Grampian, Pa.

SCIRE FACIAS TO REVIVE

JUDGMENT NO. 123 September

Term, 19 56

Urey and Mikesell

Attorney

In the Court of Common Pleas of Clearfield County, Pa.

Rich & Kory Const Company
vs
Fred and Blanch Baum

No 110 September Term 1961
Scire Facias to Revive

* * * * *
(Sheriff's Return)

Now, Sept 22, 1961 at 10:55 O'Clock A.M. served the within Scire Facias to Revive on Fred Baum at place of residence RD. Grampian, Pa. by handing to Blanch Baum an adult member of the family being the wife of Fred Baum personally a true and attested copy of the original Scire Facias to Revive., and made known to her the contents thereof

Now, Sept 22, 1961 at 10:55 O'Clock A.M. served the within Scire Facias to Revive on Blanch Baum at place of residence RD. Grampian, Pa., by handing to her personally a true and attested copy of the original Scire Facias to Revive and made known to her the contents thereof.

Costs Sheriff Ammerman \$11.40
(Paid by Attys Urey & Mikesell)

So Answers,

Charles G. Ammerman
Charles G. Ammerman
Sheriff

Sworn to before me this 25th
day of September 1961 A.D.

Wm T. Hagerty
Prothonotary.



IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENN-
SYLVANIA No. 110 Sept. Term
1961

RICH & KORY CONSTRUCTION CO.

VS.

FRED BAUM and BLANCHE BAUM

ANSWER TO SCIRE FACIAS
TO REVIVE JUDGMENT

To the within named Plaintiffs:

You are hereby notified to
reply to the within New Matter
within twenty (20) days from
the service hereof.

BELL, SILBERBLATT & SWOOPF
By *[Signature]*
[Signature]
Attorneys for Defendants

FILED

201-21381

WM. T. HAGERTY
JAMES R. LAGRECA
ATTORNEYS AT LAW
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PENNA.

COMMERCIAL PRINTING CO., CLEARFIELD, PA

*Noted Oct 25, 1961, no actual service
notive has been served and acknowledged by
writ of the writ of the matter and
Wiley & Winkler, Inc.
John M. Allen
Attorney for Bridgeport
Coastal Insurance Co., the
Plaintiff*

Lap over margin

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RICH & KORY CONSTRUCTION
COMPANY

-vs-

FRED BAUM and
BLANCHE BAUM

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No. 110 September Term, 1961

ANSWER TO SCIRE FACIAS
TO REVIVE JUDGMENT

NOW, come Fred Baum and Blanche Baum, by their attorneys, Bell, Silberblatt & Swoope, and make answer to the Scire Facias to revive judgment, filed to the above term and number, in manner and form following:

(1). That Fred C. Baum is the owner of approximately one acre of ground situate in Bloom Township, Clearfield County, Pennsylvania, and in the area known as Grampian R. D.

(2). That on June 19, 1956, the said Fred C. Baum and Blanche Baum, his wife, signed a construction and siding contract with Rich & Kory under which Rich & Kory were to cover the front and two sides of the house of Fred C. Baum with mint green insel-wood siding and furnish enough material for the said Fred C. Baum to complete the rear of the house, and for other work to be done by the Plaintiffs, copy of said contract being marked Exhibit "A", attached hereto and incorporated herein by reference.

(3). That at the time of the signing of said contract, the Defendants did, at the request of the Plaintiffs, sign a judgment note and other papers upon the insistence and assurance of the Plaintiffs that all of said papers were necessary for the proper execution of the contract and the financing of said construction through them.

(4). That the Defendants have at no time signed any other instruments, papers or agreements for the Plaintiffs

although they are advised that the Plaintiffs hold a completion certificate for the work under the contract marked Exhibit "A", attached hereto and incorporated herein by reference, and if such completion certificate was signed, it was signed before the beginning of the work under the contract and is void.

(5). That judgment was entered by the Plaintiffs on such judgment note to No. 123 September Term, 1956 in the Court of Common Pleas of Clearfield County, Pennsylvania.

(6). That the Plaintiffs have not to this time completed covering the sides of the home as specified in said contract.

(7). That the Plaintiffs have not to this time delivered sufficient materials to permit the Defendant, Fred C. Baum, to complete the work on the rear of the house.

(8). That execution was issued by writ to No. 5 February Term, 1961.

(9). That said execution has been abandoned and the Plaintiffs have now filed Scire Facias to No. 110 September Term, 1961, for the revival of the judgment confessed to No. 123 September Term, 1956.

(10). That at no time have the Plaintiffs completed their work or furnished the balance of material due under their contract with the Defendants, dated June 19, 1956, copy of which is marked Exhibit "A", attached hereto and incorporated herein by reference.

(11). That the Defendants aver that there is failure of consideration for the judgment note upon which the judgment was entered by reason of the refusal of the Plaintiffs to complete the performance of their contract, although requested so to do by the Defendant, Fred C. Baum.

NEW MATTER

(12). That the Defendants are now unable to obtain matching siding to complete the construction under the contract marked Exhibit "A", attached hereto and incorporated herein by reference.

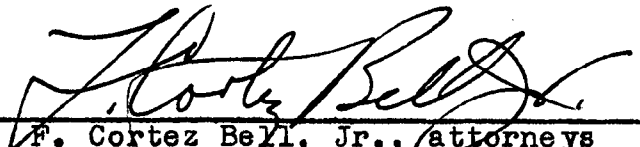
(13). That by reason of the Plaintiffs' failure to complete the performance under their contract as aforesaid, it will be necessary for the Defendants to remove the siding applied by the Plaintiffs and place new siding upon the entire house, to an approximate cost of \$2,000.00.

(14). That by reason of the Plaintiffs' breach of their contract and failure to perform said contract as hereinbefore set forth, copy of which is marked Exhibit "A", attached hereto and incorporated herein by reference, the Defendants have been damaged to the extent of \$2,000.00.

WHEREFORE, the Defendants pray your Honorable Court that the Scire Facias filed to No. 110 September Term, 1961 be stricken off and the judgment filed to No. 123 September Term, 1956 be opened and the Defendants be let in to defend said action and prosecute their counter-claim against the Plaintiffs.

And they will ever pray.

BELL, SILBERBLATT & SWOOPE
By


F. Cortez Bell, Jr., Attorneys
for Defendants


Fred C. Baum, Defendant

STATE OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

Before me, the undersigned officer, personally appeared
FRED C. BAUM, who being duly sworn according to law, deposes and
states that the facts set forth in the foregoing Answer and New
Matter are true and correct to the best of his knowledge,
information and belief.

Fred C. Baum
Fred C. Baum

Sworn to and subscribed
before me this 2nd day
of October, 1961.

Wm T. Hogarty

NOTARY
My Commission Expires
1st Monday Jan. 1962

RICH AND KORY CONSTRUCTION COMPANY

SIDING AND ROOFING

1807 State Street

AGREEMENT

Erie, Penna.

This agreement made and entered into between FRED + BLANCHE BAUM hereinafter called OWNER and RICH & KORY CONSTRUCTION COMPANY.

The dealer agrees to furnish Workmen's Compensation Insurance, Public Liability, Property Damage Insurance, all labor and material necessary to perform the work hereinafter set forth on the premises of the OWNER located at R.D.#1 Street of the City of ARMSTRONG County of CLAYFIELD and State of PENNA.

SPECIFICATIONS

Cover front and two sides of house with mint green
brushwood siding - furnish enough material for
rear part of house to be applied by owner - tear
off window casings and replace with brushwood
siding - the matching corners - windows and seat
all openings - Total cost is \$900.00 payable at office of
Rich & Kory on the 1st day of each month.

In consideration of the labor and materials and repairs, if any, furnished by said dealer, the OWNER agrees to pay to the said dealer or his assigns, the sum of \$ 900.00 payable as follows: cash and the balance of \$ 900.00 payable in 56 equal monthly installments of \$ 23.21 each, including interest. 1st payment 45 days after completion

This contract shall not be binding upon the Contractor until accepted by the Contractor. Moreover, no addition, alteration or cancellation of this contract shall be binding on the Contractor unless the same be in writing and accepted by the Contractor in like manner. Upon such acceptance by the Contractor, this contract shall be binding upon the parties hereto without further notification to the Owner.

The Contractor shall furnish the materials for the work and complete the work herein specified to be done in a substantial and workmanlike manner. On all Merchandise and Labor not paid for in thirty days there will be a carrying charge which will be added to Cash price. It is further agreed and understood that in event the Contractor, or his assigns, shall accept a note or notes, or other security as evidence of said indebtedness, that such acceptance in no manner shall deprive the contractor, or his assigns, of the right to claim a Mechanic's Lien on account of work done or material furnished hereunder.

It is further agreed that Contractor shall have the right at any time to sell, transfer or assign this Contract and the moneys to be paid under the contract, for value, and in the event of such assignment, the owner hereby agrees that he has no defense in whole or in part to the payment of the sum agreed by him to be paid, as evidenced by the note signed herewith.

It is further agreed in the event that the parties hereto do not fall in the terms for payment of the price agreed upon in the within contract at the time of the making hereof, then the owner or owners do agree and empower the contractor to fill in the blanks as to the terms of payment to conform with any loans arranged at a bank, or to conform with the usual and typical arrangements for the payment of materials and services sold on the installment basis, including the payment of interest in each installment.

It is further agreed when any installment is not paid when due, the entire balance of said contract shall become immediately due and payable.

And the owner or owners, for the purpose of assuring collection of the within contract and securing the same by a lien on real property, do hereby empower the Prothonotary or any attorney of any Court of record within the State of Pennsylvania or any other state or territory of the United States to appear for the owner or owners, and with or without declaration filed, confess judgment against the owner or owners or any of them in any Court of record in the State of Pennsylvania or in any other State or territory of the United States, and in favor of the contractor or its assigns, at any time, and as of any term, for the whole amount due or to become due under this contract, whether or not the payments provided herein are due or in default, with costs of suit and attorney's commission of 15% for collection, with release of all errors and without stay of execution or inquisition and extension upon any levy on real estate is hereby waived and condemnation agreed to, and the sale of any real estate on Fl. Pa. is agreed to, and the exemption of all property from levy or sale or any execution hereon is hereby expressly waived, and no benefit of exemption is to be claimed under and by virtue of any exemption law now in force or which may hereafter be passed by any State or Nation. The signer of this contract, when more than one, shall be jointly and severally liable hereunder.

The Owner hereby certifies that he has read this agreement, that the terms and conditions and the meaning thereof have been explained to him and that he fully understands them; that there is no understanding between the parties hereto verbal or otherwise than that contained in this agreement, and that no statements, promises, commitments or representations not contained in this agreement have been made by the Company, or any of its agents to induce him to execute this Agreement, and agrees that the said Company is not responsible nor bound by any misrepresentation or commitments not contained in this agreement, made by any of its agents, unless the same be reduced to writing and signed by the Company. The Company is not responsible for any damages due to inclement weather.

And it is further agreed that if the OWNER cancels this Contract at any time before commencement of the work, then the liquidated damages arising from costs and expenses necessarily incident to the business of the dealer in connection with this Contract amount to 30% of Contract, which said sum the OWNER undertakes and agrees to pay forthwith.

IN WITNESS WHEREOF the owner hereto signed his or their names this 19th day of June, 1956

Authorized Dealer
RICH AND KORY CONSTRUCTION CO.

OWNER

OWNER

Exhibit "A"