

04-1704-CD
JEFFREY FLECK, et al. vs.
WOODCRAFT SUPPLY CORP.

Jeffrey Fleck et al vs Woodcraft Supply
2004-1704-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

vs.

WOODCRAFT SUPPLY CORP.,

Defendant.

CIVIL DIVISION

CASE NUMBER: 04-1704-CD

TYPE OF PLEADING: PRAECIPE
FOR WRIT OF SUMMONS

FILED ON BEHALF OF:
Jeffrey Fleck and Tammy Fleck,
Plaintiffs

COUNSEL OF RECORD:

Carl R. Schiffman, Esquire
Pa. I.D. #23626

SCHIFFMAN & WOJDOWSKI
1300 Fifth Avenue
Pittsburgh, PA 15219
412/288-9444

FIRM I.D. #466

FILED
in 1:36 PM p. 286 in
2 Writs to atty
OCT 28 2004

William J. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

vs.

WOODCRAFT SUPPLY CORP.,

Defendant.

) CIVIL DIVISION

)

)

) NO.:

)

)

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)

PRAECIPE FOR WRIT OF SUMMONS

TO: WILLIAM SHAW, PROTHONOTARY

Kindly issue a Writ of Summons directed to the above-captioned Defendant.

RESPECTFULLY SUBMITTED:

SCHIFFMAN & WOJDOWSKI

By: Carl R. Schiffman
Carl R. Schiffman
Attorney for Plaintiffs

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

SUMMONS

**Jeffrey Fleck
Tammy Fleck**

COPY

Vs.

NO.: 2004-01704-CD

Woodcraft Supply Corp.

TO: WOODCRAFT SUPPLY CORP.

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 10/28/2004

William A. Shaw
Prothonotary

Issuing Attorney:

Carl R. Schiffman
1300 Fifth Avenue
Pittsburgh, PA 15219-6270

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

Vs.

WOODCRAFT SUPPLY CORP.,

Defendant.

CIVIL DIVISION

CASE NUMBER: 2004-01704-CD

TYPE OF PLEADING:
AFFIDAVIT OF SERVICE FOR
DEFENDANT, WOODCRAFT
SUPPLY CORP.,

FILED ON BEHALF OF:
Jeffrey Fleck and Tammy Fleck,
his wife, Plaintiffs

COUNSEL OF RECORD:

Carl R. Schiffman, Esquire
Pa. I.D. #23626

SCHIFFMAN & WOJDOWSKI
1300 Fifth Avenue
Pittsburgh, PA 15219
412/288-9444

FIRM I.D. #466

FILED ^{NO CC}
NOV 10 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

Vs.

WOODCRAFT SUPPLY CORP.,

Defendant.

)
) CIVIL DIVISION
)
) NO.: 2004-01704-CD
)
)
)
)
)
)
)

**AFFIDAVIT OF SERVICE FOR DEFENDANT,
WOODCRAFT SUPPLY CORP.**

COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF ALLEGHENY)

) SS:
)

Before me, the undersigned authority, personally appeared Carl R. Schiffman, Esquire, attorney for Jeffrey Fleck and Tammy Fleck, who, being duly sworn according to law, deposes and says that the Writ of Summons was served upon Woodcraft Supply Corp., P.O. Box 1686, Parkersburg, West Virginia 26102, via Certified Mail/Return Receipt Requested on November 3, 2004. The original signed receipt is attached hereto, made a part hereof, and marked as Exhibit "A".

SCHIFFMAN & WOJDOWSKI

By: *Carl R. Schiffman*
Carl R. Schiffman
Attorney for Plaintiffs

Sworn to and subscribed
before me this 8th day
of November, 2004.

Helen L. Meeder

Notary Public
COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Helen L. Meeder, Notary Public
City Of Pittsburgh, Allegheny County
My Commission Expires Oct. 9, 2007

Member, Pennsylvania Association Of Notaries

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Woodcraft Supply Corp.
P.O. BOX 1686
PARKERSBURG, WV 26102

2. Article Number

(Transfer from service label)

7004 1160 0001 6127 7771

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *John Long*

Agent

Addressee

B. Received by (Printed Name)

John Long

C. Date of Delivery

11-3-04

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

EXHIBIT

"A"

tabbles

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

vs.

WOODCRAFT SUPPLY CORP.,

Defendant.

CIVIL DIVISION

CASE NUMBER: 2004-01704-CD

TYPE OF PLEADING:
COMPLAINT

FILED ON BEHALF OF:
Jeffrey Fleck and Tammy Fleck,
Plaintiffs

COUNSEL OF RECORD:

Carl R. Schiffman, Esquire
Pa. I.D. #23626

SCHIFFMAN & WOJDOWSKI
1300 Fifth Avenue
Pittsburgh, PA 15219
412/288-9444

FIRM I.D. #466

616 **FILED** ^{NO} _{CC}
M/D: 2/18/05
FEB 18 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JEFFREY FLECK and) CIVIL DIVISION
TAMMY FLECK, his wife,)
)
Plaintiffs,) NO.: 2004-01704-CD
)
vs.)
)
WOODCRAFT SUPPLY CORP.,)
)
Defendant.)

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 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 PHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Office of Court Administrator
Clearfield County Courthouse
230 East Market Street, Suite 228
Clearfield, PA 16830
(814)765-2641, Ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JEFFREY FLECK and)	CIVIL DIVISION
TAMMY FLECK, his wife,)	
)	
Plaintiffs,)	NO.: 2004-01704-CD
)	
vs.)	
)	
WOODCRAFT SUPPLY CORP.,)	
)	
Defendant.)	

COMPLAINT

AND NOW, come the Plaintiffs, Jeffrey Fleck and Tammy Fleck, his wife, by and through their attorneys, Schiffman & Wojdowski and Carl R. Schiffman, Esquire and file the following Complaint:

1. The Plaintiff, Jeffrey Fleck, is an individual and a resident of the Commonwealth of Pennsylvania and County of Clearfield, residing at 5188 Shawville Highway, Clearfield, Pennsylvania 16830.

2. The Plaintiff, Tammy Fleck, is an individual and a resident of the Commonwealth of Pennsylvania and County of Clearfield, and is the wife of the Plaintiff, Jeffrey Fleck and resides with him as such at 5188 Shawville Highway, Clearfield, Pennsylvania 16830.

3. The Defendant, Woodcraft Supply Corp., is a corporation organized and existing under the laws of the State of West Virginia, with its principal place of business located at P.O. Box 1686, Parkersburg, West Virginia 26102, which at all relevant times traded and did business in the Commonwealth of Pennsylvania.

4. In approximately 2001, Frederick Cleaver, Jr. purchased an add-on wheel assembly to be utilized on his Shopline by Jet 10" direct drive table saw from the Woodcraft Catalog.

5. The add-on wheel assembly was shipped into the Commonwealth of Pennsylvania to the residence of Frederick Cleaver, Jr.

6. The wheels were intended to be added and were added onto the direct drive table saw.

7. The wheel assembly was equipped with a coil spring and a pedal type apparatus to lock the wheels in place.

8. The Plaintiff, Jeffrey Fleck was invited to use the saw and when he touched the release, the release snapped causing him to sustain serious injuries.

COUNT I -
JEFFREY FLECK VS. WOODCRAFT SUPPLY CORP.

9. The Plaintiff hereby incorporates by reference paragraphs 1 through 8 as though the same were more fully set forth at length herein.

10. At all times relevant hereto, the Defendant was engaged in the business of designing and/or manufacturing and/or selling add-on wheel assemblies and was a manufacturer or seller as defined by the Restatement (Second) Torts §402A as adopted by the Supreme Court of Pennsylvania.

11. The add-on wheel assembly was expected to and did reach the Plaintiff, Jeffrey Fleck and was used by him without substantial change in the condition in which it was manufactured for sale.

12. The Defendant breached the duties owed to the Plaintiff as mandated by designing and manufacturing the add-on wheel assembly in a defective condition rendering it unreasonably dangerous to the ultimate user.

13. The add-on wheel assembly was defective due to the lack of proper lock or other manner to secure the wheels.

14. The add-on wheel assembly was further defective due to a lack of labels and warnings of this design and/or manufacturing defect.

15. As the sole, direct, legal and proximate result of the breach of the mandates of §402A by the Defendant, the Plaintiff, Jeffrey Fleck sustained a traumatic fingertip amputation of his left third finger.

16. As the sole, direct, legal and proximate result of the breach of the mandates of §402A by the Defendant, the Plaintiff, Jeffrey Fleck has sustained the following damages:

- a. He has had to undergo medical treatment including hospitalization and surgery;
- b. He has suffered and will continue to suffer great pain, suffering, mental anguish and embarrassment;
- c. He has incurred medical bills for treatment;
- d. He has been disfigured;
- e. He has been unable to enjoy the ordinary pleasures of life;
- f. He has been unable to perform his normal daily activities including employment;

g. He has incurred a loss of earnings and diminution of earning capacity;
and

h. His general health, strength and vitality have been impaired;

WHEREFORE, the Plaintiff, Jeffrey Fleck, demands judgment in his favor and against the Defendant, Woodcraft Supply Corp., for an amount in excess of Twenty Thousand (\$20,000.00) Dollars, exclusive of interest and costs.

**COUNT II -
JEFFREY FLECK VS. WOODCRAFT SUPPLY CORP.**

17. The Plaintiff hereby incorporates by reference paragraphs 1 through 16 as though the same were more fully set forth at length herein.

18. The Defendant was negligent in the following particulars:

- a. In designing, manufacturing and/or selling an add-on wheel assembly without a proper manner to positively lock;
- b. In failing to provide an appropriate mechanism to properly lock the add-on wheel assembly;
- c. In failing to provide proper instructions on how to install the add-on wheel assembly;
- d. In failing to provide labels and warnings to advise of the dangerous design and/or manufacture of the add-on wheel assembly;

19. As the sole, direct, legal and proximate result of the negligence of the Defendant as aforesaid, the Plaintiff, Jeffrey Fleck has sustained the injuries and damages previously set forth.

WHEREFORE, the Plaintiff, Jeffrey Fleck, demands judgment in his favor and against the Defendant, Woodcraft Supply Corp., for an amount in excess of Twenty Thousand (\$20,000.00) Dollars, exclusive of interest and costs.

COUNT III -
JEFFREY FLECK VS. WOODCRAFT SUPPLY CORP.

20. The Plaintiff hereby incorporates by reference paragraphs 1 through 19 as though the same were more fully set forth at length herein.

21. At all times relevant hereto, the Defendant designed, manufactured, assembled, sold and/or supplied add-on wheel assemblies and was a "merchant" within the meaning of the Pennsylvania Uniform Commercial Code.

22. Being within the ambit of the foreseeable operation and use of the aforesaid add-on wheel assembly, the Plaintiff, Jeffrey Fleck relied upon the Defendant's implied warranties of merchantability and fitness for use for which the add-on wheels were intended to be used and which were extended in accordance with the Pennsylvania Uniform Commercial Code.

23. As the sole, direct, legal and proximate result of the breaches by the Defendant of the express and/or implied warranties of merchantability and fitness for use, the Plaintiff, Jeffrey Fleck sustained the injuries and damages previously set forth.

WHEREFORE, the Plaintiff, Jeffrey Fleck, demands judgment in his favor and against the Defendant, Woodcraft Supply Corp., for an amount in excess of Twenty Thousand (\$20,000.00) Dollars, exclusive of interest and costs.

COUNT IV -
TAMMY FLECK VS. WOODCRAFT SUPPLY CORP.

24. The Plaintiff hereby incorporates by reference paragraphs 1 through 23 as though the same were more fully set forth at length herein.

25. As the sole, direct, legal and proximate result of the breaches of the mandates of §402A by the Defendant, the negligence of the Defendant, and the breaches of implied

warranties by the Defendant, the Plaintiff, Tammy Fleck, has sustained the following damages:

- a. She has been deprived of the services, assistance, society and consortium of her husband, the Plaintiff, Jeffrey Fleck; and
- b. She has sustained bills for necessary medical treatment rendered to her husband, the Plaintiff, Jeffrey Fleck.

WHEREFORE, the Plaintiff, Tammy Fleck, demands judgment in her favor and against the Defendant, Woodcraft Supply Corp., for an amount in excess of Twenty Thousand (\$20,000.00) Dollars, exclusive of interest and costs.

RESPECTFULLY SUBMITTED:

SCHIFFMAN & WOJDOWSKI

By



Carl R. Schiffman
Attorney for Plaintiffs

VERIFICATION

The undersigned, Jeffrey Fleck and Tammy Fleck, Plaintiffs named herein, and being authorized to make this Verification for and on their behalf, having read the foregoing COMPLAINT verify that the responses are based on information furnished to counsel, which information has been gathered by counsel in the course of this lawsuit. The language of the pleading is that of counsel and not of signers. Signers verify that they have read the foregoing, and that it is true and correct to the best of the signers' knowledge, information and belief. To the extent that the contents of the foregoing document are that of counsel, verifiers have relied upon counsel in making this verification. This verification is made subject to the penalties of 18 PA C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: 2-1-05


Jeffrey Fleck

Date: 2-1-05


Tammy Fleck

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that I am this day serving a true and correct copy of the attached or foregoing Complaint upon the person(s) and in the manner indicated below:

Service by first class mail, postage prepaid and addressed as follows:

Woodcraft Supply Corp.
P.O. Box 1686
Parkersburg, West Virginia 26102

2/16/05
Date



Carl R. Schiffman
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

vs.

WOODCRAFT SUPPLY CORP.,

Defendant.

) CIVIL DIVISION
)
) Case No. 2004-01704-CD
)
) **NOTICE OF FILING OF**
) **DEFENDANT'S NOTICE OF**
) **REMOVAL**
)
)
) Filed on Behalf of Defendant:
) Woodcraft Supply Corp.
)
)
) Counsel of Record for this Party:
)
) Dennis A. Watson, Esquire
) Pa. I.D. No. 25500
) Holly M. Whalen, Esquire
) Pa. I.D. No. 84878
)
) GROGAN GRAFFAM, P.C.
) Firm I.D. No. 072
) Four Gateway Center, Twelfth Floor
) Pittsburgh, PA 15222
) (412) 553-6300

FILED *NO*
m/1:43/01 *CC*
MAR 18 2005 *62*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JEFFREY FLECK and) CIVIL DIVISION
TAMMY FLECK, his wife,)
)
Plaintiffs,) Case No. 2004-01704-CD
)
v.)
)
WOODCRAFT SUPPLY CORP.,)
)
Defendant,)

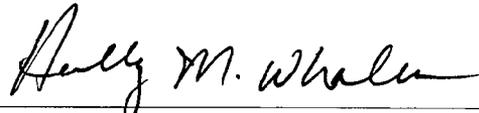
NOTICE OF FILING OF DEFENDANTS'
NOTICE OF REMOVAL

TO: PROTHONOTARY:

Please take notice that Defendant, Woodcraft Supply Corp. on March 16, 2005, filed a Notice of Removal in the Office of the Clerk of the United States District Court for the Western District of Pennsylvania. A true and correct copy of said Notice of Removal is attached hereto, marked as Exhibit "A" and incorporated by reference.

Respectfully submitted,

GROGAN GRAFFAM, P.C.



Dennis A. Watson, Esquire

Pa. I.D. No. 25500

Holly M. Whalen, Esquire

Pa. I.D. No. 84878

Four Gateway Center, 12th Floor

Pittsburgh, PA 15222

(412) 553-6300

Attorneys for Defendant, Woodcraft Supply Corp.

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
JOHNSTOWN

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

vs.

WOODCRAFT SUPPLY CORP.,

Defendant.

) CIVIL DIVISION

)

) Civil Action No. 05-193

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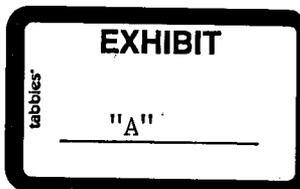
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20051015 PM 4:12
CLEARFIELD COUNTY
U.S. DISTRICT COURT

NOTICE OF REMOVAL BY WOODCRAFT SUPPLY CORP.

Defendant, Woodcraft Supply Corp., by and through, its attorneys, Dennis A. Watson, Esquire, Holly M. Whalen, Esquire, and Grogan Graffam, P.C., seeks removal of the above action brought in the Court of Common Pleas of Clearfield County, Pennsylvania to the United States District Court for the Western District of Pennsylvania, and in support thereof avers as follows:

1. Plaintiffs initiated an action against Defendant in the Court of Common Pleas of Clearfield County, Pennsylvania at Case Number 2004-01704-CD.
2. Plaintiffs have alleged their action arises from an accident occurring in Clearfield County, Pennsylvania.
3. Plaintiffs initiated their action by Writ of Summons on or about October 28, 2004.



4. Plaintiffs reside in Pennsylvania and upon information and belief are citizens of Pennsylvania, not citizens of West Virginia.

5. Defendant Woodcraft Supply Corp. (hereinafter, "Woodcraft") is a West Virginia Corporation with its principal place of business in West Virginia. Woodcraft is not a citizen of Pennsylvania.

6. In this action, Plaintiffs seek compensatory damages believed to be in excess of \$75,000. Plaintiffs' Complaint alleges that Plaintiff Jeffrey Fleck has sustained physical injury, has incurred expenses including various forms of medical care, will incur medical expenses in the future and has sustained pain and suffering. It is further alleged that Plaintiff has lost wages and that he may be limited in the future in terms of her work options.

7. Attached and marked Exhibit A is the Complaint filed by the Plaintiffs on or about February 16, 2005.

8. This court has jurisdiction of this matter pursuant to 28 U.S.C. § 1332 as the action is between citizens of different states and the amount in controversy is in excess of \$75,000.

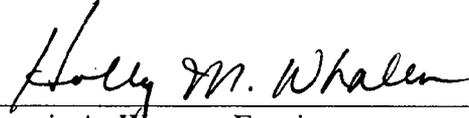
9. This action is removable pursuant to 28 U.S.C. § 1441, et. seq.

10. Defendant will provide written notice of this removal to counsel for Plaintiff and shall file a copy of this notice with the Prothonotary of Clearfield County, Pennsylvania.

WHEREFORE, Defendant Woodcraft Supply Corp. files this Notice of Removal.

Respectfully submitted,

GROGAN GRAFFAM, P.C.

A handwritten signature in cursive script that reads "Holly M. Whalen". The signature is written in black ink and is positioned above a horizontal line.

Dennis A. Watson, Esquire

Pa. I.D. No. 25500

Holly M. Whalen, Esquire

Pa. I.D. No. 84878

Four Gateway Center, 12th Floor

Pittsburgh, PA 15222

(412) 553-6300

Attorneys for Defendant, Woodcraft Supply Corp.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

vs.

WOODCRAFT SUPPLY CORP.,

Defendant.

CIVIL DIVISION

CASE NUMBER: 2004-01704-CD

TYPE OF PLEADING:
COMPLAINT

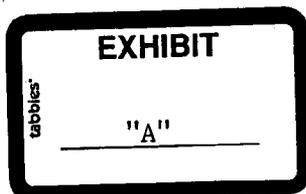
FILED ON BEHALF OF:
Jeffrey Fleck and Tammy Fleck,
Plaintiffs

COUNSEL OF RECORD:

Carl R. Schiffman, Esquire
Pa. I.D. #23626

SCHIFFMAN & WOJDOWSKI
1300 Fifth Avenue
Pittsburgh, PA 15219
412/288-9444

FIRM I.D. #466



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

vs.

WOODCRAFT SUPPLY CORP.,

Defendant.

) CIVIL DIVISION

)

)

) NO.: 2004-01704-CD

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NOTICE TO DEFEND

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
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JEFFREY FLECK and)	CIVIL DIVISION
TAMMY FLECK, his wife,)	
)	
Plaintiffs,)	NO.: 2004-01704-CD
)	
vs.)	
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WOODCRAFT SUPPLY CORP.,)	
)	
Defendant.)	

COMPLAINT

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2. The Plaintiff, Tammy Fleck, is an individual and a resident of the Commonwealth of Pennsylvania and County of Clearfield, and is the wife of the Plaintiff, Jeffrey Fleck and resides with him as such at 5188 Shawville Highway, Clearfield, Pennsylvania 16830.

3. The Defendant, Woodcraft Supply Corp., is a corporation organized and existing under the laws of the State of West Virginia, with its principal place of business located at P.O. Box 1686, Parkersburg, West Virginia 26102, which at all relevant times traded and did business in the Commonwealth of Pennsylvania.

4. In approximately 2001, Frederick Cleaver, Jr. purchased an add-on wheel assembly to be utilized on his Shopline by Jet 10" direct drive table saw from the Woodcraft Catalog.

5. The add-on wheel assembly was shipped into the Commonwealth of Pennsylvania to the residence of Frederick Cleaver, Jr.

6. The wheels were intended to be added and were added onto the direct drive table saw.

7. The wheel assembly was equipped with a coil spring and a pedal type apparatus to lock the wheels in place.

8. The Plaintiff, Jeffrey Fleck was invited to use the saw and when he touched the release, the release snapped causing him to sustain serious injuries.

COUNT I -
JEFFREY FLECK VS. WOODCRAFT SUPPLY CORP.

9. The Plaintiff hereby incorporates by reference paragraphs 1 through 8 as though the same were more fully set forth at length herein.

10. At all times relevant hereto, the Defendant was engaged in the business of designing and/or manufacturing and/or selling add-on wheel assemblies and was a manufacturer or seller as defined by the Restatement (Second) Torts §402A as adopted by the Supreme Court of Pennsylvania.

11. The add-on wheel assembly was expected to and did reach the Plaintiff, Jeffrey Fleck and was used by him without substantial change in the condition in which it was manufactured for sale.

12. The Defendant breached the duties owed to the Plaintiff as mandated by designing and manufacturing the add-on wheel assembly in a defective condition rendering it unreasonably dangerous to the ultimate user.

13. The add-on wheel assembly was defective due to the lack of proper lock or other manner to secure the wheels.

14. The add-on wheel assembly was further defective due to a lack of labels and warnings of this design and/or manufacturing defect.

15. As the sole, direct, legal and proximate result of the breach of the mandates of §402A by the Defendant, the Plaintiff, Jeffrey Fleck sustained a traumatic fingertip amputation of his left third finger.

16. As the sole, direct, legal and proximate result of the breach of the mandates of §402A by the Defendant, the Plaintiff, Jeffrey Fleck has sustained the following damages:

- a. He has had to undergo medical treatment including hospitalization and surgery;
- b. He has suffered and will continue to suffer great pain, suffering, mental anguish and embarrassment;
- c. He has incurred medical bills for treatment;
- d. He has been disfigured;
- e. He has been unable to enjoy the ordinary pleasures of life;
- f. He has been unable to perform his normal daily activities including employment;

- g. He has incurred a loss of earnings and diminution of earning capacity;
and
- h. His general health, strength and vitality have been impaired;

WHEREFORE, the Plaintiff, Jeffrey Fleck, demands judgment in his favor and against the Defendant, Woodcraft Supply Corp., for an amount in excess of Twenty Thousand (\$20,000.00) Dollars, exclusive of interest and costs.

COUNT II -
JEFFREY FLECK VS. WOODCRAFT SUPPLY CORP.

17. The Plaintiff hereby incorporates by reference paragraphs 1 through 16 as though the same were more fully set forth at length herein.

18. The Defendant was negligent in the following particulars:

- a. In designing, manufacturing and/or selling an add-on wheel assembly without a proper manner to positively lock;
- b. In failing to provide an appropriate mechanism to properly lock the add-on wheel assembly;
- c. In failing to provide proper instructions on how to install the add-on wheel assembly;
- d. In failing to provide labels and warnings to advise of the dangerous design and/or manufacture of the add-on wheel assembly;

19. As the sole, direct, legal and proximate result of the negligence of the Defendant as aforesaid, the Plaintiff, Jeffrey Fleck has sustained the injuries and damages previously set forth.

WHEREFORE, the Plaintiff, Jeffrey Fleck, demands judgment in his favor and against the Defendant, Woodcraft Supply Corp., for an amount in excess of Twenty Thousand (\$20,000.00) Dollars, exclusive of interest and costs.

COUNT III -
JEFFREY FLECK VS. WOODCRAFT SUPPLY CORP.

20. The Plaintiff hereby incorporates by reference paragraphs 1 through 19 as though the same were more fully set forth at length herein.

21. At all times relevant hereto, the Defendant designed, manufactured, assembled, sold and/or supplied add-on wheel assemblies and was a "merchant" within the meaning of the Pennsylvania Uniform Commercial Code.

22. Being within the ambit of the foreseeable operation and use of the aforesaid add-on wheel assembly, the Plaintiff, Jeffrey Fleck relied upon the Defendant's implied warranties of merchantability and fitness for use for which the add-on wheels were intended to be used and which were extended in accordance with the Pennsylvania Uniform Commercial Code.

23. As the sole, direct, legal and proximate result of the breaches by the Defendant of the express and/or implied warranties of merchantability and fitness for use, the Plaintiff, Jeffrey Fleck sustained the injuries and damages previously set forth.

WHEREFORE, the Plaintiff, Jeffrey Fleck, demands judgment in his favor and against the Defendant, Woodcraft Supply Corp., for an amount in excess of Twenty Thousand (\$20,000.00) Dollars, exclusive of interest and costs.

COUNT IV -
TAMMY FLECK VS. WOODCRAFT SUPPLY CORP.

24. The Plaintiff hereby incorporates by reference paragraphs 1 through 23 as though the same were more fully set forth at length herein.

25. As the sole, direct, legal and proximate result of the breaches of the mandates of §402A by the Defendant, the negligence of the Defendant, and the breaches of implied

warranties by the Defendant, the Plaintiff, Tammy Fleck, has sustained the following damages:

- a. She has been deprived of the services, assistance, society and consortium of her husband, the Plaintiff, Jeffrey Fleck; and
- b. She has sustained bills for necessary medical treatment rendered to her husband, the Plaintiff, Jeffrey Fleck.

WHEREFORE, the Plaintiff, Tammy Fleck, demands judgment in her favor and against the Defendant, Woodcraft Supply Corp., for an amount in excess of Twenty Thousand (\$20,000.00) Dollars, exclusive of interest and costs.

RESPECTFULLY SUBMITTED:

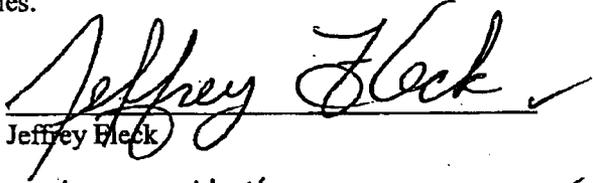
SCHIFFMAN & WOJDOWSKI

By 
Carl R. Schiffman
Attorney for Plaintiffs

VERIFICATION

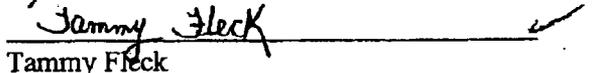
The undersigned, Jeffrey Fleck and Tammy Fleck, Plaintiffs named herein, and being authorized to make this Verification for and on their behalf, having read the foregoing COMPLAINT verify that the responses are based on information furnished to counsel, which information has been gathered by counsel in the course of this lawsuit. The language of the pleading is that of counsel and not of signers. Signers verify that they have read the foregoing, and that it is true and correct to the best of the signers' knowledge, information and belief. To the extent that the contents of the foregoing document are that of counsel, verifiers have relied upon counsel in making this verification. This verification is made subject to the penalties of 18 PA C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: 2-1-05



Jeffrey Fleck

Date: 2-1-05



Tammy Fleck

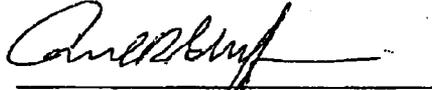
CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that I am this day serving a true and correct copy of the attached or foregoing Complaint upon the person(s) and in the manner indicated below:

Service by first class mail, postage prepaid and addressed as follows:

Woodcraft Supply Corp.
P.O. Box 1686
Parkersburg, West Virginia 26102

2/16/05
Date

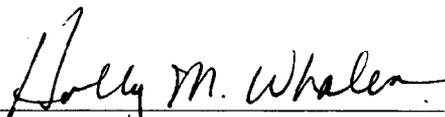


Carl R. Schiffman
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Defendant's Notice of Removal was served upon the following parties of record on this 16th day of March, 2005 by United States mail, first-class, postage prepaid:

Carl R. Schiffman, Esquire
Schiffman & Wojdowski
1300 Fifth Avenue
Pittsburgh, PA 15219
Counsel of Record for Plaintiffs

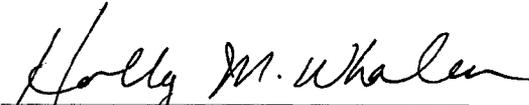


Dennis A. Watson, Esquire
Holly M. Whalen, Esquire

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Filing of Defendant's Notice of Removal was served upon the following parties of record on this 16th day of March, 2005 by United States mail, first-class, postage prepaid:

Carl R. Schiffman, Esquire
Schiffman & Wojdowski
1300 Fifth Avenue
Pittsburgh, PA 15219
Counsel of Record for Plaintiffs



Dennis A. Watson, Esquire
Holly M. Whalen, Esquire

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

v.

WOODCRAFT SUPPLY CORP.,

Defendant,

) CIVIL DIVISION
)
) Civil Action No. 05-CV-0193J
)
) Judge Gibson

2004-1704-CD

FILED (F)

JUN 03 2005
m/2:10/w
William A. Shaw
Prothonotary/Clerk of Courts
w/ e/c

ORDER

AND NOW, this 2nd day of June, 2005, the Consented to
Motion for Remand filed by Defendant Woodcraft Supply Corp., is granted. This
matter is remanded to Court of Common Pleas of Clearfield County, Pennsylvania.



Honorable Kim R. Gibson
United States District Judge

CERTIFIED FROM THE RECORD

Date 6-2-05

ROBERT V. BARTH, JR., CLERK

By C. E. [Signature]

Deputy Clerk

6

aw

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

aw

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

vs.

WOODCRAFT SUPPLY CORP.,

Defendant.

) CIVIL DIVISION
)
) Civil Action No. 05-CV-0193J
)
) Judge Gibson
)
) CONSENTED TO MOTION FOR
) REMAND
)
) Filed on Behalf of Defendant:
) Woodcraft Supply Corp.
)
) Counsel of Record for this Party:
)
) Dennis A. Watson, Esquire
) Pa. I.D. No. 25500
) Holly M. Whalen, Esquire
) Pa. I.D. No. 84878
)
) GROGAN GRAFFAM, P.C.
) Firm I.D. No. 072
) Four Gateway Center, Twelfth Floor
) Pittsburgh, PA 15222
) (412) 553-6300

CASE CLOSED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JEFFREY FLECK and)
TAMMY FLECK, his wife,) CIVIL DIVISION
)
Plaintiffs,) Civil Action No. 05-CV-0193J
)
v.) Judge Gibson
)
WOODCRAFT SUPPLY CORP.,)
)
Defendant,)

CONSENTED TO MOTION FOR REMAND

1. By Writ of Summons, Plaintiffs initiated an action against Defendant in the Court of Common Pleas of Clearfield County, Pennsylvania at Case Number 2004-01704-CD on October 28, 2004.
2. Plaintiffs have alleged their action arises from an accident occurring in Clearfield County, Pennsylvania.
3. On February 16, 2005, Plaintiffs' filed a Complaint in the Court of Common Pleas of Clearfield County, Pennsylvania.
4. Plaintiffs' Complaint alleges that Plaintiff Jeffrey Fleck has sustained physical injury, has incurred expenses including various forms of medical care, will incur medical expenses in the future and has sustained pain and suffering. It is further alleged that Plaintiff has lost wages and that he may be limited in the future in terms of his work options. The Complaint further alleges a loss of consortium claim on behalf

of Plaintiff Tammy Fleck and that Plaintiff Tammy Fleck has incurred expenses for medical care rendered to her husband.

5. Plaintiffs reside in Pennsylvania and upon information and belief are citizens of Pennsylvania, not citizens of West Virginia.

6. Defendant Woodcraft Supply Corp. (hereinafter, "Woodcraft") is a West Virginia Corporation with its principal place of business in West Virginia. Woodcraft is not a citizen of Pennsylvania.

7. On March 16, 2005, Woodcraft filed a Notice of Removal to this Court based on the diversity of the parties and the damages alleged in the Complaint.

8. On the same date, Woodcraft filed its Answer to the Plaintiffs' Complaint.

9. Plaintiffs now stipulate that the claims alleged in their Complaint do not exceed Seventy-Five Thousand Dollars (\$75,000.00). *See* Stipulation of Jeffrey Fleck and Tammy Fleck attached hereto as Exhibit "A."

10. Plaintiffs further stipulate that recovery will be limited to Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs and should a verdict be returned in excess of Seventy-Five Thousand Dollars (\$75,000.00) the same shall be molded to Seventy-Five Thousand Dollars (\$75,000). *See* Exhibit "A."

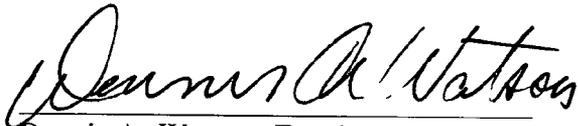
11. As Plaintiffs stipulate that the damages for all of the claims alleged in their Complaint do not exceed Seventy-Five Thousand Dollars (\$75,000.00), this matter does not fall within this Court's jurisdiction under 28 U.S.C. § 1332.

12. Plaintiffs consent to this Motion for Remand.

WHEREFORE, Defendant Woodcraft Supply Corp. respectfully requests that this Honorable Court remand this matter to the Court of Common Pleas of Clearfield County, Pennsylvania.

Respectfully submitted,

GROGAN GRAFFAM, P.C.

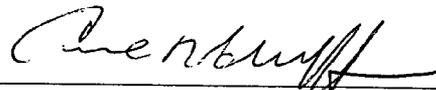


Dennis A. Watson, Esquire
Holly M. Whalen, Esquire

Attorneys for Defendant, Woodcraft Supply Corp.

Consented to:

SCHIFFMAN & WOJDOWSKI



Carl R. Schiffman, Esquire

Attorney for Plaintiffs, Jeffrey Fleck and Tammy Fleck

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

vs.

WOODCRAFT SUPPLY CORP.

Defendant.

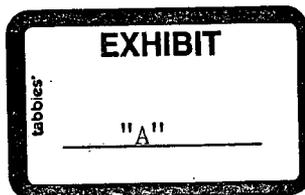
) CIVIL DIVISION
)
) Civil Action No. 05-CV-0193J
)
) Judge Gibson
)
)
)
)
)

STIPULATION OF LIMITATION OF MONETARY RECOVERY

Plaintiffs and Defendant stipulate that recovery will be limited to Seventy-Five Thousand Dollars (\$75,000.00) exclusive of interest and costs and if a verdict in excess of Seventy-Five Thousand Dollars (\$75,000.00) is returned, the same shall be molded to Seventy-Five Thousand Dollars (\$75,000.00) exclusive of interest and costs.


Attorney for Plaintiffs


Attorney for Defendant



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Consented to Motion for Remand was served upon the following counsel of record on this 31st day of May, 2005 by United States mail, first-class, postage prepaid:

Carl R. Schiffman, Esquire
Schiffman & Wojdowski
1300 Fifth Avenue
Pittsburgh, PA 15219
Counsel of Record for Plaintiffs



Dennis A. Watson, Esquire
Holly M. Whalen, Esquire

UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
WESTERN DISTRICT OF PENNSYLVANIA
SUITE 208, PENN TRAFFIC BUILDING
319 WASHINGTON STREET
JOHNSTOWN, PA. 15901
WWW.PAWD.USCOURTS.GOV

ROBERT V. BARTH, JR.
CLERK OF COURT
814-533-4504

IN REPLYING, GIVE NUMBER
OF CASE AND NAMES OF PARTIES

DATE: June 2, 2005

William Shaw, Prothonotary
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

IN RE: Jeffrey Fleck, et al. V. Woodcraft Supply Corp.

CIVIL ACTION NO. 05-193J

STATE COURT NO. 2004-01704-CD

Dear Mr. Shaw:

I am enclosing herewith a certified copy of the order entered by the Honorable Kim R. Gibson, in the above entitled case on 06/02/05, which remands the matter to your court.

Very truly yours,

ROBERT V. BARTH, JR.
CLERK OF COURT

By: 

Carina E. Nelson,
Deputy Clerk

Enclosure

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

vs.

WOODCRAFT SUPPLY CORP.,

Defendant.

CIVIL DIVISION

CASE NUMBER: 2004-01704-CD

TYPE OF PLEADING:
Praecipe to Settle and Discontinue

FILED ON BEHALF OF:
Jeffrey Fleck and Tammy Fleck,
Plaintiffs

COUNSEL OF RECORD:

Carl R. Schiffman, Esquire
Pa. I.D. #23626

SCHIFFMAN & WOJDOWSKI
1300 Fifth Avenue
Pittsburgh, PA 15219
412/288-9444

FIRM I.D. #466

FILED
6/11:02 am
JUN 02 2006
cert of disc
issued to Atty
Schiffman
copy to C/A

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JEFFREY FLECK and
TAMMY FLECK, his wife,

Plaintiffs,

vs.

WOODCRAFT SUPPLY CORP.,

Defendant.

CIVIL DIVISION

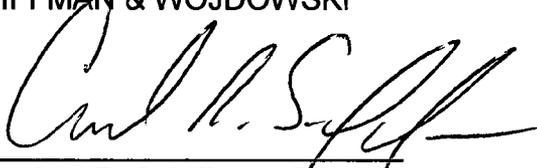
CASE NUMBER: 2004-01704-CD

PRAECIPE TO SETTLE AND DISCONTINUE

TO PROTHONOTARY:

Kindly mark the above captioned matter settled, and discontinue with respect to all parties.

Respectfully submitted,
SCHIFFMAN & WOJDOWSKI

By: 

Carl R. Schiffman, Esquire
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Jeffrey Fleck
Tammy Fleck

Vs.
Woodcraft Supply Corp.

No. 2004-01704-CD

COPY

CERTIFICATE OF DISCONTINUATION

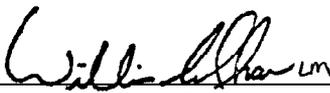
Commonwealth of PA
County of Clearfield

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 June 2, 2006, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by Schiffman & Wojdowski .

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 2nd day of June A.D. 2006.



William A. Shaw, Prothonotary