

04-1784-CD  
J. KLINE ENTERPRISES vs. YORK BUILDING PRODUCTS, CO., INC.

2004-1784-CD  
J. Kline Enterprises vs York Building Prod

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

**46-3-03**

DJ Name: Hon.

**MICHAEL A. RUDELLA**

Address: **131 ROLLING STONE ROAD  
P.O. BOX 210  
KYLERTOWN, PA**

Telephone: **(814) 345-6789**

**16847-0444**

**MICHAEL A. RUDELLA  
131 ROLLING STONE ROAD  
P.O. BOX 210  
KYLERTOWN, PA 16847-0444**

**NOTICE OF JUDGMENT/TRANSCRIPT  
CIVIL CASE**

PLAINTIFF:

**J. KLINE ENTERPRISES  
1162 BUCKETT ROAD  
OSCEOLA MILLS, PA 16666**

NAME and ADDRESS

DEFENDANT:

**YORK BUILDING PRODUCTS CO., INC.  
P.O. BOX 1708  
YORK, PA 17405**

NAME and ADDRESS

Docket No.: **CV-0000312-04**  
Date Filed: **8/12/04**



*04-1784-CD*

**THIS IS TO NOTIFY YOU THAT:**

Judgment:

**DEFAULT JUDGMENT PLTF**

Judgment was entered for: (Name) **J. KLINE ENTERPRISES**

Judgment was entered against: (Name) **YORK BUILDING PRODUCTS CO., INC.**

in the amount of \$ **8,114.50** on: (Date of Judgment) **10/12/04**

Defendants are jointly and severally liable. (Date & Time) \_\_\_\_\_

Damages will be assessed on: \_\_\_\_\_

This case dismissed without prejudice. **FILED NO CC**  
m/12/5464  
NOV 17 2004

Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ \_\_\_\_\_

Portion of Judgment for physical damages arising out of residential lease \$ \_\_\_\_\_

William A. Shaw  
Prothonotary/Clerk of Courts

Amount of Judgment	\$ 8,000.00
Judgment Costs	\$ 114.50
Interest on Judgment	\$ .00
Attorney Fees	\$ .00
Total	\$ 8,114.50
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
=====	
Certified Judgment Total	\$ 8114.50

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR DISTRICT JUSTICES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE DISTRICT JUSTICE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE DISTRICT JUSTICE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

*10-12-04* Date *M A Rudella*, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

*11/16/04* Date *M A Rudella*, District Justice

My commission expires first Monday of January, 2006 .

SEAL

Date: 05/03/2005

Time: 04:25 PM

Page 1 of 1

## Clearfield County Court of Common Pleas

User: CROWLES

## ROA Report

Case: 2004-01784-CD

Current Judge: Fredric Joseph Ammerman

J. Kline Enterprises vs. York Building Products Co. Inc.

## District Justice Appeal

Date		Judge
11/09/2004	✓ Filing: District Justice Appeals Paid by: York Building Products Co. Inc. (defendant) Receipt number: 1890133 Dated: 11/09/2004 Amount: \$85.00 (Check) Copies to Atty. Kandice Giurintano	No Judge
11/15/2004	✓ Proof of Service of Notice of Appeal, filed by s/Kandice J. Giurintano	Fredric Joseph Ammerman
11/17/2004	✓ Transcript from D. J. Rudella, filed. <i>MISSING</i>	No Judge
11/29/2004	✓ Complaint, filed by Plaintiff, no cert. copies. <i>Still 5/3/05</i>	No Judge
12/21/2004	✓ Certificate of Service, certified copy of Complaint, mailed to Defendant on Dec. 19th, 2004. Filed by s/ James J. Kline, II. No CC	No Judge
01/24/2005	✓ Defendant's Preliminary Objections to Plff's Cmplaint. No cc.	No Judge
02/17/2005	✓ Order, AND NOW, this 16th day of Feb., 2005, it is the Order of the Court that argument on Def. Preliminary Objections filed in the above-captioned matter has been scheduled for the 10th day of March, 2005 at 2:30 p.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 2CC & CA Memo to Atty Giurintano	Fredric Joseph Ammerman
03/11/2005	✓ Order, filed 3 cert. to Atty. Giurintano NOW, this 11th day of March, 2005, ORDER of the Court that argument on the Defendant's Preliminary Objections has been rescheduled for April 4, 2005.	Fredric Joseph Ammerman
03/31/2005	✓ Motion To Reschedule Oral Argument, filed by s/ Kandice J. Giurintaro. 2CC Atty Giurintaro ✓ Order, AND NOW, this 31st day of March, 2005, it is hereby Ordered that oral argument upon Defendant's Preliminary Objections to Plaintiff's Complaint is rescheduled for the 2nd day of May, 2005 at 11:00 in Courtroom 1. Fredric J. Ammerman, Judge. 2CC Atty Giurintaro	Fredric Joseph Ammerman
04/01/2005	✓ Plaintiff's Motion for Defendants Objection to be Dismissed, filed by s/James J. Kline II No CC Motion For defendants objection to be dismissed, filed b y s/ James J. Kline Fredric Joseph Ammerman II No CC	Fredric Joseph Ammerman
04/07/2005	✓ Affidavit of Service filed. Copy of Order dated March 31, 2005, served on April 5, 2005 upon J. Kline Enterprises and the Clfd. Co. Court Administrator. Filed by s/ Kandice J. Giurintano, Esquire. No CC	Fredric Joseph Ammerman

Date: 04/28/2005

Time: 01:40 PM

Page 1 of 1

**Clearfield County Court of Common Pleas**

**ROA Report**

Case: 2004-01784-CD

User: CROWLES

Current Judge: Fredric Joseph Ammerman

J. Kline Enterprises vs. York Building Products Co. Inc.

**District Justice Appeal**

Date		Judge
11/09/2004	Filing: District Justice Appeals Paid by: York Building Products Co. Inc. (defendant) Receipt number: 1890133 Dated: 11/09/2004 Amount: \$85.00 (Check) Copies to Atty. Kandice Giurintano	No Judge
11/15/2004	✓ Proof of Service of Notice of Appeal, filed by s/Kandice J. Giurintano	Fredric Joseph Ammerman
11/17/2004	Transcript from D. J. Rudella, filed. <i>still missing 4/27/05</i>	No Judge
11/29/2004	✓ Complaint, filed by Plaintiff, no cert. copies.	No Judge
12/21/2004	✓ Certificate of Service, certified copy of Complaint, mailed to Defendant on Dec. 19th, 2004. Filed by s/ James J. Kline, II. No CC	No Judge
01/24/2005	✓ Defendant's Preliminary Objections to Plaintiff's Complaint. No cc.	No Judge
02/17/2005	✓ Order, AND NOW, this 16th day of Feb., 2005, it is the Order of the Court that argument on Def. Preliminary Objections filed in the above-captioned matter has been scheduled for the 10th day of March, 2005 at 2:30 p.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 2CC & CA Memo to Atty Giurintano	Fredric Joseph Ammerman
03/11/2005	✓ Order, filed 3 cert. to Atty. Giurintano NOW, this 11th day of March, 2005, ORDER of the Court that argument on the Defendant's Preliminary Objections has been rescheduled for April 4, 2005.	Fredric Joseph Ammerman
03/31/2005	✓ Motion To Reschedule Oral Argument, filed by s/ Kandice J. Giurintaro. 2CC Atty Giurintaro ✓ Order, AND NOW, this 31st day of March, 2005, it is hereby Ordered that oral argument upon Defendant's Preliminary Objections to Plaintiff's Complaint is rescheduled for the 2nd day of May, 2005 at 11:00 in Courtroom 1. Fredric J. Ammerman, Judge. 2CC Atty Giurintaro	Fredric Joseph Ammerman
04/01/2005	✓ Plaintiff's Motion for Defendants Objection to be Dismissed, filed by s/James J. Kline II No CC Motion For defendants objection to be dismissed, filed by s/ James J. Kline Fredric Joseph Ammerman II No CC	Fredric Joseph Ammerman
04/07/2005	✓ Affidavit of Service filed. Copy of Order dated March 31, 2005, served on April 5, 2005 upon J. Kline Enterprises and the Clfd. Co. Court Administrator. Filed by s/ Kandice J. Giurintano, Esquire. No CC	Fredric Joseph Ammerman

Date: 03/29/2005

**Clearfield County Court of Common Pleas**

User: BHUDSON

Time: 03:38 PM

Page 1 of 1

**ROA Report**

Case: 2004-01784-CD

Current Judge: Fredric Joseph Ammerman

J. Kline Enterprises vs. York Building Products Co. Inc.

**District Justice Appeal**

Date		Judge
11/09/2004	<input checked="" type="checkbox"/> Filing: District Justice Appeals Paid by: York Building Products Co. Inc. (defendant) Receipt number: 1890133 Dated: 11/09/2004 Amount: \$85.00 (Check) Copies to Atty. Kandice Giurintano	No Judge
11/15/2004	<input checked="" type="checkbox"/> Proof of Service of Notice of Appeal, filed by s/Kandice J. Giurintano	Fredric Joseph Ammerman
11/17/2004	Transcript from D. J. Rudella, filed. <i>Missing when returned</i>	No Judge
11/29/2004	<input checked="" type="checkbox"/> Complaint, filed by Plaintiff, no cert. copies. <i>3129103</i>	No Judge
12/21/2004	<input checked="" type="checkbox"/> Certificate of Service, certified copy of Complaint, mailed to Defendant on Dec. 19th, 2004. Filed by s/ James J. Kline, II. No CC	No Judge
01/24/2005	<input checked="" type="checkbox"/> Defendant's Preliminary Objections to Plaintiff's Complaint. No cc.	No Judge
02/17/2005	<input checked="" type="checkbox"/> Order, AND NOW, this 16th day of Feb., 2005, it is the Order of the Court that argument on Def. Preliminary Objections filed in the above-captioned matter has been scheduled for the 10th day of March, 2005 at 2:30 p.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 2CC & CA Memo to Atty Giurintano	Fredric Joseph Ammerman
03/11/2005	<input checked="" type="checkbox"/> Order, filed 3 cert. to Atty. Giurintano NOW, this 11th day of March, 2005, ORDER of the Court that argument on the Defendant's Preliminary Objections has been rescheduled for April 4, 2005.	Fredric Joseph Ammerman

Date: 03/03/2005

**Clearfield County Court of Common Pleas**

User: BHUDSON

Time: 11:10 AM

Page 1 of 1

**ROA Report**

Case: 2004-01784-CD

Current Judge: Fredric Joseph Ammerman

J. Kline Enterprises vs. York Building Products Co. Inc.

**District Justice Appeal**

Date		Judge
11/09/2004	Filing: District Justice Appeals Paid by: York Building Products Co. Inc. (defendant) Receipt number: 1890133 Dated: 11/09/2004 Amount: \$85.00 (Check) Copies to Atty. Kandice Giurintano	No Judge
11/15/2004	Proof of Service of Notice of Appeal, filed by s/Kandice J. Giurintano	Fredric Joseph Ammerman
11/17/2004	Transcript from D. J. Rudella, filed. <i>Missing from file as of 3/3/05</i>	No Judge
11/29/2004	Complaint, filed by Plaintiff, no cert. copies.	No Judge
12/21/2004	Certificate of Service, certified copy of Complaint, mailed to Defendant on Dec. 19th, 2004. Filed by s/ James J. Kline, II. No CC	No Judge
01/24/2005	Defendant's Preliminary Objections to Plff's Cmplaint. No cc.	No Judge
02/17/2005	Order, AND NOW, this 16th day of Feb., 2005, it is the Order of the Court that argument on Def. Preliminary Objections filed in the above-captioned matter has been scheduled for the 10th day of March, 2005 at 2:30 p.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 2CC & CA Memo to Atty Giurintano	Fredric Joseph Ammerman

## COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS  
of Clearfield County  
JUDICIAL DISTRICT  
46

## NOTICE OF APPEAL

FROM

## DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No.

04-1784-CD

## NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case mentioned below.

NAME OF APPELLANT <b>York Building Products Co., Inc.</b>		MAG. DIST. NO. OR NAME OF D.J. <b>Michael A. Rudella</b>	
ADDRESS OF APPELLANT <b>P.O. Box 1708</b>		CITY <b>York</b>	STATE ZIP CODE <b>PA 17405</b>
DATE OF JUDGMENT <b>Oct. 12, 2004</b>	IN THE CASE OF (PLAINTIFF) <b>J. Kline Enterprises</b>	(DEFENDANT) <b>vs. York Building Products Co., Inc.</b>	
CLAIM NO. <b>CV YEAR CV-0000312-04</b>	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT 		
LT YEAR _____			
<p>This block will be signed ONLY when this notation is required under PA. R.C.P.J.P. No. 1008B. This notice of Appeal, when received by the District Justice, will operate as A SUPERSEDEAS to the Judgment for possession in this case.</p>		<p>If appellant was Claimant (see PA R.C.P.J.P. No. 1001(6)) in action before district Justice, he MUST FILE A COMPLAINT within twenty (20) days after filing his NOTICE of APPEAL.</p>	
Signature of Prothonotary or Deputy			

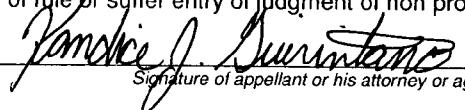
## PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see PA R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

## PRAECIPE: To Prothonotary

Enter rule upon J. Kline Enterprises, appellee(s), to file a complaint in this appeal  
Name of appellee(s)

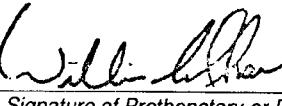
(Common Pleas No. 04-1784-CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

  
Signature of appellant or his attorney or agent

RULE: To J. Kline Enterprises, appellee(s)  
Name of appellee(s)

- (1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty(20) days after the date of service of this rule upon you by personal service or by certified or registered mail.
- (2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS WILL BE ENTERED AGAINST YOU UPON PRAECIPE.
- (3) The date of service of this rule if service was by mail is the date of the mailing.

Date: November 9, Year 2004 

  
Signature of Prothonotary or Deputy

Nov 11 2004 pd 85.00  
Copies to the N.D.  
NOV 05 2004

White - Prothonotary Copy  
Green - Court File Copy  
Yellow - Appellant's Copy  
Pink - Appellee Copy  
Gold - D. J. Copy

---

### PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF \_\_\_\_\_; ss

AFFIDAVIT: I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. \_\_\_\_\_, upon the District Justice designated therein on (date of service) \_\_\_\_\_, year \_\_\_\_\_,  by personal service  by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) \_\_\_\_\_, on \_\_\_\_\_, year \_\_\_\_\_.  by personal service  by (certified) (registered) mail, sender's receipt attached hereto.

and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on \_\_\_\_\_, year \_\_\_\_\_.  by personal service  by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, YEAR \_\_\_\_\_.

*Signature of Affiant*

*Signature of official before whom affidavit was made*

*Title of official*

My commission expires on \_\_\_\_\_, year \_\_\_\_\_.

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: CLEARFIELD

Mag. Dist. No.:

46-3-03

DJ Name: Hon.

MICHAEL A. RUDELLA

Address: 131 ROLLING STONE ROAD  
P.O. BOX 210  
KYLERTOWN, PA

Telephone: (814) 345-6789

16847-0444

YORK BUILDING PRODUCTS CO., INC.  
P.O. BOX 1708  
YORK, PA 17405

RECEIVED 10/12/04  
NOTICE OF JUDGMENT/TRANSCRIPT  
CIVIL CASE

PLAINTIFF:

J. KLINE ENTERPRISES  
NAME and ADDRESS

1162 BUCKETT ROAD  
OSCEOLA MILLS, PA 16666

DEFENDANT:

YORK BUILDING PRODUCTS CO., INC.  
NAME and ADDRESS

P.O. BOX 1708  
YORK, PA 17405

Docket No.: CV-0000312-04  
Date Filed: 8/12/04



04-1784-CJ

THIS IS TO NOTIFY YOU THAT:

Judgment:

DEFAULT JUDGMENT PLTF

Judgment was entered for: (Name) J. KLINE ENTERPRISES

Judgment was entered against: (Name) YORK BUILDING PRODUCTS CO., INC.

in the amount of \$ 8,114.50 on: (Date of Judgment) 10/12/04

Defendants are jointly and severally liable. (Date & Time) \_\_\_\_\_

Damages will be assessed on: \_\_\_\_\_

This case dismissed without prejudice. \_\_\_\_\_

Amount of Judgment Subject to  
Attachment/42 Pa.C.S. § 8127 \$ \_\_\_\_\_

Portion of Judgment for physical  
damages arising out of residential  
lease \$ \_\_\_\_\_

Amount of Judgment	\$ 8,000.00
Judgment Costs	\$ 114.50
Interest on Judgment	\$ .00
Attorney Fees	\$ .00
<b>Total</b>	<b>\$ 8,114.50</b>

Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
=====	
<b>Certified Judgment Total</b>	<b>\$ _____</b>

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR DISTRICT JUSTICES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE DISTRICT JUSTICE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE DISTRICT JUSTICE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

10/12/04 Date

M A Ruelle, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

Date \_\_\_\_\_, District Justice

My commission expires first Monday of January, 2006 .

SEAL



McNees Wallace & Nurick LLC  
attorneys at law

KANDICE J. GIURINTANO  
DIRECT DIAL: (717) 237-5452  
E-MAIL ADDRESS: KGIURINTANO@MWN.COM

November 8, 2004

William Shaw, Prothonotary  
Clearfield County Court of Common Pleas  
230 E. Market Street  
Clearfield, PA 16830

**VIA FEDERAL EXPRESS**

Re: Notice of Appeal from District Justice Judgment  
J. Kline Enterprises v. York Building Products Co., Inc.  
District Justice Docket No. CV-0000312-04

Dear Mr. Shaw:

Enclosed please find a Notice of Appeal filed on behalf of York Building Products Co., Inc. in the above-referenced matter. Also enclosed is a copy of the Notice of Judgment/Transcript dated October 13, 2004, our check in the amount of \$85.00, and a Federal Express envelope for you to use to return the signed Rule to me.

Thank you for your attention to this matter.

Sincerely,

McNEES WALLACE & NURICK LLC

By



Kandice J. Giurintano

KJG/lp  
Enclosures

2004-1784-CD

### PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD; ss

AFFIDAVIT: I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. 04-1784-CD, upon the District Justice designated therein on (date of service) November 12, year 2004,  by personal service  by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) J. Kline Enterprises, on November 12, year 2004,  by personal service  by certified (registered) mail, sender's receipt attached hereto.

and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on November 12, year 2004,  by personal service  by certified (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS 12<sup>th</sup> DAY OF November, YEAR 2004

Michele S. Beery

Signature of official before whom affidavit was made

  
Kandice J. Giurintano  
Signature of Affiant

Title of official

My commission expires on \_\_\_\_\_, year \_\_\_\_\_.

**NOTARIAL SEAL**

**MICHELE S. BEERY, Notary Public**  
City of Harrisburg, PA Dauphin County  
My Commission Expires July 6, 2006

**FILED**

NOV 15 2004

11:56 AM

William A. Shaw

Prothonotary/Clerk of Courts

## COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS  
of Clearfield County  
JUDICIAL DISTRICT

H 6

## NOTICE OF APPEAL

FROM

## DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 04-11784-C

## NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case mentioned below.

NAME OF APPELLANT York Building Products Co., Inc.		MAG. DIST. NO. OR NAME OF D.J. Michael A. Judge		
ADDRESS OF APPELLANT P.O. Box 1708		CITY York	STATE PA	ZIP CODE 17405
DATE OF JUDGMENT Oct. 12, 2004	IN THE CASE OF (PLAINTIFF) J. Kline Enterprises	(DEFENDANT) vs. York Building Products Co., Inc.		
CLAIM NO. CV YEAR CV-0000312-04	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT <i>Michael A. Judge</i>			
LT YEAR				
This block will be signed ONLY when this notation is required under PA. R.C.P.J.P. No. 1008B. This notice of Appeal, when received by the District Justice, will operate as A SUPERSEDEAS to the Judgment for possession in this case.		If appellant was Claimant (see PA R.C.P.J.P. No. 1001(6)) in action before district Justice, he MUST FILE A COMPLAINT within twenty (20) days after filing his NOTICE of APPEAL.		
Signature of Prothonotary or Deputy				

## PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see PA R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

## PRAECIPE: To Prothonotary

Enter rule upon J. Kline Enterprises, appellee(s), to file a complaint in this appeal  
Name of appellee(s)

(Common Pleas No. 04-11784-C) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

*Michael A. Judge*  
Signature of appellant or his attorney or agent

**RULE:** To J. Kline Enterprises, appellee(s)  
Name of appellee(s)

- (1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty(20) days after the date of service of this rule upon you by personal service or by certified or registered mail.
- (2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS WILL BE ENTERED AGAINST YOU UPON PRAECIPE.
- (3) The date of service of this rule if service was by mail is the date of the mailing.

Date: November 9, Year 2004

I hereby certify that the above is a true and accurate copy of the original signed and filed in this office.

*Michael A. Judge*  
Signature of Prothonotary or Deputy

White - Prothonotary Copy  
Green - Court File Copy  
Yellow - Appellant's Copy  
Pink - Appellee Copy  
Gold - D. J. Copy

NOV 09 2004

Attest.

*Michael A. Judge*  
Prothonotary  
Commonwealth of Pennsylvania

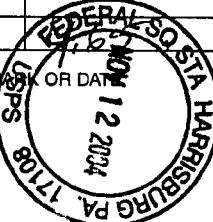
7160 3901 9844 4445 2971

**TO:** J Kline Enterprises  
1162 Buckett Road  
Osceola Mills, PA 16666

**SENDER:** Kandice Giurintano

**REFERENCE:** York Bldg. Products

PS Form 3800, June 2000

RETURN RECEIPT SERVICE	Postage	1.80
	Certified Fee	2.30
	Return Receipt Fee	1.75
	Restricted Delivery	
	Total Postage & Fees	
US Postal Service	POSTMARK OR DATE	
<b>Receipt for Certified Mail</b>		
No Insurance Coverage Provided Do Not Use for International Mail		

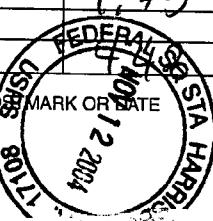
7160 3901 9844 4445 2988

**TO:** The Honorable Michael A. Rudella  
District Justice of Clearfield County  
131 Rolling Stone Road  
PO Box 210  
Kylertown, PA 16847-0444

**SENDER:** Kandice Giurintano

**REFERENCE:** York Bldg. Products

PS Form 3800, June 2000

RETURN RECEIPT SERVICE	Postage	1.37
	Certified Fee	2.30
	Return Receipt Fee	1.75
	Restricted Delivery	
	Total Postage & Fees	
US Postal Service	POSTMARK OR DATE	
<b>Receipt for Certified Mail</b>		
No Insurance Coverage Provided Do Not Use for International Mail		

2004-1784-CN

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY,  
PENNSYLVANIA

J. KLINE ENTERPRISES

DISTRICT JUSTICE APPEAL

VS.

CASE NO. CV-0000312-04

TYPE OF PLEADING:

YORK BUILDING PRODUCTS CO., INC.

COMPLAINT

FILED

COMPLAINT

NOV 29 2004

12:15 PM

William A. Shaw  
Prothonotary/Clerk of Courts

No Court Con-

Now comes the plaintiff, J. KLINE ENTERPRISES

WHO STATES THE FOLLOWING:

1. ON 27 JUL 04 J. KLINE ENTERPRISES ENTERED  
INTO A WRITTEN AGREEMENT WITH YORK BUILDING  
PRODUCTS CO., INC. THAT YORK BUILDING PRODUCTS CO.  
INC. WOULD SUPPLY MATERIALS TO J. KLINE ENTERPRISES.

2. YORK BUILDING PRODUCTS CO., INC. REFUSED TO HONOR  
THE AGREEMENT RESULTING IN A LOSS OF SALES  
AND WORK TO J. KLINE ENTERPRISES IN EXCESS  
OF \$8,000.00.

3. YORK BUILDING PRODUCTS CO., INC. WAS NOTIFIED  
IN WRITING, THAT IF THEY REFUSED TO HONOR



THE AGREEMENT A CIVIL ACTION WOULD BE FILED AND THAT LOSSES WERE IN EXCESS OF \$8,000.00.

4. YORK BUILDING PRODUCTS CO. INC. STILL REFUSED TO HONOR THE AGREEMENT AND A CIVIL ACTION WAS FILED AT THE MAGISTRATES OFFICE.

5. YORK BUILDING PRODUCTS CO. INC. DID NOT ATTEND THE CIVIL ACTION HEARING AND JUDGEMENT WAS ENTERED AGAINST THEM.

WHEREFORE, PLAINTIFF DEMANDS JUDGEMENT AGAINST DEFENDANT IN THE AMOUNT OF \$8,000.00, PLUS INTEREST, COURT COSTS AND SUCH OTHER REASONABLE COSTS AS THE COURT MAY ALLOW.

James J. Kline II  
JAMES J. KLINE II  
JAMES J. KLINE II

DBI J. KLINE ENTERPRISES  
1162 BUCKET LINE RD.  
OSCEOLA MILLS, PA 16860  
814 339 7811

Verification

I VERIFY THAT THE STATEMENTS MADE IN THIS  
COMPLAINT ARE TRUE AND CORRECT. I UNDERSTAND  
THAT FALSE STATEMENTS HEREIN ARE MADE  
SUBJECT TO THE PENALTIES OF 18 PA. C.S.  
SECTION 4904 RELATING TO UNSWORN  
FALSIFICATION TO AUTHORITIES.

James J. Klein II  
JAMES J. KLEIN II

DBA J. KLEIN ENTERPRISES

FILED NO. 44  
DEC 21 2004  
MILANO  
FILED NO. 44  
DEC 21 2004  
JAMES J. KLINE, Plaintiff  
vs. DEFENDANT AT HIS/HER ADDRESS AS FOLLOWS  
TO BE MAILED, FIRST CLASS - POSTAGE PREPAID, TO  
2004, I CAUSED A CERTIFIED COPY OF THE COMPLAINT  
HEREBY CERTIFY THAT ON THE 19TH DAY OF DECEMBER,  
I, JAMES J. KLINE, Plaintiff, NAME, TO  
THE DEFENDANT AT HIS/HER ADDRESS AS FOLLOWS

100 AVE ST.  
P.O. BOX 1166  
M. VINES WALLACE + WALLACE  
HARRISBURG, PA 17108-1166

William A. Shaw  
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

FILED NO. 44  
DEC 21 2004  
MILANO  
FILED NO. 44  
DEC 21 2004  
J. KLINE ENTERPRISES  
vs.  
CASE NO. 44-0000312-04  
DISTRICT SERVICE ADDRESS  
UPLINE BUILDING SERVICES CO., INC.  
OH-1784-CB  
2004-1784-CB  
44-1784-CB  
UPLINE BUILDING SERVICES CO., INC.  
J. KLINE ENTERPRISES  
vs.  
CASE NO. 44-0000312-04  
DISTRICT SERVICE ADDRESS  
UPLINE BUILDING SERVICES CO., INC.  
OH-1784-CB  
2004-1784-CB  
44-1784-CB

IN THE COURT OF COMMON PLACES CLEAVERED COUNTY,  
PENNSYLVANIA

(A)

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

J. Kline Enterprises, :  
Plaintiff :  
v. : *1784*  
: Docket No. 04-1484-CD  
:  
York Building Products Co., Inc., :  
Defendant :  
:

**DEFENDANT'S PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT**

Defendant York Building Products Co., Inc., ("York Building Products") by and through its undersigned attorneys, McNees Wallace & Nurick LLC, objects to the Complaint of Plaintiff J. Kline Enterprises ("Plaintiff") as follows:

**A. Preliminary Objection Pursuant To Pa.R.C.P. No. 1028(a)(1):  
Improper Venue**

1. Plaintiff filed this action in the Court of Common Pleas of Clearfield County, Pennsylvania, alleging that York Building Products violated an agreement to supply materials to Plaintiff. See Complaint ¶ 1.

2. York Building Products is a corporation.

3. Pa.R.C.P. No. 2179(a) provides that venue is proper against a corporation only in:

- (1) the county where its registered office or principal place of business is located;
- (2) a county where it regularly conducts business;
- (3) the county where the cause of action arose;
- (4) a county where a transaction or occurrence took place out of which the cause of action arose, or
- (5) a county where the property or a part of the property which is the subject matter of the action is located provided that equitable relief is sought with respect to the property.

**FILED**  
M 10/26/04  
JAN 24 2005

William A. Shaw  
Prothonotary

Pa.R.C.P. No. 2179(a).

4. York Building Products does not have a registered office or principal place of business in Clearfield County, Pennsylvania, nor does it have a facility there.

5. York Building Products does not regularly conduct business within Clearfield County.

6. Plaintiff does not aver any facts as to where the agreement between the parties, or the alleged violation of the agreement, occurred.

7. The Complaint does not aver any facts to support the conclusion that the cause of action arose in Clearfield County.

8. The Complaint does not aver any facts to support the conclusion that the transactions or occurrences out of which Plaintiff's claim arises took place in Clearfield County.

9. No property that is the subject matter of this action is located in Clearfield County.

10. Pursuant to Pa.R.C.P. No. 2179(a), Clearfield County is not a proper venue for this action. See Pa.R.C.P. No. 2179 (a).

11. Under Pa.R.C.P. No. 1028(a)(1), a party may present the issue of improper venue to the Court by the filing of a preliminary objection to the pleading. See Pa.R.C.P. No. 1028(a)(1).

12. Plaintiff maintains a principal place of business in York, York County, Pennsylvania, and venue is proper in York County.

13. When a plaintiff files an action in an improper forum and there is a county of proper venue within the State, the Court shall transfer the action to the appropriate court of that county. See Pa.R.C.P. No. 1006(e).

14. While the basis of Plaintiff's claim is unclear, if it relates to any extension of credit by York Building Products to Plaintiff, Plaintiff has agreed that the appropriate jurisdictions in which to resolve the dispute are the courts of York County or Dauphin County, Pennsylvania. See Credit Agreement attached hereto as Exhibit A.

WHEREFORE, York Building Products respectfully requests that this Court sustain its preliminary objection based upon improper venue and transfer this action to the Court of Common Pleas of York County.

**B. Preliminary Objection Pursuant to Pa.R.C.P. No. 1028(a)(3): Insufficient Specificity**

15. Plaintiff's Complaint contains vague allegations of an agreement between York Building Products and Plaintiff. See Complaint ¶ 1-2.

16. Plaintiff does not state the subject matter of the agreement between the parties or the manner in which York Building Products "refused to honor" the agreement. See Complaint ¶ 1-2.

17. From the vague allegations, York Building Products is unable to determine what legal obligations Plaintiff asserts were owed and breached. York Building Products is also unable to determine what actions or inactions of York Building Products, if any, form the basis of Plaintiff's claims.

18. Accordingly, Plaintiff should be required to plead the claims with more specificity, so that York Building Products can determine whether it had any legal obligation to Plaintiff and, if so, whether York Building Products' actions or inactions breached the obligation.

19. Under Pa.R.C.P. No. 1028(a)(3), a party may present the issue of insufficient specificity by the filing of a preliminary objection to the pleading. See Pa.R.C.P. No. 1028(a)(3).

WHEREFORE, York Building Products requests that its preliminary objection for insufficient specificity be sustained and that Plaintiff be required to amend the Complaint to set forth its claims with sufficient specificity.

**C. Preliminary Objection Pursuant to Pa.R.C.P. No. 1028(a)(2):  
Failure to Conform to Rules of Court**

20. Plaintiff's Complaint alleges that York Building Products breached a written contract between the parties. See Complaint ¶1.

21. The Rules of Civil Procedure require that, when a claim is based upon a writing, the pleader shall attach a copy of the writing ... but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing." Pa.R.C.P. No. 1019(i) (emphasis added).

22. There is no agreement attached to the Complaint.

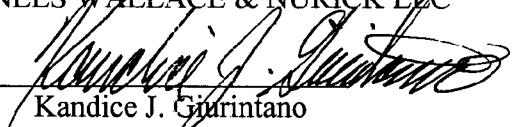
23. The Complaint does not explain why the written agreement is inaccessible to Plaintiff.

24. Plaintiff's Complaint fails to conform with the pleading requirements of Rule 1019 because Plaintiff fails to attach the written agreement to the Complaint or explain why the writings are inaccessible to Plaintiff.

25. Under Pa.R.C.P. 1028(a)(2), a party may present the issue of failure to conform to rule of Court by the filing of a preliminary objection to the pleading. See Pa.R.C.P. No. 1028(a)(2).

WHEREFORE, York Building Products requests that its preliminary objection be sustained and that Plaintiff be required to amend the Complaint to conform with the requirements of Pa.R.C.P. No. 1019.

MCNEES WALLACE & NURICK LLC

By 

Kandice J. Giurintano

Attorney I.D. No. 86345

100 Pine Street

P.O. Box 1166

Harrisburg, PA 17108-1166

(717) 237-5452

Attorneys for Defendant

Dated: January 21, 2005



# YORK BUILDING PRODUCTS CO., INC.

P.O. BOX 1708      YORK PA 17405  
 PHONE: 717-848-2831      FAX: 717-854-9156  
COMMERCIAL CREDIT APPLICATION

REQUESTED BY: Thomas Rowright.  
 (SALES REPRESENTATIVE)

## PRODUCTS BEING PURCHASED (PLEASE CIRCLE)

BLOCK

BRICK

STONE

SAND

BLACKTOP

PRECAST

## GENERAL INFORMATION

COMPANY NAME J. KLINE ENTERPRISES.DATE 02 MAR 00ADDRESS RD 1 BOX 565 OSCEOLA MILLS PAPHONE (814) 339 7811BILLING ADDRESS SAME.ZIP 16666PHONE ( )ACCOUNTS PAYABLE CONTACT Jim KLINE.FAX ( ) PROPRIETORSHIP

PARTNERSHIP

CORPORATION

FEDERAL TAX # 123 520 943

## PRINCIPAL'S INFORMATION:

PRINCIPAL'S NAME JAMES J KLINE IIADDRESS RD 1 BOX 565 OSCEOLA MILLS PAPHONE NO. ( )S.S. # 173 52 0943PRINCIPAL'S NAME ADDRESS PHONE NO. ( )S.S. # PRINCIPAL'S NAME ADDRESS PHONE NO. ( )S.S. # BUSINESS TYPE EXCAVATING/LANDSCAPING YEARS IN BUSINESS 6 STATE OF CORP. PA

## BANKING INFORMATION

PRIMARY BANK SPE FEDERAL CREDIT UNION.PHONE (814) 237 5458ADDRESS 650 NORTH SCIENCE PARK RD. ST. COLLEGE, PA 16803-2220TYPE OF ACCOUNT: CHECKING ACCOUNT NO. 80003291SAVINGS ACCOUNT NO.    SAMELINE OF CREDIT AMOUNT: \$ NA.SECURED   UNSECURED   SECONDARY BANK MD STATE BANK (PERSONAL)PHONE (814) 342 0300ADDRESS PHILADELPHIA PA 19104-3000TYPE OF ACCOUNT: CHECKING ACCOUNT NO.   SAVINGS ACCOUNT NO.   LINE OF CREDIT AMOUNT: \$ 5SECURED   UNSECURED   

## REFERENCES - APPLICANTS. PLEASE FILL IN COMPLETELY

### NAME & ADDRESS

		TELEPHONE NUMBER
1.	<u>NEW ENTERPRISE STONE + LIME CO. INC.</u> <u>ACCT # 30387</u>	<u>(814) 224-2121</u> <input checked="" type="checkbox"/>
2.	<u>GLENN D. HANNAKER.</u> <u>ACCT # 2599</u>	<u>(800) 221-1355</u> <input checked="" type="checkbox"/>
3.	<u>J.W. POWELL</u> <u>ACCT # 1-104-74</u>	<u>(814) 342-3190</u> <input checked="" type="checkbox"/>
4.	<u>LOWE'S</u> <u>ACCT # 326889</u>	<u>(814) 237-2100</u>

Have you ever been bonded?  Yes  No Type:  Payment  Performance  
Surety: Name & Address \_\_\_\_\_

Phone No. \_\_\_\_\_

Have you ever filed for bankruptcy?  Yes  No If yes, when?

Expected monthly credit utilization INITIAL APPROX \$ 2,000.00 THEREAFTER BASED ON DEMAND/SALES.

TERMS OF CREDIT

1. PAYMENT IS REQUIRED BY THE TENTH OF THE MONTH FOLLOWING PURCHASE. A MONTHLY SERVICE CHARGE OF 1.5% WILL BE ADDED TO ALL AMOUNTS NOT PAID WITHIN 30 DAYS OF THE DATE OF INVOICE.
2. IF AN ATTORNEY IS USED TO COLLECT ANY AMOUNT DUE, EITHER WITH OR WITHOUT SUIT, OR IF LEGAL PROCEEDINGS ARE TAKEN FOR THE COLLECTION OF ANY AMOUNT DUE, APPLICANT SHALL PAY, IN ADDITION TO THE PRINCIPAL AND INTEREST OWING, THE COSTS OF SUIT, AND ATTORNEY FEES IN THE AMOUNT OF 20% OF THE AMOUNT DUE INCLUDING INTEREST.
3. APPLICANT AGREES THAT ANY DISPUTE, CONTROVERSY, OR CLAIM ARISING IN CONNECTION WITH THE REQUESTED CREDIT OR IN CONNECTION WITH ANY GOODS PURCHASED BY APPLICANT FROM YORK SHALL BE DECIDED EXCLUSIVELY BY AND IN THE STATE OR FEDERAL COURTS SITTING IN DAUPHIN OR YORK COUNTIES IN THE COMMONWEALTH OF PENNSYLVANIA. FOR SUCH PURPOSE, APPLICANT HEREBY SUBMITS TO THE PERSONAL JURISDICTION OF SAID COURTS, AND WAIVES ANY RIGHT TO ASSERT OR MOVE FOR TRANSFER OF VENUE TO ANY COURT OUTSIDE YORK OR DAUPHIN COUNTIES. ALL DISPUTES SHALL BE DETERMINED PURSUANT TO PENNSYLVANIA LAW.
4. THE APPLICANT AND THE UNDERSIGNED, WHETHER OR NOT SIGNING IN A REPRESENTATIVE CAPACITY, WARRANT THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE, COMPLETE AND CORRECT, AND THAT THE APPLICANT AND THE UNDERSIGNED HAVE BEEN DULY AUTHORIZED TO EXECUTE THIS APPLICATION.
5. IT IS FURTHER ACKNOWLEDGED AND UNDERSTOOD THAT THE APPLICANT HAS READ AND UNDERSTANDS THIS APPLICATION. IT IS ALSO UNDERSTOOD THAT NO CREDIT WILL BE EXTENDED TO APPLICANT UNTIL THIS AGREEMENT IS ACCEPTED IN WRITING AND SIGNED BY THE CREDIT MANAGER OF YORK BUILDING PRODUCTS.
6. THIS APPLICATION WILL NOT BE APPROVED WITHOUT THE SIGNATURES OF ALL PARTNERS IF APPLICANT IS A PARTNERSHIP, BOTH HUSBAND AND WIFE IN THE CASE OF A SOLE PROPRIETORSHIP, AND THE PRESIDENT OR VICE PRESIDENT IN THE CASE OF A CORPORATION.
7. FOR THE PURPOSE OF INDUCING YORK TO EXTEND CREDIT TO THE APPLICANT, THE UNDERSIGNED, WHETHER OR NOT SIGNING IN A REPRESENTATIVE CAPACITY, HEREBY GUARANTEES PAYMENT OF ALL AMOUNTS DUE AND OWING BY APPLICANT TO YORK, INCLUDING COSTS AND ATTORNEY FEES DESCRIBED ABOVE. THE UNDERSIGNED WAIVES DEMAND, PROTEST, NOTICE OF NONPAYMENT, AND SUIT AGAINST THE APPLICANT. THIS GUARANTY SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL WRITTEN NOTICE IS RECEIVED BY CERTIFIED MAIL THAT THE UNDERSIGNED REVOKES THIS GUARANTY.

Applicant James J. Klein Jr. Date 12 MAR 2000

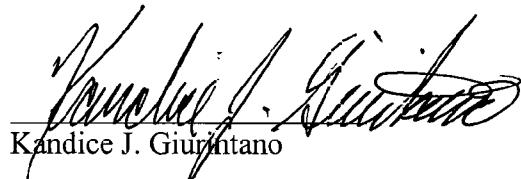
Applicant \_\_\_\_\_ Date 19

Applicant \_\_\_\_\_ Date 19

**CERTIFICATE OF SERVICE**

I hereby certify that on this date the foregoing document was served upon the following via postage prepaid certified mail, return receipt requested:

J. Kline Enterprises  
1162 Buckett Road  
Osceola Mills, PA 16665



Kandice J. Giurintano

Attorney for Defendant

Dated: January 21, 2005

(P)

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

J. KLINE ENTERPRISES :  
vs. : No. 04-1784-CD  
YORK BUILDING PRODUCTS :  
CO., INC. :  
:

**ORDER**

AND NOW, this 16<sup>th</sup> day of February, 2005, it is the Order of the Court that argument on Defendant's Preliminary Objections filed in the above-captioned matter has been scheduled for the 10 day of March, 2005, at 2:30 P.M., in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

6/1  
FILED  
O. 9.00 AM 2005 CAMDEN  
to Atty. J. R. RINTANNO  
FEB 17 2005

William A. Shaw  
Prothonotary

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

J. KLINE ENTERPRISES :  
vs. : No. 04-1784-CD  
YORK BUILDING PRODUCTS, INC. :

O R D E R

AND NOW, this 11<sup>th</sup> day of March, 2005, at the request of  
Counsel for Defendant, it is the ORDER of the Court that argument on Defendant's  
Preliminary Objections filed in the above matter has been rescheduled from March 11,  
2005 to Monday, April 4, 2005 at 11:00 A.M. in Courtroom No. 1, Clearfield County  
Courthouse, Clearfield, PA.

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

04:00 PM  
MAR 11 2005

Prothonotary Clerk's Office

3 cc Atty Giurintano  
(CIA envelope)

(A)

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

J. Kline Enterprises, :  
Plaintiff :  
: :  
v. : Docket No. 04-1<sup>7</sup>84-CD  
: :  
York Building Products Co., Inc., :  
Defendant :  
:

ORDER

AND NOW, this 31<sup>st</sup> day of March, 2005, it is hereby Ordered that oral argument  
upon Defendant's Preliminary Objections to Plaintiff's Complaint is rescheduled for the 2nd  
day of May, 2005 at 11:00 in Courtroom 1.



Frederic J. Ammerman, J.

FILED <sup>cc</sup>  
04/00/05 Atty  
MAR 31 2005 Giurintano

William A. Shaw  
Prothonotary/Clerk of Courts

CK

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

J. Kline Enterprises, :  
Plaintiff :  
v. : 1784  
: Docket No. 04-1484-CD  
:  
York Building Products Co., Inc., :  
Defendant :  
:

FILED  
M 14 00 BOL  
MAR 30 2005

William A. Shaw *6K*  
Prothonotary/Clerk of Courts  
*2cc Atty*  
*Giurintano*

**MOTION TO RESCHEDULE ORAL ARGUMENT**

Defendant York Building Products Co., Inc., ("York Building Products") by and through its undersigned attorneys, McNees Wallace & Nurick LLC, respectfully requests that the Court reschedule oral argument on the Preliminary Objections of York Building Products:

1. On January 24, 2005, York Building Products filed Preliminary Objections in this matter.
2. On March 11, 2005, the Court issued an order scheduling oral argument on the proposed Preliminary Objections for April 4, 2005.
3. The Court's Order was delivered to the office of counsel for York Building Products during the week of March 14, 2005.
4. Counsel for York Building Products was out of the office during the week of March 14, 2005 and did not receive the Order until her return.
5. Counsel for York Building Products did not learn of the Court's Order in time to serve the Order upon Plaintiff within seven days of the issuance of the Order, as required by Clearfield County Local Rule 206.
6. Counsel for York Building Products respectfully requests that the Court issue a new Order scheduling oral argument in order to permit counsel to serve the Order in conformance with Clearfield County Local Rule 206.

WHEREFORE, Defendant York Building Products Co., Inc. requests that the Court issue a new Order scheduling oral argument in order to permit counsel to serve the Order in conformance with Clearfield County Local Rule 206.

MCNEES WALLACE & NURICK LLC

By 

Kandice J. Giurintano

Attorney I.D. No. 86345

100 Pine Street

P.O. Box 1166

Harrisburg, PA 17108-1166

(717) 237-5452

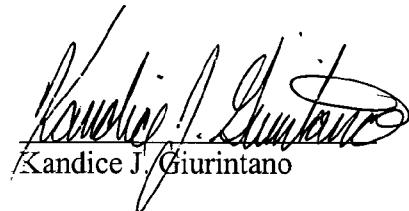
Attorneys for Defendant

Dated: March 28, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that on this date the foregoing document was served upon the following via first class mail, postage prepaid, upon the following:

J. Kline Enterprises  
1162 Buckett Road  
Osceola Mills, PA 16666



Kandice J. Giurintano

Date: March 28, 2005

31 MAR 05  
CR

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

J. Kline Enterprises,  
Plaintiff

v.

Docket No. 04-1784-CD

York Building Products Co., Inc  
Defendant

FILED NO  
M 12 42 PM CC  
APR 01 2005  
B&W  
William A. Shaw  
Prothonotary/Clerk of Courts

Plaintiffs motion for defendants objection to be dismissed:

In regards to the scheduled arguments on defendants objections; Monday, April 4, 2005 at 11:00 A.M. , in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA. I would ask the court to not hear and dismiss the defendants objections as I was not advised of the arguments until this week on approx. 25 MAR 05 , 14 days after the order of the court (Clearfield County Local Rule 206). The issues in regards to the defendants objections were addressed and submitted to the court in Plaintiffs Brief in response to Defendants Objections (submitted to the court via certified mail 01 Mar 05 and the defendant via first class mail) which answered the defendants objections and show reasonable grounds for this matter to be heard in Clearfield County.

We would ask that the court rule in my behalf and ask for full damages including additional fees to be determined and submitted to the court, or for this matter to be brought to a jury trial in Clearfield County. A certificate of readiness will be submitted in the near future (please see the following paragraph).

Should the court allow for arguments on the defendants objections I would ask that the court grant a continuance as I will be out of the state the week of April 4. I will return home for part of April 8th, then be out of state until April 18th. I will also be unavailable on April 29th. As I am representing myself I do not have an attorney to be present on my behalf while I am away.

We would also ask that the court (in advance) note and consider the dates above in any responses, orders, and actions.

Respectfully submitted Via Certified mail and fax to:

William Shaw  
Prothonotary  
230 E. Market St  
Clearfiled, PA 16830

Mc Nees Wallace & Nurieck  
P.O. Box 1166  
Harrisburg, PA 17108

  
James J Kline II

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

J. Kline Enterprises, :  
Plaintiff :  
: :  
v. : Docket No. 04-1784-CD  
: :  
York Building Products Co., Inc., :  
Defendant :  
: :

FILED NO CC  
APR 07 2005 (60)  
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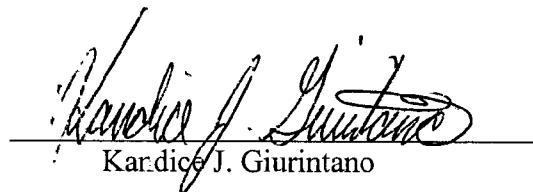
William A. Shaw  
Prothonotary/Clerk of Courts

**AFFIDAVIT OF SERVICE**

I, Kandice J. Giurintano, being duly sworn according to law, depose and say:

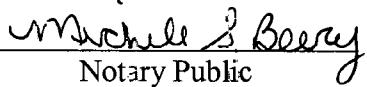
1. I am an adult individual over eighteen (18) years of age.
2. I am an attorney employed by McNees Wallace & Nurick LLC, which represents Defendant York Building Products Co., Inc. in the above-referenced action.
3. On April 5, 2005, I served a copy of the Order of Court dated March 31, 2005, fixing the date and time for oral argument upon Defendant's Preliminary Objections, on J. Kline Enterprises, 1162 Buckett Road, Osceola Mills, Pennsylvania 16666, via first class mail, postage prepaid in accordance with Rule 440 of the Pennsylvania Rules of Civil Procedure and Clearfield County Local Rule 206.
4. On April 5, 2005, I served a copy of the Order of Court dated March 31, 2005, fixing the date and time for oral argument upon Defendant's Preliminary Objections, upon the Clearfield County Court Administrator, 230 Market Street, Clearfield, Pennsylvania 16830 via first class mail, postage prepaid in accordance with Rule 440 of the Pennsylvania Rules of Civil Procedure and Clearfield County Local Rule 206.

5. Pursuant to Clearfield County Local Rule 206, I included a copy of Defendant's Preliminary Objections and Defendant's Brief in Support of Preliminary Objections with the service of the March 31, 2005 Order.



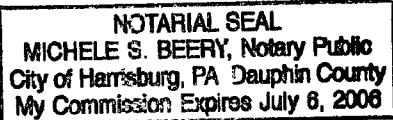
Kandice J. Giurintano

Sworn to and subscribed  
before me this 5<sup>th</sup> day of  
April, 2005.



Michele S. Beery

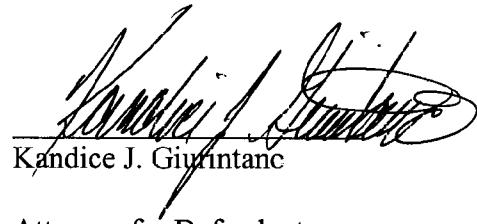
Notary Public



**CERTIFICATE OF SERVICE**

I hereby certify that on this date the foregoing document was served upon the following via postage prepaid certified mail, return receipt requested:

J. Kline Enterprises  
1162 Buckett Road  
Osceola Mills, PA 16666



Kandice J. Giurintanc

Attorney for Defendant

Dated: April 5, 2005

16K  
FILED 1CC Puff  
019-4001 1162 Bucket Line  
MAY 04 2005 Road  
William A. Shaw  
Prothonotary/Clerk of Courts 16666  
Osceola Mills, PA  
1CC Atty Givin and

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

J. KLINE ENTERPRISES : :

VS. : NO. 04-1784-CD

YORK BUILDING PRODUCTS : :

O R D E R

NOW, this 2nd day of May, 2005, following argument on the Preliminary Objections filed on behalf of the Defendant; with the Court believing for the reasons as appear of record that the Plaintiff should have further opportunity to file an Amended Complaint more specifically setting forth the basis of his cause of action, attaching any necessary documents and making the averments which the Plaintiff feels may be necessary in order to show that this Court has venue pursuant to Pennsylvania Rule of Civil Procedure No. 2179(a), it is the ORDER of this Court that Preliminary Objections are granted to the extent that the Plaintiff shall have no more than twenty (20) days from this date in which to file an Amended Complaint to attempt to deal with the issues as discussed.

Preliminary Objections are otherwise dismissed without prejudice for the Defendant to raise any Preliminary

Objections which the Defendant feels to be relevant and applicable following the filing of the Amended Complaint.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Judge J. Zimmerman". The signature is fluid and cursive, with "Judge" on the left and "J. Zimmerman" on the right, separated by a short horizontal line.

President Judge

CA

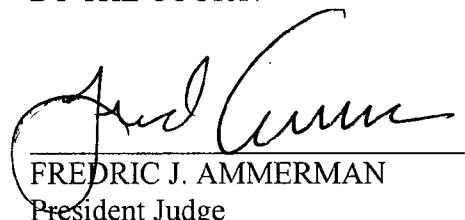
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL DIVISION

J. KLINE ENTERPRISES :  
vs. : No. 04-1784-CD  
YORK BUILDING PRODUCTS, INC. :

**ORDER**

AND NOW, this 26 day of May, 2005, upon consideration of the letter from Plaintiff dated May 20, 2005, it is the ORDER of the Court that Plaintiff's request for an extension to file an Amended Complaint is granted. Plaintiff is directed to file his Amended Complaint on or before Friday, June 3, 2005.

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

FILED  
04-1784-CD  
MAY 26 2005

V. M. Shaw  
Prothonotary Clerk of Courts

1cc  
Atty Giurintano  
1cc Plaintiff  
1162 Bucketline Road  
Osceola Mills, PA 16646

60

*J. Kline Enterprises*  
1162 Bucketline Rd.  
Osceola Mills, PA. 16666  
(814) 339-7811

*Building/Grounds Maintenance*      *Excavating/Landscaping Services*

20 MAY 05

Clearfield Co. Court House  
President Judge  
Fredric J Ammerman

RE: J. Kline Enterprises v. York Building Products Co. Inc.  
Docket No. 04-1784-CI

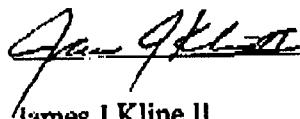
Dear Sir;

In reference to the above matter, on 02 MAY 05 by your order I was given 20 days to submit to the court an amended/revised complaint at the request of the defendant. I have been contacted by the defendant and settlement discussions are pending; to that extent the defendant asked that I not submit further documents to the court until the settlement discussions are completed (either in favor of a settlement or not). The defendant has granted an extension, satisfactory to them and at their request, until 03 JUN 05 to file an amended complaint. Copy of notification following.

In an effort to limit the amount of work necessary for the court to receive and process additional documentation I will gladly submit to the defendants request, if it is acceptable to the court as the submitting of the revised complaint was an order of the court.

I would ask that I receive notification from the court if this extension is acceptable so as to remain within the order of the court. I can be notified via fax or phone at (814) 339 - 7811. I will in turn notify the defendant via fax at (717) 237 - 5300.

Sincerely;



James J Kline II

*"And whatsoever ye do in word or deed, do all in the name of the Lord Jesus, giving thanks to God and the Father by him."*

*MWN*

**McNees Wallace & Nurick LLC**  
attorneys at law

KANDICE J. GIANTANIO  
DIRECT DIAL: (717) 232-5452  
E-MAIL ADDRESS: KGIANTANIO@MWN.COM

May 20, 2005

Mr. Jim Kline  
J. Kline Enterprises  
1162 Buckett Road  
Osceola Mills, PA 16666

**VIA FACSIMILE**

RE: J. Kline Enterprises v. York Building Products Co., Inc.  
Docket No. 04-1784-CD

Dear Mr. Kline:

I received your voice message of May 19, 2005 regarding settlement of the above-referenced case. I have not yet had the opportunity to speak with my client regarding the details of your settlement proposal and can neither accept nor reject the offer at this time.

As I explained in my voice mail message to you, we do not believe it is necessary for you to file an Amended Complaint while the parties are engaged in good faith settlement negotiations. To that end, this letter will confirm that you have an extension of time until June 3, 2005 to file the Amended Complaint in this matter. Hopefully, the parties can reach a resolution of this matter before that date.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

*Kandice J. Giantano*  
Kandice J. Giantano

c: Joseph P. Clark, II, Esquire (via first class mail)

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

J. KLINE ENTERPRISES, )  
Plaintiff )  
vs. ) NO. 2004-1784-CD  
YORK BUILDING PRODUCTS CO, INC., )  
Defendant )

O R D E R

NOW, this 7<sup>th</sup> day of June, 2005, upon consideration of the letter from the Plaintiff dated June 3, 2005; it is the ORDER of this Court that Plaintiff's request for an extension of thirty (30) days from the date of this Order for further submission of documentation to the Court be and is hereby GRANTED.

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

FILED 10:18 AM 1162 Bucketline Road  
JUN 07 2005 Osceola Mills, PA  
William A. Shaw  
Prothonotary/Clerk of Courts  
166666

1CC Atty Giurintano  
(6K)

*Building/Grounds  
Maintenance*

*J. Kline Enterprises  
1162 Bucketline Rd.  
Osceola Mills, PA. 16666  
(814) 339-7811*

*Excavating/Landscaping  
Services*

03 JUN 05

Clearfield Co. Court House  
President Judge  
Fredric J Ammerman

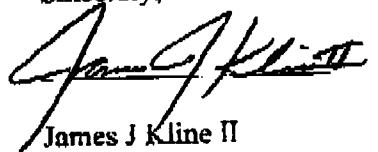
RE: J. Kline Enterprises v. York Building Products Co. Inc.  
Docket No. 04-1784-CD

Dear Sir;

In reference to the above matter, on 26 MAY 05 by your order I was given an extension until 03 JUN 05 to submit to the court an amended/revised complaint (the extension was at the request of both mine and the defendant because settlement discussions were in progress). I have been contacted by the defendant and a settlement agreement has been reached; the defendant is preparing the settlement documents for submittal to the courts. To that extent I would ask the court to grant an extension of 30 days for further submission of documentation to the court, this extension should cover the amount of time required for the defendant to prepare and submit their required documentation.

A copy of notification of settlement agreement from the defendant is following.

Sincerely;

  
James J. Kline II

*JD  
Order  
GRANTING  
Ex parte*

*"And whatsoever ye do in word or deed, do all in the name of the Lord Jesus, giving thanks to God and the Father by him."*

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

J. Kline Enterprises,  
Plaintiff

v.

Docket No. 04-1784-CD

York Building Products Co., Inc  
Defendant

**PRAECIPE TO DISCONTINUE THE ABOVE ACTION**

TO THE PROTHONOTARY:

Please discontinue the above referenced action as a settlement agreement has been reached with the defendant.



James J. Kline II

16  
FILED No CC  
M 10:39 AM 2<sup>nd</sup> Cert. of Disc.  
JUL 27 2005 to Plaintiff  
William A. Shaw Copy to CIA  
Prothonotary Clerk of Courts

TO THE PROTHONOTARY:

REFERENCE:

J. Kline Enterprises,  
Plaintiff

v.

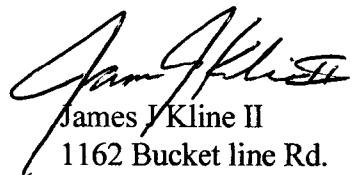
Docket No. 04-1784-CD

York Building Products Co., Inc  
Defendant

Dear Sir;

In reference to the above case, a settlement agreement has been reached with the defendant. Per the agreement I have been asked to file a praecipe discontinuing litigation. Following is the document requesting that the action be discontinued; if it is not acceptable to the court in the form that it is please advise me and I will change as required.

Sincerely;



James J. Kline II  
1162 Bucket line Rd.  
Osceola Mills, PA 16666  
(814) 339 - 7811

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

 COPY

CIVIL DIVISION

**J. Kline Enterprises**

VS. **No. 2004-01784-CD**  
**York Building Products Co. Inc.**

**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 July 27, 2005, marked:

Discontinued

Record costs in the sum of \$85.00 have been paid in full by York Building Products Co., Inc.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 27th day of July A.D. 2005.

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William A. Shaw, Prothonotary