

05-202-CD  
Monroe Miller et al vs. Daniel Miller

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Monroe Miller v. Daniel Miller et al  
2005-202-CD

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Monroe D. Miller and  
Clara A. Miller,  
Owners/Plaintiffs/Defendants

**FILED** No  
01/9/14/05 cc  
FEB 14 2005 Amy M.  
William A. Shaw Prothonotary/Clerk of Courts Pothoven pd.  
20.00

v.

Daniel E. Miller,  
Contractor/Defendant/Plaintiff

**CONTRACTOR'S WAIVER AND RELEASE OF LIENS**

This Agreement made and entered into this 9<sup>th</sup> day of February, 2005, by and between Monroe D. Miller and Clara A. Miller, hereinafter Owners/Plaintiffs/Defendants, of 420 Shamokin Trail, DuBois, PA 15801, and Daniel E. Miller, hereinafter Contractor/Defendant/Plaintiff, of RD #4, Box 416A, DuBois, PA 15801:

WHEREAS it is the desire of the Owners/Plaintiffs/Defendants that the undersigned Contractor/Defendant/Plaintiff for himself and anyone else acting or claiming through or under him, waive or release any rights or claims that they may now have or may in the future have that are commonly known as Mechanics or Materialmens Liens or Claims on the premises described more particularly in Exhibit "A" attached hereto and made a part hereof.

1. That the undersigned Contractor/Defendant/Plaintiff for himself, the Subcontractors, Materialmen, their heirs, executors, administrators, assigns or anyone else acting or claiming through or under them intending to be legally bound do hereby waive or relinquish all right to file a Mechanics Lien, claim or Notice of Intention to any lien or claim and so hereby covenant, promise and agree that no Mechanics Lien or other lien or Claim of any kind whatsoever shall be filed or maintained against the improvements of the estate or title of the Owners/Plaintiffs/Defendants in the property or the curtilage or cartilages appurtenant thereto by or in the name of the Contractor/Defendant/Plaintiff or any other Subcontractor, Materialman and Laborer for work done and materials furnished under the contract or by any other party acting through or under them or any of them for and about the improvements or the property or any part thereof or on credit thereof and that all Subcontractors, Materialmen and Laborers on the work shall look to and hold the Contractor/Defendant/Plaintiff personally liable for all subcontracts, materials furnished and work and labor done so that there shall not be any legal or lawful claim of any kind whatsoever against the Owners/Plaintiffs/Defendants for any work done or labor or materials furnished under the contract for the erection,

construction, completion of the improvements, or under any contract for any extra work or for work supplemental thereto or otherwise.

2. This Agreement waiving the right of the lien shall be an independent covenant and shall operate and be effective as well as in respect to work done and materials furnished under any supplemental contract for extra work in the erection, construction, and completion of the improvements under the contract. The Contractor/Defendant/Plaintiff for himself and anyone else acting or claiming through or under him, including all Subcontractors, Materialmen or Laborers do hereby agree for themselves, their heirs, successors, administrators and assigns, to release all liens which they may now or hereafter may have on the premises described herein by reason of any materials furnished or yet to be furnished or work performed or yet to be performed by them or any person claiming under them for and towards the erection and construction of improvements on said premises.

3. The Contractor/Defendant/Plaintiff for himself, the Subcontractors, Materialmen, Laborers or anyone else claiming or acting through or under them, including their heirs, administrators, executors and assigns do hereby agree to release and forever quitclaim and by these presents do remise, release and forever quitclaim to the Owners/Plaintiffs/Defendants, their heirs and assigns, all manner of liens, claims and demands whatsoever that any of them might have or could have had or may in the future have for work done or yet to be done or materials furnished or yet to be furnished by any of them and hereby agree not to file any liens, claims or demands against the premises, to promptly discharge the same.

4. It is the desire of the parties hereto that all benefits of this Agreement shall inure not only to the Owners/Plaintiffs/Defendants but also to any Mortgagees.

5. This Agreement shall be binding upon the parties hereto as well as any person claiming under them in regard to the erection, construction or completion of any improvements that have been erected or will be erected on the premises that are described more particularly in Exhibit "A", attached hereto and made a part hereof.

6. This Agreement shall be filed in the Prothonotary's Office of Clearfield County, Commonwealth of Pennsylvania, in accordance with the Mechanics' Lien Act of 1963 and it is the express intent of the parties to be legally bound hereby in accordance with the provision of the Mechanics' Lien Act of 1963.

7. By executing this Agreement, the Owners/Plaintiffs/Defendants

do hereby certify that either no work has been performed or materials have been supplied by any person, partnership, or corporation, that would entitle that person, partnership, or corporation, at this time or in the future to file any Mechanics Lien or claim against the premises or in the alternative if any person, partnership, or corporation may, prior to the execution of this Agreement have the right or in the future will have the right to file a Mechanics Lien or claim, that any such right has been extinguished and terminated by the execution of this Agreement and that all persons, partnerships, or corporations shall be prevented from maintaining or filing any Mechanics Lien or claim by virtue of the fact that they have executed this Agreement or some other party has executed this Agreement, and they would be prevented from filing or maintaining any Mechanics Lien or claim as a result of that party's execution of this Agreement.

WITNESS the due execution hereof and intending to be legally bound hereby that as of at least one day before any labor or materials have been provided for the improvements to the premises.

Witness:

Mary A. Potner

Daniel E. Miller

Daniel E. Miller, Contractor/  
Defendant/Plaintiff

Monroe D. Miller

Monroe D. Miller

Monroe D. Miller, Owner/  
Plaintiff/Defendant

Clara A. Miller

Clara A. Miller

Clara A. Miller, Owner/Plaintiff/  
Defendant

COMMONWEALTH OF PENNSYLVANIA:

SS

COUNTY OF JEFFERSON :

On this, the 9<sup>th</sup> of February, 2005, before me the undersigned officer, a notary public, personally appeared Monroe D. Miller and Clara A. Miller, Owners, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Jodi A. Anderson  
Notary Public

My Commission Expires: 4/22/07

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Jodi A. Anderson, Notary Public  
Reynoldsville Boro, Jefferson County  
My Commission Expires Apr. 22, 2007

Member, Pennsylvania Association Of Notaries

COMMONWEALTH OF PENNSYLVANIA:

SS

COUNTY OF JEFFERSON :

On this, the 9<sup>th</sup> of February, 2005, before me the undersigned officer, a notary public, personally appeared Daniel E. Miller, Contractor, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Jodi A. Anderson  
Notary Public

My Commission Expires: 4/22/07

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Jodi A. Anderson, Notary Public  
Reynoldsville Boro, Jefferson County  
My Commission Expires Apr. 22, 2007

Member, Pennsylvania Association Of Notaries

## EXHIBIT "A"

ALL that certain piece, parcel or tract of land lying and being in the Borough of Troutville, Clearfield County, Pennsylvania, bounded and described as follows to wit:

BEGINNING at a rebar set by this survey, said rebar being N 00 degrees 22 minutes E a distance of 630.98 feet from an existing cut stone, the common corner of lands now or formerly James H. & Jane M. Bonsal (Deed Book 530 Page 247, dated January 26, 1967) and Daniel E. & Katieann H. Miller (Instrument Number 200404763, dated March 22, 2004) said rebar being the southeast corner of the herein described parcel,

THENCE; N 89 degrees 38 minutes 00 seconds W through lands now or formerly Daniel E. & Katieann H. Miller (Instrument Number 200404763, dated March 22, 2004) a distance of 440.00 feet to a rebar set by this survey, and being the southwest corner of the herein described parcel;

THENCE; N 00 degrees 22 minutes 00 seconds E through lands now or formerly Daniel E. & Katieann H. Miller (Instrument Number 200404763, dated March 22, 2004) and through the southern Right-of-Way for S.R. 410 (50' R/W) a distance of 848.57 feet to a P.K. nail set in the centerline of said S.R. 410, and being the northwest corner of the herein described parcel,

THENCE; N 57 degrees 44 minutes 45 seconds E along lands now or formerly Henry J. Lee and Amanda A. Lee (Instrument Number 200404762, dated March 22, 2004) and along the centerline for S.R. 410 (50' R/W) a distance of 357.17 feet to a P.K. nail set in the centerline of said S.R. 410,

THENCE; through lands now or formerly Henry J. Lee and Amanda A. Lee (Instrument Number 200404762, dated March 22, 2004) and along the centerline for said S.R. 410 (50' R/W) by a curve to the left, said curve having a radius of 1667.97 feet and an arc length of 168.64 feet, said arc having a chord bearing of N 56 degrees 02 minutes 10 seconds E a chord distance of 168.57 feet to a P.K. nail set in the centerline of said S.R. 410, and being the northeast corner of the herein described parcel,

THENCE; S 00 degrees 22 minutes 00 seconds W along lands now or formerly James H. and Jane M. Bonsal (Deed Book 530 Page 247, dated January 26, 1967) and through the southern Right-of-Way for S.R. 410 (50' R/W) a distance of 1136.16 feet to the place of beginning.

CONTAINING 435,600 square feet or 10.00 Acres, together with no buildings or structures.

TOGETHER WITH A 50 FOOT RIGHT-OF-WAY, for uninterrupted access from S.R. 410 to the above-described 10 acre parcel, bounded and described as follows:

BEGINNING at a P.K. nail set in the centerline for S.R. 410 (50' R/W), said nail being the northwest corner of the above described parcel of realty.

THENCE; S 00 degrees 22 minutes 00 seconds W along lands intended to be conveyed to Monroe D. and Clara C. Miller and through the southern Right-of-Way for S.R. 410 (50' R/W) a distance of 491.74 feet to a point,

THENCE; N 89 degrees 38 minutes 00 seconds W through lands now or formerly Daniel E. & Katieann H. Miller (Instrument Number 200404763, dated March 22, 2004) a distance of 50 feet to a point,

THENCE; N 00 degrees 22 minutes 00 seconds E through lands now or formerly Daniel E. & Katieann H. Miller (Instrument Number 200404763, dated March 22, 2004) and through the southern Right-of-Way for S.R. 410 (50' R/W) a distance of 459.74 feet to a point in the centerline of S.R. 410,

THENCE; N 57 degrees 44 minutes 45 seconds E along the centerline of S.R. 410 (50' R/W) a distance of 59.36 feet to the place of beginning.

Being subject to any utility easements or rights-of-way that may be of record.

Being a portion of parcel number 27 of Clearfield County Assessment Map Number 18-1-A6.

Being the same premises as surveyed and drawn by Alexander & Associates Inc., Falls Creek, PA 15840. Said survey plat is dated June 26, 2004, referenced as JN2588-04, and intended to be recorded in the Clearfield County Courthouse for a more particular description.

Being further identified as Clearfield County Tax Map No. 18-A06-000-00038.

Being the same premises conveyed to Monroe D. Miller and Clara A. Miller pursuant to a deed from Daniel E. Miller and Katieann H. Miller by Deed dated July 6, 2004 and recorded in Clearfield County Recorder's Office as Instrument No. 200411114.