

05-782-CD
Virginia Stuller vs. Charles Zidik, et al

Virginia Stuller v. Charles Zidik et al
2005-782-CD

Date: 08/03/2005

Time: 10:11 AM

Page 1 of 1

Clearfield County Court of Common Pleas

ROA Report

Case: 2005-00782-CD

Current Judge: Fredric Joseph Ammerman

User: LBENDER

Virginia M. Stuller vs. Charles Zidik, Kimberly Zidik

Civil Other

Date		Judge
05/31/2005	New Case Filed.	No Judge
	✓ Filing: Civil Complaint Paid by: Stuller, Virginia M. (plaintiff) Receipt number: 1901901 Dated: 05/31/2005 Amount: \$85.00 (Check) 2 Cert. to Plff.	No Judge
06/13/2005	✓ Request For Board of Arbitrators, filed by s/Virginia M. Stuller, Plaintiff. 2 Time-stamped copies to plff without exhibits	No Judge
06/17/2005	✓ Sheriff Return filed. Now, June 09, 2005, Cambria County served the Complaint on Charles and Virginia Zidik, Defendant. So Answers Chester A. Hawkins, Shff, by s/ Marilyn Hamm	No Judge
	✓ Sheriff Return filed. NOW, June 16, 2005 served the within request for Board of Arbitrators on Charles & Kimberly Zidik, Defs. So Answers Chester A. Hawkins, Shff., By s/ Marilyn Hamm	No Judge
06/20/2005	✓ Entry of Appearance, on behalf of Defendants Charles and Kimberly Zidik, filed by s/ Timothy S. Burns, Esquire. No CC	No Judge
	✓ Preliminary Objections To Plaintiff's Complaint, filed by s/ Timothy S. Burns, Esquire. 1CC to Atty.	No Judge
06/22/2005	✓ Order, this 21st day of June, 2005, upon consideration of Defendant's Preliminary Objections to Plaintiff's Complaint, it is the Order of the court that argument has been scheduled for the 22nd day of July, 2005 at 1:30 p.m. in Courtroom No. 1. /s/ Fredric J. Ammerman, Pres. Judge. 2CC atty T. Burns w/memo	Fredric Joseph Ammerman
07/08/2005	✓ Affidavit of Service filed. On June 16, 2005, Virginia M. Stuller, was sent a true and correct copy of Preliminary Objections filed by s/ Timothy S. Burns Esquire. No CC.	Fredric Joseph Ammerman
	✓ Order, this 8th day of July, 2005, it is the ORDER that matter is scheduled for Arbitration on Tuesday, September 13, 2005 at 1:00 p.m. The following have been appointed as Arbitrators: Carl A. Belin, Jr., Esquire, Chairman Barbara J. Hugney-Shope, Esquire Christopher J. Shaw, Esquire. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 5CC to C/A	Fredric Joseph Ammerman
07/11/2005	✓ Certified Mail of Order, dated July 8, 2005 of a matter scheduled for Arbitration on Tuesday, September 13, 2005 at 1:00 P.M., sent copy of order to plff on 7-8-05 by CA.	Fredric Joseph Ammerman
08/01/2005	✓ Order, this 29th day of July, 2005, Defendants' First Preliminary Objection is Granted. The Plaintiff's Complaint is dismissed with prejudice. The Arbitration scheduled for September 13, 2005 at 1:00 p.m. is canceled. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff, 1CC Atty T. Burns	Fredric Joseph Ammerman

Backus USA, Inc., Freshtec Food Processing Equipment International, vs. Precision Fabrication and Controls, Inc.,
Advanced Industrial Controls, Inc.

Equity

Date		Judge
11/18/2004	✓ ORDER, filed Cert. to Atty. Hopkins, Brew and Advanced Industrial. NOW, this 9th day of November, 2004, RE: Testimony relative to the motion for preliminary injunction, ORDERED that defendants their agents and etc. are enjoined and restrained from. (see original ORDER)	Paul E. Cherry
	✓ Order Of Court, filed. cert. to Atty. Hopkins, Brew and Advanced Industrial. NOW, this 9th day of November, 2004, Parties have reached agreement relative to the petition for consolidation, ORDERED that the matter filed to McKean County Court Docket # 915 CD 2004 shall be consolidated with all Clearfield County matters filed to Dockets No. 04-1577-CD and 04-1146-CD. Further ORDERED that all stays entered by this Court are hereby lifted. Plaintiff shall be responsible for any costs with the transfer.	Paul E. Cherry
12/15/2004	✗ Copy of whole record of Plaintiff and Defendant, as the same remains of record before the said Court at No. 915 CD 2004, filed by s/ Bonnie Moore Howard, Prothonotary, Commonwealth of Pennsylvania, County of McKean. Original filed to 04-1146-CD	Paul E. Cherry
01/21/2005	✗ Motion for Sanction II: Defendant, Precision Fabrication and Controls, Inc. Motion for Sanctions Requesting Order Directing Responsive Answers to Interrogatories, filed by Atty. Brew. 1 CC To Atty. 1/25/05 Letter to Eugene Brew, Esq., Re: Court will not address without a proposed scheduling order	Paul E. Cherry
01/31/2005	✗ Request for Admissions, filed by s/Eugene J. Brew, Esq. No CC	Paul E. Cherry
	✗ Amended Request for Status Conference, filed by s/Eugene J. Brew, Esq. One CC Attorney Brew	Paul E. Cherry
	✗ Motion For Sanctions II: Defendant, Precision Fabrication and Controls, Inc. Motion for Sanctions Requesting Order Directing Responsive Answers to Interrogatories. Filed by s/Eugene J. Brew, Jr., Esq.	Paul E. Cherry
02/01/2005	✓ Order of Court, AND NOW, this 1st day of February, 2005, upon receipt of Plaintiff, Precision Fabrication and Controls, Inc.'s Motion for Sanctions II, Orderd: 1. Argument shall be heard on this Motion before the Court on March 17, 2005, at 10:00 a.m. 2. Counsel for Precision Fabrication and Controls, Inc. may participate in this Argument by telephone conference call. BY THE COURT: /s/Paul E. Cherry, Judge One CC Attorney Brew	Paul E. Cherry
	✓ Order of Court, AND NOW, this 1st day of February, 2005, after Status Conference, it is Ordered: (See Original for details). A further status conference will be held on March 17, 2005. Counsel for Precision may participate by telephone conference call at 10:00 a.m. BY THE COURT: /s/Paul E. Cherry, Judge One CC Attorney Brew	Paul E. Cherry
02/03/2005	✗ Answer To Motion for Sanctions No. 2, filed by s/ David J. Hopkins, Esquire. 1CC Atty Hopkins, Original to 04-1146-cd	Paul E. Cherry
02/07/2005	✗ Amended Request for Admissions, filed by s/Eugene J. Brew, Esq. NO CC	Paul E. Cherry
03/09/2005	✗ Certificate of Service, filed by Atty. Hopkins no cert. copies. Served copy of Response to Amended Request for Admissions upon Atty. Brew.	Paul E. Cherry
04/04/2005	✗ Motion to Order Bond Posted, filed by s/Eugene J. Brew, Esq. No CC	Paul E. Cherry
04/06/2005	✗ Motion for Sanctions III: Defendant, Precision Fabrication & Controls, Inc.'s Motion for Sanctions III Requesting an Order Directing Defendant to Answer Interrogatories, filed by s/Eugene Brew, Esq. No CC	Paul E. Cherry

VIRGINIA M. STULLER,

PLAINTIFF

VS.

CHARLES AND KIMBERLY ZIDIK

325 REAR 2ND STREET
CONEMAUGH, PA 15909

DEFENDANT

: IN THE COURT OF COMMON PLEAS OF

CLEARFIELD COUNTY, PENNSYLVANIA

: CIVIL ACTION

05-782-CD

COMPLAINT

Filed on behalf of

Virginia M. Stuller

Counsel for this party

Virginia M. Stuller and witnesses

27619 Dowlers Road

PO box 104

Glen Campbell, PA 15742

(814) 845-7344

Counsel for adverse party

Unknown

Dated: May 31, 2005

FILED ^{Plff pd.} 85.00
^{012:15.61}
MAY 31 2005 2cc Plff

William A. Shaw
Prothonotary/Clerk of Courts

VIRGINIA M. STULLER,

: IN THE COURT OF COMMON PLEAS OF

**PLAINTIFF
VS.**

CLEARFIELD COUNTY , PENNSYLVANIA

**CHARLES AND KIMBERLY ZIDIK
325 REAR 2ND STREET
CONEMAUGH, PA 15909**

: CIVIL ACTION

DEFENDANT

NOTICE

You have been sued in Court. If you wish to defend against the claims set fourth in the following pages, you must take action within 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 is you fail to do so the case my proceed with out you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other Claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

**Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641, ext. 1300**

VIRGINIA M. STULLER,

: IN THE COURT OF COMMON PLEAS OF

PLAINTIFF

CLEARFIELD COUNTY , PENNSYLVANIA

VS.

CHARLES AND KIMBERLY ZIDIK

: CIVIL ACTION

**325 REAR 2ND STREET
CONEMAUGH, PA 15909**

DEFENDANT

COMPLAINT

**AND NOW comes the plaintiff, Virginia M. Stuller and witnesses, to
complain against the defendant as follows:**

- (1) The plaintiff is a citizen currently residing at 27619 Dowlers rd. rt. 286 Glen Campbell Pa. 15742, Clearfield County.**
- (2) The Defendants were negligent in the construction of the porch/deck.
(Attached is a letter from. Brian Wruble (Clearfield County Building Inspector).**
- (3) The defendants claimed that they were licensed, private contractors, and were fully knowledgeable of and aware of what the plaintiff wanted done to her home.**
- (4) The defendants did in fact construct a porch/deck, approx. 10x14'. The defendant was paid in full (\$ 3,972) for this, and then was taken to district court 46-3-04 and a judgment was passed against the defendant on Dec 16th 2002 in the amount of \$1,404.07 for overpayment.**
- (5) On or about June 11th 2002 Mr. and Mrs. Zidik received \$2,800 in cash for materials. Also on June 23rd they received a check for \$500.00.**

(6) Mr. and Mrs. Zidik were contacted on the telephone several times between the months of July 2002 and October of 2002 to come and correct this problem. They failed to do so.

(7) Due to Mr. and Mrs. Zidiks negligence the porch/deck collapsed on or about the months of February and March of 2004 due to snowfall.

(8) Due to the structure collapsing it damaged the outside window frame and also the new screen door. And many items that were on the porch: Sunbeam gas grill, outside table and chairs and 3 lawn chairs.

COUNT 1 EX CONTRACTRACTU

(9) All of the above allegations are incorporated herein and made a part hereof.

(10) Inherent in the verbal contract of employment between the parties hereto was that the plaintiff was placing her home in the custody care and control of the defendants for building and repairing said porch/deck. The defendants agreed to repair/build porch/deck consistent with the instructions and request of plaintiff and to make certain that porch/deck was secure.

(11) In view of above allegations, the defendants breached his contractual duty as herein stated which caused the plaintiff to suffer a loss in the amount of \$5,980.00.

WHEREFOR, plaintiff demands judgment against the defendants in the amount of 5,980.00.

COUNT 2 NEGLIGENCE

(12) All of the above allegations are incorporated herein and made a part hereof.

(13) Due to the negligence of the defendants the plaintiff suffered a loss herein stated.

a) The defendants being a bailee of the construction of the plaintiff's home failed to comply with Pennsylvania building construction codes. They also failed to obtain a building permit for the structure.

b) The defendants failed to take proper safeguards for building and property.

c) The defendants failed to use proper supplies and materials.

d) The defendants were notified about the instability of the structure and failed to correct it. By not building the structure correctly the defendants allowed the collapsing of the structure to happen.

WHEREFORE, plaintiff demands judgment against the defendants in an amount less than \$7,000.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:	46-3-04
DJ Name: Hon.	JAMES L. HAWKINS
Address:	251 SPRING STREET P.O. BOX 362 HOUTZDALE, PA
Telephone:	(814) 378-7160 16651-0362

VIRGINIA M. STULLER
RR 3, BOX 275
SHELOCTA, PA 15774

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF: NAME and ADDRESS
STULLER, VIRGINIA M
RR 3, BOX 275
SHELOCTA, PA 15774

VS.

DEFENDANT: NAME and ADDRESS
ZIDIK, CHARLES, ET AL.
325 REAR 2ND STREET
CONEMAUGH, PA 15909

Docket No.: **CV-0000142-02**
Date Filed: **10/11/02**



THIS IS TO NOTIFY YOU THAT:

Judgment:

FOR PLAINTIFF

☒ Judgment was entered for: (Name) **STULLER, VIRGINIA M**

☒ Judgment was entered against: (Name) **ZIDIK, CHARLES**

in the amount of \$ **1,404.07** on: (Date of Judgment) **12/16/02**

☐ Defendants are jointly and severally liable. (Date & Time) _____

☐ Damages will be assessed on:

☐ This case dismissed without prejudice.

☐ Amount of Judgment Subject to Attachment/Act 5 of 1996 \$ _____

☐ Levy is stayed for _____ days or ☐ generally stayed.

☐ Objection to levy has been filed and hearing will be held:

Amount of Judgment	\$ 1,300.00
Judgment Costs	\$ 104.07
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 1,404.07

Post Judgment Credits \$ _____
Post Judgment Costs \$ _____

=====
Certified Judgment Total \$ _____

Date:	Place:
Time:	

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.

12-16-02 Date James L. Hawkins, District Justice

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

_____, Date _____, District Justice



935 PHILADELPHIA STREET
INDIANA, PENNSYLVANIA 15701

216328

JUNE 11

2002

8-143
430

PAY TWO THOUSAND EIGHT HUNDRED DOLLARS AND NO CENTS DOLLARS \$ 2,800.00

TO
THE
ORDER
OF
FEDERAL
HOME LOAN
BANK
OF PITTSBURGH
PITTSBURGH, PA

VIRGINIA M STULLER
PR 3 BOX 275
SHELOCTA PA 15774-9525

NOT-NEGOTIABLE

AUTHORIZED SIGNATURE

DETACH HERE BEFORE DEPOSITING

INDIANA FIRST SAVINGS BANK
935 PHILADELPHIA STREET, INDIANA, PA 15701

216328

YOUR ENDORSEMENT ON THE ABOVE CHECK WILL ACKNOWLEDGE RECEIPT IN FULL FOR THE ITEMS LISTED BELOW. SHOULD THERE BE ANY QUESTIONS REGARDING THIS CHECK RETURN IT TO US WITHOUT ALTERATION.

DATE	DESCRIPTION	AMOUNT
JUN 11, 2002	SV239502808 U/D	2,800.00
	Teller #19143 Terminal #16757	
	Total Amount	2,800.00

VIRGINIA M. STULLER R.R. 3, BOX 275 PH. 724-354-4061 SHELOCTA, PA 15774		60-7335/2433 302305043149	139
DATE <u>6-23-02</u>			
PAY TO THE ORDER OF <u>Charles Zidek</u>		\$ <u>500.00</u>	
<u>five hundred dollars and no cents</u>		DOLLARS	
INDIANA FIRST BANK 475 Ben Franklin Rd., S., Indiana, Pennsylvania 15701			
MEMO <u>Virginia M. Stuller</u>			
⑆243373358⑆30230504314 9⑈0139 ⑈0000050000⑈			



ZADRAVEC CONTRACTING

1170-C WAYNE AVENUE

INDIANA, PA 15701

(724) 465-7511

FAX: (724) 485-7568

TO: Virginia Stuller
Rural Rt. 3 Box 275
Shelocta, Pa. 15774

PROPOSAL

PHONE

724-354-4061

DATE

Oct. 17, 2002

JOB NAME/LOCATION

Box 91
Glen Campbell, Pa.

JOB NUMBER

JOB PHONE

We hereby submit specifications and estimates for:

To remove present new 12 ft. x 14-ft. pressure treated deck & shed roof because of not being structurally sound in my opinion.

The floor joists are spanning 14 ft. long & are out of 2x6 24" o/c, this should be a minimum of 2x8 16" o/c or 2x10 24" o/c.

The roof rafters are spanning 14 ft. with 2x6 24" o/c this should be a minimum of 2x6 16" o/c or 2x8 24" o/c.

To replace deck with 2x10 pressure treated floor joists then 5/4" decking with picket railing & step.

To build shed type roof with 2x6 rafters 16" o/c with 5/8" plywood, Ice Guard on entire roof & shingles to match house roof. This will have a maintenance free ceiling.

All labor & materials: \$5,980.00

Notes: o/c refers to on center.

WE PROPOSE hereby to furnish material and labor — complete in accordance with the above specifications, for the sum of:

dollars (\$

).

Payment to be made as follows:

All material is guaranteed to be as specified. All work to be completed in a professional manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Worker's Compensation insurance.

Authorized
Signature

Note: This proposal may be
withdrawn by us if not accepted within

days.

ACCEPTANCE OF PROPOSAL — The above prices specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance: _____

Signature _____

Signature _____

BRIAN WRUBLE
GUARDIAN INSPECTION SERVICES

4 Cherrywood Drive
DuBois, Pennsylvania 15801

Phone (814) 375-4473

VIRGINIA STULLER
P.O. BOX 104
GLEN CAMPBELL, PA 15742

April 29, 2004

DEAR MS. STULLER,

IN REGARDS TO YOUR DECK AND ROOF COLLAPSING, I FOUND FAULT WITH THE STRUCTURAL ELEMENTS AND CONSTRUCTION OF THE STRUCTURE DURING MY INSPECTION ON APRIL 26, 2004. I FEEL THE FOLLOWING IS NOT ACCEPTABLE:

DECK AND FLOOR STRUCTURE

1. 2X6 FLOOR JOISTS 24 INCHES ON CENTER FOR A 14 FOOT SPAN WITH 2 THREE INCH NAILS FOR FASTENING
2. NO FOUNDATION SUPPORTS EXCEPT OUTSIDE CORNERS WHERE IT WAS FASTENED TO THE EXISTING STRUCTURE WITH TAP CONS. THE MIDDLE THIRD WAS THE ONLY SUPPORT DUE TO AN OFFSET ON THE FOUNDATION. THE OUTER FLOOR JOISTS' FACE BOARDS WERE TOE NAILED WITH TAP CONS, WHICH IS UNACCEPTABLE.
3. THERE WERE NO JOIST HANGERS ON HALF OF THE JOISTS. THE FASTENING OF ALL MATERIAL WAS BELOW STANDARDS.

ROOF STRUCTURE

1. 2X6 ROOF RAFTERS WITH A 14 FOOT SPAN WITH NO VISIBLE SUPPORT. WHERE THE ROOF RAFTERS WERE TIED IN TO THE EXISTING FASCIA BOARD, THE FASCIA BOARD WAS A 1X9 FOR SUPPORT AND VISIBLY ROTTEN. IT SHOULD HAVE BEEN REPLACED WITH 2 INCH LUMBER. THERE WERE NO RAFTER HANGERS AND IT WAS ONLY FASTENED WITH 2 THREE INCH NAILS WHICH WERE TOE NAILED WITH ONE ON EACH SIDE.
2. THE ROOF SHINGLES WERE NOT TIED IN TO THE EXISTING ROOF AND WERE NOT INSTALLED TO MEET THE MANUFACTURERS INSTALLATION INSTRUCTIONS.

IT IS IN MY OPINION THAT THE STRUCTURE WAS BUILT BELOW STANDARDS. IT WAS NOT BUILT TO WITHSTAND THE WEIGHT OF A 30 LB SNOW LOAD WHICH WE HAVE IN OUR CLIMATE. THE JOIST SYSTEM SHOULD HAVE BEEN BUILT WITH 2X8 LUMBER 16 INCHES ON CENTER, WITH A FOUNDATION GIRDER WITHIN THE SPAN OF THE FLOOR, WITH HANGERS AND FASTENED TO STANDARD. WHERE THE DECK CONNECTS TO THE EXISTING FOUNDATION, THE OFFSETS ON THE FOUNDATION SHOULD HAVE BEEN CORRECTED. THE EXISTING FASCIA BOARD SHOULD HAVE BEEN REPLACED AND THE RAFTERS SHOULD HAVE HAD TIE STRAPS AND FASTENERS TO STANDARDS, WITH A 2X8 DOUBLE HEADER FOR OUTER SUPPORT. THE ROOF SHINGLES SHOULD HAVE BEEN TIED IN TO THE EXISTING ROOF AND BEEN INSTALLED TO THE MANUFACTURERS REQUIREMENTS.

IF YOU HAVE ANY QUESTIONS ON MY REPORT, PLEASE CONTACT ME.

SINCERELY,

BRIAN WRUBLE
BUILDING INSPECTOR

COMMONWEALTH OF PENNSYLVANIA:

: ss

COUNTY OF CLEARFIELD

:

VIRGINIA M. STULLER, being duly sworn before me according to law,
deposes and says that the facts set forth in the forgoing Complaint are true and
correct to the best of his information, knowledge and belief.

Virginia M. Stuller

Virginia M. Stuller

Sworn to and subscribed before me

this 31st of May 2005

William A. Shaw

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

CA

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

Virginia m. Steller
(Plaintiff)

CIVIL ACTION

27619 Dowlers Rd. Rt. 286 (Don't mail to)
(Street Address) No. 05-782-CD

Glen Campbell Pa., 15342
(City, State ZIP)

Type of Case: Civil

Type of Pleading: Request for
Board of Arbitrators

Filed on Behalf of:

VS.

Charles & Kimberly Z.J.K
(Defendant)

Plaintiff
(Plaintiff/Defendant)

325 2nd St
(Street Address)

Conemaugh Pa, 15909
(City, State ZIP)

Virginia m. Steller
(Filed by)

(Please mail to) Po Box 91 Glen Campbell
(Address) Pa 15342

House (84) 845-2344 Cell - 724-464-9281
(Phone)

FILED
012:483
JUN 13 2005
Time-stamped
Copies to
DHS without
exhibits
William A. Shaw
Prothonotary/Clerk of Courts
(62)

Virginia m. Steller
(Signature)

Sunday, June 05, 2005

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

Ms. Virginia M. Stuller
Po box 91 Glen Campbell Pa
15742 PH# (814)-845-7344
cell# (724)-464-9281

In the matter of the civil action # 05-782-CD, I Virginia M Stuller, have all
the necessary evidence in this matter... If it would please the courts I am respectfully
Requesting that the above civil action against Charles& Kimberly Zidik proceed.

I Virginia M stuller would respectfully request that a Board of Arbitration to
Preside over this matter. Thank you for you time, a copy of the complaint is
Attached to this request for arbitration if you have any questions please contact me at
The above Address and phone number

SIGNED: Virginia M Stuller

Virginia M Stuller

VIRGINIA M. STULLER,

PLAINTIFF
VS.

CHARLES AND KIMBERLY ZIDIK
325 REAR 2ND STREET
CONEMAUGH, PA 15909

DEFENDANT

: IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

: CIVIL ACTION

05-782-CD

COMPLAINT

Filed on behalf of
Virginia M. Stuller

Counsel for this party
Virginia M. Stuller and witnesses
27619 Dowlers Road
PO box 104
Glen Campbell, PA 15742
(814) 845-7344

Counsel for adverse party
Unknown

Dated: May 31, 2005

FILED
2/2/5/05
MAY 31 2005
William A. Shaw
Prothonotary/Clerk of Courts
Pff pd. 85.00
2cc Piff

VIRGINIA M. STULLER,

: IN THE COURT OF COMMON PLEAS OF

PLAINTIFF

CLEARFIELD COUNTY , PENNSYLVANIA

VS.

CHARLES AND KIMBERLY ZIDIK

: CIVIL ACTION

325 REAR 2ND STREET

CONEMAUGH, PA 15909

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CONEMAUGH, PA 15909
DEFENDANT

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

COMPLAINT

AND NOW comes the plaintiff, Virginia M. Stuller and witnesses, to complain against the defendant as follows:

- (1) The plaintiff is a citizen currently residing at 27619 Dowlers rd. rt. 286 Glen Campbell Pa. 15742, Clearfield County.**
- (2) The Defendants were negligent in the construction of the porch/deck. (Attached is a letter from. Brian Wruble (Clearfield County Building Inspector).**
- (3) The defendants claimed that they were licensed, private contractors, and were fully knowledgeable of and aware of what the plaintiff wanted done to her home.**
- (4) The defendants did in fact construct a porch/deck, approx. 10x14'. The defendant was paid in full (\$ 3,972) for this, and then was taken to district court 46-3-04 and a judgment was passed against the defendant on Dec 16th 2002 in the amount of \$1,404.07 for overpayment.**
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(6) Mr. and Mrs. Zidik were contacted on the telephone several times between the months of July 2002 and October of 2002 to come and correct this problem. They failed to do so.

(7) Due to Mr. and Mrs. Zidiks negligence the porch/deck collapsed on or about the months of February and March of 2004 due to snowfall.

(8) Due to the structure collapsing it damaged the outside window frame and also the new screen door. And many items that were on the porch: Sunbeam gas grill, outside table and chairs and 3 lawn chairs.

COUNT 1 EX CONTRACTRACTU

(9) All of the above allegations are incorporated herein and made a part hereof.

(10) Inherent in the verbal contract of employment between the parties hereto was that the plaintiff was placing her home in the custody care and control of the defendants for building and repairing said porch/deck. The defendants agreed to repair/build porch/deck consistent with the instructions and request of plaintiff and to make certain that porch/deck was secure.

(11) In view of above allegations, the defendants breached his contractual duty as herein stated which caused the plaintiff to suffer a loss in the amount of \$5,980.00.

WHEREFOR, plaintiff demands judgment against the defendants in the amount of 5,980.00.

COUNT 2 NEGLIGENCE

(12) All of the above allegations are incorporated herein and made a part hereof.

(13) Due to the negligence of the defendants the plaintiff suffered a loss herein stated.

a) The defendants being a bailee of the construction of the plaintiff's home failed to comply with Pennsylvania building construction codes. They also failed to obtain a building permit for the structure.

b) The defendants failed to take proper safeguards for building and property.

c) The defendants failed to use proper supplies and materials.

d) The defendants were notified about the instability of the structure and failed to correct it. By not building the structure correctly the defendants allowed the collapsing of the structure to happen.

WHEREFORE, plaintiff demands judgment against the defendants in an amount less than \$7,000.

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

Mag. Dist. No.:

46-3-04

DJ Name: Hon.

JAMES L. HAWKINS

Address: **251 SPRING STREET**

P.O. BOX 362

HOUTZDALE, PA

Telephone: **(814) 378-7160**

16651-0362

PLAINTIFF:

NAME and ADDRESS

STULLER, VIRGINIA M

RR 3, BOX 275

SHELOCTA, PA 15774

VS.

DEFENDANT:

NAME and ADDRESS

ZIDIK, CHARLES, ET AL.

325 REAR 2ND STREET

CONEMAUGH, PA 15909

VIRGINIA M. STULLER

RR 3, BOX 275

SHELOCTA, PA 15774

Docket No.: **CV-0000142-02**

Date Filed: **10/11/02**



THIS IS TO NOTIFY YOU THAT:

Judgment:

FOR PLAINTIFF



Judgment was entered for:

(Name) **STULLER, VIRGINIA M**



Judgment was entered against:

(Name) **ZIDIK, CHARLES**

in the amount of \$ **1,404.07** on:

(Date of Judgment) **12/16/02**



Defendants are jointly and severally liable.

(Date & Time) _____



Damages will be assessed on:



This case dismissed without prejudice.



Amount of Judgment Subject to

Attachment/Act 5 of 1996 \$ _____



Levy is stayed for _____ days or ☐ generally stayed.



Objection to levy has been filed and hearing will be held:

Amount of Judgment	\$ <u>1,300.00</u>
Judgment Costs	\$ <u>104.07</u>
Interest on Judgment	\$ <u>.00</u>
Attorney Fees	\$ <u>.00</u>
Total	\$ <u>1,404.07</u>
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
	=====
Certified Judgment Total	\$ _____

Date:

Place:

Time:

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.

12-16-02 Date

James L. Hawkins

, District Justice

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

_____ Date

_____, District Justice

1:2433733581:30230504314 911 0139 100000500001



PROPOSAL

ZADRAVEC CONTRACTING

1170-C WAYNE AVENUE
INDIANA, PA 15701
(724) 465-7511
FAX: (724) 465-7568

TO: Virginia Stuller
Rural Rt. 3 Box 275
Shelocta, Pa. 15774

PHONE	DATE
724-354-4061	Oct. 17, 2002
JOB NAME/LOCATION	
Box 91 Glen Campbell, Pa.	
JOB NUMBER	JOB PHONE

We hereby submit specifications and estimates for:

To remove present new 12 ft. x 14-ft. pressure treated deck & shed roof because of not being structurally sound in my opinion.

The floor joists are spanning 14 ft. long & are out of 2x6 24" o/c, this should be a minimum of 2x8 16" o/c or 2x10 24" o/c.

The roof rafters are spanning 14 ft. with 2x6 24" o/c this should be a minimum of 2x6 16" o/c or 2x8 24" o/c.

To replace deck with 2x10 pressure treated floor joists then 5/4" decking with picket railing & step.

To build shed type roof with 2x6 rafters 16" o/c with 5/8" plywood, Ice Guard on entire roof & shingles to match house roof. This will have a maintenance free ceiling.

All labor & materials: \$5,980.00

Notes: o/c refers to on center.

WE PROPOSE hereby to furnish material and labor — complete in accordance with the above specifications, for the sum of:

dollars (\$ _____).

Payment to be made as follows:

All material is guaranteed to be as specified. All work to be completed in a professional manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Worker's Compensation insurance.

Authorized
Signature

Note: This proposal may be
withdrawn by us if not accepted within

days.

ACCEPTANCE OF PROPOSAL — The above prices specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance: _____

Signature _____

Signature _____

BRIAN WRUBLE
GUARDIAN INSPECTION SERVICES

4 Cherrywood Drive
DuBois, Pennsylvania 15801

Phone (814) 375-4473

VIRGINIA STULLER
P.O. BOX 104
GLEN CAMPBELL, PA 15742

April 29, 2004

DEAR MS. STULLER,

IN REGARDS TO YOUR DECK AND ROOF COLLAPSING, I FOUND FAULT WITH THE STRUCTURAL ELEMENTS AND CONSTRUCTION OF THE STRUCTURE DURING MY INSPECTION ON APRIL 26, 2004. I FEEL THE FOLLOWING IS NOT ACCEPTABLE:

DECK AND FLOOR STRUCTURE

1. 2X6 FLOOR JOISTS 24 INCHES ON CENTER FOR A 14 FOOT SPAN WITH 2 THREE INCH NAILS FOR FASTENING
2. NO FOUNDATION SUPPORTS EXCEPT OUTSIDE CORNERS WHERE IT WAS FASTENED TO THE EXISTING STRUCTURE WITH TAP CONS. THE MIDDLE THIRD WAS THE ONLY SUPPORT DUE TO AN OFFSET ON THE FOUNDATION. THE OUTER FLOOR JOISTS' FACE BOARDS WERE TOE NAILED WITH TAP CONS, WHICH IS UNACCEPTABLE.
3. THERE WERE NO JOIST HANGERS ON HALF OF THE JOISTS. THE FASTENING OF ALL MATERIAL WAS BELOW STANDARDS.

ROOF STRUCTURE

1. 2X6 ROOF RAFTERS WITH A 14 FOOT SPAN WITH NO VISIBLE SUPPORT. WHERE THE ROOF RAFTERS WERE TIED IN TO THE EXISTING FASCIA BOARD, THE FASCIA BOARD WAS A 1X9 FOR SUPPORT AND VISIBLY ROTTEN. IT SHOULD HAVE BEEN REPLACED WITH 2 INCH LUMBER. THERE WERE NO RAFTER HANGERS AND IT WAS ONLY FASTENED WITH 2 THREE INCH NAILS WHICH WERE TOE NAILED WITH ONE ON EACH SIDE.
2. THE ROOF SHINGLES WERE NOT TIED IN TO THE EXISTING ROOF AND WERE NOT INSTALLED TO MEET THE MANUFACTURERS INSTALLATION INSTRUCTIONS.

IT IS IN MY OPINION THAT THE STRUCTURE WAS BUILT BELOW STANDARDS. IT WAS NOT BUILT TO WITHSTAND THE WEIGHT OF A 30 LB SNOW LOAD WHICH WE HAVE IN OUR CLIMATE. THE JOIST SYSTEM SHOULD HAVE BEEN BUILT WITH 2X8 LUMBER 16 INCHES ON CENTER, WITH A FOUNDATION GIRDER WITHIN THE SPAN OF THE FLOOR, WITH HANGERS AND FASTENED TO STANDARD. WHERE THE DECK CONNECTS TO THE EXISTING FOUNDATION, THE OFFSETS ON THE FOUNDATION SHOULD HAVE BEEN CORRECTED. THE EXISTING FASCIA BOARD SHOULD HAVE BEEN REPLACED AND THE RAFTERS SHOULD HAVE HAD TIE STRAPS AND FASTENERS TO STANDARDS, WITH A 2X8 DOUBLE HEADER FOR OUTER SUPPORT. THE ROOF SHINGLES SHOULD HAVE BEEN TIED IN TO THE EXISTING ROOF AND BEEN INSTALLED TO THE MANUFACTURERS REQUIREMENTS.

IF YOU HAVE ANY QUESTIONS ON MY REPORT, PLEASE CONTACT ME.

SINCERELY,

BRIAN WRUBLE
BUILDING INSPECTOR

COMMONWEALTH OF PENNSYLVANIA:

: ss

COUNTY OF CLEARFIELD

:

VIRGINIA M. STULLER, being duly sworn before me according to law,
deposes and says that the facts set forth in the forgoing Complaint are true and
correct to the best of his information, knowledge and belief.

Virginia M. Stuller

Virginia M. Stuller

Sworn to and subscribed before me

this 31st of May 2005

William A. Shaw

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100523
NO: 05-782-CD
SERVICE # 1 OF 2
COMPLAINT

PLAINTIFF: VIRGINIA M. STULLER

vs.

DEFENDANT: CHARLES and KIMBERLY ZIDIK

SHERIFF RETURN

NOW, June 02, 2005, SHERIFF OF CAMBRIA COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON CHARLES ZIDIK.

NOW, June 09, 2005 AT 12:30 PM SERVED THE WITHIN COMPLAINT ON CHARLES ZIDIK, DEFENDANT. THE RETURN OF CAMBRIA COUNTY IS HERETO **ATTACHED** AND MADE PART OF THIS RETURN.

FILED

JUN 17 2005
0/1240/6
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100523
NO: 05-782-CD
SERVICE # 2 OF 2
COMPLAINT

PLAINTIFF: VIRGINIA M. STULLER

vs.

DEFENDANT: CHARLES and KIMBERLY ZIDIK

SHERIFF RETURN

NOW, June 02, 2005, SHERIFF OF CAMBRIA COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON KIMBERLY ZIDIK.

NOW, June 09, 2005 AT 12:30 PM SERVED THE WITHIN COMPLAINT ON KIMBERLY ZIDIK, DEFENDANT. THE RETURN OF CAMBRIA COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100523
NO: 05-782-CD
SERVICES 2
COMPLAINT

PLAINTIFF: VIRGINIA M. STULLER
vs.
DEFENDANT: CHARLES and KIMBERLY ZIDIK

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	STULLER	514	20.00
SHERIFF HAWKINS	STULLER	514	36.00
CAMBRIA CO.	STULLER	515	35.10

Sworn to Before Me This

_____ Day of _____ 2005

So Answers,



Chester A. Hawkins
Sheriff

CASE # PLAINTIFF
90172-05 STULLER, VIRGINIA 05-782
DATE 6/09/05

DEFENDANT
ZIDIK, CHARLES & KIMBERLY

AT 12:30 HRS. SERVED THE COMPLAINT WITH NOTICE TO DEFEND
UPON CHARLES ZID. IK BY HANDING A TRUE AND ATTESTED COPY
THEREOF TO DAVID KING, BROTHER IN LAW OF CHARLES ZID. IK, HE
BEING THE PERSON IN CHARGE AT 325 REAR 2ND ST. CONEMAUGH,
PA. 15909 AND MAKING CONTENTS THEREOF KNOWN TO HIM.

AT 12:30 HRS. SERVED THE COMPLAINT WITH NOTICE TO DEFEND
UPON KIMBERLY ZID. IK BY HANDING A TRUE AND ATTESTED COPY
THEREOF TO DAVID KING, BROTHER IN LAW OF KIMBERLY ZID. IK,
HE BEING THE PERSON IN CHARGE AT 325 REAR 2ND ST. CONEMAUGH
PA. 15909 AND MAKING CONTENTS THEREOF KNOWN TO HIM. MY
COSTS PAID BY PLAINTIFF.

SHERIFF COSTS 32.10
PRO 3.00
TOTAL COSTS 35.10

SO ANSWERS,

Bob Kolar

BOB KOLAR, SHERIFF

SWORN AND SUBSCRIBED TO BEFORE ME THIS 14TH DAY OF JUNE, 05.

PROTHONOTARY

Patricia Berkebile

A

GLEN CAMPBELL PA 15742-0000

BOB KOLAR, SHERIFF	CIVIL REC & DOCKETING & R	9.00
SHERIFF, CAMBRIA COUNTY, PA	CIVIL SERVICE	9.00
	CIVIL ADDITIONAL SERVICE	6.00
	GENERAL MILEAGE	8.10
STULLER, VIRGINIA 05-782	PROTHONOTARY NOTARY	3.00
90172-05	REFUND ON DOCKET	64.90
COMPLAINT - STULLER VS. ZIDIK		
STULLER, VIRGINIA 05-782		
V S		
ZIDIK, CHARLES & KIMBERLY		
VIRGINIA STULLER		
PO BOX 104		
GLEN CAMPBELL, PA 15742		
	TOTAL COSTS.....	100.00
	TOTAL RECEIPTS.....	100.00

COMMONWEALTH OF PENNSYLVANIA

SHERIFF

DEPT. OF CORRECTIONS
CAMBRIA COUNTY
PENNSYLVANIA

DEPT. OF CORRECTIONS
CAMBRIA COUNTY
PENNSYLVANIA

DEPT. OF CORRECTIONS

DEPT. OF CORRECTIONS

DEPT. OF CORRECTIONS

DEPT. OF CORRECTIONS
CAMBRIA COUNTY
PENNSYLVANIA

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CAMBRIA COUNTY
PENNSYLVANIA

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CAMBRIA COUNTY
PENNSYLVANIA

DEPT. OF CORRECTIONS
CAMBRIA COUNTY
PENNSYLVANIA

DEPT. OF CORRECTIONS
CAMBRIA COUNTY
PENNSYLVANIA

FILED

JUN 17 2005

William A. Steyer
Prothonotary/Clerk of Courts

DEPT. OF CORRECTIONS
CAMBRIA COUNTY
PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100556
NO: 05-782-CD
SERVICE # 1 OF 1
REQUEST FOR BOARD OF ARBITRATORS

PLAINTIFF: VIRGINIA M. STULLER
vs.
DEFENDANT: CHARLES & KIMBERLY ZIDIK

SHERIFF RETURN

NOW, June 16, 2005 SERVED THE WITHIN REQUEST FOR BOARD OF ARBITRATORS ON CHARLES & KIMBERLY ZIDIK DEFENDANT AT "ADDRESSEE ONLY" TO 325 REAR 2ND ST., CONEMAUGH, PA, 15909 BY CERTIFIED MAIL # 7004 1350 0004 9672 5993. THE RETURN RECEIPT IS HERETO ATTACHED ENDORSED BY KIMBERLY ZIDIK.

FILED

0 1:42 PM GK

JUN 17 2005

(62)

William A. Shaw
Prothonotary

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	STULLER	521	10.00
SHERIFF HAWKINS	STULLER	521	26.29

FILED

JUN 17 2005

Sworn to Before Me This

Day of June 2005
Prothonotary

So Answers,

Chester A. Hawkins
by Marilyn Harris

Chester A. Hawkins
Sheriff

7004 1350 0004 9672 5993

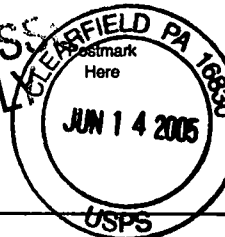
U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 7.92

ADDRESS
ONLY



Sent To	
CHARLES & KIMBERLY ZIDIK	
Street, Apt. No., or PO Box No.	
325 Rear 2nd St.	
City, State, ZIP+4	
Conemaugh, Pa. 15909	

PS Form 3800, June 2002

See Reverse for Instructions

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A record of delivery kept by the Postal Service for two years

Important Reminders:

- Certified Mail may **ONLY** be combined with First-Class Mail® or Priority Mail®.
- Certified Mail is *not* available for any class of International mail.
- **NO INSURANCE COVERAGE IS PROVIDED** with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a *Return Receipt* may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS® postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT: Save this receipt and present it when making an inquiry.
Internet access to delivery information is not available on mail addressed to APOs and FPOs.

PS Form 3800, June 2002 (Reverse)

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ 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. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>Kimberly Zidik 6/16</p>
<p>1. Article Addressed to:</p> <p>CHARLES & KIMBERLY ZIDIK 325 Rear 2nd St. Conemaugh, Pa. 15909</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p> <p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input checked="" type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service)</p>	<p>7004 1350 0004 9672 5993</p>

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box. •

CHESTER A. HAWKINS
SHERIFF OF CLEARFIELD COUNTY
1 N. 2nd ST. Suite 116
CLEARFIELD, PA. 16830

830+2355



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL DIVISION

VIRGINIA M. STULLER,

No. 05-782-CD

Plaintiff,

vs.

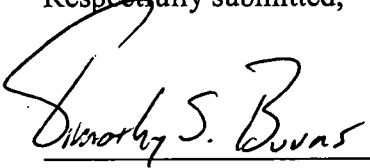
CHARLES AND KIMBERLY ZIDIK,
325 REAR 2nd STREET
CONEMAUGH, PA 15909

Defendants.

ENTRY OF APPEARANCE

Kindly enter my appearance on behalf of the Defendants, CHARLES AND KIMBERLY
ZIDIK, in the above captioned matter.

Respectfully submitted,



Timothy S. Burns, Esq.
PA I.D. #: 82,514
THE BURNS LAW FIRM
104 South Center Street
Suite 315
Ebensburg, PA 15931

814-471-1701.

FILED

JUN 20 2005 @

m/s: 20/05
William A. Shaw

Prothonotary/Clerk of Courts

NO CEN

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

VIRGINIA M. STULLER,

Plaintiff,

vs.

CHARLES AND KIMBERLY ZIDIK,
325 REAR 2nd STREET
CONEMAUGH, PA 15909

Defendants.

CIVIL ACTION – LAW

No. G.D. # . 05-782-CD

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

Filed on behalf of Defendants,
CHARLES AND
KIMBERLY ZIDIK

Counsel of Record for This Party:

Timothy S. Burns, Esq.
Pa. I.D. No. 82514

THE BURNS LAW FIRM
Suite 315
104 South Center Street
Ebensburg, PA 15931
(814) 471-1701

FILED

JUN 20 2005

m/8:30/100 @
William A. Shaw

Prothonotary/Clerk of Courts

1 sent to Mr. [unclear]

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL DIVISION**

VIRGINIA M. STULLER,

No. 05-782-CD

Plaintiff,

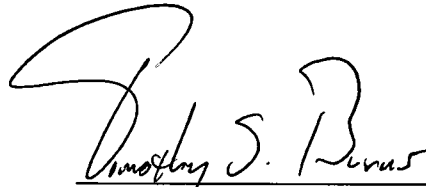
vs.

CHARLES AND KIMBERLY ZIDIK,
325 REAR 2nd STREET
CONEMAUGH, PA 15909

Defendants.

NOTICE TO PLEAD

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE
ENCLOSED PRELIMINARY OBJECTIONS OF THE DEFENDANTS: CHARLES
AND KIMBERLY ZIDIK WHICH HAVE BEEN FILED IN RESPONSE TO YOUR
COMPLAINT, WITHIN TWENTY (20) DAYS FROM THE DATE OF SERVICE
HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.



Timothy S. Burns, Esq.
PA I.D. #:82514
Suite 315
104 South Center Street
Ebensburg, PA 15931

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL DIVISION**

VIRGINIA M. STULLER,

No. 05-782-CD

Plaintiff,

vs.

CHARLES AND KIMBERLY ZIDIK,
325 REAR 2nd STREET
CONEMAUGH, PA 15909

Defendants.

DEFENDANT'S PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT

AND NOW, come the Defendants, Charles and Kimberly Zidik, by and through their Attorney, Timothy S. Burns, Esq., and files the within Preliminary Objections to the Plaintiff's Complaint and in support thereof avers the following:

PRELIMINARY OBJECTION: ACTION BARRED PURSUANT TO

THE DOCTRINE OF RES JUDICATA

1. The allegations raised in the Plaintiff's Complaint were previously raised in a Complaint that the Plaintiff filed against the Defendants on October 11, 2002 before District Magisterial Judge James L. Hawkins. See complaint attached hereto, and marked as Defendants' Exhibit A.
2. Judge Hawkins entered judgment against the Defendants on December 16, 2002 for the amount of \$1,404.07. See order attached hereto, and marked as Defendants' Exhibit B.
3. Under the Doctrine of *Res Judicata*, there is identity of causes of action when in both the old and new proceedings the subject matter and the ultimate issues are the same.

4. The causes of actions in the present matter are identical to the causes of actions in the prior matter commenced by the Plaintiff. As such, the subject matter and ultimate issues remain the same.
5. Specifically, the Plaintiff is attempting to raise the same causes of actions, subject matter and ultimate issues in this present matter which have already been addressed by Judge Hawkins in a prior proceeding.
6. Thus, the Plaintiff's current Complaint is barred pursuant to the Doctrine of *Res Judicata*.

WHEREFORE, the Defendants would respectfully ask this Honorable Court to dismiss the Plaintiff's Complaint with prejudice pursuant to the Doctrine of *Res Judicata* and also Pa. R.C.P. 1028(8).

**PRELIMINARY OBJECTION: FAILURE TO CONFORM TO LAW OR RULE OF
COURT PURSUANT TO PA. R.C.P. 1028(A)(2)**

1. The Plaintiff has filed a Complaint against the Defendants in the Court of Common Pleas of Clearfield County docketed at 05-782-CD.
2. On the cover sheet of the Plaintiff's Complaint, "Virginia M. Stuller and witnesses" is identified as "***Counsel*** for this Party". See copy of cover sheet attached hereto, and marked as Defendants' Exhibit C.
3. "Virginia M. Stuller and witnesses" is not a licensed attorney or law firm authorized to practice law in the Commonwealth of Pennsylvania.
4. The unauthorized practice of law in the Commonwealth of Pennsylvania is a criminal offense designated as a misdemeanor of the third degree per 42 Pa. C.S.A. § 2524.

5. The penalty for the unauthorized practice of law per 42 Pa. C.S.A. § 2524 applies to those individuals in this Commonwealth who hold themselves “out to the public as being entitled to practice law, or use or advertise the title of lawyer, attorney at law, attorney and counselor at law, *counselor*, or the *equivalent in any language*, in such a manner as to convey the impression that he [or she] is a practitioner of the law of any jurisdiction, without being an attorney at law...”
6. Virginia M. Stuller has held herself out as “counsel” to the Plaintiff in initiating litigation in the Court of Common Pleas of Clearfield County.
7. Plaintiff’s Complaint is an invalid legal document as it has been prepared, presented and filed by an individual alleging to be a proper counsel of record; however, not authorized to practice law in the Commonwealth of Pennsylvania.

WHEREFORE, the Defendants respectfully requests that this Honorable Court enter an Order dismissing the Plaintiff’s Complaint with prejudice for its failure to Conform to Law or Rule of Court pursuant to Pa. R.C.P. 1028(a)(2), specifically on the grounds that it has been filed by an individual holding herself as a counsel of record, though she is not authorized to practice law in the Commonwealth of Pennsylvania. In addition, the Defendants respectfully ask that this Honorable Court take any addition action which it deems appropriate against the Plaintiff.

**PRELIMINARY OBJECTION TO INCLUSION OF SCANDALOUS AND
IMPERTINENT MATERIAL PURSUANT TO PA. R.C.P. 1028(A)(2)**

1. The Plaintiff has filed a 2 count Complaint against the Defendants regarding the alleged construction of a porch/deck.

2. The Plaintiff has attached several documents to her Complaint which have no bearing or relevance to the allegations in her Complaint.
3. On Page 6 of the Complaint, the Plaintiff has attached a copy of a check for five hundred dollars (\$500.00) allegedly written by her to the Defendants. Such a check has no bearing or relevance to the allegations made in the Plaintiff's Complaint.
4. On Page 7 of the Complaint, the Plaintiff has attached a copy of a contracting proposal from Zadavec Contracting per construction at a property located at Rural Rt. 3, Box 275, Shelocta, PA 15774. Such a proposal has no bearing or relevance to the allegations made in the Plaintiff's Complaint.
5. On Page 8 of the Complaint, the Plaintiff has attached a copy of a report from a Brian Wruble of Guardian Inspection Services concerning a property located at PO Box 104, Glen Campbell, PA 15742. Such a proposal has no bearing or relevance to the allegations made in the Plaintiff's Complaint.

WHEREFORE, the Plaintiff would respectfully ask that this Honorable Court enter an Order striking the said documents from the Plaintiff's Complaint pursuant to Pa. R.C.P. 1028(a)(2) as they contain impertinent or irrelevant material.

PRELIMINARY OBJECTION PURSUANT TO PA. R.C.P. 1028(A)(3) FOR

INSUFFICIENT SPECIFICITY OF PLAINTIFF'S COMPLAINT

1. Paragraphs 1 through 8 of Plaintiff's Complaint allege that the Defendants were at fault for allegedly negligent construction of a porch/deck.
2. Pa. R.C.P. 1019(f) requires that "averments of time, place and items of special damages shall be specifically stated."

3. The aforementioned Paragraphs fail to state in any respect the time and/or dates of the alleged construction of the porch/deck, the alleged negligence by the Defendants in their alleged construction of the porch/deck, the alleged agreement to construct the porch/deck, and the alleged collapse of the porch/deck
4. The aforementioned Paragraphs fail to state the location and/site of the porch/deck.
5. Paragraph 13 of the Plaintiff's Complaint provides in part that "due to the negligence of the defendant's the plaintiff suffered a loss..."; "defendants...failed to comply with the Pennsylvania building construction codes"; "defendants failed to take the proper safeguards for building and property"; "defendants failed to use proper supplies and materials"; and "by not building the structure correctly the defendants allowed the collapsing of the structure to happen."
6. Pa. R.C.P. 1019(a) requires that the material facts on which a cause of action is based shall be stated in a concise and summary form.
7. The aforementioned Paragraph of the Plaintiff's Complaint fails to set forth with sufficient specificity the loss suffered by the Plaintiff, the construction codes which the Defendants allegedly fail to comply with, the proper safeguards for building and property that the Defendants allegedly failed to follow, what proper supplies and materials the Defendants allegedly failed to use, and finally, how the Defendants allegedly failed to properly construct the porch/deck.
8. Plaintiff's Complaint lacks sufficient specificity to apprise Defendants of the issues to be litigated, to allow them to adequately prepare and assert defenses to Plaintiff's allegations, and/or identify and join any potentially responsible parties as Additional Defendants.

WHEREFORE, the Defendants respectfully requests that this Honorable Court enter an Order striking Paragraphs 1-8 and 13 of Plaintiff's Complaint, and also strike Count 2 of Plaintiff's Complaint with prejudice.

**PRELIMINARY OBJECTION: FAILURE TO STATE CLAIM UPON WHICH RELIEF
MAY BE GRANTED (COUNT 1: EX CONTRACTRACTU)**

1. Count 1 of the Plaintiff's Complaint fails to state a valid cause of action under Pennsylvania Law.
2. In Count 1, Plaintiff purports to make a claim for "Ex Contractractu". This claim does not exist under Pennsylvania Law
3. Because Plaintiff has failed in Count 1 to state a valid cause of action, the Court should dismiss Count 1 of the Plaintiff's Complaint.

WHEREFORE, the Defendants respectfully request that this Honorable Court enter an Order: (a) sustaining their Preliminary Objection pursuant to Pennsylvania Rule of Civil Procedure 1028(3) and 1028(4) for Plaintiff's failure to state a claim upon which relief may be granted; (b) dismiss Count 1 with prejudice; and (c) grant the Defendants such other relief as this Honorable Court deems appropriate.

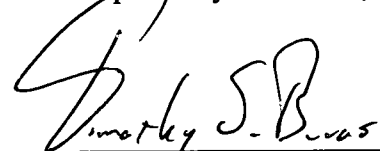
**PRELIMINARY OBJECTION: FAILURE TO STATE CLAIM UPON WHICH RELIEF
MAY BE GRANTED (COUNT 2: NEGLIGENCE)**

1. In Count 2 of the Plaintiff's Complaint, the Plaintiff contends that due to the Defendants' negligence, the Plaintiff suffered a "loss".

2. To maintain a cause of action for negligence in the Commonwealth of Pennsylvania, a party must plead with specificity the following: (1) the duty or obligation recognized by law, requiring the actor to conform to a certain standard with respect to the injured party; (2) the actor's breach of that duty; (3) a causal connection between the actor's conduct and the resulting injury; and (4) actual damages.
3. In Count 2, the Plaintiff has not alleged what duty or obligation was owed her by the Defendants.
4. In Count 2, the Plaintiff has not alleged with specificity any breach of a duty owed by the Defendants.
5. In Count 2, the Plaintiff has not alleged with specificity any connection between the Defendants' conduct and the Plaintiff's alleged injuries.
6. In Count 2, the Plaintiff has not alleged with specificity actual damages.

WHEREFORE, the Defendants respectfully request that this Honorable Court enter an Order: (a) sustaining their Preliminary Objection pursuant to Pennsylvania Rule of Civil Procedure 1028(3) and 1028(4) for Plaintiff's failure to state a claim upon which relief may be granted; (b) dismiss Count 2 with prejudice; and (c) grant the Defendants such other relief as this Honorable Court deems appropriate.

Respectfully submitted,



Timothy S. Burns, Esq.
PA I.D. #: 82514
104 South Center Street
Suite 315
Ebensburg, PA 15931

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL DIVISION**

VIRGINIA M. STULLER,

No. 05-782-CD

Plaintiff,

vs.

CHARLES AND KIMBERLY ZIDIK,
325 REAR 2nd STREET
CONEMAUGH, PA 15909

Defendants.

ORDER

AND NOW, this _____ day of _____ 2005, it is hereby ORDERED and DECREED that the Defendants' Preliminary Objections to the Plaintiff's Complaint are SUSTAINED, and the Plaintiff's Complaint is hereby DISMISSED with prejudice. Furthermore, the Defendants reserve the right to file a Motion for Counsel Fees against the Plaintiff.

By the Court:

_____ J.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD****CIVIL COMPLAINT**

Mag. Dial. No.:

46-3-04

DJ Name: Hon.

JAMES L. HAWKINSAddress: **251 SPRING STREET****P.O. BOX 362****HOUTZDALE, PA****16651-0362**Telephone: **(814) 378-7160**

PLAINTIFF:

NAME and ADDRESS

[**Virginia M. Stuller****RR#3 Box 275****Sheloto, Pa****15774**

VS.

DEFENDANT:

NAME and ADDRESS

[**Mr. Charles Zidik & Mrs Kimberly Zidik****325 Rear 2nd Street****CONEMAUGH, Pa 15909****#814-534-0761**Docket No.: **CV-142-02**Date Filed: **10-11-02**

	AMOUNT	DATE PAID
FILING COSTS	\$ <u>80.00</u>	<u>10/11/02</u>
POSTAGE	\$ _____	<u>/ /</u>
SERVICE COSTS	\$ _____	<u>/ /</u>
CONSTABLE ED.	\$ _____	<u>/ /</u>
TOTAL	\$ _____	<u>/ /</u>

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$ 4,500 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

Reasons for this action are as follows: #1 Job was not completed within a timely fashion #2 the work is unsatisfactory and a possible hazard. #3 I feel that I was overcharged for materials and labor. #4 I was under the impression that Charles Zidik was a licensed contractor and later found out otherwise, and #5 Mr. and Mrs. Zidik have not been able to produce any documentation to show how my money was used, after being asked several times, also I have not gotten my refunded items.

I, Virginia M. Stuller verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.

Virginia M. Stuller
(Signature of Plaintiff or Authorized Agent)

Plaintiff's
Attorney:

Address: _____

Telephone: _____

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD SO NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within district justice jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing. If you are disabled and require assistance, please contact the Magisterial District office at the address above.

PENGAD 800-631-6989

EXHIBIT

A

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-04

DJ Name: Hon.

JAMES L. HAWKINS

Address:

251 SPRING STREET**P.O. BOX 362****HOUTZDALE, PA**Telephone: **(814) 378-7160****16651-0362****JAMES L. HAWKINS**
251 SPRING STREET
P.O. BOX 362
HOUTZDALE, PA 16651-0362**NOTICE OF JUDGMENT/TRANSCRIPT**
CIVIL CASE

PLAINTIFF:

NAME and ADDRESS

STULLER, VIRGINIA M**RR 3, BOX 275****SHELOCTA, PA 15774**

VS.

DEFENDANT:

NAME and ADDRESS

ZIDIK, CHARLES, ET AL.**325 REAR 2ND STREET****CONEMAUGH, PA 15909**Docket No.: **CV-0000142-02**Date Filed: **10/11/02****THIS IS TO NOTIFY YOU THAT:**

Judgment:

FOR PLAINTIFF

Judgment was entered for:

(Name) **STULLER, VIRGINIA M**

Judgment was entered against:

(Name) **ZIDIK, KIMBERLY**in the amount of \$ **1,404.07** on:(Date of Judgment) **12/16/02**

Defendants are jointly and severally liable.

(Date & Time) _____



Damages will be assessed on:



This case dismissed without prejudice.

Amount of Judgment Subject to
Attachment/Act 5 of 1996 \$ _____Levy is stayed for _____ days or ☐ generally stayed.

Objection to levy has been filed and hearing will be held:

Amount of Judgment	\$ 1,300.00
Judgment Costs	\$ 104.07
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 1,404.07
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
Certified Judgment Total	\$ _____

Date:

Place:

Time:

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.

12-16-02 Date

James L. Hawkins

_____, 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,

20

AOPC 315-99

EXHIBIT

PENNSYLVANIA 800-631-6989

SEAL

VIRGINIA M. STULLER,

PLAINTIFF
VS.

CHARLES AND KIMBERLY ZIDIK
325 REAR 2ND STREET
CONEMAUGH, PA 15909

DEFENDANT

: IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

: CIVIL ACTION

05-782-CD

COMPLAINT

Filed on behalf of

Virginia M. Stuller

Counsel for this party

Virginia M. Stuller and witnesses

27619 Dowlers Road

PO box 104

Glen Campbell, PA 15742

(814) 845-7344

Counsel for adverse party

Unknown

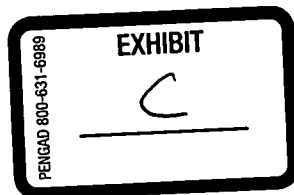
Dated: May 31, 2005

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

MAY 31 2005

Attest.

William B. [Signature]
Prothonotary/
Clerk of Courts



**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL DIVISION**

VIRGINIA M. STULLER,

No. 05-782-CD

Plaintiff,

vs.

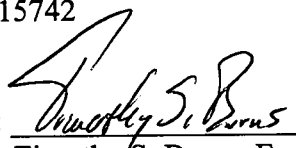
CHARLES AND KIMBERLY ZIDIK,
325 REAR 2nd STREET
CONEMAUGH, PA 15909

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendants' Preliminary
Objections to Plaintiff's Complaint was served on counsel as follows this 16th day of June 2005:

Virginia M. Stuller and witnesses
27619 Dowlers Road
PO Box 104
Glen Campbell, PA 15742

By: 
Timothy S. Burns, Esq.

CA

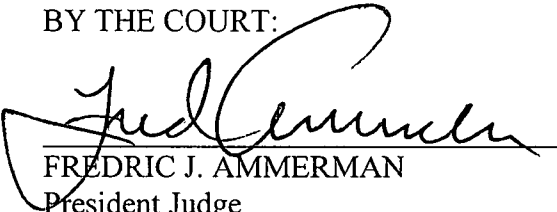
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

VIRGINIA M. STULLER :
 :
 :
 vs. : No. 05-782-CD
 :
 CHARLES AND KIMBERLY ZIDIK :

ORDER

AND NOW, this 21st day of June, 2005, upon consideration of Defendants' Preliminary Objections to Plaintiff's Complaint filed in the above matter, it is the Order of the Court that argument has been scheduled for the 2nd day of July, 2005, at 1:30 P.M, in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED²
012:10:30
JUN 22 2005
CC Atty
T. Burns
w/memo
William A. Shaw
Prothonotary/Clerk of Courts (6K)



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

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

DAVID S. MEHOLICK
COURT ADMINISTRATOR

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

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

MEMO: To all parties filing Petitions/Motions in Clearfield County:

Please make note of the following:

Rule 206(f) The party who has obtained the issuance of a Rule to Show Cause shall forthwith serve a true and correct copy of both the Court Order entering the Rule and specifying a return date, and the underlying Petition or Motion, upon every other party to the proceeding in the manner prescribed by the Pennsylvania Rules of Civil Procedure (see PA. R.C.P. 440) and upon the Court Administrator.

Rule 206(g) The party who has obtained the issuance of a Rule to Show Cause shall file with the Prothonotary, within seven (7) days of the issuance of the Rule, an Affidavit of Service indicating the time, place and manner of service. Failure to comply with this provision may constitute sufficient basis for the Court to deny the prayer of the Petition or Motion.

***** Please note: This also includes service of scheduling orders obtained as the result of the filing of any pleading.**

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:

Virginia M. Stuller
Post Office Box 91
Glen Campbell, PA 15742
William A. Shaw
Notary/Clerk of Courts

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent ☐ Addressee
X

B. Received by (Printed Name) **7/9/05** C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

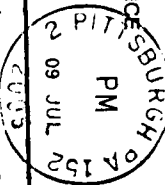
3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
(Transfer from service label) **7001 2510 0005 2724 1195**

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

UNITED STATES POSTAL SERVICE

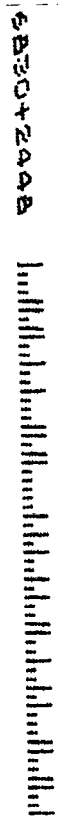


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Office of Court Administrator
Clearfield County Courthouse
230 East Market Street, Suite 228
Clearfield, PA 16830

nm/Arb



**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL DIVISION**

VIRGINIA M. STULLER,

No. 05-782-CD

Plaintiff,

vs.

CHARLES AND KIMBERLY ZIDIK,
325 REAR 2nd STREET
CONEMAUGH, PA 15909

Defendants.

FILED

JUL 08 2005

m/2:00 /
William A. Shaw

Prothonotary/Clerk of Courts

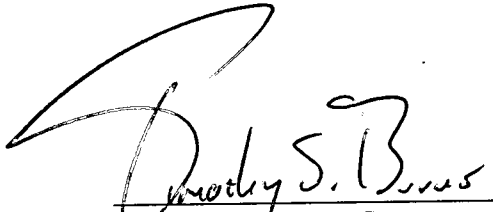
no 9c

AFFIDAVIT OF SERVICE

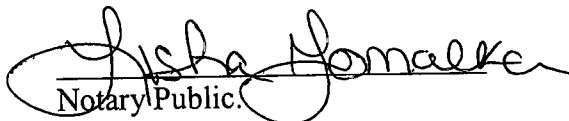
Timothy S. Burns, Esquire, personally appeared before me, the undersigned authority in and for the State and County aforesaid, and being duly sworn according to law, deposed and said that he is the Attorney of record for the Defendants in the above-captioned civil proceeding, and in that capacity acknowledges the filing of Preliminary Objections with the Prothonotary of Clearfield County on June 16, 2005

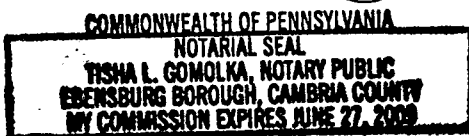
On or about June 16, 2005, it is believed and therefore averred that the Plaintiff Virginia M. Stuller, was sent a true and correct copy of the Preliminary Objections via first class mail at the following address: 27619 Dowlers Road, PO Box 104, Glen Campbell, PA 15742. The said Preliminary Objections were never returned to the undersigned's office as being undeliverable. Furthermore, a true and correct copy of the scheduling order listing this matter for argument on July 22, 2005 at 1:30 PM in Courtroom #1 at the Clearfield County Courthouse was sent to the Plaintiff at the aforementioned address by certified mail, return receipt requested. Said certified mail was received on June 28, 2005 by the Plaintiff, as evidenced by the attached U.S. Postal Certified Receipt No. 7003 0500 0000 7364 1000 which is attached hereto.

The above stated facts are true and correct to the best of the knowledge, information and belief of your deponent.


Timothy S. Burns, Esq.
Attorney for Defendants.

Sworn and subscribed to before me
this 7th day of July 2005.


Notary Public.



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:

Virginia Stuller
27619 Dowlers Rd.
PO Box 104
Glen Campbell, PA 15742

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Virginia M. Stuller*

☐ Agent

☒ Addressee

B. Received by (Printed Name)

Virginia M. Stuller

C. Date of Delivery

6/28/05

D. Is delivery address different from item 1?

☐ Yes

☐ No

if YES, enter delivery address below:

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7003 0500 0000 7564 1000

PS Form 3811, August 2001

Domestic Return Receipt

2ACPRI-03-P-4081

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

VIRGINIA M. STULLER

vs.

CHARLES & KIMBERLY ZIDIK

:
:
: No. 05-782-CD
:
:

FILED

JUL 08 2005
9:35 AM
William A. Shaw
Prothonotary/Clerk of Courts

5 cert to c/n

ORDER

NOW, this 8th day of July, 2005, it is the ORDER of the Court that the

above-captioned matter is scheduled for Arbitration on **Tuesday, September 13, 2005 at**

1:00 P.M. The following have been appointed as Arbitrators:

Carl A. Belin, Jr., Esquire, Chairman

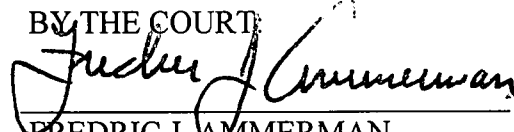
Barbara J. Hugney-Shope, Esquire

Christopher J. Shaw, Esquire

Pursuant to Local Rule 1306A, you must submit your Pre-Trial Statement seven (7) days prior to the scheduled Arbitration. **The original should be forwarded to the Court Administrator's Office and copies to opposing counsel and each member of the Board of Arbitrators.** For your convenience, a Pre-Trial (Arbitration) Memorandum Instruction Form is enclosed as well as a copy of said Local Rule of Court.

Please report to Hearing Room No. 3, 2nd Floor, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT



FREDRIC J. AMMERMAN

President Judge

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

VIRGINIA M. STULLER

vs.

CHARLES & KIMBERLY ZIDIK

:
:
: No. 05-782-CD
:
:

ORDER

NOW, this 8th day of July, 2005, it is the ORDER of the Court that the above-captioned matter is scheduled for Arbitration on **Tuesday, September 13, 2005 at 1:00 P.M.** The following have been appointed as Arbitrators:

Carl A. Belin, Jr., Esquire, Chairman

Barbara J. Hugney-Shope, Esquire

Christopher J. Shaw, Esquire

Pursuant to Local Rule 1306A, you must submit your Pre-Trial Statement seven (7) days prior to the scheduled Arbitration. **The original should be forwarded to the Court Administrator's Office and copies to opposing counsel and each member of the Board of Arbitrators.** For your convenience, a Pre-Trial (Arbitration) Memorandum Instruction Form is enclosed as well as a copy of said Local Rule of Court.

Please report to Hearing Room No. 3, 2nd Floor, Clearfield County Courthouse, Clearfield, PA.

cert. copy of this
order sent to PH.
7-8-05
lb

M. Kelley

BY THE COURT:

FREDRIC J. AMMERMAN
President Judge

FILED

019:5781
JUL 26 2005

ICC PHF-
Po Box 91
Glen Campbell,
PA 15742

William A. Shaw 2cc Amy Burns
Prothonotary/Clerk of Courts

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

VIRGINIA STULLER :
VS. : NO. 05-782-CD
CHARLES and KIMBERLY ZIDIK :

O R D E R

NOW, this 22nd day of July, 2005, following argument on the Defendants' Preliminary Objections, it is the ORDER of this Court as follows:

1. The Preliminary Objections of Failure to Conform to Law or Rule of Court as set forth on page 2 of Defendants' Preliminary Objections is hereby dismissed. However, the Plaintiff is directed to no longer refer to herself as counsel on any document filed with the Court;

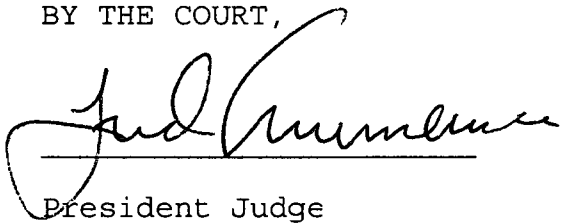
2. The Preliminary Objection regarding alleged scandalous and impertinent material as set forth on page 3 is hereby dismissed subject to any requirements of the Plaintiff to file and amend the complaint which may be forthcoming;

3. Counsel for the Defense shall supply the court with a letter brief within no more than ten (10) days from this date regarding the first Preliminary Objection and the applicability of the doctrine of res judicata;

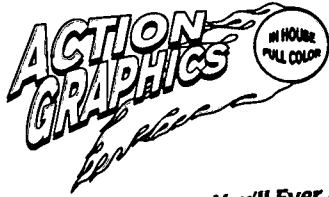
4. In the event the Court does not ultimately grant

the Preliminary Objection based on res judicata and dismiss the action, the Court would issue further Order requiring the Plaintiff to file an Amended Complaint within a specified period of time.

BY THE COURT,

A handwritten signature in black ink, appearing to read "Jud. [unclear]", is written over a horizontal line. The signature is stylized and cursive.

President Judge



R.R. #1, BOX 247 • CLEARFIELD, PA 16830
Turnpike Extension & Rt. 322
local: 814-765-1925 • fax: 814-765-8801
toll free: 1-800-549-6521

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NOTE

Plaintiffs

mailing address

is :

27619 Dowlers Road

P.O. Box 104

Glen Campbell

PA 15742

per FJA
7/29/05 R.

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CA

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

VIRGINIA M. STULLER,
Plaintiff

vs.

CHARLES and KIMBERLY ZIDIK,
Defendants

*
*
*
*

NO. 05-782-CD

ORDER

NOW, this 29th day of July, 2005, following receipt of the Defendants' brief and the Court's review of the Plaintiff's Complaint, the Defendants' Preliminary Objection and the documents attached thereto, it is the Findings and Order of this Court as follows:

1. The identity of the parties and the cause of action brought by the Plaintiff is substantially the same as that litigated through the office of Magisterial District Judge James Hawkins.

2. District Judge Hawkins entered an Order in favor of the Plaintiff on December 16, 2002. This Order was not appealed and became a Final Order 30 days after its' issuance.

3. The doctrine of *res judicata* bars the Plaintiff from proceeding on issues that were previously determined.

Therefore, it is the Order of this Court that Defendants' First Preliminary Objection be and is hereby granted. The Plaintiff's Complaint is dismissed with prejudice.

The Arbitration scheduled for September 13, 2005 at 1:00 p.m. is hereby canceled.

FILED

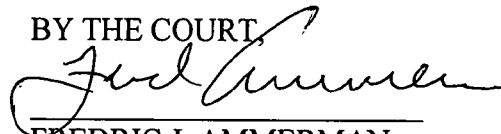
9/9:04 AM
AUG 01 2005

William A. Shaw
Prothonotary/Clerk of Courts

ICC PFF
27019 Dowlers Rd.
Po Box 104
Glen Campbell, PA
15742

ICC Atty T. Burns

BY THE COURT



FREDRIC J. AMMERMAN
President Judge