

05-1140-CD

David Magnuson vs Sean Malloy et al
2005-1140-CD



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

DAVID E. MAGNUSON,
Claimant,

v.

SEAN MALLOY and
TRICIA MALLOY,
husband and wife,
Owners.

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*
* No. 05 - 1140 - CD
*

* Type of Pleading:

* **MECHANIC'S LIEN CLAIM**

* Filed on behalf of:
* Plaintiff/Claimant
*
* Counsel of Record for
* this party:
* JAMES A. NADDEO, ESQUIRE

* Supreme Court ID#: 06820
* 207 East Market Street
* P. O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

100
013:49 AM Atty Naddeo
AUG 04 2005 Atty pd. 20.00

Statement
to Atty

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

DAVID E. MAGNUSON,
Claimant,

v.

SEAN MALLOY and
TRICIA MALLOY,
husband and wife,
Owners.

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*
* No. 05 - - CD
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MECHANIC'S LIEN CLAIM

Claimant, David E. Magnuson, through the undersigned counsel, files this claim against the improvements and property at Trey Brooke Estates, Pike Township, Clearfield County, Pennsylvania, for the payment of a debt due to claimant as a contractor for labor and materials furnished by claimant in the erection and construction of the improvements. In support of the claim the claimant makes the following statement:

1. The owner of the property is Sean Malloy and Tricia Malloy, Trey Brooke Estates, 90 Carr Hill Road, Clearfield, Pennsylvania 16830.

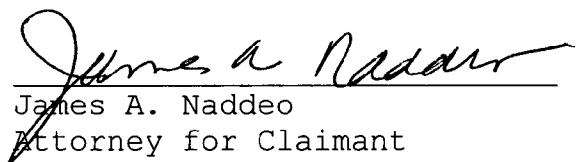
2. The improvement and the property which are subject to this claim are a log cabin dwelling with appurtenant land at Trey Brooke Estates, Carr Hill Road, Clearfield, Pike Township, Clearfield County, Pennsylvania, and more particularly described in Exhibit "A" attached hereto.

3. The labor and materials for which the debt is due were furnished for the agreed sum of Sixty Thousand (\$60,000.00) Dollars pursuant to written contract with the owner, a copy of which is attached hereto as Exhibit "B".

4. The labor and materials for which the debt is due consisted of block foundation, basement floor, excavation, footer, gravel waterproof foundation, French drains, plumbing, heating and air conditioning, electrical work, floor coverings, fireplace, kitchen cabinets and countertops installed.

5. The claimant completed his work at the property on May 25, 2005 which is less than four (4) months before the filing of this claim.

6. Claimant has been paid the sum of Twenty-Seven Thousand Seven Hundred (\$27,700.00) Dollars and there is due and owing a balance of Thirty-Two Thousand Three Hundred (\$32,300.00) Dollars.



James A. Naddeo
Attorney for Claimant

CLEARFIELD COUNTY RECORDER OF DEEDS

Karen L. Starck, Recorder
Maurene Inlow - Chief Deputy
P.O. Box 361
1 North Second Street, Suite 103
Clearfield, Pennsylvania 16830

*RETURN DOCUMENT TO:

Instrument Number - 200409700
Recorded On 6/16/2004 At 3:06:02 PM

DWIGHT KOERBER
110 NORTH 2ND ST
CLEARFIELD, PA 16830

* Instrument Type - DEED

* Total Pages - 7

Invoice Number - 112659

* Grantor - MALLOY, MICHAEL P

* Grantee - MALLOY, SEAN M

* Customer - KOERBER, DWIGHT

* FEES

STATE WRIT TAX	\$0.50
JCS/ACCESS TO JUSTICE	\$10.00
RECORDING FEES -	\$17.00
RECORDER	
RECORDER IMPROVEMENT	\$3.00
FUND	
COUNTY IMPROVEMENT FUND	\$2.00
TOTAL	\$32.50

I hereby CERTIFY that this document
is recorded in the Recorder's Office of
Clearfield County, Pennsylvania.



Karen J. Starck

Karen L. Starck
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

EXHIBIT "A"

THIS DEED

MADE the 27 day of May, in the year two thousand four
(2004), is by and

BETWEEN MICHAEL P. MALLOY and DEBRA L. MALLOY, Husband and Wife,
of Clearfield County, Pennsylvania, Parties of the First Part,
hereinafter referred to as "GRANTORS",

A
N
D

SEAN M. MALLOY and TRICIA M. MALLOY, Husband and Wife as Joint
Tenants by the Entireties, of Clearfield County, Pennsylvania,
Party of the Second Part, hereinafter referred to as "GRANTEES".

WITNESSETH, That in consideration of mutual love and affection, the
said Grantors do hereby grant and convey to the said Grantees,
their heirs, successors and assigns, forever,

ALL that certain tract or piece of land situate in the
Township of Pike, County of Clearfield and Commonwealth
of Pennsylvania, bounded and described as follows:

BEGINNING at a set 3/4" iron rebar in the southern right
of way line of S.R. 2041, said rebar being the
northwestern corner of the property described herein;
thence along the southern right of way line of S.R. 2041
the following courses and distances: N 43° 55' 17" E,
40.33 feet to a point; N 55° 11' 30" E, 99.06 feet to a
point; N 66° 09' 52" E, 89.88 feet to a point; N 69° 34'
21" E, 151.32 feet to a point; N 70° 31' 28" E, 120.23
feet to a point; N 74° 37' 26" E, 94.69 feet to a point;
S 37° 03' 50" E, 38.55 feet to a point; S 0° 48' 49" E,
25.27 feet to a point; S 1° 02' 42" E, 74.06 feet to a
point; S 11° 46' 39" W, 29.95 feet to a point; S 16° 45'
37" W, 23.72 feet to a point; S 26° 34' 58" W, 25.17 feet
to a point; S 32° 01' 30" W, 52.47 feet to a point; S 34°
22' 28" W, 169.50 feet to a point; S 33° 53' 34" W,
165.99 feet to a set 3/4" iron rebar corner; thence along
Lot No. 2, N 48° 21' 32" W, a distance of 431.70 feet to
a set 3/4" iron rebar corner, the place of beginning.

CONTAINING 3.56 acres and being shown as Lot No. 1 on a plan titled "Final Plan, Consolidation and Subdivision of Land of Michael P. Malloy, Pike Township, Clearfield County", as prepared by Hess & Fisher Engineers, Inc., dated April 3, 1999, Clearfield County Map File No. 1777, recorded May 4, 1999.

FURTHER IDENTIFIED and known as Lot 1 of Trey/Brooke Estates Subdivision. Attached hereto and made a part hereof is a survey map prepared by Hess & Fisher Engineers, Inc., dated 05/03/04, which depicts Lot 1 of the Michael P. Malloy Subdivision.

SUBJECT, HOWEVER, to the following:

Addendum to Revised Declaration of Protective Covenants, Conditions, Restrictions & Reservations Affecting Certain Lots Owned by Michael P. Malloy in Pike Township, Clearfield County, Pennsylvania, dated November 6, 2000 with the Clearfield County Recorder of Deeds at Instrument No. 200016647.

Revised Declaration of Protective Covenants, Conditions, Restrictions & Reservations Affecting Certain lots Owned by Michael P. Malloy in Pike Township, Clearfield County, Pennsylvania, dated and recorded on November 2, 1999, with the Clearfield County Recorder of Deeds at Instrument No. 199918196.

Declaration of Protective Covenants, Conditions, Restrictions & Reservations Affecting Certain Lots Owned by Michael P. Malloy in Pike Township, Clearfield County, Pennsylvania, dated August 19, 1999 and recorded on August 24, 1999 with the Clearfield County Recorder of Deeds at Instrument No. 199914005.

TOGETHER WITH all and singular the tenements, hereditaments, and appurtenances to the same belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, property, claim and demand whatsoever, both in

law and equity, of the said parties of the first part, of, in, to or out of the said premises, and every part and parcel thereof.

TO HAVE AND TO HOLD the said premises, with all and singular the appurtenances, unto the said parties of the second part, their heirs, successors and assigns, to and for the only proper use and behoof of the said parties of the second part, their heirs, successors and assigns forever.

BEING FURTHER SUBJECT TO all restrictions, reservations, conditions and encumbrances of record.

BEING a portion of the same premises as were granted and conveyed unto Michael P. Malloy by Deed of Francis E. and Nina E. Reed, dated March 30, 1990, and recorded at Clearfield County Deed Book Volume 1660, page 40.

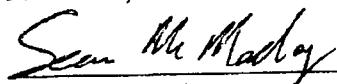
THIS TRANSFER is made from parents to son and daughter-in-law, and is therefore exempt from realty transfer tax pursuant to the provisions of 72 P.S. §8102-C.3(6).

For the purpose of complying with the Act of July 17, 1957, P.L. 984; 52 P.S. Supp. 1551, as amended, of the General Assembly of Pennsylvania, and for no other purpose, there is incorporated herein the following notice:

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

NOTICE

Grantee (hereinafter, whether one or more, called "Grantee") hereby states that he knows that he may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interests in the coal. (THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1996.)



Sean M. Malloy



Tricia M. Malloy

AND the said Grantors will SPECIALLY WARRANT AND FOREVER DEFEND the property hereby conveyed.

IN WITNESS WHEREOF, said Grantors have hereunto set their hands and seals, the day and year first above written.

Sealed in the presence of

Michael P. Malloy
Michael P. Malloy
Debra L. Malloy
Debra L. Malloy

Certificate of Residence

I hereby certify that the precise residence of the Grantees herein is as follows:

Dwight L. Koerber, Jr.
Dwight L. Koerber, Jr., Esquire
Attorney for Grantees

5764 Glen Hope Boulevard
Glen Hope, PA 16645

COMMONWEALTH OF PENNSYLVANIA:

:SS:

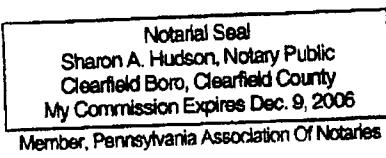
COUNTY OF CLEARFIELD :

On this, the 27 day of May, 2004, before me, a Notary Public in and for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared MICHAEL P. MALLOY and DEBRA L. MALLOY, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the above Indenture, and acknowledged that they executed the same for the purposes therein contained.

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

My Commission Expires:

Sharon A. Hudson
Notary Public



Member, Pennsylvania Association Of Notaries

BEARING TABLE		
NUMBER	DIRECTION	DISTANCE
L1	N 43°55'17" E	40.33'
L2	N 55°11'30" E	99.06'
L3	N 66°09'52" E	89.88'
L4	N 68°34'21" E	151.32'
L5	N 70°31'28" E	120.23'
L6	N 74°37'26" E	94.69'
L7	S 37°03'50" E	38.55'
L8	S 00°48'49" E	25.27'
L9	S 01°02'42" E	74.06'
L10	S 11°46'39" W	29.95'
L11	S 18°45'37" W	23.72'
L12	S 26°34'58" W	25.17'
L13	S 32°01'30" W	52.47'
L14	S 34°22'28" W	169.50'
L15	S 39°53'34" W	165.99'
L16	N 48°21'32" W	431.70'

NF
KIMBERLY A. & JAMES C.
HOLOCHWOST
TAX MAP NO. 18-000-14
D.B. VOL. 1684, PAGE 320

NF
JACQUELINE L. SCHRAGE
TAX MAP NO. 18-000-23
D.B. VOL. 1427, PAGE 335

NF
K. DAVID &
CHRISTINE A. MOSIENKO
TAX MAP NO. 18-000-14.2
D.B. VOL. 1647, PAGE 384

NF
DAVID S. &
THERESA J. AMMERMANN
TAX MAP NO. 18-000-39
D.B. VOL. 691, PAGE 77

LOT 1
3.56 ACRES

LOT 2
2.40 ACRES

NF
EDWARD W. & SUSAN M. VOKES
TAX MAP NO. 18-000-63
D.B. VOL. 1688, PAGE 89

LEGEND
 - - - - SURVEYED PROPERTY LINES
 - - - - ADJOINING PROPERTY LINE
 ○ 3/4" REBAR (SET)
 X POINT
 P.O.B. POINT OF BEGINNING

North

DRAWN BY: RL	FILE NO.:	MICHAEL P. MALLOY SUBDIVISION	
CHECKED BY: WF	JOB NO.:	LOT 1	
DATE: 5/3/04	FB NO.:	PIKE TOWNSHIP, CLEARFIELD COUNTY	
SCALE: 1"=100'	REVISION	BY	HESS & FISHER ENGINEERS, INC.
			CONSULTING ENGINEERS & GEOLOGISTS
cadserver/malloy/lot1plat.dwg			36 NORTH SECOND STREET CLEARFIELD, PENNSYLVANIA 16830 814-765-7541

PROPOSAL

2187 Marguerite Run Road
Clermont, PA. 16830

No.

Date

Sheet No.

Proposal Submitted To:

Name Mallory

Street

City _____ State _____

Phone

Work To Be Performed At:

Mallory House

Street

City _____

State _____

Date of Plans

Architect

We hereby propose to furnish the materials and perform the labor necessary for the completion of Mallory House

Brick Foundation - \$5000, Basement \$10,500
Exterior - \$1000, Footer - \$1600
Brick - \$500, Water proof foundation - \$500
Brick stairs - \$300, Plumbing, Heating & AC - \$10,000
Electrical work - \$5000
~~Brick chimney - \$1000~~
Fireplace - \$5,000
Kitchen cabinets & counter tops installed - \$7,000
Carpentry work - \$15,000
~~Walls inside will be painted for one year~~
~~Interior & exterior - \$10,000~~
~~Interior & exterior - \$10,000~~

All material is guaranteed to be as specified and the above work to be performed in accordance with the drawings and specifications submitted. The above work and completed in a substantial workmanlike manner for the sum of \$105,000.00 One hundred and five thousand dollars Dollars \$105,000 with payment as follows:

Any alteration or deviation from above specifications involving extra cost will be extra only upon written order and will be borne by the client. I respectfully submit this proposal for your consideration and also for your stamp. All expenses of preparation, travel, loss of time, or delay beyond our control, Owner to pay. Work to be performed in the order of necessity, less than one month's pay for any work suspended or taken out by the client.

Note: This proposal may be withdrawn by us if not accepted within 10 days.

ACCEPTANCE OF PROPOSAL

The above proposal, 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.

Signature

Date

Signature

EXHIBIT B

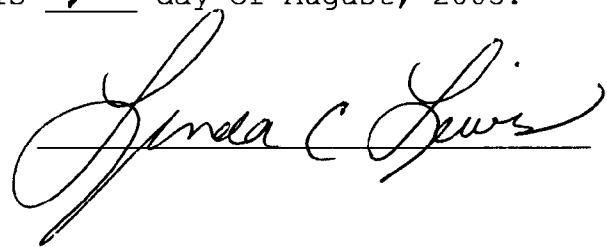
COMMONWEALTH OF PENNSYLVANIA)
ss.
COUNTY OF CLEARFIELD)

Before me, the undersigned officer, personally appeared DAVID E. MAGNUSON, who being duly sworn according to law, depose and state that the facts set forth in the foregoing Mechanic's Lien Claim are true and correct to the best of his knowledge, information and belief.

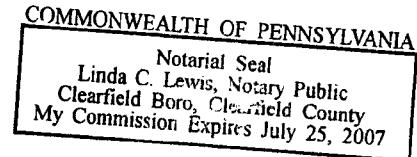


David E. Magnuson

SWORN and SUBSCRIBED before me this 4th day of August, 2005.



Linda C. Lewis



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY ,
PENNSYLVANIA
STATEMENT OF JUDGMENT

David E. Magnuson
Plaintiff(s)

No.: 2005-01140-CD

 COPY

Real Debt: \$32,300.00

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Sean Malloy
Tricia Malloy
Defendant(s)

Entry: \$20.00

Instrument: Mechanic's Lien Claim

Date of Entry: August 4, 2005

Expires: August 4, 2025

Certified from the record this 4th day of August, 2005.

William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

Received on _____, _____, of defendant full satisfaction of this Judgment,
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

Plaintiff/Attorney

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

DAVID E. MAGNUSON,
Claimant,

v.

SEAN MALLOY and
TRICIA MALLOY,
husband and wife,
Owners.

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*
* No. 05 - 1140 - CD
*

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* Type of Pleading:

* **PRAECIPE TO DISCONTINUE**

* Filed on behalf of:
* Plaintiff/Claimant
*
* Counsel of Record for
* this party:
* JAMES A. NADDEO, ESQUIRE

* Supreme Court ID#: 06820
* 207 East Market Street
* P. O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

FILED *NoCC*
03:32PM Cert. of Disc.
AUG 17 2005 to All
William A. Sha *copy to CIA*
Prothonotary/Clerk of Courts

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

DAVID E. MAGNUSON,
Claimant,

*

*

*

v.

* No. 05 - 1140 - CD

*

SEAN MALLOY and
TRICIA MALLOY,
husband and wife,
Owners.

*

*

*

*

PRAECIPE

TO THE PROTHONOTARY:

Please mark the above-captioned action discontinued.



James A. Naddeo
Attorney for Plaintiff/
Claimant

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

DAVID E. MAGNUSON, *
Claimant, *
*
v. * No. 05 - 1140 - CD
*
SEAN MALLOY and *
TRICIA MALLOY, *
husband and wife, *
Owners. *

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a certified copy of the Praeclipe to Discontinue filed in the above-captioned case was served on the following and in the following manner on the day of August, 2005:

First-Class Mail, Postage Prepaid

Sea and Tricia Malloy
Trey Brooke Estate
90 Carr Hill Road
Clearfield, PA 16830

James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

 COPY

David E. Magnuson

Vs. **No. 2005-01140-CD**
Sean Malloy
Tricia Malloy

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 August 17, 2005, marked:

Discontinued

Record costs in the sum of \$20.00 have been paid in full by James A. Naddeo, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 17th day of August A.D. 2005.

William A. Shaw, Prothonotary