

05-1504-CD

B. Pfeifer al vs Doan Excavating

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

DEBORAH J. PFEIFER & MARK PFEIFER
(Plaintiff) (Defendant)

CIVIL ACTION

No. 05-1504-CD

(Street Address)

DUPONT PA 15801

(City, State ZIP)

Type of Case: CML

Type of Pleading: _____

Filed on Behalf of:

PLAINTIFF
(Plaintiff/Defendant)

VS.

DEAN EXCAVATING
(Defendant)

RIR 3 Bcx 307-3
(Street Address)

REYNOLDSVILLE PA 15851
(City, State ZIP)

Brakley & Jones
(Filed by)

90 Beaver St Bcx 6
(Address) Dunmore PA

814-371-2730
(Phone)

(Signature)

FILED

SEP 30 2005

William A. Show
Prothonotary, Clerk of Courts
(see pg. 2)

FILED No cc

019-34-01 Atty Blakley
SEP 3 0 2005 pd-20-00

William A. Shaw

Prothonotary/Clerk of Courts

LN

CONTRACTOR'S WAIVER OF LIENS

THIS AGREEMENT made and entered into this 27th day of September, 2005 by and between **BENJAMIN J. PFEUFER and TARA A. PFEUFER**, husband and wife, of Sandy Township, Clearfield County, Pennsylvania, hereinafter "Owners" and **DOAN EXCAVATING**, of R R 3, Box 308-3, Reynoldsville, PA 15851 "Contractor".

NOW, THEREFORE, INTENDING TO BE LEGALLY BOUND HEREBY, the parties do agree as follows:

1. The Contractor for himself and anyone else acting or claiming through or under him, intending to be legally bound hereby, does hereby waive and relinquish all right to file a mechanics' lien, claim or notice of intention to file any lien or claim, and does hereby covenant, promise and agree that no mechanics' lien or claim or other lien or claim of any kind whatsoever shall be filed or maintained against the improvements or the estate or the title of the Owner in the property or the curtilage or curtilages appurtenant thereto, by or in the name of the Contractor or any subcontractor, materialmen or laborers for work done or 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 works shall look to and hold Contractor personally liable for all subcontractors, materials furnished

and work and labor done, so that there shall not be any legal or lawful claim of any kind whatever against Owner for any work done or labor or materials furnished under the Contract for and about the erection, construction and completion of the improvements or under any contract for extra work, or for work supplemental thereto, or otherwise.

2. The Contractor does hereby remise, release and waive for himself, subcontractor and materialmen the right under the Act of Assembly entitled the Mechanics' Lien Act of 1963 to file or enter on record any Mechanics' Lien or Liens against ALL that certain piece, parcel or lot of ground situate in Sandy Township, Clearfield County, Pennsylvania, as more particularly described on Exhibit "A" attached hereto.

3. This Agreement waiving the right of lien shall be an independent covenant and shall operate and be effective as well with respect to work done and materials furnished under any supplemental contract for extra work in the erection, construction and completion of the improvements as to any work and labor done and materials furnished under the Contract.

4. In the event Contractor consists of more than one person, firm or corporation, the undertakings hereunder of each of such persons, firms or corporations shall be joint and several, and the work "Contractor" shall mean all or some or any of them. For purposes of this Agreement, the singular shall be deemed to include the plural, and the neuter shall be deemed to include the masculine and feminine, as the context may require. This Agreement shall be binding upon the parties hereto, their heirs, executors, administrators and assigns.

IN WITNESS WHEREOF, the parties hereto intending to be legally bound hereby do execute this Agreement the day and year first above written.

DOAN EXCAVATING

BY Tara Doan 9/28/05

Benjamin J. Pfeufer 9/28/05

Benjamin J. Pfeufer, Owner

Tara A. Pfeufer 9/28/05

Tara A. Pfeufer, Owner

ALL that certain piece or parcel of land situate in the Township of Sandy, County of Clearfield, State of Pennsylvania, being bounded and described as follows:

BEGINNING at a bolt being the southwest corner of the herein described parcel and being on the line of lands of Yusnukis and land of Walker; thence along said lands of Walker North one (01°) degree thirty-one (31') minutes fifty-five (55") seconds East, four hundred nine and eight tenths (409.8) feet to an iron pin in the centerline of an abandoned railroad grade of the Buffalo and Susquehanna Railroad; thence along said railroad North forty (40°) degrees thirty-nine (39') minutes fifteen (15") seconds East one hundred four and one tenth (104.1) feet to a point; thence by same North thirty-nine (39°) degrees thirty-nine (39') minutes fifty (50") seconds East one hundred eleven and zero tenths (111.0) feet to a point; thence by same North thirty-eight (38°) degrees thirty-five (35') minutes fifty (50") seconds East ninety-seven and six tenths (97.6) feet to a point; thence by same North twenty-eight (28°) degrees three (03') minutes forty-five (45") seconds East one hundred ninety-five and eight tenths (195.8) feet to a point; thence by same North nineteen (19°) degrees forty-six (46') minutes forty (40") seconds East eighty-one and five tenths (81.5) feet to a point; thence by same South eighty-eight (88°) degrees thirty (30') minutes twenty (20") seconds East one hundred eighty-one and nine tenths (181.9) feet to an iron pin; thence by land of which this was part South seventy-eight (78°) degrees fifty-five (55') minutes forty (40") seconds East four hundred seventy-two and two tenths (472.2) feet to a point in the center of Kessler Road; thence by said road South seven (07°) degrees thirty-eight (38') minutes thirty (30") seconds East one hundred fifteen and zero tenths (115.0) feet to a point in the center of an 18' right of way by deed to Dale Kessler; thence by same South seventy-nine (79°) degrees fifty-four (54') minutes East nine and zero tenths (9.0) feet to a railroad spike; thence by same South ten (10°) degrees six (06') minutes West eighty-four and one-tenth (84.1) feet to an iron pin; thence South eighty-two (82°) degrees fifty-eight (58') minutes forty (40") seconds East eighteen and zero tenths (18.0) feet to an iron pin; thence South four (4°) degrees twenty-five (25') minutes fifty-five (55") seconds West seventy-eight and zero tenths (78.0) feet to an iron pin; thence South eighty (80°) degrees fifty (50') minutes East two hundred and zero tenths (200.0) feet to an iron pin in the lands of Dale Kessler; thence by lands of Dale Kessler South zero (00°) degrees thirty (30') minutes West five hundred twenty-four and four tenths (524.4) feet to an iron pin in the lands of Yusnukis; thence by said lands North eighty-eight (88°) degrees thirty (30') minutes twenty (20") seconds West one thousand one hundred fifty-nine and two tenths (1,159.2) feet to the point of beginning.

CONTAINING 19.9 acres and being Parcel No.1 of the Charlotte J. Kessler Minor Amendment Subdivision as shown on survey map prepared by Thomas C. Wingert, PLS, dated March 2, 2005, recorded in the Office of the Recorder of Deeds for Clearfield County to Instrument No. 200511438, and a revised map is intended to be recorded.

EXCEPTING AND RESERVING therefrom any such right of way as may be owned by the B&S Railroad, if any, and any such right of way or easement as may be recorded or implied, if any, and an 18' right of way described by deed to Kessler.

EXHIBIT "A"

FURTHER EXCEPTING AND RESERVING all exceptions, reservations, restrictions and covenants as contained in prior deeds within the chain of title.

BEING the same premises which became vested in the Mortgagors herein by Deed of Charlotte J. Kessler, dated July 29, 2005 and recorded in Clearfield County, Pennsylvania, as Instrument Number 200511654 and more correctly described in a Deed of Correction of Charlotte J. Kessler, to the Mortgagors herein, dated September 26, 2005 and recorded in Clearfield County, Pennsylvania, as Instrument Number 200516017.