



2006 - 200 CD

PLF  
vs.

Michael & Christine White

Robert A. Gallagher

John R. Curfley

## COMMONWEALTH OF PENNSYLVANIA

## COURT OF COMMON PLEAS

Judicial District, County Of

Clearfield

## NOTICE OF APPEAL

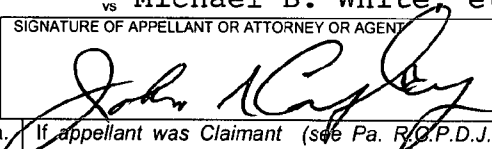
FROM

## DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2006-700-CD

## NOTICE OF APPEAL

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

NAME OF APPELLANT Michael B. & Christine L. White		MAG. DIST. NO. 46-3-03	NAME OF D.J. Michael A. Rudella	
ADDRESS OF APPELLANT 4882 Deer Creek Road		CITY Morrisdale	STATE PA	ZIP CODE 16858
DATE OF JUDGMENT April 10, 2006	IN THE CASE OF (Plaintiff) Daniel Cartwright		(Defendant) vs Michael B. White, et al.	
DOCKET No. CV-0000358-05		SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT 		

This block will be signed ONLY when this notation is required under Pa. R.C.P.D.J. No. 1008B.

This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.

If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action

before a District Justice, A COMPLAINT MUST BE FILED within twenty

(20) days after filing the NOTICE of APPEAL.

FILED

MAY 04 2006

9/12:55/11

William A. Shaw  
Prothonotary/Clerk of Courts

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

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

PRAECIPE: To Prothonotary

Enter rule upon Daniel Cartwright appellee(s), to file a complaint in this appeal

Name of appellee(s)

(Common Pleas No. 2006-700-CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

RULE: To Daniel Cartwright, appellee(s)

Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of the mailing.

Date: MAY 4, 2006

Signature of Prothonotary or Deputy

YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.

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

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

COMMONWEALTH OF PENNSYLVANIA

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

**AFFIDAVIT:** I hereby (swear) (affirm) that I served

☐ a copy of the Notice of Appeal, Common Pleas No. \_\_\_\_\_, upon the District Justice designated therein on  
(date of service) \_\_\_\_\_, 20\_\_\_\_, ☐ by personal service ☐ by (certified) (registered) mail,  
sender's receipt attached hereto, and upon the appellee, (name) \_\_\_\_\_, on  
\_\_\_\_\_, 20\_\_\_\_ ☐ by personal service ☐ by (certified) (registered) mail,  
sender's receipt attached hereto.

(SWORN) (AFFIRMED) AND SUBSCRIBED BEFORE ME  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
*Signature of affiant*

\_\_\_\_\_  
*Signature of official before whom affidavit was made*

\_\_\_\_\_  
*Title of official*

My commission expires on \_\_\_\_\_, 20\_\_\_\_.

## COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS  
416TH

Judicial District, County Of

Clearfield

## NOTICE OF APPEAL

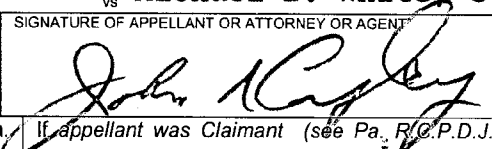
FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2006-700-CD

## NOTICE OF APPEAL

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

NAME OF APPELLANT <b>Michael B. &amp; Christine L. White</b>		MAG. DIST. NO. <b>46-3-03</b>	NAME OF D.J. <b>Michael A. Rudella</b>	
ADDRESS OF APPELLANT <b>4882 Deer Creek Road</b>		CITY <b>Morrisdale</b>	STATE <b>PA</b>	ZIP CODE <b>16858</b>
DATE OF JUDGMENT <b>April 10, 2006</b>	IN THE CASE OF (Plaintiff) <b>Daniel Cartwright</b>		(Defendant) <b>Michael B. White, et al.</b>	
DOCKET No. <b>CV-0000358-05</b>		SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT 		
This block will be signed ONLY when this notation is required under Pa. R.C.P.D.J. No. 1008B. This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.		If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action before a District Justice, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.		
_____ Signature of Prothonotary or Deputy		_____ Signature of Prothonotary or Deputy		

0/12:55/11

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

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

MINOR NOTICE TO CARTWRIGHT  
+  
Rudella

PRAECIPE: To Prothonotary

Enter rule upon **Daniel Cartwright** appellee(s), to file a complaint in this appeal

Name of appellee(s)

(Common Pleas No. **2006-700-CD**) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

RULE: To **Daniel Cartwright**, appellee(s)  
Name of appellee(s)

Signature of appellant or attorney or agent

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of the mailing.

Date: **MAY 4, 2006**

Signature of Prothonotary or Deputy

YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.

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

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

COMMONWEALTH OF PENNSYLVANIA

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

**AFFIDAVIT:** I hereby (swear) (affirm) that I served

☐ a copy of the Notice of Appeal, Common Pleas No. \_\_\_\_\_, upon the District Justice designated therein on  
(date of service) \_\_\_\_\_, 20\_\_\_\_, ☐ by personal service ☐ by (certified) (registered) mail,  
sender's receipt attached hereto, and upon the appellee, (name) \_\_\_\_\_, on  
\_\_\_\_\_, 20\_\_\_\_ ☐ by personal service ☐ by (certified) (registered) mail,  
sender's receipt attached hereto.

(SWORN) (AFFIRMED) AND SUBSCRIBED BEFORE ME  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Signature of affiant*

\_\_\_\_\_  
*Signature of official before whom affidavit was made*

\_\_\_\_\_  
*Title of official*

My commission expires on \_\_\_\_\_, 20\_\_\_\_.

COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

**46-3-03**

MDJ Name: Hon.

**MICHAEL A. RUDELLA**Address: **131 ROLLING STONE ROAD  
PO BOX 210****KYLERTOWN, PA**Telephone: **(814) 345-6789****16847-0444****NOTICE OF JUDGMENT/TRANSCRIPT  
CIVIL CASE**

PLAINTIFF:

NAME and ADDRESS

**CARTWRIGHT, DANIEL  
151 SUBSTATION RD.  
MORRISDALE, PA 16858**

VS.

DEFENDANT:

NAME and ADDRESS

**WHITE, MICHAEL B, ET AL.  
4882 DEER CREEK RD  
MORRISDALE, PA 16858****CHRISTINE L. WHITE  
4882 DEER CREEK RD.  
MORRISDALE, PA 16858**Docket No.: **CV-0000358-05**Date Filed: **12/19/05****THIS IS TO NOTIFY YOU THAT:**

Judgment:

**FOR PLAINTIFF**☒ Judgment was entered for: (Name) **CARTWRIGHT, DANIEL**☒ Judgment was entered against: (Name) **WHITE, CHRISTINE LOUISE**in the amount of \$ **1,774.25** on:(Date of Judgment) **4/10/06**☐ Defendants are jointly and severally liable.

(Date &amp; Time)

☐ Damages will be assessed on:☐ This case dismissed without prejudice.☐ Amount of Judgment Subject to  
Attachment/42 Pa.C.S. § 8127 \$☐ Portion of Judgment for physical  
damages arising out of residential  
lease \$

Amount of Judgment	\$ <b>1,729.75</b>
Judgment Costs	\$ <b>44.50</b>
Interest on Judgment	\$ <b>.00</b>
Attorney Fees	\$ <b>.00</b>
<b>Total</b>	<b>\$ 1,774.25</b>

Post Judgment Credits \$

Post Judgment Costs \$

**Certified Judgment Total \$**

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

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

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

4-10-06 Date *MA Rudella*, Magisterial District Judge

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

4/10/06 Date *MA Rudella*, Magisterial District Judge

My commission expires first Monday of January, **2012**.

SEAL

Mag. Dist. No.: **46-3-03**  
MDJ Name: Hon. **MICHAEL A. RUDELLA**  
Address: **131 ROLLING STONE ROAD**  
**PO BOX 210**  
**KYLERTOWN, PA**  
Telephone: **(814) 345-6789** **16847-0444**

**MICHAEL B. WHITE**  
**4882 DEER CREEK RD**  
**MORRISDALE, PA 16858**

**NOTICE OF JUDGMENT/TRANSCRIPT  
CIVIL CASE**

PLAINTIFF: NAME and ADDRESS  
**CARTWRIGHT, DANIEL**  
**151 SUBSTATION RD.**  
**MORRISDALE, PA 16858**

VS.  
DEFENDANT: NAME and ADDRESS  
**WHITE, MICHAEL B, ET AL.**  
**4882 DEER CREEK RD**  
**MORRISDALE, PA 16858**

Docket No.: **CV-0000358-05**  
Date Filed: **12/19/05**



**THIS IS TO NOTIFY YOU THAT:**

Judgment: **FOR PLAINTIFF**

☒ Judgment was entered for: (Name) **CARTWRIGHT, DANIEL**

☒ Judgment was entered against: (Name) **WHITE, MICHAEL B**

in the amount of \$ **1,729.75** on: (Date of Judgment) **4/10/06**

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

☐ Damages will be assessed on:

☐ This case dismissed without prejudice.

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

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

Amount of Judgment	\$ <b>1,685.25</b>
Judgment Costs	\$ <b>44.50</b>
Interest on Judgment	\$ <b>.00</b>
Attorney Fees	\$ <b>.00</b>
<b>Total</b>	<b>\$ 1,729.75</b>

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

=====  
**Certified Judgment Total** \$ \_\_\_\_\_

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.

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**4-10-06** Date **MARUDELLA**, Magisterial District Judge

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

**4/10/06** Date **MARUDELLA**, Magisterial District Judge

My commission expires first Monday of January, **2012**.

SEAL



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.: **46-3-03**  
MDJ Name: Hon. **MICHAEL A. RUDELLA**  
Address: **131 ROLLING STONE ROAD**  
**PO BOX 210**  
**KYLERTOWN, PA**  
Telephone: **(814) 345-6789** **16847-0444**

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

**NOTICE OF JUDGMENT/TRANSCRIPT**  
**CIVIL CASE**

PLAINTIFF: **CARTWRIGHT, DANIEL**  
**151 SUBSTATION RD.**  
**MORRISDALE, PA 16858**

VS.  
DEFENDANT: **WHITE, MICHAEL B, ET AL.**  
**4882 DEER CREEK RD**  
**MORRISDALE, PA 16858**

Docket No.: **CV-0000358-05**  
Date Filed: **12/19/05**



**THIS IS TO NOTIFY YOU THAT:**

Judgment:

**FOR PLAINTIFF**

- ☒ Judgment was entered for: (Name) **CARTWRIGHT, DANIEL**  
☒ Judgment was entered against: (Name) **WHITE, CHRISTINE LOUISE**

in the amount of \$ **1,729.75** on: (Date of Judgment) **4/10/06**

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

☐ Damages will be assessed on:

☐ This case dismissed without prejudice.

☐ Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ **William A. Shaw**  
**Prothonotary/Clerk of Courts**

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

**FILED**  
**01:24:01**  
**MAY 10 2006**  
**GR**

Amount of Judgment	\$ <b>1,685.25</b>
Judgment Costs	\$ <b>44.50</b>
Interest on Judgment	\$ <b>.00</b>
Attorney Fees	\$ <b>.00</b>
<b>Total</b>	\$ <b>1,729.75</b>
Post Judgment Credits	\$ <b>-</b>
Post Judgment Costs	\$ <b>-</b>
<b>Certified Judgment Total</b>	\$ <b>1729.75</b>

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**4-10-06** Date **MA Rudella**, Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.  
**5/8/06** Date **MA Rudella**, Magisterial District Judge

My commission expires first Monday of January, **2012**

SEAL

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.: **46-3-03**  
MDJ Name: Hon. **MICHAEL A. RUDELLA**  
Address: **131 ROLLING STONE ROAD**  
**PO BOX 210**  
**KYLERTOWN, PA**  
Telephone: **(814) 345-6789** **16847-0444**

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

**NOTICE OF JUDGMENT/TRANSCRIPT**  
**CIVIL CASE**

PLAINTIFF: **CARTWRIGHT, DANIEL**  
NAME and ADDRESS  
**151 SUBSTATION RD.**  
**MORRISDALE, PA 16858**

VS.  
DEFENDANT: **WHITE, MICHAEL B, ET AL.**  
NAME and ADDRESS  
**4882 DEER CREEK RD**  
**MORRISDALE, PA 16858**

Docket No.: **CV-0000358-05**  
Date Filed: **12/19/05**



**THIS IS TO NOTIFY YOU THAT:**

Judgment: **FOR PLAINTIFF**

☒ Judgment was entered for: (Name) **CARTWRIGHT, DANIEL**

☒ Judgment was entered against: (Name) **WHITE, MICHAEL B**

in the amount of \$ **1,729.75** on: (Date of Judgment) **4/10/06**

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

☐ Damages will be assessed on:

☐ This case dismissed without prejudice.

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

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

Amount of Judgment	\$ <b>1,685.25</b>
Judgment Costs	\$ <b>44.50</b>
Interest on Judgment	\$ <b>.00</b>
Attorney Fees	\$ <b>.00</b>
<b>Total</b>	<b>\$ 1,729.75</b>

Post Judgment Credits \$ \_\_\_\_\_  
Post Judgment Costs \$ \_\_\_\_\_

**Certified Judgment Total \$ 1729.75**

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.

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4-10-06 Date MA Rudella, Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.  
5/8/06 Date MA Rudella, Magisterial District Judge

My commission expires first Monday of January, **2012**.

SEAL

**DANIEL A. CARTWRIGHT,**  
**Individually and d/b/a Cartwright**  
**Contracting,**  
**Plaintiff**

vs.

**MICHAEL AND CHRISTINE WHITE,**  
**Defendants**

**: IN THE COURT OF COMMON PLEAS**  
**: OF CLEARFIELD COUNTY (46<sup>th</sup> Judicial**  
**:**  
**: District) PENNSYLVANIA**  
**:**  
**: CIVIL ACTION**  
**:**  
**: NO. 2006-700-C.D.**  
**: JURY TRIAL DEMANDED**

**NOTICE**

TO: Michael and Christine White  
4882 Deer Creek Road  
Morrisdale, PA 16858.

**FILED** *no cc*  
*m) 12:44 (6)*  
**MAY 24 2006** *un*

William A. Shaw  
Prothonotary/Clerk of Courts

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (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 if you fail to do so the case may proceed without 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.

**IF YOU DO NOT HAVE A LAWYER, CONTACT:**

**Prothonotary**  
**Clearfield County Courthouse**  
**230 East Market Street**  
**Clearfield, PA 16830**  
**(814) 765-26741 X 1330**

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

By: \_\_\_\_\_

*Robert A. Gallagher*  
Robert A. Gallagher I.D.# 30417  
Counsel for Plaintiff  
10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404

**DANIEL A. CARTWRIGHT,  
Individually and d/b/a Cartwright  
Contracting,  
Plaintiff**

**vs.**

**MICHAEL AND CHRISTINE WHITE,  
Defendants**

**: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY (46<sup>th</sup> Judicial  
:  
: District) PENNSYLVANIA  
:  
: CIVIL ACTION  
:  
: NO. 2006-700-C.D.  
: JURY TRIAL DEMANDED**

### **COMPLAINT**

1. Daniel A. Cartwright, individually and d/b/a Cartwright Contracting, is an adult individual with a personal and business address of 151 Substation Road, Morrisdale, County of Clearfield, PA 16858.

2. The Defendants Michael and Christine White are adult individuals, husband and wife, who resident at 4882 Deer Creek Road, Morrisdale, County of Clearfield, PA 16858.

3. The Defendants hired the Plaintiff Daniel Cartwright, individually and d/b/a Cartwright Contracting, to build a bathroom addition and patio roof on the Defendants' residence, and the Plaintiff prepared a bid relative to that job on August 17, 2005. The Plaintiff's bid is appended as Exhibit "A" (hereto and is incorporated by reference as if fully set forth herein) (the bid included \$5,000.00 for work to be performed by Defendants themselves).

4. In the course of performing the work, the Defendants requested that the Plaintiff perform additional work, the cost of which is summarized in appended Exhibit "B", which is incorporated by reference as if fully set forth herein.

5. The Defendants paid all but \$1,000 of the \$14,884.00 charge for the job as originally bid (for work to be performed by Plaintiff), and as set forth on Exhibit "A" hereto.

6. The Defendants refused to pay the remaining \$1,000.00 owed on the job as bid, and in addition, refused to pay the \$2,370.51 for the extra work the Defendants ordered, and the Plaintiff did, over and above the bid job as evidenced by appended Exhibit "B."

7. Throughout the course of the work, the Defendant Michael White was verbally abusive, vulgar, and threatening to the Plaintiff and his workers such that the Plaintiff and his workers had to leave the job site on several occasions.

8. Despite requests for payment, the Defendants have refused to pay the remaining \$3,370.51 owed to the Plaintiff.

9. To the extent that the Plaintiff's workmanship was not acceptable, it related to defects in the Defendants' premises that pre-existed the Plaintiff's work and was the consequence of the Defendants having done block work and brick work that was approximately 3/4 of an inch out of level and the Defendants preventing the Plaintiff from using trusses in the construction because they wanted the ceiling to be left open.

10. To the extent that portions of the job were not completed, such as the molding/baseboard trim, it was because the Defendants did not do the work they represented they would do themselves such as installing the ceramic tile, which was never part of the bid price or the extras ordered by the Defendants, and which had to be installed before the molding/baseboard could be installed.

11. Defendants, without cause or provocation, prevented Plaintiff from completing the bid work and the extra work ordered by the Defendants.

12. Despite repeated demands for payment of all sums owing, the Defendants have failed and refused to pay to Plaintiff the remaining balance of the bid contract price and the extras ordered by the Defendants.

**COUNT I**  
**[Breach of Contract]**

13. Paragraphs 1 - 12 are incorporated by reference as if fully set forth herein.

14. The work performed by the Plaintiff was fit and proper and passed the inspection of Jeffrey Williams of Williams' Inspection Services, the official building inspector for the political subdivision in which the Defendants' structure is located, including a review of the roof system by Scott D. Kunselman, P.E. of Lee-Simpson Associates, Inc., consulting engineers. See Exhibit "C" which is appended hereto, and incorporated by reference.

15. Appended hereto as Exhibit "D" is a 12/15/05 statement evidencing that the Defendants paid all but the final \$1,000.00 owed on the bid work on 12/16/05. Exhibit "D" is incorporated by reference as if fully set forth herein.

16. Appended hereto as Exhibit "E" is a 12/15/05 statement for the extra work ordered by the Defendants in the amount of \$2,370.51, which remains unpaid to date. This Exhibit is incorporated by reference as if fully set forth herein.

17. Appended hereto as Exhibit "F" is a diagram of the job as bid pursuant to the written contract between the parties. This Exhibit is incorporated by reference as if fully set forth herein.

18. Appended hereto as Exhibit "G" is a diagram showing the extra work performed, beyond the bid work, to include but not be limited to the installation of two closets with doors; the installation of a shower; and the installation of a cosmetic area. Exhibit "G" is incorporated by reference as if fully set forth herein.

19. The Defendants, without justification or excuse, have failed and continue to fail to make the payments owed, despite numerous demands by the Plaintiff.

WHEREFORE, the Plaintiff demands judgment against the Defendants in the amount of \$3,370.51 together with an award of costs, which requires referral to arbitration under Local Rule 1301(a).

**COUNT II**  
**[Unjust Enrichment]**

20. Paragraphs 1 - 19 of the foregoing Complaint are incorporated by reference as if fully set forth herein.

21. The Defendants, jointly and singly, have been unjustly enriched at the expense of the Plaintiff.

WHEREFORE, the the Plaintiff demands judgment against the Defendants in the amount of \$3,370.51 together with an award of costs, which requires referral to arbitration under Local Rule 1301(a).

**COUNT III**  
**[Trade Disparagement]**  
**[Plaintiff Daniel A. Cartwright vs. Defendant Michael B. White]**

22. Paragraphs 1 - 21 of the foregoing Complaint are incorporated by reference as if fully set forth herein.

23. Subsequent to the Defendants Whites' wrongful termination of Plaintiff's services and actions and omissions preventing the Plaintiff from completing the job, the Defendant Michael B. White did, in an intentional; willful and wanton; reckless; negligent; and careless manner cause the Plaintiff's good business and professional reputation to be slandered and libeled.

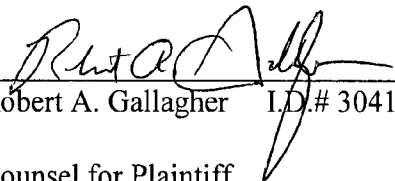
24. As a direct and proximate result of defamatory statements spoken and published by the Defendant Michael B. White adversely reflecting on the Plaintiff's ability in his business, trade, and profession, Plaintiff has suffered, and will continue to suffer, immediate, irreparable, and substantial losses.

25. By slandering and libeling the Plaintiff in his business by making false and malicious statements about the Plaintiff the Defendant Michael B. White has interfered with Plaintiff's existing and prospective business relations and relationships.

26. The Defendant Michael B. White's conduct in slandering the libeling the Plaintiff's good business and professional reputation is outrageous, intentional, willful and wanton, and justifies the imposition of punitive damages in favor of the Plaintiff and against the Defendant Michael B. White.

WHEREFORE, the Plaintiff demands judgment in his favor, in an amount equal to or less than \$20,000.00, together with interest and costs, which requires referral to a Board of Arbitrators under Local Rule 1301.

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

By:   
Robert A. Gallagher I.D.# 30417  
Counsel for Plaintiff

10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404



Cartwright Contracting  
151 Substation Rd.  
Morrisdale Pa. 16858  
(814) 345-6694

Mike and Christine White  
Morrisdale Pa. 16858  
8-17-05

Bid for 22x10 bathroom and 18x18 porch roof  
Bid price \$19,884.00

Bid includes:

2 x 10 floor joists

¾" advantek sub floor

2x6 walls

7/16" OSB wall sheeting

5/8" OSB wall sheeting

2x6 roof rafters

30 yr. shingles

Insulation for walls and ceiling

½ " dry wall

Paint

Trim

Vinyl siding soffit and aluminum fascia

Electrical

Plumbing

Light allowance \$100.00

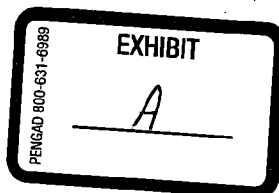
Bath allowance \$1,500.00

1 nine light steel door

8" thick footers

10" blocks

4" thick concrete floor



# 28x40 BATH Room

Mike White

Sill Foam	10.00
TR 2x8x10-2	20.00
TR 2x8x12-2	20.00
2x10x10-22	220.00
2x10x10-9	315.00
2x6x8-50	300.00
2x6x10-22	132.00
7/16 2x6-11	220.00
5/8 2x6-16	416.00
2x6x12-34	221.00
2x4x8-15	45.00
Shingle 539	240.00
INS walls 4 rolls	160.00
INS ceiling 3 roll	120.00
Dry wall 26 PC.	221.00
Joint Compound	30.00
Tape	10.00
Paint	80.00
Trim	100.00
stain	20.00
siding 139 soffits	400.00
Electric	385.00
Light Allow	100.00
Bath Allow	1,500.00
1-9 Light Door	220.00

## 16x18 Porch Roof

2x6x14-24	168.00
2x6x8-13	63.00
2x12x16-4	100.00
6x6x16-3	120.00
2x6x10-18	450.00
739 Shingles	336.00
Felt 2 Roll	30.00
Drip Edge 7	28.00
Nails	30.00

1325.00

soffit 6 66.00

1 roll 70.00

FACE 60.00

2x6 3 PC. 60.00

LABOR 1,500.00

3,021.00

Plumbing 300.00

Glue 50.00

Nails 300.00

~~BATH Room~~ 6,155.00

~~LABOR~~ 5,000.00

BATH Room 11,155.00

Porch 3,021.00

14,176.00

5% 708.80

14,884.00

CAPS

63.18

Roof Vent

64.61

16 -  $\frac{5}{8}$  OSB~~323.20~~~~18.99~~

321.40

559 - Shingles

15.65

248.84

22 - 2x6x16 - #89

20.76

25 - Prec CUTS 252

66.78

7 - DRYWALL

8.00

59.36

14 - 1x4x8

3.10

46.01

3 - Jambs

11.50

- 36.57

Window

- 100.00

make up

- 95.00

LABOR SLOWER

- 228.00

Closet Labor

- 240.00

Roof Labor

- ~~400.00~~

Electric

-

80.00

2070.51

15%

300.00

TOTAL

2370.51

21

12

5

110

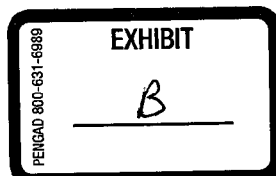
80

228

"

2.07

3450



**LEE—SIMPSON ASSOCIATES, INC., CONSULTING ENGINEERS**  
203 W. Weber Avenue  
PHONE: 814-371-7750

P.O. Box 504

DuBois, PA 15801  
FAX: 814-371-8864



January 25, 2006

Jeffrey Williams  
Williams Inspection Service  
1181 Philipsburg-Bigler Highway  
Philipsburg, PA 16866

Re: **Structural Analysis  
Timber Rafter Roof System  
Residential Location**

Dear Mr. Williams:

As requested, Lee-Simpson Associates, Inc. has analyzed the roof system constructed at the referenced project to determine its allowable live load capacity.

Based upon the information provided, it is our professional opinion that the roof is structurally adequate to support a 30 pound per square foot live load.

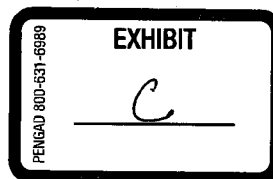
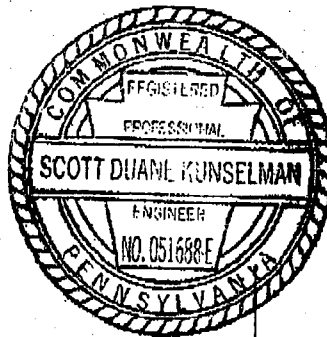
Please contact us with any questions.

Very truly yours,

LEE-SIMPSON ASSOCIATES, INC.

Scott D. Kunselman, P.E.

SDK/ja  
encl.



326351

# STATEMENT

DATE 12/15/03

TERMS

TO

Mike White

ADDRESS

Morrisdale PA 16858

IN ACCOUNT WITH

DAN Cactwright

151 Substation Rd.

MORRISDALE PA 16858

Final Payment For Bid Price

\$ 7,442.00

Pd 12/16/03

6,442.00

Remaining

\$ 1,000.00

326352

**STATEMENT**

DATE

12/15/05

TERMS

TO

Mike &amp; Christine White

ADDRESS

Morrisdale PA 16858

MORRISDALE PA 16858

IN ACCOUNT WITH

Dan Cartwright

1371 Substation Rd.

Morrisdale PA 16858

1 Roof Ramps + For Bid Price	7	763.18
16 Pc. 5/8" OSB		321.40
Roof Vent		64.61
5 Sq. Shingles		248.84
22- 2x6x16 .89		20.76
15- Pre Cut 2x4's		66.78
7 Pc. 1/2 Drywall		59.36
14- 1x4x8		46.00
3- Door Jamb's		36.57
Window Labor		100.00
Makeup Area		95.00
Shower Labor		228.00
Clasot Labor		240.00
Roof Labor		400.00
Electric		800.00
		2070.51
	15%	300.00
Total Extra's		\$2370.51

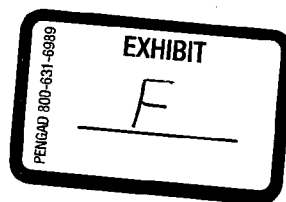
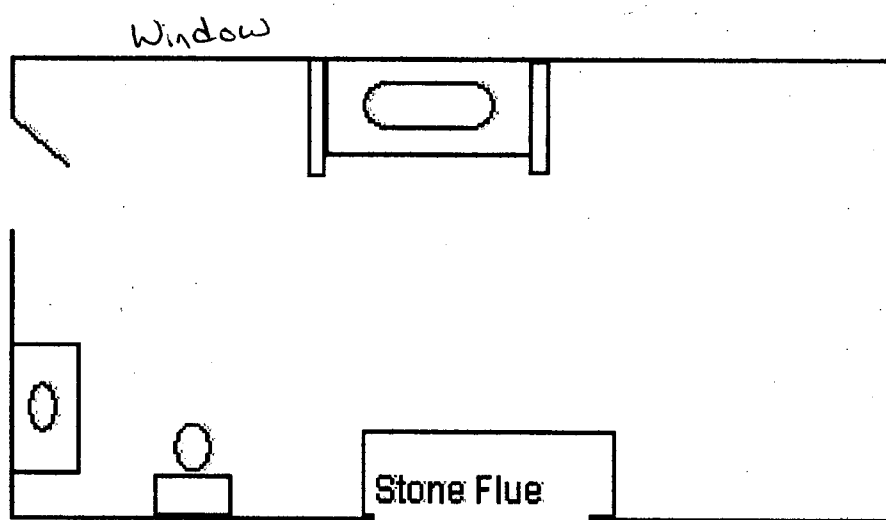
adams DCS812

P-3

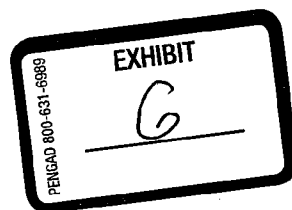
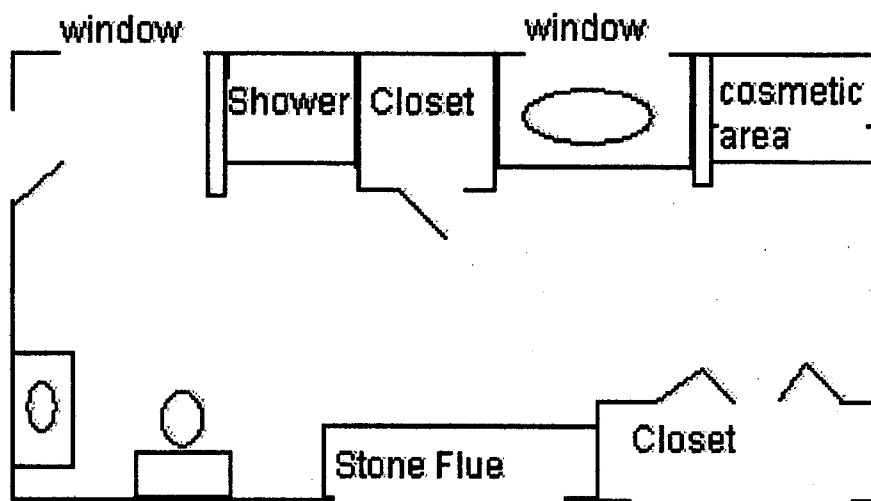
EXHIBIT

E

PENGAD 800-631-6989



P-2





### VERIFICATION

I hereby affirm that the following facts are correct:

I, Daniel A. Cartwright, individually, and d/b/a Cartwright Contracting, state that I am the Plaintiff, and as such am authorized to make this Verification to the Complaint in the foregoing action. The facts contained in the Complaint are based upon information which has been furnished to counsel and information that has been gathered by counsel in preparation of the defense of this lawsuit. The language of the Complaint is that of counsel, and not of me. I have read the Complaint, and to the extent that the same is based upon information which I have provided, it is true and correct to the best of my knowledge, information, and belief. To the extent that the content of the Complaint is that of counsel, I have relied upon counsel in making this Verification. I hereby acknowledge that the facts set forth in the aforesaid Complaint are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

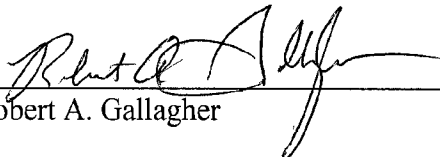
Dated: 5-15-06

Daniel A. Cartwright  
Daniel A. Cartwright, Individually and d/b/a  
Cartwright Contracting

**CERTIFICATE OF SERVICE**

Robert A. Gallagher hereby certifies that on this 22<sup>d</sup> day of May, 2006, he filed an original of the foregoing Complaint with William A. Shaw, Prothonotary, Clearfield County Courthouse, 230 East Market Street, Clearfield, PA 16830 by U.S. Mail, Postage Pre-Paid, First Class Rates.

He further certifies that on this same date he served a true and correct copy of the same, together with an Acceptance of Service upon counsel for the Defendants, John R. Carfley, Esquire, 222 Presqueisle Street, P.O. Box 249, Philipsburg, PA 16866 by U.S. Mail, Postage Pre-Paid, First Class Rates.

  
\_\_\_\_\_  
Robert A. Gallagher

CA

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

DANIEL A. CARTWRIGHT, individually  
and d/b/a CARTWRIGHT CONTRACTING,

Plaintiff,

-vs-

MICHAEL and CHRISTINE WHITE,

Defendants.

No.: 2006-700-CD

Type of case: Civil

Type of Pleading:  
Preliminary Objections

Filed on behalf of:  
Defendants

Counsel of Record for this  
Party:

John R. Carfley, Esq.  
Sup. Court ID 17621  
Peter J. Carfley  
Sup. Court ID 84729  
P. O. Box 249  
Philipsburg, PA 16866  
814.342.5581

FILED  
012:15601  
JUN 14 2006  
2cc  
Atty Carfley  
GR

William A. Shaw  
Prothonotary/Clerk of Courts

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

**DANIEL A. CARTWRIGHT, individually  
and d/b/a CARTWRIGHT CONTRACTING,**

**Plaintiff,**

**-vs-**

**MICHAEL and CHRISTINE WHITE,**

**Defendants.**

**NO. 2006-700-CD**

**NOTICE**

Preliminary Objections have been filed against you in Court. If you wish to defend against the matters set forth in the following document, you must enter a written appearance personally or by attorney and file an answer in writing with the Prothonotary setting forth your defenses or objections to the matter set forth against you and serve a copy on the attorney or person filing the Preliminary Objections. You are warned that if you fail to do so, the case may proceed without you and an Order may be entered against you by the Court without further notice for the relief requested by the Petitioner. You may lose 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  
Second & Market Streets  
Clearfield PA 16830  
814-765-2641, Ext. 50-51

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

**DANIEL A. CARTWRIGHT, individually  
and d/b/a CARTWRIGHT CONTRACTING,**

**Plaintiff,**

**-vs-**

**MICHAEL and CHRISTINE WHITE,**

**Defendants.**

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**NO. 2006-700-CD**

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

AND NOW COMES, the Plaintiffs MICHAEL WHITE and CHRISTINE WHITE, who by and through their counsel John R. Carfley, Esquire, hereby file, pursuant to Rule 1028(a), the following Preliminary Objections to the Plaintiff's Complaint and set forth the following averments:

**PRELIMINARY OBJECTION RAISING INSUFFICIENT SPECIFICITY OF  
PLAINTIFF'S COMPLAINT UNDER RULE 1028(a)(3)**

1. On or about May 25<sup>th</sup>, 2006, Plaintiff Daniel A. Cartwright d/b/a Cartwright Contracting, filed a Complaint to the above-captioned docket number seeking monetary damages allegedly owed him from a contractual relationship with Defendants Michael and Christine White.
2. Paragraphs 23 through 26 of Plaintiff's Complaint contain allegations seeking punitive damages for "defamatory statements spoken or published by Defendant Michael B. White adversely reflecting on the Plaintiff's ability in his business, trade and profession."
3. Pennsylvania Rule of Civil Procedure 1019(f) requires that averments of time, place and items of special damage shall be specifically stated.
4. The aforementioned paragraphs 23 through 26 fail to state in any respect the time, place or additional specifics of the Defendant's alleged slanderous and libel statements that would allow him to properly defend the action.
5. Under Pennsylvania law, an action based on libel and/or slander must be pled with sufficient specificity to allow the Defendant the opportunity to properly defend the action.

6. Under Pennsylvania law, an action seeking punitive damages must be pled with sufficient specificity to allow the Defendant the opportunity to properly defend the action.
7. Plaintiff's Complaint fails to set forth any factual averments including but not limited to the timeframe, location, audience, form (written or verbal) or content of Defendant's alleged slanderous statements to apprise Defendant of the issues to be litigated and to allow him to adequately prepare and assert defenses to the allegations.

WHEREFORE, Defendant Michael White, respectfully requests that this Honorable Court dismiss with prejudice, Count III of Plaintiff's Complaint for failure to specifically set forth and support the allegations made. In the alternative, Defendant requests that the Court order Plaintiff to more specifically plead the averments of Paragraphs 23 through 26 which set forth his claim for punitive damages based on the alleged slanderous conduct of the Defendant.

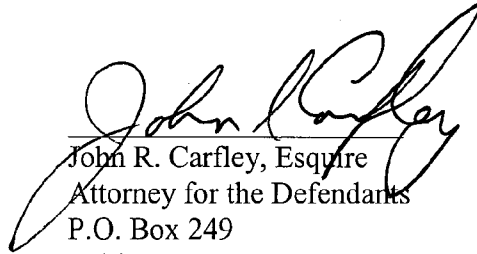
**PRELIMINARY OBJECTION RAISING FAILURE OF PLAINTIFF'S COMPLAINT  
TO CONFORM TO LAW OR RULE OF COURT, RULE 1028(a)(2)**

8. Paragraphs 1 through 7 of the Defendants' Preliminary Objections are incorporated by reference as if fully set forth herein.
9. Within Count I of Plaintiff's Complaint, allegations are set forth that Defendants requested that additional work be completed by the Plaintiff modifying the original contract, resulting in an additional \$2,370.51 owed to the Plaintiff.
10. Under Pennsylvania Rule of Civil Procedure 1019(h), when any claim or defense is based upon an agreement, the pleading shall state specifically if the agreement is oral or written.
11. Plaintiff has failed within his Complaint to state whether the alleged modification of the original agreement is based on written documentation or an oral arrangement that would potentially not be enforceable.
12. Plaintiff's failure to include this relevant information within the Complaint prejudices Defendant's ability to fully comprehend the issues to be litigated and prepare and assert the proper defenses to the allegations made.

WHEREFORE, Defendants Michael and Christine White, respectfully request that this Honorable Court order that all Paragraphs within Count I of Plaintiff's Complaint that relate to an alleged modification of the original contract between the parties and additional monies owed as a result of this modification be stricken from the Complaint. In the alternative, Defendants request that the Court order Plaintiff to more specifically plead the form and terms of the

alleged contract amendment, so that Defendants can fully prepare a responsive pleading to address the allegations set forth in the Complaint.

Respectfully submitted,

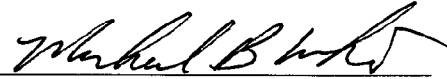


John R. Carfley, Esquire  
Attorney for the Defendants  
P.O. Box 249  
Philipsburg, PA 16866

(814) 342-5581

VERIFICATION

I hereby verify that the statements made in this instrument are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



Michael B. White



Christine L. White

Dated: 6-14-06



CA

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

DANIEL A. CARTWRIGHT, individually  
and d/b/a CARTWRIGHT CONTRACTING,

Plaintiff,

-vs-

NO. 2006-700-CD

MICHAEL and CHRISTINE WHITE,

Defendants.

SCHEDULING ORDER

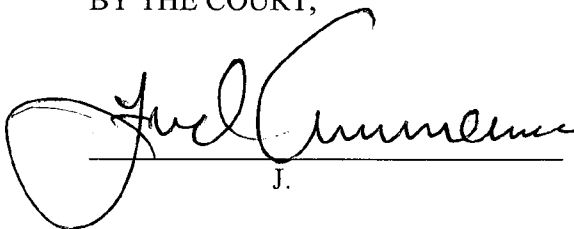
AND NOW, this 27<sup>th</sup> day of June, 2006, hearing on

Defendant's Preliminary Objections is hereby scheduled for the 21<sup>st</sup> day of

July, 2006 at 1:30 o'clock P m. in Courtroom No.

1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

  
J.

FILED <sup>2cc</sup>  
01/2:50/61  
JUN 28 2006  
Amy Carfley  
CIR

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 6/28/06

X You are responsible for serving all appropriate parties.  
\_\_\_\_ The Prothonotary's office has provided service to the following parties:  
\_\_\_\_ Plaintiff(s)    \_\_\_\_ Plaintiff(s) Attorney    \_\_\_\_ Other  
\_\_\_\_ Defendant(s)    \_\_\_\_ Defendant(s) Attorney  
\_\_\_\_ Special Instructions:

**FILED**

JUN 28 2006

William A. Shaw  
Prothonotary/Clerk of Courts

0A

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

DANIEL A. CARTWRIGHT,  
individually and d/b/a  
CARTWRIGHT CONTRACTING

-vs-

MICHAEL and CHRISTINE  
WHITE

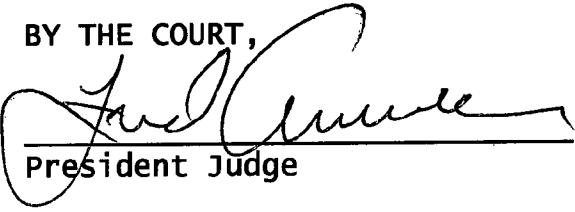
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No. 06-700-CD

O R D E R

NOW, this 21st day of July, 2006, following argument on the Preliminary Objections filed on behalf of the Defendants, it is the ORDER of this Court that said Preliminary Objections be and are hereby granted to the extent that the Plaintiff shall file an Amended Complaint setting forth, with specificity, what disparaging statements were allegedly made by the Defendants that constitute libel and/or slander and the damages related thereto. In addition, the Amended Complaint shall state which portions of the alleged contract were written and/or oral. The Amended Complaint, due to the necessity of a period for Discovery, shall be filed within no more than sixty (60) days from this date.

BY THE COURT,

  
President Judge

FILED

013:1160  
JUL 24 2006

2cc Atty's:  
Gallagher  
Cartley

William A. Shaw  
Prothonotary/Clerk of Courts

FILED

JUL 24 2006

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 7/24/06

       You are responsible for serving all appropriate parties.

  X   The Prothonotary's office has provided service to the following parties:

       Plaintiff(s)   X   Plaintiff(s) Attorney        Other

       Defendant(s)   X   Defendant(s) Attorney

       Special Instructions:

**DANIEL A. CARTWRIGHT,**  
**Individually and d/b/a Cartwright**  
**Contracting,**  
**Plaintiff**

**vs.**

**MICHAEL AND CHRISTINE WHITE,**  
**Defendants**

**: IN THE COURT OF COMMON PLEAS**  
**: OF CLEARFIELD COUNTY (46<sup>th</sup> Judicial**  
**:**  
**: District) PENNSYLVANIA**  
**:**  
**: CIVIL ACTION**  
**:**  
**: NO. 2006-700-C.D.**  
**: JURY TRIAL DEMANDED**

**NOTICE**

TO: Michael and Christine White  
c/o John R. Carfley, Esquire  
222 Presqueisle Street  
P.O. Box 249  
Philipsburg, PA 16866

**FILED** *Doc*  
*SEP 05 2006* *Any*  
William A. Shaw  
Prothonotary/Clerk of Courts


You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (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 if you fail to do so the case may proceed without 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.

**IF YOU DO NOT HAVE A LAWYER, CONTACT:**

**Prothonotary**  
**Clearfield County Courthouse**  
**230 East Market Street**  
**Clearfield, PA 16830**  
**(814) 765-26741 X 1330**

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

By:   
Robert A. Gallagher J.D.# 30417  
Counsel for Plaintiff  
10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404

**DANIEL A. CARTWRIGHT,**  
**Individually and d/b/a Cartwright**  
**Contracting,**  
**Plaintiff**

**vs.**

**MICHAEL AND CHRISTINE WHITE,**  
**Defendants**

**: IN THE COURT OF COMMON PLEAS**  
**: OF CLEARFIELD COUNTY (46<sup>th</sup> Judicial**  
**:**  
**: District) PENNSYLVANIA**  
**:**  
**: CIVIL ACTION**  
**:**  
**: NO. 2006-700-C.D.**  
**: JURY TRIAL DEMANDED**

**AMENDED COMPLAINT**

1. Daniel A. Cartwright, individually and d/b/a Cartwright Contracting, is an adult individual with a personal and business address of 151 Substation Road, Morrisdale, County of Clearfield, PA 16858.

2. The Defendants Michael and Christine White are adult individuals, husband and wife, who resident at 4882 Deer Creek Road, Morrisdale, County of Clearfield, PA 16858.

3. The Defendants hired the Plaintiff Daniel Cartwright, individually and d/b/a Cartwright Contracting, to build a bathroom addition and patio roof on the Defendants' residence, and the Plaintiff prepared a bid relative to that job on August 17, 2005. The Plaintiff's bid is appended as Exhibit "A" (hereto and is incorporated by reference as if fully set forth herein) (the bid included \$5,000.00 for work to be performed by Defendants themselves).

4. The contract as between the parties was partially written and partially oral. The oral agreement was reduced to a written bid by the Plaintiff. See paragraph 3 above and Exhibit "A" which are incorporated by reference as if fully set forth herein. By issuing payments, the Defendants accepted the terms of the bid and it became a binding written contract between the parties.

5. The Defendants paid all but \$1,000 of the \$14,884.00 charge for the job as originally bid (for work to be performed by Plaintiff), and as set forth on Exhibit "A" hereto.

6. In the course of performing the work, the Defendants requested that the Plaintiff perform additional work, the cost of which is summarized in appended Exhibit "B", which is incorporated by reference as if fully set forth herein. Again, the agreement between the parties was initially oral, was reduced to a writing, namely, Exhibit "B"; and the Defendants allowed the Plaintiff to proceed to perform the work evidenced on appended Exhibit "B", which is incorporated by reference as if fully set forth herein.

7. The Defendants refused to pay the remaining \$1,000.00 owed on the job as bid, and in addition, refused to pay the \$2,370.51 for the extra work the Defendants ordered, and the Plaintiff did, over and above the bid job as evidenced by appended Exhibit "B."

8. Throughout the course of the work, the Defendant Michael White was verbally abusive, vulgar, and threatening to the Plaintiff and his workers such that the Plaintiff and his workers had to leave the job site on several occasions.

9. Despite requests for payment, the Defendants have refused to pay the remaining \$3,370.51 owed to the Plaintiff.

10. To the extent that the Plaintiff's workmanship was not acceptable, it related to defects in the Defendants' premises that pre-existed the Plaintiff's work and was the consequence of the Defendants having done block work and brick work that was approximately 3/4 of an inch out of level and the Defendants preventing the Plaintiff from using trusses in the construction because they wanted the ceiling to be left open.

11. To the extent that portions of the job were not completed, such as the molding/base-board trim, it was because the Defendants did not do the work they represented they would do

themselves such as installing the ceramic tile, which was never part of the bid price or the extras ordered by the Defendants, and which had to be installed before the molding/baseboard could be installed.

12. Defendants, without cause or provocation, prevented Plaintiff from completing the bid work and the extra work ordered by the Defendants.

13. Despite repeated demands for payment of all sums owing, the Defendants have failed and refused to pay to Plaintiff the remaining balance of the bid contract price and the extras ordered by the Defendants.

**COUNT I**  
**[Breach of Contract]**

14. Paragraphs 1 - 13 are incorporated by reference as if fully set forth herein. The oral agreement between the parties was evidenced by the writings appended hereto as Exhibits "A" through "G", and the Defendants accepted the terms of the contract by making partial payment, and by allowing the Plaintiff to proceed with the additional work.

15. The work performed by the Plaintiff was fit and proper and passed the inspection of Jeffrey Williams of Williams' Inspection Services, the official building inspector for the political subdivision in which the Defendants' structure is located, including a review of the roof system by Scott D. Kunselman, P.E. of Lee-Simpson Associates, Inc., consulting engineers. See Exhibit "C" which is appended hereto, and incorporated by reference.

16. Appended hereto as Exhibit "D" is a 12/15/05 statement evidencing that the Defendants paid all but the final \$1,000.00 owed on the bid work on 12/16/05. Exhibit "D" is incorporated by reference as if fully set forth herein.

17. Appended hereto as Exhibit "E" is a 12/15/05 statement for the extra work ordered by the Defendants in the amount of \$2,370.51, which remains unpaid to date. This Exhibit is incorporated by reference as if fully set forth herein.



18. Appended hereto as Exhibit "F" is a diagram of the job as bid pursuant to the written contract between the parties. This Exhibit is incorporated by reference as if fully set forth herein.

19. Appended hereto as Exhibit "G" is a diagram showing the extra work performed, beyond the bid work, to include but not be limited to the installation of two closets with doors; the installation of a shower; and the installation of a cosmetic area. Exhibit "G" is incorporated by reference as if fully set forth herein.

20. The Defendants, without justification or excuse, have failed and continue to fail to make the payments owed, despite numerous demands by the Plaintiff.

WHEREFORE, the Plaintiff demands judgment against the Defendants in the amount of \$3,370.51 together with an award of costs, which requires referral to arbitration under Local Rule 1301(a).

**COUNT II**  
**[Unjust Enrichment]**

21. Paragraphs 1 - 20 of the foregoing Complaint are incorporated by reference as if fully set forth herein.

22. The Defendants, jointly and singly, have been unjustly enriched at the expense of the Plaintiff.

WHEREFORE, the the Plaintiff demands judgment against the Defendants in the amount of \$3,370.51 together with an award of costs, which requires referral to arbitration under Local Rule 1301(a).

**COUNT III**  
**[Trade Disparagement]**  
**[Plaintiff Daniel A. Cartwright vs. Defendant Michael B. White]**

23. Paragraphs 1 - 22 of the foregoing Complaint are incorporated by reference as if fully set forth herein.

24. At a regular meeting of the Graham Township Board of Supervisors on May 8, 2006, the Defendant Michael White invited all the citizens present, which included Sharron and Sam Fisher; Norma Emigh; Lori Bell; Gemma Schake; Mike Beveridge; Viki Beveridge; Robert and Theresa Fye, Pam Bumbarger; James Wood; Sharon Bongyour; Billy Emigh; Sandord Carr; Lonn Margie Ward; Stephen Dobo; Gretchen Carr; Bob Schnitzler; Gary Kephart; Kimberly and Richard Hurley; Representative Bud George; and Mark Glenn, Engineer of Gwin Dobson & Foreman to come to the Defendants White's home to view "the mess" that was made by Daniel Cartwright, t/d/a Cartwright Contracting. Also present at that meeting were the following Graham Township Supervisors and Officers – Sam Carr, Chairman; Sue Matthews and Bonnie Fenush, Supervisors; Gladys Straw, Secretary; Steven Condo, Roadmaster; Jeff Williams, BCO; and Joel Albert, Engineer.

25. Subsequent to the Defendants Whites' wrongful termination of Plaintiff's services and actions and omissions preventing the Plaintiff from completing the job, the Defendant Michael B. White did, in an intentional; willful and wanton; reckless; negligent; and careless manner cause the Plaintiff's good business and professional reputation to be slandered and libeled.

26. As a direct and proximate result of defamatory statements spoken and published by the Defendant Michael B. White adversely reflecting on the Plaintiff's ability in his business, trade, and profession, Plaintiff has suffered, and will continue to suffer, immediate, irreparable, and substantial losses. In particular, the Plaintiff Dan Cartwright t/d/b/a Cartwright Contracting, was not invited to bid on Graham Township work subsequent to the May 8, 2006 township supervisors' meeting.

27. In the alternative, the Defendant Michael White's statements constituted negligent misrepresentations for which general and unliquidated damages are awardable.

28. In the alternative, the Defendant Michael B. White's conduct in slandering and libeling the Plaintiff in his business by making false and malicious statements about the Plaintiff the Defendant Michael B. White has interfered with Plaintiff's existing and prospective business relations and relationships.

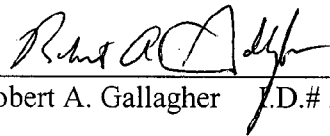
29. In the alternative, the Defendant Michael B. White's conduct in slandering the libeling the Plaintiff's good business and professional reputation is outrageous, intentional, willful and wanton, and justifies the imposition of punitive damages in favor of the Plaintiff and against the Defendant Michael B. White.

30. As a direct and proximate result of the Defendant Michael White's trade disparagement of the Plaintiff's business, the Plaintiff was deprived of the opportunity to bid on a pole building that was to be constructed by Graham Township. The Plaintiff had submitted a material price list for the pole building to Graham Township, but after the Defendant disparaged the Plaintiff's business at a May 8, 2006 Graham Township Board of Supervisor's meeting, Graham Township put the job out for bid, without requesting that the Plaintiff bid on the job. Upon information and belief, the contract price for that job was approximately \$12,000.00, of which \$5,000.00 represented the labor expense.

31. Upon information and belief, because of the Defendant White's trade disparagement of the Plaintiff, the Plaintiff lost a construction job from Greg Hubler. The total bid price for that job was \$25,245.00, and labor and material profit would have been approximately \$14,095.00. The job was scheduled to start at the end of June of 2006, but after the Defendant White's trade disparagement, Greg Hubler contacted the Plaintiff shortly before starting time, and canceled the job. Upon information and belief, this was a direct and proximate result of the Defendant's trade disparagement of the Plaintiff's business.

WHEREFORE, the Plaintiff demands judgment in his favor, in an amount equal to or less than \$20,000.00, together with interest and costs, which requires referral to a Board of Arbitrators under Local Rule 1301.

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

By:   
Robert A. Gallagher J.D.# 30417

Counsel for Plaintiff

10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404

Cartwright Contracting  
151 Substation Rd.  
Morrisdale Pa. 16858  
(814) 345-6694

Mike and Christine White  
Morrisdale Pa. 16858  
8-17-05

Bid for 22x10 bathroom and 18x18 porch roof  
Bid price \$19,884.00

Bid includes:

2 x 10 floor joists

¾" advantek sub floor

2x6 walls

7/16" OSB wall sheathing

5/8" OSB wall sheathing

2x6 roof rafters

30 yr. shingles

Insulation for walls and ceiling

½ " dry wall

Paint

Trim

Vinyl siding soffit and aluminum fascia

Electrical

Plumbing

Light allowance \$100.00

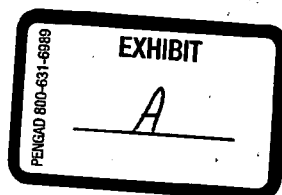
Bath allowance \$1,500.00

1 nine light steel door

8" thick footers

10" blocks

4" thick concrete floor



# 28x40 BATH Room

Mike White

Sill Foam	10.00
TR 2x8x10-2	20.00
TR 2x8x12-2	20.00
2x10x10-22	220.00
Adumtek-9	315.00
2x6x8-50	300.00
2x6x10-22	132.00
7/16 2x6-11	220.00
5/8 2x6-16	416.00
2x6x12-34	221.00
2x4x8-15	45.00
Shingle 539	240.00
INS walls 4 rolls	160.00
INS ceiling 3 roll	120.00
Oey wall 26 PC.	221.00
Joint Compound	30.00
Tape	10.00
Paint	80.00
Trim	100.00
stain	20.00
siding 139 softit	400.00
Electric	385.00
Light Allow	100.00
Bath Allow	1,500.00
1-9 Light Door	220.00

## 16x18 Porch Roof

2x6x14-24	168.00
2x6x8-13	63.00
2x12x16-4	100.00
6x6x16-3	120.00
2x6x10-18	450.00
739. Shingles	336.00
Felt 2 Roll	30.00
Drip Edge 7	28.00
Nails	30.00

\$1,325.00

softit 6 66.00

FAESA 70.00

3/4 036 3PC 60.00

\$1,521.00

LABOR 1,500.00

3,021.00

Plumbing 300.00

GLUB 50.00

Nails 300.00

~~BATH ROOM~~ 6,155.00

~~LABOR~~ 5,000.00

BATH ROOM 11,155.00

Porch 3,021.00

14,176.00

5% 708.80

14,884.00

CAPS

63.18

Roof Vent

64.61

16 -  $\frac{5}{8}$  OSB ~~303.20~~ ~~18.93~~ 321.40

539 - Shingles 15.65 248.84

22 - 2x6x16 - #89 20.76

25 - Prec CUTS 252 66.78

7 - DRYWALL 8.00 59.36

14 - 1x4x8 3.10 46.01

3 - Jambs 11.50 - 36.57

Window - 100.00

make up - 95.00

LABOR SHOWER - 228.00

Closest Labor - 240.00

Roof Labor - ~~400.00~~

Electric - 80.00

2070.51

15% 300.00

total 2370.51

31

12

5

110

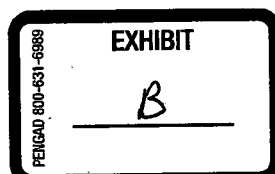
80

228

"

2.07

3450



**LEE-SIMPSON ASSOCIATES, INC., CONSULTING ENGINEERS**  
203 W. Weber Avenue  
PHONE: 814-371-7750  
P.O. Box 504  
DuBois, PA 15801  
FAX: 814-371-8864



January 25, 2006

Jeffrey Williams  
Williams Inspection Service  
1181 Philipsburg-Bigler Highway  
Philipsburg, PA 16866

Re: **Structural Analysis  
Timber Rafter Roof System  
Residential Location**

Dear Mr. Williams:

As requested, Lee-Simpson Associates, Inc. has analyzed the roof system constructed at the referenced project to determine its allowable live load capacity.

Based upon the information provided, it is our professional opinion that the roof is structurally adequate to support a 30 pound per square foot live load.

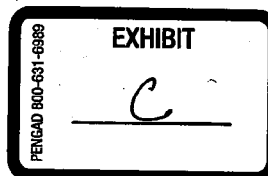
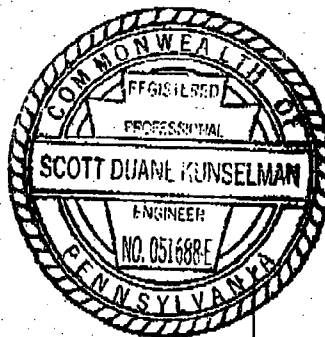
Please contact us with any questions.

Very truly yours,

LEE-SIMPSON ASSOCIATES, INC.

Scott D. Kunselman, P.E.

SDK/ja  
encl.





## STATEMENT

DATE \_\_\_\_\_

12/15/02

## TERMS

TO

Mike White

**ADDRESS**

Morrisdale PA 16858

IN ACCOUNT WITH

DAN Cartwright

15-1 Substation Rd.

MORRIS Dale PA 15858

Final Payment for Bid, Price

\$	7,442.00
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P.A. 12/16/03

6	4	4	2	00
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Remaining

#		
1	00000	

**EXHIBIT**

$\Delta$

326352

**STATEMENT**

DATE

12/15/05

TERMS

TO

ADDRESS

IN ACCOUNT WITH

Mike &amp; Christine White

Morrisdale PA 16858

Morrisdale PA 16858

Dan Cartwright

1371 Substation Rd.

Morrisdale PA 16858

1 Roof Caps + for E1/Pipe

16 Pc. 503B

Roof Vent

5 Sq. Shingles

22- 2x6x16 .89

25- Pre Cut 2x4's

7 Pc. 1/2 Drywall

14- 1x4x8

3- Door Jambs

Window Labor

Makeup Area

Shower Labor

Closet Labor

Roof Labor

Electric

7, 123.18

321.40

64.61

248.84

20.76

66.78

59.36

46.00

36.57

100.00

95.00

228.00

240.00

400.00

800.00

2070.51

300.00

Total Extra's

\$2,370.51

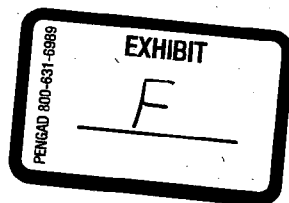
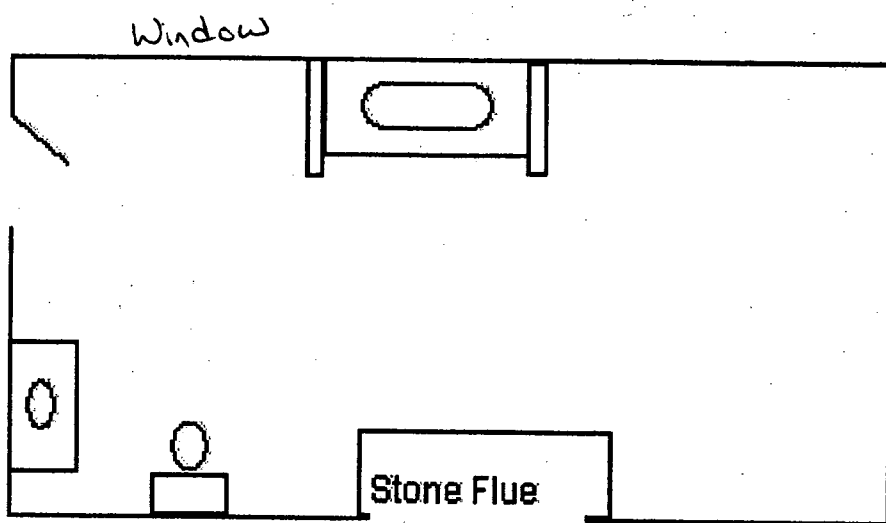
FORM DC5812

P-3

EXHIBIT

E

PEIGAD 800-631-6989



P-2

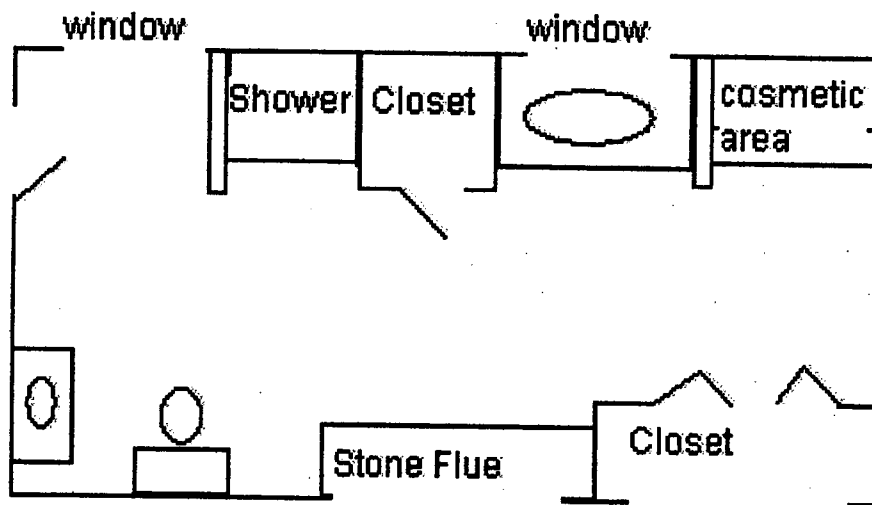


EXHIBIT  
6

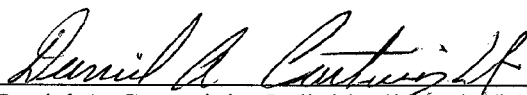
PENGAD 800-631-6889

### VERIFICATION

I hereby affirm that the following facts are correct:

I, Daniel A. Cartwright, individually, and d/b/a Cartwright Contracting, state that I am the Plaintiff, and as such am authorized to make this Verification to the Amended Complaint in the foregoing action. The facts contained in the Amended Complaint are based upon information which has been furnished to counsel and information that has been gathered by counsel in preparation of the defense of this lawsuit. The language of the Amended Complaint is that of counsel, and not of me. I have read the Amended Complaint, and to the extent that the same is based upon information which I have provided, it is true and correct to the best of my knowledge, information, and belief. To the extent that the content of the Amended Complaint is that of counsel, I have relied upon counsel in making this Verification. I hereby acknowledge that the facts set forth in the aforesaid Amended Complaint are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

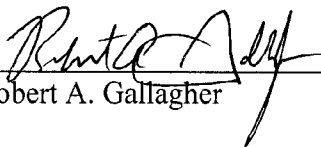
Dated: 9/29/06

  
Daniel A. Cartwright, Individually and d/b/a  
Cartwright Contracting

**CERTIFICATE OF SERVICE**

Robert A. Gallagher hereby certifies that on this 3<sup>rd</sup> day of August, 2006, he filed an original of the foregoing Amended Complaint with William A. Shaw, Prothonotary, Clearfield County Courthouse, 230 East Market Street, Clearfield, PA 16830 by U.S. Mail, Postage Pre-Paid, First Class Rates.

He further certifies that on this same date he served a true and correct copy of the same upon counsel for the Defendant, John R. Carfley, Esquire, 222 Presqueisle Street, P.O. Box 249, Philipsburg, PA 16866 by U.S. Mail, Postage Pre-Paid, First Class Rates.

  
\_\_\_\_\_  
Robert A. Gallagher

DANIEL A. CARTWRIGHT,  
Individually and d/b/a Cartwright  
Contracting,  
Plaintiff

vs.

MICHAEL AND CHRISTINE WHITE,  
Defendants

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY (46<sup>th</sup> Judicial  
:  
: District) PENNSYLVANIA  
:  
: CIVIL ACTION  
:  
: NO. 2006-700-C.D.  
: JURY TRIAL DEMANDED

**RULE 237.1 (A)(2)(II) NOTICE OF INTENTION TO  
FILE A PRAECIPE FOR ENTRY OF A DEFAULT JUDGMENT  
FOR FAILURE TO PLEAD**

TO: Michael and Christine White  
c/o John R. Carfley, Esquire  
222 Presqueisle Street  
P.O. Box 249  
Philipsburg, PA 16866

**FILED** No cc  
m 11:26 AM  
OCT 27 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

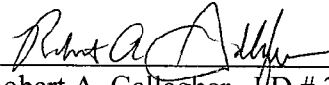
IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

**IF YOU DO NOT HAVE A LAWYER, CONTACT:**

**Prothonotary**

**Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830  
(814) 765-26741 X 1330**

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

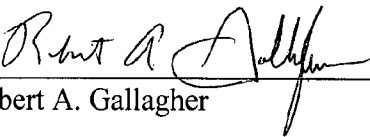
By:   
Robert A. Gallagher J.D.# 30417  
Counsel for Plaintiff  
10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404



**CERTIFICATE OF SERVICE**

Robert A. Gallagher hereby certifies that on this 25<sup>th</sup> day of October, 2006, he filed an original of the foregoing Rule 237.1(a)(2)(ii) Notice of Intention to File a Praecipe for Entry of a Default Judgment for Failure to Plead with William A. Shaw, Prothonotary, Clearfield County Courthouse, 230 East Market Street, Clearfield, PA 16830 by U.S. Mail, Postage Pre-Paid, First Class Rates.

He further certifies that on this same date he served a true and correct copy of the same upon counsel for the Defendant, John R. Carfley, Esquire, 222 Presqueisle Street, P.O. Box 249, Philipsburg, PA 16866 by U.S. Mail, Postage Pre-Paid, First Class Rates.

  
\_\_\_\_\_  
Robert A. Gallagher

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

**DANIEL A. CARTWRIGHT, individually  
and d/b/a CARTWRIGHT CONTRACTING,**

**Plaintiff,**

**-vs-**

**MICHAEL and CHRISTINE WHITE,**

**Defendants.**

**NO. 2006-700-CD**

**NOTICE**

A Counterclaim has been filed against you in Court. If you wish to defend against the matters set forth in the following Answer, New Matter and Counterclaim, you must enter a written appearance personally or by attorney and file an answer in writing with the Prothonotary setting forth your defenses or objections to the matter set forth against you and serve a copy on the attorney or person filing the Complaint. You are warned that if you fail to do so, the case may proceed without you and an Order may be entered against you by the Court without further notice for the relief requested by the Petitioner. You may lose 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 E. Market Street  
Clearfield, PA 16830  
814-765-2641

**FILED**  
**NOV 02 2006**  
012:20/1m  
William A. Shaw  
Prothonotary/Clerk of Courts  
1 CEN To Att

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

**DANIEL A. CARTWRIGHT, individually  
and d/b/a CARTWRIGHT CONTRACTING,**

**Plaintiff,**

**-vs-**

**MICHAEL and CHRISTINE WHITE,**

**Defendants.**

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**NO. 2006-700-CD**

**ANSWER, NEW MATTER & COUNTERCLAIM**

AND NOW COMES, the Defendants, Michael White and Christine White, who by and through their counsel John R. Carfley, Esquire, set forth the following Answer, New Matter and Counterclaim, and in support thereof, avers as follows:

1. Admitted.
2. Admitted.
3. Admitted in part. Denied in part. It is admitted that the Defendants entered into an arrangement whereby the Plaintiff would build a bathroom addition and patio roof for the Defendants' residence and prepared a bid relating to that job on or about August 17, 2005. Insofar as the Plaintiffs' bid is appended to said Complaint as Exhibit "A", proof of the content of said bid and the terms, provisions and conditions of that bid and/or contractual arrangement is demanded at time of trial, subject to the express objection of the Defendants as to the provisions stated and/or applied under the specified terms of the written agreement.
4. Denied. It is denied that the contract entered into by the parties constituted a partially written and partially oral contract which was subject to incorporation as specified by the Plaintiff. By way of further answer, it is averred that any changes and/or modifications to the specified documents would require written change orders in order to be binding upon the

Defendants and insofar as relevant, proof thereof is demanded at time of trial. It is further specifically denied that issuing payment in and of itself, unless specifically directed towards items appearing within written change orders verifiable by the parties would not result in the confirmation of the contract or an acceptance of the contract by the parties involved without further substantive evidence.

5. Admitted in part. Denied in part. It is admitted that the Defendants paid substantial sums of money, including, but not limited to, payments of or about the sum of \$14,884.00 for charges on the job as originally bid. Insofar as any sums remain due and owing the Plaintiff under the written contract, Defendant is without knowledge sufficient to form a belief as to the truth of the averments set forth herein and insofar as these facts, if proven, are relevant, proof thereof is demanded at time of trial.

6. Denied. It is specifically denied that during the course of performing this work, Defendants entered into any change orders, specifically those specified in Exhibit "B" of Plaintiff's Amended Complaint such as to create liability for additional work agreed upon to be finished by the individuals who were subject to this transaction and insofar as the same may be relevant, proof thereof is demanded at time of trial. By way of further answer, it is specifically denied that Defendants requested any additional work that was not previously agreed to under the original oral agreement and that any additional list or invoice from the Plaintiff constitutes a modification of the original terms and a conclusion of law as to its enforceability.

7. Admitted in part. Denied in part. It is admitted that the Defendants have paid \$13,844.00 to the Plaintiff for the work completed on the project and has refused to pay any additional sums alleged to be owed by the Plaintiff, in that Defendants refused to acknowledge that there are any sums remaining under the original contract or that there were any sums owed by virtue of change orders fashioned by the Plaintiff as part of the overall agreement in which these parties were involved.

8. Denied. It is specifically denied that throughout the work, Defendant Michael White was verbally abusive, vulgar and threatening to the Plaintiff and/or his workers or that this resulted in any actions undertaken by the Plaintiff in removing his workers from the job site on

one or several occasions. Insofar as these alleged facts may be relevant in any contract action, proof of these averments and the subsequent actions by the Plaintiff and/or his employees is demanded at time of trial.

9. Admitted in part. Denied in part. It is admitted that the Defendants have refused to pay for any remaining sums alleged to be owed by the Plaintiff for those reasons more fully set forth throughout this pleading and insofar as relevant, proof that these sums are due and owing are demanded from the Plaintiff at the time of trial. It is denied that any additional sums are owed under the contract.

10. Denied. It is denied that there were any pre-existing defects in the Defendants' premises or that these defects were such as to cause the Plaintiff to be unable to deal with the workmanship as required by the accepted standards in the Clearfield and Centre County area in a reasonable fashion. These individuals held themselves out as professionals and individuals who were capable of dealing with minor defects throughout the course of the construction. Insofar as relevant, proof of any defects which hampered the Plaintiff or resulted in Plaintiff's inability to perform or function as a qualified contractor within the Clearfield/Centre County are demanded at the time of trial.

11. Denied. It is specifically denied that Defendants failed to complete certain aspects of the construction work prior to the Plaintiff beginning work on the project and insofar as relevant, proof thereof is demanded at the time of trial.

12. Denied. It is specifically denied that Defendants, without cause or provocation, prevented the Plaintiff from completing the bid work or the extra work ordered by the Defendants on the project for those reasons more fully set forth hereinabove in this pleading, the averments of which are incorporated herein by reference as fully as though set forth at length. Insofar as these may constitute defenses to be asserted by the Plaintiff, proof thereof is demanded at the time of trial.

13. Denied. It is specifically denied that the Defendants have failed and refused to pay the Plaintiff the remaining balance of the bid contract price since Defendants assert that this debt is not due and owing based on the factual circumstances of the case. Moreover, Defendants further contend that no extras or change orders were entered into by the Defendants to warrant costs assertable under the terms of this certain instrument.

#### COUNT I – BREACH OF CONTRACT

14. The averments of paragraphs 1 through 13 of Defendants' Answer are incorporated herein by reference as fully as though set forth at length as they apply to the assertions made by the Plaintiff in their pleadings. It is specifically denied that the Defendants, in any way, breached any of the terms of the contractual arrangement, either by failing to allow the Plaintiff to complete the project or by failing to make payments in a reasonable and timely manner. It is further specifically denied that the writings attached to this pleading as Exhibits A through G specified terms of the written contract which Defendant accepted and insofar as relevant, proof thereof is demanded at time of trial.

15. Denied. It is specifically denied that the work performed by the Plaintiff was fit and proper and/or that the work passed any inspections by individuals named in Paragraph 15 of Plaintiff's Amended Complaint. Insofar as these averments may be relevant, or that the named individual had authority to comment on the veracity of the work performed, proof thereof is demanded at time of trial. By way of further answer, Plaintiff's allegation constitutes a conclusion of law for which no responsive pleading is required.

16. Denied. On the contrary, it is averred that after reasonable investigation Defendants are without knowledge sufficient to form a belief as to the truth of the averments set forth therein and insofar as relevant, proof thereof is demanded at the time of trial.

17. Denied. On the contrary, it is averred that after reasonable investigation Defendants are without knowledge sufficient to form a belief as to the truth of the averments set forth therein and insofar as relevant, proof thereof is demanded at the time of trial.

18. Denied. It is denied that the diagram attached to Plaintiff's Complaint as Exhibit "F" is drawn pursuant to a written contract between the parties. On the contrary, it is averred that after reasonable investigation Defendants are without knowledge sufficient to form a belief as to the truth of the averments set forth therein and insofar as relevant, proof thereof is demanded at the time of trial.

19. Denied. It is denied that the diagram attached to Plaintiff's Complaint as Exhibit "G" is drawn pursuant to a written modification of the original contract between the parties for additional work to be performed by the Plaintiff. On the contrary, it is averred that after reasonable investigation Defendants are without knowledge sufficient to form a belief as to the truth of the averments set forth therein and insofar as relevant, proof thereof is demanded at the time of trial.

20. Admitted in part. Denied in part. It is admitted that the Defendants have failed to make payments as demanded by the Plaintiff. It is specifically denied that the refusal of the Defendants to make these payments is without justification or excuse and insofar as the same may be relevant, proof thereof is demanded at the time of trial. To the extent that Plaintiff's allegation suggests that Defendants have withheld amounts due without justification or excuse, the averment is a conclusion of law for which no responsive pleading is required.

WHEREFORE, Defendants demand that judgment be entered in favor of the Defendants and against the Plaintiff and that the Complaint asserted by the Plaintiff be dismissed in favor of the Defendants.

## COUNT II – UNJUST ENRICHMENT

21. The averments of paragraphs 1 through 20 of Defendants' Answer are incorporated herein by reference as fully as though set forth at length.

22. Denied. Plaintiff's allegation constitutes a conclusion of law for which no responsive pleading is required. By way of further answer, it is specifically denied that the Defendants have been unjustly enriched at the expense of the Plaintiff in that the Defendants have paid all sums that were legally due and owing under the contract for the services provided by the Plaintiff and insofar as Plaintiff contests that statement, proof thereof is demanded at time of trial.

WHEREFORE, Defendants demand that judgment be entered in favor of Defendants and against the Plaintiff for those reasons more fully set forth herein.

## COUNT III – TRADE DISPARAGEMENT

23. The averments of paragraphs 1 through 22 of Defendant's Answer are incorporated herein by reference as fully as though set forth at length.

24. Denied. On the contrary it is averred that after reasonable investigation, Defendants are without knowledge sufficient to form a belief as to the truth of the averment set forth therein and insofar as relevant, proof thereof is demanded at the time of trial. By way of further answer, it is averred that Plaintiff's statements constitute conclusions of law as to which no specific response is required by the Defendants. Defendants assert that the Plaintiff is attempting to recover punitive damages for alleged actions and/or comments made by the Defendants concerning the quality of workmanship asserted by the Plaintiff during the course of the construction contract. Insofar as relevant, Defendants aver that punitive damages are not recoverable in a contractual action of this nature and as a result, Plaintiff is asserting illegal factual representations pertaining to defamation of character and/or other such averments which



they hope to assert at trial in order to enhance their recovery or to influence the trier of facts as to the imposition of additional, non-liquidated damages which are improper measure of damage under cases of this nature. To the extent that these averments are improper, Defendants request compensation from the Plaintiff for the assertions made in an unliquidated amount in excess of Ten Thousand Dollars (\$10,000.00).

25. Denied. On the contrary it is averred that after reasonable investigation, Defendants are without knowledge sufficient to form a belief as to the truth of the averment set forth therein and insofar as relevant, proof thereof is demanded at the time of trial. By way of further answer, it is averred that Plaintiff's statements constitute conclusions of law as to which no specific response is required by the Defendants. Plaintiff is not entitled to additional compensation for averments made by the Defendants pertaining to the quality of work or the level of competence of these particular individuals in that these are not recoverable compensable damages or damages which may be asserted in a contractual action. For all of those reasons more fully set forth in paragraph 24, the contents of which are incorporated herein by reference as fully as though as set forth at length.

26. Denied. On the contrary it is averred that after reasonable investigation, Defendants are without knowledge sufficient to form a belief as to the truth of the averment set forth therein and insofar as relevant, proof thereof is demanded at the time of trial. By way of further answer, it is averred that Plaintiff's statements constitute conclusions of law as to which no specific response is required by the Defendants. Plaintiff is not entitled to additional compensation for averments made by the Defendants pertaining to the quality of work or the level of competence of these particular individuals in that these are not recoverable compensable damages or damages which may be asserted in a contractual action. For all of those reasons more fully set forth in paragraph 24, the contents of which are incorporated herein by reference as fully as though as set forth at length.

27. Denied. On the contrary it is averred that after reasonable investigation, Defendants are without knowledge sufficient to form a belief as to the truth of the averment set forth therein and insofar as relevant, proof thereof is demanded at the time of trial. By way of further

answer, it is averred that Plaintiff's statements constitute conclusions of law as to which no specific response is required by the Defendants. Plaintiff is not entitled to additional compensation for averments made by the Defendants pertaining to the quality of work or the level of competence of these particular individuals in that these are not recoverable compensable damages or damages which may be asserted in a contractual action. For all of those reasons more fully set forth in paragraph 24, the contents of which are incorporated herein by reference as fully as though as set forth at length.

28. Denied. On the contrary it is averred that after reasonable investigation, Defendants are without knowledge sufficient to form a belief as to the truth of the averment set forth therein and insofar as relevant, proof thereof is demanded at the time of trial. By way of further answer, it is averred that Plaintiff's statements constitute conclusions of law as to which no specific response is required by the Defendants. Plaintiff is not entitled to additional compensation for averments made by the Defendants pertaining to the quality of work or the level of competence of these particular individuals in that these are not recoverable compensable damages or damages which may be asserted in a contractual action. For all of those reasons more fully set forth in paragraph 24, the contents of which are incorporated herein by reference as fully as though as set forth at length.

29. Denied. On the contrary it is averred that after reasonable investigation, Defendants are without knowledge sufficient to form a belief as to the truth of the averment set forth therein and insofar as relevant, proof thereof is demanded at the time of trial. By way of further answer, it is averred that Plaintiff's statements constitute conclusions of law as to which no specific response is required by the Defendants. Plaintiff is not entitled to additional compensation for averments made by the Defendants pertaining to the quality of work or the level of competence of these particular individuals in that these are not recoverable compensable damages or damages which may be asserted in a contractual action. For all of those reasons more fully set forth in paragraph 24, the contents of which are incorporated herein by reference as fully as though as set forth at length.

30. Denied. On the contrary it is averred that after reasonable investigation, Defendants are without knowledge sufficient to form a belief as to the truth of the averment set forth therein and insofar as relevant, proof thereof is demanded at the time of trial. By way of further answer, it is averred that Plaintiff's statements constitute conclusions of law as to which no specific response is required by the Defendants. Plaintiff is not entitled to additional compensation for averments made by the Defendants pertaining to the quality of work or the level of competence of these particular individuals in that these are not recoverable compensable damages or damages which may be asserted in a contractual action. For all of those reasons more fully set forth in paragraph 24, the contents of which are incorporated herein by reference as fully as though as set forth at length.

31. Denied. On the contrary it is averred that after reasonable investigation, Defendants are without knowledge sufficient to form a belief as to the truth of the averment set forth therein and insofar as relevant, proof thereof is demanded at the time of trial. By way of further answer, it is averred that Plaintiff's statements constitute conclusions of law as to which no specific response is required by the Defendants. Plaintiff is not entitled to additional compensation for averments made by the Defendants pertaining to the quality of work or the level of competence of these particular individuals in that these are not recoverable compensable damages or damages which may be asserted in a contractual action. For all of those reasons more fully set forth in paragraph 24, the contents of which are incorporated herein by reference as fully as though as set forth at length.

WHEREFORE, Defendants request that Plaintiff's demand for unliquidated damages in excess of Twenty Thousand Dollars (\$20,000.00) and in the alternative, to issue an award to Defendants in excess of Ten Thousand Dollars (\$10,000.00) for those reasons more fully set forth herein.

#### NEW MATTER

Defendants, Michael and Christine White, set forth the following New Matter pertinent to the above cause of action and in support thereof, aver as follows:

32. Defendants incorporate by reference the factual averments of paragraphs 1 through 31 of their Answer as fully as though set forth at length.

33. The claim asserted by the Plaintiff pertaining to the recovery of sums alleged to be owed in full payment under the initial contract, specifically the \$1,000 alleged in the body of the Amended Complaint are not recoverable for, among other reasons, the fact that the project was never accepted or approved by the inspectors required by law to qualify and/or approve this dwelling for habitability, nor was the work performed to the satisfaction of the owners or consistent with the standard of practice and trade in the Clearfield and Centre County regions.

34. Defendants allege that as a result of these failures that the said property is, at the present time, not strictly habitable and suffers from structural and other defects, including, but not limited to, plumbing, defects, roofing and other structural impairments which will require the Defendants to retain the services of qualified and competent contractors to begin the reconstruction of this home improvement for sums exceeding Ten Thousand Dollars (\$10,000.00) for which a cause of action will be set forth and a monetary claim will be asserted.

35. Defendants further assert that no additional change orders, written or oral, were ever approved by the Defendants, as a result of which no funds are due and owing under any such contractual theory, including a written or oral contract, thus eliminating any claim for sums in the amount of \$2,370.51 as pled by the Plaintiff in his Amended Complaint.

36. It is believed, and therefore averred, that the Plaintiff is in default of the terms of any contractual arrangement with the Defendants in that the Plaintiff breached its obligation to complete the improvements to the structure as required in a good and workmanlike manner when they left the site without completing all of the repairs, improvements and structural changes agreed to by the Plaintiff (Contractor) and the Defendants (Owners).

WHEREFORE, Defendants request this Honorable Court to enter an Order dismissing Plaintiff's Complaint for the recovery of all sums alleged to be due and owing under the terms

of the original contract and all sums alleged to be due and owing under any theory pertaining to change orders or other such contractual relations.

### COUNTERCLAIM

37. Defendants incorporate by reference the factual averments of paragraphs 1 through 36 of Defendants' Answer and New Matter as fully as though the same were set forth at length.

38. Plaintiff and Defendants orally entered into a contract for the construction of a bathroom addition to Defendants' residence for an agreed upon price of \$19,844.00, to include all of the construction costs plus materials for the project outlined in Plaintiffs Exhibit "A".

39. Prior to the commencement of the project, Defendants spoke with Plaintiffs and the parties agreed to modify the purchase price to \$14,844.00, in exchange for Defendants personally completing the "footer" and flooring portion of the project, including the excavation, placement of footers, block work and installation of a concrete floor, which was originally included in Plaintiff's bid.

40. Defendants have fulfilled all of the provisions of the agreement to be performed, with the lone exception of withholding \$1,000 in an attempt to persuade Plaintiff to remedy the many flaws in the completed project.

41. Plaintiff has not fulfilled the provisions of the agreement on his part to be performed.

42. Plaintiff has wholly neglected to do and perform certain things which were expressly or by necessary implication required to be done or performed by the agreement, as follows:

- (a) Install, stabilize and finish the tub correctly;
- (b) Install, finish and cover the piping that currently protrudes from the wall;
- (c) Clean and dispose of the construction materials and garbage left in Defendants yard;

of the original contract and all sums alleged to be due and owing under any theory pertaining to change orders or other such contractual relations.

### COUNTERCLAIM

37. Defendants incorporate by reference the factual averments of paragraphs 1 through 36 of Defendants' Answer and New Matter as fully as though the same were set forth at length.

38. Plaintiff and Defendants orally entered into a contract for the construction of a bathroom addition to Defendants' residence for an agreed upon price of \$19,844.00, to include all of the construction costs plus materials for the project outlined in Plaintiffs Exhibit "A".

39. Prior to the commencement of the project, Defendants spoke with Plaintiffs and the parties agreed to modify the purchase price to \$14,844.00, in exchange for Defendants personally completing the "footer" and flooring portion of the project, including the excavation, placement of footers, block work and installation of a concrete floor, which was originally included in Plaintiff's bid.

40. Defendants have fulfilled all of the provisions of the agreement to be performed, with the lone exception of withholding \$1,000 in an attempt to persuade Plaintiff to remedy the many flaws in the completed project.

41. Plaintiff has not fulfilled the provisions of the agreement on his part to be performed.

42. Plaintiff has wholly neglected to do and perform certain things which were expressly or by necessary implication required to be done or performed by the agreement, as follows:

- (a) Install, stabilize and finish the tub correctly;
- (b) Install, finish and cover the piping that currently protrudes from the wall;
- (c) Clean and dispose of the construction materials and garbage left in Defendants yard;

- (d) Bring the entire project, including but not limited to, the patio roof and original roof of the house to the standards of construction code;
- (e) Other general portions of the job which have not been completed and are standard among contractors on a project of this type.

43. Plaintiff has performed in a poor, improper and unworkmanlike manner certain other things which were expressly or by necessary implication required by the agreement to be done and performed in a proper and workmanlike manner as follows:

- (a) Improperly completed the necessary drywall and siding placement;
- (b) Installation the walls so that they are crooked and out of square with the floor and the other pre-existing walls;
- (c) Completion of the necessary plumbing and shower lines to prevent leaking and to finish the project to a standard acceptable among local contractors.
- (d) Other general facets of the job which have been done to a standard not acceptable among contractors on a project of this type.

44. The Defendants have retained the services of competent contractors and engineers pertaining to the structural integrity and qualification of the dwelling, dealing in part with, but not limited to, plumbing, heating, roofing and other contractual and structural qualifications and have received bids from these contractors pertaining to the sums necessary to render the dwelling habitable and fit for human occupancy, all of which will result in damages to correct the defects resulting from Plaintiff's alleged defective workmanship, which exceeds an amount of Ten Thousand Dollars (\$10,000.00).

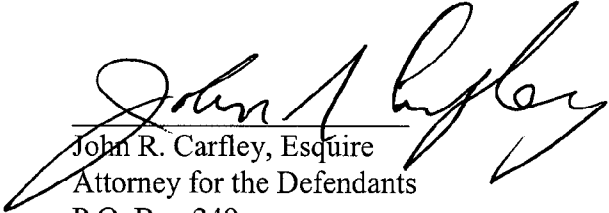
45. That the defects and failure to comply with the standards of workmanship required in this regional area and as asserted by the Defendants is due solely and exclusively to the inability of the Plaintiff to conduct his work in a good and workmanlike manner and in a manner consistent with similar contractors in the trade throughout the Clearfield and Centre county region.

46. The said contractual arrangements entered into by Plaintiff and Defendants required that the Plaintiff conduct the repairs in a manner suitable to the Defendants, but at a minimum, in conformity with the standards of the trade acceptable by the competent contractors throughout this industry.

47. That the negligence and inability carelessness of the Plaintiff to complete these repairs and improvements in a manner consistent with the standards of the trade and in conformity with the requirements of the Plaintiff, have resulted in damages as specified in paragraphs 42 and 43 herein.

WHEREFORE, Defendants demand that judgment be entered in favor of Defendants and against the Plaintiff in the sum of Ten Thousand Dollars, (\$10,000.00) together with interest thereon and costs of this proceeding.

Respectfully submitted,



John R. Carfley, Esquire  
Attorney for the Defendants  
P.O. Box 249  
Philipsburg, PA 16866  
(814) 342-5581



VERIFICATION

I hereby verify that the statements made in this instrument are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read "Michael White", written over a horizontal line.

Michael White

Dated: 11-2-04

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

DANIEL A. CARTWRIGHT, individually  
and d/b/a CARTWRIGHT CONTRACTING,

Plaintiff,

-vs-

MICHAEL and CHRISTINE WHITE,

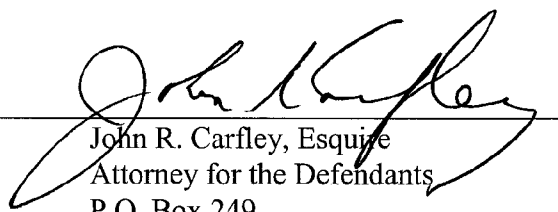
Defendants.

NO. 2006-700-CD

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the Answer in the above captioned matter by sending the same in the United States Mail, postage prepaid, first class rate, to the attorney of record for the Plaintiff on this 2nd day of November, 2006 as follows:

Robert A. Gallagher  
Mitchell Gallagher, Attorneys at Law  
10 West Third Street  
Williamsport, PA 17701



John R. Carfley, Esquire  
Attorney for the Defendants  
P.O. Box 249  
Philipsburg, PA 16866  
(814) 342-5581

DANIEL A. CARTWRIGHT,  
Individually and d/b/a Cartwright  
Contracting,  
Plaintiff

vs.

MICHAEL AND CHRISTINE WHITE,  
Defendants

: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY (46<sup>th</sup> Judicial  
:  
: District) PENNSYLVANIA  
:  
: CIVIL ACTION  
:  
: NO. 2006-700-C.D.  
: JURY TRIAL DEMANDED

**PLAINTIFF'S REPLY TO NEW MATTER AND  
ANSWER TO THE COUNTERCLAIM**

**Reply to New Matter**

**FILED** *(R)*  
NOV 22 2006  
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William A. Shaw  
Prothonotary/Clerk of Courts  
1 CENT TO ATT.

32. Plaintiff incorporates by reference the factual averments of paragraphs 1 - 31 of his Complaint as if fully set forth herein.

33. Specifically denied as stated and strict proof is demanded at trial, if relevant. For the reasons set forth in the Plaintiff's Complaint, the Defendants frustrated and prevented the Plaintiff from completing the work.

34. Specifically denied and strict proof is demanded at trial, if relevant. If the property is not habitable or suffers from defects it is the consequence of the Defendants' own actions or inactions, errors or omissions, which are neither the fault nor the responsibility of the Plaintiff.

35. Conclusion of law to which no answer is required. To the extent that an answer is deemed to be required, these allegations are specifically denied and strict proof is demanded at trial, if relevant. By way of further additional answer, the averments of the Plaintiff's Complaint are incorporated by reference as if fully set forth herein.

36. Specifically denied and strict proof is demanded at trial, if relevant. By way of further additional answer, the Defendants obstructed and prevented the Plaintiff from completing

the work both in the defective manner that the Defendants performed their part of the work, and in failing to perform part of the work the Defendants had assumed. In addition to these errors, actions, and omissions, the Defendants, solely and jointly, prevented the Plaintiff from completing the work in violation and default of the terms of agreement as between the parties.

WHEREFORE, Plaintiff respectfully requests that judgment be entered in his favor, and against the Defendants, together with an award of costs.

### **REPLY TO COUNTER-CLAIM**

37. Plaintiff incorporates by reference the factual averments of paragraphs 1 - 31 of the Complaint, and paragraphs 32 - 36 of its Reply to New Matter, as if fully set forth herein.

38. Admitted.

39. Admitted.

40. Specifically denied. The Defendants' block work was defective, and approximately three quarters of an inch out of level, which was the source of what the Defendants claim to be "flaws" in the "completed project." In addition, the Defendants changed the "as bid" job specifications and directed the Plaintiff not to use trusses in the construction because they wanted the ceiling to be left open. In addition, during the course of the project, the Defendants requested the Plaintiff to perform additional work, over and above the bid job, which extra work or "add-ons" resulted in \$2,370.51 in additional charges as evidence by Exhibit "B" to the Plaintiff's Complaint. It is admitted that the Defendants withheld \$1,000.00 from the initial work requested, but the Defendants also owe an additional \$2,370.51 for extra work they requested in the course of the project. The Plaintiff never could complete the project for the reasons specified in the Plaintiff's Complaint, and in particular paragraphs 6 - 12 of the Plaintiff's Complaint are incorporated by reference as if fully set forth herein.

41. Specifically denied as stated. To the extent that portions of the job were not completed, such as the molding/baseboard trim, it was because the Defendants did not do the work they represented that they would do themselves such as installing the ceramic tile, which has to be installed before the molding/baseboard could be installed by the Plaintiff. By way of further additional answer, paragraphs 8, 10, 11, and 12 of the Plaintiff's Complaint are incorporated by reference as if fully set forth herein.

42. Specifically denied that the Plaintiff has not performed the work required under the parties' agreement, except to the extent prevented from doing so by the Defendants' own actions or inactions. By way of further answer:

A. The Plaintiff has been unable to finish the tub because of the inaction of the Defendants to do the portion of the job the Defendants committed to do;

B. Likewise, the Plaintiff is not able to finish his portion of the job because of the Defendants' inaction in performing their part of the work, by the Defendants' vulgar and abusive conduct toward the Plaintiff and his employees, and because the Defendants refuse to allow another contractor to complete the work in the Plaintiff's stead;

C. To the extent that materials have not been removed from the Defendants' premises it is because of the Defendants' own actions in failing to allow the Plaintiff, or a contractor in his stead, to complete the job;

D. The Plaintiff avers that the patio roof and original roof do meet all applicable standards having passed inspection by the building inspector, who had the roofing system reviewed by a professional engineer, and paragraph 15 and Exhibit "C" of the Plaintiff's Complaint is incorporated herein by reference; and,

E. Plaintiff avers that to the extent any portion of the job has not been completed, the same is the fault of the Defendants who failed to complete the aspects of the work they committed to perform, and who have prevented both the Plaintiff, and a contractor retained in his stead to complete the job.

43. Specifically denied as stated. The Plaintiff performed all aspects of his work in a good, proper, and workmanlike manner. By way of further additional answer/reply:

A. The Plaintiff made the necessary drywall repairs/corrections at no additional charge, and likewise hung and rehung the siding, which could never be made to appear perfect because the block work performed by the Defendants was done in a poor, improper, and unworkmanlike manner with the result that the block work/footers were approximately three quarters of an inch out of level with the remainder of the Defendants' house;

B. To the extent that the walls of the bathroom addition are out of square with the floor or other walls, the same is the consequence of the pre-existing condition of the Defendants' house or is a consequence of the Defendants having done poor, improper, and unworkmanlike footer and block work that was approximately three quarters of an inch out of level;

C. Plaintiff was prevented from completing the plumbing and shower lines by the Defendants' own actions and inactions; and,

D. Plaintiff avers that to the extent not impeded by the Defendants' own actions in inactions, the work he performed was of good and workmanlike quality that meets the customary standards of the region.

44. Specifically denied that the Plaintiff's workmanship was defective, or that any actions by the Plaintiff resulted in the dwelling not being habitable or fit for human occupancy. By way of further answer, as set forth in the Complaint and in this Reply, any problems that might exist are the result of the Defendants' own actions and inactions, including but not limited to failing to perform the portions of the job that they were to perform, and to the extent that the Defendants did perform, performing such work in a poor, improper, and unworkmanlike manner, and in failing to allow the Plaintiff, or contractor in his stead, to complete the job. With regard to the allegation regarding bids from other contractors to complete the job, and the cost of completion, the Plaintiff, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth of those allegations, and the same are specifically denied and strict proof is demanded at trial. By way of further answer, the Defendants have violated the

Pennsylvania Rules of Civil Procedure by not attaching copies of the alleged bids from other contractors to the extent such writings exist.

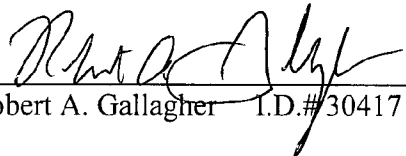
45. Specifically denied and strict proof is demanded at trial, if relevant. As averred throughout the Plaintiff's Complaint and this Reply, any alleged "defects" result from the Defendants' own actions in failing to perform their portion of the work in a good and workmanlike manner, or in the Defendants' own inactions in failing to complete the portions of the job that the Defendants were to perform prior to the project being completed by the Plaintiff, or contractor in his stead. By way of further additional answer, the Plaintiff's work was done in a good and workmanlike manner consistent with the custom and usage of similarly situated contractors under the totality of the circumstances then and there existing.

46. Conclusion of law to which no answer is required. To the extent that an answer might be deemed to be required, to the extent that repairs/corrections were not performed, or the job was not completed, the same resulted from the Defendants' own refusal to permit the Plaintiff to complete the same; the Defendants' failure to complete the portion of the job they were to perform; and in failing to allow another contractor to complete the work in the Plaintiff's stead.

47. The Plaintiff incorporates all of the averments of his Complaint, and the averments of paragraphs 42 and 43 of this Reply. It is specifically denied that the Plaintiff was negligent or careless, and strict proof is demanded at trial, if relevant. To the extent that the project was not completed, the same was the result of the Defendants' own actions and inactions as set forth above, and as set forth in the Plaintiff's Complaint. To the extent that repairs, improvements, or the project itself was not completed, the same results from the actions and inactions of the Defendants that have prevented the Plaintiff, or contractor he retained in his stead, to complete the work.

WHEREFORE, the Plaintiff respectfully requests that the Defendants' counterclaim be denied, disallowed, and dismissed, and that judgment be entered in favor of the Plaintiff, together with interest and costs.

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

By:   
Robert A. Gallagher I.D.#30417

Counsel for Plaintiff

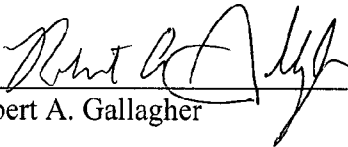
10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404



**VERIFICATION**

ROBERT A. GALLAGHER hereby certifies that he is the attorney for the Plaintiff Daniel A. Cartwright, individually and d/b/a Cartwright Contracting in this action, and he therefore has sufficient knowledge and information regarding the action to make this Verification on behalf of said Plaintiff. He further certifies that the facts set forth in the foregoing Plaintiff's Reply to New and Answer to Crossclaim are true and correct to the best of his knowledge, information and belief.

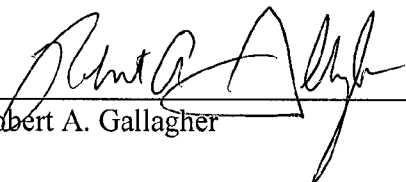
This Verification is made pursuant to Pa.R.C.P. 1024(c)(2), as the Verification of the Defendant Daniel A. Cartwright cannot be obtained in the time allowed for filing this pleading.

  
\_\_\_\_\_  
Robert A. Gallagher

**CERTIFICATE OF SERVICE**

Robert A. Gallagher hereby certifies that on this 22<sup>d</sup> day of November, 2006, he filed an original of the foregoing Plaintiff's Reply to New Matter and Answer to Crossclaim of Defendant with William A. Shaw, Prothonotary, Clearfield County Courthouse, 230 East Market Street, Clearfield, PA 16830 by Personal Delivery.

He further certifies that on this same date he served a true and correct copy of the same upon counsel for the Defendant, John R. Carfley, Esquire, 222 Presqueisle Street, P.O. Box 249, Philipsburg, PA 16866 by U.S. Mail, Postage Pre-Paid, First Class Rates.

  
\_\_\_\_\_  
Robert A. Gallagher

DANIEL A. CARTWRIGHT,  
Individually and d/b/a Cartwright  
Contracting,  
Plaintiff

vs.

MICHAEL AND CHRISTINE WHITE,  
Defendants

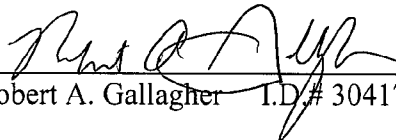
: IN THE COURT OF COMMON PLEAS  
: OF CLEARFIELD COUNTY (46<sup>th</sup> Judicial  
:  
: District) PENNSYLVANIA  
:  
: CIVIL ACTION  
:  
: NO. 2006-700-C.D.  
: JURY TRIAL DEMANDED

**VERIFICATION TO BE APPENDED TO**  
**PLAINTIFF'S REPLY TO NEW MATTER AND**  
**ANSWER TO THE COUNTERCLAIM**

TO THE PROTHONOTARY:

Kindly append the attached Verification to the Plaintiff's Reply to New Matter and  
Answer to the Counterclaim previously filed with the Court in this matter.

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

By:   
Robert A. Gallagher I.D.# 30417

Counsel for Plaintiff

10 West Third Street  
Williamsport, PA 17701  
(570) 323-8404

**FILED** *NAC*  
*NOV 27 2006*

William A. Shaw  
Prothonotary/Clerk of Courts

### VERIFICATION

I hereby affirm that the following facts are correct:

I, Daniel A. Cartwright, individually, and d/b/a Cartwright Contracting, state that I am the Plaintiff, and as such am authorized to make this Verification to the Reply to New Matter and Answer to Counter-Claim in the foregoing action. The facts contained in the Reply/Answer are based upon information which has been furnished to counsel and information that has been gathered by counsel in preparation of the defense of this lawsuit. The language of the Reply/Answer is that of counsel, and not of me. I have read the Reply/Answer, and to the extent that the same is based upon information which I have provided, it is true and correct to the best of my knowledge, information, and belief. To the extent that the content of the Reply/Answer is that of counsel, I have relied upon counsel in making this Verification. I hereby acknowledge that the facts set forth in the aforesaid Reply/Answer are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Dated: 11/20/06

Daniel A. Cartwright  
Daniel A. Cartwright, Individually and d/b/a  
Cartwright Contracting

**CERTIFICATE OF SERVICE**

Robert A. Gallagher hereby certifies that on this 22<sup>d</sup> day of November, 2006, he filed an original of the foregoing Verification to be Appended to Plaintiff's Reply to New Matter and Answer to Crossclaim of Defendant with William A. Shaw, Prothonotary, Clearfield County Courthouse, 230 East Market Street, Clearfield, PA 16830 by United States Mail, Postage Pre-Paid, First Class Rates.

He further certifies that on this same date he served a true and correct copy of the same upon counsel for the Defendant, John R. Carfley, Esquire, 222 Presqueisle Street, P.O. Box 249, Philipsburg, PA 16866 by U.S. Mail, Postage Pre-Paid, First Class Rates.

  
\_\_\_\_\_  
Robert A. Gallagher

## Notice of Proposed Termination of Court Case

February 1, 2012

RE: 2006-00700-CD

Daniel A. Cartwright

Vs.

Michael B. White  
Christine L. White

FILED  
FEB 01 2012  
William A. Shaw  
Prothonotary/Clerk of Courts

To All Parties and Counsel:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830. The Statement of Intention to Proceed must be filed on or before April 2, 2012.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,

F. Cortez Bell, III, Esq.  
Court Administrator

Court of Common Pleas of Clearfield County, Pennsylvania  
Civil Division

Daniel A. Cartwright

Vs.

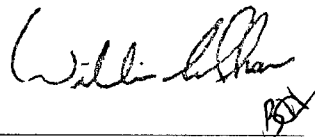
2006-00700-CD

Michael B. White  
Christine L. White

FILED  
JUL 27 2012  
William A. Shaw  
Prothonotary/Clerk of Courts  
6K

**Termination of Inactive Case**

This case is hereby terminated with prejudice this July  
27, 2012, as per Rule 230.2



William A. Shaw  
Prothonotary