

06-1609-CD

Harold Wilson et al vs Gary Bowman et al

2006-1609-CD

Harold Wilson et al vs Gary Bowman et al

Date: 1/18/2007

Clearfield County Court of Common Pleas

User: LMILLER

Time: 10:21 AM

Page 1 of 1

ROA Report

Case: 2006-01609-CD

Current Judge: Fredric Joseph Ammerman

Harold A. Wilson Jr., Betsy Wilson vs. Gary L. Bowman, Bowman Masonry

Civil Other

Date		Judge
10/3/2006	New Case Filed. Filing: Civil Complaint Paid by: Gearhart, R. Denning (attorney for Wilson, Harold A. Jr.) Receipt number: 1915810 Dated: 10/03/2006 Amount: \$85.00 (Check) 3CC Atty Gearhart.	No Judge
11/17/2006	Entry of Appearance, filed. Please enter my appearance on behalf of Gary Bowman, t/d/b/a Bowman Masonry, filed by s/ Dwight L. Koerber Jr Esq. 3 CC Atty Koerber.	No Judge
12/1/2006	Preliminary Objections of Defendant, filed by s/ Dwight L. Koerber, Jr., Esquire. 3CC Atty. Koerber	No Judge
12/4/2006	Order, NOW, this 4th day of Dec., 2006, upon consideration of Defendant's Preliminary Objections, it is Ordered that argument on Defendant's Preliminary Objections has been scheduled for the 18th day of Jan., 2007, at 9:00 a.m. in Courtroom No. 1. by The Court, /s/ Fredric J. Ammerman, Pres. Judge. 4CC Atty. Koerber	Fredric Joseph Ammerman
12/6/2006	Certificate of Service, filed. That on this 5th day of December 2006, the undersigned served a certified copy of the Order dated December 4, 2006 in the above captioned matter on R. Denning Gearhart Esq., filed by s/ Dwight L. Koerber Jr. Esq. 3CC Atty Koerber.	No Judge
1/11/2007	Sheriff Return, October 4, 2006 at 9:30 am Served the within Complaint on Fredric Joseph Ammerman Gary L. Bowman, t/d/b/a Bowman Masonry. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Gearhart \$30.39	

1/11/2007
notarized
as of 1-18-07

Date: 01/05/2006
Time: 02:27 PM
Page 556 of 607

Clearfield County Court of Common Pleas
Cases by Filing Date
CT COMMON PLEAS,
Case Type: CD, All Subtypes
From 11/01/2000 to 12/30/2005
All Judges

User: BHUDSON

Judge: Reilly, John K. Jr.

Case	Filed	Entered	Party	Status
1996-01573-CD 12-9-96	11/30/2000	11/30/2000	Andresky, Stanley JR., Plaintiff Andresky, Georgette, Plaintiff Wal-Mart Store, Inc., Defendant	Pending
1997-00365-CD 3-10-97	04/09/2001	04/09/2001	Murray, Diane L., Plaintiff Rice Construction, Inc., J. W., Defendant	Pending
1997-00361-CD 3-25-97	02/23/2001	02/23/2001	United Refining Company of Pennsylvania, Plaintiff Lesnefsky, Michael, Defendant Advanced Transportation Services, Inc., Defendant Northeastern Penna. Shipper's CO-OP Assoc., Inc., Defendant Eastern Refrigerated Express, Inc., Defendant Southern Refrigerated Transport Company, Defendant	Settled, and/or Disc. and Ended
1997-00903-CD 7-23-97	02/23/2001	02/23/2001	United Refining Company, Plaintiff Eastern Refrigerated Express, Inc., Defendant Advanced Transportation Services, Inc., Defendant Northeastern Penna. Shipper's Co-Op, Defendant Lesnefsky, Michael, Defendant	Settled and/or Disc. and Ended
1997-00936-CD 7-20-97	03/12/2001	03/12/2001	Ditty, Bernadette, Plaintiff Ditty, Carl A., Plaintiff Ditty, Stephanie M., Plaintiff Ditty, Elizabeth M., Plaintiff Commonwealth of Penna., Dept of Highways, Defendant	disposed
1997-01065-CD 8-28-97	12/10/2002	12/10/2002	Davis, John L., Plaintiff Davis, Christopher J., Plaintiff Ross, Thomas J., Defendant Ross Timber, Defendant	Settled and/or Disc. and Ended
1997-01172-CD 9-24-97	02/21/2001	02/21/2001	Bloom, Linda L., Plaintiff Brown, Jeanne Ann, Defendant	Pending
1997-01192-CD 9-26-97	01/08/2001	01/08/2001	Ward, Rosezetta Marie, Plaintiff Rice, Jeffrey W. DMD, Defendant Rice D.M.D. P.C., Jeffrey W., Defendant	Pending
1997-01402-CD 11-13-97	01/19/2001	01/19/2001	Quashnock, James C., Plaintiff Quashnock, Margaret A., Plaintiff Martin, Gerald J., Defendant Martin, Inger, Defendant Deposit Bank, Defendant	Settled and/or Disc. and Ended
1997-01404-CD 11-13-97	01/16/2001	01/16/2001	Keystone Computer, Plaintiff Bush, Melissa, Defendant Bush, Jeffrey S., Defendant	Settled and/or Disc. and Ended
1998-00051-CD 11-13-98	11/07/2000	11/07/2000	Laird, Frank J., Plaintiff Keesey, Vernon C. Jr., Plaintiff Clearfield & Mahoning Railroad Company, Defendant Buffalo, Rochester & Pittsburgh Railway Company, Defendant Buffalo & Pittsburgh Railroad, Inc., Defendant CSX Transportation, Inc., Defendant R. J. Corman Railway Company/Pennsylvania Lines, Defendant Corman, Richard J., Defendant Consolidated Rail Corp., Defendant Irvin, David R., Defendant CEDE & Co., Other Party	Pending

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

HAROLD A. WILSON, JR., and :
BETSY WILSON, Husband and Wife, :
Plaintiffs :
vs. : No. 2006- 1609-CD
GARY L. BOWMAN, t/d/b/a :
BOWMAN MASONRY, :
Defendants :
:

CASE NUMBER: 2006-

TYPE OF CASE: Civil

TYPE OF PLEADING: COMPLAINT

FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
207 E. Market Street
Clearfield, PA 16830
(814) 765-1581

FILED
010/26/06 3CC Atty
OCT 03 2006 Gearhart

William A. Shaw Atty pd.
Prothonotary/Clerk of Courts \$5.00

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

HAROLD A. WILSON, JR., and :
BETSY WILSON, Husband and Wife, :
Plaintiffs :
vs. : No. 2006-
GARY L. BOWMAN, t/d/b/a :
BOWMAN MASONRY, :
Defendants :
:

NOTICE TO DEFEND

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.

Court Administrator's Office
Clearfield County Courthouse
Clearfield, PA 16830
814-765-2641

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

HAROLD A. WILSON, JR., and
BETSY WILSON, Husband and Wife,
Plaintiffs

vs. : No. 2006-

GARY L. BOWMAN, t/d/b/a
BOWMAN MASONRY,
Defendants

COMPLAINT

NOW COME the Plaintiffs, HAROLD A. WILSON, JR. and BETSY WILSON, husband and wife, by and through their attorney R. DENNING GEARHART who file this Complaint, and in support thereof aver as follows:

1. The Plaintiffs are the owners of the premises known as 911 South Second Street, Clearfield, Pennsylvania 16830. This is their residence and where Plaintiff, Betsy Wilson, operates a beauty shop. It is in Lawrence Township.
2. The Defendant, Gary L. Bowman, resides at 1993 Turnpike Avenue, Clearfield, Pennsylvania 16830. He trades and does business as Bowman Masonry. In so doing, he holds himself out as experienced, knowledgeable, and competent in construction – particularly as it pertains to masonry, basements and foundations, and related plumbing.
3. As such, the Defendant entered into a contract with Plaintiffs to install drains in their basement. Plaintiffs did so because they relied on Defendant's expertise to advise what was appropriate and what was legal.
4. Pursuant to that contract, Plaintiffs paid Bowman Masonry the sum of

One Thousand Eight Hundred Forty (\$1,840.00) Dollars. (A copy of that check paid to Gary Bowman is attached hereto as Exhibit "A".) In consideration, the Defendant installed drains along the left side of the basement, draining into the main drain where the washing machine and the laundry tub empty.

5. At no time did the Defendant advise the Plaintiffs that the installation of this drain would be illegal in that it was connected to the public sewer. This, in spite of the fact that Defendant has been involved in his business in excess of 20 years and is well aware of the rules and regulations, especially as they pertain to the Clearfield area, including Lawrence Township. These drains were installed on or about September 1, 2005.

6. Shortly thereafter, Brian Barr, came in to repair the furnace of the property and noticed the work done by the Defendant. Brian Barr informed the Plaintiff, Betsy Wilson, that the work was done illegally in that it was tapped into the public sewer line.

7. On September 19, 2005, Plaintiff, Betsy Wilson, called Gary Bowman and asked him if it was true that he had tapped in illegally. He said, "Now Betsy, I wouldn't go that far and say that. You can trust me, I wouldn't do anything illegal. Don't you worry about it."

8. On October 3, 2005, water was coming up over the drains when the washing machine was draining out. Plaintiff called Hoyt Plumbing. Hoyt Plumbing again advised the Plaintiff that when Bowman Masonry tapped in on the sewer line it was not only illegal but was improper in that it was too level with the washing machine and did not leave enough downflow for the water. Therefore, it came over the drains. Hoyt charged the Plaintiff for a temporary fix, the sum of Two Hundred Forty-three and

37/100 (\$243.37) Dollars. Hoyt Plumbing again advised Plaintiff that the job was illegal and that they could be fined by the Township.

9. On October 4, 2005, Plaintiff, Betsy Wilson, called Gary Bowman and informed him that the water was coming up over the drains and that Hoyt Plumbing had temporarily fixed it. Gary Bowman advised that he felt bad. Plaintiff then asked Defendant if it was illegal to tap into the main sewer line. He again stated, "Oh, I wouldn't take it that far." Plaintiff, Betsy Wilson, then questioned what she should tell an inspector if an inspector questioned her. She was told by Gary Bowman, "You could play stupid." Several calls were made thereafter requesting that he come and fix the problem. Finally, he advised the Plaintiffs that the only remedy would be a sump pump, and that he was not going to install a sump pump without an additional charge. On December 15, 2005, Plaintiffs were contacted by Lawrence Township who contacted their engineers, Hess & Fisher, who came and inspected the premises and took pictures.

10. Then on January 31, 2006, the Lawrence Township Board of Supervisors sent a letter to Gary Bowman advising him of the problem. (A copy of that letter is attached as Exhibit "B".) There has been no response to that letter.

11. In an attempt to remedy the problem, the Plaintiffs will be forced to hire someone to install a sump pump. They have received an estimate from Hoyt Plumbing. That estimate is for One Thousand Eight Hundred (\$1,800.00) Dollars. A copy of the estimate is attached as Exhibit "C".

COUNT I – VIOLATION OF THE UNFAIR TRADE PRACTICES ACT

12. All previous paragraphs of this Complaint are hereby incorporated as if fully averred.

13. By installing a drain that the Defendant knew was illegal and knew would not meet Code and put the Plaintiffs in danger of legal repercussions, the Defendant violated the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1 as follows:

(xvi) Making repairs, improvements or replacements on tangible, real or personal property, of a nature or quality inferior to or below the standard of that agreed to in writing;

14. Under said Act, specifically 73 P.S. § 201-9.2, the Plaintiffs aver that they are entitled to damages in the amount of \$1,840.00 plus treble damages bringing the total amount of damages to Seven Thousand Three Hundred Sixty and 00/100 (\$7,360.00) Dollars, plus attorneys' fees.

WHEREFORE Plaintiffs request your Honorable Court to enter a judgment against the Defendant in the amount of Seven Thousand Three Hundred Sixty and 00/100 (\$7,360.00) Dollars, plus attorneys' fees.

COUNT II – CONTRACTUAL DAMAGES

15. All paragraphs previously averred are hereby incorporated herein as if fully averred.

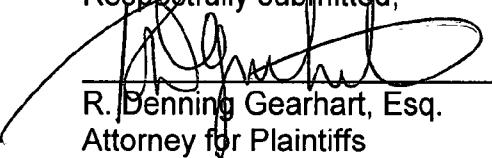
16. By doing the actions set forth above the Defendant violated its contract

with Plaintiffs in that it failed to perform its work in a workmanlike manner consistent with that which is to be expected of someone in his profession. That as a result, the Plaintiffs will have to spend the sum of One Thousand Eight Hundred (\$1,800.00) Dollars, and have already spent the sum of Two Hundred Forty-three and 37/100 (\$243.37) Dollars to Hoyt Plumbing.

17. Further, Defendant acted in a manner so outrageous and inexcusable as to require a finding of punitive damages including but not limited to attorneys' fees.

WHEREFORE Plaintiff requests your Honorable Court to enter a judgment against the Defendant in an amount equal to Two Thousand Forty-three and 37/100 (\$2,043.37) Dollars, plus punitive damages and attorneys' fees to be determined by the Court.

Respectfully submitted,


R. Denning Gearhart, Esq.
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA

:

SS.

COUNTY OF CLEARFIELD

:

Before me, the undersigned officer, a Notary Public in and for the above named State and County, personally appeared HAROLD A. WILSON, JR., and BETSY WILSON, who being duly sworn according to law deposes and says that the facts set forth in the foregoing Complaint are true and correct to the best of their knowledge, information and belief.

Harold A. Wilson Jr.

HAROLD A. WILSON, JR.

Betsy Wilson

BETSY WILSON

Sworn to and subscribed

before me, this 2

day of October, 2006.

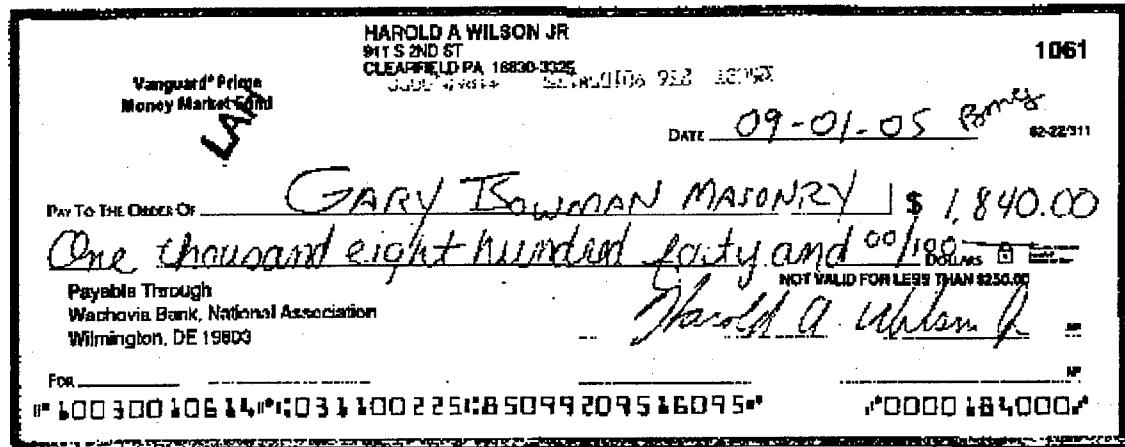
Kathleen A. Ricotta

Notary Public

Commonwealth of Pennsylvania

NOTARIAL SEAL

KATHLEEN A. RICOTTA, Notary Public
Clearfield Boro., County of Clearfield
My Commission Expires June 15, 2009



Hoyt Plumbing 11/30/05
CHECK # 1409 \$243.37

LAWRENCE TOWNSHIP BOARD OF SUPERVISORS

SUPERVISORS

WILLIAM D. LAWHEAD
EDWARD E. BROWN
DANIEL G. MITCHELL, SR.

(814) 765-0176



P.O. BOX 508
CLEARFIELD, PA. 16830

SECRETARY-TREASURER
BARBARA SHAFFNER

(814) 765-4551
FAX (814) 765-5258
E-Mail ltbos@pennswoods.net

Tuesday, January 31, 2006

Bowman Masonry
1993 Turnpike Avenue Extension
Clearfield, Pa 16830
Attention: Mr. Gary Bowman

RE: Illegal sub grade drain system connected to public sewer system Betsy Wilson property at 911 South Second Street

Dear Mr. Bowman:

It has been brought to our attention and confirmed by our inspectors, that you, as the contractor for the above property owner, constructed a sub grade, basement toe drain system that intercepts seepage water coming into the basement and conveys it to the public sewer line, as per your construction and connection.

Gary, Lawrence Township is under a consent order with D.E.P. to remove inflow and infiltration from our sewage system. If this condition is allowed and subsequently identified by D.E.P. Lawrence Township will be fined by D.E.P., they have already limited our taps which has the potential to curtail our development.

This situation must be rectified in the next 30 days. You have placed us and the Wilson's in a negative situation, you and them will face penalties for this action if not corrected immediately.

When repairs have been started you must notify Hess & Fisher to have them inspected before completion.

Gary please give this job your utmost attention. Make Contact with Wilson Fisher and Hope Martin A.S.A.P

Thank you for your Cooperation.

William D. Lawhead, Chairman

31 Aug 06



Betsy
Wilson
file

JAMES HOYT PLUMBING, INC.

P.O. BOX 323 HYDE, PA 16843
(814) 765-7139 FAX (814) 765-4887

Betsy & Hank Wilson
911 52nd St
Cleld Pt 16330

Ref.

Sump pump

1. Install Sump Pump & Receiver. to Pump
Outside to Remove Ground water from Sewage line.
2. Bust up floor Install pit in corner of
Basement floor. Tiling in wall channel for Ground water.
3. Change Sump line in to Sewage line.
4. move Laundry Tub & washer to make room for
pit.
5. Re-cement floor for a complete Job

Projected Cost \$1800.00

Final To - 765-8142

Thank you
B. S. Clark

Leave over margin

HAROLD A. WILSON, JR., and
BETSY WILSON, Husband and Wife,
Plaintiffs

vs.

GARY L. BOWMAN, t/d/b/a
BOWMAN MASONRY,
Defendants

COMPLAINT

William A. Shaw
Prothonotary/Clerk of Courts

OCT 03 2006

R. DENNING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

FILED

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

Harold A. Wilson, Jr., and *
Betsy Wilson, Husband and Wife, *
Plaintiff *

v.

Gary Bowman, t/d/b/a *
Bowman Masonry, *
Defendants *

Docket No. 2006-1609-CD

Type of Pleading:
ENTRY OF APPEARANCE

Filed on Behalf of:
Defendant:
Gary Bowman, t/d/b/a
Bowman Masonry

Counsel of Record for
This Party:

Dwight L. Koerber, Jr., Esquire
PA I.D. 16332

LAW OFFICES OF
DWIGHT L. KOERBER, JR.
110 N. Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED 30C
03/07/06
NOV 17 2006 Atty Koerber
LJ
William A. Shaw
Prothonotary/Clerk of Courts

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

Harold A. Wilson, Jr., and
Betsy Wilson, Husband and Wife,
Plaintiff

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Docket No. 2006-1609-CD

v.

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Gary Bowman, t/d/b/a
Bowman Masonry,
Defendants

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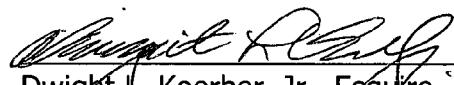
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ENTRY OF APPEARANCE

Please enter my appearance on behalf of Gary Bowman, t/b/d/a Bowman Masonry,
Defendant.

Respectfully submitted,


Dwight L. Koerber, Jr., Esquire
Attorney for Defendant: Gary Bowman, t/d/b/a
Bowman Masonry

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

Harold A. Wilson, Jr., and
Betsy Wilson, Husband and Wife,
Plaintiff

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Docket No. 2006-1609-CD

v.

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Gary Bowman, t/d/b/a
Bowman Masonry,
Defendants

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CERTIFICATE OF SERVICE

I certify that on the 17th day of November, 2006, the undersigned served a certified copy of the Entry of Appearance in the above-captioned matter. Such document was served via United States First Class Mail upon the following individual:

R. Denning Gearhart, Esquire
207 E. Market Street
Clearfield, PA 16830


Dwight L. Koerber, Jr., Esquire
Attorney for Defendant:
Gary Bowman, t/d/b/a Bowman Masonry

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

Harold A. Wilson, Jr., and
Betsy Wilson, Husband and Wife,
Plaintiffs

*
*
*
*
*

v.

Docket No. 2006-1609-CD

Gary Bowman, t/d/b/a
Bowman Masonry,
Defendants

*
*
*
*
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Type of Pleading:
**PRELIMINARY OBJECTIONS OF
DEFENDANT**

Filed on Behalf of:
Defendant:
Gary Bowman, t/d/b/a
Bowman Masonry

Counsel of Record for
This Party:

Dwight L. Koerber, Jr., Esquire
PA I.D. 16332

LAW OFFICES OF
DWIGHT L. KOERBER, JR.
110 N. Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED 3CC
01/24/06 Atty Koerber
DEC 01 2006 (6K)

William A. Shaw
Prothonotary/Clerk of Courts

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

Harold A. Wilson, Jr., and	*	
Betsy Wilson, Husband and Wife,	*	
Plaintiffs	*	
	*	
	*	Docket No. 2006-1609-CD
v.	*	
	*	
	*	
	*	
Gary Bowman, t/d/b/a	*	
Bowman Masonry,	*	
Defendants	*	

PRELIMINARY OBJECTIONS OF DEFENDANT

COMES NOW, Gary Bowman, t/d/b/a Bowman Masonry, and files the within Preliminary Objections to the Complaint filed by the Plaintiffs.

FAILURE TO COMPLY WITH RULE OF COURT

- (1) Rule 1028 of the Pennsylvania Rules of Civil Procedure provides that Preliminary Objections may be filed for failure to conform to a rule of Court. Pa.R.C.P. 1028(a)(2).
- (2) In this matter, Plaintiffs have failed to comply with Rule 1019(i) of the Pennsylvania Rules of Civil Procedure, which requires that when a claim is based upon writing that the pleader must attach a copy of the writing to their pleading.

(3) Paragraph 13 of the Complaint herein, Plaintiffs have alleged that Defendant has violated the Pennsylvania Unfair Trade Practices and Consumer Protection Law, and specifically relied upon the following section:

(xvi) Making repairs, improvements or replacements on tangible real or personal property, of a nature or quality inferior to or below the standard of that agreed to in writing;
(Emphasis added) 73 P.S. § 201-9.2

(4) Based upon the allegations set forth in paragraph 13 of the Complaint, set forth above, it is clear that the claim filed in this matter is based upon a specific writing, as the statutory language which the Plaintiffs are relying upon mandates that a writing must exist. Plaintiffs have failed to attach a copy of the written document which they are claiming that the parties had agreed to.

(5) By failing to attach a copy of the document that is the underlying basis of their claim herein, Plaintiffs are in violation of Pa.R.C.P. 1019(i).

WHEREFORE, Defendant prays that his Preliminary Objections be sustained and that Count I of the Complaint be dismissed.

COUNT I
DEMURRER

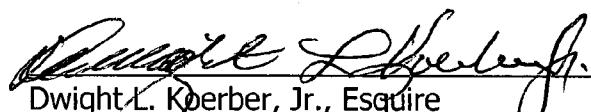
(6) Paragraphs 1-5 of these Preliminary Objections are incorporated by reference as though set forth in full.

(7) In order to maintain its cause of action, as alleged in Count I, Plaintiffs must establish that a written document exists setting forth their agreement. Plaintiffs have failed to meet this mandatory requirement for maintaining their cause of action.

(8) Defendant hereby demurs to Count I.

WHEREFORE, Defendant prays that his Preliminary Objections be sustained and that Count I of the Complaint be dismissed.

Respectfully submitted,



Dwight L. Koerber, Jr., Esquire
Attorney for Defendant: Gary Bowman,
t/b/d/a Bowman Masonry

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

Harold A. Wilson, Jr., and
Betsy Wilson, Husband and Wife,
Plaintiff

Docket No. 2006-1609-CD

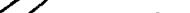
v.

Gary Bowman, t/d/b/a
Bowman Masonry,
Defendants

CERTIFICATE OF SERVICE

I certify that on this 1st day of December, 2006, the undersigned served a certified copy of the Preliminary Objections of Defendant in the above-captioned matter. Such document was served via United States First Class Mail upon the following individual:

R. Denning Gearhart, Esquire
207 E. Market Street
Clearfield, PA 16830


Dwight L. Koerber, Jr., Esquire
Attorney for Defendant: Gary Bowman,
t/d/b/a Bowman Masonry

✓

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

Harold A. Wilson, Jr., and
Betsy Wilson, Husband and Wife,
Plaintiffs

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Docket No. 2006-1609-CD

v.

*

*

*

Gary Bowman, t/d/b/a
Bowman Masonry,
Defendants

*

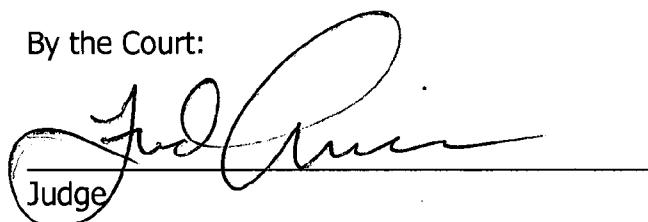
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ORDER

AND NOW, this 4th day of December, 2006, upon consideration of
Defendant's Preliminary Objections, it is the Order of this Court that argument on
Defendant's Preliminary Objections has been scheduled for the 18th day of
January, 2007, at 9:00 A.M. in Courtroom No. 1,
Clearfield County Courthouse, Clearfield, PA.

By the Court:



Judge

FILED
01/04/2007 4:00 PM
DEC 04 2006 Atty Koersber

William A. Shaw
Prothonotary/Clerk of Courts

610

FILED

DEC 04 2006

**William A. Shaw
Prothonotary/Clerk of Courts**

DATE: 12/4/06

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:

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

Harold A. Wilson, Jr., and *
Betsy Wilson, Husband and Wife, *
Plaintiffs *

* Docket No. 2006-1609-CD

v.

*

*

*

Gary Bowman, t/d/b/a *
Bowman Masonry, *
Defendants *

Type of Pleading:
CERTIFICATE OF SERVICE

Filed on Behalf of:

Defendant:

Gary Bowman, t/d/b/a
Bowman Masonry

Counsel of Record for
This Party:

Dwight L. Koerber, Jr., Esquire
PA I.D. 16332

LAW OFFICES OF
DWIGHT L. KOERBER, JR.
110 N. Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED 3CC
01/03/2006 Atty Koerber
DEC 06 2006
WAS

William A. Shaw
Prothonotary/Clerk of Courts

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

Harold A. Wilson, Jr., and *
Betsy Wilson, Husband and Wife, *
Plaintiffs *

v. *

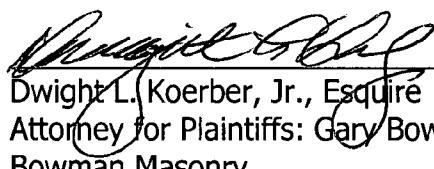
Gary Bowman, t/d/b/a *
Bowman Masonry, *
Defendants *

Docket No. 2006-1609-CD

CERTIFICATE OF SERVICE

I certify that on this 5th day of December, 2006, the undersigned served a certified copy of the Order dated December 4, 2006 in the above captioned matter. Such document was served via United States First Class Mail upon the following individual:

R. Denning Gearhart, Esquire
207 East Market Street
Clearfield, PA 16830


Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiffs: Gary Bowman, t/d/b/a
Bowman Masonry

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

HAROLD A. WILSON, JR., and :
BETSY WILSON, Husband and Wife, :
Plaintiffs :
vs. : No. 2006-1609-CD
GARY L. BOWMAN, t/d/b/a :
BOWMAN MASONRY, :
Defendants :
:

CASE NUMBER: 2006-1609-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: AMENDED COMPLAINT

FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
207 E. Market Street
Clearfield, PA 16830
(814) 765-1581

FILED 3CC
01/05/2007 Atty Gearhart
JAN 18 2007
610

William A. Shaw
Prothonotary/Clerk of Courts

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

HAROLD A. WILSON, JR., and	:
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Plaintiffs	:
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	No. 2006-1609-CD
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BOWMAN MASONRY,	:
Defendants	:

NOTICE TO DEFEND

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.

Court Administrator's Office
Clearfield County Courthouse
Clearfield, PA 16830
814-765-2641

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

HAROLD A. WILSON, JR., and
BETSY WILSON, Husband and Wife,
Plaintiffs

vs. : No. 2006-1609-CD

GARY L. BOWMAN, t/d/b/a
BOWMAN MASONRY,
Defendants

AMENDED COMPLAINT

NOW COME the Plaintiffs, HAROLD A. WILSON, JR. and BETSY WILSON, husband and wife, by and through their attorney R. DENNING GEARHART who file this Complaint, and in support thereof aver as follows:

1. The Plaintiffs are the owners of the premises known as 911 South Second Street, Clearfield, Pennsylvania 16830. This is their residence and where Plaintiff, Betsy Wilson, operates a beauty shop. It is in Lawrence Township.

2. The Defendant, Gary L. Bowman, resides at 1993 Turnpike Avenue, Clearfield, Pennsylvania 16830. He trades and does business as Bowman Masonry. In so doing, he holds himself out as experienced, knowledgeable, and competent in construction – particularly as it pertains to masonry, basements and foundations, and related plumbing.

3. As such, the Defendant entered into a verbal contract with Plaintiffs to install drains in their basement. Plaintiffs did so because they relied on Defendant's expertise to advise what was appropriate and what was legal.

4. Pursuant to that contract, Plaintiffs paid Bowman Masonry the sum of One

Thousand Eight Hundred Forty (\$1,840.00) Dollars. (A copy of that check paid to Gary Bowman is attached hereto as Exhibit "A".) In consideration, the Defendant installed drains along the left side of the basement, draining into the main drain where the washing machine and the laundry tub empty.

5. At no time did the Defendant advise the Plaintiffs that the installation of this drain would be illegal in that it was connected to the public sewer. This, in spite of the fact that Defendant has been involved in his business in excess of 20 years and is well aware of the rules and regulations, especially as they pertain to the Clearfield area, including Lawrence Township. These drains were installed on or about September 1, 2005.

6. Shortly thereafter, Brian Barr, came in to repair the furnace of the property and noticed the work done by the Defendant. Brian Barr informed the Plaintiff, Betsy Wilson, that the work was done illegally in that it was tapped into the public sewer line.

7. On September 19, 2005, Plaintiff, Betsy Wilson, called Gary Bowman and asked him if it was true that he had tapped in illegally. He said, "Now Betsy, I wouldn't go that far and say that. You can trust me, I wouldn't do anything illegal. Don't you worry about it."

8. On October 3, 2005, water was coming up over the drains when the washing machine was draining out. Plaintiff called Hoyt Plumbing. Hoyt Plumbing again advised the Plaintiff that when Bowman Masonry tapped in on the sewer line it was not only illegal but was improper in that it was too level with the washing machine and did not leave enough downflow for the water. Therefore, it came over the drains. Hoyt charged the Plaintiff for a temporary fix, the sum of Two Hundred Forty-three and

37/100 (\$243.37) Dollars. Hoyt Plumbing again advised Plaintiff that the job was illegal and that they could be fined by the Township.

9. On October 4, 2005, Plaintiff, Betsy Wilson, called Gary Bowman and informed him that the water was coming up over the drains and that Hoyt Plumbing had temporarily fixed it. Gary Bowman advised that he felt bad. Plaintiff then asked Defendant if it was illegal to tap into the main sewer line. He again stated, "Oh, I wouldn't take it that far." Plaintiff, Betsy Wilson, then questioned what she should tell an inspector if an inspector questioned her. She was told by Gary Bowman, "You could play stupid." Several calls were made thereafter requesting that he come and fix the problem. Finally, he advised the Plaintiffs that the only remedy would be a sump pump, and that he was not going to install a sump pump without an additional charge. On December 15, 2005, Plaintiffs were contacted by Lawrence Township who contacted their engineers, Hess & Fisher, who came and inspected the premises and took pictures.

10. Then on January 31, 2006, the Lawrence Township Board of Supervisors sent a letter to Gary Bowman advising him of the problem. (A copy of that letter is attached as Exhibit "B".) There has been no response to that letter.

11. In an attempt to remedy the problem, the Plaintiffs will be forced to hire someone to install a sump pump. They have received an estimate from Hoyt Plumbing. That estimate is for One Thousand Eight Hundred (\$1,800.00) Dollars. A copy of the estimate is attached as Exhibit "C".

COUNT I – VIOLATION OF THE UNFAIR TRADE PRACTICES ACT

12. All previous paragraphs of this Complaint are hereby incorporated as if fully averred.

13. By installing a drain that the Defendant knew was illegal and knew would not meet Code and put the Plaintiffs in danger of legal repercussions, the Defendant violated the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. ' 201-1 as follows:

(xxi) Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

14. Under said Act, specifically 73 P.S. ' 201-9.2, the Plaintiffs aver that they are entitled to damages in the amount of \$1,840.00 plus treble damages bringing the total amount of damages to Seven Thousand Three Hundred Sixty and 00/100 (\$7,360.00) Dollars, plus attorneys' fees.

WHEREFORE Plaintiffs request your Honorable Court to enter a judgment against the Defendant in the amount of Seven Thousand Three Hundred Sixty and 00/100 (\$7,360.00) Dollars, plus attorneys' fees.

COUNT II – CONTRACTUAL DAMAGES

15. All paragraphs previously averred are hereby incorporated herein as if fully averred.

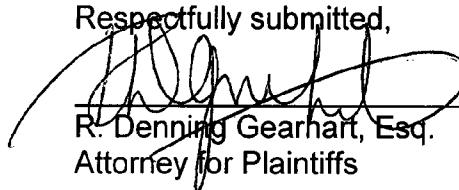
16. By doing the actions set forth above the Defendant violated its contract with Plaintiffs in that it failed to perform its work in a workmanlike manner consistent

with that which is to be expected of someone in his profession. That as a result, the Plaintiffs will have to spend the sum of One Thousand Eight Hundred (\$1,800.00) Dollars, and have already spent the sum of Two Hundred Forty-three and 37/100 (\$243.37) Dollars to Hoyt Plumbing.

17. Further, Defendant acted in a manner so outrageous and inexcusable as to require a finding of punitive damages including but not limited to attorneys' fees.

WHEREFORE Plaintiff requests your Honorable Court to enter a judgment against the Defendant in an amount equal to Two Thousand Forty-three and 37/100 (\$2,043.37) Dollars, plus punitive damages and attorneys' fees to be determined by the Court.

Respectfully submitted,



R. Denning Gearhart, Esq.
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA

SS.

COUNTY OF CLEARFIELD

Before me, the undersigned officer, a Notary Public in and for the above named State and County, personally appeared HAROLD A. WILSON, JR. and BETSY WILSON, who being duly sworn according to law depose and say that the facts set forth in the foregoing Amended Complaint are true and correct to the best of their knowledge, information and belief.

Harold A. Wilson Jr.

HAROLD A. WILSON, JR.

Betsy Wilson

BETSY WILSON

Sworn to and subscribed

before me, this 18

day of January, 2007.

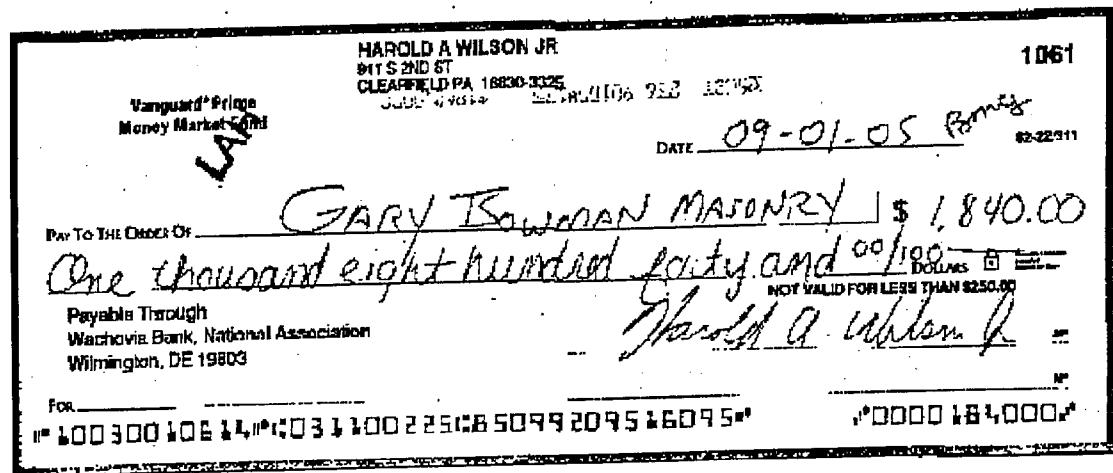
Kathleen A. Ricotta

Notary Public

Commonwealth of Pennsylvania

NOTARIAL SEAL

KATHLEEN A. RICOTTA, Notary Public
Clearfield Boro., County of Clearfield
My Commission Expires June 15, 2009



Hoyt Plumbing 11/30/05
CHECK # 1409 \$ 243.37

LAWRENCE TOWNSHIP BOARD OF SUPERVISORS

SUPERVISORS

WILLIAM D. LAWHEAD
EDWARD E. BROWN
DANIEL G. MITCHELL, SR.

(814) 765-0176



P.O. BOX 508
CLEARFIELD, PA. 16830

SECRETARY-TREASURER
BARBARA SHAFFNER

(814) 765-4551
FAX (814) 765-5258
E-Mail ltbos@pennswoods.net

Tuesday, January 31, 2006

Bowman Masonry
1993 Turnpike Avenue Extension
Clearfield, Pa 16830
Attention: Mr. Gary Bowman

RE: Illegal sub grade drain system connected to public sewer system Betsy Wilson
property at 911 South Second Street

Dear Mr. Bowman:

It has been brought to our attention and confirmed by our inspectors, that you, as the contractor for the above property owner, constructed a sub grade, basement toe drain system that intercepts seepage water coming into the basement and conveys it to the public sewer line, as per your construction and connection.

Gary, Lawrence Township is under a consent order with D.E.P. to remove inflow and infiltration from our sewage system. If this condition is allowed and subsequently identified by D.E.P. Lawrence Township will be fined by D.E.P., they have already limited our taps which has the potential to curtail our development.

This situation must be rectified in the next 30 days. You have placed us and the Wilson's in a negative situation, you and them will face penalties for this action if not corrected immediately.

When repairs have been started you must notify Hess & Fisher to have them inspected before completion.

Gary please give this job your utmost attention. Make Contact with Wilson Fisher and Hope Martin A.S.A.P

Thank you for your Cooperation.

William D. Lawhead, Chairman

31 Aug 06



Betsy Wilson
See

JAMES HOYT PLUMBING, INC.

P.O. BOX 323 HYDE, PA 16843
(814) 765-7139 FAX (814) 765-4887

Betsy & Hank Wilson
911 52nd St
Cleld Pt 16330

Ref.

Sump pump

1. Install Sump Pump & Receiver to Pump
Outside to Remove Groundwater from Sewage Line.
2. Bust up floor Install pit in corner of
Basement floor Tying in wall channel for Groundwater.
3. Change Sump line in to Sewage line.
4. move Laundry Tub & washer to make room for
pit.
5. Re-cement floor for a complete Job

Projected Cost \$1800.00

Faxed 76 - 765-3142

Thank you
B. S. Hoyt

Leave over margin

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION No. 2006-1609-CD

HAROLD A. WILSON, JR., and
BETSY WILSON, Husband and Wife,
Plaintiffs

vs.

GARY L. BOWMAN, t/d/b/a
BOWMAN MASONRY,

Defendants

AMENDED COMPLAINT

Prothonotary/Clerk of Courts
William A. Stew

JAN 18 2007

FILED

R. DENNING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

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

HAROLD A. WILSON, JR., and :
BETSY WILSON, Husband and Wife, :
Plaintiffs :
vs. : No. 2006-1609-CD
GARY L. BOWMAN, t/d/b/a :
BOWMAN MASONRY, :
Defendants :
.

CASE NUMBER: No. 2006-1609-CD
TYPE OF CASE: Civil
TYPE OF PLEADING: CERTIFICATE OF SERVICE
FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I. D. #26540
207 E. Market Street
Clearfield, PA 16830
(814) 765-1581

FILED No CC.
010; 50 cm
JAN 19 2007 [Signature]

William A. Shaw
Prothonotary/Clerk of Courts

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

HAROLD A. WILSON, JR., and
BETSY WILSON, Husband and Wife,
Plaintiffs

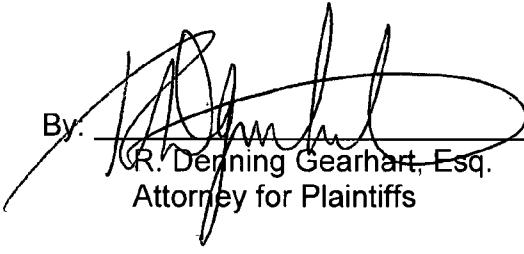
vs. : No. 2006-1609-CD

GARY L. BOWMAN, t/d/b/a
BOWMAN MASONRY,
Defendants

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a certified copy of the Amended Complaint filed in the above captioned matter on the Defendant through Defendant's attorney by depositing such documents in the United States Mail postage prepaid and addressed as follows:

Dwight L. Koerber, Esq.
110 N. Second Street
P. O. Box 1320
Clearfield, PA 16830

By: 

R. Denning Gearhart, Esq.
Attorney for Plaintiffs

Dated: January 19, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

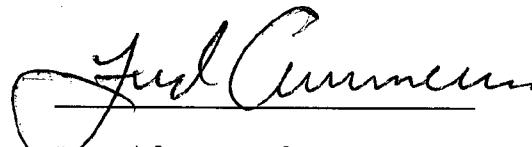
CIVIL DIVISION

HAROLD A. WILSON, JR., and :
BETSY WILSON, Husband and Wife :
VS. : NO. 06-1609-CD
GARY BOWMAN, t/d/b/a :
BOWMAN MASONRY :

O R D E R

AND NOW, this 18th day of January, 2007, this being the date set for hearing on Defendant's Preliminary Objections, with counsel for the Plaintiff indicating that he will be filing an Amended Complaint; it is the ORDER of this Court that the Preliminary Objections be and are hereby granted to the extent that the Plaintiff shall file an Amended Complaint within no more than twenty (20) days from this date.

BY THE COURT,


President Judge

FILED

JAN 19 2007

o/3:35/w
William A. Shaw
Prothonotary/Clerk of Courts

(6K)

2 CERT TO ATTYS

Koerber
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GEANNA

FILED

JAN 19 2001

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1-19-01

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:

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

HAROLD A. WILSON, JR., and
BETSY WILSON, Husband and Wife,
Plaintiffs

vs. : No. 2006-1609-CD

GARY L. BOWMAN, t/d/b/a
BOWMAN MASONRY,
Defendants

CASE NUMBER: No. 2006-1609-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: PRAECIPE TO SETTLE AND DISCONTINUE

FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I. D. #26540
207 E. Market Street
Clearfield, PA 16830
(814) 765-1581

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SEP 06 2007 to Atty Gearhart
William A. Shaw
Prothonotary/Clerk of Courts
(6K)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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HAROLD A. WILSON, JR., and
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GARY L. BOWMAN, t/d/b/a
BOWMAN MASONRY,
Defendants

PRAECIPE TO SETTLE & DISCONTINUE

TO THE PROTHONOTARY OF SAID COURT:

Please mark the above captioned action settled and discontinued.


R. Denning Gearhart, Esq.
Attorney for Plaintiffs

DATE: 9/16/2007

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Harold A. Wilson Jr.
Betsy Wilson

Vs.
Gary L. Bowman
Bowman Masonry

No. 2006-01609-CD

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on September 6, 2007, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by R. Denning Gearhart, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 6th day of September A.D. 2007.



William A. Shaw, Prothonotary