

07-1963-CD
Ken Reed vs Chris Smith Const.

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

FILED

DEC 08 2007

0/11/08

William A. Shaw
Prothonotary/Clerk of Courts

CIVIL ACTION

Reed, Ken

(Plaintiff)

1376 Windy Hill Rd.

(Street Address)

Curwensville, PA 16833

(City, State ZIP)

No. 2007-1963-CR

Type of Case: Civil

Type of Pleading: MOT APPN

Filed on Behalf of:

Chris Smith

(Plaintiff/Defendant)

vs.

Chris Smith Construction

(Defendant)

1106 Arch St. Extension

(Street Address)

Brockway, PA 15824

(City, State ZIP)

VS.

DuBrook Inc.

(Defendant)

Box 388

Dubois, Pa 15801

Chris Smith

(Filed by)

1106 Arch St. Extension Brockway, PA
15824

(Address)

(814) 265-8912

(Phone)

Chris Smith

(Signature)

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

46th

Judicial District, County Of

CLEARFIELD CO.

FILED *EW*

NOTICE OF APPEAL DEC 03 2007

FROM

D/11/50/07

William A. Shaw

Prothonotary/Clerk of Courts

Went M.J. Insurance

MAGISTERIAL DISTRICT JUDGE JUDGMENT
COMMON PLEAS No. 2007-1963-CD

NOTICE OF APPEAL

K. REED
D. B. REED
C. SMITH
Court

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

NAME OF APPELLANT Chris Smith	MAG. DIST. NO. 46-3-02	NAME OF MDJ Richard A. Ireland
ADDRESS OF APPELLANT 1106 Arch St. Extension	CITY Brockway	STATE PA.
DATE OF JUDGMENT 11/02/07	IN THE CASE OF (Plaintiff) Ken Reed	(Defendant) Chris Smith
DOCKET NO. CV - 0000384-07	SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT Chris Smith	
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 Magisterial District Judge, 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 Magisterial District Judge, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.		
Signature of Prothonotary or Deputy		

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 Magisterial District Judge. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

Enter rule upon Ken Reed appellee(s), to file a complaint in this appeal
Name of appellee(s)(Common Pleas No. 2007-1963-CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.Chris Smith

Signature of appellant or attorney or agent

RULE: To Ken Reed appellee(s)
Name of appellee(s)

OWNER

(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 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 Dec. 3, 2007W. B. B.

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 the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____; ss

AFFIDAVIT: I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. _____, upon the Magisterial District Judge 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 official before whom affidavit was made

Signature of affiant

Title of official

My commission expires on _____, 20_____

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: CLEARFIELD

Mag. Dist. No.:

46-3-02

MDJ Name: Hon.

RICHARD A. IRELAND
Address: **650 LEONARD ST**
STE 113
CLEARFIELD, PA

Telephone: **(814) 765-5335** **16830**

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

REED, KEN NAME and ADDRESS

1376 WINDY HILL RD
CURWENSVILLE, PA 16833

L **O** **VS.**

DEFENDANT:

CHRIS SMITH CONSTRUCTION, ET AL. NAME and ADDRESS

1106 ARCH ST EXT
BROCKWAY, PA 15824



CHRIS SMITH CONSTRUCTION
1106 ARCH ST EXT
BROCKWAY, PA 15824

Docket No.: **CV-0000384-07**
Date Filed: **9/18/07**

THIS IS TO NOTIFY YOU THAT:

FOR PLAINTIFF

(Date of Judgment) **11/02/07**

<input checked="" type="checkbox"/> Judgment was entered for: (Name) REED, KEN	<input checked="" type="checkbox"/> Judgment was entered against: (Name) CHRIS SMITH CONSTRUCTION in the amount of \$ 2,342.42
<input type="checkbox"/> Defendants are jointly and severally liable.	
<input type="checkbox"/> Damages will be assessed on Date & Time _____	<input type="checkbox"/> This case dismissed without prejudice.
<input type="checkbox"/> Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ _____	Amount of Judgment \$ 2,240.92 Judgment Costs \$ 101.50 Interest on Judgment \$.00 Attorney Fees \$.00
<input type="checkbox"/> Portion of Judgment for physical damages arising out of residential lease \$ _____	Total \$ 2,342.42 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.

NOV 02 2007 Date Richard Ireland, Magisterial District Judge

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

Date _____, Magisterial District Judge

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

SEAL

AOPC 315-07

DATE PRINTED: **11/06/07 11:36:00 AM**

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-02

MDJ Name: Hon.

RICHARD A. IRELAND
Address: **650 LEONARD ST**
STE 113
CLEARFIELD, PA

Telephone: **(814) 765-5335**

16830

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

REED, KEN NAME and ADDRESS

1376 WINDY HILL RD
CURWENSVILLE, PA 16833

DEFENDANT:

NAME and ADDRESS

CHRIS SMITH CONSTRUCTION, ET AL.
1106 ARCH ST EXT
BROCKWAY, PA 15824

VS.

Docket No.: **CV-0000384-07**
Date Filed: **9/18/07**



CHRIS SMITH CONSTRUCTION
1106 ARCH ST EXT
BROCKWAY, PA 15824

THIS IS TO NOTIFY YOU THAT:

FOR DEFENDANT

Judgment: _____ (Date of Judgment) **11/02/07**

<input checked="" type="checkbox"/> Judgment was entered for: (Name) DUBROOK, INC.	Amount of Judgment \$.00
<input checked="" type="checkbox"/> Judgment was entered against: (Name) REED, KEN	Judgment Costs \$.00
in the amount of \$.00	Interest on Judgment \$.00
<input type="checkbox"/> Defendants are jointly and severally liable.	Attorney Fees \$.00
<input type="checkbox"/> Damages will be assessed on Date & Time _____	Total \$.00
<input type="checkbox"/> This case dismissed without prejudice.	Post Judgment Credits \$ _____
<input type="checkbox"/> Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ _____	Post Judgment Costs \$ _____
<input type="checkbox"/> Portion of Judgment for physical damages arising out of residential lease \$ _____	Certified Judgment Total \$ _____

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NOV 02 2007 Date Ruth A. Giesler, Magisterial District Judge

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

Date _____, Magisterial District Judge

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

SEAL

AOPC 315-07

DATE PRINTED: **11/06/07 11:37:00 AM**

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-02

MDJ Name: Hon.

RICHARD A. IRELAND
Address: **650 LEONARD ST**
STE 113
CLEARFIELD, PA

Telephone: **(814) 765-5335** 16830

RICHARD A. IRELAND
650 LEONARD ST
STE 113
CLEARFIELD, PA 16830

NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE

PLAINTIFF:

REED, KEN
1376 WINDY HILL RD
CURWENSVILLE, PA 16833

NAME and ADDRESS

DEFENDANT:

CHRIS SMITH CONSTRUCTION, ET AL.
1106 ARCH ST EXT
BROCKWAY, PA 15824

VS.

NAME and ADDRESS

Docket No.: **CV-0000384-07**
Date Filed: **9/18/07**



07-1963-CD

11/02/07

(Date of Judgment)

THIS IS TO NOTIFY YOU THAT:

FOR PLAINTIFF

Judgment: _____

<input checked="" type="checkbox"/> Judgment was entered for: (Name) REED, KEN	Amount of Judgment \$ 2,240.92
<input checked="" type="checkbox"/> Judgment was entered against: (Name) CHRIS SMITH CONSTRUCTION in the amount of \$ 2,342.42	Judgment Costs \$ 101.50
<input type="checkbox"/> Defendants are jointly and severally liable.	Interest on Judgment \$.00
<input type="checkbox"/> Damages will be assessed on Date & Time _____	Attorney Fees \$.00
<input type="checkbox"/> This case dismissed without prejudice.	Total \$ 2,342.42
<input type="checkbox"/> Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ _____	Post Judgment Credits \$ _____
<input type="checkbox"/> Portion of Judgment for physical damages arising out of residential lease \$ _____	Post Judgment Costs \$ _____
Certified Judgment Total \$ _____	

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FILED
mlia:59/6/1
DEC 07 2007
(GK)

William A. Shaw
Prothonotary/Clerk of Courts

NOV 02 2007 Date *Ronald Ireland*, Magisterial District Judge

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

DEC 05 2007 Date *Ronald Ireland*, Magisterial District Judge

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

SEAL

AOPC 315-07

DATE PRINTED: **11/06/07 11:36:00 AM**

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

Kenneth D. Reed and Gail
Reed, husband and wife,
Plaintiffs,

v.

Chris Smith, an individual,
Defendant.

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* No. 07-1963-CD

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* Type of Pleading:

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* Filed on behalf of:

* Plaintiffs
*

* Counsel of Record for
* this party:

*

* James A. Naddeo, Esq.
* Pa I.D. 06820

* &

* Trudy G. Lumadue, Esq.
* Pa I.D. 202049

*

* NADDEO & LEWIS, LLC.
* 207 E. Market Street
* P.O. Box 552
* Clearfield, PA 16830
* (814) 765-1601

*

*

Dated: December 11, 2007

*

FILED ^{CC}
01/30/08 Atty Lumadue
DEC 11 2007
William A. Shaw
Prothonotary/Clerk of Courts
(6P)

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

Kenneth D. Reed and Gail
Reed, husband and wife,
Plaintiffs,

v.

Chris Smith, an individual,
Defendant.

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No. 07-1963-CD

NOTICE

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
Clearfield County Courthouse
Market and Second Streets
Clearfield, PA 16830

(814) 765-2641, ext. 5982

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

Kenneth D. Reed and Gail *
Reed, husband and wife, *
Plaintiffs, *
*
v. * No. 07-1963-CD
*
Chris Smith, an individual, *
Defendant. *

COMPLAINT

NOW COME the Plaintiffs, Kenneth D. Reed and Gail Reed, and by and through their undersigned attorneys, NADDEO & LEWIS, LLC, and Trudy G. Lumadue, Esquire, set forth the following:

1. That the Plaintiff, Kenneth D. Reed, is an adult individual residing at 1376 Windy Hill Road, Curwensville, Pennsylvania, 16833.

2. That the Plaintiff, Gail Reed, is an adult individual residing at 1376 Windy Hill Road, Curwensville, Pennsylvania, 16833.

3. That the Defendant is Chris Smith, an individual, who resides at 1106 Arch Street Extension, Brockway, Pennsylvania 15824.

4. That the plaintiffs are husband and wife who own a residence and property located at 1376 Windy Hill Road, Curwensville, Pennsylvania.

5. That at all times referred to herein Defendant, Chris Smith, held himself out as a contractor specializing in the construction of concrete structures including colored and stamped concrete walkways.

6. That on or about July 2007, plaintiffs entered into an oral contract with defendant, whereby the defendant agreed to install and pour a colored and stamped concrete walkway at the residence of plaintiffs located at 1376 Windy Hill Road, Curwensville, Pennsylvania.

7. That on or about July 31, 2007, defendant caused the concrete to be delivered and installed at plaintiffs' residence.

8. That defendant managed and supervised the installation of the concrete and the construction of the walkway at plaintiffs' residence on said date and at said time as pled in paragraph seven.

9. That the weather conditions on said date were hot, windy and dry.

10. That because of the weather conditions the slump of the concrete required additional moisture in order to set up properly.

11. That defendant failed to add sufficient water to the concrete which caused the concrete to dry prematurely

causing numerous cracks and spawling which condition became evident on the same date the concrete was poured.

12. That defendant further failed to have sufficient staff and assistance present at the time of the installation to work the concrete as it was installed prior to it drying causing it to be rough, cracked and spawled as described in paragraph 11 above.

13. That the walkway as constructed by defendant is unsightly and defective as a result of the failures by defendant to arrange for, supervise and orchestrate proper installation and construction.

14. That plaintiffs have made repeated demands upon defendant to correct the defective walkway and defendant has failed to correct the defective walkway.

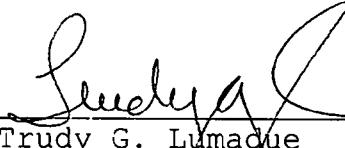
15. That plaintiffs will be required to expend \$2,786.92 to correct the defective work of defendant. Said amount being allocated as follows:

- a) labor to remove existing walkway \$450.00
- b) concrete to be installed \$907.92
- c) labor to construct and set forms \$729.00
- d) labor to pour and install \$700.00

WHEREFORE, Plaintiffs demand judgment be entered in their favor and against defendant for the sum of \$2,786.92 with interest and costs thereon.

NADDEO & LEWIS, LLC

By


Trudy G. Lumadue

Attorney for Plaintiffs

V E R I F I C A T I O N

I, Kenneth D. Reed, Plaintiff, verify that the statements made in the foregoing Complaint are true and correct upon my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

By:



Kenneth D. Reed
Plaintiff

Dated:

12-7-07

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

Kenneth D. Reed and Gail
Reed, husband and wife,
Plaintiffs,

v.

Chris Smith, an individual,
Defendant.

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No. 07-1963-CD

CERTIFICATE OF SERVICE

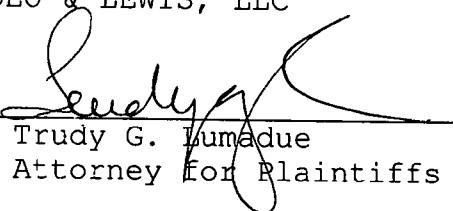
I, Trudy G. Lumadue, Esquire, do hereby certify that a certified copy of Complaint was served on the following and in the following manner on the 11th day of December, 2007:

First-Class Mail, Postage Prepaid

Chris Smith
1106 Arch Street Extension
Brockway, PA 15824

NADDEO & LEWIS, LLC

By:


Trudy G. Lumadue
Attorney for Plaintiffs

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

Kenneth D. Reed and Gail
Reed, husband and wife,
Plaintiffs,

v.

Chris Smith, an individual,
Defendant.

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* No. 07-1963-CD

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* Type of Pleading:

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**PRAECIPE TO SETTLE AND
DISCONTINUE**

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*

* Filed on behalf of:
* Plaintiffs

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*
*
*

* Counsel of Record for
* this party:

*
*
*
*

* James A. Naddeo, Esq.
* Pa I.D. 06820
* &
* Trudy G. Lumadue, Esq.
* Pa I.D. 202049

*
*
*
*
*

NADDEO & LEWIS, LLC.
207 E. Market Street
P.C. Box 552
Clearfield, PA 16830
(814) 765-1601

*
*

Dated: January 10, 2008

FILED *CC-1*
mt10/4/08 *Cert. of*
JAN 10 2008 *Disc. to*
William A. Shaw
Prothonotary/Clerk of Courts
Atty
OK

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

Kenneth D. Reed and Gail *
Reed, husband and wife, *
Plaintiffs, *
*
v. * No. 07-1963-CD
*
Chris Smith, an individual, *
Defendant. *

PRAECIPE TO SETTLE AND DISCONTINUE

TO THE PROTHONOTARY:

Please mark the above-captioned case settled and discontinued.

James A. Naddeo
James A. Naddeo, Esquire
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

OPY

Ken Reed and Gail Reed

Vs.

No. 2007-01963-CD

**Chris Smith Construction
DuBrook Inc.**

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 January 10, 2008, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by Chris Smith.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 10th day of January A.D. 2008.



William A. Shaw, Prothonotary