

08-306-CD  
B. Skarbek al vs Lowe Home al

FILED  
FEB 22 2008  
m 72001w  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**BARBARA J. SKARBEK**, an individual; **MICHAEL SKARBEK**, an individual; and **BARBARA J. SKARBEK** and **MICHAEL SKARBEK**, as husband and wife,

Plaintiffs

Vs.

**LOWES HOME IMPROVEMENT WAREHOUSE,**

Defendant

Type of Case - **CIVIL**

No. 2008 - 306 - CD

Type of Pleading - **COMPLAINT**

Filed on Behalf of - **PLAINTIFFS**

Filed by:

**NICHOLAS F. LORENZO, JR., ESQ.**  
Pa. I.D. #05864

**LORENZO & GIANVITC, P.C.**  
410 West Mahoning St.  
P.O. Box 495  
Punxsutawney, PA 15767  
(814) 938-6390

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW

**BARBARA J. SKARBEK, an  
individual; MICHAEL SKARBEK,  
an individual; and BARBARA J.  
SKARBEK and MICHAEL  
SKARBEK, as husband and wife,**

Plaintiffs

Vs. No. \_\_\_\_\_

**LOWES HOME IMPROVEMENT  
WAREHOUSE,**

Defendant

**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 claim 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 OBTAIN LEGAL HELP. 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.

Prothonotary  
Clearfield County Courthouse  
230 E. Market St.  
Clearfield, PA 16830  
(814) 765-2641, ext. 1330

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW

**BARBARA J. SKARBEK**, an  
individual; **MICHAEL SKARBEK**,  
an individual; and **BARBARA J.**  
**SKARBEK** and **MICHAEL**  
**SKARBEK**, as husband and wife,

Plaintiffs

Vs. No. \_\_\_\_\_

**LOWES HOME IMPROVEMENT**  
**WAREHOUSE**,

Defendant

**COMPLAINT**

AND NOW, come the plaintiffs, BARBARA J. SKARBEK and MICHAEL SKARBEK, individually and as husband and wife, by and through their attorney, NICHOLAS F. LORENZO, JR., ESQ., of LORENZO & GIANVITO, P.C., who files the following Complaint, of which the facts set forth hereinafter are a true and concise summary:

**General Allegations As To All Counts**

1. Plaintiff, BARBARA J. SKARBEK, is an adult individual who resides at 224 Apple Street, Punxsutawney, Jefferson County, Pennsylvania, 15767, and is hereinafter sometimes referred to as "Plaintiff-Wife."
2. Plaintiff, MICHAEL SKARBEK, is an adult individual and husband of plaintiff BARBARA J. SKARBEK, who resides with his wife at 224 Apple Street, Punxsutawney, Jefferson County, Pennsylvania, and is hereinafter sometimes referred to as "Plaintiff-Husband."

3. Defendant, LOWES HOME IMPROVEMENT WAREHOUSE, is a corporation doing business within the Commonwealth of Pennsylvania, with a retail facility located at 1 Commons Drive, Dubois, Clearfield County, Pennsylvania, 15801.

4. On September 23, 2007, at approximately 3:00 p.m., plaintiff BARBARA J. SKARBEK was a customer and business invitee of defendant, LOWE'S. As plaintiff approached the front of the store, she entered a double door which had the left side open and the right side closed. Immediately inside the door, shopping carts were located on the right side. After taking two steps into the entrance, which was not illuminated, plaintiff's right foot hit a 4"x4" timber which was bolted to the floor, causing her to fall to the concrete floor.

5. After plaintiff fell to the ground, personnel of the store advised her that she had entered a shopping cart storage area. However, the only sign differentiating the entrance where plaintiff was injured from any other entrance was located on a door which was opened and placed the sign in a position where it could not be seen by customers entering the store premises.

6. At all times material to this Complaint, it was the duty of defendant to keep and maintain their premises in a condition reasonably safe for those individuals who would be expected to utilize the same as pedestrians. This duty includes the duty to properly mark entrances both intended and not intended to be used by customers.

7. Defendant had or should have had notice and/or knowledge of the existence of the dangerous conditions, including the insufficient signage, lack of illumination, and the presence of a 4"x4" timber bolted to the floor which was not marked in any way that would make pedestrians aware of its presence, which caused the aforescribed fall of plaintiff.

8. As a direct and proximate result of the wrongful and negligent conduct of the defendant, as set forth hereinafter, and by reason of said fall, plaintiff BARBARA J. SKARBEK has suffered the following severe and permanent injuries:

- a) transverse intra-articular subtly displaced fracture of right foot;
- b) fracture of right 5<sup>th</sup> metatarsal;
- c) soft tissue swelling;
- d) nervous shock, anxiety, and emotional upset.

9. As a direct result of the above-described fall, BARBARA J. SKARBEK has had her health, safety and vitality permanently impaired, and she has sustained great mental and physical pain, suffering, inconvenience and embarrassment.

10. As a direct result of the above-described incident, plaintiffs have been forced to expend significant sums of money for reasonable and necessary medical services in an effort to cure and alleviate the aforesaid injuries, amounts of which will be supplied in discovery.

11. As a direct result of the above-described fall, plaintiff-wife will in the future experience great mental and physical pain, suffering, inconvenience, embarrassment, loss of quality of life and loss of sense of wellbeing.

12. As a direct result of the above-described fall, plaintiffs will, in the future, be required to expend additional sums of money for medical care, treatment and medication necessary for the future care of plaintiff's aforescribed injuries.

**COUNT ONE**

**Barbara J. Skarbek and Michael Skarbek, individually and as Husband and wife, Plaintiffs**  
**Vs.**  
**Lowe's Home Improvement Warehouse, Defendant**

**NEGLIGENCE**

13. Paragraphs one (1) through twelve (12) are hereby incorporated by reference as though set forth fully and at length.

14. The defendant, LOWE'S HOME IMPROVEMENT WAREHOUSE, was negligent and careless in the following respects:

- a) In failing to maintain their premises in a safe condition, knowing that the public would use the premises for ingress and egress into the above mentioned store;
- b) In failing to warn the general public, and in particular, the plaintiff, of the dangerous condition of the entrance area;
- c) In failing to illuminate the entrance area;
- d) In bolting a 4"x4" timber to the floor;
- e) In failing to indicate that the entrance was not for customer use.

WHEREFORE, plaintiffs demand judgment against the defendant for an amount in excess of Twenty-Five Thousand and 00/100 (\$25,000.00) Dollars, or the maximum jurisdictional amount requiring arbitration.

**COUNT TWO**

**Michael Skarbek, an individual, Plaintiff**  
**Vs.**  
**Lowe's Home Improvement Warehouse, Defendant**

**LOSS OF CONSORTIUM**

15. Paragraphs one (1) through fourteen (14) are hereby incorporated by reference as though set forth fully and at length.

16. At all times prior to the subject occurrence hereinbefore described, plaintiffs lived happily together as husband and wife. Plaintiff-husband derived solace, comfort, aid and assistance from his wife, and engaged in the customary marital acts with normal and usual

frequency. As a result of the aforescribed injuries to his wife, plaintiff-husband has been deprived of the comfort, solace, aid and assistance of his wife, which he, since the date of her injuries, ought to have had. Furthermore, since the time of, and as a direct result of the injuries to his wife, plaintiff-husband has suffered, and will continue to suffer in the future, great anxiety, inconvenience, mental stress, anguish and loss of the quality of his life, all to the damage of plaintiff-husband.

WHEREFORE, plaintiff demands judgment against the defendant for an amount in excess of Twenty-Five Thousand and 00/100 (\$25,000.00) Dollars, and/or the maximum jurisdictional amount requiring mandatory arbitration.

JURY TRIAL DEMANDED AS TO ALL COUNTS.

LORENZO & GIANVITO, P.C.

By: 

Nicholas F. Lorenzo Jr., Esq.  
Attorney for Plaintiffs  
410 West Mahoning St.  
Punxsutawney, PA 15767  
(814) 938-6390

**VERIFICATION**

BARBARA J. SKARBEK and MICHAEL SKARBEK, Plaintiffs, verify that the statements in the foregoing Complaint are true and correct to the best of their knowledge, information and belief. This statement and verification is made subject to the penalties of 18 Pa. C.S. ¶4904, relating to unsworn falsification to authorities.

Date: 2-12-08

Barbara J. Skarbek  
Barbara J. Skarbek

Date: 2-12-08

Michael S. Skarbek  
Michael Skarbek

BARBARA J. SKARBEK, an individual, MICHAEL SKARBEK, an individual, and BARBARA J. SKARBEK and MICHAEL SKARBEK, as husband and wife,  
Plaintiffs

: IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

: NO. 2008-306 CD

: CIVIL ACTION - LAW

:  
v.  
: JURY TRIAL DEMANDED

LOWE'S HOME CENTERS, INC.  
Defendant

:  
:

**STIPULATION TO AMEND COMPLAINT AND CAPTION**

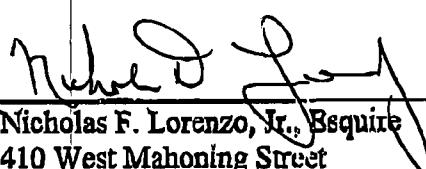
The parties, through their respective Counsel as indicated below, hereby stipulate that the caption in this case is amended and the Complaint in this case is likewise amended to the effect that all references to "Lowe's Home Improvement Warehouse" shall hereafter be referred to as "Lowe's Home Centers, Inc.", the correct designation for Defendant.

Respectfully submitted,

**LORENZO & GIANVITO, P.C.**

DATE:

BY:

  
Nicholas F. Lorenzo, Jr., Esquire  
410 West Mahoning Street  
P.O. Box 495  
Punxsutawney, PA 15767  
(814) 938-6390  
Attorney for Plaintiffs

FILED  
M 11 15 2008 NO CC  
MAR 13 2008  
JK

William A. Shaw  
Prothonotary/Clerk of Courts

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN**

DATE:

BY:

  
\_\_\_\_\_  
TIMOTHY J. McMAHON, ESQUIRE  
I.D. No. 52918

4200 Crums Mill Road, Suite B  
Harrisburg, PA 17112  
(717) 651-3505  
*Attorney for Defendant*

BARBARA J. SKARBEK, an  
individual, MICHAEL SKARBEK,  
an individual, and BARBARA J.  
SKARBEK and MICHAEL  
SKARBEK, as husband and wife,  
Plaintiffs

v.

LOWE'S HOME CENTERS, INC.  
Defendant

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSYLVANIA  
:  
: NO. 2008-306 CD  
:  
: CIVIL ACTION - LAW  
:  
:  
: JURY TRIAL DEMANDED  
:

**ENTRY OF APPEARANCE**

**TO THE PROTHONOTARY:**

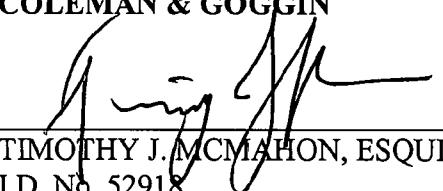
Kindly enter the appearance of the undersigned as Counsel on behalf of Defendant,  
Lowe's Home Centers, Inc., with respect to the above-referenced matter.

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN**

DATE: 3/25/08

BY:

  
\_\_\_\_\_  
TIMOTHY J. MCMAHON, ESQUIRE  
I.D. No. 52918  
4200 Crums Mill Road, Suite B  
Harrisburg, PA 17112  
(717) 651-3505  
*Attorney for Defendant*

05/381105.v1

FILED NO  
112-51677 CC  
MAR 27 2008  
GP

William A. Shaw  
Prothonotary/Clerk of Courts

BARBARA J. SKARBEK, an individual, MICHAEL SKARBEK, an individual, and BARBARA J. SKARBEK and MICHAEL SKARBEK, as husband and wife, Plaintiffs

v.

LOWE'S HOME CENTERS, INC. Defendant

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSYLVANIA  
:  
: NO. 2008-306 CD  
:  
: CIVIL ACTION - LAW  
:  
:  
: JURY TRIAL DEMANDED  
:  
:

**CERTIFICATE OF SERVICE**

I, Diane E. Black, an employee of Marshall, Dennehey, Warner, Coleman & Goggin, do hereby certify that on this 25 day of March, 2008, I served a copy of the foregoing document via First Class United States mail, postage prepaid, as follows:

Nicholas F. Lorenzo, Jr., Esquire  
Lorenzo & Gianvito, P.C.  
410 West Mahoning Street  
P.O. Box 495  
Punxsutawney, PA 15767  
*Attorney for Plaintiffs*

  
Diane E. Black

BARBARA J. SKARBEK, an individual, MICHAEL SKARBEK, an individual, and BARBARA J. SKARBEK and MICHAEL SKARBEK, as husband and wife, Plaintiffs	:	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
	:	NO. 2008-306 CD
	:	CIVIL ACTION – LAW
	:	
v.	:	JURY TRIAL DEMANDED
LOWE'S HOME CENTERS, INC.	:	
Defendant	:	

**ANSWER WITH NEW MATTER OF DEFENDANT TO PLAINTIFFS' COMPLAINT**

1. Admitted in part; denied in part. It is admitted only that Plaintiff is who she says she is. All remaining allegation set forth in this Paragraph are denied and proof thereof is demanded, to the extent relevant.
2. Admitted in part; denied in part. It is admitted only that Plaintiff is who he says he is. All remaining allegation set forth in this Paragraph are denied and proof thereof is demanded, to the extent relevant.
3. Admitted. It is admitted that Defendant, Lowe's Home Centers, Inc., is a corporation which conducts business within the Commonwealth of Pennsylvania and which maintains a retail facility located at 100 Commons Drive, DuBois, Clearfield County, Pennsylvania 15801.
4. Admitted in part; denied in part. It is admitted only that on September 23, 2007, at approximately 3:00 p.m., Plaintiff, Barbara J. Skarbek, was a customer at the Lowe's Home Centers, Inc. retail facility located at 100 Commons Drive, DuBois, Pennsylvania 15801 as alleged. The remaining allegations set forth in this Paragraph are denied in accordance with PA R.C.P. 1029 and proof thereof is demanded, to the extent relevant.
5. Denied. The allegations set forth in this Paragraph are denied in accordance with PA R.C.P. 1029 and proof thereof is demanded, to the extent relevant.

FILED *ICC*  
*3/11/08 3:30 PM* *Atty McMahon*  
*APR 10 2008* *GK*

William A. Shaw  
 Prothonotary/Clerk of Courts

6. Denied. The allegations set forth in this Paragraph constitute conclusions of law within the meaning of PA R.C.P. 1029 and, accordingly, these allegations are denied and proof thereof is demanded, to the extent relevant.

7. Denied. The allegations set forth in this Paragraph constitute conclusions of law within the meaning of PA R.C.P. 1029 and, accordingly, these allegations are denied and proof thereof is demanded, to the extent relevant. By way of further answer, and to the extent that the allegations set forth in this Paragraph constitute purely factual averments, then these allegations are denied on the basis that Answering Defendant, after reasonable investigation and inquiry, lacks information sufficient to form a belief of the allegations and proof thereof is demanded, to the extent relevant.

8. Denied. The allegations set forth in this Paragraph, together with its subparts (a) through (d), constitute conclusions of law within the meaning of PA R.C.P. 1029 and, accordingly, these allegations are denied and proof thereof is demanded, to the extent relevant.

9. Denied. The allegations set forth in this Paragraph constitute conclusions of law within the meaning of PA R.C.P. 1029 and, accordingly, these allegations are denied and proof thereof is demanded, to the extent relevant.

10. Denied. The allegations set forth in this Paragraph constitute conclusions of law within the meaning of PA R.C.P. 1029 and, accordingly, these allegations are denied and proof thereof is demanded, to the extent relevant.

11. Denied. The allegations set forth in this Paragraph constitute conclusions of law within the meaning of PA R.C.P. 1029 and, accordingly, these allegations are denied and proof thereof is demanded, to the extent relevant.

12. Denied. The allegations set forth in this Paragraph constitute conclusions of law within the meaning of PA R.C.P. 1029 and, accordingly, these allegations are denied and proof thereof is demanded, to the extent relevant.

COUNT I

**BARBARA J. SKARBEK AND MICHAEL SKARBEK, INDIVIDUALLY AND AS HUSBAND AND WIFE, PLAINTIFFS V. LOWE'S HOME CENTERS, INC.,**

DEFENDANT  
NEGLIGENCE

13. Defendant incorporates by reference its responses to Paragraphs 1 through 12 above as if set forth at length herein.

14. Denied. The allegations set forth in this Paragraph, together with its subparts (a) through (e), are denied as conclusions of law within the meaning of PA R.C.P. 1029 and, accordingly, these allegations are denied and proof thereof is demanded, to the extent relevant.

WHEREFORE, Defendant, Lowe's Home Centers, Inc., demands judgment in its favor and against Plaintiffs, together with such other relief as this Court shall deem appropriate.

COUNT II

**MICHAEL SKARBEK, AN INDIVIDUAL, PLAINTIFF V. LOWE'S HOME CENTERS, INC., DEFENDANT**  
**LOSS OF CONSORTIUM**

15. Defendant incorporates by reference its responses to Paragraphs 1 through 14 above as if set forth at length herein.

16. Denied. The allegations set forth in this Paragraph constitute conclusions of law within the meaning of PA R.C.P. 1029 and, accordingly, these allegations are denied and proof thereof is demanded, to the extent relevant.

WHEREFORE, Defendant, Lowe's Home Centers, Inc., demands judgment in its favor and against Plaintiffs, together with such other relief as this Court shall deem appropriate.

**NEW MATTER DIRECTED TO PLAINTIFFS**

17. Plaintiffs' Complaint fails to state a cause of action against Defendant upon which relief may be granted as a matter of law.

18. No act or omission on the part of Defendant was the cause of Plaintiffs' injuries and/or damages, all such injuries and/or damages being expressly denied.

19. To the extent applicable and in order to preserve the defenses pending discovery in this matter, it is averred that Plaintiffs' claims are barred and/or limited by the Doctrines of *res judicada* and/or collateral estoppel.

20. Defendant reserves its right to raise those defenses set forth a PA R.C.P. 1030.

21. Defendant breached no duty of care owed to Plaintiff, Barbara Skarbek, under the material and well pleaded circumstances set forth in Plaintiffs' Complaint.

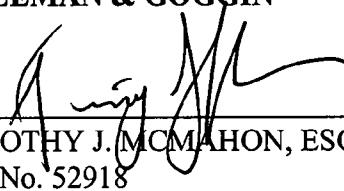
WHEREFORE, Defendant, Lowe's Home Centers, Inc., demands judgment in its favor and against Plaintiffs, together with such other relief as this Court shall deem appropriate.

Respectfully submitted,

**MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN**

DATE: 4/8/08

BY:

  
\_\_\_\_\_  
TIMOTHY J. MCMAHON, ESQUIRE  
I.D. No. 52918  
4200 Crums Mill Road, Suite B  
Harrisburg, PA 17112  
(717) 651-3505  
*Attorney for Defendant*

## **VERIFICATION OF PAUL BLAUFUSS**

STATE OF NORTH CAROLINA )  
 )  
 ) SS.  
COUNTY OF IREDELL )

I, Paul Blaufuss, after being first duly sworn, state and depose as follows:

1. I am over eighteen (18) years of age, and am competent to testify to the matters asserted herein.

2. My present title is Manager of Liability & Property Claims. In this capacity, I provide oversight for Risk Management on behalf of Lowe's Home Centers, Inc. ("Lowe's").

3. In this capacity, I have read and am familiar with the foregoing drafted by counsel for Defendant Lowe's Home Centers, Inc. and the same are true and correct to the best of my knowledge and are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

## AFFIANT FURTHER SAYETH NAUGHT.

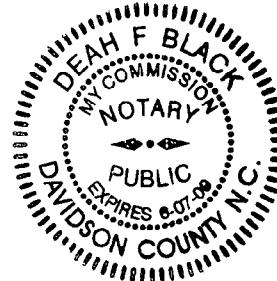
Paul Blaufuss

SWORN TO BEFORE ME and subscribed in my presence on this 1 day of  
April, 2008.

Deah F. Black  
Notary Public

## Notary Public

SEAL



BARBARA J. SKARBEK, an individual, MICHAEL SKARBEK, an individual, and BARBARA J. SKARBEK and MICHAEL SKARBEK, as husband and wife, Plaintiffs

v.

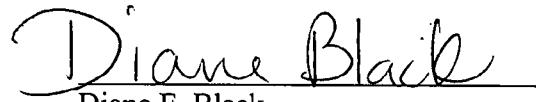
LOWE'S HOME CENTERS, INC. Defendant

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSYLVANIA  
: NO. 2008-306 CD  
: CIVIL ACTION – LAW  
: JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

I, Diane E. Black, an employee of Marshall, Dennehey, Warner, Coleman & Goggin, do hereby certify that on this 8 day of April, 2008, I served a copy of the foregoing document via First Class United States mail, postage prepaid, as follows:

Nicholas F. Lorenzo, Jr., Esquire  
Lorenzo & Gianvito, P.C.  
410 West Mahoning Street  
P.O. Box 495  
Punxsutawney, PA 15767  
*Attorney for Plaintiffs*

  
Diane E. Black

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

**BARBARA J. SKARBEK**, an individual; **MICHAEL SKARBEK**, an individual; and **BARBARA J. SKARBEK** and **MICHAEL SKARBEK**, as husband and wife,

Plaintiffs

Type of Case - CIVIL

No. 2008-306 CD

Type of Pleading - REPLY  
TO NEW MATTER OF DEFENDANT

Filed on Behalf of- PLAINTIFFS

Vs.

**LOWE'S HOME CENTERS, INC.**,

Filed by:

**NICHOLAS F. LORENZO, JR., ESQ.**  
Pa. I.D. #05864

Defendant

**LORENZO & GIANVITO, P.C.**  
410 West Mahoning St.  
P.O. Box 495  
Punxsutawney, PA 15767  
(814) 938-6390

FILED <sup>No CC</sup>  
m 10:40 AM  
APR 18 2008  
6K

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW

**BARBARA J. SKARBEK**, an  
individual; **MICHAEL SKARBEK**,  
an individual; and **BARBARA J.**  
**SKARBEK** and **MICHAEL**  
**SKARBEK**, as husband and wife,

Plaintiffs

Vs.

No. 2008-306 CD

**LOWE'S HOME CENTERS, INC.**,

Defendant

PLAINTIFFS' REPLY TO  
NEW MATTER OF DEFENDANT

AND NOW, come the plaintiffs, BARBARA J. SKARBEK, et al., through their counsel, NICHOLAS F. LORENZO, JR., ESQ., of LORENZO & GIANVITO, P.C., and file the following Reply to New Matter of defendant:

17. Paragraph 17 of defendant's New Matter states that plaintiffs have failed to state a cause of action against defendant. This is a bald allegation of law to which no reply is necessary. In the event a reply is deemed to be required, plaintiffs' Complaint fully and completely alleges a cause of action in negligence which caused serious bodily harm to the plaintiff-wife.

18. Paragraph 18 constitutes a conclusion of law to which no reply is necessary. To the extent a reply may be deemed necessary,

it is denied that, "no act or omission on the part of defendant was the cause of plaintiffs' injuries and/or damages . . ." The sole and exclusive cause of plaintiffs' injuries was the negligence and carelessness of the defendant, as more fully set forth in plaintiffs' Complaint.

19. Paragraph 19 sets forth the doctrines of *res judicada* and/or collateral estoppel as bars and/or limits to plaintiffs' recovery. To the extent that these averments constitute conclusions of law, plaintiffs need not reply thereto. To the extent that these averments constitute factual conclusions, plaintiffs deny same.

20. In paragraph 20, defendant 'reserves the right to raise those defenses set forth in Pa.R.C.P. §1030.' Inasmuch as defendant does not identify specific defenses within Pa.R.C.P. §1030, nor how and/or why such defenses act as a bar and/or limit to plaintiffs' recovery, plaintiffs are incapable of formulating a specific denial thereto, and therefore plaintiffs generally deny this averment.

21. Paragraph 21 constitutes a conclusion of law to which no reply is necessary. To the extent a reply may be deemed necessary, it is denied that 'defendant breached no duty of care owed to plaintiff.' The sole and exclusive cause of plaintiffs' injuries was the negligence and carelessness of defendant, as more fully set forth in plaintiffs' Complaint.

Respectfully submitted,

LORENZO & GIANVITO, P.C.

By: 

Nicholas F. Lorenzo, Jr., Esq.  
Attorney for Plaintiffs

**VERIFICATION**

BARBARA J. SKARBEK and MICHAEL SKARBEK, Plaintiffs, verify that the statements in the foregoing Reply to New Matter are true and correct to the best of their knowledge, information and belief. This statement and verification is made subject to the penalties of 18 Pa. C.S. ¶4904, relating to unsworn falsification to authorities.

Date: 4-15-08

Barbara J. Skarbek  
Barbara J. Skarbek

Date: 4-15-08

Michael Skarbek  
Michael Skarbek

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of April, 2008, a true and correct copy of the foregoing Reply to New Matter of Defendant was forwarded via first-class mail, postage prepaid, to the following:

Timothy J. McMahon, Esq.  
Marshall, Dennehey, Warner,  
Coleman & Goggin  
4200 Crums Mill Rd., Ste. B  
Harrisburg, PA 17112

  
Nicholas F. Lorenz Jr., Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

**BARBARA J. SKARBEK**, an  
individual; **MICHAEL SKARBEK**,  
an individual; and **BARBARA J.**  
**SKARBEK** and **MICHAEL**  
**SKARBEK**, as husband and wife,

Plaintiffs

Vs.  
**LOWE'S HOME CENTERS, INC.**,

Defendant

Type of Case - **CIVIL**

No. 2008-306 CD

Type of Pleading -  
**NOTICE OF SERVICE**

Filed on Behalf of- **PLAINTIFFS**

Filed by:  
**NICHOLAS F. LORENZO, JR., ESQ.**  
Pa. I.D. #05864

**LORENZO & GIANVITO, P.C.**  
410 West Mahoning St.  
P.O. Box 495  
Punxsutawney, PA 15767  
(814) 938-6390

FILED *no cc*  
*m 12 49 BCI*  
MAY 02 2008  
*(JW)*  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW

**BARBARA J. SKARBEK**, an  
individual; **MICHAEL SKARBEK**,  
an individual; and **BARBARA J.**  
**SKARBEK** and **MICHAEL**  
**SKARBEK**, as husband and wife,

Plaintiffs

Vs.

No. 2008-306 CD

**LOWE'S HOME CENTERS, INC.**,

Defendant

**NOTICE OF SERVICE OF INTERROGATORIES AND**  
**REQUEST FOR PRODUCTION OF DOCUMENTS**

TO THE PROTHONOTARY:

Please be advised that Plaintiffs' First Set of  
Interrogatories and First Request for Production of Documents  
directed to defendant were served upon said defendant, c/o their  
attorney: Timothy J. McMahon, Esq., 4200 Crums Mill Road, Suite B,  
Harrisburg, Pa., 17112, this 1<sup>st</sup> day of May, 2008, via first-  
class U.S. Mail, postage prepaid.

LORENZO & GIANVITO, P.C.

By:   
Nicholas F. Lorenzo, Jr., Esq.  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103803  
NO: 08-306-CD  
SERVICE # 1 OF 1  
COMPLAINT

PLAINTIFF: BARBARA J. SKARBEK an ind; MICHAEL SKARBEK, an ind. al  
vs.  
DEFENDANT: LOWES HOME IMPROVEMENT WAREHOUSE

**SHERIFF RETURN**

NOW, February 26, 2008 AT 2:44 PM SERVED THE WITHIN COMPLAINT ON LOWES HOME IMPROVEMENT WAREHOUSE DEFENDANT AT 1 COMMONS DRIVE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DAVID HANES, ZONE MANAGER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING /

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	LORENZO	19762	10.00
SHERIFF HAWKINS	LORENZO	19762	37.60

Sworn to Before Me This

\_\_\_\_ Day of \_\_\_\_\_ 2008

So Answers,

**FILED**

03:40pm  
JUN 17 2008

William A. Shaw  
Prothonotary/Clerk of Courts

*Chester A. Hawkins  
by Marilyn Hark*  
Chester A. Hawkins  
Sheriff

BARBARA J. SKARBEK, an individual, MICHAEL SKARBEK, an individual, and BARBARA J. SKARBEK and MICHAEL SKARBEK, as husband and wife, Plaintiffs

v.

LOWE'S HOME CENTERS, INC.  
Defendant.

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSYLVANIA  
: NO. 2008-306 CD  
: CIVIL ACTION - LAW  
: JURY TRIAL DEMANDED

**FILED** *Re*

*JAN 02 2009*  
*611150/0*  
S William A. Shaw  
Prothonotary/Clerk of Courts  
*1 cent to Attn*

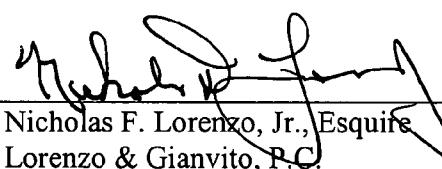
**PRAECIPE TO MARK ACTION SETTLED, DISCONTINUED AND ENDED**

TO THE PROTHONOTARY:

Kindly mark the above-referenced action settled, discontinued and ended.

Respectfully submitted,

DATE: 12-24-08

BY: 

Nicholas F. Lorenzo, Jr., Esquire  
Lorenzo & Gianvito, P.C.  
410 West Mahoning Street  
P.O. Box 495  
Punxsutawney, PA 15767  
Attorney for Plaintiffs