

# FAYETTE LEGAL JOURNAL

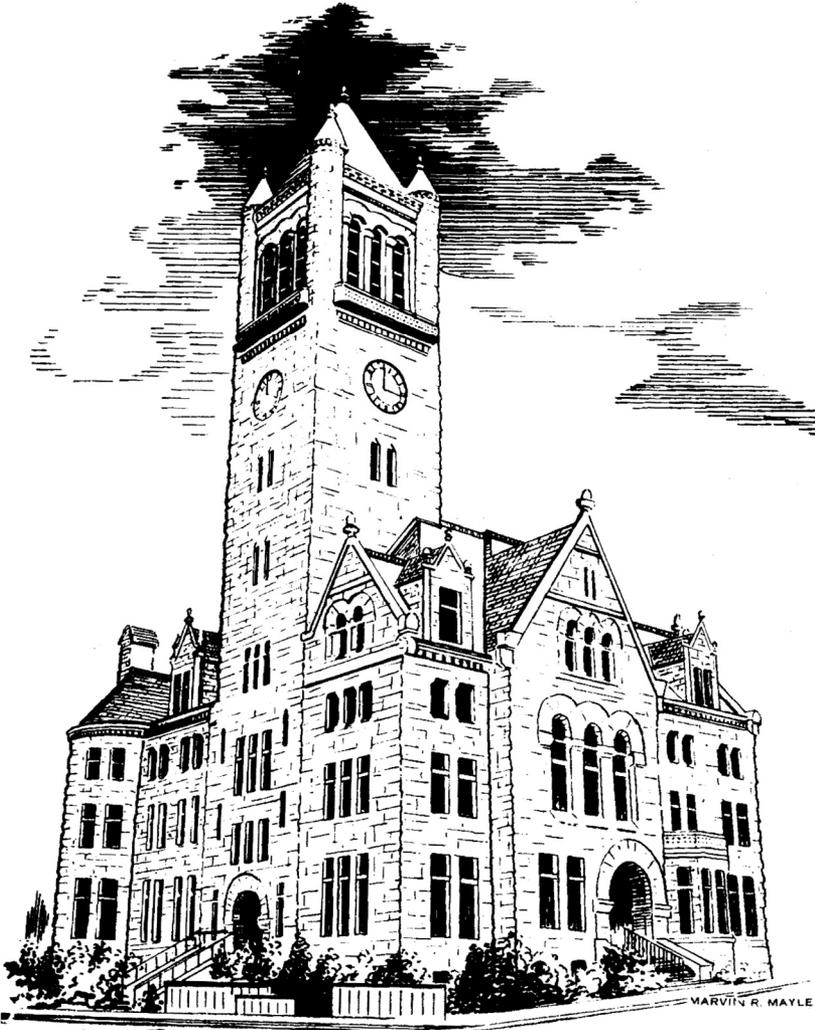
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## FAYETTE LEGAL JOURNAL

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**Co-Editors:** Garnet L. Gordon and Melinda Deal Dellarose

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## ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

### Third Publication

**FREDERICK P. GNUS**, late of Luzerne Township, Fayette County, PA <sup>(3)</sup>  
*Executor:* Michael J. Garofalo, Esquire  
 c/o Davis & Davis  
 107 East Main Street  
 Uniontown, PA 15401  
*Attorney:* James T. Davis

**HELEN PEARL HAINES, a/k/a HELEN R. HAINES**, late of Bullskin Township, Fayette County, PA <sup>(3)</sup>  
*Co-Executors:* Roger D. Haines and Amy R. Wingrove  
 c/o 815A Memorial Boulevard  
 Connellsville, PA 15425  
*Attorney:* Margaret Z. House

**DOLORES HOMINSKY, a/k/a DOLORES J. HOMINSKY, a/k/a DOLORES JEAN HOMINSKY**, late of Connellsville Township, Fayette County, PA <sup>(3)</sup>  
*Executrix:* Cheryl Cesario  
 1104 Dogwood Drive  
 Connellsville, PA 15425  
 c/o Tremba, Kinney, Greiner & Kerr  
 1310 Morrell Avenue, Suite C  
 Connellsville, PA 15425  
*Attorney:* John Greiner

**LOUISE MCFADDEN, a/k/a CARRIE LOUISE MCFADDEN**, late of South Union Township, Fayette County, PA <sup>(3)</sup>  
*Executrix:* Julie E. Scarborough  
 54 Cheswold Boulevard, Apt. 405  
 Newark, Delaware 19713  
 c/o John M. Ranker & Associates, P.C.  
 140 South Main Street, Suite 301  
 Greensburg, PA 15601  
*Attorney:* John M. Ranker

**EMMA REAGGLE**, late of Uniontown, Fayette County, PA <sup>(3)</sup>  
*Administrator:* Gregory H. Reaggle  
 136 Vardell Street  
 Uniontown, PA 15401  
 c/o 22 Bierer Avenue  
 Uniontown, PA 15401  
*Attorney:* Mary Lenora Hajduk

**SYLVIA MARIE VOLEK**, late of German Township, Fayette County, PA <sup>(3)</sup>  
*Executor:* David Ronald Fedor  
 c/o Monaghan & Monaghan, L.L.P.  
 57 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Gary D. Monaghan

### Second Publication

**EARLENE BATIS, a/k/a EARLENE E. BATIS**, late of Georges Township, Fayette County, PA <sup>(2)</sup>  
*Administrator:* Thomas B. Broadwater  
 c/o 39 Francis Street  
 Uniontown, PA 15401  
*Attorney:* Jack R. Heneks

**KATHRYN BURWINKLE**, late of North Union Township, Fayette County, PA <sup>(2)</sup>  
*Executor:* Raymond E. Bobick  
 c/o P.O. Box 953  
 Uniontown, PA 15401  
*Attorney:* Ricardo J. Cicconi

**ROBERT CLIFTON COWLES**, late of Henry Clay Township, Fayette County, PA <sup>(2)</sup>  
*Administratrix:* Deborah Lucille Harriman,  
 a/k/a Deborah Cowles Harriman  
 c/o Davis & Davis  
 107 East Main Street  
 Uniontown, PA 15401  
*Attorney:* James T. Davis

**THELMA JOAN GOLDEN**, late of Georges Township, Fayette County, PA <sup>(2)</sup>  
*Executrix:* Heather Reagan  
 c/o Adams Law Offices, PC  
 55 East Church Street, Suite 101  
 Uniontown, PA 15401  
*Attorney:* Jason Adams

**WILLIAM HABERER, a/k/a WILLIAM STEPHEN HABERER**, late of Masontown, Fayette County, PA (2)

*Executrix:* Sharon Kirchner  
c/o Kopas Law Office  
556 Morgantown Road  
Uniontown, PA 15401  
*Attorney:* John Kopas

**ROSEMARIE K. MCFALL, a/k/a ROSE MCFALL, a/k/a ROSEMARIE MCFALL**, late of Fayette County, PA (2)

*Executor:* Ronald McFall, Jr.  
P.O. Box 313  
Newell, PA 15466

**JOHN M. REDSHAW**, late of Menallen Township, Fayette County, PA (2)

*Administratrix:* Brittany N. Higinbotham  
c/o DeHaas Law, LLC  
51 East South Street  
Uniontown, PA 15401  
*Attorney:* Ernest P. DeHaas, III

**JULIE SHAW**, late of Connellsville, Fayette County, PA (2)

*Administrator:* Thomas A. Nelson  
265 Vanderbilt Road  
Connellsville, PA 15425  
c/o Snyder and Snyder Law, PLLC  
17 North Diamond Street  
Mt. Pleasant, PA 15666  
*Attorney:* Marvin Snyder

**PATRICIA WARD**, late of South Connellsville, Fayette County, PA (2)

*Executor:* Mark Ward  
c/o 815A Memorial Boulevard  
Connellsville, PA 15425  
*Attorney:* Margaret Z. House

**DANIEL YELLETS, a/k/a DANIEL ALEXANDER YELLETS**, late of Dunbar Township, Fayette County, PA (2)

*Administrator:* John David Yellets  
126 Water Street  
Rices Landing, PA 15357  
c/o Logan & Gatten Law Offices  
54 North Richhill Street  
Waynesburg, PA 15370  
*Attorney:* Lukas B. Gatten

## First Publication

**LORAIN POREMBA**, late of North Union Township, Fayette County, PA (1)

*Personal Representatives:* Deborah A. Kelley, Andrew R. Poremba, Jr., and Renay Krause  
c/o Higinbotham Law Offices  
68 South Beeson Boulevard  
Uniontown, PA 15401  
*Attorney:* James Higinbotham

**DON PAUL TRAEGER, a/k/a DON P. TRAEGER**, late of Perry Township, Fayette County, PA (1)

*Personal Representative:* Henry L. Croft  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

**CHARLIE V. WILLIAMS**, late of South Connellsville Borough, Fayette County, PA (1)

*Personal Representative:* John Edwards  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

**LEGAL NOTICES**

**SHERIFF’S SALE**

**Notice of Revocable Trust Pursuant to 20 Pa. C.S. § 7755(c)  
The Francis Family Trust U/A dated 5/4/2000**

Notice is hereby given of the administration of THE FRANCIS FAMILY TRUST, DATED MAY 4, 2000. Charles G. Francis, settlor of the trust, of Bullskin Township, County of Fayette and Commonwealth of Pennsylvania, died on November 8, 2022. All persons indebted to the said decedent are requested to make payment to the undersigned without delay, and all persons having claims or demands against said trust are requested to make known the same.

Daniel W. Francis & Philip L. Francis,  
Successor Co-Trustees  
c/o WATSONMUNDORFF, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425-6218  
Phone:724-626-8882

WATSON MUNDORFF, LLP (3 of 3)

Date of Sale: May 18, 2023

By virtue of the below stated writs out of the Court of Common Pleas of Fayette County, Pennsylvania, the following described properties will be exposed to sale by James Custer, Sheriff of Fayette County, Pennsylvania on Thursday May 18, 2023, at 2:00 pm at <https://fayette.pa.realforeclose.com>.

The Conditions of sale are as follows:  
All bidders must complete the Realauction on-line registration process at <https://fayette.pa.realforeclose.com> to participate in the auction.

All bidders must place a 10% deposit equal to the successful bid for each property purchased to Realauction via wire transfer or ACH per Realauction requirements. Upon the auction’s close, buyer shall have 10 business days to pay the remaining balance to the Fayette County Sheriff’s Office via cashier’s check. No cash will be accepted. Failure to comply with the Conditions of Sale, shall result in a default and the down payment shall be forfeited by the successful bidder and applied to the costs and judgments. The schedule of distribution will be filed no later than 30 days after the sale of real property. If no petition has been filed to set aside the sale or objections to the distribution are filed within 10 days of filing the distribution, the Sheriff will prepare and record a deed transferring the property to the successful bidder. (2 of 3)

James Custer  
Sheriff of Fayette County

◆ ◆ ◆  
**DiBella Weinheimer**  
Geer McAllister Best Coco Lloyd Whalen



Holly Whalen ◊ Amy Coco ◊ Bethann Lloyd

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(215) 627-1322

No. 2333 of 2022 GD  
No. 23 of 2023 ED

ANTHONY D. BROWN UNDER FAYETTE  
COUNTY, PA JUDGMENT NO. 2084 OF 2022  
GD.

ANNE N. JOHN, Esq.  
ATTORNEY AT LAW

No. 2148 of 2022 GD  
No. 42 of 2023 ED

**AMERIHOM MORTGAGE COMPANY,  
LLC**

**425 Phillips Blvd  
Ewing, NJ 08618  
Plaintiff**

vs.

**JEFFREY D. ALLAMON JR  
Mortgagor(s) and Record Owner(s)  
508 High Street  
Brownsville, PA 15417  
Defendant(s)**

**FIRST FEDERAL SAVINGS AND LOAN  
ASSOCIATION OF GREENE COUNTY, a  
corporation,**

vs.

**MARK W. DECARLO, SR., a/k/a MARK W.  
DECARLO and MARY F. DECARLO, n/k/a  
MARY F. WILSON,  
Defendants and Real Owners.**

ALL THAT CERTAIN LOT OF LAND  
SITUATE IN MUNICIPALITY OF  
BROWNSVILLE, COUNTY OF FAYETTE  
AND COMMONWEALTH OF  
PENNSYLVANIA.

BEING KNOWN AS: 508 HIGH  
STREET, BROWNSVILLE, PA 15417  
TAX PARCEL #02-10-0055  
IMPROVEMENTS: A RESIDENTIAL  
DWELLING

SOLD AS THE PROPERTY OF:  
JEFFREY D. ALLAMON JR  
ATTORNEY: KML LAW GROUP, P.C.

ALL that certain tract of land situate in  
Menallen Township, Fayette County,  
Pennsylvania, more particularly bounded and  
described as follows.

UPON WHICH is erected a ranch dwelling  
known and designated as 7401 National Pike,  
Uniontown, Fayette County, Pennsylvania.  
FOR PRIOR title see Record Book 957 page  
255.

Assessment Map No.: 22-17-0017.

No. 2084 of 2022 GD  
No. 22 of 2023 ED

**PENNSYLVANIA HOUSING FINANCE  
AGENCY,**

**PLAINTIFF**

vs.

**ANTHONY D. BROWN,  
DEFENDANT**

KML LAW GROUP, P.C.  
Suite 5000  
701 Market Street  
Philadelphia, PA 19106- 1532  
(215) 627-1322

No. 1249 of 2022 GD  
No. 19 of 2023 ED

**FREEDOM MORTGAGE CORPORATION**

**10500 Kincaid Drive  
Fishers, IN 46037-9764**

**Plaintiff**

vs.

**RICHARD C. DILL  
Mortgagor(s) and Record Owner(s)  
90 Chalk Hill  
Ohiopyle Road Ohiopyle, PA 15470  
Defendant(s)**

ALL that lot of land in the City of  
Connellsville, Fayette County, Pennsylvania,  
being approximately 50 x 158.7, and also being  
half of Lot No. 44 and three-fourths of Lot No.  
45, Ashman and Torrence Addition to the  
Borough of New Haven (now City of  
Connellsville). HAVING THEREON  
ERECTED DWELLING KNOWN AND  
NUMBERED AS: 125 N. 6TH STREET,  
CONNELLSVILLE, PA 15425.

TAX PARCEL #: 05-06-0556  
Fayette Deed Book 1990, page 86  
TO BE SOLD AS THE PROPERTY OF

ALL THAT CERTAIN LOT OF LAND  
SITUATE IN WHARTON TOWNSHIP,  
COUNTY OF FAYETTE AND  
COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 90 CHALK HILL  
OHIOPYLE ROAD, OHIOPYLE, PA 15470

TAX PARCEL #42-05-0050  
 IMPROVEMENTS: A RESIDENTIAL  
 DWELLING  
 SOLD AS THE PROPERTY OF:  
 RICHARD C. DILL  
 ATTORNEY: KML LAW GROUP, P.C.

KML LAW GROUP, P.C.  
 Suite 5000  
 701 Market Street  
 Philadelphia, PA 19106-1532  
 (215) 627-1322

No. 2331 of 2022 GD  
 No. 28 of 2023 ED

**LAKEVIEW LOAN SERVICING, LLC**  
**C/O Nationstar Mortgage LLC dba**  
**Mr. Cooper**  
**8950 Cypress Waters Boulevard**  
**Coppell, TX 75019**  
**Plaintiff**

vs.

**TRACY L. DILLINGER aka TRACY L.**  
**WILSON, as Administratrix of the Estate of**  
**KELLY A. MOORE and as Administratrix of**  
**the Estate of SARAH I. MOORE AKA**  
**SARAH IONA MOORE, Deceased**  
**GARY W. MOORE as Administrator of the**  
**Estate of KELLY A. MOORE, Deceased**  
**3315 Old McClellandtown Road**  
**McClellandtown, PA 15458**  
**Defendant(s)**

ALL THAT CERTAIN LOT OF LAND  
 SITUATE IN GERMAN TOWNSHIP,  
 COUNTY OF FAYETTE AND  
 COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 3315 OLD  
 MCCLELLANDTOWN ROAD,  
 MCCLELLANDTOWN, PA 15458

TAX PARCEL #15-22-0049  
 IMPROVEMENTS: A RESIDENTIAL  
 DWELLING

SOLD AS THE PROPERTY OF: TRACY  
 L. DILLINGER aka TRACY L. WILSON, as  
 Administratrix of the Estate of KELLY A.  
 MOORE and as Administratrix of the Estate of  
 SARAH I. MOORE AKA SARAH IONA  
 MOORE, Deceased AND GARY W. MOORE  
 as Administrator of the Estate of KELLY A.  
 MOORE, Deceased

ATTORNEY: KML LAW GROUP, P.C.

Richard M. Squire & Associates, LLC  
 By: M. Troy Freedman, Esquire  
 ID. No. 85165  
 One Jenkintown Station, Suite 104  
 115 West Avenue  
 Jenkintown, PA 19046  
 Telephone: 215-886-8790  
 Attorneys for Plaintiff  
 Telephone: 215-886-8790  
 Fax: 215-886-8791

No. 1765 of 2022 GD  
 No. 39 of 2023 ED

**Wilmington Savings Fund Society, FSB, d/b/a**  
**Christiana Trust as Trustee for PNPMS**  
**Trust III**

**PLAINTIFF**

v.

**Lois Jean Grimes**  
**DEFENDANT**

TAX PARCEL NO.: 34-35-0029 & 34-35-  
 0032

PROPERTY ADDRESS: 208 5th Street,  
 Brownfield, PA 15416

IMPROVEMENTS: Single Family  
 Dwelling

SEIZED AND TAKEN in execution as the  
 property of Lois Jean Grimes

ALL that certain lot of land situate in South  
 Union Township, Fayette County, Pennsylvania,  
 upon which is erected one-half of a double  
 frame house, known as House 130-131, in the  
 Plan of Lots laid out by Louis Kamensky and  
 Geza Lux, a plot of which plan is recorded in the  
 Office of the Recorder of Deeds of Fayette  
 County, Pennsylvania, in Plan Book Volume 7  
 at page 153. The house herein conveyed being  
 designated on said plot as House 131 and the lot  
 upon which said house is erected is more  
 particularly described as follows:

BEGINNING at a point in the center line  
 of Fourth Street, corner with other land of  
 Sophia Lux, the beginning point is located,  
 South 31° 18' West, a distance of 187.11 feet  
 from the intersection of the center line of said  
 Fourth Street and the center line of the  
 Brownfield Road; thence from said point of  
 beginning, along a line of other land of Sophia  
 Lux, North 59° 19' West, a distance of 130.26  
 feet to a point corner in the center line of Fifth  
 Street with lot upon which is erected House No.  
 130-131; thence in the center line of Fifth Street,  
 south 31° 18' West, a distance of 45.56 feet to a  
 point; thence through said lot by a line passing  
 through the center line of the partition wall on  
 which House No. 130-131 is erected, South 59°

01 35" West, a distance of 130.25 feet to a point in-the center line of Fourth Street; thence in the center line of Fourth Street, North 31° 18' East, a distance of 45.88 feet to the point of beginning.

UPON which is erected House No. 131 of the Village of Brownfield.

THIS CONVEYANCE is expressly made under and subject to sewer line assessments and tap-in fees which are or might be imposed by the South Union Township Sewage Authority and grantees agree to accept responsibility for payment of the same.

UNDER AND SUBJECT to the first mortgage held by Sophia Lux to John Janosick and Elizabeth Janosick, his wife, and Edward Janosick, their son, of South Union Township, Fayette County, Pennsylvania, and recorded in the. Office of the Recorder of Deeds of Fayette County, Pennsylvania, in Mortgage Book. Volume 532 at page 78 dated April 27, 1973.

UNDER AND SUBJECT to all exceptions, reservations, easements, restrictions, limitations, rights of way for streets, alleys, etc. as are set forth in prior instruments of record.

UNDER AND SUBJECT to right of support for party wall erected between House No. 130 and 131 and together with the right of. support in and to said party wall from the owner of adjoining House NO. 130.

Parcel No. 34-35-0029 & 34-35-0032

Being the same premises that Hazel M. Cramer, an unmarried widow, by deed dated 3/31/1981 and recorded 4/1/1981 in the office of the Recorder of Deeds in the County of Fayette, Commonwealth of Pennsylvania in Book 1285, Page 817, granted and conveyed to Lois Jean Grimes and James Albert Grimes, her husband

James Albert Grimes departed this life on January 2, 2012

NOTICE: THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHTS OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND, THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT.

DWALDMANLAW, P.C.,  
ATTORNEY FOR PLAINTIFF  
BY: JENNIE C. SHNAYDER, ESQUIRE-  
ID #315213

4900 CARLISLE PIKE, #182  
MECHANICSBURG, PA 17050  
TELEPHONE: (844) 899-4162  
FACSIMILE: (844) 882-4703

No. 2000 of 2017 GD  
No. 291 of 2022 ED

**ANTHIUM, LLC  
PLAINTIFF**

v.

**LENORA S. HARFORD  
THOMAS E. WINGARD, IN HIS  
CAPACITY AS HEIR OF WILMA JEAN  
WINGARD, DECEASED  
TAMMY M. LYNCH, IN HER CAPACITY  
AS HEIR OF WILMA JEAN WINGARD,  
DECEASED  
RICHARD A. WINGARD, IN HIS  
CAPACITY AS HEIR OF WILMA JEAN  
WINGARD, DECEASED  
UNKNOWN HEIRS, SUCCESSORS,  
ASSIGNS, AND ALL PERSONS, FIRMS,  
OR ASSOCIATIONS CLAIMING RIGHT,  
TITLE OR INTEREST FROM OR UNDER  
WILMA JEAN WINGARD, DECEASED  
DEFENDANTS**

All That Certain lot of land situate in Luzerne Township, Fayette County, Commonwealth of Pennsylvania.

TAX PARCEL# 19-32-0017

PROPERTY ADDRESS: 636 Palmer Adah Road, Adah, PA 15410

ANNE N. JOHN Esq.  
ATTORNEY AT LAW

No. 404 of 2022 GD  
No. 91 of 2022 ED

**FIRST FEDERAL SAVINGS AND LOAN  
ASSOCIATION OF GREENE COUNTY, a  
corporation,**

**Plaintiff**

vs.

**TONYA M. HIXON,  
Defendant**

ALL that certain lot or parcel of land situated and lying in the Borough of Smithfield, Fayette County, Pennsylvania, CONTAINING six thousand (6,000) square feet, more or less.

FOR prior title see Record Book 2759,  
page 199.

Tax Parcel No.: 32-06-0033

Upon which is erected an aluminum/vinyl  
dwelling known as 5 Moser Way, Smithfield,  
PA 15478.

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No. 143 of 2022 GD  
No. 37 of 2023 ED

**ROCKET MORTGAGE, LLC F/K/A  
QUICKEN LOANS, LLC F/K/A QUICKEN  
LOANS INC.**

**635 Woodward Avenue  
Detroit, MI 48226**

**Plaintiff**

vs.

**KALEENA KAY KENNEDY, as  
Administratrix of the Estate of Joseph F.  
Kennedy, Jr.**

**1350 Paradise Avenue  
Belle Vernon, PA 15012**

**Defendant(s)**

ALL THAT CERTAIN LOT OF LAND  
SITUATE IN WASHINGTON TOWNSHIP,  
COUNTY OF FAYETTE AND  
COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 1350 PARADISE  
AVENUE, BELLE VERNON, PA 15012

TAX PARCEL #41-11-0003 AND 41-12-  
0027

IMPROVEMENTS: A RESIDENTIAL  
DWELLING

SOLD AS THE PROPERTY OF:  
KALEENA KAY KENNEDY, as  
Administratrix of the Estate of Joseph F.  
Kennedy, Jr.

ATTORNEY: KML LAW GROUP, P.C.

KML LAW GROUP, P.C.

Suite 5000

701 Market Street

Philadelphia, PA 19106-1532

(215) 627-1322

No. 1366 of 2022 GD

No. 15 of 2023 ED

**1900 CAPITAL TRUST II, BY US BANK  
TRUST NATIONAL ASSOCIATION, NOT  
IN ITS INDIVIDUAL CAPACITY BUT  
SOLELY AS CERTIFICATE TRUSTEE**

**75 Beattie Place**

**Suite 300**

**Greenville, SC 29601**

**Plaintiff**

vs.

**RICHARD MILAN**

**Mortgagor(s) and Record Owner(s)**

**742 Herbert Fairbank Road**

**New Salem, PA 15468**

**Defendant(s)**

ALL THAT CERTAIN LOT OF LAND  
SITUATE IN REDSTONE TOWNSHIP,  
COUNTY OF FAYETTE AND  
COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 742 HERBERT  
FAIRBANK ROAD, NEW SALEM, PA 15468

TAX PARCEL #30360012

IMPROVEMENTS: A RESIDENTIAL  
DWELLING

SOLD AS THE PROPERTY OF:  
RICHARD MILAN

ATTORNEY: KML LAW GROUP, P.C.

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No. 2186 of 2022 GD

No. 20 of 2023 ED

**Nationstar Mortgage LLC**

**Plaintiff,**

vs.

**Jeffrey S. Primus**

**Defendant.**

ALL that certain parcel of land lying and  
being situate in the City of Connellsville,  
County of Fayette, and Commonwealth of  
Pennsylvania, known as 607 South 12th Street,  
Connellsville, PA 15425 having erected thereon  
a dwelling house.

Being known and designated as Tax ID  
No.: 05140044

BEING the same premises which Jeffrey S.  
Primus, by Deed dated March 25, 2006 and  
recorded in and for Fayette County,  
Pennsylvania in Deed Book 2984, Page 2161,

granted and conveyed unto Jeffrey S. Primus and Tammy L. Primus, his wife.

No. 2075 of 2022 GD  
No. 292 of 2022 ED

**PNC Bank, National Association**  
**Plaintiff,**  
**vs.**  
**Sandra Sohyda; Edward J. Sohyda**  
**Defendants.**

ALL that certain parcel of land lying and being situate in the City of Uniontown, County of Fayette, and Commonwealth of Pennsylvania, known as 55 East Berkeley Street, Uniontown, PA 15401 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 38-12-0166

BEING the same premises which Gabriel Brothers, Inc. a West Virginia Corporation, by Deed dated October 30, 1975 and recorded in and for Fayette County, Pennsylvania in Deed Book 1189, Page 422, granted and conveyed unto Edward J. Sohyda and Sandra Sohyda, his wife.

KML LAW GROUP, P.C.  
Suite 5000  
701 Market Street  
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(215) 627-1322

No. 2066 of 2022 GD  
No. 33 of 2023 ED

**PNC BANK, NATIONAL ASSOCIATION**  
**S/B/M NATIONAL CITY BANK OF**  
**PENNSYLVANIA**  
**3232 Newmark Drive**  
**Miamisburg, OH 45342**  
**Plaintiff**

**vs.**  
**MICHELLE J. SPARKS as Administratrix of**  
**the Estate of STEPHEN M. SPARKS,**  
**Deceased**  
**21 South Oak Street**  
**Fairchance, PA 15436**  
**Defendant(s)**

ALL THAT CERTAIN LOT OF LAND SITUATE IN BOROUGH OF FAIRCHANCE, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 21 SOUTH OAK STREET, FAIRCHANCE, PA 15436

TAX PARCEL#11-06-0051  
IMPROVEMENTS: A RESIDENTIAL DWELLING  
SOLD AS THE PROPERTY OF: MICHELLE J. SPARKS as Administratrix of the Estate of STEPHEN M. SPARKS, Deceased  
ATTORNEY: KML LAW GROUP, P.C.

Hladik, Onorato & Federman, LLP  
298 Wissahickon Avenue  
North Wales, PA 19454

No. 1776 of 2022 GD  
No. 29 of 2023 ED

**Kirkland Financial LLC**  
**(Plaintiff)**  
**vs.**  
**Veerasammy Perumal, AnnaLisa, LLC and**  
**The United States of America**  
**(Defendants)**

By virtue of Writ of Execution No. 2022-01776

Kirkland Financial LLC (Plaintiff) vs. Veerasammy Perumal, AnnaLisa, LLC and The United States of America (Defendants)  
Property Address 414 Perry Road, Perryopolis, PA 15473  
Parcel I.D. No. 17-08-0088  
Improvements thereon consist of a commercial dwelling. Judgment Amount: \$215,762.98

\*\*\* END OF SHERIFF'S SALE \*\*\*

# WARMAN ABSTRACT & RESEARCH LLC

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JUDICIAL OPINION

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

ROBERT F. BAKER t/d/b/a BAKER :
CONSTRUCTION :
Plaintiff, :
v. :
BERNARD J. LIPTAK and :
CHERYL LIPTAK, husband and wife, : No. 2204 of 2020 G.D.
Defendants. : Honorable Linda R. Cordaro

OPINION

Before the Court is an action filed by Plaintiff Robert F. Baker t/d/b/a Baker Construction, against Defendants Bernard J. Liptak, Cheryl Liptak, and Pranay G. Amin, on a claim of unpaid labor and materials for his work in repairing and remodeling an existing ice rink to include a restaurant and tavern. This opinion and accompanying order are issued after the November 23, 2022 bench trial in the case.

PROCEDURAL HISTORY

The instant action involves the same set of circumstances as those set forth in Plaintiffs mechanic's lien action filed August 2, 2017. A bench trial was held in that prior case before the Honorable John F. Wagner, Jr. on February 18, 2020. The case was dismissed on December 3, 2020 on the grounds that Plaintiff failed to comply with the provisions of the Mechanics' Lien Law. Plaintiff appealed the decision. The Pennsylvania Superior Court affirmed the decision in a memorandum issued February 4, 2022. {1}

Plaintiff filed the instant action on December 14, 2020 and listed three (3) counts in his Complaint: (1) Defendants owe \$51,099.83 for labor and materials, plus interest, on the work completed; (2) Defendants owe \$51,099.83, the value of Plaintiffs work for which they have not paid; (3) Plaintiff is entitled to additional relief under the Contractors and Subcontractors Payment Act (Act), specifically as under 73 P.S. §§ 512(a)(1) and 512(b). {2} Plaintiff also claimed an additional \$8,000 in "unbilled materials" supplied for the job in the form of an installed stainless steel exhaust hood and complete kitchen makeup air system.

Defendants' Answer denied payment is owed and alleged that Plaintiff actually owes Defendants \$82,056.00, because they paid Plaintiff \$52,300.00 more than the amount originally agreed upon and paid \$29,756.00 to another contractor to finish work Plaintiff left incomplete. {3}

{1} No. 422 WDA 2021
{2} At the November 2022 trial, Plaintiff offered Exhibit 6, a "Damages Summary" prepared by Plaintiffs counsel. This document calculated the damages as \$49,344.20, plus 1% interest per month from June 2017 to January 2023 (compounded), 1% penalty per month for the same timeframe (compounded), and \$8,000 for the kitchen equipment at 6% simple interests for 67 months. The sum of total damages as calculated was \$252,204.00, not including attorney's fees.
{3} Defendants' answer requested judgment against Plaintiff but did not plead a counterclaim as set forth by Pa.R.Civ.P. 1031(a) and so will not be considered as such.

A bench trial was held on November 23, 2022, at which counsel for both parties consented to admission of the transcript and exhibits from the February 18, 2020 trial and the incorporation of that trial testimony. The parties also agreed to the factual stipulation that Defendants did pay Plaintiff a total of \$191,800.00. Counsel for both parties also submitted post-trial briefs, and each cited to the Act to support their respective positions.

#### FINDINGS OF FACT

This action involves the same set of circumstances as Plaintiffs prior mechanic's lien action. Therefore, the findings of fact as in the December 3, 2020 opinion are incorporated here along with facts established in testimony and other evidence admitted at the November 23, 2022 trial.

Defendants purchased real property known as the Ice Mine, a hockey and roller skating rink located at 3286 West Crawford Avenue, Dunbar Township, Fayette County, Pennsylvania (Fayette County Parcel ID 09-24-025501 in Record Book 3316, page 1692). The property had been taken over by a bank and subsequently sold to the Defendants. Prior to their purchase of the property, it had been vandalized and seriously damaged.

On or about August 27, 2016, Defendants entered into an oral agreement with the Plaintiff for the repair and remodel of the property to include a restaurant. Plaintiff was to provide material and labor to remodel the existing property using a diagram provided by a Mr. Thomas Kinsey, who was involved in the project on behalf of the bank. The parties agree that there was an oral contract for materials and labor. However, although there was some discussion of a \$150,000 cost, this appears to have been subject to change. {4} Defendants aver that the project was to take approximately 2-3 months, beginning in August 2016 and terminating by October 31, 2016.

The Plaintiff worked on the project for approximately nine (9) months, and Mr. Kinsey directed the work. Plaintiff testified that he thought there was an American Institute of Architecture (AIA) schedule for the project, an industry standard form that includes a contract, specification drawings, and building permits. However, no such schedule existed. Plaintiff would complete work as directed by Mr. Kinsey, provide Mr. Kinsey with invoices, and then Mr. Kinsey would pass the invoices along to the Defendants for payment. There was no testimony from Mr. Kinsey either at the February 2020 or the November 2022 trial. {5} There is no evidence that either party objected to any changes requested by Mr. Kinsey or disputed his authority to make such changes.

In March 2017, several months after the October 31, 2016 completion date originally anticipated, Defendants began asking Plaintiff to provide additional detail for the invoices. Defendants met with Plaintiff three (3) separate times and explained that they could not continue to write checks without knowing what the payment was for, and that they needed the detail for tax purposes.

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{4} At the February 18, 2020 trial, Defendant Amin testified that the agreement involved a cost of \$150,000, as did Ms. Liptak, who was not then named as a defendant. N.T., 2/18/20, at 79, 102. Ms. Liptak, who is named as a defendant in the instant action, testified again at the November 23, 2022 trial that \$150,000 was the amount quoted.

{5} The December 3, 2020 decision found that the Plaintiff had failed to establish that Mr. Kinsey was the Defendants' agent, and that, in fact, the record was "devoid of any evidence as to Mr. Kinsey's actual role and who he was acting on behalf [of]."

Plaintiffs March 7, 2017 invoice was for a total of \$89,611.00. This invoice included a carryforward balance from prior months and dollar amounts associated with supplier names. It also included a dollar amount next to the line item "Labor (from exhibit A breakdown)." The labor "breakdown" showed the following: calendar dates; workers' first names; a wage amount per hour; the sum of total wages per worker per day; the sum of total wages per day overall; and a grand total. For some dates, only the word "ditto" and a single dollar amount were listed as the labor for the day.

Defendants paid Plaintiff \$60,000.00 on April 3, 2017 but refused to make any more payments until Plaintiff provided the detail they requested. Plaintiffs final invoice to Defendants for \$49,344.20 was issued May 9, 2017. This invoice included a carryforward balance of \$29,611.00 and dollar amounts associated with suppliers as well as "labor," similar to contents of the March 2017 invoice and "breakdown."

According to Defendants, Plaintiff never provided the detail they requested, and they were unwilling to continue paying without it. Plaintiff testified that he "walked off" the job in May 2017 because he was not being paid. Defendants thereafter hired and paid another contractor to complete the job.

### DISCUSSION

Both parties cite to the Contractor and Subcontractor Payment Act (Act) (73 P.S. § 501 et seq.) in their post-trial briefs to support their respective positions, and Plaintiff relies upon the Act for relief in his Complaint. Specifically, Plaintiff cites to 73 P.S. §§ 505, 506, 511, and 512 to support that he is entitled to payment plus interest, penalty, and attorney's fees. Defendants also cite to Section 506, specifically Section 506(a), to support their right to withhold payment. However, neither party fully complied with the provisions of the Act in this case.

There also are complicating factors that make it impossible to establish what materials and labor were included in the final invoice, such as (1) a lack of detail as to what materials were ordered, collected, and used in the project in the billed timeframe; (2) a lack of detail as to what labor actually was done in the billed timeframe; (3) an ongoing carryforward balance as a single dollar amount combining materials and labor from prior invoices.

Under 73 P.S. § 502, a contractor is "[a] person authorized or engaged by an owner to improve real property." An owner is "[a] person who has an interest in the real property that is improved and who ordered the improvement to be made." The section also provides that the construction contract may be either written or oral. Here, Plaintiff meets the definition of "contractor," Defendants meet the definition of "owners," and there is no statutory requirement that their agreement must have been in writing.

Section 504 specifies that "performance by a contractor or subcontractor in accordance with the provisions of a contract shall entitle the contractor or subcontractor to payment from the party with whom the contractor or subcontractor has contracted." Section 505(a) states that "[t]he owner shall pay the contractor strictly in accordance with the terms of the construction contract."

Here, the record supports that there was an oral agreement for work to be done and that there was at least discussion of a \$150,000 price tag. Defendant Amin testified in February 2020 about the \$150,000 price, and Defendant C. Liptak testified to that same amount at both trials. Plaintiff also testified that he told Defendant Bernard Liptak (B.

Liptak) at one point that it was necessary to get the project under control and that he was way over budget. This supports that there was indeed some discussion about price, as Plaintiff could not have observed the project was over budget if there was no budget.

However, any other "terms" of the agreement are disputed or appear to have been subject to change. For example, the project originally was to be completed in October 2016, but Plaintiff was still working in April 2017. Plaintiff contends the final project grew to 3,200 square feet, but Defendants testified that the project actually was smaller than the original 1,500 square foot plan. {6} There also is a lack of clarity as to Mr. Kinsey's role. Mr. Kinsey was present at the planning discussion and drew up the proposed 1,500 square foot plan. He also was the daily contact on site throughout the project. Plaintiff testified that he believed Mr. Kinsey was Defendants' agent, but Defendants testified that Mr. Kinsey was an employee of Scottsdale Bank. As found in the December 3, 2020 trial opinion, there is insufficient evidence to establish that Mr. Kinsey was Defendants' agent. However, even if Mr. Kinsey did direct changes to the project, neither Plaintiff nor Defendants objected, and both accepted his authority to make such changes.

However, regardless of what was originally agreed upon, what changes were made, and what ultimately was achieved before Plaintiff suspended performance, it cannot be said that Defendants refused to pay according to the terms of the contract. There is no evidence that a term of the contract included Defendants' obligation to pay whatever amount was billed, without question. There is also no evidence that Plaintiff was exempt from supporting the invoices with detail. Defendants did not refuse to pay the final invoice outright; they made payment contingent on the receipt of relevant supporting detail to know what they were paying for.

Under the Act, an owner is entitled to good faith withholding of payment, with conditions, as provided in Section 506 of the Act:

(a) Authority to withhold. - The owner may withhold payment for deficiency items according to the terms of the construction contract. The owner shall pay the contractor according to the provisions of the act for any item which appears on the invoice and has been satisfactorily completed.

(b) Notice. -

(1) Except as provided under [73 P.S. § 509], if an owner withholds payment from a contractor for a deficiency item, the amount withheld shall be reasonable and the owner shall notify the contractor of the deficiency item by a written explanation of its good faith reason within 14 calendar days of the date that the invoice is received.

(2) Failure to comply with paragraph (1) shall constitute a waiver of the basis to withhold payment and necessitate payment of the contractor in full for the invoice.

(3) If an owner withholds payment from a contractor for a deficiency item, the owner shall remit payment to the contractor for each other item that has been satisfactorily completed under the construction contract.

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{6} Plaintiff's Exhibit 2 show the proposed plan at 50' x 32', or approximately 1,500 square feet. Plaintiff's exhibit also includes other drawings with handwritten notes and sketches, but there are no dates associated with the additional drawings or clear indication of how the project as it was when Plaintiff left the job relates to the additional drawings.

Defendants did not comply with this section. There is no indication they notified Plaintiff of deficiencies in writing, and therefore this constitutes waiver of the basis to withhold payment. However, the section also requires that any items satisfactorily completed still must be paid regardless of any other disputed items. He e, Defendants could not have paid for "satisfactorily completed" items and withheld payment for others when the invoice itself only gave general information as to what was billed. Their options were either to pay the whole invoice without having established deficiencies in light of the invoice charges, or to pay nothing until they could establish deficiencies, if any.

Regardless, Plaintiff failed to follow the provisions of Section 505(e) related to the contractor's suspension of performance if payment is not received:

(e) Suspension of performance. -

(1) If payment is not received by a contractor in accordance with this section, the contractor shall have the right to suspend performance of any work, without penalty, until payment is received according to the terms of the construction contract. Any procedure in a construction contract that exceeds the procedure in paragraph (2) shall be unenforceable.

(2) Suspension of performance in a construction contract may occur in accordance with paragraph (1) or if:

(i) payment has not been made to the contractor in accordance with the schedule established under subsection (c);

(ii) at least 30 calendar days have passed since the end of the billing period for which payment has not been received according to the terms of the construction contract. The contractor shall provide written notice to the owner or the owner's authorized agent, via electronic mail or postal service, stating that payment has not been made; and

(iii) at least 30 calendar days have passed since the written notice in subparagraph (ii) has been sent. The contractor shall provide at least 10 calendar days' written notice, via certified mail, of the contractor's intent to suspend performance to the owner or the owner's authorized agent.

Plaintiff cannot rely on Section 505(e)(1) for relief on grounds that Defendants did not pay in accordance with the terms of the contract because, as discussed, there is no evidence that Defendants agreed to pay for unspecified materials and labor nor that Plaintiff was exempt from providing detail upon request. Plaintiff was aware of Defendants' request, and they asked for this detail more than once:

Q: At what point in time do you start to receive the more broken down invoices such as in Plaintiff Exhibit No. 3?

A: We had had a meeting with him about - we had three separate meetings with him and explained to him that I just cannot keep writing a check for one amount without knowing what it was for. We needed invoices and we needed records, not only for the fact that we wanted to know what we were paying for, but for income tax purposes, also. He provided this [exhibit], with just breakdown and still no receipts that attach to it.

Q: And when you say that you had a conversation with him, did you have that conversation with Mr. Baker?

A: Yes. Mr. Baker.

Q: As far as you're concerned initially, none of those invoices for any type of materials were provided?

A: No.

Q: "Whenever Mr. Baker started to hand you invoices, like the one in Plaintiffs No. 3, were you given the invoices attached with these Kovel Supply, Home Depot, Scott Electric?"

A: No.

Q: Were you ever provided with anytype of material invoices?

A: No.

Q: Never provided with any type of labor breakdown invoices, correct?

A: No. Nothing.

Q: At some point do you stop making payments in regard [to] the construction of the restaurant?

A: Yes.

Q: "Why?"

A: He wanted more money.

Q: "What did he want more money for?"

A: He said to finish the restaurant.

Q: And did he provide any type of invoices to sustain why he needed more money?

A: No.

N.T., 2/18/2020, at 83-84, 91. Defendant C. Liptak confirmed again in testimony at the November 2022 trial that she asked Plaintiff for supporting detail that was never provided. Plaintiff cannot obtain relief under Section 505(e)(1) on grounds that Defendants did not pay according to the terms of the contract.

Plaintiff also cannot obtain relief under Section 505(e)(2). This subsection requires that Defendants be notified of non-payment and intention to suspend performance. Defendants' last (partial) payment to Plaintiff was in April 2017, but according to Plaintiffs November 2022 testimony, he "walked off" the job site in May 2017 because he was not being paid. Plaintiff did not notify Defendants in writing of his intent to suspend performance, nor did he wait for the statutorily required length of time before doing so.

Here, although Defendants did not follow the provisions of the Act regarding owners, Plaintiff also failed to follow the provisions regarding contractors, and the relief he requests cannot be granted on the basis of the Act. For the same reason, the Act cannot be a basis on which to grant Plaintiffs claims for penalty, interest, and attorney's fees.  
{7}

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{7} In addition, Section 512(b) specifies that if Plaintiff succeeds and is the "substantially prevailing" party, then attorney's fees are due for a reasonable amount. However, here Plaintiff is not the "substantially prevailing" party.

Plaintiffs post-trial brief argues, alternatively, that the equitable remedy of quantum meruit applies because Plaintiff completed work to the benefit of Defendants, and he so is owed for materials and labor as set forth on the May 9, 2017 invoice. Plaintiffs Brief at 5-6. However, relief cannot be granted on this ground.

Quantum meruit provides an avenue of restitution for unjust enrichment equal to the amount of the reasonable value of services. *Durst v. Milroy Gen. Contracting, Inc.*, 52 A.3d 357, 360 (Pa. Super. Ct. 2012).

Where unjust enrichment is found, the law implies a contract, which requires the defendant to pay the plaintiff the value of the benefit conferred. The elements necessary to prove unjust enrichment are: (1) benefits conferred on defendant by plaintiff; (2) appreciation of such benefits by defendant; and (3) acceptance and retention of such benefits under such circumstances that it would be inequitable for defendant to retain the benefit without payment of value.

*Id.*, quoting *Mitchell v. Moore*, 729 A2d 1200, 1203-04 (Pa. Super. Ct. 1999) (internal citation omitted).

Here, then, it would be necessary to determine the value of unpaid materials and labor to grant relief. However, this determination is not possible based on the evidence presented.<sup>8</sup> As Plaintiffs post-trial brief itself states:

Contractor introduced as evidence a picture found on Defendant's website of the restaurant as built. There one clearly can see the restaurant, the windows overlooking the ice rink and the railing that Contractor installed separating the two levels of the seating area. Both of these items involved substantial subcontractor fabrication as shown on Contractor's invoices. While exactly what Defendants paid for, or did not pay for, is unknown as of the last billing (as only round number progress payments were made), these two items were billed starting in December of 2016 and possibly never paid for given the billings and progress payments made.

Plaintiffs Brief at 5 (emphasis added).

Plaintiff also testified at the February 18, 2020 trial that he stopped working due to a lack of supplies. According to him, there were only one or two workers on the job near the end of the project because "Mr. Kinsey was going to pick up the supplies and he never did." N.T., 2/18/20, at 28.

Q: [Defendants] indicated that they stopped payment because they were not getting invoices. Did they stop paying you all at once or did they not pay bills as you went along?

A: They did not pay the bills as we went along. We would request X amount of money and we were short every bill.

Q: Did you eventually for that reason leave the job?

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<sup>{8}</sup> Plaintiff provided an exhibit comprised of receipts for various suppliers over a number of months as part of the prior action and those receipts also were admitted in this case. However, scope of the receipts includes multiple months and more suppliers than are listed on the final invoice. There is no way to link the supplier charges on the final invoice with the receipts. As already noted, there also is no documentation as to labor, i.e., what work was done in the timeframe.

A: We left the job because we were not getting any supplies. Our direct contact was Tom Kinsey and he'd say hey, we'll bring it out, we'll bring it out and it never happened, so we just left.

Id. at 112-13.

Plaintiff was (and remains) uncertain of exactly what was done, billed, and paid for as of the final invoice and has supplied no clear supporting detail. Since it is unclear what unpaid "benefit" Defendants received and whether Plaintiffs invoice indeed is the reasonable value for that benefit, no relief can be granted to Plaintiff based on quantum meruit.

The same lack of specificity affects the analysis of the value of the kitchen hood Plaintiff claims on his Complaint. It is unclear if the hood was ever invoiced or paid, and Plaintiff himself had difficulty recalling in testimony whether the hood was included in an invoice. The elements of quantum meruit were not established for the kitchen hood.

Finally, Plaintiff attempts to argue that "[n]o evidence was presented of overbilling, deficient work, nor was any objection made to the final bill when it was presented in May 2017. This 'objection' of not receiving subcontractor or material invoices by Defendants is nothing but an irrelevant red herring." Plaintiffs Brief at 4. Plaintiff goes on to argue that "[n]o objection of any type was made at [that] time to that bill, nor even now other than to state that Defendants do not want to pay it." Id.

However, Defendant C. Liptak's testimony in two separate trials credibly established that Defendants did object to paying for unspecified materials and labor, and that they made this objection known before Plaintiff issued his last invoice and left the job.

## CONCLUSION

Plaintiff did not follow the provisions of the Contractors and Subcontractors Payment Act related to non-payment and his intent to cease performance. He therefore cannot rely upon the Act for relief. Plaintiff also has not sufficiently established the value of materials still unpaid, nor what labor was done and unpaid in the timeframe. He therefore cannot prevail on quantum meruit. Plaintiffs claims are dismissed.

## ORDER

AND NOW, this 9th day of February, 2023 after a bench trial and consideration of testimony, exhibits admitted into evidence, and the post-trial briefs of the parties, it is ORDERED and DIRECTED that Plaintiffs Complaint is DISMISSED with prejudice for the reasons set forth in the accompanying Opinion.

BY THE COURT:  
Linda R. Cordaro, Judge

ATTEST:  
Prothonotary

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