

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

TIMOTHY FAUSNAUGHT and	:
KANDY FAUSNAUGHT, husband and	:
wife,	:
Plaintiffs	: No. 07-00800
	:
vs.	: CIVIL ACTION – LAW
	:
R & M TEDESCO CONTRACTING, INC:	:
RICKY G. TEDESCO and MICHAEL	:
TEDESCO,	:
Defendants	: Defendants’ preliminary objections

ORDER

AND NOW, this ____ day of August 2007, the court DENIES Defendants’ preliminary objections to Plaintiffs’ complaint.

Defendants raised three issues in their preliminary objections. First, Defendants contended that the document attached to the complaint was not the contract between the parties. Plaintiffs have alleged that the document is the contract and the document is signed by Defendants. At this stage of the proceedings, the court must accept all facts pleaded by Plaintiffs as true. If Defendants disagree, they can deny the allegation in their Answer and attach the document that they believe is the contract between the parties.

Next, Defendants asserted the complaint was not sufficiently specific. The court believes the complaint is sufficiently specific for Defendants to file an answer. Defendants can obtain more detailed information through the discovery process.

Finally, Defendants contend Plaintiffs have failed to join necessary and indispensable parties, because they have not joined the subcontractors and inspectors who worked on this project. The court finds these individuals are not necessary and indispensable

parties. The allegations of the complaint are that Plaintiffs contracted with Defendants to build their home. If Defendants hired subcontractors or other individuals to perform some of the work that Plaintiffs claim was defective or unworkmanlike, Defendants can join the subcontractors and other individuals as additional defendants.

By The Court,

Kenneth D. Brown,
President Judge

cc: N. Randall Sees, Esquire
John Gummo, Esquire
Gary Weber, Esquire (Lycoming Reporter)