

IN THE COURT OF COMMON PLEAS OF
LYCOMING COUNTY, PA

DAVID PURSEL, d/b/a	:	
PREMIER HOME IMPROVEMENTS,	:	
Plaintiff	:	NO. 11-00534
	:	
vs.	:	
	:	
RICHARD ROMBERG,	:	CIVIL ACTION
Defendant	:	

ORDER

AND NOW, this 30th day of August, following argument on the Plaintiff's Preliminary Objection to the Counterclaim of the Defendant, it is hereby ORDERED that Plaintiff's Preliminary Objection is OVERRULED. Pa.R.C.P.M.D.J. 1007 provides that an action on appeal from a magisterial district judge may not be limited with respect to counterclaims because of the particulars of the action before the magisterial judge. *Id.* The Supreme Court of Pennsylvania clearly endorses the idea that appeals from a magisterial district judge to the common pleas court be conducted de novo. *Am. Appliance v. E.W. Real Estate Mgmt., Inc.*, 769 A.2d 444, 480 (Pa. 2001). This Court believes that reasoning is appropriate in this case. Defendant shall be allowed to pursue his Counterclaim based upon applicable law and the interests of justice. *See Spotts v. Campbell*, 14 Pa. D. & C.3d 376, 380 (Feb. 27, 1980). Plaintiff shall answer Defendant's Counterclaim within 20 days.

BY THE COURT,

Richard A. Gray, J.

RAG/abn

cc: Martin A. Flayhart, Esq.

John A. Smay, Esq.