

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

THOMAS M. RANDIS and LISA A. RANDIS,	:	
Plaintiffs,	:	DOCKET NO. 12-00,651
	:	CIVIL ACTION – LAW
vs.	:	
	:	
LEROY E. PITTENGER, SR. and	:	MOTION FOR
JOYCE A. PITTENGER,	:	RECONSIDERATION
Defendants.	:	

ORDER

AND NOW, this 14th day of March, 2013, this matter comes before the Court on Defendants’ Motion for Reconsideration and Motion for Leave to Amend Pleadings, filed December 19, 2012. Instantly, Defendants are requesting that the Court reconsider its Opinion and Order filed December 7, 2012, granting Plaintiffs’ motion for judgment on the pleadings in this matter. After consideration of Defendants’ motion, brief, and amended answer with new matter and counterclaims, the Court GRANTS reconsideration and VACATES its Opinion and Order of December 7, 2012. Additionally, the Court GRANTS Defendants’ motion for leave, effective this date.

After reviewing Defendants’ amended answer with attached exhibits, it appears that there may be an issue of fact regarding the satisfaction of the writing requirement for the statute of frauds and/or the partial performance exception of the statute of frauds. Therefore, in light of these new exhibits, the Court finds that granting of judgment on the pleadings is not warranted at this time. *See Mellon Bank, N.A. v. Nat’l Union Inc.*, 768 A.2d 865 868 (Pa. Super. Ct. 2001) (providing that a court may enter judgment on the pleadings when there are no disputed issues of fact and the moving party is entitled to judgment as a matter of law).

This matter shall be placed on the undersigned’s **September 9-27 2013 Trial Term**. However, if the parties agree that there is not any significant discovery to be done, they may

request a trial date certain for an earlier date and time from the Court. A standard September Trial Term Scheduling Order is issued herewith.

For the purposes of this matter, Defendants' amended answer with new matter and counterclaims shall be deemed filed this date. *See Piehl v. Philadelphia*, 987 A.2d 146, 154-55 (Pa. 2009) (providing that trial courts should allow liberal amendment of the pleadings in order to dispose of matters on their merits in a just and timely fashion as long as there is no error of law or resulting prejudice as a result of the amendment). Plaintiffs shall file a response to Defendants' amended new matter and counterclaims within twenty (20) days.

BY THE COURT,

Date

Richard A. Gray, J.

cc: Corey J. Mowery, Esq. – Counsel for Plaintiffs
Kristine L. Waltz, Esq. – Counsel for Defendants
Gary L. Weber, Esq. – Lycoming County Reporter