

CIVIL COMPLAINT

Magisterial District Number:

MDJ Name: Hon.

Judge _____

Address:

Anywhere, Pennsylvania

PLAINTIFF:

NAME and ADDRESS

VICTIM OF BAD HOME IMPROVEMENT
CONTRACTOR

VS.

DEFENDANT:

NAME and ADDRESS

BAD HOME IMPROVEMENT CONTRACTOR

Docket No.:

Date Filed:



	AMOUNT	DATE PAID
FILING COSTS	\$ _____	/ /
POSTAGE	\$ _____	/ /
SERVICE COSTS	\$ _____	/ /
CONSTABLE ED.	\$ _____	/ /
TOTAL	\$ _____	/ /

Pa.R.C.P.D.J. No. 206 sets forth those costs recoverable by the prevailing party.

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$ 12,000.00 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

Plaintiff Jane Doe is an adult citizen who owns a property at 123 Main St., USA. Defendant John Doe is a masonry restoration company located at _____. On August 29, 2014 the Plaintiff and the Defendant entered into an agreement whereby the Defendant was to construct and/or repair the Plaintiff's back steps and landing, back steps on the left side, and front steps. Agreement 1. On November 25, 2014 the Defendant provided an agreement supplement indicating the removal and replacement of concrete blocks above and at the base of the steps. Supplement 2. In furtherance of the contract between the parties the Plaintiff paid the Defendant a total amount of \$5,385.00. The Plaintiff has fulfilled all the provisions of the agreement on her part to be performed. The Defendant has not fulfilled the provisions of the agreement and has wholly neglected to do and perform certain things which were expressly or by necessary implication required to be done and performed by the agreement. Defendant has performed in a poor, improper, and unworkmanlike manner certain things which were expressly or by necessary implication required by the agreement to be done and performed in a proper and workmanlike manner, including but not limited to the following: (a) back door cracked steps, cracked pointing, and cracked steps at the side walls of the steps; (b) cracked sidewalk by the kitchen door area; (c) cracked back steps on left side of house; (d) cracked front steps and cracked pointing; Pictures 3. The Defendant breach of the agreement is material and in no way constitutes substantial performance of the terms of the said agreement. The Plaintiff received no value for the funds paid the Defendant. As a proximate result of the Defendant failure and refusal to faithfully perform the agreement, Plaintiff has been damaged in the reasonable sum of \$5,385.00 which represents the amount paid the Defendant. The cost to repair and/or replace the work performed by the Defendant is \$5,450.00. Repairman estimates and affidavit. Exhibits 4 and 5. The Defendant has failed to comply with the following sections of 73 P.S. Section 517.1 et seq. of the Pennsylvania Home Improvement Consumer Protection Act, Section 517.6- Defendant failing to include its registration number on all contracts and proposals and Section 517.7- Defendant home improvement contract failing to contain approximate start and completion dates and a notice of rescission. Pursuant to 73 P.S. Section 517.10 any violation of the Pennsylvania Home Improvement Consumer Protection Act shall constitute a violation of 73 P.S. Section 201-1 et. seq. the Unfair Trade Practices and Consumer Protection Law. The Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. Section 201-9.2, Private Actions, provides any person who suffers any personal loss by any act declared unlawful may bring a private action up to three times the

actual damages sustained, in addition to costs and attorney's fees. The Defendant's actions were in violation of 73 P.S. Section 201-2 (4) (v) representing a service has characteristics it does not have; (vii) representing a service is of a particular quality which it is not; (xvi) making repairs or improvements to real property of a nature or quality inferior to or below the standard of that agreed to in writing; (xvi) engaging in any fraudulent or deceptive conduct which creates a likelihood for confusion or misunderstanding. The Pennsylvania Supreme Court has held contracts for home improvement services impliedly warrant that the work is performed in a reasonably workmanlike manner and the home is fit for habitation. The Defendant breached the warranty of habitability implied by law as the result of its nonperformance. The Plaintiff also alleges negligence and breach of contract. As a proximate result of the Defendant failure and refusal to faithfully perform the contract, Plaintiff has been damaged in the reasonable sum of \$5,385.00 which represents the monies paid to the Defendant for which work was performed in a substandard manner. Alternatively, the Plaintiff seeks the repair and/or replacement cost totaling \$5,450.00. Repair estimates 4. Affidavit of Repairman 5. Plaintiff seeks 73 P.S. Section 201-9.2(a) statutory treble damages and attorney's fees of \$12,000.00.

I, Jane Doe verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.

Plaintiff's		(Signature of Plaintiff or Authorized Agent)
Attorney:	<u>Louis S Schwartz</u>	Address: <u>1500 JFK Blvd., Suite 1825</u>
Telephone:	<u>(215)790-1800</u>	<u>Philadelphia, Pa. 19102</u>

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD SO NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within magisterial district judge jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five (5) days before the date set for the hearing.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.