

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ST. LAWRENCE

FREDERICK E. BIGGS, and PATRICIA M. BIGGS,

Plaintiff,

Index No. 104598

- against -

JAMES A. O'NEILL, Individually and d/b/a
CONSTRUCTION MANAGEMENT SERVICES,

Defendant.

ST. LAWRENCE COUNTY COURT
48 Court Street
Canton, New York 13617
February 27, 2006
SETTLEMENT STIPULATION

BEFORE:

HONORABLE DAVID DEMAREST

APPEARANCES:

FOR THE PLAINTIFF:
HENRY J. LEADER, ESQ.
107 East Main Street
Gouverneur, NY 13642

FOR THE DEFENDANT:
DAVID P. ANTONUCCI, ESQ.

ALSO APPEARING:

APRIL ALLEN, Court Assistant

BETH B. BARRETT, COURT REPORTER (315) 379-2264

1 THE COURT: This is the matter of
2 Biggs versus O'Neill, which was scheduled for
3 trial today. We have been negotiating rather
4 extensively in an attempt to settle the case, and I
5 understand that the parties have now reached a
6 tentative settlement. I'm going to ask Mr. Leader to
7 recite the terms on the record.

8 MR. LEADER: Thank you, your Honor. The
9 above-captioned matter has been settled for the sum of
10 \$27,500, which is payable by the defendant, James
11 O'Neill, to the plaintiff, Frederick and Patricia
12 Biggs, on their breach of warranty claim. That amount
13 of money is to be paid with the existing \$6,000 and
14 change that is currently held in an escrow account by
15 Case and Leader, with an additional \$14,000, which is
16 payable immediately. And it's the parties'
17 understanding that this case is adjourned until that
18 amount of money is paid, which would, in no event, be
19 no later than ten days from today. The remaining
20 \$7,500 will be secured by it will be confession of
21 judgment for that amount.

22 THE COURT: Wait a minute.

23 MR. ANTONUCCI: He needs to speak up, your
24 Honor, or not be bent over. My client is not hearing
25 this.

1 MR. LEADER: Apologize, your Honor.

2 THE COURT: You can pick it right up. You can
3 start again from the beginning.

4 MR. LEADER: I'm sorry. The above-captioned
5 matter is to be settled for the sum of \$27,500 for the
6 breach of warranty claim, which amount is to be paid by
7 the defendant, James O'Neill, to the plaintiffs,
8 Frederick and Patricia Biggs. That amount is to be
9 paid with the \$6,000 currently held in the escrow
10 account at Case and Leader, with an additional \$14,000,
11 which is payable immediately. Pursuant to that, this
12 case has been adjourned until that \$14,000 is paid,
13 which, in no event, will be later than ten days from
14 today. There will be a confession of judgment for the
15 remaining \$7,500, which will be secured by a mortgage
16 in favor of the Biggs on property owned by James
17 O'Neill, which property will be chosen by the Biggs.
18 That amount of money will be paid with statutory
19 interest commencing April 1, 2006, in the amount of
20 \$500 per month. The defendant does have the right to
21 prepay that amount at any time.

22 This settlement resolves all other causes of
23 action in this particular lawsuit, and the same are
24 dismissed with prejudice.

25 Assuming I have accurately and completely

1 stated the settlement, my clients are prepared to abide
2 by that settlement, your Honor.

3 THE COURT: Mr. Antonucci.

4 MR. ANTONUCCI: Understood, agreed and so
5 stipulated, your Honor.

6 THE COURT: Mr. O'Neill, you understand the
7 settlement?

8 MR. O'NEILL: Yes.

9 THE COURT: And you are agreeable to it?

10 MR. O'NEILL: Agreeable.

11 THE COURT: We are actually adjourning the
12 case until you pay the \$14,000, at which point, the
13 case will be discontinued. And then you are also going
14 to have to make the obligation to pay the \$7,500. All
15 right? You understand that?

16 THE DEFENDANT: Uh-huh.

17 THE COURT: Mr. and Mrs. Biggs, any questions
18 about this settlement?

19 MR. BIGGS: No comment, your Honor.

20 THE COURT: All right. You are willing to be
21 bound by it?

22 MR. BIGGS: Yes.

23 THE COURT: I will adjourn this. And if, for
24 some reason, that \$14,000 is not paid, I will
25 immediately put this back on the calendar. I can't

1 give you a particular date. I will do my best to get
2 it on as quick as possible, if need be. I'm confident
3 we are not going to have to do that. I'm sure that
4 everybody wants this over with, and that everyone will
5 do the best that they can to make sure that it is --
6 the money is paid.

7 In the meantime, since this case is continuing
8 and you have another case, no one is going to be able
9 to make any public statements or make any kind of
10 comments, because it's just going to come back and it
11 could haunt you if you have to try these cases again.
12 I'm going to admonish you to please not make any kind
13 of statements, other than the fact that the case has
14 been settled.

15 Anything else, Mr. Leader?

16 MR. LEADER: No, your Honor.

17 MR. ANTONUCCI: Nothing, your Honor.

18 THE COURT: I hope this is the end of this.
19 It's been going on for too long and you folks need to
20 get your house in order. And, hopefully, this will
21 help you do it.

22 MR. LEADER: Your Honor, for the record, I
23 will be sending the confession of judgment out to Mr.
24 Antonucci in this day's mail, and it will be our
25 understanding that that would be signed and immediately

1 returned.

2 THE COURT: Yes. And Mr. Antonucci, you will
3 release the escrow funds today to Mr. Leader.

4 MR. ANTONUCCI: So released. If he requires
5 a letter, he can let me know.

6 THE COURT: Well, you can do it on the record
7 here.

8 MR. ANTONUCCI: I will assume, just for the
9 record, Mr. Leader is going to forward me a description
10 for mortgage.

11 MR. LEADER: Yes.

12 THE COURT: Good luck to you all.

13 MR. ANTONUCCI: Thank you again.

14 THE COURT: You are welcome.

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