STATE OF NEW YORK SUPREME COURT COUNTY OF ST. LAWRENCE

FREDERICK E. BIGGS, and PATRICIA M. BIGGS,

Plaintiff,

- against -

Index No. 104598

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

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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.

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1 MR. LEADER: Apologize, your Honor. 2 THE COURT: You can pick it right up. You can start again from the beginning. 3 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 the defendant, James O'Neill, to the plaintiffs, 7 Frederick and Patricia Biggs. That amount is to be 8 paid with the \$6,000 currently held in the escrow 9 10 account at Case and Leader, with an additional \$14,000, which is payable immediately. Pursuant to that, this 11 12 case has been adjourned until that \$14,000 is paid, which, in no event, will be later than ten days from 13 There will be a confession of judgment for the 14 today. remaining \$7,500, which will be secured by a mortgage 15 16 in favor of the Biggs on property owned by James O'Neill, which property will be chosen by the Biggs. 17 That amount of money will be paid with statutory 18 interest commencing April 1, 2006, in the amount of 19 20 \$500 per month. The defendant does have the right to 21 prepay that amount at any time. This settlement resolves all other causes of 22 23 action in this particular lawsuit, and the same are

24 dismissed with prejudice.

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Assuming I have accurately and completely

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l	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

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

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

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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.

Anything else, Mr. Leader?

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

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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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