

**DISTRICT COURT OF NASSAU COUNTY  
FIRST DISTRICT: CIVIL PART 1**

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ANDERSON CONTRACTING COMPANY  
OF LONG ISLAND, INC.,

Plaintiff,

**Index No. 22776/08**

**-against-**

**PRESENT:**

**Hon. Terence P. Murphy**

ROBERT BRUCK and MICHELLE BRUCK,

**Decision and Order**

Defendant.

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**DECISION AFTER TRIAL**

This is an action in contract to recover monies wherein the Plaintiff alleges the Defendants owe for environmental remediation and restoration services provided to the Defendants after a water pipe burst in the basement of their home. The principal/President of the Plaintiff, Robert Anderson, testified at trial. Mrs. Michelle Bruck testified for the defense. Mr. Bruck did not testify. Upon the credible evidence adduced at trial, the Court makes the following findings of fact and conclusions of law.

**FINDINGS OF FACT**

The Plaintiff is a contracting company that does restoration and repair work on premises that sustain fire and water damage. The Defendants are homeowners. On or about February 5, 2007, an unprotected water pipe burst in Defendants' basement during ongoing construction causing severe water damage. The Defendants called the Plaintiff for assistance and the Plaintiff responded. A "Certificate of Authorization" was executed by the Plaintiff's president and Mr. Bruck (Ptf. Ex. 1). The pre-printed certificate's first paragraph authorized the Plaintiff to "proceed with the restoration work required as a result of a/an WATER DAMAGE (written into line) to the above premises." EMERGENCY SERVICE ONLY was then added at the end of the

paragraph. At trial, Plaintiff's president testified that "emergency services" entailed removing the water and carpet and drying out the premises. The carpet padding was thrown out but the carpet was saved for a further inspection by the insurance company to determine whether it could be salvaged. A "Certificate of Satisfaction" was apparently signed by Mr. Bruck on the same date of service by Anderson Contracting Co. (Ptf. Ex. 4). Plaintiff's president further testified that he spoke with Mr. Bruck about testing for mold and asbestos in the basement tiles and providing a report to him. Mr. Anderson testified that Mr. Bruck granted him permission to proceed with the testing. He stated that Mrs. Bruck was fearful of any mold issues with her young children, although Mrs. Bruck denied having any knowledge of mold or asbestos issues or conversations with the Plaintiff on those issues. No further written agreement was made between the parties regarding further testing or work at the premises.

Jet Environmental Testing, Inc. ("JET") arrived at Defendants' home on April 21, 2007 and provided services to attempt to determine the extent of contamination in the basement and collect air and surface samples to determine the concentration of mold in the air and on the surfaces. A report was prepared on April 27, 2007 with JET's conclusions as to the asbestos issue (Ptf. Ex. 2). JET issued a report on the mold issue on May 4, 2007 (*id.* and Def. Ex. C)

On June 5, 2007, Anderson Contracting Company sent an invoice to the Brucks detailing the charges for the emergency services (\$3271.52), the testing done by JET (\$2485.42), and the cost to prepare an Insurance estimate (\$500.00). The emergency services costs were paid in full by the Brucks insurance company (*id.*).

Mrs. Bruck's testimony that she never had any conversations with Mr. Anderson about mold; that she didn't receive the invoice packet marked as Plaintiff's exhibit 2 or Defendant's Exhibit C or that she never talked to her husband about what work was being done is simply not credible.

### **CONCLUSIONS OF LAW**

The parties contracted for emergency work to be done resulting from damage to the Defendants' basement due to a water leak. The Plaintiff was paid for those services. The parties then agreed that the Plaintiff would perform additional work regarding testing for mold and asbestos. The testing work was done by JET on behalf of the Plaintiff. This fact was not


credibly contested by the Defendants. The cost for that work has not been paid by the Defendants. With regard to the insurance estimate, insufficient evidence was adduced at trial to establish that the parties agreed that the Plaintiff should prepare such an estimate and who would bear the cost for the preparation of that estimate.

The Court finds for the Plaintiff in the amount of \$2485.42 for the service provided by JET. As to the insurance estimate costs, the Court finds for the Defendant.

Accordingly, the Plaintiff shall have judgment as against the Defendants in the amount of \$2,485.42 plus interest from June 5, 2007 together with costs and disbursements of the action.

Submit judgment on notice.

SO ORDERED.

  
Terence P. Murphy  
District Court Judge

Dated: May 13, 2011

cc: Rosenthal, Curry & Kranz, LLP  
Robert Bruck, Pro se  
Michele Bruck, Pro se