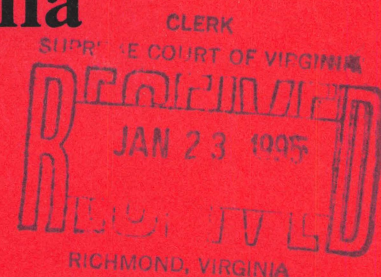

IN THE
Supreme Court of Virginia

RECORD NO. 941686



VIRGINIA BUILDERS' SUPPLY, INC.,

Appellant,

V.

BROOKS & CO. GENERAL CONTRACTORS, INC.,

Appellee.

JOINT APPENDIX

**Bradley P. Marrs
MEYER, GOERGEN & MARRS
Suite 208
1301 North Hamilton Street
Richmond, Virginia 23230
(804) 359-3799**

Counsel for Appellant

**Everett A. Felts
Attorney at Law
4799 South Laburnum Avenue
Richmond, Virginia 23231
(804) 226-2635**

Counsel for Appellee

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V I R G I N I A :

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

VIRGINIA BUILDERS' SUPPLY, INC., JUN 29 1993 Plaintiff,

v.

Law No. LW 693-1

DeGAETANI & SONS DRYWALL, INC., Defendant.

JUDGMENT

Plaintiff Virginia Builders' Supply, Inc. came before the Court on this day upon its Motion for Judgment, seeking recovery under an open account and written account agreement; upon the Grounds of Defense of the defendant; and upon the Motion for Summary Judgment of the plaintiff.

Upon consideration of the evidence submitted by the plaintiff, consisting of the defendant's sworn answers to interrogatories, the defendant's responses to requests for admissions, and documents authenticated and admitted via the requests for admissions, and upon further consideration of the arguments of counsel, this Court sustains the Motion for Summary Judgment.

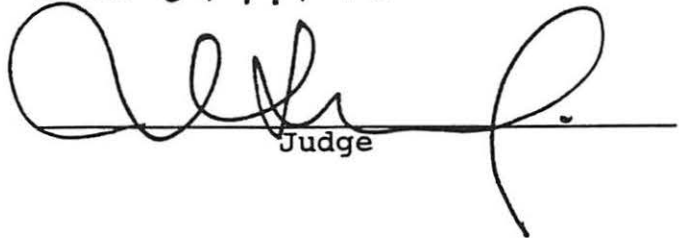
Accordingly, plaintiff Virginia Builders' Supply, Inc. is hereby granted judgment against defendant DeGaetani & Sons Drywall, Inc. in the principal amount of \$49,614.17. Pursuant to the parties' written contract, the plaintiff is further awarded attorney's fees in the amount of \$ 0.

Recorded in Judgement Lien Docket
of Circuit Court of Richmond,

Costs of \$74.00 are awarded. Interest shall accrue upon this judgment at the rate of 24% per annum from May 3, 1993. Plaintiff shall have immediate rights of execution upon this judgment.

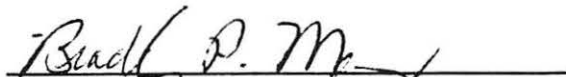
ENTER

6/29/93

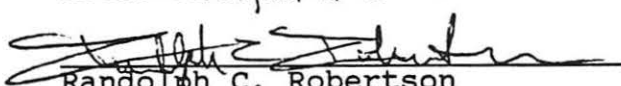


Judge

I ask for this:


Bradley P. Marrs
Meyer, Goergen & Marrs
1301 North Hamilton Street
Suite 208
Richmond, Virginia 23230
(804) 359-3799
Counsel for plaintiff

Seen: and Objected To


Randolph C. Robertson
Rothenberg, Henley & Robertson
3412 Cutshaw Avenue
Richmond, Virginia 23230
(804) 257-7255
Counsel for defendant

GARNISHMENT SUMMONS

VA. CODE ANN. §§ 8.01-511, 512, 512.3

City of Richmond - ~~Civil Division~~ Circuit ~~XXXXXX~~ Court
COURT NAME
2nd flr., John Marshall Courts Bldg., 800 E. Marshall St., Richmond, Va. 23219-1997
COURT ADDRESS

TO ANY AUTHORIZED OFFICER: You are hereby commanded to serve this summons on the judgment debtor and the garnishee.

TO THE GARNISHEE: You are hereby commanded to (1) file a written answer with this court, or (2) deliver payment to this court, or (3) appear before this court on the return date and time shown on this summons to answer the Suggestion for Summons in Garnishment of the judgment creditor that, by reason of the lien of writ of fieri facias, there is a liability as shown in the statement upon the garnishee.

As garnishee, you shall withhold from the judgment debtor any sums of money to which the judgment debtor is or may be entitled from you during the period between the date of service of this summons on you and the date for your appearance in court, subject to the following limitations: (1) The maximum amount which may be garnished is the "TOTAL BALANCE DUE" as shown on this summons. (2) If the sums of money being garnished are earnings of the judgment debtor, then the provision of "MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT" shall apply.

If a garnishment summons is served on an employer having one thousand or more employees, then money to which the judgment debtor is or may be entitled from his or her employer shall be considered those wages, salaries, commission or other earnings which, following service on the garnishee-employer, are determined and are payable to the judgment debtor under the garnishee-employer's normal payroll procedure with a reasonable time allowance for making a timely return by mail to this court.

JUL 8 1993

DATE OF ISSUANCE OF SUMMONS

DATE OF DELIVERY OF WRIT OF FIERI FACIAS TO SHERIFF
IF DIFFERENT FROM DATE OF ISSUANCE OF THIS SUMMONS

Susan P. Bundy

CLERK

My Allen DeLoe

To Garnishee: On check or written answer, include return date, case number and judgment debtor's name.

Writ of Fieri Facias To Any Authorized Officer:

You are commanded to levy upon the personal property of the Defendant(s) and to make from the tangible personal property and monies of the Defendant(s) the principal, interest, costs and attorney's fees, less credits, as shown in the Garnishment Summons. You are further commanded to make your return to the clerk's office within 90 days of this date, and to notify the person entitled to receive such money, if such person is known and if any money is received, as required by law.

Homestead Exemption Waived? ☐ yes ☐ no ☐ cannot be demanded

JUL 8 1993

DATE

Susan P. Bundy

CLERK

My Allen DeLoe

Case Disposition ORDER that Garnishee pay to Judgment Creditor:

\$ net of any credits ☐ DISMISSED ☐ OTHER

Date Entered

Judge

RETURN DATE	CASE NO.	LW 693-1
AND TIME		
10-1-93		
9:00 a.m.		
JUDGMENT CREDITOR:		
Virginia Builders' Supply, Inc.		
JUDGMENT DEBTOR:		
DeGaetani & Sons Drywall, Inc.		
SERVE: Randolph C. Robertson, Reg. Agt.		
3412 Cutshaw Ave, Richmond, VA		
(City of Richmond)		23230
SOCIAL SECURITY#:		
N/A		
GARNISHEE:		
Brooks & Co. General Contractors, Inc.		
SERVE: David W. Brooks, President		
4801 Hermitage Road		
Richmond, VA		23227
(City of Richmond)		

GARNISHMENT SUMMONS

RECEIPT NO.	DATE FEE RECEIVED
-------------	-------------------

MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT

☐ Support

☐ 50% ☐ 55% ☐ 60% ☐ 65%

(if not specified, then 50%)

☐ state taxes, 100%

If none of the above are checked, then § 34-29(a) (printed on the reverse side of this summons) applies.

June 29, 1993

DATE OF JUDGMENT

STATEMENT

\$49,614.17	Judgment Principal
0	Credits
4,926.08	Interest
74.00	Judgment Costs
0	Attorney's Fee
172.50	Garnishment Costs
\$54,786.75	TOTAL BALANCE DUE

The garnishee shall rely on this amount.

ATTORNEY FOR PLAINTIFF(S) B.P. Marrs

Meyer, Goergen & Marrs

1301 N. Hamilton St. Ste. 208

Richmond, VA 23230 359-3799

GARNISHMENT SUMMONS

VA CODE ANN §§ 8.01-511, 512, 512.3

B5

City of Richmond - ~~Civil Division~~

Circuit

COURT NAME

General District Court

2nd flr., John Marshall Courts Bldg., 800 E. Marshall St., Richmond, Va. 23219-1997

COURT ADDRESS

TO ANY AUTHORIZED OFFICER: You are hereby commanded to serve this summons on the judgment debtor and the garnishee.

TO THE GARNISHEE: You are hereby commanded to (1) file a written answer with this court, or (2) deliver payment to this court, or (3) appear before this court on the return date and time shown on this summons to answer the Suggestion for Summons in Garnishment of the judgment creditor that, by reason of the lien of writ of fieri facias, there is a liability as shown in the statement upon the garnishee.

As garnishee, you shall withhold from the judgment debtor any sums of money to which the judgment debtor is or may be entitled from you during the period between the date of service of this summons on you and the date for your appearance in court, subject to the following limitations: (1) The maximum amount which may be garnished is the "TOTAL BALANCE DUE" as shown on this summons. (2) If the sums of money being garnished are earnings of the judgment debtor, then the provision of "MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT" shall apply.

If a garnishment summons is served on an employer having one thousand or more employees, then money to which the judgment debtor is or may be entitled from his or her employer shall be considered those wages, salaries, commission or other earnings which, following service on the garnishee-employer, are determined and are payable to the judgment debtor under the garnishee-employer's normal payroll procedure with a reasonable time allowance for making a timely return by mail to this court.

JUL 8 1993

DATE OF ISSUANCE OF SUMMONS

Lisa P. Bundy

CLERK

Myra P. Bundy, Esq.

DATE OF DELIVERY OF WRIT OF FIERI FACIAS TO SHERIFF
IF DIFFERENT FROM DATE OF ISSUANCE OF THIS SUMMONS

To Garnishee: On check or written answer, include return date, case number and judgment debtor's name.

Writ of Fieri Facias To Any Authorized Officer:

You are commanded to levy upon the personal property of the Defendant(s) and to make from the tangible personal property and monies of the Defendant(s) the principal, interest, costs and attorney's fees, less credits, as shown in the Garnishment Summons. You are further commanded to make your return to the clerk's office within 90 days of this date, and to notify the person entitled to receive such money, if such person is known and if any money is received, as required by law.

Homestead Exemption Waived? ☐ yes ☐ no ☐ cannot be demanded

JUL 8 1993

DATE

Lisa P. Bundy

CLERK

Myra P. Bundy, Esq.

Case Disposition ORDER that Garnishee pay to Judgment Creditor:
\$ net of any credits ☐ DISMISSED ☐ OTHER

Date Entered

Judge

RETURN DATE CASE NO. - LW-693-1

AND TIME

10-1-93

9:00 a.m.

JUDGMENT CREDITOR

Virginia Builders' Supply, Inc.

JUDGMENT DEBTOR

DeGaetani & Sons Drywall, Inc.

SERVE: Randolph C. Robertson, Reg. Agt
3412 Cutshaw Ave, Richmond, VA
(City of Richmond) 23230

SOCIAL SECURITY#

N/A

GARNISHEE:

Brooks & Co. General Contractors, Inc.

SERVE: David W. Brooks, President

4801 Hermitage Road
Richmond, VA 23227

(City of Richmond)

GARNISHMENT SUMMONS

RECEIPT NO.

DATE RECEIVED

MAXIMUM PORTION OF DISPOSABLE
EARNINGS SUBJECT TO GARNISHMENT☐ Support☐ 50% ☐ 55% ☐ 60% ☐ 65%

(if not specified, then 50%)

☐ state taxes, 100%

If none of the above are checked, then § 34-29(a)
(printed on the reverse side of this summons) applies.

June 29, 1993

DATE OF JUDGMENT

STATEMENT

\$49,614.17 Judgment Principal

0 Credits

4,926.08 Interest

74.00 Judgment Costs

0 Attorney's Fee

172.50 Garnishment Costs

\$54,786.75 TOTAL BALANCE DUE

The garnishee shall rely on this amount.

ATTORNEY FOR PLAINTIFF(S) B.P. Marrs

Meyer, Goergen & Marrs

1301 N. Hamilton St. Ste. 208

Richmond, VA 23230 359-3799

GARNISHMENT SUMMONS

City of Richmond - ~~Civil Division~~

Circuit Court

2nd flr., John Marshall Courts Bldg., 800 E. Marshall St., Richmond, Va. 23219-1997

COURT ADDRESS

TO ANY AUTHORIZED OFFICER: You are hereby commanded to serve this summons on the judgment debtor and the garnishee.

TO THE GARNISHEE: You are hereby commanded to (1) file a written answer with this court, or (2) deliver payment to this court, or (3) appear before this court on the return date and time shown on this summons to answer the Suggestion for Summons in Garnishment of the judgment creditor that, by reason of the lien of writ of fieri facias, there is a liability as shown in the statement upon the garnishee.

As garnishee, you shall withhold from the judgment debtor any sums of money to which the judgment debtor is or may be entitled from you during the period between the date of service of this summons on you and the date for your appearance in court, subject to the following limitations: (1) The maximum amount which may be garnished is the "TOTAL BALANCE DUE" as shown on this summons. (2) If the sums of money being garnished are earnings of the judgment debtor, then the provision of "MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT" shall apply.

If a garnishment summons is served on an employer having one thousand or more employees, then money to which the judgment debtor is or may be entitled from his or her employer shall be considered those wages, salaries, commission or other earnings which, following service on the garnishee-employer, are determined and are payable to the judgment debtor under the garnishee-employer's normal payroll procedure with a reasonable time allowance for making a timely return by mail to this court.

JUL 8 1993

DATE OF ISSUANCE OF SUMMONS

DATE OF DELIVERY OF WRIT OF FIERI FACIAS TO SHERIFF
IF DIFFERENT FROM DATE OF ISSUANCE OF THIS SUMMONS

To Garnishee: On check or written answer, include return date, case number and judgment debtor's name.

Writ of Fieri Facias To Any Authorized Officer:

You are commanded to levy upon the personal property of the Defendant(s) and to make from the tangible personal property and monies of the Defendant(s) the principal, interest, costs and attorney's fees, less credits, as shown in the Garnishment Summons. You are further commanded to make your return to the clerk's office within 90 days of this date, and to notify the person entitled to receive such money, if such person is known and if any money is received, as required by law.

Homestead Exemption Waived? ☐ yes ☐ no ☐ cannot be demanded

JUL 8 1993

DATE

Case Disposition ORDER that Garnishee pay to Judgment Creditor:

\$ net of any credits ☐ DISMISSED ☐ OTHER

Date Entered Judge

RETURN DATE CASE NO. LW-693-1

AND TIME

10-1-93

9:00 a.m.

JUDGMENT CREDITOR

Virginia Builders' Supply, Inc.

JUDGMENT DEBTOR:

DeGaetani & Sons Drywall, Inc.

SERVE: Randolph C. Robertson, Reg. Agt

3412 Cutshaw Ave, Richmond, VA
(City of Richmond) 23230

SOCIAL SECURITY#

N/A

GARNISHEE:

Brooks & Co. General Contractors, Inc.

SERVE: David W. Brooks, President

4801 Hermitage Road
Richmond, VA 23227

(City of Richmond)

GARNISHMENT SUMMONS

RECEIPT NO.

DATE RECEIVED

MAXIMUM PORTION OF DISPOSABLE
EARNINGS SUBJECT TO GARNISHMENT

☐ Support

☐ 50% ☐ 55%

(if not specified, the court shall determine)

☐ state taxes, 100%

If none of the above are checked, the court shall determine (a)

(printed on the reverse side of this summons) and pay

June 8, 1993

DATE OF JUDGMENT

BY

STATEMENT

\$49,614.17 Judgment Principal

0 Credits

4,926.08 Interest

74.00 Judgment Costs

0 Attorney's Fee

172.50 Garnishment Costs

\$54,786.75 TOTAL BALANCE DUE

The garnishee shall rely on this amount.

ATTORNEY FOR PLAINTIFF(S) B.P. Marrs

Meyer, Goergen & Marrs

1301 N. Hamilton St. Ste. 208

Richmond, VA 23230 250 2700

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

VIRGINIA BUILDERS' SUPPLY, INC.

JUDGMENT CREDITOR,

vs.

CASE NO. LW 693-1

RETURN DATE: OCTOBER 1, 1993

AT 9:00 A.M.

DeGAETANI & SONS DRYWALL, INC.

JUDGMENT DEBTOR

and

BROOKS & CO. GENERAL CONTRACTORS, INC.

GARNISHEE

MOTION

Comes now the Garnishee, Brooks & Co. General Contractors, Inc. and as and for it Motion, alleges and states as follows:

1. That Brooks & Co. General Contractors, Inc. did contract with DeGaetani & Sons Drywall, Inc. for work on certain projects as follows:

PROJECTS: Valcom Building at Lakepointe/Innsbrook
Brooks & Co. Phase II Office Building
Stratford Hall Nursing Home
Mulligan's Restaurant

2. That Brooks & Co. General Contractors, Inc. is holding certain sums from DeGaetani & Sons Drywall, Inc. pending the resolution of certain back charges and offsets relative to the jobs aforesaid which are in dispute.

3. That Brooks & Co. General Contractors, Inc. pursuant to the contract between Brooks & Co. General Contractors, Inc. and DeGaetani & Sons Drywall, Inc. relative to the above projects has filed a Demand For Arbitration, a copy of which is attached hereto as Brooks & Co. General Contractors, Inc., Exhibit A.

4. That there is a valid dispute as to whether or not Brooks & Co. General Contractors, Inc. owes any money to DeGaetani & Sons

Drywall, Inc. and if in fact Brooks & Co. General Contractors, Inc. does not owe any money to DeGaetani & Sons Drywall, Inc., there are no funds to pay on said garnishment.

Wherefore, Brooks & Co. General Contractors, Inc. prays of this court that this garnishment matter be stayed pending the resolution of the Arbitration proceeding filed by Brooks & Co. General Contractors, Inc. versus DeGaetani & Sons Drywall, Inc.

BROOKS & CO.
GENERAL CONTRACTORS, INC.

By



Counsel

Everette A. Felts, Esquire
4799 South Laburnum Avenue
Richmond, VA 23231
(804) 226-2635

CERTIFICATE

I hereby certify that a true and correct copy of the foregoing Motion was mailed, postage prepaid, to Bradley P. Marrs, Esquire, MEYER, GOERGEN, & MARRS, Hamilton Place, Suite 208, 1301 North Hamilton Street, Richmond, VA 23230 and Randolph C. Robertson, Esquire, 3412 Cutshaw Avenue, Richmond, VA 23230 on this the 27 day of September, 1993.



Everette A. Felts

American Arbitration Association

MEDIATION Please consult the Commercial Mediation Rules regarding mediation procedures. If you want the AAA to contact the other party and attempt to arrange a mediation, please check this box. ☐

COMMERCIAL ARBITRATION RULES DEMAND FOR ARBITRATION

DATE: 09-01-93

To: Name DeGaetani & Sons Drywall, Inc.

(of the party upon whom the demand is made)

Address P. O. Box 820

City and State Mechanicsville, Virginia

ZIP Code 23111

Telephone (804) 746-3926

Fax _____

Name of Representative Pete DeGaetani

(if known)

Representative's Address Same as Above

City and State _____ ZIP Code _____

Telephone () _____

Fax _____

The named claimant, a party to an arbitration agreement contained in a written contract, dated 06-09-92, 08-20-92, 12-16-92 08-31-92 and 09-30-92 (attached), providing for arbitration under the Commercial Arbitration Rules, hereby demands arbitration thereunder.

(Attach the arbitration clause or quote it hereunder.)

Please see attached Contracts

NATURE OF DISPUTE: Respondent breach of Contract, failure to perform and complete work, failure to pay suppliers and failure to provide warranty.

CLAIM OR RELIEF SOUGHT (amount, if any): \$30,300.00 - please see Basis of Claim (attached).

TYPE OF BUSINESS: Claimant General Contractor Respondent Subcontractor

HEARING LOCALE REQUESTED: Richmond, Virginia

(City and State)

You are hereby notified that copies of our arbitration agreement and of this demand are being filed with the American Arbitration Association at its Washington, D. C. office, with the request that it commence the administration of the arbitration. Under the rules, you may file an answering statement after notice from the administrator.

Signed Steve Crumley (may be signed by a representative) Title Vice Pres./Proj. MGMT

Name of Claimant Brooks & Co. General Contractors, Inc.

Address (to be used in connection with this case) 4801 Hermitage Road

City and State Richmond, Virginia

ZIP Code .23227

Telephone (804) 266-6088

Fax (804) 266-6741

Name of Representative Steve Crumley

Representative's Address Same As Above

City and State _____ ZIP Code _____

Telephone () _____

Fax _____

To institute proceedings, please send three copies of this demand with the administrative fee, as provided for in the rules, to the AAA. Send the original demand to the respondent.

Form C2-1/90

V I R G I N I A :

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND
JOHN MARSHALL COURTS BUILDING

VIRGINIA BUILDERS' SUPPLY, INC.,

v.

Law No. LW693-1
Ended Cause No. 93-2413

DEGAETANI & SONS DRYWALL, INC.,

Judgment Debtor,

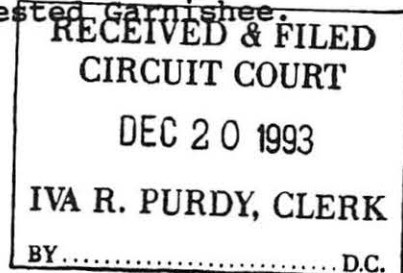
and

BROOKS & COMPANY GENERAL CONTRACTORS, INC.,

Suggested Garnishee.

NOTICE

TO: Everette A. Felts
4799 South Laburnum Avenue
Richmond, Virginia 23231
Counsel for Garnishee



Please take notice that on February 9, 1994, at 12:00 noon, plaintiff and judgment creditor Virginia Builders' Supply, Inc. will appear before the Circuit Court of the City of Richmond to present evidence as to the amount of your liability upon the Garnishment Summons previously served upon you in this action, and to request the entry of an order either compelling you to make payment in the amount found to be due, or granting the plaintiff a judgment against you for that amount. You are invited to attend.

VIRGINIA BUILDERS' SUPPLY, INC.

By 7. B. P. M.
Counsel

Bradley P. Marrs
Meyer, Goergen & Marrs, P.C.
1301 North Hamilton Street
Suite 208
Richmond, Virginia 23230
(804) 359-3799

CERTIFICATE OF SERVICE

A copy of this Notice was mailed to Everett A. Felts at the address stated above on December 15, 1993.

Bradley P. Marrs

RECEIVED & FILED
CIRCUIT COURT
CITY OF RICHMOND

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

FEB 1 1994

VIRGINIA BUILDERS' SUPPLY, INC.

JUDGMENT CREDITOR,
BY W. R. PURDY CLERK, D.C.

vs.

CASE NO. LW 693-1

TRIAL DATE: February 9, 1994

AT 12:00 p.m.

DeGAETANI & SONS DRYWALL, INC.

JUDGMENT DEBTOR

and

BROOKS & CO. GENERAL CONTRACTORS, INC.

GARNISHEE

MOTION

Comes now the Garnishee, Brooks & Co. General Contractors, Inc. and as and for it Motion, alleges and states as follows:

1. That Brooks & Co. General Contractors, Inc. hereby requests that the Garnishment filed herein be dismissed in as much as Brooks & Co. General Contractors, Inc. does not have any money belonging to DaGaetani & Sons Drywall, Inc. or does it owe any money to DaGaetani & Sons Drywall, Inc. per the Arbitration Award attached hereto and made a part hereof.

Wherefore, Brooks & Co. General Contractors, Inc. prays that the Garnishment be dismissed.

BROOKS & CO.
GENERAL CONTRACTORS, INC.

By

Everette A. Felts
Counsel

Everette A. Felts, Esquire
4799 South Laburnum Avenue
Richmond, VA 23231
(804) 226-2635

CERTIFICATE

I hereby certify that a true and correct copy of the foregoing Motion was mailed, postage prepaid, to Bradley P. Marrs, Esquire, MEYER, GOERGEN, & MARRS, Hamilton Place, Suite 208, 1301 North Hamilton Street, Richmond, VA 23230 and Randolph C. Robertson, Esquire, 3412 Cutshaw Avenue, Richmond, VA 23230 on this the 1 day of February, 1994.



Everette A. Felts

AMERICAN ARBITRATION ASSOCIATION
CONSTRUCTION ARBITRATION TRIBUNAL

IN THE MATTER OF ARBITRATION BETWEEN

Brooks & Co. General Contractors, Inc.

AND

DeGaetani & Sons Drywall, Inc.

Case Number: 16 E110 C0354 93F

AWARD OF THE ARBITRATOR

I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the Arbitration Agreements entered into by the above-named Parties, and dated 6/9/92, 8/20/92, 12/16/92 8/31/92 and 9/30/92, and having been duly sworn and having duly heard the proofs and allegations of Claimant, and Respondent having failed to appear after due notice by mail in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, AWARD, as follows:

DEGAETANI & SONS DRYWALL, INC. (hereinafter Respondent) shall pay to BROOKS & CO. GENERAL CONTRACTORS, INC. (hereinafter Claimant) TWENTY-SEVEN THOUSAND SIX HUNDRED EIGHTY-EIGHT DOLLARS AND SEVENTY-SIX CENTS (\$27,688.76) plus expenses @ ONE THOUSAND FIVE HUNDRED THIRTY-NINE DOLLARS AND FIFTY CENTS (\$1,539.50) plus attorneys' fees @ TWO THOUSAND ONE HUNDRED FIFTY DOLLARS AND NO CENTS (\$2,150.00).

Therefore, Respondent shall pay to Claimant a grand total of THIRTY-ONE THOUSAND THREE HUNDRED SEVENTY-EIGHTY DOLLARS AND TWENTY-SIX CENTS (\$31,378.26) within thirty (30) days of the Award date.

Interest shall be paid at the rate of 9% per annum on Award from January 1, 1993 until paid in full.

The administrative fees and expenses of the American Arbitration Association shall be borne entirely by Respondent. Said fees and expenses shall be paid as directed by the Association.

This award is in full settlement of all claims submitted to this arbitration.

DATED: November 19, 1993

SIGNED

Daniel T. Balfour
Daniel T. Balfour Esq.
Arbitrator

2. Review summary of supplier claims
- B Item 1
1. Failure to provide proof of satisfaction of claims
 2. See fraudulent lien waivers
 3. See liens filed
 4. Review subcontractor claims
 5. Reference subcontract 6.2, 11.2.6, 11.7.1
 6. Reference A 201 3.5.1, 3.7.4, 9.3.3, 9.4.2, 9.5.1, 9.10.2 and Stratford General Conditions 9.8.3
 7. Review payments to DeGaetani on Stratford
- C Item 2
1. Testimony from Assistant Comptroller to verify \$7,000.00 withholding by Stratford due to lien filed
- D Item 3
1. Reference A 201 3.5.1, 3.7.4, 9.10.2
 2. Review time sheet
 3. Reference escrow agreements
 4. Reference attorney bills
 5. Reference subpoena and documents
- E Item 4
6. Reference garnishment notice
 1. Reference Valcom Contract including insulation
 2. Reference insulation quotes
 3. Reference insulation contract
 4. Reference payment to insulator
 5. Reference Change Order 03
 6. Brooks time
- F Item 5
1. Reference backcharge 12-1-92
 2. Reference change order #3
 3. Reference invoices & payment to Eic-Kel
- G Item 6
1. Reference backcharge 5-17-93
 2. Reference second quote
 3. Reference contract to Metro
 4. Invoice & payment to Metro
 5. Brooks time
- H Item 7
1. Reference specifications 07240 requiring five year warranty
 2. Reference Whitlock letter of 2-2-93 requesting warranty prior to final payment
 3. Reference Simplex letter outlining procedure for obtaining warranty
 4. Brooks time - cost still ongoing
- I Item 8
1. Reference backcharge 2-5-93
 2. Reference invoice and payment to Eic-Kel
 3. Brooks time

LAW OFFICES
MEYER, GOERGEN & MARRS
A PROFESSIONAL CORPORATION
HAMILTON PLACE, SUITE 208
1301 NORTH HAMILTON STREET
RICHMOND, VIRGINIA 23230-3959

BERNARD G. MEYER, JR.
PETER J. GOERGEN
BRADLEY P. MARRS
RICHARD C. LAWRENCE

TELEPHONE: (804) 359-3799
FACSIMILE: (804) 257-7981

October 21, 1993

Pattye Ford
American Arbitration Association
1150 Connecticut Avenue NW
6th Floor
Washington, DC 20036-4104

Re: Brooks & Company v. DeGaetani & Sons Drywall
Your Case No. 16 E 110 00354 93

Dear Ms. Ford:

Earlier this month, I contacted you to advise that my client, Virginia Builders' Supply, Inc., was the successor in interest to DeGaetani & Sons, Inc., with respect to the case referenced above. Virginia Builders' Supply is a judgment creditor of DeGaetani & Sons, and VBS has proceeded against Brooks & Company by garnishment summons issued by the Richmond, Virginia Circuit Court. On October 1, Judge Randall Johnson of the Richmond Circuit Court continued our garnishment action pending resolution of the disputed account between DeGaetani & Sons and Brooks & Company through your offices.

This letter is to confirm our prior telephone conversations, to the effect that Virginia Builders' Supply wishes to intervene in this arbitration. I have spoken with Everette Felts, the attorney representing Brooks & Company, and he does not object to this procedure. I would therefore ask that you provide me with standard arbitrator selection and scheduling materials so that we can go forward on this basis.

Thank you for your attention to this request.

Sincerely,


Bradley P. Marrs

BPM/kcn

cc: A. G. Bertozzi
Everette A. Felts

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TELEPHONE: (804) 359-3799
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October 21, 1993

Everette A. Felts
4799 South Laburnum Avenue
Richmond, VA 23231-0164

Re: Virginia Builders' Supply v. DeGaetani & Sons Drywall and
Brooks & Co. General Contractors, Garnishee


Dear Everette:

I have been trying, since our hearing of October 1, to get Virginia Builders' Supply before the American Arbitration Association, so that we can carry out the charge given to us by Judge Johnson. Unfortunately, I was informed Wednesday by Pattye Ford of the AAA that she will require an amended filing by your client for us to be brought into the case.

Making matters worse, Ms. Ford apparently approached Steve Crumley about such an amended filing, and Mr. Crumley replied that he was not interested in bringing us into the case. Mr. Crumley seems content to leave matters as they stand, to attempt to get a "slam dunk" result against DeGaetani & Sons, Inc., and to try to return to court with that. Personally, I had thought that approach had already been rejected by Judge Johnson. I also had left court on October 1 with the impression that you and Mr. Crumley had agreed to cooperating with us to get us before the AAA with you.

Please let me know where you stand on this issue, and whether you can get Mr. Crumley straightened out on this.

Sincerely,


Bradley P. Marrs

BPM/kcn

cc: Pattye Ford
A. G. Bertozzi

BROOKS & CO.
GENERAL CONTRACTORS, INC.

October 29, 1993

American Arbitration Association
1150 Connecticut Avenue, N.W., 6th Floor
Washington, D.C. 20036

Attn: Pattye Ford
Case Administrator

Re: Brooks & Co. General Contractors, Inc. and
DeGaetani & Sons Drywall, Inc.

Dear Ms. Ford:

I am in receipt of two letters you sent to me from Mr. Bradley Marrs dated October 21, 1993. One letter was addressed to you and the other was to our attorney, Everette Felts. Since we were not copied on either of these letters, this was the first occasion I had to read and respond to them.

To begin with, Everette Felts represented our firm against Virginia Builders Supply in a garnishment proceeding in the City of Richmond. He is not, however, representing us in the arbitration with DeGaetani & Sons. All correspondence from Mr. Marrs in this matter should be addressed to us so that we can respond properly. By copy of this letter I am informing him of his apparent misunderstanding.

To respond to the points raised in the letter to Mr. Felts, we do not have a contract with Virginia Builders Supply and no agreement to arbitrate with them. Virginia Builders Supply was one of several suppliers to DeGaetani & Sons who have made claims regarding lack of payment by DeGaetani & Sons. As I mentioned to you over the phone, we do not see any merit in involving Virginia Builders Supply in the arbitration with DeGaetani & Sons. We feel their participation would be disruptive at best. They were not party to any of the contracts under which the disputes have arisen, and can not speak first hand to any of the contractual disputes. Virginia Builders Supply, as a supplier to our subcontractor has various legal avenues in which to pursue their claims, which they are doing.

I am not sure I understand what Mr. Marrs refers to as a "slam dunk", but all we are trying to accomplish is to resolve disputes between our company and DeGaetani & Sons by the method specified in our contracts with them. Judge Johnson certainly did not reject a "slam dunk" approach, as Mr. Marrs puts it, at the garnishment hearing as this term was never used. Mr. Marrs was made aware prior to the garnishment hearing that we had filed for arbitration with DeGaetani & Sons and was furnished with a copy of our claim.

October 29, 1993
American Arbitration Association
Page 2

After the hearing, I provided your name and the case number to Mr. Marrs so that he could follow up on whatever legal right he had to intervene on DeGaetani & Sons' behalf. This was the last time I spoke with Mr. Marrs and I have received no correspondence from him with the exception of the two letters you forwarded to me.

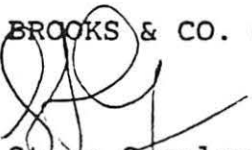
Since Mr. Felts does not represent us in the arbitration, it would be advisable if Mr. Marrs contacted me directly if he feels I need to be "straightened out".

Regarding Mr. Marrs' letter to you, we acknowledge that Virginia Builders Supply is one of several of DeGaetani & Sons' creditors. We have been advised by Mr. Marrs that they obtained a judgement against DeGaetani & Sons and I presume he was prepared to prove that at the garnishment hearing. The hearing never got far enough for him to introduce any evidence proving that a judgement had been obtained, or to prove that Virginia Builders Supply was entitled to any funds under garnishment, as Judge Johnson continued the action pending the outcome of the arbitration. Mr. Marrs asked Judge Johnson for an opinion as to how Virginia Builders Supply could intervene on DeGaetani & Sons' behalf, and he responded that he was not an authority on arbitration and suggested that Mr. Marrs perform his own research to find out what options were available to him. It was never suggested, and we never agreed to arbitrate directly with Virginia Builders Supply.

We are prepared to go forward with the arbitration. Please feel free to call if you need any further information.

Sincerely,

BROOKS & CO. GENERAL CONTRACTORS, INC.



Steve Crumley
Vice President
Project Management

cc: Bradley Marrs, Meyer, Goergen & Marrs
Everette Felts, Esquire

LAW OFFICES
MEYER, GOERGEN & MARRS
A PROFESSIONAL CORPORATION
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BRADLEY P. MARRS
RICHARD C. LAWRENCE
LAWRENCE E. LUCK

TELEPHONE: (804) 359-3799
FACSIMILE: (804) 257-7981

November 3, 1993

Pattye Ford
American Arbitration Association
1150 Connecticut Avenue, N.W. 6th Floor
Washington, D. C. 22036

FAX TO (202) 872-9574

Re: Brooks & Co. General Contractors, Inc. and
DeGaetani & Sons Drywall, Inc.
Your File No. 16 E110 00354 93F

Dear Ms. Ford:

I would like to take this opportunity to reply to the letter from the claimant dated October 29, 1993, in an effort to clear up several misunderstandings on the claimant's behalf.

First of all, the rules of ethics prohibit me from contacting the claimant as long as it is represented by an attorney. I initially contacted Everette Felts because he had represented the claimant in courtroom matters. Mr. Felts advised me that he would check with Mr. Crumley of Brooks & Company to determine whether Mr. Crumley wished to deal with me directly or not. I have yet to hear from Mr. Felts indicating any consent for me to discuss matters directly with Mr. Crumley. However, I will take the representation of Mr. Crumley in his letter of October 29 at face value, and correspond with him directly concerning the arbitration from this point forward.

I feel that Mr. Crumley is at a disadvantage when it comes to discussing the legal proceedings before Judge Johnson of the Richmond, Virginia Circuit Court. The hearing before Judge Johnson was brought on by Mr. Felts, the claimant's attorney, in an effort to obtain an order staying our garnishment summons pending the results of the arbitration. On behalf of Virginia Builders' Supply, Inc., the judgment creditor of DeGaetani & Sons Drywall, Inc., I appeared to contest Mr. Felts' motion on grounds that it

Pattye Ford
November 3, 1993

page 2

was brought on insufficient notice. The judge agreed with my objection and took no action whatsoever on Mr. Felts' motion. The judge continued the matter generally, and suggested that Mr. Felts and I work matters out in the interim. In the event we were unsuccessful in working matters out, the Court invited us to return for a subsequent hearing.

Following the court hearing, I met with Mr. Felts and Mr. Crumley in the hallway of the courthouse. At that time, Mr. Crumley identified you as the case administrator for his claim and provided me with the case number by which you had identified his claim. Contrary to Mr. Crumley's assertion, I left court having received the specific representation from Mr. Crumley and Mr. Felts that no objection would be posed to Virginia Builders' Supply's intervention in this proceeding.

I must reiterate that DeGeatani & Sons Drywall, Inc., is insolvent and, for all intents and purposes, defunct. I expect that no appearance will be made by that company before the AAA's arbitrator. I consider it disingenuous at best for Mr. Crumley to suggest that he does not know what I mean by referring to his seeking a "slam dunk". His letters to you are an obvious attempt to exclude VBS from the proceedings, so that he can appear before the arbitrator uncontested and obtain a lopsided result.

I present to the AAA and to Mr. Crumley the following alternatives:

Either VBS must be allowed in this arbitration, or VBS will not be bound by any result obtained between Brooks & Company and DeGaetani & Sons in the arbitration. Although the issue in dispute under our garnishment summons is the same as the issue in dispute in the arbitration - namely, what amount, if any, Brooks & Company owes to DeGaetani & Sons - the result of the arbitration will not be binding upon VBS unless we are a party to the proceeding. Again, if Mr. Crumley does not understand the legalities of this situation, he would be well advised to seek the advice of his lawyer.

In the interim, I ask that you and the arbitrator short-circuit this dispute by ordering that VBS be included in the arbitration currently pending. Should that not occur, I will

Pattye Ford
November 3, 1993

page 3

return to court for relief without regard for the arbitration result.

Sincerely,


Bradley P. Marrs

BPM/csj

cc: Steve Crumley
A.G. Bertozzi
Everette Felts

American Arbitration Association

1150 Connecticut Avenue, N.W., 6th Floor, Washington, D.C. 20036-4104
Telephone: (202) 296-8510 • Fax: (202) 872-9574



Garylee Cox
Regional Vice President
Washington, D.C. Region

Lois Garmon
Regional Manager

November 5, 1993

Steve P. Crumley
Vice President/Project Manager
Brooks & Co. General Contractors
4801 Hermitage Road
Richmond, VA 23227

VIA FACSIMILE

Pete DeGaetani
DeGaetani & Sons Drywall, Inc.
P. O. Box 820
Mechanicsville, VA 23111

Re: 16 E110 00354 93F
Brooks & Co. General Contractors, Inc. and
DeGaetani & Sons Drywall, Inc.

VBS file

To the Parties:

Inasmuch the Association does not have jurisdiction to allow the joinder of Virginia Builders as a party to the above referenced matter absent a court order, and inasmuch as Mr. Marrs has advised this office that he will not proceed to secure a court order for that purpose, this will confirm that the hearings in this matter will proceed as scheduled on November 8, 1993, at 10:00 a.m., at the Offices of Brooks & Company, General Contractors.

Sincerely,

Pattye Ford
Case Administrator

cc: Arbitrator Balfour
Bradley P. Marrs, Esq. ✓

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Headquarters: 140 West 51st Street, New York, NY 10020-1203

Circuit Court
OF THE
City of Richmond

MELVIN R. HUGHES, JR.
JUDGE

April 18, 1994

JOHN MARSHALL COURTS BUILDING
800 EAST MARSHALL STREET
RICHMOND, VIRGINIA 23219

Bradley P. Marrs, Esq.
Meyer, Goergen & Marks
Hamilton place, Suite 208
1301 North Hamilton Street
Richmond, VA 23230-3959

Everett A. Felts Esq.
4799 South Laburnum Avenue
Richmond, VA 23231

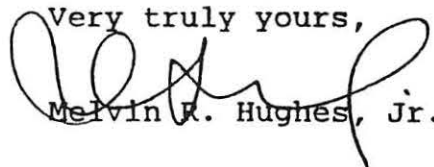
Re: Case No. LW-693-1
File No. 93-2413
Virginia Builders' Supply, Inc.
v.
DeGaetani & Sons Drywall, Inc.

Gentlemen:

Contrary to my initial impression as I believe I expressed during our follow-up meeting, I think Virginia Builders has no rights in its garnishment against Brooks & Co. I think that once Brooks and DeGaetani entered into arbitration proceedings pursuant to their earlier contract that this be done in the event of any dispute concerning their relations and the arbitrator found in favor of Brooks, that Brooks is not now holding anything for DeGaetani.

Consequently, notwithstanding Virginia Builders arguments, the garnishment must fail.

Mr. Felts can prepare the order noting exceptions.

Very truly yours,

Melvin R. Hughes, Jr.

MRH, JR/n

V I R G I N I A :

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

VIRGINIA BUILDERS' SUPPLY, INC.,

Judgment Creditor,

v.

Ended Cause No. 93-2413

Trial Date: February 9, 1994, 12:00 p.m.

DeGAETANI & SONS DRYWALL, INC.,

Judgment Debtor,

and

BROOKS & CO. GENERAL CONTRACTORS, INC.,

Garnishee.

ORDER DISMISSING GARNISHMENT SUMMONS

Plaintiff and judgment creditor Virginia Builders' Supply, Inc., came before the court on this day, by counsel, upon a garnishment summons issued to suggested garnishee Brooks & Co. General Contractors, Inc., which also appeared by counsel.

It was stipulated by the parties that, subsequent to the service of the garnishment summons upon the garnishee, the garnishee had commenced arbitration proceedings against the judgment debtor under the Construction Industry Arbitration Rules of the American Arbitration Association; that a hearing was held between a single representative of the garnishee and a single arbitrator appointed by the American Arbitration Association; that the judgment debtor did not appear to contest the claim brought before the arbitrator by the garnishee; and that the arbitrator ruled, subsequent to the hearing, that the garnishee owed no sums

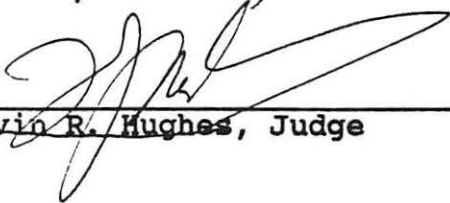
to the judgment debtor, and that indeed the judgment debtor owed monies to the garnishee.

In view of these stipulations, plaintiff has argued that following service of the garnishment summons, the garnishee had legal notice that the plaintiff stood in the shoes of the judgment debtor vis-a-vis the garnishee; that the garnishee had acted to exclude the plaintiff from the arbitration proceeding; and that no litigation conducted between the garnishee and the judgment debtor subsequent to service of the garnishment summons would be binding upon the plaintiff, under prevailing rules for collateral estoppel. Plaintiff accordingly requested the opportunity to conduct an evidentiary hearing to resolve, as between the plaintiff and the garnishee, the amount owed by the garnishee to the judgment debtor (which amount would be recoverable by the plaintiff pursuant to a garnishment summons). The garnishee has presented legal argument in rebuttal to these positions of the plaintiff.

After consideration of the arguments, this court is of the opinion that the plaintiff may recover no more from the garnishee than the garnishee owes to the judgment debtor; that the garnishee owes nothing to the judgment debtor, in view of the arbitration results; and that accordingly, the garnishee has no obligation to the plaintiff.

For the foregoing reasons, it is hereby ordered that the garnishment summons in this case is dismissed with prejudice.

ENTER 7/12/94



Melvin R. Hughes, Judge

4

I ask for this: in regards to the Dismissal but admit of the fact that it does not set out the Garnishee's argument fully

Everette A. Felts

Everette A. Felts
4799 South Laburnum Avenue
Richmond, VA 23231
(804) 226-2635
Counsel for garnishee Brooks & Co.
General Contractors, Inc.

Seen and objected to, on the grounds argued orally to the Court as summarized in the foregoing order:

Bradley P. Marrs

Bradley P. Marrs
Meyer, Goergen & Marrs
1301 North Hamilton Street
Suite 208
Richmond, Virginia 23230
(804) 359-3799
Counsel for plaintiff
Virginia Builders' Supply, Inc.

V I R G I N I A :

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

VIRGINIA BUILDERS' SUPPLY, INC.,

Judgment Creditor,

v.

Ended Cause No. 93-2413

Trial Date: February 9, 1994, 12:00 p.m.

DeGAETANI & SONS DRYWALL, INC.,

Judgment Debtor,

and

BROOKS & CO. GENERAL CONTRACTORS, INC.,

Garnishee.

NOTICE OF APPEAL

Please take notice that plaintiff Virginia Builders' Supply, Inc., will appeal to the Supreme Court of Virginia the ruling of the Richmond Circuit Court as set forth in the order dismissing garnishment summons entered July 12, 1994.

Inasmuch as no evidence was adduced beyond those stipulations set forth in the order dismissing garnishment summons and the documents tendered to the Court pursuant to the terms of that order, no transcript or further statement of facts will be filed.

VIRGINIA BUILDERS' SUPPLY, INC.

By

7 Braddy P. Mc
Counsel

JUL 25 1994

EVAN

Bradley P. Marrs
Meyer, Goergen & Marrs, P.C.
1301 North Hamilton Street
Suite 208
Richmond, Virginia 23230
(804) 359-3799

CERTIFICATE OF SERVICE

A copy of this notice of appeal was mailed to Everette A. Felts, 4799 South Laburnum Avenue, Richmond, Virginia 23231-0164, counsel for garnishee Brooks & Co. General Contractors, Inc. this 22d day of July, 1994.

Bradley P. Marrs

ASSIGNMENTS OF ERROR

1. The Circuit Court erred in binding Virginia Builders' Supply, Inc. to the results of an arbitration hearing held between the garnishee, Brooks & Co. General Contractors, Inc., and the judgment debtor, DeGaetani & Sons Drywall, Inc., when that arbitration proceeding was commenced after the garnishee was served with the garnishment summons, and when the garnishee acted to exclude Virginia Builders' Supply, Inc. from the arbitration proceedings.

2. The Circuit Court erred in dismissing the garnishment summons issued upon the suggestion of Virginia Builders' Supply, Inc., without an evidentiary hearing as to the amount owed by the garnishee, Brooks & Co. General Contractors, Inc., to the judgment debtor, DeGaetani & Sons Drywall, Inc.

ASSIGNMENTS OF ERROR BY APPELLANT

1. The Circuit Court erred in binding Virginia Builders' Supply, Inc. to the results of an arbitration hearing held between the garnishee, Brooks & Co. General Contractors, Inc., and the judgment debtor, DeGaetani & Sons Drywall, Inc., when that arbitration proceeding was commenced after the garnishee was served with the garnishment summons, and when the garnishee acted excluded Virginia Builders' Supply, Inc. from the arbitration proceedings.

2. The Circuit Court erred in dismissing the garnishment summons issued upon the suggestion of Virginia Builders' Supply, Inc., without an evidentiary hearing as to the amount owed by the garnishee, Brooks & Co. General Contractors, Inc., to the judgment debtor, DeGaetani & sons Drywall, Inc.

3. The Appellee states that the Circuit Court of the City of Richmond did not err in the above.