



# The Circuit Court

for the Sixth Judicial Circuit  
of Michigan

COURTHOUSE TOWER  
1200 N TELEGRAPH RD DEPT 404  
PONTIAC MI 48341-0404  
TELEPHONE (248) 452-2000

RUDY J. NICHOLS  
CIRCUIT JUDGE

OAKLAND COUNTY

August 18, 2006

Michigan Supreme Court  
Corbin R. Davis, Clerk  
Michigan Hall of Justice  
P.O. Box 30052  
Lansing, MI 48909

Re: H.A. Smith Lumber v Decina  
SC No. 128560  
Lower Court No. 99-015436-CZ

128560  
(85)

Dear Mr. Davis,

Enclosed please find an Order Clarifying Judgment pursuant to the March 8, 2006 Order of the Michigan Supreme Court. Our review of the bench trial record before visiting Judge J. Phillip Jourdan indicates that the grant of award of attorney fees to H.A. Smith Lumber & Hardware Company and William Gardella d/b/a Williams Glass Company was "under the Michigan Construction Lien Act."

Special Report

Thank you for your attention to this matter. If you should have any questions, please do not hesitate to contact me.

Respectfully submitted,

Hon. Rudy J. Nichols  
Circuit Court Judge

RJN/kg  
Enclosure

cc: Hon. Wendy L. Potts, Chief Judge  
counsel of record



STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

H.A. SMITH LUMBER & HARDWARE CO.,  
a Michigan corporation,

Plaintiff,

v

Case No. 99-015436-CZ  
Hon. Rudy J. Nichols

JOHN DECINA, LINAS P. GOBIS, LYDIA K.  
GOBIS, PEN PAINTING, EXTERIORS, INC.,  
WEATHERVANE WINDOW, INC., FIRST  
CHICAGO NBD MORTGAGE CO. and THE  
HOMEOWNER'S CONSTRUCTION LIEN  
RECOVERY FUND and WILLIAM GARDELLA,  
d/b/a WILLIAMS GLASS COMPANY and  
THE HOMEOWNER'S CONSTRUCTION LIEN  
RECOVERY FUND,

Defendants,

and

WILLIAM GARDELLA,  
d/b/a WILLIAMS GLASS COMPANY,

Defendant/Counter-Plaintiff,

v

H.A. SMITH LUMBER & HARDWARE CO.,  
a Michigan corporation,

Plaintiff/Counter-Defendant,

and

WILLIAM GARDELLA  
d/b/a WILLIAMS GLASS COMPANY,

Defendant/Counter-Plaintiff/Cross-Plaintiff,

v

JOHN DECINA, LINAS P. GOBIS, LYDIA K.

**ORDER CLARIFYING  
JUDGMENT**

GOBIS, PEN PAINTING, EXTERIORS, INC.,  
WEATHERVANE WINDOW, INC., FIRST  
CHICAGO NBD MORTGAGE CO. and THE  
HOMEOWNER'S CONSTRUCTION LIEN  
RECOVERY FUND,

Defendant/Cross-Defendants,

and

WILLIAM GARDELLA,  
d/b/a WILLIAMS GLASS COMPANY,

Defendant/Counter-Plaintiff/  
Cross-Plaintiff/Third-Party Plaintiff,

v

JOHN DECINA DEVELOPMENT CO.,  
a Michigan corporation,

Third-Party Defendant,

and

LINAS P. GOBIS AND LYDIA K. GOBIS,

Defendants/Cross-Plaintiffs/  
Cross-Defendants

v

JOHN DECINA,

Defendant/Cross-Defendant,

and

LINAS P. GOBIS and LYDIA K. GOBIS,

Defendants/Cross-Plaintiffs/  
Cross-Defendants,

v

JOHN DECINA DEVELOPMENT COMPANY,  
a Michigan corporation,

Third-Party Defendant/  
Cross-Defendant.

---

**ORDER CLARIFYING JUDGMENT**

At a session of said Court, held in the City  
of Pontiac, County of Oakland, State of Michigan  
on August 18, 2006

PRESENT: Hon. Rudy J. Nichols  
Circuit Court Judge

This matter was remanded by the Michigan Supreme Court by Order of March 8, 2006, directing this Court to articulate in writing its explanation of the legal bases for its attorney fees awards to plaintiff-appellee H.A. Smith Lumber & Company and defendant-appellee William Gardella d/b/a Williams Glass Company.

A review of the bench trial transcript before Judge J. Phillip Jourdan dated September 18, 2001 reveals that the award of attorney fees was stated to have been pursuant to the Michigan Construction Lien Act.

**IT IS SO ORDERED.**

**RUDY J. NICHOLS**

---

Hon. Rudy J. Nichols  
Circuit Court Judge

**A TRUE COPY**  
**RUTH JOHNSON**  
Oakland County Clerk - Register of Deeds  
By: E. Whiston  
Deputy