

AVS0312

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ALABAMA JUDICIAL DATA CENTER
SHELBY COUNTY
CERTIFICATE OF JUDGEMENT

CV 1999 000625.00
OLIVER P. HEAT

IN THE CIRCUIT COURT OF SHELBY COUNTY

CAHABA LUMBER & MILLWORK INC VS DAYTON FULLER D/B/HOMES

DEFENDANT

PARTY'S ATTORNEY:

FULLER DAYTON
D/B/A C & B HOMES
4917 KEITH DR
BIRMINGHAM , AL 35242-0000

I, MARY H. HARRIS , CLERK OF THE ABOVE NAMED COURT HEREBY
CERTIFY THAT ON 12/09/1999 PLAINTIFF, CAHABA LUMBER & MILLWORK I RECOVERED
OF DEFENDANT IN SAID COURT A JUDGEMENT WITHOUT WAIVER OF EXEMPTIONS FOR THE
SUM OF \$25,987.75 DOLLARS PLUS \$155.00 DOLLARS COURT COSTS, AND
THAT THE PLAINTIFF'S ATTORNEY(S) OF RECORD WAS: FRAWLEY JOHN R JR

GIVEN UNDER MY HAND THIS DATE 12/21/1999

Mary H. Harris
CLERK: MARY H. HARRIS
P.O. BOX 1810
COLUMBIANA AL 35051
(205) 669-3760

OPERATOR: LOL
PREPARED: 12/21/1999

PLAINTIFF'S ATTORNEY:

FRAWLEY JOHN R JR
1818 SIXTH AVENUE SOUTH
IRONDALE AL 35210

Inst # 2000-01778
01/18/2000-01778
09:41 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
004 NMS 16.00

IN THE CIRCUIT COURT FOR SHELBY COUNTY, ALABAMA

Cahaba Lumber & Millwork, Inc.

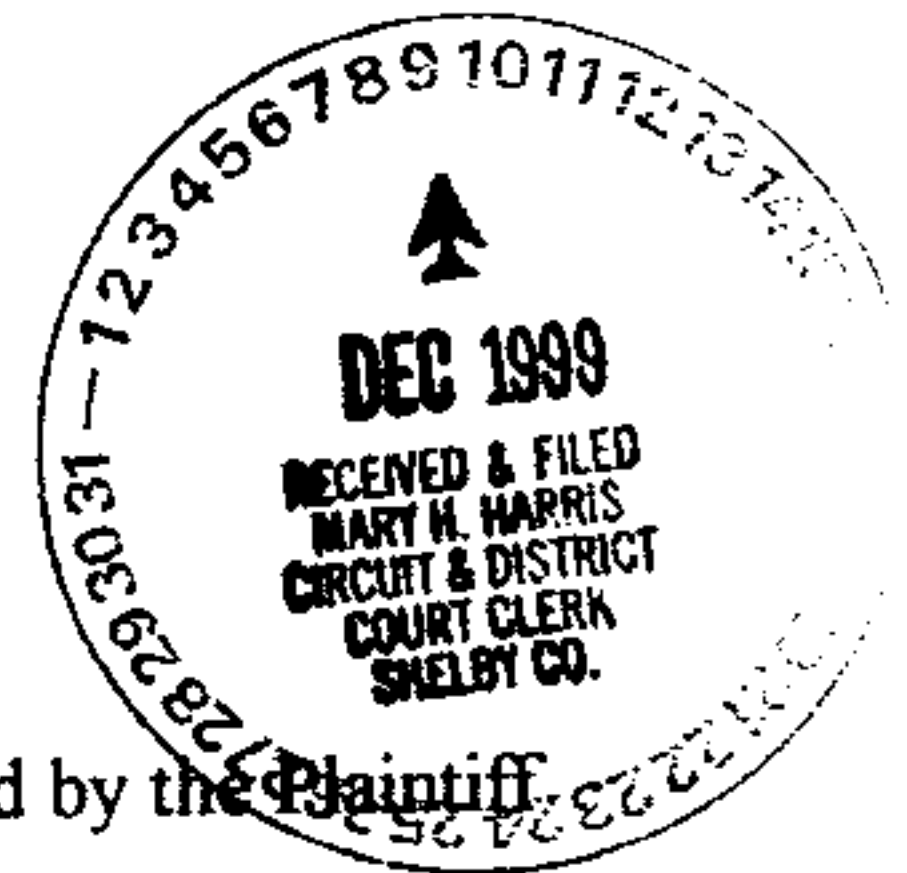
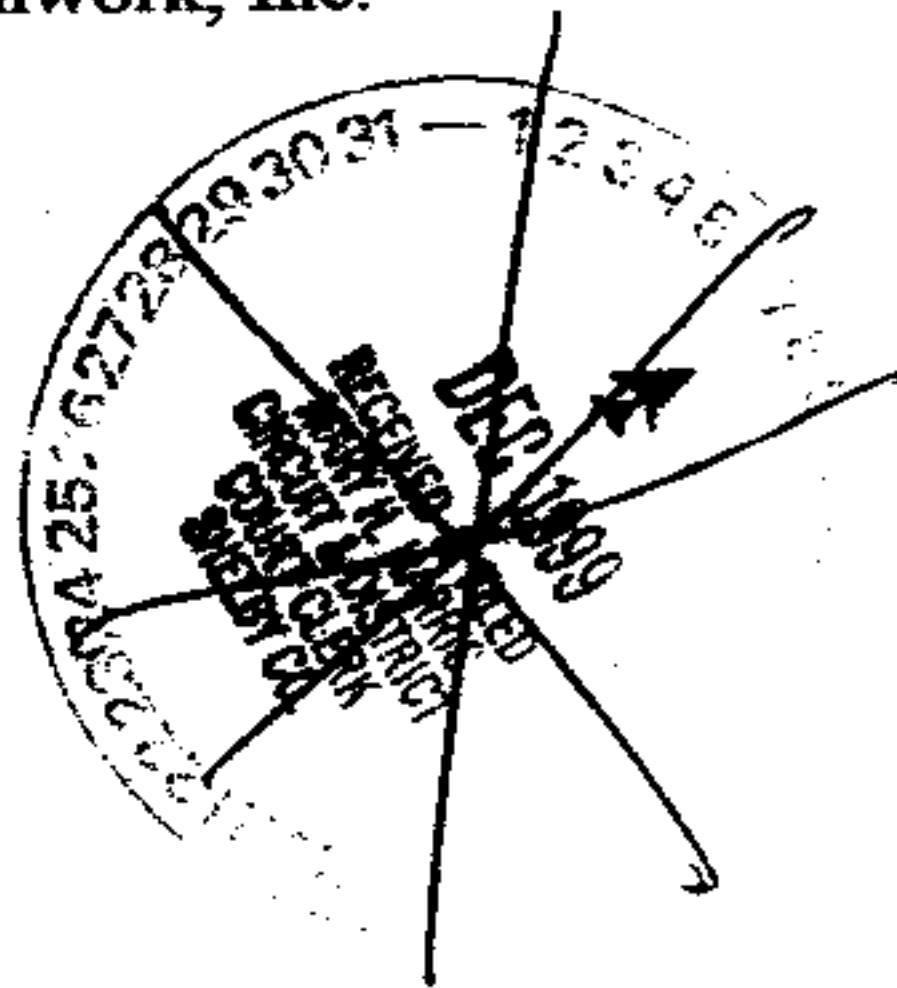
Plaintiff

vs.

Dayton Fuller d/b/a
C & B Homes

Defendant

CIVIL ACTION NO. CV-1999-625 OPH



FINDING OF FACTS AND ORDER

This cause comes before the Court on the Motion for a Default Judgment filed by the Plaintiff against the Defendant, Dayton Fuller, in which the Plaintiff requests that the Court enter a Judgment in favor of the Plaintiff and against the Defendant for Twenty-Five Thousand Nine Hundred Seventy-Eight Dollars and Seventy-Five Cents (\$25,978.75) as principal and an additional Eight Thousand Six Hundred Fifty-Nine Dollars and Twenty-Five Cents (\$8,659.25) as attorney's fees as provided in the contract attached to Plaintiff's Motion for Default Judgment.

In addition, Plaintiff requests the Court to confirm the Plaintiff's mechanic's lien filed upon a certain parcel of real property owned by the Defendant and located in Shelby County, more particularly described as:

Lot 5, Block 4, according to the Survey of Lincoln Park, as recorded in Map Book 3, Page 145 in the Probate Office of Shelby County, Alabama

In reviewing the documentation provided by the Plaintiff, as well as the Court file, the Court finds that the Defendant was duly served with process in this proceeding on or about October 5, 1999, and as to the date of this Order, failed or refused to defend within the time and in the manner as prescribed by law.

The Court further notes from the lien documents filed by the Plaintiff and attached to the Request for Default Judgment, that on or about June 28, 1999, Plaintiff filed for record in the Office

of the Judge of Probate of Shelby County, a mechanic's lien on the above referenced real estate in the amount of Eighteen Thousand Nine Hundred Eight Dollars and Twenty Cents (\$18,908.20) and further stated that the lien accrued ~~when the materials were shipped~~ ^{8/18} on or about April 13, 1999. The Court takes judicial knowledge of Title 35-11-215 of the Alabama Code which states that liens of the type set forth in this action must be filed within six months from the date the debt arises. As the representation made by the Plaintiff in its original lien filing was that the debt accrued on April 13, 1999, the Plaintiff would have until October 13, 1999, to file an attempt to perfect its lien.

Court further finds that on or about September 2, 1999, the Plaintiff filed an amended Statement and Notice of Mechanic's Lien in which the Plaintiff specifically set forth that the amended lien was to amend the previously recorded lien and amended the amount of the claim to Twenty-Five Thousand Nine Hundred Seventy-Eight Dollars and Seventy-Five Cents (\$25,978.75). The Court finds that this Amended Lien was filed within the six month period allowed for the filing of an original lien and is therefore timely filed pursuant to the above mentioned Alabama Statute. In a review of the Court file, the Court takes notice that the original Complaint filed by the Plaintiff to perfect the first lien filed on the property was filed on or about August 4, 1999, which date falls within the six month time limit to perfect the lien as allowed by Statute. October 1, 1999, the Plaintiff filed an Amended Complaint seeking to enforce the second lien, the amended lien, which was recorded on September 2, 1999. As the Amended Complaint was filed within the six month time limit to perfect the lien, the Court finds that the Amended Complaint also to be timely filed.

It is therefore ORDERED, ADJUDGED AND DECREED, that the Plaintiff's Motion for Default Judgment against Defendant, Dayton Fuller, is granted and that Plaintiff is awarded a Judgment against Dayton Fuller for the Twenty-Five Thousand Nine Hundred Seventy-Eight Dollars and Seventy-Five Cent (\$25,978.75) principal sought along with an attorney's fee provided for in the contract of Eight Thousand Six Hundred Fifty-Nine Dollars and Twenty-Five Cents (\$8,659.25) for

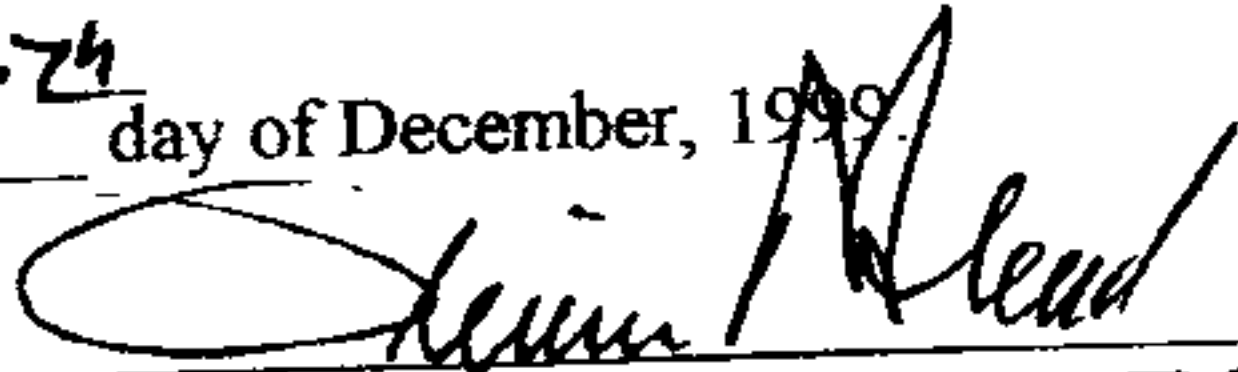
a total award of money damages in the amount of Thirty-Four Thousand Six Hundred Thirty-Eight Dollars (\$34,638.00).

The Court further finds that the Plaintiff is entitled to have its Amended Lien perfected and confirmed in the real estate and it is therefore the further order of this Court that Plaintiff's material man's lien filed on the following described property:

Lot 5, Block 4, according to the Survey of Lincoln Park, as recorded in Map Book 3, Page 145 in the Probate Office of Shelby County, Alabama

is hereby perfected to the extent of the lien filing of Twenty-Five Thousand Nine Hundred Seventy-Eight Dollars and Seventy-Five Cents (\$25,978.75). The Court further taxes all costs of this action to the Defendant.

DONE AND ORDERED this the 9th day of December, 1999.


OLIVER P. HEAD, CIRCUIT JUDGE

This Order Prepared by:

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