



**FACT PATTERN #4 –
CAMERON SLOUGH V. LIBERTY
BELL CONTRACTING, INC.**

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STIPULATIONS

Procedural matters

1. Federal Rules of Civil Procedure and Federal Rules of Evidence apply.
2. All witnesses called to testify who have identified the parties, other individuals, or tangible evidence at deposition or prior testimony will, if asked, identify the same at trial.
3. Deposition testimony and statements are given under oath and contains a full and complete description of all material events that occurred, and all witnesses agree that the statements given are a full and complete statement without errors or additions.
4. All reports and statements were signed under oath.
5. Each party will call one witness. Witnesses may be played by students of any gender. Any references to gender may be changed to the witnesses gender the they/them pronoun. The Plaintiff will call Cameron Slough. The Defense will call Erin Powell.
6. Other than what is provided, there is nothing unusual that would detract from the background information of any of the witnesses that would bolster or detract from their credibility.
7. This competition does not permit a witness to invent a material fact. For clarity's sake, a material fact is a fact that would influence an element or defense in a substantive way to make it unfair for another team to provide a fair rebuttal. Invention of individuals is fair as long as they do not affect each parties' burdens.
8. "Beyond the record" will not be entertained as an objection.
9. All exhibits are considered authentic. Powell can testify Exhibit C is kept in the normal and ordinary course of business. The log was created by the receptionist, Cory Jones who is unavailable. The call log provided by Powell, reflecting communication with Slough, was based on Powell's reasonable understanding that those communications were the ones requested by his attorneys. With respect to communications with other entities, no inference should be drawn from the call log regarding whether those calls did, or did not, take place.
10. Jurisdiction is established. No challenges to jurisdiction shall be entertained.
11. The trial is taking place on October 11, 2022.
12. Pretrial motions can consist of any evidentiary argument made for either side. Each side will have a total of five (5) minutes to do so. Each side will also have a total of five (5) minutes to argue the jury instructions prior to closings. Additional time may be granted at the discretion of the presiding judge for pre-closing motions pertaining to the jury instructions. No motions to suppress evidence on the grounds that it was obtained in

violation of the Fourth or Fifth Amendment were brought prior to trial. No such motions will be entertained or serve as grounds for exclusion at trial.

13. This competition does not allow outside case law for argument.

14. The case summary is not evidence and is to only be used for reference.

Substantive Matters

1. The defense may adopt any theory of defense it so chooses.
2. The trial IS NOT bifurcated on the issue of damages. Teams should be prepared to address the topic if they wish.

EXHIBIT LIST

Exhibit A

Photo

Exhibit B

Proposal

Exhibit C

Liberty Bell Contracting, Inc. Call Log

IN THE CIRCUIT COURT FOR PHILADELPHIA COUNTY

CAMERON SLOUGH,

Plaintiff,

Vs.

No. 2021-CV-646

LIBERTY BELL CONTACTING, INC.,

March 10, 2021

Defendant.

COMPLAINT

1. Plaintiff, Cameron Slough, is a resident of this County.
2. Defendant, Liberty Bell Contracting, Inc. (“Liberty”), has its principal place of business in this County.
3. This Court has jurisdiction over this matter under the laws of this State.
4. Venue in this Court is proper under the laws of this State since the facts surrounding this action arose in this County.
5. Plaintiff owns a residential rental property located at 4540 Aldersgate Street, Philadelphia, PA (the “Property”). At the time relevant to this complaint, Plaintiff the monthly rent for the Property was \$1,400.00 per month.

6. On September 20, 2020, Defendant was doing construction work outside of the Property for the local electric company. This work involved excavation. In the process of performing the excavation, Defendant hit and broke the water line for the Property. As a result, water was shooting above the street and the Property lost its water service. See Photo attached hereto as Exh. A.
7. The water leak continued until Plaintiff called the local water company to turn-off the water at a connection prior to the damaged water line.
8. The water line breakage and the resulting lack of water service rendered the Property uninhabitable until the restoration of water service.
9. The day after the water line damage, September 21, 2020, Plaintiff called Defendant Liberty's office and spoke with the owner of the Liberty, Aaron/Erin Powell. Plaintiff explained the problem that Liberty caused, the resulting loss of water service to the property. Plaintiff told Powell that, due to its inhabitability, Plaintiff would lose rental income until the restoration of water service to the Property.
10. During the September 21, 2020, phone call, Powell offered to have Liberty repair the damaged water line promptly, at its own expense. Powell thought that damage could be repaired and water service to the Property restored within two weeks. Plaintiff understood this offer to repair by Powell to have been made on behalf of Liberty. Plaintiff accepted this offer.
11. After two weeks passed and no repairs were evident, Plaintiff called Liberty and again spoke with Powell. Powell told Plaintiff that while Liberty was prepared to perform the repairs, the gas company had not yet authorized the work and that such authorization was

necessary because, when Powell inspected the water line break, Powell saw that the break in the water line was proximate to a gas line.

12. After two more weeks, Plaintiff again called Liberty and was told that Powell was out of the office. Plaintiff left a message for Powell, but Powell never returned the call.
13. Plaintiff continued to call Liberty and to attempt to speak with Powell for another two months. Plaintiff's calls were never put through to Powell and Powell never returned Plaintiff's calls.
14. Finally, two months after the damage to the pipes and with no repair of the broken water line evident, Plaintiff hired his own contractor, Best Choice Plumbing, to perform the repairs to the water line and to restore water service to the Property. The cost to the Plaintiff to repair the water line and restore water service was \$3,500.00. A copy of the Proposal/Contract between Plaintiff and Best Choice is attached hereto as Exh. B.
15. Approximately three months after the water line damage and the resulting loss of water service, the Property was again habitable and the Plaintiff obtained a new tenant, again at a rent of \$1,400 per month.
16. For the three months that the Property remained uninhabitable due to the lack of water service, Plaintiff lost rental income of \$4,200.00 (three months at \$1,400.00 per month). Back rent is being sought for half of the September, all of October, all of November and half of December.

COUNT I - NEGLIGENCE

17. The allegations set out above in Paragraphs 1-16 are incorporated herein as if set out in full.
18. Defendant Liberty had a duty to Plaintiff to perform the construction work, including excavation, that it was performing outside of the Property in a workmanlike manner and with due care to avoid damaging utilities in proximity to the construction site, including the water line that provides water service to the Property.
19. Defendant Liberty breached this duty by negligently breaking the water line that provided service to the Property, resulting in the lack of water service to the Property.
20. Defendant Liberty further breached its duty to the repair, in a prompt manner, the damage that it caused by breaking the water pipe that provided service to the Property.
21. As a direct result of the Liberty's breach of duty, Plaintiff: (a) was required to repair the water pipe to the Property at a cost of \$3,500.00; and (b) lost three months of rental income for the Property at \$1,400.00 per month, for a total rental income loss of \$4,200.00.

COUNT II – BREACH OF CONTRACT

22. The allegations set out above in Paragraphs 1-21 are incorporated herein as if set out in full.
23. On September 21, 2020, during a phone call between Plaintiff and Aaron/Erin Powell, Defendant Liberty, through its owner Powell, made an offer to Plaintiff to repair the

broken water line promptly and at Liberty's own expense. Liberty further represented as part of its offer that it believed that it could complete these repairs and restore water service to the Property within two weeks. As the owner of Liberty, Powell had the authority to bind Liberty to contracts.

24. During this same September 21, 2020, phone call, Plaintiff accepted the offer of Liberty to broken water line promptly, at Liberty's own expense, and within two weeks of this phone call.

25. Liberty's offer and Plaintiff's acceptance of Liberty's offer on September 21, 2020, formed a valid and binding contract between the parties.

26. Liberty breached this contract by failing to repair the water line and restore water service to the property.

27. As a direct result of the Liberty's breach of contract, Plaintiff: (a) was required to repair the water pipe to the Property at a cost of \$3,500.00; and (b) lost three months of rental income for the Property at \$1,400.00 per month, for a total rental income loss of \$4,200.00.

WHEREFORE, for the reasons set out above, Plaintiff demands entry of a judgment in Plaintiff's favor and against the Defendant in the amount \$7,700.00 plus costs and attorney's fees as permitted by law.

IN THE CIRCUIT COURT FOR PHILADELPHIA COUNTY

CAMERON SLOUGH,

Plaintiff,

Vs.

No. 2021-CV-646

LIBERTY BELL CONTACTING, INC.,

March 10, 2021

Defendant.

ANSWER

1. ADMITTED.
2. ADMITTED.
3. ADMITTED.
4. ADMITTED.
5. Defendant admits the allegation of Paragraph 5 of the Complaint that Plaintiff owned the Property. Defendant is without sufficient knowledge to admit or deny the monthly rent for the Property.

6. Defendant is without sufficient knowledge to admit or deny the allegation of Paragraph 6 of the Complaint that the Property was without any water service once the water line was damaged and, therefore, this allegation is denied. Defendant admits the other allegations in Paragraph 6 of the Complaint.
7. Defendant admits the allegation of Paragraph 7 of the Complaint that the water leaked until the water company shut off service to the property. Defendant also called the water company and, therefore, the Defendant is without sufficient knowledge to admit or deny at whose request the water company shut off of service and, therefore, the allegation that only the plaintiff made this request is denied.
8. Defendant is without sufficient knowledge to admit or deny the allegations made in Paragraph 8 of the Complaint and, therefore, these allegations are denied.
9. In response to Paragraph 9 of the Complaint, Defendant admits that Plaintiff spoke with Cameron Powell of Defendant on September 21, 2020, and that Plaintiff made the allegations in the call asserted in the Complaint. Defendant denies that it was responsible for loss the water service. Defendant is without sufficient knowledge to admit or deny that Plaintiff lost rental income and, therefore, this allegation is denied.
10. In response to Paragraph 10 of the Complaint, Defendant admits that Powell told Plaintiff that Defendant would attempt to repair the water line. However, Defendant did not intend, nor could its offer be reasonably construed, to create any type of contractual obligation from Defendant to Plaintiff to repair the water line. To the contrary, Defendant only made this offer voluntarily and as a courtesy to the Plaintiff since the Defendant already had equipment on site as part of the Defendant's work for the electric company. Defendant further states that Powell told Plaintiff that various permissions and

authorizations would be required prior to any work being performed because the water line was in proximity to a gas line and could be in proximity to other unknown utility lines. As a result, the Defendant did not and could not have made any estimate of the time required to repair the water line.

11. Defendant denies Paragraph 11 of the Complaint as stated. While Defendant admits that that he/she spoke with Plaintiff approximately two weeks after the water line break.

Defendant told Plaintiff that no repairs could occur until authorized by the Gas company and that Liberty would only attempt to perform the pipe line repair if such authorization was received prior to Liberty completing its work at the site and it removed its equipment. Defendant denies that its offer to attempt to repair the water line did create, and could not be reasonably construed to create, any type of contractual obligation from Defendant to Plaintiff to repair the water line. To the contrary, Defendant only made this offer voluntarily and as a courtesy to the Plaintiff and also was predicated on the gas company authorizing work on the water line prior to Liberty finishing its work at the site.

12. Defendant admits that it received repeated calls from Plaintiff. Defendant denies that it never returned these calls. On several occasions Powell attempted to return these calls and left voicemails on the Plaintiff's phone asking Plaintiff to return the call. Defendant further states that the calls from the Plaintiff became increasingly irate and amounted to nothing more than nuisances to Liberty's employees.

13. Defendant admits that it received repeated calls from Plaintiff. Defendant denies that it never returned these calls. On several occasions Powell attempted to return these calls and left voicemails on the Plaintiff's phone asking Plaintiff to return the call. Defendant

further states that the calls from the Plaintiff became increasingly irate and amounted to nothing more than nuisances to Liberty's employees.

14. Defendant admits the allegation of Paragraph 14 of the Complaint that two months after the water line broke that Defendant had not repaired the water line. Defendant further states that by the time it finished its work at the site and removed its equipment, that Defendant never received authorization to make repairs to the water line. Defendant further states that, as it told Plaintiff, its voluntary offer to attempt to repair the water line at its own expense was predicated on its receiving approval from the gas company to attempt to repair the water line prior to its finishing its work at the site. Defendant is without sufficient knowledge to admit or deny the remaining allegations concerning the pipe repair that Plaintiff claims it arranged or the cost and, therefore, these allegations are denied.
15. Defendant is without sufficient knowledge to admit or deny the allegations of Paragraph 15 of the Complaint and, therefore, these allegations are denied.
16. Defendant is without sufficient knowledge to admit or deny the allegations of Paragraph 16 of the Complaint and, therefore, these allegations are denied.
17. In response to Paragraph 17 of the Complaint, Defendant incorporates by reference its response to Paragraphs 1-16 of the Complaint.
18. While Paragraph 18 of the Complaint states conclusions of law to which no response is required, Defendant denies the allegations of this Paragraph. Defendant further states that it exercised due care within the scope of the information available to it when it performed its work.

19. While Paragraph 19 of the Complaint state conclusions of law to which no response is required, Defendant denies the allegations of this Paragraph.
20. While Paragraph 20 of the Complaint state conclusions of law to which no response is required, Defendant denies the allegations of this Paragraph.
21. To the extent that Paragraph 21 of the Complaint states conclusions of law to which no response is required, Defendant denies the allegations of this Paragraph. Defendant is without sufficient knowledge to admit or deny the remaining allegations concerning alleged monetary damages and, therefore, these allegations are denied.
22. In response to Paragraph 22 of the Complaint, Defendant incorporates by reference its response to Paragraphs 1-21 of the Complaint.
23. While Paragraph 23 of the Complaint states conclusions of law to which no response is required, Defendant denies the allegations of this Paragraph. Defendant further states that any offer to repair the water pipe was made voluntarily and as a courtesy to the Plaintiff and did not create, and could not be reasonably construed to create, any type of contractual obligation from Defendant to Plaintiff to repair the pipe.
24. While Paragraph 24 of the Complaint state conclusions of law to which no response is required, Defendant denies the allegations of this Paragraph.
25. While Paragraph 25 of the Complaint state conclusions of law to which no response is required, Defendant denies the allegations of this Paragraph.
26. While Paragraph 26 of the Complaint state conclusions of law to which no response is required, Defendant denies the allegations of this Paragraph.
27. To the extent that Paragraph 27 of the Complaint states conclusions of law to which no response is required, Defendant denies the allegations of this Paragraph. Defendant is

without sufficient knowledge to admit or deny the remaining allegations concerning alleged monetary damages and, therefore, these allegations are denied.

AFFIRMATIVE DEFENSES

1. Any allegation by Plaintiff that a contract formed between Plaintiff and Defendant which would have created any contractual obligations from Defendant to Plaintiff regarding repairs to the water line to the Property must fail as there was no consideration exchanged or promised from the Plaintiff and the Defendant.
2. Defendant had no obligation to the Plaintiff to repair the damaged water line because Defendant had no advance knowledge of the presence of the water line.

WHEREFORE Defendant demands that the Plaintiff's Complaint be dismissed and that a judgment be issued in favor of Defendant and against the Plaintiff, along with costs and attorney's fees as permitted by law.

IN THE CIRCUIT COURT FOR PHILADELPHIA COUNTY

CAMERON SLOUGH,

Plaintiff,

Vs.

No. 2021-CV-646

LIBERTY BELL CONTACTING, INC.,

October 13, 2021

Defendant.

SWORN STATEMENT OF CAMERON SLOUGH

Wednesday, October 13, 2021

1 My name is Cameron Slough. I am 45 years old. I own as an investment a house located at
2 4540 Aldersgate St., Philadelphia, PA. I have owned the property for about ten years and have
3 been fortunate enough that, except for the incident that is source of my lawsuit, that the property
4 has always been rented. At the time of the incident the rent for the property was \$1,400.00 per
5 month.

6 On the afternoon of September 20, 2020, I received a call from the tenant that the
7 Aldersgate house had no water. The tenant said there was some type of construction going on in
8 the street outside the house and thought that the lack of water may have been related to the
9 construction. After getting off the phone with the tenant, I drove over to the house to investigate
10 the situation.

1 When I arrived at the house it was easy to see why the Aldersgate house had no water. It
2 looked there was a small geyser outside of the house. A picture I took, which has been marked
3 as Exhibit A, shows this geyser.

4 I went over to the construction crew and asked to speak with the supervisor. I asked him
5 if he could turn off the water. He responded that he had tried but had just come to the conclusion
6 that he did not have the tools to do so. He thought that only the water company could turn it off.
7 When I asked him if he'd called the water company already, he said he had not done so yet since
8 he'd been trying to cut off the flow. Though I could not understand why the supervisor had not
9 called the water company as soon as the geyser started, rather than getting into an argument I
10 called the water company on my cellphone. Someone from the water company was out within
11 about 30 minutes to shut off the water. The actions of the water company ended the geyser.

12 Once the water was turned off, I could see that Liberty Bell's crew had broken the water
13 line to the house and that this caused the leak/geyser. After they arrived and shut off the water, I
14 asked the water company crew if they could restore water service to the house immediately so
15 that the house would be habitable. The water company crew told me they could not restore
16 service to the house until the damaged water line leading to the house was repaired. I then asked
17 Liberty Bell's s supervisor what he was going to do about repairing the damage to the water line.
18 I told Liberty Bell's supervisor that Liberty Bell was responsible for repairing the water line
19 since they had broken it. The supervisor told me that he could not do anything unless authorized
20 by his boss, Aaron/Erin Powell, and that since by now it was after 5 p.m. I should call Liberty
21 Bell's office when it opened at 8:30 a.m. the next morning and speak with Powell.

22 After speaking with Liberty Bell's supervisor and the water company crew, I went to
23 check on my tenant. She confirmed that the house had no water service and asked me when the
24 water would be turned back on. I told them that I did not know but would call the contractor to
25 try get them to fix it as soon as possible. The tenant told me she was leaving the house for the
26 night since it had no water or working toilets and that, if the water was not turned back on
27 promptly, that she was going to consider the lease broken and would abandon the house and
28 move elsewhere.

29 The next day, September 21, I called Liberty Bell's office at 8:30 a.m., as soon as it
30 opened. I spoke with Liberty Bell's owner, Aaron/Erin Powell. I explained that Liberty Bell's
31 crew had broken the water line to the Aldersgate house and, as a result, the house had no water.
32 I also explained that the house was a rental property and that my tenant was threatening to move
33 out because of the lack of water service and that this would cause me to lose the rental income.
34 Powell was conciliatory during the call and said that he/she was as surprised about the water line
35 break as I was since the electric company, for whom Liberty Bell was working, had told Liberty
36 Bell there were no utility lines proximate to the work it was doing. Powell told me that since
37 Liberty Bell had a crew and equipment on site that it would repair the broken water line at its
38 own expense. Powell said that Liberty Bell would be on site for another couple of weeks or so
39 and thought that the repair work would be completed before Liberty Bell left the site. Powell told
40 me that he/she had been at the site early that morning, saw that there was a gas line proximate to
41 the broken water line and, as a result, would need to get approval before doing any repairs.

1 Powell said a call to the gas company would be made that day. I told Powell that I hoped the
2 work would take less than two weeks but that this offer of repair at Liberty Bell's expense was
3 acceptable to me.

4 I contacted the Aldersgate house tenant and told her that the water would be back on
5 within two weeks. I offered to abate her rent for those two weeks since the house was
6 uninhabitable. The tenant accepted this offer but also told me if the water was not back on
7 within two weeks, that she would consider the lease breached, would not return to the house, and
8 would not pay any additional rent.

9 I stopped at the Aldersgate house every other day during the two weeks after I spoke with
10 Powell. While Liberty Bell continued to do work in the street, it did not appear that it was doing
11 any work around the water line it broke. I decided to give Liberty Bell the benefit of the doubt
12 that the work be completed as promised within two weeks.

13 On October 5, I called Liberty Bell, again spoke with Powell, and asked about what was
14 happening with the repair. I told Powell that I was quite upset and because two weeks had
15 passed, the water line had not been repaired, and the Aldersgate house remained without water. I
16 told Powell that beyond any inconvenience that this was costing me money because I'd abated
17 my tenant's rent for the past two weeks and now was in damage of losing the tenant altogether
18 due to the lack of water service.

19 Powell responded that the repairs would be done but they had been delayed because
20 Liberty Bell had not heard back from the gas company. I asked how Liberty Bell was working
21 on other parts of the street and Powell told me Liberty Bell had received clearance from the gas
22 and water companies to work in those areas because they had no lines in those areas. Powell
23 stated what while he/she knew the lack of water service to the Aldersgate house was
24 inconvenient, that if a Liberty Bell crew inadvertently hit the gas line that this could cause a gas
25 leak and explosion that would make the situation far worse. As a result, Liberty Bell could do
26 nothing until the gas company approved the water line repair.

27 After this conversation, I contacted the Aldersgate house tenant and gave her an update.
28 The tenant said that she had been by the house a few times, saw the lack of repair work, and had
29 found a new place to live, and actually was in the process of moving out. She said the house that
30 was not inhabitable, that the lease was now void, and that she would pay no more rent. I offered
31 her additional rent abatement if she would give more time for the repairs to be done but she said
32 she was just about done moving out, had a lease on a new residence, and rejected my offer.

33 I was on vacation for the next two weeks and when I came back the water line still had
34 not been repaired and the Aldersgate house was still without water. In fact, not only was water
35 line not repaired, it appeared that Liberty Bell had covered over the excavation it had done and
36 pulled out of the site. I called Liberty Bell's office and asked to speak with Powell. I was told
37 Powell was out of the office and left a message asking Powell to call me. Powell never returned
38 my call.

1 After that – and with it now about a month since Liberty Bell broke the water line and
2 promised to repair it within two weeks – I started calling Liberty Bell at least once per week for
3 the next four weeks. Each time I asked to speak with Powell. Repeatedly, I was told that Powell
4 was out of the office, would leave a message for Powell to call me, but never spoke with Powell.
5 I told the receptionist that I did not appreciate Powell avoiding my calls.

6 In mid-November, about two months after Liberty Bell breaking the water line, with no
7 repairs evident, and Powell not returning my calls, I realized that in order to cut my losses I
8 would need to have someone else repair the water line and front the cost myself. To do this, I
9 contacted Best Choice Plumbing to repair the water line and restore water service to the
10 Aldersgate house. Best Choice agreed to do the job at a cost of \$3,500.00. A copy of Best
11 Choice’s proposal/contract is marked as Exhibit B. Best Choice told me that it anticipated that
12 the repairs would be complete and water service restored to the house in about two weeks. In
13 fact, these repairs were completed by the end of November. I put the house back on the rental
14 market and found a tenant, at the same rate of \$1,400.00 per month, who started the lease on
15 December 15.

16 As result of Liberty Bell’s negligence in doing its work, it broke the water line to the
17 Aldersgate house. Moreover, after offering to repair the water line at its own expense within two
18 weeks -- and my accepting – this offer, Liberty Bell never repaired the water line. Since the
19 house was uninhabitable without water, I lost my Aldersgate tenant, who had had been paying
20 \$1,400.00 per month in rent. I had to hire, at my own expense, another contractor, Best Choice
21 Plumbing, to repair the water line at a cost of \$3,500.00. I also lost three months of rental
22 income, at \$1,400.00 per month, for a total rental income loss of \$4,200. Thus, my total losses
23 caused by Liberty Bell’s negligence and its breach of contract to repair the water line promptly
24 and its own expense, are \$7,700.00.

25 **CERTIFICATION:** On this 13th day of October 2021, I certify, under penalty of perjury, that I
26 have carefully reviewed the above statement to determine whether the answers contained are true
27 and correct, and whether I had any additional information relevant to the matters therein. I
28 hereby certify, under penalty of perjury, that the statement is accurate, and I have no information
29 relevant to the matters discussed other than what is discussed in this statement. Everything was
30 covered and nothing was left out.

31
32
33 *Cameron Slough*

34 Signed by Cameron Slough

IN THE CIRCUIT COURT FOR PHILADELPHIA COUNTY

CAMERON SLOUGH,

Plaintiff,

Vs.

No. 2021-CV-646

LIBERTY BELL CONTACTING, INC.,

March 10, 2021

Defendant.

SWORN STATEMENT OF ERIN POWELL

Wednesday, December 15, 2021

1 My name is Erin Powell. I am 57 years old. I am the sole owner of Liberty Bell Contracting. I
2 started the company about 25 years ago and have several crews that work for me.

3 Liberty Bell was contracted by the electric company to do some work on underground
4 electrical lines on Aldersgate St. The scope of work included some excavation in order to get to
5 the existing electrical line and then to put in the replacement line. We were told, the older lines
6 were no longer efficiently conducting electricity. Before we began working on the project, we
7 had been assured by the electric company that it had checked and that there were no other utility
8 lines, specifically water or gas, in the area where we would be doing excavation. Information
9 about the proximity utility lines to a work site is critical in our line of work because excavating
10 blindly can result in serious problems, like broken utility lines, which can lead to water outages
11 and, in the case of gas leaks, even explosions.

12 On the afternoon of September 20th, 2020, I received a call from the supervisor on the
13 Aldersgate St. project. He informed me that a backhoe had nicked a water line, causing a
14 substantial leak. I had two immediate questions for the supervisor. First, hadn't the electrical
15 company assured us there were no utilities (other than the electrical lines) proximate to where we
16 were excavating? He confirmed that this was the case and that he, personally, had spoken with
17 our contact at the electric company prior to starting the project. Second, what was the crew
18 doing about the leak? He told me that they were trying to stop it but were having difficulty
19 doing so because the crew did not have some specialized equipment that water company had.
20 The supervisor and I agreed that the crew should continue to try stop the flow, he should alert the
21 water company that the leak had occurred, and request that the water company be on alert to help
22 to stop the leak if necessary. As I said before, since the electrical company told us there were no
23 other utility lines in proximity to the work site, this incident really surprised me.

1 The next morning, I received a call from the plaintiff, Cameron Slough. He said that the
2 Liberty Bell supervisor at Aldersgate St worksite had told him to call me. Slough told me that
3 he/she owned a rental property at 4540 Aldersgate St. and that the house was without water
4 service due the water line damage. Slough said that without water service the house was
5 uninhabitable and unrentable. I commiserated with Slough, stating that I was as surprised as
6 Slough as to what happened because Liberty Bell understood there were not any utility lines,
7 including water lines, in proximity to our excavation work.

8 Slough then asked me what Liberty Bell would do about the situation. I told Slough that
9 repairing the line was more complicated than simply replacing the damaged water line. I told
10 him that this was because, once the water was turned off, my crew observed a gas line in
11 proximity to the broken water the line and that I had been to the site early that morning to
12 confirm this observation. As a result, no work could be done on the water line until Liberty Bell
13 (or any other contractor) could receive clearance from the gas company to go forward with the
14 repairs. Slough seemed to understand that as bad as the consequences of damaging the water
15 line had been, a damaged gas line and a resulting gas leak could be even worse. I told Slough
16 that I did not believe that Liberty Bell was responsible for the water line break since we had not
17 been aware of the presence of the water line. However, because I felt badly for Slough, that I
18 told Slough that as a courtesy, and on a purely voluntary/Good Samaritan basis, Liberty Bell
19 would attempt to repair the water line while we had a crew and equipment on site if the gas
20 company gave Liberty Bell authorization to repair the water line before we finished the
21 Aldersgate St. project. To this end, I told Slough that I would contact the gas company after
22 Slough and I got off the phone. I cautioned Slough that I did not know how long it would take
23 the gas company to provide authorization to go forward with repairing the water line since this
24 was not a gas emergency and that Liberty Bell only anticipated being on site for another two
25 weeks or so.

26 Around October 5, I received another call from Slough asking why the water line had not
27 been repaired. I told him that the bad news was that Liberty Bell had not received authority from
28 the gas company to make any water line repairs. The good news for Slough was that the
29 Aldersgate St. project was taking longer than I had anticipated so we would be on site for another
30 week or so and that this meant there still may be time for Liberty Bell to attempt to repair the
31 water line before we left the site. Slough was not happy with this response, stating that he was
32 losing money each day the house was uninhabitable and, therefore, unrentable, and that this was
33 all Liberty Bell's fault. While I disagree that Liberty Bell is at fault, Slough was very upset and,
34 rather than get into an argument over the phone that would be productive for no one, I just
35 listened and let Slough vent. When Slough finished, I reminded him Liberty Bell would be on
36 site for a bit longer and we could hope that I would hear from the gas company before we left
37 the site.

38 The next week, Liberty Bell completed its work on the Aldersgate St. project. Since I
39 had never heard from the gas company concerning clearance for repairing the water line, my
40 crew filled in its excavation and removed our equipment from the site. Since the water line was

1 shutoff and the proximate gas line was intact, backfilling the excavation did not create safety
2 issues.

3 Unsuccessfully, I tried to call Slough a couple of times to let him know that Liberty Bell would
4 not be able to repair the water line since we had never heard from the gas company. I did not
5 leave a message when Slough failed to answer his phone. To my mind, since Liberty Bell had
6 done nothing wrong and had tried to help Slough, I felt that Liberty Bell had done more than we
7 had to about the situation.

8 Beginning the next week and in the following weeks, for about another month or so,
9 Slough made increasingly irate calls to Liberty Bell, some that were answered by Liberty Bell's
10 receptionist and some that went to my voicemail. I told my receptionist to be patient and to let
11 Slough vent to the extent that the receptionist could tolerate it. Because of the attitude that
12 Slough was displaying and the tone of his messages, and because I believe Liberty Bell had no
13 obligation to Slough regarding the water line, I thought little would be gained by calling Slough
14 back only to get wrongly chewed out by him. However, to attempt to be courteous and to try to
15 bring out some closure since Liberty Bell had moved on from the site and would not attempt to
16 repair the water line, I called Slough back a few times, each call going directly to his voicemail.
17 My voicemail messages told Slough Liberty Bell had left the site, we had been unable to repair
18 the water line because of the gas company's inaction, and that I wished him the best of luck in
19 dealing with the gas company. We keep a log of phone calls as part of our business. Exhibit C is
20 a summary of the calls we received relevant to the case, culled from the overall log we keep. I
21 provided it to my lawyers after I found out I was being sued.

22 I never spoke directly with Slough after October 5. I subsequently learned that he
23 contracted with another company to repair the water line. From the complaint, I gather that this
24 contractor was able to repair the water line within a couple of weeks. I hope that this contractor
25 received clearance from the gas company to repair the water line and did not just excavate
26 blindly. I would guess that the reason the gas company was able to give "quick" clearance for
27 the repair to new contractor was because Liberty Bell had started the authorization process some
28 weeks earlier. While I do not expect Slough to thank Liberty Bell for voluntarily trying to help
29 out, I hope that Slough appreciates that it was Liberty Bell that got the water line repair
30 authorization process started with the gas company. This clearly benefitted Slough since if
31 Liberty Bell had not done so, I think the contractor Slough hired would have encountered the
32 same type of authorization issues and delay that Liberty Bell had and it would have taken weeks
33 to get the gas company to act and to get approval to complete the repair.

34 **CERTIFICATION:** On this 15th day of December 2021, I certify, under penalty of perjury, that
35 I have carefully reviewed the above statement to determine whether the answers contained are
36 true and correct, and whether I had any additional information relevant to the matters therein. I
37 hereby certify, under penalty of perjury, that the statement is accurate, and I have no information
38 relevant to the matters discussed other than what is discussed in this statement. Everything was
39 covered and nothing was left out.

1

2 *Erin Powell*

3 Signed by Erin Powell

**Exhibit
A**





BEST CHOICE PLUMBING, INC.

2521 Orthodox Street, Philadelphia, PA 19137
www.bestchoiceplumbing.com

Licensed & Insured

Robert Huttenlock, Jr.
Registered Master Plumber #4466

HICPA# 038100

Robert Huttenlock, Sr.
Registered Master Plumber #4189

ESTIMATE – PROPOSAL – SALES AGREEMENT

Name of Proposal Submitted To:	Phone:	Date:
CAMERON SLOUGH	[REDACTED]	11/16/20
Business Name:	Address:	City, State, zip Code
	4540 Aldersgate Street	Philadelphia, PA 19137
Plumber:	Date of Plans:	Job Phone:
Sammy/LH		

We hereby submit specifications and estimates for:

- Apply for permits, schedule city inspection.
- Excavate front of home sidewalk and street.
- In street locate city main, on sidewalk dig down and expose curb stop.
- Terminate existing water service, replace water service new from city main to inside meter.
- Reconnect to existing house meter.
- Backfill street and top surface with temporary blacktop.
- On sidewalk, fill hole and caution tap work area.
- Contract does not include replacing concrete on sidewalk.
- Additional cost of \$12 per square foot for concrete.

\$3500.00

All Discounts Given: *Pol deposit 1/16/20 cr#11008 KH*

ORAL AGREEMENTS AND CHANGES IN PROPOSAL: I understand there are no oral agreements. Everything I expect Best Choice Plumbing to do has been included in writing in this proposal. Nothing can be changed in this proposal unless it is in writing on a separate form accepted by me and Best Choice Plumbing. PERMIT FEES ARE NON-REFUNDABLE

We propose hereby to furnish material and labor complete in accordance with above specifications.

TOTAL JOB PRICE \$ 3500.00 DEPOSIT: (50% of Total at minimum) \$ 1750.00 BALANCE \$ 1750.00 due at completion of plumbing work IN FULL.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practice. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. We reserve the right to repair or replace any work installed during the course of completion of contract providing customer has a confide complaint. All agreements contingent upon strikes, accidents or delays beyond our control. In the event that any underground obstacles are located such as rock land fill, underground water, etc. there will be an additional cost to customer to complete above work. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workers' Compensation and Liability Insurance. Bureau of Consumer Protection 1-888-520-6680.

We maintain insurance limits as follows: *General liability limits of \$1,000,000 per occurrence and \$2,000,000 aggregate
 ~ Automobile combined single limit of \$1,000,000
 ~ Workers Compensation per statute with employers liability limits of \$500,000 per accident per employee, and \$500,000 policy limit

ASBESTOS ABATEMENT: This estimate and proposal assumes no asbestos will be disturbed in the performance of work. If upon further inspection by contractor or others, asbestos has to be disturbed to perform work, customer must arrange and pay for abatement of asbestos prior to the start or continuation of work. If customer fails to arrange for necessary asbestos abatement within 30 days, Best Choice Plumbing may cancel this proposal upon written notice to customer.

In the event that your account needs to be placed with an attorney/collection firm Best Choice Plumbing is entitled to add any attorney/collection fees no greater than 25% per state law. In the event that the account must go to court client is responsible for all court costs and attorney fees.

ACCEPTANCE OF PROPOSAL: Acceptance subject to Management Approval and may be declined at any time prior to start of work.

Customer's Signature: *[Signature]* Date: 10/9/20
 Customer Print Name: _____ Date: _____
 Manager's Signature: _____ Date: _____

You the buyer may cancel this transaction at any time prior to midnight on the third business day after the date of contract date as specified above. If you would like to waive your right to cancel and have us proceed with the specified work as described above, please initial here: *[Initials]*

PHONE: 215-289-0169 EMAIL: office@bestchoiceplumbing.net FAX: 215-289-3355

Liberty Bell Contracting, Inc. – Call Log

- 1.** 9/21/20- 9:00am – incoming call from Cameron Slough. Put through to Powell.
- 2.** 10/5/20 – 4:00pm – incoming call from Cameron Slough. Put through to Powell.
- 3.** 10/19/20 – 9:00am – incoming call from Cameron Slough. Powell out of office. Left message to have Slough call returned.
- 4.** 10/19/20- 11:30am – outgoing call. Powell attempt to return Slough call from earlier today. No message left.
- 5.** 10/26/20 – 11:30am – incoming call from Slough. Powell out of office. Message left for Powell to return call.
- 6.** 11/2/20 – 11:30am – incoming call from Slough. Powell out of office. Left message for Powell.
- 7.** 11/9/20 – 11:30am - incoming call from Slough. Powell out of office. Left message for Powell. Slough is very angry, just let vent per instructions.
- 8.** 11/10/20 – 9:00am – outgoing call from Powell. Attempting to return Slough’s message. Slough never picked up. Left message on Slough’s voicemail.
- 9.** 11/16/20- 11:30am – incoming call from Slough. Put through to Powell voicemail (this man is bonkers. I wish he would stop calling).
- 10.** 11/20/20 – 11:30am – incoming call from Slough. Put through to Powell’s voice mail.
- 11.** 11/21/20 – 11:30am. – incoming call from Slough. Left message for Powell to return call. This is getting to be too much.

Exhibit C

JURY INSTRUCTIONS

NEGLIGENCE

In this case, you must decide whether defendant was negligent. I will now explain what negligence is. A person must act in a reasonably careful manner to avoid injuring, harming, and/or damaging others.

The care required varies according to the circumstances and the degree of danger at a particular time.

You must decide how a reasonably careful person would act under the circumstances established by the evidence in this case. A person who does something a reasonably careful person would not do under the circumstances is negligent. A person also can be negligent by failing to act. A person who fails to do something a reasonably careful person would do under the circumstances is negligent.

BREACH OF CONTRACT

Plaintiff claims that Defendant did not do what they agreed to do under the contract. We call this a "breach of contract."

Plaintiff claims that Defendant's breach of this contract caused him/her harm for which Defendant should pay money damages.

Plaintiff must prove the following:

1. the existence of a contract, including its essential terms; and
2. Defendant breached a duty created by the contract.

ESSENTIAL ELEMENTS OF A CONTRACT

Plaintiff claims he/she and Defendant entered into a contract.

Defendant denies they and Plaintiff entered into a contract.

To prove the parties entered into a legally enforceable contract, Plaintiff must prove the following three elements:

1. an offer;
2. an acceptance of that offer; and
3. "consideration."

Defendant denies consideration.

I will now explain what Plaintiff must prove to establish consideration under the law.

Consideration: To create an enforceable contract, each party must intend to exchange something of value. We call this “consideration.” Consideration may be money, but does not have to be money. Consideration may be a promise to do or not do something. The promised exchange need not be of comparable value. A promise to do something a party was already obligated to do is not sufficient to create a contract.