

The defendants, by their answer, allege that the pool was not constructed in a workmanlike manner and set out certain specifications of negligence and a general allegation that as a result of the plaintiff's failure to properly construct and install the swimming pool in a recognized workmanlike manner, the negligence, carelessness and lack of proper supervision, the defendants have been damaged in excess of the amount of plaintiff's claim.

The case was originally placed on the trial calendar of the Court of Common Pleas for the Thirteenth Judicial Circuit and later by agreement of counsel for both sides the case was transferred to the non-jury calendar.

11/22/82
The case came on to be heard by me on January 28, 1982. At the call of the case counsel stated for the record that it was agreed that the only question before the Court was whether or not the plaintiff was entitled to a judgment for foreclosure of the mechanics lien and for judgment against the defendants. That if the Court agreed with the contentions of the defendants the only judgment that could be rendered would be in the sum of Four Thousand, One Hundred Ninety-Seven and 50/100 (\$4,197.50) Dollars as an offset against the plaintiff's claim and for a cancellation of the recorded mechanics lien and recorded lis pendens.

The plaintiff is an experienced builder of swimming pools with 26 years of pool construction and has constructed two or three thousand swimming pools. The plaintiff alleges that there was nothing unusually wrong with the construction of defendants' swimming pool and further that the complaints of the defendants were the result of defendants' own direction, such as the color of the pool and the laying of the brick, and further alleged that the lack of uniformity in the construction of the steps into the pool was insignificant and in keeping with the accepted practice of the trade. The plaintiff presented several witnesses who testified in substance that they had inspected the pool and there was