

Defendant's Answer, Counterclaim and Third Party Complaint - Paragraphs 14 to 16

Defendant spoke to Bobby Lawson of the High Gables ACC the first Saturday in June and, in response to his inquiry, explained (i) he was planning on paving the driveway at his first opportunity and certainly by the end of June, and (ii) that since the driveway was going to be both long and costly, he planned to make sure that he had resolved all outstanding site issues before he did so.

At the time Defendant talked to Mr. Lawson, there was no reason for him to believe he would not have the driveway poured within the next few weeks in June.

Sometime before mid-June, there was a torrential downpour and Defendant noticed water pouring over both ends of the retaining wall above the residence which indicated further sitework would be necessary to address the issues.