

#37134

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

TIMOTHY PHILLIPS, an	)
individual and JAMIE PHILLIPS,	)
an individual	)
Plaintiffs	)
	)
v.	)
	)
TONY SAVINO, individually,	)
doing business as SAVINO	)
CONSTRUCTION	)
Defendant.	)

CASE NO. \_\_\_\_\_

JURY TRIAL DEMANDED

12  
11:02 AM  
12

**PLAINTIFFS' COMPLAINT**

Plaintiffs, TIMOTHY PHILLIPS ("Mr. Phillips"), and JAMIE PHILLIPS ("Mrs. Phillips"), by their undersigned attorney, state as follows as their Complaint against Defendant, TONY SAVINO, doing business as SAVINO CONSTRUCTION:

**THE PARTIES**

1. Plaintiff, Mr. Phillips, is a citizen and resident of the State of Illinois and Cook County. He is married to Plaintiff Jamie Phillips. Mr. Phillips resides at 1002 E. Talbot in Arlington Heights, Illinois 60004 ("the Talbot Street Home").
2. Plaintiff, Mrs. Phillips, is a citizen and resident of the State of Illinois and Cook County. She is married to Plaintiff Tim Phillips. Mrs. Phillips also resides at the Talbot Street Home.
3. Defendant, TONY SAVINO, resides and conducts business from 17750 Beaverton Road in Capron, Illinois 61012. At all times relevant to this Complaint, TONY SAVINO has been doing business, and has regularly and continuously transacted

business in the State of Illinois and in this County. TONY SAVINO is a home builder/general contractor.

**VENUE**

4. Venue is proper in this Court pursuant to 735 ILCS 5/2-101 (1) and (2).

**COUNT I**

**(Breach Of Contract)**

5. Mr. and Mrs. Phillips incorporate by reference, as though fully set forth herein, Paragraphs 1 through 4 above, as Paragraph 5 of Count I of his Complaint.

6. In 2007, Mr. and Mrs. Phillips purchased the Talbot Street Home.

7. Thereafter, Mr. and Mrs. Phillips contracted with TONY SAVINO for certain construction work on the Talbot Street Home.

8. Accordingly, in January 2008, the parties entered into a written contract for that construction work, which was amended in June 2009 (collectively as "The Contract"). A true and correct copy of the Contract is attached hereto as Exhibit 1. In short, in exchange for the payment by Mr. and Mrs. Phillips to TONY SAVINO of substantial sums of money, TONY SAVINO agreed, *inter alia*, to provide certain construction work on the Talbot Street Home; to purchase and provide certain construction materials that would be used for the construction work on the Talbot Street Home; and to otherwise serve as the general contractor on the Talbot Street Home.

9. Mr. and Mrs. Phillips paid TONY SAVINO sums for the above-referenced work, materials, and services totaling approximately \$250,000.00 (two hundred and fifty thousand dollars).

10. Mr. and Mrs. Phillips have performed all conditions precedent and all conditions required of them pursuant to the terms of the Contract.

11. TONY SAVINO has failed to perform under the terms of the Contract. Specifically, TONY SAVINO did not complete the construction work on the Talbot Street Home. The work that TONY SAVINO failed to complete, and/or purportedly “completed” but in a wholly deficient manner, includes: the excavation of the patio; interior caulking; exterior caulking; flashing with respect to the roof; spot sanding and re-staining of the floors in the first floor; reinforcing of the first floor; damage to driveway; filling in gaps in the floorboards; gaps in siding. Accordingly, Mr. and Mrs. Phillips were required to pay sums totaling \$2,147.50 to “fix” work that had been purportedly performed by TONY SAVINO in a wholly deficient manner and in breach of the parties’ Contract.

12. In addition, out of convenience, TONY SAVINO directed Mr. and Mrs. Phillips to make certain out-of-pocket purchases for the construction work, services, and materials that were part of the parties’ Contract. For example, Mr. and Mrs. Phillips paid approximately \$4,550 for tile that was part of the Contract with TONY SAVINO’s express agreement and understanding that he would provide them with a “credit” or allowance towards the sums that they had already paid him. Instead, TONY SAVINO failed and refused to make such payments or credits.

13. In addition, the parties’ Contract called for Mr. and Mrs. Phillips to pay TONY SAVINO the sum of \$2,000 for certain work that the parties anticipated would have to be performed by Commonwealth Edison. Accordingly, TONY SAVINO accepted that payment from Mr. and Mrs. Phillips, but that work did not ultimately need

to be performed and was never performed by anyone. Nevertheless, TONY SAVINO has failed and refused to pay Mr. and Mrs. Phillips that sum, or to otherwise credit them under the Contract.

14. In addition, out of convenience, TONY SAVINO also directed Mr. and Mrs. Phillips to make other out-of-pocket purchases for the construction work, services, and materials that were part of the parties' Contract. Those included the payment by Mr. and Mrs. Phillips of the sum of \$900 for carpet for a closet, and \$300 for related door knobs with TONY SAVINO's express agreement and understanding that he would provide them with a "credit" or allowance towards the sums that they had already paid him. Instead, TONY SAVINO failed and refused to make such payments or credits.

15. Further, TONY SAVINO's wholly deficient work caused additional damage to the Talbot Street Home, namely damage to the basement from water. As a result, Mr. and Mrs. Phillips were required to pay additional sums out-of-pocket totaling approximately \$1,586.50.

16. In addition, TONY SAVINO agreed with Mr. and Mrs. Phillips *not* to perform certain work that had been called for to be performed under the terms of the Contract, and for which they had already tendered payment to MR. SAVINO. That work included no exterior brick painting, and no wainscoting in the dining room area. That cancelled work totaled the sum of approximately \$2,350.00. MR. SAVINO has failed and refused to pay those sums back to, or otherwise credit, Mr. and Mrs. Phillips for that work that was paid for by them, but which was never performed by MR. SAVINO.

17. In addition, TONY SAVINO failed and refused to perform certain other work that was called for under the terms of the Contract, and for which Mr. and Mrs.

Phillips made payment to him. That work that TONY SAVINO failed and refused to perform includes the cleaning of vents; the cleaning of window; and certain fixing of the front stairs. That work that was never performed totaled the sum of approximately \$2,147.50. MR. SAVINO has failed and refused to pay those sums back to, or otherwise credit, Mr. and Mrs. Phillips for that work that was paid for by them, but never performed by MR. SAVINO.

18. In addition, TONY SAVINO failed and refused to perform certain other work and/or to provide certain materials that were called for under the terms of the Contract, and for which Mr. and Mrs. Phillips made payment to him. That work/those materials that TONY SAVINO failed and refused to perform/provide included exterior trim; screen door; shutters; window well covers; and snow fencing of the yard. That work that was never performed/materials that were never provided totaled the sum of approximately \$5,425.00. MR. SAVINO has failed and refused to pay those sums back to, or otherwise credit, Mr. and Mrs. Phillips.

19. MR. SAVINO deficiently “performed” work and/or failed to provide materials called for under the terms of the parties’ Contract as follows: created a hole in the foundation; performed drywall work in deficient manner; improperly placed sump pump in basement; improperly installed living room windows; failed to provide a sprinkler head in connection with second floor furnace; improperly insulated the home; failed to provide all brick for exterior patio. As a result, MR. SAVINO did not provide the work, materials, and services specifically called for under the terms of the Contract, and has caused and will cause Mr. and Mrs. Phillips to make several thousand dollars in additional payments to others.

20. MR. SAVINO also authorized certain work in the form of “change orders” to be performed by sub-contractors without the signed approval of Mr. and Mrs. Phillips in violation of the parties’ Contract. That unauthorized work for which Mr. and Mrs. Phillips have been forced to make payments totals the sum of approximately \$26,108.45.

21. In addition, the parties’ Contract specifically provides that, if the construction work was not completed by TONY SAVINO by August 17, 2008, TONY SAVINO would pay Mr. and Mrs. Phillips the sum of \$125.00 per day. That work was not completed by August 17, 2008, and has not been completed to-date. Accordingly, pursuant to that term of the Contract, TONY SAVINO owes Mr. and Mrs. Phillips the sum of approximately \$27,125.00 under the terms of the Contract.

22. TONY SAVINO has repeatedly and materially breached the terms and conditions of the parties’ Contract as more fully described in Paragraphs 9 through 21 above.

23. As a direct and proximate cause of TONY SAVINO’S breaches of the parties’ Contract, Mr. and Mrs. Phillips have suffered monetary damages as further described above.

**WHEREFORE**, Plaintiffs, TIMOTHY PHILLIPS and JAMIE PHILLIPS, by their undersigned counsel, respectfully pray for the entry of judgment in their favor and against Defendant, TONY SAVINO, on Count I of their Complaint, for their attorneys' fees and costs, and for all such other relief that is just and proper under the circumstances.

**Respectfully Submitted,**

By:

  
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Attorneys for Plaintiff

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