APPENDIX A

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

No. 50 MAL 2019

JENN-CHING LUO, Petitioner
v.
LOWE'S HOME CENTERS, LLC,
JAMES R. WALTERS, AND CHRIS S. ERNEST,
Respondents

Application for Reconsideration

Filed: July 25, 2019

ORDER

PER CURIAM

AND NOW, this 25th day of July, 2019, the Application for Reconsideration is denied.

APPENDIX B

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

No. 50 MAL 2019

JENN-CHING LUO, Petitioner
v.
LOWE'S HOME CENTERS, LLC,
JAMES R. WALTERS, AND CHRIS S. ERNEST,
Respondents

Petition for Allowance of Appeal from
the Order of the Superior Court

Filed: June 18, 2019

ORDER

PER CURIAM

AND NOW, this 18th day of June, 2019, the Petition for Allowance of Appeal is **DENIED**.

APPENDIX C

IN THE SUPERIOR COURT OF PENNSYLVANIA
EASTERN DISTRICT

JENN-CHING LUO, Appellant
v.
LOWE'S HOME CENTERS, LLC, JAMES R. WALTERS, AND CHRIS S. ERNEST

No. 284 EDA 2018

Filed: December 28, 2018

ORDER

IT IS HEREBY ORDERED:

THAT the application filed November 15, 2018, requesting reargument of the decision dated November 2, 2018, is DENIED.

PER CURIAM

APPENDIX D

**NON-PRECEDENTIAL DECISION -
SEE SUPERIOR COURT I.O.P. 65.37**

IN THE SUPERIOR COURT OF PENNSYLVANIA

JENN-CHING LUO, Appellant
v.
LOWE'S HOME CENTERS, LLC, JAMES R. WALTERS, AND CHRIS S. ERNEST

No. 284 EDA 2018

Appeal from the Judgment Entered February 12, 2018 In the Court of Common Pleas of Chester County Civil Division at No(s): 2014-09864

Filed: November 2, 2018

BEFORE: BENDER, P.J.E., BOWES, J., and PANELLA, J.
MEMORANDUM BY PANELLA, J.

Jenn-Ching Luo appeals *pro se* from the judgment[1] entered in the Chester County Court of

[1] Appellant purports to appeal, in part, from the order entered December 27, 2017, denying his petition to vacate an arbitration award. ***See*** Notice of Appeal, 1/18/18. However, "a court order denying a petition to vacate ... is not an appealable order." ***Dunlap by Hoffman, State Farm Ins. Co.***, 546 A.2d 1209, 1210 (Pa. Super. 1988). Rather it is the final judgment entered following the denial of this petition which is

Common Pleas following the trial court's denial of his petition to vacate his arbitration award. Appellant raises many, many challenges to the trial court's rulings over the three-year course of this matter. Given the woeful state of Appellant's brief, we dismiss this appeal.

Due to our disposition, a detailed recitation of the facts and procedural history of this case is unnecessary. Briefly, in the spring of 2014, Appellant contracted with Appellee, Lowe's Home Centers, LLC ("Lowe's") for the installation of a new residential roof, skylights, and gutters. The contract between Appellant and Lowe's contained a standard arbitration clause. Lowe's hired Kolb Roofing Company, owned by Appellee, James R. Walters, to perform the work described in Appellant's installation contract.

Walters completed the work on Appellant's property on June 3, 2014. Following the installation, Appellant contacted Lowe's claiming Walters failure to adequately protect against a brief rainstorm during the installation damaged his property. Lowe's contracted with Appellee, Charles (sic Chris) S. Ernest, to evaluate the alleged damages to Appellant's property. However, when Ernest's estimate of the damage did not meet Appellant's expectations, Appellant filed suit against Lowe's, Walters, and Ernest in the Chester County Court of

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appealable. ***See id.***, at 1211. Judgment was not entered until February 12, 2018, making Appellant's notice of appeal prematurely filed. However, as judgment has been entered in this matter, we will treat the notice of appeal previously filed in this case as filed after the entry of judgment. ***See*** Pa.R.A.P. 905(a)(5). The appeals statement has been corrected.

Common Pleas.

Following a series of motions and trial court rulings, this case proceeded to arbitration on July 7, 2017. The arbitrator found in favor of Appellant and against Lowe's and Walters in the amount of $2,034.07.[2] As the arbitrator's award was significantly below Appellant's requested damages of $451,000.00, Appellant filed a petition to vacate the arbitration award. This appeal follows the trial court's denial of his petition to vacate, and subsequent confirmation, of his arbitration award.

Preliminarily, we note Appellant raises a staggering *23* issues in his appellate brief. Issue selection is a key hallmark of appellate advocacy. Justice Robert H. Jackson warned of the dangers of this shotgun approach many years ago:

> Legal contentions, like the currency, depreciate through overissue. The mind of an appellate judge is habitually receptive to the suggestion that a lower court committed an error. But receptiveness declines as the number of assigned errors increases. Multiplicity hints at a lack of confidence in any one. Of course, I have not forgotten the reluctance with which a lawyer abandons even the weakest point lest it prove alluring to the same kind of judge. But experience on the bench convinces me that multiplying assignments of error will dilute and weaken a good case and will not save a bad one.

[2] The arbitrator found that Ernest was not liable to Appellant.

Ruggero J. Aldisert, J. "Winning on Appeal: Better Briefs and Oral Argument," at 130 (2d ed. 2003) (quoting Robert H. Jackson, "Advocacy Before the United States Supreme Court," 37 Cornell L.Q. 1, 5 (1951)). This "much quoted" advice, unfortunately, "often 'rings hollow'...." ***Commonwealth v. Robinson***, 864 A.2d 460, 480 n.28 (Pa. 2004) (citing Ruggero J. Aldisert, J. "The Appellate Bar: Professional Competence and Professional Responsibility–A View From the Jaundiced Eye of the Appellate Judge," 11 Cap. U.L. Rev. 445, 458 (1982)). But its importance cannot be overstated. ***See, e.g., Jones v. Barnes***, 463 U.S. 745, 751-752 (1983) ("Experienced advocates since time beyond memory emphasized the importance of winnowing out weaker arguments on appeal and focusing on one central issue if possible, or at most on a few key issues."); ***Howard v. Gramley***, 225 F.3d 784, 791 (7th Cir. 2000) ("[O]ne of the most important parts of appellate advocacy is the selection of the proper claims to urge on appeal. Throwing in every conceivable point is distracting to appellate judges, consumes space that should be devoted to developing the arguments with some promise, inevitably clutters the brief with issues that have no chance ... and is overall bad appellate advocacy."); Aldisert, ***supra*** at 129 ("When I read an appellant's brief that contains more than six points, a presumption arises that there is no merit to *any* of them.")

Nevertheless, we would ordinarily proceed by evaluating Appellant's preserved arguments. However, perhaps due to Appellant's attempt to raise such an extraordinary number of issues on appeal, the resulting brief is, frankly, a convoluted

mess that violates several of the appellate rules. We need not catalog the violations at length here. We need only highlight the most egregious violations and problems.

> Importantly, we recognize that
>
> appellate briefs and reproduced records must materially conform to the Pennsylvania Rules of Appellate Procedure. This Court may quash or dismiss an appeal if the appellant fails to conform to the requirements set forth in the Pennsylvania Rules of Appellate Procedure.

Commonwealth v. Adams, 882 A.2d 496, 497 (Pa. Super. 2005) (citations omitted).

Rule 2119 governs the argument section of an appellate brief. ***See*** Pa.R.A.P. 2119. The rule provides:

> **(a) General rule.** The argument shall be divided into as many parts as there are questions to be argued; and shall have at the head of each part--in distinctive type or in type distinctively displayed--the particular point treated therein, followed by such discussion and citation of authorities as are deemed pertinent.
>
> **(b) Citations of authorities.** Citations of authorities in briefs shall be in accordance with Pa.R.A.P. 126 governing citations of authorities.

> **(c) Reference to record.** If reference is made to the pleadings, evidence, charge, opinion or order, or any other matter appearing in the record, the argument must set forth, in immediate connection therewith, or in a footnote thereto, a reference to the place in the record where the matter referred to appears (*see* Pa.R.A.P. 2132).
>
> **(d) Synopsis of evidence.** When the finding of, or the refusal to find, a fact is argued, the argument must contain a synopsis of all the evidence on the point, with a reference to the place in the record where the evidence may be found.

Pa.R.A.P. 2119(a)-(d).

"This Court will not consider the merits of an argument which fails to cite relevant legal case or statutory authority. Failure to cite relevant legal authority constitutes waiver of this claim on appeal." ***In re Estate of Whitley***, 50 A.3d 203, 209 (Pa. Super. 2012) (citations and quotation marks omitted).

While we recognize Appellant is proceeding *pro se* in this appeal, we note that, "[a]lthough this Court is willing to construe liberally materials filed by a *pro se* litigant, *pro se* status generally confers no special benefit upon an appellant." ***Commonwealth v. Lyons***, 833 A.2d 245, 251-252 (Pa. Super. 2003). As such, a *pro se* litigant must comply with the requirements as set forth in the Pennsylvania Rules of Appellate Procedure. ***See id.***, at 252.

Our review of Appellant's brief reveals substantial and numerous violations of the appellate

rules. Although his brief contains an argument section, it is not divided "into as many parts as there are questions to be argued." Pa.R.A.P. 2119(a). Appellant raises *23* issues on appeal, but only divides the argument portion of his brief into *five* sections. While some of these sections include subsections, they are repetitive of previously argued issues and do not correspond with the issues raised on appeal.

Additionally, throughout the entirety of his argument section, Appellant fails to cite to the record. ***See*** Pa.R.A.P. 2119(c)-(d). Instead, claiming his own recitation of the facts was "verified," Appellant cites to his own brief rather than the record on appeal. ***See***, ***e.g.***, Appellant's Brief, at 59 ("[I]t has been verified previously that [Appellant] completely complied with the Pennsylvania Rule of Civil Procedure to serve the 10-day notice ... on Walters. (This Br. pp. 30-31)").

Finally, and most importantly, while Appellant's brief contains numerous references to case law, it is devoid of references to *relevant* case law. ***See*** Pa.R.A.P. 2119(a). The majority of Appellant's citations only serve to define legal concepts, exist outside our jurisdiction, or are entirely wildly inaccurate statements of the law. ***See***, ***e.g.***, Appellant's Brief, at 65 (defining "defense upon the merits"), 61 (citing "Reshard v. McQueen, 562 So. 2D 811 (Fla. 1st DCA 1990)")), 62 (citing ***Frow v. De La Vega***, 82 U.S. 552 (1872) for proposition that defaulting defendant could not defend a second amended complaint; in fact, ***Frow*** does not contemplate a second amended complaint). The remainder of his citations do not support the legal

positions Appellant has taken in his brief. ***See, e.g.***, Appellant's Brief, at 59-60 (citing law relating to a petition to *strike* in support of his argument that the trial court erred in granting Walters's petition to *open*). Appellant's brief, unsupported by references to the record or citation to relevant authority, does not provide this Court with any basis upon which to engage in meaningful appellate review.

Given the numerous problems with Appellant's brief, we are constrained to dismiss this appeal.[3]

Appeal dismissed. Motions denied and denied without prejudice. Judgment Entered.

/s/Joseph D. Seletyn
Joseph D. Seletyn, Esq.
Prothonotary
Date: 11/2/18

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[3] On October 5, 2018, Walters filed a "Motion for Cost of Producing the Supplemental Reproduced Record." Walters is entitled to the award of costs. ***See*** Pa.R.A.P. 2741(1). The costs recoverable include the costs of paperbooks (briefs and reproduced records). ***See*** Pa.R.A.P. 2742. However, Walters should not be seeking costs in this Court. The proper procedure is to file a bill of costs in the prothonotary of the trial court. ***See*** Pa.R.A.P. 2762(a). ***See also*** G. Ronald Darlington, et al., West's Pennsylvania Practice, Pennsylvania Appellate Practice § 2762:1, at p. 834 (2009-10 ed.) ("Except in cases that have gone to the Supreme Court, all appellate costs are to be collected in the lower court in the same manner as costs in the lower court are normally collected, that is, through a bill of costs.")

Additionally, on October 12, 2018, Walters filed a "Motion for Sanctions Against Appellant." We deny this motion. ***See*** Pa.R.A.P. 2744 ("appellate court may award as further damages costs).

APPENDIX E

IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA

CIVIL ACTION – LAW

JENN-CHING LUO
vs.
LOWE'S HOME CENTERS, LLC, JAMES R. WALTERS and CHRIS S. ERNEST

NO. 2014-09864-RC

Filed: December 27, 2017

Plaintiff, *pro se*
David S. Cohen, Esquire, Attorney for Defendant Lowe's Home Centers, LLC
Richard W. Yost, Esquire and Timothy R. Chapin, Esquire, Attorneys for Defendant James R. Walters
John J. Bateman Esquire, Attorney for Defendant Chris S. Ernest.

ORDER

AND NOW, this 27th day of December, 2017 upon consideration of Plaintiff's Petition to Vacate Arbitration Award, Defendants' response thereto, Defendants' Joint Petition to Confirm the Arbitration ward and Plaintiff's response thereto, it is hereby ORDERED and DECREED that Plaintiff's

Petition is DENIED. It is further ORDERED and DECREED that Defendants' Joint Petition is GRANTED and the arbitrator's award is CONFIRMED.[1]

BY THE COURT:

/s/JACQEULINE C. CODY
JACQUELINE C. CODY P.J.

[1] A common law arbitrator's decision may not be vacated or modified unless it is clearly shown that a party was denied a hearing or that fraud, misconduct, corruption or other irregularity caused the rendition of an unjust, inequitable or unconscionable award. 42 Pa.C.S.A.§7341

APPENDIX F

IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA

CIVIL ACTION – LAW

JENN-CHING LUO
vs.
LOWE'S HOME CENTERS, LLC, JAMES R. WALTERS and CHRIS S. ERNEST

NO. 2014-09864-RC

Filed: January 3, 2017

Plaintiff, *pro se*
David S. Cohen, Esquire, Attorney for Defendant Lowe's Home Centers, LLC
Richard W. Yost, Esquire and Timothy R. Chapin, Esquire, Attorneys for Defendant James R. Walters
John J. Bateman Esquire, Attorney for Defendant Chris S. Ernest.

ORDER

AND NOW, this 3rd day of January, 2017, upon consideration of Defendant James R. Walters' Motion to Compel Arbitration and to Dismiss Plaintiff's Second Amended Complaint, Plaintiff's response thereto and Defendant's sur-reply, it is hereby ORDERED and DECREED that Plaintiff's claims

against Defendant James R. Walters shall proceed to binding arbitration.[1]

BY THE COURT:

/s/JACQUELINE C. CODY
JACQUELINE C. CODY P.J.

[1] Where a party seeks to compel arbitration, judicial inquiry is limited to determining: (1) whether a valid agreement to arbitrate exists between the parties and, if so, (2) whether the dispute involved is within the scope of the arbitration provision. Callan v. Oxford Land Development, Inc., 858 A.2d 1229 (Pa. Super. 2004), citing, Highmark, Inc. v. Hospital Service Association of Northeastern Pennsylvania, 783 A.2d 93 (Pa. Super. 2001). In addition, when there is an unlimited arbitration clause, any dispute which may arise between the parties concerning the principal contract is to be settled pursuant to its terms. McCarl's, Inc. v. Beaver Falls Municipal Authority, 847 A.2d 180, 184 (Pa. Super. 2004). The provision at issue states: "This Contract provides that all claims by Customer [Plaintiff] or Lowe's will be resolved by BINDING ARBITRATION." Plaintiff asserts that the provision binds Lowe's and not Defendant. However, a fair reading of Plaintiff's Second Amended Complaint reveals Plaintiff's assertion that Defendant was acting as Lowe's agent and therefore, the arbitration provision includes Plaintiff's claims against Defendant. In addition, the documents attached to Plaintiff's Second Amended Complaint reference Lowe's authorized installers.

APPENDIX G

IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA

CIVIL ACTION – LAW

JENN-CHING LUO
vs.
LOWE'S HOME CENTERS, LLC, JAMES R. WALTERS and CHRIS S. ERNEST

NO. 2014-09864-RC

Filed: September 7, 2016

Plaintiff, *pro se*
David S. Cohen, Esquire, Attorney for Defendant Lowe's Home Centers, LLC
Richard W. Yost, Esquire and Timothy R. Chapin, Esquire, Attorneys for Defendant James R. Walters
John J. Bateman Esquire, Attorney for Defendant Chris S. Ernest.

ORDER

AND NOW, this 7th day of September, 2016, upon consideration of Plaintiff's Motion to Enter Default Judgment Against Defendants Lowe's Home Centers, LLC and Chris S. Ernest, both Defendants' response thereto and supplemental briefs filed by all three parties, it is hereby ORDERED and

DECREED that Plaintiff's Motion is DENIED.[1]

BY THE COURT:

/s/JACQUELINE C. CODY
JACQUELINE C. CODY P.J.

[1] Plaintiff argues that he is entitled to a default judgment against Defendants Lowe's Home Centers, LLC and Chris S. Ernest because they have failed to ask the court to stay this action pending arbitration and that they have instead stayed the arbitration by themselves. We find Plaintiff's arguments meritless. In addition, Plaintiff has once again made disparaging remarks about Defendant Chris S. Ernest's counsel. Plaintiff has been cautioned about this behavior.

APPENDIX H

IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA

CIVIL ACTION – LAW

JENN-CHING LUO, Plaintiff
vs.
LOWE'S HOME CENTERS, LLC, JAMES R. WALTERS and CHRIS S. ERNEST
Defendants

NO. 2014-09864

Filed: August 8, 2016

Plaintiff, pro se Plaintiff
David S. Cohen, Esquire, on behalf of Lowe's Home Centers, LLC
Richard W. Yost, Esquire and Timothy R. Chapin, Esquire, on behalf of Defendant James R. Walters
John J. Bateman Esquire, on behalf of Chris S. Ernest.

ORDER

AND NOW, this 8th day of August, 2016, upon consideration of Defendant James R. Walters' Petition to Strike and/or Open Default Judgment and response thereto, it is hereby ORDERED and

DECREED that the motion is GRANTED.[1] The default judgment entered January 13, 2015 against James R. Walters is OPENED. Defendant James R. Walters shall have twenty (20) days from the date of this Order to file an Answer to Plaintiff's Second Amended Complaint.

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[1] A petition to open a default judgment is an appeal to the equitable powers of the court. Allegheny Hydro No. 1 v. American Line Builders, Inc., 722 A.2d 189 (Pa. Super. 1998). A petition to open a default judgment may be granted where the party has "(1) promptly filed a petition to open; (2) provided a reasonable excuse or explanation for failing to file a responsive pleading; and (3) pleaded a meritorious defense to the allegations contained in the complaint." Myers v. Wells Fargo Bank, N.A., 986 A.2d 171, 176 (Pa. Super. 2009). In determining whether the petition has been promptly filed, the court does not apply a bright line test, but focuses on the length of delay between discovery of the entry of a default judgment and filing the petition to open judgment and the reason for the delay. Alleghery Hydro No. 1, at 193. "Whether an excuse is legitimate is not easily answered and depends upon the specific circumstances of the case." Castings Condominium Association v. Klien, 444 Pa. Super. 68, 74, 663 A.2d 220, 223-224 (1995). Where the failure to file a responsive pleading was due to an oversight, an unintentional omission to act, or a mistake of the rights and duties of the defendant, the default judgment may be opened. Flynn v. America West Airlines, 742 A.2d 695 (Pa. Super. 1999). "Excusable negligence must establish an oversight rather than a deliberate decision not to defend." Duckson v. Wee Wheelers 423 Pa. Super. 251, 259, 620 A.2d 1206, 1211 (1993) (citations omitted). The decision to grant or deny a petition to open a default judgment is within the sound discretion of the trial court. Allegheny Hydro No. 1, at 191.

A review of the record reveals the following facts. The original Complaint was filed on October 3, 2015 and served upon Defendant's girlfriend on December 2, 2014. Although Defendant claims his girlfriend did not give the Complaint to

BY THE COURT:

/s/JACQUELINE C. CODY
JACQUELINE C. CODY P.J.

Defendant, service was proper pursuant to Pa.R.C.P. 402(a)(2)(i). Defendant did not file a timely answer and Plaintiff entered a default judgment against Defendant on January 13, 2016 (sic 2015).

On April 2, 2015, Plaintiff filed an Amended Complaint and on May 6, 2015, Plaintiff filed a Second Amended Complaint. Defendant filed Preliminary Objections to Plaintiff's Second Amended Complaint on July 14, 2015. Plaintiff filed a Motion to Dismiss Defendant's Preliminary Objections on July 23, 2015. The Court dismissed Plaintiff's Motion to Dismiss Preliminary Objections on October 13, 2015 and sustained Defendant's Preliminary Objections by Order dated November 5, 2015. On November 10, 2015, Plaintiff sought reconsideration of the Court's November 5, 2015 Order based upon the default judgment entered on January 13, 2015. Reconsideration was granted on December 28, 2015 and the November 5, 2015 Order was vacated. On February 29, 2016 Defendant filed a petition to open and/or strike the default judgment.

The evidence of record shows that Defendant timely filed his petition to open and provided a reasonable excuse for failing to file an answer. Defendant claims that he never received the 10-day notice required under Pa.R.C.P.237.1(a)(2)(ii); therefore, he had no reason to know that a default judgment had been entered against him. This is evidenced by Defendant's filing of preliminary objections to Plaintiff's Second Amended Complaint on July 14, 2015. Once Plaintiff filed the Second Amended Complaint, the original Complaint was rendered a nullity. *See*, Brooks v. T&R Touring Company, 939 A.2d 398 (Pa. Super. 2007); Reichert v. TRW, Inc., Cutting Tools Division, 531 Pa. 193, 611 A.2d 1191 (1992). The Second

Amended Complaint named James R. Walters as a defendant and raised additional allegations against Defendant that were not raised in the original Complaint.

Plaintiff argues that Defendant's petition was not promptly filed because Defendant knew about the default judgment in October 2015 when Plaintiff filed his administrative conference memo, but waited four months before filing his petition to open and/or strike the judgment. Plaintiff's argument is without merit. Although Defendant discovered in October 2015 that a default judgment had been entered against him, he did not seek to open and/or strike the judgment at that time because the Second Amended Complaint had been filed and a determination on the outstanding preliminary objections had not been made. We further note that Plaintiff filed a Motion to Dismiss Defendant's Preliminary Objections on July 23, 2015 and never averred that a default judgment had been entered against Defendant in January 2013 (Sic 2015). Nor did Plaintiff's response to Defendant's preliminary objections raise this fact.

Finally, Defendant provided evidence of a meritorious defense to the claims raised by Plaintiff including breach of contract/warranty, negligence, violation of the Unfair Trade Practices and Consumer Protection Law, 75 P.S. §§201-1 *et seq.*, negligent and intentional infliction of emotional distress and punitive damages. (Defendant's Petition to Open/Strike Default Judgment, ¶¶ 94-117). The condition that a petition to open a default judgment contain a meritorious defense requires only that a defense must be pleaded that if provided at trial would justify relief. ABG Promotions v. Parkway Pub, Inc., 834 A.2d 613, 617-18 (Pa. Super. 2003) (Citations omitted)

We find that Plaintiff will not be harmed or suffer prejudice if Defendant is permitted to file an Answer at this time. The

pleadings just recently closed and discovery has not been completed. No depositions have been takes and no expert reports have been prepared. Plaintiff's Second Amended Complaint raises allegations that were not contained in the original Complaint; therefore, if any party were to suffer prejudice, it would be Defendant. Although prejudice is not a separate element to be examined by this Court,

> [W]here some showing has been made with regard to each part of the test, a court should not blinder itself and examine each part as through it were a water-tight compartment, to be evaluated in isolation from other aspects of the case. Instead, the court should consider each part in the light of all the circumstances and equities of the case.

Allegheny Hydro No. 1, at 192. However, where the defendant fails to establish all three elements of the test to open a default judgment, the court cannot open the default judgment based upon equities. Dumoff v. Spencer, 754 A.2d 1280, 1283 (Pa. Super. 2000), *citing* Allegheny Hydro No. 1, at 191-92. Because Defendant did not delay in filing a petition to open default, provided a meritorious defense, made "some showing" of a reasonable excuse for failure to timely file an answer, and Plaintiff will not suffer any prejudice by allowing Defendant to defend against these claims, the equities require the opening of the default judgment. Where the equities warrant opening a default judgment, appellate courts will not hesitate to find an abuse of discretion where the default judgment is not opened. Reid v. Boohar, 856 A.2d 156, 159 (Pa. Supper. 2004) (Citations omitted).

APPENDIX I

IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA

CIVIL ACTION – LAW

JENN-CHING LUO
vs.
LOWE'S HOME CENTERS, LLC, JAMES R. WALTERS and CHRIS S. ERNEST

NO. 2014-09864-RC

Filed: January 11, 2016

Plaintiff, *pro se*
Jennifer M. Herrmann, Esquire, Attorney for Defendant Lowe's Home Centers, LLC
Richard W. Yost, Esquire and Timothy R. Chapin, Esquire, Attorneys for Defendant James R. Walters
John J. Bateman Esquire, Attorney for Defendant Chris S. Ernest.

ORDER

AND NOW, this 11th day of January, 2016, upon consideration of Defendant Chris Ernest's Motion to Compel Binding Arbitration, Plaintiff's response thereto and Defendant's Supplemental Reply, it is hereby ORDERED and DECREED that the Motion is GRANTED and Plaintiff's claim against

Defendant Chris Ernest shall proceed to binding arbitration.[1]

BY THE COURT:

/s/JACQUELINE C. CODY
JACQUELINE C. CODY P.J.

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[1] Where a party seeks to compel arbitration, judicial inquiry is limited to determine: (1) whether a valid agreement to arbitrate exists between the parties and, if so, (2) whether the dispute involved is within the scope of the arbitration provision. Gallan v. Oxford Land Development, Inc., 858 A.2d 1229 (Pa. Super. 2004), citing, Highmark, Inc. v. Hospital Service Association of Northeastern Pennsylvania, 783 A.2d 93 (Pa. Super. 2001). In addition, when there is an unlimited arbitration clause, any dispute which may arise between the parties concerning the principal contract is to be settled pursuant to its terms. McCarl's, Inc. v. Beaver Falls Municipal Authority, 847 A.2d 180, 184 (Pa. Super. 2004). The provision at issue states: "This Contract provides that all claims by Customer [Plaintiff] or Lowe's will be resolved by BINDING ARBITRATION." Plaintiff asserts that the provision binds Lowe's and not moving Defendant. However, Plaintiff admits that moving Defendant is Lowe's employee and therefore, we find that the arbitration provision includes Plaintiff's claims against moving Defendant. Plaintiff asserts that moving Defendant has waived his right to arbitration. The waiver of the right to proceed to arbitration pursuant to the terms of a contract containing an arbitration provision should not be lightly inferred and unless the party's conduct has gained him an unfair advantage or resulted in prejudice to the other party, the party advocating for arbitration should not be held to have relinquished that right. Keystone Technology Group, Inc. v. Kerr Group, Inc., 824 A.2d 1223 (Pa. Super. 2003). We find that moving Defendant has not waived his right to request arbitration.

APPENDIX J

IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA

CIVIL ACTION — LAW

JENN-CHING LUO
vs.
LOWE'S HOME CENTERS, LLC, JAMES R. WALTERS and CHRIS S. ERNEST

NO. 2014-09864-RC

Filed: October 13, 2015

Plaintiff, *pro se*
Jennifer M. Herrmann, Esquire, Attorney for Defendant Lowe's Home Centers, LLC
Richard W. Yost, Esquire and Timothy R. Chapin, Esquire, Attorneys for Defendant James R. Walters
John J. Bateman Esquire, Attorney for Defendant Chris S. Ernest.

ORDER

AND NOW, this 13th day of October, 2015, upon consideration of Defendant Lowe's Home Centers, LLC's Preliminary Objections to Plaintiff's Second Amended Complaint and Plaintiff's response thereto, it is hereby ORDERED and DECREED that Plaintiff's claims against objecting Defendant shall

proceed to binding arbitration.[1]

BY THE COURT:

/s/JACQUELINE C. CODY
JACQUELINE C. CODY P.J.

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[1] Where a party seeks to compel arbitration, judicial inquiry is limited to determining: (1) whether a valid agreement to arbitrate exists between the parties and, if so, (2) whether the dispute involved is within the scope of the arbitration provision. Gallan v. Oxford Land Development, Inc., 858 A.2d 1229 (Pa. Super. 2004), citing, Highmark, Inc. v. Hospital Service Association of Northeastern Pennsylvania, 783 A.2d 93 (Pa. Super. 2001). In addition, when there is an unlimited arbitration clause, any dispute which may arise between the parties concerning the principal contract is to be settled pursuant to its terms. McCarl's, Inc. v. Beaver Falls Municipal Authority, 847 A.2d 180, 184 (Pa. Super. 2004). The provision at issue states: "This Contract provides that all claims by Customer [Plaintiff] or Lowe's will be resolved by BINDING ARBITRATION." Plaintiff asserts that only its claim for violation of the UPTCPL sounds in contract and that the remaining counts sound in tort. This argument was rejected by the Superior and Supreme Courts in Shadduck v. Christopher J. Kaclik, Inc., 713 A.2d 635 (Pa. Super. 1998); Borough of Ambridge Water Authority v. Columbia, 458 Pa. 546, 328 A.2d 498 (1974). Given our resolution of this Objection, we do not reach Defendant's other objections.

APPENDIX K

AMERICAN ARBITRATION ASSOCIATION

In the Matter of the Arbitration Between:
Jenn-Ching Luo (Claimant)
vs.
Lowes Home Centers, LLC, James R. Walters and Chris S. Ernest (Respondents)

Case Number: 01-17-0000-4112

Filed: July 12, 2017

AWARD OF ARBITRATOR

I, Kevin G. Amadio, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the arbitration agreement, dated May 12, 2014, entered into between the above-named Parties, with Claimant appearing *pro se*, and with Respondent Lowes Home Centers, LLC represented by David Cohen from Mintzer, Sarowitz, Zeris, Ledva & Meyers, and with Respondent James R. Walters represented by Timothy Chapin from Yost & Tretta, LLP, and with Respondent Chris S. Ernest represented by John Bateman from Lavin O'Neil Cedrone & Disipio, and having been duly sworn, and having duly heard the proofs and allegations of the Parties at an in-person hearing in Blue Bell, PA, on July 7, 2017, do hereby, FIND, as follows:

1. Claimant's claim against the Respondent Lowes

Home Centers, LLC for breach of contract is AWARDED in the amount of $2,034.07. All other damages claimed by Claimant for breach of contract against Respondent Lowes Home Centers, LLC are DENIED. All other claims by Claimant against Respondent Lowes Home Centers, LLC, including claims for negligence and violation of the Pennsylvania Unfair Trade Practice and Consumer Protection Law ("UTPCPL"), are DENIED.

2. Claimant's claim against Respondent James R. Walters for negligence is AWARDED in the amount of $2,034.07. All other damages claimed by Claimant for negligence against Respondent James R. Walters are DENIED. All other claims by Claimant against Respondent James R. Walters, including claims for breach of contract and violation of the UTPCPL, are DENIED.

3. All of Claimant's claims against Respondent Chris S. Ernest, including claims for breach of contract, negligence, and violation of the UTPCPL, are DENIED.

4. The amount awarded against Respondents Lowes Home Centers, LLC and James R. Walters are the same damages for the same loss, and I consequently find that these two Respondents are jointly and severally liable for the amount awarded.

5. Respondent Chris S. Ernest's counterclaim is DENIED.

6. The arbitration fees and arbitrator compensation and expenses are apportioned elsewhere in this Award.

7. At the hearing, all parties stipulated and agreed that Kolb Roofing Company was not a party to the arbitration and this Award makes no finding as to that entity.

Accordingly, I AWARD as follows:

> Respondents Lowes Home Centers, LLC and James R. Walters, or either of them, shall pay to Claimant the sum of Two Thousand Thirty-Four Dollars and Seven Cents ($2,034.07), and shall be jointly and severally liable for such payment. The amount of $2,034.07 represents the total sum due to Claimant.

The administrative fees of the American Arbitration Association totaling Nine Thousand Eight Hundred Fifty Dollars and Zero Cents ($9,850.00), originally paid by Respondent Lowes Home Centers, LLC and Respondent Chris S. Ernest, shall be borne as incurred, per this Award. The compensation of the arbitrator totaling Eight Thousand Two Hundred Eighty-Seven Dollars and Fifty Centers ($8,287.50), originally paid solely by Respondents, shall be borne as incurred, per this Award.

This Award is in full settlement of all claims and counterclaims submitted to this Arbitration. All

claims not expressly granted herein are hereby, denied.

/s/ Kevin G. Amadio
Arbitrator Kevin G. Amadio, Esq.

July 12, 2017