

DOCKET NO. 173

NUMBER	TERM	YEAR
119	November	1960

Commercial Credit Corporation

**VERSUS**

Paul L. Pry

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMERCIAL CREDIT CORPORATION :

VS. : No. 119 November Term, 1960

PAUL L. PRY : In Assumpsit

AMENDED ANSWER AND NEW MATTER

NOW, comes the Defendant, and in conformity with the Order of Court dated January 17th amends Defendant's answer and new matter to add the following:

(7). The fraud hereinbefore referred to perpetrated by the Killion Motors Company through its agents or employee hereinbefore referred to consisted in some or all of the following representations:

A. The Killion Motors Company through its agent or employee hereinbefore referred to represented to the Defendant that additional leases must be signed so that Defendant would have a completed copy. That said additional leases would be returned to the Defendant as required by the Motor Vehicle Sales Finance Act when completed.

B. Killion Motors Company through its agent or employee hereinbefore referred to represented that the lease would be financed as agreed between the parties at the Houtzdale Bank and any additional executed leases would be destroyed.

C. Killion Motors Company through its agent or employee hereinbefore referred to represented to Defendant that the additional papers which it required Defendant to execute were documents necessary to secure title to the motor vehicle hereinbefore referred to or to pay taxes upon the transfer of the same, or were necessary to complete the records of Killion

Motors Company and were not additional bailment leases or other financial obligations.

(8). The fraud hereinbefore referred to perpetrated by the Killion Motors Company through its agent or employee hereinbefore referred to consisted of the following devices: Killion Motors Company through its agent or employees hereinbefore referred to would incorrectly complete a bailment lease, would spill ink thereon or would transfer the same to a desk drawer and then represent to Defendant that because of the occurrences of the aforementioned happenings a new lease must be executed.

(9). Killion Motors Company through its agent or employee hereinbefore referred to at the time of such representations knew that said representations were false and at the time of said devices intended to and did in fact defraud the Defendant by securing the execution of one or more bailment leases intending thereby to defraud the Defendant.

(10). In all other respects the averments of the answer and new matter as previously filed are herein incorporated and reaverred.

WHEREFORE, Defendant denies that he is indebted to the Plaintiff in any sum.

SMITH, SMITH AND WORK

By

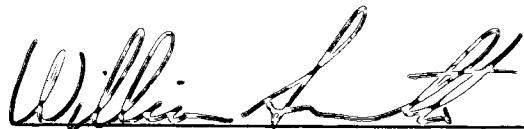
  
\_\_\_\_\_  
Attorneys for Defendant

STATE OF PENNSYLVANIA:

SS

COUNTY OF CLEARFIELD:

WILLIAM U. SMITH, being duly sworn according to law,  
deposes and says he is the Attorney for the within Defendant, and the facts  
set forth in the foregoing Amended Answer and New Matter are true and correct  
to the best of his knowledge, information and belief.



Sworn and subscribed to  
before me this 28th day  
of February, 1962.



**NOTARY PUBLIC**  
My Commission Expires  
JANUARY 7, 1963

*Rainey*  
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 119 November Term, 1960  
In Assumpsit

COMMERCIAL CREDIT CORPORATION

VS.

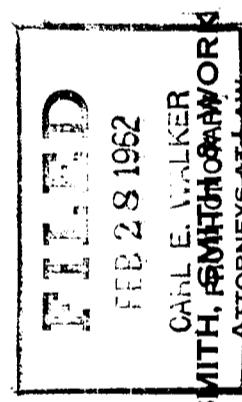
PAUL L. PRY

AMENDED ANSWER AND NEW  
MATTER

To the within Plaintiff:

You are hereby notified  
to plead to the within amended  
answer and new matter within  
twenty days from the service  
hereof.

SMITH, SMITH AND WORK  
By *William Rainey*  
Attorneys for Defendant



*3/1/62 Service accepted*  
*W. E. Rainey*  
*Acc for Dep*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

COMMERCIAL CREDIT CORPORATION :  
: :  
-vs- : No. 119 November Term, 1960.  
: :  
PAUL L. PRY : :  
:

O P I N I O N

In this action of assumpsit, following the completion of the pleadings, the plaintiff has made a motion for judgment on the pleadings, under Civil Procedural Rule 1034.

The situation between the plaintiff and defendant arises from the assignment to plaintiff of a bailment lease executed by defendant, for the purchase of an automobile by the defendant from Killion Motors. The plaintiff has attached a true copy of the bailment lease to its complaint, and avers the defendant has refused to make payments in accordance with the terms of the bailment lease.

The defendant admits the bailment contract attached to the complaint, or rather upon which the action has been brought, was executed by him, but that it was obtained by fraud, and that the defendant had executed another bailment contract for the same motor vehicle at the request of Killion Motors, that this bailment lease had been transferred to the Houtzdale National Bank, and defendant was making payments thereon to the Houtzdale National Bank.

The defendant then set up in new matter an averment that after the defendant had purchased the car from Killion Motors, and executed a bailment lease therefor, the Houtzdale National Bank was assigned the bailment lease, the defendant made payments thereon to the Houtzdale National Bank. Thereafter the Killion Motors, through its sales manager, "obtained execution of an additional bailment lease by fraud and for no consideration, the exact nature of which the defendant cannot recall, but avers that he believes the said agent through trick, device and fraud secured unknown to him his execution of more than one bailment lease, and that he later assigned the additional copies to plaintiff".

Three other actions in assumpsit were instituted by the plaintiff in the instant action, one against William and Gertrude Stiner to No. 120 November Term, 1960, one against Robert G. Ohs to No. 122 November Term, 1960, and one against Willomina Fetter to No. 121 November Term, 1960, all in the Court of Common Pleas of Clearfield County, and with the exception of the action against Willomina Fetter, the pleadings and the averments therein contained both in the complaint, answer, new matter, and reply to new matter, are the same except as to amounts, dates and the name of the agent of Killion Motors.

In the Willomina Fetter case, a difference occurs, in that Willomina Fetter in answer and new matter avers that the first bailment lease executed by her was with Killion Motors,

and transferred to plaintiff corporation to whom she made one payment. That later an authorized agent of Killion Motors represented to her that Commercial Credit Corporation, the plaintiff, would not accept assignment of her lease, and that if she would execute another lease it would be assigned to the Houtzdale National Bank. Willomina Fetter executed the additional lease which was assigned to Houtzdale National Bank and to which she has been making payments. No further payments were made to the plaintiff.

All of these cases, at the close of the pleadings, with the filing of the plaintiff's reply to new matter, were placed upon the trial list for trial before a jury for the September Term of Court, and were continued at the request of the plaintiff. Subsequently on September 25, 1961, the present motion for judgment on the pleadings, under the provisions of Civil Procedural Rule 1034 was filed in each of the designated actions.

None of the defendants deny the execution of the bailment lease upon which the plaintiff brings its action, nor do any of them deny that Killion Motors had the lease and assigned it to the Commercial Credit Corporation, the plaintiff, nor do they deny the averment that they paid no monies to the Commercial Credit Corporation.

The only defense set up is that specially pleaded in new matter, and is the allegation of fraud, trick or device upon them in obtaining the bailment lease by Killion Motors and which

were transferred to the plaintiff. The plaintiff urges the insufficiency of the pleading of fraud, since the pleading does not sufficiently aver any fact or facts which constitute fraud, but at most, states a legal conclusion, but not a fact or facts upon which such a conclusion or inference might be based. Citing, SHINN VS. STEMLER, 161 Pa. Superior Ct. 363; ROSS VS. SUBURBAN COUNTIES REALTY CORP., 356 Pa. 126; CHAMBERS VS. BEAVER ADVANCE CORP, 392 Pa. 481.

Thus fraud must be pleaded specifically, and by facts from which an inference of fraud might arise. The pleading in the instant case in new matter, does not plead fraud sufficiently by averment of fact or facts.

In reviewing the situation presented by the pleadings, it is obvious that Killion Motors obtained two bailment leases which Killion Motors sold or transferred to both the Houtzdale Bank and the Commercial Credit Corporation, for the same automobile and the same sale. Somewhere in this transaction, as well as the other three noted herein, the defendant should be able to aver a fact or facts sufficient to avoid judgment on the pleadings, or binding instructions if submitted to a jury trial. The record indicates numerous interrogatories and depositions were taken, and from these there should be facts to be gleaned to the advantage of the defendant in his *plea* of fraud. A wide latitude is allowed in alleging and proving fraud when once the fact or facts which the defendant believes constitutes fraud have been pleaded.

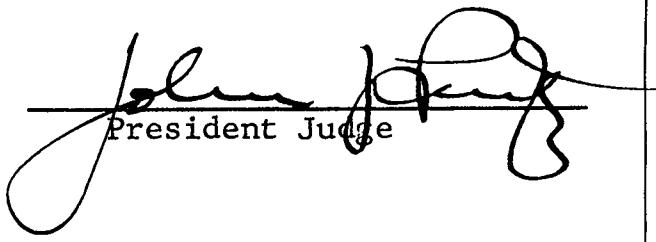
Since the motion for judgment on the pleadings is in effect a demurrer, BOGOJAVLENSKY VS. LOGAN, 181 Pa. Superior Ct. 312, the judgment will not be entered but the defendant will be given an opportunity to amend the new matter.

In the case against Willomina Fetter to No. 121 November Term, 1960, as noted previously, the fraud has been sufficiently pleaded and an order in that case will be made overruling the motion for judgment on the pleadings.

O R D E R

NOW, January 17, 1962, motion for judgment on the pleadings dismissed. Defendant to file an amendment to New Matter within twenty (20) days. Exception noted.

BY THE COURT,



John J. Dugan  
President Judge

**JOHN J. PENTZ**

PRESIDENT JUDGE

**CLEARFIELD, PENNSYLVANIA**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMERCIAL CREDIT CORPORATION :

VS :

PAUL L. PRY, : No. 119 November Term, 1960  
WILLIAM AND GERTRUDE STINER : No. 120 November Term, 1960  
WILLOMINA FETTER : No. 121 November Term, 1960  
ROBERT G. OHS. : No. 122 November Term, 1960

IN ASSUMPSIT

MOTION FOR PRODUCTION OF DOCUMENTS  
AND RIGHT OF INSPECTION

TO THE HONORABLE JOHN J. PENTZ, PRESIDENT JUDGE OF SAID COURT:

AND NOW, the ~~5<sup>th</sup>~~ day of *March*, 1962, Defendants,  
by their attorney, William U. Smith, moves the Court for an order directing  
C.B. McLAUGHLIN, Assistant Treasurer of Commercial Credit Corporation,  
to produce and permit the inspection of tangible things, pursuant to Pa. R.C.P.  
No. 4009(l) on the ~~20~~ day of *March*, 1962, at the Grand Jury Room,  
Clearfield County Court House, Clearfield, Pennsylvania.

The items to be produced for inspection are:

All receipts, cancelled checks, correspondence, agreements, notebooks, or any other documentary evidence relating to the dealings of Commercial Credit Corporation and Killion Motors Company which make reference to or relate to, either by inference or expression, to the transactions between Paul L. Pry, Robert G. Ohs, Willomina Fetter, and William and Gertrude Stiner, Killion Motors Company and the Plaintiff.

The said items are in the possession, custody or control of the said C.B. McLaughlin, Assistant Treasurer of Commercial Credit Corporation.

The scope of the inspection will be as follows:- visual inspection, copying and/or photocopying, and oral examination.

-2-

The inspection will be made by the Defendants and by their  
attorneys.

SMITH, SMITH & WORK

BY

Attys for Defendants

*Joseph P. Work*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMERCIAL CREDIT CORPORATION :

VS :

PAUL L. PRY, : No. 119, November Term, 1960  
WILLIAM AND GERTRUDE STINER, : No. 120, November Term, 1960  
WILLOMINA FETTER, : No. 121, November Term, 1960  
ROBERT G. OHS : No. 122, November Term, 1960

O R D E R

AND NOW, the 5 day of *March*, 1962, C.B.

McLAUGHLIN, Assistant Treasurer of Commercial Credit Corporation, is directed to produce and make available to the above Defendants and their Attorneys the following designated tangible things: All receipts, cancelled checks, correspondence, agreements, notebooks, or any other documentary evidence relating to the dealings of Commercial Credit Corporation and Killion Motors Company which make reference to or relate to, either by inference or expression, to the transactions between Paul L. Pry, Robert G. Ohs, Willomina Fetter and William and Gertrude Stiner, Killion Motors Company and the Plaintiff, which tangible things are in the possession, custody or control of C.B. McLaughlin, for the purpose of examination, inspection and/or reproduction.

The said tangible things are to be produced at the Grand Jury Room, Clearfield County Court House, Clearfield, Pennsylvania, at 10 A.M., *March 21*, 1962.

BY THE COURT

*John F. Pug*  
F.J.

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
Nos. 119, 120, 121 and 122,  
November Term, 1960

COMMERCIAL CREDIT CORPORATION  
VS

PAUL L. PRY,  
WILLIAM AND GERTRUDE STINER,  
WILLOMINA FETTER,  
ROBERT G. OHS

MOTION FOR PRODUCTION OF  
DOCUMENTS AND RIGHT OF IN-  
SPECTION and ORDER

SMITH, SMITH & WORK  
ATTORNEYS-AT-LAW  
CLEARFIELD, PA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

COMMERCIAL CREDIT CORPORATION )  
Vs. ) No. 119 November Term, 1960  
PAUL L. PRY ) In Assumpsit

REPLY TO AMENDED ANSWER AND NEW  
MATTER

(7) Plaintiff after reasonable investigation is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph (7) of the Amended Answer and New Matter, and the said averments are therefore denied. Plaintiff demands proof thereof at the trial of this case. However, by way of further Reply, plaintiff avers that even if the averments of Paragraph (7) are true, the defendant was not justified in relying on the representations alleged and was defrauded by his own neglect of duty in executing such papers under such circumstances, and in not determining for himself the truth or falsity of such representations or taking any care or precaution to see that said representations were true and/or fulfilled and that he was not defrauded.

(8) Plaintiff after reasonable investigation is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph (8) of the Amended Answer and New Matter, and the said averments are therefore denied. Plaintiff demands proof thereof at the trial of this case. However, by way of further Reply, plaintiff avers that even if the averments of Paragraph (8) are true, the defendant was not justified in relying on the representations alleged and was defrauded by his own neglect of duty in executing such papers under such circumstances, and in not determining for himself the

truth or falsity of such representations or taking any care or precaution to see that said representations were true and/or fulfilled and that he was not defrauded.

(9) Plaintiff after reasonable investigation is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph (9) of the Amended Answer and New Matter, and the said averments are therefore denied. Plaintiff demands proof thereof at the trial of this case. However, by way of further Reply, plaintiff avers that even if the averments of Paragraph (9) are true, the defendant was not justified in relying on the representations alleged and was defrauded by his own neglect of duty in executing such papers under such circumstances, and in not determining for himself the truth or falsity of such representations or taking any care or precaution to see that said representations were true and/or fulfilled and that he was not defrauded.

(10) In all other respects the averments of the Reply to New Matter as previously filed are herein incorporated and reaverred.

WHEREFORE, plaintiff claims judgment against the defendant as prayed for in the Complaint.

FLEMING & LITKE

BY



COMMONWEALTH OF PENNSYLVANIA      }  
COUNTY OF Centre                      } SS:

Before me, the undersigned, personally appeared C. B. McLAUGHLIN, Office Manager, of the Altoona Branch, COMMERCIAL CREDIT CORPORATION, who being duly sworn according to law, deposes and says that the facts set forth in the foregoing Reply to AMENDED ANSWER and NEW MATTER are true and correct to the best of his knowledge, information and belief.

Sworn to and subscribed  
before me this 27~~4~~ day  
of March, 1962.      }

Celia M. Lucas      }

C B McLaughlin

CELIA M. LUCAS, Notary Public  
BELLEPONTE, CENTRE CO., PA.  
My Commission expires Mar. 3, 1963

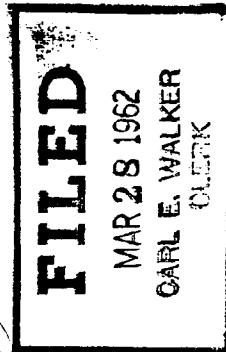
*Joe Harsch*  
In the Court of Common Pleas  
of Clearfield County, Pa.  
No. 119 November Term, 1960

COMMERCIAL CREDIT CORP.

vs.

PAUL L. PRY

REPLY TO AMENDED ANSWER  
AND NEW MATTER



FLEMING & LITKE  
ATTORNEYS AT LAW  
BELLFONTE, PENNSYLVANIA

*Received by messenger  
from & to my office  
1/18/62*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

COMMERCIAL CREDIT CORPORATION )  
                                    )  
                                    vs.                    ) No. 119, NOVEMBER TERM, 1960  
                                    )  
PAUL L. PRY                    ) IN ASSUMPSIT

MOTION FOR PRODUCTION OF DOCUMENTS & RIGHT OF INSPECTION

TO THE HONORABLE J. J. PENTZ,  
President Judge of Said Court;

AND NOW, January \_\_\_, 1961, Commercial Credit  
Corporation, plaintiff, by its attorney, \_\_\_\_\_  
moves the Court for an order directing PAUL L. PRY, defendant  
herein, to produce and permit the inspection of tangible things,  
pursuant to Pa. R. C. P. No. 4009 (1) on February /0, 1961, at  
10:00 A.M. at the Grand Jury Room, Clearfield County Court House,  
Clearfield, Pennsylvania.

The items to be produced for inspection are:

All receipts, agreements, releases, leases, assignments,  
cancelled checks, data and/or books of record relating to the  
alleged purchase of a 1960 Valiant 4-Door Sedan, Serial No. 1302-  
210782 by Paul L. Pry from Killion Motors Company.

The said items are in the possession, custody or control  
of the said Paul L. Pry.

The scope of the inspection will be as follows: visual

inspection, copying and/or photocopying.

The inspection will be made by personnel of COMMERCIAL CREDIT CORPORATION and its attorneys.

Atticus or title  
Attorney for Commercial Credit Corporation

ORDER OF COURT

AND NOW, January 26, 1961, PAUL L. PRY is directed to produce and make available to COMMERCIAL CREDIT CORPORATION and its attorneys the following designated tangible things: Any receipts, agreements, releases, leases, assignments, cancelled checks, data and/or books of record relating to the alleged purchase of a 1960 Valiant 4-Door Sedan, Serial No. 1302-210782 by Paul L. Pry from Killion Motors Company, which tangible things are in the possession, custody or control of Paul L. Pry, for the purpose of examination, inspection and/or reproduction.

The said tangible things are to be produced at the Grand Jury Room, Clearfield County Court House, Clearfield County, Pennsylvania, at 10:00 A.M. February 10, 1961.

By the Court,

John F. Pendleton  
P.J.

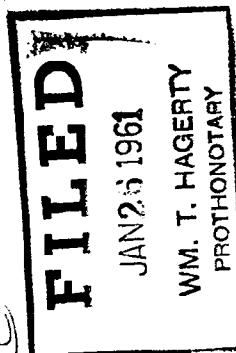
IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
No. 119, NOVEMBER TERM, 1960

COMMERCIAL CREDIT CORPORATION

vs.

PAUL L. PRY

MOTION FOR PRODUCTION  
OF DOCUMENTS & RIGHT  
OF INSPECTION



FLEMING & LITKE  
ATTORNEYS AT LAW  
BELLEFONTE, PENNSYLVANIA

*prop of [unclear]  
brought by [unclear] on [unclear] 1961, removed to  
[unclear] by [unclear] on [unclear]*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

COMMERCIAL CREDIT CORPORATION :  
VS. : No. 119 November Term, 1960  
PAUL L. PRY : In Assumpsit

MOTION FOR JUDGMENT

TO THE HONORABLE JOHN PENTZ, President Judge of Said Court:

COMMERCIAL CREDIT CORPORATION, comes by its attorney, William W. Litke, Esquire, and moves the Court for judgment on the pleadings and hereby assigns the following reasons therefor:

1. Paragraph 3 of the Answer admits the execution of the Lease Agreement which forms the basis of plaintiff's claim.
2. Although Paragraph 4 of the Answer pleads lack of consideration and fraud, no supporting facts are given.
3. Paragraph 5 of the Answer admits the defendant has made no payment to plaintiff, and pleads that defendant is not indebted to plaintiff, but no supporting facts are given.
4. Paragraph 6 of the Answer admits the plaintiff has demanded payment from the defendant, but denies that such demands are just, although no supporting facts are given.

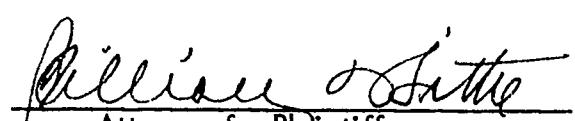
5. Paragraph 7 of the Answer denies the defendant is indebted to plaintiff, but no supporting facts are given.

6. Although Paragraphs 4 and 6 of the "New Matter" in defendant's Answer plead fraud and lack of consideration, no supporting facts are given.

7. The Answer is argumentative, vague and indefinite and not responsive.

8. The Answer and New Matter are violative of the parol evidence rule.

WHEREFORE, plaintiff moves the Court to enter judgment in favor of the plaintiff and against the defendant.

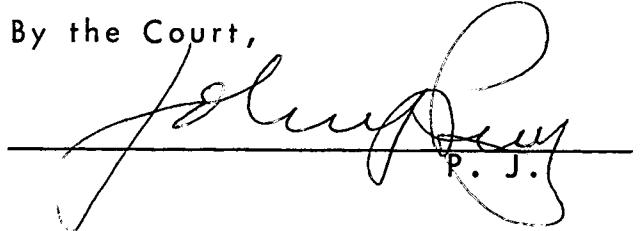
  
\_\_\_\_\_  
William S. Little  
Attorney for Plaintiff

RULE TO SHOW CAUSE

AND NOW, this 27 day of September, 1961, upon consideration of the within Motion, a rule is hereby entered upon defendant to show cause why judgment should not be entered as prayed for.

Returnable the 1st day of Oct, 1961, M.,  
at \_\_\_\_\_.

By the Court,



John P. Murphy  
P. J.

Service accepted in my office 9/22/64

W.W.L. H  
Atty, Jr., Del

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PA.  
No. 119 November Term, 1960  
In Assumpsit

COMMERCIAL CREDIT CORP.

VS.

PAUL L. PRY

MOTION FOR JUDGMENT

(6)

WILLIAM T. MCGINNIS  
REGISTRAR

FLEMING & LITKE  
ATTORNEYS AT LAW  
BELLEFONTE, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

**PETITION FOR EXTENSION OF TIME FOR FILING  
ANSWER TO NEW MATTER; ORDER OF COURT**

TO THE HONORABLE JOHN J. PENTZ,  
President Judge of said Court:

The Petition of Plaintiff above, Commercial Credit  
Corporation respectfully represents:

1. Petitioner instituted suit against Defendant, in  
assumpsit, based upon a commercial instrument executed by the  
Defendant to Killion Motors Company, and purchased by Plaintiff  
from said Killion Motors Company for the consideration of Two  
Thousand Three Hundred Forty-Six Dollars and Twelve Cents  
(\$2,346.12). Defendant defaulted in repayment of the money.

2. Defendant, in his New Matter, denies liability on said instrument, alleging, inter alia, that said instrument was procured by fraud practiced upon him by Earl Killion, agent for Killion Motors, and that Defendant received no consideration therefor.

3. Petitioner has no personal knowledge of any fraud practiced upon Defendant and Petitioner did not participate in any of the transactions set forth in said New Matter, but said transactions occurred between the Defendant and other persons.

4. It will be necessary for Petitioner to proceed by

Discovery Proceedings and further investigation, in order to acquire the information necessary to make specific Answer to said New Matter.

WHEREFORE, your Petitioner respectfully prays your Honorable Court to enter an order extending the time for the filing of an Answer to said New Matter for a period of twenty (20) days subsequent to the completion of said Discovery Proceedings.

William W. Little  
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA )  
 ) SS:  
COUNTY OF CENTRE )

C. B. McLAUGHLIN, being duly sworn according to law,  
deposes and says that he is Assistant Treasurer of Commercial Credit  
Corporation with place of business in Altoona, Blair County, Penn-  
sylvania, a corporation, and as such is authorized to take this  
affidavit, that he is personally acquainted with the facts set forth  
in the foregoing Petition, and that the same are true and correct  
to the best of his knowledge, information and belief.

Sworn to and subscribed  
before me this 13<sup>th</sup> day  
of January, 1961 )

Celia's. Lucas

CELIA M. LUCAS, Notary Public  
BELLEFONTE, CENTRE CO., PA.  
My Commission expires Mar. 3, 1968

C. B. McLaughlin

ORDER OF COURT

AND NOW, this ~~16~~ day of January, 1961, upon consideration of the within Petition, the time for the filing of a responsive Answer to the New Matter of Defendant in the above matter, is extended for a period of twenty (20) days subsequent to the completion of Discovery Proceedings which shall be initiated by the Plaintiff within ten (10) days from the date of this Order of Court.

By the Court,



P. J.

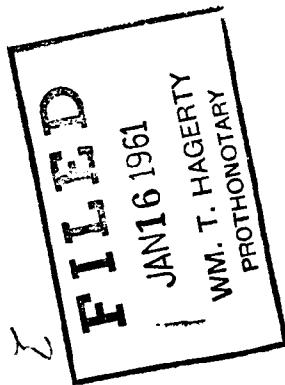
IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNA.  
No. 119, November Term, 1960  
IN ASSUMPSIT

COMMERCIAL CREDIT CORPORATION

vs.

PAUL L. PRY

PETITION FOR EXTENSION OF TIME FOR  
FLILING ANSWER TO NEW MATTER;  
ORDER OF COURT



FLEMING & LITKE  
ATTORNEYS AT LAW  
BELLEFONTE, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMERCIAL CREDIT CORPORATION : :

VS : No. 119 November Term, 1960

PAUL L. PRY : In Assumpsit

PRAECIPE FOR APPEARANCE

TO WILLIAM T. HAGERTY, PROTHONOTARY

SIR:

Enter our appearance on behalf of the Defendant in the  
above entitled matter.

SMITH, SMITH & WORK

BY William H. Smith  
Attys. for Defendant

Dated: November 29, 1960

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMERCIAL CREDIT CORPORATION :

No. 119 Novemper Term, 1960 :

In Assumption : PAUL L. PRY

PRINCIPLE FOR APPEARANCE

TO WILLIAM T. HAGERTY, PROTHONOTARY

SIR:

Butter out appearance on behalf of the Defendant in the

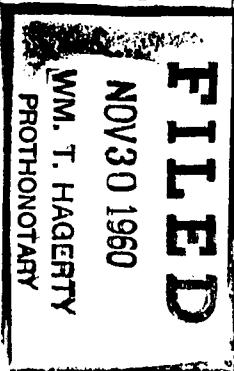
above entitled matter.

SMITH, SMITH & WORK

By

Attn: for Defendant

Dated: Novemper 29, 1960



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Commercial Credit Corporation : No. 119 November Term, 1960

vs

1

Paul L. Pry : Complaint In Assumpsit

NOW, November 28, 1960 at 1:30 o'clock P.M. service of the within  
Complaint In Assumpsit for Paul L. Pry accepted by W. U. Smith,  
Smith, Smith and Work, Attorney for Paul L. Pry.

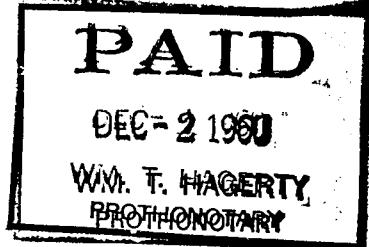
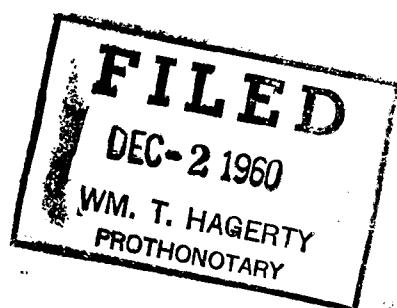
COSTS: Sheriff Ammerman \$3.00  
(Paid)

So answers,

CHARLES G. AMMERMAN  
Sheriff

Sworn to before me this 28th  
day of November A. D. 1960.

Am. I. Property  
Prothonotary



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

COMMERCIAL CREDIT CORPORATION :

vs. : : No. 119, November Term, 1960  
: :  
PAUL L. PRY : : In Assumpsit

REPLY TO NEW MATTER

(1). Plaintiff admits that Defendant purchased the car identified in Plaintiff's Complaint, but whether said car as actually purchased on July 2, 1960 or July 6, 1960, is not known to Plaintiff. Plaintiff admits that Defendant traded in a Chrysler car, but denies that said car had a value of \$855.00, in further answer thereto alleges that Defendants' equity in said car was only \$446.96; Plaintiff further denies that the loan secured from the Houtzdale Bank constituted further consideration; and in further answer Plaintiff alleges that Defendant executed commercial paper, in the nature of a lease, being Plaintiff's Exhibit "A", to Killion Motors, in the amount of \$2,346.12, which lease was assigned by Killion Motors to Plaintiff, Plaintiff paying therefor the said consideration of \$2,346.12.

(2). Admitted that Defendant executed a Bailment Lease with Killion Motors Company which was assigned to the Houtzdale Bank; Plaintiff has no knowledge as to whether said lease was assigned on the same date as that of the transaction; admitted that Defendant secured title to said vehicle with encumbrance in favor of Houtzdale Bank.

(3). Admitted.

(4). It is denied that Defendant purchased said car and paid therefor by moneys advanced by the Houtzdale Bank. In further answer thereto, Plaintiff alleges that under a Floor Plan with Killion Motors, said Killion Motors was authorized to deliver title to said car to Defendant upon assignment by Killion Motors of said lease agreement, Plaintiff's Exhibit "A".

(5). Plaintiff denies that Defendant received no consideration from either Killion Motors or Commercial Credit Corporation; in further answer Plaintiff alleges that the delivery of said automobile, which was on Floor Plan, and the execution by Defendant of the lease to Killion Motors and its assignment to Plaintiff, constituted such consideration.

(6). Plaintiff denies that it had constituted Killion Motors its agent, to sell said cars, and denies that it had placed said Killion Motors in any position to perpetrate the fraud alleged by defendant. Plaintiff denies that it is bound by the acts of Killion Motors or that it had any prior knowledge of the sale of such cars or that it approved of such sales.

FLEMING & LITKE

by Fleming & Litke

COMMONWEALTH OF PENNSYLVANIA :

COUNTY OF CENTRE :

C. B. McLAUGHLIN, being duly sworn according to law, deposes and says that he is Assistant Treasurer of Commercial Credit Corporation with place of business in Altoona, Blair County, Pennsylvania, a corporation, and as such is authorized to take this affidavit, that he is personally acquainted with the facts set forth in the foregoing Reply and that the same are true and correct to the best of his knowledge, information and belief.

Sworn to and subscribed  
before me this 7th day  
of April, 1961.

C. B. McLaughlin

Celia M. Lucas  
CElia M. LUCAS, Notary Public  
BELLEFONTE, CENTRE CO., PA.  
My Commission expires Mar. 3, 1963

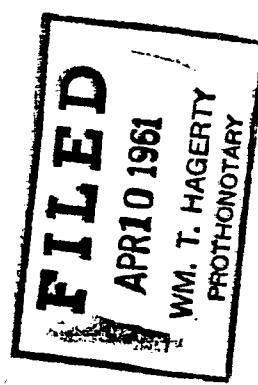
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 119, November Term, 1960  
In Assumption

COMMERCIAL CREDIT CORP.

VS.

PAUL L. PRY

REPLY TO NEW MATTER



W. Albert Ramey, Esq.  
Cleff Fleming Pa  
ATTORNEYS AT LAW  
BELLFONTE, PENNSYLVANIA

*Signature*  
12/10/13 Owner has no address

3  
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMERCIAL CREDIT CORPORATION : :

VS : No. 119 November Term, 1960

PAUL L. PRY : In Assumpsit

P R A E C I P E

TO WILLIAM T. HAGERTY, PROTHONOTARY

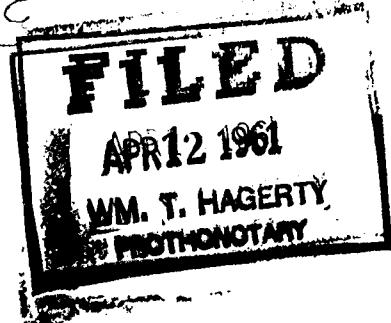
SIR:

Place the above case on the trial list for the next term of court.

SMITH, SMITH & WORK

BY W.U.S.  
Attys. for Defendant

Dated: April 12, 1961



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

COMMERCIAL CREDIT CORP. : No. 119, November Term, 1960  
VS. : In Assumpsit  
PAUL L. PRY :

## NOTICE OF TAKING OF ORAL DEPOSITIONS

TO: Smith, Smith & Work  
Attorneys at Law  
Clearfield, Pennsylvania  
Attorneys for Paul L. Pry and The Houtzdale Bank

Eugene Cimino, Esq.  
Osceola Mills, Pennsylvania and  
John McCamley, Esq.  
Philipsburg, Pennsylvania  
Attorneys' for Earl Killion and Richard J. Petrovich

Please take notice that pursuant to Pa. R. C. P. No. 4007 on February 10, 1961, at 10:00 A.M., and at any and all adjournments thereof before, William Haggerty, Prothonotary of Clearfield County, the plaintiff in this action will take the oral depositions of the following:

Paul L. Pry  
West Decatur, Penna.

The Houtzdale Bank  
Houtzdale, Penna.

Earl Killion, 308 Curtin St.,  
Osceola Mills, Penna.

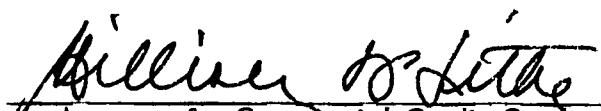
Richard J. Petrovich  
Philipsburg, Penna.

upon oral examination at the Grand Jury Room, Clearfield  
County Court House, Clearfield County, Pennsylvania.

The scope of the depositions will encompass the

witnesses knowledge of the sale, or other disposition, or transfer, of a 1960 Valiant 4-door Sedan automobile, Serial No. 1302-210782, allegedly purchased by Paul L. Pry from Killion Motors, or any transaction involving the same.

The purpose of these depositions is to aid in the preparation of a Reply by plaintiff to defendant's Answer and New Matter. These witnesses will also be interrogated as to their knowledge of the identity and whereabouts of other witnesses having information relevant to this action.

  
\_\_\_\_\_  
William D. Little  
Attorney for Commercial Credit Corp.,  
Plaintiff

DATED: January 24, 1961

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNA.  
No. 119, November Term, 1960  
In Assumpsit

COMMERCIAL CREDIT CORP.

VS.

PAUL L. PRY

NOTICE OF TAKING OF ORAL  
DEPOSITIONS

John T. Fleming  
Attala, S. & S.  
Vern J. Litzke  
Fleming & Litzke  
Bellefonte, Pennsylvania

FLEMING & LITKE  
ATTORNEYS AT LAW  
BELLFONTE, PENNSYLVANIA

John T. Fleming  
Attala, S. & S.  
Vern J. Litzke  
Fleming & Litzke  
Bellefonte, Pennsylvania

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMERCIAL CREDIT CORPORATION :

VS : No. 119 November Term, 1960

PAUL L. PRY : In Assumpsit

A N S W E R

(1). The averment of Paragraph 1 is admitted.

(2). The averment of Paragraph 2 is admitted.

(3). The averments of Paragraph 3 are denied. In answer thereto, it is averred on July 6, 1960, the said Defendant did purchase the car identified in Paragraph 3 from Killion Motors Company, and secured the money for purchase by trading in a Chrysler which he then owned and by borrowing from the Houtzdale Bank the sum of \$2122.40. It is further averred that the Defendant did execute Plaintiff's Exhibit A, but the same execution was secured through fraud as will be averred more particularly under New Matter and there was no consideration therefor.

(4). After Defendant had purchased this car and paid therefor by money advanced by the Houtzdale Bank, and after the original Bailment Lease had been assigned to the Houtzdale Bank, Killion Motors Company, through its agent or employee, Earl Killion, secured Defendant's execution of additional bailment leases by fraud and for no consideration, the exact nature of which said Defendant cannot recall, but he avers that he believes the said Earl Killion through trick, device and fraud secured, unknown to him, his execution of more than one bailment lease and that he later assigned the additional copies to Plaintiff herein.

(5). It is admitted the Defendant has made no payments to Plaintiff. It is averred, however, that is because he is not indebted to Plaintiff, and it is further averred that Defendant has made all payments required of him under his obligation for this car to the Houtzdale Bank, the party entitled to said payments.

(6). It is admitted the Plaintiff has demanded payment from Defendant, but it is denied said demands are just.

(7). It is denied the Defendant is indebted to Plaintiff.

NEW MATTER

(1). It is averred that on July 6, 1960, the Defendant purchased from Killion Motors of Philipsburg, Pennsylvania, the car identified in Paragraph 3 of Plaintiff's Complaint. As consideration therefor, the Defendant traded-in a Chrysler with a value of \$855.00, and secured a loan from the Houtzdale Bank in the amount of \$2122.40.

(2). At the time of this transaction, the Defendant executed a Bailment Lease with Killion Motors Company which was assigned on the same date to the Houtzdale Bank. As a result of said assignment, the Defendant secured a title for said motor vehicle in his name with an encumbrance noted in favor of the Houtzdale Bank on July 19, 1960.

(3). The Defendant has been making all payments as required to and through the Houtzdale Bank.

(4). After Defendant had purchased this car and paid therefor by money advanced by the Houtzdale Bank, and after the original Bailment Lease had been assigned to the Houtzdale Bank, Killion Motors, through its agent or employee, Earl Killion, secured Defendant's execution of additional bailment leases by fraud and for no consideration, the exact nature of which the Defendant cannot recall, but he avers that he believes the said Earl Killion through trick, device and fraud secured, unknown to him, his execution of more than one bailment lease and that he later assigned the additional copies to Plaintiff herein.

(5). The Defendant received no consideration or any other benefit from either Killion Motors or Commercial Credit Corporation, and, therefore, said contract, in addition to being invalid because of fraud, is also invalid because of lack of consideration.

(6). Plaintiff placed these cars with Killion Motors and under the terms of an agreement, the exact nature of which is unknown to the Defendant, the Defendant believes and, therefore, avers that the Plaintiff constituted Killion Motors its agent to sell said cars and placed the said Killion Motors Company in position to perpetrate said fraud. As such, Plaintiff is bound by the acts of Killion Motors. Further, Plaintiff prior to this transaction had knowledge, through its agents and employees, that Killion Motors was selling these cars and approved of said sales.

WHEREFORE, Defendant denies he is indebted to Plaintiff.

SMITH, SMITH & WORK

BY 

Attys. for Defendant

STATE OF PENNSYLVANIA:

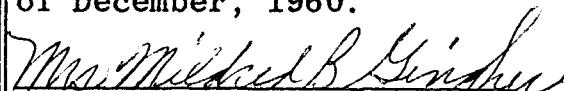
SS

COUNTY OF CLEARFIELD :

PAUL L. PRY, being duly sworn according to law, deposes and says the facts set forth in the foregoing Answer and New Matter are true and correct to the best of his knowledge, information and belief.

  
(Paul L. Pry)

Sworn and subscribed to  
before me this 19<sup>th</sup> day  
of December, 1960.



NOTARY PUBLIC  
My Commission Expires  
JANUARY 7, 1963

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
NO. 119 November Term, 1969  
In Assumpsit

COMMERCIAL CREDIT CORP.

VS.

PAUL L. PRY

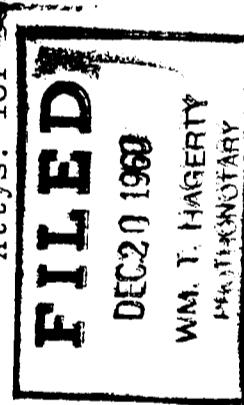
ANSWER and NEW MATTER

TO THE PLAINTIFF:

You are hereby required  
to file defensive pleadings  
to the within New Matter within  
twenty days from service  
hereof.

SMITH, SMITH & WORK

BY *W. H. S.*  
Atty's. for Plaintiff



ATTORNEYS-AT-LAW  
CLEARFIELD, PA.

Lap-over Margin

12/27/69 - Service of complaint  
6 County Junc  
Aug 10, 1969

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

COMMERCIAL CREDIT CORPORATION )  
vs. ) No. 119, Nov. Term, 1960  
PAUL L. PRY ) IN ASSUMPSIT

COMPLAINT

1. The Plaintiff herein is Commercial Credit Corporation, a corporation with place of business at 217 East Plank Road, Altoona, Blair County, Pennsylvania.

2. The defendant herein is Paul L. Pry, of R. D. #1, West Decatur, Clearfield County, Pennsylvania.

3. On July 2, 1960, Defendant, Paul L. Pry, purchased a 1960 Valiant (made by Chrysler) 4-Door Sedan, Serial No. 1302-210782, automobile from Killion Motors, Philipsburg, Pennsylvania, and executed to said Killion Motors, as security for the financing of said purchase, a Lease Agreement, in the sum of \$2,346.12, payable in thirty-six (36) monthly instalments of \$65.17 each, the first instalment payable August 16, 1960. A true and correct copy of said agreement is hereto attached and marked "Plaintiff's Exhibit A".

4. On July 6, 1960, Plaintiff, Commercial Credit Corporation, purchased said obligation (Plaintiff's Exhibit A) of Defendant, Paul L. Pry, and paid to Killion Motors in consideration therefor the sum of \$1,894.59, and assumed and paid the car insurance premium set forth in said agreement. Said Killion Motors assigned

1 said agreement of Defendant to Plaintiff for the consideration  
2 aforesaid.

5. Defendant has failed to pay the said monthly payments and is now in default of the entire sum of said transaction, namely, \$2,346.12, together with default charges thereon, as provided in said agreement, Plaintiff's Exhibit A.

6. Although Plaintiff has repeatedly demanded payment of said moneys due, Defendant has refused and continues to persist in his refusal to make payment under the terms of said agreement.

7. Plaintiff alleges that the entire amount of said obligation, \$2,346.12, together with default charges thereon, is due and payable and Plaintiff is entitled thereto.

WHEREFORE, Plaintiff brings this suit to recover judgment  
for said sum, \$2,346.12, together with said charges thereon.

Attorneys for Plaintiff

C. B. McLAUGHLIN, being duly sworn according to law, deposes and says that he is Assistant Treasurer of Commercial Credit Corporation, with place of business in Altoona, Blair County, Pa., a corporation, and as such is authorized to take this affidavit, that he is personally acquainted with the facts set forth in the foregoing Complaint, and that the same are true and correct to the best of his knowledge, information and belief.

Sworn to and subscribed  
before me this 8<sup>th</sup> day  
of November, 1960.

CElia M. Lucas  
CElia M. Lucas, Notary Public  
RECEIVED, DEPT. OF STATE, 5-1

BELLEFONTE, CENTRE CO., PA.  
My Commission expires Mar. 3, 1963

City Commission expires Mar. 3, 1958

- 2 -

Philadelphia, July 2, 1960  
(City and State) (Date)

# LEASE

Trans. No. 72-373

AVOID MISTAKE—FILL OUT COMPLETELY

Between **PAUL L. PRY**  
(Print Lessor's Name)

**329 S. MICHIGAN ST.**  
(No. Street, Route or Box)

**ST. MARY'S TOWNSHIP**  
(City) (County) (State)

And **KILLEEN MOTORS**  
(Dealer's Name)

**PHILADELPHIA, PA**  
(Give Correct Legal Address)

Lessor (meaning all of undersigned, jointly and severally) hereby leases from Lessor on the terms and conditions set forth below and on the reverse side hereof, and Lessee acknowledges delivery, examination and acceptance of the motor vehicle and equipment herein called "Car" described below in present condition. Lessee agrees to pay the Rental Time Balance provided herein to the order of Lessor at the office of Commercial Credit Corporation at

Make	No. Cylinders	Model No.	Model Name	Yr. Mod.	N.U.	Serial Number	Motor Number	Body Type	Use
<b>DAVIDSON</b>	<b>6</b>	<b>V-200</b>		<b>60</b>	<b>N</b>	<b>1302-20782</b>		<b>4DR</b>	
Extra Equipment		Transmission	Brakes	Steering	Radio	Heater	Air Cond.	Other	
<input checked="" type="checkbox"/> Regular <input type="checkbox"/> Automatic <input checked="" type="checkbox"/> Mech. <input type="checkbox"/> Power <input checked="" type="checkbox"/> Mech. <input type="checkbox"/> Power <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/>									

Car will be kept at No. **1000** (Street), (City), (County), (State).

Lessee agrees not to remove Car permanently from the filing district in which said address is located without the written consent of Lessor.

## RECORD OF TRANSACTION

The insurance below does not cover liability for injury to persons or damage to property of others.

(Check Insurance Coverage)

Fire and Broad Form Theft

Comprehensive

Combined Additional Coverage

**\$100.00** Deductible Collision

Towing and Labor Costs, Max \$25 for each

Extent of Coverage: Actual Cash Value, Loss Payable to Lessor and Lessee as interests may appear  
Expires... months after date of Lease.

Credit Life Insurance

Extent of Coverage: Unpaid Portion of Time Balance  
Payable to Holder or if Prepaid and not Cancelled  
Unmatured Portion of Time Balance

Expires: Due date of final instalment unless cancelled or prepaid

1. Base Rent, including following accessories, etc.	<b>\$ 2341.55</b>
2. Advance Rental: Cash	<b>\$ 496.76</b>
Trade In:	<b>\$ 496.76</b>
Make <b>C6165</b> Model No. <b>584</b> Year <b>55</b>	
Amount Owing on Trade In	<b>\$</b>
Lessee's Equity in Trade In	<b>\$</b>
Total Advance Rental	<b>\$ 496.76</b>
3. Unpaid Balance	<b>\$ 1874.59</b>
4. Car Insurance Premiums	<b>\$ 143.50</b>
5. Life Insurance Premium	<b>\$</b>
6. Recording and Other Costs (Itemize)	<b>\$</b>
7. Principal Balance	<b>\$ 2087.09</b>
8. Finance Charges for Rental Privilege	<b>\$ 362.82</b>
9. Rental Time Balance	<b>\$ 2346.62</b>
Payable (a) in <b>36</b> monthly instalments of <b>\$ 62.17</b> each, the first instalment payable <b>July 1, 1960</b> (Month) (Day) (Year) and each successive instalment payable on the same date of each and every month thereafter, or (b) (unequal payments) ... until the Rental Time Balance is paid in full.	

The term of this Lease is from date hereof until due date of final instalment, unless sooner determined. At expiration hereof, Lessee agrees to surrender Car to Lessor in good condition. After surrender of Car to Lessor, Lessee may, at his option, purchase the same upon a further payment to Lessor of One Dollar, providing all conditions of this Lease have been complied with, and all rentals or renewals have been properly paid.

Confession of Judgment: If any instalments herein provided for are not paid when due, either by lapse, acceleration or otherwise, Lessee hereby empowers any attorney at law to appear for Lessee in any court in any State of the United States, except Indiana or New Mexico and waive issue and service of process, and confess judgment against Lessee in favor of Lessor for the amount of any unpaid instalments, together with default charges, costs of suit, attorney's fees and other costs permitted by law, together with all the remaining instalments yet to become due.

## DESIGNATION OF INSURED

If the cost of Credit Life Insurance is included in the Rental Time Balance, Lessee designates the individual whose signature first appears below as the person to be covered thereby.

LESSOR *K. L. Pry*  
(Signature of Dealer)

(Seal) LESSEE *K. L. Pry*

(Seal)

*K. L. Pry*  
(Signature of Owner, Officer or Firm Member)

(Seal)

(Co-Lessee, Owner, Officer or Firm Member)

Lessee acknowledges receipt of true, executed copy of this Lease at time of execution hereof:

LESSEE *K. L. Pry* (Seal)  
(Lessee Sign Here)

FOR VALUE RECEIVED, and pursuant to the terms of Dealer's Assignment shown on the reverse side hereof, undersigned hereby sells, assigns and transfers to Commercial Credit Corporation, its successors and assigns, the above Lease and all of undersigned's right, title and interest in and to the Car referred to therein, with power to take legal proceedings in the name of undersigned or user.

Commercial Credit Corporation is hereby authorized to enter, patent, affix in the Lease and all other papers executed, endorsed or assigned in connection therewith

Signed and sealed this **2** day of **July** **1960**  
*K. L. Pry* (Dealer Sign Here) (Seal)  
*K. L. Pry* (Owner, Officer or Firm Member) (Seal)

## TERMS AND CONDITIONS

Title to Car shall remain in Lessor until all amounts owing hereunder are fully paid in cash. This Lease may be assigned by Lessor or the payment thereof renewed or extended, without passing title to Car to Lessee. The loss, injury or destruction of Car shall not release Lessee from payment hereunder. Lessee agrees to obtain and keep in force fire, theft and collision insurance on Car and other insurance requested by Lessor. Such insurance shall be in form, amount and written by insurers satisfactory to Lessor. Lessor, as a creditor of Lessee, is authorized to purchase any and all such insurance, at Lessee's expense, whether or not included herein. If the cost of such insurance is not included in the Rental Time Balance, Lessee agrees to pay the same to Lessor on demand. Lessee hereby assigns to Lessor the proceeds of all such insurance (including any refund of premiums) to the extent of the unpaid portion of the Rental Time Balance, directs any insurer to make payment directly to Lessor, appoints Lessor as Attorney in Fact to endorse any draft, and authorizes Lessor to apply such proceeds to the payment of installments due or to become due hereunder.

**Lessee's Refund for Pre-payment:** Unearned finance charges, (representing that portion of the total finance charge as the periodical time balances after the date of pre-payment bears to the sum of all the periodical time balances under the schedule of payments herein), will be refunded in cash or credited to the amount due on Lessee's obligation.

**Lessee agrees:** To pay promptly all taxes and assessments upon Car and/or for its use or operation and/or on this Lease; to keep Car free from liens; that all equipment, tires, accessories and parts shall become part of Car by accession; and not to sell, transfer or encumber Car or use it for hire or illegally. Time is of the essence hereof. Any notices to Lessee shall be sufficiently given if mailed to the address of Lessee shown herein. Lessee warrants that the automobile traded in, if any, is free from any encumbrance, and breach of this warranty shall be a breach of this Lease. This Lease may be assigned by Lessor, and when assigned, all rights of Lessor shall vest in its assignee.

If Lessee defaults on any obligation or breaches any agreement or warranty under this Lease, Lessor may, at its option, declare the unpaid portion of the Rental Time Balance to be due and payable forthwith, and may cause judgment to be entered against Lessee for such amount as hereinafter more fully provided, or Lessee shall, upon demand, deliver Car to Lessor. If Lessee fails to deliver Car to Lessor as aforesaid, Lessor may, without notice or demand, terminate this Lease and lawfully take possession of Car wherever found. In such event, Lessee hereby authorizes Lessor to use Lessee's license plates to drive Car to Lessor's place of storage. Any personal property in Car at time of repossession may be held temporarily by Lessor for Lessee.

without liability therefor. If Lessor repossesses Car, and Lessee fails to redeem Car as provided herein, Lessor may, at its option, upon not less than five (5) days' notice as to time and place of disposition, release the Car, or in lieu thereof, sell, assign or transfer title to Car, either by private or public sale, as provided by law. The proceeds of any such re-sale or resale, less all expenses, shall be credited on the amount payable hereunder, the Lessee to remain liable to Lessor for any unpaid balance in accordance with law.

**Default Charge:** Lessee will pay 2% per month on any installment of rent not paid on its due date for each month or fractional part thereof in excess of 10 days that said installment of rent remains unpaid. Such default charges, when earned, may be collected during term of this Lease or may be accumulated and collected at final maturity or time of final payment.

**Redemption:** Lessee has the right to redeem the Car and terminate this Lease within 15 days after repossession, or before disposition of Car by Lessor, by paying the unpaid portion of the Rental Time Balance, accrued default charges and other amounts lawfully due, and if default at time of repossession exceeds 15 days, costs of retaining, storing and repairing, less rebate of unearned finance charge. At option of Lessor, Lessee may reinstate this Lease and resume possession of Car, upon payment of all past due installments, costs, etc., as provided above. If the Car is not redeemed as aforesaid, Lessee forfeits all claims thereto.

Any action to enforce payment hereunder or any judgments or rearrangements granted Lessee shall not be a waiver of or affect any rights of Lessor. In any State where Certificates of Title are issued, Lessee, in application therefor, shall make reference to Lessor's rights under this Lease and, if permitted by law, Lessee shall deliver or cause to be delivered any such Certificates to Lessor, when received. Lessor hereby is authorized to correct patent errors or omissions in this Lease. In addition to all the rights retained by or given Lessor under this Lease, Lessor shall have the rights of a secured party under the Uniform Commercial Code (Pennsylvania). All rights and remedies hereunder are cumulative and not exclusive. Any part of this Lease contrary to the law of any State shall not invalidate other parts of this Lease in that State.

This Lease constitutes the entire agreement between the parties and no changes herein shall be valid unless in writing, signed by Lessee and the owner hereof. Car is accepted without any expressed or implied warranties, except as expressly set forth herein.

This Lease is subject to, and enforceable in accordance with, the provisions of the Motor Vehicle Sales Finance Act of 1947 of the Commonwealth of Pennsylvania, as amended.

## TERMS OF DEALER'S ASSIGNMENT

Dealer warrants that: the Lease on the reverse side hereof is genuine and constitutes the entire agreement with the Lessee; the Lessee is over 21 years of age and competent; the Lease is legally enforceable against the Lessee named therein; the Advance Rental was paid by the Lessee in cash and not as equivalent, unless otherwise noted in the Lease; no part of the Advance Rental was loaned to the Lessee, directly or indirectly, by Dealer or anyone connected with Dealer; unless noted herein, Dealer has no reason to believe that Lessee ever violated any laws concerning liquor or narcotics or that Lessee was ever rejected by any finance company, bank or banker. Dealer has complied with all laws with respect to the lease of the Car; by this assignment, Dealer transfers title to the Car, subject only to the Lease, the less represented by the Lease appears on the Certificate of Title or Bill of Sale as required by State law. There is no owing the amount set forth therein; and that all the obligations of Dealer contained in the Lease have been fully performed. Dealer makes and warrants for the purpose of fulfilling its obligations under the Lease, to the Lessee, that the Lease is valid and

warranties should be untrue, Dealer shall buy the Lease from Commercial Credit Corporation, upon demand, and will pay therefor, the amount unpaid to Commercial Credit Corporation thereon, plus any and all costs and expenses paid or incurred by Commercial Credit Corporation in respect thereto. Said remedy shall be cumulative and not exclusive and shall not affect any other right or remedy that Commercial Credit Corporation might have at law or in equity. If Dealer fails or refuses to buy Lease as herein provided for breach of warranty, Commercial Credit Corporation may sell publicly or privately said Lease or the Car referred to therein and, after deducting all expenses of such sale, apply the net proceeds thereof on Dealer's obligations hereunder. Dealer to pay any deficiency and to be entitled to any surplus. Dealer agrees that Commercial Credit Corporation, by purchasing the Lease, shall not be deemed to have assumed any of the obligations of Dealer thereto which are cumulative.

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PA.  
No. 119, Co., 19 62  
IN ASSUMPSIT

COMMERCIAL CREDIT CORPORATION

vs.

PAUL L. PRY

COMPLAINT

To the within named defendant:

You are hereby notified to plead to the within Twenty (20) days from service thereof.

*Thomas H. Fleming*  
Fleming & Feltke  
Attorneys for Plaintiff

FILED

11/27/1960

W. FLEMING & FELTKE  
ATTORNEYS AT LAW  
BELLERON, PENNSYLVANIA

11/27/1960

**COPY**

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PA.  
No. 119 November Term, 1960  
In Assumpsit

COMMERCIAL CREDIT CORP.

vs.

PAUL L. PRY

NOTICE OF TAKING OF ORAL  
DEPOSITIONS

Attest: *[Signature]*  
Fleming & Litke, Attorneys at Law  
Bellefonte, Pennsylvania

**FLEMING & LITKE**  
ATTORNEYS AT LAW  
BELLEFONTE, PENNSYLVANIA

witnesses knowledge of the sale, or other disposition, or transfer, of a 1960 Valiant 4-door Sedan automobile, Serial No. 1302-210782, allegedly purchased by Paul L. Pry from Killion Motors, or any transaction involving the same.

The purpose of these depositions is to aid in the preparation of a Reply by plaintiff to defendant's Answer and New Matter. These witnesses will also be interrogated as to their knowledge of the identity and whereabouts of other witnesses having information relevant to this action.

Gillian Smith

Attorney for Commercial Credit Corp.,  
Plaintiff

DATED: January 24, 1961

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.**

COMMERCIAL CREDIT CORP. : No. 119, November Term, 1960  
VS. : In Assumpsit  
PAUL L. PRY :

**NOTICE OF TAKING OF ORAL DEPOSITIONS**

TO: Smith, Smith & Work  
Attorneys at Law  
Clearfield, Pennsylvania  
Attorneys for Paul L. Pry and The Houtzdale Bank

Eugene Cimino, Esq.  
Osceloa Mills, Pennsylvania and  
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Philipsburg, Pennsylvania  
Attorneys' for Earl Killion and Richard J. Petrovich

Please take notice that pursuant to Pa. R. C. P. No. 4007 on February 10, 1961, at 10:00 A.M., and at any and all adjournments thereof before, William Haggerty, Prothonotary of Clearfield County, the plaintiff in this action will take the oral depositions of the following:

Paul L. Pry  
West Decatur, Penna.

The Houtzdale Bank  
Houtzdale, Penna.

Earl Killion, 308 Curtin Street,  
Osceola Mills, Penna.

Richard J. Petrovich  
Philipsburg, Penna.

upon oral examination at the Grand Jury Room, Clearfield  
County Court House, Clearfield County, Pennsylvania.

The scope of the depositions will encompass the