

00-72-CD
ALLEN ZORTMAN -vs- ROBERT PRISK

COURT OF COMMON PLEAS
CLEARFIELD COUNTY
JUDICIAL DISTRICT

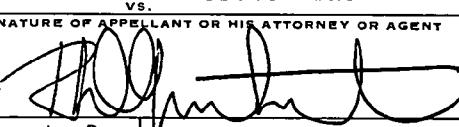
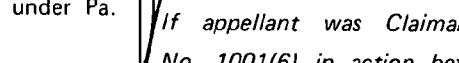
NOTICE OF APPEAL

FROM
DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 00-72-CD

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case mentioned below.

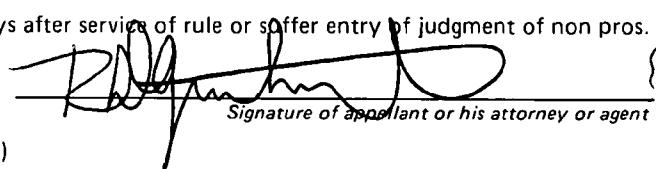
NAME OF APPELLANT ROBERT PRISK	MAG. DIST. NO. OR NAME OF D.J. 46-3-02 Richard A. Ireland		
ADDRESS OF APPELLANT 75 Meadow Street	CITY Curwensville	STATE PA	ZIP CODE 16833
DATE OF JUDGMENT 12/27/99	IN THE CASE OF (Plaintiff) W Allen Zortman	vs. Robert Prisk	(Defendant)
CLAIM NO. CV 19 0000327-99	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT		
LT 19	 		
<p>This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B.</p> <p>This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p><i>Signature of Prothonotary or Deputy</i></p>			
<p>If appellant was Claimant (see Pa. R.C.P.J.P. No. 1001(6) in action before District Justice, he MUST FILE A COMPLAINT within twenty (20) days after filing his NOTICE of APPEAL.</p>			

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee).

PRAECIPE: To Prothonotary

Enter rule upon ALLEN ZORTMAN, appellee(s), to file a complaint in this appeal
 (Name of appellee(s))
 (Common Pleas No. 00-72-CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.



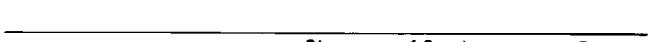
Signature of appellant or his attorney or agent

R. Prisk

R. Prisk

ALLEN ZORTMAN
 (Name of appellee(s))

- (1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.
- (2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS WILL BE ENTERED AGAINST YOU.
- (3) The date of service of this rule if service was by mail is the date of mailing.

Date: 1/20/00 

Signature of Prothonotary or Deputy

FILED

JAN 20 2000

William A. Shaw
Prothonotary

PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____ ; ss

AFFIDAVIT: I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. _____, upon the District Justice designated therein on
(date of service) _____, 19_____, by personal service by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, *(name)* _____, on
_____, 19_____, by personal service by (certified) (registered) mail, sender's receipt attached hereto.

and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on _____, 19_____, by personal service by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS _____ DAY OF _____, 19_____. *Signature of affiant*

Signature of official before whom affidavit was made

Title of official

My commission expires on _____, 19_____.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-02

DJ Name: Hon.

RICHARD A. IRELAND
Address: **650 LEONARD STREET**
CLEARFIELD, PA

Telephone: **(814) 765-5335** 16830

RICHARD A. IRELAND
650 LEONARD STREET
CLEARFIELD, PA 16830

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF: **ZORTMAN, ALLEN** NAME and ADDRESS

ZORTMAN, ALLEN
RD 1, BOX 562
MAHAFFEY, PA 15757

DEFENDANT: **PRISK, ROBERT** NAME and ADDRESS

PRISK, ROBERT
75 MEADOW ST.
CURWENSVILLE, PA 16833

Docket No.: **CV-0000327-99**
Date Filed: **9/03/99**



THIS IS TO NOTIFY YOU THAT:

Judgment:

DEFAULT JUDGMENT PLTF

Judgment was entered for: (Name) **ZORTMAN, ALLEN**

Judgment was entered against: (Name) **PRISK, ROBERT**

in the amount of \$ **1,767.00** on: (Date of Judgment) **12/27/99**

Defendants are jointly and severally liable. (Date & Time) _____

Damages will be assessed on: _____

This case dismissed without prejudice. _____

Amount of Judgment Subject to Attachment/Act 5 of 1996 \$ _____

Levy is stayed for _____ days or generally stayed. _____

Objection to levy has been filed and hearing will be held: _____

Amount of Judgment	\$ 1,712.00
Judgment Costs	\$ 55.00
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 1,767.00

Post Judgment Credits \$ _____

Post Judgment Costs \$ _____

=====

Certified Judgment Total \$ _____

Date:	Place:
Time:	

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

12-27-99 Date Ronald Ireland, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

1-14-00 Date Ronald Ireland, District Justice

FILED

REC'D
JAN 20 2000

DOJ 1015 a/cy
William A. Shaw
Prothonotary
PC 80.00

Copy to atty
Jankert

Z 483 890 362

US Postal Service
Receipt for Certified Mail
No Insurance Coverage Provided.
Do not use for International Mail (See reverse)

Sent to	Richard A. Ireland	
Street & Number	District Justice	
650 Leonard Street		
Post Office, State, & ZIP Code	Clearfield, PA 16830	
Postage	\$	33
Certified Fee		1.40
Special Delivery Fee		
Restricted Delivery Fee		
Return Receipt Showing to Whom & Date Delivered		1.25
Return Receipt Showing to Whom, Date, & Addressee's Address		
TOTAL Postage & Fees	\$	298
Postmark or Date	2000	
USPS		

PS Form 3800, April 1995

Z 483 890 363

US Postal Service
Receipt for Certified Mail
No Insurance Coverage Provided.
Do not use for International Mail (See reverse)

Sent to	Peter Smith, Esq.	
Street & Number	P.O. Box 130	
30 South Second Street		
Post Office, State, & ZIP Code	Clearfield, PA 16830	
Postage	\$	33
Certified Fee		1.40
Special Delivery Fee		
Restricted Delivery Fee		
Return Receipt Showing to Whom & Date Delivered		1.25
Return Receipt Showing to Whom, Date, & Addressee's Address		
TOTAL Postage & Fees	\$	298
Postmark or Date	2000	
USPS		

PS Form 3800, April 1995

COURT OF COMMON PLEAS
CLEARFIELD COUNTY
JUDICIAL DISTRICT

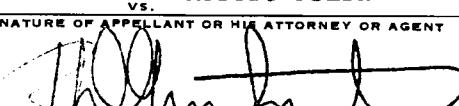
NOTICE OF APPEAL

FROM
DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 00-72-00

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case mentioned below.

NAME OF APPELLANT ROBERT PRISK	MAG. DIST. NO. OR NAME OF D.J. 46-3-02 Richard A. Ireland		
ADDRESS OF APPELLANT 75 Meadow Street	CITY Curwensville	STATE PA	ZIP CODE 16833
DATE OF JUDGMENT 12/27/99	IN THE CASE OF (Plaintiff) Allen Zortman	(Defendant) Robert Prisk	
CLAIM NO. CV 19 0000327-99	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT 		
LT 19	vs. 		
<p>This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B.</p> <p>This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p><i>Signature of Prothonotary or Deputy</i></p>			
<p>If appellant was Claimant (see Pa. R.C.P.J.P. No. 1001(6) in action before District Justice, he MUST FILE A COMPLAINT within twenty (20) days after filing his NOTICE of APPEAL.</p>			

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

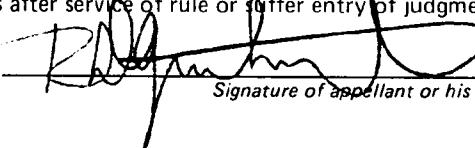
(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee).

PRAECIPE: To Prothonotary

Enter rule upon ALLEN ZORTMAN, appellee(s), to file a complaint in this appeal

Name of appellee(s)

(Common Pleas No. 00-72-00) within twenty (20) days after service of rule or suffer entry of judgment of non pros.



Signature of appellant or his attorney or agent

RULE: To ALLEN ZORTMAN, appellee(s)

Name of appellee(s)

- (1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.
- (2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS WILL BE ENTERED AGAINST YOU.
- (3) The date of service of this rule if service was by mail is the date of mailing.

Date: 1/20/00 X

Signature of Prothonotary or Deputy

FILED

JAN 2

Wm. A. Shaw
Prothonotary

PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

; ss

AFFIDAVIT: I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. 00-72-CD, upon the District Justice designated therein on (date of service) January 20, 2000, XXXXXX, by personal service by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) Allen Zortman through his attorney, Peter Smith on January 20, 2000, by personal service by (certified) (registered) mail, sender's receipt attached hereto.

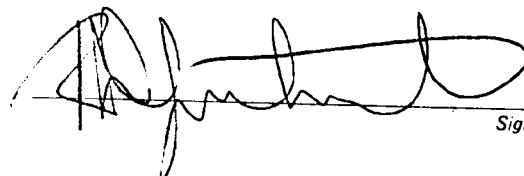
and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on January 20, 2000, 19, by personal service by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME
THIS 20 DAY OF January, 2000

Kathleen A. Ricotta
Signature of official before whom affidavit was made

Notary Public
Title of official

My commission expires on June 7, 2001



Signature of affiant

Notarial Seal
Kathleen A. Ricotta, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires June 7, 2001

Notarial Seal
Kathleen A. Ricotta, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires June 7, 2001

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-02

DJ Name: Hon.

RICHARD A. IRELAND
Address: **650 LEONARD STREET**
CLEARFIELD, PA

Telephone: **(814) 765-5335** 16830

RICHARD A. IRELAND
650 LEONARD STREET
CLEARFIELD, PA 16830

COMMON PLEAS #00-72-CD

NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE

PLAINTIFF:

ZORTMAN, ALLEN
RD 1, BOX 562
MAHAFFEY, PA 15757

NAME and ADDRESS

DEFENDANT:

PRISK, ROBERT
75 MEADOW ST.
CURWENSVILLE, PA 16833

VS.

NAME and ADDRESS

Docket No.: **CV-0000327-99**
Date Filed: **9/03/99**



THIS IS TO NOTIFY YOU THAT:

Judgment:

DEFAULT JUDGMENT PLTF

Judgment was entered for: (Name) **ZORTMAN, ALLEN**

Judgment was entered against: (Name) **PRISK, ROBERT**

in the amount of \$ **1,767.00** on: (Date of Judgment) **12/27/99**

Defendants are jointly and severally liable. (Date & Time) _____

Damages will be assessed on: _____

This case dismissed without prejudice. _____

Amount of Judgment Subject to Attachment/Act 5 of 1996 \$ _____

Levy is stayed for _____ days or generally stayed. _____

Objection to levy has been filed and hearing will be held: _____

Amount of Judgment	\$ 1,712.00
Judgment Costs	\$ 55.00
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 1,767.00
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
Certified Judgment Total \$ _____	

Date:	Place:
Time:	

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

12-27-99 Date Reed Sirel, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

1-14-00 Date Reed Sirel, District Justice

My commission expires first Monday of January,

2000

SEAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

ROBERT PRISK, :
Appellant :
VS. : NO. 00-72-CD
: :
ALLEN ZORTMAN, :
Appellee :
:

CASE NUMBER: 00-72-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: AFFIDAVIT OF MAILING

FILED ON BEHALF OF: Appellant

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
215 East Locust Street
Clearfield, PA 16830
(814) 765-1581

FILED

JAN 25 2000

William A. Shaw
Prothonotary

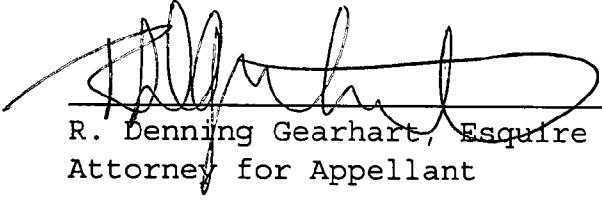
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

ROBERT PRISK, :
Appellant :
VS. : NO. 00-72-CD
:
ALLEN ZORTMAN, :
Appellee :
:

AFFIDAVIT OF MAILING

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :
:

R. Denning Gearhart, Esquire, the attorney for the Appellant, being duly sworn according to law, says that he mailed by certified mail, return receipt requested, a true and correct copy of the Notice of Appeal from District Justice Judgment and Praecipe to Enter Rule to File Complaint and Rule to File filed in the above action, to the following: Richard A. Ireland, District Justice, 650 Leonard Street, Clearfield, PA 16830; and to the Appellee, through his attorney, as follows: Peter Smith, Esq., P. O. Box 130, 30 South Second Street, Clearfield, PA 16830, as is evidenced by the signed receipts attached hereto as Exhibit 'A'.



R. Denning Gearhart, Esquire
Attorney for Appellant

Sworn to and Subscribed

before me this 24 day
of January, 2000.

Kathleen A. Ricotta

Notary Public

Notarial Seal
Kathleen A. Ricotta, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires June 7, 2001

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:

Richard A. Ireland
District Justice
650 Leonard Street
Clayfield, PA 16830

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

4a. Article Number

7 483 890 362

4b. Service Type

- Registered
- Express Mail
- Return Receipt for Merchandise
- Certified
- Insured
- COD

7. Date of Delivery

11/21/94

5. Received By: (Print Name)

Wanda Jason USA

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Addressee or Agent)

Wanda Jason

PS Form 3811, December 1994

102595-99-B-0223 Domestic Return Receipt

Thank you for using Return Receipt Service.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:

Peter Smith, Esq.
P.O. Box 130
30 South Second Street
Clayfield, PA 16830

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

4a. Article Number

7 483 890 363

4b. Service Type

- Registered
- Express Mail
- Return Receipt for Merchandise
- Certified
- Insured
- COD

7. Date of Delivery

5. Received By: (Print Name)

Wanda Jason

6. Signature (Addressee or Agent)

Wanda Jason

PS Form 3811, December 1994

102595-99-B-0223 Domestic Return Receipt

Thank you for using Return Receipt Service.

Exhibit 'A'

Leave over margin

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION No. 00-72-CD

ROBERT PRISK,
Appellant

vs.

ALLEN ZORTMAN,
Appellee

AFFIDAVIT OF MAILING

100-23289
DIAZ/NOCC
FEB 2000
FBI - CINCINNATI
FBI - CINCINNATI

R. DENNING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ALLEN ZORTMAN, :
Plaintiff : No. 00-72-CD
vs. : Type of Case: CIVIL
ROBERT PRISK d/b/a : Type of Pleading: COMPLAINT
PRISK TRUCKING GARAGE, : Filed on Behalf of:
Defendant : PLAINTIFF
: :
: Counsel of Record for
: Plaintiff:
: Peter F. Smith, Esquire
: Supreme Court No. 34291
: P.O. Box 130
: 30 South Second Street
: Clearfield, PA 16830
: (814) 765-5595
: :
: Counsel of Record for
: Defendant:
: R. Denning Gearhart, Esquire
: 215 East Locust Street
: Clearfield, PA 16830
: (814) 765-6745

FILED

FEB 01 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ALLEN ZORTMAN, :
Plaintiff : No. 2000-72-CD
vs. :
ROBERT PRISK d/b/a :
PRISK TRUCKING GARAGE, :
Defendant :
:

NOTICE TO DEFEND

**TO: Robert Prisk
d/b/a Prisk Trucking Garage
75 Meadow Street
Curwensville, PA 16833**

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you, and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF
YOU DO NOT HAVE OR CANNOT AFFORD A LAWYER, GO TO OR
TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE
YOU CAN GET LEGAL HELP.**

COURT ADMINISTRATOR
Clearfield County Courthouse
Corner of Market and Second
Clearfield, PA 16830
(814) 765-2641 ext. 5982



Peter F. Smith
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ALLEN ZORTMAN, :
Plaintiff : No. 2000-72-CD
vs. :
ROBERT PRISK d/b/a :
PRISK TRUCKING GARAGE, :
Defendant :
:

COMPLAINT

COMES NOW, Allen Zortman, Plaintiff, by his attorney, Peter F. Smith who states as follows:

1. Plaintiff's full name is Allen Zortman who resides at RD 1, Box 562, Mahaffey, Pennsylvania, 15757.
2. The name of the Defendant is Robert Prisk, who does business as Prisk Trucking Garage, at 75 Meadow Street, Curwensville, Pennsylvania, 16833.
3. On or about July 4, 1999, the Defendant contracted to perform various repairs on a 1 ton dump-truck owned by the Plaintiff.
4. These repairs included providing and installing a motor in Plaintiff's truck, working on the truck's rear end and related services.
5. At the time of entering this agreement, the Defendant represented and warranted to the Plaintiff that the motor to be installed in Plaintiff's truck would be 400 cubic inches, in good condition and fully operable once installed.
6. There was no written agreement between the parties.

7. Plaintiff picked up his truck from Defendant on July 22, 1999, and paid for Defendant's services at that time.

8. Attached hereto and incorporated herein by reference as Exhibit A are both sides of a bill which Defendant gave to Plaintiff on July 22, 1999.

9. Also attached hereto and incorporated herein by reference as Exhibit B is the check tendered by Plaintiff to Defendant in the amount of \$1,362.00 which notes that is for repairs to Plaintiff's dump truck.

10. While attempting to drive the truck home, Plaintiff immediately noticed that it would not maintain oil pressure. He returned the truck to Defendant.

11. Defendant made various attempts to correct the problem with Plaintiff's truck, but failed to do so.

12. Defendant also damaged clutch in Plaintiff's truck by reusing old pilot brushing from Plaintiff's first motor which was the wrong size for the motor which Defendant installed.

13. Plaintiff then took the truck to another qualified mechanic and was advised that the motor was not as warranted by Defendant, specifically the engine was 351 ci, not 400, and worn-out in need of rebuild and engine bearings.

14. Defendant's breach made Plaintiff's truck inoperable from July 23, 1999 through August 20, 1999.

15. Plaintiff uses this dump-truck in his contracting business and for other commercial purposes.

16. Plaintiff rented a truck from Kenneth Zortman while his own truck was being repaired.

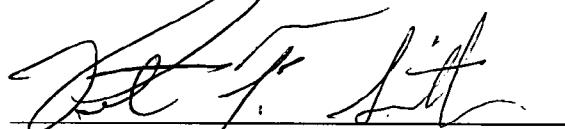
17. Kenneth Zortman charged Plaintiff \$700.00 for this rental.

18. Defendant's breach has caused Plaintiff to suffer the following monetary damages:

A.	Refund of amounts paid to Defendant for the motor and installation.	\$814.00
B.	Cost to inspect and remove bad motor installed by Defendant paid Jim Segar, Grampian.	\$169.50
C.	Loss of truck's use from 7/23/99-8/20/99.	\$700.00
D.	New clutch.	<u>\$198.00</u>
	TOTAL	<u>\$1,881.50</u>

WHEREFORE, Plaintiff prays this Honorable Court to enter judgment in his favor and against the Defendant in the amount of \$1,881.50 together with interest at the rate of 6% accruing from the date of the Defendant's breach on July 23, 1999, together with costs.

Respectfully submitted,


Peter F. Smith, Esquire
Attorney for Plaintiff

Dated: 1/28/00

DRUM	79.4
SPRING	7.00
	<u>149.4</u>
Y-Pipe	2.18
	<u>171.2</u>
	14 days
	500

1 oil	1.39 ea.	10.00
1 filter	4.59	4.60
F.P. gasket	1.00	1.00
2 large clamp	1.00 ea	2.00
2 med. clamp	.75 ea	1.50
2 exhaust clamp	2.50 ea	5.00
1 hanger	3.50	3.50
2 gal antifreeze	3.50 ea	7.00
2 u-Bolts (outstuds)	9.50 ea	18.00
1 Center Bolt	3.25	3.25
X 2 rear wheel seals	6.00 ea	12.00
X 1 air filter	6.20	6.20
X 1 CARRIER BRNG.	34.20	
2 3" cut off wheels	1.25 ea	<u>2.50</u>
1 Motor	350.00	3.50.00
1 Rear end housing	100.00	<u>100.00</u>
1 Punkin (exchange)	46.00	561.25
		83 h. 00

2 men 12:30 - 4:30 out	2 hrs
Tom - 2 hrs cleaning, switching, painting	2 hrs
9 - 4 hrs 2 men in	14 hrs

Randy 4 hrs mon	4 hrs
Randy 10-11:30 each 12:30-4:30	5.5 hrs
3 hrs Tom	3 hrs
9 - 11:30 - 2 men	5 hrs
1 - 4:30 Randy	3.5

~~1412.25~~

~~1412.25~~

~~1412.25~~

~~1412.25~~

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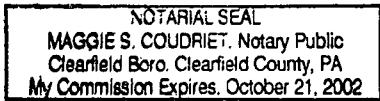
COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF CLEARFIELD :
:

ALLEN ZORTMAN, being duly sworn according to law, deposes and says that the information contained in the foregoing Complaint is true, correct and complete to the best of his information, knowledge and belief.

Allen Zortman
Allen Zortman

SWORN TO AND SUBSCRIBED
before me this 27th
day of January, 2000.

Maggie S. Coudriet
Notary Public



FILED

FEB 01 2000

02/01/00
William A. Shaw
Prothonotary

Smith

Red

PETER F. SMITH
ATTORNEY
30 SOUTH SECOND STREET
P.O. BOX 130
CLEARFIELD, PA. 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL COURT DIVISION

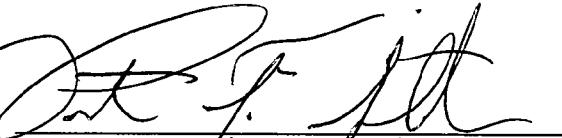
ALLEN ZORTMAN, :
Plaintiff : No. 2000-72-CD
vs. :
ROBERT PRISK d/b/a :
PRISK TRUCKING GARAGE, :
Defendant :
:

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for Plaintiff in the above captioned matter, hereby certify that I sent by First Class Mail, Postage Prepaid the Complaint to Attorney Gearhart at the following address:

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830

Date: January 28, 2000


Peter F. Smith, Esquire
Attorney for Plaintiff

FILED

FEB 01 2000

William A. Shaw
Prothonotary

FILED

FEB 01 2000

William A. Shaw CC

Prothonotary Clerk

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-02

DJ Name: Hon.

RICHARD A. IRELAND
Address: **650 LEONARD STREET**
CLEARFIELD, PA

Telephone: **(814) 765-5335** 16830

RICHARD A. IRELAND
650 LEONARD STREET
CLEARFIELD, PA 16830

NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE

PLAINTIFF:

ZORTMAN, ALLEN
RD 1, BOX 562
MAHAFFEY, PA 15757

NAME and ADDRESS

DEFENDANT:

PRISK, ROBERT
75 MEADOW ST.
CURWENSVILLE, PA 16833

VS.

NAME and ADDRESS

Docket No.: **CV-0000327-99**
Date Filed: **9/03/99**



THIS IS TO NOTIFY YOU THAT:

Judgment:

DEFAULT JUDGMENT PLTF

00-72-00

Judgment was entered for: (Name) **ZORTMAN, ALLEN**

Judgment was entered against: (Name) **PRISK, ROBERT**

in the amount of \$ **1,767.00** on: (Date of Judgment) **12/27/99**

Defendants are jointly and severally liable. (Date & Time) _____

Damages will be assessed on: _____

This case dismissed without prejudice. _____

Amount of Judgment Subject to Attachment/Act 5 of 1996 \$ _____

Levy is stayed for _____ days or generally stayed. _____

Objection to levy has been filed and hearing will be held: _____

Amount of Judgment	\$ 1,712.00
Judgment Costs	\$ 55.00
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 1,767.00
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
=====	
Certified Judgment Total	\$ _____

Date:	Place:
Time:	

FILED

FEB 15 2000
m 10:56
William A. Shaw

Prothonotary *S*

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

12-27-99 Date Ronald S., District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

1-21-00 Date Ronald S., District Justice

My commission expires first Monday of January,

2000

SEAL

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-02

DJ Name: Hon.

RICHARD A. IRELAND
Address: **650 LEONARD STREET**
CLEARFIELD, PA

Telephone: **(814) 765-5335** **16830**

RICHARD A. IRELAND
650 LEONARD STREET
CLEARFIELD, PA 16830

**COMMON PLEAS NOTIFICATION
REQUEST FORM**

PLAINTIFF: **ZORTMAN, ALLEN** NAME and ADDRESS

RD 1, BOX 562
MAHAFFEY, PA 15757

DEFENDANT: **PRISK, ROBERT** NAME and ADDRESS

75 MEADOW ST.
CURWENSVILLE, PA 16833

Docket No.: **CV-0000327-99**
Date Filed: **9/03/99**



Disposition Date: 12/27/99

Please be advised that an appeal has been filed in the above captioned case. Kindly use this form to indicate the results in this case, and return to the issuing authority (listed above).

RESULT OF APPEAL

Common Pleas Judge

CIVIL-LANDLORD/TENANT APPEAL

- APPEAL STRICKEN - appeal has been disallowed.
- APPEAL DISCONTINUED - appeal has been discontinued by appellant.
- DISTRICT JUSTICE DECISION UPHELD - court has reached the same decision as the district justice judgment.
- DISTRICT JUSTICE DECISION DISMISSED - court has reached a decision that does not concur with the district justice decision.

WRIT OF CERTIORARI

- WRIT STRICKEN - appeal has been disallowed.
- WRIT DISCONTINUED - writ has been discontinued by appellant.
- DISTRICT JUSTICE DECISION SET ASIDE - the case will be reheard due to irregularity, lack of jurisdiction, or improper venue.
- WRIT DISMISSED - district justice decision was not found to be flawed, lacking jurisdiction, or having improper venue.

STATEMENT OF OBJECTION (Please give a general summary of the results)

- OBJECTION DISCONTINUED - objection has been discontinued by the appellant.
- OBJECTION DENIED - objection has been denied by the Court of Common Pleas.
- OBJECTION UPHELD - appellant's objection has been upheld by the Court of Common Pleas.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION**

**ALLEN ZORTMAN, :
Plaintiff :
VS. : NO. 00-72-CD
: :
ROBERT PRISK d/b/a :
PRISK TRUCKING GARAGE, :
Defendant : :**

CASE NUMBER: 00-72-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: ANSWER, NEW MATTER and COUNTERCLAIM

FILED ON BEHALF OF: Defendant

**COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
215 East Locust Street
Clearfield, PA 16830
(814) 765-1581**

FILED

MAR 03 2000

**William A. Shaw
Prothonotary**

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION**

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office
Clearfield County Courthouse
Clearfield, PA 16830
814-765-2641 Ext. 50-51

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION**

ANSWER, NEW MATTER and COUNTERCLAIM

AND NOW COMES, ROBERT PRISK, by and through his attorney, R. Denning Gearhart, Esq., who answers and avers as follows:

ANSWER

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Denied. The agreement was for either a 350 or 400 cubic inch engine and was to be purchased 'as is.'
6. Admitted.
7. Admitted.
8. No Answer required.
9. No Answer required.

10. Admitted as to the return of the truck. However, the Plaintiff again took the truck and promised to return with it on July 26, 1999 to allow the Defendant and his mechanics to repair an alleged problem with oil pressure. Denied as to anything the Plaintiff noticed or observed as the Defendant lacks personal knowledge as to the veracity of this averment. Strict proof required at trial.

11. Admitted to an extent. It is true that the Defendant made various attempts to fix the problem. But he had not exhausted his attempts and had, after consultation and agreement with the Plaintiff, scheduled a time for the Plaintiff to bring the truck into his shop where he intended to resolve the problem. However, the Plaintiff, for unknown reasons and without notifying the Defendant, failed to appear with the truck at the scheduled time.

12. Denied as to damage to the clutch and as to the reasons alleged to have caused this alleged damage.

13. Denied as the Defendant lacks personal knowledge as to the veracity of this averment. Strict proof required at trial.

14. The allegation of a breach calls for a conclusion of law and therefore no answer is required. As to the condition of the truck, the averment is denied as the Defendant lacks personal knowledge as to the veracity of this averment. Strict proof required at trial.

15. Admitted.

16. The averment is denied as the Defendant lacks personal knowledge as to the veracity of this averment. Strict proof required at trial.

17. The averment is denied as the Defendant lacks personal knowledge as to the veracity of this averment. Strict proof required at trial.

18. The allegation of a breach calls for a conclusion of law and therefore no answer is required. As to the alleged monetary damages, the averment is denied as the Defendant lacks personal knowledge as to the veracity of this averment. Strict proof required at trial.

NEW MATTER

19. Paragraphs 1-18 of the Complaint, and the Answers thereto, are hereby incorporated as if fully averred.

20. The Defendant could have mitigated the alleged problems with the engine if given the opportunity.

21. He scheduled an appointment with the Plaintiff so that he could bring in the truck. That appointment was scheduled for July 26, 1999. Despite the Plaintiff's assurances that he would be there, the Plaintiff failed to appear, or to account for his absence.

22. The Defendant was not given any other opportunity to correct any alleged problems. The next time the Defendant heard from the Plaintiff was when suit was filed.

23. Further, the Plaintiff was advised by the Defendant that, because of the alleged problem with the oil pressure, he should minimize use of the truck until that appointment on July 26, 1999. Despite this admonition, the Plaintiff continued to use the truck in his work.

24. Further, the Defendant offered, and the Plaintiff accepted, to pay back to the Plaintiff the amount paid by the Plaintiff to the Defendant. However, the Plaintiff revoked his acceptance.

COUNTERCLAIM

25. Paragraphs 1-18 of the Complaint, and the Answers thereto, as well as the averments contained in New Matter herein, are hereby incorporated as if fully averred.

26. On July 26, 1999, the date the Plaintiff was scheduled to deliver his truck to the Defendant's garage so that the Defendant could rectify the alleged problems, the Defendant canceled other work to be done by his garage so that he could dedicate his time, and that of his employees, to the Plaintiff and his truck. In so doing, he lost business believed to be worth approximately \$2000.00. Because the Plaintiff failed to advise that he would not be present, that business was lost to the detriment of the Defendant.

27. The Plaintiff's actions are vexatious and without merit and are meant to harass the Defendant.

28. As a result of Plaintiff's misuse of the legal process, Defendant has been forced to retain legal counsel and to expend sums of money expected to be in excess of \$2000.00.

WHEREFORE, Defendant prays your Honorable Court to enter judgment against the Plaintiff on his suit, and for the Defendant in the amount of \$2000.00, and legal fees, costs and interest, on the counterclaim.

Respectfully Submitted,



R. Denning Gearhart, Esq.

Attorney for Defendant
215 E. Locust St.
Clearfield, PA 16830
(814)765-1581 (voice)
(814)765-6745 (fax)
Sup. Ct. No. 26540

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

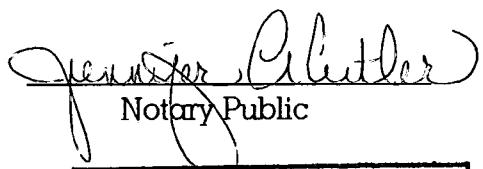
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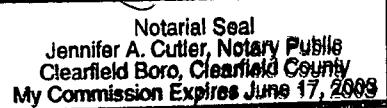
AFFIDAVIT

Before me, the undersigned officer, personally appeared, ROBERT PRISK who being duly sworn according to law deposes and says that the facts set forth in the foregoing Answer, New Matter and Counterclaim are true and correct to the best of his knowledge, information, and belief.


ROBERT PRISK

Sworn to and subscribed
before me this 2nd day
of March, 2000.


Notary Public



Leave over margin

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)
NO. 00-72-CD

ROBERT PRISK d/b/a
PRISK TRUCKING GARAGE,

Defendant

ALLEN ZORTMAN,
Plaintiff
VS.

ANSWER, NEW MATTER & COUNTERCLAIM

FILED

MAR 03 2000
ccath
William A. Shew
Prothonotary

W. Gearhart

R. DENNING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ALLEN ZORTMAN, :
Plaintiff : No. 2000-72-CD
vs. : Type of Case: **CIVIL**
ROBERT PRISK d/b/a : Type of Pleading:
PRISK TRUCKING GARAGE, : **PLAINTIFF'S ANSWER TO NEW**
Defendant : **MATTER AND COUNTERCLAIM**
: Filed on Behalf of:
: **PLAINTIFF**
: Counsel of Record for
: Plaintiff:
: Peter F. Smith, Esquire
: Supreme Court No. 34291
: P.O. Box 130
: 30 South Second Street
: Clearfield, PA 16830
: (814) 765-5595
: Counsel of Record for
: Defendant:
: R. Denning Gearhart, Esquire
: 215 East Locust Street
: Clearfield, PA 16830
: (814) 765-6745

FILED

7 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ALLEN ZORTMAN,	:	
	:	No. 2000-72-CD
Plaintiff	:	
	:	
vs.	:	
	:	
ROBERT PRISK d/b/a	:	
PRISK TRUCKING GARAGE,	:	
	:	
Defendant	:	

PLAINTIFF'S ANSWER TO NEW MATTER
AND COUNTERCLAIM

COMES NOW, Allen Zortman by his attorney Peter F. Smith who answers the Defendant's New Matter and Counterclaim as follows:

1-19 The first paragraphs 1-19 of the Complaint are incorporated herein by reference.

20. Denied. Plaintiff gave the Defendant two opportunities to properly repair his truck prior to July 26, 1999. When Defendant failed to properly repair the truck after these two additional opportunities, it became apparent to Plaintiff that he could not or would not properly repair it.

21. Denied that a third appointment was scheduled for July 26, 1999. To the contrary, the Defendant offered that if Plaintiff would drop his truck off at Defendant's business Sunday evening, July 25, 1999, the Defendant would try to get the truck in the first of the week. However the Defendant also stated that Plaintiff would be charged for any further work on the truck. Defendant also stated at this time, "If you think I'm gonna rebuild that engine, you're crazy."

Out of frustration, the Plaintiff walked away from Defendant at this point and did not accept this additional offer to attempt a repair for an additional charge.

22. Denied for the reasons stated in paragraphs 20 and 21 above.
23. Denied that Defendant so advised the Plaintiff. However, the Plaintiff himself knew that he should not use the truck and did not in fact use it upon realizing the oil pressure was low.
24. Denied, the Defendant never promised or offered to pay the Plaintiff the full amount of Plaintiff's damages.

WHEREFORE, Plaintiff prays this Honorable Court to enter judgment in his favor in the amount of \$1,881.50 together with interest at the rate of 6% accruing from the date of Defendant's breach on July 23, 1999, together with costs.

25. Paragraphs 1-18 of the Complaint and 19-24 of Plaintiff's Answer to New Matter are incorporated herein by reference as those set-forth in full.

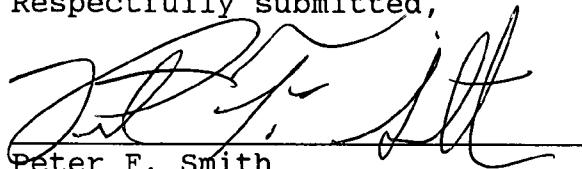
26. Denied, Plaintiff did not schedule an appointment for repair on July 26, 1999, and further denied because Defendant's offer was that he would "try" to work Plaintiff's truck into his schedule, and further denied because Defendant lost no business, and if he did, it was not worth \$2,000.00, strict proof whereof is demanded at trial.

27. Denied. Plaintiff has brought this suit to recover for a lawful breach of a contract.

28. Denied that Defendant is entitled to counsel fees which are strictly limited by Pennsylvania Statute at 42 Pa.C.S.A. §2503.

WHEREFORE, Plaintiff prays that Defendant's Counterclaim be denied.

Respectfully submitted,



Peter F. Smith
Attorney for Plaintiff

Dated: 3/27/00

AFFIDAVIT

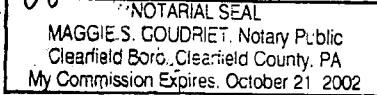
COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF CLEARFIELD :
:

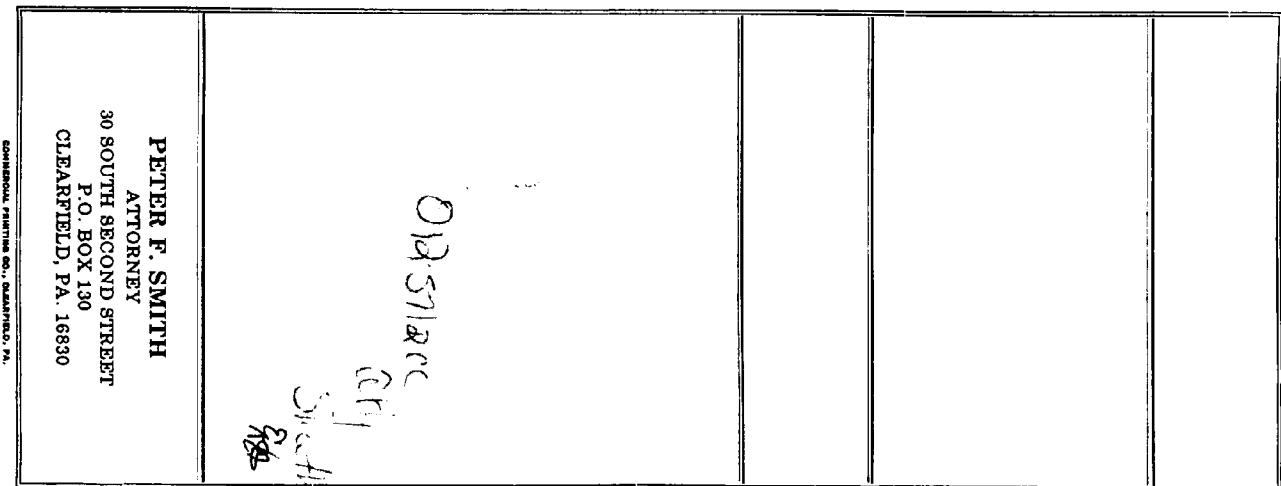
ALLEN ZORTMAN, being duly sworn according to law, deposes and says that the information contained in the foregoing Complaint is true, correct and complete to the best of him information, knowledge and belief.

Allen Zortman
Allen Zortman

SWORN TO AND SUBSCRIBED
before me this 27th
day of March, 2000.

Maggie Couderiet
Notary Public





PETER F. SMITH

ATTORNEY

CLEARFIELD, PA. 16830

814 - 765-5595

CERTIFIED TRUE AND CORRECT COPY

ATTORNEY FOR

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL COURT DIVISION

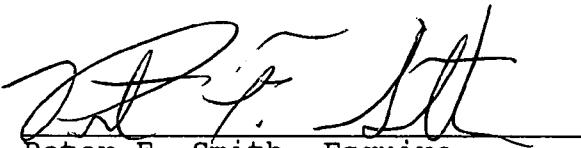
ALLEN ZORTMAN,	:	
	Plaintiff	No. 2000-72-CD
vs.	:	
ROBERT PRISK d/b/a	:	
PRISK TRUCKING GARAGE,	:	
	Defendant	
	:	

CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for Plaintiff in the above captioned matter hereby certify that I sent by First Class Mail, postage prepaid a certified true and correct copy of Plaintiff's Answer to New Matter and Counterclaim to the attorney for Defendant at the following address:

R. Denning Gearhart, Esquire
215 East Locust Street
Clearfield, PA 16830

Date: March 27, 2000


Peter F. Smith, Esquire
Attorney for Plaintiff

FILED

MAR 27 2000

William A. Shaw
Notary Public

FILED

MAR 27 2000
Q25(h) CC
William A. Shaw
Prothonotary

PETER F. SMITH
ATTORNEY
CLEARFIELD, PA. 16830
814 - 765-5595

CERTIFIED TRUE AND CORRECT COPY

ATTORNEY FOR

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ALLEN ZORTMAN,

*

Plaintiff

*

vs.

*

No. 2000-72-CD

*

ROBERT PRISK d/b/a
PRISK TRUCKING GARAGE,

*

Defendant

*

*

*

P R A E C I P E

TO: William A. Shaw, Prothonotary

Dear Sir:

Please place the above caption matter on the Arbitration list
for the earliest available date.

Respectfully submitted,



Peter F. Smith
Attorney for Plaintiff

Dated: March 27, 2000

FILED

MAR 27 2000

William A. Shaw
Prothonotary

FILED

MAR 27 2000
William A. Shaw
Prothonotary
City of Smith
PA \$20.00
Fees



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-6089

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

April 3, 2000

Peter F. Smith, Esquire
Attorney at Law
Post Office Box 130
Clearfield, PA 16830

R. Denning Gearhart, Esquire
Attorney at Law
215 East Locust Street
Clearfield, PA 16830

RE: ALLEN ZORTMAN
vs.
ROBERT PRISK d/b/a
PRISK TRUCKING GARAGE
No. 00-72-CD

Dear Counsel:

The above case is scheduled for Arbitration Hearing to be held Wednesday, June 7, 2000. The following have been appointed to the Board of Arbitrators:

Barbara J. Hugney-Shope, Esquire
Andrew P. Gates, Esquire
Paul E. Cherry, Esquire
Mark A. Falvo, Esquire
Lee Ann Heltzel, Esquire

If you wish to strike an Arbitrator you must notify the undersigned within seven (7) days from the date of this letter the name you wish stricken from the list.

You will be notified at a later date the exact time of the Arbitration Hearing.

Very truly yours,
Marcy Kelley
Marcy Kelley
Deputy Court Administrator

FILED
APR 17 2000
William A. Shaw
Prothonotary



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-6089

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

April 12, 2000

Peter F. Smith, Esquire
Attorney at Law
Post Office Box 130
Clearfield, PA 16830

R. Denning Gearhart, Esquire
Attorney at Law
215 East Locust Street
Clearfield, PA 16830

RE: ALLEN ZORTMAN
vs.
ROBERT PRISK d/b/a
PRISK TRUCKING GARAGE
No. 00-72-CD

Dear Counsel:

The above case is scheduled for Arbitration Hearing to be held Wednesday, June 7, 2000 at 2:00 P.M. The following have been appointed as Arbitrators:

Andrew P. Gates, Esquire, Chairman
Paul E. Cherry, Esquire
Mark A. Falvo, Esquire

Pursuant to Local Rule 1306A, you must submit your original Pre-Trial Statement to the Prothonotary's Office for filing and copies to opposing counsel and the Board of Arbitrators seven (7) days prior to the scheduled Arbitration. For your convenience, a Pre-Trial (Arbitration) Memorandum Instruction Form is enclosed as well as a copy of said Local Rule of Court.

Very truly yours,

Marcy Kelley
Marcy Kelley
Deputy Court Administrator

cc: Andrew P. Gates, Esquire
Paul E. Cherry, Esquire
Mark A. Falvo, Esquire

FILED

APR 17 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

Allen Zortman ^(M)

Vs.

{

No. 00-72-CD

Robert Prisk ^(M) d/b/a ^(M)
Prisk Trucking Garage ^(M)

OATH OR AFFIRMATION OF ARBITRATORS

Now, this 7th day of June, 2000, we the undersigned, having been appointed arbitrators in the above case do hereby swear, or affirm, that we will hear the evidence and allegations of the parties and justly and equitably try all matters in variance submitted to us, determine the matters in controversy, make an award, and transmit the same to the Prothonotary within twenty (20) days of the date of hearing of the same.

Andrew P. Gates, Esq.

Andrew Gates

Chairman

Paul E. Cherry, Esq.

Paul E. Cherry

Mark A. Falvo, Esq.

Mark A. Falvo

Sworn to and subscribed before me this

7th, day of June, 2000.

William A. Shaw
Prothonotary

FILED

JUN 07 2000

William A. Shaw
Prothonotary

AWARD OF ARBITRATORS

Now, this 7th day of June, 2000, we, the undersigned arbitrators appointed in this case, after being duly sworn, and having heard the evidence and allegations of the parties, do award and find as follows:

PLAINTIFF IS AWARDED THE SUM OF \$1683.50 PLUS ALL RECORD COSTS.

DEFENDANT IS AWARDED THE SUM OF \$125.00 ON HIS COUNTER CLAIM.

**PLAINTIFF IS DIRECTED TO RETURN TO DEFENDANT THE USED 351 C.I. ENGINE
IN QUESTION, WITHIN THIRTY (30) DAYS FROM THIS DATE.**

Andrew P. Gates, Esq.

Andrew Gates

Chairman

Paul E. Cherry, Esq.

Paul E. Cherry

(Continue if needed on reverse.) Mark A. Falvo, Esq.

Mark A. Falvo

ENTRY OF AWARD

Now, this 7th day of June, 2000, I hereby certify that the above award was entered of record this date in the proper dockets and notice by mail of the return and entry of said award duly given to the parties or their attorneys.

WITNESS MY HAND AND THE SEAL OF THE COURT

William A. Shaw
Prothonotary
By _____

F D Notice to Atty Smith
Notice to Atty Gearhart
Recd 1/3/44
JUN 07 2001
William A. Shaw
Prothonotary

Allen Zortman : IN THE COURT OF COMMON PLEAS
Vs. : OF CLEARFIELD COUNTY
: No. 00-72-CD
Robert Prisk d/b/a :
Prisk Trucking Garage

NOTICE OF AWARD

TO: Peter F. Smith, Esq.

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on Date and have awarded:

Plaintiff is awarded the sum of \$1,683.50 plus all record costs. Defendant is awarded the sum of \$125.00 on his counterclaim. Plaintiff is directed to return to Defendant the used 351 C.I. engine in question, within thirty (30) days from this date.

William A. Shaw
Prothonotary

June 7, 2000

Date

By _____

In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.

Allen Zortman : IN THE COURT OF COMMON PLEAS
: OF CLEARFIELD COUNTY
Vs. :
: No. 00-72-CD
Robert Prisk d/b/a
Prisk Trucking Garage

NOTICE OF AWARD

TO: R. Denning Gearhart, Esq.

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on Date and have awarded:

Plaintiff is awarded the sum of \$1,683.50 plus all record costs. Defendant is awarded the sum of \$125.00 on his counterclaim. Plaintiff is directed to return to Defendant the used 351 C.I. engine in question, within thirty (30) days from this date.

William A. Shaw
Prothonotary

June 7, 2000

Date

By _____

In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.

DATE _____

TO Rough Est.

LABOR INSTRUCTIONS

Rear housing	100,00
Tranny -	200,00,
engine -	350,00
	<hr/>
	650,00

U-Bolts nuts + washers -	40.00
Change over parts. (oil filters ect)	100.00
	140.00
	650.00
	<u>790.00</u>

1. ? + 18.80

120.00

TOTAL PARTS COST	
TOTAL LABOR COST	
Pa. SALES TAX	
TOTAL COST	

DRUMS

Spring

Y - P. Pe

7.97

7.00

14.94

2.18

4.50

1st days

10.00

17.12

500

T oil

1.39 ea.

1 filter

4.59

1 f. p. gasket

1.00

1.00

2 large clamp

1.00 ea.

2.00

2 med. clamp

.75 ea.

1.50

2 exhaust clamp

.25 ea

5.00

1 hanger

.350

3.50

2 gal anti-freeze

3.50 ea

7.00

2 u-bolts (outstuds)

.950 ea

18.00

1 Center Bolt

3.25

3.25

2 rear wheel seals

6.00 ea

12.00

1 air filter

6.20

6.20

1 carrier brng.

34.20

2 3" cut off-wheels

1.05 ea

2.50

111.25

1 Motor

350.00

3.50.00

1 rear end housing

100.00

100.00

1 PUNKIN (exchange)

216.00

85.00

2 men 12:30 - 4:30 out

8 hrs

Tom - 2 hrs cleaning switching painting

2 hrs

9 - 4:00 2 men

10 hrs

Randy 4 hrs mon

4 hrs

Randy 10 - 11:30 am

1.2:30 - 4:30

5.5 hrs

3 hrs Tom

3 hrs

9 - 11:30 - 2 men

10 hrs

1 - 4:30 Randy

8 hrs

115.5
0.05
45.00

7/82

136.5° ck 5102

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~~Master~~ 4.00

124

W.1

33.1 10.00 5.5

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parts

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Of _____

Phone _____

PHONED RETURNED YOUR CALL

PLEASE CALL WILL CALL AGAIN

CAME TO SEE YOU WANTS TO SEE YOU

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ALLEN ZORTMAN, :
Plaintiff : No. 2000-72-CD
vs. :
ROBERT PRISK d/b/a :
PRISK TRUCKING GARAGE, :
Defendant :

PRE-TRIAL MEMORANDUM

1. FACTS: On July 4, 1999, the Defendant agreed to perform various repairs on Plaintiff's one-ton truck. The repairs included providing and installing a 400 cubic inch motor, working on the truck's rear-end and related services. The motor was not new, but Defendant represented to Plaintiff that it was in good working condition and would be fully operable once installed.

There is no written contract between the parties. Attached to the Complaint is a hand-written bill from the Defendant.

Plaintiff picked-up his truck and paid for Defendant's services on July 22, 1999. He traveled only a short distance before the truck lost oil pressure. He gave Defendant three (3) opportunities to correct the problem, but Defendant failed to do so.

Plaintiff then took his truck to another garage. He was advised that the motor needed rebuilt and that it was not a 400 c.i. but only a 351 c.i.

Plaintiff uses this truck in his contracting business. He lost this use from July 23, 1999 through August 20, 1999.

2. APPLICABLE LAW: This case is based on Common Law principles of contract.

RECEIVED

MAY 03 2000

**COURT ADMINISTRATOR'S
OFFICE**

3. WITNESSES:

- a) Allen Zortman
RD 1, Box 562
Mahaffey, PA 15757
- b) Kenneth Zortman
4536 Liberty Avenue
Niagara Falls, NY 14305

4. DAMAGES:

a)	Refund of amount paid to Defendant	\$814.00
b)	Cost to inspect and remove bad motor	\$169.50
c)	Loss of truck's use from 7/23/99-8/20/99	\$700.00
d)	New clutch	\$198.00
	Total	<u>\$1,881.50</u>

5. EXHIBITS: See attached copies.

6. EVIDENTIARY ISSUES: None.

7. ESTIMATED TIME FOR TRIAL: Plaintiff estimates that 2 hours will be necessary for trial of this matter.

Respectfully submitted,

Date: 5/31/00


Peter F. Smith, Esquire
Attorney for Plaintiff

SEGER'S GARAGE

Route 879
GRAMPIAN, PA 16838

(814) 236-1330

Date _____ 19 _____

Subscribed & Sworn
Before the

SEGER'S GARAGE

11/11/99

Route 879

William M. Witter

GRAMPIAN, PA 16838

(814) 236-1330

Notarial Seal
LAWRENCE M. WITTER, Notary Public
Grampian Boro, Clearfield County
My Commission Expires Feb. 8, 2000

Date

Aug 23 1999

Member Pennsylvania Association of Notaries

Al Jastrow

Ford F350 Dump Th.

QUANTITY	DESCRIPTION	PRICE	AMOUNT
<i>Ch Eng fr. Mass</i>			
<i>Eng Oil pressure</i>			
<i>Ch Eng. Compresion</i>			
<i>#1(95) #2(95) #3(95) #4(95) #5(95)</i>			
<i>#6(95) #7(30) #8(15)</i>			
<i>Pressure Eng. Comp. test</i>			
<i>Leak down test</i>			
<i>#7 #8 Bad.</i>		<i>40.00</i>	
<i>Ch Eng. Oil pressure</i>			
<i>W. M. M. Seal. Gauge</i>			
<i>30# hot. 5# cold.</i>			
<i>Pass Bly. Oil pump or</i>		<i>35.00</i>	
<i>Ball Bearings</i>			
<i>Total (Suggest Eng. Rebuild)</i>			
<i>STATE INSPECTION SPECIFICATIONS</i>		SUB TOTAL	<i>75.00</i>
TIRES:	Front	Rear	
BRAKES:	Front	Rear	
Mileage:	Inspt. By	TOTAL	<i>79.50</i>

Date Aug 7. 3 19 99.

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QUANTITY	/	D
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Fayal Bl. 0

Old Bon.

1976.11.15

STATE INSPECTION
TIRES: - FRI

BRAKES: 1/11/17 Fr

Mileage:

QUANTITY	DESCRIPTION	PRICE	AMOUNT
21	Gas 1 - Miss.		
15	Oil 10w 30		
21	Gas 1 - Miss.		
192#	Gas 295 #4(95), #5(95)		
#1	PSI 4(30) #4(15)		
6	P. Propane tank		
6	P. Propane tank (1.0)		
#7	#8 Rad (1.5)		40.00
6	P. Propane tank (1.0)		
11	Mo-ATD 10 L.		
2	BS. bat 64.00	"	
1	Ali Odometer		35.00
1	Old Bonanza		
1	1.5000000000000002		
STATE INSPECTION SPECIFICATIONS		SUB TOTAL	45.00
TIRES:	Front	Rear	
BRAKES:	Front	Rear	SALES TAX 4.50
Mileage:		Inspt. By	TOTAL 49.50

SEGER'S GARAGE

Route 879
GRAMPIAN, PA 16838

(814) 236-1330

ALLEN L. ZORTMAN 1-98
R.R. 1, BOX 562
MAHAFFEY, PA 15757

60-1676/313
0225592

169

DATE 8/29/99

PAY TO THE ORDER OF James Seger \$ 881.87
Eight Hundred & Eighty One 87 100 DOLLARS Security Features
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MEMO _____

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Allen Zortman MP

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Denice Seger
Denice Seger

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Table of

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SOLD TO Al ZOTMAN		SHIP TO Niagara General Contractors Inc.		
ADDRESS 528 RENT STATE ST.		ADDRESS P.O. Box 279		
CITY, STATE, ZIP Curwensville PA 16833		CITY, STATE, ZIP Niagara Falls, New York 14305 (716) 298-9725		
CUSTOMER'S ORDER NO.		SALESPERSON	TERMS	F.O.B.
				DATE 8-18-99
RENTAL of 1 TON chevy dump TRUCK FOR AUGUST 2 nd - August 17 th 1999 \$50.00 Per Day x 14 Days \$700.00				
PAID IN FULL CASH 8-18-99				
TOTAL Amount Due \$700.00				

PETER F. SMITH
ATTORNEY
30 SOUTH SECOND STREET
P.O. BOX 130
CLEARFIELD, PA. 16830

Arb. Sch. 6-7-00

200

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A Message for _____ Date _____
From _____ Time _____ AM
PM

Of _____

Phone _____

<input type="checkbox"/> PHONED	<input type="checkbox"/> RETURNED YOUR CALL
<input type="checkbox"/> PLEASE CALL	<input type="checkbox"/> WILL CALL AGAIN
<input type="checkbox"/> CAME TO SEE YOU	<input type="checkbox"/> WANTS TO SEE YOU

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

ALLEN ZORTMAN,
Plaintiff
VS.

NO. 00-72-CD

ROBERT PRISK d/b/a
PRISK TRUCKING GARAGE,
Defendant

CASE NUMBER: 00-72-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: **PRE-TRIAL MEMORANDUM**

FILED ON BEHALF OF: Defendant

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. #26540
215 East Locust Street
Clearfield, PA 16830
(814) 765-1581

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MAY 18 2000

**COURT ADMINISTRATOR'S
OFFICE**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

ALLEN ZORTMAN, :
Plaintiff :
VS. : NO. 00-72-CD
ROBERT PRISK d/b/a :
PRISK TRUCKING GARAGE, :
Defendant :
:

PRE-TRIAL MEMORANDUM

1. **FACTS:** The Defendant agreed to repair Plaintiff's one-ton truck. Among the services was to be the reinstallation of a motor. The motor was to be a used motor. There were no specifications as to the size. It was to be in working condition, but otherwise was bought as is.

Shortly afterward, the Plaintiff took delivery of the truck and paid the Defendant. Shortly after, Plaintiff advises Defendant that he was having difficulty with the oil pressure. Defendant made an appointment for him to bring the truck in and clear his schedule so that he could make the necessary repairs. However, the Plaintiff did not show up and did not afford the Defendant an opportunity to correct any defect.

2. **APPLICABLE LAW:** This case is based on Common Law principles of contract, including the right to mitigate damages.

3. **WITNESSES:**

a) Robert Prisk
75 Meadow Street
Curwensville, PA 16833

4. **DAMAGES:** Counterclaim based on loss business on day set aside for repair of Plaintiff's truck.

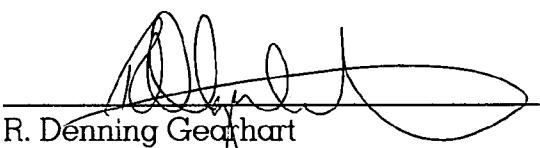
5. **EXHIBITS:** None

6. **EVIDENTIARY ISSUES:** None

7. **ESTIMATED TIME FOR TRIAL:** 2 hours

Respectfully submitted,

Date: May 17, 2000


R. Denning Gearhart
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)
NO. 00-72-CD

ALLEN ZORTMAN,
Plaintiff

VS.

ROBERT PRISK d/b/a
PRISK TRUCKING GARAGE,
Defendant

PRE-TRIAL MEMORANDUM

R. DENNING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

✓ ALLEN ZORTMAN, :
Plaintiff : No. 2000-72-CD
SAT vs. :
✓ ROBERT PRISK d/b/a :
SAT ✓ PRISK TRUCKING GARAGE, :
Defendant :
:

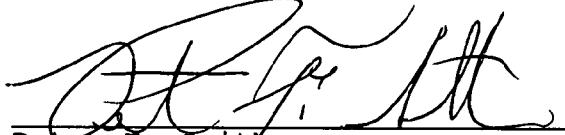
P R A E C I P E

To: William A. Shaw, Prothonotary

Dear Sir:

As attorney for the Plaintiff in the above captioned matter I appear and request that the judgment entered in favor of Plaintiff and against Defendant be marked SATISFIED.

Date: July 17, 2000



Peter F. Smith
Attorney for Plaintiff

FILED

JUL 18 2000

William A. Shaw
Prothonotary

FILED

JUL 18 2000
O[9,07]Atty Smith pd 6 7.00
William A. Shaw
Prothonotary

Statement Satio.
to Atty Smith
Ernest

ON THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION
CERTIFICATE OF SATISFACTION OF JUDGMENT

COPIED

Docket No.

No. 00-72-CD

ALLEN ZORTMAN

Plaintiff(s)

Debt. \$1,683.50

Atty's Comm. _____

vs.

Interest From _____

ROBERT PRISK d/b/a

PRISK TRUCKING GARAGE,

Defendant(s)

Costs \$7.00

NOW, July 18, 2000, directions for satisfaction having been received, and all costs having been paid, SATISFACTION was entered of record.

Certified from the record this
18th day of July A.D. 2000.

Prothonotary