

00-1347-CD
JILL SNEAL -vs- LITTLE'S DRIVE IN AUTO SALES

COURT OF COMMON PLEAS
46TH
JUDICIAL DISTRICT

FROM

00-1347-CD

DISTRICT JUSTICE JUDGMENT

CLEARFIELD COUNTY

COMMON PLEAS No.

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 Little's Drive In Auto Sales		MAG. DIST. NO. OR NAME OF D.J. M. Rudella, 46-3-03	
ADDRESS OF APPELLANT Route 322	CITY Woodland	STATE PA	ZIP CODE 16881
DATE OF JUDGMENT 10/05/00	IN THE CASE OF (Plaintiff) Jill Smeal vs. Little's Drive In Auto Sales (Defendant)		
CLAIM NO. CV 18 -0000206-00 LT 19	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT <i>Frederick M. Heiswender</i>		
This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B. This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case. _____ Signature of Prothonotary or Deputy		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.	

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 Jill Smeal, appellee(s), to file a complaint in this appeal
Name of appellee(s)

(Common Pleas No. 00-1347-CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

RULE: To Jill Smeal, 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: Nov. 01, ~~19~~ 2000

FILED

NOV 01 2000

William A. Shaw
Prothonotary

William A. Shaw
Signature of Prothonotary or Deputy

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) _____, ☐ 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____

Secretary

FILED
SEP 03 2000
4th
80,00

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.: **46-3-03**
DJ Name: Hon. **MICHAEL A. RUDELLA**
Address: **MOUNTAIN VIEW PLAZA**
P.O. BOX 210
KYLERTOWN, PA
Telephone: **(814) 345-6789** **16847-0000**

NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE

PLAINTIFF: **SMEAL, JILL**
NAME and ADDRESS
RR 1 BOX 155B
FRENCHVILLE, PA 16836

VS.
DEFENDANT: **LITTLE'S DRIVE IN AUTO SALES**
NAME and ADDRESS
RT 322
WOODLAND, PA 16881

LITTLE'S DRIVE IN AUTO SALES
RT 322
WOODLAND, PA 16881

Docket No.: **CV-0000206-00**
Date Filed: **9/21/00**



THIS IS TO NOTIFY YOU THAT:

Judgment:

FOR PLAINTIFF

☒ Judgment was entered for: (Name) SMEAL, JILL

☒ Judgment was entered against: (Name) LITTLE'S DRIVE IN AUTO SALES

in the amount of \$ 1,053.00 on: (Date of Judgment) 10/05/00

☐ 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	\$ <u>1,000.00</u>
Judgment Costs	\$ <u>53.00</u>
Interest on Judgment	\$ <u>.00</u>
Attorney Fees	\$ <u>.00</u>
Total	\$ <u>1,053.00</u>
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.

10/5/00 Date [Signature], District Justice

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

_____, Date _____, District Justice

My commission expires first Monday of January,

2006

SEAL

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-03

DJ Name: Hon.

MICHAEL A. RUDELLA

Address: **MOUNTAIN VIEW PLAZA**

P.O. BOX 210

KYLERTOWN, PA

Telephone: **(814) 345-6789**

16847-0000

MICHAEL A. RUDELLA
MOUNTAIN VIEW PLAZA
P.O. BOX 210
KYLERTOWN, PA 16847-0000

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

NAME and ADDRESS

SMEAL, JILL
RR 1 BOX 155B
FRENCHVILLE, PA 16836

VS.

DEFENDANT:

NAME and ADDRESS

LITTLE'S DRIVE IN AUTO SALES
RT 322
WOODLAND, PA 16881

Docket No.: **CV-0000206-00**

Date Filed: **9/21/00**



THIS IS TO NOTIFY YOU THAT:

Judgment:

FOR PLAINTIFF

00-1347-10

☒ Judgment was entered for: (Name) **SMEAL, JILL**

☒ Judgment was entered against: (Name) **LITTLE'S DRIVE IN AUTO SALES**

in the amount of \$ **1,053.00** on: (Date of Judgment) **10/05/00**

☐ 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: _____

FILED

NOV 08 2000

11/3/33pm

William A. Shaw

Prothonotary

Amount of Judgment	\$ 1,000.00
Judgment Costs	\$ 53.00
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 1,053.00
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.

10/5/00 Date **[Signature]**, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.
11/2/00 Date **[Signature]**, District Justice

My commission expires first Monday of January,

2006

SEAL

[Signature]

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

<u>Jill A. Smeal</u>	:	
Plaintiff/Appellant	:	
	:	District Justice Appeal
vs.	:	CASE NO. 00-1347-CD
	:	
<u>Little's Drive-in Auto Sales</u>	:	Type of Pleading:
Defendant/Appellee	:	COMPLAINT
	:	
	:	

NOTICE

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 defense or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without 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
Clearfield County Courthouse
230 East Market Street
Clearfield, Pennsylvania 16830
(814) 76-2641, extension 32

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

<u>Jill A. Smeal</u>	:	
Plaintiff/Appellant	:	
	:	
vs.	:	District Justice Appeal
	:	CASE NO. 00-1347-CD
	:	
<u>Little's Drive-in Auto Sales</u>	:	Type of Pleading:
Defendant/Appellee	:	COMPLAINT
	:	
	:	

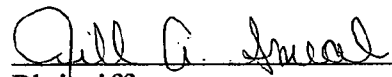
COMPLAINT

NOW, comes the **Plaintiff, Jill A. Smeal** who hereby avers as follows:

1. Jill Smeal is an adult individual whose address is RR 1 Box 155B, Frenchville, PA 16836.
2. Defendant is Little's Drive-in Auto Sales, an Automobile Dealer, whose address is Route 322, Woodland, Pa 16881.
3. On June 8, 2000 purchase of 87' Oldsmobile Cutlass Supreme Brougham, money borrowed from Plaintiff's father Ernie Smeal.
4. Fuel pump went on June 15, 2000.
5. June 14, 2000 the transmission started slipping. Contacted Defendant plenty of times about this situation.
6. June 27, 2000 left Plaintiff and boyfriend stranded in Clearfield.
7. June 29, 2000 purchase of fan and spacer for engine.
8. July 7, 2000 left Plaintiff's boyfriend stranded in Snow Shoe.
9. Purchase of starter July 8, 2000.
10. The rear end went. Plaintiff's boyfriends mother contacted Defendant to get rear end promised when purchase of vehicle was purchased. But after picked up and put in it didn't fit. Old one was reinstalled.
11. July 26, 2000 left Plaintiff and boyfriend stranded in Clearfield.
12. July 26, 2000 purchase of battery to get vehicle home.
13. July 27, 2000 transmission went in driveway.
14. July 29, 2000 purchase of transmission.
15. August 1, 2000 muffler blew out going down road.

16. On or about August 2, 2000 muffler was purchased.
17. August 4, 2000 went to trade vehicle in. Found out there is a weld and hole in frame not previously mentioned before purchase.
18. August 5, 2000 Plaintiff's boyfriend and his mother contacted Defendant about the frame. The Defendant then told Plaintiff's boyfriend to bring the car back to work something out. Nothing was worked out. Defendants were more rude than to work something out.
19. On or about August 10, 2000 Plaintiff contacted Trooper Michael Green, Vehicle Fraud Investigator, for the Pennsylvania State Police. Green told Plaintiff to file a Complaint with the Attorney General.
20. August 11, 2000 Plaintiff files a Complaint with Attorney General. Timothy Shirey is the one handling case. Nothing could be done. Shirey then informed Plaintiff to file with the District Magistrate.
21. On October 15, 2000 the Plaintiff and Defendant went to court. The court ruled in Plaintiffs favor. For the fact of not properly notifying about the bad frame. The judge ruled for Plaintiff for \$1,053.00.
22. The Plaintiff called Defendant a lot of times, after the purchase of vehicle.
23. As a direct and proximate result of Defendant negligence as described herein, and failing to give proper notice of bad frame, Plaintiff had sustained damages as follows:
 - A. Purchase of car, title, transfer, and like costs \$1127.50.
 - B. Purchase of fuel pump, transmission, fan, spacer, starter, battery and muffler \$194.23.

WHEREFORE, Plaintiff demands judgment against Defendant in the amount of \$1321.73 plus court costs and such other reasonable costs as the court may allow.


Plaintiff

VERIFICATION

I verify that the statements made in this complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to Unsworn Falsification to Authorities.

Jill A. Smeal

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

Jill A. Smeal
Plaintiff/Appellant

Vs.

Little's Drive-In Auto Sales
Defendant/Appellee

:
:
:
: District Justice Appeal
: CASE NO. 00-1347-CD
:
:
:

CERTIFICATE OF SERVICE

I, Jill A. Smeal, Plaintiff above named, do hereby certify that on the 22nd day of November 2000, I caused a certified copy of the Complaint to be mailed, first class – postage prepaid and certified, to the Defendant at his/her address as follows:

**Little's Drive-in Auto Sales
Route 322
Woodland, PA 16881**

FILED

DEC 19 2000

William A. Shaw
Prothonotary

Jill A. Smeal

IN RE: [illegible]

[illegible]

[illegible]

FILED
DEC 19 2000
012:20/16 CC
William A. Shaw
Prothonotary

[illegible]

[illegible]

[illegible]

[illegible]



FREDERICK M. NEISWENDER
ATTORNEY AND COUNSELLOR AT LAW

501 EAST MARKET STREET • SUITE 3
CLEARFIELD, PENNSYLVANIA 16830

JA

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

JILL A. SMEAL,

Plaintiff,

vs.

LITTLE'S DRIVE-IN AUTO SALES,
Defendant.

No. 00-1347-C.D.

Type of case: District Justice Appeal

Type of pleading: Preliminary Objections
to Plaintiff's Complaint.

Filed on behalf of: Defendant.

Counsel for Defendant:
Frederick M. Neiswender, Esquire
Supreme Court No. 74456
501 East Market Street, Suite 3
Clearfield, Pennsylvania 16830
(814) 765-6500

FILED

DEC 29 2000

01/31/01
William A. Shaw
Prothonotary

2 cfr to

ATTY
KPS

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

DEC 29 2000

Attest.

William A. Shaw
Prothonotary

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

JILL A. SMEAL,

Plaintiff,

vs.

LITTLE'S DRIVE-IN AUTO SALES,
Defendant.

No. 00-1347-C.D.

RULE TO SHOW CAUSE

NOW, this _____ day of January, 2001, upon consideration of Defendant's Preliminary Objections to Plaintiff's Complaint, a Rule is hereby issued upon the Plaintiff, Jill A. Smeal to show cause why the Petition should not be granted. Rule Returnable for Answer by the Plaintiff and hearing on said Petition to be held on the _____ day of _____, 2001, at _____ o'clock _____.m. in Court Room No. _____ of the Clearfield County Courthouse.

BY THE COURT,

Judge

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

JILL A. SMEAL,

Plaintiff,

vs.

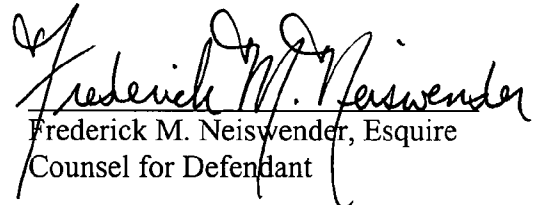
LITTLE'S DRIVE-IN AUTO SALES,
Defendant.

No. 00-1347-C.D.

NOTICE TO PLEAD

To: Jill A. Smeal

You are hereby notified to file written response to the enclosed Preliminary Objections to Plaintiff's Complaint within twenty (20) days from service hereof or a judgment may be entered against you.


Frederick M. Neiswender, Esquire
Counsel for Defendant

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

JILL A. SMEAL,	:	
Plaintiff,	:	
	:	
vs.	:	No. 00-1347-C.D.
	:	
LITTLE'S DRIVE-IN AUTO SALES,	:	
Defendant.	:	

PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT

AND NOW, comes the Defendant, Little's Drive-in Auto Sales, by and through their attorney, FREDERICK M. NEISWENDER, ESQUIRE, and files these Preliminary Objections to Plaintiff's Complaint as follows:

**I. PRELIMINARY OBJECTION RAISING INSUFFICIENT SPECIFICITY OF
PLAINTIFF'S COMPLAINT UNDER Pa. R.C.P. 1028 (a)(3).**

1. In paragraph 3 of Plaintiff's Complaint, Plaintiff avers that an automobile was purchased.
2. Pa. R.C.P. 1019 (f) requires that "averments of time, place and items of special damage shall be specifically stated."
3. The aforementioned paragraph 3, fails to state whom the automobile was purchased from, where it was purchased, or the terms and conditions of the sale.
4. In paragraphs 10 and 22 of Plaintiff's Complaint, Plaintiff avers that Plaintiff and others contacted Defendant.

5. The aforementioned paragraphs 10 and 22, fail to state when the alleged contact was made with the Defendant.

6. In paragraph 23 of Plaintiff's Complaint, Plaintiff avers that Defendant was negligent.

7. Paragraph 23 fails to state specific facts describing the Defendant's alleged negligent actions. As a result, there are not sufficient facts alleged to enable the Defendant to answer and prepare a proper defense.

8. Pennsylvania Rule of Civil Procedure 1028(a)(3) provides that a defendant may object to a pleading because of insufficient specificity.

9. Plaintiff's Complaint lacks sufficient specificity to apprise Defendant of the issues to be litigated, to allow them to adequately prepare and assert defenses to Plaintiff's allegations, and/or to identify and join any potentially responsible parties as additional defendants. Plaintiff should be required to file a more specific pleading.

WHEREFORE, Defendant respectfully requests that this Court order Plaintiff to more specifically plead the averments of paragraphs 3, 10, 22, and 23 of her Complaint.

**II. PRELIMINARY OBJECTION RAISING FAILURE TO CONFORM TO RULE OF
LAW OR COURT – GENERALIZED ALLEGATIONS OF NEGLIGENCE (CONNOR
OBJECTIONS) UNDER Pa. R.C.P. 1028(a)(2).**

10. Defendant restates and incorporates paragraphs 1 through 9 above as if stated at length herein.

11. In paragraph 23 of Plaintiff's Complaint, Plaintiff avers that Defendant was negligent.

12. The aforementioned paragraph 23 is in violation of Rule 1019(a) of the Pennsylvania Rules of Civil Procedure in that it does not state the material facts on which a cause of action is based.

13. Paragraph 23 fails to state specific facts describing the Defendant's alleged negligent actions. As a result, there are not sufficient facts alleged to enable the Defendant to answer and prepare a proper defense.

14. Pennsylvania Rule of Civil Procedure 1028(a)(2) provides that a defendant may object to a pleading because of lack of conformity to a rule of court.

15. Paragraph 23 fails to conform to the Pennsylvania Rules of Civil Procedure which require specific fact pleading and must therefore be stricken from the complaint.

WHEREFORE, Defendant respectfully requests that paragraph 23 be stricken from Plaintiff's Complaint.

**III. PRELIMINARY OBJECTION RAISING PLAINTIFF'S LACK OF CAPACITY TO
SUE UNDER Pa. R.C.P. 1028 (a)(5).**

16. Defendant restates and incorporates paragraphs 1 through 15 above as if stated at length herein.

17. Plaintiff's Complaint is based on the purchase of an automobile from the Defendant.

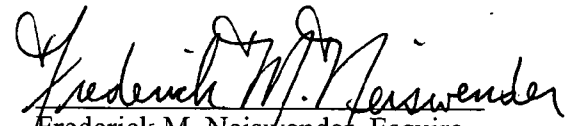
18. The Plaintiff in this action lacks the capacity to sue because the automobile referred to in Plaintiff's Complaint was not purchased by Plaintiff and is not titled in Plaintiff's name.

See Defendant's Exhibit "A".

19. Pennsylvania Rule of Civil Procedure 1028(a)(5) provides that a defendant may object to a pleading because of plaintiff's lack of capacity to sue.

WHEREFORE, Defendant respectfully requests that this Court dismiss Plaintiff's Complaint.

Respectfully submitted,


Frederick M. Neiswender, Esquire
Counsel for Defendant

Little's Drive-In Auto Sales
R. R. 1 Box 48C
Woodland, PA 16881

814-857-7711

PURCHASER'S NAME Jeannette L. Kephart SOC. SEC. NO. 6-8-00
PURCHASER'S ADDRESS P.O. Box 203 Potter St AGE 84-263-4941
CITY, STATE & ZIP Karthus PA 16845 BUSINESS PHONE

VEHICLE BEING PURCHASED

PLEASE ENTER MY ORDER FOR THE FOLLOWING: ☐ NEW ☐ CAR ☐ USED ☐ TRUCK STOCK NO. EXEMPT

YEAR 87 MAKE Olds MILEAGE EXEMPT
MODEL OR SERIES Cutlass BODY TYPE maroon
COLOR maroon TRIM maroon
M.V.I. OR SER. NO. 2636M1141H2301805 ENG. TYPE Car
TO BE DELIVERED ON OR ABOUT SALESMAN Car

WARRANTY DISCLAIMER

☐ Disclaimer Does Apply ☐ Disclaimer Does NOT Apply

We, the Seller, hereby expressly disclaim all warranties, either expressed or implied, including any implied warranty to merchantability or fitness for a particular purpose, and we neither assume nor authorize any other person to assume for us any liability in connection with the Sale of the Vehicle. The Manufacturer's Warranty is not affected by this disclaimer of Warranties by the Selling Dealer.

☒ The only Dealer Warranty on this vehicle is the Limited Warranty which is issued with and made a part of this order form.

☒ AS IS: this Vehicle is sold "as is" by us.

USED VEHICLE TRADED IN AND/OR OTHER CREDIT

YEAR 87 MAKE OF TRADE-IN Olds
MODEL OR SERIES Cutlass BODY TYPE maroon
COLOR maroon TRIM maroon
M.V.I. OR SER. NO. 2636M1141H2301805 ENG. TYPE Car

I CERTIFY THE ODOMETER READING ON MY ABOVE TRADE READS _____ MILES. THE ODOMETER HAS ☐ HAS NOT ☐ EXCEEDED 100,000 MILES. SIGNATURE: _____

BALANCE OWED TO

ADDRESS _____

USED TRADE-IN ALLOWANCE	\$	
BALANCE OWED ON TRADE-IN	\$	
NET ALLOWANCE ON USED TRADE-IN	\$	
DEPOSIT OR CREDIT BALANCE	\$	
CASH WITH ORDER	\$	
TOTAL CREDIT (TRANSFER TO RIGHT COLUMN)	\$	

CONTRACTUAL DISCLOSURE STATEMENT FOR USED VEHICLE ONLY
The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.

CASH DELIVERED PRICE OF VEHICLE	\$ <u>1000</u>
ACCESSORIES	\$
<u>AS IS</u> <u>Mileage over 100k</u>	
<u>Paid in Full</u> <u>CL</u>	
Cash Price of Vehicle & Accessories	\$ <u>1000</u>
STATE AND LOCAL TAXES	\$ <u>60</u>
License, License Transfer, Title, Registration Fee	\$ <u>67</u>
TOTAL PRICE OF UNIT	\$ <u>1127</u>
TOTAL CREDIT (TRANSFERRED FROM LEFT COLUMN)	\$
UNPAID CASH BALANCE DUE ON DELIVERY	\$

Purchaser agrees that this Order includes all of the terms and conditions on both the face and reverse side hereof, that this Order cancels and supersedes any prior agreement and as of the date hereof comprises the complete and exclusive statement of the terms of the agreement relating to the subject matters covered hereby, and that THIS ORDER SHALL NOT BECOME BINDING UNTIL ACCEPTED BY DEALER OR HIS AUTHORIZED REPRESENTATIVE.

Purchaser by his execution of this Order acknowledges that he has read its terms and conditions and has received a true copy of this Order.

PURCHASER'S SIGNATURE Jeannette L. Kephart DATE 6-8-00
ACCEPTED BY [Signature] PER [Signature] (DEALER)

No. 4593571

MV-4ST (8/98)				TAX/FEES		1ST ASSIGNMENT	2ND ASSIGNMENT
A. VEHICLE PURCHASER	PA TITLE NUMBER (AS SHOWN ON ATTACHED TITLE) 39341092908		MAKE OF VEHICLE Oldsmobile	MODEL YEAR 87	PURCHASE PRICE (See note on reverse) 1000.-		
	VEHICLE IDENTIFICATION NUMBER 263GM11Y1H2301805		CONDITION <input type="checkbox"/> GOOD <input checked="" type="checkbox"/> FAIR <input type="checkbox"/> POOR		LESS TRADE-IN 0.-		
B. SELLER	LAST NAME (OR FULL BUSINESS NAME) Littles Drive In Auto Sales		FIRST NAME CO-SELLER		TAXABLE AMOUNT 1000.-		
	CO-PURCHASER		DATE ACQUIRED/ PURCHASED 6-8-00		1. Sales Tax Due x 6% (.06) or x 7% (.07) (See note on reverse) 60.-		
C. 1ST PURCHASER	LAST NAME (OR FULL BUSINESS NAME) Kephart		FIRST NAME Jeannette L.		1A Exemption Reason Code (must be a number from 1 to 23 or 0)		
	CO-PURCHASER		DATE ACQUIRED/ PURCHASED		1B First Assignment		
	STREET P.O. Box 203 Potter St		COUNTY CODE 77		2. Title Fee 22.50		
	CITY Karshaus STATE PA ZIP CODE 16845		REFER TO COUNTY CODES LISTING ON REVERSE SIDE OF PINK COPY		3. Lien Fee		
D. 2ND PURCHASER	LAST NAME (OR FULL BUSINESS NAME)		FIRST NAME		4. Registration or Processing Fee		
	CO-PURCHASER		DATE ACQUIRED/ PURCHASED		Fee Exempt Number as assigned by the Bureau		
	STREET		COUNTY CODE		5. Duplicate Reg. Fee No. of Cards		
	CITY		STATE		6. Transfer Fee 6.-		
E. VEHICLE TRADE-IN	MAKE OF VEHICLE		VEHICLE IDENTIFICATION NUMBER		7. Increase Fee		
	MODEL YEAR	BODY TYPE (CP, TK, ETC.)	CONDITION <input type="checkbox"/> GOOD <input type="checkbox"/> FAIR <input type="checkbox"/> POOR		8. Replacement Fee		
F. APPLICATION FOR REGISTRATION	ORIGINAL PLATE <input checked="" type="checkbox"/> Check One: <input type="checkbox"/> PLATE TO BE ISSUED BY BUREAU (PROOF OF IN- SURANCE MUST BE AT- TACHED) <input type="checkbox"/> EXCHANGE PLATE TO BE ISSUED BY BUREAU <input type="checkbox"/> TEMPORARY PLATE ISSUED BY FULL AGENT		<input checked="" type="checkbox"/> TRANSFER OF PREVIOUSLY ISSUED PLATE <input type="checkbox"/> TRANSFER & RENEWAL OF PLATE <input type="checkbox"/> TRANSFER & REPLACEMENT OF PLATE <input type="checkbox"/> TRANSFER OF PLATE & REPLACEMENT OF STICKER		TOTAL PAID (Add 1 thru 8) 88.50	9.	10.
	PLATE NO. QDW9123		REASON FOR REPLACEMENT <input type="checkbox"/> LOST <input type="checkbox"/> DEFACED <input type="checkbox"/> STOLEN <input type="checkbox"/> NEVER RECEIVED (LOST IN MAIL) NOTE: If "NEVER RECEIVED" block is checked, applicant must complete form MV-44.		11. GRAND TOTAL (Add 9 & 10) 88.50	Send One Check in This Amount 88.50	
	EXPIRES Month Aug Year 2000		VIN 16JJC111K7174526		RELATIONSHIP TO APPLICANT		
	TRANSFERRED FROM TITLE NO. 42478682305		SIGNATURE OF PERSON FROM WHOM PLATE IS BEING TRANS- FERRED (IF OTHER THAN APPLICANT)		SIGN HERE		
	VEHICLE PURCHASED WEIGHT INFO: <input checked="" type="checkbox"/> GVWR <input type="checkbox"/> UNLADEN WEIGHT		REQ. REG. GROSS WT. INCLUDING LOAD		REQ. REG. GROSS COMB. WT. (IF APPLICABLE)		
	INSURANCE COMPANY NAME: Allstate		POLICY NO. (OR ATTACH BINDER) 6987065390911		POLICY EFFECTIVE DATE 3-11-00		POLICY EXPIRATION DATE 9-11-00
	ISSUING AGENT INFORMATION		I CERTIFY THAT ON MONTH 6 DAY 9 YEAR 00 I HAVE CHECKED TO DETERMINE THAT THE VEHICLE IS INSURED AND ISSUED TEMPORARY REGISTRATION TO THE ABOVE APPLICANT, IN COMPLIANCE WITH ALL APPLICABLE PROVISIONS OF THE VEHICLE CODE AND DEPARTMENT REGULATIONS.		ISSUING AGENT (PRINT NAME) Littles Drive In Auto Sales		AGENT NO. 86-19124
			ISSUING AGENT SIGNATURE May 1998		TELEPHONE NO. 841857-7711		
	G. I/WE CERTIFY THAT I/WE HAVE EXAMINED AND SIGNED THIS FORM AFTER ITS COMPLETION AND THAT THE INFORMATION GIVEN IS TRUE AND CORRECT. IF AN EXEMPTION IS CLAIMED, THE PURCHASER FURTHER CERTIFIES THAT HE/SHE IS AUTHORIZED TO CLAIM THIS EXEMPTION. I/WE ACKNOWLEDGE THAT I/WE MAY LOSE MY/OUR OPERATING PRIVILEGE(S) OR VEHICLE REGISTRATION(S) FOR FAILURE TO MAINTAIN FINANCIAL RESPONSIBILITY ON THE CURRENTLY REGISTERED VEHICLE FOR THE PERIOD OF REGISTRATION. I/WE ACKNOWLEDGE THAT I/WE MAY BE SUBJECT TO A FINE NOT EXCEEDING \$5,000 AND IMPRISONMENT OF NOT MORE THAN TWO YEARS FOR ANY FALSE STATEMENT THAT I/WE MAKE ON THIS FORM.						
	H. ADDITIONAL TITLE INFORMATION	1ST ASSIGNMENT Signature of First Purchaser or Authorized Signer Jeannette L. Kephart		TELEPHONE NUMBER 814 263-4941		Signature of Seller May 1998	
2ND ASSIGNMENT Signature of Second Purchaser or Authorized Signer Jeannette L. Kephart		TELEPHONE NUMBER ()		Signature of Co-Seller May 1998			
H. NOTE: If a co-purchaser other than your spouse is listed and you want the title to be listed as "Joint Tenants With Right of Survivorship" (On death of one owner, title goes to surviving owner.) CHECK HERE <input type="checkbox"/> . Otherwise, the title will be issued as "Tenants in Common" (On death of one owner, interest of deceased owner goes to his/her heirs or estate). NOTE: IF THE VEHICLE IS BEING LEASED, CHECK THIS BLOCK <input type="checkbox"/> . IF BLOCK IS CHECKED, COMPLETE AND ATTACH FORM MV-1L.							

MESSENGER NUMBER:

Exhibit "A"

1. BUREAU OF MOTOR VEHICLES

COMMONWEALTH OF PENNSYLVANIA

CERTIFICATE OF TITLE FOR A VEHICLE

990550015000161-001

263GM11Y1H2301805

87

OLDSMOBILE

39341092908 GF

CP

0

3/08/99

999999

2

4/15/87

3/08/99

3/08/99

999999

2

NOT ACTUAL MILEAGE

CHARLES A GEARHART

PARK AVE

PO BOX 298

HYDE PA 16843

CHARLES A GEARHART

PARK AVE

PO BOX 298

HYDE PA 16843

D. APPLICATION FOR TITLE AND LIEN INFORMATION-

TO BE COMPLETED BY PURCHASER WHEN VEHICLE IS SOLD AND THE APPROPRIATE SECTIONS ON THE REVERSE SIDE OF THIS DOCUMENT ARE COMPLETED.

6.800
Frank Little

Little's Drive-In Auto Sales
SIGNATURE: FRANK LITTLE
Woodland, PA 16881

6.800
Frank Little

1ST LIEN DATE	NONE
2ND LIEN DATE	NONE
3RD LIEN DATE	NONE
4TH LIEN DATE	NONE
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93TH LIEN DATE	NONE
94TH LIEN DATE	NONE
95TH LIEN DATE	NONE
96TH LIEN DATE	NONE
97TH LIEN DATE	NONE
98TH LIEN DATE	NONE
99TH LIEN DATE	NONE
100TH LIEN DATE	NONE

STORE IN A SAFE PLACE - IF LOST APPLY FOR A DUPLICATE - ANY ALTERATION OR ERASURE VOIDS THIS TITLE

Exhibit "A"

(TYPE OR PRINT) Certificate of Title must be submitted within 20 days, unless the purchaser is a registered dealer holding the vehicle for resale.

WARNING FEDERAL AND STATE LAWS REQUIRE THAT YOU STATE THE MILEAGE IN CONNECTION WITH THE TRANSFER OF OWNERSHIP (FAHLE) TO COMPLETE ON PROVIDED SPACE (SEE INSTRUCTIONS) IF YOU ARE A REGISTERED DEALER, YOU MUST COMPLETE SECTION D ON THE FRONT OF THIS FORM.

A. ASSIGNMENT OF TITLE

☒ **EXEMPT** ☐ **NOT EXEMPT**

Subscribed and sworn to before me on 11/16/88 at PA by James H. Little Notary Public for the State of Pennsylvania.

DO NOT NOTARIZE UNLESS SIGNED IN PRESENCE OF A 480 LISTED PURVENDOR PA 16881

PURCHASER OR FULL BUSINESS NAME Little's Drive Auto Sale

CO-PURCHASER

STREET ADDRESS RR1 Box 48 C

CITY Woodland **STATE** PA **ZIP** 16881

PURCHASER AND/OR CO-PURCHASER MUST HANDPRINT NAME HERE James H. Little

SELLER AND/OR CO-SELLER MUST HANDPRINT NAME HERE Charles Gerhardt

IF PURCHASER LISTED IN BLOCK A IS NOT A REGISTERED DEALER SECTION D ON THE FRONT OF THIS FORM MUST BE COMPLETED.

B. RE-ASSIGNMENT OF TITLE BY REGISTERED DEALER

☒ **EXEMPT** ☐ **NOT EXEMPT**

Subscribed and sworn to before me on 11/16/88 at PA by James H. Little Notary Public for the State of Pennsylvania.

DO NOT NOTARIZE UNLESS SIGNED IN PRESENCE OF A 480 LISTED PURVENDOR PA 16881 AND SELLER IS A DEALER

PURCHASER OR FULL BUSINESS NAME Keppert, Jeannette L.

CO-PURCHASER

STREET ADDRESS P.O. Box 2031 Pottsville

CITY Katona **STATE** PA **ZIP** 16845

PURCHASER AND/OR CO-PURCHASER MUST HANDPRINT NAME HERE Jeannette L. Keppert

SELLER AND/OR CO-SELLER MUST HANDPRINT NAME HERE Charles Gerhardt

IF PURCHASER IS NOT A REGISTERED DEALER SECTION D ON THE FRONT OF THIS FORM MUST BE COMPLETED.

C. RE-ASSIGNMENT OF TITLE BY REGISTERED DEALER

☒ **EXEMPT** ☐ **NOT EXEMPT**

Subscribed and sworn to before me on 11/16/88 at PA by James H. Little Notary Public for the State of Pennsylvania.

DO NOT NOTARIZE UNLESS SIGNED IN PRESENCE OF A 480 LISTED PURVENDOR PA 16881 AND SELLER IS A DEALER

PURCHASER OR FULL BUSINESS NAME

CO-PURCHASER

STREET ADDRESS

CITY

STATE

ZIP

PURCHASER AND/OR CO-PURCHASER MUST HANDPRINT NAME HERE

SELLER AND/OR CO-SELLER MUST HANDPRINT NAME HERE

IF PURCHASER IS NOT A REGISTERED DEALER SECTION D ON THE FRONT OF THIS FORM MUST BE COMPLETED.

D. CHECK HERE IF APPLICATION FOR DEALER TITLE AND COMPLETE SECTION D ON THE FRONT OF THIS FORM

ALL SELLERS SIGNATURES ON THIS SIDE MUST BE NOTARIZED. SIGN ONLY IN THE PRESENCE OF AN OFFICER EMPOWERED TO ADMINISTER OATHS.

FRANK LITTLE hereby states that he is the Defendant in this action and that the statements of fact made in the foregoing Complaint are true and correct upon personal knowledge. The undersigned understands that the statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

DATE: 12-29-00


FRANK LITTLE

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

JILL A. SMEAL,

Plaintiff,

vs.

LITTLE'S DRIVE-IN AUTO SALES,

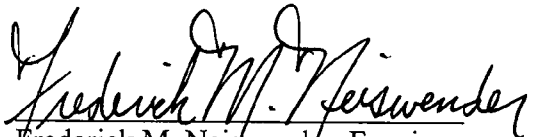
Defendant.

No. 00-1347-C.D.

CERTIFICATE OF SERVICE

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Preliminary Objections To Plaintiff's Complaint was made on December 29, 2000, by mailing, first class, postage prepaid, a true copy to the following persons, at the following addresses:

Jill A. Smeal
RR 1, Box 155B
Frenchville, Pennsylvania 16836



Frederick M. Neiswender, Esquire
Counsel for Defendant
501 East Market Street, Suite 3
Clearfield, Pennsylvania 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

JEANNETTE L. KEPHART
JILL A. SMEAL,
and CHRISTOPHER KEPHART
Plaintiffs

vs.

LITTLE'S DRIVE-IN AUTO
SALES,
Defendant

:

:

:

:

:

:

No. 00-1347-CD

Pleading: AMENDED COMPLAINT

Filed on behalf of: Plaintiffs

Counsel for this Party:

Peter J. Carfley, Esq.

P. O. Box 249

Philipsburg, Pa., 16866

(814) 342-5581

FILED

FEB 16 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

JEANNETTE L. KEPHART :
JILL A. SMEAL,
and CHRISTOPHER KEPHART :
Plaintiffs

vs. : No. 00-1347-CD

LITTLE'S DRIVE-IN AUTO :
SALES,
Defendant :

NOTICE

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 claims 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 FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
COURTHOUSE
CLEARFIELD, PA., 16830
(814) 765-2641, Ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

JEANNETTE L. KEPHART :
JILL A. SMEAL,
and CHRISTOPHER KEPHART :
Plaintiffs

vs. : No. 00-1347-CD

LITTLE'S DRIVE-IN AUTO :
SALES,
Defendant :

AMENDED COMPLAINT

AND NOW come the plaintiffs, JEANNETTE L. KEPHART, JILL A. SMEAL and CHRISTOPHER KEPHART, who by and through their attorney, Peter J. Carfley, Esquire, files this amended complaint and avers as follows:

1. Plaintiff is Jeannette L. Kephart, an adult individual who presently resides at P. O. Box 203, Potter Street, Karthaus, Clearfield County, Pennsylvania.

2. Plaintiff is Jill A. Smeal, an adult individual, who presently resides at R. R. 1, Box 155B, Frenchville, Clearfield County, Pennsylvania.

3. Plaintiff is Christopher Kephart, an adult individual, who presently resides at P. O. Box 195, Main Street, Kylertown, Clearfield County, Pennsylvania.

4. Defendant is Little's Drive-In Auto Sales, believed to be an unincorporated automobile dealership, located at R. R. 1, Box 48C, Route 322, Woodland, Clearfield County, Pennsylvania.

5. On June 8, 2000, based on the representations of the Defendant's employee, Gary Little and with money borrowed from Mr.

Ernest Smeal, Plaintiffs purchased from Defendant's lot, a maroon 1987 Oldsmobile Cutlass, motor vehicle identification number 2G3GM11Y1H2301805 and title number 39341092908.

6. The vehicle was purchased for a total sum of \$1,127.50 paid in cash and subsequently titled in Plaintiff, Jeannette L. Kephart's name, said purchase being made from Defendant "as is" with the exception of Defendant's guarantee that they would provide a replacement "rear end" for the vehicle at a later date.

7. Plaintiffs, Christopher Kephart and Jill Smeal have been and continue to be in exclusive possession and use of this vehicle, and are the equitable owners of the vehicle.

8. Within one week from the date of the purchase, the vehicle began to experience mechanical problems including the failure of the fuel pump and the "slipping" of the vehicle's transmission.

9. At some time in early July, the vehicle's rear end and transmission malfunctioned and despite several requests Defendant refused to examine or fix the transmission or rear end with a suitable replacement as previously promised at the time of the purchase.

10. On July 27, 2000, the vehicle's transmission failed rendering the vehicle undrivable. Plaintiffs replaced the transmission but the second transmission also failed and the vehicle has remained parked since.

11. As a result of the vehicle's numerous mechanical failures, Plaintiffs, Christopher Kephart and Jill Smeal were stranded on numerous occasions causing great inconvenience.

12. On August 4, 2000, when attempting to trade the vehicle,

Plaintiffs discovered that the frame had been previously welded and contained a hole within it.

13. Despite being notified of the problem with the frame, Defendant failed to take the necessary steps to correct this problem.

14. At no time prior to the sale of the vehicle did the Defendant notify the plaintiffs of any pre-existing problems with the vehicle's transmission, rear end or frame.

15. Based on Defendant's misrepresentations and failure to disclose at the time of the purchase and the failure of the vehicle to perform in an adequate manner, Plaintiffs have sustained economic losses as more fully set forth hereinafter.

16. Under Pennsylvania law, even in the case of an "as is" purchase, a dealer may not sell a vehicle that would not pass a state inspection nor can a dealer sell a vehicle without informing the purchaser of problems with the frame, the differential or the transmission.

17. Since Defendant knew or should have known of the vehicle's existing problems with the transmission and frame, and failed to disclose these problems to the Plaintiffs, Defendant is negligent as a matter of law.

18. Plaintiffs on numerous occasions contacted Defendant regarding the problems they were having with the automobile and Defendant promised to work something out but never did.

19. As a result of the negligence of the Defendant, Plaintiffs have incurred expenses including those costs associated with the purchase of the said vehicle, the cost of replacement

items on the said vehicle and other miscellaneous expenses totalling \$1,321.73.

WHEREFORE, Plaintiffs demand judgment against Defendant in the amount of \$1,321.73 together with interest and costs of this proceeding.

A handwritten signature in black ink, appearing to read "P. J. Carfley", is written over a horizontal line.

Peter J. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

Dated: February 16, 2001

VERIFICATION

I hereby verify that the statements made in this instrument are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Dated:

2/9/01

jeannette L. Kephart

VERIFICATION

I hereby verify that the statements made in this instrument are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Dated:

2/9/01

Christopher P. Kephart, Sr

VERIFICATION

I hereby verify that the statements made in this instrument are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Dated: February 9, 2001

Bill A. Imeal

FILED

FEB 16 2001

0112-40 P.M.
William A. Shaw
Prothonotary

Two (2) Books to


4/23/01

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

JEANNETTE L. KEPHART :
JILL A. SMEAL, :
and CHRISTOPHER KEPHART :
Plaintiffs


vs. : No. 00-1347-CD

LITTLE'S DRIVE-IN AUTO :
SALES, :
Defendant :

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the within
Plaintiffs' Amended Complaint by regular United States mail,
postage prepaid on February 16, 2001, to the following counsel:

Frederick M. Neiswender, Esq.
501 East Market Street, Suite 3
Clearfield, Pa., 16830


Peter J. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

FILED

FEB 16 2001

William A. Shaw
Prothonotary

14/01/01

FILED

FEB 16 2001

01/21/01
William A. Shaw

Prothonotary

W. A. Shaw
2/16/01

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

JEANNETTE L. KEPHART :
JILL A. SMEAL, :
and CHRISTOPHER KEPHART :
Plaintiffs

vs. : No. 00-1347-CD


LITTLE'S DRIVE-IN AUTO :
SALES, :
Defendant :

TO: Little's Drive-In Auto Sales
c/o Frederick M. neiswender, Esq.
501 E. Market Street, Suite 3
Clearfield, Pa., 16830

IMPORTANT NOTICE


YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION
REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10) DAYS
FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU
WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT
RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU
DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE
FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR'S OFFICE
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA., 16830
(814) 765-2641


Peter J. Carfley, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
Attorney for Plaintiffs

Dated: May 10, 2001

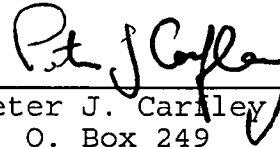
FILED

MAY 14 2001
01/1/24/ noc
William A. Shaw
Prothonotary 

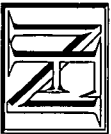
CERTIFICATE OF SERVICE

I hereby verify that a true and correct copy of the within document was served upon the following party at the following address on May 10, 2001, by ordinary mail, first class, postage prepaid.

Little's Drive-In Auto Sales
c/o Frederick M. Neiswender, Esq.
501 East Market Street, Suite 3
Clearfield, Pa., 16830



Peter J. Carley Esq.
P. O. Box 249
Philipsburg, Pa., 16866
Attorney for Plaintiffs



FREDERICK M. NEISWENDER
ATTORNEY AND COUNSELLOR AT LAW

501 EAST MARKET STREET • SUITE 3
CLEARFIELD, PENNSYLVANIA 16830

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

JEANNETTE L. KEPHART,
JILL A. SMEAL, and
CHRISTOPHER KEPHART,
Plaintiffs,

vs.

LITTLE'S DRIVE-IN AUTO SALES,
Defendant.

No. 00 – 1347 - C.D.

Type of case: Civil

Type of pleading: Answer, New
Matter and Counterclaim

Filed on behalf of: Defendant,
Little's Drive-In Auto Sales

Counsel for Defendant:
Frederick M. Neiswender, Esquire
Supreme Court No. 74456
501 East Market Street, Suite 3
Clearfield, Pennsylvania 16830
(814) 765-6500

FILED

MAY 21 2001

William A. Shaw
Prothonotary

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

JEANNETTE L. KEPHART,
JILL A. SMEAL, and
CHRISTOPHER KEPHART,

Plaintiffs,

vs.

LITTLE'S DRIVE-IN AUTO SALES,
Defendant.

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No. 00 – 1347 - C.D.

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
1 North Second Street
Clearfield, Pennsylvania 16830
(814) 765-2641

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

JEANNETTE L. KEPHART,
JILL A. SMEAL, and
CHRISTOPHER KEPHART,

Plaintiffs,

vs.

LITTLE'S DRIVE-IN AUTO SALES,
Defendant.

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No. 00 – 1347 - C.D.

ANSWER

NOW, comes the Defendant, LITTLE'S DRIVE-IN AUTO SALES, by and through their attorney, FREDERICK M. NEISWENDER, ESQUIRE and makes their Answer to Plaintiffs'

Complaint as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted in part, Denied in part. Defendant has no knowledge regarding from whom the Plaintiffs borrowed the funds to purchase the subject vehicle.
6. Admitted in part, Denied in part. Defendant made no guarantee regarding the rear end of the vehicle; however, Defendant did have a replacement rear end, which was offered to Plaintiffs.
7. Defendant does not have sufficient knowledge to answer the averment made by Plaintiffs in this paragraph.

8. Denied. These mechanical systems were in good working order as of the date of purchase.
9. Denied. Defendant gave Plaintiffs a replacement rear end for the vehicle. Furthermore, the Plaintiffs had changed the carburetor, which caused the problems with the transmission.
10. Denied. This mechanical system was in good working order as of the date of purchase.
11. Defendant does not have sufficient knowledge to answer the averment made by Plaintiffs in this paragraph.
12. Denied. Plaintiffs were aware the frame had been welded at the time of purchase.
13. Denied. Defendant offered to take the vehicle in trade toward the purchase of another vehicle.
14. Denied. Defendant notified Plaintiffs of all problems that Defendant was aware of when the Plaintiffs purchased the vehicle. In fact, Plaintiffs allude to knowledge of problems with the rear end prior to purchase in Paragraph 6 of their Complaint.
15. Denied. At no time did Defendant misrepresent or fail to disclose information that they were aware of at the time the Plaintiffs purchased the subject vehicle.
16. Denied. The subject vehicle had passed a Pennsylvania State Vehicle Inspection performed by a licensed inspector prior to purchase by the Plaintiffs. Defendant notified Plaintiffs of all problems that Defendant was aware of when the Plaintiffs purchased the vehicle.
17. Denied. The subject vehicle had passed a Pennsylvania State Vehicle Inspection performed by a licensed inspector prior to purchase by the Plaintiffs. Defendant notified Plaintiffs of all problems that Defendant was aware of when the Plaintiffs purchased the vehicle.
18. Denied. Defendant provided Plaintiffs with a new rear end as promised, although he was not required to do so by law. Despite Defendant's attempts to satisfy Plaintiffs, Defendant was continually harassed and threatened by Plaintiffs.

19. Denied. At no time was Defendant negligent in action or omission toward Plaintiffs regarding the sale of the subject vehicle.

WHEREFORE, Defendant respectfully requests this Court dismiss Plaintiffs' Complaint and enter judgment in favor of the Defendant.

NEW MATTER

NOW, comes the Defendant, LITTLE'S DRIVE-IN AUTO SALES, by and through their attorney, FREDERICK M. NEISWENDER, ESQUIRE and avers as New Matter the following:

20. Defendant restates and incorporates Paragraphs 1 through 19 above as if stated at length herein.
21. Plaintiffs were given ample opportunity to inspect and test drive the subject vehicle prior to purchase.
22. Defendant notified Plaintiffs of all problems that Defendant was aware of when the Plaintiffs purchased the vehicle. In fact, Defendant put the subject vehicle in an adjacent garage so that Levi Ardary, the individual who welded the frame, could show the Plaintiffs the work he had done on the vehicle.
23. The subject vehicle had passed a Pennsylvania State Vehicle Inspection performed by Wayne Emigh, a licensed inspector, prior to purchase by the Plaintiffs.
24. At the conclusion of the sale of the subject vehicle, Plaintiff, Jeannette L. Kephart, signed a Retail Order for a Motor Vehicle, which contained a section titled "Warranty Disclaimer", which was marked "AS IS" by Defendant. *See Defendant's Exhibit "A"*.
25. At the conclusion of the sale of the subject vehicle, Plaintiff, Jeannette L. Kephart, signed the reverse side of the Buyer's Guide, which was posted on the subject vehicle. This notice was

to alert Plaintiffs that the vehicle would be purchased "AS IS-NO WARRANTY" and the reverse side lists various defects that may be present in the subject vehicle, as per 37 Pa. Code § 301.4(9). *See Defendant's Exhibit "B"*.

26. At the conclusion of the sale of the subject vehicle, Plaintiff, Jeannette L. Kephart, signed a Motor Vehicle Waiver of Warranty. *See Defendant's Exhibit "C"*.
27. At the conclusion of the sale of the subject vehicle, Plaintiffs received a printed notice stating that the subject vehicle was sold without warranty. *See Defendant's Exhibit "D"*.
28. Plaintiffs altered the vehicle from its condition at the time of purchase by installing a different carburetor and altering the exhaust so the pipe ran out the side of the vehicle rather than the rear.
29. The alterations to the subject vehicle performed by the Plaintiffs, specifically the carburetor, caused all of the problems averred to have been experienced by the Plaintiffs.
30. Plaintiffs performed the aforementioned alterations to the subject vehicle prior notifying the Defendant that they were having problems with the vehicle.

WHEREFORE, Defendant respectfully requests this Court dismiss Plaintiff's Complaint and enter judgment in favor of the Defendant.

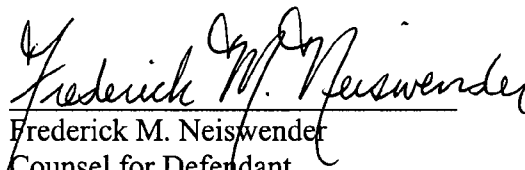
COUNTERCLAIM

NOW, comes the Defendant, LITTLE'S DRIVE-IN AUTO SALES, by and through their attorney, FREDERICK M. NEISWENDER, ESQUIRE and avers as a Counterclaim the following:

31. Defendant restates and incorporates Paragraphs 1 through 30 above as if stated at length herein.
32. Defendant believes and therefore avers that Plaintiffs' Complaint is clearly without basis in fact or law, and was filed by Plaintiffs' solely for the purpose of causing expense, annoyance and harm to the Defendant.
33. As such, the conduct of Plaintiffs in commencing litigation as set forth in their Complaint is arbitrary, vexatious and in bad faith.
34. As a result, Defendant has been forced to retain counsel to defend this action, and is entitled to an award of counsel fees pursuant to 42 Pa. C.S.A. § 2503 (9).
35. Defendant has spent in excess of \$1,500.00 in defense of Plaintiffs' claim.

WHEREFORE, Defendant demands judgment in his favor and against the Plaintiffs in the amount of \$1,500.00 plus interest and the costs of defending this action.

Respectfully submitted,


Frederick M. Neiswender
Counsel for Defendant

Little's Drive-In Auto Sales
R. R. 1 Box 48C
Woodland, PA 16881

814-857-7711

PURCHASER'S NAME Jeannette L. Kephart SOC. SEC. NO. 6-8-00
PURCHASER'S ADDRESS P.O. Box 203 Potter St AGE 84-263-4941
CITY, STATE & ZIP Karthaus PA 16845 BUSINESS PHONE

VEHICLE BEING PURCHASED	
PLEASE ENTER MY ORDER FOR THE FOLLOWING:	STOCK NO.
<input type="checkbox"/> NEW <input type="checkbox"/> CAR <input type="checkbox"/> USED <input type="checkbox"/> TRUCK <input type="checkbox"/>	
YEAR <u>87</u> MAKE <u>Olds</u> MILEAGE <u>EXEMPT</u>	
MODEL OR SERIES <u>Cutlass</u> BODY TYPE	
COLOR <u>maroon</u> TRIM	
M.V.I. OR SER. NO. <u>2636M11Y1H2301805</u> ENG. TYPE	
TO BE DELIVERED ON OR ABOUT	SALESMAN <u>Gary</u>

WARRANTY DISCLAIMER	
<input type="checkbox"/> Disclaimer Does Apply	<input type="checkbox"/> Disclaimer Does NOT Apply
We, the Seller, hereby expressly disclaim all warranties, either expressed or implied, including any implied warranty to merchantability or fitness for a particular purpose, and we neither assume nor authorize any other person to assume for us any liability in connection with the Sale of the Vehicle. The Manufacturer's Warranty is not affected by this disclaimer of Warranties by the Selling Dealer.	
<input checked="" type="checkbox"/> The only Dealer Warranty on this vehicle is the Limited Warranty which is issued with and made a part of this order form.	
<input checked="" type="checkbox"/> AS IS: this Vehicle is sold "as is" by us.	

USED VEHICLE TRADED IN AND/OR OTHER CREDIT	
YEAR	MAKE OF TRADE-IN
MODEL OR SERIES	BODY TYPE
COLOR	TRIM
M.V.I. OR SER. NO.	ENG. TYPE
I CERTIFY THE ODOMETER READING ON MY ABOVE TRADE READS _____ MILES. THE ODOMETER HAS <input type="checkbox"/> HAS NOT <input type="checkbox"/> EXCEEDED 100,000 MILES. SIGNATURE: _____	
BALANCE OWED TO	
ADDRESS	
USED TRADE-IN ALLOWANCE	\$
BALANCE OWED ON TRADE-IN	\$
NET ALLOWANCE ON USED TRADE-IN	\$
DEPOSIT OR CREDIT BALANCE	\$
CASH WITH ORDER	\$
TOTAL CREDIT (TRANSFER TO RIGHT COLUMN)	\$

CASH DELIVERED PRICE OF VEHICLE	\$ <u>1000</u>
ACCESSORIES	\$
<u>AS IS</u> <u>Mileage over 100k</u>	
<u>Paid in Full</u> <u>CL</u>	
Cash Price of Vehicle & Accessories	\$ <u>1000</u>
STATE AND LOCAL TAXES	\$ <u>60</u>
License, License Transfer, Title, Registration Fee	\$ <u>67</u>
TOTAL PRICE OF UNIT	\$ <u>1127</u>
TOTAL CREDIT (TRANSFERRED FROM LEFT COLUMN)	\$
UNPAID CASH BALANCE DUE ON DELIVERY	\$

CONTRACTUAL DISCLOSURE STATEMENT FOR USED VEHICLE ONLY
"The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale."

Purchaser agrees that this Order includes all of the terms and conditions on both the face and reverse side hereof, that this Order cancels and supersedes any prior agreement and as of the date hereof comprises the complete and exclusive statement of the terms of the agreement relating to the subject matters covered hereby, and that THIS ORDER SHALL NOT BECOME BINDING UNTIL ACCEPTED BY DEALER OR HIS AUTHORIZED REPRESENTATIVE.
Purchaser by his execution of this Order acknowledges that he has read its terms and conditions and has received a true copy of this Order.

PURCHASER'S SIGNATURE Jeannette L. Kephart DATE 6-8-00
ACCEPTED BY [Signature] PER [Signature] (DEALER)

"THANK YOU — WE APPRECIATE YOUR BUSINESS"
RETAIL ORDER FOR A MOTOR VEHICLE

Exhibit "A"

IF A CREDIT SALE, REQUIRED INFORMATION CONTAINED ON A SEPARATE DISCLOSURE STATEMENT IS REQUIRED BY THE CREDITOR.

BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

Chevy
VEHICLE MAKE

Class
MODEL

1987
YEAR

2G3G11V14R3501805
VIN NUMBER

DEALER STOCK NUMBER (Optional)

WARRANTIES FOR THIS VEHICLE:



AS IS-NO WARRANTY

YOU WILL PAY ALL COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.



WARRANTY

☐ FULL ☐ LIMITED WARRANTY. The dealer will pay _____% of the labor and _____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the dealer's repair obligations. Under state law, "implied warranties" may give you even more rights.

SYSTEMS COVERED:

DURATION:

None

None

☐ SERVICE CONTRACT. A service contract is available at an extra charge on this vehicle. Ask for details as to coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of the time of sale, state law "implied warranties" may give you additional rights.

PRE PURCHASE INSPECTION: ASK THE DEALER IF YOU MAY HAVE THIS VEHICLE INSPECTED BY YOUR MECHANIC EITHER ON OR OFF THE LOT.

SEE THE BACK OF THIS FORM for important additional information, including a list that may occur in used motor vehicles.

Exhibit "B"

#

FRANK LITTLE, OWNER, LITTLE'S DRIVE-IN AUTO SALES hereby states that LITTLE'S DRIVE-IN AUTO SALES is the Defendant in this action and that the statements of fact made in the foregoing Answer, New Matter and Counterclaim are true and correct upon personal knowledge. The undersigned understands that the statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

DATE: 5-9-01


FRANK LITTLE, OWNER
LITTLE'S DRIVE-IN AUTO SALES

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

JEANNETTE L. KEPHART,
JILL A. SMEAL, and
CHRISTOPHER KEPHART,

Plaintiffs,

vs.

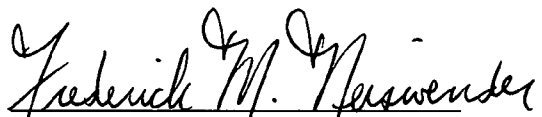
LITTLE'S DRIVE-IN AUTO SALES,
Defendant.

No. 00 – 1347 - C.D.

CERTIFICATE OF SERVICE

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Answer, New Matter and Counterclaim was made upon Jeannette L. Kephart, Jill A. Smeal, and Christopher Kephart, by mailing, first class, postage prepaid, a true copy to the office of their attorney of record, Peter J. Carfley, Esquire, on May 21, 2001, at the following address:

Peter J. Carfley, Esquire
P.O. Box 249
Philipsburg, Pennsylvania 16866


Frederick M. Neiswender, Esquire
Counsel for Defendant
501 East Market Street, Suite 3
Clearfield, Pennsylvania 16830

FILED

MAY 21 2001

01104013cc atty

William A. Shaw

Prothonotary

Ex Newwender

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

JEANNETTE L. KEPHART :
JILL A. SMEAL, :
and CHRISTOPHER KEPHART :
Plaintiffs

vs. : No. 00-1347-CD


LITTLE'S DRIVE-IN AUTO :
SALES, :
Defendant :

TO: Little's Drive-In Auto Sales
R. R. 1, Box 48C
Route 322
Woodland, Pa., 16881

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR'S OFFICE
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA., 16830
(814) 765-2641


Peter J. Carfley, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
Attorney for Plaintiffs

Dated: May 23, 2001

FILED

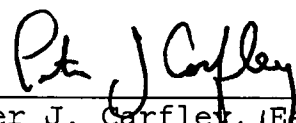
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William A. Shaw
Prothonotary

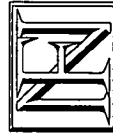
CERTIFICATE OF SERVICE

I hereby verify that a true and correct copy of the within document was served upon the following party at the following address on May 23, 2001, by ordinary mail, first class, postage prepaid.

Little's Drive-In Auto Sales
R. R. 1, Box 48C
Route 322
Woodland, Pa., 16881



Peter J. Carfley, Esq.
P. O. Box 249
Philipsburg, Pa., 16866
Attorney for Plaintiffs



FREDERICK M. NEISWENDER
ATTORNEY AND COUNSELLOR AT LAW

501 EAST MARKET STREET • SUITE 3
CLEARFIELD, PENNSYLVANIA 16830

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

JEANNETTE L. KEPHART,
JILL A. SMEAL, and
CHRISTOPHER KEPHART,
Plaintiffs,

vs.

LITTLE'S DRIVE-IN AUTO SALES,
Defendant.

No. 00 – 1347 - C.D.

Type of case: Civil

Type of pleading: Certificate of Service

Filed on behalf of: Defendant,
Little's Drive-In Auto Sales

Counsel for Defendant:
Frederick M. Neiswender, Esquire
Supreme Court No. 74456
501 East Market Street, Suite 3
Clearfield, Pennsylvania 16830
(814) 765-6500

FILED

MAY 31 2001

William A. Shaw
Prothonotary

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

JEANNETTE L. KEPHART,
JILL A. SMEAL, and
CHRISTOPHER KEPHART,
Plaintiffs,

vs.

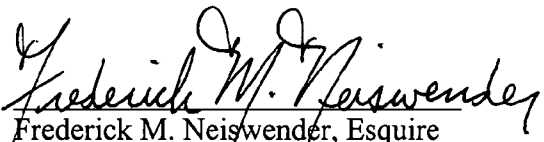
LITTLE'S DRIVE-IN AUTO SALES,
Defendant.

No. 00 - 1347 - C.D.

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I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Answer, New Matter and Counterclaim was made upon Jeannette L. Kephart, Jill A. Smeal, and Christopher Kephart, by mailing, first class, postage prepaid, a true copy to the office of their attorney of record, Peter J. Carfley, Esquire, on May 31, 2001, at the following address:

Peter J. Carfley, Esquire
P.O. Box 249
Philipsburg, Pennsylvania 16866


Frederick M. Neiswender, Esquire
Counsel for Defendant
501 East Market Street, Suite 3
Clearfield, Pennsylvania 16830

FILED

MAY 31 2001

0124213cc atty newmark
William A. Shaw
Prothonotary *WAS*

William A. Shaw



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

Notice of Proposed Termination of Court Case

OCTOBER 29, 2004

FILED

OCT 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

RE: 00-1347-CD

Jim Smeal vs. Little's Drive-In Auto Sales

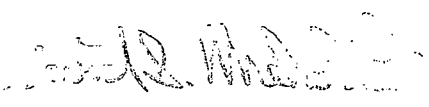
Dear Peter J. Carfley, Esquire:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **January 7, 2005**.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,


David S. Meholick
Court Administrator



**OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA**

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

Notice of Proposed Termination of Court Case

OCTOBER 29, 2004

RE: 00-1347-CD

Jim Smeal vs. Little's Drive-In Auto Sales

Dear Frederick M. Neiswender, Esquire:

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If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,

A handwritten signature in dark ink, appearing to read "David S. Meholic", written over a faint, circular official stamp.

David S. Meholic
Court Administrator

Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division

Jim Smeal

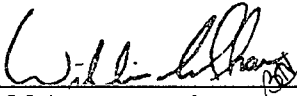
Vs.

00-1347-CD

Little's Drive-In Auto Sales

Termination of Inactive Case

This case is hereby terminated with prejudice
this 21st day of January, 2005, as per Rule 230.2



William A. Shaw
Prothonotary

FILED

JAN 21 2005

William A. Shaw
Prothonotary/Clerk of Courts