

00-1426-CD  
ROYER'S 219 AUTO SALE -vs- THOMAS MCGILLTON

COURT OF COMMON PLEAS

FROM

JUDICIAL DISTRICT

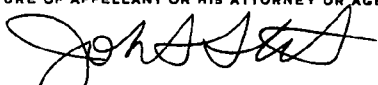
DISTRICT JUSTICE JUDGMENT

46TH

COMMON PLEAS No. 2000-1426-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 THOMAS McGILTON		MAG. DIST. NO. OR NAME OF D.J. 46-3-01	
ADDRESS OF APPELLANT 1710 EAST HIGH STREET		CITY WAYNESBURG	STATE PENNSYLVANIA
		ZIP CODE 15370	
DATE OF JUDGMENT 10/23/00	IN THE CASE OF (Plaintiff) ROYER'S 219 AUTO SALE		
		(Defendant) THOMAS McGILTON	
CLAIM NO. CV 19 0000626-00 LT 19		SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT 	

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 ROYER'S 219 AUTO SALE, appellee(s), to file a complaint in this appeal  
Name of appellee(s)

(Common Pleas No. 2000-1426-CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

RULE: To ROYER'S 219 AUTO SALE, appellee(s)  
Name of appellee(s)

Signature of appellant or his attorney or agent

JOHN A. STETS, Esq  
61 W. HIGH ST.  
WAYNESBURG, PA.

(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. 17, 19 2000

Signature of Prothonotary or Deputy

William A. Shaw

FILED

NOV 17 2000  
m/10:55/mr  
William A. Shaw PD  
Prothonotary 8

COURT FILE TO BE FILED WITH 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.:	<b>46-3-01</b>
DJ Name: Hon.	<b>PATRICK N. FORD</b>
Address:	<b>109 NORTH BRADY STREET P.O. BOX 452 DUBOIS, PA</b>
Telephone:	<b>(814) 371-5321 15801</b>

**THOMAS MCGILTON  
1710 EAST HIGH ST  
TDBA TOM MCGILTON AUTO  
WAYNESBURG, PA 15370**

## NOTICE OF JUDGMENT/TRANSCRIPT CIVIL CASE

PLAINTIFF: NAME and ADDRESS  
**ROYER'S 219 AUTO SALES  
RD 1 BOX 104  
DUBOIS, PA 15801**

VS.  
DEFENDANT: NAME and ADDRESS  
**MCGILTON, THOMAS  
1710 EAST HIGH ST  
TDBA TOM MCGILTON AUTO  
WAYNESBURG, PA 15370**

Docket No.: **CV-0000626-00**  
Date Filed: **8/21/00**



### THIS IS TO NOTIFY YOU THAT:

Judgment:

DEFAULT JUDGMENT PLTF

☒ Judgment was entered for: (Name) ROYER'S 219 AUTO SALES

☒ Judgment was entered against: (Name) MCGILTON, THOMAS

in the amount of \$ 6,097.50 on: (Date of Judgment) 10/23/00

☐ 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>6,000.00</u>
Judgment Costs	\$ <u>97.50</u>
Interest on Judgment	\$ <u>.00</u>
Attorney Fees	\$ <u>.00</u>
<b>Total</b>	<b>\$ <u>6,097.50</u></b>

Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
<b>Certified Judgment Total</b>	<b>\$ _____</b>

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.

10/23/00 Date Patrick N. Ford, 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.: <b>46-3-01</b>
DJ Name: Hon. <b>PATRICK N. FORD</b>
Address: <b>109 NORTH BRADY STREET P.O. BOX 452 DUBOIS, PA</b>
Telephone: <b>(814) 371-5321</b> <b>15801</b>

**PATRICK N. FORD  
109 NORTH BRADY STREET  
P.O. BOX 452  
DUBOIS, PA 15801**

**NOTICE OF JUDGMENT/TRANSCRIPT  
CIVIL CASE**

PLAINTIFF: NAME and ADDRESS  
**ROYER'S 219 AUTO SALES  
RD 1 BOX 104  
DUBOIS, PA 15801**

VS.  
DEFENDANT: NAME and ADDRESS  
**MCGILTON, THOMAS  
1710 EAST HIGH ST  
TDBA TOM MCGILTON AUTO  
WAYNESBURG, PA 15370**

Docket No.: **CV-0000626-00**  
Date Filed: **8/21/00**



**THIS IS TO NOTIFY YOU THAT:**

Judgment:

**DEFAULT JUDGMENT PLTF**

**00-1426-00**

☒ Judgment was entered for: (Name) **ROYER'S 219 AUTO SALES**

☒ Judgment was entered against: (Name) **MCGILTON, THOMAS**

in the amount of \$ **6,097.50** on: (Date of Judgment) **10/23/00**

☐ 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	\$ <b>6,000.00</b>
Judgment Costs	\$ <b>97.50</b>
Interest on Judgment	\$ <b>.00</b>
Attorney Fees	\$ <b>.00</b>
<b>Total</b>	<b>\$ 6,097.50</b>
Post Judgment Credits	\$ <b>1</b>
Post Judgment Costs	\$ _____
<b>Certified Judgment Total</b>	<b>\$ _____</b>

Date:	Place: <b>NOV 27 2000</b> <b>William A. Shaw</b> Prothonotary
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.

**10-23-00** Date **Patrick N. Ford**, 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**

**CIVIL COMPLAINT**

Mag. Dist. No.: **46-3-01**

DJ Name: Hon.  
**PATRICK N. FORD**  
Address: **109 NORTH BRADY STREET**  
**P.O. BOX 452**  
**DUBOIS, PA 15801**  
Telephone: **(814) 371-5321**

PLAINTIFF: NAME and ADDRESS  
Royer's 219 Auto Sales  
R.D. #1, Box 104  
DuBois, PA 15801

VS.  
DEFENDANT: NAME and ADDRESS  
Thomas McGilton  
t/d/b/a Tom McGilton Auto  
1710 East High Street  
Waynesburg, PA 15370

Docket No.: **CV 626-00**  
Date Filed:



	AMOUNT	DATE PAID
FILING COSTS	\$ <u>9750</u>	<u>   </u> / <u>   </u> / <u>   </u>
SERVING COSTS	\$ <u>          </u>	<u>   </u> / <u>   </u> / <u>   </u>
TOTAL	\$ <u>          </u>	<u>   </u> / <u>   </u> / <u>   </u>

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$ 6,000.00 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

Plaintiff purchased a motor vehicle from the Defendant which had 25,162 more miles on the motor vehicle than as set forth by the Defendant. The value of the vehicle with increased miles is \$6,000.00 less than Plaintiff paid.

I, David J. Hopkins, Esquire verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. S.C.A. § 4904) related to unsworn falsification to authorities.

  
(Signature of Plaintiff or Authorized Agent)

Plaintiff's Attorney: David J. Hopkins, Esquire Address: 900 Beaver Drive  
(814) 375-0300 DuBois, PA 15801

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO JUDGMENT WILL BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within district justice jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five (5) days before the date set for the hearing. If you have a claim against the plaintiff which is not within district justice jurisdiction, you may request information from this office as to the procedures you may follow. If you are disabled and require assistance, please contact the Magisterial District office at the address above.

00-1426-00

**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 GREENE : ss

**AFFIDAVIT:** I hereby swear or affirm that I served

☒ a copy of the Notice of Appeal, Common Pleas No. 2000-1426-CD, upon the District Justice designated therein on (date of service) November 22, 2000 ☐ by personal service ☒ by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) ROYER'S 219 AUTO SALES on November 22, 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 November 22, 2000 ☐ by personal service ☒ by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME  
THIS 28<sup>th</sup> DAY OF November, 2000

James H. Bowers  
Signature of official before whom affidavit was made

Notary Public  
Title of official

My commission expires on \_\_\_\_\_, 19\_\_\_\_.

Notary Seal  
James H. Bowers, Notary Public  
Waynesburg Boro, Greene County  
My Commission Expires Mar. 10, 2003

[Signature]

Signature of affiant

**FILED**

NOV 30 2000  
11:14 AM  
William A. Shaw  
Prothonotary

**NOTICE OF APPEAL**

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

JUDICIAL DISTRICT

FROM

**DISTRICT JUSTICE JUDGMENT**

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		MAG. DIST. NO. OR NAME OF D.J.	
ADDRESS OF APPELLANT		CITY	STATE
DATE OF JUDGMENT		IN THE CASE OF <small>(Plaintiff)</small> _____ <small>(Defendant)</small>	
CLAIM NO.  CV 19 _____ LT 19 _____		VS. SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT	

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.

*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.*

\_\_\_\_\_  
*Signature of Prothonotary or Deputy*

**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 \_\_\_\_\_, appellee(s), to file a complaint in this appeal  
*Name of appellee(s)*

(Common Pleas No. \_\_\_\_\_) 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 \_\_\_\_\_, 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: \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
*Signature of Prothonotary or Deputy*



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

**Magistrate Patrick N. Ford  
109 North Brady Street  
P.O. Box 452  
Dubois, PA 15801**

## 2. Article Number (Copy from service label)

**7099 3400 0001 8159 1427**

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

**COMPLETE THIS SECTION ON DELIVERY**A. Received by (Please Print Clearly) **Anita Schmidt** B. Date of Delivery **11-22-00**C. Signature **X Anita Schmidt** ☐ Agent ☐ AddresseeD. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

## 3. Service Type

☐ Certified Mail ☐ Express Mail  
☐ Registered\* ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.4. Restricted Delivery? (Extra Fee) ☐ Yes**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

**Royer's 219 Auto Sales  
R. D. #1, Box 104  
Dubois, PA 15801**

## 2. Article Number (Copy from service label)

**7099 3400 0001 8159 1458**

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

**COMPLETE THIS SECTION ON DELIVERY**A. Received by (Please Print Clearly) **Steve Macko** B. Date of Delivery **11/22/00**C. Signature **X Steve Macko** ☐ Agent ☐ AddresseeD. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

## 3. Service Type

☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.4. Restricted Delivery? (Extra Fee) ☐ Yes

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

ROYER'S 219 AUTO SALES,  
Plaintiff

vs.

THOMAS McGILTON,  
Defendant

No. 2000-1426 C.D.

Type of Pleading: Complaint

Filed on behalf of: Royer's 219 Auto  
Sales

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE  
Attorney at Law  
Supreme Court No. 42519

900 Beaver Drive  
DuBois, Pennsylvania 15801

(814) 375-0300

**FILED**

DEC 07 2000

William A. Shaw  
Prothonotary

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

ROYER'S 219 AUTO SALES,	:	
Plaintiff	:	
	:	
vs.	:	No. 2000-1426 C.D>
	:	
THOMAS McGILTON,	:	
Defendant	:	

**NOTICE**

**TO DEFENDANT:**

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.**

Office of the Court Administrator  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830  
(814) 765-2641 (ext. 5982)

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

ROYER'S 219 AUTO SALES,	:	
Plaintiff	:	
	:	
vs.	:	No. 2000-1426 C.D.
	:	
THOMAS McGILTON,	:	
Defendant	:	

**COMPLAINT**

AND NOW, comes Gerald Royer d/b/a/t/a Royer's 219 Auto Sales, by and through its attorneys, The Hopkins Law Firm, and states as follows:

**COUNT I – BREACH OF CONTRACT**

1. Plaintiff, Gerald Royer, is an individual who operates a business known as Royer's 219 Auto Sale at R.D. #1, Box 104 DuBois, Pennsylvania 15801.
2. The Defendant is Thomas McGilton who maintains a principal business address at 1710 East High Street, Waynesburg, Pennsylvania 15370.
3. At all material times hereto both Plaintiff and Defendant operated used car dealerships.
4. On December 14, 1999, Plaintiff purchased a 1997 International 4700/T444E rollback truck from the Defendant.
5. The sale certificate certifies that the vehicle had been driven 68,242 miles as of December 14, 1999.
6. At all material times hereto, Defendant represented the vehicle had been driven 68,242 miles. Defendant made those representations with the knowledge that

Plaintiff would rely upon that information in deciding whether to purchase the motor vehicle at the price asked by Defendant.

7. Relying upon the aforesaid representations by Defendant, Plaintiff did purchase the motor vehicle.

8. On January 14, 2000, Plaintiff presented the vehicle to an International Navistar dealer who placed the vehicle on their diagnostic computer. The truck's computer identified the correct odometer reading as 95,636 miles when the truck's odometer reading then read 70,474.

9. When Plaintiff purchased the motor vehicle, the vehicle had been driven 25,162 more miles than Defendant had represented same had been driven.

10. As a result of the additional mileage, the vehicle is worth at least \$6,000.00 less than what Plaintiff had paid for same and the vehicle is now out of warranty which further diminishes the vehicle's value.

11. The actions of the Defendant constitute breach of contract for which Plaintiff has suffered damages.

WHEREFORE, Plaintiff demands judgment against Defendant Thomas McGilton, Thomas McGilton, for compensatory damages, cost of suit, pre and post judgment interest and such other and further relief as the Court deems fair, just and equitable.

#### **COUNT II- CONSUMER FRAUD**

12. Plaintiff repeats all of the allegations set forth in Count I of this Complaint as if set forth at length herein.

13. The actions of the Defendant constitute consumer fraud within the meaning of the Pennsylvania statutes.

WHEREFORE, Plaintiff demands damages against Defendant, Thomas McGilton, for compensatory damages, treble damages, cost of suit, pre and post judgment interest and such other and further relief as the Court deems fair, just and equitable.

### **COUNT III – COMMON LAW FRAUD**

14. Plaintiff repeats all of the allegations set forth in Count I and Count II of this Complaint as if set forth at length herein.

15. At all material times hereto, Defendant knew the representations that the vehicle had been driven only 68,242 miles as of December 14, 1999 were false.

16. Defendant made the aforesaid statements anticipating Plaintiff would rely upon same. Plaintiff did rely upon said statements in purchasing the motor vehicle.

17. The actions of the Defendant constitute fraud, entitling Plaintiff to an award of punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendant Thomas McGilton, for compensatory damages, punitive damages, cost of suit, pre and post judgment interest and such other and further relief as the Court deems fair, just and equitable.

### **COUNT IV – RESCISSION OF CONTRACT**

18. Plaintiff repeats the allegations set forth in Counts I through III of this Complaint as if set forth at length herein.

19. At all material times hereto, one or both parties was mistaken as to the miles the vehicle had been driven as of December 14, 1999. As a result of said failure to

know the mileage which the vehicle had been driven, there was not a meeting of the minds between Plaintiff and Defendant as to the purchase of the motor vehicle described herein.

20. The parties did not have a contract.

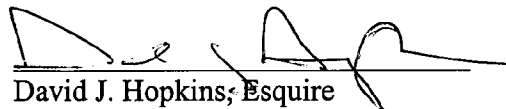
21. Plaintiff respectfully requests this Honorable Court rescind the contract between Plaintiff and Defendant and obligate Defendant to repay Plaintiff all monies which Plaintiff paid on behalf of the motor vehicle including tax, title and license fees in exchange for returning the motor vehicle to Defendant.

WHEREFORE, Plaintiff respectfully requests this Honorable Court rescind the contract between Plaintiff and Defendant and obligate Defendant to repay Plaintiff all monies which Plaintiff paid on behalf of the motor vehicle including tax, title and license fees in exchange for returning the motor vehicle to Defendant.

**DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by twelve jurors on all issues presented herein.

Respectfully submitted,

  
David J. Hopkins, Esquire

FROM : ROYER'S 219 AUTO SALES  
DEC-07-00 09:21 AM

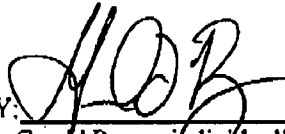
PHONE NO. : 814 371 8266  
David J. Hopkins

Dec. 07 2000 10:44AM P1  
P.07

**VERIFICATION**

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

BY:



Gerald Royer, individually and d/b/a  
Royer's 219 Auto Sales

Date:

12/2/00




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

ROYER'S 219 AUTO SALES,	:	
Plaintiff	:	
	:	
vs.	:	No. 2000-1426 C.D.
	:	
THOMAS McGILTON,	:	
Defendant	:	

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of Answer to New Matter, filed on behalf of Gerald Royer, individually and d/b/a Royer's 219 Auto Sales, was forwarded on the 7th day of December, 2000, by U.S. Mail, postage prepaid, to all counsel of record, addressed as follows:

Thomas McGilton  
1710 East High Street  
Waynesburg, PA 15370

  
David J. Hopkins, Esquire  
Attorney for Plaintiff  
Supreme Court No. 42519

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

ROYER'S 219 AUTO SALES,  
Plaintiff

vs.

THOMAS McGILTON,  
Defendant

No. 2000-1426 C.D.

Type of Pleading: Praeipie to Discontinue

Filed on behalf of Royer's 219 Auto Sales,  
Plaintiff.

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE

Attorney at Law

Supreme Court I.D. No. 42519

900 Beaver Drive

DuBois, Pennsylvania 15801

(814) 375-0300

**FILED**

JAN 26 2001

William A. Shaw  
Prothonotary

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

ROYER'S 219 AUTO SALES,

Plaintiff

vs.

THOMAS McGILTON,


Defendant

No. 2000-1426 C.D.

**PRAECIPE TO DISCONTINUE**

TO THE PROTHONOTARY:

Kindly mark the above captioned matter settled and discontinued.

  
David J. Hopkins, Esquire

FILED

JAN 26 2001

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William A. Shaw  
Prothonotary

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

**CIVIL DIVISION**

**Royer's 219 Auto Sales**

**Vs.**

**No. 2000-01426-CD**

**Thomas McGilton**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on January 26, 2001 marked:

Settled and discontinued.

Record costs in the sum of \$80.00 have been paid in full by David J. Hopkins, Esquire.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 26th day of January A.D. 2001.



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William A. Shaw, Prothonotary