

00-1595-CD  
JAMES D. SHOFESTALL "vs" BUD AUGHENBAUGH et al

## COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS  
Clearfield County  
JUDICIAL DISTRICT

46 - 3 - 01

## NOTICE OF APPEAL

FROM

## DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2000 - 1595 - 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 Bud Aughenbaugh, t/d/b/a Bud's Auto Rep.		MAG. DIST. NO. OR NAME OF D.J. 46 - 3 - 01	
ADDRESS OF APPELLANT 20 North Franklin Street,		CITY DuBois,	STATE PA ZIP CODE 15801
DATE OF JUDGMENT 11/27/00	IN THE CASE OF (Plaintiff) James D. Shofestall	(Defendant) vs. Bud Aughenbaugh, t/d/b/a Bud's Auto	
CLAIM NO. CV XXXX 0000707-00 LT 19	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT 		
		Rep.	
<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>_____ Signature of Prothonotary or Deputy</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

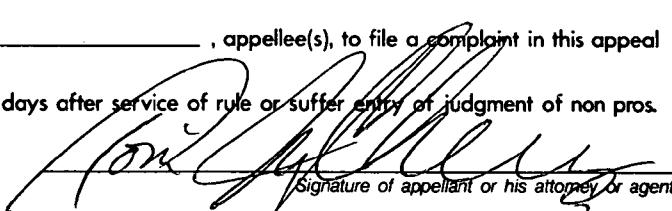
(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee).

## PRAECIPE: To Prothonotary

Enter rule upon James D. Shofestall, appellee(s), to file a complaint in this appeal  
(Name of appellee(s))

(Common Pleas No. 2000 - 1595 - CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

RULE: To James D. Shofestall, appellee(s).  
(Name of appellee(s))

  
Signature of appellant or his attorney or agent

To: (46224)

(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: Dec. 26, 2000

  
FILED

DEC 26 2000  
2007 3:30 PM  
William A. Shaw  
Prothonotary

80  
80 -

---

## 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\_\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

**46-3-01**

DJ Name: Hon.

**PATRICK N. FORD**

Address: **109 NORTH BRADY STREET  
P.O. BOX 452  
DUBOIS, PA**

Telephone: **(814) 371-5321 15801**

**ATTORNEY DEF PRIVATE :**

**TONI M. CHERRY ESQ  
10 N FRANKLIN ST  
P.O. BOX 505  
DUBOIS, PA 15801**

**NOTICE OF JUDGMENT/TRANSCRIPT  
CIVIL CASE**

PLAINTIFF:

**SHOFESTALL, JAMES D**

NAME and ADDRESS

**11 OAKLAND AVE  
DUBOIS, PA 15801**

VS.

DEFENDANT:

NAME and ADDRESS

**AUGHENBAUGH, BUD  
20 N FRANKLIN ST  
T/D/B/A/ BUD'S AUTO REP.  
DUBOIS, PA 15801**

Docket No.: **CV-0000707-00**  
Date Filed: **10/12/00**



**2000-1595-C0**

**THIS IS TO NOTIFY YOU THAT:**

Judgment:

**FOR PLAINTIFF**

Judgment was entered for: (Name) **SHOFESTALL, JAMES D**

Judgment was entered against: (Name) **AUGHENBAUGH, BUD**

in the amount of \$ **1,149.94** on: (Date of Judgment) **11/27/00**

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>1,093.94</b>
Judgment Costs	\$ <b>56.00</b>
Interest on Judgment	\$ <b>.00</b>
Attorney Fees	\$ <b>.00</b>
<b>Total</b>	<b>\$ 1,149.94</b>
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
=====	
<b>Certified Judgment Total</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.

11-27-00 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

COURT OF COMMON PLEAS  
Clearfield County  
JUDICIAL DISTRICT

46 - 3 - 01

## NOTICE OF APPEAL

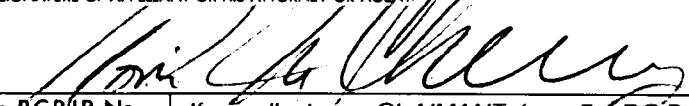
FROM

## DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2000 - 1595 - 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 <b>Bud Aughenbaugh, t/d/b/a Bud's Auto Rep.</b>		MAG. DIST. NO. OR NAME OF D.J. <b>46 - 3 - 01</b>		
ADDRESS OF APPELLANT <b>20 North Franklin Street,</b>		CITY <b>DuBois,</b>	STATE <b>PA</b>	ZIP CODE <b>15801</b>
DATE OF JUDGMENT <b>11/27/00</b>	IN THE CASE OF (Plaintiff) <b>James D. Shofestall</b>	vs. <b>Bud Aughenbaugh, t/d/b/a Bud's Auto</b> (Defendant)		
CLAIM NO. <b>CV 19XX 0000707-00</b>	LT 19	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT 		
<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>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>		
Signature of Prothonotary or Deputy				

## PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

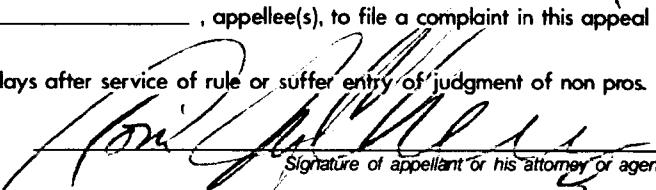
(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee).

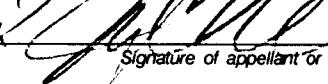
## PRAECIPE: To Prothonotary

Enter rule upon James D. Shofestall, appellee(s), to file a complaint in this appeal  
(Name of appellee(s))

(Common Pleas No. 2000 - 1595 - CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

RULE: To James D. Shofestall, appellee(s).  
(Name of appellee(s))

  
Signature of appellant or his attorney or agent

  
To: (Signature)

(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: Dec. 26, 19-2000

  
Signature of Prothonotary or Deputy

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

DEC 26 2000

Attest.

  
William A. Shaw  
Prothonotary

**FILED**

JAN 02 2001

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 CLEARFIELD ; ss

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

a copy of the Notice of Appeal, Common Pleas No. 2000-1595 C.D., upon the District Justice designated therein on  
(date of service) December 29, 2000  by personal service  by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) JAMES D. SHOFESTALL, on  
December 29, xxx 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 December 29, xxx 2000  by personal service  by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

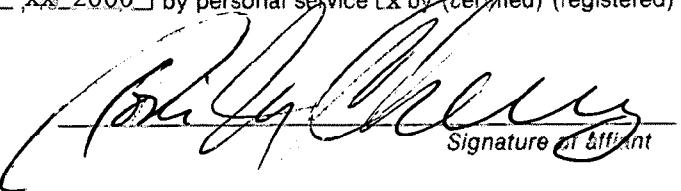
THIS 29th DAY OF December, xxx 2000

Paula M. Cherry

Signature of official before whom affidavit was made

Notary Public

Notary Seal	Paula M. Cherry, Notary Public DuBois, Clearfield County
My commission expires on	Sept. 16, 2001

  
Signature of affiant

Attest  
William A. Shaw  
Prothonotary

FILED

JAN 02 2001

01/02/01

William A. Shaw  
Prothonotary

No CC 808

Z 009 448 321

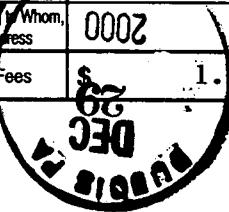
US Postal Service  
**Receipt for Certified Mail**

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to	Dist. Justice Patrick N. Ford	
Street & Number	109 N. Brady St., P. O. Box	
Post Office, State, & ZIP Code	452 DuBois, PA 15801	
Postage	\$	.33
Certified Fee	1.40	
Special Delivery Fee		
Restricted Delivery Fee		
Return Receipt Showing to Whom & Date Delivered		
Return Receipt Showing to Whom, Date & Addressee's Address	2000	
TOTAL Postage & Fees	\$	1.77
Postmark or Date	APR 30 1995	

PS Form 3804 April 1995



**Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See front).**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address, leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (no extra charge).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED adjacent to the number.**
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

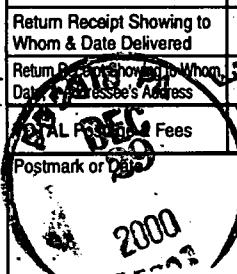
7 009 448 322

U.S. Postal Service  
**Receipt for Certified Mail**

No Insurance Coverage Provided.  
Do not use for International Mail (See reverse)

Sent to James D. Shofestall	
Street & Number 11 Oakland Avenue	
Post Office, State, & ZIP Code DuBois, PA 15801	
Postage	\$ .33
Certified Fee	1.40
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom Date & Addressee's Address	
TOTAL Postage & Fees \$ 1.73	
Postmark or Date	

PS Form 3800, April 1995



**Stick postage stamps to article to cover First-Class postage, certified mail fee, and charges for any selected optional services (See (ron)).**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (*no extra charge*).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
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5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

-102595-97-B-01



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

JAMES D. SHOFESTALL, : NO. 2000 - 1595 - C.D.  
Plaintiff : TYPE OF CASE: CIVIL  
VS. : TYPE OF PLEADING: COMPLAINT  
BUD AUGHENBAUGH, : FILED ON BEHALF OF: PLAINTIFF  
t/d/b/a BUD'S AUTO REPAIR, : COUNSEL OF RECORD:  
Defendant : CHRISTOPHER E. MOHNEY, ESQUIRE  
: SUPREME COURT NO.: 63494  
: BLAKLEY, JONES & MOHNEY  
: 90 BEAVER DRIVE, BOX 6  
: DU BOIS, PA 15801  
: (814) 371-2730

**FILED**

JAN 15 2001

William A. Shaw  
Prothonotary

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

JAMES D. SHOFESTALL, : NO. 2000 - 1595 - C.D.

Plaintiff :  
:

VS. :  
:

BUD AUGHENBAUGH, :  
t/d/b/a BUD'S AUTO REPAIR, :  
:

Defendant :  
:

**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 is 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 an order may be entered against you by the Court without further notice for any money claimed in the Complaint 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  
Second & Market Streets  
Clearfield, Pennsylvania 16830  
(814) 765-2641 Ext. 50-51

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

JAMES D. SHOFESTALL, : NO. 2000 - 1595 - C.D.  
: Plaintiff :  
VS. :  
: BUD AUGHENBAUGH, :  
t/d/b/a BUD'S AUTO REPAIR, :  
: Defendant :

**COMPLAINT**

AND NOW, comes the Plaintiff **JAMES D. SHOFESTALL**, by his attorneys, **BLAKLEY, JONES & MOHNEY, ESQUIRES**, and files this Complaint against **BUD AUGHENBAUGH, t/d/b/a BUD'S AUTO REPAIR** upon a cause of action whereof the following is a statement:

1. Plaintiff **JAMES D. SHOFESTALL** (hereinafter "**SHOFESTALL**") is an adult individual with a last known address at 11 Oakland Avenue, Du Bois, Clearfield County, Pennsylvania 15801.
2. Defendant **BUD AUGHENBAUGH** is an adult individual and trades and does business as **BUD'S AUTO REPAIR** with an address at 20 North Franklin Street, Du Bois, Clearfield County, Pennsylvania 15801.
3. On or about May 22, 2000, **SHOFESTALL** contracted with Defendant for Defendant to rebuild an engine in a 1988 Pontiac Grand Prix.
4. **SHOFESTALL** initially presented the 1988 Pontiac Grand Prix to Defendant asking that the engine be replaced.

5. Defendant advised **SHOFESTALL** that he could rebuild the engine cheaper.
6. **SHOFESTALL** accepted Defendant's expertise and recommendation and agreed for Defendant to perform the rebuild on the engine.
7. **SHOFESTALL** paid Defendant \$1,543.50 to rebuild the engine.
8. Immediately upon retrieval of the vehicle from Defendant by **SHOFESTALL**, and payment of Defendant's invoice, **SHOFESTALL** experienced continuing problems with the engine of the vehicle.
9. **SHOFESTALL** had the vehicle returned to Defendant on at least two (2) occasions for reexamination of the ongoing engine problems.
10. Defendant performed in a poor and unworkmanlike manner on the rebuild of the engine.
11. Because of Defendant's poor and unworkmanlike performance in the rebuilding of the engine in the vehicle, including but not limited to, Defendant failing to diagnose a cracked cylinder, it was necessitous of **SHOFESTALL** to have the rebuilt engine removed and replaced.
12. The cost of the replacement engine from Rick's Used Auto Parts in Kersey, Pennsylvania, was \$650.00.
13. The cost to have the rebuilt engine removed and the replacement engine installed, by Kent's Auto Service in Du Bois, was \$394.85.

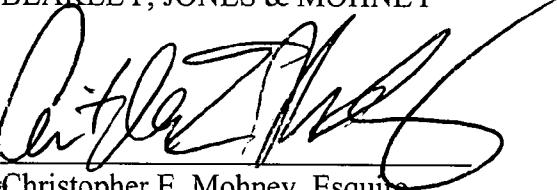
WHEREFORE, Plaintiff **JAMES D. SHOFESTALL** prays this Honorable Court to enter judgment in his favor and against Defendant **BUD AUGHENBAUGH, trading and doing business as BUD'S AUTO REPAIR**, in the amount of \$1,543.50, together with costs of District Justice Patrick N. Ford in the amount of \$56.00, costs of this Court and interest as allowed under

Pennsylvania law.

Respectfully submitted,

BLAKLEY, JONES & MOHNEY

BY:

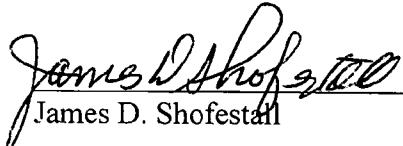
  
Christopher E. Mohney, Esquire  
Attorneys for Plaintiff

**VERIFICATION**

I, **JAMES D. SHOFESTALL**, being duly authorized to make this verification, have read the foregoing Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C. S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

Date: 1-15-01

  
James D. Shofestall  
James D. Shofestall

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - AT LAW  
NO. 2000 - 1595 - C.D.

JAMES D. SHOFESTALL,

Plaintiff

vs.

BUD AUGHENBAUGH,  
t/d/b/a BUD'S AUTO REPAIR,

Defendant

COMPLAINT

**FILED**

JAN 15 2001

01/15/01 C.C. atty  
William A. Shaw  
Prothonotary

*E. A. Mahaney*

LAW OFFICES

**BLAKLEY, JONES & MOHNEY**  
90 BEAVER DRIVE - BOX 6  
DUBOIS, PA 15801

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

JAMES D. SHOFESTALL, : NO. 2000 - 1595 - C D.  
Plaintiff : TYPE OF CASE: CIVIL  
VS. : TYPE OF PLEADING: CERTIFICATE OF  
BUD AUGHENBAUGH, : SERVICE  
t/d/b/a BUD'S AUTO REPAIR, : FILED ON BEHALF OF: PLAINTIFF  
Defendant : COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
: SUPREME COURT NO.: 63494  
: BLAKLEY, JONES & MOHNEY  
: 90 BEAVER DRIVE, BOX 6  
: DU BOIS, PA 15801  
: (814) 371-2730

**FILED**

JAN 15 2001

William A. Shaw  
Prothonotary

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

JAMES D. SHOFESTALL, : NO. 2000 - 1595 - C.D.  
: :  
Plaintiff : :  
: :  
VS. : :  
: :  
BUD AUGHENBAUGH, : :  
t/d/b/a BUD'S AUTO REPAIR, : :  
: :  
Defendant : :

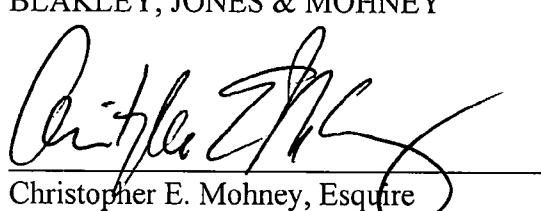
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Plaintiff's Complaint has been served upon  
the following individual by regular United States mail, postage prepaid, on this 15 day of  
January, 2001:

Toni M. Cherry, Esquire  
Gleason, Cherry & Cherry  
P.O. Box 505  
One North Franklin Street  
Du Bois, PA 15801  
Attorney for Defendant

BLAKLEY, JONES & MOHNEY

BY:

  
Christopher E. Mohney, Esquire  
Attorney for Plaintiff  
90 Beaver Drive, Box 6  
Du Bois, PA 15801  
(814) 371-2730

**FILED**

JAN 15 2001  
01/14/2001  
William A. Shaw  
Prothonotary

*Cathy  
K. Mohney*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - AT LAW

JAMES D. SHOFESTALL,

Plaintiff

vs.

BUD AUGHENBAUGH,

t/d/b/a BUD'S AUTO REPAIR,

Defendant

: No. 2000 - 1595 C.D.

:

: Type of Case: CIVIL

:

: Type of Pleading: DEFENDANT'S

: PRELIMINARY OBJECTIONS TO

: PLAINTIFF'S COMPLAINT

:

: Filed on Behalf of: BUD AUGHENBAUGH,  
: t/d/b/a BUD'S AUTO REPAIR, Defendant

:

: Counsel of Record for this Party:

:

: TONI M. CHERRY, ESQ.

: Supreme Court No.: 30205

:

: GLEASON, CHERRY AND

: CHERRY, L.L.P.

: Attorneys at Law

: P. O. Box 505

: One North Franklin Street

: DuBois, PA 15801

:

: (814) 371-5800

FILED

Feb 06 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - AT LAW

JAMES D. SHOFESTALL,	:
Plaintiff	:
	: No. 2000 - 1595 C.D.
vs.	:
	:
BUD AUGHENBAUGH,	:
t/d/b/a BUD'S AUTO REPAIR,	:
Defendant	:

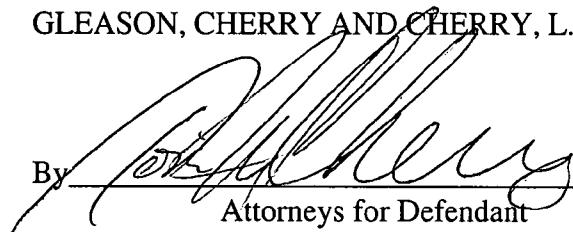
**NOTICE TO PLEAD**

To The Within Plaintiff:

YOU ARE HEREBY NOTIFIED TO PLEAD  
TO THE WITHIN PRELIMINARY  
OBJECTIONS WITHIN TWENTY (20)  
DAYS FROM THE DATE OF SERVICE  
HEREOF.

GLEASON, CHERRY AND CHERRY, L.L.P.

By

  
Attorneys for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - AT LAW

JAMES D. SHOFESTALL, :  
Plaintiff :  
: No. 2000 - 1595 C.D.  
vs. :  
: BUD AUGHENBAUGH, :  
t/d/b/a BUD'S AUTO REPAIR, :  
Defendant :  
:

**DEFENDANT'S PRELIMINARY OBJECTIONS TO**  
**PLAINTIFF'S COMPLAINT**

Defendant, BUD AUGHENBAUGH, t/d/b/a BUD'S AUTO REPAIR, by his undersigned attorney, preliminarily objects to Plaintiff's Complaint pursuant to Pa.R.C.P. 1028(a)(5) as follows:

**PRELIMINARY OBJECTION RAISING  
LACK OF CAPACITY TO SUE**

1. The Plaintiff in this action lacks the capacity to sue because Plaintiff is not the owner of the 1988 Pontiac Grand Prix that is the subject of the lawsuit.
2. The titled owner of the 1988 Pontiac Grand Prix is Joel Shofestall and Joel Shofestall was the individual with whom Defendant dealt in matters arising out of the repair of the 1988 Pontiac Grand Prix as it was Joel Shofestall who requested Defendant to perform repairs on his vehicle.
3. That since Plaintiff, JAMES D. SHOFESTALL, is not the owner of the 1988 Pontiac Grand Prix nor was he at any time when Defendant performed any work on said vehicle,

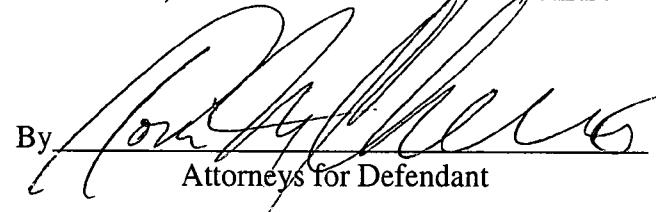
Plaintiff lacks capacity to sue for any damages arising out of repairs to a 1988 Pontiac Grand Prix not titled in his name at all times relevant to the issues raised in the Complaint.

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

Respectfully submitted,

GLEASON, CHERRY AND CHERRY, L.L.P.

By

A handwritten signature in black ink, appearing to read "John P. Gleason".

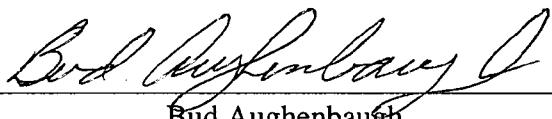
Attorneys for Defendant

COMMONWEALTH OF PENNSYLVANIA :

: SS.

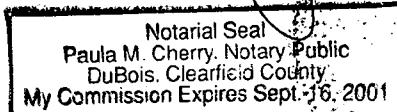
COUNTY OF CLEARFIELD :

Personally appeared before me, a Notary Public in and for the County and State aforesaid, BUD AUGHENBAUGH, who, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Preliminary Objections are true and correct to the best of his knowledge, information and belief.



Bud Aughenbaugh

Sworn to and subscribed before me this 5<sup>th</sup> day of February, 2001.



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - AT LAW

JAMES D. SHOFESTALL, :  
Plaintiff :  
: No. 2000 - 1595 C.D.  
vs. :  
: :  
BUD AUGHENBAUGH, :  
t/d/b/a BUD'S AUTO REPAIR, :  
Defendant :  
:

**CERTIFICATE OF SERVICE**

I hereby certify that on this 5<sup>th</sup> day of February, 2001, a true and correct copy of Defendant's Preliminary Objections to Plaintiff's Complaint was served upon counsel for Plaintiff by mailing the same to him by United States First Class Mail, Postage Prepaid, by depositing the same in the United States Post Office at DuBois, Pennsylvania, addressed as follows:

CHRISTOPHER E. MOHNEY, ESQ.  
Blakley, Jones & Mohney  
Attorneys at Law  
90 Beaver Drive, Box 6  
DuBois, PA 15801

GLEASON, CHERRY AND CHERRY, L.L.P.

By

John B. Gleason  
Attorneys for Defendant

Dated: February 5, 2001

FILED

Feb 16 2001  
Mills, Kelly, Chey  
William A. Shaw  
Prothonotary

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

JOEL SHOFESTALL and : NO. 2000 - 1595 - C.D.  
JAMES D. SHOFESTALL, :  
Plaintiffs : TYPE OF CASE: CIVIL  
VS. : TYPE OF PLEADING: AMENDED  
BUD AUGHENBAUGH, : COMPLAINT  
t/d/b/a BUD'S AUTO REPAIR, : FILED ON BEHALF OF: PLAINTIFFS  
Defendant : COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
: SUPREME COURT NO.: 63494  
: BLAKLEY, JONES & MOHNEY  
: 90 BEAVER DRIVE, BOX 6  
: DU BOIS, PA 15301  
: (814) 371-2730

**FILED**

FEB 14 2001

William A. Shaw  
Prothonotary

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

JOEL SHOFESTALL and	:	NO. 2000 - 1595 - C.D.
JAMES D. SHOFESTALL,	:	
Plaintiffs	:	
	:	
VS.	:	
	:	
BUD AUGHENBAUGH,	:	
t/d/b/a BUD'S AUTO REPAIR,	:	
Defendant	:	

**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 is 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 an order may be entered against you by the Court without further notice for any money claimed in the Complaint 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  
Second & Market Streets  
Clearfield, Pennsylvania 16830  
(814) 765-2641 Ext. 50-51

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

JOEL SHOFESTALL and	:	NO. 2000 - 1595 - C.D.
JAMES D. SHOFESTALL,	:	
	:	
Plaintiffs	:	
	:	
VS.	:	
	:	
BUD AUGHENBAUGH,	:	
t/d/b/a BUD'S AUTO REPAIR,	:	
	:	
Defendant	:	

**COMPLAINT**

AND NOW, come the Plaintiffs, **JOEL SHOFESTALL and JAMES D. SHOFESTALL**, by their attorneys, **BLAKLEY, JONES & MOHNEY, ESQUIRES**, and file this Complaint against **BUD AUGHENBAUGH, t/d/b/a BUD'S AUTO REPAIR** upon a cause of action whereof the following is a statement:

1. Plaintiff **JAMES D. SHOFESTALL** (hereinafter "**SHOFESTALL**") is an adult individual with a last known address at 11 Oakland Avenue, Du Bois, Clearfield County, Pennsylvania 15801.
2. Plaintiff **JOEL SHOFESTALL** is an adult individual with a last known address at 11 Oakland Avenue, Du Bois, Clearfield County, Pennsylvania 15801.
3. Defendant **BUD AUGHENBAUGH** is an adult individual and trades and does business as **BUD'S AUTO REPAIR** with an address at 20 North Franklin Street, Du Bois, Clearfield County, Pennsylvania 15801.

4. Plaintiff **JOEL SHOFESTALL** is a registered owner of a 1988 Pontiac Grand Prix.

COUNT I - PLAINTIFF JAMES D. SHOFESTALL VS.  
BUD AUGHENBAUGH, t/d/b/a BUD'S AUTO REPAIR

5. On or about May 22, 2000, **SHOFESTALL** contracted with Defendant for Defendant to rebuild an engine in a 1988 Pontiac Grand Prix.

6. **SHOFESTALL** initially presented the 1988 Pontiac Grand Prix to Defendant asking that the engine be replaced.

7. Defendant advised **SHOFESTALL** that he could rebuild the engine cheaper.

8. **SHOFESTALL** accepted Defendant's expertise and recommendation and agreed for Defendant to perform the rebuild on the engine.

9. **SHOFESTALL** paid Defendant \$1,543.50 to rebuild the engine.

10. Immediately upon retrieval of the vehicle from Defendant by **SHOFESTALL**, and payment of Defendant's invoice, **SHOFESTALL** experienced continuing problems with the engine of the vehicle.

11. **SHOFESTALL** had the vehicle returned to Defendant on at least two (2) occasions for reexamination of the ongoing engine problems.

12. Defendant performed in a poor and unworkmanlike manner on the rebuild of the engine.

13. Because of Defendant's poor and unworkmanlike performance in the rebuilding of the engine in the vehicle, including but not limited to, Defendant failing to diagnose a cracked cylinder, it was necessitous of **SHOFESTALL** to have the rebuilt engine removed and replaced.

14. The cost of the replacement engine from Rick's Used Auto Parts in Kersey, Pennsylvania, was \$650.00.

15. The cost to have the rebuilt engine removed and the replacement engine installed, by Kent's Auto Service in Du Bois, was \$394.85.

WHEREFORE, Plaintiff **JAMES D. SHOFESTALL** prays this Honorable Court to enter judgment in his favor and against Defendant **BUD AUGHENBAUGH, trading and doing business as BUD'S AUTO REPAIR**, in the amount of \$1,543.50, together with costs of District Justice Patrick N. Ford in the amount of \$56.00, costs of this Court and interest as allowed under Pennsylvania law.

COUNT II - JOEL SHOFESTALL VS.  
BUD AUGHENBAUGH, t/d/b/a BUD'S AUTO REPAIR

16. Paragraphs 1 through 15 are incorporated herein as if fully set forth at length.

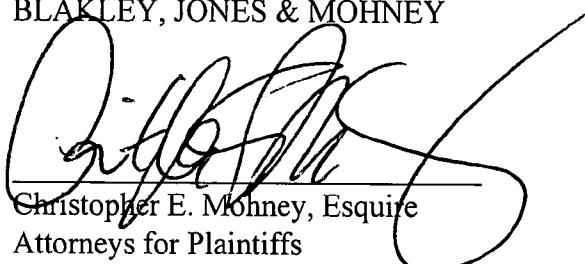
17. Plaintiff **JOEL SHOFESTALL** was a third-party beneficiary to the contract between his father, **JAMES D. SHOFESTALL**, and **BUD AUGHENBAUGH, trading and doing business as BUD'S AUTO REPAIR**, in that **JOEL SHOFESTALL** was the registered owner of the vehicle.

WHEREFORE, Plaintiff **JOEL SHOFESTALL** prays this Honorable Court to enter a judgment in his favor and against Defendant **BUD AUGHENBAUGH, trading and doing business as BUD'S AUTO REPAIR**, in the amount of \$1,543.50, together with costs and interest as allowed under Pennsylvania law.

Respectfully submitted,

BLAKLEY, JONES & MOHNEY

BY:

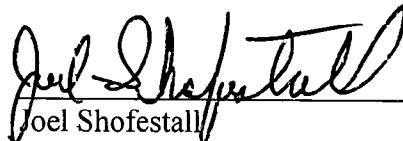
  
Christopher E. Mohney, Esquire  
Attorneys for Plaintiffs

**VERIFICATION**

We, **JOEL SHOFESTALL** and **JAMES D. SHOFESTALL**, being duly authorized to make this verification, have read the foregoing Complaint. The statements therein are correct to the best of our personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C. S. Section 4904 relating to unsworn fabrication to authorities, which provides that if we make knowingly false averments we may be subject to criminal penalties.

Date: 2-12-01

  
\_\_\_\_\_  
Joel Shofestall

Date: 2-12-01

  
\_\_\_\_\_  
James D. Shofestall

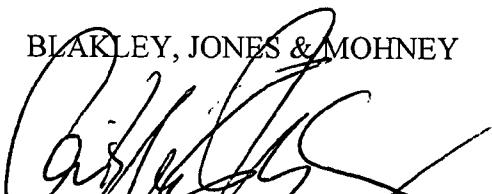
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - AT LAW

JOEL SHOFESTALL and : NO. 2000 - 1595 - C.D.  
JAMES D. SHOFESTALL, :  
: Plaintiffs :  
VS. :  
: :  
BUD AUGHENBAUGH, :  
t/d/b/a BUD'S AUTO REPAIR, :  
: :  
Defendant :  
:

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Plaintiffs' Amended Complaint has been served upon the following individual by regular United States mail, postage prepaid, on this 13th day of February, 2001:

Toni M. Cherry, Esquire  
Gleason, Cherry & Cherry  
P.O. Box 505  
One North Franklin Street  
Du Bois, PA 15801  
Attorney for Defendant

BY:   
BLAKLEY, JONES & MOHNEY

Christopher E. Mohney, Esquire  
Attorney for Plaintiffs  
90 Beaver Drive, Box 6  
Du Bois, PA 15801  
(814) 371-2730

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - AT LAW  
NO. 2000 - 1595 - C.D.

JOEL SHOFESTALL and  
JAMES D. SHOFESTALL,

Plaintiffs

vs.

BUD AUGHENBAUGH,  
t/d/b/a BUD'S AUTO REPAIR,

Defendant

AMENDED COMPLAINT

FILED *1/13/01*  
FEB 4 2001  
NO C.C.

William A. Shaw  
Prothonotary

LAW OFFICES

BLAKLEY, JONES & MOHNEY  
90 BEAVER DRIVE - BOX 6  
DUBOIS, PA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

JOEL SHOFESTALL and : No. 2000 - 1595 C.D.  
JAMES D. SHOFESTALL, :  
Plaintiffs : Type of Case: CIVIL  
vs. :  
BUD AUGHENBAUGH, : Type of Pleading: ANSWER AND NEW  
t/d/b/a BUD'S AUTO REPAIR, : MATTER  
Defendant : Filed on Behalf of: BUD AUGHENBAUGH,  
: t/d/b/a BUD'S AUTO REPAIR, Defendant  
: Counsel of Record for this Party:  
: TONI M. CHERRY, ESQ.  
: Supreme Court No.: 30205  
: GLEASON, CHERRY AND  
: CHERRY, L.L.P.  
: Attorneys at Law  
: P. O. Box 505  
: One North Franklin Street  
: DuBois, PA 15801  
: (814) 371-5800

**FILED**

APR 04 2001

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

JOEL SHOFESTALL and	:
JAMES D. SHOFESTALL,	:
Plaintiffs	:
vs.	:
	No. 2000 - 1595 C.D.
BUD AUGHENBAUGH,	:
t/d/b/a BUD'S AUTO REPAIR,	:
Defendant	:

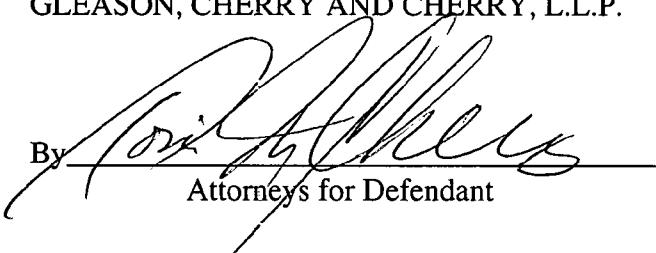
**NOTICE TO PLEAD**

TO THE WITHIN PLAINTIFF:

YOU ARE HEREBY NOTIFIED TO PLEAD  
TO THE WITHIN NEW MATTER WITHIN  
TWENTY (20) DAYS FROM THE DATE OF  
SERVICE HEREOF.

GLEASON, CHERRY AND CHERRY, L.L.P.

By

  
\_\_\_\_\_  
Attnorneys for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

JOEL SHOFESTALL and	:
JAMES D. SHOFESTALL,	:
Plaintiffs	:
vs.	:
	:
	:
BUD AUGHENBAUGH,	:
t/d/b/a BUD'S AUTO REPAIR,	:
Defendant	:

vs. : No. 2000 - 1595 C.D.

**A N S W E R**

AND NOW, comes the Defendant, BUD AUGHENBAUGH, t/d/b/a BUD'S AUTO REPAIR, by and through his attorneys, GLEASON, CHERRY AND CHERRY, L.L.P., and answers the Amended Complaint of the Plaintiffs as follows:

1. ADMITTED.
2. ADMITTED.
3. ADMITTED.
4. ADMITTED.

**COUNT I - PLAINTIFF, JAMES D. SHOFESTALL vs.**  
**BUD AUGHENBAUGH, t/d/b/a BUD'S AUTO REPAIR**

5. DENIED. On the contrary, at no time on or about May 22, 2000, or at any other time did Plaintiff, JAMES D. SHOFESTALL, ever contract with Defendant to have Defendant rebuild an engine in a 1988 Pontiac Grand Prix. On the contrary, prior to May 22, 2000, Plaintiff, JOEL SHOFESTALL, came onto the business premises of the Defendant, accompanied by his father, JAMES D. SHOFESTALL, with a complaint about his 1988

Pontiac Grand Prix. In particular, the complaint was that the vehicle was losing antifreeze and that the antifreeze was mixed with oil. Upon hearing that complaint, Defendant advised Plaintiff, JOEL SHOFESTALL, and his father that he suspected that the head gaskets were bad. At that point, Plaintiff, JAMES D. SHOFESTALL, advised that he suspected that this was the cause of the problem as well.

Defendant further advised both men that in order to confirm that this was the problem and to repair the same as Plaintiffs asked him to do, Defendant would have to pull the motor and disassemble it to find out what was wrong. At that point, Plaintiff, JAMES D. SHOFESTALL, spoke up on behalf of his son who was the owner of the car and directed Defendant to go ahead and perform the work.

Thereafter, Defendant took the motor out, disassembled it and sent the cylinder heads and blocks to E&G Auto Parts for cleaning and inspection as was his normal course of conduct to determine if there were cracks or holes in the cylinder heads or blocks that would require those pieces to be discarded. Defendant was advised by E&G Auto Parts that there were no cracks in any of the six cylinders.

Defendant then called the Shofestall home and spoke with Plaintiff, JAMES D. SHOFESTALL, to advise him that the head gaskets were bad but that the cylinders and block were not cracked. Defendant advised JAMES D. SHOFESTALL of the parts that would have to be ordered to replace those items that were bad and was thereupon given the directive by JAMES D. SHOFESTALL to order the parts and to replace the same.

6. DENIED. On the contrary, SHOFESTALL initially presented the 1988 Pontiac Grand Prix with a complaint that it was losing antifreeze and that antifreeze was mixed with

oil. At no time did SHOFESTALL ever ask Defendant to replace the engine nor did he ever direct Defendant to rebuild the engine but only to replace the defective parts.

7. DENIED. At no time did Plaintiff, JAMES D. SHOFESTALL, ever ask Defendant to replace the engine nor did Defendant ever advise Plaintiff that he could rebuild the engine cheaper than the cost of replacement. On the contrary, Defendant quoted Plaintiff a price to remove and disassemble the engine and determine the cause of the antifreeze problem and to replace the faulty pieces but never to rebuild the engine or to replace the engine. Prior to Defendant doing any of the work, Plaintiff, JAMES D. SHOFESTALL, gave the directive to proceed and Defendant did no work on the vehicle until authorized to do so by Plaintiff, JAMES D. SHOFESTALL.

8. DENIED. On the contrary, at no time did Plaintiff, JAMES D. SHOFESTALL, ever ask Defendant to rebuild the engine nor did he ever ask Defendant to replace the same. Plaintiffs came in complaining of a particular problem that they wanted Defendant to fix and, after hearing the complaint, Defendant concurred with Plaintiff, JAMES D. SHOFESTALL, as to the source of the problem and the procedure that would be followed to confirm that their suspicions were correct and what items needed to be replaced. Thereafter, Defendant performed no work until directly authorized to do so by Plaintiff, JAMES D. SHOFESTALL, and Plaintiff, JOEL SHOFESTALL.

9. DENIED. On the contrary, SHOFESTALL paid Defendant \$1,543.50 for all work done and parts installed which also included a state inspection specifically authorized by Plaintiff, JAMES D. SHOFESTALL, and the repairs that needed to be done as a result of that inspection, to wit, repairing a cooling fan that was inoperative; fixing the heater hose that was

leaking. Defendants specifically advised Plaintiff, JAMES D. SHOFESTALL, of the items found to be deficient upon the state inspection and was directed by Plaintiff, JAMES D. SHOFESTALL, to go ahead and fix the same.

10. DENIED. On the contrary, at the time of the retrieval of the vehicle on or about May 22, 2000, Plaintiff, JAMES D. SHOFESTALL, reviewed the garage repair order prepared by Defendant detailing all labor performed and parts provided and did confirm the same prior to paying the bill. At no time did Plaintiffs ever advise Defendant that they experienced continuing problems with the engine of the vehicle immediately upon retrieval of the same and strict proof of said allegation is required at trial.

11. DENIED. On the contrary, Plaintiff returned the vehicle to Defendant on only one occasion approximately four to six weeks after Plaintiffs originally picked up the car and paid Defendant for the services rendered. At that time, Plaintiffs both came back and said there was a problem and Defendant advised that he would take a look at it. Upon inspection, Defendant found a cylinder that was affected by antifreeze, removed that cylinder and found an obvious crack that had not been there previously. At that point, Defendant called Plaintiffs' home and spoke with Plaintiff, JAMES D. SHOFESTALL, and asked that Plaintiffs come down to his shop. Plaintiffs thereafter came to Defendant's place of business and Defendant showed them the problem. At that point, Plaintiff, JAMES D. SHOFESTALL, asked Defendant what would have to be done to repair the same and Defendant told him that the block would have to be replaced with either a new or used block. Defendant further advised that he could figure up a price with both new and used block and that Plaintiffs could then decide what they wanted to do. Plaintiffs directed Defendant to price the repair with both a new and a used block and then

left. Accordingly, Defendant secured such pricing and then called the Plaintiffs and was advised that the car was not worth spending the money on and that he was not to perform any further work because they intended to junk the car. Defendant offered to give Plaintiffs a break on his labor and to provide them the parts at cost and Plaintiffs again advised that the car was not worth it and directed Defendant to put the parts in the trunk of the car and that they would be down to tow the car away.

12. DENIED. At all times, Defendant performed the work that he was requested to do in a good and workmanlike manner. Defendant was never hired to rebuild an engine nor did he ever rebuild the engine.

13. DENIED. On the contrary, at all times Defendant performed all services in a good and workmanlike manner. Defendant followed all procedures normally followed by him in diagnosing a cracked cylinder. The tests performed to diagnose a cracked cylinder revealed that the cylinder was not cracked at the time but cracked after the testing was performed and after the repairs were made by Defendant.

14. DENIED as after reasonable investigation, Defendant is without sufficient knowledge to attest to the truth or falsity of the averments contained in Paragraph 14 of Plaintiffs' Complaint and strict proof of same is required at trial. By way of further answer, it is averred that at no time was Defendant advised to purchase a replacement engine and to replace the engine in Plaintiffs' car.

15. DENIED as after reasonable investigation, Defendant is without sufficient knowledge to attest to the truth or falsity of the averments contained in Paragraph 15 and strict proof of same is required at trial. By way of further answer, it is averred that Plaintiffs never

asked Defendant to find a replacement engine nor did they ever request that the engine be replaced. At all times Plaintiffs instructed Defendant to repair the engine to eliminate the antifreeze problem that Plaintiffs were experiencing which Defendant did.

WHEREFORE, Defendant respectfully requests that Plaintiffs' Complaint be dismissed with prejudice.

COUNT II - JOEL SHOFESTALL vs.  
BUD AUGHENBAUGH, t/d/b/a BUD'S AUTO REPAIR

16. Defendant incorporates herein by reference the averments contained in Paragraphs 1 through 15 inclusive of the foregoing Answer to COUNT I of Plaintiffs' Complaint as if the same were set forth at length herein.

17. Paragraph 17 is a conclusion of law to which no response is required. Insofar as a response is required, it is ADMITTED that Plaintiff, JOEL SHOFESTALL, was the registered owner of the vehicle and at all times concurred with Plaintiff, JAMES D. SHOFESTALL, in his directions to Defendant concerning the work that Defendant was to perform and the parts that Defendant was to supply.

WHEREFORE, Defendant respectfully requests your Honorable Court to dismiss Plaintiffs' Petition with prejudice.

**NEW MATTER**

18. Defendant incorporates herein by reference the averments contained in Paragraphs 1 through 17 inclusive of the foregoing Answer as if the same were set forth at length herein.

19. That prior to performing any of the work for Plaintiffs, Defendant did prepare a Garage Repair Order, No. 2966, and all of the work to be performed and parts to be supplied were set forth at length thereon. A true and correct copy of said Garage Repair Order is attached hereto and made a part hereof as Defendant's Exhibit "1".

20. That Plaintiffs did approve all of the work set forth on said Garage Repair Order and all of the parts to be supplied that were listed thereon prior to the work being done and the parts installed.

21. That at no time did Plaintiffs ever request Defendant to replace the engine nor did they ever direct Defendant to find an engine for use as such replacement.

22. At no time did Plaintiffs ever ask Defendant to rebuild the engine that was installed in the 1988 Pontiac Grand Prix nor did Defendant rebuild said engine.

23. That the services that Defendant was requested by Plaintiffs to perform was to determine the cause of the antifreeze problem and to correct the antifreeze problem which Defendant did.

24. That prior to performing any work to correct the antifreeze problem, Plaintiff, JAMES D. SHOFESTALL, also directed the Defendant to perform a state inspection and, upon hearing the results of that inspection, did direct Defendant to repair and replace the parts found to be defective so that the vehicle could pass inspection.

25. That Defendant did perform all of the work that Plaintiffs directed him to perform in a good and workmanlike manner and did supply all parts that Plaintiffs directed him to supply.

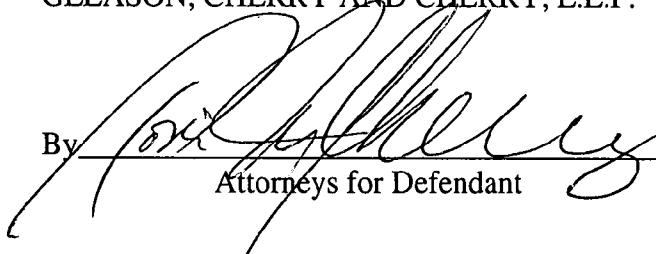
WHEREFORE, Defendant requests judgment against Plaintiffs, together with costs of

suit.

Respectfully submitted,

GLEASON, CHERRY AND CHERRY, L.L.P.

By

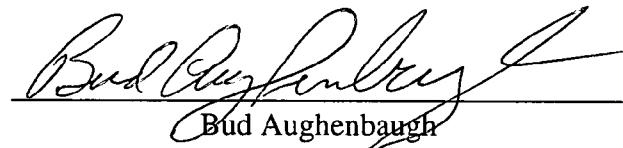
  
John P. Cherry  
Attorneys for Defendant

COMMONWEALTH OF PENNSYLVANIA :

: SS.

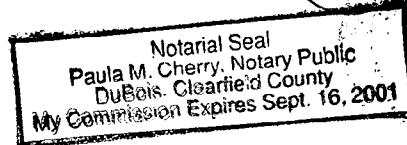
COUNTY OF CLEARFIELD :

Personally appeared before me, a Notary Public in and for the County and State aforesaid, BUD AUGHENBAUGH, t/d/b/a BUD'S AUTO REPAIR, who, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Answer and New Matter are true and correct to the best of his knowledge, information and belief.



Bud Aughenbaugh  
Bud Aughenbaugh

Sworn to and subscribed before me this 31 day of April, 2001.





IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

JOEL SHOFESTALL and	:
JAMES D. SHOFESTALL,	:
	Plaintiffs
	:
vs.	: No. 2000 - 1595 C.D.
	:
BUD AUGHENBAUGH,	:
t/d/b/a BUD'S AUTO REPAIR,	:
	Defendant
	:

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3<sup>rd</sup> day of April, 2001, a true and correct copy of Defendant's Answer and New Matter was served upon counsel for Plaintiff by mailing the same to him by United States First Class Mail, Postage Prepaid, by depositing the same in the United States Post Office at DuBois, Pennsylvania, addressed as follows:

CHRISTOPHER E. MOHNEY, ESQ.  
Blakley, Jones & Mohney  
Attorneys at Law  
90 Beaver Drive, Box 6  
DuBois, PA 15801

GLEASON, CHERRY AND CHERRY L.L.P.

By

Attnorneys for Defendant

Dated: April 3, 2001

FILED

APR 04 2001

10:45 AM  
William A. Shaw  
Prothonotary

cc: Cathy Cherry  
SBS

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

JOEL SHOFESTALL and : NO. 2000 - 1595 - C.D.  
JAMES D. SHOFESTALL, :  
Plaintiffs : TYPE OF CASE: CIVIL  
VS. : TYPE OF PLEADING: REPLY TO  
BUD AUGHENBAUGH, : NEW MATTER  
t/d/b/a BUD'S AUTO REPAIR, : FILED ON BEHALF OF: PLAINTIFFS  
Defendant : COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
: SUPREME COURT NO.: 63494  
: BLAKLEY, JONES & MOHNEY  
: 90 BEAVER DRIVE, BOX 6  
: DU BOIS, PA 15801  
: (814) 371-2730

**FILED**

MAY 01 2001

William A. Shaw  
Prothonotary

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

JOEL SHOFESTALL and	:	NO. 2000 - 1595 - C.D.
JAMES D. SHOFESTALL,	:	
Plaintiffs	:	
VS.	:	
BUD AUGHENBAUGH,	:	
t/d/b/a BUD'S AUTO REPAIR,	:	
Defendant	:	

**REPLY TO NEW MATTER**

AND NOW, come the Plaintiffs, **JOEL SHOFESTALL and JAMES D. SHOFESTALL**, by their attorneys, **BLAKLEY, JONES & MOHNEY, ESQUIRES**, who file this Reply to New Matter and in support thereof the following is averred:

18. No response necessary.
19. After reasonable investigation, Plaintiffs are without knowledge or information sufficient to form a belief as to the truth of the averments of paragraph 19 of Defendant's New Matter, the same therefore being denied. To the extent an answer is deemed necessary, Plaintiff's were not presented any such garage repair order prior to work being performed and, in fact, the date of the garage repair order attached and marked as Defendant's Exhibit (1) is the same date that Plaintiff **JAMES D. SHOFESTALL** wrote check to Defendant for payment and picked up the vehicle.
20. Denied. Plaintiffs were not provided written estimate in any form of the work to be performed and parts to be supplied by Defendant prior to Defendant commencing his work. By way of further response, Plaintiff **JAMES D. SHOFESTALL** contracted Defendant to rebuild the engine

in question after Mr. Shofestall was told by Defendant that Defendant could rebuild the engine cheaper than it would be to install an engine that Plaintiffs had already located and for which they initially contacted Defendant for price quote.

21. Admitted. Plaintiff **JAMES D. SHOFESTALL** only asked Defendant for a price quote to replace the engine in the vehicle, after which point Defendant indicated to Plaintiff **JAMES D. SHOFESTALL** that Defendant could rebuild the engine cheaper than it would cost Plaintiffs to replace the engine, at which point Plaintiff **JAMES D. SHOFESTALL**, trusting Defendant's expertise, agreed to allow Defendant to rebuild the engine.

22. Admitted in part, denied in part. Eventually, as set forth in the aforementioned paragraphs, Plaintiff **JAMES D. SHOFESTALL** did verbally contract with Defendant for Defendant to rebuild the engine that was in the vehicle left with Defendant. It is denied that Defendant did not rebuild said engine, rather, Defendant attempted to rebuild the engine but did not rebuild the same properly, as is more fully set forth in Plaintiffs' Complaint, all of which is incorporated herein and as if set forth at length.

23. Denied. By way of further response, Plaintiff **JAMES D. SHOFESTALL** did inform Defendant upon initial presentation of the vehicle that there was a problem with antifreeze in the oil of the car. However, Plaintiffs at no time asked Defendant to determine the cause of the antifreeze problem or to correct the antifreeze problem. Rather, Plaintiff **JAMES D. SHOFESTALL'S** sole mission was to obtain a cost quote to replace the engine in the vehicle.

24. Admitted in part, denied in part. It is admitted that Plaintiff **JAMES D. SHOFESTALL** asked Defendant to perform a state inspection on the vehicle. The rest of the allegations in paragraph 24 are denied, specifically, Plaintiffs at no time instructed Defendant to repair and replace parts

found to be defective so that the vehicle could pass inspection and, as set forth in paragraph 23 of this Reply to New Matter, to extent Defendant is alleging Plaintiffs instructed him to correct any antifreeze problem, the same is denied for the reasons set forth therein, all of which are incorporated herein by reference and as if set forth at length.

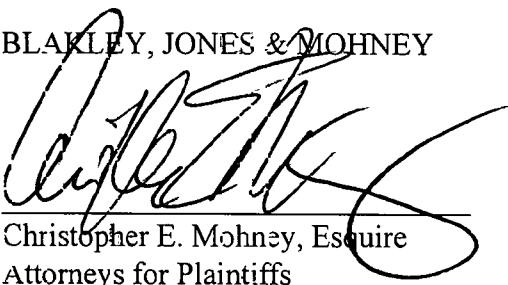
25. Denied. By way of further response, the entire Complaint and the foregoing Reply to New Matter is incorporated herein by reference and as if set forth at length.

WHEREFORE, Plaintiffs request that Defendant's New Matter be dismissed and judgment be entered in favor of Plaintiffs and against Defendant in the amount of \$1,543.50, together with the costs of District Justice Patrick N. Ford in the amount of \$56.00, costs of this Court and interest as allowed under Pennsylvania law.

Respectfully submitted,

BLAKLEY, JONES & MOHNEY

BY:

  
Christopher E. Mohney, Esquire  
Attorneys for Plaintiffs

**VERIFICATION**

We, **JOEL SHOFESTALL** and **JAMES D. SHOFESTALL**, being duly authorized to make this verification, have read the foregoing Reply to New Matter. The statements therein are correct to the best of our personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C. S. Section 4904 relating to unsworn fabrication to authorities, which provides that if we make knowingly false averments we may be subject to criminal penalties.

Date: 4-26-01

  
\_\_\_\_\_  
Joel Shofestall

Date: 4-26-01

  
\_\_\_\_\_  
James D. Shofestall

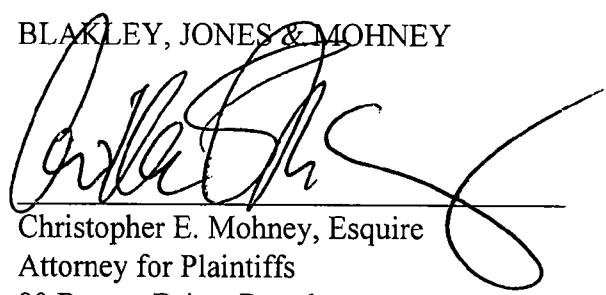
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - AT LAW

JOEL SHCFESTALL and	:	NO. 2000 - 1595 - C.D.
JAMES D. SHOFESTALL,	:	
	:	
Plaintiffs	:	
	:	
VS.	:	
	:	
BUD AUGHENBAUGH,	:	
t/d/b/a BUD'S AUTO REPAIR,	:	
	:	
Defendant	:	

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Plaintiffs' Reply to New Matter has been served upon the following individual by regular United States mail, postage prepaid, on this 30th day of April, 2001:

Toni M. Cherry, Esquire  
Gleason, Cherry & Cherry  
P.O. Box 505  
One North Franklin Street  
Du Bois, PA 15801  
Attorney for Defendant

BLAKLEY, JONES & MOHNEY  
  
BY: Christopher E. Mohney, Esquire  
Attorney for Plaintiffs  
90 Beaver Drive, Box 6  
Du Bois, PA 15801  
(814) 371-2730

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - AT LAW  
NO. 2000 - 1595 - C.D.

JOEL SHOFESTALL and  
JAMES D. SHOFESTALL,

Plaintiffs  
vs.

BUD AUGHENBAUGH, t/d/b/a  
BUD'S AUTO REPAIR,

Defendant

REPLY TO NEW MATTER

FILED

MAY 01 2001

William A. Shaw  
Prothonotary



LAW OFFICES

**BLAKLEY, JONES & MOHNEY**  
90 BEAVER DRIVE, BOX 6  
DUBOIS, PA 15801

**COURT OF COMMON PLEAS OF ~~JEFFERSON~~ COUNTY**  
**CIVIL TRIAL LISTING**

CERTIFICATE OF READINESS		TO THE PROTHONOTARY	
(To be executed by Trial Counsel Only)		May 15, 2001 DATE PRESENTED	
CASE NUMBER  2000-1595-C.D. Date Complaint filed:	TYPE TRIAL REQUESTED  ( ) Jury ( ) Non-jury (X) Arbitration	ESTIMATED TRIAL TIME  <u>3/4</u> DAY <del>X</del>	

PLAINTIFF(S)

JOEL SHOFESTALL and JAMES D. SHOFESTALL ( )

DEFENDANT(S)

BUD AUGHENBAUGH, t/d/b/a BUD'S AUTO REPAIR ( )

ADDITIONAL DEFENDANT(S)

Check Block  
if a Minor  
is a Party  
to the Case

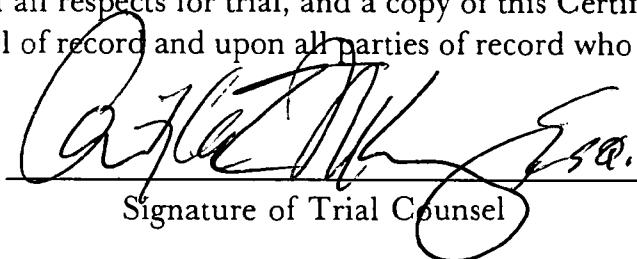
N/A ( )

JURY DEMAND FILED BY:  N/A	DATE JURY DEMAND FILED:  N/A
----------------------------------	------------------------------------

AMOUNT AT ISSUE  \$ 1,543.50 plus costs	CONSOLIDATION  ( ) Yes (X) No	DATE CONSOLIDATION ORDERED  N/A
--	-------------------------------------	---------------------------------------

PLEASE PLACE THE ABOVE CAPTIONED CASE ON THE TRIAL LIST.

I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel.



Signature of Trial Counsel

**FILED**

MAY 16 2001

William A. Shaw  
Prothonotary

**COUNSEL WHO WILL ACTUALLY TRY THE CASE**

FOR THE PLAINTIFF  <u>Christopher E. Mohney, Esquire</u>	TELEPHONE NUMBER  (814) 371-2730
FOR THE DEFENDANT  <u>Toni M. Cherry, Esquire</u>	TELEPHONE NUMBER  (814) 371-5800
FOR ADDITIONAL DEFENDANT  <u>N/A</u>	TELEPHONE NUMBER

**FILED**

MAY 16, 2001  
13, 714th Mohur  
William A. Shaw  
Prothonotary  
pd. \$20.00

*Copy to CA*  
*copy*



OFFICE OF COURT ADMINISTRATOR  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

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

DAVID S. MEHOLICK  
COURT ADMINISTRATOR

PHONE: (814) 765-2641  
FAX: 1-814-765-~~8888~~ 7649

MARCY KELLEY  
DEPUTY COURT ADMINISTRATOR

June 1, 2001

Christopher E. Mohney, Esquire  
Blakley, Jones & Mohney  
90 Beaver Drive, Box 6  
DuBois, PA 15801

Toni M. Cherry, Esquire  
Gleason, Cherry & Cherry  
Post Office Box 505  
DuBois, PA 15801

RE: JOEL SHOFESTALL, al  
vs.  
BUD AUGHENBAUGH, al  
No. 00-1595-CD

Dear Counsel:

The above case is scheduled for Arbitration Hearing to be held Friday, August 10, 2001 at 9:00 A.M. The following have been appointed to the Board of Arbitrators:

John A. Sobel, IV, Esquire,  
Chris A. Pentz, Esquire  
Kimberly M. Kubista, Esquire  
Jeffrey S. DuBois, Esquire  
David R. Thompson, 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.

Very truly yours,  
*Marcy Kelley*  
Marcy Kelley  
Deputy Court Administrator

FILED

JUN 11 2001

W. W. McANALLY  
COURT CLERK



OFFICE OF COURT ADMINISTRATOR  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

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

DAVID S. MEHOLICK  
COURT ADMINISTRATOR

PHONE: (814) 765-2641  
FAX: 1-814-765-~~8889~~ 7649

MARCY KELLEY  
DEPUTY COURT ADMINISTRATOR

June 11, 2001

Christopher E. Mohney, Esquire  
Blakley, Jones & Mohney  
90 Beaver Drive, Box 6  
DuBois, PA 15801

Toni M. Cherry, Esquire  
Gleason, Cherry & Cherry  
Post Office Box 505  
DuBois, PA 15801

RE: JOEL SHOFESTALL, al  
vs.  
BUD AUGHENBAUGH, al  
No. 00-1595-CD

Dear Counsel:

The above case is scheduled for Arbitration Hearing to be held Friday, August 10, 2001 at 9:00 A.M. The following have been appointed to the Board of Arbitrators:

John A. Sobel, IV, Esquire, Chairman  
Chris A. Pentz, Esquire  
Kimberly M. Kubista, Esquire

Pursuant to Local Rule 1306A, you must submit your Pre-Trial Statement seven (7) days prior to the scheduled Arbitration. The original should be forwarded to the Court Administrator's Office and copies to opposing counsel and the Board of Arbitrators. 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: John A. Sobel, IV, Esquire  
Chris A. Pentz, Esquire  
Kimberly M. Kubista, Esquire

**FILED**

06/30/01  
JUN 11 2001  
cc

*cc*  
William A. Shaw  
Prothonotary

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

James D. Shofestall

vs.

Bud Aughenbaugh t/d/b/a Bud's Auto Repair

No. 2000-01595-CD

## **OATH OR AFFIRMATION OF ARBITRATORS**

Now, this 10th day of August, 2001, 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.

John A. Sobel, IV, Esq.

Call-man

Chris A. Pentz, Esq.

Kimberly M. Kubista, Esq.

Sworn to and subscribed before me this  
August 10, 2001

## Prothonotary

## **AWARD OF ARBITRATORS**

**FILED**

AUG 10 2001

William A. Shaw  
Prothonotary

Now, this 10<sup>th</sup> day of August, 2001, 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's Motion for Summary Judgment is denied.

ind as follows: The arbitrators award for the Plaintiff in  
the amount of \$443.50 plus \$56.00 in Magistrate's  
costs. (D.G.W.)

Chairman

(Continue if needed on reverse.)

## ENTRY OF AWARD

**ENTRY OF AWARD**

Now, this 10<sup>th</sup> day of August, 2001, 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**

---

## Prothonotary

B

RECEIVED  
FEDERAL BUREAU OF INVESTIGATION  
U. S. DEPARTMENT OF JUSTICE  
AUG 27 1968  
NOTICE TO ATTORNEY AND  
ATTY T. CHERRY  
William A. Gandy  
PROSECUTOR

# COPY

James D. Shofestall	:	IN THE COURT OF COMMON PLEAS
Joel Shofestall	:	OF CLEARFIELD COUNTY
	:	
Vs.	:	No. <u>2000-01595-CD</u>
	:	
Bud Aughenbaugh		Bud's Auto Repair

## NOTICE OF AWARD

TO: TONI M. CHERRY

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on August 10, 2001, and have awarded:

The arbitrators award for the Plaintiffs in the amount of \$443.50 plus \$56.00 in Magistrate's costs.

William A. Shaw  
Prothonotary  
By \_\_\_\_\_

August 10, 2001

Date

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

# COPY

James D. Shofestall : IN THE COURT OF COMMON PLEAS  
Joel Shofestall : OF CLEARFIELD COUNTY  
  
Vs. : No. 2000-01595-CD  
  
Bud Aughenbaugh Bud's Auto Repair

## NOTICE OF AWARD

TO: CHRISTOPHER E. MOHNEY

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on August 10, 2001, and have awarded:

The arbitrators award for the Plaintiffs in the amount of \$443.50 plus \$56.00 in Magistrate's costs.

William A. Shaw  
Prothonotary  
By \_\_\_\_\_

August 10, 2001

Date

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

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

JOEL SHOFESTALL and : NO. 2000 - 1595 - C.D.  
JAMES D. SHOFESTALL, :  
Plaintiffs : TYPE OF CASE: CIVIL  
VS. : TYPE OF PLEADING:  
BUD AUGHENBAUGH, : PRAECIPE TO ENTER JUDGMENT  
t/d/b/a BUD'S AUTO REPAIR, : FILED ON BEHALF OF: PLAINTIFFS  
Defendant : COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
: SUPREME COURT NO.: 63494  
: BLAKLEY, JONES & MOHNEY  
: 90 BEAVER DRIVE, BOX 6  
: DU BOIS, PA 15801  
: (814) 371-2730

**FILED**

SEP 21 2001

William A. Shaw  
Prothonotary

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

JOEL SHOFESTALL and	:	NO. 2000 - 1595 - C.D.
JAMES D. SHOFESTALL,	:	
Plaintiffs	:	
VS.	:	
BUD AUGHENBAUGH,	:	
t/d/b/a BUD'S AUTO REPAIR,	:	
Defendant	:	

**PRAECIPE TO ENTER JUDGMENT**

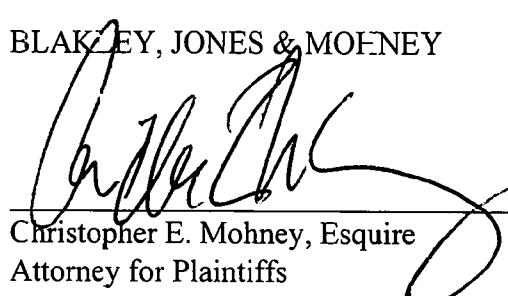
TO THE PROTHONOTARY:

Kindly enter judgment in favor of **JOEL SHOFESTALL and JAMES D. SHOFESTALL**, Plaintiffs, and against **BUD AUGHENBAUGH, t/d/b/a BUD'S AUTO REPAIR**, Defendant, in the amount of \$499.50, pursuant to Notice of Award of Arbitrators dated August 10, 2001.

Respectfully submitted,

BLAKLEY, JONES & MOHNEY

BY:

  
Christopher E. Mohney, Esquire  
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - AT LAW  
NO. 2000 - 1595 - C.D.

JOEL SHOFESTALL and  
JAMES D. SHOFESTALL,

Plaintiffs

VS.

BUD AUGHENBAUGH,  
t/d/b/a BUD'S AUTO REPAIR,

Defendant

PRAECIPE TO ENTER JUDGMENT

FILED

SEP 21 2001

William A. Shaw  
Prothonotary

Pd \$ 20.60

Statement to  
atty

Not to do.

LAW OFFICES

BLAKLEY, JONES & MOHNEY  
90 BEAVER DRIVE - BOX 6  
DUBOIS, PA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
STATEMENT OF JUDGMENT

James D. Shofestall  
Joel Shofestall  
Plaintiff(s)

No.: 2000-01595-CD

Real Debt: \$499.50

Atty's Comm:

Vs.

Costs: \$

Int. From:

Bud Aughenbaugh  
Bud's Auto Repair  
Defendant(s)

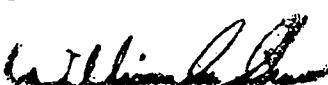
Entry: \$20.00

Instrument: Judgment/Arbitration Award

Date of Entry: September 21, 2001

Expires: September 21, 2006

Certified from the record this 21st of September, 2001



---

William A. Shaw

William A. Shaw, Prothonotary

\*\*\*\*\*

SIGN BELOW FOR SATISFACTION

Received on \_\_\_\_\_, \_\_\_\_\_, of defendant full satisfaction of this Judgment, Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

---

Plaintiff/Attorney

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

James D. Shofestall and  
Joel Shofestall

Vs.

No. 2000-01595-CD

Bud Aughenbaugh t/d/b/a  
Bud's Auto Repair

To: DEFENDANT(S)

NOTICE is given that a JUDGMENT in the above captioned matter has been entered against you in the amount of \$499.50 on the September 21, 2001.

William A. Shaw  
Prothonotary



---

William A. Shaw

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

JOEL SHOFESTALL and : NO. 2000 - 1595 - C.D.  
JAMES D. SHOFESTALL, :  
Plaintiffs : TYPE OF CASE: CIVIL  
VS. :  
BUD AUGHENBAUGH, : TYPE OF PLEADING: PRAECIPE TO  
t/d/b/a BUD'S AUTO REPAIR, : MARK MATTER SETTLED,  
Defendant : DISCONTINUED AND ENDED  
: FILED ON BEHALF OF: PLAINTIFFS  
: COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
: SUPREME COURT NO.: 63494  
: BLAKLEY, JONES & MOHNEY  
: 90 BEAVER DRIVE, BOX 6  
: DU BOIS, PA 15801  
: (814) 371-2730

**FILED**

NOV 28 2001

01/29 p.m.  
William A. Shaw  
Prothonotary

no cc  
Copy. to CA  
cert disc to atty

ER  
KED

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

JOEL SHOFESTALL and	:	NO. 2000 - 1595 - C.D.
JAMES D. SHOFESTALL,	:	
Plaintiffs	:	
VS.	:	
BUD AUGHENBAUGH,	:	
t/d/b/a BUD'S AUTO REPAIR,	:	
Defendant	:	

**PRAECIPE**

TO WILLIAM SHAW, PROTHONOTARY:

Kindly mark this action settled, discontinued and ended upon payment of your costs only.

Date: 11/27/01

BY:

BLAKLEY, JONES & MOHNEY



Christopher E. Mohney, Esquire  
Attorney for Plaintiffs  
Supreme Court No. 63494  
90 Beaver Drive, Box 6  
Du Bois, PA 15801  
(814) 371-2730

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - AT LAW  
NO. 2000 - 1595 - C.D.

JOEL SHOFESTALL and  
JAMES D. SHOFESTALL,

Plaintiffs

VS.

BUD AUGHENBAUGH,  
t/d/b/a BUD'S AUTO REPAIR,

Defendant

PRACTICE TO MARK THE MATTER  
SETTLED, DISCONTINUED AND ENDED

LAW OFFICES  
**BLAKLEY, JONES & MOHNEY**  
90 BEAVER DRIVE, BOX 6  
DUBOIS, PA 15801

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

**James D. Shofestall**  
**Joel Shofestall**

Vs. No. 2000-01595-CD  
**Bud Aughenbaugh**  
**Bud's Auto Repair**

**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 The 28th day of November, 2001 marked:

Settled, Discontinued and Ended

Record costs in the sum of \$120.00 have been paid in full by Christopher E. Mohney, Esquire.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 28th day of November A.D. 2001.



---

William A. Shaw, Prothonotary

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

JOEL SHOFESTALL and : NO. 2000 - 1595 - C.D.  
JAMES D. SHOFESTALL, :  
Plaintiffs : TYPE OF CASE: CIVIL  
VS. :  
BUD AUGHENBAUGH, : TYPE OF PLEADING: PRAECIPE TO  
t/d/b/a BUD'S AUTO REPAIR, : MARK JUDGMENT SATISFIED  
Defendant : OF RECORD  
: FILED ON BEHALF OF: PLAINTIFFS  
: COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
: SUPREME COURT NO.: 63494  
: BLAKLEY, JONES & MOHNEY  
: 90 BEAVER DRIVE, BOX 6  
: DU BOIS, PA 15801  
: (814) 371-2730

**FILED**

DEC 05 2001

11:20 AM  
William A. Shaw  
Prothonotary  
No court costs  
G Kee

Cert Satisfaction  
to [Signature]

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

JOEL SHOFESTALL and	:	NO. 2000 - 1595 - C.D.
JAMES D. SHOFESTALL,	:	
Plaintiffs	:	
VS.	:	
BUD AUGHENBAUGH,	:	
t/d/b/a BUD'S AUTO REPAIR,	:	
Defendant	:	

PRAECIPE

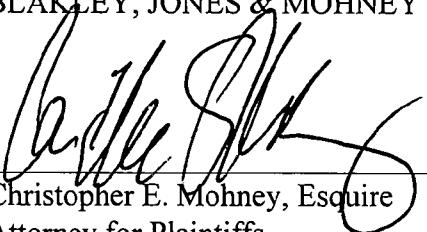
TO WILLIAM SHAW, PROTHONOTARY:

Kindly mark the judgment in the above-captioned matter satisfied of record upon payment  
of your costs only.

Date: 12/4/01

BY:

BLAKLEY, JONES & MOHNEY

  
Christopher E. Mohney, Esquire  
Attorney for Plaintiffs  
Supreme Court No. 63494  
90 Beaver Drive, Box 6  
Du Bois, PA 15801  
(814) 371-2730

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - AT LAW  
NO. 2000 - 1595 - C.D.

JOEL SHOFFSTALL and  
JAMES D. SHOFFSTALL,

Plaintiffs

VS.

BUD AUGHENBAUGH,  
t/d/b/a BUD'S AUTO REPAIR,

Defendant

PRAECIPE TO MARK JUDGMENT  
SATISFIED OF RECORD

LAW OFFICES  
**BLAKLEY, JONES & MOHNEY**  
90 BEAVER DRIVE - BOX 6  
DUBOIS, PA 15801

**FILED**

DEC 05 2001

William A. Shaw  
Prothonotary



Date: 12/05/2001

**Clearfield County Court of Common Pleas**

NO. 1835068

Time: 01:30 PM

**Receipt**

Page 1 of 1

Received of: Mohney, Christopher E. (attorney for Shofestall, \_\_\_\_\_ \$ 7.00

Seven and 00/100 Dollars

Case: 2000-01595-CD	Plaintiff: Shofestall, Joel	Amount
Satisfaction/Release		7.00
<b>Total:</b>		<b>7.00</b>

Check: 7667

Payment Method: Check

William A. Shaw, Prothonotary/Clerk of Courts

Amount Tendered: 7.00

By:

Deputy Clerk

Clerk: BILLSHAW

Duplicate

**BLAKLEY, JONES & MOHNEY**  
*Attorneys and Counselors at Law*  
**90 Beaver Drive, Box 6**  
**Du Bois, Pennsylvania 15801**

November 13, 2001

**Telephone (814) 371-2730**  
**Fax (814) 375-1082**

**Benjamin S. Blakley, III**  
**Christopher E. Mohney**

William Shaw, Prothonotary  
Clearfield County Courthouse  
1 North Second Street  
Clearfield, PA 16830

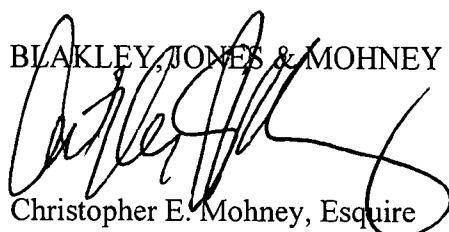
**RE: James D. Shofestall and Joel Shofestall  
vs. Bud Aughenbaugh t/d/b/a Bud's Auto Repair  
No. 2001-1995-C.D.**

Dear Mr. Shaw:

Please file the enclosed Satisfaction of Judgment in the above matter. Enclosed is our firm's check payable to your office in the amount of \$7.00.

Thank you.

Sincerely,

BLAKLEY, JONES & MOHNEY  
  
Christopher E. Mohney, Esquire

CEM:kdm

Enclosure

copy to: Toni M. Cherry, Esquire (w/enc.)  
James D. Shofestall (w/enc.)



LAW OFFICES  
GLEASON, CHERRY AND CHERRY, L.L.P.  
P. O. Box 505  
DuBois, Pennsylvania 15801-0505

TONI M. CHERRY  
PAULA M. CHERRY  
EDWARD V. CHERRY  
1950-1990  
JAMES A. GLEASON  
1946-1975

ONE NORTH FRANKLIN STREET

AREA CODE 814  
371-5800  
FAX NUMBER  
(814) 371-0936

August 7, 2001

Ms. Marcy Kelley  
Deputy Court Administrator  
Office of the Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830

RECEIVED

RECEIVED  
COURT ADMINISTRATOR'S OFFICE

RE: JOEL SHOFESTALL and JAMES D. SHOFESTALL  
vs. BUD AUGHENBAUGH, t/d/b/a BUD'S AUTO REPAIR  
No. ~~2001-1995 C.D.~~

CO-595  
Dear Ms. Kelley:

We are enclosing herewith Defendant's Pre-Trial Statement in the above-captioned matter with attached Certificate of Service.

By copy of this letter, we are forwarding a true and correct copy of the Pre-Trial Statement to Christopher E. Mohney, Esq., counsel for Plaintiff, and a copy to each of the three arbitrators.

Thanking you for your kind attention to this matter, we remain

Very truly yours,

GLEASON, CHERRY AND CHERRY, L.L.P.

By

Toni M. Cherry

TMC:mls  
Enclosure

cc/w.enc.: Christopher E. Mohney, Esq.  
John A. Sobel, IV, Esq.  
Chris A. Pentz, Esq.  
Kimberly M. Kubista, Esq.

Arb. 8-10-01

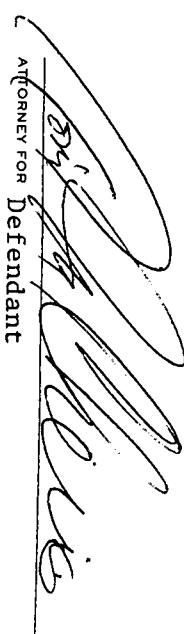
LAW OFFICES

GLEASON, CHERRY & CHERRY, L.L.P.

P. O. Box 505

DuBois, Pennsylvania 15801-0505

ONE NORTH FRANKLIN STREET

  
Michael Gleason

ATTONEY FOR Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

JOEL SHOFESTALL and  
JAMES D. SHOFESTALL,

vs.

BUD AUGHENBAUGH,  
t/d/b/a BUD'S AUTO REPAIR,

Defendant

Plaintiffs : No. 2000 - 1595  
: Type of Case: CIVIL  
: Type of Pleading: DEFENDANT'S PRE-  
: TRIAL STATEMENT  
: Filed on Behalf of: BUD AUGHENBAUGH,  
: t/d/b/a BUD'S AUTO REPAIR, Defendant  
: Counsel of Record for this Party:  
: TONI M. CHERRY, ESQ.  
: Supreme Court No.: 30205  
: GLEASON, CHERRY AND  
: CHERRY, L.L.P.  
: Attorneys at Law  
: P. O. Box 505  
: One North Franklin Street  
: DuBois, PA 15801  
: (814) 371-5800

RECEIVED  
2000-1595  
COURT ADMINISTRATOR'S  
OFFICE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

## CIVIL ACTION - LAW

JOEL SHOFESTALL and	:	
JAMES D. SHOFESTALL,	:	
	Plaintiffs	:
		:
		No. 2000 - 1595 C.D.
vs.	:	
	:	
BUD AUGHENBAUGH,	:	
t/d/b/a BUD'S AUTO REPAIR,	:	
	Defendant	:

## DEFENDANTS' PRE-TRIAL STATEMENT

## **1. Factual Statement of the Claim:**

Prior to May 22, 2000, Plaintiff, JOEL SHOFESTALL, came onto the business premises of the Defendant, accompanied by his father, JAMES D. SHOFESTALL, with a complaint about his 1988 Pontiac Grand Prix. In particular, the complaint was that the vehicle was losing antifreeze and that the antifreeze was mixed with oil. Upon hearing that complaint, Defendant advised Plaintiff, JOEL SHOFESTALL, and his father that he suspected that the head gaskets were bad. At that point, Plaintiff, JAMES D. SHOFESTALL, advised that he suspected that this was the cause of the problem as well.

Defendant further advised both men that in order to confirm that this was the problem and to repair the same as Plaintiffs asked him to do, Defendant would have to pull the motor and disassemble it to find out what was wrong. At that point, Plaintiff, JAMES D. SHOFESTALL, spoke up on behalf of his son who was the owner of the car and, in the

presence of and with the agreement of JOEL SHOFESTALL, directed Defendant to go ahead and perform the work.

Thereafter, Defendant took the motor out, disassembled it and sent the cylinder heads and blocks to E&G Auto Parts for cleaning and inspection as was his normal course of conduct to determine if there were cracks or holes in the cylinder heads or blocks that would require those pieces to be discarded. Defendant was advised by E&G Auto Parts that there were no cracks in any of the six cylinders.

Defendant then called the Shofestall home and spoke with Plaintiff, JAMES D. SHOFESTALL, to advise him that the head gaskets were bad but that the cylinders and block were not cracked. Defendant advised JAMES D. SHOFESTALL of the parts that would have to be ordered to replace those items that were bad and was thereupon given the directive by JAMES D. SHOFESTALL on behalf of his son, JOEL, to order the parts and to replace the same.

Defendant performed all of the work he was authorized to perform on the vehicle by Plaintiffs and then notified Plaintiffs that the car was ready. On or about May 22, 2000, Plaintiffs came to get the vehicle and Plaintiff, JAMES D. SHOFESTALL, reviewed the Garage Repair Order prepared by Defendant detailing all labor performed and parts provided and confirmed that everything had been done in accordance with instructions prior to paying the bill. In addition, Defendant checked the vehicle prior to delivering it to Plaintiffs to confirm that there were no further problems with the engine block.

Four to six weeks after Plaintiffs picked up the vehicle, they returned it to Defendant and said that there was a problem and asked Defendant to take a look at it. Upon inspection,

Defendant found a cylinder that was affected by antifreeze, removed that cylinder and found an obvious crack that had not been there previously. Defendant knew that the crack had not been there previously because he had not seen it upon inspection nor had it been noticed by the machinist at E&G Auto Parts. Moreover, had the crack been there at the time that Defendant put the engine back in the car, it would have become hot and the problem would have been immediately noticeable. Instead, the car was fine and the crack was something that occurred after Defendant fixed the vehicle.

When Defendant found the new crack, he called Plaintiffs' home and spoke with Plaintiff, JAMES D. SHOFESTALL, and asked that Plaintiffs come down to his shop. When they arrived, Defendant showed them the problem. At that point, Plaintiff, JAMES D. SHOFESTALL, asked Defendant what would have to be done to repair the same and Defendant told him that the block would have to be replaced with either a new or used block and that he could figure up a price with both new and used block and that Plaintiffs could then decide what they wanted to do.

Plaintiffs directed Defendant to price the repair with both the new and the used block and then left. Defendant secured such pricing and then called the Plaintiffs and was advised that the car was not worth spending more money on and that Defendant was not to perform any further work because Plaintiffs intended to junk the car. Defendant offered to give Plaintiffs a break on his labor and to provide them the parts at cost because he felt sorry for Plaintiffs that they were continuing to have problems with this vehicle but Plaintiffs again reiterated that the car was not worth it and directed Defendant to put the parts in the trunk of the car because they would be down to tow the car away. Plaintiffs never asked Defendant to rebuild the engine nor

did they inquire about a new engine for the vehicle. The only services that Plaintiffs requested Defendant to perform was to determine the cause of the antifreeze problem and to correct it.

**2. List of all Exhibits to be Offered in Evidence:**

- (a) Copy of Garage Repair Order.
- (b) Copy of Inspection Record.
- (c) Sample engine block for illustrative purposes.
- (d) Such other exhibits as are warranted at trial.

**3. Witnesses:**

- (a) Defendant, DWIGHT AUGHENBAUGH, also known as BUD AUGHENBAUGH, t/d/b/a BUD'S AUTO REPAIR, 20 North Franklin Street, DuBois, Pennsylvania 15801 - fact and expert witness;
- (b) MICHAEL POPSON, Reynoldsville, Pennsylvania 15851 - machinist at E&G Auto Parts - fact and expert witness;
- (c) MARK LANGE, 9 Oakland Avenue, DuBois, Pennsylvania 15801 - employee of BUD'S AUTO REPAIR - fact and expert witness;
- (d) THOMAS GORNATI - machinist at E&G Auto Parts in St. Marys, Pennsylvania - expert witness;
- (e) Any witnesses listed on Plaintiffs' Pre-Trial Narrative.
- (f) Defendant reserves the right to supplement the list of witnesses and to call additional witnesses with due notice in advance of trial to Plaintiffs.

#### **4. Statement of Legal Theory upon which Defense is Predicated:**

Plaintiffs contracted with Defendant to perform specific work which Defendant did and for which he was paid. The problems that occurred with Plaintiffs' car after the work was performed could not have been discovered by Defendant because they did not occur until after the vehicle was put back onto the road. At no time did Plaintiffs ever ask for an engine rebuild nor did they ever ask Defendant to put a new engine in the car for them. Defendant did exactly what he was authorized to do by Plaintiffs and did the same in a good and workmanlike manner.

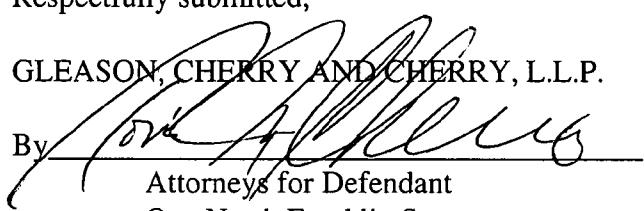
The actions that Plaintiffs later took in deciding to purchase a new engine and replace the same have nothing to do with whether or not Defendant properly performed the work that he was requested to do.

Whatever damage occurred to the vehicle after it was put back onto the road and whatever steps Plaintiffs elected to take to fix that damage are irrelevant and cannot be used to prove that Defendant did not properly perform the work he was required to do. This was an old vehicle and while it is unfortunate that Plaintiff has had to put more work and money into this old vehicle but the mere fact that he expended money on a 13-year old car is not unusual and not Defendant's fault.

Respectfully submitted,

GLEASON, CHERRY AND CHERRY, L.L.P.

By

  
John P. Gleason  
Attorneys for Defendant  
One North Franklin Street  
P. O. Box 505  
DuBois, PA 15801  
(814) 371-5800



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

JOEL SHOFESTALL and	:
JAMES D. SHOFESTALL,	:
	Plaintiffs
	:
	: No. 2000 - 1595 C.D.
vs.	:
	:
BUD AUGHENBAUGH,	:
t/d/b/a BUD'S AUTO REPAIR,	:
	Defendant
	:

**CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</sup> day of August, 2001, a true and correct copy of Defendant's Pre-Trial Statement was served upon the following persons by mailing the same to them by United States First Class Mail, Postage Prepaid, by depositing the same in the Post Office at DuBois, Pennsylvania, addressed as follows:

CHRISTOPHER E. MOHNEY, ESQ.  
Blakley, Jones & Mohney  
Attorneys at Law  
90 Beaver Drive, Box 6  
DuBois, PA 15801

JOHN A. SOBEL, IV, ESQ.  
Sobel, Collins & Knaresboro  
Attorneys at Law  
218 South Second Street  
Clearfield, PA 16830

CHRIS A. PENTZ, ESQ.  
Attorney at Law  
P. O. Box 552  
Clearfield, PA 16830

KIMBERLY M. KUBISTA, ESQ.  
Belin & Kubista  
Attorneys at Law  
P. O. Box 1  
Clearfield, PA 16830

GLEASON, CHERRY AND CHERRY, L.L.P.

By

John H. Gleason  
Attorneys for Defendant

Dated: August 7, 2001

EACH TYPE OF  
INSPECTION

SEMI-ANNUAL

INSPECTION

Vehicle Safety Division  
Post Office Box 68696  
Harrisburg, PA 17106-8696

## INSPECTION

RECORD ALL PASSENGER CA

STATION NUMBER F-928 COUNTRY ClydefieldSEE ADDITIONAL INSTRUCTIONS  
ON OTHER SIDE

INSP # <u>303</u>	DATE <u>5-24-80</u>	REGISTRANT'S NAME <u>John L. Brodus, Jr.</u>	ADDRESS <u>104 Washington</u>	VEHICLE IDENTIFICATION # <u>1624VJ4474</u>			
WORK ORDER # <u>1</u>	/ SIGNATURE <u>S. L. Brodus, Jr.</u>		INSURANCE COMPANY NAME <u>State Farm</u>	EXP. DATE <u>10-11-80</u>	POLICY # <u>5904700113801</u>	REGISTRATION # <u>1154FJ4474</u>	YR <u>81</u>
INSP # <u>304</u>	DATE <u>5-24-80</u>	REGISTRANT'S NAME <u>Eric L. Lible</u>	ADDRESS <u>120 Breitbach Rd. Dubois</u>	VEHICLE IDENTIFICATION # <u>163A65HN32P6</u>			
WORK ORDER # <u>1</u>	/ SIGNATURE <u>E. L. Lible</u>		INSURANCE COMPANY NAME <u>State Farm</u>	EXP. DATE <u>4-20-81</u>	POLICY # <u>593207001</u>	REGISTRATION # <u>DP33980</u>	YR <u>93</u>
INSP # <u>305</u>	DATE <u>5-24-80</u>	REGISTRANT'S NAME <u>Thomas L. Hare</u>	ADDRESS <u>120 Breitbach Rd. Dubois</u>	VEHICLE IDENTIFICATION # <u>163A65HN32P6</u>			
WORK ORDER # <u>1</u>	/ SIGNATURE <u>T. L. Hare</u>		INSURANCE COMPANY NAME <u>State Farm</u>	EXP. DATE <u>4-20-81</u>	POLICY # <u>593207001</u>	REGISTRATION # <u>DP33980</u>	YR <u>93</u>
INSP # <u>306</u>	DATE <u>5-24-80</u>	REGISTRANT'S NAME <u>Robert R. Kessinger</u>	ADDRESS <u>107 L. DeBaris</u>	VEHICLE IDENTIFICATION # <u>1624VJ4474</u>			
WORK ORDER # <u>1</u>	/ SIGNATURE <u>R. R. Kessinger</u>		INSURANCE COMPANY NAME <u>State Farm</u>	EXP. DATE <u>10-11-80</u>	POLICY # <u>5904700113801</u>	REGISTRATION # <u>1624VJ4474</u>	YR <u>81</u>
INSP # <u>307</u>	DATE <u>5-24-80</u>	REGISTRANT'S NAME <u>Thomas A. Corrao, Jr.</u>	ADDRESS <u>201 Hayes Rd. Kessinger</u>	VEHICLE IDENTIFICATION # <u>1624VJ4474</u>			
WORK ORDER # <u>1</u>	/ SIGNATURE <u>T. A. Corrao, Jr.</u>		INSURANCE COMPANY NAME <u>State Farm</u>	EXP. DATE <u>7-15-80</u>	POLICY # <u>5904700113801</u>	REGISTRATION # <u>1624VJ4474</u>	YR <u>81</u>
INSP # <u>308</u>	DATE <u>5-24-80</u>	REGISTRANT'S NAME <u>Robert R. Kessinger</u>	ADDRESS <u>201 Hayes Rd. Kessinger</u>	VEHICLE IDENTIFICATION # <u>1624VJ4474</u>			
WORK ORDER # <u>1</u>	/ SIGNATURE <u>R. R. Kessinger</u>		INSURANCE COMPANY NAME <u>State Farm</u>	EXP. DATE <u>7-15-80</u>	POLICY # <u>5904700113801</u>	REGISTRATION # <u>1624VJ4474</u>	YR <u>81</u>

**BLAKLEY, JONES & MOHNEY**

*Attorneys and Counselors at Law  
90 Beaver Drive, Box 6  
Du Bois, Pennsylvania 15801*

August 2, 2001

*Telephone (814) 371-2730*

*Fax (814) 375-1082*

***Benjamin S. Blakley, III  
Christopher E. Mohney***

Marcy Kelley  
Deputy Court Administrator  
Clearfield County Courthouse  
1 North Second Street  
Clearfield, PA 16830

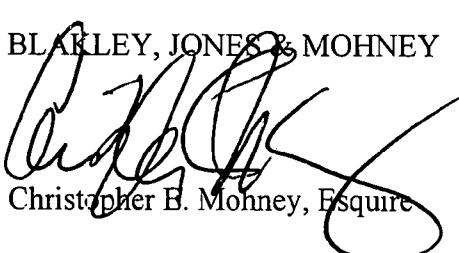
**RE:     Joel Shofestall and James D. Shofestall  
         vs. Bud Aughenbaugh, t/d/b/a Bud's Auto Repair  
         No. 2000-1595-C.D.**

Dear Marcy:

Please file the enclosed Pre-Arbitration Statement on behalf of Plaintiffs. By copy of this letter, I am serving all of the Arbitrators and opposing counsel with a true and correct copy of the attached original Pre-Arbitration Statement.

Sincerely,

BLAKLEY, JONES & MOHNEY

  
Christopher E. Mohney, Esquire

CEM:kdm

Enclosure

copy to:     Toni M. Cherry, Esquire (w/enc.)  
                 Kimberly M. Kubista, Esquire (w/enc.)  
                 John A. Sobel, IV, Esquire (w/enc.)  
                 Chris A. Pentz, Esquire (w/enc.)

**RECEIVED**

**AUG 03 2001**

**COURT ADMINISTRATOR'S  
OFFICE.**



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

JOEL SHCFESTALL and : NO. 2000 - 1595 - C.D.  
JAMES D. SHOFESTALL, :  
Plaintiffs : TYPE OF CASE: CIVIL  
VS. : TYPE OF PLEADING:  
BUD AUGHENBAUGH, : PRE-ARBITRATION STATEMENT  
t/d/b/a BUD'S AUTO REPAIR, :  
Defendant : FILED ON BEHALF OF: PLAINTIFFS  
: COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
: SUPREME COURT NO.: 63494  
: BLAKLEY, JONES & MOHNEY  
: 90 BEAVER DRIVE, BOX 6  
: DU BOIS, PA 15801  
: (814) 371-2730

**RECEIVED**

**AUG 03 2001**

**COURT ADMINISTRATOR'S  
OFFICE**

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

JOEL SHOFESTALL and	:	NO. 2000 - 1595 - C.D.
JAMES D. SHOFESTALL,	:	
Plaintiffs	:	
	:	
VS.	:	
	:	
BUD AUGHENBAUGH,	:	
t/d/b/a BUD'S AUTO REPAIR,	:	
Defendant	:	

**PRE-ARBITRATION STATEMENT**

AND NOW, come the Plaintiffs, **JOEL SHOFESTALL and JAMES D. SHOFESTALL**, by their attorneys, **BLAKLEY, JONES & MOHNEY**, who files the within Pre-Arbitration Statement and in support thereof avers the following:

**I. BRIEF STATEMENT OF THE CASE**

Plaintiff Joel Shofestall is the owner of a 1988 Pontiac Grand Prix. On or about May 22, 2000, Plaintiff James Shofestall, on behalf of and with full authority from his son, Plaintiff Joel Shofestall, contracted with Defendant Bud Aughenbaugh, t/d/b/a Bud's Auto Repair for Defendant to rebuild the engine on the 1988 Pontiac Grand Prix.

Initially, Plaintiffs presented the car to Defendant asking for a price quote to replace the engine. Defendant then advised Plaintiff James Shofestall that he could rebuild the engine cheaper than having it replaced. Relying on the expertise of Defendant, Plaintiff James D. Shofestall contracted to have the engine rebuilt. Defendant quoted Plaintiffs a flat fee for the rebuilding job; ultimately, the Plaintiffs were invoiced and paid significantly more than the quote.

Upon retrieving the vehicle from Defendants, and after Defendant supposedly fixed the vehicle, Plaintiff Joel Shofestall continued experiencing similar problems with the engine of the car. The problems were similar to those that were being experienced prior to the car being taken to Defendant's garage. The car was taken back very soon after it was initially picked up from Defendant's garage, within days.

After Defendant had possession of the car for some weeks, he called Plaintiffs and advised that he found a crack in the cylinder and that further repairs would be necessary. It is Plaintiff's position that this crack was present when the vehicle was initially dropped off at Defendant's garage, and Defendant failed to properly diagnose this crack.

Ultimately, the car was taken to Kent's Auto Service in Du Bois, where the engine was replaced for \$350.00. A replacement engine was obtained from Rick's Used Auto Parts in Kersey, Pennsylvania for \$689.00.

## II. APPLICABLE CASES OR STATUTES

There are no complex issues or areas of law anticipated for this case.

## III. WITNESSES

1. Joel Shofestall
2. James D. Shofestall
3. Sammy D. Ellzey

## IV. STATEMENT OF DAMAGES AND COPIES OF THOSE BILLS WHICH THE PARTY INTENDS TO OFFER

Plaintiffs are out \$1,543.50, that amount being paid to Defendant for services not properly

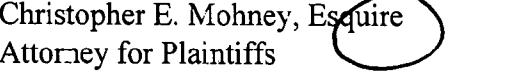
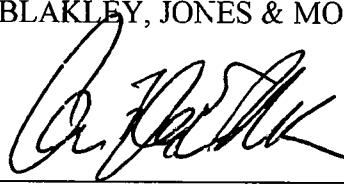
performed. Attached are copies of invoice of Bud's Auto Repair, Rick's Used Auto Parts and Kent's Auto Service.

Respectfully submitted,

BLAKLEY, JONES & MOHNEY

BY:

Christopher E. Mohney, Esquire  
Attorney for Plaintiffs





# RICK'S Used Auto Parts

**724 Brandy Camp Rd. Kersey, PA 15846  
814-885-6103 or 885-8892  
800-366-1798 Fax: 814-885-8371**

**KENT'S AUTO SERVICE**  
1110 S. BRADY ST.

DUBOIS, PA 15801

# Used Parts R Us

SHIP TO

**ATTENTION BUYER  
PLEASE READ BACK FOR WARRANTY  
AND TERMS OF SALE!**

REFERENCE NO.	DATE	TIME
01028634	8/02/00	2:22pm
P.O. NUMBER	CUSTOMER NO.	
DELIVERED	3759162	

SALESMAN	TYPE OF SALE	TAX CODE	SHIP VIA
GUS-1	CRD CSH CHK DELIVERY TICKET	17074743	8-8-PUCK

**PART NUMBER AND DESCRIPTION**

17074743

Page 8

1 300-052284 1Y-ENGINE ASSEMBLY Str#98234 H-6 98234 650.00 650.00 n  
V#1G2WJ14W5JF209832  
Requested by GRAND PRI (6-173, 2.8L, VIN "W")

Requested BO GRAND PRIX (6-173, 2.8L, VIN "W")

Chish 3626

aid  
to a

Thank you for your order.

Subtotal	650.00		
Taxable Parts	650.00	TAX PA PA	25.00
<b>TOTAL</b>	<b>650.00</b>		<b>689.00</b>

RECEIVED BY

KENT'S AUTO SERVICE  
1110 SOUTH BRADY STREET  
DuBOIS, PA 15801  
PHONE 814-375-9162

# AUTO REPAIR ORDER 011794

NAME	Joe Shofestall		
ADDRESS	11 OAKLAND AVE.		
CITY, STATE	DuBois Pa.		

QUAN.	PART NO.	NAME OF PART	PRICE	CUSTOMER'S INFORMATION			
				DATE 8-8-00	CUSTOMER'S ORDER NO.	WHEN PROMISED	PHONE 371-7057
				YEAR • MAKE • MODEL 1988 Pont. Grand Prix		SERIAL NO. MOTOR NO.	
				LICENSE NO. AWA8384	ODOMETER 89,398	WRITTEN BY J.J.	
				<input type="checkbox"/> LUBE	<input type="checkbox"/> OIL CHANGE	<input type="checkbox"/> FLUSH TRANS.	<input type="checkbox"/> FLUSH DIFF.
				<input type="checkbox"/> WASH	<input type="checkbox"/> POLISH		
				Remove + Replace 2.8 V6 Engine		350.00	
				Change Front Exhaust pipe		20.00	
				Exhaust clamp		1.25	
				Power steering Fluid		1.25	
				GAS, OIL & GREASE		ACCESSORIES	LABOR ONLY
				GALS. GAS			PARTS
				QTS. OIL			ACCESSORIES
				LBS. GREASE		"	GAS, OIL, & GREASE
				TOTAL GAS OIL & GREASE			MISC. MERCHANDISE
				<input type="checkbox"/> RETAIN PARTS			SUBLET REPAIRS
				<input type="checkbox"/> DESTROY PARTS	TOTAL ACCESSORIES		372.50
						TAX	22.35
				AUTHORIZED BY		TOTAL	394.85
ESTIMATE AMOUNT • PARTS & LABOR ►							

I HEREBY AUTHORIZE THE ABOVE REPAIR WORK TO BE DONE ALONG WITH THE NECESSARY MATERIAL, AND HEREBY GRANT YOU AND/OR YOUR EMPLOYEES PERMISSION TO OPERATE THE CAR, TRUCK OR VEHICLE HEREIN DESCRIBED ON STREETS, HIGHWAYS OR ELSEWHERE FOR THE PURPOSE OF TESTING AND/OR INSPECTION. AN EXPRESS MECHANIC'S LIEN IS HEREBY ACKNOWLEDGED ON ABOVE CAR, TRUCK OR VEHICLE TO SECURE THE AMOUNT OF REPAIRS THERETO.

YOU ARE ENTITLED TO A PRICE ESTIMATE FOR THE REPAIRS YOU HAVE AUTHORIZED. THE REPAIR PRICE MAY BE LESS THAN THE ESTIMATE, BUT WILL NOT EXCEED THE ESTIMATE WITHOUT YOUR PERMISSION. YOUR SIGNATURE WILL INDICATE YOUR ESTIMATE SELECTION.

TEARDOWN ESTIMATE - I UNDERSTAND THAT MY CAR WILL BE REASSEMBLED WITHIN \_\_\_\_ DAYS OF THE DATE SHOWN IF I CHOOSE NOT TO AUTHORIZE THE SERVICES RECOMMENDED.

1. I request an estimate in writing before you begin repairs.

2. Please proceed with repairs, but call me before continuing if the price will exceed \$\_\_\_\_\_.

3. I do not want an estimate.

Adams GT3870

AUTO REPAIR ORDER

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

JOEL SHOFESTALL and	:	NO. 2000 - 1595 - C.D.
JAMES D. SHOFESTALL,	:	
Plaintiffs	:	
VS.	:	
BUD AUGHENBAUGH,	:	
t/d/b/a BUD'S AUTO REPAIR,	:	
Defendant	:	

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the within Pre-Arbitration Statement of Plaintiffs was served on the following persons by regular United States mail, postage prepaid, on this 2<sup>nd</sup> day of August, 2001:

Toni M. Cherry, Esquire  
Gleason, Cherry & Cherry  
P.O. Box 505  
One North Franklin Street  
Du Bois, PA 15801  
Attorney for Defendant

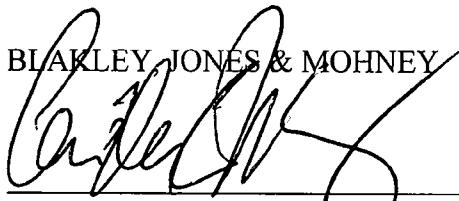
Kimberly M. Kubista, Esquire  
Belin & Kubista  
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P.O. Box 1  
Clearfield, PA 16830  
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Chris A. Pentz, Esquire  
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P.O. Box 552  
Clearfield, PA 16830  
Arbitration

BY:

BLAKLEY, JONES & MOHNEY

  
Christopher E. Mohney, Esquire  
Attorney for Plaintiffs  
PA I.D. 63494  
90 Beaver Drive, Box 6  
Du Bois, PA 15801  
(814) 371-2730

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - AT LAW  
NO. 2000 - 1595 - C.D.

JOEL SHOFESTALL and  
JAMES J. SHOFESTALL,

Plaintiffs

vs.

BUD AUGHENBAUGH,  
t/d/b/a BUD'S AUTO REPAIR,

Defendant

PRE-ARBITRATION STATEMENT

LAW OFFICES  
**BLAKLEY, JONES & MOHNEY**  
90 BEAVER DRIVE - BOX 6  
DUBOIS, PA 15801

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

JOEL SHOFESTALL and : NO. 2000 - 1595 - C.D.  
JAMES D. SHOFESTALL, :  
Plaintiffs : TYPE OF CASE: CIVIL  
VS. : TYPE OF PLEADING:  
BUD AUGHENBAUGH, : PRE-ARBITRATION STATEMENT  
t/d/b/a BUD'S AUTO REPAIR, :  
Defendant : FILED ON BEHALF OF: PLAINTIFFS  
: COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
: SUPREME COURT NO.: 63494  
: BLAKLEY, JONES & MOHNEY  
: 90 BEAVER DRIVE, BOX 6  
: DU BOIS, PA 15801  
: (814) 371-2730

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

JOEL SHOFESTALL and	:	NO. 2000 - 1595 - C.D.
JAMES D. SHOFESTALL,	:	
Plaintiffs	:	
VS.	:	
BUD AUGHENBAUGH,	:	
t/d/b/a BUD'S AUTO REPAIR,	:	
Defendant	:	

**PRE-ARBITRATION STATEMENT**

AND NOW, come the Plaintiffs, **JOEL SHOFESTALL and JAMES D. SHOFESTALL**, by their attorneys, **BLAKLEY, JONES & MOHNEY**, who files the within Pre-Arbitration Statement and in support thereof avers the following:

**I. BRIEF STATEMENT OF THE CASE**

Plaintiff Joel Shofestall is the owner of a 1988 Pontiac Grand Prix. On or about May 22, 2000, Plaintiff James Shofestall, on behalf of and with full authority from his son, Plaintiff Joel Shofestall, contracted with Defendant Bud Aughenbaugh, t/d/b/a Bud's Auto Repair for Defendant to rebuild the engine on the 1988 Pontiac Grand Prix.

Initially, Plaintiffs presented the car to Defendant asking for a price quote to replace the engine. Defendant then advised Plaintiff James Shofestall that he could rebuild the engine cheaper than having it replaced. Relying on the expertise of Defendant, Plaintiff James D. Shofestall contracted to have the engine rebuilt. Defendant quoted Plaintiffs a flat fee for the rebuilding job; ultimately, the Plaintiffs were invoiced and paid significantly more than the quote.

Upon retrieving the vehicle from Defendants, and after Defendant supposedly fixed the vehicle, Plaintiff Joel Shofestall continued experiencing similar problems with the engine of the car. The problems were similar to those that were being experienced prior to the car being taken to Defendant's garage. The car was taken back very soon after it was initially picked up from Defendant's garage, within days.

After Defendant had possession of the car for some weeks, he called Plaintiffs and advised that he found a crack in the cylinder and that further repairs would be necessary. It is Plaintiff's position that this crack was present when the vehicle was initially dropped off at Defendant's garage, and Defendant failed to properly diagnose this crack.

Ultimately, the car was taken to Kent's Auto Service in Du Bois, where the engine was replaced for \$350.00. A replacement engine was obtained from Rick's Used Auto Parts in Kersey, Pennsylvania for \$689.00.

## II. APPLICABLE CASES OR STATUTES

There are no complex issues or areas of law anticipated for this case.

## III. WITNESSES

1. Joel Shofestall
2. James D. Shofestall
3. Sammy D. Ellzey

## IV. STATEMENT OF DAMAGES AND COPIES OF THOSE BILLS WHICH THE PARTY INTENDS TO OFFER

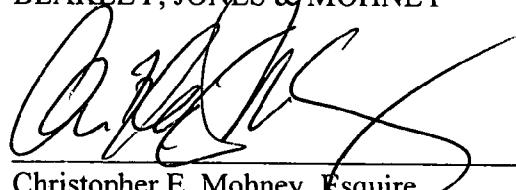
Plaintiffs are out \$1,543.50, that amount being paid to Defendant for services not properly

performed. Attached are copies of invoice of Bud's Auto Repair, Rick's Used Auto Parts and Kent's Auto Service.

Respectfully submitted,

BLAKLEY, JONES & MOHNEY

BY:

  
Christopher E. Mohney, Esquire  
Attorney for Plaintiffs



# RICK'S Used Auto Parts

724 Brandy Camp Rd. Kersey, PA 15846  
814-885-6103 or 885-8892  
800-366-1798 Fax: 814-885-8371

CUSTOMER COPY

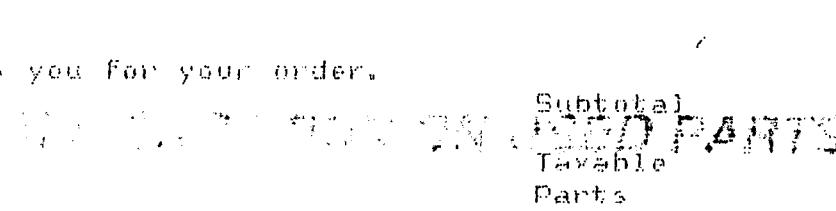
Used  
Parts  
R  
Us

ATTENTION BUYER  
PLEASE READ BACK FOR WARRANTY  
AND TERMS OF SALE!

SOLD  
TO  
KENT'S AUTO SERVICE  
1110 S. BRADY ST.  
DUBOIS, PA 15801

SHIP  
TO

REFERENCE NO.	DATE	TIME
01008634	8/02/00	2:28pm
P.O. NUMBER	CUSTOMER NO.	
DELIVERED	3759162	

QTY.	SALESMAN	TYPE OF SALE	PART NUMBER AND DESCRIPTION	UNIT PRICE		EXTENSION								
				CRD	CSH									
1	000-050228A	1Y-ENGINE ASSEMBLY	Stk#98234 H-6 98234 V#1G2WJ14W5JF209832	650.00	650.00									
Requested 08 GRAND PRT (6-173, 2.8L, VIN "W")														
														
<p>Check <u>3676</u></p> <p>Paid</p> <p>Dr</p>														
Thank you for your order.														
														
<table> <tr> <td>Subtotal</td> <td>650.00</td> </tr> <tr> <td>Taxable</td> <td>.00</td> </tr> <tr> <td>Parts</td> <td>650.00</td> </tr> <tr> <td><b>TOTAL</b></td> <td><b>650.00</b></td> </tr> </table>							Subtotal	650.00	Taxable	.00	Parts	650.00	<b>TOTAL</b>	<b>650.00</b>
Subtotal	650.00													
Taxable	.00													
Parts	650.00													
<b>TOTAL</b>	<b>650.00</b>													

RECEIVED BY

**KENT'S AUTO SERVICE  
1110 SOUTH BRADY STREET  
DuBOIS, PA 15801  
PHONE 814-375-9162**

**AUTO REPAIR ORDER** 011794

NAME Joel Shofestall  
ADDRESS 11 OAKLAND Ave.  
CITY, STATE Dubois Pa.

I HEREBY AUTHORIZE THE ABOVE REPAIR WORK TO BE DONE ALONG WITH THE NECESSARY MATERIAL, AND HEREBY GRANT YOU AND/OR YOUR EMPLOYEES PERMISSION TO OPERATE THE CAR, TRUCK OR VEHICLE HEREIN DESCRIBED ON STREETS, HIGHWAYS OR ELSEWHERE FOR THE PURPOSE OF TESTING AND/OR INSPECTION. AN EXPRESS MECHANIC'S LIEN IS HEREBY ACKNOWLEDGED ON ABOVE CAR, TRUCK OR VEHICLE TO SECURE THE AMOUNT OF REPAIRS THERETO.

YOU ARE ENTITLED TO A PRICE ESTIMATE FOR THE REPAIRS YOU HAVE AUTHORIZED. THE REPAIR PRICE MAY BE LESS THAN THE ESTIMATE, BUT WILL NOT EXCEED THE ESTIMATE WITHOUT YOUR PERMISSION. YOUR SIGNATURE WILL INDICATE YOUR ESTIMATE SELECTION.

TEARDOWN ESTIMATE - I UNDERSTAND THAT MY CAR WILL BE REASSEMBLED WITHIN \_\_\_\_ DAYS OF THE DATE SHOWN IF I DO NOT AUTHORIZE THE SERVICES RECOMMENDED.

1. I received no patients in writing before you begin service.

3. Please enter your full name, but only the last name and first initial will be used for the grade book.

S. A. A. J. M. VAN DER HORST

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**AUTO REPAIR ORDER**

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Adams GT3870

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**AUTO REPAIR ORDER**

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

JOEL SHOFESTALL and	:	NO. 2000 - 1595 - C.D.
JAMES D. SHOFESTALL,	:	
Plaintiffs	:	
VS.	:	
BUD AUGHENBAUGH,	:	
t/d/b/a BUD'S AUTO REPAIR,	:	
Defendant	:	

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the within Pre-Arbitration Statement of Plaintiffs was served on the following persons by regular United States mail, postage prepaid, on this 2<sup>nd</sup> day of August, 2001:

Toni M. Cherry, Esquire  
Gleason, Cherry & Cherry  
P.O. Box 505  
One North Franklin Street  
Du Bois, PA 15801  
Attorney for Defendant

Kimberly M. Kubista, Esquire  
Belin & Kubista  
15 North Front Street  
P.O. Box 1  
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