

01-286-CD
MICHAEL STIERS TRUCKING, INC. -vs- ROBERT C. BLOWERS

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10743

MICHAEL STYERS TRUCKING INC.

01-286-CD

VS.

BLOWERS, ROBERT C.

COMPLAINT

SHERIFF RETURNS

NOW FEBRUARY 28, 2001, DENNY NAU, SHERIFF OF CENTRE COUNTY WAS DEPUTIZED BY CHESTER A HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON ROBERT C. BLOWERS, DEFENDANT.

NOW MARCH 7, 2001 SERVED THE WITHIN COMPLAINT ON ROBERT C. BLOWERS, DEFENDANT BY DEPUTIZING THE SHERIFF OF CENTRE COUNTY. THE RETURN OF SHERIFF NAU IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED KIM KRIEL, ADULT AT RESIDENCE.

Return Costs

Cost	Description
28.10	SHFF. HAWKINS PAID BY: ATTY.
38.00	SHFF. NAU PAID BY: ATTY.
10.00	SURCHARGE PAID BY: ATTY.

FILED

Mar 14 2001
10:50 pm
William A. Shaw
Prothonotary
KED

Sworn to Before Me This

14th Day Of March, 2001
William A. Shaw

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

So Answers,

Chester A. Hawkins
by Marilyn Harry
Chester A. Hawkins
Sheriff

SHERIFF'S OFFICE

CENTRE COUNTY

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

SHERIFF SERVICE PROCESS RECEIPT, AND AFFIDAVIT OF RETURN				INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. Please type or print legibly. Do Not detach any copies.							
1. Plaintiff(s) <i>Michael Styers Trucking, Inc</i>				2. Case Number <i>01-286-CD</i>							
3. Defendant(s) <i>Robert C. Blowers</i>				4. Type of Writ or Complaint: <i>Complaint</i>							
SERVE → AT		5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levyed, Attached or Sold. <i>Robert C. Blowers</i> 6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code) <i>307A West Plank Rd. Port Matilda, Pa. 16870</i>									
7. Indicate unusual service: <input type="checkbox"/> Reg Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Deputize <input type="checkbox"/> Post <input type="checkbox"/> Other											
Now, <u>20</u> I SHERIFF OF CENTRE COUNTY, PA., do hereby depose the Sheriff of											
County to execute this Writ and make return thereof according to law. This deputation											
being made at the request and risk of the plaintiff.											
Sheriff of Centre County											
8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE											
NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN – Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.											
9. Print/Type Name and Address of Attorney/Originator					10. Telephone Number			11. Date			
SPACE BELOW FOR USE OF SHERIFF ONLY - DO NOT WRITE BELOW THIS LINE											
13. I acknowledge receipt of the writ or complaint as indicated above.			SIGNATURE of Authorized CCSD Deputy of Clerk and Title			14. Date Filed		15. Expiration/Hearing Date			
TO BE COMPLETED BY SHERIFF											
16. Served and made known to <u>Kim Kriell</u> , on the <u>7</u> day of <u>March</u> ,											
20 <u>61</u> , at <u>3:25</u> o'clock, <u>P</u> m., at <u>SAME AS ABOVE ADDRESS</u> , County of Centre											
Commonwealth of Pennsylvania, in the manner described below:											
<input type="checkbox"/> Defendant(s) personally served. <input type="checkbox"/> Adult family member with whom said Defendant(s) resides(s). Relationship is _____ <input checked="" type="checkbox"/> Adult in charge of Defendant's residence. <input type="checkbox"/> Manager/Clerk of place of lodging in which Defendant(s) resides(s). <input type="checkbox"/> Agent or person in charge of Defendant's office or usual place of business. <input type="checkbox"/> _____ and officer of said Defendant company. <input type="checkbox"/> Other _____											
On the _____ day of _____, 20_____, at _____ o'clock, _____ M.											
Defendant not found because:											
<input type="checkbox"/> Moved <input type="checkbox"/> Unknown <input type="checkbox"/> No Answer <input type="checkbox"/> Vacant <input type="checkbox"/> Other _____											
Remarks:											
Advance Costs <i>75.00</i>	Docket <i>9.00</i>	Service <i>9.00</i>	Sur Charge <i>1</i>	Affidavit <i>2.50</i>	Mileage <i>15.00</i>	Postage <i>.50</i>	Misc. <i>2.00</i>	Total Costs <i>38.00</i>	Costs Due or <u>Refund</u> <i>37.00</i>		
17. AFFIRMED and subscribed to before me this <u>8</u>				So Answer.							
20. day of <u>March</u> 2001				18. Signature of Dep. Sheriff <i>Corinne Peters</i>			19. Date <i>3-8-01</i>				
23. <u>Corinne Peters</u> Notary Public Bellefonte Boro, Centre County My Commission Expires Aug. 28, 2001				21. Signature of Sheriff			22. Date				
SHERIFF OF CENTRE COUNTY											
Amount Pd.						Page					
24. I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE OF AUTHORIZED AUTHORITY AND TITLE.						25. Date Received					



#353

OFFICE (814) 765-6641
AFTER 4:00 P.M. (814) 765-1533CLEARFIELD COUNTY FAX
(814) 765-6089CHESTER A. HAWKINS
SHERIFF

Sheriff's Office Clearfield County

SUITE 116
1 NORTH SECOND STREET - COURTHOUSE
CLEARFIELD, PENNSYLVANIA 16830DARLENE SHULTZ
CHIEF DEPUTY
MARGARET PUTT
OFFICE MANAGERMARILYN HAMM
DEPT. CLERK
PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MICHAEL STYERS TRUCKING INC

NO. 01-286-CD

VS
ROBERT C. BLOWERS

ACTION: COMPLAINT

SERVE BY: 3/28/01

Or

HEARING DATE:

SERVE: ROBERT C. BLOWERS

ADDRESS: 307A West Plank Road, Port Matilda, Pa.

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY. State of Pennsylvania, do hereby deputize the SHERIFF of CENTRE COUNTY Pennsylvania to execute this writ.

This Deputation being made at the request and risk of the Plaintiff this 28th day of FEBRUARY 2001.

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

MAKE REFUND PAYABLE TO: DWIGHT L. KOERBER Jr., Attorney

P9.1544-AA
Pd. 75.0

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

MICHAEL STYERS TRUCKING, INC.,

PLAINTIFF

VS

ROBERT C. BLOWERS,
DEFENDANT

DOCKET NO.

COMPLAINT

REC'D 27 2001
CITY, KENBE
William A. Shaw
Prothonotary

Law Office

DWIGHT L. KOERBER, JR.

ATTORNEY - AT - LAW

110 NORTH SECOND STREET

P. O. Box 1320

CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

MICHAEL STYERS TRUCKING, INC., *
Plaintiff

vs. * Docket No. 01-286-CP

ROBERT C. BLOWERS,
Defendant *

Type of Pleading:
COMPLAINT

Filed on Behalf of:
PLAINTIFF: Michael Styers
Trucking, Inc.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

FEB 27 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

MICHAEL STYERS TRUCKING, INC., *
Plaintiff

Vs. * Docket No.

ROBERT C. BLOWERS,
Defendant *

COMPLAINT

COMES NOW, Plaintiff, MICHAEL STYERS TRUCKING, INC., by and through its attorney, Dwight L. Koerber, Jr., Esquire, and files the within Complaint against Defendant, ROBERT C. BLOWERS. In support thereof, Plaintiff avers and shows as follows:

1. Plaintiff is MICHAEL STYERS TRUCKING, INC., a Pennsylvania corporation having its business address at P. O. Box 144, Frenchville, Clearfield County, Pennsylvania 16836.

2. Defendant is ROBERT C. BLOWERS, an individual, whose mailing address is P. O. Box 211, 307A West Plank Road, Port Matilda, Pennsylvania 16870.

3. Plaintiff is a motor common carrier, having been granted a Certificate of Public Convenience and Necessity issued by the Federal Motor Carrier Safety Administration at Docket No. MC-367356.

4. Beginning in April 2000, the parties entered into a certain contractual relationship with one another, whereby Plaintiff leased to Defendant a year 2000 Freightliner truck tractor, and a 1999

Fruehauf trailer, so that Defendant could provide service as a truck operator under a certain Lease Purchase and Operating Agreement entered into between the parties.

5. Attached hereto as Exhibit A is a true and correct copy of the Lease Purchase and Operating Agreement, with addendum, covering the tractor trailer unit that Defendant leased from Plaintiff.

COUNT I

BREACH OF CONTRACT

Paragraphs 1-5 of this Complaint are incorporated as though set forth in full.

6. Under the terms and conditions of the Lease Purchase and Operating Agreement between the parties, as identified as set forth in Exhibit A, attached hereto, Defendant is responsible for a weekly rental charge of \$570.86 per month, and is responsible for all repairs and operational expenses pertaining to the tractor trailer unit as covered by the terms of the Lease, with the requirement that when Defendant terminates the Lease, he is required to return the vehicle in substantially the same condition that it was in at the time of its initial rental.

7. In addition to the payment and maintenance obligations of Defendant under the Lease Purchase and Operating Agreement between the parties, Defendant is also required to give a minimum of 14 days advance written notice of his desire to terminate the said contract.

8. On September 12, 2000, Defendant stated that he was terminating the Lease Purchase and Operating Agreement between the parties, without giving the mandatory 14 days advance notice as required by Paragraph 2 of the Addendum Agreement between the parties.

9. Because of the failure to give the requisite advance notice of termination, Defendant is indebted to Plaintiff for two additional weeks of rental period, amounting to \$517.86 a week, thereby totaling \$1,035.72. As provided by Paragraph 3 of the Lease Purchase and Operating Agreement, unpaid rental charge is subject to an interest rate of 1½% per annum.

10. In addition to the rental charges owed to Plaintiff by Defendant because of his failure to comply with the Lease Purchase and Operating Agreement, Defendant has failed to properly maintain and to pay for maintenance as required under Paragraph 16 of the Lease Purchase and Operating Agreement. The specific additional deficiencies and charges related are summarized in Exhibit B, attached hereto, showing additional charges in the amount \$3,111.50.

11. When Defendant first picked up the said tractor trailer unit covered by the Lease Purchase and Operating Agreement between the parties, it had was fully topped off with diesel fuel. Upon termination of the Lease Purchase and Operating Agreement, Defendant was required to return it with the same amount of fuel as he originally had in the vehicle when he purchased it, with the vehicle being 200 gallons short of diesel fuel upon termination of the Lease Purchase and

Operating Agreement. With the diesel fuel costing \$1.65 per gallon, Defendant is therefore responsible for the additional expense to Plaintiff of \$330.00.

12. Plaintiff has made demand of the payment Defendant owes to it, by virtue of his failure to comply with the terms of the Lease Purchase and Operating Agreement, and Defendant has failed and refused to make payment. The sum of monies owed for the aforesaid breach of contract by Defendant is \$1,035.72 for unpaid rent; \$3,111.50 for unpaid maintenance, repairs and unauthorized charges; and \$330.00 for unpaid diesel fuel, all of which total \$4,477.22.

13. The proper place for filing suit, so as to enforce the terms of the Lease Purchase and Operating Agreement between the parties, is the Court of Common Pleas of Clearfield County, as provided by Paragraph 21 of the Lease Purchase and Operating Agreement, attached hereto as Exhibit A.

14. In addition to the unpaid damages set forth herein above, Defendant is also responsible under Paragraph 19 of the Lease Purchase and Operating Agreement for paying the cost of attorney's fees that Lessor incurs to enforce the Agreement.

WHEREFORE, Plaintiff prays that judgment be entered in its favor and against Defendant in the amount of \$4,477.22; interest rate of 1½% per month (18 per annum) on the unpaid rental charge of \$1,035.72, measured from October 1, 2000; reasonable attorney's fees; and interest and costs of suit.

COUNT II

INDEMNIFICATION

Paragraphs 6-14 of this Complaint are incorporated as though set forth in full.

15. During the time that he was working for MBV Trucking, affiliated with Plaintiff, Defendant drove the tractor trailer unit he was operating for Plaintiff to his own home, for his own personal convenience, over a weekend, and negligently collided with another vehicle, such vehicle being owned by Parks Moving & Storage.

16. As a result of the negligent actions taken by Defendant in operating the said tractor trailer unit, Parks Moving & Storage filed suit against MBV Trucking, Plaintiff's affiliated company.

17. As a result of the said litigation, an Order was entered on November 20, 2000, resulting in a judgment in the amount of \$1,650.13 being entered against MBV Trucking.

Attached hereto as Exhibit C is a true and correct copy of the Order of Judgment that was entered.

18. The Judgment, in the amount of \$1,650.13, is a judgment entered only as a result of vicarious liability against MBV Trucking and is a judgment for which Defendant is fully responsible for paying, because it is his negligence that caused the accident and led to the lawsuit.

19. In order to bring the litigation brought by Parks Moving & Storage to a conclusion, Plaintiff paid the full amount of the judgment in the amount of \$1,650.13, doing so on December 22, 2000.

Attached hereto as Exhibit D is a true and correct copy of the check covering payment that was paid to Parks Moving & Storage for the negligent actions of Defendant.

20. Plaintiff asserts its right of indemnification for the payment made to Parks Moving & Storage, as Defendant was the responsible party that caused the accident and is required to indemnify Plaintiff for the payments that it made.

WHEREFORE, Plaintiff requests judgment in its favor and against Defendant in the amount of \$1,650.13, plus interest from December 22, 2000, and costs of suit.

COUNT III

**TORTIOUS INTERFERENCE
WITH CONTRACTUAL RIGHTS**

Paragraphs 15-20 of this Complaint are incorporated as though set forth in full.

21. When Defendant terminated his Lease with Plaintiff on September 12, 2000, at the same time, he had a meeting with an individual named Michael Catherman, who was also an operator with Plaintiff under a Lease Purchase and Operating Agreement similar to that which is set forth in Exhibit A, attached hereto.

22. Defendant was fully aware of the contract between Michael Catherman and Plaintiff, and for vindictive and malicious reasons of his own, Defendant encouraged and urged Michael Catherman to terminate his Lease Purchase and Operating Agreement with Plaintiff.

23. As a result of the interference by Defendant in the existing contractual relationship between Plaintiff and Michael Catherman, Michael Catherman terminated his relationship with Plaintiff and caused Plaintiff to suffer a loss of the revenues that it would have otherwise gained through the existing contract.

24. As a result of Defendant's unlawful interference in the contractual relationships between Plaintiff and Michael Catherman, Plaintiff lost revenue equal to \$500.00 per week in profits and unpaid lease payments it would have otherwise had.

25. But for the malicious actions of Defendant in seeking to harm Plaintiff by convincing Michael Catherman to terminate his Lease Purchase and Operating Agreement with the Plaintiff, Plaintiff has incurred lost profits which it reasonably anticipates it would have earned through the end of year 2000, which would amount to 15 weeks in the amount of \$500.00 per week, totalling \$7,500.00.

26. Plaintiff seeks recovery of the sum of \$7,500.00 against Defendant for his tortious interference with Plaintiff's contractual relationship with Michael Catherman.

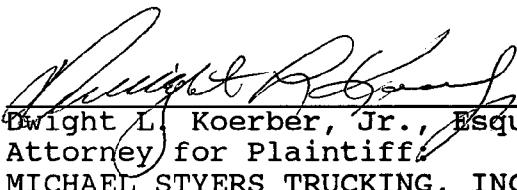
27. A short period of time before Defendant tortiously interfered with Plaintiff's contractual rights with Michael Catherman, Defendant engaged in similar conduct in that he convinced an individual named Brian Marcum, who also had a Lease Purchase and Operating Agreement with Plaintiff, to terminate his Lease Purchase and Operating Agreement.

28. The actions with Brian Marcum are additional proof of the tortious interference with contractual rights that Defendant has engaged in with respect to Plaintiff.

29. Plaintiff reserves the right to amend its complaints so as to seek additional damages relative to Brian Marcum, if the evidence developed in discovery should demonstrate a basis to doing so.

WHEREFORE, Plaintiff requests judgment in its favor against Defendant in the amount of \$7,500.00 plus interest and costs of litigation.

Respectfully submitted,



Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff
MICHAEL STYERS TRUCKING, INC.

VERIFICATION

The undersigned, having read the attached Complaint, verifies that the within Complaint is based upon information furnished to counsel, as well as information gathered by counsel in the course of preparing the Complaint. The language of the Complaint is that of counsel and not of signer. Signer verifies that he has read the within Complaint and that the information set forth therein is true and correct to the best of signer's knowledge, information, and belief. To the extent that the language in the Complaint is that of counsel, I have relied upon counsel in making this verification. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsifications to authorities.

2-23-01
Date


Michael C. Styers, President
MICHAEL STYERS TRUCKING, INC.

EXHIBIT A

Attached hereto as Exhibit A is a copy of the Lease Purchase and Operating Agreement between Michael Styers Trucking, Inc., and Robert C. Blowers.

LEASE NUMBER 2004LEASE PURCHASE AND OPERATING AGREEMENT

THIS LEASE PURCHASE AND OPERATING AGREEMENT (referred to herein as "Agreement" and/or "Lease"), by and between MICHAEL STYERS TRUCKING, INC., P. O. Box 144, Frenchville, Pennsylvania 16836, referred to hereinafter as "Lessor" or "Styers Trucking", Party of the First Part,

AND

Robert Bowers

Name

P.O. BOX 211Port Matilda, Pa 16870

Address

25-186-2590

Social Security or EIN Number

referred to hereinafter as "Lessee", Party of the Second Part.

IN CONSIDERATION of their mutual promises, and upon payment of good and valuable consideration, and with the intention of being legally bound, the parties hereunto agree to the terms and conditions set forth in this agreement.

TERMS AND CONDITIONS

1. Common Carrier Operations - Styers Trucking is a motor common carrier having been granted a Certificate of Public Convenience and Necessity from the Department of Transportation Office of Motor Carrier Safety in Docket No. MC-367356. In engaging in operations as a trucking company, Styers Trucking holds itself out as a common carrier serving the public at large. The parties have therefore based this Agreement upon the assumption that there is no sales or use tax applicable to the lease and/or sale of the equipment covered by this Agreement.

2. Vehicle Lease and Rental - Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, the motor vehicle specified in Schedule A, attached hereto, at the rental charge per vehicle, as set forth in said Schedule A. When used in this Agreement, the term "said vehicle" shall mean the motor vehicle leased hereunder with all equipment included on the vehicle on the time of the signing of this Agreement.

3. Payment of Rent - Lessee shall make payment of rent at the rate specified in Schedule A. Lessor shall keep an orderly account of the monies received from such payments, and will properly credit Lessee's account when payment is made. In the event that Lessee fails

to make his payments at the time specified in Schedule A, a late charge shall be assessed, in addition to the rent, in the amount of one and one-half (1 1/2%) percent per month on all arrears that are owed. This late charge shall be in addition to all rights and remedies that Lessor has if Lessee is in default of his obligations under this Agreement. These payments shall be made through the weekly statement covering Lessee's operations.

4. Condition of Vehicle - The parties agree that the vehicle is leased strictly on an "as is where is" basis, in the transaction between Lessor and Lessee, recognizing that if there are any manufacturer warranties, they shall continue to be applicable as provided under the terms of the pertinent warranty document. With this limited exception, Lessee is bearing the risk and responsibility for repairs, including major repairs, engine or drive train failures or an accident, that is required on the said vehicle from the date of the signing of this Agreement until the vehicle is returned or the Lease is otherwise lawfully terminated. Lessee acknowledges that the rental charge and the buy out purchase price are set at a price that is based upon the "as is where is" condition of the vehicle and explain why Lessee has the entire responsibility for repairs of the vehicle without there being any warranties from Lessor.

5. Security Deposit - In addition to the rental, Lessee has deposited in conjunction with the signing of this Agreement a security deposit for the vehicle identified in Schedule A. This deposit shall be held by Lessor, without interest, as security for the full and faithful performance by Lessee of all terms, conditions and provisions of this Agreement. The existence of this security deposit does not in any way waive or limit any rights or remedies of Lessor. Upon the successful completion of Lessee's duties under this Agreement, the deposit will be returned or credited to Lessee. At Lessor's election, the security deposit can be waived.

6. Ownership of Vehicle - This Agreement is an agreement of lease only and may not be construed as a contract for the sale of the said vehicle. Lessee acknowledges that Lessor is the owner of the vehicle hereunder, and that the vehicle is subject to encumbrances and/or liens on the title of the vehicle. Lessee further agrees that he does not acquire any legal entitlement or equity in the leased vehicle but shall merely have the possessory right to use and operate the vehicle, with the possessory right being forfeited upon the default, termination or expiration of this Lease as provided under the terms and conditions of this Agreement.

7. Buyout Price - Lessee shall be entitled to acquire full title ownership of the said vehicle by paying the buyout price specified in Schedule A, less any reductions in the buyout price that occur as a result of the monthly payments that are made. It is recognized that the said vehicle is currently subject to a lease and/or financing charge that has an interest component. Accordingly, the buyout price will be adjusted directly proportionate to the amount of interest that is paid under the present financing arrangement. In the event that Lessee elects to exercise his right to buyout the said unit, he shall be responsible for paying all fees and costs associated with satisfying all provisions of the pertinent financing documents covering said vehicle as well as paying all costs and expenses relative to the transfer of title of said vehicle. Before Lessee acquires any entitlement to purchase the said vehicle, as provided in this paragraph he must have operated a minimum of ninety (90) days in good standing under the terms of this

Agreement.

8. Residual Buyout - Upon termination of the Lease as set forth in Schedule A, attached hereto, Lessor shall have the right to purchase the said vehicle by paying the residual value identified in Schedule A, or, if he elects to do so, the residual value shown on the Lease may be applied to the purchase of a new vehicle by Lessee with the trade-in allowance for said vehicle applying directly to the new purchase price that Lessee pays for a new unit.

9. Prohibition Against Leasing or Subleasing - Without the written consent of Lessor, Lessee may not lease or sublease the vehicle covered by this Agreement. In addition, Lessee may not provide a substitute driver for the said vehicle unless he receives the written consent of Lessor to do so. If a substitute driver is provided, as a pre-condition to his entitlement to operate, he must be DOT qualified and Lessee must present a certificate of insurance showing that he has workers' compensation coverage on the driver.

10. Operations for Michael Stvers Trucking, Inc. - An express condition of this Agreement is that Lessee be engaged in operations as an owner operator to Stvers Trucking.

11. Default - Failure to continue to be leased to Stvers Trucking as an owner operator and failure to comply with all pertinent provisions of this Agreement shall be considered a default and shall cause this Agreement to terminate with the requirement that the vehicle be returned to Lessor forthwith.

12. Operations - As noted, this Agreement is predicated upon the requirement that Lessee continue to engage in operations as an owner operator through Stvers Trucking. In order to facilitate such operations, Stvers Trucking will use its best efforts to secure good paying freight in traffic lanes that are operationally sound. It is recognized, however, that the decision of securing the freight and the logistics of coordinating operations shall be left solely in the discretion of Stvers Trucking. Also, there is no guarantee of the volume of freight to be tendered to Lessee. On a weekly basis, Lessee shall pay to Stvers Trucking, to be taken from his weekly statement, the sum of \$500.00 or 20% of the revenue, whichever is greater, which the said vehicle generates. Lessee must average a minimum of \$2,500.00 per week on revenues generated through the said vehicle. Failure to do so shall entitle Lessor to terminate this Agreement and extinguish all interest, claims and rights that Lessee would otherwise have under this Agreement. In order to allow for sickness and holidays, the minimum of \$2,500.00 in revenue generated per week shall be based upon the weekly average of the most recent three month period of time covering the terms of the Lease. If the Lease has not been in effect for at least a three month period, the weekly average shall be a running average. If the Lease terminates for failure to comply with the minimum average of \$2,500.00 per month, Lessee shall be responsible for payment of one month's rental charge which may be deducted from any account pertaining to Lessee.

13. Insurance - Lessor will absorb the cost of liability insurance as required by Department of Transportation statutory standards and collision insurance. All insurance shall

be subject to a \$2,500.00 deductible. Lessee will be responsible for making these deductible payments. These payments may be taken from the escrow fund, as described herein, or if there is insufficient money there, from the weekly account payable to Lessee. It is recognized that if Lessee engages in conduct which causes him to be uninsurable under the policy which Lessor has in effect or is seeking to secure, that Lessor shall have the right to terminate this Agreement and require immediate return of the vehicle to Lessor's headquarters in Leontes Mills, Pennsylvania.

14. Escrow Agreement for Fuel Tax, Insurance Deductible Payments, and Major Repairs - In order to allow for a sufficient reserve to cover major repairs, and to cover the cost of fuel tax, the parties agree that two separate escrow accounts shall be set up and funded through payments that are made through the weekly statements from Lessor. The escrow for the major repairs fund shall have payments made into it, at the rate of \$0.05 per mile traveled by the said vehicle, which will continue until it reaches the escrow reserve cap of \$10,000.00. In order to have payout made from the major repairs escrow fund, Lessee shall present appropriate invoices and/or repair estimates to Lessor, at which time appropriate payment will be promptly made. In the event that Lessee is unable to pay a deductible insurance charge when due, it may be taken from the major repair escrow fund. For the fuel tax escrow, an escrow reserve level shall be established, at the rate of \$25.00 per week to ensure that there are adequate funds to pay the fuel tax associated with Lessee's operations in the various states through which he operates the said vehicle. Proper accounting should be made at each quarter that payment is made to the pertinent state covering the fuel tax. On termination of this Lease Agreement, all funds held in the pertinent reserve accounts shall be accounted for and payment as appropriate shall be made to Lessee, provided that Lessee has made full and complete payment of all sums that are due to Lessor under the terms of this Agreement. There shall be no interest charged or payable on the escrow accounts.

15. Registration and Licensing - Lessee shall be responsible for paying the cost of apportioned registration and the road tax charge. At present, for year 2000, this amounts to approximately \$1,610.00 per truck tractor for the registration and \$550.00 for the road tax. This data is presented for information purposes, with Lessee responsible for whatever the charge is. If by May 1 of each year, Lessee does not have the full payment to cover these fees, Lessor will advance the fees and deduct \$100.00 per week from the weekly settlement statement that is issued. Lessee shall also be responsible for all registration and operational fees assessed in the various states, including, but not limited to, permits required by Kentucky, Arkansas, and any other state through which operations are conducted. The cost of such charges shall be immediately assessed against Lessee through the weekly settlement statement for Lessee.

16. Repairs and Maintenance - It shall be the responsibility of Lessee to keep and maintain the said leased vehicle in good operating condition, including major repairs such as engine or drive train failures and damage caused by an accident. Lessee shall make all necessary repairs and replacements to the said vehicle to the extent that they are needed. Repairs shall include tires, oil, lubricants, anti-freeze, and any and all replacement parts necessary to enable the vehicle to properly operate. Failure to provide maintenance as provided herein shall be considered a default under this Lease. Lessor shall have the right to inspect the said vehicle

to determine whether Lessee has satisfied his duty to maintain and repair the vehicle, and may enter onto the property of Lessee in order to perform such an inspection. As a special accommodation to Lessee, Lessor agrees to make available its mechanics to provide maintenance and repair on the said vehicle, as well as parts at a reasonable price, with these expenses to be paid entirely by Lessee. If Lessee has any question or complaint of any nature to the charge that is assessed for the repair work and parts, it must be brought to Lessor's attention within fifteen (15) days of the date that the statement is issued covering such expenses, or such complaint will be waived. These expenses shall be deducted directly out of the weekly statement issued by Lessor. The rate at which repairs and maintenance will be charged is \$20.00 an hour for year 2000 and an additional \$1.00 per hour for each year thereafter.

17. Weekly Statement - Lessee shall be paid on a weekly basis, with such payment covering shipments for which the required documentation has been presented at company headquarters no later than Tuesday, Noon, each week. Such documentation shall include the pertinent delivery receipt, signed bill of lading, logs and other shipping document necessary to enable Styers Trucking to receive payment for the shipment transported. Attached hereto as Schedule B is a sample weekly statement. It is recognized that this is only a sample and does not include such items as payment for registration tags, road use tax, state registration charges or other out-of-pocket expenses that will occur from time to time. It is also recognized that the payment of fuel is shown on the settlement statement only as an example of an expense to be incurred and is not a payment that will be handled through the weekly statement except for those rare circumstances where an advance for fuel payment has been approved by Lessor.

18. Return of Leased Vehicle - Upon the expiration or termination of this Lease for any cause, said vehicle shall be returned forthwith and without delay to Lessor's principal place of business in Lecomonts Mills, Pennsylvania. Except for ordinary wear and tear, the vehicle shall be returned in the same condition as when this Lease was initially undertaken. Lessee shall be responsible for providing for the transportation for the return of the vehicle, as well as any and all costs associated with the vehicle if Lessee does not return the vehicle himself. Lessor reserves the right to apply any and all of the security deposit to reimburse Lessor for the cost of transporting, cleaning, repairing or reconditioning the said unit after it is returned, if Lessee has failed to properly maintain and repair it.

19. Indemnification - Lessee shall defend, indemnify and hold Lessor harmless, including its officers, directors, employees and representatives, from and against any and all damages, loss, theft or destruction to the said vehicle, and against all losses, liabilities, damages, injuries and claims of any nature, including legal fees and costs, arising out of the operation of the said vehicle under this Lease. Lessee agrees to pay the cost of attorney's fees that Lessor incurs as a result of Lessee's failure to comply with any term or condition of this Agreement.

20. Owner Operator Insurance - In recognition that Lessee could be injured as a result of an accident arising in the scope of his functions as a truck driver, and in awareness of the uncertainties that have existed under the case law in Pennsylvania pertaining to owner

operators and workers' compensation, a fundamental requirement that Lessee must meet at all times is to maintain workers' compensation/owner operator insurance covering his operations. Proof of such insurance will be presented to Lessor upon request. It is recognized that the existence of such insurance is in no way intended to alter the status of Lessee as an independent contractor. In this regard, Lessee acknowledges that he is not eligible for unemployment benefits, and that he will be taxed as a self-employed individual for purposes of compliance with the requirements of the Internal Revenue Service and the Pennsylvania Department of Revenue.

21. Pennsylvania Law to Apply - In the event that questions should arise concerning the application or meaning of any term or provision of this Agreement, the laws of the Commonwealth of Pennsylvania shall apply. Any litigation which seeks to interpret, apply or construe any term or provision of this Agreement may be brought only before the Court of Common Pleas of Clearfield County, Pennsylvania.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the date specified below, doing so with the intention of being legally bound.

**PARTY OF THE FIRST PART/
LESSOR**

MICHAEL STYERS TRUCKING, INC.

By: Michael S. Styers

Date: 5/15/00

**PARTY OF THE SECOND PART/
LESSEE**

Robert C. Blawieers
Printed Name

Robert C. Blawieers
Signature

Date: 5-8-00

SCHEDULE A**SUMMARY OF TERMS***Year of Make: 2000Name of Manufacturer: Freightliner

Model Number: _____

VIN Number: 1FUPCXBQYLA17052Additional Equipment: 1999 Fruehauf Trailer - Step Deck
Vin Number 1JJF482F9XS572060Weekly Rental Charge: \$ 17.86

Security Deposit: _____

Initial Payment (when applicable): _____

Current Buyout Price: _____

Residual Buyout Price: _____

LESSOR:**MICHAEL STYERS TRUCKING, INC.**By: Michael S. MyersDate: 5/15/00**LESSEE:**Robert C. Blawie
Printed NameRobert C. Blawie
SignatureDate: 5-8-00

*The actual terms of the agreement are covered by the narrative part of the agreement, with this
only being a summary of certain terms.

ADDENDUM

THIS ADDENDUM, is by and between MICHAEL STYERS TRUCKING, INC., P. O. Box 144, Frenchville, Pennsylvania 16836, referred to hereinafter as "Lessor" or "Styers Trucking", Party of the First Part,

AND

Robert Blawie

Name

P.O. Box 211

Port Matilda, Pa 16270

Address

25-1862590

Social Security or EIN Number

referred to hereinafter as "Lessee", Party of the Second Part.

WHEREAS, the parties hereto have entered into a certain Lease Purchase and Operating Agreement that was signed between the parties on 4-1-00.

WHEREAS, the parties had intended to include language in the agreement that required a minimum of fourteen (14) days advance notice, but this provision was inadvertently omitted.

NOW THEREFORE, the parties hereto agree to the following course of action, doing so with the intention of being legally bound:

1. The basic lease agreement that the parties have signed shall be amended so as to include the following additional provisions.

2. Lessee shall have the right to terminate this Agreement, provided that he gives at least fourteen (14) days advance written notice of his intention to do so. Upon giving notice, any accrual of right and any equity which Lessee would have otherwise accumulated in the purchase of the vehicle shall be released to Lessor. If Lessee fails to give fourteen (14) days advance written notice of termination of this Lease, he shall be obligated to pay the standard rental charge for a minimum fourteen (14) day period which shall be measured from the date he returns the equipment to Lessor's headquarters. The giving of fifteen (15) days advance notice shall obligate Lessee to pay the standard rental charge for a minimum two (2) week period after he returns the equipment to Lessor's headquarters. Until the equipment is returned to the Lessor's headquarters, the obligations of Lessee under this Agreement do not cease for future

rent. At no time shall any notice serve to eliminate any obligations incurred under this Agreement prior to the time of the giving of the notice.

3. In all other respects the basic Lease Purchase Agreement between the parties shall remain as previously stated.

4. It is acknowledged that these additional terms are merely intended to clarify and implement the original understanding of the parties and that they do not represent an additional obligation that was not originally agreed upon.

NOW THEREFORE, in consideration of their mutual covenants and with the intention of being legally bound, the parties hereunto adopt the terms in this Addendum on the date shown below.

IN WITNESS WHEREOF, the parties hereunto have signed this Agreement on the date specified below, doing so with the intention of being legally bound.

**PARTY OF THE FIRST PART/
LESSOR**

MICHAEL STYERS TRUCKING, INC.

By: Shelia S. Styers

Date: 6-30-00

lease Terminated

9-13-00

Shelia S. Styers

**PARTY OF THE SECOND PART/
LESSEE**

Robert C. Blowers
Printed Name

Robert C. Blowers
Signature

Date: 7-11-00

Robert Blowers

9-13-00

EXHIBIT B

Attached hereto as Exhibit B is a copy of the maintenance and repair expenses associated with the leased tractor trailer unit.

Charges to Robert Blowers to repair truck and trailer to pass inspection and early termination of lease.

Tractor: New brakes		\$130.00
4 Brake Kits		48.00
4 hours Labor		100.00

Drive Tires: 4/32 depth left			
New	25/32	cost	\$2024.00
Adjust	21/32	owe	\$1620.00

Cabinet cut for ?		300.00
-------------------	--	--------

Oil change		125.00
------------	--	--------

Trailer: Rewire lights 6 Hrs labor		120.00
------------------------------------	--	--------

2 - 4" Straps		24.00
---------------	--	-------

2- Tires and Mounting		477.90
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Unauthorized Charges:

Seger's Alignment		110.00
Purcell Tires		622.88
Credit issued		<u>-566.28</u>

TOTAL:		\$3,111.50
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EXHIBIT C

Attached hereto as Exhibit C is a copy of the November 20, 2000, Order at Docket No. 0000183-00.

EXHIBIT D

Attached hereto as Exhibit D is a copy of Check No. 298
from Michael Styers Trucking, Inc., to Parks Moving & Storage.

MICHAEL STYERS TRUCKING, INC.

P.O. BOX 144 PH 014-263-7163
FRENCHVILLE, PR 16838-0144

三

00-000-00

1650.13

250

Wolfs Mahr & Sonniger

One Thousand Two Hundred Forty Dollars, 4 $\frac{3}{10}$ —

Math Options
11 North 2nd Street
Clearfield, PA 16830

Robert Bissel or Accidental

00500 111 362 942 0313062940 29800 003

DO NOT NEGOTIABLE

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

MICHAEL STYERS TRUCKING, INC.,
Plaintiff

-vs-

ROBERT C. BLOWERS,
Defendant

PRAECIPE TO DISCONTINUE
Docket No. 01-286-CD

FILED

OCT 3 1 2001
01-286-CD atty Koerber
William A. Shaw
Prothonotary

Cent. D. to atty
Copy C

Law Office

DWIGHT L. KOERBER, JR.
ATTORNEY-AT-LAW
110 NORTH SECOND STREET
P. O. Box 1320
CLEARFIELD, PENNSYLVANIA 16830

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

MICHAEL STYERS
TRUCKING, INC.,
Plaintiff

*

*

-vs-

Docket No. 01-286-CD

*

ROBERT C. BLOWERS,
Defendant

*

*

Type of Pleading:
PRAECIPE TO DISCONTINUE

Filed on behalf of:

PLAINTIFF:

Michael Styers Trucking, Inc.

Counsel of record for
this party:

Dwight L. Koerber, Jr.
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

OCT 31 2001

William A. Shaw
Prothonotary

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

MICHAEL STYERS
TRUCKING, INC.,
Plaintiff

*

*

-vs-

Docket No. 01-286-CD

*

ROBERT C. BLOWERS,
Defendant

*

*

PRAECIPE TO DISCONTINUE

TO: WILLIAM A. SHAW, PROTHONOTARY
COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
230 East Market Street
Clearfield, PA 16830

Please mark the above docket as settled and discontinued
with prejudice.

Respectfully submitted,

By: 
Dwight L. Koerber, Jr.,
Attorney for PLAINTIFF
Michael Styers Trucking, Inc.

Date: October 31, 2001

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Michael Styers Trucking, Inc.

Vs. No. 2001-00286-CD
Robert C. Blowers

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 31st day of October, 2001 marked:

Settled and Discontinued

Record costs in the sum of \$80.00 have been paid in full by Dwight L. Koerber, Jr..

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 31st day of October A.D. 2001.



William A. Shaw, Prothonotary