

02-14-CD  
CARL R. KUNTZ -vs- DAVID A. HOUP

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

No. 02 - 14 - CD

Type of Pleading:

Complaint

Filed on behalf of:  
Plaintiff

Counsel of Record for  
this party:

James A. Naddeo, Esq.  
Pa I.D. 06820

211 1/2 E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

**FILED**

JAN 03 2002

William A. Shaw  
Prethentary

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

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No. 01 - - CD

C O M P L A I N T

NOW COMES the Plaintiff, Carl R. Kuntz, and by his attorney, James A. Naddeo, Esquire, sets forth the following:

1. The Plaintiff, Carl R. Kuntz, is a sui-juris, adult individual who resides at Colonel Drake Highway, Mahaffey, Pennsylvania, 15757.

2. The Defendant, David A. Houpt, is a sui-juris, adult individual who resides at 731 Taylor Road, Friedens, Pennsylvania, 15541.

3. That at all times referred to herein, Plaintiff was the owner and operator of Kuntz Motors, a new and used car dealership, which is engaged in the business of selling and servicing new and used vehicles with its principal office located in the Borough of Mahaffey, Clearfield County, Pennsylvania.

4. That Plaintiff, through his automobile dealership, elected to sponsor two (2) racecars in the Northern Division of the USAR Hooters Pro Cup Series.

5. That in preparation for the racing season which was to commence on April 21, 2001, Plaintiff purchased a certain Monte Carlo with Laughlin chassis in February, 2001.

6. That the said Monte Carlo was duly registered with USAR Northern Hooters Pro Cup Series as Car No. 5, to be raced in conjunction with a second vehicle identified as a Monte Carlo with KLB chassis, registered as Car No. 9.

7. That the vehicles identified in Paragraph 6 hereof, were to be driven by Defendant, David A. Houpt, and by Jeremiah Kuntz, respectively.

8. That Defendant raced Plaintiff's vehicle during the entire Northern USAR Hooters Pro Cup Series up through the Championship Series which ended on or about November 24, 2001.

9. That following the close of the racing season, Defendant took possession and control of the Monte Carlo with Laughlin chassis, Car No. 5, and is believed to be storing the vehicle on property owned by Althea Houpt located at 522 Slickerman Drive, Somerset, Pennsylvania.

10. That Plaintiff spent approximately Thirty Three Thousand (\$33,000.00) Dollars to purchase and prepare the

aforesaid Monte Carlo with Laughlin chassis, Car No. 5 and is believed to be valued in that amount.

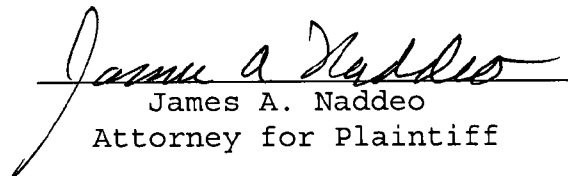
11. That Plaintiff has demanded that Defendant relinquish the vehicle described in Paragraph 10 hereof but the Defendant has failed and/or refused to do so.

12. That Plaintiff has been, and will continue to be damaged by Defendant's wrongful detention of Plaintiff's property in an amount which cannot be determined until the removal of Plaintiff's property from its storage place including but not limited to amounts expended in recovering Plaintiff's property, the cost of obtaining a bond for Writ of Seizure and the cost of manpower and equipment to remove Plaintiff's property from the premises where it has been stored by defendant.

13. That Defendant's wrongful detention of Plaintiff's property has been outrageous, willful, wanton and/or in disregard of Plaintiff's rights and Plaintiff therefore seeks recovery of punitive damages.

WHEREFORE, Plaintiff demands possession of the property described as a Monte Carlo with Laughlin chassis, Car No. 5, specific damages as requested herein and punitive damages

together with costs and attorney's fees to the extent allowed by  
law.

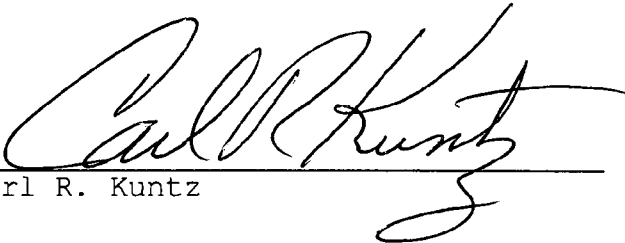
  
James A. Naddeo  
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA)

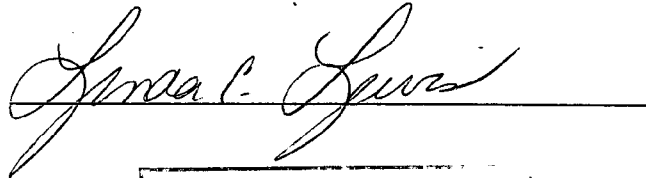
ss.

COUNTY OF CLEARFIELD )

Before me, the undersigned officer, personally appeared  
CARL R. KUNTZ, who being duly sworn according to law, deposes and  
states that the facts set forth in the foregoing Complaint are  
true and correct to the best of his knowledge, information and  
belief.

  
\_\_\_\_\_  
Carl R. Kuntz

SWORN and SUBSCRIBED before me this 28<sup>th</sup> day of December, 2001.

  
\_\_\_\_\_

Notarial Seal  
Linda C. Lewis, Notary Public  
Clearfield Boro, Clearfield County  
My Commission Expires July 25, 2003

FILED

JAN 30 1962

013107/atty Naddelopd  
William A. Shaw  
Prothonotary

\$80.00

2cc atty.



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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

No. 02 - 14 - CD

Type of Pleading:

Surety Bond

Filed on behalf of:  
Plaintiff

Counsel of Record for  
this party:

James A. Naddeo, Esq.  
Pa I.D. 06820

211 1/2 E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

**FILED**

JAN 03 2002

William A. Shaw  
Prothonotary

CERTIFIED COPY OF POWER OF ATTORNEY  
THE OHIO CASUALTY INSURANCE COMPANY  
WEST AMERICAN INSURANCE COMPANY

No. 34-929

**Know All Men by These Presents:** That THE OHIO CASUALTY INSURANCE COMPANY, an Ohio Corporation, and WEST AMERICAN INSURANCE COMPANY, an Indiana Corporation, in pursuance of authority granted by Article VI, Section 7 of the By-Laws of The Ohio Casualty Insurance Company and Article VI, Section 1 of West American Insurance Company, do hereby nominate, constitute and appoint: **Stephen F. Hunter, Roger M. Janes, Gayle T. Knapp or Darcel L. Deeter of Meadville, Pennsylvania** its true and lawful agent (s) and attorney (s)-in-fact, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all BONDS, UNDERTAKINGS, and RECOGNIZANCES, not exceeding in any single instance **ONE MILLION (\$1,000,000.00) DOLLARS**, excluding, however, any bond(s) or undertaking(s) guaranteeing the payment of notes and interest thereon

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Companies at their administrative offices in Hamilton, Ohio, in their own proper persons. The authority granted hereunder supersedes any previous authority heretofore granted the above named attorney(s)-in-fact.

In WITNESS WHEREOF, the undersigned officer of the said The Ohio Casualty Insurance Company and West American Insurance Company has hereunto subscribed his name and affixed the Corporate Seal of each Company this **25th day of April, 2000.**



*Sam Lawrence*

Sam Lawrence, Assistant Secretary

STATE OF OHIO,  
COUNTY OF BUTLER

On this **25th day of April, 2000** before the subscriber, a Notary Public of the State of Ohio, in and for the County of Butler, duly commissioned and qualified, came Sam Lawrence, Assistant Secretary of THE OHIO CASUALTY INSURANCE COMPANY and WEST AMERICAN INSURANCE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn depose and saith, that he is the officer of the Companies aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal at the City of Hamilton, State of Ohio, the day and year first above written.



*Barbara Hoffman*

Notary Public in and for County of Butler, State of Ohio  
My Commission expires **September 25, 2002.**

This power of attorney is granted under and by authority of Article VI, Section 7 of the By-Laws of The Ohio Casualty Insurance Company and Article VI, Section I of West American Insurance Company, extracts from which read:

Article VI, Section 7. APPOINTMENT OF ATTORNEYS-IN-FACT, ETC. "The chairman of the board, the president, any vice-president, the secretary or any assistant secretary of each of these Companies shall be and is hereby vested with full power and authority to appoint attorneys-in-fact for the purpose of signing the name of the Companies as surety to, and to execute, attach the corporate seal, acknowledge and deliver any and all bonds, recognizances, stipulations, undertakings or other instruments of suretyship and policies of insurance to be given in favor of any individual, firm, corporation, or the official representative thereof, or to any county or state, or any official board or boards of county or state, or the United States of America, or to any other political subdivision."

Article VI, Section 1. APPOINTMENT OF RESIDENT OFFICERS. "The Chairman of the Board, the President, any Vice President, a Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint attorneys in fact for the purpose of signing the name of the corporation as surety or guarantor, and to execute, attach the corporate seal, acknowledge and deliver any and all bonds, recognizances, stipulations, undertakings or other instruments of surety-ship or guarantee, and policies of insurance to be given in favor of an individual, firm, corporation, or the official representative thereof, or to any county or state, or any official board or boards of any county or state, or the United States of America, or to any other political subdivision."

This instrument is signed and sealed by facsimile as authorized by the following Resolution adopted by the respective directors of the Companies (adopted May 27, 1970-The Ohio Casualty Insurance Company; adopted April 24, 1980-West American Insurance Company):

"RESOLVED that the signature of any officer of the Company authorized by the By-Laws to appoint attorneys in fact, the signature of the Secretary or any Assistant Secretary certifying to the correctness of any copy of a power of attorney and the seal of the Company may be affixed by facsimile to any power of attorney or copy thereof issued on behalf of the Company. Such signatures and seal are hereby adopted by the Company as original signatures and seal, to be valid and binding upon the Company with the same force and effect as though manually affixed."

CERTIFICATE

I, the undersigned Assistant Secretary of The Ohio Casualty Insurance Company and West American Insurance Company, do hereby certify that the foregoing power of attorney, the referenced By-Laws of the Companies and the above Resolution of their Boards of Directors are true and correct copies and are in full force and effect on this date.

IN WITNESS WHEREOF, I have hereunto set my hand and the seals of the Companies this 28th day of December 2001



*Mark E. Schmidt*

Assistant Secretary

S-4300

**JAMES A. NADDEO**  
ATTORNEY AT LAW  
211 1/2 EAST LOCUST STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

No. 82  
01 - 14 - CD

Type of Pleading:

Motion for *Ex Parte*  
Writ of Seizure

Filed on behalf of:  
Plaintiff

Counsel of Record for  
this party:

James A. Naddeo, Esq.  
Pa I.D. 06820

211 1/2 E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

**FILED**

JAN 04 2002

William A. Shaw  
Prothonotary

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUP, T,  
an individual,  
Defendant.

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No. <sup>02</sup>~~01~~ - 14 - CD

MOTION FOR EX PARTE WRIT OF SEIZURE

NOW COMES the Plaintiff, Carl R. Kuntz, and by his attorney, James A. Naddeo, Esquire, set forth the following:

1. Plaintiff is the owner of a certain race car described as Monte Carlo with Laughlin chassis, Car No. 5, as appears from cancelled checks, invoice and credit card record attached hereto collectively as Exhibit "A".

2. That said vehicle is in the possession of the Defendant who has caused it to be stored upon premises owned by his mother, Althea Haupt, located at 522 Slickerman Drive, Somerset, Pennsylvania.

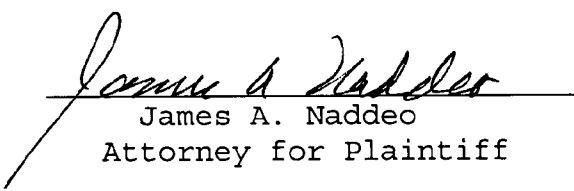
3. That the aforesaid vehicle is comprised of highly specialized parts and equipment which can readily be removed therefore substantially decreasing the value of said property.

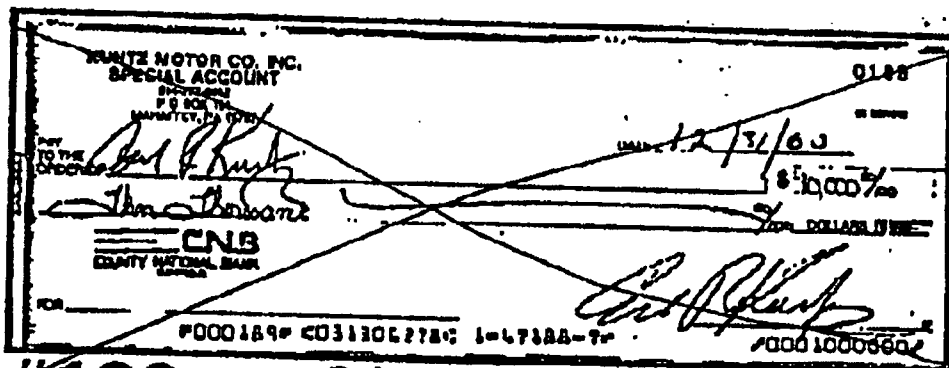
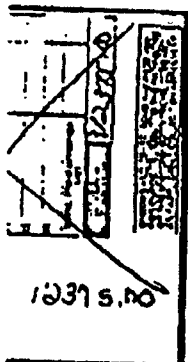
4. That Plaintiff believes and therefore avers that the Defendant, or parties working in consort with him, will strip the subject vehicle of valuable parts and equipment if

Defendant is permitted to continue in possession of the property.

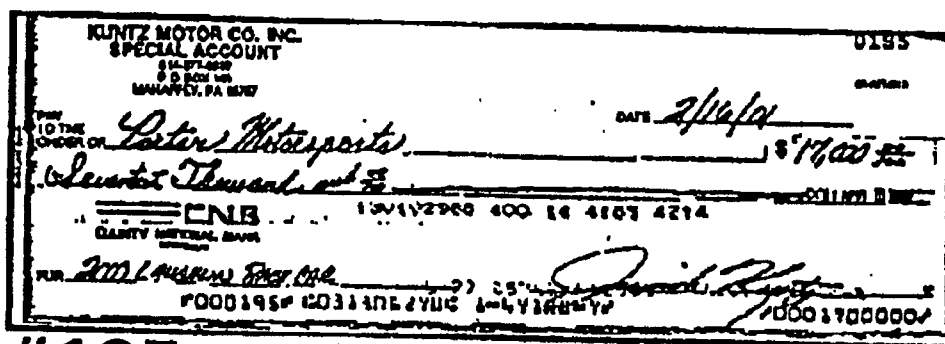
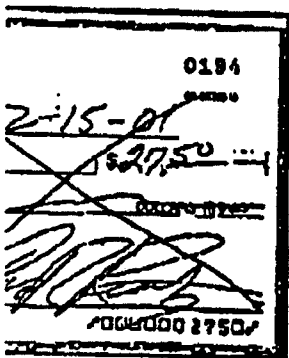
5. That Plaintiff has posted with the Prothonotary of Clearfield County, Pennsylvania, a surety bond with the Ohio Casualty Insurance Company in the amount of Sixty-Six Thousand (\$66,000.00) Dollars representing double the value of the said vehicle.

WHEREFORE, Plaintiff respectfully requests that your Honorable Court direct that a Writ of Seizure be issued and served herewith.

  
James A. Naddeo  
Attorney for Plaintiff



\$12,375.00 #189 2/02/01 \$10,000.00 #1



\$27.50 #195 2/22/01 \$17,000.00

Purchase of 2000 Race  
CAR

Page 0001

Fri Dec 21 09:20:10 2001

ATTN: JEANETTE

Purchase of Engine

KUNTZ MOTOR CO. INC. SPECIAL ACCOUNT 914-217-5552 P O BOX 161 MAMAFLEY, PA 15767		0197 90-027210
PAY TO THE ORDER OF	DATE <u>3/1/01</u>	
<u>Tim Clayton</u>	03-06-01 998 5655 07	\$9500.00
<u>Nine thousand five hundred and 00/100</u>		
CNB COUNTY NATIONAL BANK		
FOR	<u>[Signature]</u>	
⑈000197⑈ ⑆031306278⑆ 1⑆1218847⑈ ⑆00009500000⑈		

PD: 03/07/2001

MFS: 00009412 DIN: 011009412

Purchase of Engine

PRB-PHILA*RCPC 080065691 0310-0004-0 080065691 03-07-01	340351	3330 68267	<u>[Signature]</u>
99610000 - 0530-0020-6 080386770 0530-0020-6 080386770 03-06-01			

PD: 03/07/2001

MFS: 00009412 DIN: 011009412



DB FABRICATING, INC  
137 White Oak Circle  
Lawrence, PA 15531  
814-629-6240

Butch

814 893 5527

TO	Kuntz Motor
ADDRESS	Box 161
ATTENTION	Mr. Phil Kuntz - Dave Houpt

DATE ORDERED	ORDER TAKEN BY
PHONE NO.	CUSTOMER ORDER #
JOB LOCATION	
JOB PHONE	STARTING DATE
TERMS	

QTY.	MATERIAL	UNIT	AMOUNT	DESCRIPTION OF WORK
1	CAM, MAIN AND ROD		257 02	
1	Freeze Plugs & Pipe fittings		10 00	
1	Ring Set		126 67	
1	Custom Cam		350 00	
1	cam Cotton		12 47	
1	Timing chain		43 76	
1	Timing cover		18 89	
1	Pace gasket set		118 47	
8	Rocke Arms		224 08	
1	Breather		10 75	
1	Loose		18 00	
2	CARB gaskets		3 00	
2	Fittings		15 50	
1	Plug wires		125 00	
8	Plugs		24 00	
1	guide seats, Shims		30 00	
16	Valve Springs		351 20	
16	Keepers		41 92	
TOTAL			1835 73	

MISCELLANEOUS CHARGES			
OIL Pump Parts	421 05		
Rebuild Dist & New CAP	162 48		
New CARB	990 00		
Shipping	157 13		
Dyno & Supplies	489 95		
TOTAL	2220 61		

LABOR	HRS.	RATE	AMOUNT
Rebuild cylinder			
Engine Mag flux			
Parts, Set Chromacer			
Assemble make new			
oil lines	55 1/2	45 00	2500 00

WORK ORDERED BY	Sherry Sent
DATE ORDERS	Credit Card
DATE COMPLETED	PROOK

TOTAL LABOR	2500 00
TOTAL MATERIALS	1835 73
TOTAL MISCELLANEOUS	2220 61
SUBTOTAL	6556 34
TAX	
GRAND TOTAL	6556 34

CUSTOMER APPROVAL  
SIGNATURE

AUTHORIZED SIGNATURE  
NC 2817

Job Invoice

Prepared For  
CARL R KUNTZ

Account #  
3712-713343-420

**New Activity continued**

	Amount
May 4, 2001 RAGLEY'S TRUE VALUE PUNXSUTAWNEY PA HARDWARE STORE Reference: 32001133026172700	15.69
May 5, 2001 DANIEL SHAFFERS INC HOOVERVILLE PA FURNITURE & MAJOR APPL Reference: 320011260261722638	6,556.34
May 5, 2001 MT COBB MOBIL LAKE ARI PA MOBIL OIL IN-STORE 1809907338 Reference: 320011260262706713	2.37
May 5, 2001 MT COBB MOBIL LAKE ARI PA MOBIL OIL PAY AT PUMP 1809907338 Reference: 320011260262706714	53.34
May 6, 2001 AMERADA CARMEL NY GAS/GROCERIES/MISC Reference: 320011270233276222	141.03
May 8, 2001* 2% CREDIT FOR \$53.34 05/05 MOBIL CHARGE IT PAYS TO BUY GASOLINE AT MOBIL Reference: 320011260262706714	-1.07 Credit
May 8, 2001 RADIO SHACK PUNXSUTAWNEY PA 15767 ROC No. 187761 Reference: 3200112902627011733	28.46
May 8, 2001 RADIO SHACK PUNXSUTAWNEY PA 15767 ROC No. 187762 Reference: 3200112902627011734	10.58
May 8, 2001 RAGLEY'S TRUE VALUE PUNXSUTAWNEY PA HARDWARE STORE Reference: 32001133026172700	10.05

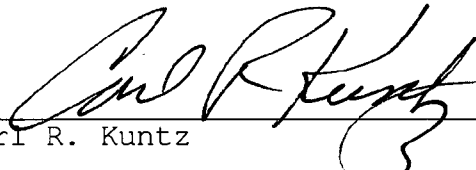
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COMMONWEALTH OF PENNSYLVANIA)

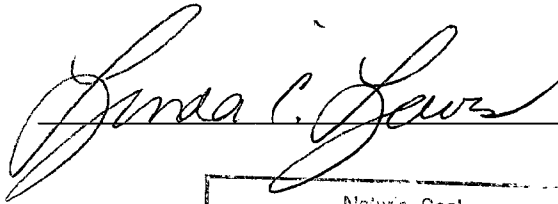
ss.

COUNTY OF CLEARFIELD )

Before me, the undersigned officer, personally appeared  
CARL R. KUNTZ, who being duly sworn according to law, deposes and  
states that the facts set forth in the foregoing Motion are true  
and correct to the best of his knowledge, information and belief.

  
Carl R. Kuntz

SWORN and SUBSCRIBED before me this 28th day of December, 2001.



Notarial Seal  
Linda C. Lewis, Notary Public  
Clearfield Boro, Clearfield County  
My Commission Expires July 25, 2003

**JAMES A. NADDEO**  
ATTORNEY AT LAW  
211 1/2 EAST LOCUST STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

FILED

019:59A-2CC  
JAN 04 2002 Sheriff

*[Signature]*

William A. Shaw  
Prothonotary

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

No. <sup>02</sup> 01 - 14 - CD

Type of Pleading:

ORDER for *Ex Parte*  
Writ of Seizure

Filed on behalf of:  
Plaintiff

Counsel of Record for  
this party:

James A. Naddeo, Esq.  
Pa I.D. 06820

211 1/2 E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

**FILED**

JAN 04 2002

William A. Shaw  
Prothonotary

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.


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No. 01 - - CD

ORDER

AND NOW, this 3<sup>RD</sup> day of January, 2002, upon  
consideration of the Motion of James A. Naddeo, attorney for  
Plaintiff, Carl R. Kuntz, it is the ORDER of this Court that the  
Prothonotary issue a Writ of Seizure forthwith directed to the  
Defendant, David A. Houpt, and to Althea Haupt, party in  
possession.

BY THE COURT



**JAMES A. NADDEO**  
ATTORNEY AT LAW  
211 1/2 EAST LOCUST STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830



FILED

200

Sheriff for service  
per attorney

01/10/2002

JAN 04 2002

W.A. Shaw

William A. Shaw  
Prothonotary

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

No. 02  
01 - 14 - CD

Type of Pleading:

Writ of Seizure

Filed on behalf of:  
Plaintiff

Counsel of Record for  
this party:

James A. Naddeo, Esq.  
Pa I.D. 06820

211 1/2 E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

FILED

JAN 04 2002

William A. Shaw  
Prothonotary

**JAMES A. NADDEO**

ATTORNEY AT LAW

211 1/2 EAST LOCUST STREET

P.O. BOX 552.

CLEARFIELD, PENNSYLVANIA 16830

FILED

2 writs ~~to~~  
issued to Sheriff

0/10:08  
JAN 04 2002

William A. Shaw  
Prothonotary

William A. Shaw  
Prothonotary

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

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No. 01 - - CD

NOTICE OF HEARING FOR SEIZURE OF PROPERTY

TO: David A. Houpt, Defendant  
Althea Houpt, Party in Possession

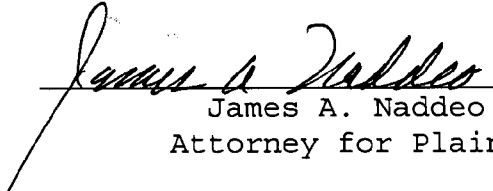
You are hereby notified that

(1) Plaintiff has commenced an action of replevin. A motion for ex parte seizure of the property described in the complaint has been granted, and the property has been seized. A copy of the complaint and motion is attached to this notice;

(2) There will be a hearing on the seizure of the property on JANUARY 16, 2002 at 1:00 P.m. in Court Room No. 2 of the Clearfield County Court House, Clearfield, Pennsylvania.

(3) You may appear in person or by a lawyer at the time and place set forth or file written objections setting forth your reasons why the property should not be seized;

(4) Your failure to appear at the hearing may result in the delivery of the property to the Plaintiff before a final decision in this case.

  
James A. Naddeo  
Attorney for Plaintiff

Date: \_\_\_\_\_

**JAMES A. NADDEO**  
ATTORNEY AT LAW  
211 1/2 EAST LOCUST STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

FILED 2 CC Sheriff

Q/10:10-10  
JAN 04 2002

William A. Shaw  
Prothonotary



**MATTHEW R. ZATKO**  
ATTORNEY AT LAW

202 EAST UNION STREET  
SOMERSET, PENNSYLVANIA 15501

PHONE: (814) 443-1631  
FAX: (814) 445-7570

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

CARL R. KUNTZ, an individual,	)	
Plaintiff,	)	
	)	
vs.	)	No. 02 - 14 - CD
	)	
DAVID A. HOUP, an individual,	)	
Defendant,	)	

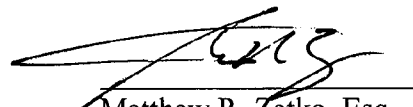
ENTRY OF APPEARANCE

TO WILLIAM A. SHAW, PROTHONOTARY:

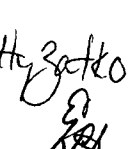
Please enter my appearance on behalf of the Defendant, David A. Houpt, with respect to the above-captioned matter.

Respectfully submitted,

1/16/02

  
Matthew R. Zatko, Esq.  
Attorney for Plaintiff  
202 East Union Street  
Somerset, PA 15501  
814/ 443 1631  
PA ID 79988

FILED

JAN 17 2002  
1/17/02  
William A. Shaw  
Prothonotary  


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

CARL R. KUNTZ, an individual,  
Plaintiff,

vs.

DAVID A. HOUP, an individual,  
Defendant,

No. 02 - 14 - CD

Motion for Continuance

Filed on behalf of:  
Defendant

Counsel of Record for this party:

Matthew R. Zatko, Esq.  
PA ID 79988

202 East Union Street  
Somerset, PA 15501  
814/ 443 1631

FILED

JAN 17 2002

10/109/acc atty Zatko  
William A. Shaw  
Prothonotary

KEB

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

CARL R. KUNTZ, an individual,	)	
Plaintiff,	)	
	)	
vs.	)	No. 02 - 14 - CD
	)	
DAVID A. HOUP, an individual,	)	
Defendant,	)	

**MOTION FOR CONTINUANCE**

**TO THE HONORABLE, THE JUDGES OF SAID COURT:**

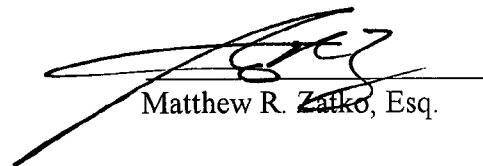
AND NOW, comes the Defendant, by his attorney, Matthew R. Zatko, Esq., and respectfully moves Your Honorable Court for a continuance of the Hearing For Seizure of Property scheduled in the above-captioned case, and in support thereof avers the following:

1. The above-captioned case is scheduled for Hearing For Seizure of Property on Wednesday, January 16, 2002, at 1:00 p.m., before Hon. Fredric J. Ammerman, Judge.
2. Defendant was not served with Notice of said hearing until approximately 5:00 p.m. on January 15, 2002. Service of the same was not made twenty-four hours prior to the hearing, as required by Pa. R.C.P. 1075.1(c). As such, the undersigned requests that this Hearing be rescheduled to a date and time convenient to the Court.

3. It is unknown whether counsel for Plaintiff, James A. Neddeo, Esq., objects to this matter being continued.

WHEREFORE, the undersigned attorney for the Defendant respectfully prays Your Honorable Court continue this matter for the reasons set forth above.

Respectfully submitted,



Matthew R. Zalko, Esq.

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

CARL R. KUNTZ, an individual,	)	
Plaintiff,	)	
	)	
vs.	)	No. 02 - 14 - CD
	)	
DAVID A. HOUP, an individual,	)	
Defendant,	)	

**PROPOSED ORDER**

AND NOW this \_\_\_\_ day of \_\_\_\_\_, 2002, upon consideration of the foregoing Motion, it is hereby **ORDERED** that Hearing For Seizure of Property, scheduled for Wednesday, January 16, 2002, at 1:00 p.m., **IS CONTINUED**.

BY THE COURT:

\_\_\_\_\_  
J.

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


CARL R. KUNTZ, an individual,	)	
Plaintiff,	)	
	)	
vs.	)	No. 02 - 14 - CD
	)	
DAVID A. HOUP, an individual,	)	
Defendant,	)	

**CERTIFICATE OF SERVICE**

I certify that on the 16<sup>th</sup> day of January, 2002, a true and correct copy of the within Motion for Continuance was forwarded, via First Class US Mail, postage prepaid, and via facsimile to the following:

James A. Naddeo, Esq.  
Attorney for Plaintiff  
211 ½ E. Locust Street  
PO Box 552  
Clearfield, PA 16830

1/16/02

  
Matthew R. Latko, Esq.

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

CIVIL DIVISION

CARL R. KUNTZ

:

VS.

: NO. 02-14-CD

DAVID A. HAUPT

:

O R D E R

NOW, this 16th day of January, 2002, this being the date set for hearing pursuant to the Writ of Seizure previously issued by the Court; the Court noting that counsel for the Plaintiff, as well as the Plaintiff, are both present, and that counsel for the Defendant participated via telephone conference call; it is the ORDER of this Court that the Defendant's request for continuance be and is hereby granted. The matter shall be heard before the Court on Friday, January 18, 2002, at 11:00 a.m., Courtroom No. 2, Clearfield County Courthouse.

BY THE COURT,



Judge

**FILED**

JAN 18 2002

William A. Shaw  
Prothonotary



FILED

JAN 18 2002

01:47 P.M.  
William A. Shaker  
Prothonotary

2cc to Atty Middle  
2cc to Atty Zucko

Co  
[Signature]

2-2  
Middle  
Zucko  
[Signature]

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

CARL R. KUNTZ

:

VS.

: NO. 02-14-CD

DAVID A. HAUPT

:

O R D E R

NOW, this 18th day of January, 2002, following the conclusion of taking of testimony relative the Motion for Ex Parte Writ of Seizure and the Writ of Seizure that was executed by the Court on January 4, 2002, it is the ORDER of this Court that counsel for both parties supply the Court with appropriate letter brief relative the issues within no more than five (5) days from this date.

BY THE COURT,

  
Judge

**FILED**

JAN 21 2002

William A. Shaw  
Prothonotary

FILED

JAN 21 2002

013:00 11cc ath, naddo  
William A. Shaw  
Prothonotary

1cc ath, 3cath  
*(key)*

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

No. 02 - 14 - CD

**FILED**

JAN 24 2002

ORDER

AND NOW, this 23<sup>rd</sup> day of January, 2002, ~~William A. Shaw~~  
Prothonotary

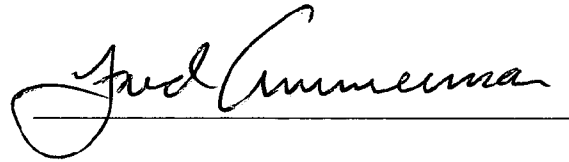
hearing held in the above-captioned matter as required by Pa.  
R.C.P. 1075.2(c), it is the finding of this Court that Plaintiff  
has established the probable validity of his claim to possession  
and grounds for the ex parte issuance of a Writ of Seizure for a  
certain Monte Carlo with Laughlin motor, Car No. 5. Therefore,  
it is the ORDER of this Court that the Sheriff of Somerset  
County execute said Writ previously served on Defendant, David  
A. Houpt, and the party in possession of said vehicle, Althea  
Houpt.

It is the further ORDER of this Court that the Sheriff  
of Somerset County is hereby authorized to use whatever force  
may be necessary to obtain possession of said vehicle.

Finally, it is the ORDER of this Court that upon  
seizure of said vehicle, the Sheriff of Somerset County be and  
is hereby authorized to deliver said vehicle immediately to the

Plaintiff, Carl R. Kuntz, and/or the dully authorized agent of  
the Plaintiff.

BY THE COURT

  
\_\_\_\_\_

FILED

JAN 24 2002

019,251 ZCC atty Zetko

William A. Shaw  
Prothonotary

ZCC atty Nadeau  
ZCC

**MATTHEW R. ZATKO**  
ATTORNEY AT LAW

202 EAST UNION STREET  
SOMERSET, PENNSYLVANIA 15501

PHONE: (814) 443-1631  
FAX: (814) 445-7570

CA

9. K. A.



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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPt,  
an individual,  
Defendant.

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

No. 02 - 14 - CD

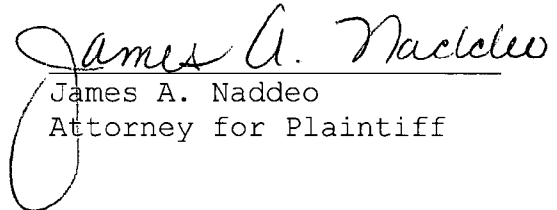
CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Notice of Default in the above-captioned action was served on the following person and in the following manner on the 12th day of March, 2002:

First-Class Mail, Postage Prepaid

Mr. David Houpt  
731 Taylor Road  
Friedens, PA 15541

Matthew R. Zatko, Esquire  
202 East Union Street  
Somerset, PA 15501

  
James A. Naddeo  
Attorney for Plaintiff

**JAMES A. NADDEO**  
ATTORNEY AT LAW  
211 1/2 EAST LOCUST STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

**MATTHEW R. ZATKO**  
ATTORNEY AT LAW

202 EAST UNION STREET  
SOMERSET, PENNSYLVANIA 15501

PHONE: (814) 443-1631  
FAX: (814) 445-7570

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

CARL R. KUNTZ, an individual,  
Plaintiff,

vs.

DAVID A. HOUP, an individual,  
Defendant,

No. 02 - 14 - CD

ANSWER and  
COUNTERCLAIM

Filed on behalf of:  
Defendant

Counsel of Record for this party:

Matthew R. Zatko, Esq.  
PA ID 79988

202 East Union Street  
Somerset, PA 15501  
814/ 443 1631

**FILED**

MAR 22 2002  
m/1105/2clatty  
William A. Shaw  
Prothonotary

Zatko  
F24

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

CARL R. KUNTZ, an individual,	)	
Plaintiff,	)	
	)	
vs.	)	No. 02 – 14 – CD
	)	
DAVID A. HOUP, an individual,	)	
Defendant,	)	

**ANSWER AND COUNTERCLAIM TO PLAINTIFF'S COMPLAINT**

**TO THE HONORABLE, THE JUDGES OF SAID COURT:**

AND NOW, comes the Defendant, by and through his attorney, Matthew R. Zatko, Esq., and respectfully moves Your Honorable Court for a continuance of the Hearing For Seizure of Property scheduled in the above-captioned case, and in support thereof avers the following:

1. Defendant lacks information sufficient upon which to form an opinion in regard to the truth of this averment. Strict proof of same is demanded at the time of trial.
2. Admitted.
3. Defendant lacks information sufficient upon which to form an opinion in regard to the truth of this averment. Strict proof of same is demanded at the time of trial.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.

9. Strictly denied. The vehicle was tendered to Defendant, as payment for the work and storage that Defendant supplied on and for various racing vehicles owned by Plaintiff.

10. Defendant lacks information sufficient upon which to form an opinion in regard to the truth of this averment. Strict proof of same is demanded at the time of trial.

11. States a legal conclusion to which no response is necessary.

12. States a legal conclusion to which no response is necessary.

### **COUNTERCLAIM**

13. Defendant incorporates Paragraphs 1 through 12 herein, as though more fully set forth at length.

14. Defendant, Counterclaim Plaintiff, is David Houpt, an adult individual, with an address of 731 Taylor Road, Friedens, PA 15541.

15. Plaintiff, Counterclaim Defendant, is Carl Kuntz, an adult individual, believed to reside at Colonel Drake Highway, Mahaffey, PA 15757.

16. Plaintiff, Counterclaim Defendant Carl Kuntz elected to sponsor two race cars in the Northern Division of the USAR Northern Hooters Pro Cup Series.

17. Defendant, Counterclaim Plaintiff David Houpt, at Carl Kuntz's direction, performed numerous tasks for this team, including, but not limited to providing shop space, labor, truck rental, parts and various other supplies and tasks.

18. Additionally, Defendant, Counterclaim Plaintiff David Houpt was hired to drive one of the cars for the team.

19. As compensation for all of the services and goods provided, Defendant, Counterclaim Plaintiff David Houpt, was to receive the Number 5 Laughlin Monte Carlo for \$1.00 (one dollar).

20. In direct violation of the agreement, Plaintiff, Counterclaim Defendant Carl Kuntz, demanded the return of this car.

WHEREFORE, Defendant, Counterclaim Plaintiff David Houpt respectfully request that this Honorable Court enter judgment in his favor and against Carl Kuntz in an amount in excess of the maximum jurisdictional amount for compulsory arbitration.

Respectfully submitted,



Matthew R. Latko, Esq.

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

CARL R. KUNTZ, an individual,	)	
Plaintiff,	)	
	)	
vs.	)	No. 02 - 14 - CD
	)	
DAVID A. HOUPPT, an individual,	)	
Defendant,	)	

**CERTIFICATE OF SERVICE**

I certify that on the 21<sup>st</sup> day of March, 2002, a true and correct copy of the within Answer and Counterclaim was forwarded, via First Class US Mail, postage prepaid, to the following:

James A. Naddeo, Esq.  
Attorney for Plaintiff  
211 ½ E. Locust Street  
PO Box 552  
Clearfield, PA 16830

3/21/02

  
Matthew R. Zatko, Esq.



**In The Court of Common Pleas of Clearfield County, Pennsylvania**

Sheriff Docket # 11940

KUNTZ, CARL R.

02-14-CD

VS.

HOUP, DAVID A.

COMPLAINT; WRIT OF SEIZURE; NOTICE OF HEARING FOR SEIZURE

**SHERIFF RETURNS**

**Return Costs**

Cost	Description
43.34	SHFF. HAWKINS PAID BY: ATTY.
37.46	SHFF. BROWN PAID BY: ATTY.
20.00	SURCHARGE PAID BY: ATTY.

Sworn to Before Me This

25th Day Of March 2002  
Jacqueline Kendra  
Deputy Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA

So Answers,

Chester A. Hawkins  
by Mandy Harris  
Chester A. Hawkins  
Sheriff

**FILED**

MAR 25 2002

019301am  
William A. Shaw  
Prothonotary

Docket Number

02-14-CD Althea Houpt

SHERIFF'S RETURN

Personally appeared before me David L. Yack a deputy for **CARL W. BROWN**, Sheriff of Somerset County, Pennsylvania, who being duly sworn according to law, deposes and says that on the 15<sup>th</sup> day of January 2002 at 0935 AM PM he served the above named person as follows:

- ☒ Personal Service on person
- ☐ Mailing to person at above address; evidence of mailing attached
- ☐ Adult member of the person's household  
Name \_\_\_\_\_ Relationship \_\_\_\_\_
- ☐ Adult in charge of person's residence  
Name \_\_\_\_\_ Relationship \_\_\_\_\_
- ☐ Agent or person at the time and place in charge of the person's office or usual place of business  
Name \_\_\_\_\_ Relationship \_\_\_\_\_
- ☐ Manager/Clerk at the place of lodging in which person resides - Name \_\_\_\_\_
- ☐ Other Name \_\_\_\_\_ Title \_\_\_\_\_ of corporation
- ☐ Posted most public part of premise situate  
at ☒ Residence, ☐ Business, ☐ Employment, ☐ Other,  
of person to be served, at 522 Stickerman Dr.  
Somerset Pa 15501

IN Somerset TWP/BORO and making known to such person the contents thereof.

PERSON NOT FOUND BECAUSE:

- ☐ Whereabouts Unknown, ☐ No Answer, ☐ Vacant, ☐ Moved left no forwarding address, ☐ Moved - New address

☐ Other \_\_\_\_\_

Sworn and subscribed before me this

15<sup>th</sup> day of Feb. 2002

David L. Yack  
DEPUTY SHERIFF SOMERSET COUNTY, PA

Melissa A. Truscott

Notarial Seal  
Melissa A. Truscott, Notary Public  
Somerset Boro, Somerset County  
My Commission Expires February 24, 2003  
Member, Pennsylvania Association of Notaries

Costs

Docket Number

02-14-CD

DAVID A HOUPP

11940

SHERIFF'S RETURN

Personally appeared before me DUSTIN WETZ a deputy for **CARL W. BROWN**, Sheriff of Somerset County, Pennsylvania, who being duly sworn according to law, deposes and says that on the 15 day of JANUARY 2002 at 1215 AM/PM he served the above named person as follows:

- ☒ Personal Service on person
- ☐ Mailing to person at above address; evidence of mailing attached
- ☐ Adult member of the person's household  
Name \_\_\_\_\_ Relationship \_\_\_\_\_
- ☐ Adult in charge of person's residence  
Name \_\_\_\_\_ Relationship \_\_\_\_\_
- ☐ Agent or person at the time and place in charge of the person's office or usual place of business  
Name \_\_\_\_\_ Relationship \_\_\_\_\_
- ☐ Manager/Clerk at the place of lodging in which person resides - Name \_\_\_\_\_
- ☐ Other Name \_\_\_\_\_ Title \_\_\_\_\_ of corporation
- ☐ Posted most public part of premise situate at ☒ Residence, ☐ Business, ☐ Employment, ☐ Other, of person to be served, at 731 TAYLOR RD  
FRIEDENS PA 15541

IN SOMERSET (TWP/BORO) and making known to such person the contents thereof.

PERSON NOT FOUND BECAUSE:

- ☐ Whereabouts Unknown, ☐ No Answer, ☐ Vacant, ☐ Moved left no forwarding address, ☐ Moved - New address

☐ Other \_\_\_\_\_

Sworn and subscribed before me this

15<sup>th</sup> day of Feb 2002

Dustin Wetz  
DEPUTY SHERIFF SOMERSET COUNTY, PA

Notarial Seal  
Melissa A. Truscott, Notary Public  
Somerset Boro, Somerset County  
My Commission Expires February 24, 2003  
Member, Pennsylvania Association of Notaries

Costs

PD  
2-15-02 Sheriff Brown #37.46

Docket Number

02-14-CD

David A. Haupt

SHERIFF'S RETURN

Personally appeared before me David L. Yock a deputy for **CARL W. BROWN**, Sheriff of Somerset County, Pennsylvania, who being duly sworn according to law, deposes and says that on the 29<sup>th</sup> day of January 2002 at 1000 AM PM he served the above named person as follows:

- ☐ Personal Service on person
- ☐ Mailing to person at above address; evidence of mailing attached
- ☐ Adult member of the person's household  
Name \_\_\_\_\_ Relationship \_\_\_\_\_
- ☐ Adult in charge of person's residence  
Name \_\_\_\_\_ Relationship \_\_\_\_\_
- ☐ Agent or person at the time and place in charge of the person's office or usual place of business  
Name \_\_\_\_\_ Relationship \_\_\_\_\_
- ☐ Manager/Clerk at the place of lodging in which person resides - Name \_\_\_\_\_
- ☐ Other Name \_\_\_\_\_ Title \_\_\_\_\_ of corporation
- ☐ Posted most public part of premise situate  
at ☐ Residence, ☐ Business, ☐ Employment, ☐ Other,  
of person to be served, at \_\_\_\_\_

IN \_\_\_\_\_ TWP/BORO and making known to such person the contents thereof.

PERSON NOT FOUND BECAUSE:

- ☐ Whereabouts Unknown, ☐ No Answer, ☐ Vacant, ☐ Moved left no forwarding address, ☐ Moved - New address

☐ Other \_\_\_\_\_

Sworn and subscribed before me this

15<sup>th</sup> day of Feb 2002

David L. Yock  
DEPUTY SHERIFF SOMERSET COUNTY, PA

Melissa A. Truscott  
Listed properly seized on  
above date & time.

Notarial Seal  
Melissa A. Truscott, Notary Public  
Somerset Boro. Somerset County  
My Commission Expires February 24, 2003  
Member, Pennsylvania Association of Notaries

Costs



CHESTER A. HAWKINS  
SHERIFF

# Sheriff's Office Clearfield County

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641  
AFTER 4:00 P.M. (814) 765-1533  
CLEARFIELD COUNTY FAX  
(814) 765- 5915

DARLENE SHULTZ  
CHIEF DEPUTY

MARGARET PUTT  
OFFICE MANAGER

MARILYN HAMM  
DEPT. CLERK

PETER F. SMITH  
SOLICITOR

## DEPUTATION

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

CARL R. KUNTZ

TERM & NO. 02-14-CD

VS

DAVID A. HOUP

**SERVE BY:** ASAP

or

**HEARING DATE:**

**DOCUMENT TO BE SERVED:**

COMPLAINT; WRIT OF SEIZURE; NOTICE OF HEARING  
FOR SEIZURE

**MAKE REFUND PAYABLE TO:** JAMES A. NADDEO, Attorney

**SERVE:** DAVID A. HOUP and ALTHEA HOUP

**ADDRESS:** David--731 Taylor Road, Friedens, Pa. 15541  
Althea--522 Slickerman Drive, Somerset, 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 SOMERSET County Pennsylvania to execute this writ.

This Deputation being made at the request and risk of the Plaintiff this 8th day of JANUARY 2002.

Respectfully,

  
CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

Sheriff Docket # 11940

KUNTZ, CARL R.

02-14-CD

VS.

HOUP, DAVID A.

COMPLAINT; WRIT OF SEIZURE; NOTICE OF HEARING FOR SEIZURE

**SHERIFF RETURNS**

---

NOW JANUARY 8, 2002, CARL W. BROWN, SHERIFF OF SOMERSET COUNTY  
WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY  
TO SERVE THE WITHIN COMPLAINT, WRIT OF SEIZURE, NOTICE OF HEARING  
FOR SEIZURE ON DAVID A. HOUP AND ALTHEA HOUP, DEFENDANTS.

NOW JANUARY 15, 2002 SERVED THE WITHIN COMPLAINT, WRIT OF SEIZURE,  
NOTICE OF HEARING FOR SEIZURE ON DAVID A. HOUP, DEFENDANT BY  
DEPUTIZING THE SHERIFF OF SOMERSET COUNTY. THE RETURN OF SHERIFF  
BROWN IS HERETO ATTACHED AND MADE A PART OF THIS RETURN.

NOW JANUARY 15, 2002 SERVED THE WITHIN COMPLAINT, WRIT OF SEIZURE,  
NOTICE OF HEARING FOR SEIZURE ON ALTHEA HOUP, DEFENDANT BY  
DEPUTIZING THE SHERIFF OF SOMERSET COUNTY. THE RETURN OF SHERIFF  
BROWN IS HERETO ATTACHED AND MADE A PART OF THIS RETURN.

NOW JANUARY 29, 2002 SEIZED PROPERTY OF DAVID A HOUP, DEFENDANT  
BY DEPUTIZING THE SHERIFF OF SOMERSET COUNTY.

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.  
Defendant.

No. 02 - 14 - CD  
c. 20 - 01

Type of Pleading:

PRELIMINARY OBJECTION  
TO DEFENDANT'S  
COUNTERCLAIM

By, James A. Naddeo, Esquire, Filed on behalf of:  
Plaintiff

1. Defendant has filed  
Counsel of Record for  
Plaintiff which prepare this party:

James A. Naddeo, Esq.  
Pa. I.D. 06820

2. That said Counterclaim  
211 1/2 E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

a) Number of hours claimed and rate charged;

b) Amount incurred for truck rental;

c) Reasonable value of shop

d) Cost of parts;

e) Cost of supplies; and

f) Value of Houpt's services  
driver.

FILED

APR 01 2002

William A. Shaw  
Prothonotary

**JAMES A. NADDEO**  
ATTORNEY AT LAW  
211 1/2 EAST LOCUST STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

CK



FILED

011119  
APR 01 2002

1cc  
Amy Naddo



William A. Shaw  
Prothonotary

**JAMES A. NADDEO**  
ATTORNEY AT LAW  
211½ EAST LOCUST STREET  
MARINO BUILDING  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

TELEPHONE  
(814) 765-1601  
TELECOPIER  
(814) 765-8142

ASSOCIATE  
LINDA C. LEWIS

April 1, 2002

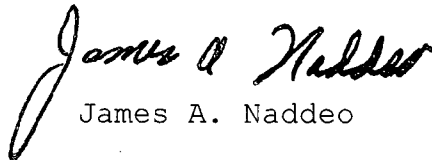
Marcy Kelley  
Deputy Court Administrator  
Clearfield County Court House  
Clearfield, PA 16830

RE: Kuntz v. Houpt  
No. 02-14-CD

Dear Ms. Kelley:

On March 22, 2002, Defendant filed Answer and Counterclaim to Plaintiff's Complaint. Plaintiff caused Preliminary Objections to be filed to the Counterclaim on April 1, 2002. Would you please schedule this matter for Argument.

Sincerely,

  
James A. Naddeo

JAN/jlr

cc: Mr. Carl R. Kuntz

6K

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

CARL R. KUNTZ

vs.

DAVID A. HOUP

:  
:  
: No. 02-14-CD  
:  
:

**ORDER**

AND NOW, this 22 day of April, 2002, it is the ORDER of the Court that argument on Preliminary Objections to Defendant's Counterclaim in the above matter has been scheduled for **Friday, May 17, 2002 at 9:00 A.M.** in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

  
FREDRIC J. AMMERMAN  
Judge

**FILED**

APR 22 2002

William A. Shaw  
Prothonotary

FILED

012:42  
APR 22 2002

1 cc Any Madder  
1 cc Any Zotto

William A. Shaw  
Prothonotary

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

CARL R. KUNTZ, an individual,  
Plaintiff,

vs.

DAVID A. HOUP, an individual,  
Defendant,

No. 02 - 14 - CD

AMENDED ANSWER and  
COUNTERCLAIM

Filed on behalf of:  
Defendant

Counsel of Record for this party:

Matthew R. Zatko, Esq.  
PA ID 79988

202 East Union Street  
Somerset, PA 15501  
814/ 443 1631

**FILED**

MAY 15 2002

m/11/30/2002 atty. *Zatko*  
William A. Shaw  
Prothonotary *E. Shaw*

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

CARL R. KUNTZ, an individual,	)	
Plaintiff,	)	
	)	
vs.	)	No. 02 - 14 - CD
	)	
DAVID A. HOUP, an individual,	)	
Defendant,	)	

**NOTICE**

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

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

**AMERICANS WITH DISABILITIES ACT OF 1990**

The Court of Common Pleas of Somerset County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
Market and Second Streets  
Clearfield, PA 16830  
814/ 765 2641

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

CARL R. KUNTZ, an individual,	)	
Plaintiff,	)	
	)	
vs.	)	No. 02 - 14 - CD
	)	
DAVID A. HOUP, an individual,	)	
Defendant,	)	

**AMENDED ANSWER AND COUNTERCLAIM TO PLAINTIFF'S COMPLAINT**

**TO THE HONORABLE, THE JUDGES OF SAID COURT:**

AND NOW, comes the Defendant, by and through his attorney, Matthew R. Zatko, Esq., and files the following Amended Answer and Counterclaim to Plaintiff's Complaint, and in support thereof avers the following:

1. Defendant lacks information sufficient upon which to form an opinion in regard to the truth of this averment. Strict proof of same is demanded at the time of trial.
2. Admitted.
3. Defendant lacks information sufficient upon which to form an opinion in regard to the truth of this averment. Strict proof of same is demanded at the time of trial.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.

9. Strictly denied. The vehicle was tendered to Defendant, as payment for the work and storage that Defendant supplied on and for various racing vehicles owned by Plaintiff.

10. Defendant lacks information sufficient upon which to form an opinion in regard to the truth of this averment. Strict proof of same is demanded at the time of trial.

11. States a legal conclusion to which no response is necessary.

12. States a legal conclusion to which no response is necessary.

#### **COUNTERCLAIM**

13. Defendant incorporates Paragraphs 1 through 12 herein, as though more fully set forth at length.

14. Defendant, Counterclaim Plaintiff, is David Houpt, an adult individual, with an address of 731 Taylor Road, Friedens, PA 15541.

15. Plaintiff, Counterclaim Defendant, is Carl Kuntz, an adult individual, believed to reside at Colonel Drake Highway, Mahaffey, PA 15757.

16. Plaintiff, Counterclaim Defendant Carl Kuntz elected to sponsor two race cars in the Northern Division of the USAR Northern Hooters Pro Cup Series.

17. Defendant, Counterclaim Plaintiff David Houpt, at Carl Kuntz's direction, performed numerous tasks for this team, including, but not limited to the following:

- a) Providing shop rental, including tools, with an estimated fair market value of \$21,000.00 (14 months at \$1,500.00 per month);
- b) Labor, with an estimated fair market value of \$19,475.00 (779 hours at \$25.00 per hour);
- c) Truck rental, with special hydraulic lift gate for car, with a fair market value of \$5,525.00 (13 trips at \$425.00 per trip).



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


CARL R. KUNTZ, an individual,	)	
Plaintiff,	)	
	)	
vs.	)	No. 02 - 14 - CD
	)	
DAVID A. HOUP, an individual,	)	
Defendant,	)	

**CERTIFICATE OF SERVICE**

I certify that on the 14<sup>th</sup> day of May, 2002, a true and correct copy of the within Answer and Counterclaim was forwarded, via First Class US Mail, postage prepaid, to the following:

James A. Naddeo, Esq.  
Attorney for Plaintiff  
211 ½ E. Locust Street  
PO Box 552  
Clearfield, PA 16830

5/14/02

  
Matthew R. Zatko, Esq.

202 East Union Street  
Somerset, Pennsylvania 15501

Phone: (814) 443-1631  
Fax: (814) 445-7570

202 East Union Street  
Somerset, Pennsylvania 15501

**MATTHEW R. ZATKO**  
ATTORNEY AT LAW

202 East Union Street  
Somerset, Pennsylvania 15501

Phone: (814) 443-1631  
Fax: (814) 445-7570

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

No. 02 - 14 - CD

Type of Pleading:

**CERTIFICATE OF SERVICE**

Filed on behalf of:  
Plaintiff

Counsel of Record for  
this party:

James A. Naddeo, Esq.  
Pa I.D. 06820

211 1/2 E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

**FILED**

MAY 31 2002

William A. Shaw  
Prothonotary

JAMES A. NADDEO  
ATTORNEY AT LAW  
211 1/2 EAST LOCUST STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

FILED

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0110:422H Atty Naddeo  
MAY 31 2002

William A. Shaw  
Prothonotary

William A. Shaw  
Prothonotary

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

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No. 02 - 14 - CD

**ANSWER TO COUNTERCLAIM**

NOW COMES the Plaintiff, Carl R. Kuntz, and by his attorney, James A. Naddeo, Esquire, sets forth the following:

13. No answer is required.

14. Admitted.

15. Admitted in so far as it identifies Carl Kuntz as Defendant in Counterclaim. It is alleged, however, that the correct address of Defendant in Counterclaim is 377 Zorger Road, Mahaffey, Pennsylvania 15757.

16. Denied as stated. On the contrary, it is alleged that Defendant in Counterclaim purchased two (2) vehicles to be raced in the Northern Division of the USAR Northern Hooters Pro Cup Series during the 2001 racing season. In further answer thereto, it is alleged that one vehicle was to be operated by Defendant's son and the other vehicle was to be operated by Plaintiff, David Houpt, with all prize money earned by the Houpt vehicle to be retained by the said Houpt. Finally, it is

alleged that in consideration for the use of Defendant's vehicle, Houpt agreed to fully maintain the vehicle that he was operating and further agreed to provide a pit crew and all labor necessary to maintain the vehicle operated by Defendant's son.

17. Denied and in answer thereto Counterclaim Defendant incorporates his answer to Paragraph 16 of the Counterclaim by reference and makes it a part hereof. In further answer thereto, Counterclaim Defendant after reasonable investigation is unable to determine the truth of subparagraphs (a) through (c), knowledge of which is within the exclusive possession of Counterclaim Plaintiff, and strict proof thereof is demanded.

18. Denied and in answer thereto Counterclaim Defendant incorporates his answer to Paragraph 16 of the Counterclaim.

19. Denied as stated. On the contrary, it is alleged that as compensation for the services that Counterclaim Plaintiff agreed to provide to Counterclaim Defendant, Counterclaim Plaintiff was to receive the use of the Number 5 Laughlin Monte Carlo during the 2001 racing season with Counterclaim Defendant having the option to repurchase the vehicle for the same consideration.


20. States a conclusion to which no answer is required. To the extent that an answer may be required, said



allegation is denied for the reasons set forth in answers to Paragraphs 16 and 19 of the Counterclaim, which answers are incorporated herein by reference.

WHEREFORE, Defendant respectfully requests that the Counterclaim be dismissed.

Respectfully submitted,

  
James A. Naddeo, Esquire  
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA)

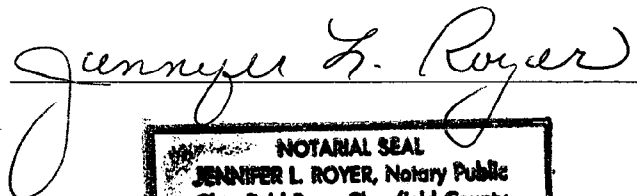
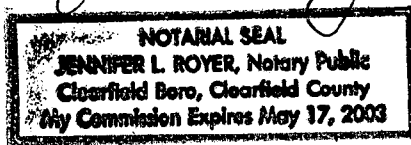
ss.

COUNTY OF CLEARFIELD )

Before me, the undersigned officer, personally appeared  
CARL R. KUNTZ, who being duly sworn according to law, deposes and  
states that the facts set forth in the foregoing Answer to  
Counterclaim are true and correct to the best of his knowledge,  
information and belief.

  
Carl R. Kuntz

SWORN and SUBSCRIBED before me this 31st day of May, 2002.

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUP, T,  
an individual,  
Defendant.

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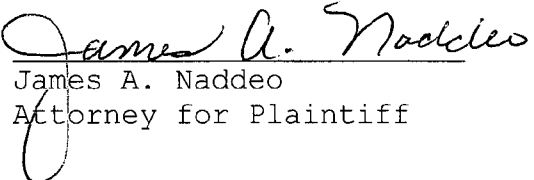
No. 02 - 14 - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and certified copy of Answer to Counterclaim filed in the above-captioned action was served on the following person and in the following manner on the 31st day of May, 2002:

First-Class Mail, Postage Prepaid

Matthew R. Zatko, Esquire  
202 East Union Street  
Somerset, PA 15501

  
James A. Naddeo  
Attorney for Plaintiff

**JAMES A. NADDEO**  
ATTORNEY AT LAW  
211 1/2 EAST LOCUST STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

FILED

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010:4241

MAY 31 2002

Atty Address

*[Signature]*

William A. Shaw  
Prothonotary

William A. Shaw  
Prothonotary

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

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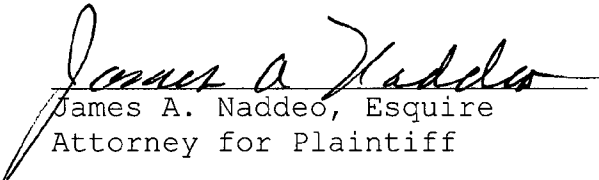
No. 02 - 14 - CD


PRAECIPE TO SETTLE AND DISCONTINUE

TO THE PROTHONOTARY:

Dear Sir:

Please mark the above-captioned case settled and  
discontinued.

  
James A. Naddeo, Esquire  
Attorney for Plaintiff

  
Matthew R. Latko, Esquire  
Attorney for Defendant

**JAMES A. NADDEO**  
ATTORNEY AT LAW  
211½ EAST LOCUST STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830



FILED

013:458A  
JUL 01 2002

William A. Shaw  
Prothonotary

1 cc Atty Narddeo  
Cert of Dsc to Atty  
Copy to C/F  
P  
K2X

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

COPY

CIVIL DIVISION

Carl R. Kuntz

Vs.

No. 2002-00014-CD

David A. Hout

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 July 1, 2002 marked:

Settled and Discontinued

Record costs in the sum of \$180.80 have been paid in full by James A. Naddeo, Esq..

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 1st day of July A.D. 2002.

---

William A. Shaw, Prothonotary

**William A. Shaw**  
**Prothonotary**

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

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No. 02 - 14 - CD

**O R D E R**

AND NOW this 8 day of July, 2002, upon  
consideration of the attached Motion of Plaintiff by its  
attorney, James A. Naddeo, Esquire, it is the Order of this  
Court that the Replevin Bond dated December 28, 2001, S-3556 -  
Replevin Bond (Pa.), issued by The Ohio Casualty Insurance  
Company be and is hereby released.

BY THE COURT,



**FILED**

JUL 08 2002

William A. Shaw  
Prothonotary

FILED

012:34 ~~81~~ Atty Noddies  
JUL 08 2002

William A. Shaw  
Prothonotary

*WAS*

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUP, T,  
an individual,  
Defendant.

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No. 02 - 14 - CD

MOTION TO RELEASE BOND

NOW COMES the Plaintiff, Carl R. Kuntz, and by his attorney, James A. Naddeo, Esquire, sets forth the following:

1. That Plaintiff filed an action for replevin with bond to the above term and number.

2. That hearing upon ex parte seizure was held before your Honorable Court on January 16, 2002.

3. That as a result of the hearing referred to in Paragraph 2 hereof, your Honorable Court issued an Order dated January 23, 2002, in favor of Plaintiff. A copy of said Order is attached hereto as Exhibit "A".


4. That Defendant filed an Answer and Counterclaim to Plaintiff's Complaint on March 22, 2002, to which Plaintiff filed Preliminary Objections.

5. That an Amended Answer and Counterclaim was filed by Defendant on May 15, 2002, to which Plaintiff filed an Answer to Counterclaim.

6. That after all pleadings were closed, the parties negotiated a settlement of the instant action.

7. That counsel for each party signed a Praecipe to Settle and Discontinue, which Praecipe was filed with the Prothonotary of Clearfield County on July 1, 2002. A copy of said Praecipe is attached hereto as Exhibit "B".

WHEREFORE, Plaintiff respectfully requests your Honorable Court to issue the attached Order directing that the bond posted by Plaintiff be released.

  
James A. Naddeo  
Attorney for Plaintiff

JAN 14 2002

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

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No. 02 - 14 - CD

ORDER

AND NOW, this 23<sup>rd</sup> day of January, 2002, after hearing held in the above-captioned matter as required by Pa. R.C.P. 1075.2(c), it is the finding of this Court that Plaintiff has established the probable validity of his claim to possession and grounds for the ex parte issuance of a Writ of Seizure for a certain Monte Carlo with Laughlin motor, Car No. 5. Therefore, it is the ORDER of this Court that the Sheriff of Somerset County execute said Writ previously served on Defendant, David A. Houpt, and the party in possession of said vehicle, Althea Houpt.

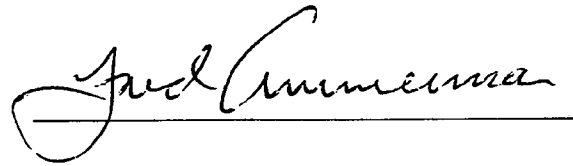
It is the further ORDER of this Court that the Sheriff of Somerset County is hereby authorized to use whatever force may be necessary to obtain possession of said vehicle.

Finally, it is the ORDER of this Court that upon seizure of said vehicle, the Sheriff of Somerset County be and is hereby authorized to deliver said vehicle immediately to the



Plaintiff, Carl R. Kuntz, and/or the dully authorized agent of  
the Plaintiff.

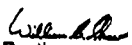
BY THE COURT

A handwritten signature in cursive script, appearing to read "Jack Ammann", written over a horizontal line.

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

JAN 24 2002

Attest.

  
Prothonotary/  
Clerk of Courts

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

No. 02 - 14 - CD

Type of Pleading:

**PRAECIPE TO SETTLE  
AND DISCONTINUE**

Filed on behalf of:  
Plaintiff

Counsel of Record for  
this party:

James A. Naddeo, Esq.  
Pa I.D. 06820

211 1/2 E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

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

CARL R. KUNTZ,  
an individual,  
Plaintiff,

v.

DAVID A. HOUPPT,  
an individual,  
Defendant.

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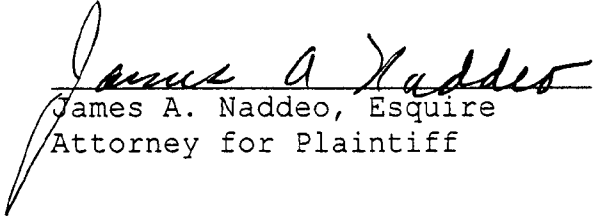
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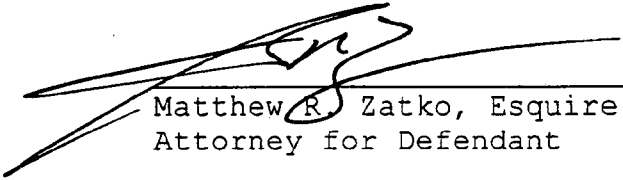
PRAECIPE TO SETTLE AND DISCONTINUE

TO THE PROTHONOTARY:

Dear Sir:

Please mark the above-captioned case settled and  
discontinued.

  
James A. Naddeo, Esquire  
Attorney for Plaintiff

  
Matthew R. Zatko, Esquire  
Attorney for Defendant

**JAMES A. NADDEO**  
ATTORNEY AT LAW  
211 1/2 EAST LOCUST STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

---

(ND)

FILED

JUL 02 2002  
01/01:53 AM

William A. Shaw  
Prothonotary

