

02-648-CD
FULLINGTON AUTO BUS COMPANY -vs- J. RICHARD FULLINGTON, Jr. et al

Civil Other

Date		Judge
4/24/2002	✓ Filing: Praecipe for Entry of Judgment by Confession Paid by: Ammerman, David S. (attorney for Fullington Auto Bus Company) Receipt number: 1841538 Dated: 04/24/2002 Amount: \$80.00 (Check)	No Judge
	✓ Complaint in Confession of Judgment, filed by s/David S. Ammerman, Esq. Judgment is entered in favor of the Plaintiff and against the Defendants in the sum of \$281,268.59. Two CC Attorney Notices to Defendants	No Judge
4/25/2002	✓ Notices returned-Not deliverable as addressed-unable to forward.	No Judge
4/29/2002	✓ Retailed notices and cert. copy of complaint to Defendants at P. O. Box 384.	No Judge
12/3/2003	✓ Release From Lien Of Judgment. Release Parcel No. 123-L7-31 located in Lawrence Twp. filed. no cc Certificate of Sat. to Atty.	No Judge
3/17/2004	✓ Release From Lien Of Judgment. Release 4.120 acres located in Lawrence Twp. filed. no cc Certificate to Atty	No Judge
	Miscellaneous Payment: Satisfaction / Relief Paid by: Belin & Kubista Receipt number: 1875668 Dated: 03/17/2004 Amount: \$7.00 (Check)	No Judge
3/31/2004	✓ Release From Lien of Judgment. Release Parcel No. 123-L7-31.2 Located in Lawrence Twp. filed. no cc	No Judge
7/6/2004	✓ Filing: Release Paid by: Gary A. Jubas Receipt number: 1882264 Dated: 07/06/2004 Amount: \$7.00 (Check) No CC Partial Release: Property in Lawrence Twp., Clearfield Co. Parcel No. 123-L7-31.2	No Judge
7/30/2004	✓ Filing: Satisfaction/Release Paid by: Unlimited Real Estate Services, Inc. Receipt number: 1883721 Dated: 07/30/2004 Amount: \$7.00 (Check) Release of Property Parcel # 115-l6-66.1	No Judge
6/9/2006	✓ Defendant, J. Richard Fullington, Jr.'s Petition to Open Judgment by Confession Pursuant to PA. R.C.P. 2959, filed by Atty. Moorhead no cert. copies.	No Judge
6/16/2006	✓ Order of Court AND NOW, this 15th day of June 2006, upon consideration of the foregoing petition, it is hereby ordered that: 1. a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested; 2. the respondent shall file an answer to the petition within twenty (20) days of service upon the respondent; 3. the petition shall be decided under Pa.R.C.P. No. 206.7; 4. notice of entry of this order shall be provided to all parties by the petitioner. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Atty Moorhead.	No Judge
7/7/2006	✓ Motion to Strike Petition to Open Judgment by Confession Pursuant to Pa. R.C.P. 2959. In the Alternative, Respondent's Answer to Petition to Open Judgment Pursuant to Pa.R.C.P. 2959. filed by Atty. Titus 4 Cert. to Atty.	Fredric Joseph Ammerman
9/14/2006	✓ Defendant, J. Richard Fullington, Jr.'s Consent Motion For Continuance, filed by s/ William J. Moorhead, Esquire. No CC	Fredric Joseph Ammerman
	Order. NOW, this 14th day of Sept., 2006, Ordered that the hearing scheduled for Sept 14, 2006 at 9:00 a.m. is rescheduled for Oct. 27, 2006 @ 10:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Moorhead	Fredric Joseph Ammerman
9/15/2006	✓ Order, NOW, this 14th day of Sept., 2006, it is Ordered that the hearing scheduled for Sept. 14, 2006 is continued and rescheduled for Oct. 27, 2006 @ 10:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Moorhead	Fredric Joseph Ammerman

A hand-drawn graph on a grid. The curve starts at the origin (0,0), rises to a peak at approximately (0.5, 1.2), and then falls, crossing the x-axis at approximately x=1.5. The curve is smooth and continuous.

Date: 10/18/2006

Clearfield County Court of Common Pleas

User: LMILLER

Time: 10:35 AM

ROA Report

Page 2 of 2

Case: 2002-00648-CD

Current Judge: Fredric Joseph Ammerman

Fullington Auto Bus Company vs. J. Richard Fullington Jr., Loretta P. Fullington

Civil Other

Date		Judge
9/21/2006	✓ Defendant, J. Richard Fullington's Certificate of Service of Order of Court, filed. That on this 19th day of September 2006, a true and correct copy of the within Order of Court dated September 14, 2006, was served on Paul H. Titus Esq., filed by s/ William J. Moorhead Esq. No CC.	Fredric Joseph Ammerman

11-2-06 ✓ Order, dated 10-27-06

11-21-06 ✓ Plff Motion in Opposition of defts motion for Recusal

11-22-06 defts Motion for Recusal

11-22-06 ✓ Order, dated 11-22-06

12-12-06 Order, dated 12-11-06

2-14-07 Praecipe to satisfy Judgment.

Date: 10/10/2006

Clearfield County Court of Common Pleas

User: LMILLER

Time: 04:06 PM

Hearings by Judge

Page 1 of 4

CT COMMON PLEAS,

All Case Types

From 10/16/2006 08:00 AM to 10/20/2006 05:00 PM

Paul E. Cherry

Begin Date and Time End Date and Time

10/16/2006 09:00 AM 10/16/2006 10:00 AM

Appointment Description: O.C. No. 2948 Term. of Parental Rights Morss

10/16/2006 01:30 PM 10/16/2006 04:00 PM

Violet K. Elenskyvs.Michael L. Shelow

Case: 2006-00395-CD

Custody Trial

Courtroom:

Def's

Plaintiff: Elensky, Violet K.

Attorney: Kubista, Courtney L.

Defendant: Shelow, Michael L.

Days to Speedy Trial:

Speedy Trial Date:

Attorney: Colavecchi, Paul

10/17/2006 09:00 AM 10/17/2006 10:00 AM

Jessica L. McCoy, etal.vs.Kimberly Goss

Case: 2006-01483-CD

Custody Conference

Courtroom:

Plaintiffs: McCoy, Jessica L.

Alias: Jessica McCoy (1 of 1)

McCoy, Marcos

Defendant: Goss, Kimberly

Days to Speedy Trial:

Speedy Trial Date:

10/17/2006 10:00 AM 10/17/2006 11:00 AM

Jessica L. McCoyvs.Sue Carfley

Case: 2006-01482-CD

Custody Conference

Courtroom:

Plaintiff: McCoy, Jessica L.

Alias: Jessica McCoy (1 of 1)

Defendant: Carfley, Sue

Days to Speedy Trial:

Speedy Trial Date:

10/17/2006 01:30 PM 10/17/2006 02:30 PM

Brandon W. Cathcartvs.Melissa L. Cathcart, etal.

Case: 2006-01492-CD

Custody Conference

Courtroom:

Plaintiff: Cathcart, Brandon W.

Attorney: Ryan, John R.

Defendants: Cathcart, Melissa L.

Days to Speedy Trial:

Speedy Trial Date:

Seymour, Linda

Days to Speedy Trial:

Speedy Trial Date:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

**FULLINGTON AUTO BUS
COMPANY,**

Plaintiff

v.

**J. RICHARD FULLINGTON,
JR., a/k/a JOHN R.**

FULLINGTON, JR., a/k/a

RICHARD J. FULLINGTON,

a/k/a RICHARD FULLINGTON,

and LORETTA P. FULLINGTON,

Defendants

: CIVIL DIVISION

:

: No. 02-648-CD

:

: Type of Pleading: Civil Action -

: Complaint in Confession of

: Judgment

:

: Filed on behalf of Fullington

: Auto Bus Company, Plaintiff

:

: Counsel of Record for this Party:

: David S. Ammerman, Esquire

: Supreme Court I.D. #06801

: 310 East Cherry Street

: Clearfield, Pennsylvania 16830

: Telephone: (814) 765-1701

FILED

APR 24 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

**FULLINGTON AUTO BUS
COMPANY,**
Plaintiff

v.

Civil Division

**J. RICHARD FULLINGTON,
JR., a/k/a JOHN R.
FULLINGTON, JR., a/k/a
RICHARD J. FULLINGTON,
a/k/a RICHARD FULLINGTON,
and LORETTA P. FULLINGTON,
Defendants**

No.

COMPLAINT IN CONFESSION OF JUDGMENT

Plaintiff, Fullington Auto Bus Company, by its attorney, David S. Ammerman, files this Complaint in Confession of Judgment for money:

(1). Plaintiff, Fullington Auto Bus Company is a corporation existing under the laws of the Commonwealth of Pennsylvania with its principal office located at 316 East Cherry Street, Clearfield, Pennsylvania 16830.

(2). Defendants, J. Richard Fullington, Jr., a/k/a John R. Fullington, Jr., a/k/a Richard J. Fullington, a/k/a Richard Fullington, and Loretta P. Fullington, are individuals residing within the Commonwealth of Pennsylvania whose last known address is 929 South Sixth Street, Clearfield, Pennsylvania 16830.

(3). On or about April 19, 2002, Defendants executed a Promissory Note in favor of Plaintiff in the original principal amount of \$244,180.00, which Note authorized the confession of Judgment against the Defendants. A true and correct reproduction of the original Note is attached hereto, marked Exhibit "A" and incorporated by reference as if fully set forth herein.

(4). The Note has not been released, transferred or assigned.


(5). Judgment has not been entered against the Defendants on the Note in any jurisdiction.

(6). The Note authorizes the entry of judgment without default or the occurrence of any condition precedent.

(7). An itemization of the amount due, including interest and attorney's fees, as authorized by the Note, is as follows:

Principal	\$244,180.00
Interest to 4/24/02.	401.39
Attorney's fees @ 15%	<u>36,627.00</u>
Total	\$281,268.59

WHEREFORE, the Plaintiff, as authorized by the Warrant of Attorney contained in the Note, demands judgment against the Defendants in the total sum of \$281,268.59, with interest on the principal sum of \$244,180.00, from April 24, 2002, at the rate of 15% per annum and brings said instrument to Court to recover the said sum.



David S. Ammerman, Esquire
Attorney for Plaintiff

PROMISSORY NOTE

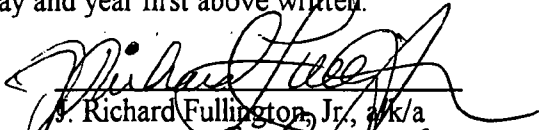
AMOUNT: \$244,180.00

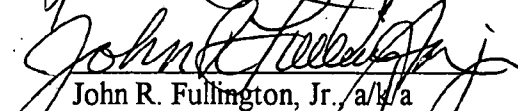
DATE: April 19, 2002

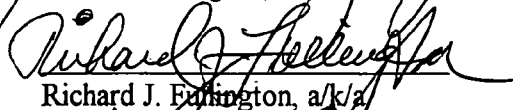
ONE DAY AFTER THIS DATE, THE UNDERSIGNED, JOINTLY AND SEVERALLY, DO PROMISE TO PAY TO THE ORDER OF **FULLINGTON AUTO BUS COMPANY**, OF 316 EAST CHERRY STREET, CLEARFIELD, PENNSYLVANIA 16830, WITHOUT OFFSET, FOR VALUE RECEIVED, THE SUM OF \$244,180.00 TOGETHER WITH INTEREST AT THE RATE OF FIFTEEN (15%) PERCENT PER ANNUM ON THE UNPAID BALANCE.

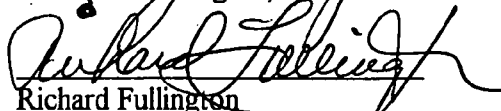
MAKERS IRREVOCABLY AUTHORIZE AND EMPOWER THE PROTHONOTARY, ANY ATTORNEY OR ANY CLERK OF ANY COURT OF RECORD, WITH OR WITHOUT DEFAULT, TO APPEAR FOR AND CONFESS **JUDGMENT** AGAINST MAKERS FOR SUCH SUMS AS ARE DUE AND/OR MAY BECOME DUE UNDER THIS NOTE, WITH COSTS OF SUIT, WITHOUT STAY OF EXECUTION AND WITH FIFTEEN PERCENT (15%) OF THE AMOUNT OF SUCH JUDGMENT, BUT NOT LESS THAN FIVE HUNDRED DOLLARS (\$500.00) ADDED FOR ATTORNEYS' COLLECTION FEES. TO THE EXTENT PERMITTED BY LAW, MAKERS RELEASE ALL ERRORS IN SUCH PROCEEDINGS. IF A COPY OF THIS NOTE, VERIFIED BY OR ON BEHALF OF THE HOLDER SHALL HAVE BEEN FILED IN SUCH ACTION, IT SHALL NOT BE NECESSARY TO FILE THE ORIGINAL NOTE AS A WARRANT OF ATTORNEY. THE AUTHORITY AND POWER TO APPEAR FOR AND **CONFESS JUDGMENT** AGAINST MAKERS SHALL NOT BE EXHAUSTED BY THE INITIAL EXERCISE THEREOF AND MAY BE EXERCISED AS OFTEN AS THE HOLDER SHALL FIND IT NECESSARY AND DESIRABLE AND THIS NOTE SHALL BE A SUFFICIENT WARRANT THEREFORE.

WITH INTENT TO BE LEGALLY BOUND, the undersigned do hereby execute the within instrument as of the day and year first above written.


Richard Fullington, Jr., a/k/a


John R. Fullington, Jr., a/k/a


Richard J. Fullington, a/k/a


Richard Fullington


Loretta P. Fullington

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

**FULLINGTON AUTO BUS
COMPANY,**

Plaintiff

v.

Civil Division

**J. RICHARD FULLINGTON,
JR., a/k/a JOHN R.
FULLINGTON, JR., a/k/a
RICHARD J. FULLINGTON,
a/k/a RICHARD FULLINGTON,
and LORETTA P. FULLINGTON,
Defendants**

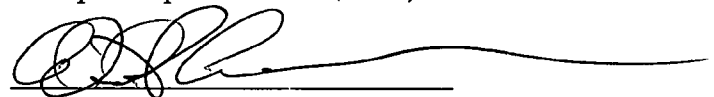
No.

CONFESSION OF JUDGMENT

Pursuant to the Warrant of Attorney contained in the aforementioned Promissory Note, the original or copy of which is attached to the Complaint filed in this action, I appear for the Defendants and confess judgment in favor of the Plaintiff and against the Defendants as follows:

Principal	\$244,180.00
Interest to 04/24/02	401.39
Attorney's fees	<u>36,687.21</u>
Total	\$281,268.59

with interest from April 24, 2002, on the principal sum of \$244,180.00 at 15% per annum.



David S. Ammerman, Esquire
Supreme Court I.D. #06801
Attorney for Defendants
310 East Cherry Street
Clearfield, Pennsylvania 16830
Telephone: (814) 765-1701

Dated: April 24, 2002

AFFIDAVIT OF NON-MILITARY SERVICE

COMMONWEALTH OF PENNSYLVANIA :
:SS
COUNTY OF CLEARFIELD :

Before me, the undersigned authority in and for said County and State, personally appeared **DAVID S. AMMERMAN**, attorney for and authorized representative of Plaintiff, who, being duly sworn according to law, deposes and says that the Defendants, J. Richard Fullington, Jr., a/k/a John R. Fullington, Jr., a/k/a Richard J. Fullington, a/k/a Richard Fullington, and Loretta P. Fullington, are not in the military service of the United States of America to the best of his knowledge, information and belief.


David S. Ammerman

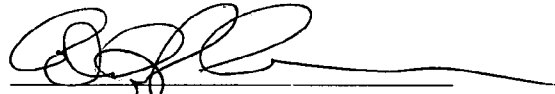
Sworn to and subscribed
before me this 23 day
of April, 2002.



WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

VERIFICATION

DAVID S. AMMERMAN, Attorney for Plaintiff and duly authorized representative of the Plaintiff, deposes and says, subject to the penalties of 18 Pa. C.S.A. Section 4909 relating to unsworn falsification to authorities, that the facts set forth in the foregoing Complaint in Confession of Judgment are true and correct to the best of his information and belief.

A handwritten signature in black ink, appearing to read 'D. Ammerman', with a long horizontal line extending to the right.

David S. Ammerman, Esquire
Attorney for Plaintiff

CERTIFICATION OF COMMERCIAL TRANSACTION

DAVID S. AMMERMAN, duly authorized representative and attorney for Fullington Auto Bus Company, deposes and says, subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities, that the underlying transaction relative to this Complaint in Confession of Judgment is a commercial transaction to the best of his knowledge, information and belief.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

David S. Ammerman, Esquire
Attorney for Plaintiff

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

FULLINGTON AUTO BUS
COMPANY,
Plaintiff

vs.

J. RICHARD FULLINGTON, JR.,
a/k/a JOHN R. FULLINGTON, JR.,
a/k/a RICHARD J. FULLINGTON,
a/k/a RICHARD FULLINGTON,
and LORETTA P. FULLINGTON,

Defendants

CIVIL ACTION - COMPLAINT
IN CONFESSION OF JUDGMENT

No. 02- -CD

Filed on behalf of:
Fullington Auto Bus
Company, Plaintiff

DAVID S. AMMERMAN
Attorney at Law
310 EAST CHERRY STREET
CLEARFIELD, PA 16830

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

FILED

APR 24 2002

0110:001 atty Commman
William A. Shaw
Pfeifferstary pd 8000

(2) not to Del.
2 cc atty.

DAVID S. AMMERMAN
Attorney at Law
310 EAST CHERRY STREET
CLEARFIELD, PA 16830

Lap over margin

COPY

NOTICE OF JUDGMENT

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

FULLINGTON AUTO BUS
COMPANY,

Plaintiff

v.

J. RICHARD FULLINGTON, JR.,
a/k/a JOHN R. FULLINGTON,
JR., a/k/a RICHARD J.
FULLINGTON, a/k/a
RICHARD FULLINGTON, and
LORETTA P. FULLINGTON,

Defendants

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No. 02- 648 -CD

To: J. RICHARD FULLINGTON, JR., a/k/a JOHN R.
FULLINGTON, JR., a/k/a RICHARD J. FULLINGTON, a/k/a
RICHARD FULLINGTON, and LORETTA P. FULLINGTON,
Defendants

NOTICE is given that a Judgment in the above captioned matter has been entered against you in the amount of \$281,268.59 on the 24th day of April, 2002. Enclosed is a copy of all documents filed with the Prothonotary in support of the confession of judgment.



William A. Shaw, Prothonotary

4/24/02

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

FULLINGTON AUTO BUS COMPANY,

Plaintiff

vs.

J. RICHARD FULLINGTON, JR., a/k/a
JOHN R. FULLINGTON, JR., a/k/a
RICHARD J. FULLINGTON, a/k/a
RICHARD FULLINGTON, and
LORETTA P. FULLINGTON,

Defendants *

No. 02-648 -CD

PRAECIPE FOR ENTRY OF JUDGMENT BY CONFESSION

TO THE PROTHONOTARY:

Please enter judgment by confession on the attached note against J. RICHARD FULLINGTON, JR., a/k/a JOHN R. FULLINGTON, JR., a/k/a RICHARD J. FULLINGTON, a/k/a RICHARD FULLINGTON, and LORETTA P. FULLINGTON, and in favor of FULLINGTON AUTO BUS COMPANY, in the amount of Two Hundred Eighty-One Thousand Two Hundred Sixty-Eight and 59/100 Dollars (\$281,268.59).

I hereby certify that the precise residences of Plaintiff and Defendants are as follows:

Plaintiff - 316 East Cherry Street
Clearfield, PA 16830

Defendants - 929 S. Sixth Street
Clearfield, PA 16830

Date:

April 24, 2002
FILED



David S. Ammerman, Esquire
Attorney for Plaintiff

APR 24 2002

01/10:00/NOCC
William A. Shaw
Prothonotary

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830

2002-648 on 650 - CA



Loretta P. Fullington
929 S. Sixth Street
Clearfield, PA 16830

RECEIVED
SEP 25 1991

RTS
RETURN TO SENDER

☐ INSUFFICIENT ADDRESS ☐ OTHER
☐ ATTEMPTED NOT KNOWN
☐ NO SUCH NUMBER/STREET
☐ NOT DELIVERABLE AS ADDRESSED

A
C
S

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830

2062--6480-650-CD



J. Richard Fullington, Jr.
929 S. Sixth Street
Clearfield, PA 16830

RECEIVED

RECEIVED
SEP 15 1964

RTS
RETURN TO SENDER

☐ INSUFFICIENT ADDRESS ☐ OTHER
☐ ATTEMPTED NOT KNOWN
☐ NO SUCH NUMBER/ STREET
☒ NOT DELIVERABLE AS ADDRESSED
- UNABLE TO FORWARD

A
C
S

FULLINGTON AUTO BUS COMPANY

versus

J. RICHARD FULLINGTON, JR.
AND LORETTA P. FULLINGTON

In the Court of Common Pleas of
the county of CLEARFIELD

of Term, A. D. 19

No 02-648-CD

Real Debt, - - - - \$281,268.59

Int. from

Costs, - - - - \$

Entered and filed April 24, 2002

KNOW ALL MEN BY THESE PRESENTS, that FULLINGTON AUTO BUS COMPANY

the plaintiff named in the above entitled judgment, for and in consideration of the sum of one Dollar, lawful money of the United States, to it paid by the defendants above named, the receipt whereof is hereby acknowledged, do hereby forever acquit, exonerate, discharge and release from the lien of the above entitled judgment, the following described property, to-wit:

See attached property description.
as Exhibit "A".

Being identified as Clearfield County
Parcel No. 123-L7-31.

FILED

DEC 03 2003

William A. Shaw
Prothonotary/Clerk of Courts

And it is further agreed that the plaintiff above named will not look to the said above mentioned and described premises or any part thereof, for payment of any part of the principal and interest of said above entitled judgment, now or hereafter to become due, or in any way disturb, molest, put to charge or damage, the present or any future owner or owners, occupier or occupiers of the said above mentioned and described premises, or any part or portion thereof, for or by reason of the said judgment, or any matter, cause or thing thence accruing or to arise: Provided, that nothing herein contained shall affect the said judgment or its legal validity, so far as respects all other lands and tenements of the said defendants situate in the County aforesaid, which are not herein expressly exonerated therefrom.

The undersigned officer, being duly authorized
~~XXXXXXXXXXXXXXXXXXXX~~ have hereunto set her hand and seal
this 26th day of November A. D. 2003

ATTEST:
~~XXXXXXXXXXXXXXXXXXXX~~

A. Roy Fullington

FULLINGTON AUTO
BUS COMPANY
By Aerial Fullington Weisman, President

SEAL

SEAL

SEAL

No. 02-548-CD..... Term, 19.....

FULLINGTON AUTO BUS COMPANY

versus

J. RICHARD FULLINGTON, JR. AND

LORETTA P. FULLINGTON

Release From Lien of Judgment

Upon

Entered and filed.....

19.....

Prothonotary.

Attorney.

EXHIBIT "A"

ALL that certain piece or parcel of land situate in the Township of Lawrence, County of Clearfield, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a $\frac{3}{4}$ inch rebar (set) on the western right-of-way line of Pennsylvania State Route SR-0879, said rebar being the southwest corner of lands of Harry K. and Emilie D. Maney as described in Deed Book 1517 at Page 103, said place of beginning being the southeast corner of the parcel herein conveyed and running; thence along the western right-of-way line of Pennsylvania State Route SR-0879 195.10 feet along the arc of a circle, curving to the left, with a 7,739.44 foot radius, the chord of said arc running South 62 degrees 11 minutes 03 seconds West a distance of 195.09 feet to a $\frac{3}{4}$ inch rebar (set), said rebar being the southeast corner of lands of C.S.P. Investments, Inc. as recorded in Deed Book 1892 at Page 436; thence along the eastern line of lands of the C.S.P. Investments, Inc. North 28 degrees 11 minutes 59 seconds West a distance of 392.64 feet to a $\frac{3}{4}$ inch rebar (found); thence still along the line of lands of the C.S.P. Investments, Inc. South 77 degrees 14 minutes 27 seconds West a distance of 226.26 feet to a point, said point being in the center line of an unnamed tributary to Wolf Run; thence through lands of the Grantor for a new subdivision line and along the center line of an unnamed tributary to Wolf Run the following courses and distances: North 44 degrees 37 minutes 56 seconds East a distance of 20.34 feet to a point; North 34 degrees 34 minutes 15 seconds East a distance of 27.44 feet to a point; North 50 degrees 37 minutes 16 seconds East a distance of 39.40 feet to a point; North 07 degrees 06 minutes 15 seconds East a distance of 39.20 feet to a point; North 48 degrees 19 minutes 05 seconds East a distance of 47.55 feet to a point; North 66 degrees 48 minutes 25 seconds East a distance of 26.51 feet to a point; North 60 degrees 37 minutes 17 seconds East a distance of 40.32 feet to a point; North 79 degrees 19 minutes 18 seconds East a distance of 16.91 feet to a point; North 62 degrees 25 minutes 40 seconds East a distance of 27.50 feet to a point; North 34 degrees 38 minutes 19 seconds East a distance of 26.80 feet to a point; North 60 degrees 44 minutes 39 seconds East a distance of 42.87 feet to a point; North 74 degrees 43 minutes 57 seconds East a distance of 26.74 feet to a point; North 61 degrees 25 minutes 39 seconds East a distance of 36.99 feet to a point; North 50 degrees 55 minutes 23 seconds East a distance of 49.80 feet to a point; North 75 degrees 34 minutes 43 seconds East a distance of 23.76 feet to a point; said point being the northwest corner of lands of the aforementioned Harry K. and Emilie D. Maney as described in Deed Book 1517 at Page 103; thence along the western line of lands of Harry K. and Emilie D. Maney South 22 degrees 45 minutes 26 seconds East passing through a $\frac{3}{4}$ inch rebar (found) at a distance of 16.05 feet and continuing on for a total distance of 530.00 feet to a point and the place of beginning. **CONTAINING** 131,658.08 square feet, 3.022 acres and known as Parcel 1 of the Fullington Subdivision dated October 9, 2003 and as shown on the map prepared by Curry & Associates. Being part of lands conveyed to the Grantor by Deed dated August 26, 2003 and recorded to Clearfield County Instrument No. 200315359. Identified as Clearfield County Tax Parcel No. 123-L7-31.

No CC

FILED

01:00 PM
DEC 03 2003

Atty Mohney
pd. 7.00

Cert. of Sat. to Atty

Egar

Pratt County, Nebraska
Vernon E. Egar

FULLINGTON AUTO BUS COMPANY

versus

J. RICHARD FULLINGTON, JR. AND
LORETTA P. FULLINGTON

In the Court of Common Pleas of

the county of Clearfield

of Term, A. D. 19

No. 02-648-CD

Real Debt, - - - - \$ 281,268.59

Int. from

Costs, - - - - - \$

Entered and filed April 24, 2002

KNOW ALL MEN BY THESE PRESENTS, that FULLINGTON AUTO BUS COMPANY

the plaintiff named in the above entitled judgment, for and in consideration of the sum of one Dollar, lawful money of the United States, to it paid by the defendant above named, the receipt whereof is hereby acknowledged, do hereby forever acquit, exonerate, discharge and release from the lien of the above entitled judgment, the following described property, to-wit:

Being known as Lot Addition Parcel "A" and shown as Lot 1 on plan prepared by Stephen W. Norfolk, P.L.S., entitled "Lot Addition Parcel "A" to lands of David M. and Barbara J. Chnupa from lands of J. Richard and Loretta P. Fullington", dated May 29, 2003 and recorded in the Office of the Recorder of Deeds in Clearfield County in Map File No. 200312687. Description of said parcel being attached hereto as Exhibit "A".

And it is further agreed that the plaintiff above named will not look to the said above mentioned and described premises or any part thereof, for payment of any part of the principal and interest of said above entitled judgment, now or hereafter to become due, or in any way disturb, molest, put to charge or damage, the present or any future owner or owners, occupier or occupiers of the said above mentioned and described premises, or any part or portion thereof, for or by reason of the said judgment, or any matter, cause or thing thence accruing or to arise: Provided, that nothing herein contained shall affect the said judgment or its legal validity, so far as respects all other lands and tenements of the said defendant situate in the County aforesaid, which are not herein expressly exonerated therefrom.

The undersigned officer, being duly authorized
by ~~WITNESS WHEREOF~~, have hereunto set hand and seal
this day of March A. D. 2004

ATTEST
~~By~~ *Michael D. Pf.*
ASST. SECRETARY

FULLINGTON AUTO BUS COMPANY
By *Aerial Fullington Weisman*
Aerial Fullington Weisman,
President

FILED

MAR 17 2004

William A. Shaw
Prothonotary

No. Term, 19.....

FULLINGTON AUTO BUS COMPANY

versus

J. RICHARD FULLINGTON, JR. AND

LORETTA P. FULLINGTON

Release From Lien of Judgment

Upon

Entered and filed.....

19.....

Prothonotary.

Attorney.

EXHIBIT "A"

ALL that certain piece or parcel of land situate in Lawrence Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center line of Township Road No. T-603 (Bainey Road) and marking the northwest corner of lands of David M. and Barbara J. Chnupa (D.B. 751, Pg. 532, tax parcel no. L7-000-67), and being located for reference North 68 degrees 58 minutes 00 seconds West a distance of 15.00 feet from an iron pin on the easterly right-of-way line of said T-603; thence along said center line of T-603 North 07 degrees 26 minutes 33 seconds East a distance of 219.01 feet to a point; thence along said center line North 05 degrees 20 minutes 10 seconds East a distance of 98.10 feet to a point; thence through lands of Fullington Real Estate Company and passing over an iron pin set on said right-of-way line of T-603 at 17.14 feet South 68 degrees 58 minutes 00 seconds East a distance of 707.33 feet to an iron pin near Wolf Run; thence along said Wolf Run South 51 degrees 02 minutes 21 seconds West a distance of 163.49 feet to a point; thence along said Wolf Run South 45 degrees 16 minutes 36 seconds West a distance of 181.77 feet to an iron pin marking the northeast corner of said lands of Chnupa and also marking a corner of said lands of Fullington; thence along said lands of Chnupa North 68 degrees 58 minutes 00 seconds West a distance of 472.93 feet to a point in the center line of T-603 (Baney Road) and marking the place of beginning.

Containing 4.120 acres gross and 4.000 acres net, and being Lot Addition Parcel "A", also shown as Lot 1 on a plan prepared by Stephen W. Norfolk, P.L.S., entitled "Lot Addition Parcel "A" to Lands of David M. and Barbara J. Chnupa from Lands of J. Richard and Loretta P. Fullington", dated May 29, 2003 and recorded in the Office of the Recorder of Deeds in Clearfield County in Map File No. 200312687.

BEING the same premises which J. Richard Fullington, by his attorney-in-fact, Michael L. Fullington, constituted by Power of Attorney bearing date October 7, 2002 and recorded in the office of the Recorder of Deeds of Clearfield County to Instrument No. 200309644, and Loretta P. Fullington, wife of J. Richard Fullington, by their deed dated August 26, 2003 and recorded to Clearfield County Instrument No. 200315359 conveyed to Fullington Real Estate Company, Grantor herein.

WITNESSED AND
NOTARIZED

EXHIBIT "A"

ALL THAT CERTAIN piece or parcel of land situate in Lawrence Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at an old iron axle, said iron axle being located on the northern side of Legislative Route 17052, and being the southwest corner of the lot now or formerly owned by Lawrence Stevens; thence along the northern right-of-way of Legislative Route 17052, South $61^{\circ} 03'$ West, 210.2 feet to a two-inch iron pipe; thence North $66^{\circ} 54'$ West, 237.8 feet to a two-inch iron pipe, said two-inch iron pipe being located in the center of a small stream; thence along the center line of said stream in a northeasterly direction the several courses and distances as set forth in a previously recorded Survey Plot, which courses and distances are incorporated herein by reference and make a part hereof to an iron pin; thence along the Lawrence W. Stevens lot, South $32^{\circ} 15'$ East, 241.83 feet to the old iron axle and place of beginning. Containing 1.42 acres.

BEING FURTHER IDENTIFIED with a corrected Clearfield County Tax Parcel Index No. 123-L07-31.2, as previously incorrectly stated by Deed dated August 13, 1999 and recorded in the Recorder of Deeds Office of Clearfield County at Instrument No. 199913676 as Clearfield Tax Parcel Index No. 126-L7-31.2.

EXCEPTING AND RESERVING any acreage totals previously condemned or otherwise taken by the Pennsylvania Department of Transportation ("PennDOT") for the increased right-of-way width for Legislative Route 17052 (also known as State Route 879). It is believed that after said condemnation or taking, the resultant acreage should approximate 1.28 acres.

TOGETHER WITH any right, title and interest of the Grantor, his heirs, executors, successors and assigns relative to any reversion from the PennDOT of portions of the increased right-of-way width for Legislative Route 17052 (also known as State Route 879) between said PennDOT right-of-way and portions of the above-described property and any property currently owned by Grantees or entities in which Grantees have an interest.

BEING THE SAME PROPERTY which Essington E. Sankey, Jr., Executor of the Estate of Harold E. Pentz, by its Deed dated August 13, 1999 and recorded in the Recorder of Deeds Office of Clearfield County at Instrument No. 199913676, granted and conveyed to J. Richard Fullington and Loretta P. Fullington, his wife, the Grantors herein.



SEAL

No. Term, 19.....

FULLINGTON AUTO BUS COMPANY

versus

J. RICHARD FULLINGTON, JR. AND

LORETTA P. FULLINGTON

Release From Lien of Judgment

Upon

Entered and filed

19.....

Prothonotary.

Attorney.

FULLINGTON AUTO BUS COMPANY

versus

J. RICHARD FULLINGTON, JR. AND
LORETTA P. FULLINGTON

In the Court of Common Pleas of

the county of CLEARFIELD

of Term, A. D. 19

No 02-648-CD

Real Debt, - - - - \$ 281,268.59

Int. from

Costs, - - - - \$

Entered and filed April 24, 2002

KNOW ALL MEN BY THESE PRESENTS, that FULLINGTON AUTO BUS COMPANY

the plaintiff named in the above entitled judgment, for and in consideration of the sum of one Dollar, lawful money of the United States, to it paid by the defendant above named, the receipt whereof is hereby acknowledged, do hereby forever acquit, exonerate, discharge and release from the lien of the above entitled judgment, the following described property, to-wit:

SEE ATTACHED PROPERTY DESCRIPTION AS EXHIBIT "A".

BEING IDENTIFIED AS CLEARFIELD COUNTY TAX PARCEL NO.
1230L7-31.2

FILED No
013:2261 cc
JUL 06 2004 Gary Tubas
William A. Shaw pd. 7.00
Prothonotary/Clerk of Courts

And it is further agreed that the plaintiff above named will not look to the said above mentioned and described premises or any part thereof, for payment of any part of the principal and interest of said above entitled judgment, now or hereafter to become due, or in any way disturb, molest, put to charge or damage, the present or any future owner or owners, occupier or occupiers of the said above mentioned and described premises, or any part or portion thereof, for or by reason of the said judgment, or any matter, cause or thing thence accruing or to arise: Provided, that nothing herein contained shall affect the said judgment or its legal validity, so far as respects all other lands and tenements of the said defendant situate in the County aforesaid, which are not herein expressly exonerated therefrom.

The undersigned officer, being duly authorized

has hereunto set her hand and seal
this 1st day of July A. D. 2004

ATTEST:

Witness present

Michael D. Poff

FULLINGTON AUTO BUS COMPANY
By Aerial Fullington Weisman,
President

SEAL

SEAL

SEAL

No. Term, 19

FULLINGTON AUTO BUS COMPANY

versus

J. RICHARD FULLINGTON, JR. AND

LORETTA P. FULLINGTON

Release From Lien of Judgment

Upon Clearfield County Tax

Parcel No. 123-L7-31.2

Entered and filed

19

Prothonotary.

Attorney.

EXHIBIT "A"

ALL that certain piece or parcel of land situate in Lawrence Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at an old iron axle, said iron axle being located on the northern side of Legislative Route 17052, and being the southwest corner of the lot now or formerly owned by Lawrence Stevens; thence along the northern right-of-way of Legislative Route 17052, South 61 degrees 03 minutes West, 210.2 feet to a two-inch iron pipe; thence North 66 degrees 54 minutes West, 237.8 feet to a two-inch iron pipe, said two-inch iron pipe being located in the center of a small stream; thence along the center line of said stream in a northeasterly direction the several courses and distances as set forth in previously recorded Survey Plot, which courses and distances are incorporated herein by reference and make a part hereof to an iron pin; thence along the Lawrence W. Stevens lot, South 32 degrees 15 minutes East, 241.83 feet to the old iron axle and place of beginning. Containing 1.42 acres.

BEING FURTHER IDENTIFIED with a corrected Clearfield County Tax Parcel Index No. 123-L7-31.2, as previously incorrectly stated by Deed dated August 13, 1999 and recorded in the Recorder of Deeds Office of Clearfield County at Instrument No. 199913676 as Clearfield County Tax Parcel Index No. 126-L7-31.2.

EXCEPTING AND RESERVING any acreage totals previously condemned or otherwise taken by the Pennsylvania Department of Transportation ("PennDOT") for the increased right-of-way width for Legislative Route 17052 (also known as State Route 879). It is believed that after said condemnation or taking, the resultant acreage should approximate 1.28 acres.

TOGETHER WITH any right, title an interest of the Grantor, its heirs, executors, successors and assigns relative to any reversion from the PennDOT of portions of the increased right-of-way width for Legislative Route 17052 (also known as State Route 879) between said PennDOT right-of-way and portions of the above described property and any property currently owned by the Grantors or entities in which the Grantors have an interest.

BEING the same premises which J. Richard Fullington, by his attorney-in-fact, Michael L. Fullington, constituted by Power of Attorney bearing date October 7, 2002 and recorded in the office of the Recorder of Deeds of Clearfield County to Instrument No. 200309644, and Loretta P. Fullington, wife of J. Richard Fullington, by their deed dated August 26, 2003 and recorded to Clearfield County Instrument No. 200315357 conveyed to Fullington Real Estate Company, Grantor herein.

FULLINGTON AUTO BUS COMPANY

versus

J. RICHARD FULLINGTON, JR.
and LORETTA P. FULLINGTON

In the Court of Common Pleas of

the county of CLEARFIELD

of Term, A. D. 19

No. 02-648-CD

Real Debt. - - - - \$ 281,268.59

Int. from

Costs. - - - - \$

Entered and filed April 24, 2002

KNOW ALL MEN BY THESE PRESENTS, that FULLINGTON AUTO BUS COMPANY,

the plaintiff named in the above entitled judgment, for and in consideration of the sum of ~~xxx~~ \$36,226.30 Dollar, lawful money of the United States, to it paid by the defendant s above named, the receipt whereof is hereby acknowledged, do hereby forever acquit, exonerate, discharge and release from the lien of the above entitled judgment, the following described property, to-wit:

See attached property description as Exhibit "A".

Being identified as Clearfield County
Parcel No. 115-L6-66.1.

FILED No CC
m/12:51/BL Unlimited Real
JUL 30 2004 Estate pd. 7.00

William A. Shaw
Prothonotary/Clerk of Courts

And it is further agreed that the plaintiff above named will not look to the said above mentioned and described premises or any part thereof, for payment of any part of the principal and interest of said above entitled judgment, now or hereafter to become due, or in any way disturb, molest, put to charge or damage, the present or any future owner or owners, occupier or occupiers of the said above mentioned and described premises, or any part or portion thereof, for or by reason of the said judgment, or any matter, cause or thing thence accruing or to arise: Provided, that nothing herein contained shall affect the said judgment or its legal validity, so far as respects all other lands and tenements of the said defendant situate in the County aforesaid, which are not herein expressly exonerated therefrom.

The undersigned officer, being duly authorized,

~~IN WITNESS WHEREOF~~ have hereunto set her hand and seal
this 23rd day of July, 2004. ~~XXXXXX~~

ATTEST:

~~Witness present~~

A. Ray Fullington

FULLINGTON AUTO BUS COMPANY

By *Aerial Fullington Weisman*
Aerial Fullington Weisman,
President

SEAL

SEAL

SEAL

No. Term, 19.....

versus

Release From Lien of Judgment

Upon

Entered and filed.....

19.....

Prothonotary.

Attorney.

Tax Map No. 115-L6-66.1

ALL that certain tract of land situate in the Township of Goshen, County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a post on the easterly right-of-way of Pennsylvania State Highway Route 879, Legislative Route 17052 (a highway with a right-of-way 33 feet wide, which post marks the southwesterly corner of a similar one acre lot conveyed by Lida M. Gossman to Clark E. Rothrock et ux; thence along said lot now or formerly of Rothrock North 80 degrees 00 minutes East a distance of 338.7 feet to a post on the low water Pennsylvania Electric Company dam level on the West Branch of the Susquehanna River; thence South 18 degrees 39 minutes East a distance of 126.4 feet to a post; thence along lands retained by prior grantor South 80 degrees 00 minutes West a distance of 363.9 feet to a post along the easterly right-of-way line of Pennsylvania State Highway Route 879; thence along the easterly right-of-way line of said highway North 7 degrees 10 minutes West a distance of 125.1 feet to the place of beginning.

Exhibit "A"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON AUTO BUS CO., INC.,	)	CIVIL ACTION - LAW
)	
Plaintiff,)	
	)	No. 2002-00648-CD
v.)	
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	

0:4:00 lcc atty mcdonald

verifying this to be a true
original
FILED
JUN 16 2006

ORDER OF COURT

William A. Smith
Notary

AND NOW, this 15 day of June, 2006, upon
consideration of the foregoing petition, it is hereby ordered that:

- (1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;
- (2) the respondent shall file an answer to the petition within twenty (20) days of service upon the respondent;
- (3) the petition shall be decided under Pa.R.C.P. No. 206.7;
- (4) notice of the entry of this order shall be provided to all parties by the petitioner.

NOTICE

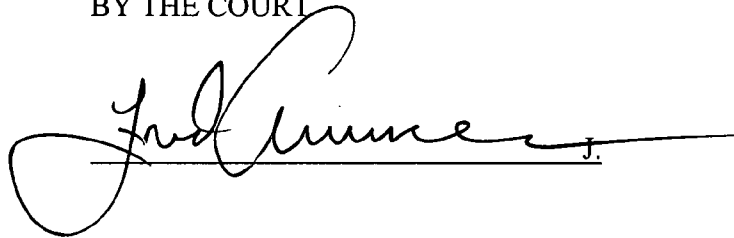
A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE MATTERS SET FORTH IN THE FOLLOWING PETITION, YOU MUST ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE AN ANSWER IN WRITING WITH THE PROTHONOTARY SETTING FORTH YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU

AND SERVE A COPY ON THE ATTORNEY OR PERSON FILING THE PETITION. YOU ARE WARNED THT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR THE RELIEF REQUESTED BY THE PETITIONER. YOU MAY LOSE THE RIGHTS IMPORTANT TO YOU.

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

COURT ADMINISTRATOR
Clearfield County Courthouse
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. (5982)

BY THE COURT

A handwritten signature in black ink, appearing to read "Fred Krume", is written over a horizontal line. The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

DATE: 6-16-2004

☐ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

OK

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON AUTO BUS CO, INC.,

Plaintiff,

v.

J. RICHARD FULLINGTON, JR.
and LORETTA P. FULLINGTON,

Defendants.

CIVIL ACTION - LAW

No. 2002-00648-CD

**DEFENDANT, J. RICHARD
FULLINGTON, JR.'S PETITION TO
OPEN JUDGMENT BY CONFESSION
PURSUANT TO PA. R.C.P. 2959**

Filed on Behalf of Defendant,
J. RICHARD FULLINGTON, JR.

Counsel of Record for this Party:

WILLIAM J. MOORHEAD, Esquire
PA I.D. #52761

MERCHANT, MOORHEAD & KAY, LLC

603 Washington Rd.
Suite 500
Pittsburgh, PA 15228

412-942-0770 (Phone)
412-942-0774 (Fax)

Firm #510

FILED *(Signature)*

JUN 09 2007

m/11:30/w
William A. Shaw
Prothonotary/Clerk of Courts
NO CERT. COPIED

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

FULLINGTON AUTO BUS CO., INC.,	)	CIVIL ACTION - LAW
)	
Plaintiff,)	
	)	No. 2002-00648-CD
v.)	
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	

**PETITION TO OPEN JUDGMENT BY
CONFESSION PURSUANT TO PA. R.C.P. 2959**

AND NOW, comes Defendant, J. RICHARD FULLINGTON, JR., by and through his undersigned counsel, MERCHANT, MOORHEAD & KAY and WILLIAM J. MOORHEAD, Esquire, and files the within Petition to Open Judgment by Confession Pursuant to PA. R.C.P. 2959 as follows:

1. Petitioner is J. Richard Fullington, Jr., Defendant in the above-captioned action (hereinafter referred to as "Petitioner").
2. Respondent is Fullington Auto Bus Co., Inc., Plaintiff in the above-captioned action (hereinafter referred to as "FABCO").
3. Petitioner was the President of Auto Bus Co. which was part of the Fullington family business. The Fullington family business included, FABCO and Fullington GMC Sales, Inc. ("GMC Sales"). The various family companies, including FABCO and GMC Sales were operated as an inter-related "family business".
4. As a result of a reversal of the financial fortunes of the Fullington family

business, generally, and FABCO and GMC Sales, specifically, the Fullington family took steps to protect its business and personal assets. As part of the plan to protect personal assets, the family businesses' counsel, who in this capacity was representing Petitioner, devised a plan whereby Petitioner and his wife would sign Promissory Notes in favor of GMC Sales in the amount of \$1,380,533.70 and FABCO in the amount of \$281,268.59. The plan engineered by the Fullington family businesses' counsel, and agreed to by all individuals involved in the Fullington family business, including Michael Fullington and Aerial Fullington Weisman, was that the notes would be reduced to judgment, thereby having priority over any other debt owed by or guaranteed by Petitioner and his wife.

5. As the plan was devised by the Fullington family business' counsel, the amount of the confessed judgment would be in an amount sufficiently high to thwart any attempt by any other creditor of FABCO, GMC Sales or Petitioner to enter judgment and/or attempt to execute upon the personal assets of the Petitioner or his wife.

6. The plan worked and deterred the claims of other creditors sufficiently to allow the Fullington family business to reorganize and protected Defendants' assets to some extent.

7. All parties involved in the family business understood that neither Petitioner nor his wife owed the debt reflected by the Promissory Notes and judgment, but rather the Note and judgment existed solely for the purpose of protecting Petitioner's personal assets.

8. FABCO abided by the terms of the plan until Petitioner was forced to bring an action against GMC Sales, FABCO, Michael Fullington, breach of contract and fraud at Case No.: 2005-565 in the Court of Common Pleas of Clearfield County, Pennsylvania.

9. After Petitioner brought the action, referred to above, Michael Fullington and Aerial Fullington Weisman began to recently threaten Petitioner with attempting to execute on

the judgments in violation of the plan devised by corporate counsel and agreed to by Michael Fullington and Aerial Fullington Weisman, as well as GMC Sales, FABCO and J. Richard Fullington.

10. GMC Sales., FABCO, Michael Fullington, Aerial Fullington Weisman are all aware that the Notes and judgments did not represent bona fide debts of Petitioner or his wife, but rather the Notes were part of a plan devised by the Fullington family businesses' corporate counsel to protect the personal assets of Petitioner and his wife.

11. As can be seen by the attached Affidavit of J. Richard Fullington, Sr., the judgment which was confessed by FABCO at the above-captioned Case Number in the amount of \$281,268.59 was not a bona fide debt owed by Petitioner or his wife and Petitioner owes no money to FABCO for the reasons set forth in this Petition.

WHEREFORE, Defendant J. Richard Fullington requests this Honorable Court to Open the Judgment entered against him in these proceedings.

Respectfully submitted,

MERCHANT, MOORHEAD & KAY, LLC.

A handwritten signature in black ink, appearing to read "William J. Moorhead", written over a horizontal line.

William J. Moorhead, Esquire
PA I.D. #52761

603 Washington Rd.
Suite 500
Pittsburgh, PA 15228

(412) 942-0770

NOTICE OF JUDGMENT

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

FULLINGTON AUTO BUS
COMPANY,

Plaintiff

v.

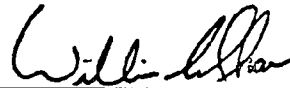
No. 02- 648 -CD

J. RICHARD FULLINGTON, JR.,
a/k/a JOHN R. FULLINGTON,
JR., a/k/a RICHARD J.
FULLINGTON, a/k/a
RICHARD FULLINGTON, and
LORETTA P. FULLINGTON,

Defendants

To: J. RICHARD FULLINGTON, JR., a/k/a JOHN R.
FULLINGTON, JR., a/k/a RICHARD J. FULLINGTON, a/k/a
RICHARD FULLINGTON, and LORETTA P. FULLINGTON,
Defendants

NOTICE is given that a Judgment in the above captioned matter has been entered against you in the amount of \$281,268.59 on the 24th day of April, 2002. Enclosed is a copy of all documents filed with the Prothonotary in support of the confession of judgment.



William A. Shaw, Prothonotary

4/24/02

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

**FULLINGTON AUTO BUS
COMPANY,**

Plaintiff

v.

**J. RICHARD FULLINGTON,
JR., a/k/a JOHN R.**

FULLINGTON, JR., a/k/a

RICHARD J. FULLINGTON,

a/k/a RICHARD FULLINGTON,

and LORETTA P. FULLINGTON,

Defendants

: CIVIL DIVISION

: No. 02-448-CO

: Type of Pleading: Civil Action -

: Complaint in Confession of

: Judgment

: Filed on behalf of Fullington

: Auto Bus Company, Plaintiff

: Counsel of Record for this Party:

: David S. Ammerman, Esquire

: Supreme Court I.D. #06801

: 310 East Cherry Street

: Clearfield, Pennsylvania 16830

: Telephone: (814) 765-1701

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

APR 24 2002

Attest.

William L. H.
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

**FULLINGTON AUTO BUS
COMPANY,**

Plaintiff

v.

Civil Division

**J. RICHARD FULLINGTON,
JR., a/k/a JOHN R.
FULLINGTON, JR., a/k/a
RICHARD J. FULLINGTON,
a/k/a RICHARD FULLINGTON,
and LORETTA P. FULLINGTON,
Defendants**

No.

COMPLAINT IN CONFESSION OF JUDGMENT

Plaintiff, Fullington Auto Bus Company, by its attorney, David S. Ammerman, files this Complaint in Confession of Judgment for money:

(1). Plaintiff, Fullington Auto Bus Company is a corporation existing under the laws of the Commonwealth of Pennsylvania with its principal office located at 316 East Cherry Street, Clearfield, Pennsylvania 16830.

(2). Defendants, J. Richard Fullington, Jr., a/k/a John R. Fullington, Jr., a/k/a Richard J. Fullington, a/k/a Richard Fullington, and Loretta P. Fullington, are individuals residing within the Commonwealth of Pennsylvania whose last known address is 929 South Sixth Street, Clearfield, Pennsylvania 16830.

(3). On or about April 19, 2002, Defendants executed a Promissory Note in favor of Plaintiff in the original principal amount of \$244,180.00, which Note authorized the confession of Judgment against the Defendants. A true and correct reproduction of the original Note is attached hereto, marked Exhibit "A" and incorporated by reference as if fully set forth herein.

(4). The Note has not been released, transferred or assigned.

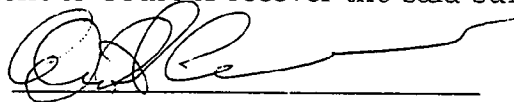
(5). Judgment has not been entered against the Defendants on the Note in any jurisdiction.

(6). The Note authorizes the entry of judgment without default or the occurrence of any condition precedent.

(7). An itemization of the amount due, including interest and attorney's fees, as authorized by the Note, is as follows:

Principal	\$244,180.00
Interest to 4/24/02.	401.39
Attorney's fees @ 15%	<u>36,627.00</u>
Total	\$281,268.59

WHEREFORE, the Plaintiff, as authorized by the Warrant of Attorney contained in the Note, demands judgment against the Defendants in the total sum of \$281,268.59, with interest on the principal sum of \$244,180.00, from April 24, 2002, at the rate of 15% per annum and brings said instrument to Court to recover the said sum.



David S. Ammerman, Esquire
Attorney for Plaintiff

EXHIBIT "A"

PROMISSORY NOTE

AMOUNT: \$244,180.00

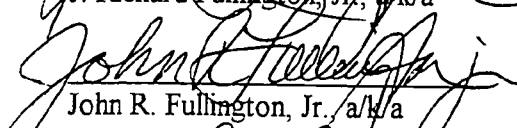
DATE: April 19, 2002

ONE DAY AFTER THIS DATE, THE UNDERSIGNED, JOINTLY AND SEVERALLY, DO PROMISE TO PAY TO THE ORDER OF **FULLINGTON AUTO BUS COMPANY**, OF 316 EAST CHERRY STREET, CLEARFIELD, PENNSYLVANIA 16830, WITHOUT OFFSET, FOR VALUE RECEIVED, THE SUM OF \$244,180.00 TOGETHER WITH INTEREST AT THE RATE OF FIFTEEN (15%) PERCENT PER ANNUM ON THE UNPAID BALANCE.

MAKERS IRREVOCABLY AUTHORIZE AND EMPOWER THE PROTHONOTARY, ANY ATTORNEY OR ANY CLERK OF ANY COURT OF RECORD, WITH OR WITHOUT DEFAULT, TO APPEAR FOR AND **CONFESS JUDGMENT** AGAINST MAKERS FOR SUCH SUMS AS ARE DUE AND/OR MAY BECOME DUE UNDER THIS NOTE, WITH COSTS OF SUIT, WITHOUT STAY OF EXECUTION AND WITH FIFTEEN PERCENT (15%) OF THE AMOUNT OF SUCH JUDGMENT, BUT NOT LESS THAN FIVE HUNDRED DOLLARS (\$500.00) ADDED FOR ATTORNEYS' COLLECTION FEES. TO THE EXTENT PERMITTED BY LAW, MAKERS RELEASE ALL ERRORS IN SUCH PROCEEDINGS. IF A COPY OF THIS NOTE, VERIFIED BY OR ON BEHALF OF THE HOLDER SHALL HAVE BEEN FILED IN SUCH ACTION, IT SHALL NOT BE NECESSARY TO FILE THE ORIGINAL NOTE AS A WARRANT OF ATTORNEY. THE AUTHORITY AND POWER TO APPEAR FOR AND **CONFESS JUDGMENT** AGAINST MAKERS SHALL NOT BE EXHAUSTED BY THE INITIAL EXERCISE THEREOF AND MAY BE EXERCISED AS OFTEN AS THE HOLDER SHALL FIND IT NECESSARY AND DESIRABLE AND THIS NOTE SHALL BE A SUFFICIENT WARRANT THEREFORE.

WITH INTENT TO BE LEGALLY BOUND, the undersigned do hereby execute the within instrument as of the day and year first above written.


Richard Fullington, Jr., a/k/a


John R. Fullington, Jr., a/k/a


Richard J. Fullington, a/k/a


Richard Fullington


Loretta P. Fullington

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

**FULLINGTON AUTO BUS
COMPANY,**

Plaintiff

v.

Civil Division

**J. RICHARD FULLINGTON,
JR., a/k/a JOHN R.
FULLINGTON, JR., a/k/a
RICHARD J. FULLINGTON,
a/k/a RICHARD FULLINGTON,
and LORETTA P. FULLINGTON,
Defendants**

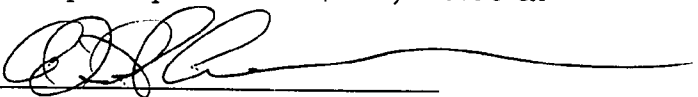
No.

CONFESSION OF JUDGMENT

Pursuant to the Warrant of Attorney contained in the aforementioned Promissory Note, the original or copy of which is attached to the Complaint filed in this action, I appear for the Defendants and confess judgment in favor of the Plaintiff and against the Defendants as follows:

Principal	\$244,180.00
Interest to 04/24/02	401.39
Attorney's fees	<u>36,687.21</u>
Total	\$281,268.59

with interest from April 24, 2002, on the principal sum of \$244,180.00 at 15% per annum.



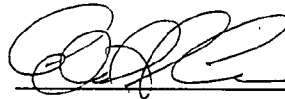
David S. Ammerman, Esquire
Supreme Court I.D. #06801
Attorney for Defendants
310 East Cherry Street
Clearfield, Pennsylvania 16830
Telephone: (814) 765-1701

Dated: April 24, 2002

AFFIDAVIT OF NON-MILITARY SERVICE

COMMONWEALTH OF PENNSYLVANIA :
:SS
COUNTY OF CLEARFIELD :

Before me, the undersigned authority in and for said County and State, personally appeared **DAVID S. AMMERMAN**, attorney for and authorized representative of Plaintiff, who, being duly sworn according to law, deposes and says that the Defendants, J. Richard Fullington, Jr., a/k/a John R. Fullington, Jr., a/k/a Richard J. Fullington, a/k/a Richard Fullington, and Loretta P. Fullington, are not in the military service of the United States of America to the best of his knowledge, information and belief.



David S. Ammerman

Sworn to and subscribed
before me this 23 day
of April, 2002.



WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

VERIFICATION

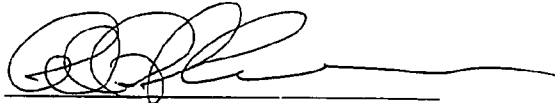
DAVID S. AMMERMAN, Attorney for Plaintiff and duly authorized representative of the Plaintiff, deposes and says, subject to the penalties of 18 Pa. C.S.A. Section 4909 relating to unsworn falsification to authorities, that the facts set forth in the foregoing Complaint in Confession of Judgment are true and correct to the best of his information and belief.

A handwritten signature in black ink, appearing to read 'D. Ammerman', written over a horizontal line.

David S. Ammerman, Esquire
Attorney for Plaintiff

CERTIFICATION OF COMMERCIAL TRANSACTION

DAVID S. AMMERMAN, duly authorized representative and attorney for Fullington Auto Bus Company, deposes and says, subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities, that the underlying transaction relative to this Complaint in Confession of Judgment is a commercial transaction to the best of his knowledge, information and belief.

A handwritten signature in black ink, appearing to read 'D. Ammerman', written over a horizontal line.

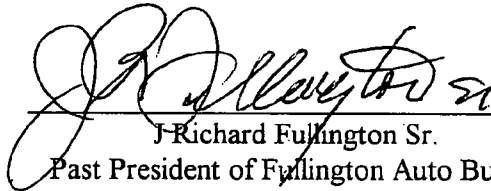
David S. Ammerman, Esquire
Attorney for Plaintiff

6/10/04

To whom it may concern:

Re: Validity of and removal of Fullington GMC Sales, Inc. and Fullington Auto Bus Co.
Judgements on J Richard Fullington jr and Loretta Fullington

It was my understanding that at the time my son Richard Fullington and his wife Loretta signed judgements totaling approximately \$1300000 for Fullington GMC Sales, Inc. and Fullington Auto Bus Co. at the recommendation of our Attorney David Ammerman, they were intended to be used only as a tool to protect their personal wealth from M&T Bank seizing their personal assets. When M&T Bank was no longer a threat to their personal assets, the judgements were to be satisfied by both companies and their assets free and clear or when JRF or LPF asked for them to be released, if before.


J Richard Fullington Sr.
Past President of Fullington Auto Bus Co &
Past V President of Fullington GMC Sales, Inc.

date 06/13/04

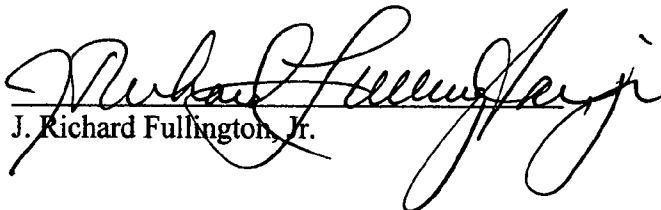
Witness


date 6/12/04

VERIFICATION

I, J. RICHARD FULLINGTON, JR, have read the foregoing Petition to Open Judgment by Confession Pursuant to PA. R.C.P. 2959 and verify that the statements therein are correct to the best of my personal knowledge, information and belief.

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


J. Richard Fullington, Jr.

Dated: 5/26/06

CA

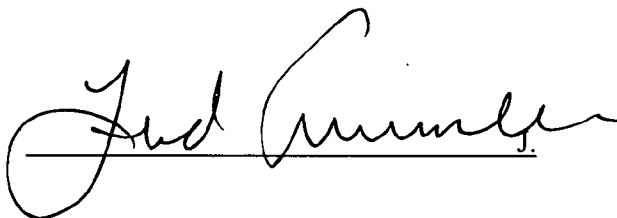
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON AUTO BUS CO., INC.,	)	CIVIL ACTION - LAW
)	
Plaintiff,)	
	)	No. 2002-00648-CD
v.)	
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	

ORDER OF COURT

AND NOW, to-wit, this 15 day of June, 2006, it is hereby
ORDERED that a Rule is entered on the Plaintiff to show cause why the judgment entered
against Defendants in these proceedings shall not be open. An Answer shall be filed within
twenty (20) days. Depositions shall be completed within sixty (60) days of this date. Arguments
shall be held on September 14, of the Courthouse. All proceedings in the above-captioned
2006 @ 9:00 AM
action are stayed in the meantime.

BY THE COURT



CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of June, 2006, a true and correct copy of the within Petition to Open Judgment by Confession Pursuant to PA. R.C.P. 2959 was served via United States Mail, First Class, Postage Prepaid to Plaintiff's Counsel as set forth below:

Paul H. Titus, Esquire
Judith F. Olson, Esquire
Schnader, Harrison, Segal & Lewis, LLP
2700 Fifth Avenue Place
120 Fifth Avenue
Pittsburgh, PA 15222

MERCHANT MOORHEAD & KAY, LLC



William J. Moorhead, Esquire
PA I.D. #52761
Attorney for Plaintiff, J. Richard Fullington, Jr.

603 Washington Rd.
Suite 500
Pittsburgh, PA 15228
(412) 942-0770

JA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON AUTO BUS CO., INC., CIVIL ACTION – LAW

Plaintiff,

No. 2002-00648-CD

v.

J. RICHARD FULLINGTON, JR.
and, LORETTA P. FULLINGTON,

Defendants.

**MOTION TO STRIKE PETITION TO
OPEN JUDGMENT BY CONFESSION
PURSUANT TO Pa.R.C.P. 2959. IN THE
ALTERNATIVE, RESPONDENT'S
ANSWER TO PETITION TO OPEN
JUDGMENT PURSUANT TO Pa.R.C.P. 2959.**

Filed on Behalf of Plaintiff,
FULLINGTON AUTO BUS CO., INC.

Counsel of Record for this Party:

Paul H. Titus, Esquire
PA I.D. # 01399

SCHNADER HARRISON SEGAL
& LEWIS LLP
Suite 2700, Fifth Avenue Place
120 Fifth Avenue
Pittsburgh, PA 15222-3001

(412) 577-5200
(412) 765-3858 (Fax)

Firm #061

FILED

JUL 07 2006
0/9:05/12
William A. Shaw
Prothonotary/Clerk of Courts

4 CENT TO ATT

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

FULLINGTON AUTO BUS CO., INC.,	)	CIVIL ACTION – LAW
)	
Plaintiff,)	
	)	No. 2002-00648-CD
v.)	
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	

**RESPONDENT’S MOTION TO STRIKE PETITION TO OPEN JUDGMENT BY
CONFESSION PURSUANT TO Pa.R.C.P. 2959. IN THE ALTERNATIVE,
RESPONDENT’S ANSWER TO PETITION TO OPEN JUDGMENT BY CONFESSION
PURSUANT TO Pa.R.C.P. 2959.**

And now comes Respondent Fullington Auto Bus Co., Inc. by and through its undersigned counsel, and files the within Motion to Strike Petition to Open Judgment by confession pursuant to Pa.R.C.P. 2959, or in the alternative, Respondent’s Answer to Petition to Open Judgment by Confession pursuant to Pa.R.C.P. 2959 as follows:

**MOTION TO STRIKE PETITION TO OPEN JUDGMENT BY CONFESSION
PURSUANT TO PA.R.C.P. 2959**

1. Under Pa.R.C.P. Rule 2959, a court should only open a confessed judgment if (1) the defendant acts promptly, (2) alleges a meritorious defense, and (3) presents sufficient clear, direct, precise, and believable evidence of the defense to require submission of the issues to a jury. *Iron Worker’s Sav. & Loan Assoc. v. IWS, Inc.*, 424 Pa. Super. 255, 261, 622 A.2d 367, 370 (1993).

2. Not only has Petitioner failed to act promptly in filing this petition; he has also failed to allege a meritorious defense or any evidence that may be submitted to a jury.

3. Any evidence of Petitioner's alleged defense is barred by the parol evidence rule.

4. Petitioner alleges that when he signed the subject promissory note, he was told that this note was only a means to protect his personal assets and that it would never be collected against him. *See* J. Richard Fullington, Jr.'s Petition to Open Judgment by Confession Pursuant to Pa.R.C.P. Rule 2959. (Hereinafter "Petition").

5. Petitioner supports this allegation by attaching a letter signed by his father attesting to this supposition. *See* Petition.

6. However, these alleged "terms" of the promissory note, are not in the note itself.

7. This case falls squarely within the rule of *Gianni v. Russell & Co., Inc.*, 281 Pa. 320, 126 A. 791, that where a writing and an alleged oral agreement pertain to the same subject matter and are so interrelated that both would be executed at the same time and in the same contract, the parol evidence rule excludes evidence of the purported oral agreement in the absence of a showing of fraud, accident or mistake.

8. It appears Petitioner is alleging fraud in the inducement, in that he would not have signed the promissory note but for the alleged assertions made by Fullington Auto Bus Co. that it would not enforce the note against him.

9. "To state a claim of fraud in the inducement, the plaintiff might allege that the defendant made representations contrary to the express terms of the integrated written contract, and that -- but for the representations -- plaintiff would never have signed the contract." 1726 *Cherry St. Partnership v. Bell Atl. Properties, Inc.*, 439 Pa. Super. 141, 154, 653 A.2d 663, 670 (1995).

10. However, “a plaintiff may not introduce parol evidence of such representations to vary the terms of the written agreement.” *1726 Cherry St Partnership*, 439 Pa. Super. 141, 653 A.2d at 670. *PNC Bank v. IS Indus.*, 2001 Phila. Ct. Com. Pl. LEXIS 53 (2001).

11. In the factually similar *PNC Bank v. Snyder*, the court did not open the confessed judgment where petitioners’ only defense was PNC Bank fraudulently induced them to sign a guaranty by asserting it [PNC Bank] would not collect on the note against petitioners until it collected and exhausted the other defendants assets. *PNC Bank*, 2001 Phila. Ct. Com. Pl. LEXIS 53, *17.

12. The court held that the petitioner’s defense sounded in fraudulent inducement, and the parol evidence rule barred the introduction of evidence of the alleged assurances where the assurances contradicted the terms of the guaranty. *Id.*

13. Thus, the court held that the petitioners did not have a meritorious defense. *Id.*

14. Applied instantly, Petitioner is similarly trying to introduce evidence of fraud in the inducement by alleging that he only signed the note on the assumption it would not be collected against him.

15. However, there is no such language in the note to warrant such a reading of the note.

16. Therefore, as a matter of law, the parol evidence rule bars Petitioner from introducing this evidence.

17. Without this evidence, Petitioner does not have a meritorious defense and the judgment cannot be open.

18. Additionally, Petitioner is barred from opening the judgment on the basis of laches.

19. The doctrine of laches may be applied to the opening of a judgment when the delay is unreasonable long and unexplained. *Windber Trust Co. v. Evans*, 192 Pa. Super. 417, 161 A.2d 664 (1960).

20. The question of laches in opening a confessed judgment does not depend upon the facts that a definite time has elapsed since the cause of action accrued, but whether under the circumstances of a particular case plaintiff failed to exercise due diligence in proceedings to assert his rights. *Standard Furnace Co., Inc. v. Lorincz*, 106 Pa. Super. 116, 161 A. 573 (1932).

21. In the present case, Petitioner has waited over four years to open the confessed judgment that was granted on April 24, 2002.

22. Moreover, Petitioner has waited over two years to open the confessed judgment after the date when he allegedly procured the evidence of the additional terms of the agreement outlined in the letter authored by Petitioner's father.

23. Clearly, Petitioner has failed to exercise due diligence in proceeding to assert his rights, and thereby is barred from opening this judgment.

24. In conclusion, Petitioner is barred two fold in opening the confessed judgments.

25. First, the parol evidence excludes his alleged evidence of additional agreements or terms of the note; therefore, eliminating any type of meritorious defense.

26. Second, Petitioner is barred on the doctrine of laches for not exercising due diligence in the opening the confessed judgment.

WHEREFORE, Respondent, Fullington Auto Bus Co., Inc. requests this Honorable Court to strike J. Richard Fullington, Jr.'s Petition to Open Judgment by Confession Pursuant to Pa.R.C.P. 2959.

**IN THE ALTERNATIVE, RESPONDENT'S ANSWER TO PETITION TO OPEN
JUDGMENT BY CONFESSION PURSUANT TO PA.R.C.P. 2959**

1. Admitted.

2. Admitted.

3. Denied. Petitioner was never President of Fullington Auto Bus Co. Petitioner did, however, with the concurrence of his father, J. Richard Fullington, Sr., exercise financial control over Fullington Auto Bus Co. beginning at least as early as the mid 1980s and continuing until his termination as a result of his second criminal conviction. FABCO and GMC Sales were both operated under the control of Petitioner at all times from the mid-1990's until 2002. They were never operated by any other family members as a "family business" during that period of time.

4. Denied as stated. FABCO and GMC Sales encountered serious financial difficulties beginning at least as early as the late 1990's. These difficulties were engendered solely by the mismanagement and diversion of funds from both corporations by Petitioner and were concealed from others. Beginning some months before Petitioner was charged for the second time with criminal conduct in connection with the operation of GMC Sales, steps were taken by other family members to try to save FABCO and GMC Sales. As part of that effort, during mid 2001 Bela Karlowitz, Esquire of Karlowitz & Cromer, P.C., Suite 1201, 429 Forbes Avenue, Pittsburgh, Pennsylvania, 15219 was retained by the corporations and the other family members to assist them with the financial problems of both corporations. Discussions were held with the lenders by Mr. Karlowitz. As a result of these meetings and discussions, Petitioner and his wife were asked to sign promissory notes in amounts then known to be owed by Petitioner to GMC Sales and FABCO on account of diversions and misapplications of funds.

5. Denied as stated. The notes which were executed reflected amounts admitted to be due by the Petitioner on account of his diversion of funds from the business. These steps were taken with the full knowledge of lenders and were part of a plan to begin to try to rescue the businesses by, *inter alia*, cooperating with the lenders whose loans were in default. There were discussions with Petitioner to the effect that filing the judgments would likely deter other creditors from attempting to execute upon the personal assets of the Petitioner and his then wife; but, in those discussions Petitioner never denied that he owed those amounts and was obligated to pay those notes.

6. Denied as stated. The efforts to reorganize and protect the businesses were conducted by other family members and were done to protect the businesses and not as part of some plan to protect Petitioner.

7. Denied. The Notes and judgment speak for themselves and represent unconditional obligations to repay the amounts set forth in the Notes.

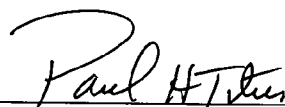
8. Denied. As is set forth in the pleadings in the case filed at No. 2005-565, the action brought by Petitioner was without merit.

9. Denied. Any discussions which Michael Fullington and Aerial Fullington Weisman had with respect to the enforcement of the judgment were in terms of attempting to recoup costs occasioned by the litigation commenced by Petitioner.

10. Denied.

11. Denied. There is no affidavit attached from J. Richard Fullington, Jr. There is, however, a written statement which purports to reflect discussions held in June 2004. The accuracy of the statement is disputed and the circumstances surrounding its preparation and execution are unknown to Respondent and its officers.

Respectfully submitted,

A handwritten signature in cursive script, reading "Paul H. Titus". The signature is written in dark ink and is positioned above a horizontal line.

Paul H. Titus (PA I.D. No. 01399)
Schnader Harrison Segal & Lewis LLP
Suite 2700, Fifth Avenue Place
120 Fifth Avenue
Pittsburgh, PA 15222-3001
(412) 577-5200

Dated: July 6, 2006

Attorneys for Respondent

VERIFICATION

I, Aerial Fullington Weisman, do hereby verify that I am President of Fullington Auto Bus Company and Fullington GMC Sales, Inc. I further verify that the facts contained in the foregoing Motion to Strike Petition to Open Judgment by Confession Pursuant to Pa.R.C.P. 2959, In the Alternative, Respondent's Answer to Petition to Open Judgment Pursuant to Pa.R.C.P. 2959 are true and correct to the best of my knowledge, information and belief.

This statement is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

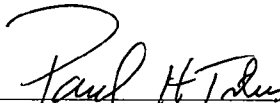
Date: July 6, 2006

Aerial Fullington Weisman
Aerial Fullington Weisman

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 6th day of July, 2006, a true and correct copy of the foregoing **Motion to Strike Petition to Open Judgment by Confession Pursuant to Pa.R.C.P. 2959** and in the alternative, **Answer to Petition to Open Judgment by Confession Pursuant to Pa.R.C.P. 2959** was served on counsel for Defendant by first class mail, postage prepaid, as follows:

William J. Moorhead, Esquire
Merchant Moorhead & Kay, LLC
603 Washington Road, Suite 500
Pittsburgh, PA 15228



Paul H. Titus

CM

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

FULLINGTON AUTO BUS CO, INC.,

Plaintiff,

v.

J. RICHARD FULLINGTON, JR.
and LORETTA P. FULLINGTON,

Defendants.

CIVIL ACTION - LAW

No. 2002-00648-CD

**DEFENDANT, J. RICHARD
FULLINGTON, JR.'S CONSENT
MOTION FOR CONTINUANCE**

Filed on Behalf of Defendant,
J. RICHARD FULLINGTON, JR.

Counsel of Record for this Party:

WILLIAM J. MOORHEAD, Esquire
PA I.D. #52761

MERCHANT, MOORHEAD & KAY, LLC

603 Washington Rd.
Suite 500
Pittsburgh, PA 15228

412-942-0770 (Phone)
412-942-0774 (Fax)

Firm #510

FILED No
m10:11/64 cc
SEP 14 2006 @

William A. Shaw
Prothonotary/Clerk of Courts

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

FULLINGTON AUTO BUS CO., INC.,	)	CIVIL ACTION – LAW
)	
Plaintiff,)	
	)	No. 2002-00648-CD
v.)	
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	

CONSENT MOTION FOR CONTINUANCE

AND NOW, comes Defendant, J. RICHARD FULLINGTON, JR., by and through his undersigned counsel, MERCHANT, MOORHEAD & KAY and WILLIAM J. MOORHEAD, Esquire, and files the within Consent Motion for Continuance as follows:


1. Movant is Richard Fullington, Defendant in the above-referenced matter (hereinafter "Fullington").
2. Respondent is Fullington Auto Bus Co., Inc., Plaintiff in the above-referenced matter (hereinafter "FABCO").
3. There is a hearing scheduled for 9:00 a.m. on Thursday, September 14, 2006, in connection with Fullington's Petition to Open Judgment by Confession. However, for reasons unknown to counsel for Fullington, he did not receive notice of said hearing.
4. On Monday, September 11, 2006, counsel for Fullington became aware of the hearing dates during a conversation with counsel for FABCO. Counsel for Fullington advised he was not aware of these dates and had a conflict in his schedule. Counsel for Fullington requested that counsel for FABCO consent to a continuance of these hearings to be rescheduled at the earliest convenience of the Court.

5. Counsel for GMC Sales consents to a continuance of the hearing's scheduled for September 14, 2006.

WHEREFORE, J. Richard Fullington, Jr., respectfully requests this Honorable Court to continue the hearings scheduled for September 14, 2006, to be rescheduled at the earliest convenience of this Honorable Court.

Respectfully submitted,

MERCHANT, MOORHEAD & KAY, LLC.

A handwritten signature in cursive script, appearing to read "William J. Moorhead", is written over a horizontal line.

William J. Moorhead, Esquire
PA I.D. #52761

603 Washington Rd.
Suite 500
Pittsburgh, PA 15228

(412) 942-0770

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of Sept, 2006, a true and correct copy of the within Consent Motion for Continuance was served via United States Mail, First Class, Postage Prepaid and Facsimile Transmission to Plaintiff's Counsel as set forth below:

Fax No.: (412) 765-3858

Paul H. Titus, Esquire
Judith F. Olson, Esquire
Schnader, Harrison, Segal & Lewis, LLP
2700 Fifth Avenue Place
120 Fifth Avenue
Pittsburgh, PA 15222

MERCHANT MOORHEAD & KAY, LLC



William J. Moorhead, Esquire
PA I.D. #52761
Attorney for Plaintiff, J. Richard Fullington, Jr.

603 Washington Rd.
Suite 500
Pittsburgh, PA 15228
(412) 942-0770

JA

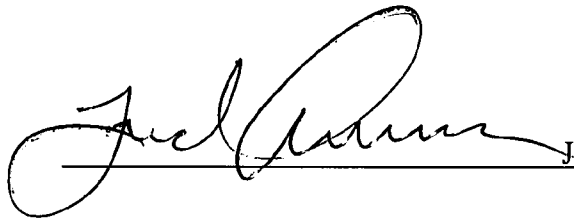
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON AUTO BUS CO., INC.,	)	CIVIL ACTION - LAW
)	
Plaintiff,)	
	)	No. 2002-00648-CD
v.)	
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	

ORDER OF COURT

AND NOW, this 14 day of September, 2006, it is hereby
ORDERED, ADJUDGED and DECREED that the hearing scheduled for Thursday, September
14, 2006 at 9:00 a.m. is hereby continued and rescheduled for October 27, 2006 ^②
10:00 A.M.

BY THE COURT:



FILED ^{ace}
SEP 15 2006
SEP 15 2006
William A. Shaw
Prothonotary/Clerk of Courts
^{Atty}
^{moorehead}
^{CR}

FILED

SEP 15 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/15/06

☒ You are responsible for serving all appropriate parties.

___ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

___ Special Instructions:

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

FULLINGTON AUTO BUS, CO., INC.,

Plaintiff,

v.

J. RICHARD FULLINGTON, JR.
and LORETTA P. FULLINGTON,

Defendants.

CIVIL ACTION - LAW

No. 02-648-CD

**DEFENDANT, J. RICHARD
FULLINGTON'S CERTIFICATE
OF SERVICE OF ORDER OF COURT**

Filed on Behalf of Defendant,
J. RICHARD FULLINGTON, JR.

Counsel of Record for this Party:

WILLIAM J. MOORHEAD, Esquire
PA I.D. #52761

MERCHANT, MOORHEAD & KAY, LLC

603 Washington Rd.
Suite 500
Pittsburgh, PA 15228

412-942-0770 (Phone)
412-942-0774 (Fax)

Firm #510

FILED *NO cc*
m10:40/61
SEP 21 2006 *(S)*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FULLINGTON AUTO BUS CO., INC.,	)	CIVIL ACTION - LAW
)	
Plaintiff,)	
	)	No. 02-648-CD
v.)	
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	

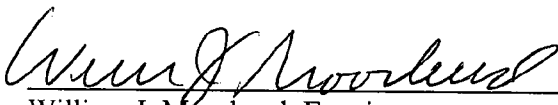
CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of September, 2006, a true and correct copy of the within Order of Court dated September 14, 2006, was served via United States Mail, First Class, Postage Prepaid as set forth below:

Counsel for Fullington Auto Bus Co., Inc.

Paul H. Titus, Esquire
Schnader, Harrison, Segal & Lewis, LLP
2700 Fifth Avenue Place
120 Fifth Avenue
Pittsburgh, PA 15222

MERCHANT, MOORHEAD & KAY, LLC.


William J. Moorhead, Esquire
PA I.D. #52761

603 Washington Rd.
Suite 500
Pittsburgh, PA 15228
(412) 942-0770

CA

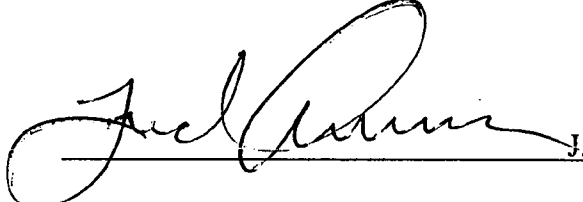
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON AUTO BUS CO., INC.,	)	CIVIL ACTION – LAW
)	
Plaintiff,)	
	)	No. 2002-00648-CD
v.)	
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	

ORDER OF COURT


AND NOW, this 14 day of September, 2006, it is hereby
ORDERED, ADJUDGED and DECREED that the hearing scheduled for Thursday, September
14, 2006 at 9:00 a.m. is hereby continued and rescheduled for October 27, 2006 ^②
10:00 A.M.

BY THE COURT:


J.

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

SEP 15 2006

Attest.  
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

CERTIFICATE OF SATISFACTION OF JUDGMENT

Fullington Auto Bus Company

No.: 2002-00648-CD

Vs.

Debt: \$281,268.59

J. Richard Fullington Jr.
Loretta P. Fullington

Atty's Comm.:

Interest From:

Cost: \$7.00

NOW, Wednesday, December 03, 2003, directions for satisfaction having been received,
and all costs having been paid, SATISFACTION was entered of record.

Certified from the record this 3rd day of December, A.D. 2003.



Prothonotary

File
copy

Date: 03/17/2004

Clearfield County Court of Common Pleas

User: BILLSHAW

Time: 03:37 PM

CIVIL CASE DISPOSITIONS REPORT

Page 1 of 1

Case: 2002-00648-CD

Fullington Auto Bus Company vs. J. Richard Fullington Jr., etal.

Sorted by Order Date

Disposition Entry Date	Party One	Party Two	Disposition Judgment
04/24/2002	Fullington Auto Bus Company Plaintiff	Fullington, J. Richard Jr. Defendant	Open In Favor Of: Plaintiff Complaint/Confession Amount: 281268.59
04/24/2002	Fullington Auto Bus Company Plaintiff	Fullington, Loretta P. Defendant	Open In Favor Of: Plaintiff Complaint/Confession Amount: 281268.59
12/03/2003	Fullington Auto Bus Company Plaintiff	Fullington, Loretta P. Defendant	Satisfied In Favor Of: Plaintiff Complaint/Confession Amount: 28126859.0
12/03/2003	Fullington Auto Bus Company Plaintiff	Fullington, J. Richard Jr. Defendant	Satisfied In Favor Of: Plaintiff Complaint/Confession Amount: 281268.59

Corrected 3/17/04 WAS/BH

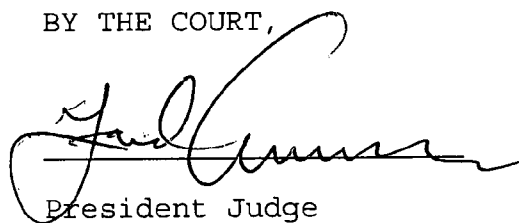
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FULLINGTON AUTO BUS CO., INC., :
and FULLINGTON GMC SALES, INC. :
VS. : NO. 02-648-CD and 02-650-CD
J. RICHARD FULLINGTON, JR. and :
LORETTA P. FULLINGTON :

O R D E R

AND NOW, this 27th day of October, 2006, this being the date set for oral argument on legal issues related to the Defendant's Petition to Open Judgment by Confession and Plaintiff's Motion to Strike Petition to Open Judgment by Confession; Plaintiffs' counsel having certified to the Court that he intends to take the deposition of David S. Ammerman, Esquire, for purposes of the Defendant's petition, with the said individual being the father of the President Judge of Clearfield County, it is the ORDER of this Court that the matter be reassigned to Clearfield County Judge Paul E. Cherry and that oral argument be rescheduled for Wednesday, December 13, 2006, at 9:30 a.m.

BY THE COURT,


President Judge

FILED
01312301
NOV 02 2006

ICC Atty: D. Ammerman
12 Moorhead

ICC Def: Lore Ha Fullington
929 S. Sixth St.
Clearfield, PA 16830

William A. Shaw
Prothonotary/Clerk of Courts

(60)

NOV 02 2006

William A. Shaw

DATE: 11/2/01

- You are responsible for serving all appropriate parties.

Δ. The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) X Plaintiff(s) Attorney ____ Other ____

 Defendant(s) Defendant(s) Attorney

L. Fullington
Special Instructions:

_____ **Special Instructions:**

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON GMC SALES, INC.,

Civil Action- Law

Plaintiff,

No. 02-650-CD

No. 02-648-CD

v.

J. RICHARD FULLINGTON, JR.
and LORETTA P. FULLINGTON,

**PLAINTIFFS' MOTION IN OPPOSITION
TO DEFENDANT'S MOTION FOR
RECUSAL**

Defendants.

and

FULLINGTON AUTO BUS CO., INC.,

Filed on Behalf of Plaintiffs,
Fullington Auto Bus Co. & Fullington GMC
Sales, Inc.

Plaintiff,

Counsel of Record for This Party:

Paul H. Titus, Esquire
Pa. I.D. No. 01399

v.

J. RICHARD FULLINGTON, JR.
and LORETTA P. FULLINGTON,

Sarah B. Heineman, Esquire
Pa. I.D. No. 91040

Defendants.

Schnader Harrison Segal & Lewis LLP
Firm I.D. No. 061
Suite 2700, Fifth Avenue Place
120 Fifth Avenue Place
Pittsburgh, PA 15222

Phone: (412) 577-5200

Fax: (412) 765-3858

FILED NO CC
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William A. Shaw
Prothonotary/Clerk of Courts

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

FULLINGTON GMC SALES, INC.,	)	CIVIL ACTION – LAW
)	
Plaintiff,)	
)	
v.	)	No. 02-650-CD
	)	No. 02-648-CD
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	
)	
and)	
)	
FULLINGTON AUTO BUS CO., INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	

**PLAINTIFFS' MOTION IN OPPOSITION TO DEFENDANT'S MOTION FOR
RECUSAL**

And now comes Plaintiffs Fullington GMC Sales, Inc. and Fullington Auto Bus Inc. ("Plaintiffs") by and through their undersigned counsel, and files the within Motion in Opposition to Defendant's Motion for Recusal as follows:

1. Defendant J. Richard Fullington, Jr. ("Defendant") has filed a motion for recusal of this Honorable Court. *See* Motion for Recusal.

2. Defendant's reason for seeking the recusal is based solely on Judge Cherry's prior involvement while District Attorney of Clearfield County in the criminal prosecution of Junior in *Commonwealth of Pennsylvania v. J. Richard Fullington, Jr.*, Docket Number CP-17-Cr-599-2002. See Motion for Recusal ¶5.

3. In filing a motion for recusal, it is incumbent upon the proponent of a disqualification motion to allege facts tending to show bias, interest or other disqualifying factors. *Reilly v. Southeastern Pa. Transp. Auth.*, 507 Pa. 204, 489 A.2d 1291, 1300 (Pa. 1985).

4. Defendant's only "fact" to support his motion is Judge Cherry's prior involvement in Defendant's criminal prosecution. This fact alone does not show bias, interest or other disqualifying factors to warrant Judge Cherry's recusal.

5. The Pennsylvania Supreme Court held in the factually similar *Commonwealth v. Darush*, 501 Pa. 15, 459 A.2d 727 (1983), that recusal was not required of a trial judge even though the trial judge, formerly serving as the District Attorney of the county, had personally prosecuted the appellant on charges unrelated to the matter presently before him, had taken a statement of a primary witness in the case before him concerning the appellant's charges while he was District Attorney, and had been the District Attorney when the offenses in question were committed by the appellant.¹

6. Furthermore, the Pennsylvania Supreme Court in *Darush* stated that:

[W]e have never held and are unwilling to adopt a per se rule that a judge who had participated in the prosecution of a defendant may never preside as judge in future unrelated cases involving that defendant. Absent some showing of

¹ It should be noted that even though the matter was remanded for a new trial and new judge in *Darush*, it was solely on the grounds that the appellant averred that while running for election for judge, the judge allegedly made statements about the appellant which could conceivably evidence personal bias against the appellant and for which the judge had no recollection of such statements.

prejudgment or bias we will not assume a trial court would not be able to provide a defendant a fair trial based solely on prior prosecutorial participation.

Darush, 501 Pa. at 22, 459 A.2d at 731.

7. Defendant has failed to present any facts that show Judge Cherry would have any type of bias based on his involvement in Defendant's prior criminal prosecution.

8. Moreover, as a matter of important public policy, a trial judge has as much an obligation not to recuse himself when there is no reason for doing so. *Treglown v. M.A. Kravitz Co.*, 11 Phila. 53, 54 (Pa.C.P. 1984) citing *In re Union Leader Corporation*, 292 F.2d 381 (1st Cir. 1961), *cert. denied*, 368 U.S. 927, 82 S.Ct. 301, 7 L.Ed. 2d 190 (1961).

9. In the present case, it appears Defendant is using this motion to delay or to harass the Plaintiffs, especially in light of the fact that Judge Cherry is the residing judge in Defendant's property settlement for his divorce in *Loretta P. Fullington v. J. Richard Fullington, Jr.*, Docket No. 03-89-CD.

10. Plaintiffs cannot reconcile how Judge Cherry would be biased in the case *subjudice*, but not in Defendant's other case.

11. Furthermore, Defendant has utilized similar delay and/or harassing tactics in another case that he brought against Plaintiffs which is pending in the court at Docket No. 05-565-CD.

12. In that case, Defendant refused to agree to allow property to be sold for the benefit of the corporations and their creditors, requiring the corporations to proceed to a hearing to obtain judicial relief.

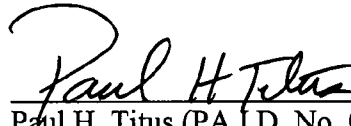
13. On the eve of the scheduled hearing Defendant presented a Motion for Continuance on the basis that the appraisal witness could not prepare a report for 45 days. *See* Motion for Continuance, ¶¶ 5-7 attached as Exhibit "A."

14. At trial, the appraisal witness testified that he had made no such statement to defendant. *See* Transcript pgs. 68, 70-72 attached as Exhibit "B."

15. Defendant having failed to adduce any facts to support his Motion for Recusal, and given the strong likelihood that such motion has been presented for delay or harassing reasons only, such motion should be denied.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to deny Defendant, J. Richard Fullington's Motion for Recusal.

Respectfully submitted,

A handwritten signature in cursive script, reading "Paul H. Titus", written over a horizontal line.

Paul H. Titus (PA I.D. No. 01399)
Schnader Harrison Segal & Lewis LLP
Suite 2700, Fifth Avenue Place
120 Fifth Avenue
Pittsburgh, PA 15222-3001
(412) 577-5200

Dated: November 17, 2006

Attorneys for Plaintiffs

J. RICHARD FULLINGTON, JR.,

Plaintiff,

v.

FULLINGTON AUTO BUS COMPANY;
FULLINGTON GMC SALES, INC.;
FULLINGTON REAL ESTATE
COMPANY; J. RICHARD
FULLINGTON, SR.;
MICHAEL L. FULLINGTON; and
AERIAL FULLINGTON WEISMAN,

Defendants.

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

) Civil Action – Law
)

) Number 05 – 565 C.D.
)
)
)
)
)
)

) Type of Pleading:
) Motion for Continuance
)
)

) Filed on Behalf of:
) Plaintiff
)
)
)

) Counsel of Record for this Party:
) Keith M. Pemrick
) Supreme Court I.D. No. 30322
)

) DALE WOODARD LAW FIRM
) 1030 Liberty Street
) Franklin, Pennsylvania 16323
) Telephone: (814) 432-2181
) Facsimile: (814) 437-3212

J. RICHARD FULLINGTON, JR.,	)	IN THE COURT OF COMMON PLEAS OF
	)	CLEARFIELD COUNTY, PENNSYLVANIA
Plaintiff,)	
)	
v.	)	Civil Action – Law
)	
FULLINGTON AUTO BUS COMPANY;)	
FULLINGTON GMC SALES, INC.;)	
FULLINGTON REAL ESTATE)	
COMPANY; J. RICHARD	)	Number 05 – 565 C.D.
FULLINGTON, SR.;)	
MICHAEL L. FULLINGTON; and)	
AERIAL FULLINGTON WEISMAN,)	
)	
Defendants.)	

MOTION FOR CONTINUANCE

NOW comes the plaintiff, through his undersigned counsel, and moves your Honorable Court to continue the hearing scheduled for August 23, 2005, and in support thereof states as follows:

1. On July 26, 2005, counsel for the plaintiff was served with defendants' Emergency Motion to Strike Portions of Prayer for Relief from Count Six of Complaint and to Bar Conveyance of Property.
2. Neither plaintiff nor his counsel was aware, prior to receipt of defendants' Emergency Motion on July 26, 2005, that the defendants had entered into a Purchase and Sale Agreement for a parcel or parcels of property which are the subject of plaintiff's Complaint.
3. Thereafter, the Court scheduled argument on the Emergency Motion for August 3, 2005.

4. After entertaining argument and meeting with counsel on August 3, 2005, the Court scheduled an evidentiary hearing on defendants' Emergency Motion for August 23, 2005.

5. After learning that an evidentiary hearing on the Emergency Motion would be held, the plaintiff contacted several real estate appraisers in an attempt to have the property which is the subject of defendants' Emergency Motion appraised prior to the August 23 hearing.

6. The plaintiff was not able to find an appraiser who could appraise the property on such short notice, but has secured a commitment from Richard J. Provost to appraise the real estate within 45-60 days.

7. Attached hereto and now by reference incorporated herein as Exhibit 1 is an August 15, 2005, letter from Mr. Provost regarding appraisal of the subject property.

8. The plaintiff believes that evidence of the value of the subject real estate is relevant and important to the issue to be decided by the Court on August 23, and that his ability to present his case in opposition to the Emergency Motion will be prejudiced if he is unable to present expert testimony at that time.

9. The defendants have alleged in their Emergency Motion that they entered into a Purchase and Sale Agreement regarding the subject property on December 27, 2004, and that they entered into an Amendment to Purchase and Sale Agreement on or about February 24, 2005.

10. Exhibit 3 to the Emergency Motion is a copy of a Commitment for Title Insurance which has an effective date of June 29, 2005, which placed the defendants on notice that the property which is the subject of the defendants' Emergency Motion must be released from this litigation before a title commitment would be issued.

11. The plaintiff filed his Complaint on or about April 20, 2005, and it was served on Fullington Auto Bus Company, Fullington GMC Sales, Inc., Fullington Real Estate Company and Aerial Fullington Weisman on April 21, 2005.

12. The defendants' Emergency Motion was filed approximately 96 days after the plaintiff's Complaint was served on Fullington Auto Bus Company, Fullington GMC Sales, Inc., Fullington Real Estate Company and Aerial Fullington Weisman, and twenty-six (26) days after the effective date of the Commitment for Title Insurance which put the defendants on notice regarding the cloud on the title of the property which is the subject of their Emergency Motion.

WHEREFORE, the plaintiff moves your Honorable Court to continue the hearing from August 23, 2005, to a date which will permit his real estate appraiser to complete an appraisal of the subject property.

DALE WOODARD LAW FIRM

By Kurt M. Gennish
Attorneys for Plaintiff

Provost Real Estate Appraisers

**Residential - Commercial - Industrial
State Certified General and Residential Appraisers
302 East Pine Street - Clearfield, Pa. 16830
(814) 765 5252 - Fax (814) 765 2425**

**Richard J. Provost, IFAS
General
Senior Certified Appraiser**

**Nancy M. Jacobson
General
Certified Appraiser**

**Sonya L. Flanagan
Residential
Certified Appraiser**

August 15, 2005

Richard Fullington
504 Sabula Outing Club Rd.
DuBois, PA 15801

Dear Mr. Fullington:

Please be advised, I can complete a real estate appraisal of approximately 32 acres of land in Lawrence Township, Clearfield County Pa in 45 to 60 days.

Thank you for the opportunity to be of service.


Richard J. Provost, IFAS

J. RICHARD FULLINGTON, JR.,

Plaintiff,

v.

FULLINGTON AUTO BUS COMPANY;
FULLINGTON GMC SALES, INC.;
FULLINGTON REAL ESTATE
COMPANY; J. RICHARD
FULLINGTON, SR.;
MICHAEL L. FULLINGTON; and
AERIAL FULLINGTON WEISMAN,

Defendants.

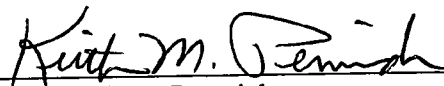
) IN THE COURT OF COMMON PLEAS OF
) CLEARFIELD COUNTY, PENNSYLVANIA

)
)
) Civil Action – Law

)
)
) Number 05 – 565 C.D.
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CERTIFICATION

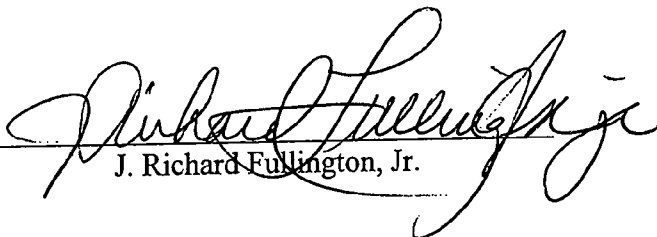
The undersigned, counsel for the plaintiff, certifies that concurrence in the within Motion for Continuance has been sought from counsel for the defendants. Counsel for J. Richard Fullington, Sr., has no objection to the requested continuance. Concurrence has been denied by counsel for the remaining defendants.



Keith M. Pemrick

VERIFICATION

The undersigned, J. Richard Fullington, Jr., plaintiff in the foregoing action, states that the facts averred in the foregoing Motion for Continuance are true and correct to the best of his knowledge, information and belief. The undersigned further states that he understands that false statements therein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


J. Richard Fullington, Jr.

Date: August 18, 2005

J. RICHARD FULLINGTON, JR.,

Plaintiff,

v.

FULLINGTON AUTO BUS COMPANY;
FULLINGTON GMC SALES, INC.;
FULLINGTON REAL ESTATE
COMPANY; J. RICHARD
FULLINGTON, SR.;
MICHAEL L. FULLINGTON; and
AERIAL FULLINGTON WEISMAN,

Defendants.

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

)
)
) Civil Action -- Law

)
)
) Number 05 - 565 C.D.
)
)
)
)
)
)

ORDER

AND NOW, this _____ day of _____, _____, upon consideration of the foregoing motion, it is hereby ordered that:

(1) a rule is issued upon the respondent to show cause why the moving party is not entitled to the relief requested;

(2) the respondent shall file an answer to the motion within _____ days of this date;

(3) the motion shall be decided under Pa. R.C.P. 206.7;

(4) depositions and all other discovery shall be completed within _____ days of this date;

(5) an evidentiary hearing on disputed issues of material fact shall be held on _____, in the Clearfield County Courthouse, Clearfield, Pennsylvania, in Courtroom No. _____;

(6) argument shall be held on _____, in Courtroom No. _____ of the Clearfield County Courthouse; and

(7) notice of the entry of this order shall be provided to all parties by the moving party.

BY THE COURT

J.

J. RICHARD FULLINGTON, JR.,	)	IN THE COURT OF COMMON PLEAS OF
	)	CLEARFIELD COUNTY, PENNSYLVANIA
Plaintiff,)	
)	
v.	)	Civil Action – Law
)	
FULLINGTON AUTO BUS COMPANY;)	
FULLINGTON GMC SALES, INC.;)	
FULLINGTON REAL ESTATE)	
COMPANY; J. RICHARD	)	Number 05 – 565 C.D.
FULLINGTON, SR.;)	
MICHAEL L. FULLINGTON; and)	
AERIAL FULLINGTON WEISMAN,)	
)	
Defendants.)	

ORDER

AND NOW, this _____ day of August, 2005, upon consideration of the within Motion for Continuance, it is ORDERED THAT the hearing scheduled for August 23, 2005, at 9:00 a.m., is continued to _____, 2005, at _____ m., Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT

J.

CERTIFICATE OF SERVICE

I, Keith M. Pemrick, Esquire, hereby certify that true and correct copies of the foregoing Motion for Continuance have been served via facsimile and U.S. first-class mail, postage prepaid, this 18th day of August, 2005, to counsel of record, as follows:

Paul H. Titus, Esquire
Judith Olsen, Esquire
Schnader Harrison Segal & Lewis, LLP
Fifth Avenue Place, Suite 2700
Pittsburgh, PA 15222-3001
Facsimile: (412) 765-3858

Timothy E. Durant, Esquire
201 North Second Street
Clearfield, PA 16830
Facsimile: (814) 765-9596

DALE WOODARD LAW FIRM

By Keith M. Pemrick
Attorneys for Plaintiff

COPY

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

J. RICHARD FULLINGTON, JR. :
 :
 V. : NO. 05-565-CD
 :
 FULLINGTON AUTO BUS :
 COMPANY, et al :

TRANSCRIPT OF PROCEEDINGS
DEFENDANT'S EMERGENCY MOTION TO STRIKE PORTIONS OF
PRAYER FOR RELIEF AND TO BAR CONVEYANCE OF PROPERTY

HELD BEFORE THE HONORABLE
FREDRIC J. AMMERMAN, PRESIDENT JUDGE
on Tuesday, August 23, 2005

A P P E A R A N C E S:

FOR THE PLAINTIFF:

KEITH M. PEMRICK, ESQUIRE

FOR THE DEFENDANTS:

PAUL H. TITUS, ESQUIRE
JUDITH F. OLSON, ESQUIRE

Reported by: Cathy Warrick Provost, RMR
Official Court Reporter

1 THE COURT: Is there any further cross given the
2 questions that I have asked this witness?

3 ATTORNEY PEMRICK: No, Your Honor.

4 ATTORNEY TITUS: No, Your Honor.

5 THE COURT: Thank you, sir. Watch your step,
6 please. Okay. What's next?

7 ATTORNEY OLSON: Mr. Provost, please.

8 RICHARD J. PROVOST,
9 having first been duly sworn, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 BY ATTORNEY OLSON:

13 Q. Good morning, sir.

14 A. Good morning.

15 Q. Could you please state your full name for the
16 record.

17 A. Richard J. Provost.

18 Q. Where do you live, Mr. Provost?

19 A. 302 East Pine street, Clearfield, Pennsylvania.

20 Q. Are you currently employed?

21 A. Yes, ma'am.

22 Q. By whom are you employed?

23 A. I'm self-employed.

24 Q. In what type of company?

25 A. I'm a real estate appraiser.

1 ATTORNEY OLSON: Your Honor, we would like to offer
2 Mr. Provost as an expert witness in the area of appraisals.

3 THE COURT: Counsel, are there any questions on the
4 gentleman's qualifications?

5 ATTORNEY PEMRICK: None on his qualifications, Your
6 Honor.

7 THE COURT: Is there any objection to the
8 Defendants' request to recognize the gentleman as an expert in
9 the field of real estate appraisal? And, are you talking about
10 in Clearfield County?

11 ATTORNEY OLSON: Yes.

12 ATTORNEY PEMRICK: No, Your Honor.

13 THE COURT: We will recognize him as such. Please
14 proceed.

15 ATTORNEY OLSON: Thank you, sir.

16 DIRECT EXAMINATION

17 BY ATTORNEY OLSON:

18 Q. Mr. Provost, were you recently contacted by
19 Mr. Fullington, Jr., about doing an appraisal?

20 A. Mr. Fullington, Jr., called me and asked me to
21 submit a letter to him stipulating that I could do an appraisal
22 on roughly 30 acres, the 38 acres, in Lawrence Township in a
23 time period of 45 to 60 days.

24 Q. When was that call?

25 A. Pardon me, ma'am?

1 Q. When did you receive that call, approximately?

2 A. I would say it was last week, first part of the
3 week. I don't know the exact date.

4 Q. And he asked you for a letter indicating what?

5 A. Whether I could complete a real estate appraisal on
6 roughly 30 acres of ground in Lawrence Township within the time
7 period of 45 to 60 days.

8 Q. Did he say why he wanted you to submit such a
9 letter?

10 A. He said he had this hearing coming up today and he
11 wanted to submit it to the Court.

12 Q. Did he ask you if you could complete an appraisal
13 on that property in a time frame sooner than 45 to 60 days?

14 A. Not that I recall, ma'am.

15 Q. Did you, at that time, get retained by
16 Mr. Fullington, Jr., to do an appraisal on the property?

17 A. No, ma'am.

18 Q. So other than asking for the letter, there were no
19 further communications from Mr. Fullington, Jr?

20 A. That's correct.

21 Q. Were you subsequently contacted by Aerial
22 Fullington Weisman?

23 A. Yes, ma'am, the next day.

24 Q. The next day?

25 A. Yes, ma'am.

1 Q. And what did she ask you?

2 A. She asked me to do an appraisal on 30 acres of
3 ground in Lawrence Township that was owned by the Fullington
4 Real Estate Company.

5 Q. And were you, in fact, retained to complete that
6 appraisal?

7 A. Yes, ma'am.

8 Q. And that was approximately a week and a half ago?

9 A. Yes, ma'am.

10 Q. And the appraisal was completed?

11 A. Yes, ma'am.

12 Q. Mr. Provost, I've handed to you what we have marked
13 as Defendants' Exhibit G, I believe. Sir, can you identify
14 that document for us?

15 A. Yes, ma'am. This is the appraisal report I
16 completed for Aerial Fullington.

17 Q. Sir, you indicated that you appraised approximately
18 30-plus acres in Lawrence Township; correct?

19 A. Yes, ma'am.

20 Q. And we have identified that as the Pentz property.
21 Are you familiar with that terminology?

22 A. Yes, ma'am.

23 Q. So if we talk about the Pentz property, that's the
24 property you appraised?

25 A. Yes, ma'am.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 17th day of November, 2006, a true and correct copy of the foregoing **Motion in Opposition to Defendant's Motion for Recusal** was served on counsel for Defendant by first class mail, postage prepaid, as follows:

William J. Moorhead, Esquire
Merchant Moorhead & Kay, LLC
603 Washington Road, Suite 500
Pittsburgh, PA 15228



Paul H. Titus

11A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON AUTO BUS CO.,

Plaintiff,

v.

J. RICHARD FULLINGTON, JR.
and LORETTA P. FULLINGTON,

Defendants.

CIVIL ACTION - LAW

No. 02-648-CD

**DEFENDANT, J. RICHARD
FULLINGTON, JR.'S MOTION
FOR RECUSAL**

Filed on Behalf of Defendant,
J. RICHARD FULLINGTON, JR.

Counsel of Record for this Party:

WILLIAM J. MOORHEAD, Esquire
PA I.D. #52761

MERCHANT, MOORHEAD & KAY, LLC
603 Washington Rd.
Suite 500
Pittsburgh, PA 15228

412-942-0770 (Phone)
412-942-0774 (Fax)

Firm #510

FILED ^{NO}cc
NOV 22 2006 (64)

William A. Shaw
Prothonotary/Clerk of Courts

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

FULLINGTON AUTO BUS CO.,	)	CIVIL ACTION - LAW
)	
Plaintiff,)	
	)	No. 02-648-CD
)	
v.)	
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	

MOTION FOR RECUSAL

AND NOW, comes Defendant J. Richard Fullington, Jr., by and through his undersigned counsel, Merchant, Moorhead & Kay, LLC and William J. Moorhead, Esquire, and files the within Motion for Recusal as follows:

1. Movant is J. Richard Fullington, Jr. (hereinafter Richard Fullington) Defendant in the above-captioned matter.
2. This matter involves Richard Fullington seeking to open two Confessed Judgments entered against him and his then wife, Loretta Fullington at Case Number 02-648-CD and 02-650-CD. (See Petition to Open attached hereto as Exhibit 1).
3. The Judgments were confessed on behalf of Fullington GMC Sales ("GMC Sales") and Fullington Auto Bus Company ("FABCO") by attorney David Ammerman, the

father of Judge Frederic J. Ammerman, who was hearing the confessed judgment cases. On about October 27, 2006, upon being advised that his father is a potential witness in the Confessed Judgment cases, Judge Ammerman recused himself and transferred the case to this Honorable Court.

4. Movant respectfully requests that Judge Cherry also recuse himself, and seeks the appointment of an out of county Judge to hear Richard Fullington's Petitions to open the confessed judgments at Case Numbers 02-648-CD and 02-650-CD.

5. While the District Attorney for Clearfield County, Judge Cherry prosecuted Richard Fullington in *Commonwealth of Pennsylvania v. J. Richard Fullington, Jr.*, Docket Number CP-17-CR-599-2002.

6. Canon 3 C (1) provides that Judges should "disqualify themselves in a proceeding in which their impartiality might reasonably be questioned . . ."

7. Judge Cherry's prosecution, while District Attorney of Clearfield County, of Richard Fullington, and the facts and circumstances of the Confessed Judgments involve many of the same witnesses facts and circumstances. Having been the prosecutor against Richard Fullington in a case that involved Richard Fullington's conduct in the operation of the same family businesses that are involved in the Confession of Judgment cases, a reasonable person could question whether Judge Cherry could be impartial.

WHEREFORE, Defendant, J. Richard Fullington, respectfully requests the Honorable Court to disqualify itself and seek the appointment of an out-of-county Judge to hear this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William J. Moorhead", written over a horizontal line.

William J. Moorhead, PA I.D. #52761
Attorney for Defendant, J. Richard Fullington

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of Nov, 2006, a true and correct copy of the within Consent Motion for Recusal was served via United States Mail, First Class, Postage Prepaid to Plaintiff's Counsel as set forth below:

Paul H. Titus, Esquire
Judith F. Olson, Esquire
Schnader, Harrison, Segal & Lewis, LLP
2700 Fifth Avenue Place
120 Fifth Avenue
Pittsburgh, PA 15222

MERCHANT MOORHEAD & KAY, LLC



William J. Moorhead, Esquire
PA I.D. #52761
Attorney for Plaintiff, J. Richard Fullington, Jr.

603 Washington Rd.
Suite 500
Pittsburgh, PA 15228
(412) 942-0770

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON AUTO BUS CO, INC.,

Plaintiff,

v.

J. RICHARD FULLINGTON, JR.
and LORETTA P. FULLINGTON,

Defendants.

CIVIL ACTION - LAW

No. 2002-00648-CD

**DEFENDANT, J. RICHARD
FULLINGTON, JR.'S PETITION TO
OPEN JUDGMENT BY CONFESSION
PURSUANT TO PA. R.C.P. 2959**

Filed on Behalf of Defendant,
J. RICHARD FULLINGTON, JR.

Counsel of Record for this Party:

WILLIAM J. MOORHEAD, Esquire
PA I.D. #52761

MERCHANT, MOORHEAD & KAY, LLC

603 Washington Rd.
Suite 500
Pittsburgh, PA 15228

412-942-0770 (Phone)
412-942-0774 (Fax)

Firm #510

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON AUTO BUS CO., INC.,	)	CIVIL ACTION - LAW
)	
Plaintiff,)	
)	
v.	)	No. 2002-00648-CD
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	

**PETITION TO OPEN JUDGMENT BY
CONFESSION PURSUANT TO PA. R.C.P. 2959**

AND NOW, comes Defendant, J. RICHARD FULLINGTON, JR., by and through his undersigned counsel, MERCHANT, MOORHEAD & KAY and WILLIAM J. MOORHEAD, Esquire, and files the within Petition to Open Judgment by Confession Pursuant to PA. R.C.P. 2959 as follows:

1. Petitioner is J. Richard Fullington, Jr., Defendant in the above-captioned action (hereinafter referred to as "Petitioner").

2. Respondent is Fullington Auto Bus Co., Inc., Plaintiff in the above-captioned action (hereinafter referred to as "FABCO").

3. Petitioner was the President of Auto Bus Co. which was part of the Fullington family business. The Fullington family business included, FABCO and Fullington GMC Sales, Inc. ("GMC Sales"). The various family companies, including FABCO and GMC Sales were operated as an inter-related "family business".

4. As a result of a reversal of the financial fortunes of the Fullington family

business, generally, and FABCO and GMC Sales, specifically, the Fullington family took steps to protect its business and personal assets. As part of the plan to protect personal assets, the family businesses' counsel, who in this capacity was representing Petitioner, devised a plan whereby Petitioner and his wife would sign Promissory Notes in favor of GMC Sales in the amount of \$1,380,533.70 and FABCO in the amount of \$281,268.59. The plan engineered by the Fullington family businesses' counsel, and agreed to by all individuals involved in the Fullington family business, including Michael Fullington and Aerial Fullington Weisman, was that the notes would be reduced to judgment, thereby having priority over any other debt owed by or guaranteed by Petitioner and his wife.

5. As the plan was devised by the Fullington family business' counsel, the amount of the confessed judgment would be in an amount sufficiently high to thwart any attempt by any other creditor of FABCO, GMC Sales or Petitioner to enter judgment and/or attempt to execute upon the personal assets of the Petitioner or his wife.

6. The plan worked and deterred the claims of other creditors sufficiently to allow the Fullington family business to reorganize and protected Defendants' assets to some extent.

7. All parties involved in the family business understood that neither Petitioner nor his wife owed the debt reflected by the Promissory Notes and judgment, but rather the Note and judgment existed solely for the purpose of protecting Petitioner's personal assets.

8. FABCO abided by the terms of the plan until Petitioner was forced to bring an action against GMC Sales, FABCO, Michael Fullington, breach of contract and fraud at Case No.: 2005-565 in the Court of Common Pleas of Clearfield County, Pennsylvania.

9. After Petitioner brought the action, referred to above, Michael Fullington and Aerial Fullington Weisman began to recently threaten Petitioner with attempting to execute on

the judgments in violation of the plan devised by corporate counsel and agreed to by Michael Fullington and Aerial Fullington Weisman, as well as GMC Sales, FABCO and J. Richard Fullington.

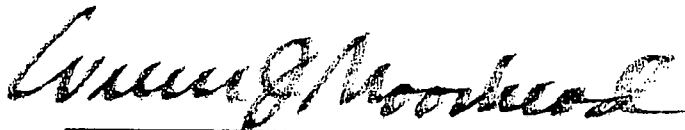
10. GMC Sales., FABCO, Michael Fullington, Aerial Fullington Weisman are all aware that the Notes and judgments did not represent bona fide debts of Petitioner or his wife, but rather the Notes were part of a plan devised by the Fullington family businesses' corporate counsel to protect the personal assets of Petitioner and his wife.

11. As can be seen by the attached Affidavit of J. Richard Fullington, Sr., the judgment which was confessed by FABCO at the above-captioned Case Number in the amount of \$281,268.59 was not a bona fide debt owed by Petitioner or his wife and Petitioner owes no money to FABCO for the reasons set forth in this Petition.

WHEREFORE, Defendant J. Richard Fullington requests this Honorable Court to Open the Judgment entered against him in these proceedings.

Respectfully submitted,

MERCHANT, MOORHEAD & KAY, LLC.

A handwritten signature in dark ink, appearing to read "William J. Moorhead", written over a horizontal line.

William J. Moorhead, Esquire
PA I.D. #52761

603 Washington Rd.
Suite 500
Pittsburgh, PA 15228

(412) 942-0770

NOTICE OF JUDGMENT

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

FULLINGTON AUTO BUS
COMPANY,

Plaintiff

v.

No. 02-648 -CD

J. RICHARD FULLINGTON, JR.,
a/k/a JOHN R. FULLINGTON,
JR., a/k/a RICHARD J.
FULLINGTON, a/k/a
RICHARD FULLINGTON, and
LORETTA P. FULLINGTON,

Defendants

To: J. RICHARD FULLINGTON, JR., a/k/a JOHN R.
FULLINGTON, JR., a/k/a RICHARD J. FULLINGTON, a/k/a
RICHARD FULLINGTON, and LORETTA P. FULLINGTON,
Defendants

NOTICE is given that a Judgment in the above captioned matter has been entered against you in the amount of \$281,268.59 on the 24th day of April, 2002. Enclosed is a copy of all documents filed with the Prothonotary in support of the confession of judgment.



William A. Shaw, Prothonotary

4/24/02

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON AUTO BUS
COMPANY,

Plaintiff

v.

J. RICHARD FULLINGTON,
JR., a/k/a JOHN R.

FULLINGTON, JR., a/k/a

RICHARD J. FULLINGTON,

a/k/a RICHARD FULLINGTON,

and LORETTA P. FULLINGTON,

Defendants

: CIVIL DIVISION

: No. 02-448-CO

: Type of Pleading: Civil Action -

: Complaint in Confession of

: Judgment

: Filed on behalf of Fullington

: Auto Bus Company, Plaintiff

: Counsel of Record for this Party:

: David S. Ammerman, Esquire

: Supreme Court I.D. #06801

: 310 East Cherry Street

: Clearfield, Pennsylvania 16830

: Telephone: (814) 765-1701

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

APR 24 2002

Attest.

John L. R.
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

**FULLINGTON AUTO BUS
COMPANY,**

Plaintiff

v.

Civil Division

**J. RICHARD FULLINGTON,
JR., a/k/a JOHN R.
FULLINGTON, JR., a/k/a
RICHARD J. FULLINGTON,
a/k/a RICHARD FULLINGTON,
and LORETTA P. FULLINGTON,
Defendants**

No.

COMPLAINT IN CONFESSION OF JUDGMENT

Plaintiff, Fullington Auto Bus Company, by its attorney, David S. Ammerman, files this Complaint in Confession of Judgment for money:

(1). Plaintiff, Fullington Auto Bus Company is a corporation existing under the laws of the Commonwealth of Pennsylvania with its principal office located at 316 East Cherry Street, Clearfield, Pennsylvania 16830.

(2). Defendants, J. Richard Fullington, Jr., a/k/a John R. Fullington, Jr., a/k/a Richard J. Fullington, a/k/a Richard Fullington, and Loretta P. Fullington, are individuals residing within the Commonwealth of Pennsylvania whose last known address is 929 South Sixth Street, Clearfield, Pennsylvania 16830.

(3). On or about April 19, 2002, Defendants executed a Promissory Note in favor of Plaintiff in the original principal amount of \$244,180.00, which Note authorized the confession of Judgment against the Defendants. A true and correct reproduction of the original Note is attached hereto, marked Exhibit "A" and incorporated by reference as if fully set forth herein.

(4). The Note has not been released, transferred or assigned.

(5). Judgment has not been entered against the Defendants on the Note in any jurisdiction.

(6). The Note authorizes the entry of judgment without default or the occurrence of any condition precedent.

(7). An itemization of the amount due, including interest and attorney's fees, as authorized by the Note, is as follows:

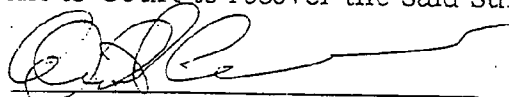
Principal \$244,180.00

Interest to 4/24/02. 401.39

Attorney's fees @ 15% 36,627.00

Total \$281,268.59

WHEREFORE, the Plaintiff, as authorized by the Warrant of Attorney contained in the Note, demands judgment against the Defendants in the total sum of \$281,268.59, with interest on the principal sum of \$244,180.00, from April 24, 2002, at the rate of 15% per annum and brings said instrument to Court to recover the said sum.



David S. Ammerman, Esquire
Attorney for Plaintiff

EXHIBIT "A"

PROMISSORY NOTE

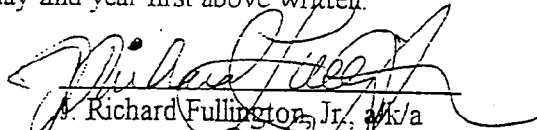
AMOUNT: \$244,180.00

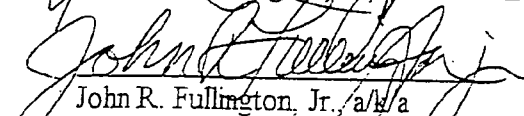
DATE: April 19, 2002

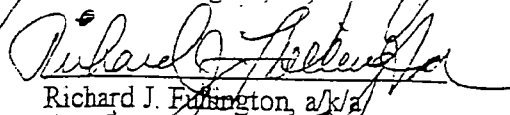
ONE DAY AFTER THIS DATE, THE UNDERSIGNED, JOINTLY AND SEVERALLY, DO PROMISE TO PAY TO THE ORDER OF FULLINGTON AUTO BUS COMPANY, OF 316 EAST CHERRY STREET, CLEARFIELD, PENNSYLVANIA 16830, WITHOUT OFFSET, FOR VALUE RECEIVED, THE SUM OF \$244,180.00 TOGETHER WITH INTEREST AT THE RATE OF FIFTEEN (15%) PERCENT PER ANNUM ON THE UNPAID BALANCE.

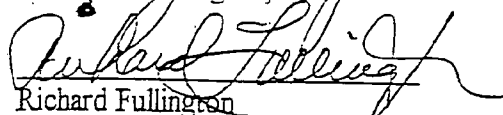
MAKERS IRREVOCABLY AUTHORIZE AND EMPOWER THE PROTHONOTARY, ANY ATTORNEY OR ANY CLERK OF ANY COURT OF RECORD, WITH OR WITHOUT DEFAULT, TO APPEAR FOR AND CONFESS JUDGMENT AGAINST MAKERS FOR SUCH SUMS AS ARE DUE AND/OR MAY BECOME DUE UNDER THIS NOTE, WITH COSTS OF SUIT, WITHOUT STAY OF EXECUTION AND WITH FIFTEEN PERCENT (15%) OF THE AMOUNT OF SUCH JUDGMENT, BUT NOT LESS THAN FIVE HUNDRED DOLLARS (\$500.00) ADDED FOR ATTORNEYS' COLLECTION FEES. TO THE EXTENT PERMITTED BY LAW, MAKERS RELEASE ALL ERRORS IN SUCH PROCEEDINGS. IF A COPY OF THIS NOTE, VERIFIED BY OR ON BEHALF OF THE HOLDER SHALL HAVE BEEN FILED IN SUCH ACTION, IT SHALL NOT BE NECESSARY TO FILE THE ORIGINAL NOTE AS A WARRANT OF ATTORNEY. THE AUTHORITY AND POWER TO APPEAR FOR AND CONFESS JUDGMENT AGAINST MAKERS SHALL NOT BE EXHAUSTED BY THE INITIAL EXERCISE THEREOF AND MAY BE EXERCISED AS OFTEN AS THE HOLDER SHALL FIND IT NECESSARY AND DESIRABLE AND THIS NOTE SHALL BE A SUFFICIENT WARRANT THEREFORE.

WITH INTENT TO BE LEGALLY BOUND, the undersigned do hereby execute the within instrument as of the day and year first above written.


Richard Fullington, Jr., a/k/a


John R. Fullington, Jr., a/k/a


Richard J. Fullington, a/k/a


Richard Fullington


Patricia P. Fullington

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON AUTO BUS
COMPANY,

Plaintiff

v.

Civil Division

J. RICHARD FULLINGTON,
JR., a/k/a JOHN R.
FULLINGTON, JR., a/k/a
RICHARD J. FULLINGTON,
a/k/a RICHARD FULLINGTON,
and LORETTA P. FULLINGTON,
Defendants

No.

CONFESSION OF JUDGMENT

Pursuant to the Warrant of Attorney contained in the aforementioned Promissory Note, the original or copy of which is attached to the Complaint filed in this action, I appear for the Defendants and confess judgment in favor of the Plaintiff and against the Defendants as follows:

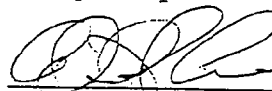
Principal \$244,180.00

Interest to 04/24/02 401.39

Attorney's fees 36.687.21

Total \$281,268.59

with interest from April 24, 2002, on the principal sum of \$244,180.00 at 15% per annum.



David S. Ammerman, Esquire
Supreme Court I.D. #06801
Attorney for Defendants
310 East Cherry Street
Clearfield, Pennsylvania 16830
Telephone: (814) 765-1701

Dated: April 24, 2002

AFFIDAVIT OF NON-MILITARY SERVICE

COMMONWEALTH OF PENNSYLVANIA :
:SS
COUNTY OF CLEARFIELD :

Before me, the undersigned authority in and for said County and State, personally appeared **DAVID S. AMMERMAN**, attorney for and authorized representative of Plaintiff, who, being duly sworn according to law, deposes and says that the Defendants, J. Richard Fullington, Jr., a/k/a John R. Fullington, Jr., a/k/a Richard J. Fullington, a/k/a Richard Fullington, and Loretta P. Fullington, are not in the military service of the United States of America to the best of his knowledge, information and belief.


David S. Ammerman

Sworn to and subscribed
before me this 23 day
of April, 2002.



WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

VERIFICATION

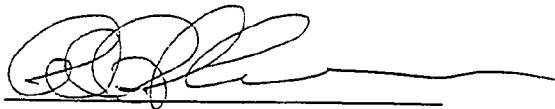
DAVID S. AMMERMAN, Attorney for Plaintiff and duly authorized representative of the Plaintiff, deposes and says, subject to the penalties of 18 Pa. C.S.A. Section 4909 relating to unsworn falsification to authorities, that the facts set forth in the foregoing Complaint in Confession of Judgment are true and correct to the best of his information and belief.

A handwritten signature in dark ink, appearing to read 'D. Ammerman', written over a horizontal line.

David S. Ammerman, Esquire
Attorney for Plaintiff

CERTIFICATION OF COMMERCIAL TRANSACTION

DAVID S. AMMERMAN, duly authorized representative and attorney for Fullington Auto Bus Company, deposes and says, subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities, that the underlying transaction relative to this Complaint in Confession of Judgment is a commercial transaction to the best of his knowledge, information and belief.

A handwritten signature in black ink, appearing to read 'D. Ammerman', written over a horizontal line.

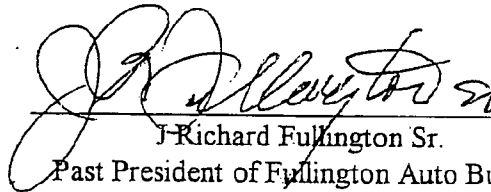
David S. Ammerman, Esquire
Attorney for Plaintiff

6/10/04

To whom it may concern:

Re: Validity of and removal of Fullington GMC Sales, Inc. and Fullington Auto Bus Co.
Judgements on J Richard Fullington jr and Loretta Fullington

It was my understanding that at the time my son Richard Fullington and his wife Loretta signed judgements totaling approximately \$1300000 for Fullington GMC Sales, Inc. and Fullington Auto Bus Co. at the recommendation of our Attorney David Ammerman, they were intended to be used only as a tool to protect their personal wealth from M&T Bank seizing their personal assets. When M&T Bank was no longer a threat to their personal assets, the judgements were to be satisfied by both companies and their assets free and clear or when JRF or LPF asked for them to be released, if before.


J Richard Fullington Sr.

Past President of Fullington Auto Bus Co &
Past V President of Fullington GMC Sales, Inc.

date 06/13/04

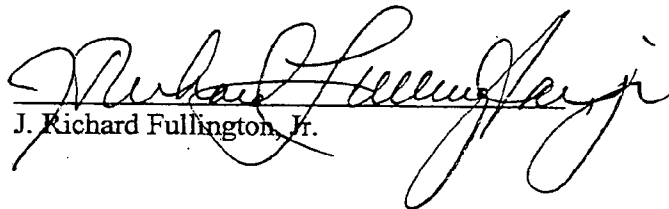
Witness


date 6/12/04

VERIFICATION

I, J. RICHARD FULLINGTON, JR, have read the foregoing Petition to Open Judgment by Confession Pursuant to PA. R.C.P. 2959 and verify that the statements therein are correct to the best of my personal knowledge, information and belief.

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


J. Richard Fullington, Jr.

Dated: 5/26/06

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON AUTO BUS CO., INC.,	)	CIVIL ACTION - LAW
)	
Plaintiff,)	
	)	No. 2002-00648-CD
v.)	
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2006, it is hereby ORDERED that a Rule is entered on the Plaintiff to show cause why the judgment entered against Defendants in these proceedings shall not be open. An Answer shall be filed within twenty (20) days. Depositions shall be completed within sixty (60) days of this date. Arguments shall be held on _____ of the Courthouse. All proceedings in the above-captioned action are stayed in the meantime.

BY THE COURT

J.

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2006, a true and correct copy of the within Petition to Open Judgment by Confession Pursuant to PA. R.C.P. 2959 was served via United States Mail, First Class, Postage Prepaid to Plaintiff's Counsel as set forth below:

Paul H. Titus, Esquire
Judith F. Olson, Esquire
Schnader, Harrison, Segal & Lewis, LLP
2700 Fifth Avenue Place
120 Fifth Avenue
Pittsburgh, PA 15222

MERCHANT MOORHEAD & KAY, LLC



William J. Moorhead, Esquire
PA I.D. #52761
Attorney for Plaintiff, J. Richard Fullington, Jr.

603 Washington Rd.
Suite 500
Pittsburgh, PA 15228
(412) 942-0770

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON GMC SALES, INC.,	)	CIVIL ACTION - LAW
)	
Plaintiff,)	
	)	No. 02-650-CD
v.)	
)	
J. RICHARD FULLINGTON, JR.)	
and LORETTA P. FULLINGTON,)	
)	
Defendants.)	

ORDER OF COURT

AND NOW, this _____ day of _____, 2006, upon
consideration of the foregoing petition, it is hereby ordered that:

- (1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;
- (2) the respondent shall file an answer to the petition within twenty (20) days of service upon the respondent;
- (3) the petition shall be decided under Pa.R.C.P. No. 206.7;
- (4) notice of the entry of this order shall be provided to all parties by the petitioner.

NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO
DEFEND AGAINST THE MATTERS SET FORTH IN THE FOLLOWING PETITION,
YOU MUST ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY
AND FILE AN ANSWER IN WRITING WITH THE PROTHONOTARY SETTING FORTH

YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU AND SERVE A COPY ON THE ATTORNEY OR PERSON FILING THE PETITION. YOU ARE WARNED THT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR THE RELIEF REQUESTED BY THE PETITIONER. YOU MAY LOSE THE RIGHTS IMPORTANT TO YOU.

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

COURT ADMINISTRATOR
Clearfield County Courthouse
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. (5982)

BY THE COURT

J.

FULLINGTON AUTO BUS CO., INC.)
)
) 02-648-CD
)
 v.)
)
)
)
 J. RICHARD FULLINGTON, JR., and)
)
 LORETTA P. FULLINGTON,)
)
)
)
 Defendants.)

AND NOW, this _____ day of _____, 2006, upon consideration of Defendant's Motion for Recusal, it is hereby ORDERED, ADJUDGED, and DECREED that this Court hereby disqualifies itself from Case No. 2002-648-CD. This case shall forthwith be assigned to _____.

_____ J.

CA

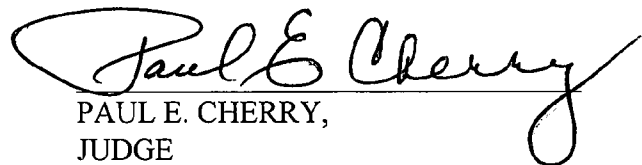
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FULLINGTON AUTO BUS CO.,	:	NO. 02-648-CD
Plaintiff	:	
	:	
V.	:	
	:	
J. RICHARD FULLINGTON, JR.,	:	
and LORETTA P. FULLINGTON,	:	
Defendants	:	

ORDER

AND NOW, this 22nd day of November, 2006, upon consideration of the Motion for Recusal filed by Defendant, J. Richard Fullington, Jr., it is the ORDER of this Court that hearing shall be held on the 6th day of December, 2006 at 1:00 P.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED

NOV 22 2006

0/3:00/w
William A. Shaw

Prothonotary/Clerk of Courts

Sent. to Atty's

D. Amernman

w. mo onehead

Titus

d

LORETTA P. FULLINGTON

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FULLINGTON AUTO BUS CO.,
INC. AND FULLINGTON GMC
SALES, INC.

-VS-

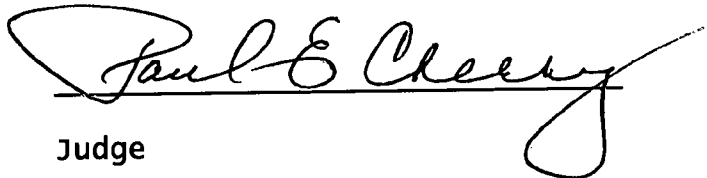
Nos. 02-648 & 650-CD

J. RICHARD FULLINGTON, JR.,
and LORETTA P. FULLINGTON

O R D E R

NOW, this 11th day of December, 2006, in
consideration of Defendants' Motion for Recusal, and
presentation of the issues before the Court, it is the
ORDER of this Court that said Motion be and is hereby
dismissed.

BY THE COURT,


Judge

FILED 100 Attys:
01/10/2007 D. Ammerman
DEC 12 2006 P. Titus
W. Moorhead
William A. Shaw
Prothonotary/Clerk of Courts 100 Def.
L. Fullington
929 S. Sixth St.
Clearfield, PA 16830
GP

DATE: 12/12/06

☐ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☒ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

FILED

DEC 12 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

FULLINGTON AUTO BUS
COMPANY,

Plaintiff,

vs.

J. RICHARD FULLINGTON, JR. and
LORETTA P. FULLINGTON,

Defendants.

CIVIL ACTION - LAW

No. 2002-00648-CD

PRAECIPE TO SATISFY JUDGMENT

TO: Prothonotary, Court of Common Pleas of Clearfield County, Pennsylvania

Kindly mark the judgment by confession entered in the above-captioned action as
satisfied.

SCHNADER HARRISON SEGAL & LEWIS LLP

By

Paul H. Titus

Paul H. Titus

Pa. Id. No. 01399

2700 Fifth Avenue Place, 120 Fifth Avenue

Pittsburgh, PA 15222

(412) 577-5200 (Telephone)

(412) 765-3858 (Facsimile)

Counsel for Plaintiff, Fullington GMC Sales, Inc.

FILED *pa \$7.00*
3cc + 1
07/2:40 um cert of sat
FEB 14 2007 *issued to*
Fullington
Auto Bus Co.
William A. Shaw
Prothonotary/Clerk of Courts
UP

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CERTIFICATE OF SATISFACTION OF JUDGMENT

COPY

Fullington Auto Bus Company

No.: 2002-00648-CD

Vs.

Debt: \$

J. Richard Fullington Jr.
Loretta P. Fullington

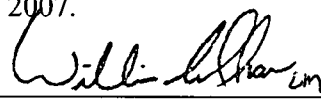
Atty's Comm.:

Interest From:

Cost: \$7.00

NOW, Wednesday, February 14, 2007 , directions for satisfaction having been received,
and all costs having been paid, SATISFACTION was entered of record.

Certified from the record this 14th day of February, A.D. 2007.



Prothonotary