

02-650-CD  
FULLINGTON GMC SALES, INC. -vs- J. RICHARD FULLINGTON, JR. et al

Date: 2/22/2007

Clearfield County Court of Common Pleas

User: LMILLER

Time: 10:15 AM

ROA Report

Page 1 of 2

Case: 2002-00650-CD

Current Judge: Paul E. Cherry

Fullington GMC Sales, Inc. vs. J. Richard Fullington Jr., Loretta P. Fullington

Judgment

Date		Judge
4/24/2002	Filing: Praeipce for Entry of Judgment by Confession Paid by: Ammerman, David S. (attorney for Fullington GMC Sales, Inc.) Receipt number: 1841540 Dated: 04/24/2002 Amount: \$8.00 (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 \$1,380,533.70. Notice and One CC Defendants Two CC Attorneys	No Judge
4/25/2002	Notices returned-Not deliverable as addressed-unable to forward	No Judge
4/29/2002	Remailed copy of notice and complaint to defendants at P. O. Box 384.	No Judge
12/3/2003	Release From Lien Of Judgment. filed. no cc Cert. of Sat. to Atty. Released property in Lawrence Township	No Judge
3/17/2004	Miscellaneous Payment: Satisfaction / Relief Paid by: Belin & Kubista Receipt number: 1875669 Dated: 03/17/2004 Amount: \$7.00 (Check) Release From Lien of Judgment. Property in Lawrence Township No CC	No Judge
	Release From Lien of Judgment. filed no cc Released property in Lawrence Township	No Judge
4/1/2004	Release From Lien of Judgment, Parcel No. 123-L7-31, Located in Lawrence Township. filed. no cc	No Judge
7/6/2004	Filing: Release Paid by: Gary A. Jubas Receipt number: 1882263 Dated: 07/06/2004 Amount: \$7.00 (Check) No CC Property in Lawrence Twp., Clearfield Co. Parcel No. 123-L7-31.2	No Judge
7/30/2004	Filing: Release Paid by: Unlimited Real Estate Services, Inc. Receipt number: 1883722 Dated: 07/30/2004 Amount: \$7.00 (Check) Release of 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 the entry of this order shall be provided to all parties by the petitioner. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1 CC Atty Moorhead.	Fredric Joseph Ammerman
7/7/2006	Motion to Strike Petition to Open Judgment by Confesion 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
9/15/2006	Order of Court, AND NOW, this 14th 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 at 10:00 a.m. BY THE COURT: /s/ Fredric J. Ammerman, President Judge 2CC Atty Moorhead.	Fredric Joseph Ammerman

Date: 2/22/2007

Clearfield County Court of Common Pleas

User: LMILLER

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ROA Report

Page 2 of 2

Case: 2002-00650-CD

Current Judge: Paul E. Cherry

Fullington GMC Sales, Inc. vs. J. Richard Fullington Jr., Loretta P. Fullington

Judgment

Date		Judge
9/21/2006	Defendant, J. Richard Fullington's Certificate of Service of Order of Court, filed. That on the 19th day of 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
11/2/2006	Order, NOW, this 27th day of Oct., 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 Clfd. Co. Judge Paul E. Cherry and that oral argument be rescheduled for Dec. 13, 2006, at 9:30 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: D. Ammerman, W. Moorhead, 1CC Def. Loretta Fullington, 929 S. Sixth St., Clearfield, PA 16830 Original filed to 2002-648-CD	Paul E. Cherry
11/21/2006	Plaintiffs' Motion in Opposition to Defendant's Motion For Recusal, filed by s/ Paul H. Titus, Esquire. NO CC	Paul E. Cherry
11/22/2006	Defendant, J. Richard Fullington, Jr.'s Motion For Recusal, filed by s/ William J. Moorhead, Esquire. No CC	Paul E. Cherry
	Order, filed cert. to Ammerman, Titus, Moorhead & L. Fullington NOW, this 22nd day of November, 2006, RE Hearing on Motion for Recusal to be held on Dec. 6, 2006	Paul E. Cherry
12/12/2006	Order, NOW, this 11th day of Dec., 2006, Defendants' Motion for Recusal is dismissed. By the Court, /s/ Paul E. Cherry, Judge. 1CC Attys: D. Ammerman, P. Titus, W. Moorhead. 1CC Def. L. Fullington, 929 S. Sixth St., Clearfield, PA 16830	Paul E. Cherry
2/14/2007	Filing: Satisfaction/Release Paid by: Fullington Auto Bus Co Receipt number: 1917641 Dated: 2/14/2007 Amount: \$7.00 (Cash)	Paul E. Cherry

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

**FULLINGTON GMC SALES, INC.,** : CIVIL DIVISION

**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**

: No. 02-450-00

: Type of Pleading: Civil Action -

: Complaint in Confession of

: Judgment

: Filed on behalf of Fullington

: GMC Sales, Inc., Plaintiff

: Counsel of Record for this Party:

: David S. Ammerman, Esquire

: Supreme Court #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

<b>FULLINGTON GMC SALES, INC.,</b>	:	
<b>Plaintiff</b>	:	
	:	
<b>v.</b>	:	Civil Division
	:	
<b>J. RICHARD FULLINGTON,</b>	:	No.
<b>JR., a/k/a JOHN R.</b>	:	
<b>FULLINGTON, JR., a/k/a</b>	:	
<b>RICHARD J. FULLINGTON,</b>	:	
<b>a/k/a RICHARD FULLINGTON,</b>	:	
<b>and LORETTA P. FULLINGTON,</b>	:	
<b>Defendants</b>	:	

**COMPLAINT IN CONFESSION OF JUDGMENT**

Plaintiff, Fullington GMC Sales, Inc., by its attorney, David S. Ammerman, files this Complaint in Confession of Judgment for money:

(1). Plaintiff, Fullington GMC Sales, Inc., 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 \$1,198,494.00, 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 . . . . . \$1,198,494.00

Interest to 04/24/02. . . . . 1,970.12

Attorney's fees 15% . . . . . 180,069.61

Total . . . . . \$1,380,533.70

WHEREFORE, the Plaintiff, as authorized by the Warrant of Attorney contained in the Note, demands judgment against the Defendants in the total sum of \$1,380,533.70, with interest on the principal sum of \$1,198,494.00 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**

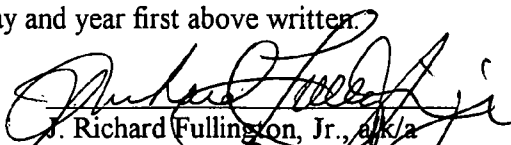
AMOUNT: \$1,198,494.00

DATE: April 19, 2002

ONE DAY AFTER THIS DATE, THE UNDERSIGNED, JOINTLY AND SEVERALLY, DO PROMISE TO PAY TO THE ORDER OF FULLINGTON GMC SALES, INC., OF 316 EAST CHERRY STREET, CLEARFIELD, PENNSYLVANIA 16830, WITHOUT OFFSET, FOR VALUE RECEIVED, THE SUM OF \$1,198,494.00 TOGETHER WITH INTEREST AT THE RATE OF FIFTEEN (15%) PERCENT PER ANNUM ON THE UNPAID BALANCE.

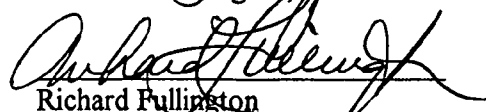
MAKERS IRREVOCABLY AUTHORIZE AND EMPOWER THE PROTHONOTARY, ANY ATTORNEY OR ANY CLERK OF ANY COURT OF RECORD, WITH OR WITHOUT DEFAULT, TO APPEAR FOR AND CONFESS JUDGMENT AGAINST MAKERS FOR SUCH SUMS AS ARE DUE AND/OR MAY BECOME DUE UNDER THIS NOTE, WITH COSTS OF SUIT, WITHOUT STAY OF EXECUTION AND WITH 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.

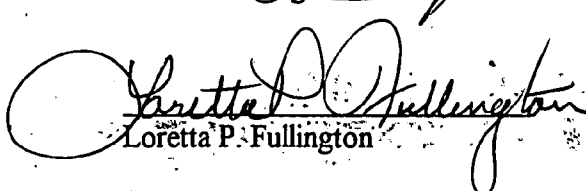
WITH INTENT TO BE LEGALLY BOUND, the undersigned do hereby execute the within instrument as of the day and year first above written.

  
J. Richard Fullington, Jr., a/k/a

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

  
Richard J. Fullington, a/k/a

  
Richard Fullington

  
Loretta P. Fullington

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

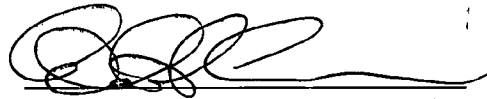
Sworn to and subscribed  
before me this 23 day  
of April, 2002.

  
\_\_\_\_\_

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, consisting of several 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 GMC SALES, INC.,

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 GMC Sales, Inc.  
Plaintiff

**FILED**

APR 24 2002

*pd 01/01/02 by C. Ammerman*  
*William A. Shaw*  
*Prothonotary*

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

OPTIONAL FORM NO. 1, REVERSE, PA.

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

Lap over margin

*pd 80.00*  
*not 1cc bys.*  
*accat.*

NOTICE OF JUDGMENT

COPY

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

FULLINGTON GMC SALES, INC.,

Plaintiff

v.

No. 02-650 -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 \$1,380,533.70 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

4124102

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

FULLINGTON GMC SALES, INC.,

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-*450*-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 GMC SALES, INC., in the amount of One Million Three Hundred Eighty Thousand Five Hundred Thirty-Three and 70/100 Dollars (\$1,380,533.70).

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**

APR 24 2002

*WAS*  
*by* 0110:05  
William A. Shaw  
Prothonotary

  
David S. Ammerman, Esquire  
Attorney for Plaintiff

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

2002-648 or 650-CP



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

RECEIVED  
JUN 20 2004

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

RTS  
RETURN TO SENDER

A  
C  
S

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

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

RECEIVED

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

RTS  
RETURN TO SENDER

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2002-648 or 650-00

U.S.



## 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.

## 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.

FILED No CC

*01:00 PM* *Attg pd. 7.00*

DEC 03 2003

William A. Shaw

Prothonotary/Clerk of Courts

*Cert. of Sat. to Attg Mohney*

FULLINGTON GMC SALES, INC.

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 02-650-CD

Real Debt, - - - - \$ 1,380,533.70

Int. from

Costs, - - - - - \$

Entered and filed April 24, 2002

KNOW ALL MEN BY THESE PRESENTS, that FULLINGTON GMC SALES, INC.

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, does 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  
~~XXXXXX~~, have hereunto set her hand and seal  
this 26th day of November A. D. 2003  
FULLINGTON GMC SALES, INC.

ATTEST

~~XXXXXX~~

A. Lory Fullington

By Aerial Fullington Weisman,  
President

SEAL

SEAL

SEAL

No. \_\_\_\_\_ Term, 19.....

FULLINGTON GMC SALES, INC.

*versus*

J. RICHARD FULLINGTON, JR. AND

LORETTA P. FULLINGTON

**Release From Lien of Judgment**

Upon \_\_\_\_\_

Entered and filed.....

19.....

*Prothonotary.*

*Attorney.*

FULLINGTON GMC SALES, INC.

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. 02-650-CD

Real Debt, - - - - \$1,380,533.70

Int. from

Costs, - - - - - \$

Entered and filed April 24, 2002

KNOW ALL MEN BY THESE PRESENTS, that FULLINGTON GMC SALES, INC.

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:

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. Chnpa 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  
~~XXXXXX~~ have hereunto set hand and seal  
this day of March A. D. 2004  
FULLINGTON GMC SALES, INC.

ATTEST  
~~Witness present:~~

Michael D. Df.  
Asst. Secretary

By Aerial Fullington  
Aerial Fullington, President

FILED

MAR 17 2004

William A. Shaw  
Prothonotary

No. .... Term, 19.....

FULLINGTON GMC SALES, INC.

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.

200315359  
200315359



13

10/10/03

**FILED**

MAR 17 2004

013:07 p.m.

William A. Shaw

Prothonotary



no cc

FULLINGTON GMC SALES, INC.

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 02-650-CD

Real Debt, - - - - \$ 1,380,533.70

Int. from

Costs, - - - - \$

Entered and filed April 24, 2002

KNOW ALL MEN BY THESE PRESENTS, that FULLINGTON GMC SALES, INC.

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, does 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

12/5/00  
JUL 30 2004  
Unlimited  
Essex 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,  
this 23rd day of July, 2004. hand and seal

ATTEST:

XXXXXX

A. Gary Fullington

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"

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 centerline of Lawrence Township Route 603 and at the northwest corner of land now or formerly of David M. & Barbara J. Chnupa; said point also being North  $64^{\circ} 52' 21''$  West, 15 feet from a big white pine located on the north line of David & Barbara J. Chnupa; thence by a line running generally along Lawrence Township Route 603 and along a portion of the eastern line of land now or formerly of Walter P. and Jeannette S. Thorp North  $8^{\circ} 32'$  East, 1402.5 feet more or less to an existing mine rail at the northeast corner of Walter and Jeannette Thorp and on the southern line of land of Linglewood Lodge, Inc.; thence by southern line of Linglewood Lodge, Inc., and the southern line of Ralph C. Jr. and Rhonda K. Lingle South  $81^{\circ} 13'$  East 1988.82 feet more or less to a point in the centerline of the culvert bridge over an unnamed tributary to Wolf Run; said point being on the

northern line of land now or formerly of Nellie Pentz Heirs c/o Friendship Inns North 81° 13' West, 56.20 feet from the northeast corner of land of the Nellie Pentz Heirs c/o Friendship Inns; thence by the northern line of Nellie Pentz Heirs c/o Friendship Inns and generally by the centerline of an unnamed tributary to Wolf Run the following courses and distances; South 57° 06' West, 80.55 feet to a point; thence South 44° 02' West 77.13 feet to a point; thence South 73° 01' West, 158.79 feet to a point; thence North 65° 09' West, 268.18 feet to a point; thence South 23° 43' West, 91.55 feet to a point; thence North 88° 20' West, 60.46 feet to a point in the centerline of the unnamed tributary to Wolf Run and at the northeast corner of lands now or formerly of Harry K. and Emily Maney; thence by the northern line of Harry and Emily Maney and generally by the centerline of the unnamed tributary to Wolf Run the following courses and distance:

South 49° 13' West, 58.81 feet to a point; thence South 12° 40' West, 56.14 feet to a point; thence North 84° 26' West, 87.32 feet to a point; thence South 42° 31' West, 167.68 feet to a point; thence North 89° 08' West, 64.88 feet to a point; thence South 38° 20' West, 21.50 feet to a point in the approximate centerline of the unnamed tributary to Wolf Run and at the northwest corner of a parcel of land conveyed by Nellie Pentz to Harry Maney and recorded in Clearfield County Deed Book 1998, page 221; thence by the western line of the aforementioned parcel South 24° 35' East, 530 feet more or less to the northern right-of-way line of State Route 879; thence by the northern right-of-way line of State Route 879 and the arc of a 0° 44' 25" curve which bears to the left 193.96 feet to a 3/4" rebar set at the northeast corner of a parcel of land conveyed by the Nellie Pentz Estate to Sheetz, Inc. in 1997 and recorded in Clearfield County Deeds & Records Vol. 1892 at page 436; thence by the eastern line of Sheetz, Inc. North 30° 07' 12" West, 392.91 feet to a 3/4" rebar set at the northwest corner of Sheetz, Inc.; thence by the western line of Sheetz, Inc. South 75° 19' 14" West, 226.26 feet to a point in the centerline of an unnamed tributary to Wolf Run; thence by the western line of Sheetz, Inc. and generally by the centerline of the unnamed tributary to Wolf Run the following courses and distances:

South 51° 13' 27" West, 8.11 feet to a point; thence South 69° 22' 03" West, 9.24 feet to a point; thence North 52° 03' 54" West, 28.41 feet to a point; thence South 64° 14' 18" West, 12.37 feet to a point; thence South 33° 05' 20" West, 10.63 feet to a point; thence South 1° 3' 23" East, 37.37 feet to a point; thence South 27° 38' 15" West, 34.46 feet to a point; thence South 32° 02' 50" West, 49.27 feet to a point; thence South 2° 09' 23" East, 16.31 feet to a point; thence South 18° 50' 28" East, 41.75 feet to a point; thence South 49° 13' 41" West, 22.07 feet to a point; thence South 9° 33' 26" East, 18.97 feet to a point; thence South 3° 32' 21" West, 9.32 feet to a point in the centerline of an unnamed tributary to Wolf Run and the northwest corner of Keller and Wolfel, Inc.; thence along the western line of Keller and Wolfel, Inc. and generally by the centerline of an unnamed tributary to Wolf Run South 23° 59' 45" West, 238.88 feet to a point in the approximate centerline of said unnamed tributary to Wolf Run and at the northwest corner of land now or formerly of Harold E. Pentz; thence by the western line of lands now or formerly of Harold E. Pentz and generally

along the centerline of the aforementioned unnamed tributary to Wolf Run the following courses and distances:

South 36° 10' 40" West, 70.5 feet to a point; thence South 59° 31' 40" West, 47.3 feet to a point; thence South 73° 00' 40" West, 64.4 feet to a point; thence South 60° 07' 40" West, 63.7° feet to a point; thence South 43° 52' 40" West, 47.4 feet to a point; thence South 40° 00' 40" West, 71.2 feet to a point in the apparent centerline of said unnamed tributary to Wolf Run, said point also being the northwest corner of land of Helen C. Leigey and the northeast corner of David M. and Barbara J. Chnupa; thence by the northern line of David & Barbara Chnupa, North 64° 52' 21" West, 469.82 feet more or less to a point in the centerline of Lawrence Township Route 603 and the place of beginning. Said Parcel containing 37.3 acres more or less as determined from record plans and may be more or less than this amount when verified by an actual field survey.

BEING FURTHER IDENTIFIED with a corrected Clearfield County Tax Parcel Index No. 123-L07-31, 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.

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).

TOGETHER WITH any right, title and interest of the Grantor, her 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 Thelma J. Pentz, Administrator d.b.n.c.t.a. of the Estate of Nellie V. Pentz, Deceased, by Deed dated August 17, 1999 and recorded in the Recorder of Deeds Office of Clearfield County at Instrument No. 199913675 granted and conveyed to J. Richard Fullington and Loretta P. Fullington, his wife, the Grantor herein.

FILED

0/1:49:05  
MAR 31 2004

*Ammerman*  
Atty. Gen.

7:00

*[Signature]*

No cc

William A. Shaw  
Prothonotary/Clerk of Courts



FULLINGTON GMC SALES, INC.

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 02-650-CD

Real Debt. - - - \$ 1,380,533.70

Int. from

Costs, - - - \$

Entered and filed April 24, 2002

KNOW ALL MEN BY THESE PRESENTS, that FULLINGTON GMC SALES, INC.

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, does 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 MAP  
NO. 123-L7-31.2

FILED

03:22 PM  
JUL 06 2004

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  
this 1st day of July have hereunto set her hand and seal  
FULLINGTON GMC SALES, INC. A. D. 2004

ATTEST

Witness my hand

Michael D. Pf

By Aerial Fullington Weisman,  
President

SEAL

SEAL

SEAL

No. .... Term, 19.....

FULLINGTON GMC SALES, INC.

*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 GMC SALES, INC.

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 02-650-CD

Real Debt, - - - - \$1,380,533.70

Int. from

Costs, - - - - \$

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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. 123-L7-31.

FILED

MAR 31 2004

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 herunto set her hand and seal  
this day of A. D. 2004  
FULLINGTON GMC SALES, INC.

ATTEST  
WITNESSES

Michael D. Ph.  
AST. SECRETARY

By Aerial J. Weisman  
Aerial Fullington Weisman,  
President

SEAL

SEAL

SEAL

No. .... Term, 19 .....

FULLINGTON GMC SALES, INC. ....

*versus*

J. RICHARD FULLINGTON, JR. AND

LORETTA P. FULLINGTON

**Release From Lien of Judgment**

Upon .....

Entered and filed .....

19 .....

Prothonotary. ....

Attorney. ....

CA

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.	)	

FILED

JUN 16 2006

William A. Shaw  
Prothonotary/Clerk of Courts

*15 ath morehead*

ORDER OF COURT

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 "Judge J. Cunningham", is written over a horizontal line.

6-16-2000

\_\_\_ 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) X Defendant(s) Attorney

\_\_\_ Special Instructions:



JA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

FULLINGTON GMC SALES, INC.,

Plaintiff,

v.

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

Defendants.

CIVIL ACTION - LAW

No. 02-650-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**

JUN 09 2007

m 11:30

William A. Shaw  
Prothonotary/Clerk of Courts

mo c/c

**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.	)	

**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 GMC Sales, Inc., Plaintiff in the above-captioned action (hereinafter referred to as "GMC Sales").
3. Petitioner was the President of GMC Sales which was part of the Fullington family business. The Fullington family business included, GMC Sales. The various family companies, including GMC Sales and Fullington Auto Bus Company ("FABCO"), 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 GMC Sales and FABCO., 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 GMC Sales, FABCO 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. GMC Sales 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 GMC Sales at the above-captioned Case Number in the amount of \$1,380,533.70 was not a bona fide debt owed by Petitioner or his wife and Petitioner owes no money to GMC Sales 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". The signature is written in a cursive, flowing style.

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 GMC SALES, INC.,

Plaintiff

v.

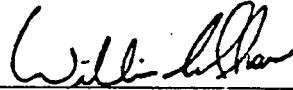
No. 02- 650 -CD

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 \$1,380,533.70 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 GMC SALES, INC.,** : CIVIL DIVISION

**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**

: No. *02-650-CO*

: Type of Pleading: Civil Action -  
: Complaint in Confession of  
: Judgment

: Filed on behalf of Fullington  
: GMC Sales, Inc., Plaintiff

: Counsel of Record for this Party:  
: David S. Ammerman, Esquire  
: Supreme Court #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 A. [Signature]*  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

<b>FULLINGTON GMC SALES, INC.,</b>	:	
<b>Plaintiff</b>	:	
	:	
<b>v.</b>	:	Civil Division
	:	
<b>J. RICHARD FULLINGTON,</b>	:	No.
<b>JR., a/k/a JOHN R.</b>	:	
<b>FULLINGTON, JR., a/k/a</b>	:	
<b>RICHARD J. FULLINGTON,</b>	:	
<b>a/k/a RICHARD FULLINGTON,</b>	:	
<b>and LORETTA P. FULLINGTON,</b>	:	
<b>Defendants</b>	:	

**COMPLAINT IN CONFESSION OF JUDGMENT**

Plaintiff, Fullington GMC Sales, Inc., by its attorney, David S. Ammerman, files this Complaint in Confession of Judgment for money:

(1). Plaintiff, Fullington GMC Sales, Inc., 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 \$1,198,494.00, 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 . . . . . \$1,198,494.00

Interest to 04/24/02. . . . . 1,970.12

Attorney's fees 15% . . . . . 180,069.61

Total . . . . . \$1,380,533.70

WHEREFORE, the Plaintiff, as authorized by the Warrant of Attorney contained in the Note, demands judgment against the Defendants in the total sum of \$1,380,533.70, with interest on the principal sum of \$1,198,494.00 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: \$1,198,494.00

DATE: April 19, 2002

ONE DAY AFTER THIS DATE, THE UNDERSIGNED, JOINTLY AND SEVERALLY, DO PROMISE TO PAY TO THE ORDER OF **FULLINGTON GMC SALES, INC.**, OF 316 EAST CHERRY STREET, CLEARFIELD, PENNSYLVANIA 16830, WITHOUT OFFSET, FOR VALUE RECEIVED, THE SUM OF \$1,198,494.00 TOGETHER WITH INTEREST AT THE RATE OF FIFTEEN (15%) PERCENT PER ANNUM ON THE UNPAID BALANCE.

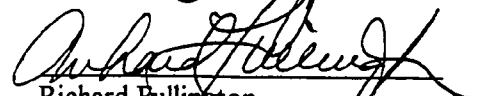
MAKERS IRREVOCABLY AUTHORIZE AND EMPOWER THE PROTHONOTARY, ANY ATTORNEY OR ANY CLERK OF ANY COURT OF RECORD, WITH OR WITHOUT DEFAULT, TO APPEAR FOR AND **CONFESS JUDGMENT** AGAINST MAKERS FOR SUCH SUMS AS ARE DUE AND/OR MAY BECOME DUE UNDER THIS NOTE, WITH COSTS OF SUIT, WITHOUT STAY OF EXECUTION AND 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.

  
J. 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 GMC SALES, INC.,**  
**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 . . . . .	\$1,198,494.00
Interest to . . . . 04/24/02	1,970.12
Attorney's fees . . . . .	<u>180,069.61</u>
Total . . . . .	\$1,380,533.70

with interest from April 24, 2002, on the principal sum of \$1,198,494.00  
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) 755-1701

Dated: April 24, 2002

**AFFIDAVIT OF NON-MILITARY SERVICE**

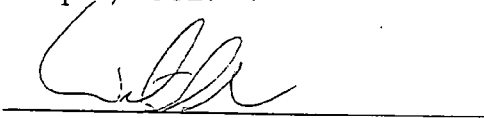
COMMONWEALTH OF PENNSYLVANIA :  
:SS  
COUNTY OF CLEARFIELD :

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.

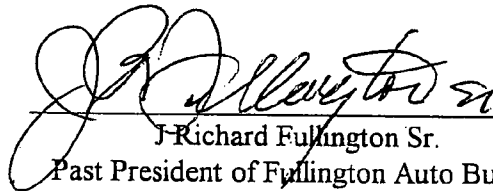
David S. Ammerman, Esquire  
Attorney for Plaintiff

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 FullingtonGMC 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 06/14/04

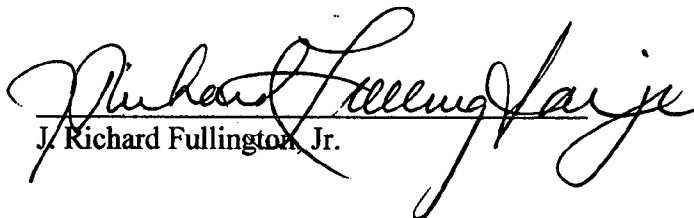
Witness

 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

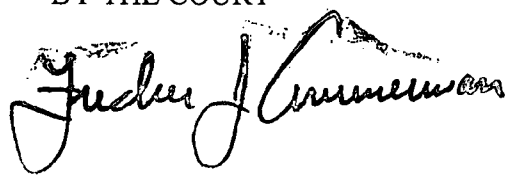
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

FULLINGTON 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, to-wit, this 15<sup>th</sup> 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, 2006 @ 9:00 AM. 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 7<sup>th</sup> 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

1A

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.

**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

William A. Shaw

Prothonotary/Clerk of Courts

4 CENT TO ATT

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

FULLINGTON GMC SALES, INC.,	)	CIVIL ACTION – LAW
	)	
Plaintiff,	)	
	)	
v.	)	No. 02-650-CD
	)	
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 GMC Sales, 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" and or "agreements" concerning 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 (1924), 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 GMC Sales, Inc. 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 at 154, 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 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 in part and admitted in part. Petitioner was President of GMC Sales. GMC Sales and FABCO 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 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 the 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 them.

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.

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.

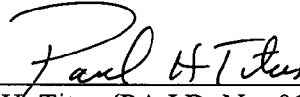
9. Denied. Any discussions which Michael Fullington and Aerial Fullington Weisman had with respect to the enforcement of the judgment were in terms of attempting to recoup costs occasioned by the litigation commenced by Petitioner.

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 or its officers.



Respectfully submitted,



---

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 6<sup>th</sup> 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

CB

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

FULLINGTON GMC SALES, INC.,

Plaintiff,

v.

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

Defendants.

CIVIL ACTION - LAW

No. 02-650-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** <sup>NO</sup> <sup>CC</sup>  
SEP 14 2006 <sup>CR</sup>

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,	)	
	)	No. 02-650-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, Jr., Defendant in the above-referenced matter (hereinafter "Fullington").

2. Respondent is Fullington GMC Sales, Inc., Plaintiff in the above-referenced matter (hereinafter "GMC Sales").

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.

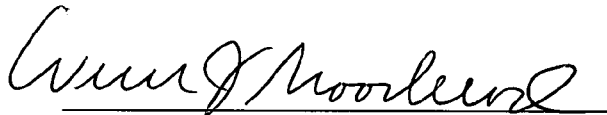
4. On Monday, September 11, 2006, counsel for Fullington became aware of the hearing dates during a conversation with counsel for GMC Sales. Counsel for Fullington advised he was not aware of these dates and had a conflict in his schedule. Counsel for Fullington requested that counsel for GMC Sales consent to a continuance of these hearings to be rescheduled at the earliest convenience of the Court.

5. Counsel for FABCO consents to a continuance of the hearings 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", written over a horizontal line.

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

603 Washington Rd.  
Suite 500  
Pittsburgh, PA 15228

(412) 942-0770

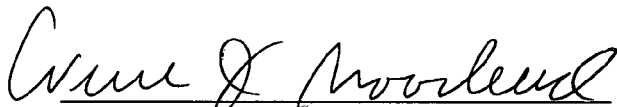
**CERTIFICATE OF SERVICE**

I hereby certify that on this 12<sup>th</sup> 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

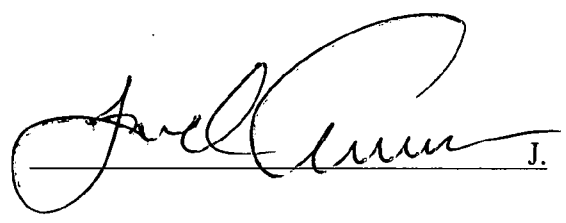
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

FULLINGTON 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 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 @  
10:00 A.M.

BY THE COURT:

  
J.

**FILED**  
013:1837  
SEP 15 2006  
William A. Shaw  
Prothonotary/Clerk of Courts  
Amy Moorhead



DATE: 9/5/06

☒ 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:

~~Prothonotary/Clerk of Courts~~  
~~William A. Shaw~~

~~9002 7 1 DES~~

**FILED**

~~9002 7 1 DES~~ SEP 15 2006

~~03713~~

William A. Shaw  
Prothonotary/Clerk of Courts

**MERCHANT, MOORHEAD & KAY, LLC****ATTORNEYS AT LAW****603 WASHINGTON ROAD****SUITE 500****PITTSBURGH, PENNSYLVANIA 15228****WILLIAM J. MOORHEAD****MOORHEAD@MMKLEGAL.COM**

December 6, 2006

**Via Facsimile: 814-765-7649**

Ms. Rhonda Wisor  
Deputy Court Administrator  
Court of Common Pleas of Clearfield County, Pennsylvania  
P.O. Box 549  
Clearfield, PA 16830

Re: Fullington GMC Sales, Inc. v. J. Richard Fullington, Jr. and Loretta P. Fullington  
No. : 02-650-CD  
and Fullington Auto Bus Co., Inc. v. J. Richard Fullington, Jr. and Loretta P. Fullington  
No. 02-648-CD

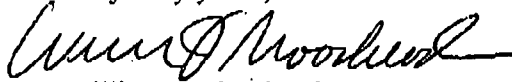
Dear Ms. Wisor:

Attached please find a copy of a newspaper article which appeared in the April 15, 2002, Clearfield Progress. I would like to bring this article to Judge Cherry's attention during our argument tomorrow at 1:15. As you can see, I have transmitted this correspondence and a copy of the article to Mr. Titus.

Per our telephone conversation of yesterday, I will initiate the call by calling Mr. Titus, who will be traveling at 412-477-0706. I will then call Judge Cherry at 814-765-2641 ext. 1320.

Your attention is appreciated.

Very truly yours,



William J. Moorhead

WJM/ge

Enclosures

cc: Paul Titus, Esquire (w/enclosure)  
via facsimile: 412-577-5194

Nov 30 06 01:43p

Richard

814-765-8882

p. 1

Page 6, Col. 4

Palestinian prisoners and has confiscated 50 anti-tank grenades and two launchers, 26 machine guns, nine bombs, four belts for suicide

Page 6, Col. 4

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District Attorney Paul Cherry, at left, and Tpr. Michael Greene of the state police announced the filing of criminal charges against a former area car dealer, two members of his family and a Clearfield man, during a press conference yesterday at the Woodland barracks of the state police. (Photo by G. Kerry Webster)

## Felony charges filed against former Clearfield dealership owner and family members

By G. Kerry Webster  
Staff Writer

WOODLAND — District Attorney Paul Cherry announced that criminal charges have been filed against a former Clearfield automobile dealer, two members of his immediate family and a fourth person, relating to ongoing deceptive business practices at his business in Lawrence Township.

John Richard Fullington Jr., his wife, Loretta, and their daughter, Heidi, along with Kenneth R. Sarvis, all of Clearfield, have been the target

of a year-long joint investigation by the district attorney's office and state police.

Mr. Cherry and investigating officer Tpr. Michael Greene held a press conference at the Woodland barracks of the state police yesterday to answer questions by media concerned with the case.

Although the investigators were tight-lipped about the investigation, prefacing most answers with "We're not going to comment on this..." and "We're not prepared to give

Turn to Page 6, Col. 1

The coffin of Britain's Queen Elizabeth II, her crow daughter, Queen Elizabeth II, start of its ceremonial procession to the Royal Hall Friday. As the procession started, a 21-gun salute was fired from the minute of the journey. The Royal Horse Artillery, in ceremonial black and red uniforms, will be present Saturday at age 101. St. George's Chapel at Windsor.

## Out of luck... Osceola Mil groceries, Ic

By Lori Dehn

Mo Valley Bureau Chief  
OSCEOLA MILLS

December of 2000, Emily Myer heard about the contest and could not let the winner \$100 in groceries a week for a year. She thought it sounded like a good idea.

When she and her husband Clayton, found out they had won the prize, they were surprised and happy.

Now that year is up, the groceries are gone, and the store has another surprise for

## George says responsible cleanup cos

By R

OSCEOLA MILLS — The age tanks that could hold up operation in Decatur Township one state legislator, who is currently Environmental Protection's v State Rep. Camille "Bud" C. office sits about four miles from the site, has fired off a missile.

"The oil came out of tank been the responsibility of Operating Co. forfeited a \$200 April," Rep. George's letter read.

By the fall of 1998, Power

## a police force merger held

where the  
ould be locat-  
a force they

Bell, in addition to Supervisor William Lawhead and Secretary Barbara Shaffer from the town-

taxes or cut services in five to seven years. The regional police department will allow the

Dec 03 06 02:14p

Richard

814-765-8882

p. 1

specifics... the affidavit of probable cause signed by Tpr. Greene details what the investigation from January 2001 to January 2002 revealed.

According to the affidavit, police opened the investigation when a former employee of Fullington, GMC-Buick-Olds-Cadillac told authorities that she was advised on numerous occasions to create fictitious bills of sale for vehicles that have already been sold. The complaint states the purpose of doing this was "to present the fictitious forms" to the bank the family received a loan from "to mislead the bank" on the actual purchase date of the vehicle.

Police believed Mr. Fullington would do this to delay the date of purchase from inventory, allowing the dealership to delay payment back to their creditor, thus "depriving the bank of their interest and funds initially 'fronted' for the purchase of the vehicle."

According to police, Mr. Fullington or his wife, Loretta, would secure a loan from a banking establishment to purchase a personal vehicle from their lot. Once accepted for the loan, Mr. Fullington, Loretta, Heidi or Mr. Sarvis would generate fictitious loan agreement forms, implying that he or she did purchase the vehicle. These forms were then returned to the bank.

Police said Mr. Fullington would then continue to advertise the same vehicles for sale or dealer trade to another car dealership for resale. These vehicles included a \$40,000 Cadillac, a \$35,000 Oldsmobile Bravada and a \$35,000 Buick Park Avenue. In total, seven vehicles were "purchased" this way, adding up to more than \$200,000 in loans.

Police said in each case, the Manufacturer's Statement of Origin was never mailed to the bank from which the loan was granted, or to the state Department of Transportation to establish a record that he had purchased the vehicles.

Police said the money obtained through these loans was never intended to be used to purchase a vehicle, but instead was secured to satisfy other debts of the dealership.

The affidavit states: "When questioned about the above, Mr.

Fullington after customers would purchase a vehicle.

In June of 2001, Mr. Fullington told sentencing Judge Fredric J. Ammerman that instead of pleading guilty to felony charges and receiving probationary terms, he decided to accept guilty pleas to numerous misdemeanors for a six-month incarceration sentence. He feared a felony record would cause state licensing agencies to revoke his dealership license, so he accepted the jail term to "save the business."

His sentence began on Aug. 1, 2001.

Tpr. Greene said yesterday the crimes charged in this case are not related to the ones filed in 2000.

The current investigation took place between Jan. 17, 2001-Jan. 18, 2002.

Mr. Fullington served his sentence on the tampering charges between August 2001-January 2002.

Mr. Fullington was awarded work release from the jail on Aug. 3, 2001. Mr. Cherry would not comment on any future parole revocation proceedings.

Mr. Cherry said he hasn't assigned a prosecutor to the case and noted the preliminary hearing has been scheduled for May 8. He said at that time, he will be better prepared to answer questions concerning the exact time frame of the investigation, how he will proceed with charges against the family members and Mr. Sarvis, and if he would entertain a plea agreement.

Mr. Fullington is charged with numerous felonies, including eight counts of deceptive or fraudulent business practices, seven counts each of criminal conspiracy to commit deceptive or fraudulent business practices, and single charges of dealing in proceeds of unlawful activity, corrupt organizations, forgery and criminal conspiracy to commit forgery. He is also charged with misdemeanor crimes of defrauding secured creditors, criminal conspiracy to defraud, tampering with records or identification and criminal conspiracy to commit tampering.

Mrs. Fullington and the couple's daughter are also charged with numerous felony crimes, including forgery, tampering

commission that will serve four-year terms. The police commission will be made up of two representatives from each municipality, either a borough council member or the mayor from the borough and two supervisors from the township and one member from the public who has interests in the township and the borough, to vote in case of a tie.

Most of the discussion last night centered on the next step in the process, which is the public survey to gauge public opinion.

"This survey is very important because I think the taxpayers are the ones who need to decide whether we need it (the merger)," said Mr. Biancuzzo.

The Joint Regionalization Committee had previously drawn up a proposed survey, which is about three pages long, but agreed with Mr. Haag's suggestion to limit it to one page.

Mayor Moyer, Mr. Lawhead and Mr. Haag agreed to work on a draft survey and have it ready for the April 18 borough council meeting.

They also discussed how large the police department should be once they merge. Currently, both the borough and the township have eight full-time police officers. Normally, the township has nine but the supervisors are holding off on filling a vacant position until the question of regionalization is settled.

According to Mr. Lawhead, they will need at least 16 full-time officers and four part-time officers in the new police department to provide adequate coverage. However, both departments now own four vehicles, which they would be able to reduce to six if the departments were merged.

No consensus was reached at last night's meeting on where the new department would be located.

According to Mr. Lawhead, both the borough's and the township's current police stations have their advantages and disadvantages. The borough's police department is located in downtown Clearfield on Front Street. It has the advantage of being in a centralized location and more readily accessible by the public.

The township's police department is located at the former Bayer Building in Hyde. It has the advantage of having a lot of

Fullington P. 6

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

FULLINGTON GMC SALES, INC.,

Plaintiff,

v.

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

Defendants.

CIVIL ACTION - LAW

No. 02-650-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*  
*m110:47/57*  
**SEP 21 2006** *(S)*

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,	)	
	)	No. 02-650-CD
v.	)	
	)	
J. RICHARD FULLINGTON, JR.	)	
and LORETTA P. FULLINGTON,	)	
	)	
Defendants.	)	

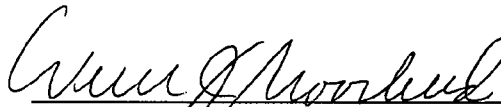
**CERTIFICATE OF SERVICE**

I hereby certify that on this 19<sup>th</sup> 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 GMC Sales, 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

A

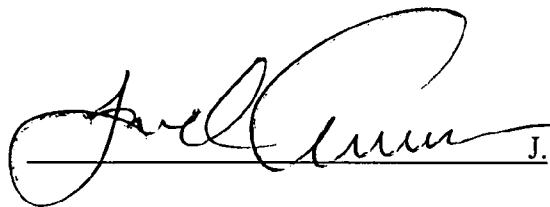
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

FULLINGTON GMC SALES, INC.,	)	CIVIL ACTION - LAW
	)	
Plaintiff,	)	
	)	
v.	)	No. 02-650-CD
	)	
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 @  
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

CC:Y

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

FULLINGTON AUTO BUS CO., INC., :  
and FULLINGTON GMC SALES, INC. :

VS. :

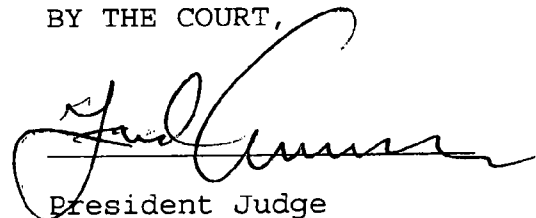
NO. 02-648-CD and 02-650-CD

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**  
013:1280  
NOV 02 2006

William A. Shaw  
Prothonotary/Clerk of Courts

ICC Atty: D. Ammerman  
W. Moorhead

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

(6K)



DATE: 11/21/06

     You are responsible for serving all appropriate parties.

X The Probationary's office has provided service to the following parties:

     Plaintiff(s) X Plaintiff(s) Attorney      Other

X Defendant(s) X Defendant(s) Attorney

     Fullington

     Special Instructions:

CM  
1

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

FULLINGTON GMC SALES, INC.,

Plaintiff,

v.

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.

Civil Action- Law

No. 02-650-CD

No. 02-648-CD

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

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

Counsel of Record for This Party:

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

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

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  
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NOV 21 2006

William A. Shaw  
Prothonotary/Clerk of Courts

Orig. to  
02-648-CD

(6)

**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.<sup>1</sup>

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

---

<sup>1</sup> 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.

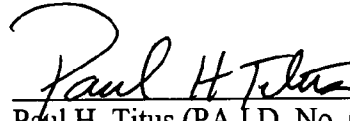
13. On the eve of the scheduled hearing Defendant presented a Motion for Continuance on the basis that the appraisal witness could not prepare a report for 45 days. *See* Motion for Continuance, ¶¶ 5-7 attached as Exhibit "A."

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 dark ink, appearing to read "Paul H. Titus", is 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. Gennich  
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.

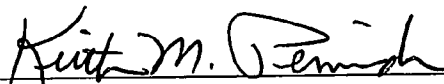
Thank you for the opportunity to be of service.

  
Richard J. Provost, IFAS

J. RICHARD FULLINGTON, JR.,	)	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.	)	

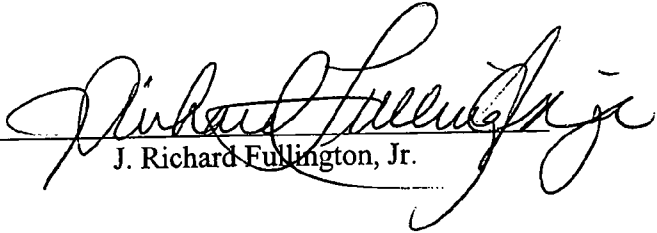
**CERTIFICATION**

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.,	)	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 \_\_\_\_\_, \_\_\_\_\_, 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 18<sup>th</sup> 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



11/1

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,

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

Defendants.

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*  
*m/j: 11/1/06*  
NOV 22 2006 *(GK)*

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,	)	
	)	No. 02-650-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.

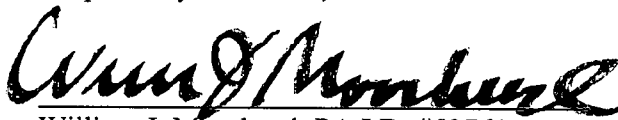
5. While the District Attorney for Clearfield County, Judge Cherry prosecuted Richard Fullington in *Commonwealth of Pennsylvania v. J. Richard Fullington, Jr.*, Docket Number CP-17-CR-599-2002.

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 20<sup>th</sup> 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

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  
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.,

Plaintiff,

v.

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

Defendants.

CIVIL ACTION - LAW

No. 02-650-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

7

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

FULLINGTON GMC SALES, INC.,	)	CIVIL ACTION - LAW
	)	
Plaintiff,	)	
	)	
v.	)	No. 02-650-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 GMC Sales, Inc., Plaintiff in the above-captioned action (hereinafter referred to as "GMC Sales").
3. Petitioner was the President of GMC Sales which was part of the Fullington family business. The Fullington family business included, GMC Sales. The various family companies, including GMC Sales and Fullington Auto Bus Company ("FABCO"), 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 GMC Sales and FABCO., 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 GMC Sales, FABCO 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. GMC Sales 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 GMC Sales at the above-captioned Case Number in the amount of \$1,380,533.70 was not a bona fide debt owed by Petitioner or his wife and Petitioner owes no money to GMC Sales 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.



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 GMC SALES, INC.,

Plaintiff

v.

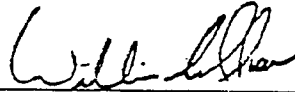
No. 02- 650 -CD

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 \$1,380,533.70 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 GMC SALES, INC., : CIVIL DIVISION

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

No. 02-650-CO

Type of Pleading: Civil Action -  
Complaint in Confession of  
Judgment

Filed on behalf of Fullington  
GMC Sales, Inc., Plaintiff

Counsel of Record for this Party:  
David S. Ammerman, Esquire  
Supreme Court #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.

*Lucy A. B.*  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

FULLINGTON GMC SALES, INC.,  
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 GMC Sales, Inc., by its attorney, David S. Ammerman, files this Complaint in Confession of Judgment for money:

(1). Plaintiff, Fullington GMC Sales, Inc., 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 \$1,198,494.00, 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 . . . . . \$1,198,494.00

Interest to 04/24/02. . . . . 1,970.12

Attorney's fees 15% . . . . . 180.069.61

Total . . . . . \$1,380,533.70

WHEREFORE, the Plaintiff, as authorized by the Warrant of Attorney contained in the Note, demands judgment against the Defendants in the total sum of \$1,380,533.70, with interest on the principal sum of \$1,198,494.00 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

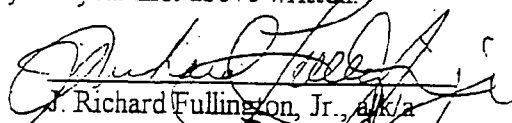
AMOUNT: \$1,198,494.00

DATE: April 19, 2002

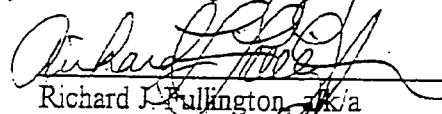
ONE DAY AFTER THIS DATE, THE UNDERSIGNED, JOINTLY AND SEVERALLY, DO PROMISE TO PAY TO THE ORDER OF FULLINGTON GMC SALES, INC., OF 316 EAST CHERRY STREET, CLEARFIELD, PENNSYLVANIA 16830, WITHOUT OFFSET, FOR VALUE RECEIVED, THE SUM OF \$1,198,494.00 TOGETHER WITH INTEREST AT THE RATE OF FIFTEEN (15%) PERCENT PER ANNUM ON THE UNPAID BALANCE.

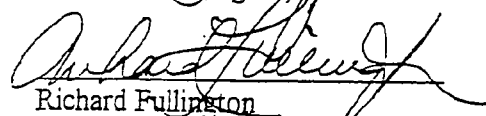
MAKERS IRREVOCABLY AUTHORIZE AND EMPOWER THE PROTHONOTARY, ANY ATTORNEY OR ANY CLERK OF ANY COURT OF RECORD, WITH OR WITHOUT DEFAULT, TO APPEAR FOR AND CONFESS JUDGMENT AGAINST MAKERS FOR SUCH SUMS AS ARE DUE AND/OR MAY BECOME DUE UNDER THIS NOTE, WITH COSTS OF SUIT, WITHOUT STAY OF EXECUTION AND WITH 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.

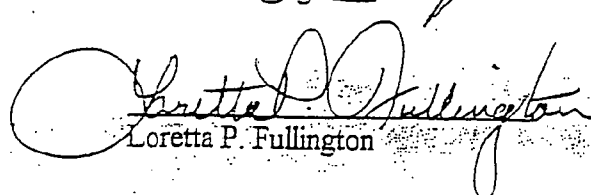
WITH INTENT TO BE LEGALLY BOUND, the undersigned do hereby execute the within instrument as of the day and year first above written.

  
J. 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 GMC SALES, INC.,  
Plaintiff

v.

Civil Division

No.

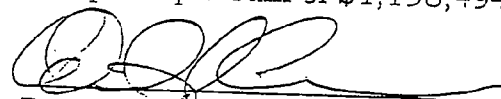
J. RICHARD FULLINGTON,  
JR., a/k/a JOHN R.  
FULLINGTON, JR., a/k/a  
RICHARD J. FULLINGTON,  
a/k/a RICHARD FULLINGTON,  
and LORETTA P. FULLINGTON,  
Defendants

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 .....	\$1,198,494.00
Interest to .... 04/24/02	1,970.12
Attorney's fees .....	<u>180,069.61</u>
Total .....	\$1,380,533.70

with interest from April 24, 2002, on the principal sum of \$1,198,494.00  
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) 755-1701

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', with a long horizontal flourish 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 dark ink, appearing to read 'D. Ammerman', written over a horizontal line.

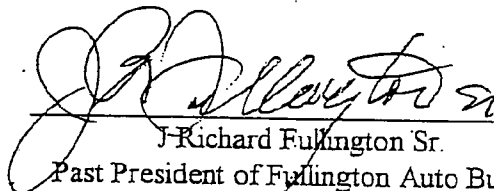
David S. Ammerman, Esquire  
Attorney for Plaintiff

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 06/12/04

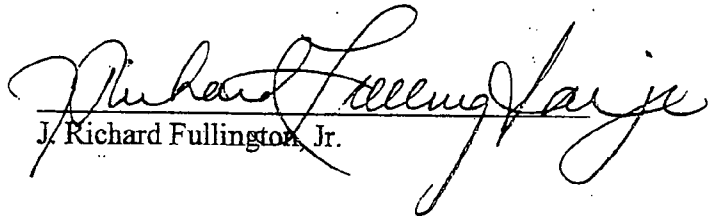
Witness

  
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 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, 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 7<sup>th</sup> 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 Defendant's Motion for Recusal, it is hereby ORDERED, ADJUDGED, and DECREED that this Court hereby disqualifies itself from Case No.: 2002-650-CD. This case shall forthwith be assigned to \_\_\_\_\_.

BY THE COURT:

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


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

FULLINGTON AUTO BUS CO.,	:	NO.
Plaintiff	:	02-650-CD
	:	
V.	:	
	:	
J. RICHARD FULLINGTON, JR.,	:	
and LORETTA P. FULLINGTON,	:	
Defendants	:	

**ORDER**

AND NOW, this 22<sup>nd</sup> 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 6<sup>th</sup> 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/✓  
William A. Shaw

Prothonotary/Clerk of Courts

CERT. TO ATT'Y  
P. Titus  
D. Ammerman

W. MOOREHEAD  
TITUS

LORETTA P. FULLINGTON  
929 S. 6TH ST  
CLEARFIELD

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,

/s/ Paul E. Cherry

Judge

610  
**FILED**  
DEC 12 2006

ICC Atty's:  
D. Ammerman  
P. Titus  
W. Moorhead

William A. Shaw ICC Def.  
Prothonotary/Clerk of Courts  
929 S. Sixth St.  
Clearfield, PA  
16830



DATE: 12/2/06

\_\_\_\_ You are responsible for serving all appropriate parties.

X The Probationary's office has provided service to the following parties:

\_\_\_\_ Plaintiff(s) X Plaintiff(s) Attorney \_\_\_\_ Other

X Defendant(s) X Defendant(s) Attorney

\_\_\_\_ Special Instructions:

**FILED**

DEC 12 2006

William A. Shaw  
Prothonotary/Clerk of Courts

Date: 03/17/2004

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 03:48 PM

CIVIL CASE DISPOSITIONS REPORT

Page 1 of 1

Case: 2002-00650-CD

Fullington GMC Sales, Inc. vs. J. Richard Fullington Jr., etal.

Sorted by Order Date

Disposition Entry Date	Party One	Party Two	Disposition Judgment
04/24/2002	Fullington GMC Sales, Inc. Plaintiff	Fullington, J. Richard Jr. Defendant	Open  <b>In Favor Of:</b> Plaintiff Complaint/Confession <b>Amount:</b> 1380533.70
04/24/2002	Fullington GMC Sales, Inc. Plaintiff	Fullington, Loretta P. Defendant	Open  <b>In Favor Of:</b> Plaintiff Complaint/Confession <b>Amount:</b> 1380533.70
12/03/2003	Fullington GMC Sales, Inc. Plaintiff	Fullington, Loretta P. Defendant	Satisfied  <b>In Favor Of:</b> Plaintiff Complaint/Confession <b>Amount:</b> 1380533.70
12/03/2003	Fullington GMC Sales, Inc. Plaintiff	Fullington, J. Richard Jr. Defendant	Satisfied  <b>In Favor Of:</b> Plaintiff Complaint/Confession <b>Amount:</b> 1380533.70

cted 3/17/04 WAS:BD

COPY

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CERTIFICATE OF SATISFACTION OF JUDGMENT

Fullington GMC Sales, Inc.

No.: 2002-00650-CD

Vs.

Debt: \$1,380,533.70

J. Richard Fullington Jr.  
Loretta P. Fullington

Atty's Comm.:

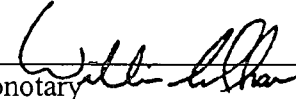
Interest From:

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



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

FULLINGTON GMC SALES, INC.,	)	CIVIL ACTION - LAW
	)	
Plaintiff,	)	
	)	
vs.	)	No. 2002-00650-CD
	)	
J. RICHARD FULLINGTON, JR. and	)	
LORETTA P. FULLINGTON,	)	
	)	
Defendants.	)	

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 3004 1Cet  
0/2:35 Lm of sat issued  
FEB 14 2007 to [unclear]  
William A. Shaw Fullington Auto  
Prothonotary/Clerk of Courts Bus Co.

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CERTIFICATE OF SATISFACTION OF JUDGMENT

COPY

Fullington GMC Sales, Inc.

No.: 2002-00650-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