

02-1285-CD

DELFORD SORTAWEIGH, et al. vs BACKUS USA, INC. et al.

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

DELFORD SORTAWEIGH, Division of
PELCOMBE LIMITED and through its
affiliate AEW-THURNE, INC.,

Plaintiff,
vs.

BACKUS USA, INC. individually and as
successor-in-interest of M.E.S., INC.; and
M.E.S., INC.,

Defendants.

CIVIL ACTION - LAW

No. 02-1285-CO

COMPLAINT IN CIVIL ACTION

Filed on Behalf of Plaintiff,
DELFORD SORTAWEIGH, Division of
PELCOMBE LIMITED and through its
affiliate AEW-THURNE, INC.,

COUNSEL OF RECORD FOR THIS
PARTY:

John R. Keating, Esquire
PA I.D. No. 52779

VOLLMER RULONG & KEATING, P.C.
Suite 1212, Grant Building
330 Grant Street
Pittsburgh, PA 15219
(412) 391-2121
(412) 391-3578 Fax

Firm I.D. No. 916

FILED

AUG 10 2002

10/25/02 Atty Keating
William A. Shaw
Prothonotary PC
\$800
Acc Sherry

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

DELFORD SORTAWEIGH, Division of PELCOMBE LIMITED and through its affiliate AEW-THURNE, INC.,	}	CIVIL ACTION - LAW
Plaintiff,	}	
vs.	}	No.
BACKUS USA, INC. individually and as successor-in-interest of M.E.S., INC., and M.E.S., INC.,	}	
Defendants.)	

NOTICE TO DEFEND

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

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

LAWYER REFERRAL SERVICE:
PENNSYLVANIA LAWYER REFERRAL SERVICE
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

NOTICE TO DEFEND:
David S. Meholic, Court Administrator
CLEARFIELD COUNTY COURTHOUSE
Clearfield, PA 16830
(814) 765-2641 ext. 5982

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

DELFORD SORTAWEIGH, Division of PELCOMBE LIMITED and through its affiliate AEW-THURNE, INC.,)	CIVIL ACTION - LAW
Plaintiff,)	
vs.)	No.
BACKUS USA, INC. individually and as successor-in-interest of M.E.S., INC., and M.E.S., INC.,)	
Defendants.)	

COMPLAINT IN CIVIL ACTION

PARTIES

1. Plaintiff, DELFORD SORTAWEIGH, Division of PELCOMBE LIMITED and through its affiliate AEW-THURNE, INC. (hereinafter "Plaintiff") is a corporation with offices at 1148 Ensell Road, Lake Zurich, IL 60047.
2. Defendant, BACKUS USA, INC. (hereinafter "Defendant, BACKUS") is a corporation which is believed to be the successor-in -interest of M.E.S., INC. with its offices at 602 W. Dubois Avenue #9, Du Bois, Clearfield County, Pennsylvania 15801.
3. Defendant, M.E.S., INC. (hereinafter "Defendant, M.E.S.") is a corporation with its last known address at 602 W. Dubois Avenue #9, Du Bois, Clearfield County, Pennsylvania 15801.

COUNT 1 - DELFORD SORTAWEIGH vs. M.E.S., INC.

FACTS:

4. Plaintiff incorporates paragraphs 1 through 3 above as though set forth at length herein.

5. Between on or about February 15, 1999 and May 26, 1999, Plaintiff, at the request of Defendant, M.E.S., sold and delivered certain goods at the times and in the amounts fully set forth on Plaintiff's invoices, true and correct copies of which are attached hereto, made a part hereof and marked as Exhibit "1" and "2"

6. The prices charged for the said goods were the fair, reasonable and market prices of the same at the time they were sold and delivered to Defendant, M.E.S., and/or its affiliates and further are the prices that it agreed to pay.

7. Defendant, M.E.S. and/or its successor in interest, (BACKUS) made payments to Plaintiff in the form of various wire transfers as reflected on the credit advices and correspondence which is attached hereto, made a part hereof and which have been marked as Exhibits "3" through "10".

8. Plaintiff has demanded payment of the balance remaining on the invoices of \$37,430.00 but Defendant, M.E.S. has failed or refused to pay the same.

9. In addition, Plaintiff demands interest at the legal rate of 6% from an average due date of June 26, 1999.

WHEREFORE, Plaintiff demands judgment in its favor on Count 1 and against the Defendant, M.E.S., INC. in the sum of \$37,430.00 plus interest at the legal rate of six percent (6%) per annum from an average due date of June 26, 1999 plus cost.

COUNT 2 - DELFORD SORTAWEIGH vs. BACKUS USA, INC.

FACTS:

10. Plaintiff incorporates paragraphs 1 through 9 above as though set forth at length herein.

11. Defendant, BACKUS is the successor-in-interest of its co-Defendant, M.E.S., at times operating out of the same location; having the same or virtually the

Delford Sortaweigh et al. vs. Backus USA, Inc. et al. - Complaint in Civil Action page 5
same officers, directors and/or shareholders.

12. Defendant, BACKUS and its co-Defendant, M.E.S. commingled their financing and operations as reflected by the remittance advices that BACKUS issued to Plaintiff to pay a portion of the debt that Defendant, M.E.S. had incurred. Copies of the remittance advices and relevant correspondence are attached as Exhibits "3" and "10".

13. Defendant, BACKUS and its co-Defendant, M.E.S. disregarded the corporate formalities and have openly intertwined their operations at least with respect to their dealings with the Plaintiff.

14. Defendant, BACKUS, at least with regard to Plaintiff's claim, agreed to assume the liabilities of its co-Defendant, M.E.S..

15. Plaintiff has demanded payment of the balance remaining on the invoices of \$37,430.00 but Defendant, M.E.S. has failed or refused to pay the same.

16. In addition, Plaintiff demands interest at the legal rate of 6% from an average due date of June 26, 1999.

WHEREFORE, Plaintiff demands judgment in its favor on Count 2 and against the Defendant, BACKUS USA, INC. in the sum of \$37,430.00 plus interest at the legal rate of six percent (6%) per annum from an average due date of June 26, 1999 plus cost.

VOLLMER RULONG & KEATING, P.C.

BY: 

Attorney for Plaintiff

EXHIBIT "F" PAGE 2

Delford Sortaweigh

Division of Peconic Limited

Harwich, Essex CO12 4LP
Telephone 01255 241000 Facsimile: 01255 241155

SO/DO

MONEY G MUSHROOMS
5305 27END STREET
BRITISH COLUMBIA
VANCOUVER, CANADA

AMOUNT F.O. REFERENCE / PO. DATE

SHIPPING INSTRUCTIONS

SALESMAN

ORDER NO. 15/02/99

ORDER DATE

TERMS

CODE

DELIVER TO

MONEY G MUSHROOMS
5335 27END STREET
LANGLEY
BRITISH COLUMBIA
VANCOUVER, CANADA

CONTINUED

SALES INVOICE

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	NET PRICE	DISCOUNT	NET SALES	DISCOUNT	NET SALES
7029	BELT, TIMING 210L073	1	EACH	1	8.57	0.0	8.57	0.0	8.57
7027	BELT, TIMING 1200H100	1	EACH	1	32.30	0.0	32.30	0.0	32.30
7034	BELT, TIMING 2506BM976	1	EACH	1	32.90	0.0	32.90	0.0	32.90
7030	BELT, TIMING 276XL037	1	EACH	1	22.88	0.0	22.88	0.0	22.88
7033	BELT, TIMING 210L075	1	EACH	1	2.54	0.0	2.54	0.0	2.54
7035	STUB, SHAF, CAM, FRONT, L/H	1	EACH	1	10.19	0.0	10.19	0.0	10.19
115	SPROCKET, 41-1473 K251D, 35P, 25T	1	(D)	1	8.57	0.0	8.57	0.0	8.57
116	SPROCKET, 120T (4-755)	1	EACH	1	44.42	0.0	44.42	0.0	44.42
117	SPROCKET, 41-415 (22T 35P 16TD)	1	EACH	1	37.38	0.0	37.38	0.0	37.38
118	SPROCKET, 41-413 (22T 35P 16TD)	1	EACH	1	16.06	0.0	16.06	0.0	16.06
119	BEVEL GEAR, 251D, 25T	1	EACH	1	17.70	0.0	17.70	0.0	17.70
110	BEARING, ST/ST 6001 2RS	2	EACH	2	17.38	0.0	17.38	0.0	17.38
111	BEARING, ST/ST 608 2RS	2	EACH	2	27.08	0.0	27.08	0.0	27.08
112	CENTRE SEAL, HEATER	1	EACH	1	10.35	0.0	10.35	0.0	10.35
				1	6.24	0.0	6.24	0.0	6.24
				1	12.48	0.0	12.48	0.0	12.48
				1	125.85	0.0	125.85	0.0	125.85

RECEIVED: 15/02/99 BY: 15/02/99

INVOICE TOTAL

AMOUNT
OP / 102769 2
DISCOUNT
15/02/99

Delford Sortaweigh

Division of Pelcombe Limited

Harwich Essex CO12 4LP

Telephone: 01255 241000 Facsimile: 01255 241155

STN 100

M. E. S. INC

P O BOX 585

DUBOIS

PENNSYLVANIA 15801

U.S.A.

DELIVER TO

M. E. S. INC

P O BOX 585

DUBOIS

PENNSYLVANIA 15801

U.S.A.

INVOICE NUMBER	0411209910
INVOICE DATE	26/05/99

SALES INVOICE

EXHIBIT

PAGE

(FRI) 02. 23. 01 11:34/ST. 10:32/NO. 3560485665 P 4/7

NAME P.O. REFERENCE P.O. DATE SHIPPING INSTRUCTIONS

QTY

DESCRIPTION

U.M.

QTY SENT

BACK ORDERED

PRICE

NET SALES

MATERIAL

VAT AMOUNT

DISCOUNT

CODE

TERMS

CODE

Wkgs
DME
FAX COVER SHEET

MES, Inc.
P. O. Box 585
DuBois, PA 15801

Phone 814-375-0903
Fax 814-375-8909

SEND TO		From
Company name		Larry Salone
Delford		
'Attention		Date
Dave		5-28-99
Office location		Office location
Essex		DuBois, PA
Fax number		Phone number
011-441255-241155		814-375-0903

Urgent Reply ASAP Please comment Please review For your information

Total pages, including cover: 1

COMMENTS

Dave:

We have transferred to your account 13,132.50 pounds.

= 30% of 43,775-00

We will transfer the final payment in 2 weeks.

Warmest regards,

Larry

Larry

EXHIBIT 1 "PAGE 1

\$ 69,993.33

1.5981 MES CSD

210-66 EXCN
Loss



COLCHESTER BRANCH

009046

2JUN1999 OUR REF. IPBBM99060200763

INLAND PAYMENT

For account of

PELCOMB LTD DELFORD SORTAWEIG

CREDIT ADVICE

In accordance with instructions received, we have arranged for your account to be credited.

Amount credited to your account 00-80053637 STERLING+ 12,914.34

Value date 1JUN1999

~ Instructions received via SWIFT

Transferred from MELLON BANK	Currency received US DLRS
THREE MELLON BANK CENTRE PITTSBURGH PA 15258 USA	Currency amount 20,998.00
On instructions from MELLON BK, PITTSBURGH	Exchange rate 1.625 Booking reference
Reference MT9915207995100	Currency credited STERLING+ Gross amount 12,921.84
By order of /77807D66 BACKUS USA INC P O BOX 585 DUBOIS PA 15801	Charges NWB Commission 7.50 Telex/Cable 0.00 Pre-advice 0.00
Details NONE GIVEN	Total 7.50

Charges deducted from gross amount

IP219

EXHIBIT "4" PAGE _____

FAX COVER SHEET

BACKUS USA, Inc.
P.O. Box 685
DuBois, Pennsylvania, 15801, USA

Phone number: 814-375-6999
Fax number: 814-375-6909

SEND TO/ AN/ POUR		From/ Von/ De	
Company name/ Firmenname/ Société Deford		Larry Salone	
Attention/ Zu Händen von/ A l'attention de Dave Evans		Date/ Datum/ Date 10/7/99	
Fax number/ Fax nr./ N° de fax 011-44-1255-241155		Phone number/ Telefon/ N° de tél. 011-44-1255-241000	

Urgent/
Dringend/
Urgent Reply ASAP/
Rückantwort/
Réponse urgente
attendue Please comment/
Erledigung/
Commentaires
attendus Please review/
Überprüfung/
A vérifier For your information/
Kenntnisnahme/
Copie pour information

Total pages, including cover sheet:
Anzahl der übermittelten Seiten inkl. Deckblatt
Nombre de pages (Page de garde incluse) 1

COMMENTS/ ANMERKUNGEN/ COMMENTAIRES

Dave,

Good morning.

As promised a wire transfer will leave our bank today to your bank for 10000 pounds.

Please credit towards Moneys Invoice for 3298.33 and then apply the rest towards
the balance on the last machine, for 32448.16

I will then forward the balance by the end of the month as discussed.

Thanks again.

Warmest regards,

Larry

EXHIBIT 5 PAGE 1

I B C LONDON
BANK OF SCOTLAND
INTERNATIONAL SERVICES
55 OLD BROAD STREET
LONDON EC2P 2HL

PELCOMBE LTD DELFORD SORTAWEIGH
MAIN ROAD
HARWICH
ESSEX CO12 4LP

Telephone: 0171 601 6953
Fax: 0171 601 6716
Telex: 887882

Transaction Date: 12/10/1999

Branch: IPSWICH
Sort Code: 12-16-39

We confirm processing the following transaction in accordance with instructions received by ourselves:
Transaction Details

Transaction Reference No:	UR8992850191012	
Customer Reference:	MERRILL LYNCH PF	
Amount Received by Bank of Scotland	USD	10,000.00
Rate of Exchange	1.6739	
Equivalent Currency	GBP	5,974.07
Related Contract Reference:		
Charge and Commission details:		
Bank of Scotland Commission	GBP	6.00

Settlement Details:

We Credit Your Account 00653569	with Bank Of Scotland	GBP	5,968.07
We Will Credit Your Account on	13/10/1999		

Detail of Payments:

Remitter:	/77807D66 BACKUS USA INC P O BOX 585 DUBOIS PA 15801
Beneficiary:	00653569 PELCOMBE LIMITED - DELFORD SORTAWEIGH - CLIENT REF . 6909

Beneficiary Bank:	BANK OF SCOTLAND BOFSGB2L SORT CODE 12 16 39
-------------------	--

Payment Details:

If you need to contact us about this transaction, please
telephone our Help Desk on the above number.

FAX COVER SHEET

Backus USA, Inc.
P. O. Box 585
DuBois, PA 15801



Phone 814-375-6999
Fax 814-375-6909

SEND TO	From
Company name Delford	Larry Salone
Attention Dave Evans	Date 12/21/99
Office location Essex	Office location DuBois, PA
Fax number 011-44-1255-241155	Phone number 814-375-6999

Urgent Reply ASAP Please comment Please review For your information

Total pages, including cover: 1

COMMENTS

Dave,

We are wiring \$5,000.00 USD today at the exchange rate of 0.6231, this is equal to 3115.50
british pounds.

Warmest regards,

Larry

For payment on Account

I B C LONDON
BANK OF SCOTLAND
INTERNATIONAL SERVICES
55 OLD BROAD STREET
LONDON EC2P 2HL

PELCOMBE LTD DELFORD SORTAWAIGH
MAIN ROAD
HARWICH
ESSEX CO12 4LP

Telephone: 0171 601 6953
Fax: 0171 601 6716
Telex: 887882

Transaction Date: 29/12/1999

Branch: IPSWICH
Sort Code: 12-16-39

We confirm processing the following transaction in accordance with instructions received by ourselves:
Transaction Details

Transaction Reference No:	URB993630446987	
Customer Reference:	BACKUS USA INC	
Amount Received by Bank of Scotland	USD	5,000.00
Rate of Exchange	1.6341	
Equivalent Currency	GBP	3,059.79
Related Contract Reference:		
Charge and Commission details:		
Bank of Scotland Commission	GBP	6.00

Settlement Details:

We Credit Your Account 00653569	with Bank of Scotland	GBP	3,053.79
We Will Credit Your Account on	29/12/1999		
Detail of Payments:			

Remitter: /77807D66
BACKUS USA INC

P O BOX 585
DUBOIS PA 15801
00653569
PELCOMBE LIMITED-DELFORD SOR

31/12

Beneficiary Bank: BANK OF SCOTLAND
81BISHOPSGATE EXCHANGE: 155, BISHOPSGATE

Payment Details: BANK CLIENT REFERENCE 69097

If you need to contact us about this transaction, please
telephone our Help Desk on the above number.

EXHIBIT " 8 " PAGE _____

I B C LONDON
BANK OF SCOTLAND
INTERNATIONAL SERVICES
55 OLD BROAD STREET
LONDON EC2P 2HL

PELCOMBE LTD DELFORD SORTAWEIGH
MAIN ROAD
HARWICH
ESSEX CO12 4LP

Telephone: 0171 601 6953
Fax: 0171 601 6716
Telex: 887822

Transaction Date: 07/03/2000

Branch: IPSWICH
Sort Code: 12-16-39

We confirm processing the following transaction in accordance with instructions received by ourselves.
Transaction Details

Transaction Reference No:	URB000670670005		
Customer Reference:	BACKUS USA INC		
Amount Received by Bank of Scotland	<u>BACKUS USA INC</u>		
Rate of Exchange	1.5902	USD	5,000.00
Equivalent Currency		GBP	3,144.26
Related Contract Reference:			
Charge and Commission details:			
Bank of Scotland Commission		GBP	6.00

Settlement Details:

We Credit Your Account 00653569 With Bank Of Scotland GBP 3,138.26 9/3
We Will Credit Your Account on 07/03/2000

Detail of Payments:

Remitter: /77807D66
BACKUS USA INC
P O BOX 585

Beneficiary: DU BOIS PA 15801
00653569
PELCOMBE LIMITED-DELFORD SOR
BANK CLIENT REF: 69097

Beneficiary Bank: BANK OF SCOTLAND
BISHOPSGATE EXCHANGE: 155, BISHOPSGATE

Payment Details:

If you need to contact us about this transaction, please
telephone our Help Desk on the above number.

EXHIBIT "9" PAGE

I B C LONDON
BANK OF SCOTLAND
INTERNATIONAL SERVICES
55 OLD BROAD STREET
LONDON EC2P 2HL

PELCOMBE LTD DELFORD SORTAWEIGH
MAIN ROAD
HARWICH
ESSEX CO12 4LP

Telephone: 0141 228 4083
Fax: 0171 601 6716
Telex: 887882

Transaction Date: 08/08/2000

Branch: IPSWICH
Sort Code: 12-16-39

We confirm processing the following transaction in accordance with instructions received by ourselves:
Transaction Details

Transaction Reference No:	URB002210002659
Customer Reference:	BACKUS U S A
Amount Received by Bank of Scotland	
Rate of Exchange	1.5248
Equivalent Currency	USD
Related Contract Reference:	5,000.00
Charge and Commission details:	GBP
Bank of Scotland Commission	3,279.12
	6.00

Settlement Details:

We Credit Your Account 00653569 with Bank Of Scotland 3,273.12 11/8
We Will Credit Your Account on 08/08/2000

Detail of Payments:

Remitter: /77807D66
BACKUS USA INC
P O BOX 585
DU BOIS PA 15801
00653569
ACCT NAME PELCOMBE LIMITED
DELFORD SORTAWEIGH

Beneficiary Bank: BANK OF SCOTLAND
IPSWICH
ENGLAND
BOFSGB2L

Payment Details:

If you need to contact us about this transaction, please
telephone our Help Desk on the above number.

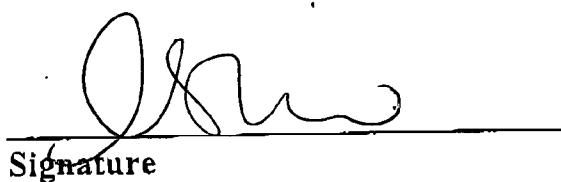
EXHIBIT "10" PAGE _____

VERIFICATION

I, the undersigned, in my capacity as Financial Director of DELFORD SORIAWEIGH DIVISIONS Plaintiff herein, certify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge or information and belief. I make this Verification subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities, which provides that if I knowingly make false statements, I may be subject to criminal penalties.

MERANIE SHAW

Print or Type Name



Signature

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 12947

DELFORD SORTAWEIGHT, division of PELCOME LIMITED

02-1285-CD

VS.

BACKUS USA, INC. IND & as successor-in-interest of M.E.S. INC.; & M.E.S. I

COMPLAINT

SHERIFF RETURNS

NOW AUGUST 21, 2002 AT 1:41 PM DST SERVED THE WITHIN COMPLAINT
ON BACKUS USA, INC. ind & as successor-in-interest of M.E.S. INC.,
DEFENDANT AT EMPLOYMENT, 602 W. DUBOIS AVE., DUBOIS, CLEARFIELD
COUNTY, PENNSYLVANIA BY HANDING TO RACHELLE GEIST, SECRETARY
A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE
KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: COUDRIET/RYEN

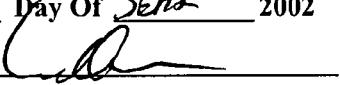
NOW AUGUST 21, 2002 AT 1:41 PM DST SERVED THE WITHIN COMPLAINT
ON M.E.S. INC., DEFENDANT AT EMPLOYMENT, 602 W. DUBOIS AVE., #9,
DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO RACHELLE
GEIST, SEC. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND
MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: COUDRIET/RYEN

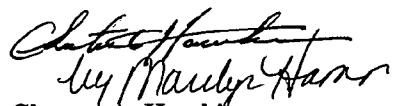
Return Costs

Cost	Description
36.35	SHFF. HAWKINS PAID BY: ATTY.
20.00	SURCHARGE PAID BY: ATTY.

Sworn to Before Me This

20 Day Of Sept 2002


So Answers,


Chester A. Hawkins
Sheriff

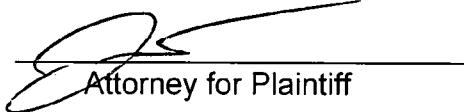
FILED

SEP 20 2002

2:40

William A. Shaw
Prothonotary

I hereby certify that Rule 237.1 has been complied with and that notice of intention to file Praeclipe for Default Judgment was mailed to Defendants on September 23, 2002



Attorney for Plaintiff

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

DELFORD SORTAWEIGH a division of
PELCOMB LIMITED and through its
affiliate AWE-THURNE INC.

CIVIL ACTION - LAW

Plaintiff,
vs.

No: 2002-1285-CD

BACKUS USA INC. individually and
as successor in interest of M.E.S. INC.
and M.E.S. INC.

**PRAECLYPE FOR DEFAULT
JUDGMENT**

Defendants

Filed on behalf of plaintiff
DELFORD SORTAWEIGH a division of
PELCOMB LIMITED and through its
affiliate AWE-THURNE INC.
COUNSEL OF RECORD FOR
THIS PARTY:

CERTIFICATE OF ADDRESS

I hereby certify that the last
known address of the Plaintiff
and the Defendant are as follows:

John R. Keating, Esquire

Plaintiff:
Main Road
Dovercourt, Harwick Essex
C012 4LP UK

PA ID No. 52779

Defendant
602 W. Dubois Avenue #9
Dubois, PA 15801

VOLLMER RULONG & KEATING, P.C.

Suite 1212, Grant Building

330 Grant Street

Pittsburgh, PA 15219

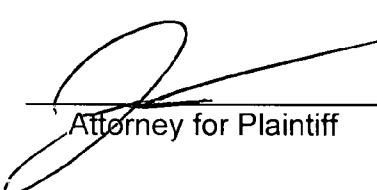
(412) 391-2121

(412)391-3578 fax

Firm I.D. No. 916

OCT 07 2002

FILED



Attorney for Plaintiff

11/2002 BA *sent to relif*
William A. Shaw *Notice to*
Prothonotary *Backus US*
& M.E.S. Inc.
Both Dubois

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

DELFORD SORTAWEIGH a division) CIVIL ACTION - LAW
of PELCOMB LIMITED and through its)
affiliate AWE-THURNE INC.)
Plaintiff,)
vs.) No: 2002-1285-CD
BACKUS USA INC. individually and as)
successor in interest of M.E.S. INC. and)
M.E.S. INC.)
Defendants)

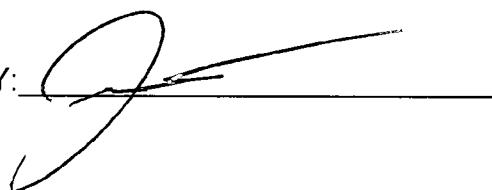
PRAECIPE FOR DEFAULT JUDGMENT

TO THE PROTHONOTARY:

Please enter judgment in favor of the plaintiff and against the defendants
BACKUS USA INC. individually and as successor in interest of M.E.S. INC. and M.E.S.
INC. for failure of the defendant to file an Answer within the prescribed period time.

Amount	\$37,430.00
6% Interest from 6/26/99	<u>\$ 7,358.84</u>
TOTAL	\$44,788.84 PLUS COSTS

VOLLMER RULONG & KEATING, P.C.

BY: 

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

COPY

Delford Sortaweigh
Pelcombe Limited
Aew-Thurne, Inc.
Plaintiff(s)

No.: 2002-01285-CD

Real Debt: \$37,430.00

Atty's Comm:

Vs.

Costs: \$

Int. From:

Backus USA, Inc.
M.E.S., Inc.
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: October 7, 2002

Expires: October 7, 2007

Certified from the record this 7th Day of October, 2002

William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

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

Plaintiff/Attorney

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

DELFORD SORTAWEIGH a division of PELCOMB LIMITED and through its affiliate AWE-THURNE INC.)	CIVIL ACTION - LAW
)	
Plaintiff,)	No. 2002-1285-CD
)	
vs.)	
)	
BACKUS USA INC. individually and as successor in interest of M.E.S. INC. and M.E.S. INC.)	
)	
Defendants.)	

NOTICE OF PRAECIPE FOR ENTRY OF DEFAULT JUDGMENT

TO: BACKUS USA INC. individually and as
successor in interest of M.E.S. INC.
602 W. DUBOIS AVENUE #9
DUBOIS, PA 15801

DATE: SEPTEMBER 23, 2002

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION
REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM
THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU
WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER
IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE.
IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR
TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET
LEGAL HELP.

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

DELFORD SORTAWEIGH a division of) CIVIL ACTION - LAW
PELCOMB LIMITED and through its)
affiliate AWE-THURNE INC.)
Plaintiff,) No. 2002-1285-CD
vs.)
BACKUS USA INC. individually and as)
successor in interest of M.E.S. INC. and)
M.E.S. INC.)
Defendants.)

NOTICE OF PRAECIPE FOR ENTRY OF DEFAULT JUDGMENT

TO: M.E.S. INC.
602 W. DUBOIS AVENUE #9
DUBOIS, PA 15801

DATE: SEPTEMBER 23, 2002

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION
REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM
THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU
WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER
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IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DELFORD SORTAWEIGH, Division of
PELCOMBE LIMITED and through its
Affiliate AEW-THURNE, INC.,
Plaintiff

vs.

BACKUS USA, INC. individually and as
successor-in-interest of M.E.S., INC.; and
M.E.S., INC.

Defendants

No. 02-1285 C.D.

Type of Pleading: Answer to Complaint
and Crossclaim Pursuant to Rule 2252(d)
and New Matter

Counsel of Record for this party:
THE HOPKINS LAW FIRM

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, Esquire
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801
(814) 375-0300

NOTICE TO PLEAD

You are hereby notified to plead
to the within pleading within
twenty (20) days of service thereof
or default judgment may be entered
against you.



David J. Hopkins, Esquire

FILED

OCT 08 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DELFORD SORTAWEIGH, Division of :
PELCOMBE LIMITED and through its :
Affiliate AEW-THURNE, INC., :
Plaintiff :
vs. : No. 02-1285 C.D.
BACKUS USA, INC. individually and as :
successor-in-interest of M.E.S., INC.; and :
M.E.S., INC. :
Defendants :

ANSWER TO COMPLAINT

NOW, comes the Defendant, Backus, USA, Inc., by and through its attorneys, The Hopkins Law Firm, and answers the Complaint of Plaintiff as follows:

1. Neither admitted nor denied. Answering Defendant is without sufficient information to admit or deny the allegations set forth in paragraph 1 and strict proof is demanded at trial.

2. Admitted in part and denied in part. Defendant, Backus, USA, Inc. admits being a corporation with a principal office at 602 West DuBois Avenue, DuBois, Clearfield County, Pennsylvania 15801. Defendant, Backus, USA denies it is an successor in interest to M.E.S., Inc. who to the best knowledge, information and belief of Defendant, Backus, USA is a Chester County, Pennsylvania corporation.

3. Denied. To the best knowledge, information and belief of Backus, USA, Inc., M.E.S., Inc. is no longer a Pennsylvania corporation. Its last known address was Chester County, Pennsylvania.

COUNT 1 – DELFORD SORTAWEIGH vs. M.E.S., INC.

Inasmuch as Count I refers to M.E.S., Inc. and not Backus, USA, Inc., no answer is required of Backus, USA, Inc.

COUNT 2 – DELFORD SORTAWEIGH vs. BACKUS, USA, INC.

4. Defendant, Backus, USA, Inc. (hereinafter "Backus") incorporates its answers to paragraphs 1, 2 and 3 as if set forth at length herein.

5. Neither admitted nor denied. Backus, is unable to admit nor deny the allegations set forth in paragraph 5 and strict proof is demanded at trial. By way of further answer, to the best knowledge, information and belief of a representative of Backus, the amount set forth on Exhibit 1 and 2 of Plaintiff's invoice overstates the amount that may be due Plaintiff.

6. Neither admitted nor denied. Backus, is unable to admit nor deny the allegations set forth in paragraph 5 and strict proof is demanded at trial. By way of further answer to the best knowledge, information and belief of a representative of Backus, the amount set forth on Exhibit 1 and 2 of Plaintiff's invoice overstates the amount that may be due Plaintiff.

7. Admitted in part and denied in part. Backus denies it is the successor in interest to M.E.S. Backus admits one of its representatives, Larry Salone, did make a payment from monies due Salone from Backus for billing by Plaintiff to M.E.S. Said payment by Salone was gratuitous and has no relationship to the obligations of Backus.

8. Neither admitted nor denied. Backus is unable to admit nor deny the allegations set forth in paragraph 8 of Plaintiff's Complaint and strict proof is demanded at trial.

9. Neither admitted nor denied. Backus is unable to admit or deny whether Plaintiff is entitled to interest at the legal rate of six (6%) percent from June 26, 1999 and strict proof is demanded at trial.

10. No answer is required of Backus, USA, Inc.

11. Denied. To the best knowledge, information and belief of Backus, USA, Inc. At all material times, M.E.S. was a Chester County corporation operating out of a location in Chester County, Pennsylvania. By way of further answer, to the best knowledge, information and belief of Backus, there are no officers, directors or shareholders of M.E.S. who are also officers, directors or shareholders of Backus, USA.

12. Denied. Backus has never commingled finances or operations with M.E.S. Coincidentally, an employee of Backus was an employee of M.E.S. and therefore, through that employee Backus has some knowledge of the M.E.S. situation.

13. Denied. Backus has not disregarded corporate formalities nor openly intertwined their operations with M.E.S. Inasmuch as paragraph 13 requires a response from M.E.S., none is provided from Backus, USA.

14. Denied. Backus has never agreed to assume the liabilities of M.E.S. with regard to Plaintiff's claim. By way of further answer, Backus and M.E.S. are unrelated organizations.

15. Neither admitted nor denied. Backus is unable to admit or deny Plaintiff has provided billing to M.E.S. in the amount of \$37,430.00. To the best knowledge, information and belief of an employee of M.E.S. who is now an employee of Backus, the amount claimed is incorrect.

16. Denied. Plaintiff is not entitled to legal interest from June 26, 1999 from Backus, USA.

WHEREFORE, Backus, USA, Inc. demands judgment in its favor dismissing Plaintiff's Complaint against Backus, USA, Inc. together with cost of suit and such other and further relief as the Court deems fair, just and equitable.

CROSSCLAIM PURSUANT TO RULE 2252(d)

17. Defendant, Backus, USA, Inc. incorporates by reference the answers and responses contained in paragraphs 1 through 16 as if set forth at length herein.

18. Defendant, Backus, USA, Inc.. asserts this Crossclaim against M.E.S., Inc.

19. If Plaintiff establishes that it has suffered damages as alleged in it Complaint, which allegations Backus, USA, Inc. denies, said damages are solely the responsibility of M.E.S., Inc.

20. As a result of the aforesaid actions, M.E.S., Inc. is solely liable to Plaintiff or Backus, USA, Inc. for any damages Plaintiff may have suffered.

21. If, as a result of the matter alleged in Plaintiffs' Complaint, Backus, USA, Inc. is held liable to Plaintiff for all or part of such damages as it may have sustained, M.E.S., Inc. is the party primarily liable for such injuries and damages, and is liable over to Backus, USA, Inc. by way of contribution and/or indemnification, for all such damages as may be required to pay to Plaintiff.

WHEREFORE, Backus, USA, Inc. demands:

- (a) Judgment in Backus, USA, Inc.'s favor, together with costs;
- (b) Judgment that, if there is any liability to Plaintiff, M.E.S., Inc. is solely liable to Plaintiff; and

(c) In the event that a verdict is recovered by Plaintiff against Backus, USA, Inc., Backus, USA, Inc. may have judgment over and against M.E.S., Inc. by way of indemnification and/or contribution to the amount recovered by Plaintiff together with costs.

NEW MATTER

23. Defendant, Backus, USA, Inc. incorporates by reference the answers and responses contained in paragraphs 1 through 22 as if set forth at length herein.

24. Claims of Plaintiff must fail because no privity of contract between Plaintiff and Backus.

25. Claims of Plaintiff must fail because there is no relationship between M.E.S. and Backus.

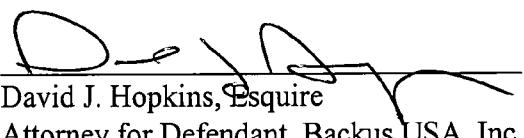
26. Claims of Plaintiff must fail because Plaintiff's claims are barred by the statute of limitations.

27. Claims of Plaintiff must fail because there is not contract between Plaintiff and Backus.

28. Claims of Plaintiff must fail because Backus has maintained corporate formalities.

29. Claims of Plaintiff must fail because of failure of consideration.

Respectfully submitted,



David J. Hopkins, Esquire
Attorney for Defendant, Backus USA, Inc.

VERIFICATION

I, David J. Hopkins, Esquire, do hereby state that I am the attorney for the Defendant, Backus, USA, Inc. that I am authorized to make this Verification on behalf of the Defendant, and the facts set forth in the foregoing Answer to Complaint, Crossclaim Pursuant to 2252(d) and New Matter are true and correct, not at my own knowledge, but from information supplied to me from the Defendant, and that the purpose of this Verification is to expedite the litigation, and that the Verification of the Defendant, Backus, USA, Inc., will be supplied, if demanded, also, subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.



David J. Hopkins, Esquire

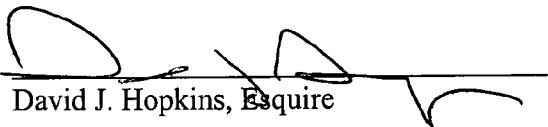
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DELFORD SORTAWEIGH, Division of :
PELCOMBE LIMITED and through its :
Affiliate AEW-THURNE, INC., :
Plaintiff :
vs. : No. 02-1285 C.D.
: :
BACKUS USA, INC. individually and as :
successor-in-interest of M.E.S., INC.; and :
M.E.S., INC. :
Defendants :

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Answer to the
Complaint, Crossclaim Pursuant to Rule 2252(d) and New Matter, filed on behalf of
Defendant, Backus, USA, Inc. was forwarded on the 8th day of October, 2002, by U.S.
Mail, postage prepaid, to all counsel of record, addressed as follows:

John R. Keating, Esquire
Vollmer Rulong & Keating, P.C.
Suite 1212, Grant Building
330 Grant Street
Pittsburgh, PA 15219


David J. Hopkins, Esquire

FILED

1cc

MR Q6 NO 3 SN
OCT 8 2002
A44

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DELFORD SORTAWEIGH, Division of :
PELCOMBE LIMITED and through its :
Affiliate AEW-THURNE, INC., :
Plaintiff :
vs. : No. 02-1285 C.D.
:
BACKUS USA, INC. individually and as :
successor-in-interest of M.E.S., INC.; and :
M.E.S., INC. :
Defendants : Type of Pleading: Petition for Relief
from Judgment Pursuant to
Pa.R.C.P. §237.3
:
:
Counsel of Record for this party:
THE HOPKINS LAW FIRM
:
DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519
:
LEA ANN HELTZEL, Esquire
Attorney at Law
Supreme Court No. 83998
:
900 Beaver Drive
DuBois, Pennsylvania 15801
(814) 375-0300

FILED

OCT 15 2002
0/3:55/MS
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DELFORD SORTAWEIGH, Division of :
PELCOMBE LIMITED and through its :
Affiliate AEW-THURNE, INC., :
Plaintiff :
:
vs. : No. 02-1285 C.D.
:
BACKUS USA, INC. individually and as :
successor-in-interest of M.E.S., INC.; and :
M.E.S., INC. :
Defendants :

PETITION FOR RELIEF FROM JUDGMENT
PURSUANT TO Pa.R.C.P. §237.3

NOW, comes the Defendant, Backus, USA, Inc., by and through its attorneys, The Hopkins Law Firm, and says as follows:

1. The Plaintiff in the above captioned matter is Delford Sortaweigh.
2. Your Petitioner is Defendant Backus USA, Inc., a Pennsylvania corporation, that maintains a principal business address at 602 West DuBois Avenue, Suite 9, DuBois, Clearfield County, Pennsylvania 15801.
2. On August 19, 2002, Plaintiff filed a Complaint naming Backus, USA, Inc. individually and as a successor in interest of M.E.S., Inc. and M.E.S., Inc. as Defendants.
3. Apparently on September 23, 2002, Plaintiff sent a 10-day Notice pursuant to Pa.R.C.P. §237.1 to Backus, USA, Inc.

4. On October 7, 2002, Plaintiff filed a Notice of Praeclipe for Entry of Default Judgment and the Prothonotary of the Court of Common Pleas of Clearfield County entered judgment in favor of Plaintiff and against Defendant, Backus, USA, Inc. on October 7, 2002.

5. All of the above took place without the knowledge of counsel for Backus, USA, Inc. On October 8, 2002, Defendant Backus, USA, Inc. filed an Answer, Crossclaim pursuant to Pa.R.C.P. §2252(d) and New Matter.

6. This Petition is being filed within ten (10) days after entry of the judgment on the docket.

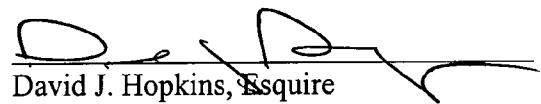
7. This Petition contains the Answer, Crossclaim and New Matter filed by Defendant Backus, USA, Inc. on October 8, 2002 that will be re-filed.

8. The Answer and New Matter states a meritorious defense. In essence, Plaintiff's Complaint alleges Backus, USA, Inc. is the successor in interest to a company that purchased a machine from Plaintiff. Backus's answer denies having any association with the Co-Defendant stating that Backus is a Clearfield County corporation while the Co-Defendant, M.E.S., Inc. is a Chester County corporation with no connection whatsoever to Backus, other than one former employee of M.E.S., Inc. who is now an employee of Backus.

9. Pa.R.C.P. §237.3 requires the Court to open the judgment provided the proposed Answer states a meritorious cause of action and this Petition is filed within ten (10) days, both of which have occurred.

WHEREFORE, Petitioner respectfully requests the judgment entered in favor of Plaintiff and against Defendant Backus, USA, Inc. on October 7, 2002 be opened and Backus, USA, Inc. either be granted an opportunity to re-file the Answer, Crossclaim and New Matter or that said document filed on October 8, 2002 be deemed timely filed.

Respectfully submitted,



David J. Hopkins, Esquire
Attorney for Defendant, Backus USA, Inc.

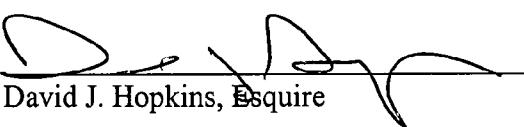
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DELFORD SORTAWEIGH, Division of :
PELCOMBE LIMITED and through its :
Affiliate AEW-THURNE, INC., :
Plaintiff :
:
vs. : No. 02-1285 C.D.
:
BACKUS USA, INC. individually and as :
successor-in-interest of M.E.S., INC.; and :
M.E.S., INC. :
Defendants :

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Petition for Relief of Judgment Pursuant to Pa.R.C.P. §237.3, filed on behalf of Defendant, Backus, USA, Inc. was forwarded on the 15th day of October, 2002, by U.S. Mail, postage prepaid, to all counsel of record, addressed as follows:

John R. Keating, Esquire
Vollmer Rulong & Keating, P.C.
Suite 1212, Grant Building
330 Grant Street
Pittsburgh, PA 15219


David J. Hopkins, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DELFORD SORTAWEIGH, Division of
PELCOMBE LIMITED and through its
Affiliate AEW-THURNE, INC.,
Plaintiff

vs.

No. 02-1285 C.D.

BACKUS USA, INC. individually and as
successor-in-interest of M.E.S., INC.; and
M.E.S., INC.
Defendants

FILED

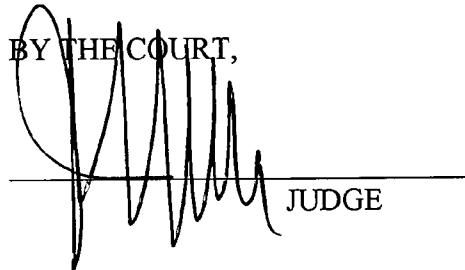
OCT 18 2002

ORDER

William A. Shaw
Prothonotary

AND NOW, this matter having come before the Court on Defendant's Backus,
USA, Inc.'s Petition for Relief of Judgment entered on October 7, 2002 for failure to file
an Answer; and it appearing Defendant Backus, USA, Inc.'s Petition has been filed
within ten (10) days from the entry of the October 7, 2002 judgment; and it further
appearing Defendant Backus, USA, Inc. has attached an Answer that presents a
meritorious defense;

It is on this 18th day of October, 2002, ORDERED and ADJUDGED that
Plaintiff's judgment against Defendant Backus, USA, Inc. entered October 7, 2002 is
hereby opened and the Answer, Crossclaim and New Matter filed by Backus, USA, Inc.
on October 8, 2002 is deemed to be timely filed.

BY THE COURT,

JUDGE

FILED *1cc*
013:28-801 *Atty Hopkins*
OCT 18 2002
William A. Shaw *ER*
Prothonotary *ASL*

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

DELFORD SORTAWEIGH, Division of
PELCOMBE LIMITED and through its
affiliate AEW-THURNE, INC.,

Plaintiff,

vs.

BACKUS USA, INC. individually and as
successor-in-interest of M.E.S., INC.; and
M.E.S., INC.,

Defendants.

CIVIL ACTION - LAW

No. 02-1285 C.D.

**REPLY TO ANSWER AND CROSS-
CLAIM PURSUANT TO RULE 2252(d)
NEW MATTER OF DEFENDANT,
BACKUS USA, INC.**

Filed on Behalf of Plaintiff,
DELFORD SORTAWEIGH, Division of
PELCOMBE LIMITED and through its
affiliate AEW-THURNE, INC.,

COUNSEL OF RECORD FOR THIS
PARTY:

John R. Keating, Esquire
PA I.D. No. 52779

VOLLMER RULONG & KEATING, P.C.
Suite 1212, Grant Building
330 Grant Street
Pittsburgh, PA 15219
(412) 391-2121
(412) 391-3578 Fax

Firm I.D. No. 916

FILED

NOV 22 2002

William A. Shaw
Prothonotary

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

DELFORD SORTAWEIGH, Division of PELCOMBE LIMITED and through its affiliate AEW-THURNE, INC.,)	CIVIL ACTION - LAW
Plaintiff,)	
vs.)	No. 02-1285 C.D.
BACKUS USA, INC. individually and as successor-in-interest of M.E.S., INC., and M.E.S., INC.,)	
Defendants.)	

**REPLY TO ANSWER AND CROSSCLAIM PURSUANT
TO RULE 2252(d) AND NEW MATTER**

AND NOW, comes DELFORD SORTAWEIGH, Division of PELCOMBE LIMITED and through its affiliate AEW-THURNE, INC. (hereinafter "Plaintiff") by and through its counsel, John R. Keating, Esquire and VOLLMER RULONG & KEATING, P.C., and submits the following Reply to Answer and Crossclaim Pursuant to Rule 2252(d) and New Matter and in support thereof avers as follow:

REPLY TO ANSWER

1 - 16. Plaintiff incorporates herein by reference, Paragraphs 1 through 16 of its Complaint in Civil Action as though set forth at length.

REPLY TO CROSSCLAIM PURSUANT TO RULE 2252(d)

17. Plaintiff incorporates herein by reference, Paragraphs 1 through 16 of its Complaint in Civil Action as though set forth at length and as incorporated above.

18. Denied. The averments of Paragraph No. 18 of Defendant's Answer and Crossclaim Pursuant to Rule 2252(d) and New Matter are directed to another party and do not require a response from Plaintiff.

19. Denied. The averments of Paragraph No. 19 of Defendant's Answer and Crossclaim Pursuant to Rule 2252(d) and New Matter are directed to another party and do not require a response from Plaintiff. To the extent a response is deemed necessary the same constitute conclusions of law to which no response is required.

20. Denied. The averments of Paragraph No. 20 of Defendant's Answer and Crossclaim Pursuant to Rule 2252(d) and New Matter are directed to another party and do not require a response from Plaintiff. To the extent a response is deemed necessary the same constitute conclusions of law to which no response is required.

21. Denied. The averments of Paragraph No. 21 of Defendant's Answer and Crossclaim Pursuant to Rule 2252(d) and New Matter are directed to another party and do not require a response from Plaintiff. To the extent a response is deemed necessary the same constitute conclusions of law to which no response is required.

WHEREFORE, Plaintiff demands judgment in its favor on and against the Defendant, BACKUS USA, INC. in the sum of \$37,430.00 plus interest at the legal rate of six percent (6%) per annum from an average due date of June 26, 1999 plus cost as prayed for in its complaint

REPLY TO NEW MATTER

23. Plaintiff incorporates herein by reference, Paragraphs 1 through 21 above as though set forth at length.

24. Denied. The averments of Paragraph No. 24 of Defendant's Answer and Crossclaim Pursuant to Rule 2252(d) and New Matter constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, the averments of Paragraph 24 are denied. As set forth in Plaintiff's complaint, it is believed that Defendant, BACKUS, USA, INC. is the successor-in -interest of M.E.S.,

Delford Sortaweigh et al. vs. Backus USA, Inc. et al. - Reply to Answer page 4

INC. and therefore, liable for the debts that were incurred by the earlier creditors of M.E.S., INC.

25. Denied. The averments of Paragraph No. 25 of Defendant's Answer and Crossclaim Pursuant to Rule 2252(d) and New Matter constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, the averments of Paragraph 25 are denied. As set forth in Plaintiff's complaint, it is believed that Defendant, BACKUS, USA, INC. is the successor-in -interest of M.E.S., INC. and therefore, liable for the debts that were incurred by the earlier creditors of M.E.S., INC. Plaintiff incorporates its complaint herein by reference.

26. Denied. The averments of Paragraph No. 26 of Defendant's Answer and Crossclaim Pursuant to Rule 2252(d) and New Matter constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, the averments of Paragraph 26 are denied. The goods in question were sold and delivered in 1999. The statute of limitations will not have run over the claim until 2003.

27. Denied. The averments of Paragraph No. 27 of Defendant's Answer and Crossclaim Pursuant to Rule 2252(d) and New Matter constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, the averments of Paragraph 27 are denied.

28. Denied. The averments of Paragraph No. 28 of Defendant's Answer and Crossclaim Pursuant to Rule 2252(d) and New Matter constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, the averments of Paragraph 28 are denied.

29. Denied. The averments of Paragraph No. 29 of Defendant's Answer and Crossclaim Pursuant to Rule 2252(d) and New Matter constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, the averments of Paragraph 29 are denied.

WHEREFORE, Plaintiff demands judgment in its favor on Count 2 and against the Defendant, BACKUS USA, INC. in the sum of \$37,430.00 plus interest at the legal rate of six percent (6%) per annum from an average due date of June 26, 1999 plus cost as prayed for in its complaint.

VOLLMER RULONG & KEATING, P.C.

BY: 

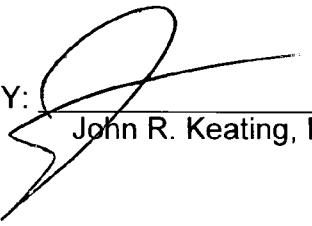
Attorney for Plaintiff

UNSWORN VERIFICATION

I, John R. Keating, Esquire, state that I am the counsel of record for Plaintiff, **DELFORD SORTAWEIGH, Division of PELCOMBE LIMITED and through its affiliate AEW-THURNE, INC.** in the above matter. I have reviewed the annexed Pleading with my client and after doing so, believe the facts contained therein are true and correct to the best of my knowledge, information and belief. I believe that the corporation will be able to prove these facts at trial. This verification is executed on my client's behalf since there is not sufficient time to have one completed by our client within the short time permitted for the within complaint to be filed.

THIS DECLARATION IS MADE BY ME WITH THE KNOWLEDGE THAT IT IS SUBJECT TO THE PENALTIES OF 18 PA. C.S. §4904, RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES.

BY:

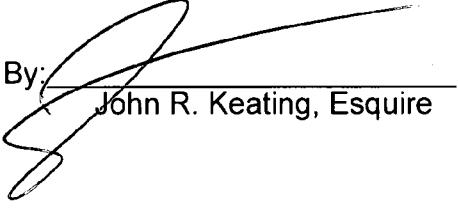

John R. Keating, Esquire

CERTIFICATE OF SERVICE

I, the undersigned counsel do hereby certify that a true and correct copy of the foregoing Reply to Answer and Crossclaim Pursuant to Rule 2252(d) and New Matter was served this 21st day of November, 2002 by first class, U.S. mail, postage prepaid to the counsel of record addressed as follows:

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

By:


John R. Keating, Esquire

FILED

10/12/02
NOV 22 2002
cc
C.J.T.

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DELFORD SORTAWEIGH, Division of
PELCOMBE LIMITED and through its
Affiliate AEW-THURNE, INC.,

Plaintiff

vs.

BACKUS USA, INC. individually and as
successor-in-interest of M.E.S., INC.; and
M.E.S., INC.

Defendants

No. 02-1285 C.D.

Type of Pleading: Joint Praeclipe
to Settle and Discontinue with
Prejudice.

Counsel of Record for this party:

HOPKINS HELTZEL LLP

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, Esquire
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED *No CC*

16K

3/11/2005 *2 Crt. of Disc.*
MAR 04 2005 *to Atty Keating*
(submitted)

William A. Shaw
Prothonotary/Clerk of Courts *Copy of Disc.*
to C/A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

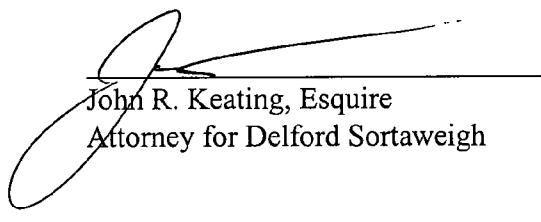
DELFORD SORTAWEIGH, Division of :
PELCOMBE LIMITED and through its :
Affiliate AEW-THURNE, INC., :
Plaintiff :
vs. : No. 02-1285 C.D.
: :
BACKUS USA, INC. individually and as :
successor-in-interest of M.E.S., INC.; and :
M.E.S., INC. :
Defendants :
:

JOINT PRAECIPE TO SETTLE AND DISCONTINUE WITH PREJUDICE

TO THE PROTHONOTARY:

Kindly mark the above captioned civil action settled and discontinued with prejudice.


David J. Hopkins, Esquire
Attorney for Backus USA, Inc.


John R. Keating, Esquire
Attorney for Delford Sortaweigh

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Copy

**Delford Sortaweigh
Pelcombe Limited
Aew-Thurne, Inc.**

Vs.
**Backus USA, Inc.
M.E.S., Inc.**

No. 2002-01285-CD

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on March 4, 2005, marked:

Settled and Discontinued with Prejudice

Record costs in the sum of \$100.00 have been paid in full by John R. Keating.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 4th day of March A.D. 2005.

William A. Shaw, Prothonotary

PA DEPARTMENT OF REVENUE
BUREAU OF COMPLIANCE
DEPT. 280948
HARRISBURG, PA 17128-0948



REV-159 CM APP (6-01)

AUG 02 2002

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MATTHEW E REASINGER
515 SOUTH AVE
NAME AND ADDRESS: DU BOIS PA 15801

TO THE PROTHONOTARY OF SAID COURT:

Pursuant to the laws of the Commonwealth of Pennsylvania,
there is herewith transmitted a Certified Copy of a Lien
to be entered of record in your County.

CERTIFIED COPY OF LIEN

182-66-0660

02-1084-CO

CLASS OF TAX	TAX PERIOD (OR DUE DATE)	DATE OF ASSESSMENT DETERMINATION OR SETTLEMENT	IDENTIFYING NUMBER	TAX	TOTAL
1	2	3	4	5	6
P.I.T.	01-01-00 TO 12-31-00	SEP 18 2001	L07148	489.00	563.33

FILED

AUG 19 2002
M 10/08/Com. Pa pd 1
William A. Shaw /s/ Com. Pa
Prothonotary

INTEREST COMPUTATION DATE AUG 23 2002

TOTALS	\$489.00	\$563.33
FILING FEE(S)		\$25.00
ADDITIONAL INTEREST		
SETTLEMENT TOTAL		

The undersigned, the Secretary of Revenue (or his authorized delegate) of the Commonwealth of Pennsylvania, certifies this to be a true and correct copy of a lien against the above-named taxpayer for unpaid tax, interest, additions or penalties thereon due from such taxpayer and which, after demand for payment thereof, remains unpaid. The amount of such unpaid tax, interest, additions or penalties is a lien in favor of the Commonwealth of Pennsylvania upon the taxpayer's property, real, personal, or both, as the case may be.

Dorothy A. Totten
SECRETARY OF REVENUE
(OR AUTHORIZED DELEGATE)

AUG 15 2002

DATE

PART 1 - TO BE RETAINED BY RECORDING OFFICE