

02-1285-CD  
DELFORD SORTAMEIGH, 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 1 8 2002

1012501 atty Keating  
William A. Shaw  
Prothonotary  
\$80.00  
JcaSherry

**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. Meholick, 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

same officers, directors and/or shareholders.

12. Defendant, BACKUS and its co-Defendant, M.E.S. commingled there 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.

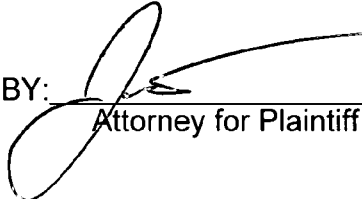
14. Defendant, BACKUS, at least with regard to Plaintiff's claim, agreed to assume the liabilities of its co-Defendant, M.E.S..

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

# Delford Sortaweigh

Division of Palcorbe Limited

Harwich Essex CO12 4LP

Telephone 01255 241000 Facsimile: 01255 241155

MONEYS MUSHROOMS  
5335 27ND STREET  
LANGLEY  
BRITISH COLUMBIA  
VAN. IP1 CANADA

DELIVER TO  
MONEYS MUSHROOMS  
5335 27ND STREET  
LANGLEY  
BRITISH COLUMBIA  
VAN IP1 CANADA

INVOICE NO. 1027749  
1  
15/02/99

## SALES INVOICE

INVOICE NO. 15445 P.O. REFERENCE 03/02/99 SHIPPING INSTRUCTIONS DHL WORLDWIDE EXPRESS SALESMAN ORDER NO. C216480 ORDER DATE 15/02/99 TERMS CODE

QTY	DESCRIPTION	UNIT	QTY SENT	BACK ORDER	PRICE	NET SALES	TAX	AMOUNT	DISCOUNT	NET TOTAL
1	BELT, TIMING 150XLO37	EACH	1		2.68	2.68	0.00	2.68		2.68
1	CAM FOLLOWER HR 22 LL	EACH	1		16.15	16.15	0.00	16.15		16.15
1	FLATWHEEL 36T (4-920)	EACH	1		39.49	39.49	0.00	39.49		39.49
1	SPRING	(D) EACH	1		6.27	6.27	0.00	6.27		6.27
1	SPROCKET #40 K 201/D 12T	(D) EACH	1		17.94	17.94	0.00	17.94		17.94
1	SPROCKET 10T (41-2645)	EACH	1		16.48	16.48	0.00	16.48		16.48
1	BELT, TIMING 250SBM480	EACH	1		10.38	10.38	0.00	10.38		10.38
2	SPRING	(D) EACH	2		4.49	8.98	0.00	8.98		8.98
1	BELT, TIMING 300L075	EACH	1		5.24	5.24	0.00	5.24		5.24
2	CHARWHEEL 30T (4-1044)	(D) EACH	2		44.34	88.68	0.00	88.68		88.68
1	SERV MOTOR 75MSA, 6000RPM, IP6	EACH	1		695.84	695.84	0.00	695.84		695.84
1	BELT, TIMING 10TS X 315 LONG	EACH	1		12.57	12.57	0.00	12.57		12.57
2	BELT, TIMING 10TS X 435 LONG	EACH	2		10.30	20.60	0.00	20.60		20.60
2	BELT, TIMING 10MM W X 940MM LG	EACH	2		13.29	26.58	0.00	26.58		26.58
1	BELT, TIMING 210L050	EACH	1		4.81	4.81	0.00	4.81		4.81

INVOICE TOTAL

# Delford Sortaweigh

Division of Peilcombe Limited

Harwich Essex CO12 4LP  
 telephone: 01255 241000 Facsimile: 01255 241155

SOLD TO: MONEYS

MONEYS MUSHROOMS  
 5335, 27END STREET  
 LANGLEY  
 BRITISH COLUMBIA  
 V4W 1P1 CANADA

DELIVER TO  
 MONEYS MUSHROOMS  
 5335, 27END STREET  
 LANGLEY  
 BRITISH COLUMBIA  
 V4W 1P1 CANADA

## SALES INVOICE

INVOICE NUMBER  
 01027749  
 INVOICE DATE  
 15/02/99

IN No. P.O. REFERENCE P.O. DATE SHIPPING INSTRUCTIONS SALESMAN ORDER NO. ORDER DATE TERMS CODE

00 15445 03/02/99 DHL WORLDWIDE EXPRESS C16480 15/02/99

IN No.	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT	TAX	TOTAL
7027	BELT TIMING 210L075	1	8.57	8.57	0.00	8.57
7027	BELT TIMING 1250H100	1	32.90	32.90	0.00	32.90
7034	BELT TIMING 2505B4976	1	22.88	22.88	0.00	22.88
7030	BELT TIMING 276X1037	1	2.54	2.54	0.00	2.54
7033	BELT TIMING 731L075	1	10.19	10.19	0.00	10.19
7033	BELT TIMING 210L075	1	8.57	8.57	0.00	8.57
7033	STUB SHAFT/CAM, FRONT, L/H	1	44.42	44.42	0.00	44.42
7033	SPROCKET 41-1473 K25ID 35P 26T	1	37.38	37.38	0.00	37.38
7033	SPROCKET 41-415 12ID 35P 16TD	1	17.70	17.70	0.00	17.70
7033	SPROCKET 41-413 22ID 35P 16TD	1	17.38	17.38	0.00	17.38
7033	BEVEL GEAR 251/D 25T	1	27.92	27.92	0.00	27.92
7033	BEARING 8T/ST 6001 2RS	1	10.35	10.35	0.00	10.35
7033	BEARING 9T/ST 606 2RS	1	6.24	6.24	0.00	6.24
7033	CENTRE SEAL HEATER	1	125.85	125.85	0.00	125.85

INVOICE TOTAL



# Deford Sortaweigh

Division of Pelcombe Limited

Harwich Essex CO12 4LP

Telephone 01255 241000 Facsimile: 01255 241155

SOLD TO:

MONEY'S MUSHROOMS  
5335 272ND STREET  
LANELEY  
BRITISH COLUMBIA  
V4W 1G1 CANADA

MONEY'S MUSHROOMS  
5335 272ND STREET  
LANELEY  
BRITISH COLUMBIA  
V4W 1G1 CANADA

PO REFERENCE P.O. DATE SHIPPING INSTRUCTIONS  
03/02/99 DHL WORLDWIDE EXPRESS

SALESMAN ORDER NO. Cat6480

ORDER DATE 15/02/99

TERMS

CODE

## SALES INVOICE

INVOICE NO. 1027749  
DATE 15/02/99

ITEM NO.	DESCRIPTION	QTY	UNIT PRICE	TOTAL PRICE	TAX	NET TOTAL
17881	1/8" DIA	1	21.50	21.50	0.00	21.50
17882	CONTRACT BLOCK 4 X NO	1	7.65	7.65	0.00	7.65
17883	CONTRACT BLOCK 4 X NO	1	17.21	17.21	0.00	17.21
17884	CONTRACT BLOCK 4 X NO	1	85.44	85.44	0.00	85.44
17885	CONTRACT BLOCK 4 X NO	1	129.68	129.68	0.00	129.68
17886	CONTRACT BLOCK 4 X NO	1	4.53	4.53	0.00	4.53
17887	CONTRACT BLOCK 4 X NO	1	6.23	6.23	0.00	6.23
17888	CONTRACT BLOCK 4 X NO	1	22.65	22.65	0.00	22.65
17889	CONTRACT BLOCK 4 X NO	1	94.30	94.30	0.00	94.30
17890	CONTRACT BLOCK 4 X NO	1	108.75	108.75	0.00	108.75
17891	CONTRACT BLOCK 4 X NO	10	1.50	15.00	0.00	15.00
17892	CONTRACT BLOCK 4 X NO	1	441.60	441.60	0.00	441.60
17893	CONTRACT BLOCK 4 X NO	1	822.35	822.35	0.00	822.35
17894	CONTRACT BLOCK 4 X NO	1	88.00	88.00	0.00	88.00

INVOICE TOTAL

3298.38

# Delford Sortaweigh

Division of Pelcombe Limited

Harwich Essex CO12 4LP

Telephone: 01255 241000 Facsimile: 01255 241155

DELIVER TO

M.E.S. INC  
P.O. BOX 585  
DUBOIS  
PENNSYLVANIA 15801  
U.S.A.

## SALES INVOICE

INVOICE NO. P.O. REFERENCE P.O. DATE SHIPPING INSTRUCTIONS

SALESMAN ORDER NO. MD6365

ORDER DATE 26/05/99

TERMS

CODE

ANCE Du Balance Due  
FRT MACHINE FREIGHT

(ONE) Delford SPEC000 Stretch Wrapping  
Machine no. 6365.

Payment terms:  
100% payment now due.

DESCRIPTION	UNIT	QTY SENT	BACK ORDER	PRICE	NET SALES	RATE	VAT AMOUNT	TOTAL
ANCE Du Balance Due					43775.00	0.0	0.00	43775.00
FRT MACHINE FREIGHT					1595.00	0.0	0.00	1595.00

INVOICE TOTAL

45370.00

45370.00

0.00

EXEMPT

NON TAXABLE

INVOICE NO. MD6365
INVOICE DATE 26/05/99

May 28 99 10:25a

000-000-0000

p. 1

*MES*  
*DME*  
**FAX COVER SHEET**

MES, Inc.  
P. O. Box 586  
DuBois, PA 15801

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

<b>SEND TO</b> Company name	<b>From</b>
Delford	Larry Salone
Attention	Date
Dave	5-28-99
Office location	Office location
Essex	DuBois, PA
Fax number	Phone number
011-44-1255-241155	814-375-0903

☐ Urgent    ☐ Reply ASAP    ☐ Please comment    ☐ Please review    ☐ For your information

Total pages, including cover: 1

**COMMENTS**

Dave:

We have transfered 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*  
*[Signature]*

EXHIBIT 1 PAGE 1

\$ 69,993.33

1.5989

MES CSD

210-66 EXCH  
Loss



009046

COLCHESTER BRANCH

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+  
Value date 1JUN1999

12,914.34

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

Exchange rate 1.625  
Booking referenceOn instructions from  
MELLON BK, PITTSBURGH

Currency credited STERLING+

Reference  
MT9915207995100

Gross amount 12,921.84

By order of  
/TT80TD66  
BACKUS USA INC  
P O BOX 585  
DUBOIS PA 15801

## Charges

NWB Commission 7.50  
Telex/Cable 0.00  
Pre-advice 0.00Details  
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

<b>SEND TO/ AN/ POUR</b>	
Company name/ Firmenname/ Société Delford	From/ Von/ De 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

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: URB992850191012  
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

MRS

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

<b>SEND TO</b> Company name Delford	<b>From</b> 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.

EXHIBIT "7" 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: 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

Beneficiary:

Beneficiary Bank:

BANK OF SCOTLAND  
BISHOPSGATE EXCHANGE: 155, BISHOPSG  
ATE

Payment Details:

BANK CLIENT REFERENCE 69097

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



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: 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  
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 3,138.26 913  
We Will Credit Your Account on 07/03/2000  
Detail of Payments:

Remitter: 177807066  
BACKUS USA INC  
P O BOX 585  
DU BOIS PA 15801  
00653569  
Beneficiary: PELCOMBE LIMITED-DELFORD SOR  
BANK CLIENT REF: 69097

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

Payment Details:

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

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

Equivalent Currency

Related Contract Reference:

Charge and Commission details:

1.5248

USD

5,000.00

GBP

3,279.12

Bank of Scotland Commission

GBP

6.00

Settlement Details:

We Credit Your Account 00653569

with Bank Of Scotland

GBP

3,273.12

We Will Credit Your Account on

08/08/2000

Detail of Payments:

Remitter:

/77807066

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

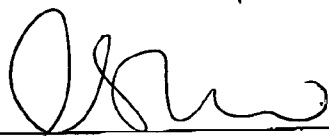
Payment Details:

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

## VERIFICATION

I, the undersigned, in my capacity as FINANCIAL DIRECTOR  
of DELFORD SORTAWEIGH DIVISIONS Plaintiff herein, certify that the  
OF PELCOMBE LTD.  
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.

MELANIE 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 sucesor-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  


**FILED**

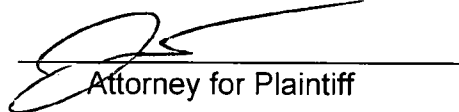
SEP 20 2002

2:40  
William A. Shaw  
Prothonotary

So Answers,

  
Chester A. Hawkins  
Sheriff

I hereby certify that Rule 237.1 has been complied with and that notice of intention to file Praecipe 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

vs.  
Plaintiff,

No: 2002-1285-CD

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

**PRAECIPE 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:

John R. Keating, Esquire

PA ID No. 52779

**CERTIFICATE OF ADDRESS**

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

Plaintiff:

Main Road  
Dovercourt, Harwick Essex  
C012 4LP UK

Defendant

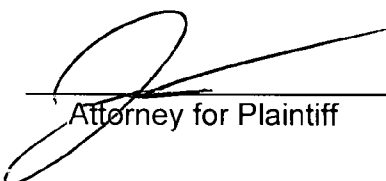
602 W. Dubois Avenue #9  
Dubois, PA 15801

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

**FILED**

OCT 07 2002

William A. Shaw  
Prothonotary

  
Attorney for Plaintiff

*pd 200  
Sent to notary  
Notice to USA  
Backus USA  
& M.E.S. Inc.  
Back Dubois*

**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.

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: 2002-1285-CD

**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.

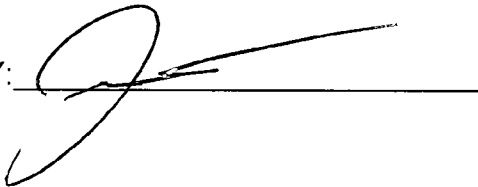
Amount	\$37,430.00
--------	-------------

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

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  
PELCOMB LIMITED and through its  
affiliate AWE-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. 2002-1285-CD

**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  
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, 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

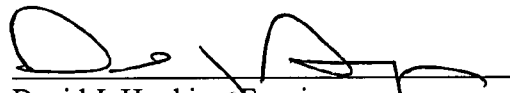
DAVID J. HOPKINS, ESQUIRE  
Attorney at Law  
Supreme Court No. 42519

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.

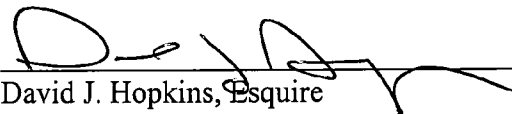
26. Claims of Plaintiff must fail because Plaintiff's claims are barred by the statute of limitations.

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



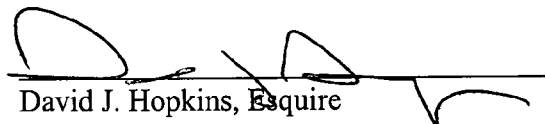
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA  
(CIVIL DIVISION)

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

AP 9/10/30/21  
OCT 08 2002

Atty

William A. Shaw  
Prothonotary

OK

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: 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 20  
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 Praecipe 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.

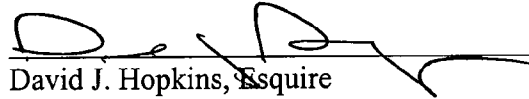
7. This Petition contains the Answer, Crossclaim and New Matter filed by Defendant Backus, USA, Inc. on October 8, 2002 that will be re-filed.

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.

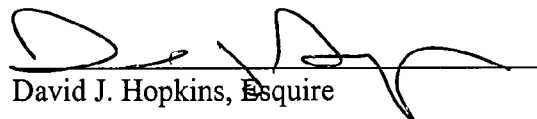
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA  
(CIVIL DIVISION)

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 15<sup>th</sup> 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

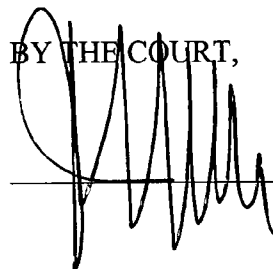
William A. Shaw  
Prothonotary

**ORDER**

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

1 cc

0/3:28-811  
OCT 18 2002

Atty Hopkins

or  
7/21

William A. Shaw  
Prothonotary

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

DELFO RD 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,  
DELFO RD 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.,

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, **DELFO RD 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

10/11:28:24  
NOV 22 2002

William A. Shaw  
Prothonotary

nb  
cc  
cat.

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 Praecipe  
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 NoCC  
m/1:2560/2 Cert. 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)

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

vs. :


No. 02-1285 C.D.

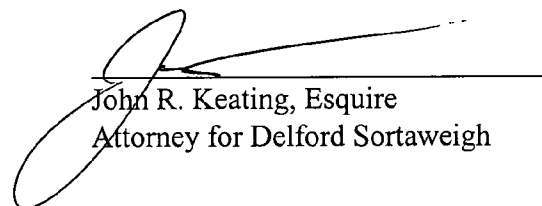
BACKUS USA, INC. individually and as :  
successor-in-interest of M.E.S., INC.; and :  
M.E.S., INC. :  
Defendants :

**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.**

**No. 2002-01285-CD**

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

**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



AUG 02 2002

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NAME AND ADDRESS: MATTHEW E REASINGER  
515 SOUTH AVE  
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

02-1284-CO

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

**FILED**

AUG 10 2002  
M/2/28/ Com. Pa. pd 2500  
William A. Shaw  
Prothonotary Ks Com. Pa.

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. Totton  
SECRETARY OF REVENUE  
(OR AUTHORIZED DELEGATE)

AUG 15 2002  
DATE

PART 1 - TO BE RETAINED BY RECORDING OFFICE