

02-1675-CD
W. W. ENGINE SUPPLY vs. FRANK HORCHEN

CTYPTLIB/PRO047

Prothonotary - Somerset County
 CIVIL DOCKET INDEX
 CIVIL

DATE 10/23/02

Number 00192 2001 Date 3/23/2001 Time 11:47 AM NOTICE OF APPEAL - DJ

PLAINTIFF INFORMATION

PLAINTIFF
 W W ENGINE & SUPPLY

02-1675-CD

DEFENDANT INFORMATION

DEFENDANT
 HORCHEN FRANK

DEFENDANT ATTORNEY
 BRADLEY J KRAUS

DEFENDANT
 FRANK HORCHEN

Fee Description	FEES:	Misc	Equip	County	State	Docket Information
Notice of Appeal JP		5.00	45.00	5.50	23 March 2001, @11:47 AM, Judgment filed.	Notice of Appeal from District Justice
					23 March 2001, @11:48 AM, and Rule to File, filed.	Praecipe to Enter Rule to File Complaint
					23 March 2001, @11:49 AM,	Rules issued and returned BY MAIL TO
					BRADLEY J. KRAUS, ESQ. FOR SERVICE. (JC)	
					30 March 2001, @01:05 PM, Proof of Service of Notice of Appeal and Rule to File Complaint filed together with certified mail receipts numbered 7099 3220 0009 4059 2739 AND 7099 3220 0009 4059 3804	
					ADDRESSED TO W.W. ENGINE & SUPPLY, (NO ADDRESS GIVEN) AND UPON - NO NAME OR ADDRESS GIVEN ON RECEIPT, RESPECTIVELY AND DATED MARCH 28, 2001. (JC)	
					04 April 2001, @09:51 AM, LETTER OF BRADLEY J. KRAUS, ESQ. WITH CERTIFIED MAIL RECEIPTS ATTACHED. (JC)	
					11 April 2001, @03:37 PM, COMPLAINT CIVIL ACTION FILED BY MATTHEW R. ZATKO, ESQ. (JC)	
					(4-11-01 TWO (2) CERT. COPIES RETURNED TO ATTY. ZATKO.)	
					25 April 2001, @11:00 AM, DEFENDANT'S PRELIMINARY OBJECTION TO PLAINTIFF'S COMPLAINT FILED BY BRADLEY J. KRAUS, ESQ. (JC)	
					14 September 2001, @02:56 PM, PLAINTIFF'S ANSWER TO DEFENDANT'S PRELIMINARY OBJECTIONS FILED BY MATTHEW R. ZATKO, ESQ. (JC)	
					(9-14-01 TWO (2) CERT. COPIES RETURNED TO ATTY. ZATKO.)	
					20 December 2001, @03:40 PM, SCHEDULING PRAECIPE-ARGUMENT CASE FILED BY MATTHEW R. ZATKO, ESQ. (JC)	
					(12-20-01 ONE (1) CERT. COPY PLACED IN COURT ADMIN.'S BOX, AND TWO (2) CERT. COPIES RETURNED TO ATTY. ZATKO.)	
					25 January 2002, @11:20 AM, SCHEDULING ORDER FILED. (COPY PLACED IN THE FOLLOWING BOX: MATTHEW R. ZATKO, ESQ. AND COPY MAILED TO: BRADLEY J. KRAUS, ESQ., 434 CENTER STREET, JOHNSONBURG, PA 15845.)(SAR)	
					30 January 2002, @12:07 PM, RESCHEDULING ORDER FILED. (01-30-02 COPY PLACED IN THE FOLLOWING BOX: MATTHEW R. ZATKO, ESQ., AND COPY MAILED TO: BRADLEY J. KRAUS, ESQ., 434 CENTER STREET, JOHNSONBURG, PA 15845.)(SAR)	
					19 February 2002, @01:30 PM, CASE CALLED FOR ARGUMENT ON DEFENDANT'S PRELIMINARY OBJECTIONS AND PLAINTIFF'S ANSWER TO DEFENDANT'S PRELIMINARY OBJECTIONS BEFORE THE HON. EUGENE E. FIKE, II, P.J. AND	

Number 00192 2001 Date 3/23/2001 Time 11:47 AM NOTICE OF APPEAL - DJ

TAKEN UNDER ADVISEMENT. JUDGE FIKE KEPT THE FILE.

(SAR)

30 April 2002, @03:38 PM, MEMORANDUM FILED WITH ORDER AS FOLLOWS: NOW, THIS 30TH DAY OF APRIL, 2002, UPON CONSIDERATION OF THE DEFENDANT'S PRELIMINARY OBJECTION TO PLAINTIFF'S COMPLAINT ON THE BASIS OF IMPROPER VENUE AND THIS COURT DETERMINING THAT VENUE IS IMPROPER PURSUANT TO RULE 1006(A) OF THE PENNSYLVANIA RULES OF CIVIL PROCEDURE, IT IS HEREBY ORDERED THAT DEFENDANT'S PRELIMINARY OBJECTIONS ARE SUSTAINED AND THIS ACTION IS TRANSFERRED TO THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA, WHICH IS A COUNTY OF PROPER VENUE IN THIS MATTER.

THE PROTHONOTARY OF THIS COURT SHALL FORWARD TO THE TRANSFEREE CERTIFIED COPY OF THE DOCKET ENTRIES, PROCESS PLEADING, DEPOSITIONS AND OTHER PAPERS FILED IN THIS ACTION, UPON PAYMENT BY PLAINTIFF OF ALL COSTS AND ALL FEES FOR SAID TRANSFER AND REMOVAL OF THE RECORD.

BY THE COURT /S/ EUGENE E. FIKE, II P.J.

(5-1-02 COPIES PLACED IN THE FOLLOWING BOXES: MATTHEW R. ZATKO, ESQ., MARK A. PERSUN, AND MAILED TO BRADLEY J. KRAUSE, ESQ., 434 CENTER ST., JOHNSBURG PA 15845) (DWM)

FILED

112:2684
OCT 25 2002

02-1675-CD

William A. Shaw
Prothonotary

W.W. ENGINE & SUPPLY,) IN THE COURT OF COMMON PLEAS
Plaintiff) OF
vs.) SOMERSET COUNTY, PENNSYLVANIA
FRANK HORCHEN,)
Defendant)
_____) NO. 192 CIVIL 2001

For Plaintiff: Matthew R. Zatko, Esquire

For Defendant: Bradley J. Kraus, Esquire

Hearing and Argument: February 19, 2002

MEMORANDUM

This case is before the Court on the defendant's Preliminary Objections claiming improper venue.

The applicable Rule is Pennsylvania Rule of Civil Procedure 1006(a), which provides, in part:

(a) Except as otherwise provided by Subdivisions (b) and (c) of this rule, an action against an individual may be brought in and only in a county in which the individual may be served or in which the cause of action arose or where a transaction or occurrence took place out of which the cause of action arose or in any other county authorized by law.

The complaint avers that the defendant, an individual, purchased an engine from the

plaintiff and that a little less than two years after purchase, the defendant advised the plaintiff that the engine would not start. The complaint further avers that the plaintiff then provided goods and services for repair of the engine, for which the defendant was invoiced. The complaint, also, alleges that the repairs were necessitated by a non-warrantable failure and that despite being billed, the defendant failed to pay the amount due for the repairs.

The defendant's preliminary objection alleges that the repair services performed by the plaintiff were rendered at the plaintiff's sales and service center in Clearfield County, that the defendant resides in Elk County, and that neither the cause of action nor any transaction or occurrence out of which the cause of action arose occurred in Somerset County. The defendant requests that the proceedings be transferred to Clearfield County, Pennsylvania, a county where venue properly lies.

As we understand it, the underlying dispute centers on whether the repairs should be covered by warranty. The plaintiff contends that warranty claims are channeled through the plaintiff's office in Somerset County, and the fact that the warranty claim was sent to its Somerset County office is sufficient to satisfy the venue requirements of Rule 1006.¹

After hearing, we have concluded that the mere fact that the warranty claim was

¹ The plaintiff's counsel stated that the plaintiff is not relying on place of payment to support venue.

transmitted through the plaintiff's Somerset County office is insufficient to constitute the requisite transaction or occurrence under Rule 1006. Consequently, we will sustain the preliminary objection and transfer the case to Clearfield County.

W.W. ENGINE & SUPPLY,) IN THE COURT OF COMMON PLEAS
Plaintiff) OF
vs.) SOMERSET COUNTY, PENNSYLVANIA
FRANK HORCHEN,)
Defendant)
_____) NO. 192 CIVIL 2001

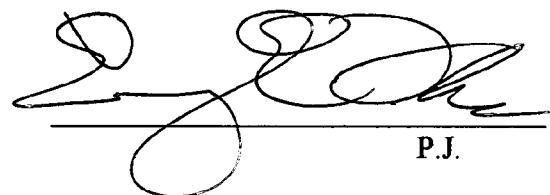
O R D E R

NOW, this 30th day of April, 2002, upon consideration of the defendant's preliminary objection to plaintiff's complaint on the basis of improper venue and this Court determining that venue is improper pursuant to Rule 1006(a) of the Pennsylvania Rules of Civil Procedure, it is hereby ordered that defendant's preliminary objections are sustained and this action is transferred to the Court of Common Pleas of Clearfield County, Pennsylvania, which is a county of proper venue in this matter.

The Prothonotary of this Court shall forward to the transferee court certified copies of the docket entries, process, pleadings, depositions and all other papers filed in this action, upon payment by plaintiff of all costs and fees for said transfer and removal of the record.

BY THE COURT:

** Until further order, copies of court prepared orders and memoranda will be distributed only to counsel and unrepresented parties.**



P.J.

5-1-62 CO PDCO placed in the following base:
McMILLAN R. ZAKOZ LOG
MOUNTAIN Q. P. F. MOUNT
TODAY OF. K. ZAKOZ LOG
131 CANTER ALL
JANUARY 15815
JANUARY 15815

APR 30 P.M. 64

W.W. ENGINE & SUPPLY

IN THE COURT OF COMMON PLEAS OF
SOMERSET COUNTY, PENNSYLVANIA

v.

(
(

FRANK HORCHEN

(
(
NO. 192 CIVIL 2001

R E S C H E D U L I N G O R D E R

NOW, this 30th day of January 2002, the above case
scheduled on THURSDAY, FEBRUARY 21, 2002 AT 9:30 A.M. IN THE HEARING ROOM
BEFORE JUDGE CASCIO (date and time)
and appearing on the CIVIL TRIAL SCHEDULE
(Court Schedule)
for ARGUMENT - DEFENDANT'S PRELIMINARY OBJECTIONS; PLAINTIFF'S ANSWER
(Purpose)
TO DEFENDANT'S PRELIMINARY OBJECTIONS

IS RESCHEDULED on the unopposed motion of THE COURT

because CONFLICT IN SCHEDULE DUE TO CIVIL TRIAL

PROTHONOTARY'S OFFICE
02 JAN 30 2002
FILED FOR RECORD
Dsa
PROTHONOTARY'S OFFICE
SOMERSET, PA
TUESDAY, FEBRUARY 19, 2002 AT 1:30 P.M. IN COURTROOM 1 BEFORE JUDGE E. FIKE
(day, date and time)

The Clerk or Prothonotary shall promptly notify counsel and
any party not represented by counsel.

BY THE COURT

EUGENE E. FIKE, III

P.J.

ATTEST:


Debra A. Galey
Court Administrator

Counsel:

For Plaintiff: Matthew R. Zatko, Esq.
For Defendant: Bradley J. Kraus, Esq.

PLEASE SEE REVERSE SIDE FOR DISTRIBUTION

1-31-02 over for Dist.

DISTRIBUTION:

Judge Cascio
Judge Fike
Court Administrator
Clerks
Court Officers
Court Reporters

Matthew R. Zatko, Esq.
Bradley J. Kraus, Esq.

15845
copy of summons, to
434 Court St.
Bradley J. Kraus, Esq
and copy of order of
quarantine of Zatko, Esq

copy of summons, to
Zatko, Esq
and copy of order of
quarantine of Zatko, Esq

JAN 30 1981

W.W. ENGINE & SUPPLY

IN THE COURT OF COMMON PLEAS OF
SOMERSET COUNTY, PENNSYLVANIA

V

)(

)(

FRANK HORCHEN

)(

)(

NO. 192 CIVIL 2001

S C H E D U L I N G O R D E R

NOW, this 24th day of January, 2002, the above case
is hereby scheduled

DEFENDANT'S PRELIMINARY OBJECTIONS; PLAINTIFF'S
FOR ARGUMENT - ANSWER TO DEFENDANT'S PRELIMINARY OBJECTIONS
(Purpose)

ON THURSDAY, FEBRUARY 21, 2002 @ 9:30 A.M. IN THE HEARING ROOM
BEFORE JUDGE CASCIO (date and time)

ON MOTION OF Matthew R. Zatko, Esq.

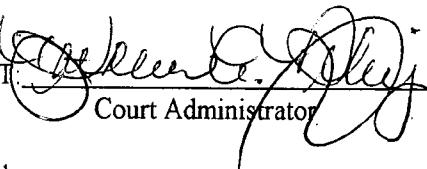
The Prothonotary shall promptly notify counsel and
any party not represented by counsel.

BY THE COURT

JOHN M. CASCIO

J.

ATTEST:


Court Administrator

Counsel:

For Plaintiff: Matthew R. Zatko, Esq.
For Defendant: Bradley J. Kraus, Esq.

DISTRIBUTION:

Judge Cascio
Court Administrator
Clerks
Court Officers
Court Reporters


Matthew R. Zatko, Esq.
Bradley J. Kraus, Esq.

** Until further order, copies of court
prepared orders and memoranda will be
distributed only to counsel and
unrepresented parties.**

PROTHONOTARY'S OFFICE
SOMERSET, PA.
02 JAN 25 AM 11:20
FILED FOR RECORD

1-28-02 over for list.

jan 24 pm

copy placed in the following box:

Matthew R. Zatko, Esq.

and copy mailed to:

Bradley J. Kraus, Esq.
434 Center Street
Johnsonburg, Pa 15845

12-20-01

① One set copy placed in Court Room.
② Two set copies returned to Atty's Office

PROTHONOTARY'S OFFICE
SOMERSET COUNTY, PENNSYLVANIA

01 DEC 2001 PM 3:40

FILED FOR RECORD

PF

IN THE COURT OF COMMON PLEAS OF SOMERSET COUNTY, PENNSYLVANIA

W.W. ENGINE & SUPPLY,)
Plaintiff,)
)
v.) No. 192 Civil 2001
)
FRANK HORCHEN,)
Defendant,)

SCHEDULING PRAECIPE

1. This is a/an --

A. ARGUMENT CASE (Complete Part A below);
 B. CIVIL TRIAL CASE (Complete Part B below);
 C. CIVIL ARBITRATION CASE (Complete Part C. Below).

PART A (Argument Case):

1. Place the above case on an appropriate Argument Schedule for

Argument on Defendant's Preliminary Objections; Plaintiff's
Answer to Defendant's Preliminary Objections

Nature of Proceeding

If I am the moving party, I CERTIFY that the required brief has been filed, and has been or will be served promptly.

--OR--

Hearing on _____
Nature of Proceeding

2. Type of Scheduling requested:

a. Sec reg (At any date and time convenient to the Court to be fixed)

on the next available Argument Schedule to be issued).

--OR--

b. Sec reg-date certain (At a presently fixed date and time on an Argument Schedule to be issued).

--OR--

— c. Prompt (At a presently fixed date and time on a schedule already issued).

d. If date certain or prompt scheduling is requested, state the reason (granted only for cause):

3. Estimated total schedule time required for presentation by all parties:
30 Minutes.

4. a. If the matter listed in paragraph 1 above seeks scheduling for modification or enforcement of any: (1)criminal sentence or order of probation or parole, (ii)juvenile adjudication or disposition order, or (iii)any other order or decree of Court entered in adversary proceedings, state the name of the Judge who made the sentence, order or decree

n/a

J. If not applicable, so state.

b. If any Judge has previously heard argument or testimony on the specific matter to be scheduled, mentioned in paragraph 1 above, or has had significant prior judicial acquaintance with the controversy presented thereby, name the Judge:

J. If not applicable, so state.

PART B (Civil Trial Case):

1. Place the above case on the next issued Civil Trial List for

JURY TRIAL

NONJURY TRIAL

PART C (Civil Arbitration Case):

1. Schedule the above case for Arbitration Trial Hearing sec reg.

2. Estimated total time for presentation by all parties:

_____ Minutes/Hours/Days

II. I CERTIFY that:

1. This case is ready for disposition by the Court.
2. The signed original of this praecipe and one signed copy thereof (for transmission to the administrator) have been or will be promptly filed to the case in the office of the court clerk; and a signed copy has been or will be promptly served upon each other counsel and upon each unrepresented party who has been served with initial process or pleading.
3. All prescheduling and pretrial procedures, including pleading and discovery, have been completed.
4. All parties, witnesses and counsel for the undersigned are expected to be available and present when the case is scheduled, barring unforeseeable events hereafter occurring. If any event hereafter occurs requiring continuance, a motion

therefor will be promptly presented to the Court.

5. I have read and am acquainted with the local rules governing scheduling and court procedures.

III. REMARKS:



Matthew R. Zatko, Esq.

List of all Counsel and Unrepresented parties (state party represented by each, e.g., for Plaintiff Jones, for defendant Smith, etc.):

Attorney for Defendant Frank Horchen:

Bradley J. Kraus, Esq.
434 Center Street
Johnsonburg, PA 15845

Attorney for Plaintiff W W Engine & Supply:

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

NOTE - EFFECT OF CONTINUANCE: If any of the above mentioned cases is scheduled and thereafter continued, a new scheduling praecipe will be required in order to schedule the case again, unless the continuance order fixes a date certain or otherwise provides. Compare Rule No: R11-101 and R11-305.

IN THE COURT OF COMMON PLEAS OF SOMERSET COUNTY, PENNSYLVANIA

W.W. ENGINE & SUPPLY,)
Plaintiff,)
)
v.) No. 192 Civil 2001
)
FRANK HORCHEN,)
Defendant,)

PLAINTIFF'S ANSWER TO DEFENDANT'S PRELIMINARY OBJECTIONS

AND NOW comes the Plaintiff, W.W. Engine & Supply, by it's attorney Matthew R. Zatko, Esquire, and files the following:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Denied. After reasonable investigation Defendant is without sufficient knowledge or information to form a belief as to the truth of the averment and proof thereof is required at the time of trial.
6. Strictly denied. By way of further explanation, Plaintiff is without sufficient knowledge or information to form a belief as to the truth of the averment of Defendant having no residence other than the one in Elk County. Further, it is averred that Defendant making payments to Plaintiff's Somerset County office served as his acknowledgment of Somerset County as proper venue.
7. States a legal conclusion to which no response is required.

PROTHONOTARY'S OFFICE
SOMERSET, PA
01 SEP 14 PM 2:56
FILED FOR RECORD ✓

Q) per 1. copies returned to Atty. Zatko

WHEREFORE, Plaintiff, W.W. Engine & Supply, Inc. respectfully requests this Honorable Court to strike Defendant's Preliminary Objections, and enter judgement against Defendant, Frank Horchen, in the amount of \$7,036.09 plus interest at the rate of six (6) percent per annum from September 8, 2000, and costs of suit.

Respectfully Submitted



Matthew R. Zatko, Esq.

IN THE COURT OF COMMON PLEAS OF SOMERSET COUNTY, PENNSYLVANIA

W.W. ENGINE & SUPPLY,)
Plaintiff,)
)
v.) No. 192 Civil 2001
)
FRANK HORCHEN,)
Defendant,)

CERTIFICATE OF SERVICE

I certify that on the 14th day of September, 2001, a true and correct copy of the within Answer to Defendant's Preliminary Objections was forwarded, via First Class US Mail, to the following:

Bradley J. Kraus, Esq.
Attorney for Defendant
434 Center Street
Johnsonburg, PA 15845

9/13/01


Matthew R. Zatko, Esq.

IN THE COURT OF COMMON PLEAS OF THE SIXTEENTH
JUDICIAL DISTRICT OF PENNSYLVANIA

W.W. ENGINE & SUPPLY, : COUNTY BRANCH – SOMERSET
Plaintiff :
vs. : CIVIL ACTION – LAW
FRANK HORCHEN, : No. 192 Civil 2001
Defendant : **PRELIMINARY OBJECTION**

NOTICE

TO: W.W. ENGINE & SUPPLY
%Matthew A. Zatko, Esq.
202 East Union Street
Somerset, PA 15501

You are hereby notified to file a written response to the enclosed PRELIMINARY OBJECTION within twenty (20) days from service hereof or a judgment may be entered against you.

By

Bradley J. Kraus

Bradley J. Kraus, Esq.
Supreme Court No. 651832
434 Center Street
Johnsonburg, PA 15845
(814) 965-2534

PROTHONOTARY'S OFFICE
SOMERSET, PA.
01 APR 25 AM 11:00
FILED FOR RECORD
[Signature]

IN THE COURT OF COMMON PLEAS OF THE SIXTEENTH
JUDICIAL DISTRICT OF PENNSYLVANIA

W.W. ENGINE & SUPPLY, : COUNTY BRANCH – SOMERSET
Plaintiff :
vs. : CIVIL ACTION – LAW
FRANK HORCHEN, : No. 192 Civil 2001
Defendant : **PRELIMINARY OBJECTION**

DEFENDANT'S PRELIMINARY OBJECTION
TO PLAINTIFF'S COMPLAINT

AND NOW, this 23rd day of April, 2001, comes the Defendant, FRANK HORCHEN, by and through his attorney, Bradley J. Kraus, and files this Preliminary Objection to the Defendant's Complaint pursuant to PA Rule of Civil Procedure 1028 (a)(1) and in support thereof avers as follows:

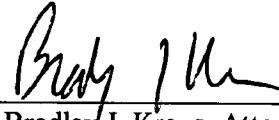
PRELIMINARY OBJECTION
RAISING QUESTION OF IMPROPER VENUE

1. This action has been instituted in Somerset County Pennsylvania.
2. Pursuant to paragraph 2 of the Plaintiff's Complaint, it is alleged that the Defendant, Frank Horchen, is an adult individual residing at R.D. #1, Indian Run, Johnsonburg, PA 15845.
3. The Defendant avers that Johnsonburg is in Elk County, Pennsylvania.
4. The Plaintiff's Complaint sets forth a cause of action for services allegedly rendered by the Plaintiff as its sales and service center at R.D. #3, Rockton Road, DuBois, Clearfield County, Pennsylvania 15801.

5. Defendant is only a resident of Elk County, Pennsylvania.
6. The Defendant has no other residence besides Elk County, Pennsylvania. The transaction or occurrence related to this action did not take place in Somerset County, Pennsylvania, but rather took place in DuBois, Clearfield County, Pennsylvania.
7. The Defendant believes and therefore avers that pursuant to Rule 1006 (a) of the Pennsylvania Rules of Civil Procedure venue in Somerset County is improper.

WHEREFORE, the Defendant requests that the Plaintiff's Complaint be dismissed for improper venue.

By



Bradley J. Kraus, Attorney for
Defendant, Frank Horchen

VERIFICATION

I, **FRANK HORCHEN**, verify that the statements made in this **PRELIMINARY OBJECTION TO PLAINTIFF'S COMPLAINT** are true and correct to the best of my knowledge, information and belief.

I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4940 relating to unsworn falsification to authorities.



Frank Horchen

Dated: April 23, 2001

Bradley J. Kraus
Attorney at Law

434 CENTER STREET ♦ JOHNSONBURG, PA 15845
PHONE: (814) 965-2534 ♦ FAX: (814) 965-4599



April 24, 2001

Angie Svonavec, Prothonotary
Somerset County Courthouse
111 East Union Street
Somerset, PA 15501

**Re: W.W. Engine & Supply vs Frank Horchen
No. 192 Civil 2001**

Dear Ms. Svonavec:

I am enclosing the original and a copy of the Preliminary Objection to Defendant's Complaint in the above captioned case. Would you please file the original of record and time stamp the copy and return the copy to my office in the enclosed self-addressed stamped envelope.

If you have any questions, please do not hesitate to contact me. Thank you.

Yours truly,

A handwritten signature in black ink, appearing to read "Bradley J. Kraus".

Bradley J. Kraus

BJK:B

Encl.

cc: Matthew R. Zatko, Esq.
Frank Horchen

IN THE COURT OF COMMON PLEAS OF SOMERSET, PENNSYLVANIA

W.W. ENGINE & SUPPLY, ()
Plaintiff, ()
()
v. () No. 192 Civil 2001
()
FRANK HORCHEN, ()
Defendant, ()

NOTICE

01 APR 11 Pitt 3:37
FILED FOR RECORD SAWYER

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

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

AMERICANS WITH DISABILITIES ACT OF 1990

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

SOUTHERN ALLEGHENYS LEGAL AID, INC.
132 East Catherine Street
Somerset, PA 15501
814/ 443 4615

4-11-01 Two (2) cert. Copies returned to Atty. Zatko.

IN THE COURT OF COMMON PLEAS OF SOMERSET, PENNSYLVANIA

W.W. ENGINE & SUPPLY,)
Plaintiff,)
)(
v.) No. 192 Civil 2001
)(
FRANK HORCHEN,)
Defendant,)

COMPLAINT

AND NOW comes the Plaintiff, W.W. Engine & Supply, by it's attorney Matthew R. Zatko, Esquire, and files the following complaint:

1. The Plaintiff, W.W. Engine & Supply, Inc. is a Pennsylvania corporation with an office located at 142 Water Works Road, Somerset, Pennsylvania, 15501.
2. The Defendant, Frank Horchen is an adult individual, believed to reside at RD 1, Indian Run, Johnsonburg, Pennsylvania, 15845.
3. On or about November 19, 1998, Defendant purchased an engine from Plaintiff. Said engine being covered by a two-year warranty.
4. On or about September 8, 2000, Defendant contacted Plaintiff, stating that the "engine will not start".
5. At the specific insistence and request of the Defendant, the Plaintiff provided goods and services to the Defendant at the time, in the amounts and for the prices appearing on Plaintiff's Work Order Invoice, a true and correct copy of which is attached hereto and marked as Exhibit "A" and made a part hereof.
6. Although the warranty period had not expired at the time of this engine failure, said failure occurred as a result of overspeed, a *non-warrantable* failure. Verification of same is attached hereto and marked as Exhibit "B" and made a part hereof.
7. As these goods and services were related to a *non-warrantable* failure, Defendant was invoiced by the Plaintiff at fair, reasonable market prices at the time of the transaction for these goods and services.

8. Plaintiff avers that payment by Defendant on his past due account was due at Plaintiff's place of business located at 142 Water Works Road, Somerset, Pennsylvania, 15501. Although requested to do so by Plaintiff, the Defendant has willfully failed, neglected, and refused to pay the aforesaid balance incurred and owed to Plaintiff in the amount of \$7,036.09.

9. Plaintiff has incurred additional costs, including reasonable attorney fees in order to enforce it's rights pursuant to this contract.

10. Plaintiff is entitled to the legal rate of interest at six (6) percent from September 8, 2000 to present.

WHEREFORE, Plaintiff, W.W. Engine & Supply, Inc. respectfully requests this Honorable Court to enter judgement against Defendant, Frank Horchen, in the amount of \$7,036.09 plus interest at the rate of six (6) percent per annum from September 8, 2000, and costs of suit.

Respectfully Submitted



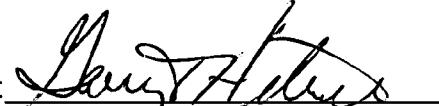
Matthew R. Zatko, Esquire

VERIFICATION

I verify that the statements made in the foregoing are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. CS. Section 4904 relating to unsworn falsification to authorities.

W.W. Engine & Supply

By:



Garry F. Hetrick
Garry F. Hetrick,
Administrative Vice President

SHAW MACK SALES & SERVICE
 R.D.3, ROCKTON ROAD
 DUBOIS, PA. 15801
 314-371-2515 FAX 371-1498
 ** DUPLICATE INVOICE REPRINTED **

Order No. CW10784 WORK ORDER INVOICE Page 1
 Date 9/29/00 Customer Copy Time 8:08:23

3 FRANK HORCHEN 1M2AY10C9KX004018 1989 MCK RW713
 I T R.D. #1 Unit 4018 License YY-67915 PA
 L O INDIANA RUN Reading In 370962 D PO#
 L JOHNSONBURG PA 15845 Arrival 9/08/00 at 7:30
 Cust# 12282 Delivery 0/00/00 Reading
 (814) 965-5374 GVW Terms
 SW# 312

-----S U M M A R Y-----

Seq Description	Labor	Parts	Misc.	Total
01 ENGINE WILL NOT START	2,867.70	3,040.54	732.05	6,640.29
T O T A L S	2,867.70	3,040.54	732.05	6,640.29

MISC SUPPLIES	:	.00	
Tax I.D.: 108077	Sales Tax	:	.00

=====
***** PAY THIS AMOUNT *** Customer Total 6,640.29**

01 ENGINE WILL NOT START Code: M99 MIS MIS
 SW# : 312 Rich Mann

CHECK & FOUND ALL EXHAUST PUSH TUBES & ALL EXHAUST VALVES BENT. DRAIN COOLING SYSTEM, UNHOOK & REMOVE HEADS. FOUND EXHAUST VALVE HAD HIT ALL PISTONS. REMOVE OIL PAN, OIL PUMP, REMOVE ALL PISTONS & LINERS. CLEAN BLOCK, INSTALL NEW LINERS, PISTONS & REMAN CONNECTING RODS. HAVE HEADS REBUILT, ASSEMBLE ENGINE. CHECK TIMING, OK. REMOVE INJECTION PUMP, SEND TO PUMP SHOP & HAVE CHECKED, OK. INSTALL PUMP, ADJUST TIMING, FILL WITH OIL & COOLANT, RUN & CHECK FOR LEAKS, OK. INSTALL HOOD, HOOKUP WIRING FOR LIGHTS, ROADTEST, CHECK OPERATION & RECHECK FLUID LEVELS. REPLACED WIRING FOR ENGINE BRAKE, ROADTEST & RECHECK, OK.
 "NOTE" MACK DSM LOOKED AT DAMAGED PARTS & DETERMINED TO BE CAUSED BY OVERSPEED & NOT A WARRANTABLE FAILURE.

LABOR CHARGED:	Labor Amount
	2,867.70

Parts	QTY	Part Number	Description	NET	Unit	Extended
	5	CH0235101B	DELD15W40	P N	1.33	6.65
	30	CH0235101B	DELD15W40	P N	1.33	39.90
	6	D4466C120B	O-RING	N	.43	2.58
	6	D56AX460	O-RING	N	.82	4.92

** DUPLICATE INVOICE REPRINTED **

Order No. CW10784
 Date 9/29/00
 Segment 01 continued

WORK ORDER INVOICE
 Customer Copy

Page 2
 Time 8:08:23

Parts

Qty	Part Number	Description	NET	Unit	Extended
			R X	Price	Amount
6	0590661338	STEEL WASHER	N	1.10	6.60
10	MMM1547	40G DISC	N	.95	9.50
10	OTHER	WIRE	N	.12	1.20
2	PHI1-1962	CLAMP	P N	.69	1.38
20	PHI1-4743	CABLE TIE 14" HD BLK	N	.58	11.60
2	RADL212	SOLVENT	P N	1.60	3.20
1	103AX977	SCREW	N	3.62	3.62
2	1091988	HTR HOSE	N	5.54	11.08
2	11ME229P2	4" TORCTITE CLAMP	N	4.56	9.12
1	119AX5247	ADAPTER	N	34.88	34.88
1	160AX561	HOSE, SILICONE	N	6.93	6.93
1	21AX873	NUT	N	1.55	1.55
6	215SB228	E6 4VH W/5110 PIS.	N	90.44	542.64
12	23AX514	NUT	N	1.02	12.24
2	243131314	CNS 16-14 RING #10 S	N	.38	.76
4	31AX26B	PIN	N	.47	1.88
6	353GC2139	RING SET-4 GROOVE, E	N	49.98	299.88
6	367GC4247PCR	Core Charge	N	43.00	258.00
6-	367GC4247PCR	CONN ROD	N	43.00	258.00-
6	367GC4247P2X	REMAN CONN. ROD	N	62.35	374.10
6	369GC255A	ROD, VALVE LIFTER PUS	N	15.06	90.36
6	369GC314AP2	PUSH ROD	N	10.30	61.80
4	37AX495	WASHER	N	1.01	4.04
4	37AX495	WASHER	N	1.01	4.04
1	400GC33P3	SCREW	N	12.34	12.34
1	421GC257A	YODE ADJUSTING SCREW	N	2.83	2.83
2	466GC444CCR	Core Charge	N	100.00	200.00
2-	466GC444CCR	ROCKER ARM	N	100.00	200.00-
2	466GC444CX	REMAN ROCKER ASSY. 4	N	363.03	726.06
2	4744SGE7	SYN GRAY/SPRAY CAN	N	4.67	9.34
1	4744SGE7	SYN GRAY/SPRAY CAN	N	4.67	4.67
6	509GC284AP12	SLEEVE	N	52.21	313.26
3	516626630	BRAKE CLEAN-BONUS SI	N	2.58	7.74
1	516681160	SEALANT	N	3.96	3.96
2	52AX36	SLEEVE	N	1.10	2.20
2	554GB213	GASKET-CYL HEAD COVE	N	4.96	9.92
2	56AX535	GASKET	N	4.46	8.92
2	56AX536	GASKET	N	4.58	9.16
1	56AX573	GASKET	N	1.35	1.35
2	57GC189A	GASKET KIT	N	17.79	35.58
1	57GC2120C	FILTER KIT	N	37.88	37.88
6	573GB310B	GASKET, EXHAUST MANI	N	4.02	24.12
1	579GB41E	GASKET, LOWER CRANKC	N	21.17	21.17

** DUPLICATE INVOICE REPRINTED **

Order No. CW10784
 Date 9/29/00
 Segment 01 continued

WORK ORDER INVOICE
 Customer Copy

Page 3
 Time 8:06:23

Part	Part Number	Description	QTY	Unit	Extended
1	583959727K	4" X 18" STAINLESS F	N	Price	Amount
1	590GB1189A	GASKET	N	25.67	25.67
1	590GB1296A	GASKET, TURBO OIL DR	N	4.01	4.01
2	590GB2111A	GASKET, CYL.HEAD BRE	N	1.60	1.60
1	590GB2150	GASKET, TURBO OIL DR	N	1.58	1.58
2	590GB312B	GASKET, AIR INLET &	N	2.42	2.42
12	616GC28A	STUD	N	7.43	7.43
6	62GB2393	BEARING	N	3.15	37.80
2	621410H	HOSE CLAMP-3/8 TO 5/	N	.70	.70
2	621412H	HOSE CLAMP-5/8 TO 3/	N	.70	.70
2	621420H	HOSE CLAMP-1 TO 1-1/	N	.70	.70
2	621428H	HOSE CLAMP-1-1/4 TO	N	.70	.70
2	621452H	HOSE CLAMP-3 TO 3-1/	N	1.80	1.80
4	73309	LOCKNUT	N	1.40	5.60
1	744GB230AP4	HOSE, TURBO OIL DRAI	N	14.13	14.13
1	744GB236A	HOSE	N	15.40	15.40
1	8916C217	VALVE YOKE	N	12.65	12.65
2	935 1410210014	DRING	N	1.76	3.52
1	935 1411073004	GASKET	N	.87	.87
1	935 2410210014	O-RING	N	7.74	7.74
1	935 2410210047	O RING	N	4.34	4.34
1	935 2443315000	NUT	N	8.16	8.16
1	935 2443380004	DRING	N	8.94	8.94

TOTAL PARTS 3,040.54

Miscellaneous Charges	Keyword	Description	QTY	Unit	Extended
	1 FRT	FREIGHT	Y	N	50.00
	1 SUBLET	RBLD TWO HEADS	Y	N	682.05

TOTAL MISC. 732.05
 SEGMENT SUBTOTAL 6,640.29

***** PAY THIS AMOUNT ***** CUSTOMER TOTAL 6,640.29

MACK TRUCKS, INC.

Remanufacturing Center
2800 Commerce Drive
Turnpike Industrial Park
Middletown, PA 17057
(717) 939-1338
FAX (717) 939-8349

January 22, 2001

Mr. Jeff Wood
Shaw Mack Sales & Service
RR 3, Rockton Road
P. O. Box 645
DuBois, PA 15801-0645

Dear Jeff:

Subject: Evaluation of 6 - E6 4V Pistons, 12 - Exhaust Valves, 12 - Push Rods, 1 - Valve Yoke Bridge, 12 - Valve Guides, 1 - Valve Spring and Retainer
Reference: Remanufactured Basic Engine
P/N: 86SB3508 - BRD #1290
Chassis Model & S/N: RW713-4018

I'm writing in regard to your request of January 12, 2001 concerning MRC's evaluation results of the subject material noted above.

All six pistons (5110M - 7J-28) returned show exhaust valve to piston contact.

All twelve exhaust valves (688GC2378-6-98) are bent. All six exhaust push rods are slightly to moderately bent. One valve yoke bridge is broken.

Based on our evaluation, all indications show this failure occurred as a result of overspeed. This is a non-warrantable failure and is not the responsibility of Mack Trucks, Inc., Remanufacturing Center.

As agreed to, the material will be placed on our shipping dock for Harrisburg Mack's pickup. Harrisburg is to forward the material to Shaw Mack, Dubois.



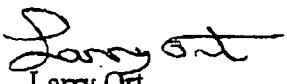
Mr. Jeff Wood
January 22, 2001
Page Two

Hopefully the information supplied will answer any questions or concerns our customer may have had.

If I can be of any further assistance, please feel free to call.

Sincerely,

MACK TRUCKS, INC.
Remanufacturing Center


Larry Ort
Industrial Engineer Analyst

/m

cc: S. Broadwater
L. Zembower



IN THE COURT OF COMMON PLEAS OF SOMERSET, PENNSYLVANIA

W.W. ENGINE & SUPPLY,)
Plaintiff,)
)
v.) No. 192 Civil 2001
)
FRANK HORCHEN,)
Defendant,)

CERTIFICATE OF SERVICE

I certify that on the 11th day of April, 2001, a true and correct copy of the within Complaint was forwarded via First Class U.S. Mail, to the following:

Bradley J. Kraus, Esq.
Attorney for Defendant
434 Center Street
Johnsonburg, PA 15845

4/11/01


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

Bradley J. Kraus
Attorney at Law

434 CENTER STREET ♦ JOHNSONBURG, PA 15845
PHONE: (814) 965-2534 ♦ FAX: (814) 965-4599



April 3, 2001

Angie Svonavec, Prothonotary
Somerset County Courthouse
111 East Union Street
Somerset, PA 15501

192 Civil 2001

**Re: W.W. Engine & Supply vs Frank Horchen
No. 2001-**

Dear Ms. Svonavec:

I am enclosing the "Return Receipts" showing service of the Notice of Appeal on District Justice Cook and W.W. Engine & Supply in the above captioned matter.

If you have any questions, please do not hesitate to contact me. Thank you.

Yours truly,

A handwritten signature in black ink, appearing to read "Bradley J. Kraus".

Bradley J. Kraus

BJK:B

Encl.

cc: Frank Horchen

04/03/01 AM 9:51
FILED FOR RECORD
PACIFIC COUNTY CLERK'S OFFICE
PACIFIC COUNTY, WASHINGTON



Is your RETURN ADDRESS completed on the reverse side?

SENDER: <ul style="list-style-type: none">■ Complete items 1 and/or 2 for additional services.■ Complete items 3, 4a, and 4b.■ Print your name and address on the reverse of this form so that we can return this card to you.■ Attach this form to the front of the mailpiece, or on the back if space does not permit.■ Write "Return Receipt Requested" on the mailpiece below the article number.■ The Return Receipt will show to whom the article was delivered and the date delivered.		<p>I also wish to receive the following services (for an extra fee):</p> <p>1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.</p>
3. Article Addressed to: W.W. Engine & Supply 142 Water Works P.O. Box 1258 Somerset, PA 15501	4a. Article Number 7099 3220 0009 4059 273	4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD
5. Received By: (Print Name) <i>Doris R. Weyand</i>	7. Date of Delivery 3-30-01	
6. Signature: (Addressee or Agent) <i>X Doris R. Weyand</i>	8. Addressee's Address (Only if requested and fee is paid)	

102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.

Is your RETURN ADDRESS completed on the reverse side?

SENDER: <ul style="list-style-type: none">■ Complete items 1 and/or 2 for additional services.■ Complete items 3, 4a, and 4b.■ Print your name and address on the reverse of this form so that we can return this card to you.■ Attach this form to the front of the mailpiece, or on the back if space does not permit.■ Write "Return Receipt Requested" on the mailpiece below the article number.■ The Return Receipt will show to whom the article was delivered and the date delivered.		<p>I also wish to receive the following services (for an extra fee):</p> <p>1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.</p>
3. Article Addressed to: District Justice Cook 118 N. Kimberly Ave. Suite 200 Somerset, PA 15501	4a. Article Number 7099 3220 0009 4059 380	4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD
5. Received By: (Print Name) <i>Doris R. Weyand</i>	7. Date of Delivery	
6. Signature: (Addressee or Agent) <i>X Doris R. Weyand</i>	8. Addressee's Address (Only if requested and fee is paid)	

PS Form 3811, December 1994

102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.

PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN FIVE (5) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Elk ;ss

AFFIDAVIT: I hereby swear or affirm that I served

192 Civil 2001

a copy of the Notice of Appeal, Common Pleas No. _____, upon the District Justice designated therein on (date of service) March 28, 2001, by personal service by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) W. W. Engine & Supply, on March 28, 2001, by personal service by (certified) (registered) mail, sender's receipt attached hereto.

and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on March 28, 2001, by personal service by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME
THIS 28th DAY OF March, 192001

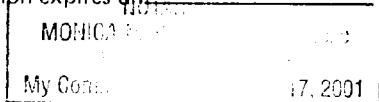
Monica M. Kraus
Signature of official party whom affidavit was made

Bradley J. Kraus, Esq.

Signature of affiant

Title of official

My commission expires on 19



PROTHONOTARY'S OFFICE
COMMONWEALTH OF PENNSYLVANIA

01 MAR 30 PH 1:05
FILED FOR RECORD

D

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS
SIXTEENTH
JUDICIAL DISTRICT

NOTICE OF APPEAL

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS NO.

192 Civil 2001

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case mentioned below.

NAME OF APPELLANT Frank Horchen		MAG. DIST. NO. OR NAME OF D.J. 16-3-03	
ADDRESS OF APPELLANT R.D. #1, Indian Run, Johnsonburg, PA 15845		CITY STATE	ZIP CODE
DATE OF JUDGMENT 03/15/01	IN THE CASE OF Plaintiff W.W. Engine & Supply	Defendant Frank Horchen	
CLAIM NO. TA 19 CV-038-01		VS. Bradley J. Kraus, Esq. <i>Brady J. K.</i>	
SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT Signature of Prothonotary or Deputy			
<p>This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B. This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p>If appellant was Claimant (see Pa. R.C.P.J.P. No. 1001(6) in action before District Justice, he MUST FILE A COMPLAINT within twenty (20) days after filing his NOTICE of APPEAL.</p>			

PRAECLPICE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee).

PRAECLPICE: To Prothonotary

Enter rule upon **W.W. Engine & Supply**, appellee(s), to file a complaint in this appeal

(Common Pleas No. **192 Civil 2001**) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Brady J. K.
Signature of appellant or his attorney or agent

RULE: To **W.W. Engine & Supply**, appellee(s)

Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS WILL BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of mailing.

Date: **March 23, 2001**
11:47 AM

Angie Svorace
Signature of Prothonotary or Deputy

COURT FILE

2725 4059 0009 0000 3220 7099

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:
W. W. Engine & Supply

Postage	\$.34
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 3.74

PS Form 3800, July 1999

2001 MAR 27 SAINT MARYS PA 15857

Name (Please Print Clearly) (To be completed by mailer)
Bradley J. Kraus, Esq.
Street, Apt. No.; or PO Box No.
434 Center Street
City, State, ZIP+4
Johnsonburg, PA 15845

See Reverse for Instructions

2725 4059 0009 0000 3220 7099

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:
W. W. Engine & Supply

Postage	\$.34
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 3.74

PS Form 3800, July 1999

2001 MAR 27 SAINT MARYS PA 15857

Name (Please Print Clearly) (To be completed by mailer)
Street, Apt. No.; or PO Box No.
City, State, ZIP+4

See Reverse for Instructions

Bradley J. Kraus
Attorney at Law

434 CENTER STREET ♦ JOHNSONBURG, PA 15845
PHONE: (814) 965-2534 ♦ FAX: (814) 965-4599



March 29, 2001

Angie Svonavec, Prothonotary
Somerset County Courthouse
111 East Union Street
Somerset, PA 15501

**Re: W.W. Engine & Supply vs Frank Horchen
No. 192 Civil 2001**

Dear Ms. Svonavec:

I am enclosing the Notice of Appeal from the District Justice Judgment to the above number and term, together with completed Proof of Service and sender's receipts of certified mail to District Justice Cook and W.W. Engine & Supply.

Please see that these are filed in your office in accordance with your usual procedure. If you have any questions, please do not hesitate to contact me. Thank you.

Yours truly,

A handwritten signature in black ink, appearing to read "Bradley J. Kraus".

Bradley J. Kraus

BJK:B

Encl.

cc: Frank Horchen

PROTHONOTARY'S OFFICE
SOMERSET, PA.

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS
SIXTEENTH
JUDICIAL DISTRICT

01 MAR 23 AM 11:47

FILED FOR RECORD

NOTICE OF APPEAL

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 192 Civil 2001

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case mentioned below.

NAME OF APPELLANT Frank Horchen		MAG. DIST. NO. OR NAME OF D.J. 16-3-03	
ADDRESS OF APPELLANT R.D. #1, Indian Run, Johnsonburg, PA 15845		CITY	STATE
DATE OF JUDGMENT 03/15/01	IN THE CASE OF (Plaintiff) W.W. Engine & Supply	(Defendant) Frank Horchen	
CLAIM NO. TA 19 CV-038-01		vs. Bradley J. Kraus, Esq. <i>Brady J. Kraus</i>	
		SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT	
		<i>Signature of Prothonotary or Deputy</i>	

This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B.
This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.

If appellant was Claimant (see Pa. R.C.P.J.P. No. 1001(6) in action before District Justice, he MUST FILE A COMPLAINT within twenty (20) days after filing his NOTICE of APPEAL.

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.J.P. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee).

PRAECIPE: To Prothonotary

Enter rule upon W.W. Engine & Supply, appellee(s), to file a complaint in this appeal
(Common Pleas No. 192 Civil 2001) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Brady J. Kraus Signature of appellant or his attorney or agent
Bradley J. Kraus, Esq.

RULE: To W.W. Engine & Supply, appellee(s)
Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS WILL BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of mailing.

Date: March 23, 2001
11:47 AM

Angie Svoracek

Signature of Prothonotary or Deputy

PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN FIVE (5) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____ ; ss

AFFIDAVIT: I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. _____, upon the District Justice designated therein on
(date of service) _____, 19_____. by personal service by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, *(name)* _____ on
_____, 19_____. by personal service by (certified) (registered) mail, sender's receipt attached hereto.

and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on _____, 19_____. by personal service by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME
THIS _____ DAY OF _____, 19_____.

Signature of affiant

Signature of official before whom affidavit was made

Title of official

My commission expires on _____, 19_____.

Bradley J. Kraus
Attorney at Law

434 CENTER STREET ♦ JOHNSONBURG, PA 15845
PHONE: (814) 965-2534 ♦ FAX: (814) 965-4599



March 22, 2001

Angie Svonavec, Prothonotary
Somerset County Courthouse
111 East Union Street
Somerset, PA 15501

**Re: W.W. Engine & Supply vs Frank Horchen
Docket No. CV-038-01**

Dear Ms. Svonavec:

I am enclosing a Notice of Appeal in the above captioned matter. Also enclosed is a copy of the Notice of Judgment and my check in the amount of \$55.50 to cover the filing fee. If you have any questions, please do not hesitate to contact me. Thank you.

Yours truly,

A handwritten signature in black ink, appearing to read "Bradley J. Kraus".

Bradley J. Kraus

BJK:B

Encl.

cc: Frank Horchen

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

W. W. Engine & Supply, Inc.
Plaintiff

VS.

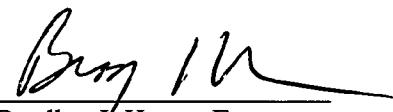
Frank Horchen
Defendant

NOTICE TO PLEAD:

TO: W. W. Engine & Supply, Inc., Plaintiff
C/o Dwight L. Koerber, Esq.
110 North Second Street
P.O. Box 1320
Clearfield, PA 16830

Pursuant to Rule 1026 of the Pennsylvania Rules of Civil Procedure, you are hereby notified to file a written response to the enclosed New Matter and Counterclaim within twenty (20) days from service hereof or a judgment may be entered against you.

Respectfully submitted,



Bradley J. Kraus, Esq.
Attorney for the Defendant
November 18, 2002

FILED

NOV 18 2002

o / 8:55 am,

William A. Shaw
Prothonotary

3 CENT TO MTR



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

W. W. Engine & Supply, Inc.
Plaintiff

*

VS.

*

* Docket No. 2002-1675-CD

Frank Horchen
Defendant

*

ANSWER, NEW MATTER & COUNTERCLAIM:

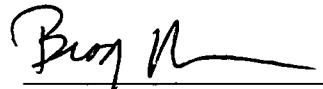
AND NOW, this 18th day of November, 2002, comes the Defendant, Frank Horchen, by and through his attorney, Bradley J. Kraus, and files this Answer, New Matter and Counterclaim and in support thereof avers as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted. By way of further response, the Defendant believes, and therefore avers, that the reason that the engine would not start was due to a problem with the engine that was covered under the warranty provided by the Plaintiff.
5. Denied. The Defendant specifically denies that the work performed by Plaintiff was at his specific insistence and request. On the contrary, the Defendant avers that when he contacted the Plaintiff regarding the disabled truck, the Plaintiff told the Defendant to bring the truck to the Plaintiff's facility to be repaired since it was under warranty. Only after the work was begun and subsequently completed by the Plaintiff did the Plaintiff state that the work was not going to be covered under the warranty.
6. Admitted in part. Denied in part. While it is admitted that the warranty period had not expired at the time of the engine failure, the Defendant denies that such failure occurred as a result of overspeed, or that the work on the engine was due to a non-warrantable failure. The conclusions set forth in Exhibit "B" are denied and strict proof of them is demanded at the time of arbitration of this matter.
7. Denied. It is specifically denied that the goods and services were related to a non-warrantable failure or that the Defendant was invoiced by the Plaintiff for fair, reasonable market prices at the time of the transaction for these goods and services considering that this should have been covered under a warranty for the engine.

8. Denied. It is specifically denied that the payment by the Defendant was due at the Plaintiff's place of business located in Somerset, Pennsylvania. The Defendant avers that in the past payment was accepted at the DuBois facility located in Clearfield County. By way of further response, the Defendant denies that he has willfully failed, neglected or refused to pay the balance incurred. Additionally, the Defendant avers that the work performed on the engine was covered by the warranty, which warranty should have allowed payment for the goods and services and provided to the Defendant by the Plaintiff.
9. Denied. The allegations contained in paragraph 9 of the Plaintiff's Complaint are denied for after reasonable investigation the Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9. Therefore, the same are denied and strict proof of them is demanded at the time of trial of this matter.
10. The allegations contained in paragraph 10 are legal conclusions to which no response is required under the Pennsylvania Rules of Civil Procedure. To the extent a response is deemed necessary, the Defendant denies that the Plaintiff is entitled to a legal rate of interest of 6% from September 8, 2000, to the present.

WHEREFORE, the Defendant respectfully requests judgment in his favor and against the Plaintiff and respectfully requests this Court to dismiss the Plaintiff's Complaint with prejudice.

Respectfully submitted,



Bradley J. Kraus, Esq.
Attorney for Defendant
November 18, 2002

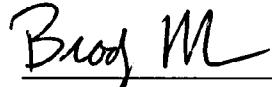
NEW MATTER

AND NOW, this 18th day of November, 2002, comes the Defendant, Frank Horchen, by and through his attorney, Bradley J. Kraus, and pursuant to 1030 of the Pennsylvania Rules of Civil Procedure and files this New Matter and in support thereof avers as follows:

11. Paragraphs 1 through 10 of the Defendant's Answer above are hereby incorporated by reference as though the same were set forth at length.
12. The Defendant alleges that on November 19, 1998, an engine for a 1989 Mack Truck was re-manufactured by Mack Trucks, Inc. and sold by the Plaintiff and sold to the Defendant. At the time of the engine was re-manufactured, the truck had 310,384.00 miles on it.
13. The Defendant further alleges that when the re-manufactured engine was sold to the Defendant by the Plaintiff on November 19, 1998, the Plaintiff provided a warranty on the re-manufactured.
14. The Defendant further avers that on September 29, 2000, the truck had 370,962 miles on it.
15. The Defendant further avers that the work performed on the truck on or after September 29, 2000 was done by the Plaintiff after the Plaintiff told the Defendant to deliver the truck for repair since the engine was under warranty.
16. The Defendant avers that only after the Plaintiff had commenced work on the engine and started to rebuild the engine did the Plaintiff inform the Defendant that the work was not covered under the warranty.
17. The Defendant believes, and therefore avers, that the cause of the engine failure and damage to the engine was not caused by "overspeeding" the engine as identified by the Plaintiff.
18. From the time the Defendant purchased the re-manufactured engine from the Plaintiff on November 19, 1998 to the time of the engine failure in September of 2000, the Defendant properly maintained the engine and performed preventative maintenance on the engine.
19. The Defendant believes, and therefore avers, that the engine repair was covered under the warranty program with the manufacturer of the engine and therefore the cost of the materials and labor to repair the engine are not his responsibility.
20. The Defendant avers that he has not paid the invoice submitted to him by the Plaintiff due to the fact that the invoice is for work performed and materials provided that are covered by the warranty.

WHEREFORE, the Defendant respectfully requests judgment in his favor and against the Plaintiff and respectfully requests this Court to dismiss the Plaintiff's Complaint with prejudice.

Respectfully submitted,



Bradley J. Kraus, Esq.
Attorney for Defendant
November 18, 2002

COUNTERCLAIM:

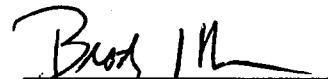
AND NOW, this 18th day of November, 2002, comes the Defendant, Frank Horchen, by and through his attorney, Bradley J. Kraus, and files this Counterclaim and in support thereof avers as follows:

21. Paragraphs 1-10 of his Answer above and paragraphs 11-20 of his New Matter above are hereby incorporated by reference as though the same were set forth at length.
22. At the time the Plaintiff allegedly repaired the Defendant's engine, the engine had 370,962 miles on it. The repairs allegedly performed by the Plaintiff are outlined on Exhibit "A" attached to the Plaintiff's Complaint.
23. On May 24, 2001, the Defendant had to deliver the truck to Sidley Truck & Equipment in Lantz Corner, McKean County, PA due to a problem with the truck's engine. At the time the Defendant delivered the truck to Sidely's, the truck had 382,783 miles on it, approximately 11,821 miles since the Plaintiff had attempted repairs on the Defendant's truck.
24. Upon investigation to repair the Defendant's truck, Sidley's generated a diagnosis which formed part of their repair bill submitted to the Defendant. Attached to this Counterclaim and marked as Exhibit "B" is a true and correct copy of the repair bill and diagnosis from Sidley's given to the Defendant. That document is hereby incorporated by reference as though the same were set forth at length. Moreover, the Defendant intends to offer this Exhibit into evidence at the arbitration proceeding without further proof in accordance with PA. Rule of Civil Procedure 1305.

25. The Defendant paid the sum of **\$2,792.31** to Sidley's for the repair of the truck engine as outlined on Exhibit "B" outlined in the preceding paragraph.
26. The Defendant believes, and therefore avers, that the diagnosis by Sidley's revealed that work performed by the Plaintiff in September of 2000 was not completed in a workmanlike manner. The Defendant hereby alleges that the diagnosis attached to the repair bill of Sidley Truck and Equipment dated May 31, 2001 is hereby incorporated by reference as though the same were set forth at length.
27. The Plaintiff did not perform the repair of the Defendant's engine in a good and workmanlike manner since Sidley found that the crank bold was stripped in front of the crank.
28. Due to the Plaintiff's poor workmanlike repair of the Defendant's engine as outlined above, the Defendant had to expend sums to have the engine repaired by Sidley's in May of 2001. The Defendant had to expend the sum of **\$2,792.31** to have the engine repaired.
29. The negligent work performed by the Plaintiff has resulted in the Defendant having to expend sums to have the engine repaired by Sidley's at a cost to the Defendant of **\$2,792.31**.

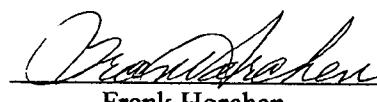
WHEREFORE, the Defendant respectfully requests judgment in his favor and against the Plaintiff in the amount of **\$2,792.31** together with interest and costs of suit.

Respectfully submitted,


Bradley J. Kraus, Esq.
Attorney for Defendant
November 18, 2002

VERIFICATION

I, Frank Horchen, verify that the statements made in the foregoing Answer, New Matter and Counterclaim are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. CS. Section 4904 relating to unsworn falsification to authorities.



Frank Horchen

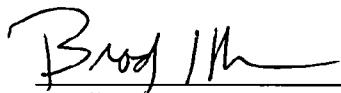
Dated: November 14, 2002

PROOF OF SERVICE:

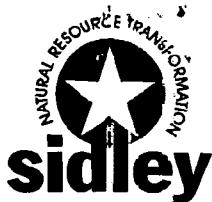
I, Bradley J. Kraus, attorney for the Defendant, Frank Horchen, hereby certify that on the 18th day of November, 2002, I mailed a certified copy of the within Answer, New Matter and Counterclaim by U.S. Mail, first class, postage pre-paid addressed as follows:

Mr. Dwight L. Koerber, Jr., Esq.
Attorney for Plaintiff
110 North Second Street
P.O. Box 1320
Clearfield, PA 16830

Respectfully submitted,



Bradley J. Kraus, Esq.
Attorney for Defendant
November 18, 2002



Sidley Truck & Equipment

RR #1 Box 186B • Lantz Corners • Kane, PA 16735
(814) 778-1155 FAX (814) 778-1157



authorized
Simeo Trailer
dealer

INVOIT ^{dealer}

DATE 5/31/01	INVOICE NO. 24
CUSTOMER P.O. NO.	CUSTOMER NO. 65624

REFERENCE		SHIP VIA	SHIP DATE 07/27/92	TERMS NET 30	SLSM RSSE	CODES 129	B/O	PAGE	
PHONE NO.		614 965 5574		ID. NO.	52				
SOLD TO:	FRANK HORCHEN RD 1 INDIAN RUN			UNIT SERIAL NO.	4018				
				UNIT MAKE	MAC				
				MODEL/YEAR	RW713			1/990	
				MILEAGE METER	382783				
	JOHNSONBURG	PA	15843						
ITEM NO.	QUANTITY ORDERED	SHIP	PROD. LINE	PART NUMBER	DESCRIPTION	UNIT PRICE	EXTENSION		
126	6	6	PAR	14338	NYLON TIE	.090	0.54		
127	2	2		14337	NYLON TIE	.080	0.16		
128	2	2		80240	TERMINAL	.450	0.90		
129	2	2		80249	TERMINAL	.400	0.80		
130	12	12		85759	BUZZ CONNECTOR	1.260	15.12		
131	4	4		80204	TERMINAL	.180	0.72		
132	2	2		GNK M7-20	FARTS CLEANER	1.490	2.98		
WORK COMPLETED									
DIAG-O-DIS MISS FOUND NUMBER 3 INTAKE PUSH ROD RENT. REPLACE PUSH ROD. START ENGINE. FOUND NUMBER 3 EXHAUST LOBE WIRED OFF. PULL HOOD AND BUMPER AND ALL BRACKETS. PULLED RADIATOR. PULL APART FRONT OF ENGINE FOUND CRANK BOLT STRIPPED IN END OF CRANK SHAFT. RETAPPED THREADS IN CRANK END. PULL CAM AND LIFTERS INSPECT CAM BEARINGS OK. CHECK RODS AND MAINS OK. REPLACE CAM AND LIFTERS. FOUND OIL PUMP TIGHT SPOT. REPLACE OIL PUMP. TORQUE ALL FASTENERS TO SPECS. CHECK ALL PUSH RODS ADJUST VALVES. TIGHTEN LOOSE DYNATARD SOLONOID FRONT SHAFT. REPLACE OIL PAN GASKET AND INSTALL OIL PAN. CHANGED ALL FILTERS AND OIL. INSTALL RADIATOR AND HOOD. HOOK UP LIGHT WIRING. ROAD TEST OK. (CUSTOMER AGREED TO PAY WHEN PICKING UP TRUCK) RECOMEND CHANGING OIL AND FILTERS IN 2 WEEKS									
CSH/CHK	0.00	CHG/COD	2792.31						

CUSTOMER SIGNATURE

TOTAL MERCHANDISE	1,736.83
TOTAL LABOR	1,053.56
TOTAL INVOICE	2,792.31

NO RETURNS ON ELECTRICAL & SPECIAL ORDER ITEMS. NO REFUNDS AFTER SEVEN DAYS. ALL MERCHANDISE RETURNED FOR CREDIT IS SUBJECT TO A 20% SERVICE CHARGE. NO REFUND WITHOUT THIS INVOICE. ALL SPECIAL ORDER PARTS MUST BE PAID IN ADVANCE.

DISCLAIMER OF WARRANTIES: The warranty constitutes all of the warranties with respect to the sale of this item. The Seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and the Seller shall not be liable for any damage in connection with the sale of this item.



Sidley Truck & Equipment

RR #1 Box 186B • Lantz Corners • Kane, PA 16735
(814) 778-1155 FAX (814) 778-1157



authorized
Since 1948
dealer

INVOICE

DATE	INVOICE NO.
5/31/91	345
CUSTOMER P.O. NO.	CUSTOMER NO.
	36632

REFERENCE	SHIP VIA	SHIP DATE	TERMS	SLSM	CODES	B/O	PAGE
		5/25/91	NET 30	HSE	100		
PHONE NO.	814-965-5374		ID. NO. 02				
SOLD TO:	FRANK HORCHEN RD 1 INDIAN RUN		UNIT SERIAL NO. 4018				
			UNIT MAKE MAC				
			MODEL/YEAR RW713				/1990
			MILEAGE, METER 382783				
	JOHNSONBURG PA 15845						
ITEM NO.	QUANTITY ORDERED	SHIP	PROD LINE	PART NUMBER	DESCRIPTION	UNIT PRICE	EXTENSION
JOB DESCRIPTION							
1	1	MISS IN ENGINE			PARTS		1,738.81
					LABOR		1,053.50
					JOB TOTAL		2,792.31
101	1	1	MAC	454GC578C	CAMSHAFT, E	480.520	480.52
102	1	1		436GC16	SCREW	45.810	45.81
103	12	12		72GC357	LIFTER, VA	61.240	734.88
104	1	1		369GC314AP2	PUSH ROD	10.710	10.71
105	1	1		1458-99325	SEAL	33.080	33.08
106	1	1		342SX32	GASKET	3.220	3.22
107	2	2		554GB213	GASKET-CYL. HEAD COVER	5.250	10.50
108	1	1		315GC4456X	PUMP, OIL	254.510	254.51
					CORE EXCHANGE		
109	1	1		579GB41E	GASKET, LO	22.450	22.45
110	1	1		39AX23	WASHER	1.240	1.24
111	2	2		590GB2111A	GASKET, CY	1.030	3.66
112	1	1		25MF436B	COOLANT COND ES I+	9.430	9.43
113	1	1		483GB444	PRI FUEL FILTER	4.520	4.52
114	1	1		483GB440	SEC FUEL FILTER ESI+	6.470	6.47
115	2	2		485GB3191C	OIL FILTER	4.490	8.98
116	1	1		57GC2134A	KIT & 1	10.350	10.35
117	2	2		56AX535	GASKET	4.640	9.28
118	1	1		56AX548	O RING	6.160	6.16
119	1	1		446GC316	SEAL, TIMING	8.910	8.91
120	8	8	ECC	CITGUARD 600 G	15W40 OIL PER GALLON	6.250	50.00
121	1	1	PAR	7106	COTTER PIN	.020	0.02
122	1	1		51150	NUT	.030	0.03
123	1	1		73580	SCREW	.050	0.05
124	5	5		14339	NYLON TIE	.370	1.85
125	4	4		15936	NYLON TIE	.200	0.80

X

CUSTOMER SIGNATURE

NO RETURNS ON ELECTRICAL & SPECIAL ORDER ITEMS • NO RETURNS AFTER SEVEN DAYS • ALL MERCHANDISE RETURNED FOR CREDIT IS SUBJECT TO A 20% SERVICE CHARGE • NO REFUND WITHOUT THIS INVOICE • ALL SPECIAL ORDER PARTS MUST BE PAID IN ADVANCE

DISCLAIMER OF WARRANTY: The factory warranty constitutes all of the warranties with respect to the sale of this item. The Seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and the Seller neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of this item.

FILED

NOV 18 2002

William A. Shaw
Prothonotary

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

*

W.W. Engine & Supply, Inc.,
Plaintiff

*

Vs.

*

Docket No. 2002-1675-CD

Frank Horchen,
Defendant

*

*

Type of Pleading:
ENTRY OF APPEARANCE

Filed on Behalf of:
PLAINTIFF:
W.W. Engine & Supply, Inc.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.,
Esquire
PA I.D. No. 16332

LAW OFFICES OF
DWIGHT L. KOERBER, JR.

FILED

NOV 06 2002

William A. Shaw
Prothonotary

110 North Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

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

*

W.W. Engine & Supply, Inc.
Plaintiff

*

Vs.

* Docket No. 2002-1675-CD

Frank Horchen,
Defendant

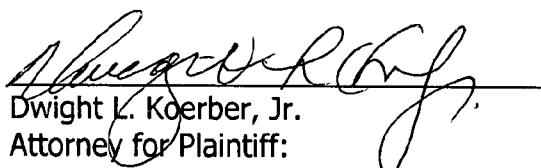
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*

ENTRY OF APPEARANCE

Please enter my appearance on behalf of the Plaintiff, W.W. Engine &
Supply, Inc. in the above-captioned matter.

Respectfully submitted:


Dwight L. Koerber, Jr.
Attorney for Plaintiff:
W.W. Engine & Supply, Inc.

Dwight L. Koerber, Jr., Esquire
LAW OFFICES OF
DWIGHT L. KOERBER, JR.
110 North Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

3 CC
Nov 13 2002
Atty Kaeber

William A. Shaw
Prothonotary

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

W. W. ENGINE & SUPPLY, INC.,
Plaintiff

*

-VS-

DOCKET NO. 02-1675-CD

FRANK HORCHEN,
Defendant

*

Type of Pleading:
ANSWER TO NEW MATTER
AND COUNTERCLAIM

Filed on Behalf of:
PLAINTIFF:
W. W. ENGINE & SUPPLY, INC.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.
Pa. I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

DEC 13 2002

William A. Shaw
Prothonotary

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

W. W. ENGINE & SUPPLY, INC.,
Plaintiff

*

-vs-

DOCKET NO. 02-1675-CD

*

FRANK HORCHEN,
Defendant

*

ANSWER TO NEW MATTER AND COUNTERCLAIM

COMES NOW, W. W. Engine and Supply, Inc., by and through its attorney, Dwight L. Koerber, Jr., Esquire, and files the within Answer to New Matter and Counterclaim filed herein by Defendant.

11. No answer required.

12. Admitted in part and denied in part. It is admitted that Plaintiff sold to Defendant a 1987 Mack truck engine that had been remanufactured by Mack Trucks, Inc. Plaintiff has no means of knowing the correct mileage on the engine and requires strict proof of same at trial.

13. Admitted in part and denied in part. It is admitted that Plaintiff sold the remanufactured engine. It is specifically denied that Plaintiff would provide a warranty on the engine. To the contrary, the warranty is one furnished by Mack Truck, Inc. and between Mack Truck, Inc., and the Defendant.

14. Denied. Plaintiff has no means of knowing or determining with any accuracy the actual mileage on the truck in question. Strict proof of this allegation is required at trial.

15. Denied. After reasonable investigation, Plaintiff is unable to determine the truth or accuracy of the allegation presented, and requires strict proof of same at trial.

16. Denied. After reasonable investigation, Plaintiff is unable to determine the truth or accuracy of the allegation presented. Moreover, Plaintiff would point out that in order to determine the cause of an engine failure, it was necessary to begin tearing apart the engine to find out where the failure occurred and what is needed to be repaired. Because the application of the warranty between Mack Truck and Defendant is something that Plaintiff could not evaluate until the engine was torn apart and examined, Plaintiff could not determine the cause of the engine failure until the engine was torn apart.

17. Denied. To the contrary, Plaintiff very carefully inspected the engine and examined the condition of the damaged parts in order to reach the conclusion that the engine failure was caused by overspeeding. Plaintiff firmly stands behind its assessment as to the cause of the engine damage that occurred.

18. Denied. Upon reasonable investigation, Plaintiff is not able to determine the truth or veracity of the allegation set forth and as such denies it, requiring strict proof of same at trial. Moreover, Plaintiff would point out that the issue of

"overspeeding" is entirely different from the issue of whether or not Defendant provided proper preventative maintenance on the engine.

19. Denied for the reasons set forth in the Complaint herein, as further substantiated by Appendices A and B attached to the Complaint. Moreover, the warranty is between Defendant and Mack Trucks, Inc.

20. Denied. Legal conclusion. Moreover, Defendant has presented no good faith factual reason for the details which Plaintiff has set forth in Appendices A and B of the Complaint filed herein.

WHEREFORE, Plaintiff requests your Honorable Court to deny the New Matter filed by Defendant and to enter judgment in Plaintiff's favor.

21. No answer required.

22. Plaintiff has no means of knowing the actual mileage on the engine, but even if it did, it does not establish whether the engine was properly prepared. Proof of these allegations is required at trial.

23. Denied. After reasonable investigation, Plaintiff is unable determined the truth or accuracy of the allegation set forth and requires strict proof of same at trial. Moreover, Plaintiff would point out that Defendant has not demonstrated that the odometer that it seeks to rely upon is accurate nor has it established that it is an accurate measure of the degree of wear and tear that Defendant has placed on the subject engine.

24. Denied. The allegations set forth in Exhibit B are specifically denied as being not a correct analysis of a cause of engine failure. Moreover, Plaintiff would

point out that the information shown on the alleged repair bill sets forth representations that only an expert can make, with there being no proof of qualifications or competency of the person alleged to have made the evaluation. Strict proof of the allegations set forth is required at trial.

25. Denied. Upon reasonable investigation, Plaintiff has been unable to determine the truth or accuracy of the allegations set forth and requires strict proof of same at trial.

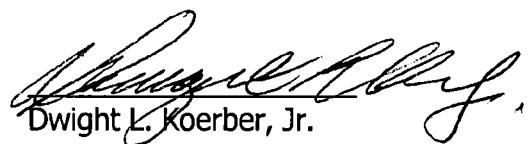
26. Denied. There is no factual or legal basis to demonstrate that the diagnosis allegedly set forth in the May 31, 2001 repair bill is accurate and competently set forth. The allegations are unsupportable and Plaintiff requires strict proof of same at trial.

27. Denied. Legal conclusion. The underlying basis for such conclusion is incorrect and not legally or factually supportable. Furthermore, the conclusion is not substantiated by any mechanical expertise.

28. Denied for the reasons set forth in paragraphs 24, 25, 26, and 27 above and because there is an unsupportable legal conclusion drawn. Strict proof of same is required at trial.

29. Denied. Legal conclusion. See answer to paragraph 28 above.
WHEREFORE, Plaintiff denies the counterclaim and requires strict proof of same at trial.

Respectfully Submitted,



Dwight L. Koerber, Jr.
Attorney for PLAINTIFF:
W. W. Engine & Supply, Inc.

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

W. W. ENGINE & SUPPLY, INC.,
Plaintiff

*

-vs-

DOCKET NO. 02-1675-CD

*

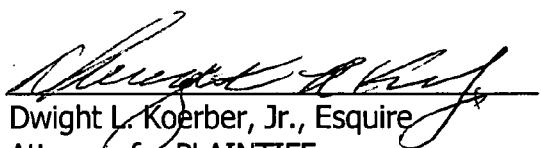
FRANK HORCHEN,
Defendant

*

CERTIFICATE OF SERVICE

This is to certify that on the 13th day of December, 2002, the undersigned served a certified copy of the foregoing ANSWER TO NEW MATTER AND COUNTERCLAIM in the above captioned matter upon counsel for Defendant. Such documents were served via United States First Class Mail upon the following:

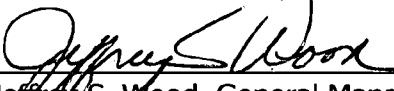
Bradley J. Kraus, Esquire
43 Center Street
Johnsonburg, PA 15845


Dwight L. Koerber, Jr., Esquire
Attorney for PLAINTIFF:
W. W. Engine & Supply, Inc.

VERIFICATION

I certify that the statements made in the foregoing Answer to New Matter and Counterclaim are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

W. W. ENGINE & SUPPLY, INC.

By: 
Jeffrey S. Wood, General Manager

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

W. W. ENGINE & SUPPLY, INC.

-VS-

Plaintiff

FRANK HORCHEN

Defendant

ANSWER TO NEW MATTER
AND COUNTERCLAIM
Docket No. 02-1675-CD

FILED

O 3 15 PM 5/16/02 CIVIL
DEC 13 2002

William A. Shaw
Prothonotary

Law Office

DWIGHT L. KOERBER, JR.

ATTORNEY-AT-LAW

110 NORTH SECOND STREET

P. O. Box 1320

CLEARFIELD, PENNSYLVANIA 16830

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

W.W. ENGINE & SUPPLY, INC.,
Plaintiff

*

* Docket No. 02-1675-CD

-VS-

*

FRANK HORCHEN,
Defendant

*

*

Type of Pleading:
CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff:
W.W. Engine & Supply, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr.
PA I.D. No. 16332

110 North Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

JAN 29 2003

1/25/03

William A. Shaw

Prothonotary/Clerk of Courts

3 CENTS TO ATTY.

E
KCB

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

W.W. ENGINE & SUPPLY, INC.,
Plaintiff

*

-VS-

* Docket No. 02-1675-CD

FRANK HORCHEN,
Defendant

*

*

CERTIFICATE OF SERVICE

This is to certify that on the 28th day of January, 2003, the undersigned served an original and two copies of the foregoing Set I Interrogatories and Request for Production of Documents Directed to Defendant in the above-captioned matter upon Counsel for Defendant. Such documents were served via United States First Class Mail upon the following:

Bradley J. Kraus, Esquire
43 Center Street
Johnsonburg, PA 15845


Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff:
W.W. Engine & Supply, Inc.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

W.W. Engine & Supply, Inc.

vs.

Frank Horchen

CERTIFICATE OF SERVICE

Law Office
DWIGHT L. KOERBER, JR.

ATTORNEY - AT - LAW
110 NORTH SECOND STREET
P. O. Box 1320
CLEARFIELD, PENNSYLVANIA 16830

FILED

JAN 29 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

W. W. ENGINE & SUPPLY, INC.,
Plaintiff

*

-VS-

DOCKET NO. 02-1675-CD

FRANK HORCHEN,
Defendant

*

Type of Pleading:
PRAECIPE FOR
ARBITRATION

Filed on Behalf of:
PLAINTIFF:
W. W. ENGINE & SUPPLY, INC.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.
Pa. I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

JUL 16 2003

William A. Shaw
Prothonotary

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

W. W. ENGINE & SUPPLY, INC.,
Plaintiff

*

-VS-

DOCKET NO. 02-1675-CD

*

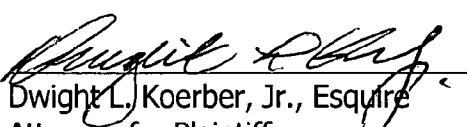
FRANK HORCHEN,
Defendant

*

PRAECIPE FOR ARBITRATION

Please present the within case for arbitration for the next available date. The projected time for hearing is 4 hours. Discovery has been completed and this case is within the jurisdictional limits of the Court. Accordingly, Plaintiff requests that this case be assigned for arbitration.

Respectfully submitted,


Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff:
W.W. Engine & Supply, Inc.

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

W. W. ENGINE & SUPPLY, INC.,
Plaintiff

*

-vs-

DOCKET NO. 02-1675-CD

*

FRANK HORCHEN,
Defendant

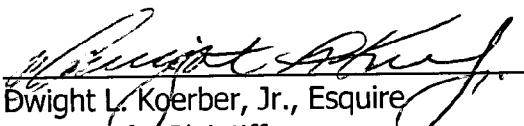
*

CERTIFICATE OF SERVICE

This is to certify that on the 16th day of July, 2003, the undersigned served a copy of the foregoing PRAECIPE FOR ARBITRATION in the above-captioned matter upon Counsel for Defendant and upon Jeffrey S. Wood, General Manager, Shaw Mack Sales & Service. Such documents were served via United States First Class Mail upon the following:

Bradley J. Kraus, Esquire
43 Center Street
Johnsonburg, PA 15845

Jeffrey S. Wood, General Manager
SHAW MACK SALES & SERVICE
P.O. Box 645
DuBois, PA 15801


Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff:
W.W. Engine & Supply, Inc.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
DOCKET NO: 02-1675-CD

W.W. Engine & Supply, Inc.

vs.

Frank Horchen

PRAECIPE FOR ARBITRATION

FILED

JUL 16 2003

01/22:55 P.M.

William A. Shaw
Prothonotary
44-cc-5 Aug
1 cc to CA w/letter
Clerk

Law Office

DWIGHT L. KOERBER, JR.
ATTORNEY-AT-LAW
110 NORTH SECOND STREET
P. O. Box 1320
CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

*

W.W. Engine & Supply, Inc.,
Plaintiff

*

vs.

*

Docket No. 2002-1675-CD

Frank Horchen,
Defendant

*

*

Type of Pleading:
CERTIFICATE OF SERVICE

Filed on Behalf of:
PLAINTIFF:
W.W. Engine & Supply, Inc.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.,
Esquire
PA I.D. No. 16332

LAW OFFICES OF
DWIGHT L. KOERBER, JR.

110 North Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

NOV 06 2003

William A. Shaw
Prothonotary

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

*

W.W. Engine & Supply, Inc.
Plaintiff

*

vs.

* Docket No. 2002-1675-CD

Frank Horchen,
Defendant

*

*

CERTIFICATE OF SERVICE

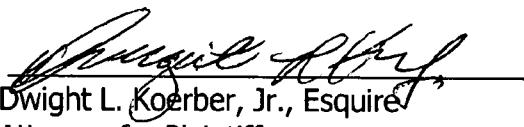
I certify that on the 6th day of November, 2003, the undersigned served certified copies of the attached Pre-Trial Statement upon Arbitrators and counsel for the Defendant in the above-captioned matter by United States First Class Mail upon the following:

Bradley J. Kraus, Esquire
43 Center Street
Johnsonburg, PA 15845

David P. King, Esquire, Arbitrator
P. O. Box 1016
DuBois, PA 15801

Joseph Colavecchi, Esquire, Chairman
Board of Arbitrators
COLAVECCHI & COLAVECCHI
P. O. Box 131
Clearfield, PA 16830

Theron G. Noble, Esquire, Arbitrator
FERRACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830


Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff:
W. W. Engine and Supply, Inc.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
DOCKET NO. 2002-1675-CD

W. W. ENGINE AND SUPPLY, INC.
Plaintiff

v.

FRANK HORCHEN
Defendant

CERTIFICATE OF SERVICE

FILED

11/6/03 3:40 PM to attorney

NOV 06 2003

William A. Shaw
Prothonotary

Law Office

DWIGHT L. KOERBER, JR.
ATTORNEY - AT - LAW
110 NORTH SECOND STREET
P. O. Box 1320
CLEARFIELD, PENNSYLVANIA 16830

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

*

W.W. Engine & Supply, Inc.,
Plaintiff

*

vs.

*

Docket No. 2002-1675-CD

Frank Horchen,
Defendant

*

*

Type of Pleading:
PRE-TRIAL STATEMENT
OF PLAINTIFF

Filed on Behalf of:
PLAINTIFF:
W.W. Engine & Supply, Inc.

RECEIVED

NOV 06 2003

COURT ADMINISTRATOR'S
OFFICE

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.,
Esquire
PA I.D. No. 16332

LAW OFFICES OF
DWIGHT L. KOERBER, JR.

110 North Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

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

W.W. Engine & Supply, Inc. *
Plaintiff

vs. * Docket No. 2002-1675-CD

Frank Horchen, *
Defendant *

PRE-TRIAL STATEMENT OF PLAINTIFF

COMES NOW, Plaintiff, W. W. Engine & Supply, Inc., by and through its attorney, Dwight L. Koerber, Jr., Esquire, and files the within Pre-Trial Statement pursuant to Local Rule 1306-A.

A. STATEMENT OF THE CASE

This case involves a Complaint against Frank Horchen, originally filed in Somerset County by W. W. Engine & Supply, Inc. involving work done its Shaw Mack Sales and Service Division, of DuBois, Pennsylvania in the amount of \$6,640.29, plus interest.

On September 8, 2000, Defendant, Frank Horchen, of Johnsonburg, Pennsylvania, brought his 1989 Mack tri-axle dump truck to Plaintiff's dealership, located just outside of DuBois, Pennsylvania, because of engine problems. Plaintiff promptly began working on the truck, so as to get it back on the road at the earliest date possible, and through appropriate diagnostic procedures determined that there

was extensive damage to the engine. This could not fully be determined until the engine was torn apart. After the engine was torn apart, Plaintiff followed workmanlike procedures as a certified Mack Truck repair shop to repair the engine and to restore it to working condition.

When the damaged parts of the engine were examined, it became clear that the engine had experienced very substantial damage due to over speeding the engine, i.e. excessively high R.P.M.'s. Damage of this nature is a non-warrantable failure, and was not covered by the warranty.

When Defendant objected to the denial of coverage because the engine damage was determined to be a non-warrantable failure, Plaintiff then took reasonable steps to present all of the parts to Mack Trucks for further analysis of the cause of damage. Mack Trucks reaffirmed the earlier assessment made by Plaintiff's Service Manager and by the District Service Manager for Mack Truck, and refused to authorize any coverage of the repair charges under warranty.

While Plaintiff has already presented the documents under Pa. R.C.P. 1305, we are attaching hereto a copy of the invoice in the amount of \$6,640.29 and a copy of the determination by Mack Trucks that the engine damage was a non-warrantable failure, identifying them as Exhibit A and Exhibit B.

In order to defend his position herein, Defendant has claimed that he operated the engine properly. Defendant has claimed that the charges of Plaintiff are too high, asserting that he could have had the work done cheaper himself or some other location.

In addition, Defendant has asserted that somehow he was induced to having the work done at Plaintiff's facilities because of the belief that the engine damage would be covered by a warranty claim.

To use "layman's terms", Defendant has "added insult to injury", by filing a Counterclaim, alleging that subsequent engine damage he incurred seven (7) months later, in the amount of \$2,792.31, was caused by Plaintiff because it allegedly did poor work when it repaired the engine in September, 2000, involving the services that Defendant was refused to pay for. It will be demonstrated at the hearing that this claim is baseless, as the problem complained of, a crank bolt that was stripped in the end of the crankshaft, involved a part of the engine that the Plaintiff never touched. Indeed, it involved the type of work that would be done in order to install the rebuilt engine that Defendant had in his truck, with this work being done by Defendant himself or some other third-party, totally unrelated to Plaintiff. To show that Plaintiff merely sold the engine to Defendant, and did not install it, we are attaching hereto as Exhibit D a copy of the November 19, 1998 invoice.

In short, Defendant has sought to postpone his obligation to pay for repair work which Plaintiff in a diligent and workmanlike fashion in September, 2000, on his truck and then has sought to further delay the collection process against him by asserting a Counterclaim for matters that had nothing to do with the work that gave rise to the invoice of \$6,640.29 which is the basis of this litigation. Clearly a case for prejudgment interest exists here.

B. CITATION TO APPLICABLE CASE OR STATUTES

This case does not involve any specific statutory claim, but instead is a common law claim for payment on account or for breach of contract. Prejudgment interest is sought as a matter of right because this is a breach of contract case. *See Thomas H. Ross, Inc. v. Seigried*, 592 A.2d 1353 (1990); *Gold & Co. v. Northeast Theatre Corp.*, 421 A.2d 1151 (1980); and *Deset Mining Corp. v. Industrial Fuels Corp.*, 473 A.2d 584 (1989.).

C. LIST OF WITNESSES

Plaintiff plans to call the following two (2) witnesses:

- (1.) Jeffrey S. Wood, General Manager
SHAW MACK SALES AND SERVICE
P. O. Box 645
DuBois, PA 15801

- (2.) Richard Mann, Service Manager
SHAW MACK SALES AND SERVICE
P. O. Box 645
DuBois, PA 15801

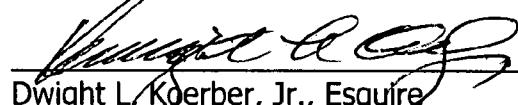
D. STATEMENT OF DAMAGES AND COPIES OF THOSE BILLS WHICH THE

PARTY INTENDS TO OFFER

The invoices which Plaintiff intends to offer, are the September 29, 2000 work order invoice in the amount of \$6,640.29, attached hereto as Exhibit A, a statement for interest, attached hereto as Exhibit C, and the invoice for remanufactured engine dated November 19, 1998, attached as Exhibit D.

Plaintiff intends to offer other additional evidence in support of its case, but this evidence would not be considered a bill and for that reason they would not be presented until the hearing.

Respectfully submitted,


Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff:
W. W. Engine and Supply, Inc.

SHAW MACK SALES & SERVICE
 R.D.3, ROCKTON ROAD
 JUBOIS, PA. 15801
 314-371-2515 FAX 371-1498
 ** DUPLICATE INVOICE REPRINTED **

Order No. CW10784 WORK ORDER INVOICE Page 1
 Date 9/29/00 Customer Copy Date 9:08:23

FRANK HORNHEN LM2AY10C9KMD04018 1989 MACK RW713
 T.R.D. #1 Unit 4018 License YY-67915 PA
 0 INDIANA RUN Reading In 370962 D P0#
 JOHNSONBURG PA 15845 Arrival 9/08/00 at 7:30
 st# 12282 Delivery 0/00/00 Reading
 (814) 965-5374 GVW Terms
 SW# 312

S U M M A R Y

Description	Labor	Parts	Misc.	Total
1 ENGINE WILL NOT START	2,867.70	3,040.54	732.05	6,640.29
T O T A L S	2,867.70	3,040.54	732.05	6,640.29
MISC SUPPLIES		:	.00	
Tax I.O.: 108077	Sales Tax	:	.00	
*** PAY THIS AMOUNT ***		Customer Total		6,640.29

ENGINE WILL NOT START

Code: M99 MIS MIS

SW# : 312 Rich Mann

CHECK & FOUND ALL EXHAUST PUSH TUBES & ALL EXHAUST VALVES BENT. DRAIN COOLING SYSTEM, UNHOOK & REMOVE HEADS. FOUND EXHAUST VALVE HAD HIT ALL PISTONS. REMOVE OIL PAN, OIL PUMP, REMOVE ALL PISTONS & LINERS. CLEAN BLOCK, INSTALL NEW LINERS, PISTONS & REMAN CONNECTING RODS. HAVE HEADS REBUILT, ASSEMBLE ENGINE. CHECK TIMING, OK. REMOVE INJECTION PUMP, SENT TO PUMP SHOP & HAVE CHECKED, OK. INSTALL PUMP, ADJUST TIMING, FILL WITH OIL & COOLANT, RUN & CHECK FOR LEAKS, OK. INSTALL HOOD, HOOKUP WIRING FOR LIGHTS, ROADTEST, CHECK OPERATION & RECHECK FLUID LEVELS. REPLACED WIRING FOR ENGINE BRAKE, ROADTEST & RECHECK, OK.

"NOTE" MACK DSM LOOKED AT DAMAGED PARTS & DETERMINED TO BE CAUSED BY OVERSPEED & NOT A WARRANTABLE FAILURE.

FOR CHARGED:	Labor
	Amount
	2,867.70

Item	Part Number	Description	Net	Unit	Extended
Qty			QTY	Price	Amount
5	CH0235101B	DELO15W40	P N	1.33	6.65
10	CH0235101B	DELO15W40	P N	1.33	39.90
6	D4466C120B	O-RING	N	.43	2.58
6	D56AX460	O-RING	N	.82	4.92

** DUPLICATE INVOICE REPRINTED **

Order No. CW10784
Date 9/29/00
Comment 01 continued

WORK ORDER INVOICE
Customer Copy

Page 3
Time 8:08:23

Line Item	Part Number	Description	Unit	Extended Amount
6	0590661338	STEEL WASHER	N	1.10 6.60
10	MM1547	406 DISC	N	.95 9.50
10	OTHER	WIRE	N	.12 1.20
2	PHI1-1962	CLAMP	P N	.69 1.38
20	PHI1-4743	CABLE TIE 14" HD BLK	N	.58 11.60
2	RADL212	SOLVENT	P N	1.60 3.20
1	103AX97	SCREW	N	3.62 3.62
2	1091988	HTR HOSE	N	5.54 11.08
2	11ME229P2	4" TORCTITE CLAMP	N	4.56 9.12
1	119AX5247	ADAPTER	N	34.88 34.88
1	160AX561	HOSE, SILICONE	N	6.93 6.93
1	21AX873	NUT	N	1.55 1.55
6	21558228	E6 4VH W/5110 PIS.	N	70.44 542.64
12	23AX514	NUT	N	1.02 12.24
2	243131314	CNS 16-14 RING #10 S	N	.38 .76
4	31AX268	PIN	N	.47 1.88
6	353GC2139	RING SET-4 GROOVE, E	N	49.98 299.88
6	3676C4247PCR	Core Charge	N	43.00 258.00
6	3676C4247PCR	CONN ROD	N	43.00 258.00-
6	3676C4247P2X	REMAN CONN. ROD	N	62.35 374.10
6	3696C255A	ROD,VALVE LIFTER PUS	N	15.06 90.36
6	3696C314AP2	PUSH ROD	N	10.30 61.80
4	37AX495	WASHER	N	1.01 4.04
4	37AX495	WASHER	N	1.01 4.04
1	4006C33P3	SCREW	N	12.34 12.34
1	4216C257A	YODE ADJUSTING SCREW	N	2.83 2.83
2	4666C444CCR	Core Charge	N	100.00 200.00
2	4666C444CCR	ROCKER ARM	N	100.00 200.00-
2	4666C444CX	REMAN ROCKER ASSY. 4	N	363.03 726.06
2	474456E7	SYN GRAY/SPRAY CAN	N	4.67 9.34
1	474456E7	SYN GRAY/SPRAY CAN	N	4.67 4.67
6	5096C284AP12	SLEEVE	N	52.21 313.26
3	516626630	BRAKE CLEAN-BONUS ST	N	2.58 7.74
1	516681160	SEALANT	N	3.96 3.96
2	52AX36	SLEEVE	N	1.10 2.20
2	55468213	GASKET-CYL HEAD COVE	N	4.96 9.92
2	56AX535	GASKET	N	4.46 8.92
2	56AX536	GASKET	N	4.58 9.16
1	56AX573	GASKET	N	1.35 1.35
2	576C189A	GASKET KIT	N	17.79 35.58
1	576C2120C	FILTER KIT	N	37.88 37.88
6	573GB310B	GASKET, EXHAUST MANI	N	4.02 24.12
1	57963412	GASKET, LOWER CRANKC	N	21.17 21.17

0. CW10784
9/29/00

WORK ORDER INVOICE
Customer Copy

Time 8:08:23

; 01 continued

Part Number	Description	QTY	Unit	Extended
		R X	Price	Amount
583969727K	4" X 18" STAINLESS F	N	25.67	25.67
5906B1189A	GASKET	N	4.01	4.01
5906B1276A	GASKET, TURBO OIL DR	N	1.60	1.60
5906B2111A	GASKET, CYL. HEAD GRE	N	1.58	3.16
5906B2150	GASKET, TURBO OIL DR	N	2.42	2.42
5906B3128	GASKET, AIR INLET &	N	7.43	14.86
6166C29A	STUD	N	3.15	37.80
62682393	BEARING	N	13.92	83.52
621410H	HOSE CLAMP-3/8 TO 5/	N	.70	1.40
621412H	HOSE CLAMP-5/8 TO 3/	N	.70	1.40
621420H	HOSE CLAMP-1 TO 1-1/	N	.70	1.40
621428H	HOSE CLAMP-1-1/4 TO	N	.70	1.40
621452H	HOSE CLAMP-3 TO 3-1/	N	1.80	3.60
73309	LOCKNUT	N	1.40	5.60
7446B230AP4	HOSE, TURBO OIL DRAI	N	14.13	14.13
7446B236A	HOSE	N	15.40	15.40
8916C217	VALVE YOKE	N	12.65	12.65
935 1410210014	DRING	N	1.76	3.52
935 1411073004	GASKET	N	.87	.87
935 2410210014	O-RING	N	7.74	7.74
935 2410210047	O RING	N	4.34	4.34
935 2443315000	NUT	N	8.16	8.16
935 2443380004	ORING	N	8.94	8.94

TOTAL PARTS 3,040.54

miscellaneous Charges
by Keyword
1 FRT
1 SUBJECT

	Description	QTY	Unit	Extended
		R X	Price	Amount
	FREIGHT	Y N	50.00	50.00
	RBLD TWO HEADS	Y N	682.05	682.05

TOTAL MISC. 732.05
SEGMENT SUBTOTAL 6,640.29

*** PAY THIS AMOUNT *****

CUSTOMER TOTAL 6,640.29

3

MACK TRUCKS, INC.

Remanufacturing Center
2800 Commerce Drive
Turnpike Industrial Park
Middletown, PA 17057
(717) 939-1338
FAX (717) 939-8349

January 22, 2001

Mr. Jeff Wood
Shaw Mack Sales & Service
RR 3, Rockton Road
P. O. Box 645
DuBois, PA 15801-0645

Dear Jeff:

Subject: Evaluation of 6 - E6 4V Pistons, 12 - Exhaust Valves, 12 - Push Rods, 1 - Valve Yoke Bridge, 12 - Valve Guides, 1 - Valve Spring and Retainer
Reference: Remanufactured Basic Engine
P/N: 86SB3508 - BRD #1290
Chassis Model & S/N: RW713-4018

I'm writing in regard to your request of January 12, 2001 concerning MRC's evaluation results of the subject material noted above.

All six pistons (5110M - 7J-28) returned show exhaust valve to piston contact.

All twelve exhaust valves (688GC2378-6-98) are bent. All six exhaust push rods are slightly to moderately bent. One valve yoke bridge is broken.

Based on our evaluation, all indications show this failure occurred as a result of overspeed. This is a non-warrantable failure and is not the responsibility of Mack Trucks, Inc., Remanufacturing Center.

As agreed to, the material will be placed on our shipping dock for Harrisburg Mack's pickup. Harrisburg is to forward the material to Shaw Mack, Dubois.



Mr. Jeff Wood
January 22, 2001
Page Two

Hopefully the information supplied will answer any questions or concerns our customer may have had.

If I can be of any further assistance, please feel free to call.

Sincerely,

MACK TRUCKS, INC.
Remanufacturing Center

Larry Orr
Larry Orr
Industrial Engineer Analyst

/m

cc: S. Broadwater
L. Zembower



NOV. 6, 2003 9:33AM

WW ENGINE EDGER COPY STATEMENT

ENTERTAINMENT

NO. 331

61

W.W. ENGINE



REMIT TO: W.W. ENGINE & SUPPLY, INC.
P.O. BOX 1258
SOMERSET, PA 15501

FRANK HORCHEN
R.D. #1
INDIANA RUN
JOHNSONBURG

PA 15845

STATEMENT DATE
11/02/03
PAGE 1
ACCOUNT NO.
12262

Accounts due and payable by the 10th of the month.
For statement inquiries: 814-445-9617

DATE		INVOICE NUMBER	CHARGES	OVERDUE	BALANCE
9/29/00		CW10784 SALE	6640.29		6640.29
10/31/00		FC003575 INT CHG	99.60		6739.89
11/30/00		FC003682 INT CHG	99.60		6839.49
12/29/00		FC009781 INT CHG	99.60		6939.09
1/17/01		AI41089 SALE	97.00		7036.09

FINANCE CHARGE is computed by a "Periodic Rate" of 1 1/4% per month which is an ANNUAL PERCENTAGE RATE of 18%.



Remit to:
Shaw Mack Sales
PO Box 1258
Somerset, PA 15501



ENGINE
& SUPPLY, INC.

Five Locations: Bedford • Dubois • Kyrtown • Shippensburg • Somerset

SHAW MACK SALES & SERVICE
F.D.3, ROCKTON ROAD
DUBOIS, PA. 15801
814-371-2515 FAX 371-1498

I N V O I C E

INVOICE # CI35476

BILLED 11/19/98
CUSTOMER 1228F
BRANCH 02
CTRMAN # 331
SLSMAN # 995
TERMS OPEN ACC
TERRITORY 000

TIME 15.44.54

F. HORCHEN, FRANK
O. R.D. #1
R. INDIANA RUN
JOHNSONBURG

PA 15845

COMMENT... PENDING CORE STATUS

PHONE #... (814) 965-5274

PAGE

ITEM NUMBER	DESCRIPTION	RET LIST	T CD	QTY Y	QTY ORD	QTY B/D	UNIT SHP	PRICE	EXTENDE AMOUNT
86SB3508P2	REMAN BASI	11718.50	N	1	0	1		7734.00	7,734.0
86SB3508P2CR	Core Charge	3750.00	N	1	0	1		3750.00	3,750.0
590GB2124	GASKET	1.52	N	1	0	1		1.52	1.52
56AX573	GASKET, NON	.32	N	1	0	1		.32	.32
56AX567	GASKET	.72	N	1	0	1		.72	.72
590BB2159	AIR COMP GASKE	8.88	N	1	0	1		7.89	7.89
446GC2124	SEAL, NOZZ	.65	N	6	0	6		.49	2.9
590GB2166	GASKET, IN	.30	N	6	0	6		.22	1.3
573GB310B	EXHAUST GASKET	4.96	N	6	0	6		4.41	26.4
590GB312B	GAS 676	9.10	N	2	0	2		8.10	16.2
316GC528CX	WATER PUMP	162.00	N	1	0	1		113.40	113.4
316GC528CR	Core Charge	50.00	N	1	0	1		50.00	50.0
20QL312M2	INSULATOR	11.06	N	2	0	2		7.96	15.9
73RU12254M	BRACKET	6.86	N	2	0	2		5.56	11.1
191AM6	NUT	3.26	N	2	0	2		3.00	6.0
27AM35	SCREW	9.25	N	2	0	2		8.51	17.0
64MT324	TRANSMITTR	50.50	N	1	0	1		38.38	38.38
590BB1146A	GASKET	.51	N	1	0	1		.45	.45
107AM5007	STUD/157AM3 D	11.59	N	4	0	4		10.75	43.0
590BB2133A	GASKET, INJ	6.11	N	1	0	1		5.44	5.44
404GB470	DAMP 461	402.25	N	1	0	1		306.00	306.0
446GC290	SEAL, INJ	5.27	N	1	0	1		3.58	3.58
86SB3508P2CR	CI35476	3750.00	N	1	0	1		3750.00	3,750.0
316GC528CR	CI35476	50.00	N	1	0	1		50.00	50.0

TAX ID # 108077

INVOICE TOTAL

8,351.7

CUSTOMER'S SIGNATURE

WARRANTY DISCLAIMER: Any warranties on the products sold hereby are those made by the manufacturer. The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and seller neither assumes nor authorizes any other person to assume for it any liability in connection with sale of said products. I hereby authorize the repair work to be done along with necessary materials. You and your employees may operate vehicle for purposes of testing, inspection or delivery at my risk. You are not responsible for loss or damage to the motor vehicle or its contents due to collisions not due to your negligence, or due to fire, theft or other casualty regardless of whether or not such fire, theft or other casualty is due to your negligence; and you and your agents are hereby released from any and all claims for such loss and damage.

18 INVOICE

Exhibit D

828110A

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET NO. 2002-1675-CD

W. W. ENGINE AND SUPPLY, INC.
Plaintiff

v.

FRANK HORCHEN

Defendant

PRE-TRIAL STATEMENT OF
PLAINTIFF

Law Office

DWIGHT L. KOERBER, JR.

ATTORNEY-AT-LAW

110 NORTH SECOND STREET

P. O. Box 1320

CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

*

W.W. Engine & Supply, Inc.,
Plaintiff

*

vs.

*

Docket No. 2002-1675-CD

Frank Horchen,
Defendant

*

*

Type of Pleading:
CERTIFICATE OF SERVICE

Filed on Behalf of:
PLAINTIFF:
W.W. Engine & Supply, Inc.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.,
Esquire
PA I.D. No. 16332

LAW OFFICES OF
DWIGHT L. KOERBER, JR.

110 North Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

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

NOV 06 2003

Attest.

Lee L. Horchen
Prothonotary/
Clerk of Courts

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

*

W.W. Engine & Supply, Inc.
Plaintiff

*

vs.

* Docket No. 2002-1675-CD

Frank Horchen,
Defendant

*

*

CERTIFICATE OF SERVICE

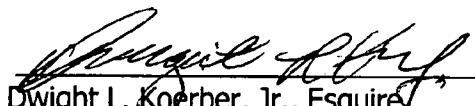
I certify that on the 6th day of November, 2003, the undersigned served certified copies of the attached Pre-Trial Statement upon Arbitrators and counsel for the Defendant in the above-captioned matter by United States First Class Mail upon the following:

Bradley J. Kraus, Esquire
43 Center Street
Johnsonburg, PA 15845

David P. King, Esquire, Arbitrator
P. O. Box 1016
DuBois, PA 15801

Joseph Colavecchi, Esquire, Chairman
Board of Arbitrators
COLAVECCHI & COLLAVERCCHI
P. O. Box 131
Clearfield, PA 16830

Theron G. Noble, Esquire, Arbitrator
FERRACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830


Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff:
W. W. Engine and Supply, Inc.

Arb 11-13-03

**LAW OFFICES
OF
DWIGHT L. KOERBER, JR.**

Dwight L. Koerber, Jr.
Cynthia B. Stewart

*Attorneys at Law
110 North Second Street
P. O. Box 1320
Clearfield, PA 16830*

*Telephone (814) 765-9611
Facsimile (814) 765-9503*

November 7, 2003

Marcy Kelly,
DEPUTY COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
230 East Market Street
Clearfield, PA 16830

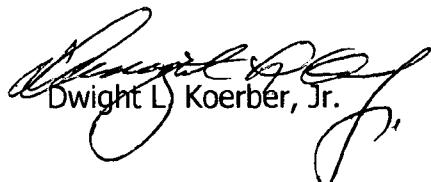
VIA HAND DELIVERY

**Re: W. W. Engine and Supply, Inc. v.
Frank Horchen.
Docket No. 02-1675-CD**

Dear Ms. Kelly:

Enclosed herewith is a copy of the 2nd, 3rd and 4th page to Exhibit C that was omitted from the filing we made yesterday. It was included in the packet we served upon the arbitrators and opposing counsel.

Very truly yours,


Dwight L. Koerber, Jr.

DLK/bdt
Enclosure: Pages 2, 3, and 4 of Exhibit C



Albion Bedford DuBois Harslton Kington Mifflin Shippensburg Somerset

REMIT TO: W.W. ENGINE & SUPPLY, INC.
P.O. BOX 1258
90MERSET, PA 15801

FRANK HORCHEN
RD#1
INDIANA RUN
JOHNSONBURG, PA 15845

STATEMENT DATE
10-31-03
PAGE
ACCOUNT NO.
12282

Accounts due and payable by the 10th of the month.
For statement inquiries: 814-445-9617

DATE	INVOICE NUMBER	CHARGE	CREDIT	BALANCE
09-29-00	CW10784 SALE	6640.29		6640.29
10-31-00	INT CHG	99.60		6739.89
11-30-00	INT CHG	99.60		6839.49
12-29-00	INT CHG	99.60		6939.09
01-17-01	AI41089 SALE	97.00		7036.09
01-31-01	INT CHG	99.60		7135.69
02-28-01	INT CHG	99.60		7235.29
03-31-01	INT CHG	99.60		7334.89
04-30-01	INT CHG	99.60		7434.49
05-31-01	INT CHG	99.60		7534.09
06-30-01	INT CHG	99.60		7633.69
07-31-01	INT CHG	99.60		7733.29
08-31-01	INT CHG	99.60		7832.89
09-30-01	INT CHG	99.60		7932.49
10-31-01	INT CHG	99.60		8032.09
11-30-01	INT CHG	99.60		8131.69
12-31-01	INT CHG	99.60		8231.29
01-31-02	INT CHG	99.60		8330.89
LAST DUE CURRENT PAY THIS AMOUNT				
OVER 90	OVER 60	OVER 30	OVER 120	

FINANCE CHARGE is computed by a "Periodic Rate" of 1 1/4% per month which is an ANNUAL PERCENTAGE RATE of 18%.



REMIT TO: W.W. ENGINE & SUPPLY, INC.
P.O. BOX 1268
SOMERSET, PA 15801

STATEMENT DATE

PAGE

ACCOUNT NO.

Accounts due and payable by the 10th of the month.
For statement inquiries: 814-445-9617

DATE	INVOICE NUMBER	CHARGES	CREDITS	BALANCE
02-28-02	INT CHG	99.60		8430.49
03-31-02	INT CHG	99.60		8530.09
04-30-02	INT CHG	99.60		8629.69
05-31-02	INT CHG	99.60		8729.29
06-30-02	INT CHG	99.60		8828.89
07-31-02	INT CHG	99.60		8928.49
08-31-02	INT CHG	99.60		9028.09
09-30-02	INT CHG	99.60		9127.69
10-31-02	INT CHG	99.60		9227.29
11-30-02	INT CHG	99.60		9326.89
12-31-02	INT CHG	99.60		9426.49
01-31-03	INT CHG	99.60		9526.09
02-28-03	INT CHG	99.60		9625.69
03-31-03	INT CHG	99.60		9725.29
04-30-03	INT CHG	99.60		9824.89
05-31-03	INT CHG	99.60		9924.49
06-30-03	INT CHG	99.60		10024.09
07-31-03	INT CHG	99.60		10123.69
08-31-03	INT CHG	99.60		10223.29

ACCOUNT STATUS	LAST DUE	CURRENT	PAY THIS AMOUNT	
	OVER 30	OVER 60		OVER 90

FINANCE CHARGE is computed by a "Periodic Rate" of 1 1/4% per month which is an ANNUAL PERCENTAGE RATE of 18%.

**W.W.
ENGINE**



REMIT TO: W.W. ENGINE & SUPPLY, INC.
P.O. BOX 1258
SOMERSET, PA 15601

STATEMENT DATE

PAGE

ACCOUNT NO.:

Accounts due and payable by the 10th of the month.
For statement inquiries: 814-845-9817

DATE	INVOICE NUMBER	CHARGES	CREDITS	BALANCE
09-30-03	INT CHG	99.60		10,322.90
10-31-03	INT CHG	99.60		10,422.49
ACCOUNT STATUS	LAST DUE	CURRENT	PAYMENT AMOUNT	10,422.49
OVER 60	OVER 80	OVER 90	OVER 120	

FINANCE CHARGE is computed by a "Periodic Rate" of 1 1/4% per month which is an ANNUAL PERCENTAGE RATE of 18%.

Bradley J. Kraus
Attorney at Law

Arb- 11-13-03

434 CENTER STREET ♦ JOHNSONBURG, PA 15845
PHONE: (814) 965-2534 ♦ FAX: (814) 965-4599



October 24, 2003

Mr. David S. Meholic
Court Administrator
Clearfield County Courthouse
230 East Market St.
Clearfield, PA 16830

**Re: W. W. Engine & Supply, Inc. vs. Frank Horchen
Docket No. 2002-1675-CD**

Dear Mr. Meholic:

I am enclosing a Pre-Trial Arbitration Memorandum Filed on Behalf of the Defendant, Frank Horchen, in the above case. I have also forwarded a copy to the Board of Arbitrators and the attorney for the Plaintiff.

If you have any questions, please feel free to call me.

Thank you.

Yours truly,

A handwritten signature in black ink, appearing to read "Bradley J. Kraus".

Bradley J. Kraus

BJK:an
Encl.

CC: Frank Horchen

RECEIVED

OCT 27 2003

COURT ADMINISTRATOR'S
OFFICE

CA

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

W. W. ENGINE & SUPPLY, INC.
Plaintiff

*

VS.

*

Docket No. 2002-1675-CD

FRANK HORCHEN
Defendant

*

PRE-TRIAL ARBITRATION MEMORANDUM
FILED ON BEHALF OF THE DEFENDANT, FRANK HORCHEN

AND NOW, this 24th day of October, 2003, comes the Defendant, Frank Horchen, by and through his attorney, Bradley J. Kraus, and files this Pre-Trial Arbitration Memorandum pursuant to Local Rule 1306A of Clearfield County and in support thereof avers as follows:

a. Brief statement of the case (or defense).

On September 8, 2000, the Defendant contacted the Plaintiff regarding the fact that the engine on the 1989 Mack truck would not start. The Plaintiff's representative at the DuBois facility indicated to have the truck brought to the facility as the same was under warranty. When the engine repair was completed, the Defendant was contacted and picked up the truck from the Plaintiff's facility. At the time he picked up the truck, the Defendant was told that there was no bill due to the fact that the work done on the truck was covered under warranty.

Later, the Plaintiff sent a bill to the Defendant alleging that the work done on the truck engine was not under warranty. The Defendant avers that any problems associated with the engine should have been covered under warranty both by the Plaintiff's representation to him, as well as the fact that there was nothing done by the Plaintiff or any of his drivers to the truck which would have caused the damage to the engine. The truck engine was equipped with a governor to restrict the RPMs, and the truck was driven empty to the home of the Defendant's truck driver the night before the truck engine would not start.

RECEIVED

OCT 27 2003

**COURT ADMINISTRATOR'S
OFFICE**

Additionally, the Defendant has plead a Counterclaim indicating that additional work had to be performed on May 24, 2001, by Sidley Truck & Equipment in Lantz Corners, McKean County, Pennsylvania, due to a problem with the truck engine. The Defendant paid the sum of \$2,792.31 to repair the truck engine. The Defendant alleges that the diagnosis and repair bill of Sidley Truck & Equipment indicates that there was poor workmanship done on the repair of the Defendant's engine by the Plaintiff in September of 2002. Accordingly, the Defendant will also present testimony with respect to his Counterclaim.

b. Citation to applicable case or statutes.

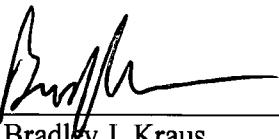
This case will be governed by general laws of warranty and contractual obligations.

c. List of Witnesses:

The Defendant intends to call the following witnesses: Frank Horchen, Bonnie Horchen and Dennis Forbes.

d. Statement of damages and copies of those bills which the party intends to offer. Attached to the Defendant's Counterclaim was a repair bill from Sidley Truck & Equipment. The Defendant is attaching that same bill to this Pre-Trial Statement and intends to offer the same at the time of arbitration pursuant to Rule 1305 of the Pennsylvania Rules of Civil Procedure.

Respectfully submitted:

by 
Bradley J. Kraus
Attorney for the Defendant

PROOF OF SERVICE

On the 24th of October, 2003, I mailed a true and correct copy of the within Pre-Trial Arbitration Memorandum to the following by United States mail, first class postage prepaid:

David S. Meholick
Court Administrator
Clearfield County Courthouse
230 East Market St.
Clearfield, PA 16830

Joseph Colavecchi, Esq., Chairman
Board of Arbitrators
Colavecchi & Colavecchi
P. O. Box 131
Clearfield, PA 16830

David P. King, Esq., Arbitrator
P. O. Box 1016
DuBois, PA 15801

Theron G. Noble, Esq., Arbitrator
Ferraraccio & Noble
301 East Pine St.
Clearfield, PA 16830

Dwight L. Koerber, Jr., Esq.
Attorney for the Plaintiff
P. O. Box 1320
Clearfield, PA 16830



Bradley J. Kraus



Sidley Truck & Equipment

RR #1 Box 186B • Lantz Corners • Kane, PA 16735
(814) 778-1155 FAX (814) 778-1157



authorized
Simeca Trailer
dealer

INVOICE

DATE	INVOICE NO.
5/31/01	343
CUSTOMER P.O. NO.	CUSTOMER NO.
	36632

REFERENCE	SHIP VIA	SHIP DATE	TERMS	SLSM	CODES	B/O	PAGE
		5/25/01	NET 30	HSE	100		1

PHONE NO. 814-965-5374 ID. NO. 02
 SOLD TO: FRANK HORCHEN UNIT SERIAL NO. 4618
 RD 1 INDIAN RUN UNIT MAKE MAC
 JOHNSTONBURG PA 15845 MODEL/YEAR RW713 /1998
 MILEAGE, METER 382783

ITEM NO.	QUANTITY ORDERED	SHIP	PROD. LINE	PART NUMBER	DESCRIPTION	UNIT PRICE	EXTENSION
JOB DESCRIPTION							
1	1				PARTS	1,738.81	
					LABOR	1,053.50	
					JOB TOTAL	2,792.31	
101	1	1	MAC	45400578C	CAMSHAFT, E	480.520	480.52
102	1	1		4366C16	SCREW	45.810	45.81
103	12	12		7200357	LIFTER, VA	61.240	734.80
104	1	1		369GC314AP2	PUSH ROD	10.710	10.71
105	1	1		1458-99325	SEAL	33.680	33.68
106	1	1		342SX32	GASKET	3.220	3.22
107	2	2		554GE213	GASKET-CYL HEAD COVER	5.250	10.50
108	1	1		315GC445GX	PUMP, OIL XCORE EXCHANGE*	254.510	254.51
109	1	1		579GB41E	GASKET, LO	22.450	22.45
110	1	1		39AX23	WASHER	1.240	1.24
111	2	2		590GB2111A	GASKET, CY	1.030	3.66
112	1	1		25MF436B	COOLANT COND ES I+	9.430	9.43
113	1	1		483GB444	PRI FUEL FILTER	4.520	4.52
114	1	1		483GB440	SEC FUEL FILTER ESI+	6.470	6.47
115	2	2		495GB3191C	OIL FILTER	4.490	8.98
116	1	1		570C2134A	KIT & 1	10.350	10.35
117	2	2		56AX535	GASKET	4.640	9.28
118	1	1		56AX548	O RING	6.160	6.16
119	1	1		446GC316	SEAL, TIMIN	8.910	8.91
120	8	8	ECC	CITGUARD 600 G	15W40 OIL PER GALLON	6.250	50.00
121	1	1	PAR	7106	COTTER PIN	.020	0.02
122	1	1		51150	NUT	.030	0.03
123	1	1		73580	SCREW	.050	0.05
124	5	5		14339	NYLON TIE	.370	1.85
125	4	4		15936	NYLON TIE	.200	0.80

X

CUSTOMER SIGNATURE

NO RETURNS ON ELECTRICAL & SPECIAL ORDER ITEMS • NO RETURNS AFTER SEVEN DAYS • ALL MERCHANDISE RETURNED FOR CREDIT IS SUBJECT TO A 20% SERVICE CHARGE • NO REFUND WITHOUT THIS INVOICE • ALL SPECIAL ORDER PARTS MUST BE PAID IN ADVANCE

DISCLAIMER OF WARRANTIES: The factory warranty constitutes all of the warranties with respect to the sale of this item/items. The Seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and the Seller neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of this item/items.



Sidley Truck & Equipment

RR #1 Box 186B • Lantz Corners • Kane, PA 16735
(814) 778-1155 FAX (814) 778-1157



authorized
Simec Trailer
dealer

INVO ^{IT} dealer

DATE	INVOICE NO.		
5/31/01	343		
CUSTOMER P.O. NO.	CUSTOMER NO.		
	36538		
SLSM	CODES	B/O	PAGE
RSSE	123		1

REFERENCE		SHIP VIA		SHIP DATE		TERMS		SLSM	CODES	B/O	PAGE
				3/12/97		NET 30		RSE	100		
	PHONE NO.		814-265-5574			ID. NO.		52			
SOLD TO:	FRANK HORCHEN					UNIT SERIAL NO.	4018				
	RD 1 INDIAN RUN					UNIT MAKE	MAC				
						MODEL/YEAR	RW713				1/1990
						MILEAGE METER	382783				
	JOHNSONBURG	PA	15845								
ITEM NO.	QUANTITY ORDERED	SHIP	PROD. LINE	PART NUMBER	DESCRIPTION			UNIT PRICE	EXTENSION		
126	6	6	PAR	14338	NYLON TIE			.090	0.54		
127	2	2		14337	NYLON TIE			.080	0.16		
128	2	2		80240	TERMINAL			.450	0.90		
129	2	2		80249	TERMINAL			.480	0.96		
130	12	12		85759	BUTT CONNECTOR			1.260	15.12		
131	4	4		80204	TERMINAL			.180	0.72		
132	2	2	GNK	M7-20	PARTS CLEANER			1.490	2.98		
WORK	COMPLETED										
	DIAGNOIS MISS FOUND NUMBER 3 INTAKE PUSH ROD BENT. REPLACE PUSH ROD. START ENGINE. FOUND NUMBER 3 EXHAUST LOBE WIRED OFF. PULL HOOD AND BUMPER AND ALL BRACKETS. PULLED RADIATOR. PULL APART FRONT OF ENGINE FOUND CRANK BOLT STRIPPED IN END OF CRANK SHAFT. RETAPPED THREADS IN CRANK END. PULL CAM AND LIFTERS INSPECT CAM BEARINGS OK. CHECK RODS AND MAINS OK. REPLACE CAM AND LIFTERS. FOUND OIL PUMP TIGHT SPOT. REPLACE OIL PUMP. TORQUE ALL FASTENERS TO SPECS. CHECK ALL PUSH RODS ADJUST VALVES. TIGHTEN LOOSE DYNATARD SOLONOID FRONT SHAFT. REPLACE OIL PAN GASKET AND INSTALL OIL PAN. CHANGED ALL FILTERS AND OIL. INSTALL RADIATOR AND HOOD. HOOK UP LIGHT WIRING. ROAD TEST OK. (CUSTOMER AGREED TO PAY WHEN PICKING UP TRUCK) RECOMEND CHANGING OIL AND FILTERS IN 2 WEEKS										
CSH/CHK	0.00	CHG/COD		2792.31							

COMPLETED
DIAGNOIS MISS FOUND NUMBER 3 INTAKE PUSH ROD BENT.
REPLACE PUSH ROD. START ENGINE. FOUND NUMBER 3 EXHAUST
LOBE WIRED OFF. PULL HOOD AND BUMPER AND ALL BRACKETS.
PULLED RADIATOR. PULL APART FRONT OF ENGINE FOUND
CRANK BOLT STRIPPED IN END OF CRANK SHAFT. RETAPPED
THREADS IN CRANK END. PULL CAM AND LIFTERS INSPECT CAM
BEARINGS OK. CHECK RODS AND MAINS OK. REPLACE CAM AND
LIFTERS. FOUND OIL PUMP TIGHT SPOT. REPLACE OIL PUMP.
TORQUE ALL FASTENERS TO SPECS. CHECK ALL PUSH RODS
ADJUST VALVES. TIGHTEN LOOSE DYNATARD SOLONOID FRONT
SHAFT. REPLACE OIL PAN GASKET AND INSTALL OIL PAN.
CHANGED ALL FILTERS AND OIL. INSTALL RADIATOR AND
HOOD. HOOK UP LIGHT WIRING. ROAD TEST OK. (CUSTOMER
AGREED TO PAY WHEN PICKING UP TRUCK) RECOMEND CHANGING
OIL AND FILTERS IN 2 WEEKS

CSH/CHK 0.00 CSH/CPD 2732.31

TOTAL MERCHANDISE	1,738.81
TOTAL LABOR	1,053.50
TOTAL INVOICE	2,792.31

NO RETURNS ON ELECTRICAL & SPECIAL ORDER ITEMS • NO RETURNS AFTER SEVEN DAYS • ALL MERCHANDISE RETURNED FOR CREDIT IS SUBJECT TO A 20% SERVICE CHARGE • NO REFUND WITHOUT THIS INVOICE • ALL SPECIAL ORDER PARTS MUST BE PAID IN ADVANCE

DISCLAIMER OF WARRANTIES. The factory warranty constitutes all of the warranties with respect to the sale of this item/items. The Seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and the Seller neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of this item/items.

CUSTOMER SIGNATURE

Clearfield County Court of Common Pleas

User: BANDERSON

Date: 11/10/2003

Time: 12:22 PM

Page 1 of 1

ROA Report

Case: 2002-01675-CD

Current Judge: No Judge

W. W. Engine Supply vs. Frank Horchen

Civil Other

Date		Judge
10/25/2002	Case transferred from Somerset County, Their No. 192 Civil 2001 BILLED ATTORNEY KRAUS	No Judge No Judge
11/06/2002	Filing: Civil Complaint - Transfer from Another County Paid by: Koerber, Dwight L. Receipt number: 1851006 Dated: 11/06/2002 Amount: \$70.00 (Check) Entry of Appearance, filed by Atty. Koerber Enter appearance on behalf of Plaintiff 3 cert. to Atty.	No Judge
11/18/2002	Answer, New Matter, & Counterclaim. filed by s/Bradley J. Kraus, Esquire Verification s/Frank Horchen Proof Of Service 3 cc to atty	No Judge
12/13/2002	Answer to New Matter and Counterclaim filed by Atty. Koerber on behalf of Plaintiff. 3 CC to Atty.	No Judge
01/29/2003	Certificate of Service, Set I Interrogatories and Request for Production of Documents Directed to Defendant upon, BRADLEY J. KRAUS, ESQ. s/Dwight L. Koerber, Jr., Esquire 3 cc to Atty	No Judge
07/16/2003	Filing: Praeclipe/List For Arbitration Paid by: Koerber, Dwight L., Jr., Esq. Receipt number: 1863198 Dated: 07/16/2003 Amount: \$20.00 (Check) Praeclipe For Arbitration. filed by s/Dwight L. Koerber, Jr., Esq. 4 cc to Atty 1 cc to CA w/letter	No Judge
11/06/2003	Certificate of Service of Pre-Trial Statement filed by Atty. Koerber. 6 CC to Atty.	No Judge

Date: 11/10/2003

Time: 12:19 PM

Page 1 of 1

Clearfield County Court of Common Pleas

User: BANDERSON

ROA Report

Case: 2002-01674-CD

Current Judge: John K. Reilly Jr.

Anna Moskel, Stella Hamm vs. Janet K. Moskel, Peter M. Moskel

Civil Other

Date		Judge
10/25/2002	Filing: Civil Complaint Paid by Kasubick, Girard (attorney for Moskel, Anna) Receipt number: 1850339 Dated: 10/25/2002 Amount: \$80.00 (Check) One CC Attorney Two CC Sheriff Motion for Special Relief, filed by s/Girard Kasubick, Esq. One CC Atty Two CC Sheriff	No Judge
10/28/2002	ORDER, AND NOW, this 25th day of October, 2002, re: Rule issued upon DEFENDANTS. This Rule is returnable for Hearing and/or argument on the 12th day of December, 2002, at 10:00 a.m. by the Court, s/JKR,JR.,P.J. 2 cc w/Motion to Shff, 2 cc Orders w/o Motion to Atty	John K. Reilly Jr.
11/13/2002	Motion to Withdraw Motion For Special Relief. filed by s/Girard Kasubick, John K. Reilly Jr. Esq. no cc Copy to CA	
12/26/2002	Answer, New Matter and Counterclaim. filed by s/Fredrick M. Neiswender, Esquire Verification s/Janet K. Moskel s/LPeter M. Moskel Certificate of Service 3 cc Atty Neiswender	John K. Reilly Jr.
01/17/2003	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	John K. Reilly Jr.
01/31/2003	Reply to New Matter and Counterclaim. filed by s/Girard Kasubick, Esquire Verification s/Stella Hamm POA for Stella Moskel 2 cc Atty Kasubick	John K. Reilly Jr.



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

September 12, 2003

Dwight L. Koerber, Jr., Esquire
Attorney at Law
Post Office Box 1320
Clearfield, PA 16830

Bradley J. Kraus, Esquire
Attorney at Law
43 Center Street
Johnsonburg, PA 15845

RE: W. W. ENGINE & SUPPLY, INC.

vs.

FRANK HORCHEN
No. 02-1675-CD

Dear Counsel:

The above case is scheduled for Arbitration Hearing to be held Thursday,
November 13, 2003 at 8:30 A.M. The following have been appointed as Arbitrators:

Joseph Colavecchi, Esquire, Chairman
David P. King, Esquire
Theron G. Noble, Esquire

Pursuant to Local Rule 1306A, you must submit your Pre-Trial Statement seven (7) days prior to the scheduled Arbitration. The original should be forwarded to the Court Administrator's Office and copies to opposing counsel and each member of the Board of Arbitrators. For your convenience, a Pre-Trial (Arbitration) Memorandum Instruction Form is enclosed as well as a copy of said Local Rule of Court.

Very truly yours,
Marcy Kelley
Marcy Kelley
Deputy Court Administrator

cc: Joseph Colavecchi, Esquire
David P. King, Esquire
Theron G. Noble, Esquire



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

September 12, 2003

Gabriel J. Oros, Esquire
MacDonald, Illig, Jones & Britton, LLP
100 State Street, Suite 700
Erie, PA 16507-1459

F. Cortez Bell, III, Esquire
Bell, Silberblatt & Wood
Post Office Box 670
Clearfield, PA 16830

RE: WILLIAM E. ESSER, al
vs.
RICHARD D. HEBERLING, al
No. 03-74-CD

Dear Counsel:

The above case is scheduled for Arbitration Hearing to be held **Thursday, November 13, 2003 at 1:30 P.M.** The following have been appointed as Arbitrators:

Joseph Colavecchi, Esquire
David P. King, Esquire
Theron G. Noble, Esquire

Pursuant to Local Rule 1306A, you must submit your Pre-Trial Statement seven (7) days prior to the scheduled Arbitration. **The original should be forwarded to the Court Administrator's Office and copies to opposing counsel and each member of the Board of Arbitrators.** For your convenience, a Pre-Trial (Arbitration) Memorandum Instruction Form is enclosed as well as a copy of said Local Rule of Court.

Very truly yours,
Marcy Kelley
Marcy Kelley
Deputy Court Administrator

cc: Joseph Colavecchi, Esquire
David P. King, Esquire
Theron G. Noble, Esquire

COPY

November 5, 2002

Re: W.W. Engine Supply vs. Frank Horchen

Bradley Kraus, Esq.
434 Center Street
Johnsonburg, PA 15845

Dear Bradley Kraus, Esq.,

This letter is in regards to our telephone conversation on October 25, 2002, regarding the filing fee of \$70.00 for the transfer of the above referenced case to Clearfield County. Upon further investigation of the record, I have found that the office of Matthew R. Zatko, Esq. is responsible for the transfer fee. I apologize for any inconvenience. If you have any questions, please contact me at (814) 765-2641, ext. 1331.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

WAS/brh

CLEARFIELD COUNTY COURTHOUSE
OFFICE OF THE PROTHONOTARY
PO BOX 549
CLEARFIELD, PA 16830

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

*

**W.W. Engine & Supply, Inc.,
Plaintiff**

*

vs.

***** Docket No. 02-1675-CD

**Frank Horchen,
Defendant**

*

*

**Type of Pleading:
NOTICE UNDER Pa.R.C.P.
1305**

**Filed on Behalf of:
PLAINTIFF:
W.W. ENGINE & SUPPLY, INC.**

**Counsel of Record for
This Party:**

**Dwight L. Koerber, Jr.,
Esquire
PA I.D. No. 16332**

**LAW OFFICES OF
DWIGHT L. KOERBER, JR.**

**110 North Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611**

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

W.W. Engine & Supply, Inc.
Plaintiff

*

*

Vs.

* Docket No. 02-1675-CD

Frank Horchen,
Defendant

*

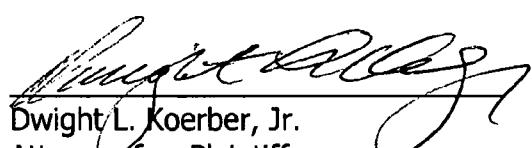
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NOTICE UNDER RULE 1305 PENNSYLVANIA RULES OF CIVIL PROCEDURE

(1.) Notice is hereby given that Plaintiff intends to introduce at the hearing before the arbitrators herein, the exhibits attached hereto as Exhibit A and Exhibit B.

(2.) Both Exhibit A and Exhibit B were attached to the Complaint filed herein, and as such, Defendant has advance notice of the documents and the intention of Plaintiff to offer them at the hearing.

Respectfully submitted,


Dwight L. Koerber, Jr.
Attorney for: Plaintiff
W. W. ENGINE AND SUPPLY, INC.

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

*

W.W. Engine & Supply, Inc.
Plaintiff

*

Vs.

* Docket No. 02-1675-CD

Frank Horchen,
Defendant

*

*

CERTIFICATE OF SERVICE

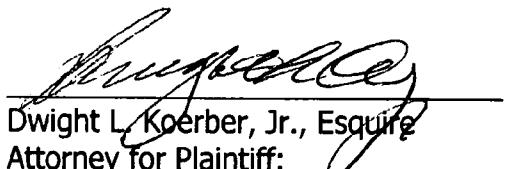
I certify that on the 29th day of October, 2003, I have a true and correct copy of the within Notice on the following individuals:

Joseph Colavecchi, Esq., Chairman
Board of Arbitrators
Colavecchi & Colavecchi
P. O. Box 131
Clearfield, PA 16830

David P. King, Esq. Arbitrator
P. O. Box 1016
DuBois, PA 15801

Theron G. Noble, Esq., Arbitrator
Ferraraccio & Noble
301 E. Pine Street
Clearfield, PA 16830

Respectfully submitted,


Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff:
W. W. Engine and Supply, Inc.

SHAW MACK SALES & SERVICE
 R.D.3, ROCKTON ROAD
 DUBOIS, PA. 15801
 314-371-2515 FAX 371-1498
 ** DUPLICATE INVOICE REPRINTED **

Order No. CW10784 WORK ORDER INVOICE Page 1
 Date 9/29/00 Customer Copy Date 9:08:23

FRANK HURCHEN IM2AY10C9KM004018 1989 MCK RW713
 T.R.D. #1 Unit 4018 License YY-67915 PA
 0 INDIANA RUN Reading In 370962 D P0#
 JOHNSONBURG PA 15845 Arrival 9/08/00 at 7:30
 st# 12282 Delivery 0/00/00 Reading
 (814) 965-5374 GVM Terms
 SW# 312

S U M M A R Y

Description	Labor	Parts	Misc.	Total
1 ENGINE WILL NOT START	2,867.70	3,040.54	732.05	6,640.29

T O T A L S	2,867.70	3,040.54	732.05	6,640.29
-------------	----------	----------	--------	----------

MISC SUPPLIES	:	.00	
Tax I.D.: 108077	Sales Tax	:	.00

*** PAY THIS AMOUNT ***	Customer Total	6,640.29
-------------------------	----------------	----------

3

ENGINE WILL NOT START Code: M99 MIS MIS
 SW# : 312 Rich Mann

CHECK & FOUND ALL EXHAUST PUSH TUBES & ALL EXHAUST VALVES BENT. DRAIN COOLING SYSTEM, UNHOOK & REMOVE HEADS. FOUND EXHAUST VALVE HAD HIT ALL PISTONS. REMOVE OIL PAN, OIL PUMP, REMOVE ALL PISTONS & LINERS. CLEAN BLOCK, INSTALL NEW LINERS, PISTONS & REMAN CONNECTING RODS. HAVE HEADS REBUILT, ASSEMBLE ENGINE. CHECK TIMING, OK. REMOVE INJECTION PUMP, SEND TO PUMP SHOP & HAVE CHECKED, OK. INSTALL PUMP, ADJUST TIMING, FILL WITH OIL & COOLANT, RUN & CHECK FOR LEAKS, OK. INSTALL HOOD, HOOKUP WIRING FOR LIGHTS, ROADTEST, CHECK OPERATION & RECHECK FLUID LEVELS. REPLACED WIRING FOR ENGINE BRAKE, ROADTEST & RECHECK, OK.

NOTE MACK DSM LOOKED AT DAMAGED PARTS & DETERMINED TO BE CAUSED BY OVERSPEED & NOT A WARRANTABLE FAILURE.

BOR CHARGED:	Labor
	Amount
	2,867.70

Qty	Part Number	Description	Unit	Extended
			Price	Amount
5	CH0235101B	DELO15W40	P N	1.33 6.65
30	CH0235101B	DELO15W40	P N	1.33 39.90
6	D4466C1208	O-RING	N	.43 2.58
6	D56AX460	O-RING	N	.82 4.92

** DUPLICATE INVOICE REPRINTED **

der No. CW10784
te 9/29/00
gment 01 continued

WORK ORDER INVOICE
Customer Copy

Page 2
Time 8:08:23

Line Item	Part Number	Description	Quantity	Unit	Extended
6	0590661338	STEEL WASHER	N	1.10	6.60
10	MM11547	40G DISC	N	.75	9.50
10	OTHER	WIRE	N	.12	1.20
2	PHI1-1962	CLAMP	P N	.69	1.38
20	PHI1-4743	CABLT TIE 14" HD BLK	N	.58	11.60
2	RADL212	SOLVENT	P N	1.60	3.20
1	103AX977	SCREW	N	3.62	3.62
2	1091988	HTR HOSE	N	5.54	11.08
2	11ME229P2	4" TORCTITE CLAMP	N	4.56	9.12
1	119AX5247	ADAPTER	N	34.88	34.88
1	160AX561	HOSE, SILICONE	N	6.93	6.93
1	21AX873	NUT	N	1.55	1.55
6	21598228	E6 4VH W/5110 PIS.	N	70.44	542.64
12	23AX514	NUT	N	1.02	12.24
2	243131314	CNS 16-14 RING #10 S	N	.38	.76
4	31AX268	PIN	N	.47	1.88
6	3536C2139	RING SET-4 GROOVE, E	N	49.98	299.88
6	3676C4247PCR	Core Charge	N	43.00	258.00
6	3676C4247PCR	CONN ROD	N	43.00	258.00
6	3676C4247P2X	REMAN CONN. ROD	N	62.35	374.10
6	3696C255A	ROD,VALVE LIFTER PUS	N	15.06	90.36
6	3696C314AP2	PUSH ROD	N	10.30	61.80
4	37AX495	WASHER	N	1.01	4.04
4	37AX495	WASHER	N	1.01	4.04
1	4006C33P3	SCREW	N	12.34	12.34
1	4216C257A	YOKE ADJUSTING SCREW	N	2.83	2.83
2	4666C444CCR	Core Charge	N	100.00	200.00
2	4666C444CCR	ROCKER ARM	N	100.00	200.00
2	4666C444CX	REMAN ROCKER ASSY. 4	N	363.03	726.06
2	474456E7	SYN GRAY/SPRAY CAN	N	4.67	9.34
1	474456E7	SYN GRAY/SPRAY CAN	N	4.67	4.67
6	5096C284AP12	SLEEVE	N	52.21	313.26
3	516626630	BRAKE CLEAN-BONUS ST	N	2.58	7.74
1	516681160	SEALANT	N	3.96	3.96
2	52AX36	SLEEVE	N	1.10	2.20
2	55468213	GASKET-CYL HEAD COVE	N	4.98	9.92
2	56AX535	GASKET	N	4.46	8.92
2	56AX536	GASKET	N	4.58	9.16
1	56AX573	GASKET	N	1.35	1.35
2	576C189A	GASKET KIT	N	17.79	35.58
1	576C2120C	FILTER KIT	N	37.88	37.88
6	5736B310B	GASKET, EXHAUST MANI	N	4.02	24.12
1	5796341E	GASKET, LOWER CRANKC	N	21.17	21.17

o. CW10784
9/29/00
; 01 continued

WORK ORDER INVOICE
Customer Copy

Time 8:08:23

Part Number	Description	QTY	Unit	Extended
		R X	Price	Amount
583969727K	4" X 18" STAINLESS F	N	25.67	25.67
5906B1189A	GASKET	N	4.01	4.01
5906B1296A	GASKET, TURBO OIL DR	N	1.60	1.60
5906B2111A	GASKET, CYL.HEAD GRE	N	1.58	3.16
5906B2150	GASKET, TURBO OIL DR	N	2.42	2.42
5906B3128	GASKET, AIR INLET &	N	7.43	14.86
6166C28A	STUD	N	3.15	37.80
626B2393	BEARING	N	13.92	83.52
621410H	HOSE CLAMP-3/8 TO 5/	N	.70	1.40
621412H	HOSE CLAMP-5/8 TO 3/	N	.70	1.40
621420H	HOSE CLAMP-1 TO 1-1/	N	.70	1.40
621428H	HOSE CLAMP-1-1/4 TO	N	.70	1.40
621452H	HOSE CLAMP-3 TO 3-1/	N	1.80	3.60
73309	LOCKNUT	N	1.40	5.60
7446B230AP4	HOSE, TURBO OIL DRAI	N	14.13	14.13
7446B236A	HOSE	N	15.40	15.40
8716C217	VALVE YOKE	N	12.65	12.65
935 1410210014	O-RING	N	1.76	3.52
935 1411073004	GASKET	N	.87	.87
935 2410210014	O-RING	N	7.74	7.74
935 2410210047	O RING	N	4.34	4.34
935 2443315000	NUT	N	8.16	8.16
935 2443380004	ORING	N	8.94	8.94

TOTAL PARTS 3,040.54

Category	Keyword	Description	QTY	Unit	Extended
			R X	Price	Amount
1	FRT	FREIGHT	Y N	50.00	50.00
1	SUBLT	RBLO TWO HEADS	Y N	682.05	682.05

TOTAL MISC. 732.05
SEGMENT SUBTOTAL 6,640.29

CUSTOMER TOTAL 6,640.29

*** PAY THIS AMOUNT ***

3

MACK TRUCKS, INC.

Remanufacturing Center
2800 Commerce Drive
Turnpike Industrial Park
Middletown, PA 17057
(717) 939-1338
FAX (717) 939-8349

January 22, 2001

Mr. Jeff Wood
Shaw Mack Sales & Service
RR 3, Rockton Road
P. O. Box 645
DuBois, PA 15801-0645

Dear Jeff:

Subject: Evaluation of 6 - E6 4V Pistons, 12 - Exhaust Valves, 12 - Push Rods, 1 - Valve Yoke Bridge, 12 - Valve Guides, 1 - Valve Spring and Retainer
Reference: Remanufactured Basic Engine
P/N: 86SB3508 - BRD #1290
Chassis Model & S/N: RW713-4018

I'm writing in regard to your request of January 12, 2001 concerning MRC's evaluation results of the subject material noted above.

All six pistons (5110M - 7J-28) returned show exhaust valve to piston contact.

All twelve exhaust valves (688GC2378-6-98) are bent. All six exhaust push rods are slightly to moderately bent. One valve yoke bridge is broken.

Based on our evaluation, all indications show this failure occurred as a result of overspeed. This is a non-warrantable failure and is not the responsibility of Mack Trucks, Inc., Remanufacturing Center.

As agreed to, the material will be placed on our shipping dock for Harrisburg Mack's pickup. Harrisburg is to forward the material to Shaw Mack, Dubois.



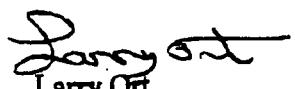
Mr. Jeff Wood
January 22, 2001
Page Two

Hopefully the information supplied will answer any questions or concerns our customer may have had.

If I can be of any further assistance, please feel free to call.

Sincerely,

MACK TRUCKS, INC.
Remanufacturing Center


Larry Ort
Industrial Engineer Analyst

/m

cc: S. Broadwater
L. Zembower



**LAW OFFICES
OF
DWIGHT L. KOERBER, JR.**

*Attorneys at Law
110 North Second Street*

*Dwight L. Koerber, Jr.
Cynthia B. Stewart*

*P. O. Box 1320
Clearfield, PA 16830*

*Telephone (814) 765-9611
Facsimile (814) 765-9503*

October 30, 2003

Joseph Colavecchi, Esq., Chairman
Board of Arbitrators
Colavecchi & Colavecchi
P. O. Box 131
Clearfield, PA 16830

David P. King, Esq. Arbitrator
P. O. Box 1016
DuBois, PA 15801

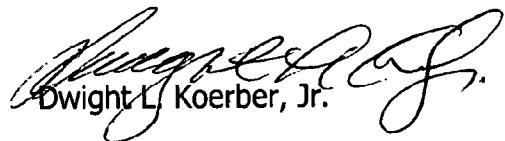
Theron G. Noble, Esq., Arbitrator
Ferraraccio & Noble
301 E. Pine Street
Clearfield, PA 16830

**Re: W. W. Engine and Supply, Inc. v. Horchen
Docket No. 02-1675-CD**

Gentlemen:

Enclosed herewith is a Notice under Rule 1305 that I am serving with respect to the arbitration hearing scheduled in this case at 8:30 a.m. on November 13, 2003.

Very truly yours,



Dwight L. Koerber, Jr.

DLK/bdt
Cc: Mr. Jeffrey S. Wood
Bradley J. Kraus, Esquire
Enclosures: Notice

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

*

W.W. Engine & Supply, Inc.,
Plaintiff

*

vs.

*

Docket No. 2002-1675-CD

Frank Horchen,
Defendant

*

*

Type of Pleading:
PRE-TRIAL STATEMENT
OF PLAINTIFF

Filed on Behalf of:
PLAINTIFF:
W.W. Engine & Supply, Inc.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.,
Esquire
PA I.D. No. 16332

LAW OFFICES OF
DWIGHT L. KOERBER, JR.

110 North Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

RECEIVED
NOV 06 2003
COURT ADMINISTRATOR'S
OFFICE

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

*

W.W. Engine & Supply, Inc.
Plaintiff

*

vs.

* Docket No. 2002-1675-CD

Frank Horchen,
Defendant

*

*

PRE-TRIAL STATEMENT OF PLAINTIFF

COMES NOW, Plaintiff, W. W. Engine & Supply, Inc., by and through its attorney, Dwight L. Koerber, Jr., Esquire, and files the within Pre-Trial Statement pursuant to Local Rule 1306-A.

A. STATEMENT OF THE CASE

This case involves a Complaint against Frank Horchen, originally filed in Somerset County by W. W. Engine & Supply, Inc. involving work done its Shaw Mack Sales and Service Division, of DuBois, Pennsylvania in the amount of \$6,640.29, plus interest.

On September 8, 2000, Defendant, Frank Horchen, of Johnsonburg, Pennsylvania, brought his 1989 Mack tri-axle dump truck to Plaintiff's dealership, located just outside of DuBois, Pennsylvania, because of engine problems. Plaintiff promptly began working on the truck, so as to get it back on the road at the earliest date possible, and through appropriate diagnostic procedures determined that there

was extensive damage to the engine. This could not fully be determined until the engine was torn apart. After the engine was torn apart, Plaintiff followed workmanlike procedures as a certified Mack Truck repair shop to repair the engine and to restore it to working condition.

When the damaged parts of the engine were examined, it became clear that the engine had experienced very substantial damage due to over speeding the engine, i.e. excessively high R.P.M.'s. Damage of this nature is a non-warrantable failure, and was not covered by the warranty.

When Defendant objected to the denial of coverage because the engine damage was determined to be a non-warrantable failure, Plaintiff then took reasonable steps to present all of the parts to Mack Trucks for further analysis of the cause of damage. Mack Trucks reaffirmed the earlier assessment made by Plaintiff's Service Manager and by the District Service Manager for Mack Truck, and refused to authorize any coverage of the repair charges under warranty.

While Plaintiff has already presented the documents under Pa. R.C.P. 1305, we are attaching hereto a copy of the invoice in the amount of \$6,640.29 and a copy of the determination by Mack Trucks that the engine damage was a non-warrantable failure, identifying them as Exhibit A and Exhibit B.

In order to defend his position herein, Defendant has claimed that he operated the engine properly. Defendant has claimed that the charges of Plaintiff are too high, asserting that he could have had the work done cheaper himself or some other location.

In addition, Defendant has asserted that somehow he was induced to having the work done at Plaintiff's facilities because of the belief that the engine damage would be covered by a warranty claim.

To use "layman's terms", Defendant has "added insult to injury", by filing a Counterclaim, alleging that subsequent engine damage he incurred seven (7) months later, in the amount of \$2,792.31, was caused by Plaintiff because it allegedly did poor work when it repaired the engine in September, 2000, involving the services that Defendant was refused to pay for. It will be demonstrated at the hearing that this claim is baseless, as the problem complained of, a crank bolt that was stripped in the end of the crankshaft, involved a part of the engine that the Plaintiff never touched. Indeed, it involved the type of work that would be done in order to install the rebuilt engine that Defendant had in his truck, with this work being done by Defendant himself or some other third-party, totally unrelated to Plaintiff. To show that Plaintiff merely sold the engine to Defendant, and did not install it, we are attaching hereto as Exhibit D a copy of the November 19, 1998 invoice.

In short, Defendant has sought to postpone his obligation to pay for repair work which Plaintiff in a diligent and workmanlike fashion in September, 2000, on his truck and then has sought to further delay the collection process against him by asserting a Counterclaim for matters that had nothing to do with the work that gave rise to the invoice of \$6,640.29 which is the basis of this litigation. Clearly a case for prejudgment interest exists here.

B. CITATION TO APPLICABLE CASE OR STATUTES

This case does not involve any specific statutory claim, but instead is a common law claim for payment on account or for breach of contract. Prejudgment interest is sought as a matter of right because this is a breach of contract case. *See Thomas H. Ross, Inc. v. Seigried*, 592 A.2d 1353 (1990); *Gold & Co. v. Northeast Theatre Corp.*, 421 A.2d 1151 (1980); and *Deset Mining Corp. v. Industrial Fuels Corp.*, 473 A.2d 584 (1989.).

C. LIST OF WITNESSES

Plaintiff plans to call the following two (2) witnesses:

- (1.) Jeffrey S. Wood, General Manager
SHAW MACK SALES AND SERVICE
P. O. Box 645
DuBois, PA 15801

- (2.) Richard Mann, Service Manager
SHAW MACK SALES AND SERVICE
P. O. Box 645
DuBois, PA 15801

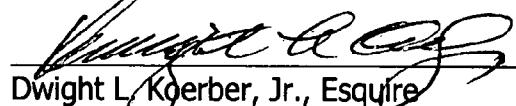
D. STATEMENT OF DAMAGES AND COPIES OF THOSE BILLS WHICH THE

PARTY INTENDS TO OFFER

The invoices which Plaintiff intends to offer, are the September 29, 2000 work order invoice in the amount of \$6,640.29, attached hereto as Exhibit A, a statement for interest, attached hereto as Exhibit C, and the invoice for remanufactured engine dated November 19, 1998, attached as Exhibit D.

Plaintiff intends to offer other additional evidence in support of its case, but this evidence would not be considered a bill and for that reason they would not be presented until the hearing.

Respectfully submitted,


Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff:
W. W. Engine and Supply, Inc.

SHAW MACK SALES & SERVICE
R.D.3, ROCKTON ROAD
DUBOIS, PA. 15801
314-371-2515 FAX 371-1498
** DUPLICATE INVOICE REPRINTED **

Order No. CW10784
Date 9/29/00
Customer WORK ORDER INVOICE
Customer Copy

Page 1
Date 9:08:23

FRANK HURCHEN
T.R.D. #1
0 INDIANA RUN
JOHNSONBURG PA 15845
st# 12282
(814) 965-5374

LN2AY10C9KNU04018 1989 MCK RW713
Unit 4018 License YY-67915 PA
Reading In 370962 D P0#
Arrival 9/08/00 at 7:30
Delivery 0/00/00 Reading
GVW
SW# 312

S U M M A R Y

Description	Labor	Parts	Misc.	Total
1 ENGINE WILL NOT START	2,867.70	3,040.54	732.05	6,640.29

T O T A L S	2,867.70	3,040.54	732.05	6,640.29
-------------	----------	----------	--------	----------

MISC SUPPLIES	:	.00	
Tax I.D.: 108077	Sales Tax	:	.00

*** PAY THIS AMOUNT ***	Customer Total	6,640.29
-------------------------	----------------	----------

3

ENGINE WILL NOT START

Code: M99 MIS MIS

SW# : 312 Rich Mann

CHECK & FOUND ALL EXHAUST PUSH TUBES & ALL EXHAUST VALVES BENT. DRAIN COOLING SYSTEM, UNHOOK & REMOVE HEADS. FOUND EXHAUST VALVE HAD HIT ALL PISTONS. REMOVE OIL PAN, OIL PUMP, REMOVE ALL PISTONS & LINERS. CLEAN BLOCK, INSTALL NEW LINERS, PISTONS & REMAN CONNECTING RODS. HAVE HEADS REBUILT, ASSEMBLE ENGINE. CHECK TIMING, OK. REMOVE INJECTION PUMP, SEND TO PUMP SHOP & HAVE CHECKED, OK. INSTALL PUMP, ADJUST TIMING, FILL WITH OIL & COOLANT, RUN & CHECK FOR LEAKS, OK. INSTALL HOOD, HOOKUP WIRING FOR LIGHTS, ROADTEST, CHECK OPERATION & RECHECK FLUID LEVELS. REPLACED WIRING FOR ENGINE BRAKE, ROADTEST & RECHECK, OK.

NOTE MACK DSM LOOKED AT DAMAGED PARTS & DETERMINED TO BE CAUSED BY OVERSPEED & NOT A WARRANTABLE FAILURE.

FOR CHARGED:	Labor
	Amount
	2,867.70

Item	Part Number	Description	QTY	Unit	Extended
5	CH0235101B	DELO15W40	P N	Price	Amount
0	CH0235101B	DELO15W40	P N	1.33	6.65
6	D446GC120B	O-RING	N	1.33	39.90
6	D56AX460	O-RING	N	.43	2.58
				.82	4.92

** DUPLICATE INVOICE REPRINTED **

der No. CJ10784
te 9/29/00
gment 01 continued

WORK ORDER INVOICE
Customer Copy

Page : 8
Time 8:08:23

Qty	Part Number	Description	Unit	Extended
6	0590661338	STEEL WASHER	EA	6.60
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10	OTHER	WIRE	EA	1.20
2	PHI1-1762	CLAMP	EA	1.38
20	PHI1-4743	CABLT TIE 14" RD BLX	EA	11.60
2	RADL212	SOLVENT	EA	3.20
1	103AX97	SCREW	EA	3.62
2	1091988	HTR HOSE	EA	11.08
2	11ME229P2	4" TORCTITE CLAMP	EA	9.12
1	119AX5247	ADAPTER	EA	34.88
1	160AX561	HOSE, SILICONE	EA	6.93
1	21AX873	NUT	EA	1.55
6	21558228	EB 4VH W/5110 PIS.	EA	542.64
12	23AX514	NUT	EA	12.24
2	243131314	CNS 16-14 RING #10 S	EA	.76
4	31AX268	PIN	EA	1.88
6	3536C2139	RING SET-4 GROOVE, E	EA	299.88
6	3676C4247PCR	Core Charge	EA	258.00
6	3676C4247PCR	CONN ROD	EA	258.00
6	3676C4247P2X	REMAN CONN. ROD	EA	374.10
6	3696C255A	ROD,VALVE LIFTER PUS	EA	90.36
6	3696C314AP2	PUSH ROD	EA	61.80
4	37AX495	WASHER	EA	4.04
4	37AX495	WASHER	EA	4.04
1	4006C33P3	SCREW	EA	12.34
1	4216C257A	YODE ADJUSTING SCREW	EA	2.83
2	4666C444CCR	Core Charge	EA	200.00
2	4666C444CCR	ROCKER ARM	EA	200.00
2	4666C444CX	REMAN ROCKER ASSY. 4	EA	726.06
2	474456E7	SYN GRAY/SPRAY CAN	EA	9.34
1	474456E7	SYN GRAY/SPRAY CAN	EA	4.67
6	5096C284AP12	SLEEVE	EA	313.26
3	516628630	BRAKE CLEAN-BONUS ST	EA	7.74
1	516681160	SEALANT	EA	3.96
2	52AX36	SLEEVE	EA	2.20
2	55468213	GASKET-CYL HEAD COVE	EA	9.92
2	56AX535	GASKET	EA	8.92
2	56AX536	GASKET	EA	9.16
1	56AX573	GASKET	EA	1.35
2	576C189A	GASKET KIT	EA	35.58
1	576C2120C	FILTER KIT	EA	37.88
6	5736B310B	GASKET, EXHAUST MANI	EA	24.12
1	5796341E	GASKET, LOWER CRANKC	EA	21.17

0: CM10784
9/29/00

WORK ORDER INVOLVED
Customer Copy

Time 8:08:33

: 01 continued

Part Number	Description	QTY	Unit	Extended
		R X	Price	Amount
583769727K	4" X 18" STAINLESS F	N	25.67	25.67
590681189A	GASKET	N	4.01	4.01
590681276A	GASKET, TURBO OIL DR	N	1.60	1.60
590682111A	GASKET, CYL.HEAD BRE	N	1.58	3.16
590682150	GASKET, TURBO OIL DR	N	2.42	2.42
59068312B	GASKET, AIR INLET &	N	7.43	14.86
6166C28A	STUD	N	3.15	37.80
62682393	BEARING	N	13.92	83.52
621410H	HOSE CLAMP-3/8 TO 5/	N	.70	1.40
621412H	HOSE CLAMP-5/8 TO 3/	N	.70	1.40
621420H	HOSE CLAMP-1 TO 1-1/	N	.70	1.40
621428H	HOSE CLAMP-1-1/4 TO	N	.70	1.40
621452H	HOSE CLAMP-3 TO 3-1/	N	1.80	3.60
73309	LOCKNUT	N	1.40	5.60
74468230AP4	HOSE, TURBO OIL DRAI	N	14.13	14.13
74468236A	HOSE	N	15.40	15.40
8916C217	VALVE YOKE	N	12.65	12.65
935 1410210014	ORING	N	1.76	3.52
935 1411073004	GASKET	N	.87	.87
935 2410210014	O-RING	N	7.74	7.74
935 2410210049	O RING	N	4.34	4.34
935 2443313000	NUT	N	8.16	8.16
935 2443380004	ORING	N	8.94	8.94

TOTAL PARTS 3,040.54

miscellaneous Charges
by Keyword
FRT
SUBCT

Description	QTY	Unit	Extended
	R X	Price	Amount
FREIGHT	Y N	50.00	50.00
RBLD TWO HEADS	Y N	682.05	682.05

TOTAL MISC. 732.05
SEGMENT SUBTOTAL 6,640.29

*** PAY THIS AMOUNT ***

CUSTOMER TOTAL 6,640.29

3

MACK TRUCKS, INC.

Remanufacturing Center
2800 Commerce Drive
Turnpike Industrial Park
Middletown, PA 17057
(717) 939-1338
FAX (717) 939-8349

January 22, 2001

Mr. Jeff Wood
Shaw Mack Sales & Service
RR 3, Rockton Road
P. O. Box 645
DuBois, PA 15801-0645

Dear Jeff:

Subject: Evaluation of 6 - E6 4V Pistons, 12 - Exhaust Valves, 12 - Push Rods, 1 - Valve Yoke Bridge, 12 - Valve Guides, 1 - Valve Spring and Retainer
Reference: Remanufactured Basic Engine
P/N: 86SB3508 - BRD #1290
Chassis Model & S/N: RW713-4018

I'm writing in regard to your request of January 12, 2001 concerning MRC's evaluation results of the subject material noted above.

All six pistons (5110M - 7J-28) returned show exhaust valve to piston contact.

All twelve exhaust valves (688GC2378-6-98) are bent. All six exhaust push rods are slightly to moderately bent. One valve yoke bridge is broken.

Based on our evaluation, all indications show this failure occurred as a result of overspeed. This is a non-warrantable failure and is not the responsibility of Mack Trucks, Inc., Remanufacturing Center.

As agreed to, the material will be placed on our shipping dock for Harrisburg Mack's pickup. Harrisburg is to forward the material to Shaw Mack, Dubois.



Mr. Jeff Wood
January 22, 2001
Page Two

Hopefully the information supplied will answer any questions or concerns our customer may have had.

If I can be of any further assistance, please feel free to call.

Sincerely,

MACK TRUCKS, INC.
Remanufacturing Center

Larry Ort
Larry Ort
Industrial Engineer Analyst

/m

cc: S. Broadwater
L. Zembower



MON 6 2003 9:33AM

W ENGINE ORDER COPY STATEMENT

ENTERTAINMENT WEEKLY 11

• PAGE

W.W. ENGINE



24 hours. [Va-Med](#) | [Outlook](#) | [How it works](#) | [Tech tips](#) | [Mobile app](#) | [Shipping info](#) | [Somerset](#)

REMIT TO: W.W. ENGINE & SUPPLY, INC.
P.O. BOX 1258
SOMERSET, PA 15501

FRANK HORCHEN
R.D. #1
INDIANA RUN
JOHNSONBURG

PA 15845

STATEMENT DATE
11/02/03
PAGE 1
ACCOUNT NO.
123456

Accounts due and payable by the 10th of the month.

Acccounts due and payable by the 10th
For payment (Inquiries: 814-445-9517)

DATE	INVOICE NUMBER	CHARGES	CREDITS	BALANCE
9/29/00	CW10784 SALE	6640.29		6640.29
10/31/00	FC03575 INT CHG	99.60		6739.89
11/30/00	FC03692 INT CHG	99.60		6839.49
12/29/00	FC03781 INT CHG	99.60		6939.09
1/17/01	AI41089 SALE	97.00		7036.09

FINANCE CHARGE is computed by a "Periodic Rate" of 1 1/4% per month which is an ANNUAL PERCENTAGE RATE of 18%.



REMIT TO: W.W. ENGINE & SUPPLY, INC.
P.O. BOX 1258
SOMERSET, PA 15801

FRANK HORCHEN
RD#1
INDIANA RUN
JOHNSONBURG, PA 15845

STATEMENT DATE
10-31-03
PAGE
ACCOUNT NO.
12282

Accounts due and payable by the 10th of the month.
For statement inquiries: 814-445-9617

DATE	INVOICE NUMBER	CHARGE	CREDIT	BALANCE
09-29-00	CW10784 SALE	6640.29		6640.29
10-31-00	INT CHG	99.60		6739.89
11-30-00	INT CHG	99.60		6839.49
12-29-00	INT CHG	99.60		6939.09
01-17-01	AI41089 SALE	97.00		7036.09
01-31-01	INT CHG	99.60		7135.69
02-28-01	INT CHG	99.60		7235.29
03-31-01	INT CHG	99.60		7334.89
04-30-01	INT CHG	99.60		7434.49
05-31-01	INT CHG	99.60		7534.09
06-30-01	INT CHG	99.60		7633.69
07-31-01	INT CHG	99.60		7733.29
08-31-01	INT CHG	99.60		7832.89
09-30-01	INT CHG	99.60		7932.49
10-31-01	INT CHG	99.60		8032.09
11-30-01	INT CHG	99.60		8131.69
12-31-01	INT CHG	99.60		8231.29
01-31-02	INT CHG	99.60		8330.89

ACCOUNT STATUS	LAST DUE	CURRENT	PAY TRIM AMOUNT
	OVER 60	OVER 60	
			OVER 120

FINANCE CHARGE is computed by a "Periodic Rate" of 1 1/4% per month which is an ANNUAL PERCENTAGE RATE of 18%.

W.W. ENGINE

Supply Inc.



Almost Bedford Dubois Harrisburg Extzown Ellington Shippensburg Somervile

REMIT TO: W.W. ENGINE & SUPPLY, INC.
P.O. BOX 1268
SOMERSET, PA 15801

STATEMENT DATE

PAGE

ACCOUNT NO.

Accounts due and payable by the 10th of the month.
For statement inquiries: 814-445-9617

DATE	INVOICE NUMBER	CHARGE	CREDIT	BALANCE
02-28-02	INT CHG	99.60		8430.49
03-31-02	INT CHG	99.60		8530.09
04-30-02	INT CHG	99.60		8629.69
05-31-02	INT CHG	99.60		8729.29
06-30-02	INT CHG	99.60		8828.89
07-31-02	INT CHG	99.60		8928.49
08-31-02	INT CHG	99.60		9028.09
09-30-02	INT CHG	99.60		9127.69
10-31-02	INT CHG	99.60		9227.29
11-30-02	INT CHG	99.60		9326.89
12-31-02	INT CHG	99.60		9426.49
01-31-03	INT CHG	99.60		9526.09
02-28-03	INT CHG	99.60		9625.69
03-31-03	INT CHG	99.60		9725.29
04-30-03	INT CHG	99.60		9824.89
05-31-03	INT CHG	99.60		9924.49
06-30-03	INT CHG	99.60		10024.09
07-31-03	INT CHG	99.60		10123.69
08-31-03	INT CHG	99.60		10223.29
ACCOUNT STATUS	LAST DUE	CURRENT	PAY THIS AMOUNT	
			10223.29	
OVER 60	OVER 60	OVER 90	OVER 120	

FINANCE CHARGE is computed by a "Periodic Rate" of 1 1/2% per month which is an ANNUAL PERCENTAGE RATE of 18%.



REMIT TO: W.W. ENGINE & SUPPLY, INC.
P.O. BOX 1258
SOMERSET, PA 15501

STATEMENT DATE

PAGE

ACCOUNT NO.

Accounts due and payable by the 10th of the month.
For statement inquiries: 814-445-9817

DATE	INVOICE NUMBER	CHARGES	CREDITS	BALANCE
09-30-03	INT CHG	99.60		10,322.90
10-31-03	INT CHG	99.60		10,422.49
<hr/>				
ACCOUNT STATUS	4487008	CURRENT	PAY THIS AMOUNT	10,422.49
OVER 60	OVER 60	OVER 90	OVER 120	

FINANCE CHARGE is computed by a "Periodic Rate" of 1 1/2% per month which is an ANNUAL PERCENTAGE RATE of 18%.



Five Locations: Bedford • Dubois • Kylertown • Shippenville • Somerset

SHAW MACK SALES & SERVICE
R.D.3, ROCKTON ROAD
DUBOIS, PA. 15801
814-371-2515 FAX 371-1498

I N V O I C E

INVOICE # CI35476

BILLED 11/19/98
CUSTOMER 1228E
BRANCH 0E
CTRMAN # 331
SLSMAN # 995
TERMS OPEN ACCI
TERRITORY 00E

TIME 15.44.59

F. HORCHEN, FRANK
O. R.D. #1
R. INDIANA RUN
JOHNSONBURG
PA 15845

COMMENT... PENDING CORE STATUS

PHONE #... (814) 965-5374

PAGE

ITEM NUMBER	DESCRIPTION	LIST	FET T QTY				UNIT PRICE	EXTENDE AMOUNT
			CD	X	QTY	B/Y		
86SB3508P2	REMAN BASI	11718.00	N	1	0	1	7734.00	7,734.0
86SB3508P2CR	Core Charge	3750.00	N	1	0	1	3750.00	3,750.0
590GB2124	GASKET	1.52	N	1	0	1	1.52	1.52
56AX575	GASKET, NON	.32	N	1	0	1	.32	.32
56AX567	GASKET	.72	N	1	0	1	.72	.72
590BB2159	AIR COMP GASKET	8.08	N	1	0	1	7.29	7.29
446GC2124	SEAL, NOZZ	.65	N	6	0	6	.49	2.9
590GB2166	GASKET, IN	.30	N	6	0	6	.22	1.3
573GB310B	EXHAUST GASKET	4.96	N	6	0	6	4.41	26.4
590GB312B	GAS 676	9.10	N	2	0	2	8.10	16.2
316GC528CX	WATER PUMP	162.00	N	1	0	1	113.40	113.4
316GC528CR	Core Charge	50.00	N	1	0	1	50.00	50.0
20QL312M2	INSULATOR	11.06	N	2	0	2	7.98	15.9
73RU12254M	BRACKET	6.86	N	2	0	2	5.55	11.1
191AM6	NUT	3.26	N	2	0	2	3.00	6.0
27AM35	SCREW	9.25	N	2	0	2	6.51	17.0
64MT324	TRANSMITTER	50.50	N	1	0	1	38.38	38.3
590BB1146A	GASKET	.51	N	1	0	1	.45	.45
107AM5007	STUD/157AM3 01	11.69	N	4	0	4	10.75	43.0
590BB2133A	GASKET, INJ	6.11	N	1	0	1	5.44	5.44
404GB470	DAMP 461	402.75	N	1	0	1	306.00	306.0
446GC290	SEAL, INJ	5.27	N	1	0	1	3.58	3.58
86SB3508P2CR	CI35476	3750.00	N	1	0	1	3750.00	3,750.0
316GC528CR	CI35476	50.00	N	1	0	1	50.00	50.0

TAX ID # 108077

INVOICE TOTAL

8,351.7

CUSTOMER'S SIGNATURE

WARRANTY DISCLAIMER: Any warranties on the products sold hereby are those made by the manufacturer. The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and seller neither assumes nor authorizes any other person to assume for it any liability in connection with sale of said products. I hereby authorize the repair work to be done along with necessary materials. You and your employees may operate vehicle for purposes of testing, inspection or delivery at my risk. You are not responsible for loss or damage to the motor vehicle or its contents due to collisions not due to your negligence, or due to fire, theft, or other casualty regardless of whether or not such fire, theft or other casualty is due to your negligence; and you and your agents are hereby released from any and all claims for such loss and damage.

EXHIBIT D

EXHIBIT D

**LAW OFFICES
OF
DWIGHT L. KOERBER, JR.**

Attorneys at Law

110 North Second Street

P. O. Box 1320

Clearfield, PA 16830

Dwight L. Koerber, Jr.

Cynthia B. Stewart

Telephone (814) 765-9611

Faxsimile (814) 765-9503

November 6, 2003

Joseph Colavecchi, Esq., Chairman
Board of Arbitrators
Colavecchi & Colavecchi
P. O. Box 131
Clearfield, PA 16830

David P. King, Esq. Arbitrator
P. O. Box 1016
DuBois, PA 15801

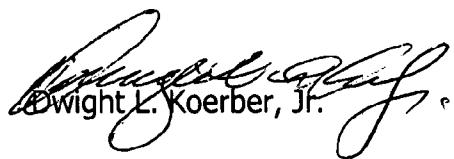
Theron G. Noble, Esq., Arbitrator
Ferraraccio & Noble
301 E. Pine Street
Clearfield, PA 16830

**Re: W. W. Engine and Supply, Inc. v. Horchen
Docket No. 02-1675-CD**

Gentlemen:

Enclosed herewith is a copy of the Pre-Trial Statement that I filed today with the Court Administrator's Office, covering the arbitration hearing which is scheduled for 8:30 a.m. on November 13, 2003. As shown by the Certificate of Service, copies have also been served upon Bradley J. Kraus, Esquire, counsel for Defendant.

Very truly yours,



Dwight L. Koerber, Jr.

DLK/bdt

Cc: Mr. Jeffrey S. Wood
Bradley J. Kraus, Esquire
Enclosures: Pre-Trial Statement
Certificate of Service

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

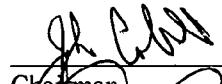
W. W. Engine & Supply
vs.
Frank Horchen

No. 2002-01675-CD

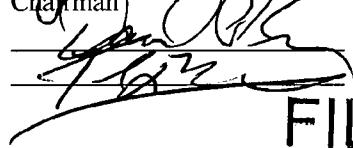
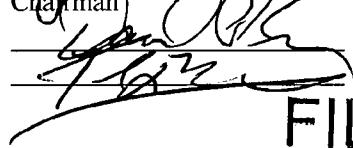
OATH OR AFFIRMATION OF ARBITRATORS

Now, this 13th day of November, 2003, we the undersigned, having been appointed arbitrators in the above case do hereby swear, or affirm, that we will hear the evidence and allegations of the parties and justly and equitably try all matters in variance submitted to us, determine the matters in controversy, make an award, and transmit the same to the Prothonotary within twenty (20) days of the date of hearing of the same.

Joseph Colavecchi, Esquire

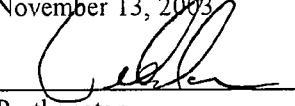

Chairman

David P. King, Esquire
THERON G. NOBLE, Esquire

FILED

Sworn to and subscribed before me this
November 13, 2003


Prothonotary

NOV 13 2003

014:00/2
William A. Shaw

Prothonotary/Clerk of Courts

AWARD OF ARBITRATORS

Now, this 13 day of November, 2003, we the undersigned arbitrators appointed in this case, after being duly sworn, and having heard the evidence and allegations of the parties, do award and find as follows: *Directive Verdict against the Defendant
And in favor of Plaintiff on Defendants Counter Claim.
Judgment for the Plaintiff on against the Defendant
on Plaintiff's Complaint for \$ 3772.59 together
with interest at 6% calculated
from October 29th, 2000 plus
RECORD Costs.*

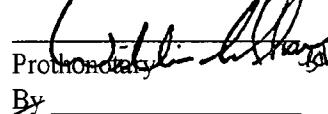

Chairman

(Continue if needed on reverse.)

ENTRY OF AWARD

Now, this 14th day of November, 2003, I hereby certify that the above award was entered of record this date in the proper dockets and notice by mail of the return and entry of said award duly given to the parties or their attorneys.

WITNESS MY HAND AND THE SEAL OF THE COURT


Prothonotary
By _____

Prothonotary Clerk of the
William A. C.

NOV 13 2003

FILED Notice to Atlys Loerber, Kraus

W. W. Engine & Supply : IN THE COURT OF COMMON PLEAS
Vs. : OF CLEARFIELD COUNTY
Frank Horchen : No. 2002-01675-CD

COPY

NOTICE OF AWARD

TO: BRADLEY J. KRAUS ESQ

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on November 13, 2003 and have docketed the award on November 14, 2003:

Directed verdict against the Defendant and in favor of Plaintiff on Defendant's counterclaim. Judgment for the Plaintiff and against the Defendant on Plaintiff's complaint for \$3,772.59 together with interest at 6% calculated from October 29, 2000, plus record costs.

William A. Shaw

Prothonotary

By Will Shaw

November 13, 2003

Date

In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.

W. W. Engine & Supply

Vs.
Frank Horchen

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY
No. 2002-01675-CD

COPY

NOTICE OF AWARD

TO: DWIGHT L. KOERBER, JR.

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on November 13, 2003 and have docketed the award on November 14, 2003:

Directed verdict against the Defendant and in favor of Plaintiff on Defendant's counterclaim. Judgment for the Plaintiff and against the Defendant on Plaintiff's complaint for \$3,772.59 together with interest at 6% calculated from October 29, 2000, plus record costs.

William A. Shaw

Prothonotary

By _____



November 13, 2003

Date

In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.

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

W. W. ENGINE & SUPPLY, INC., *
Plaintiff

-vs-

FRANK HORCHEN, *
Defendant

*

*

DOCKET NO. 02-1675-CD

Type of Pleading:
PRAECIPE TO DISCONTINUE

Filed on Behalf of:
Plaintiff:
W.W. Engine & Supply, Inc.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr.,
Esquire
PA I.D. No. 16332

110 North Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

DEC 15 2003

William A. Shaw
Prothonotary/Clerk of Courts

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

W. W. ENGINE & SUPPLY, INC., *
Plaintiff *
*
-vs- *
FRANK HORCHEN, *
Defendant *

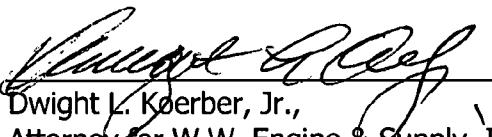
DOCKET NO. 02-1675-CD

PRAECIPE TO DISCONTINUE

TO: WILLIAM A. SHAW, PROTHONOTARY
COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
1 North Second Street
Clearfield, PA 16830

Please mark the docket in the judgment entered by the Arbitrators in this case as satisfied and mark the case as discontinued with prejudice.

Respectfully submitted,

By: 
Dwight L. Koerber, Jr.,
Attorney for W.W. Engine & Supply, Inc.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
DOCKET NO: 02-1675-CD

W.W. Engine & Supply, Inc.

-vs-

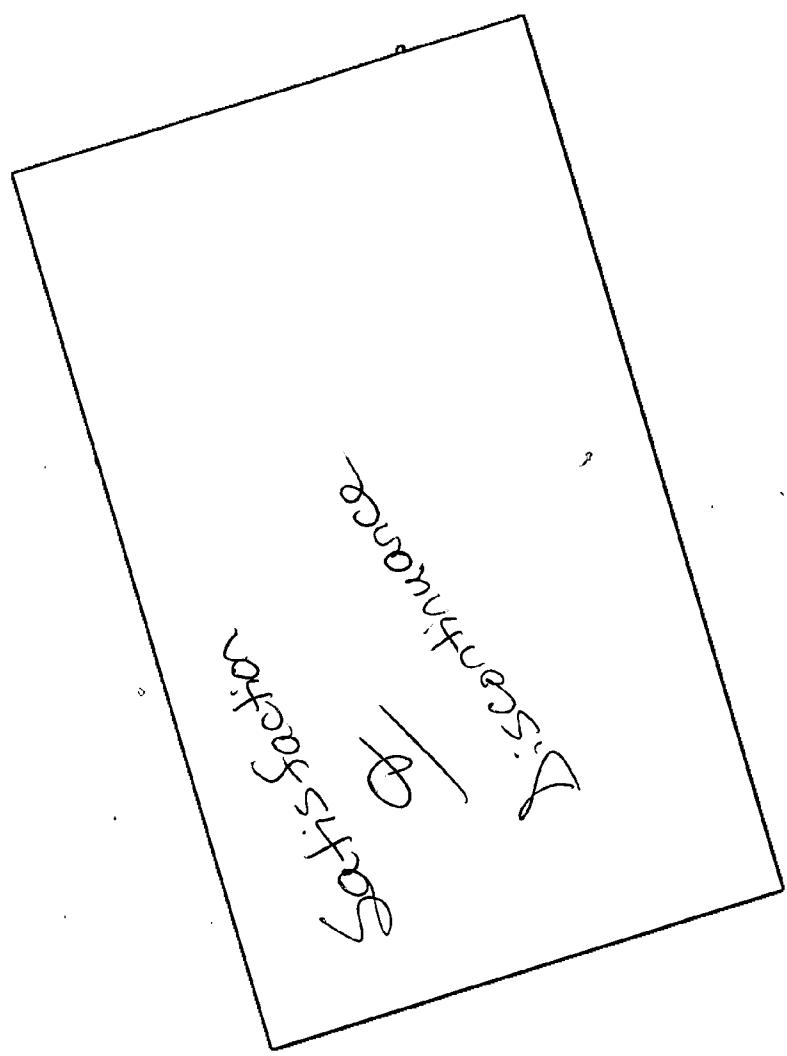
Frank Horchen

PRAECIPE TO DISCONTINUE

FILED 3cc Atty Koerber
O/ 330 AM
DEC 15 2003 3 AM
+ Sat. to AM
Any pd. 7.00

3 cent. of Disc. to Atty
copy of Disc. to cJA

LAW OFFICE
DWIGHT KOERBER, JR.
ATTORNEY-AT-LAW
110 NORTH SECOND STREET
P. O. BOX 1320
CLEARFIELD, PENNSYLVANIA 16830



COPY

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

CIVIL DIVISION

W. W. Engine & Supply

Vs.
Frank Horchen

No. 2002-01675-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 December 15, 2003, marked:

Discontinued with Prejudice

Record costs in the sum of \$90.00 have been paid in full by Dwight L. Koerber, Jr., Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 15th day of December A.D. 2003.

William A. Shaw, Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COPY

CIVIL DIVISION

CERTIFICATE OF SATISFACTION OF JUDGMENT

No.: 2002-01675-CD

W. W. Engine & Supply

Debt: \$3,772.59

Vs.

Atty's Comm.:

Frank Horchen

Interest From:

Cost: \$7.00

NOW, Monday, December 15, 2003 , directions for satisfaction having been received, and all costs having been paid, SATISFACTION was entered of record.

Certified from the record this 15th day of December, A.D. 2003.

Prothonotary



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

September 2, 2003

Dwight L. Koerber, Jr., Esquire
Attorney at Law
Post Office Box 1320
Clearfield, PA 16830

Bradley J. Kraus, Esquire
Attorney at Law
43 Center Street
Johnsonburg, PA 15845

RE: W. W. ENGINE & SUPPLY, INC.

vs.

FRANK HORCHEN
No. 02-1675-CD

Dear Counsel:

The above case is scheduled for Arbitration Hearing to be held Thursday, November 13, 2003. The following have been appointed to the Board of Arbitrators:

Joseph Colavecchi, Esquire
David P. King, Esquire
Theron G. Noble, Esquire
Warren B. Mikesell, II, Esquire
Brian K. Marshall, Esquire

If you wish to strike an Arbitrator, you must notify the undersigned within seven (7) days from the date of this letter the name you wish stricken from the list.

You will be notified at a later date the exact time of the Arbitration Hearing.

Very truly yours,
Marcy Kelley
Marcy Kelley
Deputy Court Administrator



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

September 12, 2003

Dwight L. Koerber, Jr., Esquire
Attorney at Law
Post Office Box 1320
Clearfield, PA 16830

Bradley J. Kraus, Esquire
Attorney at Law
43 Center Street
Johnsonburg, PA 15845

RE: W. W. ENGINE & SUPPLY, INC.

vs.

FRANK HORCHEN
No. 02-1675-CD

Dear Counsel:

The above case is scheduled for Arbitration Hearing to be held Thursday, November 13, 2003 at 8:30 A.M. The following have been appointed as Arbitrators:

Joseph Colavecchi, Esquire, Chairman
David P. King, Esquire
Theron G. Noble, Esquire

Pursuant to Local Rule 1306A, you must submit your Pre-Trial Statement seven (7) days prior to the scheduled Arbitration. The original should be forwarded to the Court Administrator's Office and copies to opposing counsel and each member of the Board of Arbitrators. For your convenience, a Pre-Trial (Arbitration) Memorandum Instruction Form is enclosed as well as a copy of said Local Rule of Court.

Very truly yours,
Marcy Kelley
Marcy Kelley
Deputy Court Administrator

cc: Joseph Colavecchi, Esquire
David P. King, Esquire
Theron G. Noble, Esquire