

02-1826-CD  
PARIS UNIFORM RENTAL vs. MICHAELS COOPERAGE

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(original)

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

JUDICIAL DISTRICT

46<sup>th</sup>

NOTICE OF APPEAL

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 02-1826-CJ

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.

Michaels Cooperage

NAME OF APPELLANT

MAG. DIST. NO. OR NAME OF D.J.

1149 Rt. 208, P.O. Box 280, Shippensburg, PA 16254

46-3-01

ADDRESS OF APPELLANT

CITY

STATE

ZIP CODE

DATE OF JUDGMENT

IN THE CASE OF (Plaintiff)

(Defendant)

11/4/02

Paris Uniform Rental

CLAIM NO.

CV 560-02

LT

SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT

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.

Signature of Prothonotary or Deputy

Jeffrey A. Pribanic  
Pribanic & Pribanic

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 Paris Uniform Rental, appellee(s), to file a complaint in this appeal

Name of appellee(s)

(Common Pleas No. 02-1826-CJ) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Signature of appellant or his attorney or agent

**RULE:** To Paris Uniform Rental, 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:

**FILED**

Signature of Prothonotary or Deputy

11/21/02 Copies  
NOV 21 2002 to Pribanic

William A. Shaw *Atty pd.*  
Prothonotary 85.00

---

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

*(This proof of service MUST BE FILED WITHIN TEN (10) 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*) \_\_\_\_\_,  by personal service  by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) \_\_\_\_\_, on  
\_\_\_\_\_, \_\_\_\_\_,  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 \_\_\_\_\_,  by personal service  by (certified) (registered)  
mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_

*Signature of affiant*

*Signature of official before whom affidavit was made*

*Title of official*

My commission expires on \_\_\_\_\_



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PARIS UNIFORM RENTAL,

Plaintiff,

vs

MICHAEL'S COOPERAGE

Defendant.

) CIVIL DIVISION  
)  
) No.: 02-1826-CD  
)  
) PRAECIPE TO ENTER RULE  
) TO FILE COMPLAINT  
)  
) Filed on behalf of  
) MICHAEL'S COOPERAGE  
) Defendant  
)  
) Counsel of Record for this Party  
) PRIBANIC AND PRIBANIC, L.L.C.  
) JEFFREY A. PRIBANIC  
) Pa. I.D. No. 56808  
)  
) 1735 Lincoln Way  
) White Oak, Pennsylvania 15131  
)  
) (412) 672-5444 BAF

**FILED**

DEC 11 2002

William A. Shaw  
Prothonotary

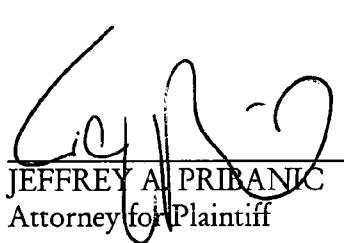
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PARIS UNIFORM RENTAL, )  
                            )  
                            )  
                            ) No.: 02-1826-CD  
Plaintiff,              )  
                            )  
                            )  
vs                          )  
                            )  
MICHAEL'S COOPERAGE  )  
                            )  
                            )  
Defendant.              )

**PRAECIPE TO ENTER RULE TO FILE COMPLAINT**

To the Prothonotary:

Enter rule upon Paris Uniform Rental, Appellee, to file a complaint regarding our appeal  
filed in this action.



JEFFREY A. PРИБАНИК  
Attorney for Plaintiff

**FILED**

cc Amy Pribanic  
m 12:38 PM  
Rule issued to Amy Pribanic  
DEC 11 2002

William A. Shaw  
Prothonotary

copy

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**PARIS UNIFORM RENTAL,**

Plaintiff,

vs

**MICHAEL'S COOPERAGE**

Defendant.

) CIVIL DIVISION  
)  
) No.: 02-1826-CD  
)  
) RULE TO FILE  
)  
) Filed on behalf of  
) **MICHAEL'S COOPERAGE**  
) Defendant  
)  
) Counsel of Record for this Party  
) PRIBANIC AND PRIBANIC, L.L.C.  
) JEFFREY A. PRIBANIC  
) Pa. I.D. No. 56808  
)  
) 1735 Lincoln Way  
) White Oak, Pennsylvania 15131  
)  
) (412) 672-5444 BAF

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PARIS UNIFORM RENTAL, )  
Plaintiff, ) No.: 02-1826-CD  
vs )  
MICHAEL'S COOPERAGE )  
Defendant. )

RULE TO FILE

To Paris Uniform Rental:

(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.

December 11, 2002  
DATE:

\_\_\_\_\_  
Prothonotary

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

PARIS CLEANER'S, INC., t/d/b/a	:
PARIS UNIFORM RENTAL,	:
Plaintiff	:
VS.	:
	NO. 02 - 1826 - CD
MICHAEL'S COOPERAGE,	:
Defendant	:

**PRAECIPE TO STRIKE APPEAL**

TO: William A. Shaw, Prothonotary

Please strike the notice of appeal and appeal filed at the above captioned case.

Although the appeal was filed within the requisite time period, appellant has failed to serve a copy of the notice of appeal upon either the Appellee or the District Justice as is required by Rule 1005 (A) of the Pennsylvania Rules of Civil Procedure for District Justices, and Appellant has failed to file the proof of service required by Rule 1005 (B) of the Pennsylvania Rules of Civil Procedure for District Justices. Pursuant to Rule 1006 of the Pennsylvania Rules of Civil Procedure for District Justices (42 Pa.C.S.A. Pa.R.C.P.D.J. 1006), the appeal must be stricken.

12/13/02

Date

Christopher J. Shaw

Christopher J. Shaw, Esquire

Corporate Counsel

Paris Cleaner's, Inc.

67 Hoover Avenue, P.O. Box 1043

DuBois, PA 15801

(814) 375 - 9700 ext. 706

**FILED**

DEC 13 2002

William A. Shaw  
Prothonotary

**FILED**

*Even*

*12/4/02*  
**DEC 13 2002**

*Atty C Shaw*

*William A. Shaw*

*Prothonotary*

*U.S. Dist. Court  
to Army Reserve*

*FEB 12 2003*

*12/4/02*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
APPEAL STRICKEN - RULE 1006

Paris Uniform Rental

Plaintiff

Vs.

No. 2002-01826-CD

Michaels Cooperage

Defendant

TO:

Jeffrey A. Pribanic, Esq.  
Pribanic and Pribanic, LLC  
1735 Lincoln Way  
White Oak, PA 15131

Pursuant to Rule 1006 of R.C.P.D.J., notice is hereby given that Appeal filed to the above captioned matter has been stricken pursuant to Praecipe dated December 13, 2002. A copy of said document is hereto attached.

Sincerely,

William A. Shaw  
Prothonotary

Enclosures

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PARIS CLEANER'S INC. t/d/b/a,  
PARIS UNIFORM RENTAL,

Plaintiff,

vs.

MICHAEL'S COOPERAGE,

Defendant.

) CIVIL DIVISION  
)  
) No.: 02-1826-CD  
)  
) AFFIDAVIT OF SERVICE  
)  
)  
) Filed on behalf of  
) MICHAEL'S COOPERAGE  
) Defendant  
)  
)  
)  
) Counsel of Record for this Party  
) PRIBANIC AND PRIBANIC, LLC  
) JEFFREY A. PRIBANIC  
) Pa. I.D. No. 56808  
)  
) 1735 Lincoln Way  
) White Oak, Pennsylvania 15131  
)  
) (412) 672-5444 BAF

**FILED**

DEC 23 2002

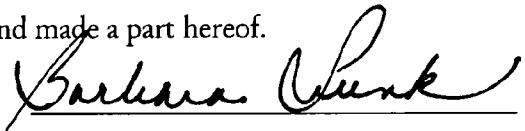
William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PARIS CLEANER'S INC., t/d/b/a  
PARIS UNIFORM RENTAL, )  
Plaintiff, ) No.: 02-1826-CD  
vs. )  
MICHAEL'S COOPERAGE, )  
Defendant. )

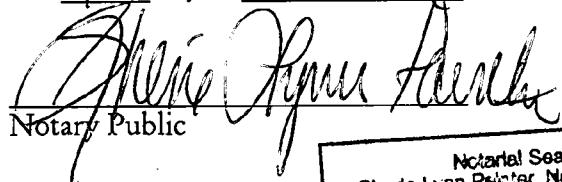
AFFIDAVIT OF SERVICE

Before me, the undersigned authority, personally appeared BARBARA FUNK, who deposes and states that on or about December 9, 2002, she caused to be mailed a true copy of the Praeclipe to Enter Rule to File Complaint and Rule to File filed in the captioned action to Plaintiff, Paris Uniform Rental, 67 Hoover Avenue, DuBois, PA 15801 by Certified Mail, Return Receipt Requested. Said Praeclipe to Enter Rule to File Complaint and Rule to File was received on or about December 11, 2002, by the Plaintiff as evidenced by the U.S. Post Office Return Receipt, Certified No. 7001 1140 0000 6869 3604 which is attached hereto and made a part hereof.

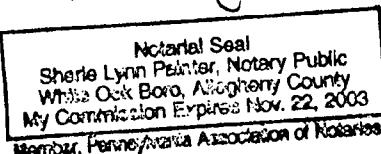


Sworn to and subscribed before me

this 19<sup>th</sup> day of December, 2002.



Notary Public



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PARIS CLEANER'S INC., t/d/b/a )  
PARIS UNIFORM RENTAL, )  
Plaintiff, )  
vs. ) No.: 02-1826-CD  
MICHAEL'S COOPERAGE, )  
Defendant. )

<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>		<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee <i>Brian F. Oren</i></p> <p>B. Received by (Printed Name) <input type="checkbox"/> C. Date of Delivery <i>Brian F. Oren</i> <i>12-11-02</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>	
1. Article Addressed to:  Paris Uniform Rental 67 Hoover Avenue DuBois, PA 15801		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
2. Article Number (Transfer from service label) 7001 1140 0000 6869 3604		102595-02-M-0835	

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

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Clearfield; ss

**AFFIDAVIT:** I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. 02-1826-CD, upon the District Justice designated therein on (date of service) 12-19-02  by personal service  by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) Paris Uniform Rental, on December 19, 2002  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 December 9, 2002.  by personal service  by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

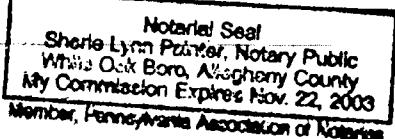
THIS 19 DAY OF Dec., 2002

Shari Lynn Painter

Signature of official before whom affidavit was made

Notary Public  
Title of official

My commission expires on



  
Signature of affiant

FILED  
m11:01 NO  
DEC 23 2002  
cc

William A. Shaw  
Prothonotary

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

JUDICIAL DISTRICT

46<sup>th</sup>

NOTICE OF APPEAL

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 02-1826-CD

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.

Michaels Cooperage

NAME OF APPELLANT

MAG. DIST. NO. OR NAME OF D.J.

1149 Rt. 208, P.O. Box 280, Shippensburg, PA 16254

46-3-01

ADDRESS OF APPELLANT

CITY

STATE

ZIP CODE

DATE OF JUDGMENT

IN THE CASE OF (Plaintiff)

(Defendant)

11/4/02

Paris Uniform Rental

vs. Michaels Cooperage

CLAIM NO.

CV 560-02  
LT

SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT

Jeffrey A Pribanic  
Pribanic & Pribanic

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.

Signature of Prothonotary or Deputy

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 Paris Uniform Rental, Name of appellee(s), to file a complaint in this appeal

(Common Pleas No. 02-1826-CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Signature of appellant or his attorney or agent

RULE: To Paris Uniform Rental

Name of appellee(s)

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:

Signature of Prothonotary or Deputy

7001 1140 0000 6869 3598

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL**



7001 1140 0000 6869 3598  
7001 1140 0000 6869 3598

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

Postage	\$ 37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42

Postmark  
Here

mailed 12/19/02

*Sent To*  
D.J. Patrick N. Ford  
Street, Apt. No.;  
or PO Box No. 309 Maple Ave.  
City, State, ZIP+4 DuBois, PA 15801

PS Form 3800, January 2001

See Reverse for Instructions

7001 1140 0000 6869 3611

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL**



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

7001 1140 0000 6869 3611  
7001 1140 0000 6869 3611

Postage	\$
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

*MAILED 12/19/01*

**Sent To** Paris Uniform RENTal  
Street, Apt. No.;  
or PO Box No. 67 Hoover Ave.  
City, State, ZIP+4 DuBois, PA 15801

Postmark  
Here

PS Form 3800, January 2001

See Reverse for Instructions

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

6987	904
5987	Postage \$ .37
4987	Certified Fee 2.30
3987	Return Receipt Fee (Endorsement Required) 1.75
2987	Restricted Delivery Fee (Endorsement Required)
1987	Total Postage & Fees \$ 4.42
0987	12/9/02
Sent To Paris Uniform Rental	
Street, Apt. No.; or PO Box No. 67 Hoover Ave.	
City, State, ZIP+4 DuBois, PA 15801	
PS Form 3800, January 2001 See Reverse for Instructions	



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: CLEARFIELD

CIVIL COMPLAINT

Mag. Dist. No.:

46-3-01

DJ Name: Hon.

PATRICK N. FORD

Address: 309 MAPLE AVENUE  
P.O. BOX 452  
DUBOIS, PA

Telephone: (814) 371-5321

15801

PLAINTIFF:

Paris Uniform Rental  
PO BOX 1043  
DUBOIS PA 15801

NAME and ADDRESS

DEFENDANT:

Michaels Cooperage  
1149 Route 208  
Shippensburg PA 16254

VS.

NAME and ADDRESS

Docket No.: CV 56002

Date Filed:



	AMOUNT	DATE PAID
FILING COSTS	\$ 104.00	/ /
SERVING COSTS	\$ _____	/ /
TOTAL	\$ 104.00	/ /

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$ 5022.39 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

Nonpayment of rental services - \$ 664.13  
Breach of Contract - \$ 4358.26

I, Shannon M. Leonard

verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.

Shannon M. Leonard

(Signature of Plaintiff or Authorized Agent)

Plaintiff's  
Attorney:

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD SO NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT WILL BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within district justice jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five (5) days before the date set for the hearing. If you have a claim against the plaintiff which is not within district justice jurisdiction, you may request information from this office as to the procedures you may follow. If you are disabled and require assistance, please contact the Magisterial District office at the address above.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**PARIS CLEANER'S INC., t/d/b/a,  
PARIS UNIFORM RENTAL,**

Plaintiff,

vs.

**MICHAEL'S COOPERAGE,**

Defendant.

*Is this for  
hearing &  
written resp?*

) CIVIL DIVISION  
)  
)  
) No.: 02-1826-CD  
)  
)  
) MOTION TO REINSTATE  
) APPEAL  
)  
) Filed on behalf of  
) MICHAEL'S COOPERAGE  
) Defendant  
)  
) Counsel of Record for this Party  
) PRIBANIC AND PRIBANIC, L.L.C.  
) JEFFREY A. PRIBANIC  
) Pa. I.D. No. 56808  
)  
) 1735 Lincoln Way  
) White Oak, Pennsylvania 15131  
)  
) (412) 672-5444 BAF

**FILED**

DEC 26 2002

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

PARIS CLEANER'S, INC., t/d/b/a  
PARIS UNIFORM RENTAL, )  
Plaintiff, ) No.: 02-1826-CD  
v. )  
MICHAEL'S COOPERAGE, )  
Defendant. )

**MOTION TO REINSTATE APPEAL**

AND NOW, comes the Defendant, Michael's Cooperage, by and through his attorney, Jeffrey A. Pribanic, and Pribanic & Pribanic, LLC, and avers the following in support of his Motion to Reinstate Appeal:

1. On or about November 21, 2002, Defendant, Michael's Cooperage, through counsel filed with the Court of Common Pleas of Clearfield County a Notice of Appeal from District Justice Judgment dated November 4, 2002.

2. Thereafter, on or about December 9, 2002, Defendant filed with the Prothonotary's office, Defendant's Praeclipe to Enter Rule to File Complaint and Rule to File, copies of which were served by certified mail upon the Plaintiff or Appellee, Paris Uniform. (See attached hereto as Exhibit "A" letter dated December 9, 2002 directed to the Prothonotary

and Defendant's Praeclipe to Enter Rule to File Complaint and Rule to File.)

3. Thereafter, Plaintiff -Appellee, Paris Uniform, filed a Praeclipe to Strike the Appeal - Praeclipe dated December 13, 2002 and the Prothonotary's office subsequently struck the Appeal pursuant to Rule 1006. (Attached hereto as Exhibit "B" are the Praeclipe to Strike Appeal and Prothonotary's Appeal Stricken - Rule 1006).

4. Thereafter, as a result of Defendant - Appellant waiting for the return card from the United States Postal Service proof of service of the Praeclipe to Enter Rule to File Complaint and Rule to File, was filed with the Prothonotary's office by letter dated December 19, 2002. (A true and correct copy of which is attached hereto as Exhibit "C").

5. On or about December 19, 2002, Defendant-Appellant filed with the Prothonotary's office Proof of Service of the original Notice of Appeal on both the Plaintiff and the District Justice's office. (a true and correct copy of which is attached hereto as Exhibit "D").

6. While it is acknowledged that the Defendant-Appellant failed to comply with Rule 1005 (A) and (B) in a timely fashion, it is respectfully submitted that the Appeal in this action was filed in a timely manner and all requirements of Rule 1005 (A) and (B) have been met subsequently. Defendant-Appellant represents that no prejudice has resulted to the Plaintiff-Appellee and therefore the Appeal should be reinstated.

7. Case Law in the Commonwealth suggest that filing the Proof of Service under Rule 1005 is not a jurisdictional or mandatory requirement and therefore a party should be entitled to have an Appeal reinstated despite a failure to comply with this rule, see Seiple v. Pitterich, 35 Pa. D.& C.3<sup>rd</sup> 592 (1984) and see also Hyde v. Crigler, 10 Pa. D. &C.3<sup>rd</sup> 769 (1979). (A true and correct copy is attached hereto as Exhibit "E").

8. The aforementioned cases suggest that because the requirement for filing Proof of Service under Rule 1005 is not a jurisdictional or mandatory requirement, as is filing the actual Notice of Appeal and where no prejudice results to the opposing party - in the interest of justice, the Appeal should be reinstated.

WHEREFORE, Defendant-Appellant, respectfully requests that the Appeal be reinstated.

RESPECTFULLY SUBMITTED,



JEFFREY A. PRIBANIC  
Attorney for Defendant-Appellant

LAW OFFICES OF

# PRIBANIC & PRIBANIC

*A Limited Liability Corporation*  
1735 LINCOLN WAY  
WHITE OAK, PENNSYLVANIA 15131  
TEL. 412/672-5444

JEFFREY A. PRIBANIC

FAX: 412/672-3715

PITTSBURGH OFFICE  
513 COURT PLACE  
PITTSBURGH, PA 15219  
TEL. 412/281-8844

December 9, 2002

Prothonotary  
Clearfield County  
230 E. Market Street  
Clearfield, Pennsylvania 16830

In Re: Paris Uniform Rental v. Michaels Cooperage  
Our File No.: 5813

Dear Sir or Madam:

Please find enclosed herein for filing Defendant's Praeclipe to Enter Rule to File Complaint and Rule to File with respect to the above captioned action. I have enclosed herein a self-addressed stamped envelope for return of a time-stamped copy.

Thank you.

Very truly yours,



Jeffrey A. Pribanic

JAP:baf  
Enclosure

cc: Paris Uniform Rental



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PARIS UNIFORM RENTAL,

) CIVIL DIVISION  
)  
) No.: 02-1826-CD  
)  
) PRAECIPE TO ENTER RULE  
) TO FILE COMPLAINT  
)  
) Filed on behalf of  
) MICHAEL'S COOPERAGE  
) Defendant  
)  
) Counsel of Record for this Party  
) PRIBANIC AND PRIBANIC, L.L.C.  
) JEFFREY A. PRIBANIC  
) Pa. I.D. No. 56808  
)  
) 1735 Lincoln Way  
) White Oak, Pennsylvania 15131  
)  
) (412) 672-5444 BAF

Plaintiff,

vs

MICHAEL'S COOPERAGE

Defendant.

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

DEC 11 2002

Attest.

*W. A. S.*  
Prothonotary,  
Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PARIS UNIFORM RENTAL, )  
Plaintiff, )  
vs ) No.: 02-1826-CD  
MICHAEL'S COOPERAGE )  
Defendant. )

**PRAECLP TO ENTER RULE TO FILE COMPLAINT**

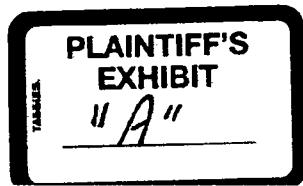
To the Prothonotary:

Enter rule upon Paris Uniform Rental, Appellee, to file a complaint regarding our appeal filed in this action.

  
JEFFREY A. PRIBANIC  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PARIS UNIFORM RENTAL, ) CIVIL DIVISION  
)  
Plaintiff, ) No.: 02-1826-CD  
)  
vs ) RULE TO FILE  
)  
MICHAEL'S COOPERAGE ) Filed on behalf of  
Defendant. ) MICHAEL'S COOPERAGE  
 ) Defendant  
 ) Counsel of Record for this Party  
 ) PRIBANIC AND PRIBANIC, L.L.C.  
 ) JEFFREY A. PRIBANIC  
 ) Pa. I.D. No. 56808  
 )  
 ) 1735 Lincoln Way  
 ) White Oak, Pennsylvania 15131  
 )  
 ) (412) 672-5444 BAF



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PARIS UNIFORM RENTAL,

Plaintiff,

vs

MICHAEL'S COOPERAGE

Defendant.

)  
) No.: 02-1826-CD  
)  
)  
)

RULE TO FILE

To Paris Uniform Rental:

(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.

December 11, 2002

DATE:

  
\_\_\_\_\_  
Prothonotary

313

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

PARIS CLEANER'S, INC., t/d/b/a :  
PARIS UNIFORM RENTAL, :  
Plaintiff :  
VS. : NO. 02 - 1826 - CD  
MICHAEL'S COOPERAGE, :  
Defendant :  
:

**PRAECIPE TO STRIKE APPEAL**

TO: William A. Shaw, Prothonotary

Please strike the notice of appeal and appeal filed at the above captioned case. Although the appeal was filed within the requisite time period, appellant has failed to serve a copy of the notice of appeal upon either the Appellee or the District Justice as is required by Rule 1005 (A) of the Pennsylvania Rules of Civil Procedure for District Justices, and Appellant has failed to file the proof of service required by Rule 1005 (B) of the Pennsylvania Rules of Civil Procedure for District Justices. Pursuant to Rule 1006 of the Pennsylvania Rules of Civil Procedure for District Justices (42 Pa.C.S.A. Pa.R.C.P.D.J. 1006), the appeal must be stricken.

12/13/02  
Date

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

DEC 13 2002

Attest.

*William A. Shaw*  
Prothonotary/  
Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
APPEAL STRICKEN - RULE 1006

Paris Uniform Rental

Plaintiff

Vs.

No. 2002-01826-CD

Michaels Cooperage

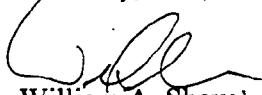
Defendant

TO:

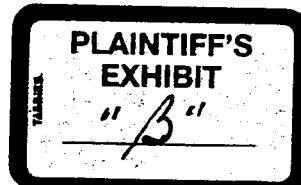
Jeffrey A. Pribanic, Esq.  
Pribanic and Pribanic, LLC  
1735 Lincoln Way  
White Oak, PA 15131

Pursuant to Rule 1006 of R.C.P.D.J., notice is hereby given that Appeal filed to the above captioned matter has been stricken pursuant to Praeclipe dated December 13, 2002. A copy of said document is hereto attached.

Sincerely,

  
William A. Shaw  
Prothonotary

Enclosures



LAW OFFICES OF  
**PRIBANIC & PRIBANIC**

*A Limited Liability Corporation*  
1735 LINCOLN WAY  
WHITE OAK, PENNSYLVANIA 15131  
TEL. 412/672-5444

JEFFREY A. PRIBANIC

FAX. 412/672-3715

December 19, 2002

PITTSBURGH OFFICE  
513 COURT PLACE  
PITTSBURGH, PA 15219  
TEL. 412/281-8844

Prothonotary  
Clearfield County  
230 E. Market Street  
Clearfield, Pennsylvania 16830

In Re:      Paris Cleaner's Inc. t/d/b/a Paris Uniform Rental  
                 v. Michaels Cooperage  
No.: 02-1826-CD  
Our File No.: 5813

Dear Sir or Madam:

Please file the enclosed Affidavit of Service regarding the above captioned matter.

Thank you.

Very truly yours,

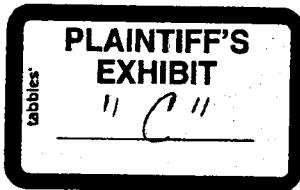
Jeffrey A. Pribanic

JAP:baf  
Enclosure



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PARIS CLEANER'S INC. t/d/b/a,  
PARIS UNIFORM RENTAL, ) CIVIL DIVISION  
Plaintiff, ) ) No.: 02-1826-CD  
vs. ) ) AFFIDAVIT OF SERVICE  
MICHAEL'S COOPERAGE, ) )  
Defendant. ) )  
 ) ) Filed on behalf of  
 ) ) MICHAEL'S COOPERAGE  
 ) ) Defendant  
 ) )  
 ) ) Counsel of Record for this Party  
 ) ) PRIBANIC AND PRIBANIC, LLC  
 ) ) JEFFREY A. PRIBANIC  
 ) ) Pa. I.D. No. 56808  
 ) )  
 ) ) 1735 Lincoln Way  
 ) ) White Oak, Pennsylvania 15131  
 ) )  
 ) ) (412) 672-5444 BAF



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PARIS CLEANER'S INC., t/d/b/a )  
PARIS UNIFORM RENTAL, )  
Plaintiff, ) No.: 02-1826-CD  
vs. )  
MICHAEL'S COOPERAGE, )  
Defendant. )

AFFIDAVIT OF SERVICE

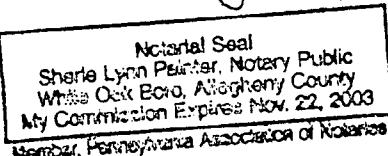
Before me, the undersigned authority, personally appeared BARBARA FUNK, who deposes and states that on or about December 9, 2002, she caused to be mailed a true copy of the Praeclipe to Enter Rule to File Complaint and Rule to File filed in the captioned action to Plaintiff, Paris Uniform Rental, 67 Hoover Avenue, DuBois, PA 15801 by Certified Mail, Return Receipt Requested. Said Praeclipe to Enter Rule to File Complaint and Rule to File was received on or about December 11, 2002, by the Plaintiff as evidenced by the U.S. Post Office Return Receipt, Certified No. 7001 1140 0000 6869 3604 which is attached hereto and made a part hereof.

Barbara Funk

Sworn to and subscribed before me

this 19<sup>th</sup> day of December, 2002.

Sherie Lynn Painter  
Notary Public



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PARIS CLEANER'S INC., t/d/b/a )  
PARIS UNIFORM RENTAL, )  
Plaintiff, )  
vs. )  
MICHAEL'S COOPERAGE, )  
Defendant. )  
No.: 02-1826-CD

<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature  <input checked="" type="checkbox"/> Brian J. Don <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input type="checkbox"/> C. Date of Delivery    Brian J. Don <input type="checkbox"/> 12-11-02</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes    If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>1. Article Addressed to:</p> <p>Paris Uniform Rental    67 hoover Avenue    DuBois, PA 15801</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number  <i>(Transfer from service label)</i></p>		<p>7001 1140 0000 6869 3604</p>	

LAW OFFICES OF  
**PRIBANIC & PRIBANIC**

*A Limited Liability Corporation*  
1735 LINCOLN WAY  
WHITE OAK, PENNSYLVANIA 15131  
TEL. 412/672-5444

JEFFREY A. PRIBANIC

FAX. 412/672-3715

PITTSBURGH OFFICE  
513 COURT PLACE  
PITTSBURGH, PA 15219  
TEL. 412/281-8844

December 19, 2002

**Sent via Certified Mail**  
**Return Receipt Requested**

Paris Uniform Rental  
67 Hoover Avenue  
DuBois, PA 15801

In Re: **Paris Uniform Rental v. Michael's Cooperage**  
**Common Pleas No.: 02-1826-CD**  
**Our File No.: 5813**

Dear Sir or Madam:

Please find enclosed herein a Notice of Appeal which was filed with the court regarding the above captioned action, along with a copy of Proof of Service of Notice of Appeal and Rule to File Complaint.

Very truly yours,

Jeffrey A. Pribanic

JAP:baf  
Enclosure



COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

JUDICIAL DISTRICT

NOTICE OF APPEAL

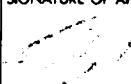
FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No.

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	MAG. DIST. NO. OR NAME OF D.J.		
ADDRESS OF APPELLANT	CITY	STATE	ZIP CODE
DATE OF JUDGMENT	IN THE CASE OF (Plaintiff) (Defendant)		
CLAIM NO.	VS SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT		
CV LT			
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.			
Signature of Prothonotary or Deputy			

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 \_\_\_\_\_, appellee(s), to file a complaint in this appeal  
Name of appellee(s)

(Common Pleas No. \_\_\_\_\_) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

**RULE:** To \_\_\_\_\_, appellee(s).  
Name of appellee(s)

Signature of appellant or his attorney or agent

(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: \_\_\_\_\_

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 TEN (10) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

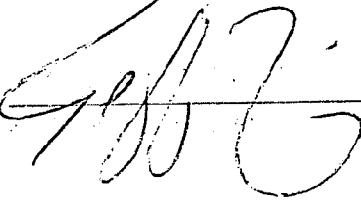
COUNTY OF Clearfield; ss

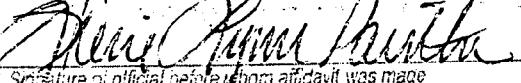
AFFIDAVIT: I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. 02-1826-C1, upon the District Justice designated therein on  
(date of service) 12-19-02  by personal service  by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) Exxis Uniform Rental, on  
December 19, 2002  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 December 9, 2002  by personal service  by (certified) (registered)  
mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS 19 DAY OF Dec. 2002

 Signature of affiant



Signature of official before whom affidavit was made

Notary Public

Title of official

My commission expires on

Notarial Seal	
Sherie Lynn Peeler, Notary Public	
White Oak Borough, Allegheny County	
My Commission Expires Nov. 22, 2003	
Member, Pennsylvania Association of Notaries	

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

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Clearfield; ss

**AFFIDAVIT:** I hereby swear or affirm that I served

a copy of the Notice of Appeal, Common Pleas No. 02-1826-C, upon the District Justice designated therein on  
(date of service) 12-19-02  by personal service  by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) Paris Uniform Rental, on  
December 19, 2002  by personal service  by (certified) (registered) mail, sender's receipt attached hereto.  
 and further that I served the Rule to File a Complaint ~~accord~~ ~~giving the above Notice of Appeal~~ upon the appellee(s) to whom  
the Rule was addressed on December 9, 2002  by personal service  by (certified) (registered)  
mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS 19 DAY OF Dec. 2002

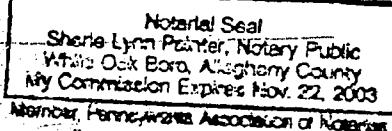
 Signature of affiant

 Signature of official before whom affidavit was made

Notary Public

Title of official

My commission expires on



LAW OFFICES OF  
**PRIBANIC & PRIBANIC**

*A Limited Liability Corporation*  
1735 LINCOLN WAY  
WHITE OAK, PENNSYLVANIA 15131  
TEL. 412/672-5444

JEFFREY A. PRIBANIC

FAX 412/672-3715

PITTSBURGH OFFICE  
513 COURT PLACE  
PITTSBURGH, PA 15219  
TEL. 412/281-8844

December 19, 2002

Sent via Certified Mail  
Return Receipt Requested

District Justice Patrick N. Ford  
309 Maple Avenue  
P.O. Box 452  
DuBois, Pennsylvania 15801

In Re: Paris Uniform Rental v. Michael's Cooperage  
Common Pleas No.: 02-1826-CD  
Our File No.: 5813

Dear Judge Ford:

Please find enclosed herein a Notice of Appeal regarding the above captioned action, along with a copy of Proof of Service of Notice of Appeal and Rule to File Complaint.

Very truly yours,

Jeffrey A. Pribanic

JAP:baf  
Enclosure



FROM

## DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No.

## 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	MAG. DIST. NO. OR NAME OF D.J.		
ADDRESS OF APPELLANT	CITY	STATE	ZIP CODE
DATE OF JUDGMENT	IN THE CASE OF (Plaintiff) (Defendant)		
CLM NO.	VS SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT		
CV	LT		
<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>Signature of Prothonotary or Deputy</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>			

## 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 \_\_\_\_\_, appellee(s), to file a complaint in this appeal  
 Name of appellee(s) \_\_\_\_\_  
 (Common Pleas No. \_\_\_\_\_) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Signature of appellant or his attorney or agent

RULE: To \_\_\_\_\_, 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: \_\_\_\_\_

Signature of Prothonotary or Deputy

COPY TO BE SERVED ON APPELLEE

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

JUDICIAL DISTRICT

46-3-01

NOTICE OF APPEAL

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 46-3-01

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.

Michael's Cooperage

NAME OF APPELLANT

MAG. DIST. NO. OR NAME OF D.J.

1149 Rt. 208, P.O. Box 289, Shippensburg, PA 17254

46-3-01

CITY

STATE

ADDRESS OF APPELLANT

ZIP CODE

DATE OF JUDGMENT

IN THE CASE OF (Plaintiff)

(Defendant)

11/4/02

Paris Uniform Rental

vs. Michael's Cooperage

CLAIM NO.

SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT

CV 560-01

LT

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.

Signature of Prothonotary or Deputy

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.

COPY TO BE SERVED ON DISTRICT JUSTICE

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**I Seiple v. Pitterich, 35 Pa. D. & C.3d 592**

Pages: 4

Source: [My Sources](#) > [Pennsylvania](#) > [Cases](#) > [PA District & County Reports](#) 

Terms: [pitterich and \(1984\)](#) [\(Edit Search\)](#)

35 Pa. D. & C.3d 592, \*; 1984 Pa. D. & C. LEXIS 469, \*\*

**Seiple v. Pitterich**

no. 850

COMMON PLEAS COURT OF MERCER COUNTY, PENNSYLVANIA

35 Pa. D. & C.3d 592; 1984 Pa. D. & C. LEXIS 469

November 20, 1984, Decided

**PRIOR HISTORY:** [\[\\*\\*1\]](#) Petition to reinstate appeal.

**CORE TERMS:** proof of service, notice of appeal, reinstated, prothonotary, failure to comply, reinstate, good cause, reinstatement, five-day, mandatory, striker, mailing, exceptional circumstances, timely notice of appeal, good cause shown, jurisdictional, praecipe

**HEADNOTES:** *Civil appeals -- Appeal from district justice Reinstatement of appeal -- Filing of proof of service -- Timeliness -- Pa.R.C.P.D.J. 1005B -- Five-day requirement -- Proof of service filed one day late -- Appeal reinstated*

Since the five-day requirement for filing proof of service under Pa.R.C.P.D.J. 1005B is not a jurisdictional or mandatory requirement, a party is entitled to have an appeal reinstated despite a failure to comply with Rule 1005B by filing the proof of service of the appeal one day late.

**COUNSEL:** Michael S. Barr, for plaintiff.

Michael P. Pitterich, for defendant.

**JUDGES:** STRANAHAN, P.J.

**OPINIONBY:** STRANAHAN

**OPINION:**

[\[\\*\\*592\]](#) The issue presented by this case is whether appellants, Michael and Warren Pitterich, should have their appeal reinstated to this court despite the fact that they failed to comply with the requirements of Pa.R.C.P.D.J. 1005B by filing the proof of service of the appeal one day late. We believe that appellants' [\[\\*\\*593\]](#) petition should be granted for the following reasons.

The facts in this case reveal that plaintiff Seiple (appellee herein) received a judgment against defendant Pitterich (appellant) before a District Justice on August 1, 1984. On August 23, appellants filed a timely notice of appeal pursuant to Pa.R.C.P.D.J. 1002. On August 29, six days later, they filed proof of service of the notice of appeal and rule in the prothonotary's office pursuant to Pa.R.C.P.D.J. 1005B. However, that rule requires that the proof of service be filed within five days of filing the notice of appeal. Therefore, appellee filed a praecipe to strike the appeal pursuant to Pa.R.C.P.D.J. 1006 for failure to comply with Rule 1005B. [\[\\*\\*2\]](#) The prothonotary struck the appeal, and appellants petitioned the court to reinstate their appeal.

Pa.R.C.P.D.J. 1005B provides that proof of service of notice of appeal from a district justice shall be filed with the prothonotary "within five days after filing the notice of appeal." Rule 1006 provides that for failure to comply with Rule 1005B, the prothonotary shall mark the appeal striker from the record upon the praecipe of the appellee. That rule further states that "the Court of Common Pleas may reinstate the appeal upon good cause shown."

PLAINTIFF'S  
EXHIBIT  
11 E"

The appellee argues that the appeal was properly stricken because Pa.R.C.P.D.J. 1005B should be strictly construed, and because the appellant has not demonstrated "good cause" to reinstate the appeal. She relies on several cases which are essentially on point as to the facts and which hold that an appeal must be stricken for failure to comply with Rule 1005B. n1 However, these cases are no longer [\*594] controlling since the "liberalization" of the Rules of Civil Procedure, Pomerantz v. Goldstein, 479 Pa. 175, 387 A.2d 1280 (1978), and a subsequent change in the language and effect of Pa.R.C.P.D.J. 1006.

- - - - - Footnotes - - - - -

n1 Voynik v. Davidson, 69 D.&C. 2d 267 (1975); Morin et al. v. H & L Developement Co., 25 Bucks Co. L. Rep. 108 (1974); Cluck v. Geigley, 58 D.&C. 2d 429 (1972).

- - - - - End Footnotes - - - - - **[\*\*3]**

Significantly, the cases relied upon by the appellee indicate that strict compliance with Pa.R.C.P.D.J. 1005B was mandatory, Cluck, *supra*. Cases relying on Cluck hold that even a harsh result such as dismissal of the appeal does not overcome the duty of the court to enforce the rule, Voynik v. Davidson, *supra*, note 1, and that mailing of the proof of service is insufficient since the rule states that it must be filed within five days after the appeal, Morin et al. v. H & L Development Company, *supra*, note 1.

However, as noted, these cases were decided prior to Pomerantz v. Goldstein, *supra*, which instructs that sound policy requires the court to overlook procedural errors when a party has substantially complied with the requirements of a rule and no prejudice results. Pomerantz and its progeny, guided by Pa.R.C.P. 126 which permits courts to disregard procedural errors which do not affect substantial rights, counsel that niceties of procedure and pleading should never be used to deny ultimate justice. Cf. Godina v. Oswald, 206 Pa. Super. 51, 211 A.2d 91 (1965).

It is further noted that the cases cited by **[\*\*4]** appellee rely, at least in part, on the official note explaining Pa.R.C.P.D.J. 1006, Striking Appeal, as it was at that time intended. The note then instructed that the rule was intended to provide sanctions for failing to act within the time limits prescribed, and that "(t)he appeal should be reinstated only under exceptional circumstances." However, subsequent to Pomerantz, n2 [\*595] the official note was amended to delete the second sentence requiring "exceptional circumstances" to reinstate an appeal.

- - - - - Footnotes - - - - -

n2 The rule was adopted June 1, 1971, and amended September 22, 1980.

- - - - - End Footnotes - - - - -

Cases since Pomerantz demonstrate that the five-day requirement for filing proof of service under Rule 1005B is not a jurisdictional or mandatory requirement. In Quarato v. Facelifters, Ltd., 305 Pa. Super 536, 451 A.2d 777 (1982), appellant filed a timely notice of appeal along with proof of service stating that the sender's receipts were attached pursuant to Rule 1001(9). However, the receipts were not in fact attached. **[\*\*5]** The court held that since appellees did receive notice of the appeal and rule, justice would be served and the principles enumerated in Pa.R.C.P. 126 would be correctly applied if the appeal were reinstated. In Katsantonis v. Freels, 277 Pa. Super 294, 419 A.2d 778 (1980), the appeal was reinstated although the proof of service was not received by the prothonotary until the sixth day following the appeal. The court held that because Pa.R.C.P. 205.1 endorses service by mail, and because Pa.R.C.P. 126 embodies a policy to construe the rules liberally, there was no reason for a strict interpretation of Pa.R.C.P.D.J. 1005B where no prejudice to appellee was apparent or alleged. n3 Pa.R.C.P.D.J. 1005B is designed to require that service of the appeal be made within five days after the notice of appeal is filed, and to eliminate any dispute **[\*596]** as to whether service was actually made. n4 Pa.R.C.P.D.J. 1006 provides for barring the appeal in the absence of good cause in order to ensure compliance with the requirements that service be made within five days and that the appellant have proof that such service was made.

- - - - - Footnotes - - - - -

n3 See also, Monroe Contract Corp. v. Harrison Square, Inc., 266 Pa. Super 549, 405 A.2d 954 (1979), holding that while willful noncompliance with procedural rules will not be condoned, neither will they be transformed into an offensive weapon designed to strike an otherwise valid claim (there dealing with the verification of pleadings requirement). **[\*\*6]**

n4 Hyde v. Criqler, 10 D.&C. 3d 769 (1979).

- - - - - End Footnotes - - - - -

Failure to file the proof of service of a notice of appeal is obviously not as vital to the appeal process as the filing of the notice itself. The rules recognize this by allowing reinstatement "for good cause shown" (Rule 1006) when there is failure to file the proof of service (Rule 1005B). No such power of reinstatement is granted with respect to the filing of the notice of appeal.

Thus, when an appellant has timely served the notice of appeal and there is no dispute on the issue, none of the

purposes underlying Rule 1005 are served by penalizing the appellant who fails to file the proof of service within five days after filing the notice of appeal. The appellant who establishes that the notice of appeal was timely filed and who has not deliberately ignored the filing requirements of Rule 1005B should not be barred from proceeding with his appeal.

In accordance with the above principles, we believe that appellants have demonstrated "good cause" under Pa.R.C.P.D.J. 1006, and that their appeal should be reinstated. Appellants **[\*\*7]** timely requested that the appeal be reinstated, and they allege that meritorious defenses do exist. n5 The delay in filing the proof of service was due to mailing the document from another county, which is sufficient cause for a one-day delay under Katsantonis v. [\*\*597] Freels, supra. Finally, appellees have shown no prejudice from the delay.

- - - - - Footnotes - - - - -

n5 Eastlick, Administratrix v. Pennsylvania Power Co., 53 D.&C. 2d 779 (1971).

- - - - - End Footnotes - - - - -

## ORDER

And now, November 20, 1984, the appeal in this matter is reinstated.

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Seiple v. Pitterich, 35 Pa. D. & C.3d 592

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 Hyde v. Crigler, 10 Pa. D. & C.3d 769

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10 Pa. D. &amp; C.3d 769, \*; 1979 Pa. D. &amp; C. LEXIS 241, \*\*

Hyde v. Crigler

no. 7304

COMMON PLEAS COURT OF ALLEGHENY COUNTY, PENNSYLVANIA

10 Pa. D. &amp; C.3d 769; 1979 Pa. D. &amp; C. LEXIS 241

June 28, 1979, Decided

**CORE TERMS:** proof of service, notice of appeal, prothonotary, praecipe, mailings, peace, reinstate, notices of appeal, good cause shown, certified mail, return receipt requested, timely notice of appeal, appellants filed, failure to file, properly served, reinstated, mailed

**HEADNOTES:** *Practice -- Appeal from justice of the peace -- Necessity for filing proof of service with prothonotary -- Pa.R.C.P.J.P. 1005(B).*

Where a party has appealed from a judgment of a justice of the peace under Pa.R.C.P.J.P. 1002-1006, has filed a timely notice of appeal and properly served copies of the notice and the rule to file a complaint, but has not complied with the requirement of Rule 1005(B) that proof of service be filed with the prothonotary within five days, apparently because the receipts from the certified mailings had not been returned within that time although their receipt was not prerequisite to filing the proof of service, the court will nevertheless permit the appeal to proceed in the interests of justice since the oversight was not deliberate and since no prejudice resulted to the other party.

**COUNSEL:** [\[\\*\\*1\]](#) Emilio P. Fastuca, for appellants.

Timothy P. Hennessy, for appellee.

**JUDGES:** WETTICK, J.

**OPINIONBY:** WETTICK

**OPINION:** Motion to strike appeal.

**[\*770]** On September 15, 1978, appellants filed an appeal from a judgment entered in favor of appellee by District Justice Adam L. Schillinger. One day later, a copy of the notice of appeal and a rule to file a complaint were mailed to appellee by certified mail, return receipt requested, and another copy of the notice of appeal was mailed by certified mail, return receipt requested, to District Justice Schillinger. Receipts from the certified mailings were returned to appellants approximately ten days later. On September 28, 1978, appellants filed in the Prothonotary's Office of Allegheny County proof of service of the copies of their notices of appeal and of the rule upon appellee to file a complaint, together with receipts showing that the certified mailings were received. Subsequently, appellee filed a praecipe to strike the appeal on the grounds that appellants failed to file proof of service within five days after filing the notice of appeal. Appellants responded by filing a motion to vacate this praecipe and/or to reinstate their appeal. [\[\\*\\*2\]](#)

The procedures for appealing from a justice of the peace judgment are set forth in Pa.R.C.P.J.P. 1002-1006. **[\*771]** Appellants filed a timely notice of appeal with the common pleas court (Rule 1002); they properly served copies of the notice of appeal and the rule upon appellee to file a complaint (Rule 1005). However, appellants did not comply with the requirement of Rule 1005(B) that proof of service be filed with the prothonotary within five days. This rule reads as follows: "B. The appellant shall file with the prothonotary proof of service of copies of his notice of appeal, and proof of service of a rule to file a complaint if required to request such a

PLAINTIFF'S  
EXHIBIT

rule by "Rule 1004B, within five (5) days after filing the notice of appeal."

Failure to comply with the procedures for taking an appeal is governed by Rule 1006 which reads as follows: "Upon failure of the appellant to comply with Rule 1004A or 1005B, the prothonotary shall, upon praecipe of the appellee, mark the appeal stricken from the record. The court of common pleas may reinstate the appeal upon good cause shown." n1

- - - - - Footnotes - - - - -

n1 A note to this rule provides that the rule "is intended to provide sanctions for failing to act within the time limits prescribed. The appeal should be reinstated only under exceptional circumstances."

- - - - - End Footnotes - - - - -

[[\*\*3]]

Appellants' counsel apparently failed to file proof of service within five days after filing the notice of appeal because the return receipts from his certified mailings to appellee and District Justice Schillinger (which were attached to appellants' proof of service filed in the prothonotary's office) were not returned within this five day period. However, the proof of service which is to be filed with the prothonotary within five days after the filing of the notice of appeal is only a sworn, written statement that service has been properly made together [[\*772]] with the sender's receipts for the certified mail attached thereto (Rule 1001(9)); thus there was no need to wait for receipts showing that the mailings were received before filing the proof of service. See Voynik v. Davidson, 69 D. & C. 2d 267, 270 (Beaver, 1975).

Under Rule 1006, this court may, upon good cause shown, permit the appeal to proceed. This rule was considered by the Pennsylvania Superior Court in the case of City of Easton v. Marra, 230 Pa. Superior Ct. 352, 326 A.2d 637 (1974). In this case, an appellant who did not serve the appellee or the justice of the peace or file [[\*\*4]] any proof of service within five days after filing the notice of appeal sought to reinstate his appeal and the Superior Court, affirming the lower court, ruled that an allegation of confusion--which was not supported by appellant's actions--did not establish the requisite "good cause."

The question of striking and/or reinstating an appeal pursuant to Rule 1006 was also considered by common pleas courts in the cases of Cluck v. Geigley, 58 D. & C. 2d 429, 431 (Adams 1972), and Voynik v. Davidson, *supra*.

In the Cluck v. Geigley case, appellant failed to meet the requirements of Rule 1004(B) that he file with his notice of appeal a praecipe requesting the Prothonotary to enter a rule upon appellee to file a complaint within 20 days of service of the rule or the requirements of Rule 1005(B) that proof of service be filed within five days after the filing of the appeal. The court refused to reinstate the appeal stating, "to make exceptions in this procedure now would be unwise even if permissible, and in view of the mandatory character of the rule here [[\*773]] violated we feel that exceptions are impermissible in the absence of fraud or its equivalent: [[\*\*5]] [citation omitted]."

In the Voynik v. Davidson case, the sole deficiency was the failure to file proof of service within five days of service as required by Rule 1005(B) and the court refused to reinstate the appeal stating: "The result may appear to be harsh in this instance. However, we are concerned with a rule of the Supreme Court and are duty bound to enforce it in these circumstances."

The requirement that a notice of appeal and the rule to file a complaint be served promptly upon each appellee promotes the speedy, orderly and just determination of the appeal proceeding; to further such purposes Rule 1005(A) requires the appellant to serve by personal service or registered mail a copy of the notice of appeal and rule (if required) upon each appellee. Rule 1005(A), however, sets no time in which service is to be made. This is governed by Rule 1005(B) which requires the filing with the prothonotary of the proof of service of copies of the notice of appeal and of a rule upon the appellee to file a complaint if required within five days. These requirements of Rule 1005(B) accomplish two purposes: they require that service be made within five days after the filing of the [[\*\*6]] notice of appeal and that proof of service be filed to eliminate any dispute as to whether service was actually made.

The provisions of Rule 1006 that an appellant who has failed to comply with Rule 1005(B) is barred from pursuing the appeal in the absence of good cause shown is necessary to ensure compliance with the requirements that service be made [[\*774]] within five days and that appellant have proof that service was made. However, where an appellant has timely served the notice of appeal and there is no dispute on this issue, none of the purposes of Rule 1005 are furthered by penalizing the appellant who fails to file with the prothonotary proof of service within five days after filing the notice of appeal. The failure to file the proof of service in this situation places no additional burdens on the appellee or the court and to bar this appellant from proceeding with his appeal furthers none of the reasons for Rule 1005's requirements. Therefore, in accordance with the dictates of Pa.R.C.P. 126 that the court "may disregard any error or defect of procedure which does not affect the substantial rights of the parties," we will not bar from proceeding with the appeal the [[\*\*7]] appellant who has receipts establishing that the notices of appeal were timely served and who has not deliberately ignored the filing requirements of Rule 1005(B). n2

- - - - - Footnotes - - - - -

n2 This ruling is not inconsistent with the City of Easton v. Marra, *supra*, and Cluck v. Geigley, *supra*, decisions

because in those cases appellants were not served in accordance with the requirements of Rule 1005. While Voynik v. Davidson, supra, obviously cannot be distinguished, we disagree with this decision because the court did not distinguish between appellant who fails to serve the notices of appeal upon appellee or justice of the peace and appellant who merely fails to file timely proof that service was properly made.

- - - - - End Footnotes - - - - -

## ORDER

On this June 28, 1979, it is hereby ordered that appellee's praecipe to strike appeal is quashed and appellants' appeal is hereby reinstated.

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Hyde v. Crigler, 10 Pa. D. & C.3d 769

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Amy Rabinic  
Court

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PARIS CLEANER'S, INC., t/d/b/a )  
PARIS UNIFORM RENTAL, ) No.: 02-1826-CD  
Plaintiff, )  
v. )  
MICHAEL'S COOPERAGE, )  
Defendant. )

ORDER OF COURT

AND NOW, to wit, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration  
of the foregoing Motion to Reinstate Appeal, it is hereby ORDERED Defendant-Appellant's Appeal  
is hereby reinstated.

BY THE COURT

---

J.

Jeffrey A. Pribanic  
1735 Lincoln Way  
White Oak, PA 15131  
(412) 672-5444  
I.D. No.: 56808

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

PARIS CLEANER'S INC., t/d/b/a  
PARIS UNIFORM RENTAL, )  
Plaintiff, ) No.: 02-1826-CD  
v. )  
MICHAEL'S COOPERAGE, )  
Defendant. )

RULE

AND NOW, this 27<sup>th</sup> day of December, 2002, upon  
consideration of Motion of Counsel for Defendant/Appellant to Reinstate Appeal, a rule is  
hereby entered to show cause why said Motion should not be granted.

Rule Returnable

January 20, 2003

All proceedings to stay meanwhile.

BY THE COURT:

 J.

**FILED**

DEC 27 2002

William A. Shaw  
Prothonotary

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William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PARIS CLEANER'S INC. t/d/b/a,  
PARIS UNIFORM RENTAL,

Plaintiff,

vs.

MICHAEL'S COOPERAGE,

Defendant.

) CIVIL DIVISION

)

) No.: 02-1826-CD

) AFFIDAVIT OF SERVICE

)

) Filed on behalf of

) MICHAEL'S COOPERAGE

) Defendant

)

)

)

) Counsel of Record for this Party

) PRIBANIC AND PRIBANIC, LLC

) JEFFREY A. PRIBANIC

) Pa. I.D. No. 56808

)

) 1735 Lincoln Way

) White Oak, Pennsylvania 15131

)

) (412) 672-5444 BAF

**FILED**

JAN 10 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PARIS CLEANER'S INC., t/d/b/a )  
PARIS UNIFORM RENTAL, )  
Plaintiff, ) No.: 02-1826-CD  
vs. )  
MICHAEL'S COOPERAGE, )  
Defendant. )

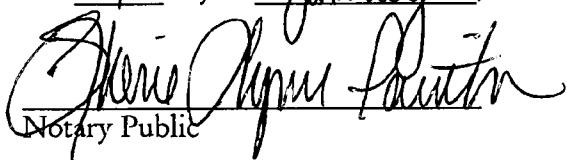
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Before me, the undersigned authority, personally appeared BARBARA FUNK, who deposes and states that on or about December 19, 2002, she caused to be mailed a true copy of Notice of Appeal, and Proof of Service of Notice of Appeal and Rule to File Complaint filed in the captioned action to District Justice Patrick N. Ford, 309 Maple Avenue, P.O. Box 452, DuBois, PA 15801 via Certified Mail, Return Receipt Requested. Said Notice of Appeal and Proof of Service of Notice of Appeal and Rule to File Complaint was received on or about December 23, 2002, by the District Justice as evidenced by the U.S. Post Office Return Receipt, Certified No. 7001 1140 0000 6869 3598 which is attached hereto and made a part hereof.

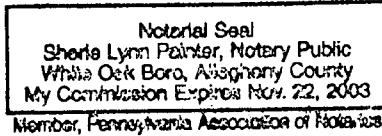


Sworn to and subscribed before me

this 14<sup>th</sup> day of January, 2003.

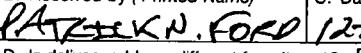
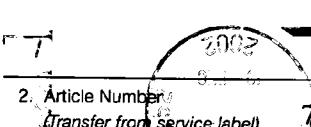


Notary Public



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PARIS CLEANER'S INC., t/d/b/a )  
PARIS UNIFORM RENTAL, )  
Plaintiff, )  
vs. )  
MICHAEL'S COOPERAGE, )  
Defendant. )  
No.: 02-1826-CD

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William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PARIS CLEANER'S INC. t/d/b/a,  
PARIS UNIFORM RENTAL,

Plaintiff,

vs.

MICHAEL'S COOPERAGE,

Defendant.

) CIVIL DIVISION  
)  
) No.: 02-1826-CD  
)  
) AFFIDAVIT OF SERVICE  
)  
)  
) Filed on behalf of  
) MICHAEL'S COOPERAGE  
) Defendant  
)  
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) Counsel of Record for this Party  
) PRIBANIC AND PRIBANIC, LLC  
) JEFFREY A. PRIBANIC  
) Pa. I.D. No. 56808  
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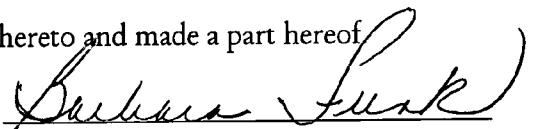
William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PARIS CLEANER'S INC., t/d/b/a  
PARIS UNIFORM RENTAL, )  
Plaintiff, ) No.: 02-1826-CD  
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Defendant. )

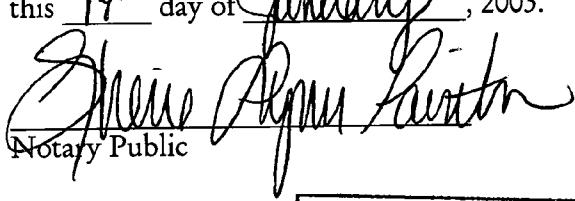
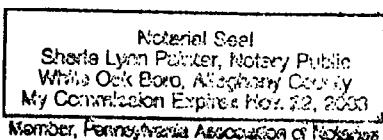
AFFIDAVIT OF SERVICE

Before me, the undersigned authority, personally appeared BARBARA FUNK, who deposes and states that on or about January 8, 2003, she caused to be mailed a true copy of Motion to Reinstate Appeal and Rule Returnable filed in the captioned action to Christopher J. Shaw, Esquire, Corporate Counsel, Paris Cleaner's Inc., 67 Hoover Avenue, DuBois, PA 15801 via Certified Mail, Return Receipt Requested. Said Motion to Reinstate Appeal and Rule Returnable was received on or about January 10, 2003, by Christopher Shaw, Esquire as evidenced by the U.S. Post Office Return Receipt, Certified No. 7001 1140 0000 6870 0845 which is attached hereto and made a part hereof



Sworn to and subscribed before me

this 14<sup>th</sup> day of January, 2003.

  
Sheria Lynn Painter  
Notary Public

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

PARIS CLEANER'S INC., t/d/b/a  
PARIS UNIFORM RENTAL, )  
Plaintiff, )  
vs. ) No.: 02-1826-CD  
MICHAEL'S COOPERAGE, )  
Defendant. )

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1. Article Addressed to:  Christopher J. Shaw, Esquire Corporate Counsel Paris Cleaner's Inc. 67 Hoover Ave. DuBois, PA 15801		<p>3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
2. Article Number (Transfer from service label) 7001 1140 0000 6870 0845			
PS Form 3811, August 2001		Domestic Return Receipt 102595-02-M-0835	

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JAN 18 2003

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Atty Pribanic  
FJD

William A. Shaw  
Prothonotary

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

PARIS CLEANER'S INC., t/d/b/a  
PARIS UNIFORM RENTAL

-vs- : No. 02 - 1826 - CD

MICHAEL'S COOPERAGE

**OPINION AND ORDER**

This matter comes before the Court on Defendant's Motion to Reinstate its Appeal from a District Justice's Judgment. The issue is whether Defendant complied with Rules 1004 and 1005 of the Pennsylvania Rules of Criminal Procedure for District Justices. Here the Defendant timely filed its Notice of Appeal and praeciped to enter rule to file complaint and served timely notice on the Plaintiff. However, service was not made upon the District Justice in a timely fashion and proof of service on both the Plaintiff and the District Justice was not timely filed.

Defendant cites numerous cases in support of his request and Plaintiff relies on Howland v. Perzel, 446 Pa. Super. 648, 667 A.2d 1163 (1995). But this Court distinguishes Howland from the present situation in that in Howland, the District Justice was never notified of the appeal. Here the Notice of Appeal and Proof of Service of said Notice on both the Plaintiff and the District Justice was in fact made. This Court is satisfied that based on the above, the interests of justice require that the appeal be reinstated and the Court therefore enters the following:

**FILED**

JUN 10 2003

William A. Shaw  
Prothonotary

**ORDER**

NOW, this 19<sup>th</sup> day of June, 2003, following argument and briefs into Defendant's Motion to Reinstate Appeal, it is the ORDER of this Court that said Motion be and is hereby granted and the appeal reinstated.

By the Court,

President Judge

**FILED**

1cc Atty J. Ribanic  
1cc Atty C. Shew  
1cc D. Milesell

of 2.3474  
JUN 19 2003

William A. Shaw  
Prothonotary

671

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

PARIS CLEANERS, INC., t/d/b/a :  
PARIS UNIFORM RENTAL :  
: vs. : No. 02-1826-CD  
MICHAEL'S COOPERAGE :  
:

**ORDER**

AND NOW, this 21st day of January, 2004, it is the ORDER of the Court that a status conference in the above matter has been scheduled for Friday, February 6, 2004 at 11:15 A.M. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

**FILED**

JAN 21 2004

William A. Shaw  
Prothonotary/Clerk of Courts

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

FILED 1cc Atlys  
C. Shaw & Philbin  
PO Box 1043  
DuBois, PA 15801  
JAN 2 12004  
William A. Shaw  
Prothonotary/Clerk of Courts

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

CR  
FILED

PARIS CLEANERS, INC., t/d/b/a \*  
PARIS UNIFORM RENTAL, \*  
Plaintiff \*  
\*  
vs. \*  
\*  
MICHAEL'S COOPERAGE, \*  
Defendant \*

FEB 06 2004

William A. Shaw  
Prothonotary/Clerk of Courts

NO. 2002-1826-C.D.

O R D E R

NOW, this 5<sup>th</sup> day of February, 2004, the Court noting that a Status Conference is scheduled for Friday, February 6, 2004; due to the forecasted inclement weather conditions which are to arrive in Clearfield County and surrounding areas sometime tonight, it is the ORDER of this Court that said Status Conference be and is hereby cancelled. Counsel for the parties shall have no more than twenty (20) days from the date of this Order to present the Court with a letter detailing the status of the above captioned action.

By the Court,



FREDRIC J. AMMERMAN  
PRESIDENT JUDGE

FILED

010:57/671  
FEB 06 2004

William A. Shaw  
Prothonotary/Clerk of Courts

2 certified copies to Christopher J. Shaw, Esquire  
2 certified copies to Jeffrey A. Pribanic, Esquire  
1 copy to Judge Ammerman  
1 copy to Court Administrator

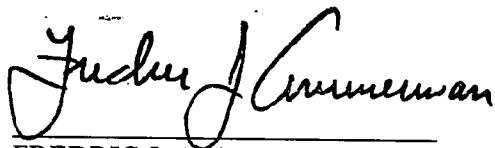
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

PARIS UNIFORM RENTAL, :  
Plaintiff :  
vs. : NO. 2002-1826-CD  
MICHAELS COOPERAGE, :  
Defendant :  
:

**ORDER**

NOW, this 16<sup>th</sup> day of June, 2005, it is the ORDER of this Court that a status conference be scheduled for the 14<sup>th</sup> day of July, 2005, in Chambers at 10:30Am.  
One half hour has been reserved for this conference.

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

**FILED**

JUN 17 2005

68  
William A. Shaw  
Prothonotary/Clerk of Courts

sent to ATTY C. Shaw

J. PRIBANIC

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

PARIS CLEANER'S, INC., t/d/b/a :  
PARIS UNIFORM RENTAL, :  
Plaintiff :  
VS. : NO. 02 - 1826 - CD  
MICHAEL'S COOPERAGE, :  
Defendant :  
:

**PRAECIPE TO SETTLE DISCONTINUE & END**

TO: William A. Shaw, Prothonotary

Please mark the above captioned matter settled, discontinued and ended. Plaintiff & Defendant have reached an amicable resolution of the matter. All costs associated with the action have been paid.

6/30/05  
Date

Christopher J. Shaw  
Christopher J. Shaw, Esquire  
Corporate Counsel  
Paris Cleaner's, Inc.  
67 Hoover Avenue, P.O. Box 1043  
DuBois, PA 15801  
(814) 375 - 9700 ext. 706

No  
FILED Disc. to Atty  
7/1/1981 (none requested)  
JUL 05 2005 Copy to CIA  
William A. Shaw Copy to Judge  
Prothonotary/Clerk of Courts Annex  
per atty's request  
(CR)

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

**Paris Uniform Rental**

Vs. No. 2002-01826-CD  
**Michaels Cooperage**

**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 July 5, 2005, marked:

Settled, Discontinued and Ended

Record costs in the sum of \$85.00 have been paid in full by Pribanic & Pribanic.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 5th day of July A.D. 2005.

*William A. Shaw*  **COPY**