

03-348-CD  
GREGG L. BARRETT - LVS - MACK TRUCKS, INC.

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

GREGG L. BARRETT, an  
individual,

Plaintiff,

vs.

MACK TRUCKS, INC., a  
corporation,

Defendant.

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No. 03 - 348 - CD

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Type of Pleading:

\*

**COMPLAINT**

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\*

Filed on behalf of:

\* Plaintiff

\*

\* Counsel of Record for  
this party:

\*

\*

\* James A. Naddeo, Esq.

\* Pa I.D. 06820

\*

\* 211 1/2 E. Locust Street

\* P.O. Box 552

\* Clearfield, PA 16830

\* (814) 765-1601

**FILED**

MAR 12 2003

William A. Shaw  
Prothonotary

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

GREGG L. BARRETT, an \*  
individual, \*  
Plaintiff, \*  
\*  
vs. \* No. 03 - - CD  
\*  
\*  
\*  
\*  
MACK TRUCKS, INC., a  
corporation, \*  
Defendant. \*

N O T I C E

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 judgment 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.

COURT ADMINISTRATOR  
Clearfield County Courthouse  
Market and Second Streets  
Clearfield, PA 16830

(814) 765-2641, ext. 5982

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

GREGG L. BARRETT, an \*  
individual, \*  
Plaintiff, \*  
\*  
vs. \* No. 03 - - CD  
\*  
MACK TRUCKS, INC., a \*  
corporation, \*  
Defendant. \*

C O M P L A I N T

NOW COMES the Plaintiff, GREGG L. BARRETT, and by his attorney, James A. Naddeo, Esquire, sets forth the following:

1. That the Plaintiff is Gregg L. Barrett, an adult individual, who resides at 5 Capricorn Court, Clearfield, Pennsylvania 16830.
2. That the Defendant is Mack Trucks, Inc., a corporation believed to have its principal place of business in the Commonwealth of Pennsylvania located at 2100 Mack Blvd., Allentown, Pennsylvania 18103.
3. That at all times referred to herein, W.W. Engine & Supply, Inc., was an authorized dealer for the Defendant, Mack Trucks, Inc.
4. That on October 24, 1997, the Plaintiff purchased a new 1998 Mack Truck, Model #C1713, Serial #1M2AD62C2WW006080, Engine #E7 460 701499 (hereinafter referred to as the "Truck")

for the sum of \$103,295.85 from W.W. Engine & Supply, Inc., DuBois, Pennsylvania, as appears from the invoice attached hereto as Exhibit "A".

5. That contemporaneously with the purchased of the Truck referred to in Paragraph 4 hereof which is incorporated herein by reference, Plaintiff received an express warranty from the Defendant titled "Pedigreed Protection Plan No. TS46897". A copy of said warranty is attached hereto as Exhibit "B".

6. That in accordance with the Pedigreed Protection Plan referred to in Paragraph 5 hereof which is incorporated herein by reference, the Truck purchased by Plaintiff provided warranty coverages and limitations in part as follows:

	<u>Months</u>	<u>Miles</u>	<u>Kilometers</u>
SCHEDULE 3. MACK TRANSMISSIONS 5,6,9, 10, 13, 18 Speed Only	60	500,000	805,000
SCHEDULE 4. MACK AXLES Rear Carriers and Housing	60	500,000	805,000

7. That in December 2000 the front rear end housing of Plaintiff's Truck cracked.

8. That Plaintiff took the Truck to Defendant's authorized dealer, W.W. Engine & Supply, Inc., DuBois, Pennsylvania, which dealer informed Plaintiff that the housing was not warranted and refused to repair the crack.

9. That Plaintiff at his own expense was required to have the front rear end housing welded by Vince Centra Truck

Repair at a cost of \$866.90 as appears from the invoice attached hereto as Exhibit "C".

10. That on or about February 10, 2002, the front rear end housing cracked a second time necessitating a second repair by Vince Centra Truck Repair at a cost of \$437.90, which repair was also paid by Plaintiff. A copy of said invoice is attached hereto as Exhibit "D".

11. That on or about June 10, 2002, the Truck's front rear end housing cracked a third time.

12. That Plaintiff contacted the Defendant and demanded that the housing be replaced at which time he was informed by Defendant's representative that Defendant would not honor its warranty because Plaintiff had failed to go through the proper procedures.

13. That on June 10, 2002, the front rear end housing was replaced by Vince Centra Truck Repair at a total cost of \$1,865.79, which amount was paid by Plaintiff. A copy of said invoice is attached hereto as Exhibit "E".

14. That on or about July 12, 2002, the back rear end of the vehicle malfunctioned.

15. That Plaintiff contacted the Defendant as well as its authorized dealer, W.W. Engine & Supply, Inc., DuBois, Pennsylvania, and was informed that W.W. Engine & Supply, Inc., would repair the back rear end of the vehicle under warranty if

they deemed the failure to be under warranty but would not return the vehicle to Plaintiff unless Plaintiff paid W.W. Engine & Supply, Inc., to repair the front rear end which Plaintiff believes and therefore avers was under warranty in December 2000 at which time the front rear end was repaired by W.W. Engine & Supply, Inc.

16. That Defendant's response as well as that of its authorized dealer, W.W. Engine & Supply, Inc., caused Plaintiff to have the back rear end repaired by Vince Centra Truck Repair at a cost of \$1,780.25, which amount has been paid by Plaintiff. A copy of said invoice is attached hereto as Exhibit "F".

17. That in addition to the failure of the rear rear end, the transmission of the Truck also failed in July 2002.

18. That Plaintiff contacted the Defendant as well as its authorized dealer, W.W. Engine & Supply, Inc., concerning the failure of the Truck's transmission and was informed by W.W. Engine & Supply, Inc., as well as the Defendant, Mack Trucks, Inc., that the transmission would be repaired under warranty provided Defendant believed the failure was covered by its warranty and further informed Plaintiff that his Truck would not be repaired unless he paid for the earlier repair done to the front rear end of the Truck by W.W. Engine & Supply, Inc., which repair Plaintiff believes and therefore avers was under warranty

in December 2000 at which time the front rear end was repaired by W.W. Engine & Supply, Inc.

19. That Defendant's response as well as that of its authorized dealer, W.W. Engine & Supply, Inc., caused Plaintiff to have the transmission repaired by Vince Centra Truck Repair at a cost of \$4,726.27, which amount has been paid by Plaintiff. A copy of said invoice is attached hereto as Exhibit "G".

20. That on or about January 24, 2002, the rear rear housing of the vehicle cracked.

21. That the rear rear housing has not been repaired.

22. That an estimate to repair the rear rear housing has been prepared by Vince Centra Truck Repair at a cost of \$3,488.34. A copy of said estimate is attached hereto as Exhibit "H".

23. That on each occasion referred to herein when components of the Truck failed, said Truck was less than 60 months old and the mileage was less than 500,000.

24. That Defendant's failure to comply with the express warranty given to Plaintiff has caused Plaintiff to incur repair costs in the total amount of \$9,677.11.

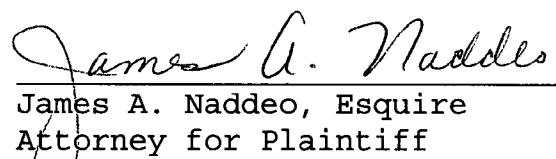
25. That the total down time of the vehicle occasioned by the repairs identified herein was 39 days.

26. That net earnings of said Truck per day averaged \$300.00.

27. That Plaintiff lost the sum of \$11,700.00 for the  
Truck's down time.

WHEREFORE, Plaintiff claims damage against Defendant  
in the amount of 21,377.11.

Respectfully submitted,

  
James A. Naddeo  
James A. Naddeo, Esquire  
Attorney for Plaintiff

# W.W. ENGINE

& SUPPLY, INC. Five Locations: Bedford • Dubois • Kylertown • Shippenville • Somerset



SOLD TO: GREGG BARRETT  
 ADDRESS: P.O. BOX 23  
 KERRMORE ROAD  
 DATE: NEW MILLPORT, PA 16861  
 OCTOBER 24, 1997

SHIP TO:

NO. 1415

	Year	Make	New or Used	Model or Series	Serial Number	Engine Number
Vehicle Sold	1998	MACK	NEW	CL713	1M2AD62C2WW006080	E7 460 701499
Trade In	NONE					
Vehicle Sold						
Trade In						
Vehicle Sold						
Trade In						

## CONDITIONS OF SALES & DELIVERY

### DEALER'S WARRANTIES AND/OR REPRESENTATIONS:

We, the Dealer, shall not be liable to you, the purchaser, for any consequential damages, damages to property, damages for loss of time, loss of profits, or income or any other incidental damages arising out of the sale or use of this vehicle.

We are not a party to any manufacturer's or other third party warranty applicable to this vehicle but may be a representative for purposes of service or repairs under such warranty.

### IF THIS IS A USED VEHICLE:

This vehicle is sold "as is" by us. We hereby expressly disclaim all warranties, either express or implied, including any implied warranties or merchantability or fitness for a particular purpose and neither assume nor authorize any other person to assume for us any warranty liability in connection with the sale of the vehicle. Except for any manufacturer's or other express warranty which may exist on the vehicle, the entire risk as to the quality and performance of the vehicle is with you, the buyer, and should the vehicle prove defective following purchase, you will assume the entire cost of all servicing and repair.

VEHICLE ACCEPTED BY:  
 COPY OF INVOICE-BILL OF SALE RECEIVED BY:

X Gregg Barrett

Selling Price	103,295.85
FRET	11,765.74
Other	
SUBTOTAL (1)	115,061.59
Document Fees	40.00
Tire Tax	10.00
License & Title	861.50
Sales Tax	EXEMPT
Other	
SUBTOTAL (2)	911.50
TOTAL (1+2)	115,973.09
Trade Allowance (Less Payoff)	
Deposit	3,000.00
Amount Financed	112,061.59
Cash Due	
	911.50

# PEDIGREA PROTECTION PLAN

# PEDIGREA PROTECTION PLAN



TS46897

TS46897 25M 6/96

# WARRANTY COVERAGES AND LIMITATIONS: All Coverage is 100% Parts and Labor

VEHICLE APPLICATIONS: A, B		Hours	Months	Miles	Kilometers
<b>SCHEDULE 1. BASIC VEHICLE* (Includes Roadside Assistance and Towing for warrantable failures.**)</b>		12	100,000	161,000	
Clutch Lining, Brake Lining and Brake Drums are covered for 12 months or 25,000 miles/40,000 kilometers only.					
** Roadside Assistance and Towing coverage does not apply to vendor engines, transmissions and axles.					
<b>SCHEDULE 2. MACK DIESEL ENGINE</b>		10,800 12,500	36 60	300,000 500,000	483,000 805,000
Standard Warranty	Camshaft Forging Valve Lifters Intake Manifold Casting Flywheel Housing Gear Cover Engine Gears				
Major Components:	Cylinder Block Casting Main Bearing Bolts Cylinder Head Castings Cylinder Head Capscrews Crankshaft Forging Con-Rod & Cap Forging Con-Rod Capscrews				
Coverage also applies to consumables such as lubricant, antifreeze, filter elements, belts, hoses and similar maintenance items not reusable and replaced directly as result of warrantable engine, carrier or transmission failure.					
Components not manufactured by Mack Trucks, Inc., but used on Mack diesel engine assemblies are excluded from the coverage in Schedule 2. These components are covered by the component manufacturer's warranty in effect at the time of delivery. Consult your local Mack service facility for details.					
<b>SCHEDULE 3. MACK TRANSMISSIONS</b>	<u>5, 6, 9, 10, 13, 18 Speed Only</u> All Others	— —	60 36	500,000 300,000	805,000 483,000
<b>SCHEDULE 4. MACK AXLES</b>					
Rear Carriers and Housing Rear Carrier Seals, Gaskets and Front I-Beam S65 Bogie and Carrier, Regardless of Carrier Model					
<b>SCHEDULE 5. Trunnion Bracket and Spindle, Suspension Trunnion (except Bushings).</b>					
<b>SCHEDULE 6. FRAMES: SIDE RAILS AND CROSSMEMBERS</b>					
<b>SCHEDULE 7. CAB STRUCTURE</b>					
<b>SCHEDULE 8. CAB CORROSION</b>					
Coverage applies to perforation (an actual hole in the cab panel) due to corrosion. Coverage does not apply to corrosion caused by damage to paint finish.					
<b>SCHEDULE 9. Components not manufactured by Mack Trucks, Inc. may have warranty coverage different from the above as they are covered by the manufacturer's warranty. Consult your local Mack sales facility for details.</b>					

VINCE CENTRA TRUCK REPAIR

HCO-1 BOX 53A  
CLIBURNVILLE PA 16833

WILKESVILLE, OHIO  
(814) 236-0991

Name George Bennett  
Address Cuprona Ct. Lot 5

ESTIMATES FOR LABOR ONLY-  
MATERIAL ADDITIONAL

## REPAIR ORDER

VINCE CENTRA TRUCK REPAIR HCO-1 BOX 53A CURWENSVILLE, PA 16833 (814) 236-0991					
Name <u>Gregg Bennett</u>		Address <u>Cupramon G. Lot 5 Clev</u>		Phone No. _____ Date <u>12-14-01</u>	
QTY	PART NO.	NAME OF PART	SALE AMT.	Vin No.	
2	718718	U 80115	24.00	006080	
1	1" x 3" x 3"	Alum. Pipe	36.00		
24		Alum. Weld Pipe	30.00		
<u>Changed oil in front, back tanks</u>					
<u>Replaced heat shield in bed</u>					
<u>Weld front rear fenders</u>					
ACCESSORIES					
		AMOUNT	Total Labor	137.70	
		60.11 1759	Total Parts	90.00	
TOTAL PARTS		90.00	Environmental Charges		
10 Gals. Gas W/ @		82.00	Gas, Oil, Grease	82.00	
Ots. Oil @			Accessories		
Lbs. Grease @			Tires, Tubes		
Total Gas-Oil-Grease		82.00	Total Accessories:	537.20	
			Sublet Repairs	557.20	
			Shop/Misc.		
			TOTAL	366.90	
			TAX		
Work Authorized by _____		Date Promised _____	TOTAL AMOUNT <u>366.90</u>		
Delivered to _____		Date Delivered _____			
I hereby authorize the above repair work to be done along with the necessary material, and hereby grant you and/or your employees permission to operate the car, truck or vehicle herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above car, truck or vehicle to secure the amount of repairs thereto.					

I hereby authorize the above employees permission to do any amount of testing and/or inspection and/or amount of repairs thereto.

ve repair work to be done along with the necessary material, and hereby grant you and/or your  
operator the car, truck or vehicle herein described on streets, highways or elsewhere for the purpose  
1. An express mechanic's lien is hereby acknowledged on above car, truck or vehicle to secure the

Shop/Misc.  
TOTAL

866 90

Work Authorized by

ARO-666-3  
PRINTED IN U.S.A.

**EXHIBIT "C"**

VINCE CENTRA TRUCK REPAIR

HCO-1 BOX 53A  
CURWENSVILLE, PA 16833  
(814) 236-0991

Name George Bassett  
Address 1111 Pinewood Avenue Los

## REPAIR ORDER

ESTIMATES FOR LABOR ONLY-  
MATERIAL ADDITIONAL

I hereby authorize the employees permission of testing and/or inspection amount of repairs there.

I hereby authorize the above repair work to be done along with the necessary material and hereby grant you and/or your employees permission to operate the car, truck or vehicle herein described on streets, highways or elsewhere for the purposes of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above car, truck or vehicle to secure the amount of repairs thereto.

EXHIBIT "D"

# VINCE CENTRA TRUCK REPAIR

HCO-1 BOX 53A  
CURWENSVILLE, PA 16833  
(814) 236-0991

Name Greys Branch  
Address Copy 2005 1st C 1 Rd  
Phone No. \_\_\_\_\_ Date 6/10/02  
Odometer Reading \_\_\_\_\_

## REPAIR ORDER

ESTIMATES FOR LABOR ONLY  
MATERIAL ADDITIONAL

QTY	PART NO.	NAME OF PART	SALE AMT.	MAKE AND MODEL	LICENSE NO. AND STATE	MOTOR NO.
1	1110844234	Brake 1757	3476.45	93 Mack		
2	42672	Seal	84.14			
1	11M5164444	Brake	38.17			
1	11M5164400	Brake	44.87			
1	47679	Brake	50.46	Replace front bearing wheel		
1	47670	Brake	40.15	Replace front bearing wheel		
1	36419	Brake	15.74	(Front wheel) front bearing		
10	36401	Front Nut	8.42	Stainless		
10	39707	Front Bushing	6.72			
1	652018	Steering Kit	11.13			
15	76212444	Steering Ch. P.	94.33			
2		Washer	1.00			
8	200X400	Nut	2.352			
4	7651539	Silicone	23.56			
1	361	Front Nut	1.33	Accessories	AMOUNT	Total Labor
						504.70
				1.87 and 1.94	30.00	Total Parts
						3941.45
3	Gals. Gas <sup>100</sup> @		3941.45	Environmental		
3	Gals. Oil <sup>10</sup> @		45.89	Charges		
0	Ots. Oil <sup>0</sup> @			Gas, Oil, Grease	45.89	
0	Lbs. Grease <sup>0</sup> @			Accessories	50.00	
	Total Gas-Oil-Grease	45.89	Total Accessories:	Tires, Tubes		
			50.00	Sublet Repairs		
				Shop/Misc.		
				TOTAL	4512.24	
					1200.00	(26.72 - 45.89)
	Work Authorized by _____		Date Promised _____		TOTAL AMOUNT	1865.79
	Delivered to _____		Date Delivered _____			

ARO-666-3  
PRINTED IN U.S.A.

ESTIMATES FOR LABOR ONLY-  
MATERIAL ADDITIONAL

## REPAIR ORDER

VINCE CENTRA TRUCK REPAIR

HCO-1 BOX 53A

JENSVILLE, PA 16881  
(814) 236-0991

Name Gregg Burnett

Address Cupicron G Lot 5 C/14

3

## Odometer Reading

Opus No. Vin

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QTY	PART NO.	NAME OF PART	SALE AMT/IT
11	272-2	BOLTS	22

Replace floating value (standard)

ACCESSORIES AMOUNT Total Labor

22 95 Rebuilt Power 13000 Total Parts Environmental Charges 37 95 Gas, Oil, Grease 37 95

3795	Total Accessories:	1980.00	Tires, Tubes
with the necessary materials and hardware to fit your GMC Astro	Sublet Repairs	1980.00	

1 hereby authorize the above named repair work to be done along with the necessary materials and hereby grant you the right to do such work on my vehicle for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above car, truck or vehicle to secure the amount of repairs thereto.

Work Authorized by \_\_\_\_\_ Date Promised \_\_\_\_\_

EXHIBIT "F"

ESTIMATES FOR LABOR ONLY-  
MATERIAL ADDITIONAL

## REPAIR ORDER

VINCE CENTRA TRUCK REPAIR

HCO-1 BOX 53A  
CURWENSVILLE, PA 16833  
(814) 236-0991

Name Gregg Barrera  
Phone No.  
Address Capronn G. Lot 5

Total Gas-Oil-Grease	38.00	Total Accessories:	36.41
I hereby authorize the above repair work to be done along with the necessary material and hereby grant you and/or your employees permission to operate the car, truck or vehicle herein described on streets, highways or elsewhere for the purposes of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above car, truck or vehicle to secure the amount of repairs thereto.			

Work Authorized by \_\_\_\_\_

PRINTED IN U.S.A.  
ARO-666-3

EXHIBIT "G"

## REPAIR ORDER

ESTIMATES FOR LABOR ONLY  
MATERIAL ADDITIONAL

## VINCE CENTRA TRUCK REPAIR

HCO-1 BOX 53A  
CURWENSVILLE, PA 16833  
(814) 236-0991Name Gregg BarrettAddress Capricorn Ct 1015 Cif

Phone No. \_\_\_\_\_ Date \_\_\_\_\_

Odometer  
ReadingVin  
No.

QTY	PART NO.	NAME OF PART	SALE AMT.	MAKE AND MODEL	LICENSE NO. AND STATE	MOTOR NO.				
				OPERATION NUMBER	INSTRUCTIONS				AMOUNT	
1		Axle hsg	26000.00	MACK						
4	70K2174A	SPRING clips	90.60	LUBRI-CATE	<input type="checkbox"/> CHANGE OIL	<input type="checkbox"/> TRANS.	<input type="checkbox"/> DIFF	<input type="checkbox"/> WASH	<input type="checkbox"/> POLISH	
8	64RU22394	SPACER	27.19							
8	21AX4012	NUT	23.52							
8	400027462002	7/8 washer	2.87							
4	765-1589	Silicone	23.56							
1	Misc	Bolt, nut washer	45.00							
				Replace back rear end housing						
				ACCESSORIES	AMOUNT	Total Labor <u>642.60</u>				
						Total Parts <u>2807.74</u>				
TOTAL PARTS <u>2807.74</u>						Environmental Charges				
Gals. <u>90WT</u> @ <u>2.10</u>			<u>38.00</u>			Gas, Oil, Grease <u>38.00</u>				
Qts. Oil @						Accessories				
Lbs. Grease @						Tires, Tubes				
Total Gas-Oil-Grease <u>38.00</u>						Sublet Repairs				
				Total Accessories:		Shop/Misc.				
						TOTAL <u>3488.34</u>				
						TAX				
						TOTAL AMOUNT <u>3488.34</u>				
I hereby authorize the above repair work to be done along with the necessary material, and hereby grant you and/or your employees permission to operate the car, truck or vehicle herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above car, truck or vehicle to secure the amount of repairs thereto.										
Work Authorized by _____				Date Promised _____						
Delivered to _____				Date Delivered _____						

AFQ-666-3  
PRINTED IN U.S.A.

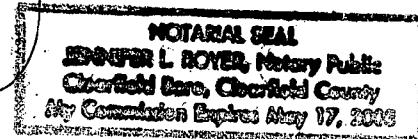
COMMONWEALTH OF PENNSYLVANIA )  
ss.  
COUNTY OF CLEARFIELD )

Before me, the undersigned officer, personally appeared GREGG L. BARRETT, who being duly sworn according to law, deposes and states that the facts set forth in the foregoing COMPLAINT are true and correct to the best of his knowledge, information and belief.

Gregg L. Barrett  
Gregg L. Barrett

SWORN and SUBSCRIBED before me this 24th day of January, 2003.

Jennifer L. Royer



**JAMES A. NADDEO**  
ATTORNEY AT LAW,  
211½ EAST LOCUST STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

**FILED**

01/31/03 3416H  
MAR 12 2003

ICC Atty Naddoo  
Atty pd. 85.00

William A. Shaw  
Prothonotary

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

GREGG L. BARRETT, an  
individual,

Plaintiff,

vs.

MACK TRUCKS, INC., a  
corporation,

Defendant.

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\* No. 03 - 348 - CD

\* Type of Pleading:

\* CERTIFICATE OF SERVICE

\* Filed on behalf of:

\* Plaintiff

\* Counsel of Record for  
this party:

\* James A. Naddeo, Esq.

\* Pa I.D. 06820

\* 211 1/2 E. Locust Street

\* P.O. Box 552

\* Clearfield, PA 16830

\* (814) 765-1601

**FILED**

APR 21 2003

William A. Shaw  
Prothonotary

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

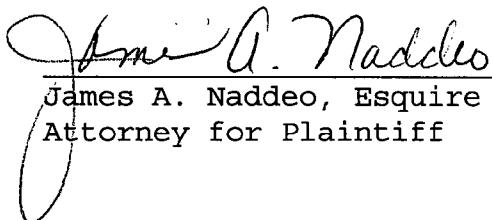
GREGG L. BARRETT, an \*  
individual, \*  
Plaintiff, \*  
\*  
vs. \* No. 03 - 348 - CD  
\*  
MACK TRUCKS, INC., a \*  
corporation, \*  
Defendant. \*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Notice of Default filed in the above-captioned action was served on the following person and in the following manner on the 21st day of April, 2003:

First-Class Mail, Postage Prepaid

Mack Trucks, Inc.  
2100 Mack Blvd.  
Allentown, PA 18103

  
James A. Naddeo, Esquire  
Attorney for Plaintiff

**JAMES A. NADDEO**  
ATTORNEY AT LAW  
211½ EAST LOCUST STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

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IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

GREGG L. BARRETT, an individual :  
Plaintiff, : Civil Division  
vs. :  
MACK TRUCKS, INC., a corporation, : Docket No. 03-348-CD  
Defendant. :

**ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Kindly enter our appearance on behalf of the Defendant Mack Trucks, Inc. in the  
above-captioned action.

MITCHELL, MITCHELL, GRAY & GALLAGHER

A professional corporation.

BY:



C. Edward S. Mitchell  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

ID#07222

**FILED**

APR 28 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

GREGG L. BARRETT, an individual :  
Plaintiff, : Civil Division  
vs. :  
: Docket No. 03-348-CD  
MACK TRUCKS, INC., a corporation, :  
Defendant. :

**CERTIFICATE OF SERVICE**

C. EDWARD S. MITCHELL hereby certifies that he served a copy of the foregoing Entry of Appearance on the following, via U.S. First Class Mail, postage prepaid, this 24<sup>th</sup> day of April, 2003:

James A. Naddeo, Esquire  
211 1/2 E. Locust Street  
PO Box 552  
Clearfield, PA 16830

MITCHELL, MITCHELL, GRAY & GALLAGHER  
A professional corporation.

BY:



C. Edward S. Mitchell  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

ID#07222

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

GREGG L. BARRETT, an individual :  
Plaintiff, : Civil Division  
vs. :  
MACK TRUCKS, INC., a corporation, :  
Defendant. : Docket No. 03-348-CD

**NOTICE TO PLEAD**

TO: Plaintiff  
c/o James A. Naddeo, Esquire  
211 ½ E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830

You are hereby required to plead to the within New Matter within twenty (20) days from the date of service hereof.

NOTE: You are hereby warned that if you fail to plead as notified and required the action will proceed without you and you will be liable to have a judgment entered against you in your absence.

MITCHELL, MITCHELL, GRAY & GALLAGHER  
A professional corporation

  
C. Edward S. Mitchell - I.D. #07222  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
Telephone: (570) 323-8404  
Fax: (570) 323-8585

**FILED**

MAY 27 2003

William A. Shaw  
Prothonotary

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

GREGG L. BARRETT, an individual :  
Plaintiff, : Civil Division  
vs. :  
MACK TRUCKS, INC., a corporation, :  
Defendant. : Docket No. 03-348-CD

**ANSWER AND NEW MATTER OF MACK TRUCKS, INC.**

1. After reasonable investigation, Defendant is without knowledge of information sufficient to form a belief as to the truth of the averments contained in paragraph one.
2. Admitted.
3. Admitted.
4. Admitted in part and denied in part. By way of further answer, records of Defendant indicate that on October 24, 1997, a 1998 Mack Truck, chassis model number CL713, serial number 1M2AD62C2WW006080, engine model number E7-460, serial number E701499 was delivered to Greg Barrett. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph four.
5. Denied. On the contrary, upon information and belief an express warranty titled "Pedigreed Protection Plan Number TS46898" was delivered to Plaintiff in connection with the sale of the vehicle which is the subject of this litigation. A true and correct copy of the language of the Pedigreed Protection Plan TS46898 is attached hereto, marked Exhibit "Defendant A" and incorporated herein by

reference.

6. Denied. On the contrary, the language of the applicable warranty is contained in Exhibit "Defendant A", attached hereto and incorporated herein by reference.
- 7-8. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraphs seven and eight. By way of further answer, Defendant has no record indicating a warranty claim has been made to Defendant for a December 2000 front rear end housing crack.
9. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 9.
10. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 10. By way of further answer, Defendant has no record indicating a warranty claim has been made to Defendant for a February 10, 2002, front rear end housing crack.
11. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 11.
12. Denied. By way of further answer, Defendant has no record of a warranty claim to Defendant for a June 10, 2002, front rear end housing crack, no record of being contacted by Plaintiff at such time and no knowledge of the identification of Defendant's representative who addressed warranty information with Plaintiff.
13. After reasonable investigation, Defendant is without knowledge or information

sufficient to form a belief as to the truth of the averments contained in paragraph 13.

14. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 14.

15-16. Denied. Defendant has no record of a warranty claim to Defendant for a July 12, 2002, back rear end malfunction and no record of being contacted by or responding to Plaintiff at that time. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraphs 15 and 16.

17. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 17.

18-19. Denied. Defendant has no record of a warranty claim to Defendant for a July 2002 transmission failure and no record of being contacted by or responding to Plaintiff at that time. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraphs 18-19.

20-22. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 20-22. By way of further answer, Defendant has no record of a warranty claim to Defendant for a January 24, 2002, rear rear housing crack.

23. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph

23.

24. Denied. By way of further answer, Defendant has no record of warranty claims to Defendant for the failures claimed by Plaintiff herein.

25-27. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraphs 25-27. By way of further answer, said damages would be beyond those covered by the express warranty as set forth in Exhibit "Defendant A" attached hereto and incorporated herein by reference.

WHEREFORE, Defendant requests judgment in its favor.

#### **NEW MATTER**

28. The terms and conditions of the express warranty between Plaintiff and Defendant are set forth in Exhibit "Defendant A", pages one through fifteen, a true and correct copy of which is attached hereto and incorporated herein by reference.

29. Said warranty provides in part inter alia as follows:

"Mack Trucks, Inc. (the "Manufacturer") warrants each new Mack motor vehicle (the "Vehicle") sold by it or by any of its authorized new truck sales facilities to be free from defects in material or workmanship under normal use and service, its obligation under this warranty being limited to repairing or replacing, as hereinafter provided, at its option, at the Manufacturer's authorized truck repair facility any part or parts of the Vehicle found to the Manufacturer's satisfaction to be defective upon examination by it, provided that such part or parts be returned to the Manufacturer's factor or to its nearest authorized truck repair facility. In accordance with the

Manufacturer's published policies, the Manufacturer's authorized truck repair facility is authorized to use only Genuine Mack or Mack Approved parts, purchased from the Manufacturer, in performance of warranted repairs, except where such parts are not available."

30. All or portions of Plaintiff's claim are outside the language of the warranty because they go beyond repairing or replacing alleged defective parts and/or because warranty claims have not been made in accordance with the requirements of the warranty language.
31. A list of items not covered by warranty appears on page 12 of the warranty language contained in Defendant A attached hereto and incorporated herein by reference.
32. Upon information and belief, all or portions of Plaintiff's claims are not covered by the warranty because they do not result from normal use and service and/or because they are items not covered by the warranty.
33. Based upon records of Defendant, Plaintiff has not given Defendant notice of the claims which Plaintiff makes in this litigation.
34. The damages which Plaintiff may recover, assuming a breach of warranty, which is denied, have been limited and/or excluded by the terms of the warranty in accordance with Pa.C.S.A. § 2719.
35. Assuming recovery, which is denied, Plaintiff's damages are limited and/or excluded to those permitted by the language of the express warranty.
36. Plaintiff's claims may be limited by the language of page seven of the warranty pertaining to misuse, negligence or accident and/or alterations or repairs outside

of the factory.

37. All or portions of Plaintiff's claims may be barred by applicable statutes of limitations contained in the sales documents, warranty documents and/or applicable statutes.

MITCHELL, MITCHELL, GRAY & GALLAGHER

A professional corporation.

BY: 

C. Edward S. Mitchell

ID#07222

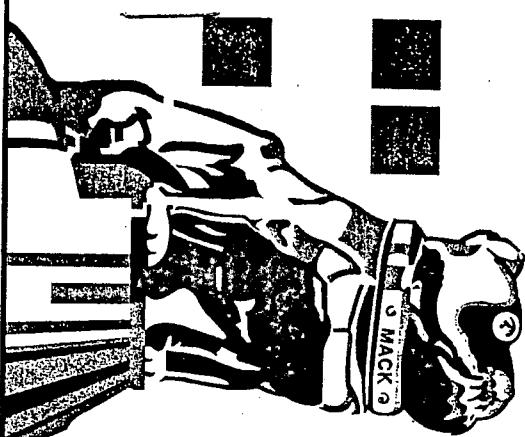
Attorney for Defendant

10 West Third Street

Williamsport, PA 17701

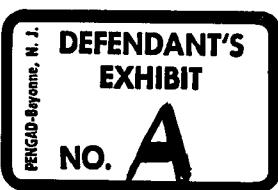
Telephone: 570-323-8404

Facsimile: 570-323-8585



## PEDIGREAED PROTECTION PLAN

## PEDIGREAED PROTECTION PLAN



TS46898 25M 7/97

TS46898

**PEDIGREED**

**PROTECTION**

**PLAN**

**TS46898**

# NOTICE TO PURCHASER



## WARRANTY REGISTRATION INFORMATION

Before the vehicle is delivered to the customer, the selling dealer should fill in the information below.

Vehicle Model: \_\_\_\_\_

Vehicle Identification Number (VIN): \_\_\_\_\_

In-Service Date: \_\_\_\_\_

Mack Dealer's Name/Address: \_\_\_\_\_

Customer's Name/Address: \_\_\_\_\_

### VEHICLE APPLICATION\*: (Check Only One)

- Class A: On Highway
- Class C: Vocational, On/Off Highway
- Class D: Off Road (Sales Engineering approval required)

\*The vehicle application determines the length of the Mack Standard Warranty. If additional axles are installed following the sale of this vehicle, the finished vehicle configuration will be used to assess the vehicle application for warranty purposes.



### Your New Chassis...

Your new Mack truck has been quality built, inspected, lubricated, and final adjustments have been performed by the Mack Trucks assembly plant. However, as moving parts "wear in" or as gaskets "take a set," an occasional oil, air or coolant leak may develop. Quick action to correct these minor mechanical items will prevent a major repair later. Refer to the following "break-in" recommendations, and take your vehicle to the nearest Mack service center as soon as any abnormal condition becomes evident.

#### During First 3,000 Miles (5 000 Kilometers)

- After first 125 miles/200 km, retorque the wheel nuts using an accurately calibrated torque wrench. Recheck this torque again after 500 miles/800 km.
- Check engine oil and coolant levels frequently.
- Observe instruments often and shut down at first sign of any abnormal readings.
- Report all leaks, loose fasteners, unusual noises, etc., so they may be quickly checked and corrected.
- Check brake and clutch adjustment per recommended schedule and adjust as needed.
- Check spring clip nut torque. On Reyco suspensions, also check the equalizer nut torque.
- Check the U-bolt nut torque on the Mack Air suspension at the end of the first 1,000 miles (1 600 km).

At the End of First 3,000 miles/5 000 km or before 4,000 Miles/6 400 km, or 3 to 4 months (whichever comes first)

- Retorque front and rear spring clips. On Reyco suspensions, also check the equalizer nut torque.

NOTE: Lubricate the chassis, and change the following lubricants and filters according to the Mack Preventive Maintenance Schedules shown in the TS494 - Maintenance and Lubrication Manual:

- Gear oils - transmission, rear axle carrier(s), front drive axle carrier(s), transfer case, flywheel PTO
- Engine oil, oil filters, fuel filters and coolant conditioner

Always service your vehicle regularly according to the Mack Preventive Maintenance Schedules in your TS494 - Maintenance and Lubrication Manual. Your service manager will be glad to help you establish the right Preventive Maintenance Schedule for your truck and type of operation.

# NOTICE TO PURCHASER

# NOTICE TO P D E D E E R G - D E



## BULLDOG PROTECTION PLANS (EXTENDED WARRANTIES)

The warranty coverage on your new Mack truck can easily be extended if you desire. Just ask your dealer for details on a Bulldog Protection Plan.



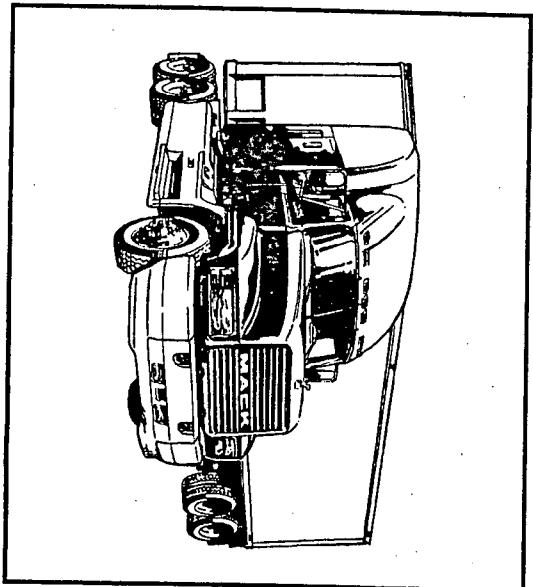
## TRANSFER OF WARRANTY

The balance of the Mack Standard Warranty is transferable to each subsequent vehicle owner with the approval of Mack Trucks, Inc. This transfer must be performed by an authorized Mack facility within 30 days of the date of sale. The vehicle must be operated in the same vehicle application as originally sold. Further details and forms required to perform the transfer are available from your local Mack authorized new truck sales facility.

## INJECTION PUMP AND GOVERNOR SETTING

Do not attempt to increase engine power by adjusting injection pump and governor settings beyond standard specifications.

In the event that damage results from such improper adjustments, the cost of repairing such damage will not be covered under the Warranty.

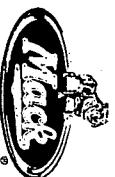


During the first year of ownership, the original purchaser of a new Mack vehicle may elect to extend the warranty term by signing up for a Bulldog Protection Plan at his or her Mack dealer.

The extended warranties which are offered through Bulldog Protection Plans are available to owners of all Mack vehicles with the exception of those that will be used in Vehicle Application D "Off Road." Your Mack dealer and the Mack Warranty Department reserve the right to investigate actual vehicle usage before accepting registration in a Bulldog Protection Plan. Mack Trucks, Inc. may also refuse to honor a warranty claim if it is determined that damage claimed has resulted from vehicle usage other than that described in the registered Vehicle Application.

Mack Trucks, Inc. may make changes in models, design, specifications and equipment at any time without incurring any obligations. The specifications contained herein are subject to change without notice.

# NOTICE TO P D E D E E R G - D E



## MACK STANDARD WARRANTY

### 1998 and Later Model Years

Mack Trucks, Inc. (the "Manufacturer") warrants each new Mack motor vehicle (the "Vehicle") sold by it or by any of its authorized new truck sales facilities to be free from defects in material or workmanship under normal use and service, its obligation under this warranty being limited to repairing or replacing, as hereinafter provided, at its option, at the Manufacturer's authorized truck repair facility any part or parts of the Vehicle found to the Manufacturer's satisfaction to be defective upon examination by it, provided that such part or parts be returned to the Manufacturer's factory or to its nearest authorized truck repair facility. In accordance with the Manufacturer's published policies, the Manufacturer's authorized truck repair facility is authorized to use only Genuine Mack or Mack Approved parts, purchased from the Manufacturer, in performance of warranted repairs, except where such parts are not available.

1. Component parts of the Vehicle as listed in the Warranty Schedules on Forms FO34.1, FO34.2 and FO34.3 are warranted for the time period specified commencing the date of delivery of the Vehicle to the original purchaser or before the Vehicle has been operated by such original purchaser the number of miles, kilometers or hours specified on such schedules, whichever first occurs. The repairs or replacement of such parts will be made in accordance with the terms of each schedule.

2. All other parts or components, except as hereinafter provided, are warranted for twelve months or 100,000 miles (161,000 kilometers), commencing the date of delivery of the Vehicle to the original purchaser. The repair or replacement of such parts will be made without charge for parts or labor.

NOTE: WARRANTY COVERAGE MAY VARY BASED ON THE TYPE OF USAGE OF THE VEHICLE. VEHICLE APPLICATION AT TIME OF SALE DETERMINES APPLICABLE WARRANTY COVERAGE. CONSULT YOUR MACK AUTHORIZED NEW TRUCK SALES FACILITY FOR THE APPLICATION CLASS OF THE VEHICLE. THE MANUFACTURER RESERVES THE RIGHT

TO VERIFY THAT THE APPLICATION FOR WHICH THE VEHICLE IS REGISTERED DOES MATCH THE ACTUAL APPLICATION CLASS.

This warranty shall not apply to any Vehicle which has been subject to misuse, negligence or accident or which shall have been altered or repaired outside of the factory in any way which in the Manufacturer's judgement might affect the Vehicle's stability or reliability, nor to normal maintenance services (such as engine tune-up, fuel system cleaning, wheel alignment and balancing, brake and clutch adjustments) and the replacement of service items (such as filter elements and lubricants) made in connection with such services.

The Manufacturer makes no warranty whatever with respect to the engines and transmissions not of its manufacture, nor to winches, power take-offs, dumper, mixer and refuse assemblies, hoists and bodies or other special equipment made by other manufacturers and installed outside of the Manufacturer's factory, nor to non-Mack brand batteries, tires and tubes. Said engines, transmissions, special equipment, accessories, tires and tubes usually are typically warranted separately by their respective manufacturers.

THIS WARRANTY IS MADE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES OR CONDITIONS, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ANY OTHER OBLIGATION OR LIABILITY ON THE PART OF THE MANUFACTURER INCLUDING, WITHOUT LIMITATION OF THE FOREGOING, CONSEQUENTIAL AND INCIDENTAL DAMAGES. The Manufacturer neither assumes nor authorizes any person to assume for it any other liability in connection with the sale of the Vehicle. This warranty may be transferred by the original retail purchaser to the subsequent retail purchaser (purchasing the Vehicle directly from the original retail purchaser) with the prior approval of the Manufacturer and otherwise, in accord with the Manufacturer's Warranty Administration Instructions. The Manufacturer offers various customer purchasable extended warranty plans. Contact the Manufacturer's authorized new truck sales facility for details.

This warranty shall not apply to used motor vehicles, the same being sold "as is - where is".

# WARRANTY COVERAGES AND LIMITATIONS: All Coverage is 100% Parts and Labor

VEHICLE APPLICATION: A (HIGHWAY)		Hours	Months	Miles	Kilometers
<b>SCHEDULE 1. BASIC VEHICLE* (Includes Roadside Assistance and Towing for warrantable failures.**)</b>		—	12	100,000	161 000
*Clutch Lining, Brake Lining and Brake Drums are covered for 12 months or 25,000 miles/40 000 kilometers only.					
**Roadside Assistance and Towing coverage does not apply to vendor engines, transmissions and axles.					
<b>SCHEDULE 2. MACK DIESEL ENGINE</b>					
Standard Warranty					
Major Components:	Cylinder Block Casting	Camshaft Forging	—	10,800	36
	Main Bearing Bolts	Valve Lifters	—	12,500	60
	Cylinder Head Castings	Intake Manifold Casting	—		
	Cylinder Head Capscrews	Flywheel Housing	—		
	Crankshaft Forging	Gear Cover	—		
	Con-Rod & Cap Forging	Engine Gears	—		
	Con-Rod Capscrews		—		
Coverage also applies to consumables such as lubricant, antifreeze, filter elements, belts, hoses and similar maintenance items not reusable and replaced directly as result of warrantable engine, carrier or transmission failure.					
Components not manufactured by Mack Trucks, Inc., but used on Mack diesel engine assemblies are excluded from the coverage in Schedule 2. These components are covered by the component manufacturer's warranty in effect at the time of delivery. Consult your local Mack service facility for details.					
<b>SCHEDULE 3. MACK TRANSMISSIONS</b>		5, 6, 9, 10, 13, 18 Speed Only			
All Others		—	60	500,000	805 000
		—	36	300,000	483 000
<b>SCHEDULE 4. MACK AXLES</b>					
Rear Carriers and Housing		—	60	500,000	805 000
Rear Carrier Seals, Gaskets and Front I-Beam		—	36	300,000	483 000
S65 Bogie and Carrier, Regardless of Carrier Model		—	12	100,000	161 000
<b>SCHEDULE 5.</b> Trunnion Bracket and Spindle, Suspension Trunnion (except Bushings).		—	36	300,000	483 000
<b>SCHEDULE 6. FRAMES: SIDE RAILS AND CROSSEMMBERS</b>		—	60	500,000	805 000
<b>SCHEDULE 7. CAB STRUCTURE</b>		—	60	500,000	805 000
<b>SCHEDULE 8. CAB CORROSION</b>		—	60	500,000	805 000
Coverage applies to perforation (an actual hole in the cab panel) due to corrosion. Coverage does not apply to corrosion caused by damage to paint finish.					
<b>SCHEDULE 9.</b> Components not manufactured by Mack Trucks, Inc may have warranty coverage different from the above as they are covered by the manufacturer's warranty. Consult your local Mack sales facility for details.					





#### ITEMS NOT COVERED BY WARRANTY

- Abuse, accident or negligence
- Adjustment of brakes, clutches and controls
- Brake and clutch lining replacement for normal wear
- Specification changes or error in specifications
- Damage in transit
- Deterioration of batteries, paint and trim from improper storage or industrial fallout
- Duplication of repairs from faulty diagnosis/workmanship
- Engine tune-up
- Downtime and driver layover expense
- Headlight adjustment; sealed beam or bulb replacement
- Filter elements and lubricants, except as provided in Warranty Schedule applicable to Mack built engines and transmissions in on-highway vehicles
- Fuel system cleaning
- Injection tip service/replacement for normal use and wear
- Major components/parts replaced without prior authorization from Mack Warranty Department
- Overtime and holiday labor without prior authorization
- Preparation for Delivery inspection
- Shortage of factory-installed parts
- Telephone, Fax and other communication expenses
- Tires and tubes
- Transportation expense for obtaining replacement parts
- Failures resulting from unauthorized alteration or non-Mack parts
- Wheel alignment, wheel and tire balancing, tire rotation
- Windshield wiper blades
- Rattles, squeaks, vibrations, and unusual noises. Up to 90 days after delivery, the necessary adjustments or corrections will be covered by warranty. Such adjustments or corrections after this period are usually the result of use; and therefore, are not covered under warranty.
- Misapplication – failure of any kind resulting from using the vehicle in a type of service for which the vehicle was not designed or built



#### TOWING AND ROAD ASSISTANCE

**Towing and road assistance charges are reimbursable on 1998 and later model year Mack manufactured class 8 vehicles when towing becomes necessary to properly service a vehicle due to a warrantable failure.**

**The following criteria must be met to qualify for payment:**

- A. The vehicle must be disabled on the highway due to a warrantable failure.
- B. The vehicle must not be in service more than twelve months, 100,000 miles/161 000 kilometers from the original in-service date.
- C. Towing will be reimbursed when it is not feasible to repair at the point of failure.
- D. Towing reimbursement is limited to normal retail towing charges to the nearest authorized Mack repair facility.
- E. The vehicle must be registered for highway service.

**P D E E R G I D E E R P C E T O R N O T C E T O R P**

# P D E R G - D E R C E T O R P O - T C E T O R P O



## FEDERAL REGULATIONS

Gaseous Emission Control Systems Warranty and Noise Control Systems Warranty are printed in the Emission Control Systems Handbook (TS505). California Engine Gaseous Emission Control Systems and Devices warranty and maintenance information is also included.

## OPERATOR'S HANDBOOK

Mack vehicles are designed to give many years of reliable service. Excellent information is provided in the Operator's Handbook in each new Mack truck. Refer to it for operation instructions and other important data.

## MAINTENANCE AND LUBRICATION

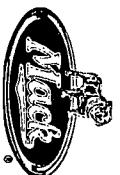
This TS494 manual lists recommended maintenance schedules and indicates in detail just what is to be covered in a bumper-to-bumper preventive maintenance program. Detailed lubricant specifications and capacities are listed for ready reference.

## SERVICE MANUAL

For those Mack vehicle owners who need service information, a Mack Components Service Manual (TS576) or a Custom Truck Service Manual (TS473) can be purchased through your local Mack facility.

## PARTS AND SERVICE DIRECTORY

To assist in locating Mack facilities, a Directory of Mack Sales, Parts and Service Centers (TS524) is placed in each vehicle. This directory can be used to locate and contact all Mack Truck Sales Facilities and Service Centers.



## ■ PEDIGREED PROTECTION IS...

Genuine Mack "Performance Counts®" Parts – made to the same high standards as the original equipment parts. They always incorporate the latest design and manufacturing improvements to make them even better than the originals.

## ■ PEDIGREED PROTECTION IS...

That important extra advantage – Mack "Pedigreed Protection" Service when you need it, where you need it by skilled factory trained mechanical technicians. There are Mack Authorized Service facilities in all major cities.

## ■ PEDIGREED PROTECTION IS...

Technical Advice – as you need it. Mack experts stand ready to help you select the correct truck for your job and prepare the right maintenance program for low operating costs.

## ■ PEDIGREED PROTECTION IS...

Warranty – While you have received a copy of the Mack Standard Warranty, and its terms were discussed with you when you purchased your truck, the Warranty has been reprinted in this booklet for easy reference.

# P D E R G - D E R C E T O R P O - T C E T O R P O

TS46898 25M 7/97

VERIFICATION

Kenneth A. Blythe hereby verifies that he is Associate General Counsel of Mack Trucks, Inc., and in that capacity is authorized to execute this verification and that the facts set forth in the foregoing Answer and New Matter are true and correct to the best of his knowledge or information and belief and that this verification is made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Kenneth A. Blythe

Kenneth A. Blythe

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

GREGG L. BARRETT, an individual :  
Plaintiff, : Civil Division  
vs. :  
MACK TRUCKS, INC., a corporation, :  
Defendant. : Docket No. 03-348-CD

**CERTIFICATE OF SERVICE**

C. EDWARD S. MITCHELL hereby certifies that he served a copy of the foregoing Answer and New Matter on the following, via U.S. First Class Mail, postage prepaid, this 22<sup>nd</sup> day of May, 2003:

James A. Naddeo, Esquire  
211 ½ E. Locust Street  
PO Box 552  
Clearfield, PA 16830

MITCHELL, MITCHELL, GRAY & GALLAGHER

A professional corporation.

BY:

  
C. Edward S. Mitchell

ID#07222

Attorney for Defendant

10 West Third Street

Williamsport, PA 17701

Telephone: 570-323-8404

Facsimile: 570-323-8585

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

GREGG L. BARRETT, an individual :  
Plaintiff, : Civil Division  
vs. :  
MACK TRUCKS, INC., a corporation, :  
Defendant. : Docket No. 03-348-CD

**PRAECIPE FOR WRIT TO JOIN ADDITIONAL DEFENDANT**

TO THE PROTHONOTARY:

Kindly issue as of course, pursuant to Pa.R.C.P. No. 2252(b), a writ to join  
additional defendant against W.W. Engine & Supply, Inc. in the above captioned action.

MITCHELL, MITCHELL, GRAY & GALLAGHER

A professional corporation.

BY:

  
C. Edward S. Mitchell ID#07222  
Attorney for Defendant Mack Trucks, Inc.  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

**FILED**

MAY 27 2003

William A. Shaw  
Prothonotary

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

COPY

GREGG L. BARRETT, an individual :  
Plaintiff, : Civil Division  
vs. :  
: Docket No. 03-348-CD  
MACK TRUCKS, INC., a corporation, :  
Defendant. :

**WRIT OF SUMMONS**

TO: W.W. Engine & Supply, Inc.  
P.O. Box 645  
RD#3 Rockton Road  
DuBois, PA 15801

You are notified that Mack Trucks, Inc. has joined you as an additional defendant in this action, which you are required to defend.

Date: \_\_\_\_\_

William A. Shaw, Prothonotary

By: \_\_\_\_\_

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

GREGG L. BARRETT, an individual :  
Plaintiff, : Civil Division  
vs. :  
MACK TRUCKS, INC., a corporation, :  
Defendant. : Docket No. 03-348-CD

**CERTIFICATE OF SERVICE**

C. EDWARD S. MITCHELL hereby certifies that he served a copy of the foregoing Praeclipe for Writ on the following, via U.S. First Class Mail, postage prepaid, this 20<sup>th</sup> day of May, 2003:

James A. Naddeo, Esquire  
211 ½ E. Locust Street  
PO Box 552  
Clearfield, PA 16830

MITCHELL, MITCHELL, GRAY & GALLAGHER

A professional corporation.

BY:

  
C. Edward S. Mitchell  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

ID#07222

In The Court of Common Pleas of Clearfield County, Pennsylvania

BARRETT, GREGG L.

Sheriff Docket # 13789

VS.

MACK TRUCKS, INC.

03-348-CD

COMPLAINT

**SHERIFF RETURNS**

NOW MARCH 9, 2003 RONALD ROSSI, SHERIFF OF LEHIGH COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON MACK TRUCKS INC., DEFENDANT.

NOW MARCH 27, 2003 SERVED THE WITHIN COMPLAINT ON MACK TRUCKS, INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF LEHIGH COUNTY. THE RETURN OF SHERIFF ROSSI IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED RICHARD L. DERR, SENIOR COUNSEL.

FILED  
0 9:55 AM  
MAY 28 2003

William A. Shaw  
Prothonotary

---

Return Costs

Cost	Description
33.20	SHERIFF HAWKINS PAID BY: ATTY CK# 8586
10.00	SURCHARGE PAID BY: ATTY CK# 8587
30.00	LEHIGH CO. SHFF. PAID BY: ATTY

---

Sworn to Before Me This

28 Day Of May 2003  
William A. Shaw

So Answers,

Chester A. Hawkins  
by Marly Hahn  
Chester A. Hawkins  
Sheriff

3-27A

SHERIFF OFFICE COURTHOUSE - 5TH & HAMILTON STREETS  
 455 W HAMILTON ST  
 ROOM 106 ALLENTOWN PA 18101-1614

PAID

GREGG L BARRETT  
 VS  
 MACK TRUCKS, INC  
 (CLEARFIELD CO--03-348-CD)

DOC# : 2003-CV-1301  
 CASE : 2003-NC-1204  
 EXPIR: 11-Apr-2003  
 DEPOSIT: 30.00  
 ENTRY: 25-Mar-2003

WRIT : COMPLAINT IN CIVIL ACTION  
 AND NOTICE  
 SERVE: MACK TRUCKS, INC  
 AT : 2100 MACK BLVD. ALLENTOWN, PA

## RETURN OF SERVICE

1. NAME OF INDIVIDUAL SERVED: Richard L. Derr
2. RELATIONSHIP TO DEFENDANT: Senior Counsel
3. DATE: 3-27 2003 TIME: 1327 HOURS: \_\_\_\_\_
4. LOCATION OF SERVICE: 2100 Mack Blvd. Allentown, Pa
  
5. UNABLE TO LOCATE:  
 NUMBER OF ATTEMPTS TO LOCATE DEFENDANT AT LAST KNOWN ADDRESS:  
 1. DATE & TIME \_\_\_\_\_ 2. DATE & TIME \_\_\_\_\_  
 3. DATE & TIME \_\_\_\_\_ 4. DATE & TIME \_\_\_\_\_  
 5. DATE & TIME \_\_\_\_\_ 6. DATE & TIME \_\_\_\_\_

## ACCEPTANCE OF SERVICE

I HEREBY ACCEPT SERVICE OF THE LEGAL PROCESS AS OUTLINED ON THE FRONT OF THE DOCUMENT. THIS SERVICE IS ACCEPTED ON BEHALF OF THE LISTED DEFENDANT(S) AND I HEREBY CERTIFY THAT I AM AUTHORIZED TO DO SO.

PRINTED NAME OF AUTHORIZED AGENT

DATE: \_\_\_\_\_

SIGNATURE OF AUTHORIZED AGENT

TIME: \_\_\_\_\_

SO ANSWERS

DEPUTY SHERIFF

SHERIFF OF LEHIGH COUNTY

Ronald W. Ross

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

GREGG L. BARRETT, an  
individual,  
Plaintiff,  
vs.

MACK TRUCKS, INC., a  
corporation,  
Defendant.

No. 03 - 348 - CD

### Type of Pleading:

## ANSWER TO NEW MATTER

Filed on behalf of:  
Plaintiff

Counsel of Record for  
this party:

James A. Naddeo, Esq.  
Pa I.D. 06820

211 1/2 E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

FILED

JUN 04 2003

William A. Shaw  
Presbyterian

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

GREGG L. BARRETT, an \*  
individual, \*  
Plaintiff, \*  
\*  
vs. \* No. 03 - 348 - CD  
\*  
MACK TRUCKS, INC., a \*  
corporation, \*  
Defendant. \*

ANSWER TO NEW MATTER

NOW COMES the Plaintiff, GREGG L. BARRETT, and by his attorney, James A. Naddeo, Esquire, sets forth the following:

28. Denied. After reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of said averment.

29. Said allegation is neither admitted nor denied in that the warranty speaks for itself.

30. States a conclusion of law to which no answer is required. To the extent that an answer may be required, said allegation is denied. In further answer thereto, it is alleged that Defendant breached the warranty given to Plaintiff who is therefore not bound by the terms and conditions of said warranty.

31. Said allegation is neither admitted nor denied in that the warranty speaks for itself.

32. States a conclusion to which no answer is required. To the extent that an answer may be required, said allegation is denied. On the contrary, it is alleged that any defects in the vehicle purchased by Plaintiff were the result of normal use and service and are covered by warranty. In further answer thereto, it is alleged that it was determined in an ancillary proceeding that the defects to Plaintiff's vehicle were the result of normal use and service and were covered by warranty so that Defendant is collaterally estopped from claiming otherwise.

33. Denied. On the contrary, it is alleged that Defendant's designated dealer, W.W. Engine & Supply, Inc., DuBois, Pennsylvania, had notice of Plaintiff's claims. In further answer thereto, it is alleged that Plaintiff, through his agent Vince Centra, contacted the Defendant and requested that Defendant honor the warranty given to Plaintiff.

34. States a conclusion of law to which no answer is required. To the extent that an answer may be required, it is alleged that Defendant breached its warranty to Plaintiff and that Plaintiff is therefore not bound by the provisions of Pa.C.S.A. §2719.

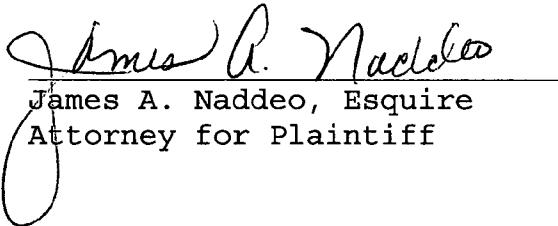
35. States a conclusion of law to which no answer is required. To the extent that an answer may be required, said allegation is denied. In further answer thereto, Plaintiff

incorporates his answer to Paragraph 34 of Defendant's New Matter by reference and makes it a part hereof.

36. States a conclusion to which no answer is required. To the extent that an answer may be required, said allegation is denied. In further answer thereto, Plaintiff incorporates his answer to Paragraph 32 of Defendant's New Matter by reference and makes it a part hereof.

37. States a conclusion of law to which no answer is required. To the extent that an answer may be required, it is denied that Plaintiff's claims are barred for the reasons set forth in Paragraph 37 of Defendant's New Matter.

Respectfully submitted,

  
\_\_\_\_\_  
James A. Naddeo, Esquire  
Attorney for Plaintiff

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

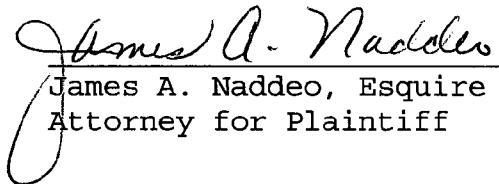
GREGG L. BARRETT, an \*  
individual, \*  
Plaintiff, \*  
\*  
vs. \* No. 03 - 348 - CD  
\*  
MACK TRUCKS, INC., a \*  
corporation, \*  
Defendant. \*

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct certified copy of Answer to New Matter filed in the above-captioned action was served on the following person and in the following manner on the 4th day of June, 2003:

First-Class Mail, Postage Prepaid

C. Edward S. Mitchell, Esquire  
MITCHELL, MITCHELL, GRAY & GALLAHER  
10 West Third Street  
Williamsport, PA 17701

  
James A. Naddeo, Esquire  
Attorney for Plaintiff

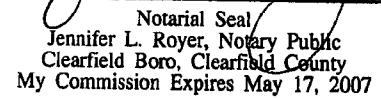
COMMONWEALTH OF PENNSYLVANIA )  
ss.  
COUNTY OF CLEARFIELD )

Before me, the undersigned officer, personally appeared  
GREGG L. BARRETT, who being duly sworn according to law, deposes  
and states that the facts set forth in the foregoing  
Answer to New Matter are true and correct to the best of his  
knowledge, information and belief.

Gregg L. Barrett  
Gregg L. Barrett

SWORN and SUBSCRIBED before me this 3rd day of June, 2003.

Jennifer L. Royer



**JAMES A. NADDEO**  
ATTORNEY AT LAW  
211 1/2 EAST LOCUST STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

---

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

**BARRETT, GREGG L.**

**VS.**

**MACK TRUCKS, INC. AI**

**Sheriff Docket # 14101**

**03-348-CD**

**PRAECIPE FOR WRIT TO JOIN ADDITIONAL DEFENDANT & WRI**

**SHERIFF RETURNS**

NOW MAY 29, 2003 AT 2:45 PM SERVED THE WITHIN PRAECIPE FOR WRIT TO JOIN ADDITIONAL DEFENDANT & WRIT OF SUMMONS ON W.W. ENGINE & SUPPLY, INC., DEFENDANT AT EMPLOYMENT, PO BOX 645, RD 3, ROCKTON ROAD, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO BECKY O'LEARY, OFFICE MANAGER A TRUE AND ATTESTED COPY OF THE ORIGINAL PRAECIPE FOR WRIT TO JOIN ADDITIONAL DEFENDANT & WRIT OF SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: COUDRIET/RYEN

---

**Return Costs**

<b>Cost</b>	<b>Description</b>
<b>32.05</b>	<b>SHERIFF HAWKINS PAID BY: ATTY CK# 29138</b>
<b>10.00</b>	<b>SURCHARGE PAID BY: ATTY CK# 29139</b>

---

Sworn to Before Me This

So Answers,

10 Day Of June 2003  
William A. Shaw

*Chester A. Hawkins*  
*by Marilyn Harris*  
**Chester A. Hawkins**  
**Sheriff**

**FILED**  
232 O 1:41 BA  
JUN 10 2003

William A. Shaw  
Prothonotary

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

GREGG L. BARRETT, an  
individual,

Plaintiff,

vs.

MACK TRUCKS, INC., a  
corporation,

Defendant.

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NO. 03 - 348 - CD

Type of Pleading:

**PRAECIPE TO LIST FOR  
TRIAL**

Filed on behalf of:  
Plaintiff

Counsel of Record for  
this party:

James A. Naddeo, Esq.  
Pa I.D. 06820

211 1/2 E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

**FILED**

JAN 15 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

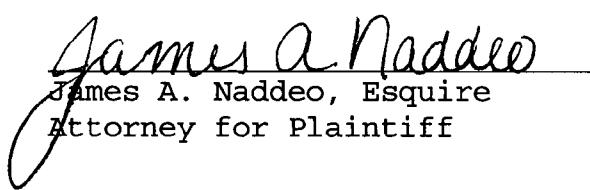
GREGG L. BARRETT, an \*  
individual, \*  
Plaintiff, \*  
\*  
vs. \* No. 03 - 348 - CD  
\*  
MACK TRUCKS, INC., a \*  
corporation, \*  
Defendant. \*

PRAECIPE TO LIST FOR TRIAL

TO THE PROTHONOTARY:

Please place the above-captioned matter on the next list  
for trial. In support thereof I certify the following:

1. There are no Motions outstanding.
2. Discovery has been completed and the case is ready  
for trial.
3. The case is to be heard by jury.
4. Notice of the Praecipe has been given to opposing  
counsel.
5. The time for trial is estimated at one (1) day

  
James A. Naddeo, Esquire

Attorney for Plaintiff

Date: January 15, 2004

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

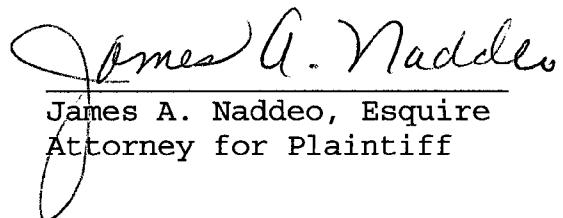
GREGG L. BARRETT, an \*  
individual, \*  
Plaintiff, \*  
\*  
vs. \* No. 03 - 348 - CD  
\*  
MACK TRUCKS, INC., a \*  
corporation, \*  
Defendant. \*

**CERTIFICATE OF SERVICE**

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Praeclipe to List for Trial filed in the above-captioned action was served on the following person and in the following manner on the 15th day of January, 2004:

First-Class Mail, Postage Prepaid

C. Edward S. Mitchell, Esquire  
MITCHELL, MITCHELL, GRAY & GALLAHER  
10 West Third Street  
Williamsport, PA 17701

  
\_\_\_\_\_  
James A. Naddeo, Esquire  
Attorney for Plaintiff

**JAMES A. NADDEO**  
ATTORNEY AT LAW  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

---

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

FILED

JAN 26 2004

William A. Shaw  
Prothonotary/Clerk of Courts

GREGG L. BARRETT, an individual  
Plaintiff,  
vs.

Civil Division

Docket No. 03-348-CD

MACK TRUCKS, INC., a corporation,  
Defendant,  
vs.

W.W. Engine & Supply, Inc.,  
Additional Defendant

**MOTION OF MACK TRUCKS, INC. PURSUANT TO CLEARFIELD COUNTY RULE  
212.2(B) TO STRIKE CASE FROM TRIAL LIST**

1. Plaintiff's Praeclipe to List for Trial was received by counsel for Mack on January 20, 2004.
2. A writ to join W.W. Engine & Supply, Inc., as an additional defendant has previously been filed and served.
3. No one has entered an appearance for W.W. Engine & Supply, Inc.
4. Based upon the Certificate of Service of Plaintiff's Praeclipe to List for Trial, Plaintiff did not serve the Praeclipe on W.W. Engine & Supply, Inc.
5. Other than this motion, there are no motions outstanding.
6. Discovery has not been completed; Mack desires discovery on Plaintiff pertaining to Plaintiff's claims of liability and damages.
7. No party has requested a jury trial.
8. The case has not been previously listed for trial.

WHEREFORE, Mack requests case be stricken from the trial list and that a

period of time of ninety (90) days be permitted for completion of discovery.

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

BY: 

C. Edward S. Mitchell ID#07222  
Attorney for Defendant Mack Trucks  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

GREGG L. BARRETT, an individual

Plaintiff,

vs.

Civil Division

MACK TRUCKS, INC., a corporation,

Defendant,

vs.

Docket No. 03-348-CD

W.W. Engine & Supply, Inc.,

Additional Defendant

**CERTIFICATE OF SERVICE**

C. EDWARD S. MITCHELL hereby certifies that he served a copy of the foregoing Motion to Strike on the following, via U.S. First Class Mail, postage prepaid, this 23<sup>rd</sup> day of January, 2004:

James A. Naddeo, Esquire  
211 ½ E. Locust Street  
PO Box 552  
Clearfield, PA 16830

W.W. Engine & Supply, Inc.  
P.O. Box 645  
RD#3 Rockton Road  
DuBois, PA 15801

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

BY:



C. Edward S. Mitchell ID#07222  
Attorney for Defendant Mack Trucks  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

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

PA

GREGG L. BARRETT

vs.

No. 03-348-CD

MACK TRUCKS, INC.

vs.

W.W. ENGINE & SUPPLY, INC.

FILED

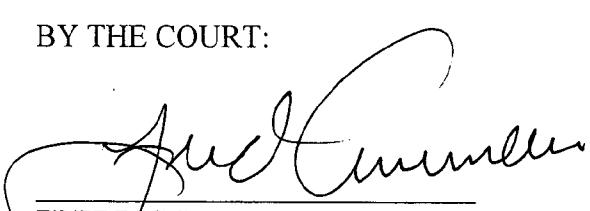
JAN 28 2004

William A. Shaw  
Prothonotary/Clerk of Courts

O R D E R

AND NOW, this 28 day of January, 2004, it is the ORDER of the Court that argument on Attorney Mitchell's Motion to Strike Case from Trial List and a status conference in the above matter has been scheduled for Thursday, February 19, 2004 at 10:30 A.M. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

FILED  
1/14/04  
JAN 28 2004  
1CC WO Engine-Rob Borlens,Dubois PA  
1CC Atty's Nadeau, Mitchell,  
William A. Shaw  
Prothonotary/Clerk of Courts

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

GREGG L. BARRETT :  
-VS- :  
MACK TRUCKS, INC. : No. 03-348-CD  
-VS- :  
W.W. ENGINE & SUPPLY, INC. :

O R D E R

NOW, this 19th day of February, 2004, following argument on the Motion to Strike Case from Trial List filed on behalf of Defendant Mack Trucks, Inc., it is the ORDER of this Court that said Motion be and is hereby denied. In addition, Defendant Mack Trucks, Inc. shall file a complaint against the additional Defendant W.W. Engine & Supply, Inc. within no more than twenty (20) days from this date. The case shall remain on the trial list, and in the event that counsel would believe that there would be additional problems relative trying the case, the issue can be raised either at the call of the list or pre-trial conference or through the filing of some additional motion or petition.

BY THE COURT,  
  
President Judge

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

GREGG L. BARRETT, an individual	:	
Plaintiff,	:	Civil Division
vs.	:	
	:	Docket No. 03-348-CD
MACK TRUCKS, INC., a corporation,	:	
Defendant,	:	
vs.	:	
	:	
W.W. Engine & Supply, Inc.,	:	
Additional Defendant	:	

NOTICE TO PLEAD

FILED

MAR 03 2004

William A. Shaw  
Prothonotary/Clerk of Courts

TO: W.W. Engine & Supply, Inc.  
P.O. Box 645  
RD#3 Rockton Road  
DuBois, PA 15801

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 BY FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED BY THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE THIRD PARTY 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.

IF YOU DO NOT HAVE A LAWYER, CONTACT:

COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
SECOND & MARKET STREETS  
CLEARFIELD, PA 16830  
(814)765-2641, EXT. 50-51

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

BY: 

C. Edward S. Mitchell ID#07222  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

**COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD**

GREGG L. BARRETT, an individual	:	
Plaintiff,	:	Civil Division
vs.	:	
MACK TRUCKS, INC., a corporation,	:	Docket No. 03-348-CD
Defendant,	:	
vs.	:	
W.W. Engine & Supply, Inc.,	:	
Additional Defendant	:	

**COMPLAINT TO JOIN ADDITIONAL DEFENDANT**

1. Plaintiff, according to Plaintiff's Complaint, is an adult individual residing at 5 Capricorn Court, Clearfield, Pennsylvania.
2. Defendant Mack Trucks, Inc., is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania having its principal place of business at 2100 Mack Boulevard, Allentown, Pennsylvania.
3. Additional Defendant, W.W. Engine & Supply, Inc., is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania having a place of business located at R.D. #3, Rocktown Road, Dubois, Clearfield County, Pennsylvania.
4. Plaintiff filed a Complaint against Defendant Mack Trucks, Inc., claiming inter alia that Additional Defendant W.W. Engine & Supply, Inc., was an authorized Mack dealer who sold a 1998 Mack Truck, Model No. C1713 to Plaintiff on 10/24/1997, that an express warranty was provided in connection with the sale, that said express warranty had a duration of sixty (60) months or 500,000 miles,

whichever first occurs, for the transmission and axles, that Plaintiff has returned the truck to Additional Defendant on six different occasions beginning in December, 2000, for repairs or replacements of rear end housings, rear ends and/or the transmission, that on each occasion in breach of the express warranty the repairs were not performed under warranty and/or that Additional Defendant refused to perform the work unless Plaintiff made payment to Additional Defendant for prior work, and that Plaintiff has as a result thereof suffered damages for repair bills and lost profits. A true and correct copy of Plaintiff's Complaint and attached Exhibits is attached hereto, marked Exhibit 1.

5. Defendant Mack Trucks, Inc. has filed an Answer and New Matter denying the express warranty claimed by Plaintiff and denying liability for Plaintiff's alleged damages. A true and correct copy of the Answer and New Matter and attached Exhibits is attached hereto, marked Exhibit 2.
6. Plaintiff filed an Answer to the New Matter contained in the Answer and New Matter of Defendant Mack Trucks, Inc. A true and correct copy of Plaintiff's Answer to New Matter is attached hereto, marked Exhibit 3.
7. A Writ to Join Additional Defendant W.W. Engine & Supply, Inc., was timely filed and served.
8. The warranty documents were provided to Plaintiff by Additional Defendants.
9. The warranty should have had a duration for transmission and axles of thirty-six (36) months or 300,000 miles, whichever first occurs.
10. If the warranty claimed by Plaintiff was provided by Additional Defendant, said warranty was in violation of instructions from Defendant and not authorized by

Defendant.

11. If the correct warranty was provided by Additional Defendant to Plaintiff, none of the repairs claimed by Plaintiff would be covered because the vehicle was outside the warranty period.
12. If repairs claimed by Plaintiff were within the warranty period because Additional Defendant provided to Plaintiff an unauthorized warranty and if Plaintiff is entitled to recover thereon, which is denied, then Additional Defendant is solely liable to Plaintiff for said repairs or liable over to Defendant in indemnity for any liability adjudicated against Defendant.
13. If Plaintiff was entitled to have the repairs performed under warranty, which is denied, and said repairs were refused by Additional Defendant, then Additional Defendant is solely liable to Plaintiff or liable over to Defendant for any liability adjudicated against Defendant.
14. If Plaintiff was entitled to have his vehicle repaired under warranty, which is denied, and said warranty repairs were improperly refused by Additional Defendant because of money owed by Plaintiff to Additional Defendant, then any recovery to which Plaintiff would be entitled is the sole liability of Additional Defendant and/or Additional Defendant is liable over to Defendant for any liability adjudicated against Defendant.
15. If there is any liability adjudicated in favor of Plaintiff and against Defendant, all such liability being denied, then Additional Defendant is liable over to Plaintiff for all or portions of said liability and/or is jointly and/or severally liable with Defendant for all or portions of said liability.

16. Defendant has joined Additional Defendant to protect its right of indemnity and/or contribution from Additional Defendant.

WHEREFORE, Defendant claims indemnity and/or contribution from Additional Defendant for any liability which is adjudicated in favor of Plaintiff and against Defendant.

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

BY: 

C. Edward S. Mitchell  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

ID#07222

VERIFICATION

Kenneth A. Blythe hereby verifies that he is Associate General Counsel of Mack Trucks, Inc., and in that capacity is authorized to execute this verification and that the facts set forth in the foregoing Answer and New Matter are true and correct to the best of his knowledge or information and belief and that this verification is made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Kenneth A. Blythe

Kenneth A. Blythe

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

GREGG L. BARRETT, an individual, Plaintiff,

vs.

MACK TRUCKS, INC., a  
corporation,  
Defendant.

NO. 03 - 348 - CD

### Type of Pleading:

**COMPLAINT**

Filed on behalf of:  
Plaintiff

Counsel of Record for  
this party:

James A. Naddeo, Esq.  
Pa I.D. 06820

211 1/2 E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830  
(814) 765-1601

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

MAR 12 2003

**Attest. —**

Wes L. Brown  
Prothonotary/  
Clerk of Courts

**EXHIBIT**

211

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISIONGREGG L. BARRETT, an  
individual,  
Plaintiff,

vs.

\* \* \* \* \* NO. 03 - - CD

MACK TRUCKS, INC., a  
corporation,  
Defendant.

\* \* \* \* \*

NOTICE

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 judgment 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.

COURT ADMINISTRATOR  
Clearfield County Courthouse  
Market and Second Streets  
Clearfield, PA 16830

(814) 765-2641, ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISIONGREGG L. BARRETT, an  
individual,

Plaintiff,

vs.

\* NO. 03 - - CD

MACK TRUCKS, INC., a  
corporation,

Defendant.

C O M P L A I N T

NOW COMES the Plaintiff, GREGG L. BARRETT, and by his attorney, James A. Naddeo, Esquire, sets forth the following:

1. That the Plaintiff is Gregg L. Barrett, an adult individual, who resides at 5 Capricorn Court, Clearfield, Pennsylvania 16830.

2. That the Defendant is Mack Trucks, Inc., a corporation believed to have its principal place of business in the Commonwealth of Pennsylvania located at 2100 Mack Blvd., Allentown, Pennsylvania 18103.

3. That at all times referred to herein, W.W. Engine & Supply, Inc., was an authorized dealer for the Defendant, Mack Trucks, Inc.

4. That on October 24, 1997, the Plaintiff purchased a new 1998 Mack Truck, Model #C1713, Serial #1M2AD62C2WW006080, Engine #E7 460 701499 (hereinafter referred to as the "Truck")

for the sum of \$103,295.85 from W.W. Engine & Supply, Inc., DuBois, Pennsylvania, as appears from the invoice attached hereto as Exhibit "A".

5. That contemporaneously with the purchased of the Truck referred to in Paragraph 4 hereof which is incorporated herein by reference, Plaintiff received an express warranty from the Defendant titled "Pedigreed Protection Plan No. TS46897". A copy of said warranty is attached hereto as Exhibit "B".

6. That in accordance with the Pedigreed Protection Plan referred to in Paragraph 5 hereof which is incorporated herein by reference, the Truck purchased by Plaintiff provided warranty coverages and limitations in part as follows:

	<u>Months</u>	<u>Miles</u>	<u>Kilometers</u>
SCHEDULE 3. MACK TRANSMISSIONS 5,6,9, 10, 13, 18 Speed Only	60	500,000	805,000
SCHEDULE 4. MACK AXLES Rear Carriers and Housing	60	500,000	805,000

7. That in December 2000 the front rear end housing of Plaintiff's Truck cracked.

8. That Plaintiff took the Truck to Defendant's authorized dealer, W.W. Engine & Supply, Inc., DuBois, Pennsylvania, which dealer informed Plaintiff that the housing was not warranted and refused to repair the crack.

9. That Plaintiff at his own expense was required to have the front rear end housing welded by Vince Centra Truck

Repair at a cost of \$866.90 as appears from the invoice attached hereto as Exhibit "C".

10. That on or about February 10, 2002, the front rear end housing cracked a second time necessitating a second repair by Vince Centra Truck Repair at a cost of \$437.90, which repair was also paid by Plaintiff. A copy of said invoice is attached hereto as Exhibit "D".

11. That on or about June 10, 2002, the Truck's front rear end housing cracked a third time.

12. That Plaintiff contacted the Defendant and demanded that the housing be replaced at which time he was informed by Defendant's representative that Defendant would not honor its warranty because Plaintiff had failed to go through the proper procedures.

13. That on June 10, 2002, the front rear end housing was replaced by Vince Centra Truck Repair at a total cost of \$1,865.79, which amount was paid by Plaintiff. A copy of said invoice is attached hereto as Exhibit "E".

14. That on or about July 12, 2002, the back rear end of the vehicle malfunctioned.

15. That Plaintiff contacted the Defendant as well as its authorized dealer, W.W. Engine & Supply, Inc., DuBois, Pennsylvania, and was informed that W.W. Engine & Supply, Inc., would repair the back rear end of the vehicle under warranty if

they deemed the failure to be under warranty but would not return the vehicle to Plaintiff unless Plaintiff paid W.W. Engine & Supply, Inc., to repair the front rear end which Plaintiff believes and therefore avers was under warranty in December 2000 at which time the front rear end was repaired by W.W. Engine & Supply, Inc.

16. That Defendant's response as well as that of its authorized dealer, W.W. Engine & Supply, Inc., caused Plaintiff to have the back rear end repaired by Vince Centra Truck Repair at a cost of \$1,780.25, which amount has been paid by Plaintiff. A copy of said invoice is attached hereto as Exhibit "F".

17. That in addition to the failure of the rear rear end, the transmission of the Truck also failed in July 2002.

18. That Plaintiff contacted the Defendant as well as its authorized dealer, W.W. Engine & Supply, Inc., concerning the failure of the Truck's transmission and was informed by W.W. Engine & Supply, Inc., as well as the Defendant, Mack Trucks, Inc., that the transmission would be repaired under warranty provided Defendant believed the failure was covered by its warranty and further informed Plaintiff that his Truck would not be repaired unless he paid for the earlier repair done to the front rear end of the Truck by W.W. Engine & Supply, Inc., which repair Plaintiff believes and therefore avers was under warranty

in December 2000 at which time the front rear end was repaired by W.W. Engine & Supply, Inc.

19. That Defendant's response as well as that of its authorized dealer, W.W. Engine & Supply, Inc., caused Plaintiff to have the transmission repaired by Vince Centra Truck Repair at a cost of \$4,726.27, which amount has been paid by Plaintiff. A copy of said invoice is attached hereto as Exhibit "G".

20. That on or about January 24, 2002, the rear rear housing of the vehicle cracked.

21. That the rear rear housing has not been repaired.

22. That an estimate to repair the rear rear housing has been prepared by Vince Centra Truck Repair at a cost of \$3,488.34. A copy of said estimate is attached hereto as Exhibit "H".

23. That on each occasion referred to herein when components of the Truck failed, said Truck was less than 60 months old and the mileage was less than 500,000.

24. That Defendant's failure to comply with the express warranty given to Plaintiff has caused Plaintiff to incur repair costs in the total amount of \$9,677.11.

25. That the total down time of the vehicle occasioned by the repairs identified herein was 39 days.

26. That net earnings of said Truck per day averaged \$300.00.

27. That Plaintiff lost the sum of \$11,700.00 for the  
Truck's down time.

WHEREFORE, Plaintiff claims damage against Defendant  
in the amount of 21,377.11.

Respectfully submitted,

James A. Naddeo  
James A. Naddeo, Esquire  
Attorney for Plaintiff



# W.W. ENGINE

&amp; SUPPLY, INC. Five Locations: Bedford - Dubois - Kylertown - Shippenville - Somerset

SOLD TO: GREGG BARRETT  
 ADDRESS: P.O. BOX 23  
 KERRMORE ROAD  
 DATE: NEW MILLPORT, PA 16861  
 OCTOBER 24, 1997

SHIP TO:

NO. 1415

	Year	Make	New or Used	Model or Series	Serial Number	Engine Number
Vehicle Sold	1998	MACK	NEW	CL713	1M2AD62C2WW006080	E7 460 701499
Trade In	NONE					
Vehicle Sold						
Trade In						
Vehicle Sold						
Trade In						

## CONDITIONS OF SALES & DELIVERY

### DEALER'S WARRANTIES AND/OR REPRESENTATIONS:

We, the Dealer, shall not be liable to you, the purchaser, for any consequential damages, damages to property, damages for loss of time, loss of profits, or income or any other incidental damages arising out of the sale or use of this vehicle.

We are not a party to any manufacturer's or other third party warranty applicable to this vehicle but may be a representative for purposes of service or repairs under such warranty.

### IF THIS IS A USED VEHICLE:

This vehicle is sold "as is" by us. We hereby expressly disclaim all warranties, either express or implied, including any implied warranties of merchantability or fitness for a particular purpose and neither assume nor authorize any other person to assume for us any warranty liability in connection with the sale of the vehicle. Except for any manufacturer's or other express warranty which may exist on the vehicle, the entire risk as to the quality and performance of the vehicle is with you, the buyer, and should the vehicle prove defective following purchase, you will assume the entire cost of all servicing and repair.

VEHICLE ACCEPTED BY:  
 COPY OF INVOICE-BILL OF SALE RECEIVED BY:

Gregg Barrett

Selling Price	103,295.85
FRET	11,765.74
Other	
SUBTOTAL (1)	115,061.59
Document Fees	40.00
Tire Tax	10.00
License & Title	861.50
Sales Tax EXEMPT	
Other	
SUBTOTAL (2)	911.50
TOTAL (1+2)	115,973.09
Trade Allowance (Less Payoff)	
Deposit	3,000.00
Amount Financed	112,061.59
Cash Due	911.50

PEDIGRED  
PROTECTION PLAN

PEDIGRED  
PROTECTION PLAN

EXHIBIT "B"

T946897

TS46897 23M 696



# WARRANTY COVERAGES AND LIMITATIONS: All Coverage Is 100% Parts and Labor

APR. 23 2003 15:47 336 393 2009

VOLVO LEGAL

#0155 P.004/006

VEHICLE APPLICATIONS: A, B	Hours	Months	Miles	Kilometers
<b>SCHEDULE 1. BASIC VEHICLE* (Includes Roadside Assistance and Towing for warrentable failures.**)</b>	—	12	100,000	161,000
*Clutch Linings, Brake Linings and Brake Drums are covered for 12 months or 25,000 miles/40,000 Kilometers				
** Roadside Assistance and Towing coverage does not apply to vendor engines, transmissions and axles.				
<b>SCHEDULE 2. MACK DIESEL ENGINE</b>	10,000 12,500	36	300,000	483,000 805,000
Standard Warranty				
Major Components:	Cylinder Block Casting Main Bearing Bolts Cylinder Head Castings Cylinder Head Capscrews Crankshaft Forging Con-Rod & Cap Forging Con-Rod Capscrews	Camshaft Forging Valve Lifters Intake Manifold Casting Flywheel Housing Gear Cover Engine Gears		
Coverage also applies to consumables such as lubricants, antifreeze, filter elements, belts, hoses and similar maintenance items not reusable and replaced directly as result of warrantable engine, carrier or transmission failure.				
Components not manufactured by Mack Trucks, Inc., but used on Mack diesel engine assemblies are excluded from the coverage in Schedule 2. These components are covered by the component manufacturer's warranty in effect at the time of delivery. Consult your local Mack service facility for details.				
<b>SCHEDULE 3. MACK TRANSMISSIONS</b>	5, 6, 9, 10, 13, 18 Speed Only All Others	60 36	500,000 300,000	805,000 483,000
<b>SCHEDULE 4. MACK AXLES</b>	—	60	500,000	805,000
Rear Carriers and Housing Rear Carrier Seals, Gaskets and Front I-Beam SSS Baffles and Carrier, Regardless of Carrier Model	— — —	36 12 12	300,000 100,000 100,000	483,000 161,000 161,000
<b>SCHEDULE 5. Trunnion Bracket and Spindle, Suspension Trunion (except Bushings).</b>	—	36	300,000	483,000
<b>SCHEDULE 6. FRAMES: SIDE RAILS AND CROSSEMMBERS</b>	—	60	500,000	805,000
<b>SCHEDULE 7. CAB STRUCTURE</b>	—	60	600,000	805,000
<b>SCHEDULE 8. CAB CORROSION</b>	—	60	500,000	805,000
Coverage applies to perforation (an actual hole in the cab panel) due to corrosion. Coverage does not apply to corrosion caused by damage to paint finish.				
<b>SCHEDULE 9. Components not manufactured by Mack Trucks, Inc. may have warranty coverage different from the above as they are covered by the manufacturer's warranty. Consult your local Mack sales facility for details.</b>				

6

DEF EX 41

9

VINCE CENTRA TRUCK REPAIR

100-150-001  
CURWENSVILLE, PA 16833  
(814) 236-0991

## REPAIR ORDER

**ESTIMATES FOR LABOR ONLY-**  
**MATERIAL, ADDITIONAL**

I hereby authorize the employees permission to test and/or inspect amount of repairs theretofore.

### Work Authorized by

PRINTED IN U.S.A.

VINCE CENTRA TRUCK REPAIR

HCO-1 BOX 53A  
CURWENSVILLE, PA 16833  
724 724 0081

## REPAIR ORDER

**ESTIMATES FOR LABOR ONLY-**  
**MATERIAL ADDITIONAL**

I hereby authorize the above repair work to be done along with the necessary material and hereby grant you and/or your employees permission to operate the car, truck, or vehicle herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express machinery lien is hereby acknowledged on above car, truck or vehicle to secure payment of expenses thereof.

Work Authorized by \_\_\_\_\_

PRINTED IN U.S.A.  
ARD-566-3



## REPAIR ORDER

**ESTIMATES FOR LABOR ONLY-**  
**MATERIAL ADDITIONAL.**

VINCE CENTRA TRUCK REPAIR

HCO-1 BOX 53A  
CURWENSVILLE, PA 16833  
(814) 236-0991

Name Gregg Burnett

23

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I hereby authorize the above named repair work to be done along with the necessary material and hereby grant you and/or your employees permission to dismantle this car, truck or vehicle, herein described on account, or otherwise, for the purpose of rusting and/or inspection. An unqualified mechanic's bill is hereby acknowledged on above car, truck or vehicle to remove the amount of repairs thereof.

Welt: Authorized by

Delivered by

## REPAIR ORDER

**ESTIMATES FOR LABOR ONLY.**  
**MATERIAL ADDITIONAL.**

VINCE CENTRA TRUCK REPAIR

HCO-1 BOX 52A

CURWENSVILLE, PA 16831  
(814) 236-0891

Рукописи №

Name Gregg Barrera  
Address Capricorn Ct. Lot 5 City Orlando  
Phone No. 718-5102 Date 7/15/02

Total G  
I hereby authorize that all  
employees permission to +  
or testing and/or inspecting  
and/or repairing the above  
amount of repairs thereto.

Work Authorized by  
Delivered to —

ԱՊՕ-668-3

EXHIBIT "G"

## VINCE CENTRA TRUCK REPAIR

HCO-1 BOX 53A  
CURWENSVILLE, PA 16833  
(814) 236-0991

Name Gregg Warren  
Address Capricorn Ct 105 Clifton

Phone No. \_\_\_\_\_ Date \_\_\_\_\_

# Odometer

10

I hereby authorize the above repair work to be done along with the necessary material and hereby grant you and/or your employees permission to operate the car, truck or vehicle herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above car, truck or vehicle to secure the amount of expense thereto.

Work Authorized by \_\_\_\_\_ Date Promised \_\_\_\_\_

**Date Promised**

Date: Rehersed

Delivered to

SHOP/MISC	
TOTAL	348834
TAX	
TOTAL AMOUNT	348834

AFD-385-3  
PRINTED IN U.S.A.

**EXHIBIT "H"**

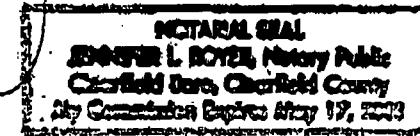
COMMONWEALTH OF PENNSYLVANIA )  
ss.  
COUNTY OF CLEARFIELD )

Before me, the undersigned officer, personally appeared GREGG L. BARRETT, who being duly sworn according to law, deposes and states that the facts set forth in the foregoing COMPLAINT are true and correct to the best of his knowledge, information and belief.

Gregg L. Barrett  
Gregg L. Barrett

SWORN and SUBSCRIBED before me this 24th day of January, 2003.

Jennifer L. Royer



IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

GREGG L. BARRETT, an individual  
Plaintiff,

vs.

MACK TRUCKS, INC., a corporation,  
Defendant.

Civil Division

Docket No. 03-348-CD

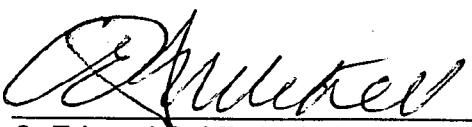
**NOTICE TO PLEAD**

TO: Plaintiff  
c/o James A. Naddeo, Esquire  
211 1/2 E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830

You are hereby required to plead to the within New Matter within twenty (20) days from the date of service hereof.

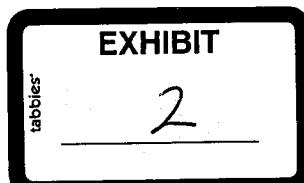
NOTE: You are hereby warned that if you fail to plead as notified and required the action will proceed without you and you will be liable to have a judgment entered against you in your absence.

MITCHELL, MITCHELL, GRAY & GALLAGHER  
A professional corporation



C. Edward S. Mitchell - I.D. #07222  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
Telephone: (570) 323-8404  
Fax: (570) 323-8585

FILED  
MAY 27 2003  
William A. Shaw  
Prothonotary



IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

GREGG L. BARRETT, an individual :  
Plaintiff, : Civil Division  
vs. :  
MACK TRUCKS, INC., a corporation, : Docket No. 03-348-CD  
Defendant. :

**ANSWER AND NEW MATTER OF MACK TRUCKS, INC.**

1. After reasonable investigation, Defendant is without knowledge of information sufficient to form a belief as to the truth of the averments contained in paragraph one.
2. Admitted.
3. Admitted.
4. Admitted in part and denied in part. By way of further answer, records of Defendant indicate that on October 24, 1997, a 1998 Mack Truck, chassis model number CL713, serial number 1M2AD62C2WW006080, engine model number E7-460, serial number E701499 was delivered to Greg Barrett. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph four.
5. Denied. On the contrary, upon information and belief an express warranty titled "Pedigreed Protection Plan Number TS46898" was delivered to Plaintiff in connection with the sale of the vehicle which is the subject of this litigation. A true and correct copy of the language of the Pedigreed Protection Plan TS46898 is attached hereto, marked Exhibit "Defendant A" and incorporated herein by

reference.

6. Denied. On the contrary, the language of the applicable warranty is contained in Exhibit "Defendant A", attached hereto and incorporated herein by reference.
- 7-8. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraphs seven and eight. By way of further answer, Defendant has no record indicating a warranty claim has been made to Defendant for a December 2000 front rear end housing crack.
9. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 9.
10. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 10. By way of further answer, Defendant has no record indicating a warranty claim has been made to Defendant for a February 10, 2002, front rear end housing crack.
11. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 11.
12. Denied. By way of further answer, Defendant has no record of a warranty claim to Defendant for a June 10, 2002, front rear end housing crack, no record of being contacted by Plaintiff at such time and no knowledge of the identification of Defendant's representative who addressed warranty information with Plaintiff.
13. After reasonable investigation, Defendant is without knowledge or information

sufficient to form a belief as to the truth of the averments contained in paragraph 13.

14. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 14.

15-16. Denied. Defendant has no record of a warranty claim to Defendant for a July 12, 2002, back rear end malfunction and no record of being contacted by or responding to Plaintiff at that time. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraphs 15 and 16.

17. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 17.

18-19. Denied. Defendant has no record of a warranty claim to Defendant for a July 2002 transmission failure and no record of being contacted by or responding to Plaintiff at that time. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraphs 18-19.

20-22. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 20-22. By way of further answer, Defendant has no record of a warranty claim to Defendant for a January 24, 2002, rear rear housing crack.

23. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph

23.

24. Denied. By way of further answer, Defendant has no record of warranty claims to Defendant for the failures claimed by Plaintiff herein.

25-27. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraphs 25-27. By way of further answer, said damages would be beyond those covered by the express warranty as set forth in Exhibit "Defendant A" attached hereto and incorporated herein by reference.

WHEREFORE, Defendant requests judgment in its favor.

#### **NEW MATTER**

28. The terms and conditions of the express warranty between Plaintiff and Defendant are set forth in Exhibit "Defendant A", pages one through fifteen, a true and correct copy of which is attached hereto and incorporated herein by reference.

29. Said warranty provides in part inter alia as follows:

"Mack Trucks, Inc. (the "Manufacturer") warrants each new Mack motor vehicle (the "Vehicle") sold by it or by any of its authorized new truck sales facilities to be free from defects in material or workmanship under normal use and service, its obligation under this warranty being limited to repairing or replacing, as hereinafter provided, at its option, at the Manufacturer's authorized truck repair facility any part or parts of the Vehicle found to the Manufacturer's satisfaction to be defective upon examination by it, provided that such part or parts be returned to the Manufacturer's factor or to its nearest authorized truck repair facility. In accordance with the

Manufacturer's published policies, the Manufacturer's authorized truck repair facility is authorized to use only Genuine Mack or Mack Approved parts, purchased from the Manufacturer, in performance of warranted repairs, except where such parts are not available."

30. All or portions of Plaintiff's claim are outside the language of the warranty because they go beyond repairing or replacing alleged defective parts and/or because warranty claims have not been made in accordance with the requirements of the warranty language.
31. A list of items not covered by warranty appears on page 12 of the warranty language contained in Defendant A attached hereto and incorporated herein by reference.
32. Upon information and belief, all or portions of Plaintiff's claims are not covered by the warranty because they do not result from normal use and service and/or because they are items not covered by the warranty.
33. Based upon records of Defendant, Plaintiff has not given Defendant notice of the claims which Plaintiff makes in this litigation.
34. The damages which Plaintiff may recover, assuming a breach of warranty, which is denied, have been limited and/or excluded by the terms of the warranty in accordance with Pa.C.S.A. § 2719.
35. Assuming recovery, which is denied, Plaintiff's damages are limited and/or excluded to those permitted by the language of the express warranty.
36. Plaintiff's claims may be limited by the language of page seven of the warranty pertaining to misuse, negligence or accident and/or alterations or repairs outside

of the factory.

37. All or portions of Plaintiff's claims may be barred by applicable statutes of limitations contained in the sales documents, warranty documents and/or applicable statutes.

MITCHELL, MITCHELL, GRAY & GALLAGHER

A professional corporation.

BY: 

C. Edward S. Mitchell

ID#07222

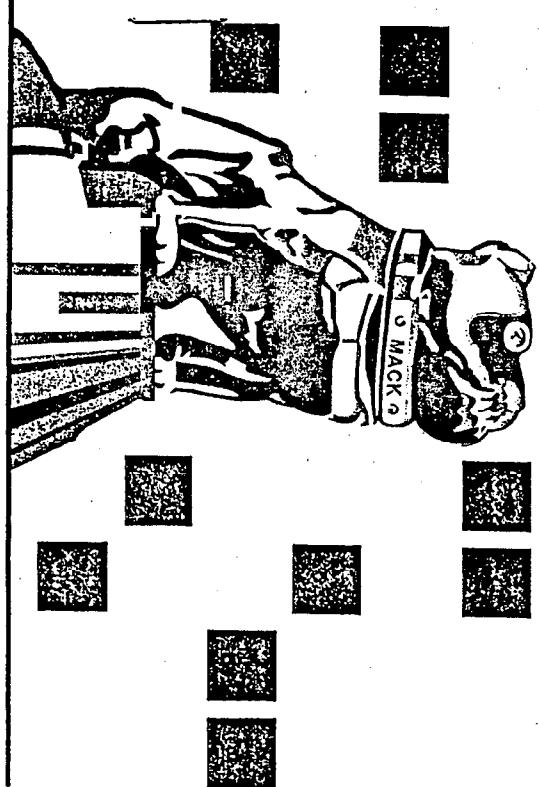
Attorney for Defendant

10 West Third Street

Williamsport, PA 17701

Telephone: 570-323-8404

Facsimile: 570-323-8585



# PEDIGREE PROTECTION PLAN

# PEDIGREE PROTECTION PLAN

**PEDIGREED**

**PROTECTION**

**PLAN**

**TS46898**

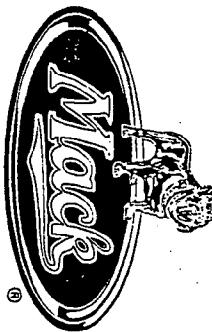


# NOTICE TO PURCHASER



## BULLDOG PROTECTION PLANS (EXTENDED WARRANTIES)

The warranty coverage on your new Mack truck can easily be extended if you desire. Just ask your dealer for details on a Bulldog Protection Plan.



## TRANSFER OF WARRANTY

The balance of the Mack Standard Warranty is transferable to each subsequent vehicle owner with the approval of Mack Trucks, Inc. This transfer must be performed by an authorized Mack facility within 30 days of the date of sale. The vehicle must be operated in the same vehicle application as originally sold. Further details and forms required to perform the transfer are available from your local Mack authorized new truck sales facility.

## INJECTION PUMP AND GOVERNOR SETTING

Do not attempt to increase engine power by adjusting injection pump and governor settings beyond standard specifications.

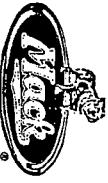
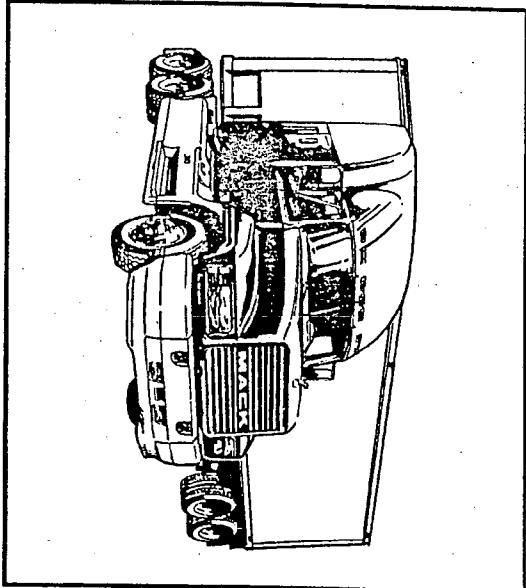
In the event that damage results from such improper adjustments, the cost of repairing such damage will not be covered under the Warranty.

# DEALER

# NOTICE TO PURCHASER

The extended warranties which are offered through Bulldog Protection Plans are available to owners of all Mack vehicles with the exception of those that will be used in Vehicle Application D "Off Road." Your Mack dealer and the Mack Warranty Department reserve the right to investigate actual vehicle usage before accepting registration in a Bulldog Protection Plan. Mack Trucks, Inc. may also refuse to honor a warranty claim if it is determined that damage claimed has resulted from vehicle usage other than that described in the registered Vehicle Application.

Mack Trucks, Inc. may make changes in models, design, specifications and equipment at any time without incurring any obligations. The specifications contained herein are subject to change without notice.





## MACK STANDARD WARRANTY

### 1998 and Later Model Years

Mack Trucks, Inc. (the "Manufacturer") warrants each new Mack motor vehicle (the "Vehicle") sold by it or by any of its authorized new truck sales facilities to be free from defects in material or workmanship under normal use and service, its obligation under this warranty being limited to repairing or replacing, as hereinafter provided, at its option, at the Manufacturer's authorized truck repair facility any part or parts of the Vehicle found to the Manufacturer's satisfaction to be defective upon examination by it, provided that such part or parts be returned to the Manufacturer's factory or to its nearest authorized truck repair facility. In accordance with the Manufacturer's published policies, the Manufacturer's authorized truck repair facility is authorized to use only Genuine Mack or Mack Approved parts, purchased from the Manufacturer, in performance of warranted repairs, except where such parts are not available.

1. Component parts of the Vehicle as listed in the Warranty Schedules on Forms FO34.1, FO34.2 and FO34.3 are warranted for the time period specified commencing the date of delivery of the Vehicle to the original purchaser or before the Vehicle has been operated by such original purchaser the number of miles, kilometers or hours specified on such schedules, whichever first occurs. The repairs or replacement of such parts will be made in accordance with the terms of each schedule.
2. All other parts or components, except as hereinafter provided, are warranted for twelve months or 100,000 miles (161,000 kilometers), commencing the date of delivery of the Vehicle to the original purchaser. The repair or replacement of such parts will be made without charge for parts or labor.

NOTE: WARRANTY COVERAGE MAY VARY BASED ON THE TYPE OF USAGE OF THE VEHICLE. VEHICLE APPLICATION AT TIME OF SALE DETERMINES APPLICABLE WARRANTY COVERAGE. CONSULT YOUR MACK AUTHORIZED NEW TRUCK SALES FACILITY FOR THE APPLICATION CLASS OF THE VEHICLE. THE MANUFACTURER RESERVES THE RIGHT

TO VERIFY THAT THE APPLICATION FOR WHICH THE VEHICLE IS REGISTERED DOES MATCH THE ACTUAL APPLICATION CLASS.

This warranty shall not apply to any Vehicle which has been subject to misuse, negligence or accident or which shall have been altered or repaired outside of the factory in any way which in the Manufacturer's judgement might affect the Vehicle's stability or reliability, nor to normal maintenance services (such as engine tune-up, fuel system cleaning, wheel alignment and balancing, brake and clutch adjustments) and the replacement of service items (such as filter elements and lubricants) made in connection with such services.

The Manufacturer makes no warranty whatever with respect to the engines and transmissions not of its manufacture, nor to winches, power take-offs, dumper, mixer and refuse assemblies, hoists and bodies or other special equipment made by other manufacturers and installed outside of the Manufacturer's factory, nor to non-Mack brand batteries, tires and tubes. Said engines, transmissions, special equipment, accessories, tires and tubes usually are typically warranted separately by their respective manufacturers.

THIS WARRANTY IS MADE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES OR CONDITIONS, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ANY OTHER OBLIGATION OR LIABILITY ON THE PART OF THE MANUFACTURER INCLUDING, WITHOUT LIMITATION OF THE FOREGOING, CONSEQUENTIAL AND INCIDENTAL DAMAGES. The Manufacturer neither assumes nor authorizes any person to assume for it any other liability in connection with the sale of the Vehicle. This warranty may be transferred by the original retail purchaser to the subsequent retail purchaser (purchasing the Vehicle directly from the original retail purchaser) with the prior approval of the Manufacturer and otherwise, in accord with the Manufacturer's Warranty Administration Instructions. The Manufacturer offers various customer purchasable extended warranty plans. Contact the Manufacturer's authorized new truck sales facility for details.

This warranty shall not apply to used motor vehicles, the same being sold "as is - where is".

## WARRANTY COVERAGES AND LIMITATIONS: All Coverage is 100% Parts and Labor

VEHICLE APPLICATION: A (HIGHWAY)	Hours	Months	Miles	Kilometers
<b>SCHEDULE 1. BASIC VEHICLE* (Includes Roadside Assistance and Towing for warrantable failures.**)</b>	—	12	100,000	161 000
*Clutch Lining, Brake Lining and Brake Drums are covered for 12 months or 25,000 miles/40 000 kilometers only.				
**Roadside Assistance and Towing coverage does not apply to vendor engines, transmissions and axles.				
<b>SCHEDULE 2. MACK DIESEL ENGINE</b>				
Standard Warranty				
Major Components:				
Cylinder Block Casting	10,800	36	300,000	483 000
Main Bearing Bolts	12,500	60	500,000	805 000
Cylinder Head Castings				
Cylinder Head Capscrews	Valve Lifters			
Crankshaft Forging	Intake Manifold Casting			
Con-Rod & Cap Forging	Flywheel Housing			
Con-Rod Capscrews	Gear Cover			
	Engine Gears			
Coverage also applies to consumables such as lubricant, antifreeze, filter elements, belts, hoses and similar maintenance items not reusable and replaced directly as result of warrantable engine, carrier or transmission failure.				
Components not manufactured by Mack Trucks, Inc., but used on Mack diesel engine assemblies are excluded from the coverage in Schedule 2. These components are covered by the component manufacturer's warranty in effect at the time of delivery. Consult your local Mack service facility for details.				
<b>SCHEDULE 3. MACK TRANSMISSIONS</b>	5, 6, 9, 10, 13, 18 Speed Only			
All Others	—	60	500,000	805 000
	—	36	300,000	483 000
<b>SCHEDULE 4. MACK AXLES</b>				
Rear Carriers and Housing	—	60	500,000	805 000
Rear Carrier Seats, Gaskets and Front I-Beam	—	36	300,000	483 000
S65 Bogie and Carrier, Regardless of Carrier Model	—	12	100,000	161 000
<b>SCHEDULE 5.</b> Trunnion Bracket and Spindle, Suspension Trunnion (except Bushings).	—	36	300,000	483 000
<b>SCHEDULE 6. FRAMES: SIDE RAILS AND CROSMEMBERS</b>	—	60	500,000	805 000
<b>SCHEDULE 7. CAB STRUCTURE</b>	—	60	500,000	805 000
<b>SCHEDULE 8. CAB CORROSION</b>	—	60	500,000	805 000
Coverage applies to perforation (an actual hole in the cab panel) due to corrosion. Coverage does not apply to corrosion caused by damage to paint finish.				
<b>SCHEDULE 9.</b> Components not manufactured by Mack Trucks, Inc may have warranty coverage different from the above as they are covered by the manufacturer's warranty. Consult your local Mack sales facility for details.				



**WARRANTY COVERAGE  
AND LIMITATIONS**

**APPLICATION: C  
(VOCATIONAL, ON/OFF HIGHWAY)**

The following warranty applies to vehicles used in the above applications. Refer to the preceding A schedule for additional details.

**Schedule 1 — BASIC VEHICLE:**

Same as A Schedule.

**Schedule 2 — MACK DIESEL ENGINE:**

Same as A Schedule.

**Schedule 3 — MACK TRANSMISSIONS:**

All Mack transmissions are warranted for 36 months, or 300,000 miles/483,000 kilometers.

**Schedule 4 — MACK AXLES: REAR CARRIERS AND HOUSINGS, FRONT I-BEAM:**

These components are warranted for 36 months or 300,000 miles/483,000 kilometers, with the exception of the S65 Bogie and Carrier (regardless of carrier model) which is warranted for 12 months or 100,000 miles/161,000 km.

**Schedule 5 — TRUNNION BRACKET, SPINDLE, SUSPENSION TRUNNION:**

Same as A Schedule.

**Schedule 6 — FRAMES: SIDE RAILS AND CROSSMEMBERS:**

The warranty for these components is 36 months or 300,000 miles/483,000 kilometers.

**Schedule 7 — CAB STRUCTURE:**

The warranty for these components is 24 months or 200,000 miles/322,000 kilometers.

**Schedule 8 — CAB CORROSION:**

Same as A Schedule.

**Schedule 9:**

Same as A Schedule.

**WARRANTY COVERAGE AND  
LIMITATIONS**

**APPLICATION: D (OFF ROAD)**

The following warranty applies to vehicles used in application D. Refer to the A schedule for additional details. Towing and roadside assistance are not covered under the warranty for application D vehicles.

**Schedule 1 — BASIC VEHICLE:**

Same as A Schedule.

**Schedule 2 — MACK DIESEL ENGINE:**

Mack engines are warranted for 6,250 hours, 24 months, or 200,000 miles/322,000 kilometers.

**Schedule 3 — MACK TRANSMISSIONS:**

All Mack transmissions are warranted for 12 months, or 100,000 miles/161,000 kilometers.

**Schedule 4 — MACK AXLES: REAR CARRIERS AND HOUSINGS, FRONT I-BEAMS:**

These components are warranted for 12 months or 100,000 miles/161,000 kilometers.

**Schedule 5 — TRUNNION BRACKET, SPINDLE, SUSPENSION TRUNNION:**

These components are warranted for 12 months or 100,000 miles/161,000 kilometers.

**Schedule 6 — FRAMES: SIDE RAILS AND CROSSMEMBERS:**

The warranty for these components is 12 months or 100,000 miles/161,000 kilometers.

**Schedule 7 — CAB STRUCTURE:**

The cab structure is warranted for 12 months or 100,000 miles/161,000 kilometers.

**Schedule 8 — CAB CORROSION:**

Same as A Schedule.

**Schedule 9:**

Same as A Schedule.

**NOTICE TO DEALER**

# NOTICE TO OWNER



## ITEMS NOT COVERED BY WARRANTY

- Abuse, accident or negligence
- Adjustment of brakes, clutches and controls
- Brake and clutch lining replacement for normal wear
- Specification changes or error in specifications
- Damage in transit
- Deterioration of batteries, paint and trim from improper storage or industrial fallout
- Duplication of repairs from faulty diagnosis/workmanship
- Engine tune-up
- Downtime and driver layover expense
- Headlight adjustment: sealed beam or bulb replacement
- Filter elements and lubricants, except as provided in Warranty Schedule applicable to Mack built engines and transmissions in on-highway vehicles
- Fuel system cleaning
- Injection tip service/replacement for normal use and wear
- Major components/parts replaced without prior authorization from Mack Warranty Department
- Overtime and holiday labor without prior authorization
- Preparation for Delivery inspection
- Shortage of factory-installed parts
- Telephone, Fax and other communication expenses
- Tires and tubes
- Transportation expense for obtaining replacement parts
- Failures resulting from unauthorized alteration or non-Mack parts
- Wheel alignment, wheel and tire balancing, tire rotation
- Windshield wiper blades
- Rattles, squeaks, vibrations, and unusual noises. Up to 90 days after delivery, the necessary adjustments or corrections will be covered by warranty. Such adjustments or corrections after this period are usually the result of use; and therefore, are not covered under warranty.
- Misapplication – failure of any kind resulting from using the vehicle in a type of service for which the vehicle was not designed or built

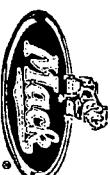
## TOWING AND ROAD ASSISTANCE

Towing and road assistance charges are reimbursable on 1998 and later model year Mack manufactured class 8 vehicles when towing becomes necessary to properly service a vehicle due to a warrantable failure.

The following criteria must be met to qualify for payment:

- A. The vehicle must be disabled on the highway due to a warrantable failure.
- B. The vehicle must not be in service more than twelve months, 100,000 miles/161 000 kilometers from the original in-service date.
- C. Towing will be reimbursed when it is not feasible to repair at the point of failure.
- D. Towing reimbursement is limited to normal retail towing charges to the nearest authorized Mack repair facility.
- E. The vehicle must be registered for highway service.

# NOTICE TO OWNER



# NOTICE TO PURCHASER



## FEDERAL REGULATIONS

Gaseous Emission Control Systems Warranty and Noise Control Systems Warranty are printed in the Emission Control Systems Handbook (TS505). California Engine Gaseous Emission Control Systems and Devices warranty and maintenance information is also included.

## OPERATOR'S HANDBOOK

Mack vehicles are designed to give many years of reliable service. Excellent information is provided in the Operator's Handbook in each new Mack truck. Refer to it for operation instructions and other important data.

## MAINTENANCE AND LUBRICATION

This TS494 manual lists recommended maintenance schedules and indicates in detail just what is to be covered in a bumper-to-bumper preventive maintenance program. Detailed lubricant specifications and capacities are listed for ready reference.

## SERVICE MANUAL

For those Mack vehicle owners who need service information, a Mack Components Service Manual (TS576) or a Custom Truck Service Manual (TS473) can be purchased through your local Mack facility.

## PARTS AND SERVICE DIRECTORY

To assist in locating Mack facilities, a Directory of Mack Sales, Parts and Service Centers (TS524) is placed in each vehicle. This directory can be used to locate and contact all Mack Truck Sales Facilities and Service Centers.

## ■ PEDIGREE PROTECTION IS...

Genuine Mack "Performance Counts®" Parts – made to the same high standards as the original equipment parts. They always incorporate the latest design and manufacturing improvements to make them even better than the originals.

## ■ PEDIGREE PROTECTION IS...

That important extra advantage – Mack "Pedigreed Protection" Service when you need it, where you need it by skilled factory trained mechanical technicians. There are Mack Authorized Service facilities in all major cities.

## ■ PEDIGREE PROTECTION IS...

Technical Advice – as you need it. Mack experts stand ready to help you select the correct truck for your job and prepare the right maintenance program for low operating costs.

## ■ PEDIGREE PROTECTION IS...

Warranty – While you have received a copy of the Mack Standard Warranty, and its terms were discussed with you when you purchased your truck, the Warranty has been reprinted in this booklet for easy reference.

# NOTICE TO PURCHASER



TS46898 25M 7/97

VERIFICATION

Kenneth A. Blythe hereby verifies that he is Associate General Counsel of Mack Trucks, Inc., and in that capacity is authorized to execute this verification and that the facts set forth in the foregoing Answer and New Matter are true and correct to the best of his knowledge or information and belief and that this verification is made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Kenneth A. Blythe

Kenneth A. Blythe

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

GREGG L. BARRETT, an individual :  
Plaintiff, : Civil Division  
vs. :  
Docket No. 03-348-CD  
MACK TRUCKS, INC., a corporation, :  
Defendant. :

**CERTIFICATE OF SERVICE**

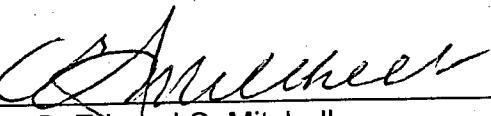
C. EDWARD S. MITCHELL hereby certifies that he served a copy of the  
foregoing Answer and New Matter on the following, via U.S. First Class Mail, postage  
prepaid, this 22<sup>nd</sup> day of May, 2003:

James A. Naddeo, Esquire  
211 1/2 E. Locust Street  
PO Box 552  
Clearfield, PA 16830

MITCHELL, MITCHELL, GRAY & GALLAGHER

A professional corporation.

BY:

  
C. Edward S. Mitchell  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

ID#07222

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

GREGG L. BARRETT, an  
individual,

Plaintiff,

vs.

MACK TRUCKS, INC., a  
corporation,

Defendant.

\* NO. 03 - 348 - CD

\* Type of Pleading:

\* ANSWER TO NEW MATTER

\* Filed on behalf of:

\* Plaintiff

\* Counsel of Record for  
this party:

\* James A. Naddeo, Esq.  
\* Pa I.D. 06820

\* 211 1/2 E. Locust Street  
\* P.O. Box 552  
\* Clearfield, PA 16830  
\* (814) 765-1601

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



JUN 04 2003

Attest.

William L. Hause  
Prothonotary/  
Clerk of Courts

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

GREGG L. BARRETT, an \*  
individual, \*  
Plaintiff, \*  
\*  
vs. \* No. 03 - 348 - CD  
\*  
MACK TRUCKS, INC., a \*  
corporation, \*  
Defendant. \*

ANSWER TO NEW MATTER

NOW COMES the Plaintiff, GREGG L. BARRETT, and by his attorney, James A. Naddeo, Esquire, sets forth the following:

28. Denied. After reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of said averment.

29. Said allegation is neither admitted nor denied in that the warranty speaks for itself.

30. States a conclusion of law to which no answer is required. To the extent that an answer may be required, said allegation is denied. In further answer thereto, it is alleged that Defendant breached the warranty given to Plaintiff who is therefore not bound by the terms and conditions of said warranty.

31. Said allegation is neither admitted nor denied in that the warranty speaks for itself.

32. States a conclusion to which no answer is required. To the extent that an answer may be required, said allegation is denied. On the contrary, it is alleged that any defects in the vehicle purchased by Plaintiff were the result of normal use and service and are covered by warranty. In further answer thereto, it is alleged that it was determined in an ancillary proceeding that the defects to Plaintiff's vehicle were the result of normal use and service and were covered by warranty so that Defendant is collaterally estopped from claiming otherwise.

33. Denied. On the contrary, it is alleged that Defendant's designated dealer, W.W. Engine & Supply, Inc., DuBois, Pennsylvania, had notice of Plaintiff's claims. In further answer thereto, it is alleged that Plaintiff, through his agent Vince Centra, contacted the Defendant and requested that Defendant honor the warranty given to Plaintiff.

34. States a conclusion of law to which no answer is required. To the extent that an answer may be required, it is alleged that Defendant breached its warranty to Plaintiff and that Plaintiff is therefore not bound by the provisions of Pa.C.S.A. §2719.

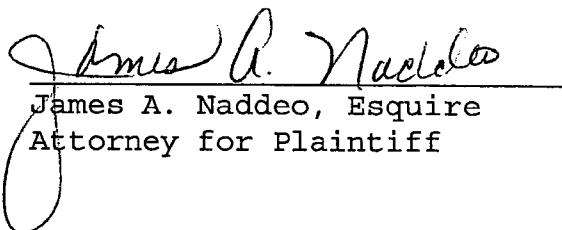
35. States a conclusion of law to which no answer is required. To the extent that an answer may be required, said allegation is denied. In further answer thereto, Plaintiff

incorporates his answer to Paragraph 34 of Defendant's New Matter by reference and makes it a part hereof.

36. States a conclusion to which no answer is required. To the extent that an answer may be required, said allegation is denied. In further answer thereto, Plaintiff incorporates his answer to Paragraph 32 of Defendant's New Matter by reference and makes it a part hereof.

37. States a conclusion of law to which no answer is required. To the extent that an answer may be required, it is denied that Plaintiff's claims are barred for the reasons set forth in Paragraph 37 of Defendant's New Matter.

Respectfully submitted,

  
\_\_\_\_\_  
James A. Naddeo, Esquire  
Attorney for Plaintiff

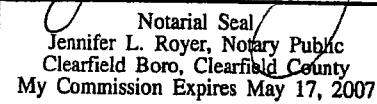
COMMONWEALTH OF PENNSYLVANIA )  
ss.  
COUNTY OF CLEARFIELD )

Before me, the undersigned officer, personally appeared  
GREGG L. BARRETT, who being duly sworn according to law, deposes  
and states that the facts set forth in the foregoing  
Answer to New Matter are true and correct to the best of his  
knowledge, information and belief.

Gregg L. Barrett  
Gregg L. Barrett

SWORN and SUBSCRIBED before me this 3rd day of June, 2003.

Jennifer L. Royer



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

GREGG L. BARRETT, an individual  
Plaintiff, : Civil Division  
vs. :  
MACK TRUCKS, INC., a corporation,  
Defendant, : Docket No. 03-348-CD  
vs. :  
W.W. Engine & Supply, Inc.,  
Additional Defendant :  
.

**CERTIFICATE OF SERVICE**

C. EDWARD S. MITCHELL hereby certifies that he served a copy of the  
foregoing Complaint to Join, on the following, via U.S. First Class Mail, postage prepaid,  
this 2<sup>nd</sup> day of March, 2004:

James A. Naddeo, Esquire  
211 ½ E. Locust Street  
PO Box 552  
Clearfield, PA 16830

W.W. Engine & Supply, Inc. **(Certified)**  
P.O. Box 645  
RD#3 Rockton Road  
DuBois, PA 15801

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

BY:

  
C. Edward S. Mitchell ID#07222  
Attorney for Defendant Mack Trucks  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

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

\*

GREGG BARRETT, an individual  
Plaintiff,

\*

VS.

\*

MACK TRUCKS, INC., a corporation  
Defendant,

\*

VS.

\*

W. W. ENGINE AND SUPPLY, INC.  
Additional Defendant

\*

Type of Pleading:  
PRAECIPE TO ENTER  
APPEARANCE

Filed on Behalf of:  
ADDITIONAL DEFENDANT:  
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**

**MAR 31 2004**

William A. Shay  
Prothonotary/Clerk of Court

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

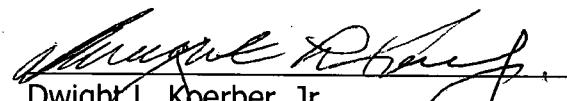
**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

GREGG BARRETT, an individual  
Plaintiff, \*  
vs. \*  
MACK TRUCKS, INC., a corporation \* Docket No. 03-348-CD  
Defendant, \*  
vs. \*  
W. W. ENGINE AND SUPPLY, INC. \*  
Additional Defendant \*

**PRAECIPE TO ENTER APPEARANCE**

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

Respectfully submitted:

  
Dwight L. Koerber, Jr.  
Attorney for Additional Defendant:  
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

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

\*

GREGG BARRETT, an individual  
Plaintiff,

\*

vs.

\*

MACK TRUCKS, INC., a corporation  
Defendant,

\*

Docket No. 03-348-CD

\*

vs.

\*

W. W. ENGINE AND SUPPLY, INC.  
Additional Defendant

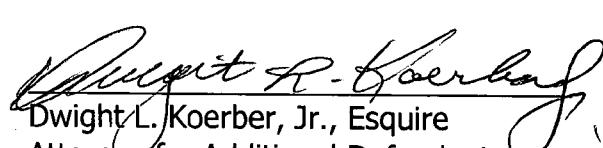
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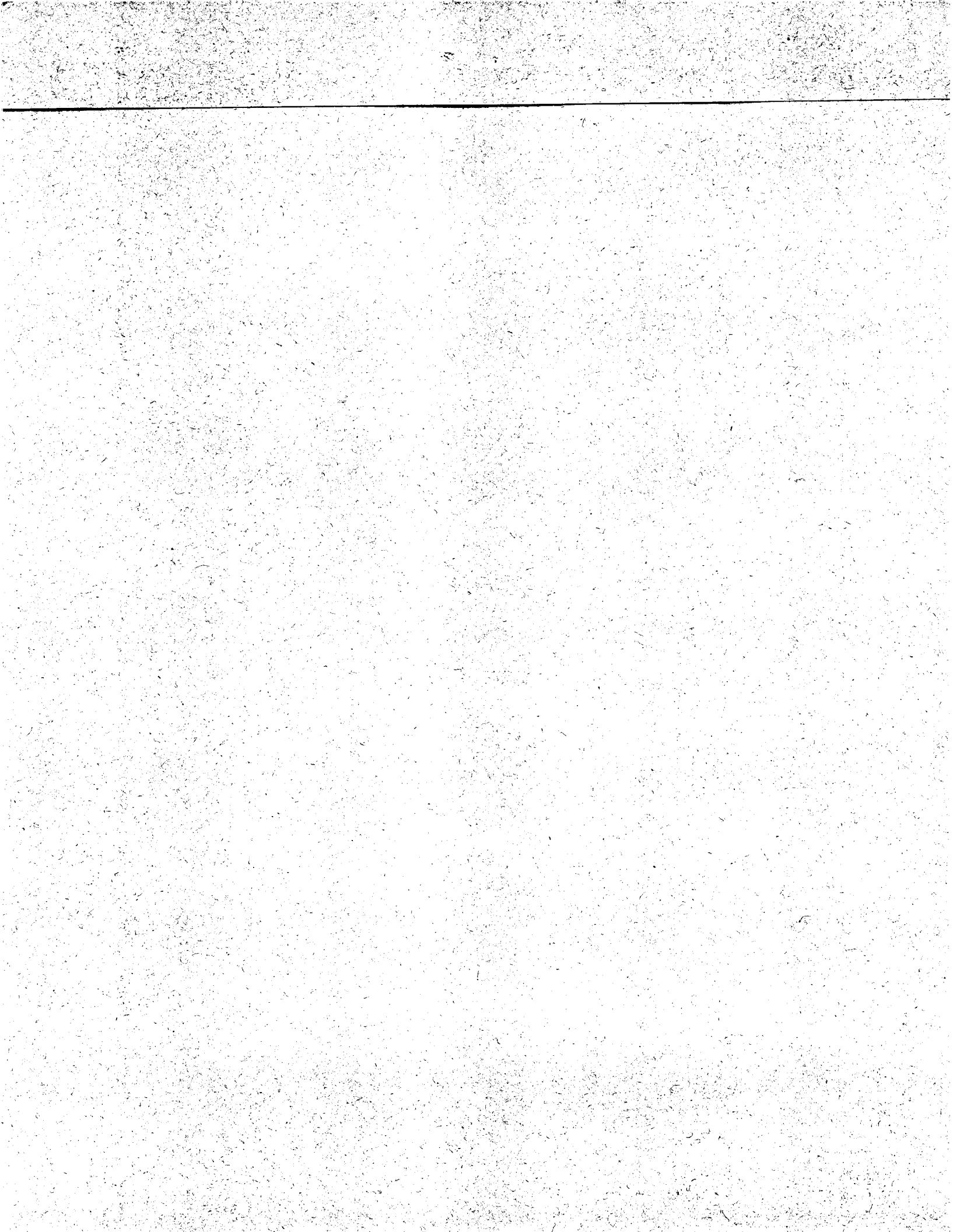
**CERTIFICATE OF SERVICE**

I certify that on the 31<sup>st</sup> day of March, 2004, the undersigned served certified copies of the Praeclipe to Enter Appearance in the above-captioned matter by United States First Class Mail upon the following:

James A. Naddeo, Esquire  
211 1/2 East Locust Street  
P. O. Box 552  
Clearfield, PA 16830

C. Edward S. Mitchell, Esquire  
10 West Third Street  
Williamsport, PA 17701

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



IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET NO. 03-348-CD

GREGG BARRETT, an individual  
Plaintiff

vs.

MACK TRUCKS, INC., a corporation  
Defendant

vs.

W. W. ENGINE AND SUPPLY, INC.  
Additional Defendant

PRAECTIVE TO ENTER APPEARANCE

FILED 4cc  
6/3/04 6:11 AM Ky Koerber  
MAR 31 2004  
*Kes*

William A. Shaw  
Prothonotary/Clerk of Courts

LAW OFFICE

DWIGHT KOERBER, JR.

ATTORNEY AT LAW

110 NORTH SECOND STREET

P. O. BOX 520

CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

GREGG L. BARRETT

:

-VS-

:

MACK TRUCKS, INC.

: No. 03-348-CD

-VS-

:

W.W. ENGINE & SUPPLY, INC. :

O R D E R

NOW, this 1st day of April, 2004, this being the date set for Civil call; counsel, Dwight Koerber, having requested a continuance until Civil call for the fall Term of Court, it is the ORDER of this Court that the matter be and is hereby continued until the fall Term of Court.

BY THE COURT,



President Judge

FILED

APR 08 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

\*

GREGG BARRETT, an individual  
Plaintiff,

\*

VS.

\*

MACK TRUCKS, INC., a corporation  
Defendant,

\*

Docket No. 03-348-CD

\*

VS.

\*

W. W. ENGINE & SUPPLY, INC.  
Additional Defendant

\*

**Type of Pleading:**

ANSWER AND NEW MATTER OF  
ADDITIONAL DEFENDANT TO  
COMPLAINT TO JOIN ADDITIONAL  
DEFENDANT

**Filed on Behalf of:**

ADDITIONAL DEFENDANT:  
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**

APR 23 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

\*

GREGG BARRETT, an individual  
Plaintiff,

\*

vs.

\*

MACK TRUCKS, INC., a corporation  
Defendant,

\*

Docket No. 03-348-CD

\*

vs.

\*

W. W. ENGINE & SUPPLY, INC.  
Additional Defendant

\*

**NOTICE TO PLEAD**

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE  
ENCLOSED ANSWER AND NEW MATTER WITHIN TWENTY (20) DAYS FROM SERVICE  
HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.



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

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**

\*

GREGG BARRETT, an individual  
Plaintiff,

\*

vs.

\*

MACK TRUCKS, INC., a corporation  
Defendant,

\*

Docket No. 03-348-CD

\*

vs.

\*

W. W. ENGINE & SUPPLY, INC.  
Additional Defendant

\*

**ANSWER AND NEW MATTER OF ADDITIONAL DEFENDANT TO  
COMPLAINT TO JOIN ADDITIONAL DEFENDANT**

COMES NOW, Additional Defendant, W. W. Engine & Supply, Inc., by and through its attorney, Dwight L. Koerber, Jr., Esquire, and files the within Answer and New Matter to the Complaint to Join Additional Defendant. In support thereof, Additional Defendant avers and shows as follows:

- (1) Admitted.
- (2) Admitted.
- (3) Admitted.
- (4) It is admitted that such an allegation was made, but Additional Defendant denies them, and requires strict proof of same at trial.
- (5) It is admitted that such pleading has been filed.
- (6) It is admitted that such pleading has been filed.

(7) Legal conclusion, no answer required.

(8) Admitted.

(9) Denied, to the contrary, Additional Defendant was of the understanding that the appropriate warranty for the vehicle in question was a five (5) year, 500,000 mile warranty, but in presenting this response, Additional Defendant would point out that the warranty was directly between Plaintiff and Defendant, and not a warranty which Additional Defendant itself issued.

(10) Denied. Defendant is not aware of any instructions that it violated and requires a strict proof of same at trial.

(11) Denied, legal conclusion. Moreover, see Additional Defendant's answers to paragraphs 9 and 10, above.

(12) Denied, legal conclusion. In so far as any facts are alleged, Additional Defendant denies these facts and requires strict proof of same at trial.

(13) Denied, legal conclusion. See answers to paragraphs 9-12 above.

(14) Denied, legal conclusion. See answers to paragraphs 9 and 10 above. Furthermore, to the extent that facts are alleged, Additional Defendant denies them and requires strict proof of same at trial.

(15) Denied, legal conclusion. See answers to paragraphs 9 and 10 above. Furthermore, to the extent that facts are alleged, Additional Defendant denies them and required strict proof of same at trial.

(16) Denied, legal conclusion.

### **NEW MATTER**

In further support of its position herein, Additional Defendant offers the following New Matter.

(17) Additional Defendant denies that it presented the incorrect warranty, and denies that it failed to follow in the instructions of Defendant. However, to the extent that Defendant is able to establish any culpability on the part of Additional Defendant, it should be pointed out that there has been a lengthy delay in presenting such a position and Additional Defendant has relied to its detriment upon the absence of any notification that it extended an incorrect warranty. Additional Defendant therefore requests that Defendant be estopped from raising such a claim at this late date.

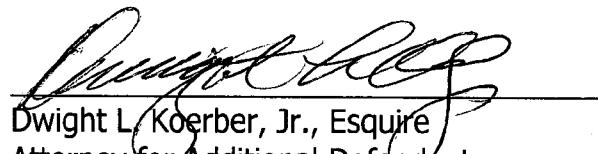
(18) Additional Defendant would also point out that during the processing of the claim in question, there was never an issue raised as to the duration of the warranty or the classification of the warranty, but instead the reason for not paying the claim was because of the unwarrantable failure by the Plaintiff, as it relates to his operation of the vehicle in question.

(19) To the extent that there is any recovery against Additional Defendant, it should be reduced by the amount of the payment that Additional Defendant would have otherwise received if the warranty in question had been honored. Additional Defendant should have been paid the sum of \$3,788.23 directly by the Plaintiff, but it was not paid because of Plaintiff's position that services were covered by the warranty of Defendant. If this position is proven to be correct, then Additional Defendant is entitled to payment

for the warranty services that it provided, in the form of a direct payment or a set off against Defendant.

WHEREFORE, Additional Defendant prays that the Complaint filed against it as Additional Defendant be denied and that judgment be entered in its favor in this matter.

Respectfully submitted,

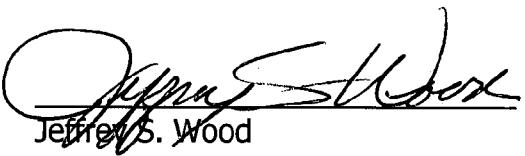


Dwight L. Koerber, Jr., Esquire  
Attorney for Additional Defendant:  
W. W. ENGINE & SUPPLY, INC.

Law Offices of Dwight L. Koerber, Jr.  
110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

## **VERIFICATION**

I certify that the statements made in the foregoing document 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.



Jeffrey S. Wood

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

\*

GREGG BARRETT, an individual  
Plaintiff,

\*

vs.

\*

MACK TRUCKS, INC., a corporation  
Defendant,

\*

Docket No. 03-348-CD

\*

vs.

\*

W. W. ENGINE AND SUPPLY, INC.  
Additional Defendant

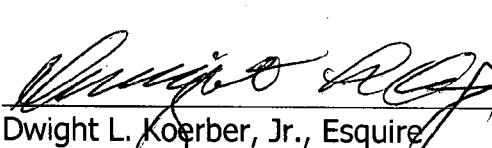
\*

**CERTIFICATE OF SERVICE**

I certify that on the 23<sup>rd</sup> day of April, 2004 the undersigned served  
certified copies of the Answer and New Matter of Additional Defendant to  
Complaint to Join Additional Defendant in the above-captioned matter via United  
States First Class Mail upon the following:

James A. Naddeo, Esquire  
211 1/2 East Locust Street  
P. O. Box 552  
Clearfield, PA 16830

C. Edward S. Mitchell, Esquire  
MITCHELL, MITCHELL, GALLAGHER,  
WEBER, SOUTHARD & WISHARD, P.C.  
10 West Third Street  
Williamsport, PA 17701

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

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET NO. 03-348-CD

GREGG BARRETT, Plaintiff

vs.

MACK TRUCKS, INC.

Defendant

vs.

W. W. ENGINE & SUPPLY, INC.

Additional Defendant

ANSWER AND NEW MATTER OF ADDITIONAL  
DEFENDANT TO COMPLAINT TO JOIN  
ADDITIONAL DEFENDANT

FILED

163084  
APR 23 2004  
66

William A. Shaw  
Prothonotary/Clerk of Courts

LAW OFFICE

DWIGHT KOERBER, JR.

ATTORNEY-AT-LAW  
110 NORTH SECOND STREET  
P. O. BOX 320  
CLEARFIELD, PENNSYLVANIA 16830

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

GREGG L. BARRETT, an  
individual,  
Plaintiff,

vs.

\* No. 03 - 348 - CD

MACK TRUCKS, INC., a  
corporation,  
Defendant.

vs.

W.W. ENGINE & SUPPLY, INC.,  
Additional Defendant

\* Type of Pleading:

\* **CERTIFICATE OF SERVICE**

\* Filed on behalf of:  
\* Plaintiff

\* Counsel of Record for  
\* this party:

\* James A. Naddeo, Esq.  
\* Pa I.D. 06820

\* 207 E. Market Street  
\* P.O. Box 552  
\* Clearfield, PA 16830  
\* (814) 765-1601

**FILED**

MAY 05 2004

William A. Shaw  
Prothonotary

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

GREGG L. BARRETT, an  
individual,  
Plaintiff,

vs.

\*  
\*  
\*  
\*

No. 03 - 348 - CD

MACK TRUCKS, INC., a  
corporation,  
Defendant,

vs.

\*  
\*  
\*  
\*

W.W. ENGINE & SUPPLY, INC.,  
Additional Defendant \*

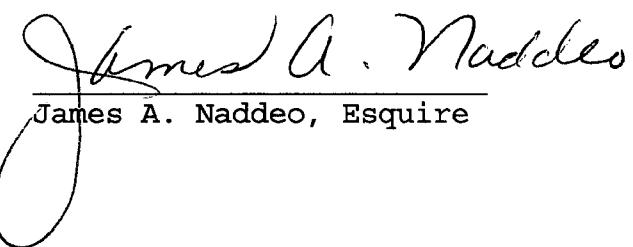
CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that true and correct copies of Plaintiff's Answers to Interrogatories and Plaintiff's Answers to Defendant's First Request for Production of Documents in the above-captioned action were served on the following persons and in the following manner on the 5th day of May, 2004:

First-Class Mail, Postage Prepaid

C. Edward S. Mitchell, Esquire  
MITCHELL, MITCHELL, GRAY & GALLAHER  
10 West Third Street  
Williamsport, PA 17701

Dwight L. Koerber, Jr., Esquire  
110 North Second Street  
Clearfield, PA 16830

  
\_\_\_\_\_  
James A. Naddeo, Esquire

**JAMES A. NADDEO**  
ATTORNEY AT LAW  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

---

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

GREGG L. BARRETT, an individual :  
Plaintiff, : Civil Division  
vs. :  
MACK TRUCKS, INC., a corporation, :  
Defendant, : Docket No. 03-348-CD  
vs. :  
W.W. Engine & Supply, Inc., :  
Additional Defendant :  
vs. :

FILED

MAY 21 2004

William A. Shaw  
Prothonotary/Clerk of Courts

**REPLY OF MACK TRUCKS, INC. TO  
NEW MATTER OF W.W. ENGINE & SUPPLY, INC.**

17. Denied that Defendant is estopped from raising the issue of incorrect warranty.
18. Denied. By way of further answer, as pleaded in Defendant's Answer to Plaintiff's Complaint, Defendant's records indicate no warranty claim was ever submitted to Defendant.
19. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averment that Additional Defendant should have been paid the sum of \$3788.23 by Plaintiff. Denied that Additional Defendant is entitled to a setoff from Defendant.

WHEREFORE, Defendant requests judgment in its favor on Plaintiff's claim or, in the alternative, a judgment of indemnity against Additional Defendant for any liability adjudicated against it in behalf of Plaintiff.

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

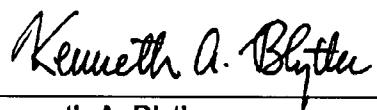
BY:

  
C. Edward S. Mitchell  
Attorney for Defendant  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

ID#07222

VERIFICATION

Kenneth A. Blythe hereby verifies that he is Associate General Counsel of Mack Trucks, Inc., and in that capacity is authorized to execute this verification and that the facts set forth in the foregoing Reply to New Matter are true and correct to the best of his knowledge or information and belief and that this verification is made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
Kenneth A. Blythe

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

GREGG L. BARRETT, an individual :  
Plaintiff, :  
vs. :  
Civil Division

MACK TRUCKS, INC., a corporation, :  
Defendant, :  
vs. :  
Docket No. 03-348-CD

W.W. Engine & Supply, Inc., :  
Additional Defendant :  
vs.

**CERTIFICATE OF SERVICE**

C. EDWARD S. MITCHELL hereby certifies that he served a copy of the foregoing Reply to New Matter on the following, via U.S. First Class Mail, postage prepaid, this 20<sup>th</sup> day of May, 2004:

James A. Naddeo, Esquire  
211 1/2 E. Locust Street  
PO Box 552  
Clearfield, PA 16830

Dwight L. Koerber, Jr., Esquire  
Law Office of Dwight L. Koerber, Jr.  
110 North Second Street  
PO Box 1320  
Clearfield, PA 16830  
Attorney for W.W. Engine & Supply, Inc.

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

BY: 

C. Edward S. Mitchell ID#07222  
Attorney for Defendant Mack Trucks  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

CA

**COMMONWEALTH OF PENNSYLVANIA**  
**COUNTY OF CLEARFIELD**

GREGG L. BARRETT, an individual :  
Plaintiff, :  
vs. :  
Civil Division  
MACK TRUCKS, INC., a corporation, :  
Defendant, :  
vs. :  
Docket No. 03-348-CD  
W.W. Engine & Supply, Inc., :  
Additional Defendant :  
vs.

**CERTIFICATE OF SERVICE**

C. EDWARD S. MITCHELL hereby certifies that he served the foregoing Pretrial Memorandum on the following, via U.S. First Class Mail, postage prepaid, this 4<sup>th</sup> day of August, 2004:

James A. Naddeo, Esquire  
211 1/2 E. Locust Street  
PO Box 552  
Clearfield, PA 16830

Dwight L. Koerber, Jr., Esquire  
Law Office of Dwight L. Koeber, Jr.  
PO Box 1320  
Clearfield, PA 16830

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

BY: 

C. Edward S. Mitchell ID#07222  
Attorney for Defendant Mack Trucks  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

FILED  
03/11/04  
cc  
AUG 06 2004  
BJS

William A. Shaw  
Prothonotary/Clerk of Courts

GA

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

Gregg Barrett, an individual  
Plaintiff

\*

-VS-

\*

MACK TRUCKS, INC., a corporation  
Defendant

\* Docket No. 03-348-CD

\*

-VS-

\*

W.W. ENGINE & SUPPLY, INC.  
Additional Defendant

\*

FILED  
01/3/2004  
AUG 06 2004  
EBS

William A. Shaw  
Prothonotary/Clerk of Courts

**CERTIFICATE OF SERVICE**

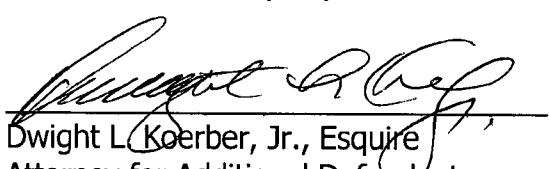
This is to certify that on the 6<sup>th</sup> day of August, 2004 the undersigned  
served a true and correct copy of the PRE-TRIAL STATEMENT OF W.W. ENGINE &  
SUPPLY, INC., ADDITIONAL DEFENDANT in the above-captioned matter upon counsel  
for Plaintiff and counsel for Defendant. Such documents were served via United States  
First Class Mail and Facsimile upon the following:

C. Edward S. Mitchell, Esquire  
MITCHELL, MITCHELL, GALLAGHER,  
WEBER, SOUTHARD & WISHARD P.C.  
10 West Third Street  
Williamsport, PA 17701

Fax: (570) 323-8585

James A. Naddeo, Esquire  
207 East Market Street  
P. O. Box 552  
Clearfield, PA 16830

Fax: (814) 765-8142

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

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

GREGG L. BARRETT, an  
individual,  
Plaintiff,

vs.

\*  
\*  
\*  
\*

No. 03 - 348 - CD

MACK TRUCKS, INC., a  
corporation,  
Defendant,

vs.

\*  
\*  
\*  
\*

W.W. ENGINE & SUPPLY, INC.,  
Additional Defendant

\*

**CERTIFICATE OF SERVICE**

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Plaintiff's Pre-Trial Statement filed in the above-captioned action was served on the following persons and in the following manner on the 4th day of August, 2004:

**First-Class Mail, Postage Prepaid**

C. Edward S. Mitchell, Esquire  
MITCHELL, MITCHELL, GRAY & GALLAHER  
10 West Third Street  
Williamsport, PA 17701

Dwight L. Koerber, Jr., Esquire  
110 North Second Street  
Clearfield, PA 16830

*James A. Naddeo*  
\_\_\_\_\_  
James A. Naddeo, Esquire  
Attorney for Plaintiff

FILED NO  
0130864  
AUG 06 2004  
E/B  
William A. Shaw  
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

GREGG L. BARRETT, an individual :  
Plaintiff, : Civil Division  
vs. :  
MACK TRUCKS, INC., a corporation, :  
Defendant, : Docket No. 03-348-CD  
vs. :  
W.W. Engine & Supply, Inc., :  
Additional Defendant :  
vs. :

**PRAECIPE**

TO THE PROTHONOTARY:

Kindly mark the docket in the above captioned action SETTLED and  
DISCONTINUED with prejudice.

*James A. Naddeo*  
James A. Naddeo, Esquire  
ID#06820  
207 East Market Street  
Clearfield, PA 16830  
(814)765-1601  
Attorney for Plaintiff

**FILED**

SEP 13 2004  
073:30/6  
William A. Shaw  
Prothonotary/Clerk of Courts

COPY OF DISC TO

C/A

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

**CIVIL DIVISION**

**Gregg L. Barrett, Plaintiff**

**Vs.** **No. 2003-00348-CD**  
**Mack Trucks, Inc., Defendant**

**Vs**  
**W. W. Engine & Supply, Inc.**  
**Additional Defendant**

**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 September 13, 2004, marked:

Settled and Discontinued with prejudice

Record costs in the sum of \$190.25 have been paid in full by Atty. James Naddeo.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 13th day of September A.D. 2004.

---

William A. Shaw, Prothonotary

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

GREGG L. BARRETT, an individual	:	
Plaintiff,	:	Civil Division
vs.	:	
MACK TRUCKS, INC., a corporation,	:	Docket No. 03-348-CD
Defendant,	:	
vs.	:	
W.W. Engine & Supply, Inc.,	:	
Additional Defendant	:	

**PRAECIPE**

TO THE PROTHONOTARY:

Kindly mark the docket in the above captioned action as to the claim of Defendant Mack Trucks against Additional Defendant W.W. Engine & Supply, Inc., SETTLED and DISCONTINUED with prejudice.

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

BY: 

C. Edward S. Mitchell ID#07222  
Attorney for Defendant Mack Trucks  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

**FILED**

SEP 16 2004

William A. Shaw  
Prothonotary

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

GREGG L. BARRETT, an individual :  
Plaintiff, : Civil Division  
vs. :  
MACK TRUCKS, INC., a corporation, : Docket No. 03-348-CD  
Defendant, :  
vs. :  
W.W. Engine & Supply, Inc., :  
Additional Defendant :  
vs. :

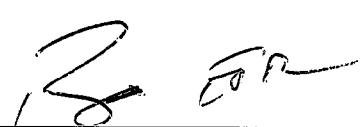
**CERTIFICATE OF SERVICE**

C. EDWARD S. MITCHELL hereby certifies that he served the foregoing  
Preacipe on the following, via U.S. First Class Mail, postage prepaid, this 15 day of  
September, 2004:

James A. Naddeo, Esquire  
211 1/2 E. Locust Street  
PO Box 552  
Clearfield, PA 16830

Dwight L. Koerber, Jr., Esquire  
Law Office of Dwight L. Koeber, Jr.  
PO Box 1320  
Clearfield, PA 16830

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

BY: 

C. Edward S. Mitchell ID#07222  
Attorney for Defendant Mack Trucks  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

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

**CIVIL DIVISION**

**COPY**

**Gregg L. Barrett**

**Vs.** **No. 2003-00348-CD**  
**Mack Trucks, Inc.**  
**W. W. Engine & Supply, Inc.**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on September 16, 2004, marked:

SETTLED, DISCONTINUED AND ENDED against Additional Defendant W. W. Engine & Supply, Inc. with prejudice.

Record costs in the sum of \$190.25 have been paid in full by Atty. James Naddeo.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 16th day of September A.D. 2004.

---

William A. Shaw, Prothonotary

JAMES A. NADDEO  
ATTORNEY AT LAW  
207 EAST MARKET STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

ASSOCIATE  
LINDA C. LEWIS

(814) 765-1601  
FAX: (814) 765-8142  
[naddeolaw@charterinternet.com](mailto:naddeolaw@charterinternet.com)

August 10, 2004

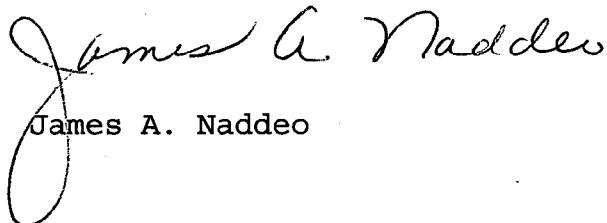
Honorable Fredric J. Ammerman  
President Judge  
Clearfield County Courthouse  
Clearfield, PA 16830

Re: Barrett vs. Mack Trucks, et al.  
No. 03-348-CD

Dear Judge Ammerman:

The parties have agreed to settle Plaintiff's claim for the sum of \$8,500.00. You will receive confirmation of this settlement from defense counsel. There is no need for the Pre-Trial Conference scheduled on Friday, August 13, 2004. I will have this action marked settled and discontinued as soon as counsel have completed the mechanics of settlement.

Sincerely,

  
James A. Naddeo

JAN/jlr

cc: C. Edward S. Mitchell, Esquire (via fax 570/323-8585)  
Dwight L. Koerber, Jr., Esquire (via fax 765-9503)  
Mr. Gregg L. Barrett

ASSOCIATE  
LINDA C. LEWIS

**JAMES A. NADDEO**  
ATTORNEY AT LAW  
207 EAST MARKET STREET  
P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

(814) 765-1601  
FAX: (814) 765-8142  
~~naddeolaw@charterinternet.com~~

August 4, 2004

Marcy Kelley  
Deputy Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830

RE: Gregg L. Barrett vs.  
Mack Trucks, Inc., et al.  
No. 03-348-CD

Dear Ms. Kelley:

Enclosed is Plaintiff's Pre-Trial Statement. By copy of this letter, I am forwarding same to counsel of record.

Sincerely,

*James A. Naddeo*  
James A. Naddeo

JAN/jlr

Enclosure

cc: C. Edward Mitchell, Esquire (w/ enc.)  
Dwight L. Koerber, Jr., Esquire

**RECEIVED**

**AUG 04 2004**

**COURT ADMINISTRATORS  
OFFICE**

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

GREGG L. BARRETT, an  
individual,

Plaintiff,

vs.

MACK TRUCKS, INC., a  
corporation,

Defendant.

vs.

W.W. ENGINE & SUPPLY, INC.,  
Additional Defendant

\* NO. 03 - 348 - CD

\* Type of Pleading:

\* **PLAINTIFF'S PRE-TRIAL  
STATEMENT**

\* Filed on behalf of:  
\* Plaintiff

\* Counsel of Record for  
this party:

\* James A. Naddeo, Esq.  
\* Pa I.D. 06820

\* 207 E. Market Street  
\* P.O. Box 552  
\* Clearfield, PA 16830  
\* (814) 765-1601

**RECEIVED**

AUG 04 2004

COURT ADMINISTRATOR'S  
OFFICE

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

GREGG L. BARRETT, an  
individual,  
Plaintiff,

vs.

\*  
\*  
\*  
\*

No. 03 - 348 - CD

MACK TRUCKS, INC., a  
corporation,  
Defendant,

vs.

\*  
\*  
\*  
\*  
\*

W.W. ENGINE & SUPPLY, INC.,  
Additional Defendant \*

PLAINTIFF'S PRE-TRIAL STATEMENT

NOW COMES the Plaintiff, GREGG L. BARRETT, and by his attorney, James A. Naddeo, Esquire, sets forth the following:

I. Factual Statement.

Plaintiff purchased a new 1998 Mack Truck, Model #C1713 from W.W. Engine & Supply, Inc., on October 24, 1997. The truck was to be equipped as a tri-axle, which equipment was included in the purchase price. At the time of purchase, Plaintiff received an express warranty titled "Pedigreed Protection Plan No. Ts46897". This plan provided transmission warranty for 60 months or 500,000 miles and a warranty for rear carriers and housing for 60 months or 500,000 miles. The truck was utilized by Plaintiff primarily for highway use.

In December 2000 the front rear end housing of Plaintiff's truck cracked. Plaintiff took the truck to Defendant's authorized dealer, W.W. Engine & Supply, Inc., and requested warranty repair. The dealer refused to make the repair. Plaintiff was required to have the front rear end housing welded on two separate occasions at his expense and ultimately had to have the front rear end housing replaced. Plaintiff continued to have various problems with the truck which he believed were covered by the express warranty given to him at the time of purchase. Despite efforts to have these malfunctions repaired by W.W. Engine & Supply, Inc., and/or Mack Trucks, Inc., Plaintiff was consistently rebuffed and informed that the malfunctions were not covered by warranty. All breakdowns in the drive train of Plaintiff's vehicle occurred within 60 months from the date of purchase and while the vehicle had less than 500,000 miles.

II. Exhibits.

- A. Copy of Bill of Sale for subject vehicle.
- B. Copies of warranty documents.
- C. Copies of repair invoices paid by Plaintiff.
- D. Records of Waroquier Coal Company to whom vehicles was leased evidencing dates and times that vehicle worked as well as the amounts earned by said vehicle.

E. Copies of Plaintiff's tax returns.

III. Witnesses.

A. Gregg L. Barrett, 288 Watts Road, Curwensville, PA  
- damage/liability.

B. Vince Centra, Vince Centra Truck Repair, Lash's  
Road, Curwensville, PA 16833 - damage/liability.

C. Representative of Waroquier Coal Company, RD3,  
Clearfield, PA 16830 - damage.

IV. Legal Theory.

Plaintiff contends that Defendant breached the express warranty given to Plaintiff with the purchase of the 1998 Mack truck. Plaintiff seeks to recover the cost of all repairs that should have been warranted under the terms and conditions of the express warranty provided by Defendant, Mack Trucks, Inc.

Plaintiff also seeks to recover for down time. While Plaintiff concedes that he would not be entitled to recover for loss of use of the vehicle under the terms of warranty, Defendant by breaching the warranty opens the door for Plaintiff's claim. When a contract calls for performance by a party and the party fails to perform, the other party is entitled to consider the agreement to be breached. (Pritchard v. Liggett, 723 A2 1053).

V. Damages.

- A. Cost of repairs totaling - \$9,677.11
- B. Down time totaling - 11,700.00

VI. Extraordinary Evidentiary Problems.

None.

VII. Stipulations.

- A. Authenticity of Waroquier Coal Company records.

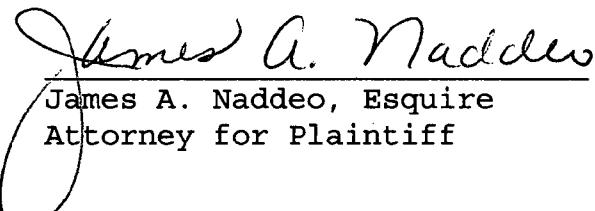
VIII. Special Points for Charge.

None.

IX. Estimated Time for Trial.

Two (2) days.

Respectfully submitted,

  
James A. Naddeo, Esquire  
Attorney for Plaintiff

JAMES A. NADDEO  
ATTORNEY AT LAW  
P.O. BOX 552  
CLEARFIELD, RENNSYLVANIA 16830

---

*(A)*

*Mitchell*  
*Gallagher*  
*Attorneys at Law*

*J. Neafie Mitchell (1919-1996)*

C. Edward S. Mitchell  
Robert A. Gallagher  
Gary L. Weber  
Bret J. Southard  
Darryl R. Wishard

Email: cesm@mmgsw.com

August 4, 2004

David S. Meholic, Court Administrator  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

Re: **Barrett v. Mack Trucks, Inc. v. W.W. Engine & Supply, Inc.**  
Clearfield County Docket No. 03-348-CD

Dear Mr. Meholic:

Enclosed herewith is the original Pretrial Memorandum on behalf of Defendant Mack Trucks, Inc., in the above-referenced matter.

By copy of this correspondence, I am serving copies on all counsel.

Very truly yours,

**MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.**

  
C. Edward S. Mitchell

klm  
Enclosures

cc: James Naddeo, Esquire  
Dwight Koerber, Esquire

**RECEIVED**

**AUG 06 2004**

**COURT ADMINISTRATOR'S  
OFFICE**

---

Mitchell Mitchell Gallagher Weber Southard & Wishard P.C.

[www.mmgsw.com](http://www.mmgsw.com)

10 West Third Street, Williamsport, Pa. 17701-6513  
(570) 323-8404 Fax (570) 323-8585

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

GREGG L. BARRETT, an individual  
Plaintiff,

vs.

MACK TRUCKS, INC., a corporation,  
Defendant,

vs.

W.W. Engine & Supply, Inc.,  
Additional Defendant

Civil Division

Docket No. 03-348-CD

**PRETRIAL MEMORANDUM OF DEFENDANT MACK TRUCKS, INC.**

**I. BRIEF FACTUAL STATEMENT OF CLAIM OR DEFENSE**

This is a claim for breach of express warranty by Plaintiff for recovery of expenses incurred for repairs to rear axle housings, rear differentials and the transmission on a Mack chassis which Plaintiff purchased from Additional Defendant W.W. Engine & Supply, Inc., and had converted to a tri-axle dump truck. Plaintiff also seeks recovery of lost profits during the period of time required for the repairs. The repairs were made by Vince Centra Truck Repair who is not a Mack authorized dealer. Plaintiff did not present his vehicle to a Mack authorized dealer for evaluation of the repairs, did not have the parts inspected by Mack or an authorized dealer and never made a warranty claim to Mack.

With respect to some of the housing repairs, Plaintiff has testified that he never spoke with either a Mack dealer or Mack about the repairs. Plaintiff has also testified that he did not take his vehicle to the Mack authorized dealer, W.W. Engine & Supply, for the repairs because he was afraid W.W. Engine & Supply would have refused to release the vehicle unless Plaintiff paid a preexisting debt which W.W. Engine & Supply claimed was owed by Plaintiff.

Mack admits the express warranty. By its terms, the basic warranty was for 12 months or 200,000 miles and the warranty for the transmission and axles was 60 months or 500,000 miles. A copy of the warranty is attached. Mack defends on the basis that Plaintiff never made a warranty claim for the repairs in question. Mack defends the loss of profits claim on the exclusions contained in the express warranty.

The parties are Plaintiff, Mack who manufactured the vehicle and issued the warranty, and W.W. Engine & Supply who sold the vehicle, and, who Plaintiff claims,

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Page 1 of 4

AUG 06 2004

COURT ADMINISTRATOR'S  
OFFICE

informed Vince Centra that Plaintiff's vehicle would not be released if it came into W.W. Engine's possession unless Plaintiff paid a preexisting debt.

The total amount of Plaintiff's claim is \$21,377.11. Plaintiff's own testimony reduces the amount of his damages to a figure within the jurisdiction's limits requiring referral to a board of arbitration. Accordingly, Defendants request the matter be stricken from the trial list.

No party has demanded a jury trial. Accordingly, Defendants request the matter be removed from the jury trial list.

## **II. LIST OF EXHIBITS**

1. Plaintiff's purchase invoice.
2. Express warranty issued to Plaintiff in connection with purchase;
3. Invoices from Vince Centra for repairs for which Plaintiff seeks recovery;
4. Transcript of Plaintiff's deposition;
5. Plaintiff's complaint;
6. Plaintiff's Answers to Interrogatories;
7. Plaintiff's Response to Request for Production;
8. Plaintiff's income tax returns;
9. Plaintiff's records of loads and receipts from truck lessee

## **III. NAMES AND ADDRESSES OF WITNESSES EXPECTED TO BE CALLED**

David Reed, 1079 Treasure Lake, Dubois, PA – liability and damages

Mike Lytel, 142 Water Works Road, Somerset, PA – liability and damages

Rich Walk, 2100 Mack Boulevard, Allentown, PA – liability and damages

Appropriate representative of W.W. Engine & Supply, Inc., to respond to Plaintiff's testimony about conversations in which W.W. Engine & Supply informed Plaintiff the vehicle would not be released unless the previous bill were paid.

## **IV. LEGAL THEORY UPON WHICH DEFENSE IS PREDICATED**

Factual defense that Plaintiff never made a warranty claim to Mack or its authorized representative for the repairs for which Plaintiff seeks recovery.

Legal defense that Plaintiff's claim for lost profits is excluded by the express terms of the warranty.

Plaintiff's invoices include repairs which are not covered by warranty.

**V. DESCRIPTION OF DAMAGES CLAIMED**

Plaintiff claims the following damages:

Repair to front rear housing made 12/14/01	\$866.90
Repair to front rear housing made 2/10/02	\$437.90
Replace front rear housing 6/10/02	\$1,865.79
Replace front rear end 6/12/02	\$2,224.40
Replace transmission 7/15/02	\$4,726.27
Replace back rear end (repair not done)	\$3,488.34
Down time	\$11,700.00

Defendant denies liability for all damages as set forth in the factual statement and legal theory of defense.

**VI. EXTRAORDINARY EVIDENTIARY PROBLEMS**

The Uniform Commercial Code adopted in Pennsylvania applies to this claim. 13 Pa.C.S.A. § 1101 et seq.

The express warranty specifically excludes claims for consequential damage. The express warranty also specifically excludes claims for down time. The meaning of the warranty is a question of law for the court. The court cannot submit to the jury a claim which cannot be recovered under the terms of the warranty. Accordingly, the court cannot submit to the jury Plaintiff's claim for downtime.

**VII. STIPULATIONS**

None requested.

**VIII. SPECIAL POINTS FOR CHARGE**

This should be a non jury trial so that points for charge should be unnecessary.

If the case is tried to a jury, points for charge and the applicable sections of the Uniform Commercial Code will be submitted.

**IX. ESTIMATED TIME FOR TRIAL**

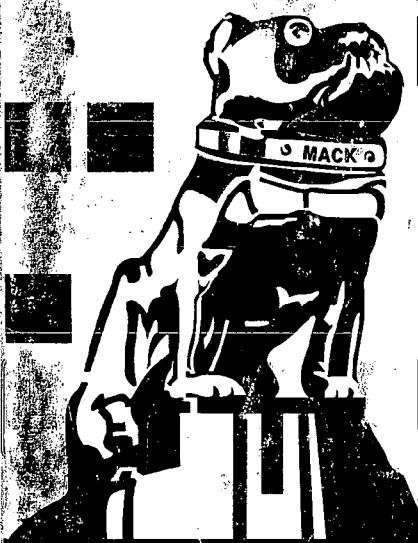
One day if non-jury. Two days if jury.

MITCHELL MITCHELL GALLAGHER WEBER  
SOUTHARD & WISHARD P.C.

BY:

  
C. Edward S. Mitchell ID#07222  
Attorney for Defendant Mack Trucks, Inc.  
10 West Third Street  
Williamsport, PA 17701  
Telephone: 570-323-8404  
Facsimile: 570-323-8585

# PEDIGREED PROTECTION PLAN



TS46897



## WARRANTY REGISTRATION INFORMATION

Before the vehicle is delivered to the customer, the selling dealer should fill in the information below.

**Vehicle Model:** \_\_\_\_\_

**Vehicle Identification Number (VIN):** \_\_\_\_\_

**In-Service Date:** \_\_\_\_\_

**Mack Dealer's Name/Address:** \_\_\_\_\_

**Customer's Name/Address:** \_\_\_\_\_

### VEHICLE APPLICATION:<sup>\*</sup> (Check Only One)

- Class A: On Highway – Standard Duty
- Class AA: On Highway – Severe Duty
- Class B: On Highway Inner City – Standard Duty
- Class BB: On Highway Inner City – Severe Duty
- Class C: On/Off Highway – Standard Duty
- Class CC: On/Off Highway – Severe Duty
- Class D: Off Highway (Mack Engineering approval required)



### Your New Chassis...

Your new Mack truck has been quality built, inspected, lubricated, and final adjustments have been performed by the Mack Trucks assembly plant. However, as moving parts "wear in" or as gaskets "take a set," an occasional oil, air or coolant leak may develop. Quick action to correct these minor mechanical items will prevent a major repair later. Refer to the following "break-in" recommendations, and take your vehicle to the nearest Mack service center as soon as any abnormal condition becomes evident.

#### During First 3,000 Miles (5 000 Kilometers)

- After first 125 miles/200 km, retorque the wheel nuts using an accurately calibrated torque wrench. Recheck this torque again after 500 miles/800 km.
- Check engine oil and coolant levels frequently.
- Observe instruments often and shut down at first sign of any abnormal readings.

- Report all leaks, loose fasteners, unusual noises, etc., so they may be quickly checked and corrected.
- Check brake and clutch adjustment per recommended schedule and adjust as needed.
- Check spring clip nut torque. On Reyco suspensions, also check the equalizer nut torque.

- Check the U-bolt nut torque on the Mack Air suspension at the end of the first 1,000 miles (1 600 km).
- At the End of First 3,000 miles/5 000 km or before 4,000 Miles/6 400 km, or 3 to 4 months (whichever comes first)
  - Retorque front and rear spring clips. On Reyco suspensions, also check the equalizer nut torque.

**NOTE: Lubricate the chassis, and change the following lubricants and filters according to the Mack Preventive Maintenance Schedules shown in the TS494 – Maintenance and Lubrication Manual:**

- Gear oils – transmission, rear axle carrier(s), front drive axle carrier(s), transfer case, flywheel PTO
- Engine oil, oil filters, fuel filters and coolant conditioner

Always service your vehicle regularly according to the Mack Preventive Maintenance Schedules in your TS494 – Maintenance and Lubrication Manual. Your service manager will be glad to help you establish the right Preventive Maintenance Schedule for your truck and type of operation.



## P E D - D E M P - P O T E C T O R

## P E D - D E M P - P O T E C T O R



# NOTICE TO PURCHASER



## CUSTOM BULLDOG PROTECTION PLANS (EXTENDED WARRANTIES)

The warranty coverage on your new Mack truck can easily be extended if you desire. Just ask your dealer for details on a Custom Bulldog Protection Plan.



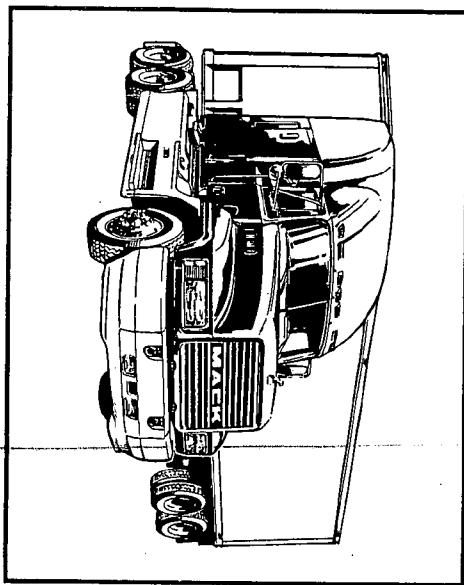
## TRANSFER OF WARRANTY

The balance of the Mack Standard Warranty is transferable to each subsequent vehicle owner with the approval of Mack Trucks, Inc. This transfer must be performed by an authorized Mack facility within 30 days of the date of sale. The vehicle must be operated in the same vehicle application as originally sold. Further details and forms required to perform the transfer are available from your local Mack authorized new truck sales facility.

## INJECTION PUMP AND GOVERNOR SETTING

Do not attempt to increase engine power by adjusting injection pump and governor settings beyond standard specifications.

In the event that damage results from such improper adjustments, the cost of repairing such damage will not be covered under the Warranty.



During the first year of ownership, the original purchaser of a new Mack vehicle may elect to extend the warranty term by signing up for a custom Bulldog Protection Plan at his or her Mack dealer.

The extended warranties which are offered through custom Bulldog Protection Plans are available to owners of all Mack vehicles with the exception of those that will be used in Vehicle Application D "Off Highway." Your Mack dealer and the Mack Warranty Department reserve the right to investigate actual vehicle usage before accepting registration in a custom Bulldog Protection Plan. Mack Trucks, Inc. may also refuse to honor a warranty claim if it is determined that damage claimed has resulted from vehicle usage other than that described in the registered Vehicle Application.

Mack Trucks, Inc. may make changes in models, design, specifications and equipment at any time without incurring any obligations. The specifications contained herein are subject to change without notice.



# NOTICE TO PURCHASER





## MACK STANDARD WARRANTY

### 1995 and Later Model Years

Mack Trucks, Inc. (the "Manufacturer") warrants each new Mack motor vehicle (the "Vehicle") sold by it or by any of its authorized new truck sales facilities to be free from defects in material or workmanship under normal use and service, its obligation under this warranty being limited to repairing or replacing, as hereinafter provided, at its option, at the Manufacturer's authorized truck repair facility any part or parts of the Vehicle found to the Manufacturer's satisfaction to be defective upon examination by it, provided that such part or parts be returned to the Manufacturer's factory or to its nearest authorized truck repair facility. In accordance with the Manufacturer's published policies, the Manufacturer's authorized truck repair facility is authorized to use only Genuine Mack or Mack Approved parts, purchased from the Manufacturer, in performance of warranted repairs, except where such parts are not available.

1. Component parts of the Vehicle as listed in the Warranty Schedules on Forms FO34.1, FO34.2 and FO34.3 are warranted for the time period specified commencing the date of delivery of the Vehicle to the original purchaser or before the Vehicle has been operated by such original purchaser the number of miles, kilometers or hours specified on such schedules, whichever first occurs. The repair or replacement of such parts will be made in accordance with the terms of each schedule.
2. All other parts or components, except as hereinafter provided, are warranted for twelve months or 100,000 miles (161,000 kilometers), commencing the date of delivery of the Vehicle to the original purchaser. The repair or replacement of such parts will be made without charge for parts or labor.

NOTE: WARRANTY COVERAGE MAY VARY BASED ON THE TYPE OF USAGE OF THE VEHICLE. VEHICLE APPLICATION AT TIME OF SALE DETERMINES APPLICABLE WARRANTY COVERAGE. CONSULT YOUR MACK AUTHORIZED NEW TRUCK SALES FACILITY FOR THE APPLICATION CLASS OF THE VEHICLE. THE MANUFACTURER RESERVES THE RIGHT

TO VERIFY THAT THE APPLICATION FOR WHICH THE VEHICLE IS REGISTERED DOES MATCH THE ACTUAL APPLICATION CLASS.

This warranty shall not apply to any Vehicle which has been subject to misuse, negligence or accident or which shall have been altered or repaired outside of the factory in any way which in the Manufacturer's judgement might affect the Vehicle's stability or reliability, nor to normal maintenance services (such as engine tune-up, fuel system cleaning, wheel alignment and balancing, brake and clutch adjustments) and the replacement of service items (such as filter elements and lubricants) made in connection with such services.

The Manufacturer makes no warranty whatever with respect to the engines and transmissions not of its manufacture, nor to winches, power take-offs, dumper, mixer and refuse assemblies, hoists and bodies or other similar equipment made by other manufacturers and installed outside of the Manufacturer's factory, nor to non-Mack brand batteries, tires and tubes. Said engines, transmissions, special equipment, accessories, tires and tubes usually are typically warranted separately by their respective manufacturers.

THIS WARRANTY IS MADE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES OR CONDITIONS, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ANY OTHER OBLIGATION OR LIABILITY ON THE PART OF THE MANUFACTURER INCLUDING, WITHOUT LIMITATION OF THE FOREGOING, CONSEQUENTIAL AND INCIDENTAL DAMAGES. The Manufacturer neither assumes nor authorizes any person to assume for it any other liability in connection with the sale of the Vehicle. This warranty may be transferred by the original retail purchaser to the subsequent retail purchaser (purchasing the Vehicle directly from the original retail purchaser) with the prior approval of the Manufacturer and otherwise, in accord with the Manufacturer's Warranty Administration Instructions. The Manufacturer offers various customer purchasable extended warranty plans. Contact the Manufacturer's authorized new truck sales facility for details.

This warranty shall not apply to used motor vehicles, the same being sold "as is - where is".

# WARRANTY COVERAGES AND LIMITATIONS: All Coverage is 100% Parts and Labor

VEHICLE APPLICATIONS: A, B	Hours	Months	Miles	Kilometers
<b>SCHEDULE 1. BASIC VEHICLE* (Includes Roadside Assistance and Towing for Warrantable Failures.**)</b>	—	12	100,000	161 000
*Clutch Lining, Brake Lining and Brake Drums are covered for 12 months or 25,000 miles/40 000 kilometers only.				
** Roadside Assistance and Towing coverage does not apply to vendor engines, transmissions and axles.				
<b>SCHEDULE 2. MACK DIESEL ENGINE</b>				
Standard Warranty				
Major Components:				
Cylinder Block Casting	10,800	36	300,000	483 000
Main Bearing Bolts	12,500	60	500,000	805 000
Cylinder Head Castings				
Cylinder Head Capscrews				
Camshaft Forging				
Intake Manifold Casting				
Crankshaft Forging				
Con-Rod & Cap Forging				
Con-Rod Capscrews				
Coverage also applies to consumables such as lubricant, antifreeze, filter elements, belts, hoses and similar maintenance items not reusable and replaced directly as result of warrantable engine, carrier or transmission failure.				
Components not manufactured by Mack Trucks, Inc., but used on Mack diesel engine assemblies are excluded from the coverage in Schedule 2. These components are covered by the component manufacturer's warranty in effect at the time of delivery. Consult your local Mack service facility for details.				
<b>SCHEDULE 3. MACK TRANSMISSIONS</b>	5, 6, 9, 10, 13, 18 Speed Only			
All Others	—	60	500,000	805 000
—	36	300,000	483 000	
<b>SCHEDULE 4. MACK AXLES</b>				
Rear Carriers and Housing				
Rear Carrier Seats, Gaskets and Front I-Beam	—	60	500,000	805 000
S65 Bogie and Carrier, Regardless of Carrier Model	—	12	300,000	483 000
—	36	100,000	161 000	
<b>SCHEDULE 5. Trunnion Bracket and Spindle, Suspension Trunnion (except Bushings).</b>	—	36	300,000	483 000
<b>SCHEDULE 6. FRAMES: SIDE RAILS AND CROSSMEMBERS</b>	—	60	500,000	805 000
<b>SCHEDULE 7. CAB STRUCTURE</b>	—	60	500,000	805 000
<b>SCHEDULE 8. CAB CORROSION</b>	—	60	500,000	805 000
Coverage applies to perforation (an actual hole in the cab panel) due to corrosion.				
Coverage does not apply to corrosion caused by damage to paint finish.				
<b>SCHEDULE 9.</b> Components not manufactured by Mack Trucks, Inc. may have warranty coverage different from the above as they are covered by the manufacturer's warranty. Consult your local Mack sales facility for details.				



**WARRANTY COVERAGE  
AND LIMITATIONS  
APPLICATIONS AA, BB, C, CC**

The following warranty applies to vehicles used in the above applications. Refer to the preceding A and B schedules for additional details.

**Schedule 1 – BASIC VEHICLE:**

Same as A & B Schedule.

**Schedule 2 – MACK DIESEL ENGINE:**

Same as A & B Schedule.

**Schedule 3 – MACK TRANSMISSIONS:**

All Mack transmissions are warranted for 36 months, or 300,000 miles/483,000 kilometers.

**Schedule 4 – MACK AXLES: REAR CARRIERS AND HOUSINGS, FRONT I-BEAM:**

These components are warranted for 36 months or 300,000 miles/483,000 kilometers, with the exception of the S65 Bogie and Carrier (regardless of carrier model) which is warranted for 12 months or 100,000 miles/161,000 km.

**Schedule 5 – TRUNNION BRACKET, SPINDLE, SUSPENSION TRUNNION:**

Same as A & B Schedule.

**Schedule 6 – FRAMES: SIDE RAILS AND CROSSMEMBERS:**

The warranty for these components is 36 months or 300,000 miles/483,000 kilometers.

**Schedule 7 – CAB STRUCTURE:**

The warranty for these components is 24 months or 200,000 miles/322,000 kilometers.

**Schedule 8 – CAB CORROSION:**

Same as A & B Schedule.

**Schedule 9:**

Same as A & B Schedule.



**WARRANTY COVERAGE  
AND LIMITATIONS  
APPLICATION D**

The following warranty applies to vehicles used in application D. Refer to the A and B schedules for additional details. Towing and roadside assistance are not covered under the warranty for application D vehicles.

**Schedule 1 – BASIC VEHICLE:**

Same as A & B Schedule.

**Schedule 2 – MACK DIESEL ENGINE:**

Same as A & B Schedule.

**Schedule 3 – MACK TRANSMISSIONS:**

All Mack transmissions are warranted for 12 months, or 100,000 miles/161,000 kilometers.

**Schedule 4 – MACK AXLES: REAR CARRIERS AND HOUSINGS, FRONT I-BEAM:**

These components are warranted for 12 months or 100,000 miles/161,000 kilometers.

**Schedule 5 – TRUNNION BRACKET, SPINDLE, SUSPENSION TRUNNION:**

These components are warranted for 12 months or 100,000 miles/161,000 kilometers.

**Schedule 6 – FRAMES: SIDE RAILS AND CROSSMEMBERS:**

The warranty for these components is 12 months or 100,000 miles/161,000 kilometers.

**Schedule 7 – CAB STRUCTURE:**

The cab structure is warranted for 12 months or 100,000 miles/161,000 kilometers.

**Schedule 8 – CAB CORROSION:**

Same as A & B Schedule.

**Schedule 9:**

Same as A & B Schedule.





# P E D E R G - D E E R P R O T E C T O R - T O C E E R D E R G - D E E R P R O T E C T O R

## ITEMS NOT COVERED BY WARRANTY

- Abuse, accident or negligence
- Adjustment of brakes, clutches and controls
- Brake and clutch lining replacement for normal wear
- Specification changes or error in specifications
- Damage in transit
- Deterioration of batteries, paint and trim from improper storage or industrial fallout
- Duplication of repairs from faulty diagnosis/workmanship
- Engine tune-up
- Downtime and driver layover expense
- Headlight adjustment; sealed beam or bulb replacement
- Filter elements and lubricants, except as provided in Warranty Schedule applicable to Mack built engines and transmissions in on-highway vehicles
- Fuel system cleaning
- Injection tip service/replacement for normal use and wear
- Major components/parts replaced without prior authorization from Mack Warranty Department
- Overtime and holiday labor without prior authorization
- Preparation for Delivery Inspection
- Shortage of factory-installed parts
- Telephone, Fax and other communication expenses
- Tires and tubes
- Transportation expense for obtaining replacement parts
- Failures resulting from unauthorized alteration or non-Mack parts
- Wheel alignment, wheel and tire balancing, tire rotation
- Windshield wiper blades
- Rattles, squeaks, vibrations, and unusual noises. Up to 90 days after delivery, the necessary adjustments or corrections will be covered by warranty. Such adjustments or corrections after this period are usually the result of use, and therefore, are not covered under warranty.
- Misapplication – failure of any kind resulting from using the vehicle in a type of service for which the vehicle was not designed or built

## TOWING AND ROAD ASSISTANCE

**Towing and road assistance charges are reimbursable on 1995 and later model year Mack manufactured class 8 vehicles when towing becomes necessary to properly service a vehicle due to a warrantable failure.**

**The following criteria must be met to qualify for payment:**

- A. The vehicle must be disabled on the highway due to a warrantable failure.
- B. The vehicle must not be in service more than twelve months, 100,000 miles/161,000 kilometers from the original in-service date.
- C. Towing will be reimbursed when it is not feasible to repair at the point of failure.
- D. Towing reimbursement is limited to normal retail towing charges to the nearest authorized Mack repair facility.
- E. The vehicle must be registered for highway service.



# P E D E R G - D E E R D E R G - D E E R P R O T E C T O R - T O C E E R D E R G - D E E R P R O T E C T O R



# NOTORIOUS DANGER



## FEDERAL REGULATIONS

Gaseous Emission Control Systems Warranty and Noise Control Systems Warranty are printed in the Emission Control Systems Handbook (TS505). California Engine Gaseous Emission Control Systems and Devices warranty and maintenance information is also included.

## OPERATOR'S HANDBOOK

Mack vehicles are designed to give many years of reliable service. Excellent information is provided in the Operator's Handbook in each new Mack truck. Refer to it for operation instructions and other important data.

## MAINTENANCE AND LUBRICATION MANUAL

This TS494 manual lists recommended maintenance schedules and indicates in detail just what is to be covered in a bumper-to-bumper preventive maintenance program. Detailed lubricant specifications and capacities are listed for ready reference.

## SERVICE MANUAL

For those Mack vehicle owners who need service information, a Mack Components Service Manual (TS576) or a Custom Truck Service Manual (TS473) can be purchased through your local Mack facility.

## PARTS AND SERVICE DIRECTORY

To assist in locating Mack facilities, a Directory of Mack Sales, Parts and Service Centers (TS524) is placed in each vehicle. This directory can be used to locate and contact all Mack Truck Sales Facilities and Service Centers.



## ■ PEDIGREED PROTECTION IS...

Genuine Mack "Performance Counts®" Parts – made to the same high standards as the original equipment parts. They always incorporate the latest design and manufacturing improvements to make them even better than the originals.

## ■ PEDIGREED PROTECTION IS...

That important extra advantage – Mack "Pedigreed Protection" Service when you need it, where you need it by skilled factory trained mechanical technicians. There are Mack Authorized Service facilities in all major cities.

## ■ PEDIGREED PROTECTION IS...

Technical Advice – as you need it. Mack experts stand ready to help you select the correct truck for your job and prepare a maintenance program for low operating costs.

## ■ PEDIGREED PROTECTION IS...

Warranty – While you have received a copy of the Mack Standard Warranty, and its terms were discussed with you when you purchased your truck, the Warranty has been reprinted in this booklet for easy reference.

# NOTORIOUS DANGER



# PEDIGREE PROTECTION PLAN



TS46897 25M 6/96

(A)

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

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

*Dwight L. Koerber, Jr.*

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

August 6, 2004

David S. Meholic, Court Administrator  
COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
CLEARFIELD COUNTY COURTHOUSE  
230 East Market Street  
Clearfield, PA 16830

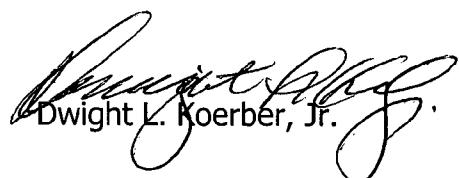
**Re: Gregg Barrett v. Mack Trucks, Inc. v.  
W.W. Engine & Supply, Inc.  
Docket No. 03-348-CD**

Dear Mr. Meholic:

Enclosed herewith is the Pre-Trial Statement of W.W. Engine & Supply, Inc., Additional Defendant in the above-referenced case. This case is scheduled for a Pre-Trial Conference before Judge Ammerman on August 13, 2004 at 1:30 p.m.

As shown be the Certificate of Service appended to the Pre-Trial Statement, I have served a copy, via fax and regular mail, upon counsel of record.

Very truly yours,

  
Dwight L. Koerber, Jr.

DLK/sah

Enclosure: Original Pre-Trial Statement  
cc: C. Edward S. Mitchell, Esquire  
James A. Naddeo, Esquire  
Mr. Jeffrey S. Wood

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**AUG 06 2004**

**COURT ADMINISTRATOR'S  
OFFICE**

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

Gregg Barrett, an individual  
Plaintiff

\*

-VS-

\*

MACK TRUCKS, INC., a corporation  
Defendant

\* Docket No. 03-348-CD

\*

-VS-

\*

W.W. ENGINE & SUPPLY, INC.  
Additional Defendant

\*

Type of Pleading:  
PRE-TRIAL STATEMENT OF  
W.W. ENGINE & SUPPLY, INC.,  
ADDITIONAL DEFENDANT

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

Counsel of record for  
this party:

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

**RECEIVED**

**AUG 06 2004**

COURT ADMINISTRATORS  
OFFICE

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**

Gregg Barrett, an individual Plaintiff	*	
	*	
-VS-	*	
	*	
MACK TRUCKS, INC., a corporation Defendant	*	Docket No. 03-348-CD
	*	
-VS-	*	
	*	
W.W. ENGINE AND SUPPLY, INC. Additional Defendant	*	

**PRE-TRIAL STATEMENT OF W.W. ENGINE & SUPPLY, INC.,  
ADDITIONAL DEFENDANT**

COMES NOW, Additional Defendant, W.W. Engine & Supply, Inc., by and through its attorney, Dwight L. Koerber, Jr., Esquire, and sets forth the following as its Pre-Trial Statement, pursuant to Clearfield County Local Rule 212.4.

**I.  
NARRATIVE STATEMENT OF THE FACTS**

This case arises out of certain warranty claims that the Plaintiff has made for alleged damage to a 1998 Mack Truck (Triaxle Model) which the Plaintiff purchased from W.W. Engine & Supply, Inc. on October 24, 1997. The truck is covered by a 500,000, 5-year limited warranty that applies to transmissions and rear carriers and

housings. The warranty has certain exclusions that relate to abuse which are generally defined as unwarrantable failures, and requires procedures that must be followed for coverage.

On or about December 7, 2000, Plaintiff brought his triaxle to the W.W. Engine & Supply, Inc. facilities in DuBois, PA, which was known as Additional Defendant's Shaw Mack Division. After the rear end and transmission were torn down and examined, the District Service Manager for Mack Trucks determined that they were not covered by warranty because a review of the damaged parts showed that the damage was caused by abuse which was deemed to be an unwarrantable failure.

After it was determined that the rear end work performed for Plaintiff on or about December 7, 2000 was not covered by warranty, W.W. Engine & Supply, Inc. billed Plaintiff, and Plaintiff refused to make payment. This led to a falling out in the relationship between Plaintiff and W.W. Engine & Supply, Inc., as W.W. Engine & Supply, Inc. pointed out that for future work that it performed, it would not release the truck until full payment was made, for the future work, either by Mack Trucks through warranty, or if the warranty was denied, by the Plaintiff.

Plaintiff has alleged that there was subsequent work that should have been covered by warranty which W.W. Engine & Supply, Inc. refused to perform unless it was paid for the earlier work done. That allegation is not correct, however, as the service manager and the head mechanic for W.W. Engine & Supply, Inc., at the DuBois facility, are very familiar with the Mechanic's Liens Law and recognize that it is a

possessory lien only for work that is done when the vehicle is brought into the shop, not for prior work that is unpaid. These individuals are adamant in their position that they did not refuse to do warranty work, but instead said that they could not determine whether it was warranty work until they first examined the vehicle and, if it was shown that the work was not covered by warranty, these individuals did state that they would not release the vehicle until payment for those repairs was made.

In his Complaint, Plaintiff has alleged that he was forced to incur repair costs in the amount of \$9,677.11 that should have been covered by warranty but were not. In addition, he has made a claim for downtime pertaining to the warranty claims, in the amount of \$11,700.00. This claim has been made notwithstanding the fact that the warranty between Plaintiff and Mack Trucks specifically excludes any coverage for consequential damages, i.e., downtime.

Based upon the allegation made by Plaintiff that he was unable to have warranty work performed on his vehicle because W.W. Engine & Supply, Inc., refused to do the work, Mack Trucks joined W.W. Engine & Supply, Inc. as an Additional Defendant, alleging that Additional Defendant is liable to it by way of indemnity and contribution for any damages that are paid to Plaintiff, as it alleges that the improper actions of W.W. Engine & Supply gave rise to the litigation. As noted, W.W. Engine & Supply, Inc. has vigorously denied that it improperly refused to perform warranty work. While there is an important question of fact involved on this point, the well established past practices of W.W. Engine & Supply, Inc. offer strong corroboration that it did not refuse to do

additional work for Plaintiff, but instead only informed Plaintiff that he would be obligated to make payment for those repairs for which warranty coverage was not found applicable.

**II.**  
**UNUSUAL QUESTIONS OF LAW**

There is an important question of law as to whether Vince Centra, the expert witness for Plaintiff, will be permitted to state that he was told certain things by representatives of W.W. Engine & Supply, Inc., unless he establishes precisely who that individual is and establishes that such individual held the requisite authority and position to make such statements on behalf of his employer. In his deposition, as conducted on July 27, 2004, Plaintiff has acknowledged that he personally did not speak with any representatives of W.W. Engine & Supply, Inc. and did not take his vehicle to be worked on at W.W. Engine & Supply, Inc. after the episode involving work that was done on or about December 7, 2000 when Plaintiff did not pay for the work which Mack Trucks deemed not to be covered by warranty.

Because the question of fact, as outlined above, as to whether or not W.W. Engine & Supply, Inc. refused to work on Plaintiff's vehicle, is critical to this case, Additional Defendant needs to depose Vince Centra, to learn of exactly what his testimony would be on that factual point. It was not until the deposition of Plaintiff on July 27, 2004 that it became apparent that there was a need for this additional discovery. W.W. Engine & Supply, Inc. believes that this discovery is still timely, but

recognizes that there could be an issue concerning the entitlement to depose an expert witness. As noted, the deposition would deal with the expert's actual testimony concerning his alleged discussions with W.W. Engine & Supply, Inc., and for that reason it is submitted that a deposition of Vince Centra is proper.

An additional question of law is whether there are sufficient damages alleged so as to warrant a jury trial or even a non-jury trial in this case, as the maximum amount of damages that Plaintiff would be able to prove are below \$20,000.00. This would require compulsory arbitration. Damages as alleged would fall below the \$20,000.00 level because Plaintiff, through his deposition on July 27, 2004, has acknowledged that he has overstated his daily downtime which was alleged to be at \$300.00 for 39 days<sup>1</sup>. Thus, Plaintiff's "best case" showing for damages would be less than \$20,000.00.

It is Additional Defendant's position that the issue of downtime should be totally excluded from this case, as the warranty specifically excludes consequential damages.

### **III. NAMES AND ADDRESSES OF WITNESSES**

Defendant may call as witnesses the following individuals:

1. Jeffrey S. Wood, General Manager, SHAW MACK SALES & SERVICE, P.O. Box 645, DuBois, PA 15801
2. Richard Mann, Head Mechanic, SHAW MACK SALES & SERVICE, P.O. Box 645, DuBois, PA 15801

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<sup>1</sup> There is also a question as to whether the downtime claim is causally related to the alleged breach of warranty, because even if the warranty payments had been paid, the downtime would have been the same as when Vince Centra did the work.

3. David Reed, Mack Trucks District Service Manager, c/o MACK TRUCKS, 2100 Mack Boulevard, Allentown, PA 18103

The witnesses listed above are both liability and damage witnesses.

**IV.  
REPORTS OF EXPERTS**

None.

**V.  
LIST OF SPECIAL DAMAGES**

N/A

**VI.  
LIST OF EXHIBITS WHICH W.W. ENGINE & SUPPLY, INC. MAY USE AT TRIAL**

1. Sales Agreement dated October 24, 1997.
2. Documents identified by Plaintiff in its Complaint.

**VII.  
PHOTOGRAPHS**

None.

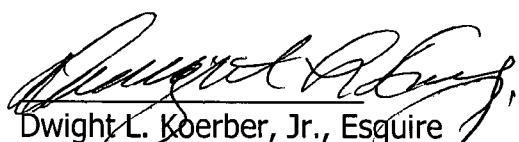
**VIII.  
ESTIMATED LENGTH OF TIME FOR TRIAL**

One day.

**IX.  
PROPOSED STIPULATIONS**

None at this time.

Respectfully Submitted,



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

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Clearfield, PA 16830  
(814) 765-9611

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
DOCKET NO: 03-348-CD

Gregg Barrett, an individual

-vs-

Mack Trucks, Inc., a corporation

-vs-

W.W. Engine & Supply, Inc.

PRE-TRIAL STATEMENT OF  
W.W. ENGINE & SUPPLY, INC.,  
ADDITIONAL DEFENDANT

LAW OFFICE  
DWIGHT KOERBER, JR.  
ATTORNEY AT LAW  
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