

03-1416-CD

GERALD C. BUMBARGER vs. BRADLEY J. CONKLIN

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

GERALD C. BUMBARGER,  
Plaintiff

vs

\* No. 03- 1416 -C.D.

BRADLEY J. CONKLIN,  
Defendant

\* Type of Case: Civil

\* Type of Pleading: Complaint

\* Filed on Behalf of: Plaintiff

\* Counsel of Record for this Party:

\* CHRIS A. PENTZ, Esquire

\* Supreme Court I.D. # 39232  
\* 211 1/2 East Locust Street  
\* P. O. Box 552  
\* Clearfield PA 16830  
\* 814 765-4000

FILED

SEP 22 2003

William A. Shaw  
Prothonotary/Clerk of Courts

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

## 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 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 the 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.

Office of Court Administrator  
Clearfield County Courthouse  
1 North Second Street  
Clearfield PA 16830  
814 765-2641

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

GERALD C. BUMBARGER,  
Plaintiff

vs

\* No. 03- -C.D.

BRADLEY J. CONKLIN,  
Defendant

COMPLAINT

1. The Plaintiff is Gerald C. Bumbarger of 410 East Locust Street, Clearfield, Clearfield County, Pennsylvania 16830.

2. The Defendant is Bradley J. Conklin who resides at R. R. # 1 Box 141, Turnpike Avenue, Clearfield, Clearfield County, Pennsylvania 16830.

3. The Plaintiff and Defendant were to be partners in a partnership known as Conklin Enterprises. The terms and conditions of said Partnership are in the Partnership Agreement dated February 3, 2001. A copy of the Partnership Agreement is attached hereto and marked Exhibit "A" as though set forth in full.

4. The Defendant has taken possession and control of the assets and the records of the alleged Partnership since April, 2001.

5. The Plaintiff believes and therefore avers that the Defendant entered into the Partnership Agreement for the sole purpose of defrauding the Plaintiff.

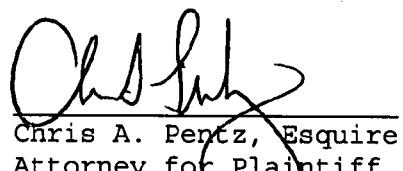
6. The Plaintiff believes and therefore avers that the Defendant has disposed of the funds contributed by Plaintiff to the alleged Partnership.

7. As of the date of filing this Complaint the Defendant through his actions has defrauded the Plaintiff of the amount of \$26,100.00.

WHEREFORE, the Plaintiff seeks judgment against the Defendant as follows:

1. Judgment in the amount of \$26,100.00.
2. Court costs and fees.
3. Interest from February 3, 2001.
4. Counsel fees in an amount to be determined.
5. Punitive damages.
6. Such other relief as the Court deems appropriate.
7. Jury trial is demanded.

Respectfully submitted this 17 day of Sept, 2003.

  
Chris A. Pentz, Esquire  
Attorney for Plaintiff

## **PARTNERSHIP AGREEMENT**

**BRADLEY J. CONKLIN**, of 607 Bigler Avenue, Clearfield, Clearfield County, Pennsylvania, and **GERALD C. BUMBARGER**, of 410 East Locust Street, Clearfield, Clearfield County, Pennsylvania (the Partners) agree as follows:

### **TYPE OF BUSINESS**

1. The Partners voluntarily associate themselves together as general partners for the purpose of conducting the general business of trucking in interstate commerce for hauling any and all legal commodities, and any other business that may from time to time be agreed upon by the Partners.

### **NAME OF PARTNERSHIP**

2. The name of the Partnership shall be **CONKLIN ENTERPRIZES**. This name has been registered in the office of the Secretary of State for the Commonwealth of Pennsylvania as a fictitious name with Partner Bradley J. Conklin as owner.

### **TERM OF PARTNERSHIP**

3. The Partnership shall commence on the execution of this Agreement or any amendment thereof, and shall continue until dissolved by mutual agreement of the parties or terminated as provided in this Agreement.

### **PLACE OF BUSINESS**

4. The principal place of business of the Partnership shall be at 607 Bigler Avenue, Clearfield, Clearfield County, Pennsylvania, and any other place or places that may be mutually agreed upon by the parties to this Agreement.

### **INITIAL CAPITAL AND ASSETS**

5. The initial capital and assets of this Partnership shall be the sum of \$30,000, to which each Partner shall contribute 50% as follows:

BRADLEY J. CONKLIN shall contribute the 1988 White GMC tractor, Model WA64TES, VIN NO. 1WUWDCCH2JN128450, titled in his name together with the use of all licenses and permits also in his name.

GERALD C. BUMBARGER shall contribute the sum of \$15,000 to be used to purchase a 1985 Cottrell car haul trailer, Model No. CK10L, VIN No. 1C9AN182XFG148077 purchased January 27, 2001 for approximately \$10,000, with the remainder to be used for insurance, fuel, and other expenses to carry out the primary business of the partnership.

#### **WITHDRAWAL OF CAPITAL**

6. No Partner shall withdraw any portion of the capital of the Partnership without the express written consent of the other Partner.

#### **PROFITS AND LOSSES**

7. Any net profits or losses that may accrue to the Partnership shall be distributed to or borne by the Partners in equal proportions.

#### **PARTNERSHIP BOOKS**

8. At all times during the continuation of the Partnership, the Partners shall keep accurate books of account in which all matters relating to the Partnership, including all of its income, expenditures, assets, and liabilities, shall be entered. These books shall be kept on a cash basis and shall be open to examination by either Partner at any time. A weekly report of the status of income and expenses will be provided to each Partner.

#### **FISCAL YEAR**

9. The fiscal year of the Partnership shall end on the 31<sup>st</sup> day of December each year.

### ACCOUNTINGS

10. A complete accounting of the Partnership affairs as of the close of business on the last day of March, June, September, and December of each year shall be rendered to each Partner within thirty (30) days after the close of each of those months. After the truck account has a balance of \$100,000, or upon a different mutually agreeable amount, and all bills have been paid, the net profits of the Partnership may be distributed to the Partners as provided in this Agreement to the extent that cash is available for this distribution. Except as to manifest errors discovered within 15 days after its rendition, each accounting shall be final and conclusive to each Partner.

### TIME DEVOTED TO PARTNERSHIP

11. Each Partner shall devote his time and attention and use the utmost of his skills and ability in furtherance of the Partnership business. The Partners agree that this partnership intends that Partner Bradley J. Conklin shall drive and do road and foot work while Partner Gerald C. Bumbarger will do record keeping, bill paying, truck preparation, minor truck maintenance, and anything else that his schedule and expertise permits in furtherance of the partnership business.

### MANAGEMENT AND AUTHORITY

12. Each Partner shall have an equal voice in the management of the Partnership and shall have authority to bind the Partnership in making contracts and incurring obligations in the name and on the credit of the Partnership. However, no Partner shall incur any obligations in the name or on the credit of the Partnership exceeding \$500.00 without the express written consent of the other Partner. Any such obligation incurred in violation of this provision shall be charged to and collected from the individual Partner incurring the obligation.

### SALARIES

13. As compensation for his services in and to the Partnership business, each Partner shall be entitled to a salary of \$4,000.00 each month, to be paid as the money is available after investments in the tractor and sufficient funds to cover expenses have been made. This salary shall be deducted by the Partnership as an ordinary and

necessary business expense before determination of net profits. The salary of any Partner may, however, be increased or reduced at any time by mutual agreement of both Partners.

#### NET PROFITS DEFINED

14. The term "net profits" as used in this Agreement shall mean the net profits of the Partnership as determined by generally accepted accounting principles for each accounting period provided for in this Agreement.

#### WITHDRAWAL OF PARTNER

15. Any Partner may withdraw from the Partnership at the end of any accounting period by giving the other Partner thirty (30) days' written notice of his intention to do so.

#### OPTION TO PURCHASE TERMINATED INTEREST

16. On dissolution of the Partnership by the withdrawal or other act of a Partner, the remaining Partner, on written notice to the other Partner within five (5) days of the dissolution, may continue the Partnership business by purchasing the interest of the other Partner in the assets and goodwill of the Partnership. The remaining Partner shall have the option to purchase the interest of the withdrawing Partner by paying to this Partner or the Partner's personal representative the value of the interest determined as provided in Paragraph 17 of this Agreement.

#### PURCHASE PRICE OF PARTNERSHIP INTEREST

17. On exercise of the option described in Paragraph 16, above, the remaining Partner shall pay to the person who is legally entitled to it one-half (1/2) of the equipment value and truck account as shown on the last regular accounting of the Partnership preceding the dissolution together with the full unwithdrawn portion of the deceased, withdrawing, or terminated Partner's distributive share of any net profits earned by the Partnership between the date of the accounting and the date of dissolution of the Partnership.

## **BUY-SELL AGREEMENT ON DEATH OF PARTNER**

18. In the event of the death of a Partner, the remaining Partner shall have the obligation to continue the business of the Partnership unless advised by the personal representative of the desire to sell the deceased Partner's share, then within ninety (90) days from the date of being so advised, the remaining Partner shall have the right to purchase the deceased Partner's share by paying to the personal representative of the deceased Partner the value of that interest as provided in Paragraph 17 of this Agreement. During this ninety (90) day period, the remaining Partner shall continue the business of the Partnership but the estate or personal representative of the deceased Partner shall not be liable for any obligations incurred in the Partnership business that are greater than any amount includable in the estate of the deceased Partner that was previously invested or involved in the Partnership and remained so on the date of death. In the event of the sale to the remaining Partner, the heirs of the deceased Partner shall be entitled at the election of the personal representative of the deceased Partner, either to one-half (1/2) of the net profits earned by the Partnership business during this ninety (90) day period or to interest for the use during this period of the deceased's interest in the partnership business at the rate of ten (10%) percent a year on the value of the partnership interest determined as provided in Paragraph 17 of this Agreement.

## **DUTIES OF PURCHASING PARTNER**

19. On any purchase and sale pursuant to the provisions of Paragraphs 16, 17, or 18 of this Agreement, the remaining Partner shall assume all obligations of the Partnership and shall hold the withdrawing Partner, the personal representative and estate of a deceased Partner, and the property of any withdrawing or deceased Partner, free and harmless from all liability for these obligations. Furthermore, the remaining Partner, at his own expense, shall immediately cause to be prepared, filed, served, and published all notices that may be required by law to protect the withdrawing Partner or the personal representative or estate of a deceased Partner from liability for the future obligations of the Partnership business.

## **DISSOLUTION**

20. On dissolution of the Partnership other than as provided in Paragraphs 16, 17 and 18 of this Agreement, the affairs of the Partnership shall be wound up, the assets

of the Partnership liquidated, the debts paid, and the surplus divided equally among the Partners.

### NOTICES

21. All notices between the parties provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to a Partner or, instead of personal service, when deposited in the United States mail, as certified, with postage prepaid, and addressed to the Partner at the address of the principal place of business of the Partnership or to another place that may from time to time be specified in a notice given pursuant to this paragraph as the address for service of notice on the Partner.

### CONSENTS AND AGREEMENTS

22. All consents and agreements provided for or permitted by this Agreement shall be in writing and a signed copy of them shall be filed and kept with the books of the Partnership.

### SOLE AGREEMENT

23. This instrument contains the sole agreement of the parties relating to their Partnership and correctly sets forth the rights, duties, and obligations of each to the other in connection with it as of its date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect.

EXECUTED on Feb , 3, 2001, at Clearfield, Clearfield County, Pennsylvania.

  
\_\_\_\_\_  
BRADLEY J. CONKLIN, PARTNER

  
\_\_\_\_\_  
GERALD C. BUMBARGER, PARTNER

COMMONWEALTH OF PENNSYLVANIA )

ss.:

COUNTY OF CLEARFIELD )

On this, the 3rd day of February, 2001, before me, the undersigned authority, personally appeared BRADLEY J. CONKLIN, known to me, (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he has executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

Barbara J. Hugney-Shope  
Notary Public

My Commission Expires:

NOTARIAL SEAL  
BARBARA J. HUGNEY-SHOPPE, Notary Public  
Clearfield Boro, Clearfield County, PA  
My Commission Expires Oct. 20, 2003

COMMONWEALTH OF PENNSYLVANIA )

ss.:

COUNTY OF CLEARFIELD )

On this, the 3rd day of February, 2001, before me, the undersigned authority, personally appeared GERALD C. BUMBARGER, known to me, (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he has executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

Barbara J. Hugney-Shope  
Notary Public

My Commission Expires:

NOTARIAL SEAL  
BARBARA J. HUGNEY-SHOPPE, Notary Public  
Clearfield Boro, Clearfield County, PA  
My Commission Expires Oct. 20, 2003

VERIFICATION

I, GERALD C. BUMBARGER, verify that the statements made in this Complaint 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.

Sept 17, '03  
Date

  
Gerald C. Bumbarger

211 1/2 EAST LOCUST ST. P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830  
ATTORNEY AT LAW  
CHRIS A. PENNZ

Read Here

30 Jan 04 Document  
Reinstated/Reissued to Sheriff/Attorney  
for service.  
Willie L. Shaw  
Deputy Prothonotary

FILED  
Atty Rent  
10:38 AM  
Sep 22 2003  
PA 8500  
1 LC. Atty  
William A. Shaw  
Prothonotary/Clerk of Courts

In The Court of Common Pleas of Clearfield County, Pennsylvania

BUMBARGER, GERALD C.

VS.

CONKLIN, BRADLEY J.

COMPLAINT

Sheriff Docket # 14592

03-1416-CD

**SHERIFF RETURNS**

NOW OCTOBER 24, 2003 AFTER DILIGENT SEARCH IN MY BALIWICK I RETURN THE  
WITHIN COMPLAINT "NOT FOUND" AS TO BRADLEY J. CONKLIN, DEFENDANT.  
DEFENDANT DRIVES TRUCK AND IS ONLY HOME ON WEEKENDS. SEVERAL ATTEMPTS.

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**Return Costs**

Cost	Description
22.37	SHERIFF HAWKINS PAID BY: ATTY CK# 2822
10.00	SURCHARGE PAID BY: ATTY CK# 2823

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Sworn to Before Me This

30<sup>th</sup> Day Of Octy 2003  
William A. Shaw

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA

So Answers,

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

FILED  
OCT 30 2003  
10:00 AM

William A. Shaw  
Prothonotary/Clerk of Courts

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

GERALD C. BUMBARGER,  
Plaintiff

vs

BRADLEY J. CONKLIN,  
Defendant

\* No. 03- 1410 -C.D.

\* Type of Case: Civil

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\*  
\*  
\* Type of Pleading: Complaint

\* Filed on Behalf of: Plaintiff

\* Counsel of Record for this Party:  
\* CHRIS A. PENTZ, Esquire

\* Supreme Court I.D. # 39232  
\* 211 1/2 East Locust Street  
\* P. O. Box 552  
\* Clearfield PA 16830  
\* 814 765-4000

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

SEP 22 2003

Attest.

*William D. Shaw*  
Prothonotary/  
Clerk of Courts

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

GERALD C. BUMBARGER,  
Plaintiff

vs

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\* No. 03- -C.D.  
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BRADLEY J. CONKLIN,  
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Plaintiff

vs

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\* No. 03- -C.D.

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Defendant

COMPLAINT

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2. The Defendant is Bradley J. Conklin who resides at R. R. # 1 Box 141, Turnpike Avenue, Clearfield, Clearfield County, Pennsylvania 16830.

3. The Plaintiff and Defendant were to be partners in a partnership known as Conklin Enterprises. The terms and conditions of said Partnership are in the Partnership Agreement dated February 3, 2001. A copy of the Partnership Agreement is attached hereto and marked Exhibit "A" as though set forth in full.

4. The Defendant has taken possession and control of the assets and the records of the alleged Partnership since April, 2001.

5. The Plaintiff believes and therefore avers that the Defendant entered into the Partnership Agreement for the sole purpose of defrauding the Plaintiff.

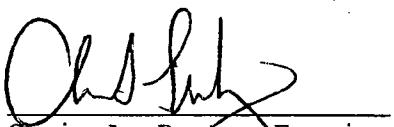
6. The Plaintiff believes and therefore avers that the Defendant has disposed of the funds contributed by Plaintiff to the alleged Partnership.

7. As of the date of filing this Complaint the Defendant through his actions has defrauded the Plaintiff of the amount of \$26,100.00.

WHEREFORE, the Plaintiff seeks judgment against the Defendant as follows:

1. Judgment in the amount of \$26,100.00.
2. Court costs and fees.
3. Interest from February 3, 2001.
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7. Jury trial is demanded.

Respectfully submitted this 17 day of Sept, 2003.

  
Chris A. Pentz, Esquire  
Attorney for Plaintiff

## **PARTNERSHIP AGREEMENT**

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1. The Partners voluntarily associate themselves together as general partners for the purpose of conducting the general business of trucking in interstate commerce for hauling any and all legal commodities, and any other business that may from time to time be agreed upon by the Partners.

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2. The name of the Partnership shall be **CONKLIN ENTERPRIZES**. This name has been registered in the office of the Secretary of State for the Commonwealth of Pennsylvania as a fictitious name with Partner Bradley J. Conklin as owner.

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#### PROFITS AND LOSSES

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## ACCOUNTINGS

10. A complete accounting of the Partnership affairs as of the close of business on the last day of March, June, September, and December of each year shall be rendered to each Partner within thirty (30) days after the close of each of those months. After the truck account has a balance of \$100,000, or upon a different mutually agreeable amount, and all bills have been paid, the net profits of the Partnership may be distributed to the Partners as provided in this Agreement to the extent that cash is available for this distribution. Except as to manifest errors discovered within 15 days after its rendition, each accounting shall be final and conclusive to each Partner.

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## MANAGEMENT AND AUTHORITY

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## SALARIES

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necessary business expense before determination of net profits. The salary of any Partner may, however, be increased or reduced at any time by mutual agreement of both Partners.

#### NET PROFITS DEFINED

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#### WITHDRAWAL OF PARTNER

15. Any Partner may withdraw from the Partnership at the end of any accounting period by giving the other Partner thirty (30) days' written notice of his intention to do so.

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#### PURCHASE PRICE OF PARTNERSHIP INTEREST

17. On exercise of the option described in Paragraph 16, above, the remaining Partner shall pay to the person who is legally entitled to it one-half (1/2) of the equipment value and truck account as shown on the last regular accounting of the Partnership preceding the dissolution together with the full unwithdrawn portion of the deceased, withdrawing, or terminated Partner's distributive share of any net profits earned by the Partnership between the date of the accounting and the date of dissolution of the Partnership.

## **BUY-SELL AGREEMENT ON DEATH OF PARTNER**

18. In the event of the death of a Partner, the remaining Partner shall have the obligation to continue the business of the Partnership unless advised by the personal representative of the desire to sell the deceased Partner's share, then within ninety (90) days from the date of being so advised, the remaining Partner shall have the right to purchase the deceased Partner's share by paying to the personal representative of the deceased Partner the value of that interest as provided in Paragraph 17 of this Agreement. During this ninety (90) day period, the remaining Partner shall continue the business of the Partnership but the estate or personal representative of the deceased Partner shall not be liable for any obligations incurred in the Partnership business that are greater than any amount includable in the estate of the deceased Partner that was previously invested or involved in the Partnership and remained so on the date of death. In the event of the sale to the remaining Partner, the heirs of the deceased Partner shall be entitled at the election of the personal representative of the deceased Partner, either to one-half (1/2) of the net profits earned by the Partnership business during this ninety (90) day period or to interest for the use during this period of the deceased's interest in the partnership business at the rate of ten (10%) percent a year on the value of the partnership interest determined as provided in Paragraph 17 of this Agreement.

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## **DISSOLUTION**

20. On dissolution of the Partnership other than as provided in Paragraphs 16, 17 and 18 of this Agreement, the affairs of the Partnership shall be wound up, the assets

of the Partnership liquidated, the debts paid, and the surplus divided equally among the Partners.

### NOTICES

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### CONSENTS AND AGREEMENTS

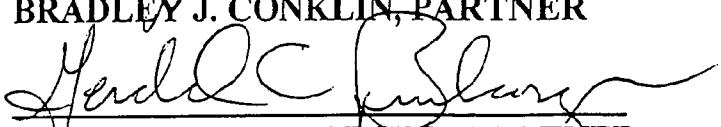
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23. This instrument contains the sole agreement of the parties relating to their Partnership and correctly sets forth the rights, duties, and obligations of each to the other in connection with it as of its date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect.

EXECUTED on Feb , 3, 2001, at Clearfield, Clearfield County, Pennsylvania.

  
\_\_\_\_\_  
BRADLEY J. CONKLIN, PARTNER

  
\_\_\_\_\_  
GERALD C. BUMBARGER, PARTNER

COMMONWEALTH OF PENNSYLVANIA )  
ss.:  
COUNTY OF CLEARFIELD )

On this, the 3rd day of February, 2001, before me, the undersigned authority, personally appeared BRADLEY J. CONKLIN, known to me, (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he has executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

Barbara J. Hugney-Shope  
Notary Public

My Commission Expires:

NOTARIAL SEAL  
BARBARA J. HUGNEY-SHOPE, Notary Public  
Clearfield Boro, Clearfield County, PA  
My Commission Expires Oct. 20, 2003

COMMONWEALTH OF PENNSYLVANIA )  
ss.:  
COUNTY OF CLEARFIELD )

On this, the 3rd day of February, 2001, before me, the undersigned authority, personally appeared GERALD C. BUMBARGER, known to me, (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he has executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

Barbara J. Hugney-Shope  
Notary Public

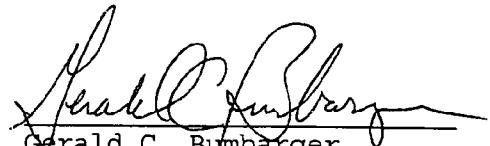
My Commission Expires:

NOTARIAL SEAL  
BARBARA J. HUGNEY-SHOPE, Notary Public  
Clearfield Boro, Clearfield County, PA  
My Commission Expires Oct. 20, 2003

VERIFICATION

I, GERALD C. BUMBARGER, verify that the statements made in this Complaint 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.

Sept 17, '03  
Date

  
Gerald C. Bumbarger

CHRIS A. PENTZ

ATTORNEY AT LAW

211 1/2 EAST LOCUST ST. P.O. BOX 552  
CLEARFIELD, PENNSYLVANIA 16830

CERTIFIED COPY

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

GERALD C. BUMBARGER,  
Plaintiff

vs

\* No. 03- 1416-C.D.

BRADLEY J. CONKLIN,  
Defendant

\* Type of Case: Civil

\* Type of Pleading: Plaintiff's  
\* Motion for Special Order  
\* Directing Service By Mail

\* Filed on Behalf of: Plaintiff

\* Counsel of Record for this Party:  
\* CHRIS A. PENTZ, Esquire

\* Supreme Court I.D. # 39232  
\* 211 1/2 East Locust Street  
\* P. O. Box 552  
\* Clearfield PA 16830  
\* 814 765-4000

FILED

*EWS*

DEC 12 2003

0/3:30 (u)  
William A. Shaw  
Prothonotary

2 CLEALED TO ATTY

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

GERALD C. BUMBARGER,  
Plaintiff

vs

NO. 03-1416 -C.D.

BRADLEY J. CONKLIN,  
Defendant

2

PLAINTIFF'S MOTION FOR SPECIAL ORDER  
DIRECTING SERVICE BY MAIL

Plaintiff, Gerald C. Bumbarger, pursuant to Pa. R.C.P. No 430(a), respectfully moves this Court for a special order permitting service of the Complaint in this action by certified and regular mail to the address of Defendant, Bradley J. Conklin. In support of this motion, Plaintiff avers the following:

(1) The instant action concerns a fraud action filed by Plaintiff in relation to an alleged partnership scam. A copy of the Complaint is attached hereto as Exhibit "A".

(2) The current and only known address of Defendant is  
R. R. # 1 Box 141, Turnpike Avenue, Clearfield Pennsylvania  
16830.

(3) On or about September 22, 2003, Plaintiff forwarded to the Clearfield County Sheriff's Department a time stamped copy of the Complaint for service of process upon Defendant at the above stated address.

(4) On or about October 24, the Clearfield County Sheriff's Department returned the return of service form stating that it was unable to serve Defendant with the Complaint after several attempts. A copy of the return of service form is attached hereto as Exhibit "B".

(5) The Sheriff's return of service explicitly states that the above stated address is a good address for service.

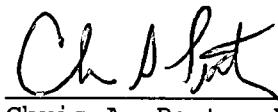
(6) To the best of Plaintiff's knowledge, information and belief, the above-stated address is the Defendant's current and only known address.

(7) Plaintiff has made a good faith effort to serve Defendant, but has been unsuccessful.

(8) Plaintiff believes that Defendant is intentionally avoiding personal service at his current and only known address.

(9) Unless the Court allows service on Defendant by way of mail directed to the above address, Plaintiff will be unable to maintain this action and undue prejudice and injustice will result.

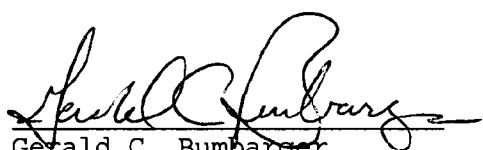
WHEREFORE, Plaintiff respectfully requests that the Court enter a special order directing service of the Complaint on Defendant by certified and regular mail at R. R. # 1 Box 141, Turnpike Avenue, Clearfield Pennsylvania 16830.

  
Chris A. Pentz, Esquire  
211 1/2 East Locust Street  
Clearfield PA 16830  
814 765-4000  
Attorney for Plaintiff,  
Gerald C. Bumbarger

VERIFICATION

I, Gerald C. Bumbarger, verify that the statements made in this Motion 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.

Dec 10, '03  
Date

  
Gerald C. Bumbarger

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

GERALD C. BUMBARGER,  
Plaintiff

vs

BRADLEY J. CONKLIN,  
Defendant

\* No. 03-1414 -C.D.

\* Type of Case: Civil

\* Type of Pleading: Complaint

\* Filed on Behalf of: Plaintiff

\* Counsel of Record for this Party:  
\* CHRIS A. PENTZ, Esquire

\* Supreme Court I.D. # 39232  
\* 211 1/2 East Locust Street  
\* P. O. Box 552  
\* Clearfield PA 16830  
\* 814 765-4000

\*

**EXHIBIT "A"**

8/22/03

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

## 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 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 the 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.

Office of Court Administrator  
Clearfield County Courthouse  
1 North Second Street  
Clearfield PA 16830  
814 765-2641

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

GERALD C. BUMBARGER,  
Plaintiff

vs

\* No. 03- -C.D.

BRADLEY J. CONKLIN,  
Defendant

COMPLAINT

1. The Plaintiff is Gerald C. Bumbarger of 410 East Locust Street, Clearfield, Clearfield County, Pennsylvania 16830.

2. The Defendant is Bradley J. Conklin who resides at R. R. # 1 Box 141, Turnpike Avenue, Clearfield, Clearfield County, Pennsylvania 16830.

3. The Plaintiff and Defendant were to be partners in a partnership known as Conklin Enterprises. The terms and conditions of said Partnership are in the Partnership Agreement dated February 3, 2001. A copy of the Partnership Agreement is attached hereto and marked Exhibit "A" as though set forth in full.

4. The Defendant has taken possession and control of the assets and the records of the alleged Partnership since April, 2001.

5. The Plaintiff believes and therefore avers that the Defendant entered into the Partnership Agreement for the sole purpose of defrauding the Plaintiff.

6. The Plaintiff believes and therefore avers that the Defendant has disposed of the funds contributed by Plaintiff to the alleged Partnership.

7. As of the date of filing this Complaint the Defendant through his actions has defrauded the Plaintiff of the amount of \$26,100.00.

WHEREFORE, the Plaintiff seeks judgment against the Defendant as follows:

1. Judgment in the amount of \$26,100.00.
2. Court costs and fees.
3. Interest from February 3, 2001.
4. Counsel fees in an amount to be determined.
5. Punitive damages.
6. Such other relief as the Court deems appropriate.
7. Jury trial is demanded.

Respectfully submitted this 17 day of Sept, 2003.

  
\_\_\_\_\_  
Chris A. Pentz, Esquire  
Attorney for Plaintiff

## **PARTNERSHIP AGREEMENT**

**BRADLEY J. CONKLIN**, of 607 Bigler Avenue, Clearfield, Clearfield County, Pennsylvania, and **GERALD C. BUMBARGER**, of 410 East Locust Street, Clearfield, Clearfield County, Pennsylvania (the Partners) agree as follows:

### **TYPE OF BUSINESS**

1. The Partners voluntarily associate themselves together as general partners for the purpose of conducting the general business of trucking in interstate commerce for hauling any and all legal commodities, and any other business that may from time to time be agreed upon by the Partners.

### **NAME OF PARTNERSHIP**

2. The name of the Partnership shall be **CONKLIN ENTERPRIZES**. This name has been registered in the office of the Secretary of State for the Commonwealth of Pennsylvania as a fictitious name with Partner Bradley J. Conklin as owner.

### **TERM OF PARTNERSHIP**

3. The Partnership shall commence on the execution of this Agreement or any amendment thereof, and shall continue until dissolved by mutual agreement of the parties or terminated as provided in this Agreement.

### **PLACE OF BUSINESS**

4. The principal place of business of the Partnership shall be at 607 Bigler Avenue, Clearfield, Clearfield County, Pennsylvania, and any other place or places that may be mutually agreed upon by the parties to this Agreement.

### **INITIAL CAPITAL AND ASSETS**

5. The initial capital and assets of this Partnership shall be the sum of \$30,000, to which each Partner shall contribute 50% as follows:

BRADLEY J. CONKLIN shall contribute the 1988 White GMC tractor, Model WA64TES, VIN NO. 1WUWDCCH2JN128450, titled in his name together with the use of all licenses and permits also in his name.

GERALD C. BUMBARGER shall contribute the sum of \$15,000 to be used to purchase a 1985 Cottrell car haul trailer, Model No. CK10L, VIN No. 1C9AN182XFG148077 purchased January 27, 2001 for approximately \$10,000, with the remainder to be used for insurance, fuel, and other expenses to carry out the primary business of the partnership.

#### WITHDRAWAL OF CAPITAL

6. No Partner shall withdraw any portion of the capital of the Partnership without the express written consent of the other Partner.

#### PROFITS AND LOSSES

7. Any net profits or losses that may accrue to the Partnership shall be distributed to or borne by the Partners in equal proportions.

#### PARTNERSHIP BOOKS

8. At all times during the continuation of the Partnership, the Partners shall keep accurate books of account in which all matters relating to the Partnership, including all of its income, expenditures, assets, and liabilities, shall be entered. These books shall be kept on a cash basis and shall be open to examination by either Partner at any time. A weekly report of the status of income and expenses will be provided to each Partner.

#### FISCAL YEAR

9. The fiscal year of the Partnership shall end on the 31<sup>st</sup> day of December each year.

### ACCOUNTINGS

10. A complete accounting of the Partnership affairs as of the close of business on the last day of March, June, September, and December of each year shall be rendered to each Partner within thirty (30) days after the close of each of those months. After the truck account has a balance of \$100,000, or upon a different mutually agreeable amount, and all bills have been paid, the net profits of the Partnership may be distributed to the Partners as provided in this Agreement to the extent that cash is available for this distribution. Except as to manifest errors discovered within 15 days after its rendition, each accounting shall be final and conclusive to each Partner.

### TIME DEVOTED TO PARTNERSHIP

11. Each Partner shall devote his time and attention and use the utmost of his skills and ability in furtherance of the Partnership business. The Partners agree that this partnership intends that Partner Bradley J. Conklin shall drive and do road and foot work while Partner Gerald C. Bumbarger will do record keeping, bill paying, truck preparation, minor truck maintenance, and anything else that his schedule and expertise permits in furtherance of the partnership business.

### MANAGEMENT AND AUTHORITY

12. Each Partner shall have an equal voice in the management of the Partnership and shall have authority to bind the Partnership in making contracts and incurring obligations in the name and on the credit of the Partnership. However, no Partner shall incur any obligations in the name or on the credit of the Partnership exceeding \$500.00 without the express written consent of the other Partner. Any such obligation incurred in violation of this provision shall be charged to and collected from the individual Partner incurring the obligation.

### SALARIES

13. As compensation for his services in and to the Partnership business, each Partner shall be entitled to a salary of \$4,000.00 each month, to be paid as the money is available after investments in the tractor and sufficient funds to cover expenses have been made. This salary shall be deducted by the Partnership as an ordinary and

necessary business expense before determination of net profits. The salary of any Partner may, however, be increased or reduced at any time by mutual agreement of both Partners.

#### NET PROFITS DEFINED

14. The term "net profits" as used in this Agreement shall mean the net profits of the Partnership as determined by generally accepted accounting principles for each accounting period provided for in this Agreement.

#### WITHDRAWAL OF PARTNER

15. Any Partner may withdraw from the Partnership at the end of any accounting period by giving the other Partner thirty (30) days' written notice of his intention to do so.

#### OPTION TO PURCHASE TERMINATED INTEREST

16. On dissolution of the Partnership by the withdrawal or other act of a Partner, the remaining Partner, on written notice to the other Partner within five (5) days of the dissolution, may continue the Partnership business by purchasing the interest of the other Partner in the assets and goodwill of the Partnership. The remaining Partner shall have the option to purchase the interest of the withdrawing Partner by paying to this Partner or the Partner's personal representative the value of the interest determined as provided in Paragraph 17 of this Agreement.

#### PURCHASE PRICE OF PARTNERSHIP INTEREST

17. On exercise of the option described in Paragraph 16, above, the remaining Partner shall pay to the person who is legally entitled to it one-half (1/2) of the equipment value and truck account as shown on the last regular accounting of the Partnership preceding the dissolution together with the full unwithdrawn portion of the deceased, withdrawing, or terminated Partner's distributive share of any net profits earned by the Partnership between the date of the accounting and the date of dissolution of the Partnership.

## BUY-SELL AGREEMENT ON DEATH OF PARTNER

18. In the event of the death of a Partner, the remaining Partner shall have the obligation to continue the business of the Partnership unless advised by the personal representative of the desire to sell the deceased Partner's share, then within ninety (90) days from the date of being so advised, the remaining Partner shall have the right to purchase the deceased Partner's share by paying to the personal representative of the deceased Partner the value of that interest as provided in Paragraph 17 of this Agreement. During this ninety (90) day period, the remaining Partner shall continue the business of the Partnership but the estate or personal representative of the deceased Partner shall not be liable for any obligations incurred in the Partnership business that are greater than any amount includable in the estate of the deceased Partner that was previously invested or involved in the Partnership and remained so on the date of death. In the event of the sale to the remaining Partner, the heirs of the deceased Partner shall be entitled at the election of the personal representative of the deceased Partner, either to one-half (1/2) of the net profits earned by the Partnership business during this ninety (90) day period or to interest for the use during this period of the deceased's interest in the partnership business at the rate of ten (10%) percent a year on the value of the partnership interest determined as provided in Paragraph 17 of this Agreement.

## DUTIES OF PURCHASING PARTNER

19. On any purchase and sale pursuant to the provisions of Paragraphs 16, 17, or 18 of this Agreement, the remaining Partner shall assume all obligations of the Partnership and shall hold the withdrawing Partner, the personal representative and estate of a deceased Partner, and the property of any withdrawing or deceased Partner, free and harmless from all liability for these obligations. Furthermore, the remaining Partner, at his own expense, shall immediately cause to be prepared, filed, served, and published all notices that may be required by law to protect the withdrawing Partner or the personal representative or estate of a deceased Partner from liability for the future obligations of the Partnership business.

## DISSOLUTION

20. On dissolution of the Partnership other than as provided in Paragraphs 16, 17 and 18 of this Agreement, the affairs of the Partnership shall be wound up, the assets

of the Partnership liquidated, the debts paid, and the surplus divided equally among the Partners.

### NOTICES

21. All notices between the parties provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to a Partner or, instead of personal service, when deposited in the United States mail, as certified, with postage prepaid, and addressed to the Partner at the address of the principal place of business of the Partnership or to another place that may from time to time be specified in a notice given pursuant to this paragraph as the address for service of notice on the Partner.

### CONSENTS AND AGREEMENTS

22. All consents and agreements provided for or permitted by this Agreement shall be in writing and a signed copy of them shall be filed and kept with the books of the Partnership.

### SOLE AGREEMENT

23. This instrument contains the sole agreement of the parties relating to their Partnership and correctly sets forth the rights, duties, and obligations of each to the other in connection with it as of its date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect.

EXECUTED on Feb , 3, 2001, at Clearfield, Clearfield County, Pennsylvania.

  
\_\_\_\_\_  
BRADLEY J. CONKLIN, PARTNER

  
\_\_\_\_\_  
GERALD C. BUMBARGER, PARTNER

COMMONWEALTH OF PENNSYLVANIA )

ss.:

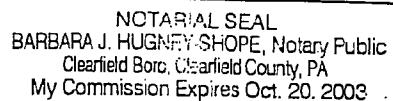
COUNTY OF CLEARFIELD )

On this, the 3rd day of February, 2001, before me, the undersigned authority, personally appeared BRADLEY J. CONKLIN, known to me, (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he has executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

Barbara J. Hugney-Shope  
Notary Public

My Commission Expires:



COMMONWEALTH OF PENNSYLVANIA )

ss.:

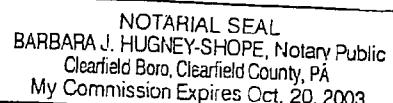
COUNTY OF CLEARFIELD )

On this, the 3rd day of February, 2001, before me, the undersigned authority, personally appeared GERALD C. BUMBARGER, known to me, (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he has executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

Barbara J. Hugney-Shope  
Notary Public

My Commission Expires:



VERIFICATION

I, GERALD C. BUMBARGER, verify that the statements made in this Complaint 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.

Sept 17/03  
Date

Gerald C. Bumbarger  
Gerald C. Bumbarger

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

BUMBARGER, GERALD C.

Sheriff Docket # 14592

VS.

CONKLIN, BRADLEY J.

03-1416-CD

SEARCHED  
INDEXED  
FILED

**COMPLAINT**

**SHERIFF RETURNS**

NOW OCTOBER 24, 2003 AFTER DILIGENT SEARCH IN MY BALIWICK I RETURN THE  
WITHIN COMPLAINT "NOT FOUND" AS TO BRADLEY J. CONKLIN, DEFENDANT.  
DEFENDANT DRIVES TRUCK AND IS ONLY HOME ON WEEKENDS. SEVERAL ATTEMPTS.

---

**Return Costs**

Cost	Description
22.37	SHERIFF HAWKINS PAID BY: ATTY CK# 2822
10.00	SURCHARGE PAID BY: ATTY CK# 2823

---

Sworn to Before Me This

So Answers,

\_\_\_\_ Day Of \_\_\_\_\_ 2003



Chester A. Hawkins  
Sheriff

**EXHIBIT "B"**

CLEARFIELD, PENNSYLVANIA 16830

CHRIS A. PENNZ  
ATTORNEY AT LAW

Fold Here

**FILED**

DEC 12 2003

William A. Shaw  
Prothonotary

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

GERALD C. BUMBARGER  
Plaintiff

\*  
\*  
\*

vs

\* No. 2003-1416-C.D.  
\*  
\*

BRADLEY J. CONKLIN,  
Defendant

\*

SCHEDULING ORDER

AND NOW, this 15<sup>th</sup> day of November, 2003, upon  
consideration of the Motion filed by Chris A. Pentz, Attorney  
for Plaintiff, a hearing is hereby scheduled for the 6<sup>th</sup> day  
of January, 2004, at 9:30 A.M. in Courtroom No.  
1 of the Clearfield County Courthouse, Clearfield,  
Pennsylvania.

BY THE COURT:

Judie J. Zimmerman  
J.

FILED

DEC 16 2003

Matthew A. Shaw  
Clearfield County, Clerk of Courts

FILED

2cc

01/10/2004

DEC 16 2003

Amy Bentz

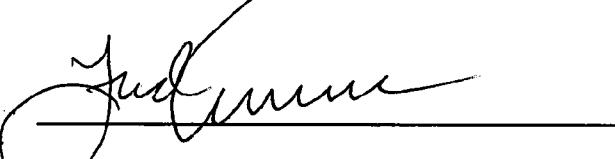
IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

GERALD C. BUMBARGER :  
-vs- : No. 03-1416-CD  
BRADLEY J. CONKLIN :

O R D E R

NOW, this 6th day of January, 2004, following argument on Plaintiff's Motion for Special Order, it is the ORDER of this Court that the Plaintiff be and is hereby permitted to attempt service of the complaint by use of a Pennsylvania state constable as opposed to the Clearfield County Sheriff's office.

BY THE COURT,

  
\_\_\_\_\_  
President Judge

FILED

JAN 09 2004

William A. Shaw  
Prothonotary Clerk of Courts

FILED

4cc

11/24/04  
JAN 09 2004  
by Amy Pante

William A. Scully  
Prothonotary/Clerk of Courts

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

GERALD C. BUMBARGER,  
Plaintiff

VS

\* No. 2003- 1416 -C.D.

BRADLEY J. CONKLIN,  
Defendant

\* Type of Case: Civil

\* Type of Pleading: Praeclipe to  
\* Reinstate Complaint

\* Filed on Behalf of: Plaintiff

\* Counsel of Record for this Party:  
\* CHRIS A. PENTZ, Esquire

\* Supreme Court I.D. # 39232  
\* 211 ½ East Locust Street  
\* P. O. Box 552  
\* Clearfield PA 16830  
\* 814 765-4000

**FILED**

JAN 30 2004

William A. Shaw  
Prothonotary

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

GERALD C. BUMBARGER,  
Plaintiff

vs

\* No. 03-1416-C.D.

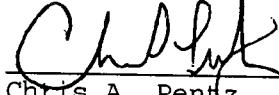
BRADLEY J. CONKLIN,  
Defendant

\*

PRAECIPE TO REINSTATE COMPLAINT

TO THE PROTHONOTARY:

Pursuant to Pa.R.C.P. No. 401, please reinstate  
the Complaint in the above-captioned matter.

  
Chris A. Pentz  
Attorney for Plaintiff  
211 1/2 East Locust Street  
P. O. Box 552  
Clearfield PA 16830

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

GERALD C. BUMBARGER,  
Plaintiff

vs

BRADLEY J. CONKLIN,  
Defendant

\* No. 03- 1414 -C.D.

\* Type of Case: Civil

\* Type of Pleading: Complaint

\* Filed on Behalf of: Plaintiff

\* Counsel of Record for this Party:

\* CHRIS A. PENTZ, Esquire

\*

\* Supreme Court I.D. # 39232

\* 211 1/2 East Locust Street

\* P. O. Box 552

\* Clearfield PA 16830

\* 814 765-4000

\*

\*

1/2 n 10<sup>3</sup>  
X

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

**NOTICE**

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Office of Court Administrator  
Clearfield County Courthouse  
1 North Second Street  
Clearfield PA 16830  
814 765-2641

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

GERALD C. BUMBARGER,  
Plaintiff

vs

\*  
\*  
\*  
\*  
\*  
\* No. 03- -C.D.

BRADLEY J. CONKLIN,  
Defendant

COMPLAINT

1. The Plaintiff is Gerald C. Bumbarger of 410 East Locust Street, Clearfield, Clearfield County, Pennsylvania 16830.

2. The Defendant is Bradley J. Conklin who resides at R. R. # 1 Box 141, Turnpike Avenue, Clearfield, Clearfield County, Pennsylvania 16830.

3. The Plaintiff and Defendant were to be partners in a partnership known as Conklin Enterprises. The terms and conditions of said Partnership are in the Partnership Agreement dated February 3, 2001. A copy of the Partnership Agreement is attached hereto and marked Exhibit "A" as though set forth in full.

4. The Defendant has taken possession and control of the assets and the records of the alleged Partnership since April, 2001.

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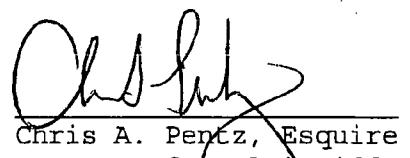
6. The Plaintiff believes and therefore avers that the Defendant has disposed of the funds contributed by Plaintiff to the alleged Partnership.

7. As of the date of filing this Complaint the Defendant through his actions has defrauded the Plaintiff of the amount of \$26,100.00.

WHEREFORE, the Plaintiff seeks judgment against the Defendant as follows:

1. Judgment in the amount of \$26,100.00.
2. Court costs and fees.
3. Interest from February 3, 2001.
4. Counsel fees in an amount to be determined.
5. Punitive damages.
6. Such other relief as the Court deems appropriate.
7. Jury trial is demanded.

Respectfully submitted this 17 day of Sept, 2003.

  
Chris A. Pentz, Esquire  
Attorney for Plaintiff

## **PARTNERSHIP AGREEMENT**

BRADLEY J. CONKLIN, of 607 Bigler Avenue, Clearfield, Clearfield County, Pennsylvania, and GERALD C. BUMBARGER, of 410 East Locust Street, Clearfield, Clearfield County, Pennsylvania (the Partners) agree as follows:

### **TYPE OF BUSINESS**

1. The Partners voluntarily associate themselves together as general partners for the purpose of conducting the general business of trucking in interstate commerce for hauling any and all legal commodities, and any other business that may from time to time be agreed upon by the Partners.

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2. The name of the Partnership shall be **CONKLIN ENTERPRISES**. This name has been registered in the office of the Secretary of State for the Commonwealth of Pennsylvania as a fictitious name with Partner Bradley J. Conklin as owner.

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### **INITIAL CAPITAL AND ASSETS**

5. The initial capital and assets of this Partnership shall be the sum of \$30,000, to which each Partner shall contribute 50% as follows:

BRADLEY J. CONKLIN shall contribute the 1988 White GMC tractor, Model WA64TES, VIN NO. 1WUWDCCH2JN128450, titled in his name together with the use of all licenses and permits also in his name.

GERALD C. BUMBARGER shall contribute the sum of \$15,000 to be used to purchase a 1985 Cottrell car haul trailer, Model No. CK10L, VIN No. 1C9AN182XFG148077 purchased January 27, 2001 for approximately \$10,000, with the remainder to be used for insurance, fuel, and other expenses to carry out the primary business of the partnership.

#### WITHDRAWAL OF CAPITAL

6. No Partner shall withdraw any portion of the capital of the Partnership without the express written consent of the other Partner.

#### PROFITS AND LOSSES

7. Any net profits or losses that may accrue to the Partnership shall be distributed to or borne by the Partners in equal proportions.

#### PARTNERSHIP BOOKS

8. At all times during the continuation of the Partnership, the Partners shall keep accurate books of account in which all matters relating to the Partnership, including all of its income, expenditures, assets, and liabilities, shall be entered. These books shall be kept on a cash basis and shall be open to examination by either Partner at any time. A weekly report of the status of income and expenses will be provided to each Partner.

#### FISCAL YEAR

9. The fiscal year of the Partnership shall end on the 31<sup>st</sup> day of December each year.

## ACCOUNTINGS

10. A complete accounting of the Partnership affairs as of the close of business on the last day of March, June, September, and December of each year shall be rendered to each Partner within thirty (30) days after the close of each of those months. After the truck account has a balance of \$100,000, or upon a different mutually agreeable amount, and all bills have been paid, the net profits of the Partnership may be distributed to the Partners as provided in this Agreement to the extent that cash is available for this distribution. Except as to manifest errors discovered within 15 days after its rendition, each accounting shall be final and conclusive to each Partner.

## TIME DEVOTED TO PARTNERSHIP

11. Each Partner shall devote his time and attention and use the utmost of his skills and ability in furtherance of the Partnership business. The Partners agree that this partnership intends that Partner Bradley J. Conklin shall drive and do road and foot work while Partner Gerald C. Bumbarger will do record keeping, bill paying, truck preparation, minor truck maintenance, and anything else that his schedule and expertise permits in furtherance of the partnership business.

## MANAGEMENT AND AUTHORITY

12. Each Partner shall have an equal voice in the management of the Partnership and shall have authority to bind the Partnership in making contracts and incurring obligations in the name and on the credit of the Partnership. However, no Partner shall incur any obligations in the name or on the credit of the Partnership exceeding \$500.00 without the express written consent of the other Partner. Any such obligation incurred in violation of this provision shall be charged to and collected from the individual Partner incurring the obligation.

## SALARIES

13. As compensation for his services in and to the Partnership business, each Partner shall be entitled to a salary of \$4,000.00 each month, to be paid as the money is available after investments in the tractor and sufficient funds to cover expenses have been made. This salary shall be deducted by the Partnership as an ordinary and

necessary business expense before determination of net profits. The salary of any Partner may, however, be increased or reduced at any time by mutual agreement of both Partners.

#### NET PROFITS DEFINED

14. The term "net profits" as used in this Agreement shall mean the net profits of the Partnership as determined by generally accepted accounting principles for each accounting period provided for in this Agreement.

#### WITHDRAWAL OF PARTNER

15. Any Partner may withdraw from the Partnership at the end of any accounting period by giving the other Partner thirty (30) days' written notice of his intention to do so.

#### OPTION TO PURCHASE TERMINATED INTEREST

16. On dissolution of the Partnership by the withdrawal or other act of a Partner, the remaining Partner, on written notice to the other Partner within five (5) days of the dissolution, may continue the Partnership business by purchasing the interest of the other Partner in the assets and goodwill of the Partnership. The remaining Partner shall have the option to purchase the interest of the withdrawing Partner by paying to this Partner or the Partner's personal representative the value of the interest determined as provided in Paragraph 17 of this Agreement.

#### PURCHASE PRICE OF PARTNERSHIP INTEREST

17. On exercise of the option described in Paragraph 16, above, the remaining Partner shall pay to the person who is legally entitled to it one-half (1/2) of the equipment value and truck account as shown on the last regular accounting of the Partnership preceding the dissolution together with the full unwithdrawn portion of the deceased, withdrawing, or terminated Partner's distributive share of any net profits earned by the Partnership between the date of the accounting and the date of dissolution of the Partnership.

## BUY-SELL AGREEMENT ON DEATH OF PARTNER

18. In the event of the death of a Partner, the remaining Partner shall have the obligation to continue the business of the Partnership unless advised by the personal representative of the desire to sell the deceased Partner's share, then within ninety (90) days from the date of being so advised, the remaining Partner shall have the right to purchase the deceased Partner's share by paying to the personal representative of the deceased Partner the value of that interest as provided in Paragraph 17 of this Agreement. During this ninety (90) day period, the remaining Partner shall continue the business of the Partnership but the estate or personal representative of the deceased Partner shall not be liable for any obligations incurred in the Partnership business that are greater than any amount includable in the estate of the deceased Partner that was previously invested or involved in the Partnership and remained so on the date of death. In the event of the sale to the remaining Partner, the heirs of the deceased Partner shall be entitled at the election of the personal representative of the deceased Partner, either to one-half (1/2) of the net profits earned by the Partnership business during this ninety (90) day period or to interest for the use during this period of the deceased's interest in the partnership business at the rate of ten (10%) percent a year on the value of the partnership interest determined as provided in Paragraph 17 of this Agreement.

## DUTIES OF PURCHASING PARTNER

19. On any purchase and sale pursuant to the provisions of Paragraphs 16, 17, or 18 of this Agreement, the remaining Partner shall assume all obligations of the Partnership and shall hold the withdrawing Partner, the personal representative and estate of a deceased Partner, and the property of any withdrawing or deceased Partner, free and harmless from all liability for these obligations. Furthermore, the remaining Partner, at his own expense, shall immediately cause to be prepared, filed, served, and published all notices that may be required by law to protect the withdrawing Partner or the personal representative or estate of a deceased Partner from liability for the future obligations of the Partnership business.

## DISSOLUTION

20. On dissolution of the Partnership other than as provided in Paragraphs 16, 17 and 18 of this Agreement, the affairs of the Partnership shall be wound up, the assets

of the Partnership liquidated, the debts paid, and the surplus divided equally among the Partners.

### NOTICES

21. All notices between the parties provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to a Partner or, instead of personal service, when deposited in the United States mail, as certified, with postage prepaid, and addressed to the Partner at the address of the principal place of business of the Partnership or to another place that may from time to time be specified in a notice given pursuant to this paragraph as the address for service of notice on the Partner.

### CONSENTS AND AGREEMENTS

22. All consents and agreements provided for or permitted by this Agreement shall be in writing and a signed copy of them shall be filed and kept with the books of the Partnership.

### SOLE AGREEMENT

23. This instrument contains the sole agreement of the parties relating to their Partnership and correctly sets forth the rights, duties, and obligations of each to the other in connection with it as of its date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect.

EXECUTED on Feb , 3, 2001, at Clearfield, Clearfield County, Pennsylvania.

  
\_\_\_\_\_  
BRADLEY J. CONKLIN, PARTNER

  
\_\_\_\_\_  
GERALD C. BUMBARGER, PARTNER

COMMONWEALTH OF PENNSYLVANIA )

ss.:

COUNTY OF CLEARFIELD )

On this, the 3rd day of February, 2001, before me, the undersigned authority, personally appeared BRADLEY J. CONKLIN, known to me, (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he has executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

Barbara J. Hugney-Shope  
Notary Public

My Commission Expires:

NOTARIAL SEAL  
BARBARA J. HUGNEY-SHOPE, Notary Public  
Clearfield Boro, Clearfield County, PA  
My Commission Expires Oct. 20, 2003

COMMONWEALTH OF PENNSYLVANIA )

ss.:

COUNTY OF CLEARFIELD )

On this, the 3rd day of February, 2001, before me, the undersigned authority, personally appeared GERALD C. BUMBARGER, known to me, (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he has executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

Barbara J. Hugney-Shope  
Notary Public

My Commission Expires:

NOTARIAL SEAL  
BARBARA J. HUGNEY-SHOPE, Notary Public  
Clearfield Boro, Clearfield County, PA  
My Commission Expires Oct. 20, 2003

VERIFICATION

I, GERALD C. BUMBARGER, verify that the statements made in this Complaint 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.

Sept 17, '03  
Date

Gerald C. Bumbarger  
Gerald C. Bumbarger

CLIBARFELD, PENNSYLVANIA 16830  
211½ East Locust Street  
ATTORNEY AT LAW  
CHRIS A. PENNZ

Filed Here

**FILED**

Remanded to City

JAN 30 2004

Reid  
0/32371.00

William A. Shaw  
Prothonotary

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

GERALD C. BUMBARGER,  
Plaintiff

vs

BRADLEY J. CONKLIN,  
Defendant

\* No. 2003-1416-<sup>CD</sup>~~CSA~~

\* Type of Case: Civil

\* Type of Pleading: Certificate  
\* of Service

\* Filed on Behalf of: Plaintiff

\* Counsel of Record for this Party:  
\* CHRIS A. PENTZ, Esquire

\* Supreme Court I.D. # 39232  
\* 211 ½ East Locust Street  
\* P. O. Box 552  
\* Clearfield PA 16830  
\* 814 765-4000

FILED

MAR 10 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

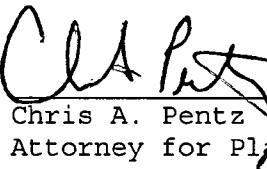
\*  
GERALD C. BUMBARGER, \*  
Plaintiff \*  
  
vs \* No. 03-1416-C.D.  
  
\*  
BRADLEY J. CONKLIN, \*  
Defendant \*  
  
\*

CERTIFICATE OF SERVICE

I, Chris A. Pentz, Attorney for the Plaintiff,  
certify that a certified copy of the Complaint was served upon  
the following person:

Bradley J. Conklin  
1439 Turnpike Avenue  
Clearfield PA 16830

Service was made the 17<sup>th</sup> day of February, 2004 at 5:10 P.M.  
by hand to hand method by Louis P. Radzyminski, State  
Constable. An Affidavit of Service is attached hereto.

  
\_\_\_\_\_  
Chris A. Pentz  
Attorney for Plaintiff

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD

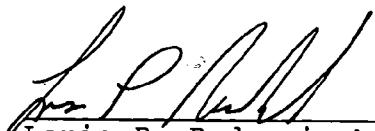
Before me, the undersigned notary public, this day, personally, appeared

Louis P. Radzyminski to me known, who being duly sworn according to law, deposes the following:

Statement

Service of process was performed by hand to hand method at 1439 Turnpike ave., formally known as R.D.1 Box 141 Clearfield PA 16830. Service took place on Tuesday, 2-17-04 at 5:10 PM between myself and Bradley A. Conklin.

I swear the above to be true and correct.

  
\_\_\_\_\_  
Louis P. Radzyminski

Subscribed and sworn before me this

day of 2-18-04,

Notary  
RICHARD KRELAND  
District Justice, State of Pennsylvania  
No. 40-3-02, Clearfield County  
Commissioned 3-26-03

CLIBARFIELD, PENNSYLVANIA 16830  
211½ East Locust Street  
ATTORNEY AT LAW  
CHRIS A. PENNZ

Fold Here

FILED  
Q11:00 PM  
MAR 10 2004  
E  
William A. Shaw  
Prothonotary/Clerk of Courts

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

GERALD C. BUMBARGER,  
Plaintiff

VS

\* No. 2003-1416-C.D.

BRADLEY J. CONKLIN,  
Defendant

\* Type of Case: Civil

\* Type of Pleading: Certificate of  
\* Service

\* Filed on Behalf of: Plaintiff

\* Counsel of Record for this Party:  
\* CHRIS A. PENTZ, Esquire

\* Supreme Court I.D. # 39232  
\* 211 1/2 East Locust Street  
\* P. O. Box 552  
\* Clearfield PA 16830  
\* 814 765-4000

FILED

MAY 07 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

GERALD C. BUMBARGER,  
Plaintiff

\*

\*

vs

\* No. 2003-1416-C.D.

\*

\*

BRADLEY J. CONKLIN,  
Defendant

\*

\*

CERTIFICATE OF SERVICE

I do hereby certify that on the 29th day of March,  
2004, I mailed a certified copy of Notice of Default by first  
class mail, postage prepaid, to:

Mr. Bradley J. Conklin  
1439 Turnpike Avenue  
Clearfield PA 16830

  
\_\_\_\_\_  
Chris A. Pentz  
Attorney for Plaintiff

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

GERALD C. BUMBARGER,  
Plaintiff

**Plaintiff**

4

2

vs

No. 03-1416 -C.D.

1

BRADLEY J. CONKLIN,  
Defendants

10

6

**NOTICE OF DEFAULT**

To: BRADLEY J. CONKLIN:

Date of Notice: March 29, 2004

## IMPORTANT NOTICE

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

Office of Court Administrator  
Clearfield County Courthouse  
One North Second Street  
Clearfield PA 16830  
814 765-2641 Ext. 50-51

Chris A. Pentz  
Attorney for Plaintiff

CLBERFIELD PENNSYLVANIA 16830  
207 East Market Street  
ATTORNEY AT LAW  
CHRIS A. PENNZ

Fold Here

FILED NO  
MAY 07 2004  
William A. Shaw  
Prothonotary/Clerk of Courts  
JRW

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

GERALD C. BUMBARGER,  
Plaintiff,

\*

\*

vs

No. 2003-1416-CD

\*

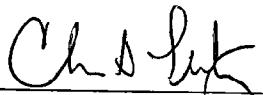
BRADLEY J. CONKLIN,  
Defendant

\*

\*

To the Prothonotary:

Please enter Default Judgment against the Defendant,  
Bradley J. Conklin, in favor of the Plaintiff, Gerald C. Bumbarger,  
in unliquidated amount.

  
\_\_\_\_\_  
Chris A. Pentz  
Attorney for Plaintiff

FILED

MAY 07 2004

William A. Shaw  
Prothonotary/Clerk of Courts

FILED NO  
0134784 CC  
MAY 07 2004 AMY PENTZ, pd. 20.00  
William A. Shaw ~~file~~ Notice to Def.  
Prothonotary/Clerk of Courts  
Statement to AMY

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

GERALD C. BUMBARGER,  
Plaintiff

\*

\*

vs

No. 03-1416 -C.D.

\*

BRADLEY J. CONKLIN,  
Defendants

\*

\*

NOTICE OF DEFAULT

To: BRADLEY J. CONKLIN:

Date of Notice: March 29, 2004

IMPORTANT NOTICE

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

LEGAL HELP: Office of Court Administrator  
Clearfield County Courthouse  
One North Second Street  
Clearfield PA 16830  
814 765-2641 Ext. 50-51

---

Chris A. Pentz  
Attorney for Plaintiff

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

GERALD C. BUMBARGER

No. 2003-1416-C.D.

vs.

BRADLEY J. CONKLIN

NOTICE is given that a JUDGMENT in the above captioned matter  
has been entered against you in the amount of \$ unliquidated amount  
on May 7, 2004.

William Shaw, Prothonotary

by

Deputy

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

COPIED

Gerald C. Bumbarger  
Plaintiff(s)

No.: 2003-01416-CD

Real Debt: unliquidated amount

Atty's Comm: \$

Vs.

Costs: \$

Bradley J. Conklin  
Defendant(s)

Int. From: \$

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: May 7, 2004

Expires: May 7, 2009

Certified from the record this 7th day of May, 2004.

---

William A. Shaw, Prothonotary

\*\*\*\*\*

SIGN BELOW FOR SATISFACTION

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

---

Plaintiff/Attorney

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GERALD C. BUMBARGER,  
Plaintiff

vs.

BRADLEY J. CONKLIN,  
Defendant, Debtor  
and Movant

\* Civil Division  
\*  
\* No. 2003-1416-CD  
\*  
\*  
\* Type of Pleading:  
\* Praeclipe Requesting  
\* Entry of Default Order  
\* On Motion to Avoid Judicial  
\* Lien  
\*  
\* Filed on Behalf of:  
\* Defendant Bradley J. Conklin  
\*  
\* Co-Counsel of Record for this  
\* Party:  
\*  
\* Thomas J. Dausch,  
\* Attorney at Law  
\* Dausch & Associates, P.C.  
\* 23 Brilliant Avenue  
\* Pittsburgh, PA 15215-3135  
\* PA ID No. 21842  
\* 412-781-4708  
\*  
\* John R. Lhota,  
\* Attorney at Law  
\* John R. Lhota, P.C.  
\* 110 North Second Street  
\* Clearfield, PA 16830  
\* PA ID No. 22492  
\* 814-765-9611

FILED 2cc  
03/20/2007 Atty  
MAR 20 2007 Lhota

William A. Shaw  
Prothonotary/Clerk of Courts  
Atty Lhota  
pd 7.00  
GTO

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GERALD C. BUMBARGER,  
Plaintiff

\*  
\* Civil Division

vs.

\* No. 2003-1416-CD

BRADLEY J. CONKLIN,  
Defendant, Debtor  
and Movant

\*  
\*  
\*

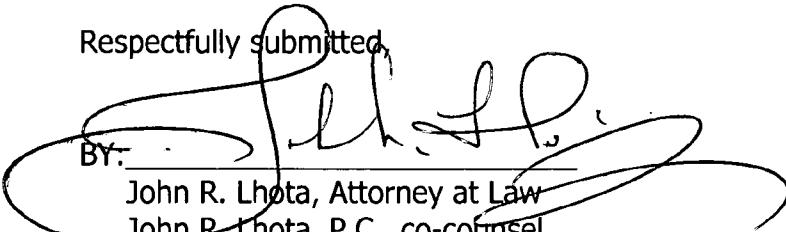
PRAECIPE REQUESTING ENTRY OF DEFAULT ORDER  
ON MOTION TO AVOID JUDICIAL LIEN

TO: WILLIAM A. SHAW,  
PROTHONOTARY

Please file the attached certified copy of a default order of court on motion to avoid judicial lien of record in the above captioned matter and mark the subject judgment lien "AVOIDED" as to defendant Bradley J. Conklin.

Respectfully submitted,

BY:

  
John R. Lhota, Attorney at Law  
John R. Lhota, P.C., co-counsel  
to Bradley J. Conklin, defendant, debtor and  
movant

Date: March 15, 2007

IN THE UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF PENNSYLVANIA  
PITTSBURGH DIVISION

In Re: Conklin, Bradley J.,  
Debtor and Movant

: Bankruptcy No. 04-30748 *BM*  
: Chapter 7

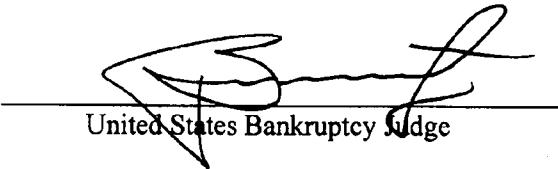
vs.

Gerald C. Bumbarger,  
Respondent

: Motion No. *1441 Doc. #8*

Default Order on Motion to Avoid Judicial Lien

This 2-8- day of 2005, upon default, no response objecting to the motion having been timely filed by an interested party and upon Movant's certification of service of the motion and certification of default, IT IS ORDERED that the above captioned motion is hereby granted and that the property of the Debtor, more fully described as certain realty in Bradford Township, Clearfield County, Pennsylvania, identified in the Office of Assessment in and for Clearfield County, Pennsylvania as Map No. 106-N7-69 is hereby released from the judicial lien of Respondent, entered in the Court of Common Pleas of Clearfield County, Pennsylvania, Civil Division, in the case of Gerald C. Bumbarger, Plaintiff vs. Bradley J. Conklin, Defendant, which is of record in the above mentioned Court at No. 2003-1416-CD. Movant shall, within five (5) days hereof, serve a copy of the within order on parties in interest and file a certificate of service.

  
United States Bankruptcy Judge

cc: John R. Lhota, Attorney at Law  
John R. Lhota, P.C.  
110 North Second Street  
Clearfield, PA 16830

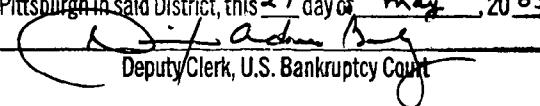
**FILED**

**FEB 8 2005**

**CLERK, U.S. BANKRUPTCY COURT  
WEST. DIST. OF PENNSYLVANIA**

In The United States Bankruptcy Court For The Western District of Pennsylvania I, the undersigned Deputy Clerk, U.S. Bankruptcy Court in and for said District, DO HEREBY CERTIFY that this copy has been compared with the original thereof and that it is a complete and correct copy of the original as it appears of record and on file in my office.

IN TESTIMONY WHEREOF I have hereunto set my hand at  
Pittsburgh in said District, this 24 day of May, 2005

  
Deputy Clerk, U.S. Bankruptcy Court

CLEARFIELD, PENNSYLVANIA 16830  
110 NORTH SECOND STREET  
ATTORNEY AT LAW  
**JOHN R. LHOТА, P.C.**

— Lap over margin —

John R. Lhotá  
Attorney at Law  
110 North Second Street  
Clearfield, Pennsylvania 16830  
(814) 325-2222