

03-1864-CD  
BMP SYSTEMS vs. BIERLEY'S OFFICE EQUIPMENT

## COURT OF COMMON PLEAS

FROM:

46th JUDICIAL DISTRICT  
COUNTY OF CLEARFIELD

## DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No.

03-1864-CD

## NOTICE OF APPEAL

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

NAME OF APPELLANT BIERLY'S OFFICE EQUIPMENT		MAG. DIST. NO. OR NAME OF D.J. Patrick N. Ford / 46-3-01	
ADDRESS OF APPELLANT East College Avenue, P. O. Box 5190,		CITY Pleasant Gap	STATE PA
		ZIP CODE 16823	
DATE OF JUDGMENT 12/1/03	IN THE CASE OF (Plaintiff) BMP Systems		
		(Defendant) vs. Bierley's Office Equipment	
CLAIM NO. CV 19 0000459-03 LT 19	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT 		
<p>This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B.</p> <p>This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p>_____ Signature of Prothonotary or Deputy</p>		<p>If appellant was CLAIMANT (see Pa. R.C.P.J.P. No. 1001(6) in action before District Justice, he MUST FILE A COMPLAINT within twenty (20) days after filing his NOTICE of APPEAL.</p>	

## PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

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

## PRAECIPE: To Prothonotary

Enter rule upon BMP Systems, appellee(s), to file a complaint in this appeal

(Common Pleas No. 03-1864-CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

\_\_\_\_\_  
Signature of appellant or his attorney or agent

**RULE:** To BMP Systems, appellee(s).

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

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

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

Date: 12/19/03

\_\_\_\_\_  
Signature of Prothonotary or Deputy

FILED

DEC 19 2003

William A. Shaw  
Prothonotary/Clerk of Courts

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

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

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF \_\_\_\_\_ ; ss

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

- ☐ a copy of the Notice of Appeal, Common Pleas No. \_\_\_\_\_, upon the District Justice designated therein on (date of service) \_\_\_\_\_, ☐ by personal service ☐ by (certified) (registered) mail, sender's receipt attached hereto, and upon the appellee, (name) \_\_\_\_\_, on \_\_\_\_\_, 19\_\_\_\_ ☐ by personal service ☐ by (certified) (registered) mail, sender's receipt attached hereto.
- ☐ and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on \_\_\_\_\_, 19\_\_\_\_, ☐ by personal service ☐ by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
Signature of affiant

\_\_\_\_\_  
Signature of official before whom affidavit was made

\_\_\_\_\_  
Title of official

My commission expires on \_\_\_\_\_, 19\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.: **46-3-01**  
D.J. Name: Hon. **PATRICK N. FORD**  
Address: **309 MAPLE AVENUE**  
**P.O. BOX 452**  
**DUBOIS, PA**  
Telephone: **(814) 371-5321** **15801**

**BIERLY'S OFFICE EQUIPMENT**  
**E COLLEGE AVE**  
**P.O. BOX 5190**  
**PLESANT GAP, PA 16823**

**NOTICE OF JUDGMENT/TRANSCRIPT  
CIVIL CASE**

PLAINTIFF: **BMP SYSTEMS**  
RD 3 BOX 36  
DUBOIS, PA 15801  
NAME and ADDRESS

VS.  
DEFENDANT: **BIERLY'S OFFICE EQUIPMENT**  
E COLLEGE AVE  
P.O. BOX 5190  
PLESANT GAP, PA 16823  
NAME and ADDRESS

Docket No.: **CV-0000459-03**  
Date Filed: **10/28/03**



**THIS IS TO NOTIFY YOU THAT:**

Judgment: **FOR PLAINTIFF**

☒ Judgment was entered for: (Name) **BMP SYSTEMS**

☒ Judgment was entered against: (Name) **BIERLY'S OFFICE EQUIPMENT**

in the amount of \$ **1,886.50** on: (Date of Judgment) **12/01/03**

☐ Defendants are jointly and severally liable. (Date & Time) \_\_\_\_\_

☐ Damages will be assessed on:

☐ This case dismissed without prejudice.

☐ Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ \_\_\_\_\_

☐ Portion of Judgment for physical damages arising out of residential lease \$ \_\_\_\_\_

Amount of Judgment	\$ <b>1,815.00</b>
Judgment Costs	\$ <b>71.50</b>
Interest on Judgment	\$ <b>.00</b>
Attorney Fees	\$ <b>.00</b>
<b>Total</b>	\$ <b>1,886.50</b>
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
	=====
<b>Certified Judgment Total</b>	\$ _____

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR DISTRICT JUSTICES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE DISTRICT JUSTICE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE DISTRICT JUSTICE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

**12-1-03** Date **Patrick N. Ford S/F**, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.  
\_\_\_\_\_, Date \_\_\_\_\_, District Justice

My commission expires first Monday of January, **2006**.

SEAL

FILED

M/3:00 PM  
DEC 19 2003

copies to Atty Bryant  
Atty pd. 85.00

William A. Shaw  
Prothonotary/Clerk of Courts

COURT OF COMMON PLEAS

FROM

46th JUDICIAL DISTRICT  
COUNTY OF CLEARFIELD

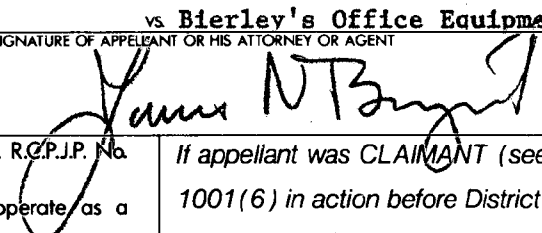
DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No.

03-1864-CD

## NOTICE OF APPEAL

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

NAME OF APPELLANT <b>BIERLY'S OFFICE EQUIPMENT</b>		MAG. DIST. NO. OR NAME OF D.J. <b>Patrick N. Ford / 46-3-01</b>	
ADDRESS OF APPELLANT <b>East College Avenue, P. O. Box 5190,</b>		CITY <b>Pleasant Gap</b>	STATE <b>PA</b>
		ZIP CODE <b>16823</b>	
DATE OF JUDGMENT <b>12/1/03</b>	IN THE CASE OF (Plaintiff) <b>BMP Systems</b>		
		(Defendant) <b>vs Bierley's Office Equipment</b>	
CLAIM NO. <b>CV 19 0000459-03</b>		SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT 	
<b>LT 19</b>			

This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B.

This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.

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

Signature of Prothonotary or Deputy

## PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

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

PRAECIPE: To Prothonotary

Enter rule upon **BMP Systems**, appellee(s), to file a complaint in this appeal

(Common Pleas No. **03-1864-CD**) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Signature of appellant or his attorney or agent

RULE: To **BMP Systems**, appellee(s).

Name of appellee(s)

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

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

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

Date: **12/19/03**

Signature of Prothonotary or Deputy

FILED

m/2'003H  
DEC 23 2003William A. Shaw  
Prothonotary/Clerk of Courts**PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT**

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

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CENTRE ; ss**AFFIDAVIT:** I hereby swear or affirm that I served

☒ a copy of the Notice of Appeal, Common Pleas No. 03-1864-CD, upon the District Justice designated therein on (date of service) December 22, 2003, ☐ by personal service ☒ by (certified) ~~registered~~ mail, sender's receipt attached hereto, and upon the appellee, (name) BMP Systems, on December 23, 2003 ☐ by personal service ☒ by (certified) ~~registered~~ mail, sender's receipt attached hereto.

☒ and further that I served the Rule to File a Complaint accompanying the above Notice of Appeal upon the appellee(s) to whom the Rule was addressed on December 22, 2003, 19 ☐ by personal service ☒ by (certified) ~~registered~~ mail, sender's receipt attached hereto.

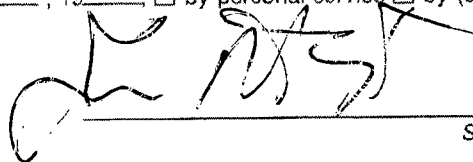
SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS 22nd DAY OF December, 2003

Signature of official before whom affidavit was made

Notary Public

Title of official

My commission expires on March 11, 2005, 19

Signature of affiant

Notarial Seal  
Karen S. Rossman, Notary Public  
Millheim Boro, Centre County  
My Commission Expires Mar. 11, 2005  
Member, Pennsylvania Association of Notaries

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
OFFICIAL USE	
Postage	\$ .37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 2.67
Sent To <u>BMP SYSTEMS</u>	
Street, Apt. No., or PO Box No. <u>RD 3 BOX 36</u>	
City, State, ZIP+4 <u>DUBOIS PA 15801</u>	

PS Form 3800, January 2001 See Reverse for Instructions

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
OFFICIAL USE	
Postage	\$ .37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 2.67
Sent To <u>DISTRICT JUSTICE PATRICK-N-FORD</u>	
Street, Apt. No., or PO Box No. <u>309 Maple Avenue</u>	
City, State, ZIP+4 <u>Dubois PA 15801</u>	

PS Form 3800, January 2001 See Reverse for Instructions

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.: **46-3-01**  
DJ Name: Hon. **PATRICK N. FORD**  
Address: **309 MAPLE AVENUE**  
**P.O. BOX 452**  
**DUBOIS, PA**  
Telephone: **(814) 371-5321** **15801**

**PATRICK N. FORD**  
**309 MAPLE AVENUE**  
**P.O. BOX 452**  
**DUBOIS, PA 15801**

**NOTICE OF JUDGMENT/TRANSCRIPT**  
**CIVIL CASE**

PLAINTIFF: **BMP SYSTEMS**  
**RD 3 BOX 36**  
**DUBOIS, PA 15801**

VS.  
DEFENDANT: **BIERLY'S OFFICE EQUIPMENT**  
**E COLLEGE AVE**  
**P.O. BOX 5190**  
**PLEASANT GAP, PA 16823**

Docket No.: **CV-0000459-03**  
Date Filed: **10/28/03**



**THIS IS TO NOTIFY YOU THAT:**  
Judgment:

**FOR PLAINTIFF**

☒ Judgment was entered for: (Name) **BMP SYSTEMS**

☒ Judgment was entered against: (Name) **BIERLY'S OFFICE EQUIPMENT**

in the amount of \$ **1,886.50** on: (Date of Judgment) **12/01/03**

☐ Defendants are jointly and severally liable.

(Date & Time)

☐ Damages will be assessed on:

☐ This case dismissed without prejudice.

☐ Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ **1,886.50**

☐ Portion of Judgment for physical damages arising out of residential lease \$

**FILED**

**DEC 29 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

Amount of Judgment	\$ <b>1,815.00</b>
Judgment Costs	\$ <b>71.50</b>
Interest on Judgment	\$ <b>.00</b>
Attorney Fees	\$ <b>.00</b>
<b>Total</b>	<b>\$ 1,886.50</b>

Post Judgment Credits \$

Post Judgment Costs \$

**Certified Judgment Total \$**

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR DISTRICT JUSTICES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE DISTRICT JUSTICE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE DISTRICT JUSTICE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

**12-1-03** Date **Patrick N. Ford - PNF**, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

Date \_\_\_\_\_, District Justice

My commission expires first Monday of January, **2006**.

SEAL

AOPC 315-03

DATE PRINTED: **12/01/03 2:56:35 PM**



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: CLEARFIELD

CIVIL COMPLAINT

Mag. Dist. No.: **46-3-01**  
DJ Name: Hon.  
**PATRICK N. FORD**  
Address: **309 MAPLE AVENUE**  
**P.O. BOX 452**  
**DUBOIS, PA 15801**  
Telephone: **(814) 371-5321**

PLAINTIFF: NAME and ADDRESS

**BMP Systems Inc.**  
**RD#3 Box 36**  
**Du Bois, PA 15801**

VS.  
DEFENDANT: NAME and ADDRESS

**Bierly's Office Equipment**  
**East College Ave.**  
**PO Box 5190**  
**Pleasant Gap, PA 16823**

Docket No: **CV 45903**  
Date Filed:




	AMOUNT	DATE PAID
FILING COSTS \$	<u>71.50</u>	<u>/ /</u>
SERVING COSTS \$	<u>          </u>	<u>/ /</u>
TOTAL \$	<u>          </u>	<u>/ /</u>

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$ 1,815.00 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

Complaint is on invoice #7613, in the amount of \$1,815.00. The invoice is for work preformed at the request of the defendant. The work consisted of programming a cash register system for their client, Roma Pizza of 111 Sowers St. in St. College, PA. Defendant contacted us about preforming the work on July 30, 2003. The programming was done at BMP Systems Inc. during the week of August 4th, 2003. On August 11th, 2003, we arrived at the offices of Bierly's Office Equipment at 9:00 am and installed the programming on the defendants equipment. In the afternoon of the same day, we then took the equipment to Roma Pizza and installed the defendants equipment. We setup and tested the equipment at the location. At 4:00 pm, we then headed back to BMP Systems Inc.

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

  
(Signature of Plaintiff or Authorized Agent)

Plaintiff's  
Attorney:

Address:

Telephone:

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

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

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:	<b>46-3-01</b>
DJ Name: Hon.	<b>PATRICK N. FORD</b>
Address:	<b>309 MAPLE AVENUE P.O. BOX 452 DUBOIS, PA</b>
Telephone:	<b>(814) 371-5321 15801</b>

**PATRICK N. FORD  
309 MAPLE AVENUE  
P.O. BOX 452  
DUBOIS, PA 15801**

## CIVIL ACTION HEARING NOTICE

PLAINTIFF: **BMP SYSTEMS**  
RD 3 BOX 36  
DUBOIS, PA 15801

VS.  
DEFENDANT: **BIERLY'S OFFICE EQUIPMENT**  
E COLLEGE AVE  
P.O. BOX 5190  
PLESANT GAP, PA 16823

Docket No.: **CV-0000459-03**  
Date Filed: **10/28/03**



A civil complaint has been filed against you in the above captioned case. A hearing has been set in this matter for:

Date: <b>11/25/03</b>	Place: <b>DISTRICT COURT 46-3-01 309 MAPLE AVENUE P.O. BOX 452 DUBOIS, PA 15801</b>
Time: <b>9:45 AM</b>	

## NOTICE TO DEFENDANT

If you intend to enter a defense to this complaint, you should so notify this office immediately at the above telephone number.

**YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.**

If you have a claim against the plaintiff which is within district justice jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.

Pursuant to PA.R.CP.D.J. No. 342(B)(2), no claim by the defendant will be permitted in a supplementary action filed for failure of judgment creditor to enter satisfaction.

## NOTICE TO PLAINTIFF

If the defendant enters a Notice of Intent to Defend, you will be notified of the date and time of the scheduled hearing and must appear.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

**RECEIPT OF PAYMENT**

Mag. Dist. No.:	<b>46-3-01</b>
DJ Name: Hon.	<b>PATRICK N. FORD</b>
Address:	<b>309 MAPLE AVENUE P.O. BOX 452 DUBOIS, PA</b>
Telephone:	<b>(814) 371-5321 15801</b>



**REMITTER :**

**BMP SYSTEMS  
RD 3 BOX 36  
DUBOIS, PA 15801**

Docket No.: **CV-0000459-03**  
Date Filed: **10/28/03**

<b>RECEIPT NO: 095648</b>	<b>DATE: 10/28/03</b>	<b>PAGE: 1</b>
SOURCE: <b>PAID AT WINDOW</b>	AMOUNT RECEIVED:	\$ <b>71.50</b>
METHOD: <b>PAID BY CASH</b>	AMOUNT APPLIED:	\$ <b>71.50</b>
CHECK#:	COLLATERAL APPLIED:	\$ <b>.00</b>
MANUAL RECEIPT#:	CHANGE:	\$ <b>.00</b>
CITATION#:	NEXT PAYMENT AMOUNT:	
COSTS INCLUDED ON:	NEXT PAYMENT DATE:	
	NEXT PMT TYPE:	

PAYMENT DESCRIPTION	BALANCE FWD	AMT APPLIED	CURRENT BAL
JUDICIAL COMPUTER PROJECT	8.50	8.50-	.00
ACCESS TO JUSTICE	1.50	1.50-	.00
POSTAGE	10.00	10.00-	.00
COMMONWEALTH COST- HB627	12.87	12.87-	.00
FILING FEES COMM-COST	12.87	12.87-	.00
FILING FEES 17-CTY	25.76	25.76-	.00
TOTAL	71.50	71.50-	.00
CURRENT BALANCE DUE	.00		

RECVD FROM BMP SYSTEMS  
KIM THANK YOU!

DATE PRINTED: 10/28/03 2:44:57 PM

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

## NOTICE OF INTENT TO DEFEND

Mag. Dist. No.:	<b>46-3-01</b>
DJ Name: Hon.	<b>PATRICK N. FORD</b>
Address:	<b>309 MAPLE AVENUE P.O. BOX 452 DUBOIS, PA</b>
Telephone: (814 )	<b>371-5321 15801</b>

PLAINTIFF: NAME and ADDRESS  
**BMP SYSTEMS  
RD 3 BOX 36  
DUBOIS, PA 15801**

VS.  
DEFENDANT: NAME and ADDRESS  
**BIERLY'S OFFICE EQUIPMENT  
E COLLEGE AVE  
P.O. BOX 5190  
PLESANT GAP, PA 16823**

Docket No.: **CV-0000459-03**  
Date Filed: **10/28/03**



**PATRICK N. FORD  
309 MAPLE AVENUE  
P.O. BOX 452  
DUBOIS, PA 15801**

HEARING: **CIVIL ACTION HEARING**

Date: <b>12/01/03</b>	Place: <b>DISTRICT COURT 46-3-01 309 MAPLE AVENUE P.O. BOX 452 DUBOIS, PA 15801</b>
Time: <b>2:30 PM</b>	

PLAINTIFF: **BMP SYSTEMS**

You are hereby notified that the defendant named below has given notice of his intent to present a defense at the hearing in the above case.

DEFENDANT: **BIERLY'S OFFICE EQUIPMENT**

11/19/03 Date Patrick N. Ford, District Justice

My commission expires first Monday of January, 2006.

SEAL

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

**NOTICE OF CONTINUANCE**

Mag. Dist. No.:	<b>46-3-01</b>
DJ Name: Hon.	<b>PATRICK N. FORD</b>
Address:	<b>309 MAPLE AVENUE P.O. BOX 452 DUBOIS, PA 15801</b>
Telephone:	<b>(814) 371-5321</b>

PLAINTIFF: **BMP SYSTEMS**  
RD 3 BOX 36  
DUBOIS, PA 15801

VS.  
DEFENDANT: **BIERLY'S OFFICE EQUIPMENT**  
E COLLEGE AVE  
P.O. BOX 5190  
PLESANT GAP, PA 16823

Docket No.: **CV-0000459-03**  
Date Filed: **10/28/03**



**PATRICK N. FORD  
309 MAPLE AVENUE  
P.O. BOX 452  
DUBOIS, PA 15801**

Please note that the hearing in the above captioned case, which was scheduled to occur on: **11/25/03**  
has been continued to:

Date: <b>12/01/03</b>	Place: <b>DISTRICT COURT 46-3-01 309 MAPLE AVENUE  P.O. BOX 452 DUBOIS, PA 15801</b>
Time: <b>2:30 PM</b>	

If you have any questions, please contact this office immediately.

Continuance requested by: **DISTRICT JUSTICE**

If you are disabled and require assistance, please contact the Magisterial District office at the address above.

**11/19/03** Date *Patrick N. Ford*, District Justice

My commission expires first Monday of January, **2006**

SEAL

Law Offices  
**BRYANT & CANTORNA, P.C.**

PLEASE REPLY TO

MILLHEIM OFFICE

November 14, 2003

James N. Bryant  
Bernard F. Cantorna

www.bryant-associates.com

107 East Main Street  
Millheim, PA 16854  
814-349-5666  
814-364-9869  
FAX 814-349-2212

IN STATE COLLEGE  
1901 East College Avenue  
State College, PA 16801  
814-238-4370  
FAX 814-238-8016

Honorable Patrick N. Ford  
309 Maple Avenue  
P. O. Box 452  
Dubois, PA 15801

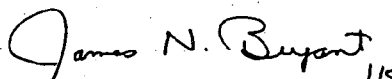
Re: BMP Systems v. Bierly's Office Equipment  
CV-0000459-03

Dear Mr. Ford:

A representative of Bierly's Office Equipment will be at the hearing scheduled for November 25, 2003 to appear and defend. My client will be contesting venue. The contract was entered into in Centre County; was for programming restaurant equipment in Centre County and the defective workmanship occurred in Centre County. We object to venue under District Justice Rule No. 302. The representative of Bierly's Office Equipment will ask that the case be transferred to District Justice Daniel Hoffman in Bellefonte, Pennsylvania, who would have jurisdiction over this case, or District Justice Carmine Prestia in State College, Pennsylvania, which would be where the work occurred.

Very truly yours,

BRYANT & CANTORNA, P.C.

By:   
James N. Bryant

JNB:ksr

cc: Harrison Tressler/Bierly's Office Equipment

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bierly's Office  
Equipment

CU 45903

7002 2410 0000 3956 8087

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*Honnam Tember*

☐ Agent☐ Addressee

B. Received by (Printed Name)

Harrison / Resse

C. Date of Delivery

10/30/03

D. Is delivery address different from item 1? ☐ Yes  
if YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

PS Form 3811, August 2001

Domestic Return Receipt

2ACPRI-03-Z-0985

COMMONWEALTH OF PENNSYLVANIA

**NOTICE OF APPEAL**

COURT OF COMMON PLEAS

FROM

46th JUDICIAL DISTRICT

**DISTRICT JUSTICE JUDGMENT**

COUNTY OF CLEARFIELD

COMMON PLEAS No.

03-1864 CD

**NOTICE OF APPEAL**

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

NAME OF APPELLANT

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

BIERLEY'S OFFICE EQUIPMENT

Patrick N. Ford / 46-3-01

ADDRESS OF APPELLANT

CITY

STATE

ZIP CODE

1st College Avenue, P. O. Box 5190,

Pleasant Gap

PA

16823

DATE OF JUDGMENT

IN THE CASE OF (Plaintiff)

(Defendant)

DATE

BMP Systems

vs Bierley's Office Equipment

CASE NO.

SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT

CV 19-0000459-03

LT 19

*Patrick N. Ford*

This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B.

This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.

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

Signature of Prothonotary or Deputy

**COPY TO BE SERVED ON DISTRICT JUSTICE**



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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.  
HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
  
DEFENDANTS.

No. 03- 1864 -CD

Type of Pleading:

**CIVIL COMPLAINT**

Filed By:  
Plaintiff

Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814:-375-2221  
PA I.D.#: 55942

**FILED**

**JAN 05 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.

HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
DEFENDANTS.

No. 03- 1864 -CD

**NOTICE TO DEFEND**

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIM SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED, BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY CLAIM IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF(S). 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 AN ATTORNEY, OR CANNOT FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

David Meholick, Court Administrator  
Clearfield County Courthouse  
2nd and Market Streets  
Clearfield, PA 16830  
(814)-765-2641

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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.

HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
  
DEFENDANTS.

No. 03- 1864 -CD

**CIVIL COMPLAINT**

**NOW COMES, BMP Systems, Inc., Plaintiff, by and through its counsel of record,  
Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of its  
CIVIL COMPLAINT:**

**The Parties**

1. Plaintiff is BMP Systems, Inc., a duly formed and existing Pennsylvania corporation, currently with, and at all material times, principal place of business at RD #3, Box 36, DuBois, Clearfield County, Pennsylvania.
2. Defendant is Harold Tressler t/d/b/a Bierly's Office Equipment, upon information and belief a sole proprietorship, with, and at all material times, principal place of business at East College Avenue, Pleasant Gap, Centre County, Pennsylvania, and mailing address of P.O. Box 5190, Pleasant Gap, PA 16823.

**Background**

3. Defendant initially called BMP Systems, Inc., on, or about July 30, 2003, at its aforementioned place of business and requested its assistance to program certain cash registers which Defendant had previously sold to its customer, namely Roma Pizza, located in State College.
4. Following some additional conversations between Plaintiff and Defendant, Plaintiff indicated it could do as requested and would do so for \$1,800 plus any additional materials needed in the

task and faxed a quote to Defendant, on, or about August 4, 2003. A true and correct copy of said quote is attached hereto as Exhibit "A".

5. BMP Systems, Inc., by and through its employees, did do such programming by doing so in its office and then, on August 11, 2003, went to Defendant's office to assure the programming was running effectively and installed the same into the equipment sold by Defendant to Roma Pizza.

6. After doing so, Plaintiff and Defendant went to Roma Pizza in State College, Defendant left to go somewhere else, and Plaintiff installed the equipment, which had been programmed for Roma Pizza, including its seating charts and menu.

7. After installing the programmed equipment, which was running as designed, and doing some training for Roma Pizza, Plaintiff left.

8. On, or about August 12, 2003, a representative from Plaintiff called Roma Pizza to provide a quote on some additional supplies which Roma Pizza had requested. At this time, Roma Pizza did not indicate any problems with the programmed equipment which had been installed the day before.

9. On, or about August 13, 2003, Plaintiff again called Roma Pizza to assure the programmed equipment was performing adequately. At this time, Roma Pizza again did not indicate any problems with the programmed equipment.

10. On, or about August 12, 2003, Plaintiff sent an invoice to Defendant, showing a balance due of \$1,815. A true and correct copy of the invoice is attached as Exhibit "B".

11. Defendant failed to respond to said invoice.

12. Even though Plaintiff sent late notices and attempted to call Defendant, Defendant failed to pay or respond in any manner to Plaintiff's attempts to collect the money owed to it by Defendant. These are attached hereto as Exhibits "C" and "D".

#### Breach of Contract

13. The averments of paragraphs 1 - 12 are included as if again fully set forth at length.

14. That Plaintiff at all times performed as agreed upon and billed as agreed upon.

15. That services provided by Plaintiff were reasonable and in accordance with industry standards and the few supplied materials were in good condition and repair.

16. That Defendant has failed to pay for these services and materials.

17. That according to the terms of its billing practices, as contained in Plaintiff's quote and is customary in the industry, Defendant is liable for interest in the amount 18% per annum on outstanding balances.

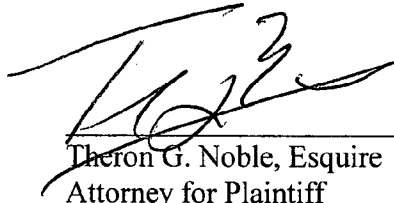
Miscellaneous

18. That jurisdiction is proper.

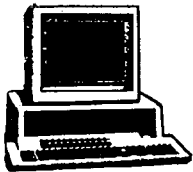
19. That venue is proper.

**WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against Defendant, in an amount of \$1,815, together with interest and costs.**

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Theron G. Noble', is written over a horizontal line.

Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942



# BMP SYSTEMS, INC.

R.D. 3, BOX 36 • P.O. BOX 314  
DUBOIS, PENNSYLVANIA 15801  
(814) 375-0165 • FAX: (814) 371-3388

INVOICE NO. **A 18292**

DATE **8/6/93**

ACCOUNT NO.

YOUR P. O. NUMBER

TERMS

SHIP VIA

FOB

SALESMAN

**QUOTE**

Bierly's Office Equipment  
East College Ave. Rte 26  
P.O. Box 5190  
Pleasant GAP, PA 16823

QTY.	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
		Programming of FS-3600 for ROMA PIZZA		1800 00
		Price includes:		
		- Programming of 3600		
		- Install of program on Customer's machine		
		- Setup of machines/Printers on-site		
		- Testing of system		
		Exhibit "A"		
TERMS - NET 20 Days. AFTER 30 DAYS a monthly FINANCE CHARGE of one and a half percent (1½%), which is an ANNUAL PERCENTAGE RATE of eighteen percent (18%) on the unpaid balance will be charged.			SUB-TOTAL	1800 00
CUSTOMER'S SIGNATURE _____			TAX	reseller
			TOTAL	1800 00

**BMP SYSTEMS, INC.**

Sales - Service - Rentals

RD #3 Box 36  
DU BOIS, PA 15801

(814) 371-3681

Fax (814) 371-3388

**WORK ORDER****7613**

PHONE	DATE OF ORDER 8/11/03
ORDER TAKEN BY	CUSTOMER'S ORDER NUMBER
<input type="checkbox"/> DAY WORK <input type="checkbox"/> CONTRACT <input type="checkbox"/> EXTRA	
JOB NAME/NUMBER	
JOB LOCATION	
JOB PHONE	STARTING DATE

TO: Bierly's Office Equipment  
P.O. Box 5770  
Pleasant Gap, PA 16823

TERMS: Net 10 Days. No statement sent. Return invoice copy with payment.

QTY.	MATERIAL	PRICE	AMOUNT	DESCRIPTION OF WORK
>	Programming of (2) FS-3600 for: Ramen Pizza 111 Schenck St. State College PA		1800 00	111 Schenck St. State College PA Exhibit "B"
	Included: - Programming - Installation of Program - Setup of marking on site - Testing of system			OTHER CHARGES
				TOTAL OTHER
				LABOR HRS. RATE AMOUNT
>	Misc. Wiring & Accessories		15 00	
				TOTAL LABOR
				TOTAL MATERIALS
				TOTAL OTHER
				TOTAL

DATE COMPLETED

TOTAL MATERIALS

1815 00

TOTAL MATERIALS

1815 00

Work ordered by

O. Kent SIGNATURE

Signature

X. Stumpe SIGNATURE

I hereby acknowledge the satisfactory completion of the above described work.

Thank You

TAX

Rec'd 11

TOTAL

1815 00

**BMP SYSTEMS INC**

PO BOX 314  
RD 3 BOX 36  
DUBOIS PA 15801

**ACCOUNT INVOICE**


Date:

10/22/2003

Bill to:

BIERLY'S OFFICE EQUIPMENT  
P O BOX 5190  
PLEASANT GAP PA 16823

TERMS	AMOUNT DUE	AMOUNT ENC.
NET 10	\$1,857.96	

DATE	DESCRIPTION	AMOUNT	BALANCE		
05/31/2003	Balance forward		0.00		
08/13/2003	INV #7613 - RESALE	1,815.00	1,815.00		
08/31/2003	INV #FC 1027 - Finance Charge	16.11	1,831.11		
09/30/2003	INV #FC 1068 - Finance Charge	26.85	1,857.96		
 - Exhibit "C" -					
CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	AMOUNT DUE
0.00	26.85	1,831.11	0.00	0.00	\$1,857.96

IN THE FUTURE, PLEASE PAY FROM THE WORK  
ORDER INVOICES YOU RECEIVE WITH YOUR  
SUPPLIES OR SERVICE. TERMS: NET 10 DAYS.



# BMP Systems, Inc.

Office Equipment Sales & Service



P.O. Box 314 DuBois, PA 15801

(814) 371-3881

September 29, 2003

Bierly's Office Equipment  
P O Box 5190  
Pleasant Gap, PA 16823

Re: Invoice no: 7613  
Balance Due: \$1831.11

Dear Sir:

Please be advised that the above indebtedness has been referred to my attention for immediate action.

The previous efforts of BMP Systems Inc. in soliciting your cooperation have proven unsuccessful. Legal action will be taken. This legal action will result in additional expenses, including the service of process and other court costs; thereby increasing your debt and overall financial obligation.

In order to prevent the foregoing action, you must contact Jeffrey S. Teats, Manager, within seven (7) days from the date of this letter to make arrangements for the immediate payment of this debt. This person can be reached at the address shown above or at 814-371-3881 by telephone.

\_\_\_\_\_  
Jeffrey S. Teats, Manager

Exhibit "D"

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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.


HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
DEFENDANTS.

No. 03- 1864 -CD

**VERIFICATION**

I, Jeff Teats, manager for Plaintiff, does hereby swear and affirm that I have read the foregoing and attached CIVIL COMPLAINT in the above captioned matter, and that to the best of my information, knowledge and belief, the facts as set forth therein are true and correct. Furthermore, that I make this statement subject to the penalties of 18 Pa.C.S.A. 4101, relating to unsworn falsification to authorities.

So made this 31<sup>st</sup> day of December, 2003.

  
\_\_\_\_\_  
Jeff Teats, Manager,  
BMP Systems, Inc., Plaintiff

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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.

HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
  
DEFENDANTS.

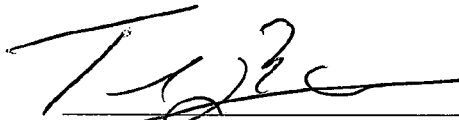
No. 03- 1864 -CD

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, of Ferraraccio & Noble, attorney for Plaintiff, does hereby certify that I did mail, to the below indicated person at the below listed address, being counsel of record for the Defendant, this 3rd day of January, 2004, a true and correct copy of Plaintiff's CIVIL COMPLAINT, via United States Mail, first class, postage prepaid, as follows:

James N. Bryant, Esquire\*  
Byrant & Cantorina, P.C.  
107 E. Main St.  
Millheim, PA 16854

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 E. Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.No.: 55942

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

BMP SYSTEMS, INC., a duly formed and  
existing Pennsylvania Corporation,  
Plaintiff

v.

HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
Defendants

No. 03 - 1864 - CD

Type of Pleading:

**ANSWER & COUNTERCLAIM**

Filed on behalf of

**Defendant**

Counsel of Record for this Party:

James N. Bryant, Esq.  
Attorney-At-Law  
PA I.D. 14084

BRYANT & CANTORNA, P.C.  
107 East Main Street  
P. O. Box 551  
Millheim, PA 16854

(814) 349-5666

**FILED**

**JAN 16 2004**

W/ 12:10 PM  
William A. Shaw

Prothonotary/Clerk of Courts

no cent. *[Signature]*

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

BMP SYSTEMS, INC., a duly formed and  
existing Pennsylvania Corporation,  
Plaintiff

v.

No. 03 - 1864 - CD

HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
Defendants

NOTICE

TO: BMP SYSTEMS, INC., Plaintiff  
c/o Theron G. Noble, Esq.  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830

IN ACCORDANCE WITH RULES 1026 AND 1361 OF THE PENNSYLVANIA RULES OF  
CIVIL PROCEDURE, YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE  
ENCLOSED **DEFENDANT'S ANSWER AND COUNTERCLAIM** WITHIN TWENTY (20) DAYS  
FROM SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.

BRYANT CANTORNA, P.C.

By: 

James M. Bryant, Esq.  
Attorney for Defendants  
107 East Main Street  
Millheim, PA 16854

DATED: January 15, 2004

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

BMP SYSTEMS, INC., a duly formed and  
existing Pennsylvania Corporation,  
Plaintiff

v.

HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
Defendants

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

No. 03 - 1864 - CD

ANSWER AND COUNTERCLAIM

AND NOW, comes the Defendant, Harold Tressler, t/d/b/a Bierly's Office equipment, by and through its attorney, James N. Bryant, Esq., of Bryant & Cantorna, P.C., and files this Answer and Counterclaim, and avers as follows:

ANSWER

1. Admitted.
2. Denied as stated. On the contrary, the Defendant Harrison W. Tressler was and is at all times an employee of Bierly's Office Equipment, Inc., a Pennsylvania corporation. At all times relevant to this incident, the appropriate Defendant is Bierly's Office Equipment, Inc.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Denied as stated. On the contrary, Harrison Tressler, an employee of the Bierly's Office Equipment, Inc. returned 45 minutes later and found the Plaintiff's employees had left. If this is what the Plaintiff means by "doing some training" then this is admitted.

8. After a reasonable investigation, the Defendant is without knowledge or information sufficient to form a belief or answer the allegations contained in this paragraph in that it involves other people and other times when no representative of Bierly's Office Equipment, Inc. was present.

9. Denied for the same reason set forth in paragraph 8 above.

10. Admitted.

11. Denied as stated. On the contrary, the Plaintiff was advised by Harrison W. Tressler, an employee of Bierly's Office Equipment, Inc., that Roma's was so dissatisfied with the equipment that they removed all the equipment, including that which had been programmed, and refused to pay Bierly's Office Equipment, Inc. for the equipment. It is further averred that the programming was evidently for a McDonald's because all the slips printed McDonald's. For this reason, Bierly's Office Equipment, Inc. refused to pay the invoice to Plaintiff.

12. Admitted.

#### **BREACH OF CONTRACT**

13. No answer is required.

14. Denied as stated. On the contrary, the programming provided by the Plaintiff was so substandard that the customer refused to use it, refused to pay for the machine that had been programmed to use it, and removed the machines from its premises.

15. Denied as stated. On the contrary, the services provided by the Plaintiff were grossly defective and caused the Defendant, Bierly's Office Equipment, Inc., substantial expense.

16. Admitted.

17. Admitted.

#### **MISCELLANEOUS**

18. Denied as stated. On the contrary, jurisdiction and venue would properly be in Centre County. However, Bierly's Office Equipment, Inc. waives these defenses.

19. See answer to paragraph 18.

**FIRST AFFIRMATIVE DEFENSE**

20. The Plaintiff has failed to join a responsible party, Bierly's Office Equipment, Inc., a corporation.

**SECOND AFFIRMATIVE DEFENSE**

21. The Defendant, Harrison Tressler, was and is at all times an employee, agent or servant of Bierly's Office Equipment, Inc., and as such is not liable for this expense as he was acting as a disclosed agent.

**COUNTERCLAIM**

22. Bierly's Office Equipment, Inc. installed a 3600 cash register/computer at a cost of approximately \$14,000.00 and invoiced the customer.

23. The system was to be programed by BMP Systems, Inc. so that it would properly perform the billing and records keeping required in a pizza shop.

24. As a direct result of the failure of BMP Systems, Inc. to property program the computer, Roma Pizza refused to pay the balance due of approximately \$7,500.00 to Bierly's Office Equipment, Inc.

WHEREFORE, Bierly's Office Equipment, Inc. demands judgment of the Plaintiff, BMP Systems, Inc. in the amount of \$7,500.00.

BRYANT & CANTORNA, P.C.

By: 

James N. Bryant, Esq., ID No. 14084  
Attorney for Defendant  
107 East Main Street  
Millheim, PA 16854  
(814) 349-5666



I verify that the statements made in the foregoing 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.

Harrison W. Tessler

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

BMP SYSTEMS, INC., a duly formed and  
existing Pennsylvania Corporation,  
Plaintiff

v.

HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
Defendants

:  
:  
:  
:  
:  
:  
:  
:

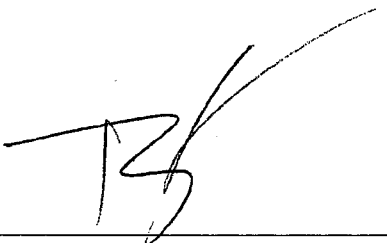
No. 03 - 1864 - CD

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within **ANSWER AND COUNTERCLAIM**  
was served by depositing the same with the United States Postal Service, postage prepaid, addressed to  
the following:

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

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

  
James N. Bryant, Esq.  
Attorney for Defendant

DATED: January 15, 2004

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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.  
HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
  
DEFENDANTS.

No. 03- 1864 -CD

Type of Pleading:

**REPLY TO NEW MATTER &  
ANSWER TO COUNTER-CLAIM**

Filed By:  
Plaintiff

Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

**FILED**

**JAN 27 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.

HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
  
DEFENDANTS.

No. 03- 1864 -CD

**PLAINTIFF'S REPLY TO NEW MATTER  
AND ANSWER TO COUNTER-CLAIM**

**AND NOW**, comes the Plaintiff, BMP Systems, Inc., by and through its counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows as its **REPLY TO NEW MATTER and ANSWER TO COUNTER-CLAIM**:

Reply to New Matter

20. The same calls for a legal conclusion for which no response is deemed necessary.

21. The same calls for a legal conclusion for which no response is deemed necessary.

Answer to Counter-Claim

22. After reasonable investigation, Plaintiff can not admit or deny the same. As such, the same is **DENIED** and strict proof is demanded at time of trial.


23. Admitted in part, Denied in part. It is **ADMITTED** that BMP agreed to perform certain programming functions associated with the equipment sold by the defendant to Roma's Pizza. If that includes "billing and records keeping required in a pizza shop", the same is Admitted, otherwise the same is denied.

24. Denied. It is strictly **DENIED** that BMP performed anything other than adequate programming for the equipment sold by Defendant to Roma Pizza. By way of further response, Plaintiff at all times performed programming which was appropriate per the system sold by Defendant to Roma Pizza. However, apparently defendant had "over sold" the system to its customer such that the system was not capable of doing tasks required by Roma Pizza, but nonetheless, BMP programmed the system to the system's

full capacity.

**WHEREFORE, Plaintiff requests that JUDGMENT be entered in its favor as to its CIVIL COMPLAINT and against Defendant as to the counter-claim, with costs and interest.**

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'T. G. Noble', is written over a horizontal line.

Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.

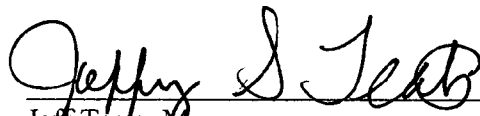
HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
DEFENDANTS.

No. 03- 1864 -CD

VERIFICATION

I, Jeff Teats, manager for Plaintiff, does hereby swear and affirm that I have read the foregoing and attached REPLY TO NEW MATTER AND ANSWER TO COUNTER-CLAIM in the above captioned matter, and that to the best of my information, knowledge and belief, the facts as set forth therein are true and correct. Furthermore, that I make this statement subject to the penalties of 18 Pa.C.S.A. 4101, relating to unsworn falsification to authorities.

So made this 21<sup>st</sup> day of January, 2004.

  
Jeff Teats, Manager,  
BMP Systems, Inc., Plaintiff

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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.

HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
DEFENDANTS.

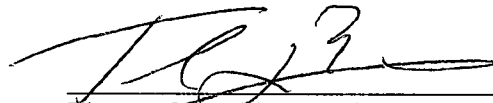
No. 03- 1864 -CD

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, of Ferraraccio & Noble, attorney for Plaintiff, does hereby certify that I did mail a true and correct copy of his client's REPLY TO NEW MATTER AND ANSWER TO COUNTER-CLAIM, this 22nd day of January, 2004, by depositing the same in the United States Mail, first class, postage pre-paid, addressed as follows:

James N. Bryant, Esquire  
Bryant & Cantorina, P.C.  
107 E. Main St.  
Millheim, PA 16854

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

FILED NO

319-1087 cc

JAN 27 2004

W William A. Shaw  
Prothonotary/Clerk of Courts



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

FILED

FEB 04 2004

William A. Shaw  
Prothonotary/Clerk of Courts

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.

HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
DEFENDANTS.

No. 03- 1864 -CD

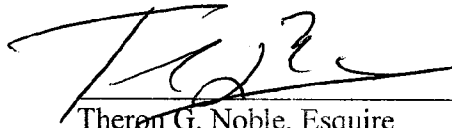
**STIPULATION**

**The parties hereto, by and through their counsel of record, hereby agree and stipulate as follows:**

1. That defendant/counter-plaintiff is incorrectly identified as Harold Tressler, t/d/b/a Bierly's Office Equipment, wherein said name is actually Harrison Tressler;
2. That the correct identification of defendant/counter-plaintiff is Bierly's Office Equipment, Inc., a duly formed and existing Pennsylvania Corporation, hereinafter "Bierly's";
3. That all references in the CIVIL COMPLAINT and ANSWER, NEW MATTER and COUNTER-CLAIM shall be deemed to refer to "Bierly's", as herein correctly identified;
4. That Harison Tressler was an authorized agent of "Bierly's" with the capacity to enter into the agreement as alleged in the CIVIL COMPLAINT and COUNTER-CLAIM; and
5. The pleadings of record shall be deemed amended to incorporate the correct identification of defendant/counter-plaintiff and all future pleadings shall reflect the correct party.

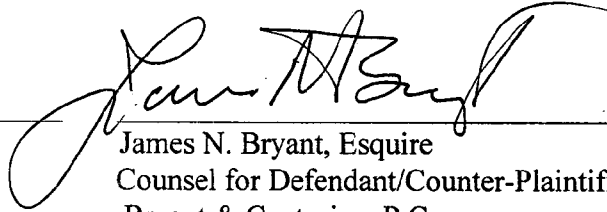
It is so agreed and stipulated this 2nd day of February, 2004.

By,



Theron G. Noble, Esquire  
Counsel for Plaintiff  
Ferraraccio & Noble  
301 E. Pine Street  
Clearfield, PA 16830

By,



James N. Bryant, Esquire  
Counsel for Defendant/Counter-Plaintiff  
Bryant & Cantorina, P.C.  
107 E. Main St.  
Millheim, PA 16854

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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.

HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
DEFENDANTS.

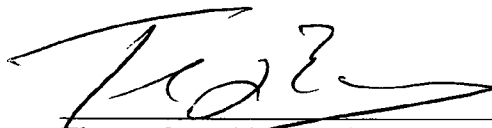
No. 03- 1864 -CD

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, of Ferraraccio & Noble, attorney for Plaintiff, does hereby certify that I did mail a true and correct copy of the STIPULATION, this 2nd day of February, 2004, by depositing the same in the United States Mail, first class, postage pre-paid, addressed as follows:

James N. Bryant, Esquire  
Bryant & Cantorina, P.C.  
107 E. Main St.  
Millheim, PA 16854

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

FILED

M 11 2004  
FEB 04 2004

William A. Shaw  
Prothonotary/Clerk of Courts

NO  
CC  
[Signature]

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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.

BIERLY'S OFFICE EQUIPMENT, INC.,  
DEFENDANT.

No. 03- 1864 -CD

Type of Pleading:

**PRAECIPE TO LIST FOR  
ARBITRATION**

Filed By:  
Plaintiff

Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

**FILED**

**MAR 18 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.

HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,

DEFENDANTS.

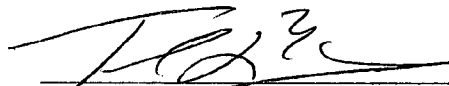
No. 03- 1864 -CD

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, of Ferraraccio & Noble, attorney for Plaintiff, does hereby certify that I did mail a true and correct copy of the PRAECIPE TO LIST FOR ARBITRATION, this 17th day of March, 2004, by depositing the same in the United States Mail, first class, postage pre-paid, addressed as follows:

James N. Bryant, Esquire  
Bryant & Cantorina, P.C.  
107 E. Main St.  
Millheim, PA 16854

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

FILED  
MAR 18 2004

No  
cc

Att'y Noble  
pd. 20.00

William A. Shaw  
Prothonotary/Clerk of Courts  
Copy to CIA



GA

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

BMP SYSTEMS, INC.

vs.

No. 03-1864-CD

BIERLY'S OFFICE EQUIPMENT, INC.

**ORDER**

NOW, this 19<sup>th</sup> day of April, 2004, it is the ORDER of the Court that the above-captioned matter is scheduled for Arbitration on **Monday, June 14, 2004 at 8:30 A.M.** The following have been appointed as Arbitrators:

Carl A. Belin, Jr., Esquire, Chairman

J. Richard Lhota, Esquire

Michael S. Marshall, Esquire


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

BY THE COURT:

**FILED**

**APR 19 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

  
FREDRIC J. AMMERMAN  
President Judge



FILED 5cc  
APR 19 2004  
William A. Shaw  
Prothonotary/Clerk of Courts

CA

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

BMP SYSTEMS, INC.  
Plaintiff

v.

BIERLY'S OFFICE EQUIPMENT, INC.  
Defendant

No. 03-1864-CD

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within Defendant's Pretrial Memorandum, was served by depositing the same with the United States Postal Service, postage prepaid and addressed to the following:

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

Carl A. Belin, Esq.  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830

J. Richard Lhota, Esq.  
110 North Second Street  
Clearfield, PA 16830

Michael S. Marshall, Esq.  
16 Grant Street  
Clarion, PA 16214

Respectfully Submitted,

BRYANT & CANTORNA, P.C.

By:

James N. Bryant, Esq., # 14084  
107 East Main Street  
Millheim, PA 16854  
(814) 349-5666  
Attorney for Defendant

Date:

FILED  
012:40 BCL  
MAY 20 2004  
CC  
C  
KCL

William A. Shaw  
Prothonotary/Clerk of Courts

Arb-6-1404

Law Offices

**BRYANT & CANTORNA, P.C.**

PLEASE REPLY TO

MILLHEIM OFFICE

PLEASE REPLY TO: PO BOX 551

May 17, 2004

James N. Bryant  
Bernard F. Cantorna  
www.bryant-associates.com

107 East Main Street  
P. O. Box 551  
Millheim, PA 16854  
814-349-5666  
814-364-9869  
FAX 814-349-2212

IN STATE COLLEGE  
1901 East College Avenue  
State College, PA 16801  
814-238-4370  
FAX 814-238-8016

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

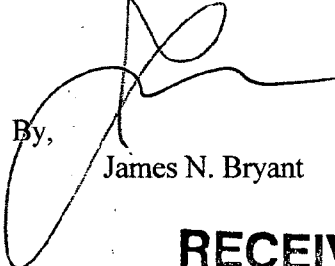
Re: BMP Systems, Inc. vs. Bierly's Office Equipment, Inc.  
No. 03-1864-CD

Dear Mr. Meholic:

Enclosed please find Defendant's Pretrial Memorandum in the above-captioned matter.  
Please return a time-stamped copy to my office in the enclosed envelope. Thank you.

Very truly yours,

BRYANT & CANTORNA, P.C.

By, 

James N. Bryant

JNB:nc  
Enclosures

cc: Theron G. Noble, Esq., w/enc.  
Carl A. Belin, Esq., w/enc.  
J. Richard Lhota, Esq., w/enc.  
Michael S. Marshall, Esq., w/enc.  
Harrison Tressler, w/enc.

**RECEIVED**

**MAY 20 2004**

**COURT ADMINISTRATOR'S  
OFFICE**

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

BMP SYSTEMS, INC.	:	
Plaintiff	:	
	:	
v.	:	No. 03-1864-CD
	:	
BIERLY'S OFFICE EQUIPMENT, INC.	:	
Defendant	:	

**DEFENDANT'S PRETRIAL MEMORANDUM**

NOW COMES the defendant, by and through it's attorney James N. Bryant, and files the following pretrial memorandum.

**I. NARRATIVE OF THE CASE**

The present case basically involves a dispute between the sole employee of the plaintiff corporation and Harold Tressler. The plaintiff was a young man out of work as a computer programmer who hung out with Harold Tressler who sold computerized cash registers to bars, clubs and pizza joints.

The association was one of those things, you scratch my back and I'll scratch yours. The plaintiff now believes he needs more than his back scratched, he should be paid for all the work that Harold got because of all the help he gave Harold. The defendant counterclaimed because programming the plaintiff did, did not work and the defendant is out \$7,500.00.

**II. WITNESSES**

1. Plaintiff
2. Defendant

**RECEIVED**

**MAY 20 2004**

**COURT ADMINISTRATOR'S  
OFFICE**

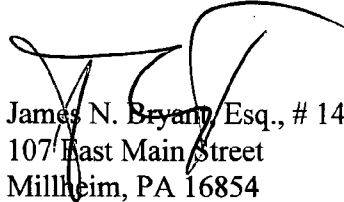
### III. EXHIBITS

1. Roma Restaurant Sales
2. Roma Receipt from Burger King

Respectfully Submitted,

BRYANT & CANTORNA, P.C.

By:



James N. Bryant Esq., # 14084  
107 East Main Street  
Millheim, PA 16854  
(814) 349-5666  
Attorney for Defendant

Date:

Welcome To  
Burger King

-----  
Check 22

Station 001

Manager: Manager

Wednesday 8/13/03 1:50 pm  
=====

1 Roma Steak Hoagie  
No Mushrooms

1 Hot Sawage Hoagie

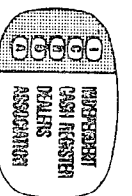
Tax 0.56 Total 9.56

Order 20

# Bearby's OFFICE EQUIPMENT, INC.

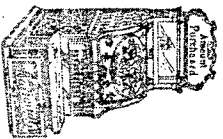
22 EAST MAIN STREET  
LOOK HAVEN, PA 17745  
717-748-3400

EAST COLLEGE AVENUE  
P.O. BOX 190  
PLEASANT GAP, PA 16823  
814-359-3491



No 11182

Date 05/29/03  
Salesman  
Supervisor



Invoice To:

Justin Wagner  
744-544-6795

Deliver To:

University of Pennsylvania  
Tyronne R. Rouse  
State College, Pa.

Contact #

Terms: Cash ☐ Charge ☐  
Lease ☐ C.O.D. ☐ Other ☐

Ship Via

Tax Exempt #

QUANTITY	MODEL NUMBER	SERIAL	DESCRIPTION—Make, Model, Color, Type, Dimensions, Carriage Size, Typestyle, Serial No., Etc.	UNIT PRICE	EXT. PRICE
2	MMF Cash Recycler	MM 200 D#CPQ 314054	CPK0031403	1390.00	2780.00
2	Kitchen	TAIT-88	Serial # D61G038124	850.00	1700.00
2	AS-3600-3	Serial # 3E003906	#3D003824	5390.00	10780.00
2	3600 BTL			370.00	740.00
2	MMF Cash Recycler			340.00	680.00
1	Cables			100.00	100.00
1	Ref Fee				
WARRANTY: 1 yr				Subtotal	4250.00
				TRADE-IN/EXCHANGE OR CREDIT	12.880
				Subtotal	4262.880
				Tax	772.80
				Subtotal	5035.680
				Subtotal	5035.680

- ☐ 1 YEAR EXTENDED WARRANTY
- ☐ 2 YEAR EXTENDED WARRANTY
- ☐ 3 YEAR EXTENDED WARRANTY
- ☐ RENTAL AGREEMENT

FROM: TO:

Interest is charged at the rate of 1 1/2% per month on any unpaid balance.

## CONDITIONS OF SALES ORDER

- (1) It is agreed by the purchaser that this contract, when accepted by Bearby's Office Equipment, Inc. hereafter to as seller, is not subject to cancellation or to any verbal agreement condition not stipulated in writing on it, and that
  - (2) The title to the said goods shall not pass until the purchase price is paid in full, and said goods shall remain the property of seller, until that time. It is mutually agreed that the billing of said goods is for convenience only and does not carry title with it, and that
  - (3) In case of default of payment or in case of removal of said goods or any part thereof without the consent of seller, or in the event the purchaser shall mortgage or part with the possession of said property voluntarily terminated and may retain all money said hereunder as liquidated damages and rental for said goods. In the event a claim is placed in an attorney's hands for collection of in the event of litigation, a reasonable attorney's fee and cost shall be added thereto, and that
  - (4) In the event that sale, use or rental of the merchandise herein is subject to any Federal, State Municipal or other tax, now or hereafter enacted, the amount of such tax shall be added to the purchase or rental price.
  - (5) Seller shall not be liable for any delay in shipment or for failure to deliver the goods covered hereunder because of fire, strikes, war or other emergency, whether national or state, or due to other causes beyond its control.
  - (6) All claims for shortage must be made within five (5) days from receipt of goods.
- THE CUSTOMER ACKNOWLEDGES THAT HE HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. FURTHER, THE CUSTOMER AGREES THAT IT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN THE PARTIES, WHICH SUPERCEDES ALL PROPOSALS OR PRIOR AGREEMENTS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATIONS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT.

Accepted:

Customer's Name

Customer's Signature

Title

Date

WHITE — DEALER COPY

VOID — CUSTOMER COPY

Subtotal	6440.00
State & Local Tax	772.80
Del. Charge	
Serv. Agreement	
Total Amt.	
CASH W/O ORDER	
NET AMT.	7212.80

Arb-6-14-04

**FERRARACCIO & NOBLE**

301 East Pine Street  
Clearfield, PA 16830  
(814) 765-4990  
(814) 375-2221  
FAX: (814) 765-9377

Ms. Marcy Kelley  
c/o Court Administrator  
Clearfield County Courthouse  
2nd and Market Streets  
Clearfield, PA 16830

June 4, 2004

Re: BMP Systems, Inc. v. Tressler t/d/b/a Bierly's Office Equipment;  
03-1864-CD  
Plaintiff's Pre-Arbitration Memorandum

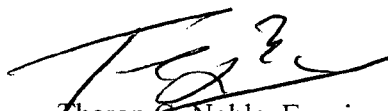
Dear Ms. Kelley:

Please find enclosed Plaintiff's PRE-ARBITRATION MEMORANDUM. Under cover of this letter, I am providing all indicated counsel, being Defense counsel as well as the arbitrators, with a copy of the same.

As always, thank you for assistance which is greatly appreciated.

With regards, I am

Sincerely,

  
Therop G. Noble, Esquire

**RECEIVED**

**JUN 07 2004**

**COURT ADMINISTRATOR'S  
OFFICE**

tn/TGN w.encl.

cc: Mr. Jeff Teats w.encl.

James N. Bryant, Esquire w.encl.

Carl. A. Belin, Jr., Esquire w.encl.

J. Richard Lhota, Esquire w.encl.

Michael S. Marshall, Esquire w.encl.



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

RECEIVED

JUN 07 2004

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

COURT ADMINISTRATOR'S  
OFFICE

No. 03- 1864 -CD

v.

BIERLY'S OFFICE EQUIPMENT, Inc.,  
DEFENDANT.

**PLAINTIFF'S PRE-ARBITRATION MEMORANDUM**

NOW COMES the Plaintiff, BMP Systems, Inc., by and through its counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who submits the following as its Pre-Arbitration Memorandum:

**I. Narrative of Case**

Plaintiff, BMP Systems, Inc., is a small corporation engaged in the business of selling office supplies in the Clearfield County area since 1966. The business was primarily owned by Jack E. Nelson, who recently passed away and its two employees are carrying forward with day to day operations.

The parties were familiar with each other prior to the subject matter of this litigation. Sometime in late last July, Defendant contacted BMP and inquired whether it would be able to perform some programming for an advanced computerized cash register system it had sold to a "pizza joint" in the State College area. Defendant claimed that its programmer had quit defendant's employ and it was unable to do the networking required for its customer, Roma Pizza. (See exhibits "A" and "B" being a seating chart and menu faxed by Defendant to BMP on July 31st for the customer).

Plaintiff agreed to do so and the price of \$1,800, plus some incidentals for items such as cables, was arrived and agreed upon. (See Exhibit "C" being BMP's quote of August 6th). Plaintiff proceeded to do the programming. This initially meant that the programming was done at the office of BMP and the bugs worked out. Once perfected, BMP's two employees, Jeff Teats, its office manager and Brad Fidel went to the State College area to install the programming and do the networking. This was accomplished on August 11, 2003. (See Exhibit "D", being BMP's initial invoice for services rendered). When BMP's employees left Roma Pizza's place of business on August 11th, the cash

register system was working as programmed and to the best of the systems' capabilities for Roma Pizza's needs. (See checklist from installation prepared by BMP's employees following installation, Exhibit "E").

When BMP did not receive payment, nor any other contact from Defendant, despite also placing some phone calls, it sent a letter to Defendant inquiring about payment on September 29, 2003. (Exhibit "F"). Still not receiving payment, it issued an account statement on October 22, 2003. (Exhibit "G").

Finally, BMP initiated this action by filing a small claims complaint at the local magistrate, from which Defendant now appeals.

## II. Citation to Applicable Cases and Statutes

BMP readily agrees that this case is generally controlled by common law. However, one aspect should be noted which is that this oral contract was between merchants as is therefore controlled by Pennsylvania's adoption of the Uniform Commercial Code. This is noteworthy in that Defendant never objected to the financing terms contained on BMP's invoice or quote, which confirmed the contract and when not objected to became part of the agreement. As such, BMP is entitled to the applicable finance charge on the debt. See 13 Pa.C.S.A. 2201 & 2207 as well as Herzog Oil Field Services, Inc., v. Otto Torpedo Co., et.al, 570 A.2d 549 (1989).

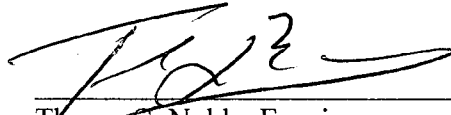
## III. List of Witnesses

1. Jeff Teats-Manager of BMP Systems, Inc.;
2. Brad Fidel-Employee of BMP Systems, Inc.; and
3. Harold Tressler, Defendant's President, as on cross-examination.

## IV. Damages

BMP asks for an award for (i) goods and services provided (\$1,815); (ii) interest since September 11, 2003 through June 14th at 1.5% per month being \$245.02; (iii) costs as determined by the Prothonotary; and (iv) additional post judgment interest. Therefore, BMP requests judgment in its favor, dismissing Defendant's Counter-Claim, in the amount of \$2,060.02, plus "costs and post judgment interest". Supporting exhibits are provided as per Narrative of Case.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'T. Noble', written over a horizontal line.

Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

**ALICAMPULLA**

Ham, capricola, cooked salami, provolone & mozzarella cheese, lettuce and tomato.  
Served with a side of marinara sauce

\$6.25

10<sup>0</sup>

**PIZZA**

13  
Toppings

Fresh homemade and hand tossed dough  
Toppings: Extra cheese, pepperoni, hot sausage, bacon, ham, mushrooms, black olives, green peppers, hot peppers, onions, tomato, capricola and crushed tomato.

Traditional Crust  
Hand Tossed dough topped with sauce and cheese and your choice of toppings.

Size	Plain	Toppings
Large 16" 12 slices	\$7.80	\$1.50
Medium 14" 10 slices	\$7.50	\$1.30
Small 12" 8 slices	\$6.40	\$1.20
Junior 10" 6 slices	\$4.50	\$0.90

**White Pizzas**

Our traditional pizza crust topped with olive oil, fresh sliced tomatoes and our special blend of cheeses.

Size	Plain	Toppings
Large 16" 12 slices	\$8.10	\$1.50
Medium 14" 10 slices	\$7.40	\$1.30
Small 12" 8 slices	\$6.60	\$1.20
Junior 10" 6 slices	\$4.90	\$0.90

**SPECIALTY PIZZAS**

**Chicago Pizzas**

Deep dish pizza topped with cheese, seasoned crushed tomato and grated romano cheese, with your choice of additional toppings. Please allow for additional cooking time when ordering this item.

30" 10 slices	\$9.75	\$1.50 per topping
---------------	--------	--------------------

**Hawaiian Pizzas**

Our traditional crust pizza topped with sauce, cheese, fresh pineapple and diced ham

Large only	\$10.00
------------	---------

Hoagie buns are delivered fresh daily and are topped with the freshest ingredients

- 401 Steak ..... whole \$5.00  
Topped with cooked onion, provolone cheese, lettuce, tomato and our famous homemade italian dressing
- 402 Roma Steak ..... whole \$5.00  
Our specialty!!! Cooked with green peppers, onions, mushrooms and hot peppers. Then topped with lettuce, tomato and thousand island dressing
- 403 Italian ..... whole \$5.00  
Cooked salami, capricola, provolone cheese, lettuce, tomato, onion and our homemade italian dressing
- 404 Meatball ..... whole \$5.00  
Fresh italian meatballs in our homemade marinara sauce and topped with provolone cheese
- 405 Hot Sausage ..... whole \$5.00  
Spicy Italian sausage, green peppers and onions, topped with our homemade marinara sauce & provolone cheese
- 406 Cheese ..... whole \$5.00  
Mounds of cheese topped with lettuce, tomato, onion and our homemade italian dressing
- 407 Ham & Cheese ..... whole \$5.00  
Fresh slices of ham topped with cheese, lettuce, tomato and onion
- 408 Turkey ..... whole \$5.00  
Fresh slices of turkey topped with cheese, lettuce, tomato and onion

**CHICKEN SANDWICHES**

All sandwiches come with a side of French Fries

- 50 Chicken Parmigiana ..... \$6.25  
Tender breaded chicken breast served on a fresh toasted bun, and smothered with our homemade marinara sauce then topped with provolone cheese
- 50 Breaded Chicken ..... \$6.25  
Tender breaded chicken breast served on a fresh toasted bun and topped with cheese, lettuce, tomato, onion and a side of our homemade italian dressing
- 50 Grilled Chicken ..... \$6.25  
Tender grilled chicken breast served on a fresh toasted bun and topped with cheese, lettuce, tomato, onion and a side of our homemade italian dressing
- 50 Cajun Chicken Sandwich ..... \$6.25  
Tender grilled chicken breast served on a fresh toasted bun and topped with cheese, lettuce, tomato, onion

WITH SAUTERED ONIONS AND TOASTED RED PEPPERS... \$6.75

Pizza By Slice

1.00  
TOPPINGS

Extra Cheese  
Pepperoni  
Hot SAUSAGE  
HAM  
MUSHROOMS  
Black Olives  
Gr. Peppers  
Hot Pepper  
Onions  
tomato  
Cappicola

# SALADS

All salads start with fresh salad greens, green peppers, tomato, onion, black olives, cucumbers and pepperoni's dressing: House Italian, Light Italian, ranch, blue cheese, balsamic, vine.

For extra thousand, add \$1.00 for dressing.

601 Pittsburgh Style Chicken. Topped with fresh grilled chicken breast French fries and cheese	\$5.50
602 Pittsburgh style Buffalo chicken salad. Topped with buffalo style chicken strips, French fries and cheese	\$5.50
603 Pittsburgh style steak salad. Topped with tender strips of grilled steak, French fries and cheese	\$5.00
604 Antipasto. Fresh capicola, salami and pepperoni. Topped with provolone cheese and a hard boiled egg.	\$5.00
605 Chef. Fresh sliced ham and turkey topped with provolone cheese and a hard boiled egg.	\$5.75
606 Tossed Salad.	\$2.75

# APPETIZERS

70 Fried Zucchini. Deep fried slices of zucchini topped w/ romano cheese and served w/ a side of marinara sauce.	\$4.00
--	--------

70 Fried Provolone Wedges. 5 breaded wedges of provolone cheese, deep fried and served w/ a side of marinara sauce.	\$4.00
---	--------

70 French Fries. small \$1.50. large \$2.50	
---	--

70 Chicken Strips. Breaded chicken tenderloins served with a side of fries. Also available in any of our barbeque and buffalo style at no extra charge	\$4.50
--	--------

Bread Sticks. plain \$3.00. w/ cheese \$3.50	
--	--

70 Bacon Cheese Fries. A Roma tradition. French fries topped with bacon pieces, cheddar provolone and mozzarella cheese	\$5.25
---	--------

70 Roma Puffs. Deep fried pieces of homemade dough (soft like a doughnut) topped with romano cheese and served w/ marinara sauce	\$3.50
--	--------

70 Pepperoni Rolls. Pepperoni, mozzarella and provolone cheese rolled up in homemade dough and served w/ marinara sauce	\$5.00
---	--------

70 Ham & Cheese Rolls. Ham, mozzarella and provolone cheese rolled up in homemade dough and served w/ marinara sauce	\$5.00
--	--------

70 Stuffed Hot Peppers 80 4.95	
-----------------------------------	--

# CHICKEN WINGS

Wings come with your choice of sauce: extra hot, hot medium,  
mild garlic, cajun, barbeque, golden barbeque and  
spicy barbeque.  
Served with a side of ranch or blue cheese.

Small - 10 wings.	\$4.50
Medium - 15 wings.	\$7.50
Large - 30 wings.	\$13.00

# CALZONES

A pocket of dough filled with provolone, mozzarella and ricotta cheeses  
and your choice of two pizza toppings.  
Steak chicken and meatballs count as two toppings.

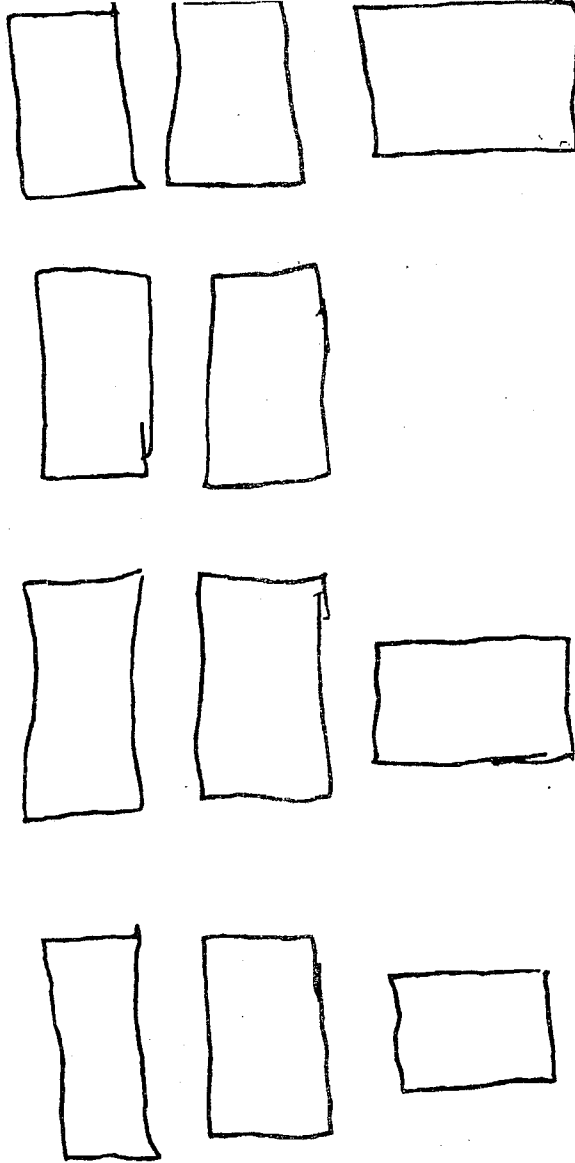
Extra Toppings.	\$0.50
Regular - pepperoni and sausage.	\$5.50

Beverages 1.00



SHOB 814-237-9002  
Attn. Steve  
844-412-999-0050  
111 South College St.  
St. Hte N-T  
F15-5

counters



Left three in of their seating

Exhibit "B"

2 1/2 hr  
2  
1.0  
Bottle

2002

1201/1001

8/11/03

Added 8/7

1 1/2 hr 1.25



# BMP SYSTEMS, INC.

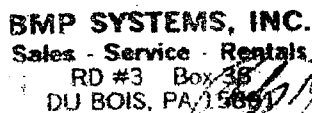
R.D. 3, BOX 36 • P.O. BOX 314  
DUBOIS, PENNSYLVANIA 15801  
(814) 375-0165 • FAX: (814) 371-3388

QUOTE

Bierly's Office Equipment  
East College Ave. Rte. 26  
P.O. Box 5190  
Pleasant GAP, PA 16823

INVOICE NO.	A 18192
DATE	8/6/93
ACCOUNT NO.	
YOUR P. O. NUMBER	
TERMS	
SHIP VIA	
FOB	
SALESMAN	

QTY.	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
		Programming of FS-3600 for ROMA PIZZA		1800.00
		Price includes: - Programming of 3600 - Install of program on Customers machine - Setup of machines/Printers on-site - Testing of system		
		Exhibit "C"		
TERMS - NET 20 Days. AFTER 30 DAYS a monthly FINANCE CHARGE of one and a half percent (1½%), which is an ANNUAL PERCENTAGE RATE of eighteen percent (18%) on the unpaid balance will be charged.			SUB-TOTAL	1800.00
CUSTOMER'S SIGNATURE _____			TAX	reseller
			TOTAL	1800.00



7013

2. Bierly's Office Equipment  
P.O. Box 5790  
Pleasant Gap, PA 16823

\_\_\_\_\_ hereby acknowledge the satisfactory completion of the above described work.

Thank You

244

TOP, U



BMP Systems Inc.  
RD3 Box 36 DuBois PA 15801

Phone (814) 371-3881

INSTALL CHECK LIST (2402)

Customer ROMA PIZZA

Address 111 Sowers St.

City St. College

Phone 237-9002

Fax \_\_\_\_\_

Owner Steve

Key Operator Steve

EQUIPMENT:

Model: <u>TM U200D</u>	s/n: <u>CQK6031403</u>	Model: <u>F53600 3E003906</u>	s/n: _____
Model: <u>TM U200D</u>	s/n: <u>CQK6031405</u>	Model: <u>F53600 3D003824</u>	s/n: _____
Model: <u>TM-T88</u>	s/n: <u>D6KG038122</u>	Model: _____	s/n: _____
Model: <u>TM-T88</u>	s/n: <u>D6KG038124</u>	Model: _____	s/n: _____

WARRANTY: Hardware: \_\_\_\_\_ days Software: \_\_\_\_\_ days or \_\_\_\_\_ hours

Hardware Maintenance cost \$ \_\_\_\_\_ per year Software Maintenance cost \_\_\_\_\_ per year

Is the installation cost included in quoted price of equipment? Yes \_\_\_\_\_ No \_\_\_\_\_  
Is the wiring cost included in the quoted price of equipment? Yes \_\_\_\_\_ No \_\_\_\_\_ > N/A

SITE PREPARATION

Does this site have a dedicated 110 AC ?	Yes <u>X</u>	No _____
Does this site need a surge protector?	Yes <u>X</u>	No _____
Does this site need APC protection?	Yes _____	No _____
Is the customer will to pay for this extra protection?	Yes <u>X</u>	No _____
Does network wiring meet the TEC Code?	Yes <u>X</u>	No _____

TYPE OF INSTALL

Rental: Yes \_\_\_\_\_ No \_\_\_\_\_ Lease: Yes \_\_\_\_\_ No \_\_\_\_\_ Cash: Yes \_\_\_\_\_ No \_\_\_\_\_ - N/A  
If yes, Lessor \_\_\_\_\_

Has financial matter been completed? Yes \_\_\_\_\_ No \_\_\_\_\_

This must be signed by the management before the installation is started.

Signature: \_\_\_\_\_ date: \_\_\_\_\_

Print name: \_\_\_\_\_ Exhibit "E"

Signature of BMP representative: \_\_\_\_\_

MEMO: Check on Credit Card processing  
TEC SOFTWARES

# BMP Systems, Inc.

Office Equipment Sales & Service

P.O. Box 314 DuBois, PA 15801



(814) 371-3381

September 29, 2003

Bierly's Office Equipment  
P O Box 5190  
Pleasant Gap, PA 16823

Re: Invoice no: 7613  
Balance Due: \$1831.11

Dear Sir:

Please be advised that the above indebtedness has been referred to my attention for immediate action.

The previous efforts of BMP Systems Inc. in soliciting your cooperation have proven unsuccessful. Legal action will be taken. This legal action will result in additional expenses, including the service of process and other court costs; thereby increasing you debt and overall financial obligation.

In order to prevent the foregoing action, you must contact Jeffrey S. Teats, Manager, within seven (7) days from the date of this letter to make arrangements for the immediate payment of this debt. This person can be reached at the address shown above or at 814-371-3881 by telephone.

Jeffrey S. Teats, Manager

Exhibit "F"

**BMP SYSTEMS INC**

PO BOX 314  
RD 3 BOX 36  
DUBOIS PA 15801

**ACCOUNT INVOICE**

Crate:

10/22/2003

Bill to:

BIERLY'S OFFICE EQUIPMENT  
P O BOX 5190  
PLEASANT GAP PA 16823

TERMS	AMOUNT DUE	AMOUNT ENC.
NET 10	\$1,857.96	

DATE	DESCRIPTION	AMOUNT	BALANCE		
05/31/2003	Balance forward		0.00		
08/13/2003	INV #7613 - RESALE	1,815.00	1,815.00		
08/31/2003	INV #FC 1027 - Finance Charge	16.11	1,831.11		
09/30/2003	INV #FC 1068 - Finance Charge	26.85	1,857.96		
Exhibit "G"					
CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	AMOUNT DUE
0.00	26.85	1,831.11	0.00	0.00	1,857.96

IN THE FUTURE, PLEASE PAY FROM THE WORK  
ORDER INVOICES YOU RECEIVE WITH YOUR  
SUPPLIES OR SERVICE. TERMS: NET 10 DAYS.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

BMP Systems

vs.

Bierly's Office Equipment, Inc.

No. 2003-01864-CD

**OATH OR AFFIRMATION OF ARBITRATORS**

Now, this 14th day of June, 2004, we the undersigned, having been appointed arbitrators in the above case do hereby swear, or affirm, that we will hear the evidence and allegations of the parties and justly and equitably try all matters in variance submitted to us, determine the matters in controversy, make an award, and transmit the same to the Prothonotary within twenty (20) days of the date of hearing of the same.

Carl A. Belin, Jr., Esquire

J. Richard Lhota, Esquire

Michael S. Marshall, Esquire

Chairman  
J. R. L. Sh...  
M. S. M...

Sworn to and subscribed before me this  
June 14, 2004

Prothonotary

**AWARD OF ARBITRATORS**

Now, this 14<sup>th</sup> day of June, 2004, we the undersigned arbitrators appointed in this case, after being duly sworn, and having heard the evidence and allegations of the parties, do award and find as follows:

Verdict for Plaintiff in the amount  
of 2,087.25 Verdict in favor of Plaintiff  
on contract claim.

Chairman  
J. R. L. Sh...  
M. S. M...

(Continue if needed on reverse.)

**ENTRY OF AWARD**

Now, this 14 day of June, 2004, I hereby certify that the above award was entered of record this date in the proper dockets and notice by mail of the return and entry of said award duly given to the parties or their attorneys.

**WITNESS MY HAND AND THE SEAL OF THE COURT**

Prothonotary  
By

Willie L. Hays

BMP Systems

Vs.

Bierly's Office Equipment, Inc.

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

: No. 2003-01864-CD

COPY

NOTICE OF AWARD

TO: BIERLY'S OFFICE EQUIPMENT, INC.

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on June 14, 2004 and have awarded:

Verdict for Plaintiff in the amount of \$2,087.25. Verdict in favor of the Plaintiff on counterclaim.

William A. Shaw

Prothonotary

By \_\_\_\_\_

June 14, 2004

Date

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

7/11/00

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

FRANK J. LAIRD, Trustee under	:	
Trust Agreement of February 24,	:	
1988, and VERNON C. KEESEY, JR.	:	
Individually and on Behalf of a	:	
Class of the Minority Shareholders	:	
of THE CLEARFIELD & MAHONING	:	
RAILROAD COMPANY, a Pennsylvania	:	
Corporation and Derivatively, on	:	
Behalf of THE CLEARFIELD & MAHONING	:	
RAILROAD COMPANY,	:	
	:	
Plaintiffs,	:	
	:	
-vs-	:	No. 98-51-CD
	:	
THE CLEARFIELD & MAHONING RAILROAD	:	
COMPANY, a Pennsylvania Corporation,	:	
BUFFALO, ROCHESTER & PITTSBURGH	:	
RAILWAY COMPANY, a Pennsylvania	:	
Corporation, BUFFALO & PITTSBURGH	:	
RAILROAD, INC., a Pennsylvania	:	
Corporation, CSX TRANSPORTATION	:	
INC., a Virginia Corporation, R.J. CORMAN	:	
RAILWAY COMPANY/PENNSYLVANIA	:	
LINES, INC., a Pennsylvania Corporation,	:	
and	:	
RICHARD J. CORMAN,	:	
	:	
Defendants.	:	
and	:	
CONSOLIDATION RAIL CORPORATION	:	
Added Defendant	:	

OPINION and ORDER

On or about January 13, 1998, the Plaintiffs in the instant case filed a Class Action and Derivative Complaint in Equity against the above-named Defendants. Specifically, the derivative action was brought on behalf of The Clearfield & Mahoning Railroad Company

BMP Systems

Vs.

Bierly's Office Equipment, Inc.

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

: No. 2003-01864-CD

:

NOTICE OF AWARD

TO: BMP SYSTEMS

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on June 14, 2004 and have awarded:

Verdict for Plaintiff in the amount of \$2,087.25. Verdict in favor of the Plaintiff on counterclaim.

William A. Shaw

Prothonotary

By \_\_\_\_\_

June 14, 2004

Date

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

COPY

(1) **Trial List**: The Court Administrator is hereby directed to list the case on the April 2002 Trial List without further action by the parties;

(2) **Discovery**: All fact discovery shall be completed on or before October 1, 2001;

(3) **Dispositive Motions**: All motions for judgment on the pleadings or for summary judgment shall be filed on or before December 31, 2001. Any replies to the Motion and supporting brief(s) shall be filed on or before January 31, 2002. Oral argument on any dispositive motions filed shall be scheduled by the Court, with said argument to be held within 14 days after the deadline for reply briefs.

(4) **Expert Witnesses**: Plaintiffs shall supply to Defendants the name(s) and report(s) of its expert(s) on or before October 1, 2001, and Defendants shall supply to Plaintiffs the name(s) and report(s) of its expert(s) on or before November 30, 2001;

(5) **Motions in Limine**: All motions in limine shall be filed on or before March 1, 2002, with supporting briefs attached thereto. All opposing briefs shall be filed on or before March 15, 2002. No reply briefs are permitted;

(6) **Settlement Conference**: Upon request of counsel, a settlement conference will be scheduled by the Court;



BMP Systems

Vs.

Bierly's Office Equipment, Inc.

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

: No. 2003-01864-CD

COPY

NOTICE OF AWARD

TO: JAMES N. BRYANT

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on June 14, 2004 and have awarded:

Verdict for Plaintiff in the amount of \$2,087.25. Verdict in favor of the Plaintiff on counterclaim.

William A. Shaw

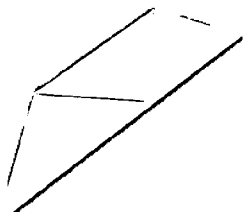
Prothonotary

By \_\_\_\_\_

June 14, 2004

Date

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



relationship to the C&M and thus that particular information is not relevant to the present action and is outside the scope of permissible discovery.

As to the fourth issue, it is well established that the best evidence rule normally requires the original records be submitted when the purpose is to prove contents thereof. It is within the discretion of the trial judge to admit, as valid secondary evidence, a summary of the original evidence made by a competent person familiar with the original records. Keller v. Porta, 172 Pa. Super. 651, 94 A.2d 140 (1953). The Pennsylvania Rules of Evidence further require a proper foundation for the admission of summaries. This requires that the proponent prove that the summary is accurate. Invariably, this may be done only by an individual who prepared or supervised the preparation of the summary. Pennsylvania Rule of Evidence 1006.10. In the case at bar, there is no dispute that Plaintiffs' counsel prepared the summary in question. In order for the summary to be admissible, Plaintiffs' counsel will have to take the stand himself and be cross-examined, unless CSXT stipulates that his summary is accurate. Failing this, the summary is inadmissible.

THEREFORE, this Court enters the following:

ORDER

NOW, this 11<sup>th</sup> day of September, 2001, it is the ORDER of this Court that Motion for

BMP Systems

Vs.

Bierly's Office Equipment, Inc.

: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY

: No. 2003-01864-CD  
:

COPY

NOTICE OF AWARD

TO: THERON G. NOBLE

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on June 14, 2004 and have awarded:

Verdict for Plaintiff in the amount of \$2,087.25. Verdict in favor of the Plaintiff on counterclaim.

William A. Shaw

Prothonotary

By \_\_\_\_\_

June 14, 2004

Date

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

BMP Systems

Vs.

Bierly's Office Equipment, Inc.

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY  
: No. 2003-01864-CD  
:

NOTICE OF AWARD

TO: Copies to: Bierly's Office Equipment, Inc. (Defendant), P.O. Box 5190, 511 East College Avenue, Pleasant Gap, PA, 16823, BMP Systems (Plaintiff), R. D. 3 Box 36, , Dubois, PA, 15801, James N. Bryant (Defense Attorney), Theron G. Noble (Plaintiff Attorney)

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on June 14, 2004 and have awarded:

Verdict for Plaintiff in the amount of \$2,087.25. Verdict in favor of the Plaintiff on counterclaim.

William A. Shaw

Prothonotary

By \_\_\_\_\_

June 14, 2004

Date

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

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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.

BIERLY'S OFFICE EQUIPMENT, Inc.,  
DEFENDANT.

No. 03- 1864 -CD

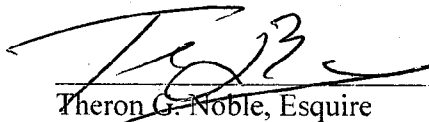
PRAECIPE TO ENTER JUDGMENT

To: William A. Shaw, Prothonotary

Date: July 19, 2004

Please enter Judgment, in the amount of \$2,087.25 plus costs, in favor of Plaintiff and  
against Defendant, as per the award of the arbitrators, dated June 14, 2004.

Respectfully Submitted,



Theron G. Noble, Esquire  
Ferraraccio & Noble  
Attorney for Plaintiff  
301 E. Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.No.: 55942

*FILED*  
m/v: 4/10/04  
JUL 20 2004  
Notice to  
James Bryant  
att'y for Def.  
Statement to  
Atty Noble  
William A. Shaw  
Prothonotary/Clerk of Court

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

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.

HAROLD TRESSLER, t/d/b/a  
BIERLY'S OFFICE EQUIPMENT,  
DEFENDANTS.

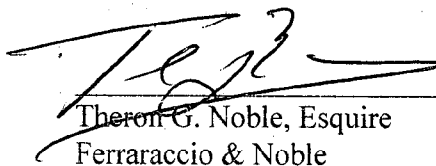
No. 03- 1864 -CD

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, of Ferraraccio & Noble, attorney for Plaintiff, does hereby certify that I did mail a true and correct copy of the PRAECIPE TO LIST FOR ARBITRATION, this 19th day of July, 2004, by depositing the same in the United States Mail, first class, postage pre-paid, addressed as follows:

James N. Bryant, Esquire  
Bryant & Cantorina, P.C.  
107 E. Main St.  
Millheim, PA 16854

Respectfully Submitted,



Theron G. Noble, Esquire  
Ferraraccio & Noble  
Attorney for Plaintiffs  
301 E. Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.No.: 55942

COPY

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

CIVIL DIVISION

BMP Systems

Vs.

No. 2003-01864-CD

Bierly's Office Equipment, Inc.

To: DEFENDANT(S)

NOTICE is given that a JUDGMENT in the above captioned matter has been entered against you in the amount of \$2,087.25 on July 20, 2004.

William A. Shaw  
Prothonotary

---

William A. Shaw

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

COPY

BMP Systems  
Plaintiff(s)

No.: 2003-01864-CD

Real Debt: \$2,087.25

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Bierly's Office Equipment, Inc.  
Defendant(s)

Entry: \$20.00

Instrument: Judgment on Arbitrator's Award

Date of Entry: July 20, 2004

Expires: July 20, 2009

Certified from the record this 20th day of July, 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, CLEARFIELD COUNTY,  
PENNSYLVANIA  
(CIVIL DIVISION)

BMP SYSTEMS, Inc., a duly formed and existing  
Pennsylvania Corporation,  
PLAINTIFF,

v.

BIERLY'S OFFICE EQUIPMENT, Inc.,  
DEFENDANT.

No. 03- 1864 -CD

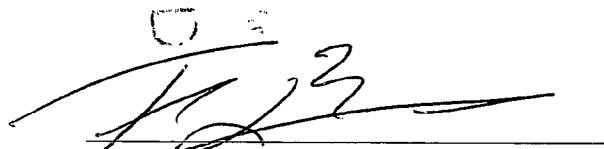
PRAECIPE FOR CERTIFICATION OF JUDGMENT

To: William A. Shaw, Prothonotary

Date: August 11, 2004

Please prepare and forward to me a CERTIFICATION OF JUDGMENT.

Respectfully Submitted,



Theron G. Noble, Esquire  
Ferraraccio & Noble  
Attorney for Plaintiff  
301 E. Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.No.: 55942

FILED *No cc*  
*m/10:28/04* *Aug pd. 15.00*  
AUG 13 2004 *Cert. docketed*  
William A. Shaw *Cert. of judgment*  
Prothonotary/Clerk of Courts *to Amy Noble*

Date: 08/13/2004

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:32 AM

ROA Report

Page 1 of 1

Case: 2003-01864-CD

Current Judge: No Judge

BMP Systems vs. Bierly's Office Equipment, Inc.

COPY

District Justice Appeal

Date		Judge
12/19/2003	Filing: District Justice Appeals Paid by: Bryant, James N. (attorney for Bierley's Office Equipment) Receipt number: 1870781 Dated: 12/19/2003 Amount: \$85.00 (Check) Copies to Atty. Bryant	No Judge
12/23/2003	Proof Of Service of Notice of Appeal and Rule To File Complaint. filed.	No Judge
12/29/2003	Transcript From Jusdtice Ford. Filed.	No Judge
01/05/2004	Civil Complaint. filed by, s/Theron G. Noble, Esquire Verification s/Jeff Teats Certificate of Service no cc	No Judge
01/16/2004	Answer & Counterclaim. filed by, s/James N. Bryant, Esquire Verification. s/Harrison W. Tressler Certificate of Service no cc	No Judge
01/27/2004	Reply to New Matter and Answer to Counter-claim, filed by s/Theron G. Noble, Esq. No CC	No Judge
02/04/2004	STIPULATION. filed by, s/Theron G. Noble, Esq. s/James N. Bryant, Esq. Certificate of Service no cc	No Judge
03/18/2004	Filing: Praeipce/List For Arbitration Paid by: Noble, Theron G. (attorney for BMP Systems) Receipt number: 1875714 Dated: 03/18/2004 Amount: \$20.00 (Check)	No Judge
	Praeipce To List for Arbitration. filed by, s/Theron G. Noble, Esquire Certificate of Service no cc Copy to C/A	No Judge
04/19/2004	ORDER, NOW, this 19th day of April, 2004, re: Arbitration scheduled for Monday, June 14, 2004, at 8:30 a.m. Arbitrators: Carl A. Belin, Jr., Esq., Chairman, J. Richard Lhota, Esq., and Michael S. Marshall, Esq. by the Court, s/FJA, P.J. 5 C/A	No Judge
05/20/2004	Certificate of Service, Defendant's Pretrial Memorandum upon Attys Noble, Lhota, Belin and M. Marshall. filed by, s/James N. Bryant, Esq. no cc	No Judge
06/14/2004	June 14, 2004, Oath of Affirmation of Arbitrators, filed. Award of Arbitrators: Verdict for Plaintiff in the amount of \$2,087.25. Verdict in favor of Plaintiff on counterclaim. S/Carl A. Belin, Jr. Esq. s/J. Richard Lhota, Esq. s/Michael S. Marshall, Esq. Entry of Award, Witness My Hand and the Seal of the Court, William A. Shaw, Prothonotary.	No Judge
07/20/2004	Filing: Judgment Paid by: Noble, Theron G. (attorney for BMP Systems) Receipt number: 1883194 Dated: 07/20/2004 Amount: \$20.00 (Check) Judgment entered against Bierly's Office Equipment, Inc. in the amount of \$2,087.25 Notice to Defendant c/o Atty. Bryant Statement to Atty. Noble	No Judge
08/13/2004	Filing: Praeipce for Certification of Judgment Paid by: Noble, Theron G. (attorney for BMP Systems) Receipt number: 1884598 Dated: 08/13/2004 Amount: \$15.00 (Check) No CC Certified docket and Certification of Judgment to Attorney Noble	No Judge

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

COPY

**BMP Systems, Inc., a duly formed and  
existing Pennsylvania Corporation**

**Vs.**

**NO. 2003-01864-CD**

**Bierly's Office Equipment, Inc.**

**CERTIFICATION OF DOCKET ENTRIES AND JUDGMENT**

I, William A. Shaw, Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, do hereby certify that the attached is a certified and full copy of the docket entries in the above captioned case.

I further certify that a Judgment was entered in the above captioned matter in favor of BMP Systems and against Bierly's Office Equipment, Inc. on July 20, 2004, in the amount of \$2,087.25.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the said Court, on the 13th day of August, A.D., 2004.

William A. Shaw

Prothonotary

BY: \_\_\_\_\_

Deputy