

04-639-CD
STEPHEN RUSSELL vs. MARATHON EQUIPMENT COMPANY

Stephen Russell vs Marathon Equip. Com.
2004-639-CD

STEPHEN RUSSELL : IN THE COURT OF COMMON PLEAS
Plaintiff : OF CLEARFIELD COUNTY, PENNSYLVANIA
vs. :
No. 04-639-CD
MARATHON EQUIPMENT : CIVIL ACTION - LAW
COMPANY :
Defendant : Type of filing:
PRAECIPE FOR WRIT OF SUMMONS
: Filed on behalf of
: Stephen Russell
: Counsel of Record
: Alan R. Krier, Esquire
: JUBELIRER, CAROTHERS, KRIER
: & HALPERN
: Park View Drive
: 10 Sheraton Drive
: P.O. Box 2024
: Altoona, PA 16603
: (814) 943-1149
: **JURY TRIAL DEMANDED**

FILED

MAY 10 2004

William A. Shaw
Prothonotary

STEPHEN RUSSELL : IN THE COURT OF COMMON PLEAS
Plaintiff : OF CLEARFIELD COUNTY, PENNSYLVANIA
vs. : No.
MARATHON EQUIPMENT : CIVIL ACTION - LAW
COMPANY :
Defendant : JURY TRIAL DEMANDED

PRAECIPE FOR WRIT OF SUMMONS

TO THE PROTHONOTARY:

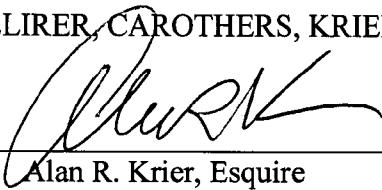
Please issue a Writ of Summons against the following Defendant.

Marathon Equipment Company
Firemens Industrial Park
Clearfield, PA 16830

Respectfully submitted,

JUBELIRER, CAROTHERS, KRIER & HALPERN

BY:



Alan R. Krier, Esquire
PA I.D. # 06672
Ten Sheraton Drive
P.O. Box 2024
Altoona, PA 16603
(814) 943-1149
Attorney for Plaintiff

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

SUMMONS

Stephen Russell

Vs.

NO.: 2004-00639-CD

Marathon Equipment Company

TO: MARATHON EQUIPMENT COMPANY

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 05/10/2004

William A. Shaw
Prothonotary

Issuing Attorney:

Alan R. Krier
Post Office Box 2024
Altoona, PA 16603

In The Court of Common Pleas of Clearfield County, Pennsylvania

RUSSELL, STEPHEN

VS.

MARATHON EQUIPMENT COMPANY

SUMMONS

Sheriff Docket # 15548

04-639-CD

SHERIFF RETURNS

NOW MAY 12, 2004 AT 2:36 PM SERVED THE WITHIN SUMMONS ON MARATHON EQUIPMENT COMPANY, DEFENDANT AT EMPLOYMENT, FIREMEN'S INDUSTRIAL PARK, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO KATHY LEIGEY, CLERK A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: DAVIS/MORGILLO

Return Costs

Cost	Description
20.37	SHERIFF HAWKINS PAID BY: ATTY CK# 44373
10.00	SURCHARGE PAID BY: ATTY Ck# 44374

Sworn to Before Me This

19 Day Of May 2004
William A. Shaw

So Answers,

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

FILED

02-03-08

MAY 19 2004

GAD

William A. Shaw
Prothonotary

OPY

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

SUMMONS

Stephen Russell

Vs.

NO.: 2004-00639-CD

Marathon Equipment Company

TO: MARATHON EQUIPMENT COMPANY

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 05/10/2004



William A. Shaw
Prothonotary

Issuing Attorney:

Alan R. Krier
Post Office Box 2024
Altoona, PA 16603

FILED
M10:58/24
APR 26 2007
60

William A. Shaw
Prothonotary/Clerk of Courts

Johnson, Duffie, Stewart & Weidner

By: JEFFREY B. RETTIG, ESQUIRE

I.D. No. 19616
301 Market Street
P. O. Box 109
Lemoyne, Pennsylvania 17043-0109
(717) 761-4540
jbr@jdsdsw.com

Attorneys for Marathon Equipment Company

STEPHEN RUSSELL,	:	IN THE COURT OF COMMON PLEAS OF
	:	CLEARFIELD COUNTY, PENNSYLVANIA
Plaintiff(s)	:	
	:	NO. 04-639-CD
V.	:	
	:	CIVIL ACTION – LAW
MARATHON	EQUIPMENT	:
COMPANY,		JURY TRIAL DEMANDED
Defendant(s)	:	

PRAECIPE FOR ENTRY OF APPEARANCE

TO: PROTHONOTARY

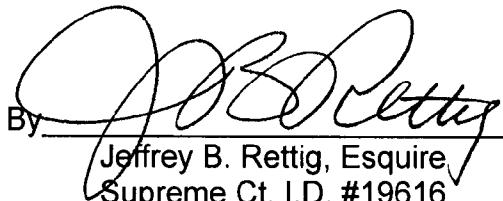
Please enter the appearance of Jeffrey B. Rettig and Johnson, Duffie, Stewart & Weidner on behalf of Defendant Marathon Equipment Company in the above-captioned

matter.

Respectfully submitted,

JOHNSON, DUFFIE, STEWART & WEIDNER

By



Jeffrey B. Rettig, Esquire

Supreme Ct. I.D. #19616

301 Market Street

P.O. Box 109

Lemoyne, PA 17043-0109

(717) 761-4540

Dated:

4/24/07

Attorney for Defendant Marathon
Equipment Company

296322

CERTIFICATE OF SERVICE

I, Jeffrey B. Rettig, Esquire, hereby certify that I am this day serving a copy of the foregoing document upon the person(s) and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Civil Procedure by depositing a copy of same in the United States mail, first-class postage prepaid, as follows:

Alan R. Krier, Esquire
Jubelirer, Carothers, Krier & Halpern
Park View Center
10 Sheraton Drive, P.O. Box 2024
Altoona, PA 16603
(Counsel for Plaintiff)

Dated:

4/24/07

JOHNSON, DUFFIE, STEWART & WEIDNER

By:

Jeffrey B. Rettig, Esquire

296319

STEPHEN RUSSELL,

Plaintiff,

vs.

MARATHON EQUIPMENT
COMPANY,

Defendant.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

No. 04-639-CD

CIVIL ACTION - LAW

Type of Pleading:

COMPLAINT

Filed on behalf of Plaintiff by
Counsel of Record:

Alan R. Krier, Esquire
Jubelirer, Carothers, Krier & Halpern
Park View Center
10 Sheraton Drive
Altoona, PA 16601-9316
Phone: 814-943-1149; FAX: 814-946-8788

JURY TRIAL DEMANDED

Dated: September 6, 2007

FILED
M 10 3 2007 NO
SEP 07 2007 ce
GK

William A. Shaw
Prothonotary/Clerk of Courts

STEPHEN RUSSELL,	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	OF CLEARFIELD COUNTY,
	:	PENNSYLVANIA
vs.	:	Docket No. 04-639-CD
MARATHON EQUIPMENT	:	CIVIL ACTION - LAW
COMPANY,	:	
Defendant.	:	JURY TRIAL DEMANDED

NOTICE

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

David S. Meholic, Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
Telephone: 814-765-2641

STEPHEN RUSSELL,	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	OF CLEARFIELD COUNTY,
	:	PENNSYLVANIA
vs.	:	Docket No. 04-639-CD
MARATHON EQUIPMENT	:	CIVIL ACTION - LAW
COMPANY,	:	
Defendant.	:	JURY TRIAL DEMANDED

COMPLAINT

AND NOW, comes the Plaintiff, **STEPHEN RUSSELL**, by and through his attorneys, JUBELIRER, CAROTHERS, KRIER & HALPERN, who files the within **COMPLAINT** and avers as follows:

1. Plaintiff is an individual residing at 936 Replogle School Road, New Enterprise, Pennsylvania 16664-8909.
2. Defendant is a foreign corporation registered to do business in Pennsylvania with principal offices located in Vernon, Alabama and facilities and offices in Pennsylvania located at 901 Industrial Park Road, Clearfield, Pennsylvania 16830-6020.
3. Plaintiff, at all times relevant hereto, was the owner-operator of a tractor trailer rig leased to D. Pierce Transportation.
4. On or about May 16, 2002, Plaintiff picked up a load of steel in Darlington, South Carolina and on May 20, 2002 delivered the load to Defendant's facility in Clearfield, Pennsylvania.
5. In order to facilitate the efficient removal of the steel from the trailer, Plaintiff, after unchaining the load from the trailer, assisted the Marathon employee operating the lifting crane to remove the steel from the trailer.

6. While Plaintiff, in full view of the crane operator, was still working the chains around the load so that the load would be properly balanced while lifting, the operator started lifting the load, which tensioned the chain against the steel with Plaintiff's fingers in between.

7. As a result of the aforesaid event, the tip of Plaintiff's left middle finger was crushed and severed, resulting in consequences hereinafter set forth.

8. Prior to the injury described, Plaintiff gave no signal to the operator indicating that it was o.k. to lift the load and received no warning from the operator that he was about to lift the load.

9. The negligence of Defendant, by and through its agents, servants and employees, was the sole cause of Plaintiff's injury and consisted of the following:

- a. failing to be attentive to and observe the specific activities of Plaintiff in furtherance of the unloading operation in order to avoid harm to Plaintiff;
- b. failing to recognize that the operator's conduct in lifting the load at that time involved an unreasonable risk of harm to a person engaged in the activity that Plaintiff was performing;
- c. lifting the load without an "all clear" signal from Plaintiff;
- d. failing to inquire of Plaintiff as to whether it was o.k. to commence lifting;
- e. failing to observe the position of Plaintiff's hands and fingers before commencing lifting;
- f. failing to apprehend and avoid the risk to Plaintiff by commencing the lift without being certain that Plaintiff was clear of danger;
- g. failing to have and/or exercise the skill required in operating the equipment in order to avoid harm to Plaintiff;

- h. failing to exercise the patience, deliberation and attention to detail required of the operator under the circumstances of this case where a person was in proximity to the load;
- i. failing to warn Plaintiff that the operator was about to commence lifting the load; and
- j. failing to have an automatic warning device that would emit a warning before a lift operation commenced.

10. Defendant was further negligent in failing to properly train and/or instruct its employees in safe work practices, especially safe practices and standards relating to the operation of equipment when other persons are within a zone of potential risk or danger.

11. As a result of the aforesaid, Plaintiff suffered the following injuries and consequences thereof:

- a. immediate amputation of the distal end of his left middle finger with soft tissue loss and bone loss with exposed bone requiring debridement and split thickness graft taken from his left thigh;
- b. additional surgery on September 24, 2002 for additional amputation/removal of bone to allow for additional pad between skin and bone due to extreme tenderness and pain;
- c. tenderness, swelling and ongoing pain at the amputation site as well as extreme sensitivity to cold, which has continued to the present and is likely to continue in the future;

- d. mental anguish, loss of enjoyment of life and episodes of major depression requiring hospitalization due to the ongoing pain and the financial pressures caused by the accident; and
- e. the pain, tenderness and emotional distress and loss of enjoyment of life are likely to continue in the future and Plaintiff is likely to require medication and/or other medical treatment into the future.

12. As a result of his injuries, Plaintiff incurred hospital, medical and non-medical expenses in an effort to treat, cure and manage the injuries aforesaid and may in the future incur additional expenses.

13. As a further result of the aforesaid, Plaintiff sustained a loss of the wages and benefits of his employment and may in the future sustain a loss of same.

WHEREFORE, Plaintiff, **STEPHEN RUSSELL**, respectfully requests judgment in his favor and against Defendant in an amount in excess of \$20,000.00. **A jury trial is demanded.**

Respectfully submitted,

JUBELIRER, CAROTHERS, KRIER & HALPERN

By: _____


Alan R. Krier, Esquire, PA I.D. #06672
Park View Center, 10 Sheraton Drive
Altoona, PA 16601-9316
Phone: 814-943-1149; FAX 814-946-8788
Counsel for Plaintiff, Stephen Russell

VERIFICATION

I, Stephen Russell, verify that the statements made in the foregoing Complaint are true and correct to the best of my knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 PA. C.S. Section 4904 relating to unsworn falsification to authorities.

Date: 9/1/07

Stephen R. Russell
Stephen Russell

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a true and correct copy of the foregoing **Complaint** on all counsel of record and/or parties of interest by depositing same in the United States Mail, postage prepaid at Altoona, Pennsylvania on this 6th day of September, 2007, and addressed as follows:

Jeffrey B. Rettig, Esquire
Johnson, Duffie, Stewart & Weidner
301 Market Street
Lemoyne, PA 17043-1671

Phone: 717-761-4540; FAX: 717-761-3015; Email: jbr@jdsw.com

Counsel for Defendant

JUBELIRER, CAROTHERS, KRIER & HALPERN

By: 

Alan R. Krier, Esquire, PA I.D. #06672
Park View Center, 10 Sheraton Drive
Altoona, PA 16601-9316
Phone: 814-943-1149; FAX 814-946-8788
Counsel for Plaintiff

Johnson, Duffie, Stewart & Weidner
By: JEFFREY B. RETTIG, ESQUIRE
I.D. No. 19616
301 Market Street
P. O. Box 109
Lemoyne, Pennsylvania 17043-0109
(717) 761-4540
jbr@jdsw.com

Attorneys for Marathon Equipment
Company

STEPHEN RUSSELL, : IN THE COURT OF COMMON PLEAS OF
Plaintiff(s) : CLEARFIELD COUNTY, PENNSYLVANIA
: NO. 04-639-CD
v. : CIVIL ACTION - LAW
MARATHON EQUIPMENT COMPANY, : JURY TRIAL DEMANDED
Defendant(s) :

NOTICE TO PLEAD

To: Stephen Russell, Plaintiff
c/o Alan R. Krier, Esquire
Jubelirer, Carothers, Krier & Halpern
Park View Center
10 Sheraton Drive
Altoona, Pennsylvania 16601-9316

FILED
m 12/3/04
OCT 01 2007
cc
LKC

William A. Shaw
Prothonotary/Clerk of Courts

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

Respectfully submitted,

Johnson, Duffie, Stewart & Weidner

By:


Jeffrey B. Rettig, Esquire
Attorney I.D. No: 19616
301 Market Street
Post Office Box 109
Lemoyne, Pennsylvania 17043-0109
717.761.4540
jbr@jdsw.com

Dated: *September 28, 2007*

Attorney for Defendant,
Marathon Equipment Company

Johnson, Duffie, Stewart & Weidner
By: JEFFREY B. RETTIG, ESQUIRE
I.D. No. 19616
301 Market Street
P. O. Box 109
Lemoyne, Pennsylvania 17043-0109
(717) 761-4540
jbr@jds.com

Attorneys for Marathon Equipment
Company

STEPHEN RUSSELL, : IN THE COURT OF COMMON PLEAS OF
Plaintiff(s) : CLEARFIELD COUNTY, PENNSYLVANIA
: NO. 04-639-CD
v. : CIVIL ACTION – LAW
MARATHON EQUIPMENT COMPANY, : JURY TRIAL DEMANDED
Defendant(s) :

**ANSWER AND NEW MATTER OF DEFENDANT,
MARATHON EQUIPMENT COMPANY TO PLAINTIFF'S COMPLAINT**

AND NOW, comes Defendant, Marathon Equipment Company ("Defendant") by and through his attorneys, Johnson, Duffie, Stewart & Weidner, and answers Plaintiff's Complaint as follows:

1. It is admitted that the Plaintiff is who he says he is. As to the balance of the allegations of this paragraph, after reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as the truth of said allegations and strict proof thereof is demanded.
2. Admitted.
3. On information and belief, this allegation is admitted.
4. Denied as stated. It is admitted that Plaintiff delivered a load of steel to Defendant's facility in Clearfield, Pennsylvania on May 20, 2002.
5. Denied as stated. After Defendant's employee had already removed one load of steel from the trailer, Plaintiff then got onto the trailer, evidently to expedite the unloading of the trailer.

6. Denied. To the contrary, Defendant's employee was "jogging" the crane to tighten the chain around the load of steel.

7. Denied as stated. It is admitted that as a result of Plaintiff's conduct, his left middle finger was injured.

8. Denied as stated. Defendant's employee was not about to "lift the load" as alleged. Rather, he was "jogging" the crane in order to tighten the chains around the steel load.

9. Denied pursuant to Pa. R.C.P. 1029.

10. Denied. The allegations of negligence are denied pursuant to Pa. R.C.P. 1029.

11. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of said allegation and strict proof thereof is demanded.

12. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of said allegation and strict proof thereof is demanded.

13. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of said allegation and strict proof thereof is demanded.

WHEREFORE, Defendant requests that Plaintiff's Complaint be dismissed without cost to it.

NEW MATTER

14. Plaintiff's claims are or may be barred by the statute of limitations.

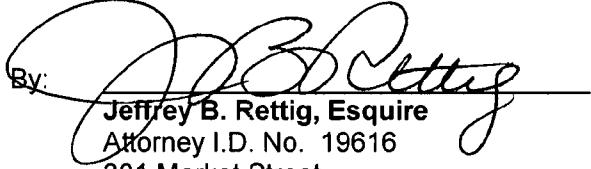
15. Plaintiff has or may have failed to mitigate his damages.

16. Plaintiff's claims are or may be reduced or barred by virtue of the Pennsylvania Comparative Negligence Act.

WHEREFORE, Defendant requests that Plaintiff's Complaint be dismissed without cost to it.

Respectfully submitted,

Johnson, Duffie, Stewart & Weidner

By: 
Jeffrey B. Rettig, Esquire
Attorney I.D. No. 19616
301 Market Street
Lemoyne, Pennsylvania 17043
717.761.4540
jbr@jdschw.com

Date: *September 28, 2007*

Attorney for Defendant,
Marathon Equipment Company

Johnson, Duffie, Stewart & Weidner
By: JEFFREY B. RETTIG, ESQUIRE
I.D. No. 19616
301 Market Street
P. O. Box 109
Lemoyne, Pennsylvania 17043-0109
(717) 761-4540
jbr@jds.com

Attorneys for Marathon Equipment
Company

STEPHEN RUSSELL, : IN THE COURT OF COMMON PLEAS OF
Plaintiff(s) : CLEARFIELD COUNTY, PENNSYLVANIA
: NO. 04-639-CD
v. : CIVIL ACTION – LAW
MARATHON EQUIPMENT COMPANY, : JURY TRIAL DEMANDED
Defendant(s) :

VERIFICATION

I am a representative of the Defendant in the above-captioned action and I hereby verify and state that the facts set forth in the foregoing **Answer and New Matter of Defendant, Marathon Equipment Company to Plaintiff's Complaint** are true and correct to the best of my information, knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn verification to authorities.

Dated: SEPTEMBER 24, 2007

Ronald H Cargile
Dir. Risk Mgt., Marathon Equipment Co.

301599

Johnson, Duffie, Stewart & Weidner
By: JEFFREY B. RETTIG, ESQUIRE
I.D. No. 19616
301 Market Street
P. O. Box 109
Lemoyne, Pennsylvania 17043-0109
(717) 761-4540
jbr@jsw.com

Attorneys for Marathon Equipment
Company

STEPHEN RUSSELL, : IN THE COURT OF COMMON PLEAS OF
Plaintiff(s) : CLEARFIELD COUNTY, PENNSYLVANIA
: NO. 04-639-CD
v. : CIVIL ACTION – LAW
MARATHON EQUIPMENT COMPANY, : JURY TRIAL DEMANDED
Defendant(s) :

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Answer and New Matter of Defendant Marathon Equipment Company to Plaintiff's Complaint** has been duly served upon all counsel of record and parties of interest by placing the same in the United States Mail postage pre-paid on this **28th** day of **September, 2007**, and addressed as follows:

Alan R. Krier, Esquire
Jubelirer, Carothers, Krier & Halpern
Park View Center
10 Sheraton Drive
Altoona, Pennsylvania 16601-9316

Johnson, Duffie, Stewart & Weidner

By:

Jeffrey B. Rettig

310225

STEPHEN RUSSELL,
Plaintiff,
vs.
MARATHON EQUIPMENT
COMPANY,
Defendant.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

No. 04-639-CD

CIVIL ACTION - LAW

Type of Pleading:
**PLAINTIFF'S ANSWER TO
DEFENDANT'S NEW MATTER**

Filed on behalf of Plaintiff by
Counsel of Record:
Alan R. Krier, Esquire
Jubelirer, Carothers, Krier & Halpern
Park View Center
10 Sheraton Drive
Altoona, PA 16601-9316
Phone: 814-943-1149; FAX: 814-946-8777

JURY TRIAL DEMANDED

FILED
M 10:54 AM
OCT 03 2007
NOCC
(GR)

William A. Shaw
Prothonotary/Clerk of Courts

STEPHEN RUSSELL, Plaintiff : IN THE COURT OF COMMON PLEAS
vs. : OF CLEARFIELD COUNTY,
: PENNSYLVANIA
MARATHON EQUIPMENT : Docket No. 04-639-CD
COMPANY, : CIVIL ACTION - LAW
Defendant. : JURY TRIAL DEMANDED

PLAINTIFF'S ANSWER TO DEFENDANT'S NEW MATTER

AND NOW, comes the Plaintiff, **STEPHEN RUSSELL**, by and through his attorneys, JUBELIRER, CAROTHERS, KRIER & HALPERN, who files the within **PLAINTIFF'S ANSWER TO DEFENDANT'S NEW MATTER** and avers as follows:

14. The allegations of this paragraph are conclusions of law to which no answer is required.

15. The allegations of this paragraph are conclusions of law to which no answer is required.

16. The allegations of this paragraph are conclusions of law to which no answer is required.

WHEREFORE, Plaintiff, **STEPHEN RUSSELL**, respectfully prays that Defendant's New Matter be dismissed in its entirety.

Respectfully submitted,

JUBELIRER, CAROTHERS, KRIER & HALPERN

By: 

Alan R. Krier, Esquire, PA I.D. #06672
Park View Center, 10 Sheraton Drive
Altoona, PA 16601-9316
Phone: 814-943-1149; FAX 814-946-8788
Counsel for Plaintiff, Stephen Russell

CERTIFICATE OF SERVICE

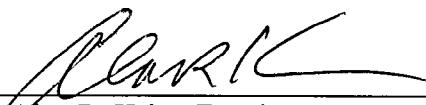
I HEREBY CERTIFY that I served a true and correct copy of the foregoing **Plaintiff's Answer to Defendant's New Matter** on all counsel of record and/or parties of interest by depositing same in the United States Mail, postage prepaid at Altoona, Pennsylvania on this 2nd day of October, 2007, and addressed as follows:

Jeffrey B. Rettig, Esquire
Johnson, Duffie, Stewart & Weidner, P.C.
301 Market Street
Lemoyne, PA 17043-1671

Phone: 717-761-4540; FAX: 717-761-3015; Email: jbr@jdsw.com

Counsel for Defendant

JUBELIRER, CAROTHERS, KRIER & HALPERN

By: 

Alan R. Krier, Esquire, PA I.D. #06672
Park View Center, 10 Sheraton Drive
Altoona, PA 16601-9316
Phone: 814-943-1149; FAX 814-946-8788
Counsel for Plaintiff

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

STEPHEN RUSSELL, : CIVIL ACTION - LAW

Plaintiff, : Docket Number 04-639-CD

vs. :

MARATHON EQUIPMENT : Type of Pleading:

COMPANY, :

Defendant. :

PRAECLPTE TO DISCONTINUE

Filed on behalf of Plaintiff by
Counsel of Record:

Alan R. Krier, Esquire, PA I.D. 06672
Jubelirer, Carothers, Krier & Halpern
Park View Center
10 Sheraton Drive
Altoona, PA 16601-9316
Phone: 814-943-1149; FAX: 814-946-8788

JURY TRIAL DEMANDED

FILED 4cc & 4 Cert
M 10:50 AM JUL 22 2008 of disc issued
to Atty Krier
WM

William A. Shaw
Prothonotary/Clerk of Courts

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

STEPHEN RUSSELL, Plaintiff, : Docket Number 04-639-CD
: :
vs. : CIVIL ACTION - LAW
: :
MARATHON EQUIPMENT COMPANY, :
Defendant. : JURY TRIAL DEMANDED

PRAECIPE TO DISCONTINUE

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

Please mark the above-captioned case settled and discontinued.

Respectfully submitted,

JUBELIRER, CAROTHERS, KRIER & HALPERN

Date: July 21, 2008

BY:



Alan R. Krier, Esquire, PA I.D. 06672
Park View Center, 10 Sheraton Drive
Altoona, PA 16601-9316
Phone: 814-943-1149; FAX 814-946-8788
Counsel for Plaintiff, Stephen Russell

CERTIFICATE OF SERVICE

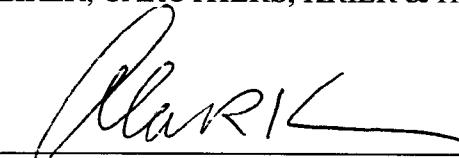
I HEREBY CERTIFY that I served a true and correct copy of the foregoing **Praecipe to Discontinue** on all counsel of record and/or parties of interest by depositing same in the United States Mail, postage prepaid at Altoona, Pennsylvania on this 21st day of July, 2008, and addressed as follows:

Jeffrey B. Rettig, Esquire
Johnson, Duffie, Stewart & Weidner, P.C.
301 Market Street
Lemoyne, PA 17043-1671

Phone: 717-761-4540; FAX: 717-761-3015; Email: jbr@jdsweb.com

Counsel for Defendant

JUBELIRER, CAROTHERS, KRIER & HALPERN

By: 

Alan R. Krier, Esquire, PA I.D. #06672
Park View Center, 10 Sheraton Drive
Altoona, PA 16601-9316
Phone: 814-943-1149; FAX 814-946-8788
Counsel for Plaintiff, Stephen Russell

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Stephen Russell

Vs.
Marathon Equipment Company

No. 2004-00639-CD

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on July 22, 2008, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by Alan R. Krier Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 22nd day of July A.D. 2008.

William A. Shaw

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William A. Shaw, Prothonotary