

2004-799-CD  
James Milchak et al vs James Milchak et al

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

JAMES E. MILCHAK and :  
ROSEZELLA M. MILCHAK, Husband :  
and Wife, :  
Plaintiffs :  
vs. : No. 04-799-CD  
JAMES R. MILCHAK and :  
ROSELLA E. MILCHAK, Husband :  
and Wife, :  
Defendants :

CASE NUMBER: 04- -CD

TYPE OF CASE: Civil

TYPE OF PLEADING: COMPLAINT

FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE  
Supreme Court I.D. #26540  
207 E. Market Street  
Clearfield, PA 16830  
(814) 765-1581

**FILED**

JUN 04 2004

William A. Shaw  
Prothonotary

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

JAMES E. MILCHAK and :  
ROSEZELLA M. MILCHAK, Husband :  
and Wife, :  
Plaintiffs :  
vs. : No. \_\_\_\_\_  
: :  
JAMES R. MILCHAK and :  
ROSELLA E. MILCHAK, Husband :  
and Wife, :  
Defendants :  
:

NOTICE TO DEFEND

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

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office  
Clearfield County Courthouse  
Clearfield, PA 16830  
814-765-2641

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

JAMES E. MILCHAK and :  
ROSEZELLA M. MILCHAK, Husband :  
and Wife, :  
Plaintiffs :  
vs. : No. \_\_\_\_\_  
JAMES R. MILCHAK and :  
ROSELLA E. MILCHAK, Husband :  
and Wife, :  
Defendants :  
:

COMPLAINT

NOW COMES James E. Milchak and Rosezella M. Milchak, by and through their attorney, R. Denning Gearhart, Esq., who files this Complaint against the Defendants herein named and in support thereof avers as follows:

1. The Plaintiffs are husband and wife and reside at RR1, Box 154, 1607 Ridge Road, Hastings, Pennsylvania (Clearfield County) 16646.
- 2a. Defendant, James E. Milchak, resides at 1591 Ridge Road, Hastings, PA 16646, and is the husband of Defendant, Rosella E. Milchak.
- 2b. Defendant, Rosella E. Milchak, resides at 1591 Ridge Road, Hastings, PA 16646, and is the wife of Defendant, James R. Milchak.
3. At all times contained herein the parties were adults.
4. Beginning on or about October, 1998, the Plaintiffs did begin to loan the Defendants certain sums of money. These loans were through a series of transactions, a record of which are kept on a log maintained by the Plaintiffs and attached hereto as Exhibit A. The Defendants had agreed to repay these sums. At present the balance on

the first loan is Seventeen Thousand Eight Hundred Thirty-six and 03/100 (\$17,836.03) Dollars.

5. On or about November of 2001, the Plaintiffs began to loan a second line of credit to the Defendants. This line is reflected in the account kept by the Plaintiffs, and attached hereto as Exhibit B. That the Defendants did agree to repay the sum of money, and at present the sum of Four Thousand Six Hundred Eight and 63/100 (\$4,608.63) Dollars is owed to the Plaintiffs on this line of credit.

6. This indebtedness and the obligation to repay is acknowledged by documents signed by the Defendants and attached hereto as Exhibits. They are:

a. An "Agreement to Purchase Feed" dated December 28, 1998, attached as Exhibit C.

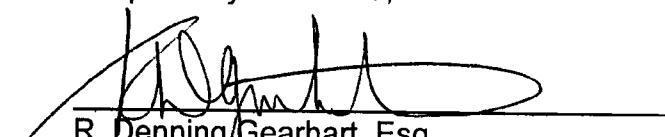
b. An "Article to Repay" dated June 2, 1999, and attached hereto as Exhibit D.

c. An "Agreement to Let Parents Purchase Mill" dated January 16, 2000, and attached hereto as Exhibit E.

7. The demands have been made for the repayment of these sums of money but it has not been repaid.

WHEREFORE, Plaintiffs pray your Honorable Court to enter judgment for them and against the Defendants in the amount of Twenty-two Thousand Four Hundred Forty-four and 66/100 (\$22,444.66) Dollars, together with interest, costs.

Respectfully submitted,



R. Denning Gearhart, Esq.  
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA :

: SS.

COUNTY OF CLEARFIELD :

Before me, the undersigned officer, a Notary Public in and for the above named State and County, personally appeared JAMES E. MILCHAK, who being duly sworn according to law deposes and says that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.

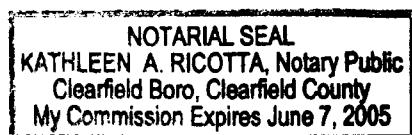
James E. Milchak  
JAMES E. MILCHAK

Sworn to and subscribed

before me, this 2

day of June, 2004.

Kathleen A. Ricotta  
Notary Public



COMMONWEALTH OF PENNSYLVANIA :

SS.

COUNTY OF CLEARFIELD :

Before me, the undersigned officer, a Notary Public in and for the above named State and County, personally appeared ROSEZELLA M. MILCHAK, who being duly sworn according to law deposes and says that the facts set forth in the foregoing Complaint are true and correct to the best of her knowledge, information and belief.

*Rosezella M. Milchak*  
ROSEZELLA M. MILCHAK

Sworn to and subscribed

before me, this 2

day of June, 2004.

Kathleen A. Ricotta

Notary Public

NOTARIAL SEAL
KATHLEEN A. RICOTTA, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires June 7, 2005

Page 1

ACCOUNT NO. Large loans NAME James R. Milchak & Rosella E. Milchak

SHEET NO.	ADDRESS	DATE	ITEMS	Folio	DEBITS	CREDITS	DR. OR. CR.	BALANCE
		98	Balance Krug owed on Heifers			500.00	+ 500.00	
		98	Paid on loan (Bank)		141.00		+ 359.00	
		98	Dad's Present		406.2		+ 318.38	
		98	Barb Wire		154.65		+ 163.73	
10/13/98		98	Pick up Power Saw.		4500		+ 11873	
		98	Worked on Trailer			340.00	+ 358.23	
9/21/98		98	Loan for School		500.00		141.37	
11/32/98		98	Shells Dad Purchased			2820	113.07	
		98	To Get Truck Repaired		689.00		802.07	
12/12/98		98	Purchased Dump Truck		3500.00		4302.07	
		98	Truck Repairs		250.00		4552.07	
		"99"	4% Interest		183.08		4734.15	
3/15/99		99	Sawmill Payment		485.00		5219.15	
5/19/99		" "	" "		346.00		5765.15	
7/6/99		99	Deposited from Ins. Check (Fire)			500.00	5265.15	

Page 2

NAME James R. Michak &amp; Rosella E. Michak

ACCOUNT NO. *large loan date*

ADDRESS

SHEET NO.

Page 2

DATE	ITEMS	Folio	DEBITS	CREDITS	DR. OR. CR.	BALANCE Owed
	9000 4% Interest (198-99)		21061			540576
1/18/00	Courtesy Motors (Truck)		560000			1107576
1/31/00	Case Credit (Eileen Borrowed)		102880			1210456
2/16/00	" " Pd #5295 (Phone PMT)		48486			1258942
2/24/00	" " Charge because Spd. 1038.80 By Phone		500			1259442
3/15/00	Pd Truck loan #247			560000		699442
5/02/00	Purchased Lowe's - Chain link fence		29896			722338
6/27/00	Belts		6110			728448
7/07/00	Sold Brink Bulk Tank Washer			50000		678448
8/03/00	Cable's Service Station (Inspect Dump)		26.50			681098
8/15/00	Clearfield Industrial Brake		95.00			683598
9/26/00	Ourwens feed & tele. B.11		6415			690013
10/2/00	Keystone Financial Bank (Eileen Char. Van)		47343			737356
10/15/00	Cash 100.43 go to Harrisburg (Schooling)		10000			747356
11/08/00	Pd on Saw mill		99699			845055

ACCOUNT NO.	NAME	ADDRESS	DEBITS	CREDITS	DR. OR. CR.	BALANCE Owed
2000	Large loans	James R. Milchak & Rosella E. Milchak				
SHEET NO.	Page 3					
11/12/00	Pd on money to go to Harrisburg			30.00		8420.55
11/14/00	Carwensville Feed (Deer)		239.60			8660.15
9/27/00	Check wrote out, couldn't cash until later (b/c)			115.65		8544.50
12/15/00	Pd on sawmill (Soris) #5508		484.86			9028.76
12/21/00	Bakers Lumber Co.		100.00			9128.76
12/27/00	Mark Graham (Fence, fence)		120.00			10928.76
12/15/00	Lincoln Supply (2 tank cleaners)		46.17			10374.93
2/15/01	12/31/00 - Bank, Postuler Homegrown feed (New)		420.00			10794.93
	Interest for "2000" (4% yr. end balance)		431.80			11226.73
2001						
1/25/01	Vet- Worming Medicine		62.50			11284.93
2/12/01	Jr's House trailer #5550		5000.00			16284.93
2/16/01	Bald-a-Nation furnace ser. (Changes to Natural Gas)		84.80			16374.03
3/01/01	Huggitt's (Dispose of Garbage - large load)		50.00			16424.03
4/16/01	(Purch. 2-26-01) Howe's - Washer & Dryer.		650.96			17076.99

NAME	James R. Michak & Rosella E Michak	ACCOUNT NO.	Large Loans	
ADDRESS			SHEET NO.	Page 4
DATE	ITEMS	Folio	DEBITS	CREDITS
2001				DR OR. CR.
4/19/01	Cunningham Rebuilders		13778	BALANCE owed
4/10/01	Fullington Buick Old's (DumpTrk)		1441	1721477
12/07/01	Pd Sori's (Sawmill pm <sup>t</sup> ) <small>30x60 - 100.00 per mo.</small>		48486	1722918
12/31/01	9 months Rent <sup>1/5</sup> to rage <sup>1/10</sup> (30x60 - 100.00 per mo.) <small>11x37 - 50.00 per mo.</small>		1350 00	1771404
12/31/01	Deer - Barn, Pasture & feed (Home grown) (Yr)		480 00	1906404
12/31/01	Interest 4% per yr.		781 76	1954404
2002				2032580
3/15/02	2 credit given for Dump Trk that he pur. on 12/28/98 (ST. 11/00 dated for)		350000	1682580
12/31/02	12 mo. Rent for storage (30x60 - 100.00 per mo.) <small>11x37 - 50.00 per mo.</small>		180000	1862580
12/31/02	Barn, Pasture, Home grown feed for deer 12/31/02		480 00	1910580
2003	Interest for 2002		76423	1987003
12/31/03	12 mo Rent for storage (30x60 - 100.00 per mo.) <small>11x37 - 50.00 per mo. 12-31-03</small>		180000	2167003
12/31/03	Barn, Pasture & feed (Home Grown) for 1 yr		480 10	2215003
tot 103	Reclaimed House Trailer - Received no payments from time of purchase, also Co. & local Taxes were due & it is set up permanently on our property so we are responsible for it.		500000	1915003
12/31/03	Interest for 2003		696 00	1783603

Page 1

ACCOUNT NO. Small Items NAME James R. Michalk & Rosella E. Michalk  
 SHEET NO. 9 Electric ADDRESS

DATE	ITEMS	Folio	DEBITS	CREDITS	DR. OR. CR.	BALANCE
11/23/01	Charge Card - Mitchell Oil Co.		85.96			85.96
11/23/01	" " Krumenackers 24' Flashing		95.31			181.37
12/04/01	Electric		65.79			247.06
11/07/02	"		84.95			332.01
11/14/02	Pd Cash (said to take off 12/04/01 Electric)		50.00			282.01
11/15/02	" " ( " " " " " " )		90.10			262.01
12/07/01	In paid Keith Specialty store for us.		32.57			229.44
11/23/01	Charge Card (Deer Feed)		254.00			483.44
200.2	Interest 4%		19.34			502.78
11/21/02	Pd Cash (said to take off Electric) <sup>tax</sup> Fata Bough		50.00			452.78
11/24/02	Pd Cash		58.00			394.78
12/01/02	Pd Cash		40.00			354.78
3/02/02	Pd Cash		50.00			304.78
2/08/02	Electric		109.31			415.09
3/06/02	Cash		50.00			365.09

Page 2

NAME James R. Milchak & Rosella E. Milchak ACCOUNT NO. Electric &  
 ADDRESS Small Purchases

DATE	ITEMS	Folio	DEBITS	CREDITS	DR. OR CR.	BALANCE
3/11/02	Cash			3000		33509
3/15/02	Electric		9306			43815
4/05/02	Cash - Farbaugh			50.00		37815
4/15/02	Electric		76.04			45419
4/19/02	Pd for Dumptruck Insp. \$6.50			23.46		43073
5/14/02	Electric		7474			50547
6/14/02	Electric		6343			56890
7/15/02	Electric		6481			63371
7/28/02	Pd on account # 131			100.00		53371
8/01/02	Lowe's (3 rolls of roofing)		4424			57795
8/15/02	Electric		7586			65381
8/08/02	Pd on account check # 144				100.00	55381
9/02/02	" " " # 153				100.00	45381
9/09/02	" " " # 157				100.00	35381
9/09/02	my chg card Bobits (stick nails)		59.94			41375

DATE 2002	ITEMS	Folio	✓	DEBITS	CREDITS	DR. OR. CR.	BALANCE
9/07/02	dowe's 3 rolls of roofing			244.24			457.99
9/12/02	Electric			84.27			542.26
9/16/02	Pd on account #164				100.00		442.26
9/21/02	" " #169				100.00		342.26
9/26/02	Fowler's Pharmacy			32.58			374.84
9/28/02	Pd on account #173				100.00		274.84
9/27/02	Deer Feed			68.50			343.34
10/1/02	Pd on account #183				100.00		243.34
10/09/02	Stamps, Postage			37.00			280.34
10/09/02	Combined Ins.			90.00			370.34
10/11/02	Electric			79.97			450.31
10/13/02	Pd on account				100.00		350.31
10/12/02	Suffolk Saw Shop. (Saw Blades)			67.84			418.15
10/19/02	Pd on account #198				100.00		318.15
11/03/02	Freezer Paper			11.50			329.65

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NAME		ACCOUNT NO.		Electric & misc Purchases		
ADDRESS		SHEET NO.				
DATE	ITEMS	Folio	DEBITS	CREDITS	DR OR CR.	BALANCE
2002						
11/14/02	Electric		7194			710154
12/12/02	Jerry's Sport Center		40719			80878
12/12/02	Electric		8973			89651
11/12/02	Jerry's Sport Center		30236			119887
12/31/02	40% Interest		4795			124682
(2003)						
1/15/03	Electric		9532			134914
2/13/03	"		10296			144510
1/15/03	Timber Harvester		3695			148205
3/6/03	Electric		8357			156562
3/6/03	Dubois Feed (Deer Feed)		3700			160262
3/04/03	Cresson Ridge Diesel		68200			228462
4/14/03	Electric		8564			237026
4/29/03	Suffolk Saw Co.		8162			245188
5/11/03	Pd on Account			900.00		235188

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ACCOUNT NO.	NAME	ADDRESS	ITEMS	Folio	DEBITS	CREDITS	DR. OR. CR.	BALANCE
SHEET NO.	James R. Michalk & Rosella F. Michalk							
DATE								
5/15/03	Electric				7172			232360
5/12/03	Combined Ins.				9000			241360
5/17/03	On account					90000		221360
5/29/03	Curwensville Feed - Deer				4446			225806
6/03/03	Bobik's - Gas Connector				1183			226989
6/13/03	Electric				6853			233842
7/13/03	"				8228			242070
8/13/03	"				11124			253174
9/15/03	"				11949			265143
10/14/03	"				7003			272146
10/27/03	Combined Ins.				39000			311146
10/23/03	N.Cambria Auto Supply				897			312043
10/23/03	DA Automotive Supply				829			312872
10/23/03	Hornick's				2438			315310
9/04/03	Krumenackers (Door Frame)				33920			349230

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NAME	James R. Milchak & Rosella E. Milchak	ACCOUNT NO.	Electric & Small Purchases
ADDRESS	SHEET NO.		
DATE	ITEMS	Folio	DEBITS CREDITS DR OR CR BALANCE
10/28/03	Heavy Duty Parts		6519 355749
9/24/03	Fisher Auto Parts		1071 356820
10/27/03	DA Automotive		6519 363339
11/15/03	Electric		5669 36908
12/12/03	Electric		7194 376202
12/31/03	Interest 4.0%		15048 391250
Put Truck Repairs on Separate sheet for J R Milchak Trucking			
(2004)			
1/14/04	Electric		7768 399018
12/11/03	was on charge card - Bobik's - Roofing Paper		1421 400439
1/20/04	Cresson Ridge Diesel Garage		461 400900
1/16/04	Electric		9471 410371
2/23/04	Hot Water Heater (Lowe's)		24168 434539
2/26/04	Mt. Aloysius College (Danielle)		200.00 454539
3/12/04	Electric		11019 465558

Page 7.

ACCOUNT NO. Small purchases NAME James R. Michak & Rosetta E. Michak

SHEET NO. Electric

ADDRESS

12/28/1998

AGREEMENT TO PURCHASE FEED

I JAMES R MILCHAK & ROSELLA E MILCHAK GIVE OWNERSHIP OF YAMAHA BIG BEAR AND HONDA BIG RED TO JAMES E. MILCHAK & ROSEZELLA M. MILCHAK FOR HAY AND CORN AND SOYBEAN THAT WAS USED TO FEED HEIFERS THAT WE RASIED TO RESELL FOR MONIES OWNERSHIP TO BE RETURNED TO JAMES R. AFTER MONEY IS PAID FOR THE PURCHASE OF HAY AND CORN AFTER THE SALE OF HEIFERS. AMOUNT TO BE PAID AFTER TOTAL USAGE IS DETERMINED.

THANK YOU FOR THE LOAN MOM & DAD.

*James R. Milchak 12/28/1998*  
JAMES R. MILCHAK  
*Rosella E. Milchak 12/28/1998*  
ROSELLA E. MILCHAK

6/2/1999

ARTICLE TO REPAY

I JAMES R MILCHAK & ROSELLA E MILCHAK GIVE OWNERSHIP OF A JOHN DEERE GARDEN TRACTOR TO JAMES E. MILCHAK & ROSEZELLA M. MILCHAK. UNTIL I PAY OF THE MONNIES OWED TO THEM FOR MONNIES OWED TO THEM FOR THEIR PAYMENT OF LUMBER GRADING SCHOOL IN OCTOBER OF 1998 AND THE 2 PAYMENTS THAT WAS MADE FOR ME ON MY SAW MILL. \$2,500.00 ( TWO THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS). OWNERSHIP IS TO BE RETURN UPON FULL REPAYMENT OF SAID LOAN OF MONNIES TO JAMES R MILCHAK. OUR SIGNATURES MEAN THAT WE AGREE TO SAID LOAN.

THANK YOU FOR THE LOAN MOM & DAD.

James R Milchak 6/2/99  
Rosella E Milchak 6/2/99

1/16/2000

AGREEMENT TO LET PARENTS PURCHASE MILL

I JAMES R MILCHAK & ROSELLA E MILCHAK GIVE OWNERSHIP OF TIMBER HARVESTER SAWMILL MODEL 30HD. TO JAMES E. MILCHAK & ROSEZELLA M. MILCHAK WHO AGREE TO TAKE OVER THE PAYMENT ON SAID MILL TO PAY OFF MY LOAN THE OWNERSHIP OF THE MILL BELONGS TO JAMES E & ROSEZELLA M. MILCHAK. IF PARENTS DECIDE TO SELL MILL I JAMES R. HAVE FIRST OPTION TO PURCHASE MILL BACK FOR MONIES THAT PARENTS PAYED ON MILL. COPY OF HOW TO CHANGE BANK DRAFT PAYMENT IS GIVEN TO PARENTS AT THIS TIME.

OUR SIGNATURES MEAN THAT WE AGREE TO SAID AGREEMENT.

THANK YOU FOR THE LOAN MOM & DAD.

James R Milchak 1/16/2000  
Rosella E Milchak 1/16/00

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vs.  
COMPLAINT

**FILED**

JUN 04 2004

3/10/04  
William A. Shaw  
Prothonotary

4-00-2004

R. DENNING GEARHART  
ATTORNEY AT LAW  
CLEARFIELD, PA. 16830

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JUN 07 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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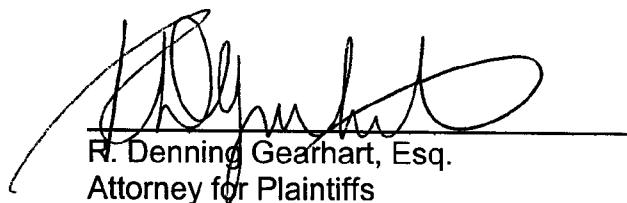
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Plaintiffs	:
vs.	No. <u>04-799-CD</u>
JAMES R. MILCHAK and	:
ROSELLA E. MILCHAK, Husband	:
and Wife,	:
Defendants	:

AMENDED COMPLAINT

NOW COMES James E. Milchak and Rosezella M. Milchak, by and through their attorney, R. Denning Gearhart, Esq., who files this Amended Complaint as follows:

1. That a Complaint was filed to the above captioned case on June 4, 2004.
2. That Item 2a of the Complaint incorrectly named the Defendant as "James E. Milchak".
3. That Item 2a should read as follows: "Defendant, James R. Milchak, resides at 1591 Ridge Road, Hastings, PA 16646, and is the husband of Defendant, Rosella E. Milchak."
4. All other information contained in the original Complaint should remain as filed.

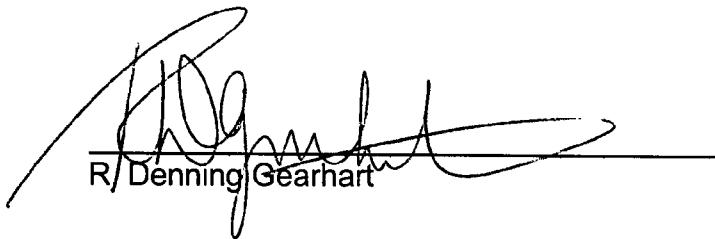
Respectfully submitted,



R. Denning Gearhart, Esq.  
Attorney for Plaintiffs

## AFFIDAVIT

R. DENNING GEARHART, being duly sworn according to law, deposes and says that he is the agent of the Plaintiffs, JAMES E. MILCHAK and ROSEZELLA M. MILCHAK, that said Plaintiffs cannot make the verification to the foregoing Amended Complaint because they were not present on the day and date this Amended Complaint was filed, and further, that the Plaintiffs would not be available until after the day of the filing of this Amended Complaint, and that the facts set forth in the foregoing Amended Complaint are based on information provided to Counsel by the Plaintiffs and based partially upon personal knowledge of the Plaintiffs' Attorney. However, the Plaintiffs verified this information to R. DENNING GEARHART, their counsel, fully aware of the penalties of false statements under 18 Pa. C.S.A., section 4904, relating to unsworn falsification to authorities.



R. Denning Gearhart

Sworn to and subscribed  
before me this 7 day  
of June, 2004.

Kathleen A. Ricotta  
Notary Public

NOTARIAL SEAL
KATHLEEN A. RICOTTA, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires June 7, 2005

Leave over margin

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION No. 04-799-CD

JAMES E. MILCHAK and  
ROSEZELIA M. MILCHAK, Husband  
and Wife, Plaintiffs

vs.

JAMES R. MILCHAK and  
ROSELLA E. MILCHAK, Husband  
and Wife, Defendants

AMENDED COMPLAINT

FILED  
C 10.32-04 3cc & City  
JUN 07 2004  
WAS  
William A. Shaw

Prothonotary/Clerk of Courts

R. DENNING GEARHART  
ATTORNEY AT LAW  
CLEARFIELD, PA. 16830

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

JAMES E. MILCHAK and,  
ROSEZELLA M. MILCHAK,  
Husband and Wife,  
Plaintiffs

vs.

No. 04-799-CD

JAMES R. MILCHAK and  
ROSELLA E. MILCHAK,  
Husband and Wife,  
Defendants

**FILED**

JUN 14 2004

CASE NUMBER: 04-799-CD

William A. Shaw  
Prothonotary/Clerk of Courts

TYPE OF CASE: Civil

TYPE OF PLEADING: AFFIDAVIT OF MAILING

FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE  
Supreme Court I.D. #26540  
207 E. Market Street  
Clearfield, PA 16830  
(814) 765-1581

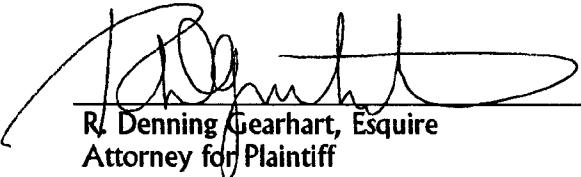
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
(CIVIL DIVISION)

JAMES E. MILCHAK and, :  
ROSEZELLA M. MILCHAK, Husband :  
and Wife :  
Plaintiffs :  
VS. : NO. 04-799-CD  
:  
JAMES R. MILCHAK and :  
ROSELLA E. MILCHAK, Husband :  
and Wife, :  
Defendants :

**AFFIDAVIT OF MAILING**

COMMONWEALTH OF PENNSYLVANIA :  
: SS.  
COUNTY OF CLEARFIELD :

R. Denning Gearhart, Esquire, the attorney for Plaintiffs, being duly sworn according to law, says that he mailed by certified mail, restricted delivery, return receipt requested, a true and correct copy of the Complaint in Divorce filed in the above action, to the Defendants, at his place of residence as evidenced by the signed receipt attached hereto as Exhibit 'A'.



R. Denning Gearhart, Esquire  
Attorney for Plaintiff

Sworn to and Subscribed

before me this 11 day

of June, 2004.

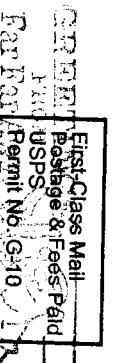
Kathleen A. Ricotta  
Notary Public

NOTARIAL SEAL
KATHLEEN A. RICOTTA, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires June 7, 2005

**SENDER: COMPLETE THIS SECTION**

COMPLETE THIS SECTION ON DELIVERY			
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>			
1. Article Addressed to:			
<i>James R. Michals 1591 Ridge Road Huntington, PA 16646</i>			
<p>A. Signature</p> <p><i>James R. Michals</i></p>			
B. Received by (Printed Name)		C. Date of Delivery	
<i>James R. Michals</i>		<i>6-9-04</i>	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No			
<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>			
4. Restricted Delivery? (Extra Fee) <input checked="" type="checkbox"/> Yes			
2. Article Number <i>7002 2030 0000 6873 2624</i>			
1. Transfer from service label			
PS Form 3811, August 2001 Domestic Return Receipt 102505-02-M-1540			

UNITED STATES POSTAL SERVICE



• Sender: Please print your name, address, and ZIP code in this box.

R. Henning Starkert, Esq.  
207 E. Market Street  
Clearfield, PA 16830

04

.....

EXHIBIT "A"

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

JAMES E. MILCHAK and, :  
ROSEZELLA M. MILCHAK, Husband :  
and Wife :  
Plaintiffs :  
VS. :  
NO. 04-799-CD

JAMES R. MILCHAK and :  
ROSELLA E. MILCHAK, Husband :  
and Wife, :  
Defendants :  
:

CASE NUMBER: 04-799-CD

TYPE OF PLEADING: **AFFIDAVIT OF MAILING**

FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE  
Supreme Court I.D. #26540  
207 East Market Street  
Clearfield, PA 16830  
(814) 765-1581

**FILED**

JUN 16 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

JAMES E. MILCHAK and,  
ROSEZELLA M. MILCHAK, Husband  
and Wife

Plaintiffs

VS.

NO. 04-799-CD

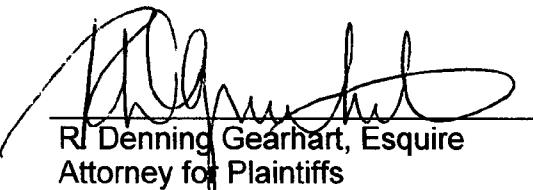
JAMES R. MILCHAK and  
ROSELLA E. MILCHAK, Husband  
and Wife,

Defendants

**AFFIDAVIT OF MAILING**

COMMONWEALTH OF PENNSYLVANIA :  
: SS.  
COUNTY OF CLEARFIELD :  
:

R. Denning Gearhart, Esquire, the attorney for Plaintiffs, being duly sworn according to law, says that he mailed by certified mail, restricted delivery, return receipt requested, a true and correct copy of the Amended Complaint filed in the above action, to the Defendants, at his place of residence as evidenced by the signed receipt attached hereto as Exhibit 'A'.

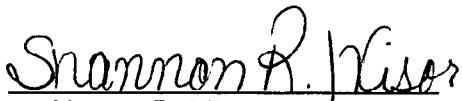


R. Denning Gearhart, Esquire  
Attorney for Plaintiffs

Sworn to and Subscribed

before me this 16<sup>th</sup> day

of June, 2004.



Shannon R. Wisor

Notary Public

COMMONWEALTH OF PENNSYLVANIA	
Notarial Seal	
Shannon R. Wisor, Notary Public	
Clearfield Boro, Clearfield County	
My Commission Expires Aug. 25, 2007	

**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:**

James R. Milchak  
1591 Ridge Road  
Hastings, PA 16646

**2. Article Number  
(Transfer from service label)**

7002 2030 0000 6873 2655

PS Form 3811, August 2001

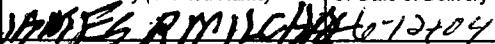
Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY****A. Signature**

  Agent  Addressee

**B. Received by (Printed Name)**

  C. Date of Delivery

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

EXHIBIT "A"

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

JAMES E. MILCHAK and  
ROSEZELLA M. MILCHAK, Husband  
And Wife,  
Plaintiffs,

vs.

JAMES R. MILCHAK and ROSELLA  
E. MILCHAK, Husband and Wife,  
Defendants.

**CIVIL DIVISION**

No. 04-799-CD

**ANSWER AND NEW MATTER**

**FILED ON BEHALF OF:  
DEFENDANT, ROSELLA E. MILCHAK**

**COUNSEL OF RECORD FOR THIS  
PARTY:**

E. J. JULIAN, ESQUIRE  
PA I.D. # 05466

JULIAN LAW FIRM  
71 North Main Street  
Washington, PA 15301

Telephone: (724) 228-1860  
Facsimile: (724) 225-9643

**FILED**

**JUN 24 2004**

William A. Shaw  
Prothonotary, Clerk of Courts

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES E. MILCHAK and  
ROSEZELLA M. MILCHAK, Husband  
And Wife,  
Plaintiffs,

CIVIL DIVISION  
No. 04-799-CD

vs.

JAMES R. MILCHAK and ROSELLA  
E. MILCHAK, Husband and Wife,

Defendants.

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Kindly enter my appearance for the Defendant, Rosella E. Milchak, in the above case.

Respectfully submitted:  
JULIAN LAW FIRM

By:

  
E. J. JULIAN, ESQUIRE  
Counsel for Defendant  
PA ID# 05466  
Julian Law Firm  
71 North Main Street  
Washington, PA 15301  
724-228-1860 Telephone

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

JAMES E. MILCHAK and  
ROSEZELLA M. MILCHAK, Husband  
And Wife,  
Plaintiffs,

CIVIL DIVISION  
No. 04-799-CD

vs.

JAMES R. MILCHAK and ROSELLA  
E. MILCHAK, Husband and Wife,

Defendants.

**NOTICE TO PLEAD**

TO: JAMES E. MILCHAK and ROSEZELLA M. MILCHAK, Plaintiffs  
c/o R. Denning Gearhart, Esquire  
207 E. Market Street  
Clearfield, PA 16830

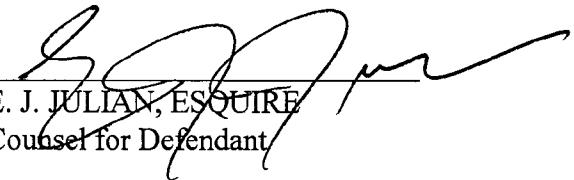
You are hereby notified to plead to the enclosed NEW MATTER within twenty (20) days  
from service hereof or a default judgment may be entered against you.

Respectfully submitted:

JULIAN LAW FIRM

DATE: 6/22/04

By:

  
E. J. JULIAN, ESQUIRE  
Counsel for Defendant

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

JAMES E. MILCHAK and  
ROSEZELLA M. MILCHAK, Husband  
And Wife,  
Plaintiffs,

CIVIL DIVISION  
No. 04-799-CD

vs.

JAMES R. MILCHAK and ROSELLA  
E. MILCHAK, Husband and Wife,

Defendants.

**ANSWER AND NEW MATTER**

AND NOW, comes the Defendant, Rosella E. Milchak, by and through her attorneys, E. J. Julian, Esquire and Julian Law Firm, and files this Answer and New Matter and in support thereof avers as follows:

1. Admitted.
- 2a. Admitted.
- 2b. Admitted.
3. Admitted.
4. Denied. No such agreement existed between the Plaintiffs and Defendant.
5. Denied. No such agreement existed between the Plaintiffs and Defendant.
6. Denied. No such agreements existed between the Plaintiffs and Defendant.
7. Denied.

WHEREFORE, Defendant requests this Honorable Court dismiss Plaintiffs' Complaint.

**NEW MATTER**

8. Paragraphs one (1) through seven (7) of Defendant's Answer are incorporated herein by reference as though more fully set forth herein at length.

9. The allegations made in the Plaintiffs' Complaint, which are specifically denied, are barred by the Statute of Limitations governing contracts.

WHEREFORE, Defendant requests this Honorable Court dismiss Plaintiffs' Complaint.

Respectfully Submitted,  
JULIAN LAW FIRM

BY:



E. J. JULIAN, ESQUIRE  
PA ID# 05466  
Attorney for Defendant

**CERTIFICATE OF SERVICE**

I, E. J. Julian, Esquire, do hereby certify that on June 22, 2004, I served a true and correct copy of the within Answer and New Matter upon the Counsel for Plaintiffs listed below by United States First Class Mail, postage prepaid:

R. Denning Gearhart, Esquire  
207 E. Market Street  
Clearfield, PA 16830



E. J. JULIAN, ESQUIRE  
Attorney for Defendant

**VERIFICATION**

I Rosella E. Michak having personal knowledge of the factual statements made in this document verify that these statements are true and correct.

I understand that false statements herein are made subject to penalties of 18 Pa. C. S. Section 4909, relating to unsworn falsifications to authorities.



Date: 6/16/04

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

MILCHAK, JAMES E. & ROSEZELLA M.

VS.

MILCHAK, JAMES R. & ROSELLA E.

Sheriff Docket # 15711

04-799-CD

**COMPLAINT & AMENDED COMPLAINT**

**SHERIFF RETURNS**

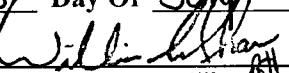
NOW JUNE 14, 2004 AT 10:27 AM SERVED THE WITHIN COMPLAINT & AMENDED COMPLAINT ON ROSELLA E. MILCHAK, DEFENDANT AT RESIDENCE, 1591 RIDGE ROAD, HASTINGS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO ROSELLA E. MILCHAK A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT & AMENDED COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.  
SERVED BY: DAVIS/MORGILLO

**Return Costs**

Cost	Description
45.37	SHERIFF HAWKINS PAID BY: ATTY CK# 7069
10.00	SURCHARGE PAID BY: ATTY CK# 7070

Sworn to Before Me This

13 Day Of July 2004

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

So Answers,

  
Chester A. Hawkins  
Sheriff

**FILED**  
At 8:55am  
JUL 13 2004  
EBS

William A. Shaw  
Prothonotary

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

JAMES E. MILCHAK and  
ROSEZELLA M. MILCHAK, Husband  
and Wife, :  
Plaintiffs :  
vs. : No. 04-799-CD  
JAMES R. MILCHAK and  
ROSELLA E. MILCHAK, Husband  
and Wife, :  
Defendants :  
:

CASE NUMBER: 04-799-CD

TYPE OF CASE: Civil

TYPE OF PLEADING: ANSWER TO NEW MATTER

FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE  
Supreme Court I.D. #26540  
207 E. Market Street  
Clearfield, PA 16830  
(814) 765-1581

*ECK*  
**FILED** *Sec*  
*01 10 2004* *Atty Gearhart*  
**AUG 24 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

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

JAMES E. MILCHAK and,  
ROSEZELLA M. MILCHAK, Husband  
and Wife

Plaintiffs

VS.

NO. 04-799-CD

JAMES R. MILCHAK and  
ROSELLA E. MILCHAK, Husband  
and Wife,

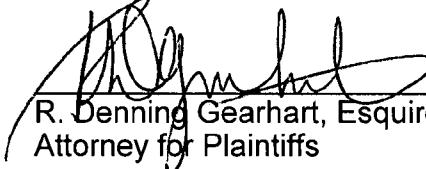
Defendants

**ANSWER TO NEW MATTER**

AND NOW COMES Plaintiffs in the above matter, through their attorney, R. Denning Gearhart, who answers New Matter as follows:

9. Averment is a conclusion on law which requires no answer. To the extent that it does require an answer, the contract at issue was an ongoing contract, a month-to-month lease, which has only recently been terminated.

Respectfully submitted,



R. Denning Gearhart, Esquire  
Attorney for Plaintiffs

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

JAMES E. MILCHAK and :  
ROSEZELLA M. MILCHAK, Husband :  
and Wife, :  
Plaintiffs :  
vs. : No. 04-799-CD :  
JAMES R. MILCHAK and :  
ROSELLA E. MILCHAK, Husband :  
and Wife, :  
Defendants :

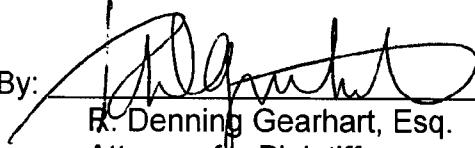
CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a certified copy of the Answer to New Matter filed in the above captioned matter on the Defendant, Rosella E. Milchak, through Defendant's attorney, E. J. Julian, Esq., and upon the Defendant, James R. Milchak, by depositing such documents in the United States Mail postage prepaid and addressed as follows:

E. J. Julian, Esq.  
71 North Main Street  
Washington, PA 15301

James R. Milchak  
1591 Ridge Road  
Hastings, PA 16646

By:

  
R. Denning Gearhart, Esq.  
Attorney for Plaintiffs

Dated: August 24, 2004

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION No. 04-799-CD

JAMES E. MILCHAK and  
ROSEZELLA M. MILCHAK, Husband  
and Wife, Plaintiffs

vs.

JAMES R. MILCHAK and  
ROSELLA E. MILCHAK, Husband  
and Wife, Defendants

ANSWER TO NEW MATTER

**FILED**

AUG 24 2004

William A. Shaw  
Prothonotary/Clerk of Courts

R. DENNING GEARHART  
ATTORNEY AT LAW  
CLEARFIELD, PA. 16830

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

JAMES E. MILCHAK and,  
ROSEZELLA M. MILCHAK, Husband  
and Wife

Plaintiffs

VS.

NO. 04-799-CD

JAMES R. MILCHAK and  
ROSELLA E. MILCHAK, Husband  
and Wife,

Defendants

FILED *EW*

MAR 01 2007  
*m/10/10/w*

William A. Shaw  
Prothonotary/Clerk of Courts

2 copy to

ATT<sup>E</sup> *JULIA*

CASE NUMBER: 04-799-CD

TYPE OF PLEADING: PRAECIPE TO WITHDRAW COMPLAINT

FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE  
Supreme Court I.D. #26540  
207 East Market Street  
Clearfield, PA 16830  
(814) 765-1581

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

JAMES E. MILCHAK and,  
ROSEZELLA M. MILCHAK, Husband  
and Wife

Plaintiffs

VS.

NO. 04-799-CD

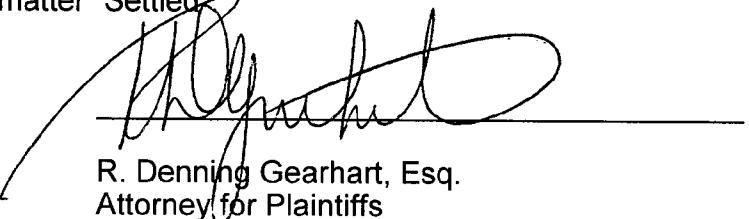
JAMES R. MILCHAK and  
ROSELLA E. MILCHAK, Husband  
and Wife,

Defendants

**P R A E C I P E**

TO THE PROTHONOTARY OF SAID COURT:

Please withdraw the Complaint and Amended Complaint filed to the above  
captioned number, and mark the matter "Settled"

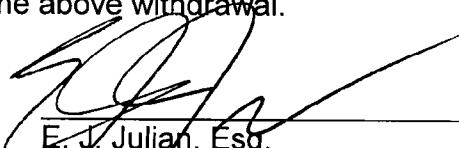


R. Denning Gearhart, Esq.  
Attorney for Plaintiffs

DATE: February 13, 2007

**C O N S E N T**

I do hereby consent to the above withdrawal.



E. J. Julian, Esq.  
Attorney for Rosella E. Milchak

DATE: 2-23-2007