

**Henry Daugherty et al vs Timothy Novak  
2004-802-CD**

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

HENRY H. DAUGHERTY, t/d/b/a ) NO. 2004-802-C.D.  
HENRY INDUSTRIES, )  
Plaintiff, ) Type of Case: CIVIL ACTION  
vs. )  
TIMOTHY NOVAK and VIRGINIA ) Filed on Behalf of:  
NOVAK, individually and t/d/b/a ) Plaintiff  
SCENIC VIEW GOLF DRIVING )  
RANGE, ) Counsel of Record:  
Defendants. ) BENJAMIN S. BLAKLEY, III, ESQ.  
 ) Supreme Court no. 26331  
 )  
 ) BLAKLEY & JONES  
 ) 90 Beaver Drive, Box 6  
 ) Du Bois, Pa 15801  
 ) (814) 371-2730

6K  
FILED No CC  
02-37-01 Atty pd. 20.00  
MAR 31 2005 Notice to Atty  
William A. Shaw Hopkins  
Prothonotary/Clerk of Courts  
Statement to  
Atty Blakley

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

HENRY H. DAUGHERTY, t/d/b/a ) NO. 2004-802  
HENRY INDUSTRIES, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TIMOTHY NOVAK and VIRGINIA )  
 NOVAK, individually and t/d/b/a )  
 SCENIC VIEW GOLF DRIVING )  
 RANGE, )  
 )  
 Defendants. )

**PRAECIPE TO ENTER JUDGMENT**

**TO: WILLIAM SHAW, PROTHONOTARY**

Please enter judgment upon the arbitrators' award in the above-captioned matter as follows:

Amount of Judgment \$ 800.00

Costs \_\_\_\_\_

Interest from 2/22/05 \_\_\_\_\_

Total \_\_\_\_\_

BLAKLEY & JONES

Benjamin S. Blakley, III  
Attorney for Plaintiff

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

HENRY H. DAUGHERTY, t/d/b/a ) NO. 2004-802  
HENRY INDUSTRIES, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TIMOTHY NOVAK and VIRGINIA )  
 NOVAK, individually and t/d/b/a )  
 SCENIC VIEW GOLF DRIVING )  
 RANGE, )  
 )  
 Defendants. )

**NOTICE OF JUDGMENT**

Notice is given that a JUDGMENT in the above captioned matter has been entered  
against you in the amount of \$ 800.00 on March 31, 2005.

WILLIAM SHAW, PROTHONOTARY

BY: \_\_\_\_\_  
, Deputy

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

Henry Daugherty t/d/b/a  
Henry Industries  
Plaintiff(s)

No.: 2004-00802-CD

Real Debt: \$800.00

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Timothy M. Novak  
Virginia Novak  
Scenic View Golf Driving Range  
Defendant(s)

Entry: \$20.00

Instrument: Judgment from Arbitrators' Award

Date of Entry: March 31, 2005

Expires: March 31, 2010

Certified from the record this 31st day of March, 2005.

---

William A. Shaw, Prothonotary

\*\*\*\*\*

SIGN BELOW FOR SATISFACTION

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

---

Plaintiff/Attorney

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

HENRY H. DAUGHERTY, t/d/b/a ) NO. 2004-802-C.D.  
HENRY INDUSTRIES, )  
Plaintiff, ) Type of Case: CIVIL ACTION  
vs. )  
TIMOTHY NOVAK and VIRGINIA ) Filed on Behalf of:  
NOVAK, individually and t/d/b/a ) Plaintiff  
SCENIC VIEW GOLF DRIVING )  
RANGE, ) Counsel of Record:  
Defendants. ) BENJAMIN S. BLAKLEY, III, ESQ.  
 ) Supreme Court no. 26331  
 )  
 ) BLAKLEY & JONES  
 ) 90 Beaver Drive, Box 6  
 ) Du Bois, Pa 15801  
 ) (814) 371-2730

FILED  
m72:3761 NOC  
MAR 31 2005 6P

William A. Shaw  
Prothonotary/Clerk of Courts

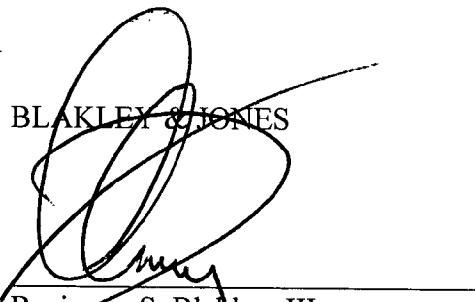
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

HENRY H. DAUGHERTY, t/d/b/a ) NO. 2004-802  
HENRY INDUSTRIES, )  
 )  
 Plaintiff, )  
 )  
 )  
 vs. )  
 )  
 )  
 TIMOTHY NOVAK and VIRGINIA )  
 NOVAK, individually and t/d/b/a )  
 SCENIC VIEW GOLF DRIVING )  
 RANGE, )  
 )  
 )  
 Defendants. )

**CERTIFICATE OF SERVICE**

I, BENJAMIN S. BLAKLEY, III, hereby certify that I have served a true and correct copy  
of Plaintiff's Praeclipe to Enter Judgment upon counsel for the Defendants on this 28<sup>th</sup> day of  
March, 2005, by depositing the same with the United States Postal Service via First-Class Mail,  
postage pre-paid, addressed as follows:

David J. Hopkins, Esquire  
Hopkins Heltzel LLP  
900 Beaver Drive  
DuBois PA 15801

  
BLAKLEY & JONES  
\_\_\_\_\_  
Benjamin S. Blakley, III  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

Henry Daugherty t/d/b/a  
Henry Industries

vs.

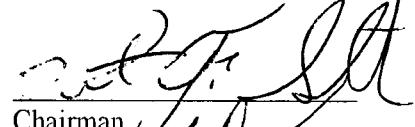
Timothy M. Novak and Virginia Novak  
t/d/b/a Scenic View Golf Driving Range

No. 2004-00802-CD

**OATH OR AFFIRMATION OF ARBITRATORS**

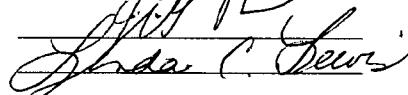
Now, this 22nd day of February, 2005, we the undersigned, having been appointed arbitrators in the above case do hereby swear, or affirm, that we will hear the evidence and allegations of the parties and justly and equitably try all matters in variance submitted to us, determine the matters in controversy, make an award, and transmit the same to the Prothonotary within twenty (20) days of the date of hearing of the same.

Peter F. Smith, Esquire



Chairman

Jeffrey S. DuBois, Esquire  
Linda C. Lewis, Esquire



Linda C. Lewis

Sworn to and subscribed before me this  
February 22, 2005

  
Prothonotary

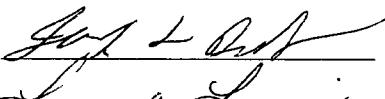
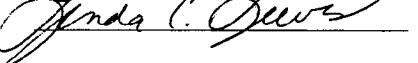
**AWARD OF ARBITRATORS**

Now, this 22 day of February 2005, 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:

*Judgment to Plaintiff in the amount  
of \$800. plus court costs. Defendants'  
Counterclaim dismissed.*



Chairman

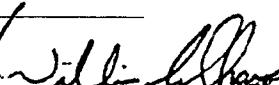
  


(Continue if needed on reverse.)

**ENTRY OF AWARD**

Now, this 22 day of February, 2005, 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 

Henry Daugherty  
Henry Industries

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

Vs.

No. 2004-00802-CD

---

Timothy M. Novak Virginia Novak Scenic  
View Golf Driving Range

NOTICE OF AWARD

TO: HENRY DAUGHERTY

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on February 22, 2005 and have awarded:

Judgment to Plaintiff in the amount of \$800.00 plus Court costs. Defendants' Counterclaim dismissed.

William A. Shaw

Prothonotary

By \_\_\_\_\_



February 22, 2005

Date

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

Henry Daugherty  
Henry Industries

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

Vs.

No. 2004-00802-CD

Timothy M. Novak Virginia Novak Scenic  
View Golf Driving Range

NOTICE OF AWARD

TO: HENRY INDUSTRIES

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on February 22, 2005 and have awarded:

Judgment to Plaintiff in the amount of \$800.00 plus Court costs. Defendants' Counterclaim dismissed.

William A. Shaw

Prothonotary

By \_\_\_\_\_



February 22, 2005

Date

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

Henry Daugherty  
Henry Industries

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

Vs.

: No. 2004-00802-CD

---

Timothy M. Novak Virginia Novak Scenic  
View Golf Driving Range

NOTICE OF AWARD

TO: SCENIC VIEW GOLF DRIVING RANGE

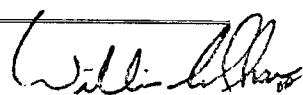
You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on February 22, 2005 and have awarded:

Judgment to Plaintiff in the amount of \$800.00 plus Court costs. Defendants' Counterclaim dismissed.

William A. Shaw

Prothonotary

By \_\_\_\_\_



February 22, 2005

Date

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

Henry Daugherty  
Henry Industries

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

Vs.

: No. 2004-00802-CD

---

Timothy M. Novak Virginia Novak Scenic  
View Golf Driving Range

NOTICE OF AWARD

TO: VIRGINIA NOVAK

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on February 22, 2005 and have awarded:

Judgment to Plaintiff in the amount of \$800.00 plus Court costs. Defendants' Counterclaim dismissed.

William A. Shaw  
Prothonotary  
By \_\_\_\_\_



February 22, 2005  
Date

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

Henry Daugherty  
Henry Industries

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

Vs.

: No. 2004-00802-CD

---

Timothy M. Novak  
Virginia Novak  
t/d/b/a Scenic View Golf Driving Range

NOTICE OF AWARD

TO: TIMOTHY M. NOVAK

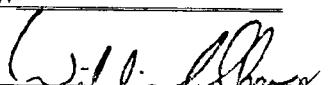
You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on February 22, 2005 and have awarded:

Judgment to Plaintiff in the amount of \$800.00 plus Court costs. Defendants' Counterclaim dismissed.

William A. Shaw

Prothonotary

By \_\_\_\_\_



February 22, 2005  
Date

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

Henry Daugherty : IN THE COURT OF COMMON PLEAS OF  
Henry Industries CLEARFIELD COUNTY

Vs. : No. 2004-00802-CD

Timothy M. Novak Virginia Novak Scenic  
View Golf Driving Range

NOTICE OF AWARD

TO: DAVID J. HOPKINS

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on February 22, 2005 and have awarded:

Judgment to Plaintiff in the amount of \$800.00 plus Court costs. Defendants' Counterclaim dismissed.

William A. Shaw  
Prothonotary  
By \_\_\_\_\_

February 22, 2005  
Date

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

Henry Daugherty  
Henry Industries

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

Vs.

: No. 2004-00802-CD

Timothy M. Novak  
Virginia Novak  
t/d/b/a Scenic View Golf Driving Range

NOTICE OF AWARD

TO: BENJAMIN BLAKLEY

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on February 22, 2005 and have awarded:

Judgment to Plaintiff in the amount of \$800.00 plus Court costs. Defendants;  
Counterclaim dismissed

William A. Shaw

Prothonotary

By \_\_\_\_\_

February 22, 2005

Date

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

DJB 2-22-05

*LAW OFFICES OF*  
**BLAKLEY & JONES**  
**90 Beaver Drive, Box 6**  
**Du Bois, Pennsylvania 15801**

February 11, 2005

*Telephone (814) 371-2730*  
*Fax (814) 375-1082*

*Benjamin S. Blakley, III*

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

**RE: Daugherty v. Novak**  
**No. 2004-802-CD**

Dear David:

Enclosed please find the Plaintiff's Pretrial Statement in the above captioned matter. This case is scheduled for Arbitration Hearing on Tuesday, February 22, 2005.

Thank you very much for your help in this matter.

Very truly yours,

*BLAKLEY & JONES*

*Benjamin S. Blakley, III*

**RECEIVED**

**FEB 14 2005**

**COURT ADMINISTRATOR'S  
OFFICE**

cc: David J. Hopkins, Esquire  
Peter F. Smith, Esquire  
Jeffrey S. DuBois, Esquire  
Linda C. Lewis, Esquire  
Henry H. Daugherty



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

HENRY H. DAUGHERTY, t/d/b/a ) NO. 2004-802-C.D.  
HENRY INDUSTRIES, )  
Plaintiff, ) Type of Case: CIVIL ACTION  
vs. )  
TIMOTHY NOVAK and VIRGINIA ) Type of Pleading:  
NOVAK, individually and t/d/b/a ) PLAINTIFF'S PRETRIAL STATEMENT  
SCENIC VIEW GOLF DRIVING )  
RANGE, ) Filed on Behalf of:  
Defendants. ) Plaintiff  
 ) Counsel of Record:  
 ) BENJAMIN S. BLAKLEY, III, ESQ.  
 ) Supreme Court no. 26331  
 )  
 ) BLAKLEY & JONES  
 ) 90 Beaver Drive, Box 6  
 ) Du Bois, Pa 15801  
 ) (814) 371-2730

RECEIVED

FEB 14 2005

COURT ADMINISTRATOR'S  
OFFICE

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

HENRY H. DAUGHERTY, t/d/b/a ) NO. 2004-802  
HENRY INDUSTRIES, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TIMOTHY NOVAK and VIRGINIA )  
 NOVAK, individually and t/d/b/a )  
 SCENIC VIEW GOLF DRIVING )  
 RANGE, )  
 )  
 Defendants. )

**PLAINTIFF'S PRETRIAL STATEMENT**

AND NOW comes Plaintiff, **HENRY H. DAUGHERTY, t/d/b/a HENRY INDUSTRIES**, by and through his undersigned attorneys, **BLAKLEY & JONES**, and files the within Pretrial Statement, and in support thereof, avers the following:

**I. Statement of Case**

Plaintiff, **HENRY H. DAUGHERTY, t/d/b/a HENRY INDUSTRIES**, maintains an excavation business located at 16 Main Street, Falls Creek, Clearfield County, Pennsylvania, and during the month of April, 2003, was so engaged, along with conducting site preparation work and general hauling, in the DuBois, Clearfield County, Pennsylvania, area. Defendants, **TIMOTHY NOVAK and VIRGINIA NOVAK**, were the owners of Scenic View Golf Driving Range, located along Route 322, Sandy Township, Clearfield County, Pennsylvania. During the month of April, 2003, the Plaintiff was contacted by Jason Whitaker, t/d/b/a Whitaker Concrete,

and was asked to subcontract an excavation job located at the premises owned by the Defendants in furtherance of site preparation work for the construction of baseball batting cages located at the Defendants' real property. During the course of the subcontracting work with Whitaker Concrete, the Plaintiff was approached by the Defendants to provide work in addition to the work for which the Plaintiff was subcontracted with Whitaker Concrete. The additional work was to include the removal and disposal of various stumps and brush located on the property of the Defendants, the excavation and construction of a French drain and other associated drainage work located adjacent to the batting cages, which had been constructed by Whitaker Concrete, and further, to place and grade sandstone in a parking area for the Defendants' batting cages, said sandstone having been previously deposited on the Defendants' property by the Plaintiff in order to form a temporary roadway during the work on Defendants' property. All of the aforesaid extra work was requested at the special insistence of the Defendants, and was in addition to, and not included in, the subcontracting agreement between the Plaintiff and Whitaker Concrete, and all of which benefitted the property of the Defendants. Subsequent to the completion of the Plaintiff's work upon the Defendants' property, the Plaintiff invoiced the Defendants for the aforesaid extra work by invoices dated May, 2003, July 15, 2003, and August 11, 2003. Said invoices totaling \$3,958.85. Despite numerous requests for payment, the Defendants have failed to pay for the services and materials provided to the Defendants by the Plaintiff as set forth above. The Plaintiff brought suit before Magistrate Patrick Ford in DuBois, for which he incurred costs of \$96.50. During the course of the Plaintiff's work on the Defendants' property,

the Plaintiff also provided additional limestone to the Defendant, for which the Defendant was billed \$102.95, pursuant to an invoice of June, 2003. This invoice was paid by the Defendant.

Subsequent to the Plaintiff's filing of the Complaint against the Defendants seeking the above damages, the Defendants raised a counterclaim seeking compensation for alleged topsoil removed from the Defendants' property by the Plaintiff. The Plaintiff did, in fact, remove soil as the result of the excavation upon the Defendants' property; however, said soil consisted of no more than mud and road scrapings and was suitable for nothing more than fill. At no time had any agreements been made for the Plaintiff's purchase and/or disposal of said soil, and at all times, the soil was being removed by the Plaintiff, and said removal was done without objection by the Defendants. Further, Defendants' first claim for any damages was raised by its June 24, 2004, counterclaim.

## **II. Citation of Applicable Statutes and Cases**

This matter is based upon the facts unique to this case, with no unique case law or statutory law applicable.

## **III. Witnesses**

The following may be called as witnesses on behalf of the Plaintiff:

1. Plaintiff, Henry H. Daugherty, 16 Main Street, Falls Creek, Pennsylvania;
2. Timothy Novak and Virginia Novak, 567 Treasure Lake, DuBois, Pennsylvania;
3. Jason Whitaker, 1396 Treasure Lake, DuBois, Pennsylvania;
4. Plaintiff reserves the right to call additional witnesses with adequate notice being given to the Defendants and the Court.

**IV. Statement of Damages and Copies of Bills Which the Party Intends to Offer**

Plaintiff seeks damages in the amount of \$3,958.85, plus Magistrate costs of \$96.00, plus interest, and costs of suit. Those bills which Plaintiff intends to offer are attached hereto and made a part hereof.

Respectfully Submitted,

BLAKLEY & JONES

Benjamin S. Blakley, III  
Attorney for Plaintiff

# **HENRY INDUSTRIES**

R.D. 2 • DuBois, PA 15801  
(814) 371-8010 or (814) 371-8269

SOLD TO tim wood

**ADDRESS** \_\_\_\_\_

Digitized by srujanika@gmail.com

**TERMS: NET 10 DAYS** (Interest will be charged at 2% per month on unpaid accounts.)

All Claims and Returned Goods MUST Be Accompanied By This Bill.

**SIGNATURE** \_\_\_\_\_



**INVOICE**

R.D. 2 • DuBois, PA 15801  
(814) 371-8010 or (814) 371-8269

Customer's Order No. 375-0252 DATE JUN 03  
SOLD TO tim NOUAK  
ADDRESS 567 T. LAKE  
DUBOIS, PA. 15801

**TERMS: NET 10 DAYS** (Interest will be charged at 2% per month on unpaid accounts.)

All Claims and Returned Goods MUST Be Accompanied By This Bill.

**SIGNATURE** *[Signature]*

# HENRY INDUSTRIES

R.D. 2 • DuBois, PA 15801  
(814) 371-8010 or (814) 371-8269

INVOICE

Customer's  
Order No.

DATE

15 JUL 03

SOLD TO tim nowak

ADDRESS \_\_\_\_\_

TERMS: NET 10 DAYS (Interest will be charged at 2% per month on unpaid accounts.)

QUAN.	DESCRIPTION	PRICE	AMOUNT
	<u>exterior work</u>		
	<u>Rockland Service (410)</u>		
7-15	<u>2 NDS. @ 50.00 ND.</u>	<u>100.00</u>	
	<u>2 B Limestone</u>		
7-16	<u>22.05 tons @ 13.00 ea</u>	<u>* 286.65</u>	
	<u>truck Service (411)</u>		
7-16	<u>1 CDRB @ 55.00 ea</u>	<u>55.00</u>	
			<u>441.65</u>
	<u>* Sales tax</u>	<u># 17.30</u>	
			<u>458.85</u>
	<u>Draw out across room</u>		
	<u>above Battng Cadd</u>		
	<u>location</u>		

All Claims and Returned Goods MUST Be Accompanied By This Bill.

SIGNATURE \_\_\_\_\_

*n6*

*C*

# HENRY INDUSTRIES

WAVES

R.D. 2 • DuBois, PA 15801  
(814) 371-8010 or (814) 371-8269

Customer's  
Order No.

DATE

11/20/06 03

SOLD TO

## ADDRESS

TERMS: NET 10 DAYS (Interest will be charged at 2% per month on unpaid accounts.)

All Claims and Returned Goods MUST Be Accompanied By This Bill.

**SIGNATURE**

Arb 2-22-05

# HOPKINS HELTZEL LLP

---

900 Beaver Drive • DuBois, PA 15801

**David J. Hopkins**

Licensed in PA & NJ

Masters in Taxation

• Voice: (814) 375 - 0300

• Fax: (814) 375 - 5035

• Email: hopkinslaw@adelphia.net

**Lea Ann Heltzel**

Licensed in PA

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February 11, 2005

Mr. David Meholick  
Court Administrator  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

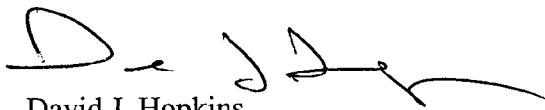
Re: Henry H. Daugherty, et al. vs. Timothy Novak, et al.

Dear Mr. Meholick:

Enclosed herewith please find Pre-Trial Statement for the above captioned matter. By copy of this letter, I am forwarding a copy of same to opposing counsel and the arbitrators.

Should you have any questions, please feel free to contact me.

Very truly yours,



David J. Hopkins  
Attorney at Law

DJH/bjt

Enclosure

cc: Benjamin S. Blakley, III, Esquire  
Peter F. Smith, Esquire  
Jeffrey S. DuBois, Esquire  
Linda C. Lewis, Esquire

RECEIVED

FEB 14 2005

COURT ADMINISTRATORS  
OFFICE

**HOPKINS HELTZEL LLP**

900 Beaver Drive, DuBois, Pennsylvania 15801  
VOICE: (814) 375-0300 FAX: (814) 375-5035

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

HENRY H. DAUGHERTY, t/d/b/a  
HENRY INDUSTRIES,

Plaintiff

vs.

TIMOTHY NOVAK and VIRGINIA  
NOVAK, individually and t/d/b/a  
SCENIC VIEW GOLF DRIVING  
RANGE,

Defendants

No. 2004-802 C.D.

Type of Pleading: Pre-Trial Statement

Filed on behalf of: Timothy Novak and.  
Virginia Novak, Defendants

Counsel of Record for this party:

HOPKINS HELTZEL LLP

DAVID J. HOPKINS, Esquire  
Attorney at Law  
Supreme Court No. 42519

900 Beaver Drive  
DuBois, Pennsylvania 15801

(814) 375-0300

**RECEIVED**

**FEB 14 2005**

**COURT ADMINISTRATOR'S  
OFFICE**

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

HENRY H. DAUGHERTY, t/d/b/a	:	
HENRY INDUSTRIES,	:	
Plaintiff	:	
vs.	:	No. 2004-802 C.D.
TIMOTHY NOVAK and VIRGINIA	:	
NOVAK, individually and t/d/b/a	:	
SCENIC VIEW GOLF DRIVING	:	
RANGE,	:	
Defendants	:	

## PRE-TRIAL STATEMENT

AND NOW, comes Plaintiffs, Timothy Novak and Virginia Novak, individually and t/d/b/a Scenic View Golf Driving Range, by and through its attorneys, Hopkins Heltzel LLP, and files the within Pre-Trial Statement as follows:

## I. STATEMENT OF THE FACTS

Defendants are the owners of the Scenic View Golf Driving Range. Defendants hired general contractor Jason Whittaker to construct a batting cage facility. Jason Whittaker hired Plaintiff to perform certain excavation and site preparation work for the batting cages. There was no written contract between Whittaker and Plaintiff. All money due Plaintiff was to come from the general contractor, Jason Whittaker.

In the course of constructing the batting cages, Plaintiff removed twenty five to thirty truckloads of top soil without Whittaker's or Defendants' permission. The value of the top soil is between \$11,200.00 and \$13,500.00.

Plaintiff sent a bill directly to Defendant for gravel that was placed on Defendants' parking area. Defendants paid the bill. Plaintiff sent no other bills to Defendants but rather filed a Complaint with the District Magistrate.

**II. CITATION TO APPLICABLE CASE OR STATUTES**

None

**III. LIST OF WITNESS**

- a. Timothy Novak  
2613 Behringer Hwy.  
Reynoldsville, PA 15851
- b. Virginia Novak  
2613 Behringer Hwy  
Reynoldsville, PA 15851
- c. Henry H. Daugherty  
16 Main Street  
Falls Creek, PA 15840
- d. Jason Whittaker  
Treasure Lake  
DuBois, PA 15801
- e. Joe Sabatose
- f. Ralph Hoover  
Treasure Lake  
DuBois, PA 15801
- g. Defendants reserve the right to amend this list of witnesses at any time prior to trial upon notice to Plaintiff. Further, Defendants reserve the right to call any witnesses identified in Plaintiff's Pre -Trial Statement.

**IV. STATEMENT OF DAMAGES**

\$11,205.00 - \$13,500.00

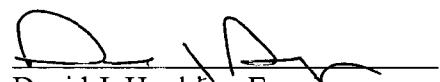
**V. LIST OF EXHIBITS**

- a. Photographs;

b. Defendants reserve the right to amend this list of exhibits at any time prior to trial upon notice to Plaintiff. Further, Defendants reserve the right to utilize any exhibit identified in Plaintiff's Pre-Trial Statement.

**VI. ESTIMATED TIME OF ARBITRATION**

One half (1/2) day.



David J. Hopkins, Esquire  
Attorney for Timothy Novak and  
Virginia Novak

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

HENRY H. DAUGHERTY, t/d/b/a :  
HENRY INDUSTRIES, :  
Plaintiff :  
vs. : No. 2004-802 C.D.  
: :  
TIMOTHY NOVAK and VIRGINIA :  
NOVAK, individually and t/d/b/a :  
SCENIC VIEW GOLF DRIVING :  
RANGE, :  
Defendants :  
:

**CERTIFICATE OF SERVICE**

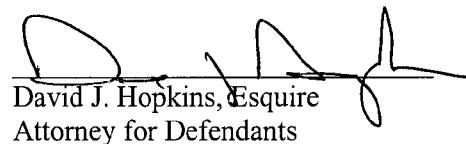
I, the undersigned, hereby certify that a true and correct copy of Defendants' Pre-Trial Statement, filed on behalf of Timothy Novak and Virginia Novak, was forwarded by first class mail, postage prepaid, on the 11 day of February, 2005 to all counsel of record, addressed as follows:

Benjamin S. Blakley, III, Esquire  
Blakley & Jones  
90 Beaver Drive, Box 6  
DuBois, PA 15801

Peter F. Smith, Esquire  
30 S. Second Street  
P.O. Box 130  
Clearfield, PA 16830

Jeffrey S. DuBois, Esquire  
190 W. Park Avenue, Suite 5  
DuBois, PA 15801

Linda C. Lewis, Esquire  
211 E. Locust Street  
P.O. Box 552  
Clearfield, PA 16830



David J. Hopkins, Esquire  
Attorney for Defendants

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

HENRY H. DAUGHERTY, t/d/b/a :  
HENRY INDUSTRIES :  
vs. :  
: No. 04-802-CD  
: :  
TIMOTHY NOVAK and VIRGINIA :  
NOVAK, individually and t/d/b/a :  
SCENIC VIEW GOLF DRIVING :  
RANGE :  
:

**ORDER**

NOW, this 17<sup>th</sup> day of December, 2004, it is the ORDER of the Court  
that the above-captioned matter is scheduled for Arbitration on Tuesday, February 22, 2005  
at 8:30 A.M. The following have been appointed as Arbitrators:

Peter F. Smith, Esquire, Chairman

Jeffrey S. DuBois, Esquire

Linda C. Lewis, 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  
in enclosed as well as a copy of said Local Rule of Court.

Please report to the Court Administrator's Office. You will be directed from there  
where this Arbitration will be held.

FILED 5CC  
OCT 01 2004 CJA  
DEC 17 2004 (6K)

William A. Shaw  
Prothonotary/Clerk of Courts

BY THE COURT:  
  
FREDRIC J. AMMERMAN  
President Judge

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL TRIAL LISTING

## CERTIFICATE OF READINESS

## TO THE PROTHONOTARY

	DATE PRESENTED	<u>10-12-04</u>
CASE NUMBER	TYPE TRIAL REQUESTED	ESTIMATED TRIAL TIME
No. 2004-802 C.D.		
Date Complaint	( ) Jury	( ) Non-Jury
Filed: June 4, 2004	(X) Arbitration	
	<u>1/2</u> <input checked="" type="checkbox"/> days/hours	

## PLAINTIFF(S)

Henry H. Daugherty, t/d/b/a Henry ( ) Check block if a Minor  
 DEFENDANT(S) Industries  is a Party to the Case  
 Timothy Novak and Virginia Novak, individually  
 and t/d/b/a Scenic View Golf Driving Range ( )  
 ADDITIONAL DEFENDANT(S) \_\_\_\_\_ ( )

EGK

No  
CC

010:38 AM  
OCT 13 2004  
Hopkins  
pd.  
2000

JURY DEMAND FILED BY: DATE JURY DEMAND FILED:

N/A

N/A

AMOUNT AT ISSUE CONSOLIDATION DATE CONSOLIDATION ORDERED

Less than  
 & \$20,000.00 ( ) yes (X) no

PLEASE PLACE THE ABOVE CAPTIONED CASE ON THE TRIAL LIST.

I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel:

David J. Hopkins, Esquire  
Attorney for Timothy and Virginia Novak

FOR THE PLAINTIFF	TELEPHONE NUMBER
Benjamin S. Blakley, III, Esquire	(814) 371-2730
FOR THE DEFENDANT	TELEPHONE NUMBER
David J. Hopkins, Esquire	(814) 375-0300
FOR ADDITIONAL DEFENDANT	TELEPHONE NUMBER

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

HENRY H. DAUGHERTY, t/d/b/a ) NO. 2004-802-C.D.  
HENRY INDUSTRIES, )  
Plaintiff, ) Type of Case: CIVIL ACTION  
vs. )  
TIMOTHY NOVAK and VIRGINIA ) Filed on Behalf of:  
NOVAK, individually and t/d/b/a ) Plaintiff  
SCENIC VIEW GOLF DRIVING )  
RANGE, ) Counsel of Record:  
Defendants. ) BENJAMIN S. BLAKLEY, III, ESQ.  
 ) Supreme Court no. 26331  
 )  
 ) BLAKLEY & JONES  
 ) 90 Beaver Drive, Box 6  
 ) Du Bois, Pa 15801  
 ) (814) 371-2730

FILED NO  
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JUL 14 2004  
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William A. Schaeffer  
Prothonotary/Clerk of Courts

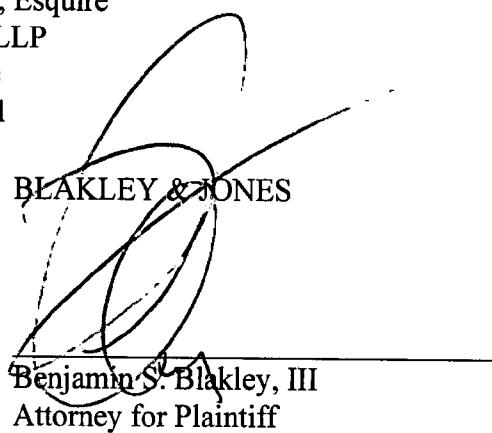
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

HENRY H. DAUGHERTY, t/d/b/a ) NO. 2004-802  
HENRY INDUSTRIES, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TIMOTHY NOVAK and VIRGINIA )  
 NOVAK, individually and t/d/b/a )  
 SCENIC VIEW GOLF DRIVING )  
 RANGE, )  
 )  
 Defendants. )

**CERTIFICATE OF SERVICE**

I, BENJAMIN S. BLAKLEY, III, hereby certify that I have served a true and correct copy of Plaintiff's Plaintiff's Response to Defendant's New Matter & Answer to Counterclaim upon counsel for the Defendants on this 13<sup>th</sup> day of July, 2004, by depositing the same with the United States Postal Service via First-Class Mail, postage pre-paid, addressed as follows:

David J. Hopkins, Esquire  
Hopkins Heltzel LLP  
900 Beaver Drive  
DuBois PA 15801

  
BLAKLEY & JONES  
Benjamin S. Blakley, III  
Attorney for Plaintiff



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

**HENRY H. DAUGHERTY, t/d/b/a  
HENRY INDUSTRIES,**

Plaintiff,

v.

**TIMOTHY NOVAK and VIRGINIA NOVAK,  
individually and t/d/b/a SCENIC  
VIEW GOLF DRIVING RANGE,**

Defendants.

CERTIFICATE OF SERVICE

No. 2004-802-C.D.

**FILED**

JUL 14 2004

William A. Shay  
Prothonotary/Clerk of Courts

LAW OFFICES  
**BLAKLEY & JONES**  
90 BEAVER DRIVE - BOX 6  
DUBOIS, PA 15801

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

HENRY H. DAUGHERTY, t/d/b/a ) NO. 2004-802-C.D.  
HENRY INDUSTRIES, )  
Plaintiff, ) Type of Case: CIVIL ACTION  
vs. )  
TIMOTHY NOVAK and VIRGINIA ) Type of Pleading: PLAINTIFF'S RESPONSE  
NOVAK, individually and t/d/b/a ) TO DEFENDANT'S NEW MATTER &  
SCENIC VIEW GOLF DRIVING ) ANSWER TO COUNTERCLAIM  
RANGE, )  
Defendants. ) Filed on Behalf of:  
 ) Plaintiff  
 ) Counsel of Record:  
 ) BENJAMIN S. BLAKLEY, III, ESQ.  
 ) Supreme Court no. 26331  
 )  
 ) BLAKLEY & JONES  
 ) 90 Beaver Drive, Box 6  
 ) Du Bois, Pa 15801  
 ) (814) 371-2730

FILED NO  
M/13/2004  
JUL 14 2004  
William A. Shaw  
Prothonotary/Clerk of Courts

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

HENRY H. DAUGHERTY, t/d/b/a ) NO. 2004-802  
HENRY INDUSTRIES, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TIMOTHY NOVAK and VIRGINIA )  
 NOVAK, individually and t/d/b/a )  
 SCENIC VIEW GOLF DRIVING )  
 RANGE, )  
 )  
 Defendants. )

**PLAINTIFF'S RESPONSE TO**  
**DEFENDANT'S NEW MATTER & ANSWER TO COUNTERCLAIM**

AND NOW comes Plaintiff, **HENRY H. DAUGHERTY**, by and through his attorneys, **BLAKLEY & JONES**, and replies to Defendant's New Matter and answers Defendant's Counterclaim as follows:

**REPLY TO NEW MATTER**

18. It is denied that Plaintiff's claims are barred due to lack of privity of contract between the Plaintiff and the Defendant, and on the contrary, it is averred that the Defendant dealt directly with the Plaintiff with regard to the claims set forth in the Plaintiff's Complaint and/or did personally accept the benefit of the work and materials provided by the

Plaintiff at the real property owned by the Defendants, and as such, would be unjustly enriched by not compensating the Plaintiff for the work and materials supplied by the Plaintiff.

19. Denied, and on the contrary, it is averred that the claims of the Plaintiff were for work and materials provided over and above that covered in the subcontract agreement between the Plaintiff and Whitaker Concrete or was contracted by the Defendant with the Plaintiff outside of the subcontract agreement between the Plaintiff and Whitaker Concrete.

20. Denied, and on the contrary, it is averred that the Plaintiff's claims are for additional work which was requested by the Defendants and which was not requested or ordered by Whitaker Concrete.

21. Denied, and no the contrary, it is averred that the Plaintiff provided billing for the services rendered to the Defendants, said billing being set forth in Plaintiff's Exhibits A, B and C attached to Plaintiff's Complaint.

22. Denied, and on the contrary, it is averred that Plaintiff's claims were brought within twelve (12) months from the time that the Plaintiff provided services and materials to the Defendants and within the time period set forth in the applicable statutes of limitations.

23. Denied, and on the contrary, it is averred that, as the Defendants requested the Plaintiff to remove stumps and brush from Defendants' property, Defendants impliedly agree

to pay for the reasonable value of the Plaintiff's services, and further, the parties never agreed that the Defendants would not pay for such services.

24. Denied, and on the contrary, it is averred that the Defendants have been billed a fair and proper price for the work performed by the Plaintiff, given the amount of work performed by the Plaintiff and the Plaintiff's expertise in performing such work.

25. It is admitted that the Plaintiff removed a quantity of topsoil from Defendant's property, as the same was contemplated by the contract between the Defendants and Whitaker Concrete and was not to be retained at the Defendants' site and was always anticipated to be removed and retained by the Plaintiff.

26. It is denied that Plaintiff's claims are barred and reduced as a result of Plaintiff's removal of 6-8 cement slabs from the Defendants' property, and on the contrary, it is averred that the removal of the concrete slabs were necessary in order to complete the work contemplated in the contract between Defendants and Whitaker Concrete and by necessity were destroyed and disposed of in the course of the work contemplated in the contract between Defendants and Whitaker Concrete.

WHEREFORE, Plaintiff demands judgment against Defendants, **TIMOTHY NOVAK and VIRGINIA NOVAK, individually and t/d/b/a SCENIC VIEW GOLF DRIVING RANGE**, in the amount of Three Thousand Nine Hundred Fifty-Eight and 85/100

(\$3,958.85) Dollars, plus Magistrate costs of Ninety-Six and no/100 (\$96.00) Dollars, plus interest and costs of suit.

#### **ANSWER TO COUNTERCLAIM**

27. Admitted.

28. Admitted.

29. Admitted.

30. Admitted.

31. It is admitted that Whitaker Concrete hired the Plaintiff to do excavating work; however, it is denied that a quantity of topsoil was removed by the Plaintiff without the consent of Defendants and Whitaker Concrete, and on the contrary, it is averred that, at all times, the contract entered between Defendants and Whitaker Concrete called for the removal of the topsoil from the Defendants' property and the disposal of the same by the Plaintiff.

With regard to the additional allegations of value set forth in Paragraph 31 of the Defendants' Counterclaim, after reasonable investigation the Plaintiff is unable to determine the truth or falsity of the allegations and therefore denies the same and demands strict proof thereof at trial.

32. The allegations contained within Paragraph 32 of Defendants' Counterclaim are conclusions of law and therefore require no answer.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court dismiss Defendants' Counterclaim and award Plaintiff costs of suit and such other further relief as the Court deems fair, just and equitable.

Respectfully Submitted,

BLAKLEY & JONES

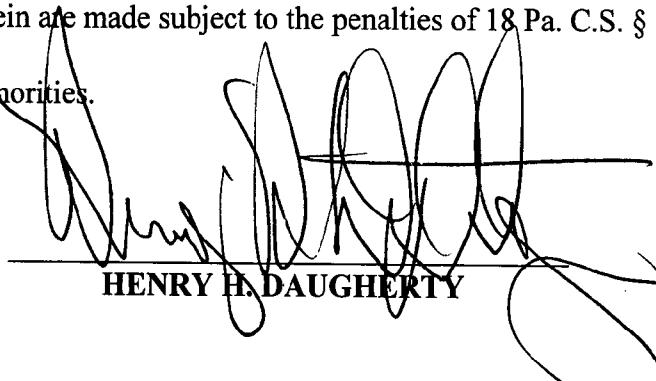


Benjamin S. Blakley, III  
Attorney for Plaintiff

## VERIFICATION

I, **HENRY H. DAUGHERTY**, hereby state that I am the Plaintiff in this action and verify that the statements made in the foregoing Response to Defendant's New Matter & Answer to Counterclaim are true and correct to the best of my knowledge, information, and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: 7-13-04

  
HENRY H. DAUGHERTY



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

HENRY H. DAUGHERTY, t/d/b/a  
HENRY INDUSTRIES,

Plaintiff,

v.

TIMOTHY NOVAK and VIRGINIA NOVAK,  
individually and t/d/b/a SCENIC  
VIEW GOLF DRIVING RANGE,

Defendants.

PLAINTIFF'S RESPONSE TO  
DEFENDANTS' NEW MATTER  
& ANSWER TO COUNTERCLAIM

No. 2004-802-C.D.

FILED

JUL 14 2004

William A. Shantz  
Prothonotary/Clerk of Courts

LAW OFFICES  
**BLAKLEY & JONES**  
90 BEAVER DRIVE - BOX 6  
DUBOIS, PA 15801

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

*2004-802-C0*

HENRY H. DAUGHERTY, t/d/b/a	)	NO.	C.D.
HENRY INDUSTRIES,	)	Type of Case: CIVIL ACTION	
Plaintiff,	)	Type of Pleading: COMPLAINT	
vs.	)	Filed on Behalf of:	
TIMOTHY NOVAK and VIRGINIA	)	Plaintiff	
NOVAK, individually and t/d/b/a	)	Counsel of Record:	
SCENIC VIEW GOLF DRIVING	)	BENJAMIN S. BLAKLEY, III, ESQ.	
RANGE,	)	Supreme Court no. 26331	
Defendants.	)	BLAKLEY & JONES	
	)	90 Beaver Drive, Box 6	
	)	Du Bois, Pa 15801	
	)	(814) 371-2730	

FILED

JUN 04 2004

*6/12/2004*

William A. Shaw

Prothonotary/Clerk of Courts

*4 cent to Atty*

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

HENRY H. DAUGHERTY, t/d/b/a	)	NO.	C.D.
HENRY INDUSTRIES,	)		
	)		
Plaintiff,	)		
	)		
vs.	)		
	)		
TIMOTHY NOVAK and VIRGINIA	)		
NOVAK, individually and t/d/b/a	)		
SCENIC VIEW GOLF DRIVING	)		
RANGE,	)		
	)		
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 is 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 an order may be entered against you by the Court without further notice for any money claimed in the Complaint requested by 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.**

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

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

HENRY H. DAUGHERTY, t/d/b/a	)	NO.	C.D.
HENRY INDUSTRIES,	)		
	)		
Plaintiff,	)		
	)		
vs.	)		
	)		
TIMOTHY NOVAK and VIRGINIA	)		
NOVAK, individually and t/d/b/a	)		
SCENIC VIEW GOLF DRIVING	)		
RANGE,	)		
	)		
Defendants.	)		

**COMPLAINT**

AND NOW, comes Plaintiff, **HENRY H. DAUGHERTY, t/d/b/a HENRY INDUSTRIES**, by and through his attorneys, **BLAKLEY & JONES**, and files the following Complaint, of which the following is a statement:

1. Plaintiff is **HENRY H. DAUGHERTY, t/d/b/a HENRY INDUSTRIES**, with his principal place of business being located at 16 Main Street, Falls Creed, Clearfield County, Pennsylvania, 15840.
2. Defendants are **TIMOTHY NOVAK and VIRGINIA NOVAK**, adult individuals residing at 567 Treasure Lake, DuBois, Clearfield County, Pennsylvania, 15801.
3. Defendants **TIMOTHY NOVAK and VIRGINIA NOVAK** also are trading and doing business as **SCENIC VIEW GOLF DRIVING RANGE**, with its principal

place of business being located along Route 322, Sandy Township, Clearfield County, Pennsylvania.

4. At all times material hereto, Plaintiff was in the business of providing excavation and site preparation work, along with general hauling, in the DuBois, Clearfield County, Pennsylvania, area.

5. During the month of April, 2003, Plaintiff, in the course of his business, was subcontracted by Jason Whitaker, t/d/b/a Whitaker Concrete, to provide certain excavation and site preparation work for the construction of batting cages located at the property of the real property of the Defendants located along Route 322, Sandy Township, Clearfield County, Pennsylvania.

6. During the course of his subcontracting work with Whitaker Concrete, the Plaintiff was approached by the Defendants to provide additional work upon the property of the Defendants, consisting of the removal and disposal of numerous stumps and the removal and disposal of quantities of brush, all of which was performed by the Plaintiff.

7. Subsequent to the completion of the work specially requested by the Defendants as set forth in the preceding paragraph, Plaintiff did invoice the Defendants for such work in the amount of One Thousand and no/100 (\$1,000.00.) Dollars. A copy of said invoice is attached hereto and marked Exhibit "A."

8. On or about July 15, 2003, Plaintiff was approached by Whitaker Concrete and the Defendants and was asked by the aforesaid individuals to perform additional extra work

upon the real property of the Defendants, consisting of the placement of a French drain and other associated drainage work located adjacent to the batting cages being constructed by Whitaker Concrete.

9. After having been requested to perform the additional service upon the real property of the Defendants, Plaintiff did perform two (2) hours of backhoe service, did supply 22.05 tons of 2B limestone and did deliver the same to the real property of the Defendants.

10. Subsequent to the performing the services as set forth in the preceding paragraph, Plaintiff did invoice Defendants in the amount of Four Hundred Fifty-Eight and 85/100 (\$458.85) Dollars for services and materials provided. A copy of said invoice is attached hereto and marked Exhibit "B."

11. During the course of his excavation work upon the real property of the Defendants, Plaintiff did place quantities of sandstone upon a temporary roadway being used by the Plaintiff during the course of his work upon the real property of the Defendants, with the intent of removing the sandstone at the completion of his work.

12. At the completion of Plaintiff's work upon the real property of the Defendants, Defendants did request that Plaintiff not remove the sandstone, but rather place the sandstone in a parking area located adjacent to the batting cages located on the real property of the Defendants.

13. Because of the special insistence of the Defendants that the quantities of sandstone remain on the Defendants' property and be placed in the Defendants' parking area, Plaintiff placed said sandstone in the parking area and did spread said the sandstone with his equipment across the parking area.

14. Subsequent to the completion of the placing of the sandstone in the parking area, Plaintiff did invoice Defendants for the cost of the sandstone and for the work performed by the Plaintiff, all in the amount of Two Thousand Five Hundred and no/100 (\$2,500.00) Dollars. A copy of said invoice dated August 11, 2003, is attached hereto and marked Exhibit "C."

15. All of the work performed upon the real property of the Defendants by the Plaintiff were done at the special insistence of the Defendants or their general contractor at the insistence of the Defendants and did benefit the Defendants' real property.

16. Despite repeated requests of the Plaintiff, Defendants have failed and refused to pay the invoices presented to the Defendants by the Plaintiff.

17. Plaintiff brought an action against the Defendants before Magistrate Patrick N. Ford in DuBois, Pennsylvania, for which he encountered filing costs of Ninety-Six and no/100 (\$96.00) Dollars.

WHEREFORE, Plaintiff demands judgment against Defendants **TIMOTHY NOVAK and VIRGINIA NOVAK, individually and t/d/b/a SCENIC VIEW GOLF DRIVING RANGE** in the amount of Three Thousand Nine Hundred Fifty-Eight and 85/100

(\$3,958.85) Dollars, plus Magistrate costs of Ninety-Six and no/100 (\$96.00) Dollars, plus interest and costs of suit.

Respectfully submitted,

BLAKLEY & JONES

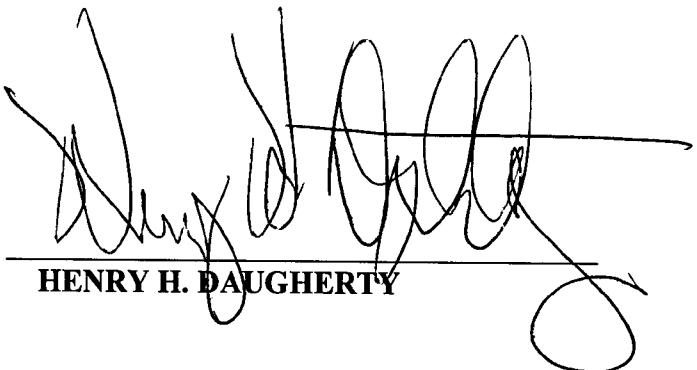
Benjamin S. Blakley, III  
Attorney for Plaintiff

**VERIFICATION**

I verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

DATE: 6/3/04

**HENRY H. DAUGHERTY**

A handwritten signature in black ink, appearing to read "HENRY H. DAUGHERTY", is written over a horizontal line. The signature is fluid and cursive, with a large, distinct loop on the right side.

**HENRY  
INDUSTRIES**

R.D. 2 • DuBois, PA 15801  
(814) 371-8010 or (814) 371-8269

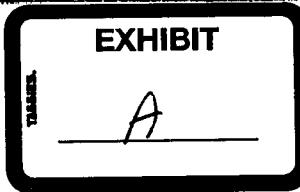
SOLD TO tim wouk

ADDRESS \_\_\_\_\_

**TERMS: NET 10 DAYS** (Interest will be charged at 2% per month on unpaid accounts.)

All Claims and Returned Goods MUST Be Accompanied By This Bill.

**SIGNATURE** \_\_\_\_\_



# HENRY INDUSTRIES

R.D. 2 • DuBois, PA 15801  
(814) 371-8010 or (814) 371-8269

Customer's  
Order No.

DATE

15 July 3

SOLD TO -

**ADDRESS**

**TERMS: NET 10 DAYS** (Interest will be charged at 2% per month on unpaid accounts.)

QUAN.	DESCRIPTION	PRICE	AMOUNT
	extra week RockNow Service (mo)		
7-15	2 mos. @ 50.00 mo.	100.00	
	2 B 4m tons		
7-16	22.05 tons @ 13.00/ton *	286.65	
	truck Service (hrs)		
7-16	1 hrs @ 55.00/hr	55.00	
		441.65	
	* Sales tax	17.30	
		458.85	
	Draw wet areas from above Battering Caves (location)		

All Claims and Returned Goods MUST Be Accompanied By This Bill.

**SIGNATURE**

**EXHIBIT**

3

# HENRY INDUSTRIES

R.D. 2 • DuBois, PA 15801  
(814) 371-8010 or (814) 371-8289

॥ ४८ ॥

Customer's  
Order No.

DATE

11/20/06 03

SOLD TO

Tim Wosk

**ADDRESS**

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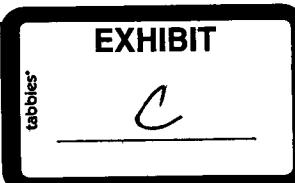
Digitized by srujanika@gmail.com

1

**TERMS: NET 10 DAYS** (Interest will be charged at 2% per month on unpaid accounts.)

All Claims and Returned Goods MUST Be Accompanied By This Bill.

**SIGNATURE**



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

HENRY H. DAUGHERTY, t/a/b/a  
HENRY INDUSTRIES,

Plaintiff,

• V

TIMOTHY NOVAK and VIRGINIA NOVAK,  
individually and t/d/b/a SCENIC  
VIEW GOLF DRIVING RANGE,

## Defendants.

## COMPLAINT

No. C.D.

LAW OFFICES  
**BLAKLEY & JONES**  
90 BEAVER DRIVE - BOX 6  
DUBOIS, PA 15801

FILED

JUN 04 2004

William A. Shaw  
Prothonotary/Clerk of Courts

**HOPKINS HELTZEL LLP**

900 Beaver Drive, DuBois, Pennsylvania 15801  
VOICE: (814) 375-0300 FAX: (814) 375-5035

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

HENRY H. DAUGHERTY, t/d/b/a  
HENRY INDUSTRIES,

Plaintiff

vs.

No. 2004-802 C.D.

TIMOTHY NOVAK and VIRGINIA  
NOVAK, individually and t/d/b/a  
SCENIC VIEW GOLF DRIVING  
RANGE,

Defendants

Type of Pleading: Answer to Complaint,  
New Matter and Counterclaim

Filed on behalf of: Timothy Novak and.  
Virginia Novak, Defendants

Counsel of Record for this party:  
HOPKINS HELTZEL LLP

DAVID J. HOPKINS, Esquire  
Attorney at Law  
Supreme Court No. 42519

900 Beaver Drive  
DuBois, Pennsylvania 15801

(814) 375-0300

NOTICE TO PLEAD

You are hereby notified to plead  
to the within pleading within  
twenty (20) days of service thereof  
or default judgment may be entered  
against you.

David J. Hopkins, Esquire  
Attorney for Defendants

FILED

JUN 28 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

HENRY H. DAUGHERTY, t/d/b/a	:	
HENRY INDUSTRIES,	:	
Plaintiff	:	
vs.	:	No. 2004-802 C.D.
TIMOTHY NOVAK and VIRGINIA	:	
NOVAK, individually and t/d/b/a	:	
SCENIC VIEW GOLF DRIVING	:	
RANGE,	:	
Defendants	:	

**ANSWER TO COMPLAINT AND NEW MATTER**

NOW COMES, Timothy Novak and Virginia Novak, husband and wife, by and through their attorneys, Hopkins Heltzel LLP and files the following Answer:

1. Admitted.
2. Admitted in part and denied in part. Defendants admit they are adult individuals.

Defendants' correct address is RR #2, Box 164G, Reynoldsville, Pennsylvania 15851.

3. Denied. Defendants do not trade or do business as Scenic View Golf Driving Range.

4. Neither admitted nor denied. Defendants are without sufficient knowledge to admit or deny the allegations set forth in paragraph four and strict proof is demanded at trial.

5. Admitted.

6. Admitted in part and denied in part. Defendants admit requesting Plaintiff to remove three (3) stumps that were outside of the work Plaintiff had been hired to perform by

Jason Whitaker. Defendants further admit hiring Plaintiff to remove a very small portion of brush.

7. Admitted in part and denied in part. Defendants admit requesting Plaintiff to remove three (3) stumps that were outside of the work Plaintiff had been hired to perform by Whitaker Concrete. Defendants further admit hiring Plaintiff to remove a very small portion of brush. Plaintiff and Defendants did not agree upon a price for said work. Defendants deny Plaintiff ever sent Defendants an invoice.

8. Denied. Any work Plaintiff completed consisting of French drains or other drainage work adjacent to the batting cages was part of the original contract between Whitaker Concrete and Plaintiff for which Plaintiff is not entitled to any additional money.

9. Neither admitted nor denied and answering Defendants demand strict proof at trial.

10. Admitted.

11. Denied. Any work Plaintiff completed in the way of installing sandstone upon the property was done by Plaintiff in his original subcontracting role with Whitaker Concrete. By way of further answer, Plaintiff removed 25 to 30 truckloads of topsoil from the site causing the batting cages to stand alone three (3') feet in the air without a way to access the batting cages.

12. Denied. Plaintiff caused sandstone to be graded from the parking area to the batting cages as per his contract with Whitaker Concrete or to save Plaintiff the expenses of removing the sandstone material. By way of further answer, Plaintiff removed 25 to 30 truckloads of topsoil from the site causing the batting cages to stand alone three (3') feet in the air without a way to access the batting cages.

13. Denied. Plaintiff caused sandstone to be graded from the parking area to the batting cages as per his contract with Whitaker Concrete or to save Plaintiff the expenses of removing the sandstone material.

14. Denied. Plaintiff never invoiced Defendants for any monies.

15. Denied. Only the removal of three (3) tree stumps and the removal of a small quantity of brush were done at the request of defendants.

16. Denied. Plaintiff never sent Defendants an invoice and Defendants only learned of Plaintiff's claims when Plaintiff filed a Complaint in the District Magistrate's office.

17. Admitted in part and denied in part. Defendants admit Plaintiff brought an action before the District Magistrate. The amount of fees is unknown to Defendants. Plaintiff is not entitled to recovery of said fees inasmuch as the District Magistrate reduced said fees.

WHEREFORE, Defendants, Timothy Novak and Virginia Novak, respectfully request this Honorable Court dismiss Plaintiff's Complaint and award Defendants cost of suit and such other and further relief as the Court deems fair, just and equitable.

#### NEW MATTER

NOW COMES, Timothy Novak and Virginia Novak, husband and wife, by and through their attorneys, Hopkins and Heltzel, LLP and files the following New Matter:

18. Plaintiff's claims are barred inasmuch as there was not privity of contract between Plaintiff and Defendants.

19. Plaintiff's claims are barred inasmuch as all of the claims Plaintiff presents was for work covered in the subcontract agreement between Plaintiff and Whitaker Concrete.

20. Plaintiff's claims are barred inasmuch as any additional work Plaintiff performed upon Defendants' property was requested and ordered by Whitaker Concrete and is not the responsibility of Defendants.

21. Plaintiff's claims are barred inasmuch as Plaintiff failed to provide billing for services rendered to the Defendants.

22. Plaintiff's claims are barred by the doctrine of laches.

23. Plaintiff's claims are barred inasmuch as there was never an agreement as to the cost for Plaintiff to remove three stumps and a small amount of brush from Defendants' property.

24. Plaintiff's claims are barred or reduced inasmuch as Defendants have billed far in excess of the fair and proper price for work performed for Defendants.

25. Plaintiff's claims are barred or reduced as a result of a set off Defendants are entitled to as a result of Plaintiff removing 25 to 30 truckloads of topsoil from Defendants' property that to the best knowledge, information and belief of Defendants, Plaintiff sold.

26. Plaintiff's claims are barred or reduced as a result of a set off Defendants are entitled to as a result of Plaintiff removing 6 to 8 cement slabs from Defendants' property that to the best knowledge, information and belief of Defendants, Plaintiff sold.

#### **COUNTERCLAIM**

AND NOW, comes Timothy Novak and Virginia Novak, by and through their attorneys, Hopkins Heltzel LLP and files the within Counterclaim.

27. Plaintiffs on the Counterclaim, Timothy Novak and Virginia Novak (hereinafter "Novak"), are adult individuals who reside at R.R. #2, Box 164G, Reynoldsville, Pennsylvania 15851.

28. Defendant on the Counterclaim, Henry H. Daugherty, t/d/b/a Henry Industries (hereinafter "Daugherty"), is an adult individual who maintains a principal business address at 16 Main Street, Falls Creek, Pennsylvania 15840.

29. Prior to the commencement of construction activity that formed the basis of this lawsuit, Novak was the owner of a golf driving range and batting cage located in Sandy Township, Clearfield County.

30. Novak wished to upgrade their batting cages and hired Whitaker Concrete to remove the existing batting cages and install new batting cages.

31. Whitaker Concrete hired Daugherty to do excavating work. Daugherty, without consent of Plaintiffs or Whitaker Concrete, removed 25 to 30 loads of topsoil from the Novak's property. The value of which is \$11,205.00 to \$13,500.00.

32. The actions of Defendant on the Counterclaim, Daugherty, constitute the tort of conversion and Plaintiffs are entitled to damages.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to enter judgment in favor of Plaintiffs on the Counterclaim, Timothy Novak and Virginia Novak, for compensatory damages, costs of suit and such other and further relief as the Court deems fair, just and equitable.

Respectfully submitted,

Hopkins and Heltzel, LLP

David J. Hopkins, Esquire  
Attorney for Timothy Novak and Virginia Novak

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

HENRY H. DAUGHERTY, t/d/b/a :  
HENRY INDUSTRIES, :  
Plaintiff :  
vs. : No. 2004-802 C.D.  
: :  
TIMOTHY NOVAK and VIRGINIA :  
NOVAK, individually and t/d/b/a :  
SCENIC VIEW GOLF DRIVING :  
RANGE, :  
Defendants :  
:

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of Defendants' Answer to Complaint, New Matter and Counterclaim, filed on behalf of Timothy Novak and Virginia Novak, was forwarded by first class mail, postage prepaid, on the 25<sup>th</sup> day of June, 2004 to all counsel of record, addressed as follows:

Benjamin S. Blakley, III, Esquire  
Blakley & Jones  
90 Beaver Drive, Box 6  
DuBois, PA 15801

David J. Hopkins, Esquire  
Attorney for Defendants

**VERIFICATION**

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.

Date: June 24, 2004

Virginia L Novak

**HOPKINS HELTZEL LLP**

900 Beaver Drive, DuBois, Pennsylvania 15801  
VOICE: (814) 375-0300 FAX: (814) 375-5035

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

HENRY H. DAUGHERTY, t/d/b/a  
HENRY INDUSTRIES,

Plaintiff

vs.

No. 2004-802 C.D.

TIMOTHY NOVAK and VIRGINIA  
NOVAK, individually and t/d/b/a  
SCENIC VIEW GOLF DRIVING  
RANGE,

Defendants

Type of Pleading: Amended Answer to Complaint,  
New Matter and Counterclaim

Filed on behalf of: Timothy Novak and  
Virginia Novak, Defendants

Counsel of Record for this party:

HOPKINS HELTZEL LLP

DAVID J. HOPKINS, Esquire  
Attorney at Law  
Supreme Court No. 42519

900 Beaver Drive  
DuBois, Pennsylvania 15801

(814) 375-0300

NOTICE TO PLEAD

You are hereby notified to plead  
to the within pleading within  
twenty (20) days of service thereof  
or default judgment may be entered  
against you.



David J. Hopkins, Esquire  
Attorney for Defendants

FILED  
m7/1/04 B1 NO  
JUL 06 2004  
B1  
cc

William A. Shaw  
Prothonotary/Clerk of Courts

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

HENRY H. DAUGHERTY, t/d/b/a	:	
HENRY INDUSTRIES,	:	
Plaintiff	:	
vs.	:	No. 2004-802 C.D.
TIMOTHY NOVAK and VIRGINIA	:	
NOVAK, individually and t/d/b/a	:	
SCENIC VIEW GOLF DRIVING	:	
RANGE,	:	
Defendants	:	

**AMENDED ANSWER TO COMPLAINT,  
NEW MATTER AND COUNTERCLAIM**

NOW COMES, Timothy Novak and Virginia Novak, husband and wife, by and through their attorneys, Hopkins Heltzel LLP and files the following Amended Answer:

1. Admitted.
2. Admitted in part and denied in part. Defendants admit they are adult individuals.
3. Denied. Defendants do not trade or do business as Scenic View Golf Driving Range.
4. Neither admitted nor denied. Defendants are without sufficient knowledge to admit or deny the allegations set forth in paragraph four and strict proof is demanded at trial.
5. Admitted.
6. Admitted in part and denied in part. Defendants admit requesting Plaintiff to remove three (3) stumps that were outside of the work Plaintiff had been hired to perform by

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8. Denied. Any work Plaintiff completed consisting of French drains or other drainage work adjacent to the batting cages was part of the original contract between Whitaker Concrete and Plaintiff for which Plaintiff is not entitled to any additional money.

9. Neither admitted nor denied and answering Defendants demand strict proof at trial. If Plaintiff performed any work, said work was part of the original contract between Whitaker Concrete and Plaintiff for which Plaintiff is not entitled to any additional money.

10. Denied. Plaintiff never invoiced Defendants for any monies.

11. Denied. Any work Plaintiff completed in the way of installing sandstone upon the property was done by Plaintiff in his original subcontracting role with Whitaker Concrete. By way of further answer, Plaintiff removed 25 to 30 truckloads of topsoil from the site causing the batting cages to stand alone three (3') feet in the air without a way to access the batting cages.

12. Denied. Plaintiff caused sandstone to be graded from the parking area to the batting cages as per his contract with Whitaker Concrete or to save Plaintiff the expenses of removing the sandstone material. By way of further answer, Plaintiff removed 25 to 30 truckloads of topsoil from the site causing the batting cages to stand alone three (3') feet in the air without a way to access the batting cages.

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17. Admitted in part and denied in part. Defendants admit Plaintiff brought an action before the District Magistrate. The amount of fees is unknown to Defendants. Plaintiff is not entitled to recovery of said fees inasmuch as the District Magistrate reduced said fees.

WHEREFORE, Defendants, Timothy Novak and Virginia Novak, respectfully request this Honorable Court dismiss Plaintiff's Complaint and award Defendants cost of suit and such other and further relief as the Court deems fair, just and equitable.

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### **COUNTERCLAIM**

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27. Plaintiffs on the Counterclaim, Timothy Novak and Virginia Novak (hereinafter "Novak"), are adult individuals who reside at R.R. #2, Box 164G, Reynoldsville, Pennsylvania 15851.

28. Defendant on the Counterclaim, Henry H. Daugherty, t/d/b/a Henry Industries (hereinafter "Daugherty"), is an adult individual who maintains a principal business address at 16 Main Street, Falls Creek, Pennsylvania 15840.

29. Prior to the commencement of construction activity that formed the basis of this lawsuit, Novak was the owner of a golf driving range and batting cage located in Sandy Township, Clearfield County.

30. Novak wished to upgrade their batting cages and hired Whitaker Concrete to remove the existing batting cages and install new batting cages.

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32. The actions of Defendant on the Counterclaim, Daugherty, constitute the tort of conversion and Plaintiffs are entitled to damages.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to enter judgment in favor of Plaintiffs on the Counterclaim, Timothy Novak and Virginia Novak, for compensatory damages, costs of suit and such other and further relief as the Court deems fair, just and equitable.

Respectfully submitted,

Hopkins and Heltzel, LLP

  
David J. Hopkins, Esquire  
Attorney for Timothy Novak and Virginia Novak

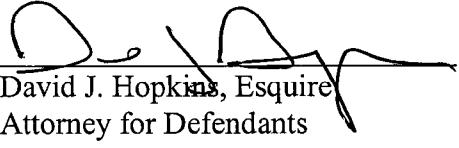
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA  
(CIVIL DIVISION)

HENRY H. DAUGHERTY, t/d/b/a :  
HENRY INDUSTRIES, :  
Plaintiff :  
vs. : No. 2004-802 C.D.  
: :  
TIMOTHY NOVAK and VIRGINIA :  
NOVAK, individually and t/d/b/a :  
SCENIC VIEW GOLF DRIVING :  
RANGE, :  
Defendants :  
:

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of Defendants' Amended Answer to Complaint, New Matter and Counterclaim, filed on behalf of Timothy Novak and Virginia Novak, was forwarded by first class mail, postage prepaid, on the \_\_\_\_\_ day of July, 2004 to all counsel of record, addressed as follows:

Benjamin S. Blakley, III, Esquire  
Blakley & Jones  
90 Beaver Drive, Box 6  
DuBois, PA 15801

  
\_\_\_\_\_  
David J. Hopkins, Esquire  
Attorney for Defendants





COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

**CIVIL COMPLAINT**

Mag. Dist. No.:

**46-3-01**

DJ Name: Hon.

**PATRICK N. FORD**

Address:

**309 MAPLE AVENUE  
DUBOIS, PA**

**15801**

Telephone: **(814) 371-5321**

PLAINTIFF:

NAME and ADDRESS

**HENRY H. DAUGHERTY, T/D/B/A HENRY INDUSTRIES  
16 MAIN STREET  
FALLS CREEK PA 15840**

VS.

DEFENDANT:

NAME and ADDRESS

**TIMOTHY NOVAK AND VIRGINIA NOVAK, T/D/B/A  
SCENIC VIEW GOLF DRIVING RANGE  
567 TREASURE LAKE  
DuBOIS PA 15801**

Docket No.: **CV-17604**  
Date Filed: **4-2-04**



	AMOUNT	DATE PAID
FILING COSTS	\$ <u>96.00</u>	<u>4/2/04</u>
SERVING COSTS	\$ _____	/ /
TOTAL	\$ _____	/ /

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$3,958.85 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

Amount represents amount due and owing for services performed by Plaintiff at Defendant's place of business on April 30, 2003, through August 30, 2003.

I, **HENRY H. DAUGHERTY**

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: **BENJAMIN S. BLAKLEY, III**

Address: **90 BEAVER DIRVE, BOX 6**

Telephone: **(814) 371-2730**

**DUBOIS PA 15801**

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 DO, 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.

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

HENRY H. DAUGHERTY, t/d/b/a ) NO. 2004-802-C.D.  
HENRY INDUSTRIES, )  
Plaintiff, ) Type of Case: CIVIL ACTION  
vs. ) Type of Pleading: AFFIDAVIT OF SERVICE  
TIMOTHY NOVAK and VIRGINIA ) Filed on Behalf of:  
NOVAK, individually and t/d/b/a ) Plaintiff  
SCENIC VIEW GOLF DRIVING ) Counsel of Record:  
RANGE, ) BENJAMIN S. BLAKLEY, III, ESQ.  
Defendants. ) Supreme Court no. 26331  
 ) BLAKLEY & JONES  
 ) 90 Beaver Drive, Box 6  
 ) Du Bois, Pa 15801  
 ) (814) 371-2730

**FILED**

JUN 15 2004

William A. Shaw  
Prothonotary

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

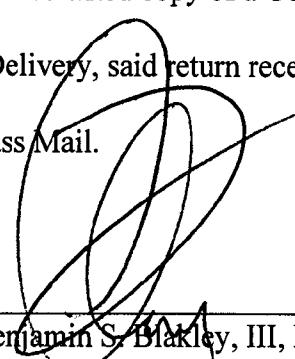
HENRY H. DAUGHERTY, t/d/b/a ) NO. 2004-802  
HENRY INDUSTRIES, )  
Plaintiff, )  
vs. )  
TIMOTHY NOVAK and VIRGINIA )  
NOVAK, individually and t/d/b/a )  
SCENIC VIEW GOLF DRIVING )  
RANGE, )  
Defendants. )

**AFFIDAVIT OF SERVICE**

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

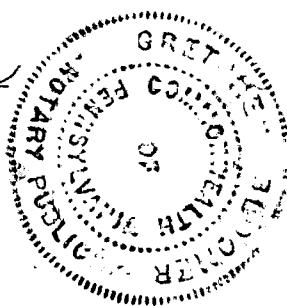
BENJAMIN S. BLAKLEY, III, ESQUIRE, being duly sworn according to law, deposes and says that as attorney for Plaintiff, he did on, June 12, 2004, serve **TIMOTHY NOVAK and VIRGINIA NOVAK**, Defendants, with a certified copy of a Complaint by Certified Mail, Return Receipt Requested, Restricted Delivery, said return receipt is being attached hereto, and by Regular United States First Class Mail.

Sworn to and Subscribed  
before me this 14<sup>th</sup> day  
of June, 2004.

  
\_\_\_\_\_  
Benjamin S. Blakley, III, Esquire

*Gretchen Bloomer*  
Notary Public

NOTARIAL SEAL  
GRETCHEEN BLOOMER, Notary Public  
City of DuBois, Clearfield County  
My Commission Expires Dec. 17, 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:

**TIMOTHY & VIRGINIA NOVAK  
567 TREASURE LAKE  
DuBOIS PA 15801**

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) Virginia Novak B. Date of Delivery 6-12-04

C. Signature

X Virginia Novak  Agent  Addressee

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

2. Article Number (Copy from)

7001 1940 0006 2176 5337

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

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

HENRY H. DAUGHERTY, t/d/b/a  
HENRY INDUSTRIES,

Plaintiff,  
v.  
TIMOTHY NOVAK and VIRGINIA NOVAK,  
individually and t/d/b/a/ SCENIC  
VIEW GOLF DRIVING RANGE,  
Defendants.

AFFIDAVIT OF SERVICE

No. 2004-802-C.D.

FILED  
1:24 PM  
JUN 15 2004

William A. Shaw  
Prothonotary

LAW OFFICES

BLAKLEY & JONES  
90 BEAVER DRIVE - BOX 6  
DUBOIS, PA 15801

**U.S. Postal Service  
CERTIFIED MAIL RECEIPT  
(Domestic Mail Only; No Insurance Coverage Provided)**

*(Domestic Mail Only; No Insurance Coverage Provided)*

6337 OFFICIAL USE

2176 0006 0006 0006	Postage	\$ 1.06
	Certified Fee	\$ 2.30
	Return Receipt Fee (Endorsement Required)	\$ 1.75
	Restricted Delivery Fee (Endorsement Required)	
	Total Postage & Fees	\$ 5.11

Postmark  
Here

**Sent To** **TIMOTHY & VIRGINIA NOVAK**  
**Street, Apt. #** **967 TREASURE LAKE**  
**or PO Box No.** **DUBLIN PA 15801**  
**City State Zip** **PA 15801**

BS Form 3800, January 2001

—See Reverse for Instructions

**Certified Mail Provides:**

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

***Important Reminders:***

- Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- Certified Mail is not available for any class of international mail.
- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a Return Receipt may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

**IMPORTANT: Save this receipt and present it when making an inquiry.**

## 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

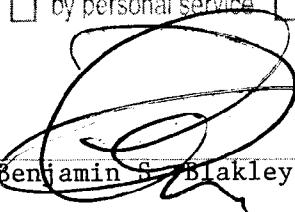
COUNTY OF CLEARFIELD ; SS

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

a copy of the Notice of Appeal, Common Pleas No. 2004-802-C.D., upon the District Justice designated therein on  
(date of service) June 8, 2004  by personal service  by (certified) ~~registered~~ mail, sender's  
receipt attached hereto, and upon the appellee, (name) Timothy Novak and Virginia Novak, on  
June 8, 2004  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 \_\_\_\_\_,  by personal service  by (certified) (registered)  
mail, sender's receipt attached hereto.

SIGNED (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS 8th DAY OF June, 2004

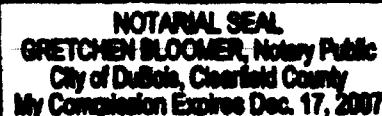
  
Benjamin S. Blakley, III Signature of affiant

  
Signature of official before whom affidavit was made

Notary Public

Title of official

My commission expires on \_\_\_\_\_



FILED  
JUN 09 2004  
2004-802-C.D.  
JUN 09 2004

William A. Shaw  
Prothonotary/Clerk of Courts

**COMMONWEALTH OF PENNSYLVANIA****COURT OF COMMON PLEAS****CLEARFIELD  
JUDICIAL DISTRICT**46<sup>th</sup>**NOTICE OF APPEAL**

FROM

**DISTRICT JUSTICE JUDGMENT**

COMMON PLEAS No 2004-802-CJ

**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.

**HENRY DAUGHERTY**

NAME OF APPELLANT

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

**HENRY DAUGHERTY**

ADDRESS OF APPELLANT

46-3-01

**16 MAIN STREET**

CITY

STATE

ZIP CODE

DATE OF JUDGMENT IN THE CASE OF (Plaintiff)

**FALLS CREEK**

(Defendant)

**HENRY 5/10/2004****HENRY DAUGHERTY**

CLAIM NO.

**TIMOTHY NOVAK, ET AL.**CV 176-04

LT

SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT

**Benjamin S. Blakley, III**

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.

Signature of Prothonotary or Deputy

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.

**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 \_\_\_\_\_, appellee(s), to file a complaint in this appeal

Name of appellee(s)

(Common Pleas No. \_\_\_\_\_) 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**

Name of appellee(s)

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.

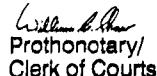
Date: \_\_\_\_\_

Signature of Prothonotary or Deputy

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

JUN 04 2004

Attest.


  
Prothonotary/  
Clerk of Courts

COURT OF COMMON PLEAS  
CLEARFIELD  
JUDICIAL DISTRICT

46<sup>th</sup>

## NOTICE OF APPEAL

FROM

## DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2004-802-(D)

## 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.		
<b>HENRY DAUGHERTY</b>		46-3-01		
ADDRESS OF APPELLANT		CITY	STATE	ZIP CODE
16 MAIN STREET		FALLS CREEK	PA	15840
DATE OF JUDGMENT	IN THE CASE OF (Plaintiff) (Defendant)			
MM/DD/YY 5/10/2004	HENRY DAUGHERTY vs. TIMOTHY NOVAK, ET AL.			
CLAIM NO.	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT			
CV 176-04	Benjamin S. Blakley, III			
LT				

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.

Signature of Prothonotary or Deputy

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.

## 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 \_\_\_\_\_, appellee(s), to file a complaint in this appeal

Name of appellee(s)

(Common Pleas No. \_\_\_\_\_) 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 \_\_\_\_\_

Name of appellee(s)

, 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: \_\_\_\_\_, \_\_\_\_\_.

Signature of Prothonotary or Deputy

FILED

01/21/2004  
JUN 04 2004

William A. Shay,  
Prothonotary/Clerk of Court  
Copies to Abby Blakley  
Abby pd \$5.00

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## 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 \_\_\_\_\_  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 \_\_\_\_\_  by personal service  by (certified) (registered) mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_

*Signature of affiant*

*Signature of officer before whom affidavit was made*

*Title of officer*

*My commission expires on \_\_\_\_\_*

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**

**ATTORNEY FOR PLAINTIFF :**

**BENJAMIN BLAKLEY**  
**90 BEAVER DRIVE**  
**BOX 6**  
**DUBOIS, PA 15801**

**NOTICE OF JUDGMENT/TRANSCRIPT  
CIVIL CASE**

PLAINTIFF:

**DAUGHERTY, HENRY**  
**16 MAIN STREET**  
**TDBA HENRY INDUSTRIES**  
**FALLS CREEK, PA 15840**

NAME and ADDRESS

DEFENDANT:

**NOVAK, TIMOTHY, ET AL.**  
**567 TREASURE LAKE**  
**SCENIC VW GOLF DRVG RANGE**  
**DUBOIS, PA 15801**

NAME and ADDRESS

Docket No.: **CV-0000176-04**  
Date Filed: **4/02/04**



**THIS IS TO NOTIFY YOU THAT:**

Judgment:

**FOR PLAINTIFF**

Judgment was entered for: (Name) **DAUGHERTY, HENRY**

Judgment was entered against: (Name) **NOVAK, TIMOTHY**

in the amount of \$ **1,082.50** on: (Date of Judgment) **5/10/04**

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>1,000.00</b>
Judgment Costs	\$ <b>82.50</b>
Interest on Judgment	\$ <b>.00</b>
Attorney Fees	\$ <b>.00</b>
Total	\$ <b>1,082.50</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.

5/10/04 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

Date: 02/15/2005

**Clearfield County Court of Common Pleas**

User: BANDERSON

Time: 11:39 AM

**ROA Report**

Page 1 of 1

Case: 2004-00802-CD

Current Judge: No Judge

Henry Daugherty, Henry Industries vs. Timothy M. Novak, Virginia Novak, Scenic View Golf Driving Range

**District Justice Appeal**

Date		Judge
06/04/2004	Filing: District Justice Appeals Paid by: Blakley, Benjamin S. Receipt number: 1880317 Dated: 06/04/2004 Amount: \$85.00 (Check)	No Judge ✓
06/09/2004	Proof of Service of Notice of Appeal and Rule to File Complaint. s/Benjamin S. Blakley, III, Esquire	No Judge ✓
06/15/2004	Affidavit of Service filed. 1 CC to Atty. Transcript from DJ Ford Filed. No cc.	No Judge ✓
06/28/2004	Answer to Complaint, New Matter and Counterclaim, filed by s/David J. Hopkins, Esq. No CC	No Judge ✓
07/06/2004	Amended Answer to Complaint, New Matter and Counterclaim, filed by s/David J. Hopkins, Esq. No CC	No Judge ✓
07/14/2004	Certificate of Service, Plaintiff's Response to Defendant's New Matter & Answer to Counterclaim on: David J Hopkins. via 1st class mail, postage prepaid. Filed by: s/Benjamin S Blakley, III. No cc Plaintiff's Response to Defendant's New Matter and Answer to Counterclaim, filed by s/Benjamin S. Blakley, III, Esq. No CC	No Judge ✓
10/13/2004	Filing: Praeclipe/List For Arbitration Paid by: Hopkins Helfzel LLC Receipt number: 1888335 Dated: 10/13/2004 Amount: \$20.00 (Check) Certificate of Readiness, on behalf of Defendants, Arbitration Trial Requested, 1/2 day. Filed by s/David J. Hopkins, Esquire. No CC.	No Judge ✓
12/17/2004	Order, NOW, this 17th day of Dec., 2004, it is the ORDER of the Court that the above-captioned matter is scheduled for Arbitration on Tuesday, February 22, 2005 at 8:30 a.m. The following have been appointed as Arbitrators: Peter F. Smith, Esquire, Chairman Jeffrey S. DuBois, Esquire Linda C. Lewis, Esquire. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 5CC C/A	No Judge ✓