

04-887CD

Pff
vs

Frederick M Neiswender

Mark A ~~NE~~ Nearhood
PO Box 234
Kylertown, PA 16847

CLAREFIELD PA
JUDICIAL DISTRICT
46

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No.

04-887-CD

NOTICE OF APPEAL

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

NAME OF APPELLANT Mark Nearhood		MAG. DIST. NO. OR NAME OF D.J.	
ADDRESS OF APPELLANT P.O. Box 234		CITY Kylestown	STATE PA
DATE OF JUDGMENT 5-17-04		ZIP CODE 16847	
IN THE CASE OF (Plaintiff) Linda McGarry		(Defendant) Mark Nearhood	
CLAIM NO.	SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT <i>William L. Hanson</i>		
CV 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 Linda McGarry, appellee(s), to file a complaint in this appeal

(Common Pleas No. 04-887-CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Linda McGarry
William L. Hanson
Signature of appellant or his attorney or agent

RULE: To *William L. Hanson*, 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: 6-16, 2004

William L. Hanson

Signature of Prothonotary or Deputy

Mag. Dist. No.: **46-3-03**
DJ Name: Hon. **MICHAEL A. RUDELLA**
Address: **131 ROLLING STONE ROAD**
P.O. BOX 210
KYLERTOWN, PA
Telephone: **(814) 345-6789** **16847-0444**

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF: **MCGARRY, LINDA**
PO BOX 29
HAWK RUN, PA 16840

VS.
DEFENDANT: **NEARHOOD, MARK A.**
P.O. BOX 234
KYLERTOWN, PA 16847

Docket No.: **CV-0000141-04**
Date Filed: **4/26/04**



04-887-9

THIS IS TO NOTIFY YOU THAT:

Judgment: **FOR PLAINTIFF**

☒ Judgment was entered for: (Name) **MCGARRY, LINDA**

☒ Judgment was entered against: (Name) **NEARHOOD, MARK A.**

in the amount of \$ **1,047.00** on: (Date of Judgment) **5/17/04**

☐ 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	\$ 965.00
Judgment Costs	\$ 82.00
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 1,047.00
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.

5-17-04 Date **M.A. Rudella**, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.
5-16-04 Date **M.A. Rudella**, District Justice

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

SEAL

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.: **46-3-03**
DJ Name: Hon. **MICHAEL A. RUDELLA**
Address: **131 ROLLING STONE ROAD**
P.O. BOX 210
KYLERTOWN, PA
Telephone: **(814) 345-6789** **16847-0444**

NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE

PLAINTIFF: **MCGARRY, LINDA**
PO BOX 29
HAWK RUN, PA 16840

VS.
DEFENDANT: **NEARHOOD, MARK A.**
P.O. BOX 234
KYLERTOWN, PA 16847

Docket No.: **CV-0000141-04**
Date Filed: **4/26/04**



MARK A. NEARHOOD
P.O. BOX 234
KYLERTOWN, PA 16847

THIS IS TO NOTIFY YOU THAT:

Judgment: **FOR PLAINTIFF**

☒ Judgment was entered for: (Name) **MCGARRY, LINDA**

☒ Judgment was entered against: (Name) **NEARHOOD, MARK A.**

in the amount of \$ **1,047.00** on: (Date of Judgment) **5/17/04**

☐ 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	\$ 965.00
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Total	\$ 1,047.00

Post Judgment Credits	\$ _____
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5/17/04 Date **MA Rudella**, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.
6/16/04 Date **MA Rudella**, District Justice

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

SEAL

COURT OF COMMON PLEAS

FROM

JUDICIAL DISTRICT

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No.

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.	
ADDRESS OF APPELLANT	CITY	STATE	ZIP CODE
DATE OF JUDGMENT	IN THE CASE OF (Plaintiff)		(Defendant)
CLAIM NO.		VS.	
CV 142-64		SIGNATURE OF APPELLANT OR HIS ATTORNEY OR AGENT	
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.

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

Signature of Prothonotary or Deputy

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

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

PRAECIPE: To Prothonotary

Enter rule upon _____, 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 _____, appellee(s).

Name of appellee(s)

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

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

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

Date: _____

Willie L. Shaw

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 16 2004

Attest.

Willie L. Shaw
Prothonotary/
Clerk of Courts

0195104
B30
B30

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

CITY OF Clear Field

SS

June 18, 2004
June 23 2004
09-887-CD
Linda McGarry

28th
Will Shaw

June 2004

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

Crystal McGarry

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:

Linda McGarry
P.O. Box 29
Hawk Run PA 16840

7003 1010 0004 0193 3891

COMPLETE THIS SECTION ON DELIVERY

A. Signature
☒ *Linda McGarry* ☐ Agent
☐ Addressee

B. Received by (Printed Name) C. Date of Delivery
Linda McGarry *6-23-04*

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

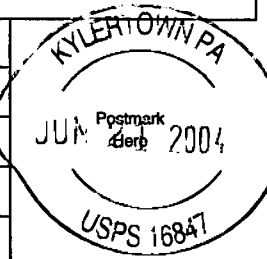
3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

7003 1010 0004 0000 0193 3891

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only. No Insurance Coverage Provided.)
For delivery information visit our website at www.usps.com

Postage	\$ 37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42



Sent to	Linda McGarry
Street, Apt. No., or PO Box No.	PO Box 29
City, State, ZIP+4	Hawk Run PA 16840

PS Form 3800, June 2002 See Reverse for Instructions

Certified Mail Provides:

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

PS Form 3800, June 2002 (Reverse)

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.
Internet access to delivery information is not available on mail addressed to APOs and FPOs.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION – LAW)

LINDA MCGARRY,

Plaintiff,

vs.

MARK A. NEARHOOD,

Defendant.

No. 04-887-C2

Type of case: Civil Action

Type of pleading: Complaint

Filed on behalf of: Plaintiff,
Linda McGarry

Counsel for Plaintiff:
Frederick M. Neiswender, Esquire
Supreme Court No. 74456
501 East Market Street, Suite 3
Clearfield, Pennsylvania 16830
(814) 765-6500

REC'D
3CC
01/3/47/2011
JUL 15 2004
Amy Neiswender

William A. Shaw
Prothonotary, Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION – LAW)

LINDA MCGARRY,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	No.
	:	
MARK A. NEARHOOD,	:	
	:	
Defendant.	:	

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
1 North Second Street
Clearfield, Pennsylvania 16830
(814) 765-2641

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION – LAW)

LINDA MCGARRY,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	No.
	:	
MARK A. NEARHOOD,	:	
	:	
Defendant.	:	

COMPLAINT

AND NOW, comes the Plaintiff, LINDA MCGARRY, by and through her attorney, FREDERICK M. NEISWENDER, ESQUIRE, and files this Complaint against the Defendant, MARK A. NEARHOOD, on a cause of action upon which the following is a statement:

COUNT I – CONTRACT (BREACH)

1. That Plaintiff, LINDA MCGARRY, is an adult individual residing at P.O. Box 29, Hawk Run, Pennsylvania 16840.
2. That Defendant, MARK A. NEARHOOD, is an adult individual residing at P.O. Box 234, Kylertown, Pennsylvania 16847.
3. That Defendant resided with Plaintiff from on or about October of 2003 to April 26, 2004.
4. That during the time Defendant resided with Plaintiff, Defendant entered into an oral agreement with Plaintiff whereby Plaintiff would make certain expenditures on behalf of Defendant while he was out of town pursuing employment.
5. That Defendant agreed to reimburse Plaintiff in full for all expenses rendered by Plaintiff.

6. Plaintiff paid the following expenditures on behalf of Defendant during the time of cohabitation.

- a) Gas - \$110.00
- b) Cleaning of clothes and bedding - \$260.00
- c) Meals - \$1727.59
- d) Beer – 105.00
- e) Cigarettes – 150.00
- f) Attorney's Fees - \$100.00
- g) Spending Money - \$10.00 per week
- h) Replacement of Mattresses - \$500.00
- i) Initial Payment of Expenses with Marlene English Trucking - \$50.00

7. Defendant has refused and continues to refuse to reimburse Plaintiff for expenses rendered on his behalf.

WHEREFORE, Plaintiff requests Your Honorable Court to award judgment in favor of Plaintiff and against Defendant in the amount of \$3,102.59 plus costs and expenses as deemed appropriate.

COUNT II – ATTORNEY'S FEES

8. Plaintiff restates and incorporates Paragraphs 1 through 7 above as if stated at length herein.

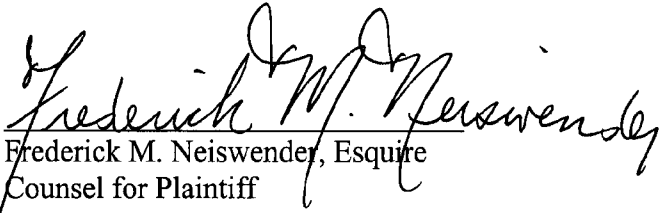
9. Plaintiff believes and therefore avers that Defendant's Appeal from the decision of District Justice Rudella is clearly without basis in fact or law, and was filed by Defendant's solely for the purpose of causing expense, annoyance and harm to the Plaintiff.

14. As such, the conduct of the Defendant's in continuing litigation through his Appeal is arbitrary, vexatious and in bad faith.

15. As a result, Plaintiff has been forced to retain counsel to protect her current judgment, and is entitled to an award of counsel fees pursuant to 42 Pa. C.S.A. § 2503.

WHEREFORE, Plaintiff demands judgment in her favor and against the Defendant.

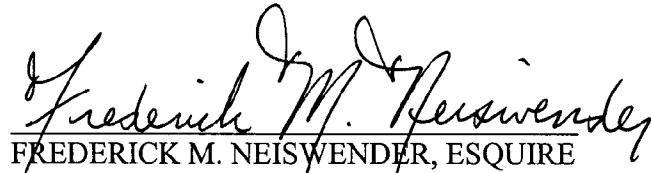
Respectfully submitted,


Frederick M. Neiswender, Esquire
Counsel for Plaintiff

VERIFICATION

FREDERICK M. NEISWENDER, ESQUIRE hereby states that he is Counsel for the Plaintiff in this action and that the statements of fact made in the foregoing Complaint are true and correct upon opinion and belief based on information provided to him by the Plaintiff, LINDA MCGARRY. The undersigned is verifying this Complaint on behalf of the Plaintiff, LINDA MCGARRY as per the Pennsylvania Rules of Civil Procedure due to the fact that time constraints do not permit her verification of this Complaint. Both the Plaintiff and the undersigned understand the statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

DATE: July 15, 2004


FREDERICK M. NEISWENDER, ESQUIRE
COUNSEL FOR PLAINTIFF

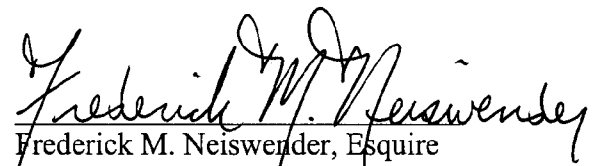
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION – LAW)

LINDA MCGARRY,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	No.
	:	
MARK A. NEARHOOD,	:	
	:	
Defendant.	:	

CERTIFICATE OF SERVICE

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Complaint was made upon Mark A. Nearhood, by mailing, first class, postage prepaid, a true copy to the Defendant, on July 16, 2004, at the following address:

Mark A. Nearhood
P.O. Box 234
Kylertown, Pennsylvania 16847


Frederick M. Neiswender, Esquire
Counsel for Plaintiff
501 East Market Street, Suite 3
Clearfield, Pennsylvania 16830

IN THE COURT OF COMMON PLEAS OF PENNSYLVANIA CIVIL ACTION - LAW

LINDA MCGARRY,
Plaintiff,

No. 04-887-CD

vs.

MARK NEARHOOD,
Defendant,

ANSWER

1. Admitted

2. Admitted

3. Denied, That Defendant resided with Plaintiff from on or about October 2003 to March 12, 2004.

4. Denied

5. Denied

6. Plaintiff paid the following expenditures on behalf of Defendant during the time of cohabitation.

a) Denied.

FILED EGK
SEP 01 2004
0/31201
William A. Shaw
Prothonotary/Clerk of Courts
No. 04-887-CD

b) Denied

c) Denied

d) Denied

e) Denied

f) Denied

g) Denied

h) Denied

i) Denied

7. Admitted

NEW MATTER

8. **The averments of paragraphs 1 Through 7 above are incorporated with this new matter as though fully set forth herein.**

9. Denied

10. That Plaintiff did not include items 10, 11, 12, 13, in their complaint.

14. Denied

15. Denied

WHEREFORE, the Defendant respectfully requests that the Plaintiff's Complaint be dismissed

COUNTERCLAIM ONE

The averments of paragraphs 1 through 15 above are incorporated with this COUNTER CLAIM as though fully set fourth herein.

16. Pistol Permit - Permit is in the name of Mark Nearhood and belongs to Mark Nearhood.
17. \$12.09 - Prescription for Tylenol 3 with codeine - Prescribed to Mark Nearhood and was unfinished.
18. \$11.39 - Prescription for penicillin - prescribed to Mark Nearhood and was unfinished.
19. \$247.85 - Playstion2 - new contained the following:
 - a) playstation2 with online adapter
 - b) 1 playstation2 controller
 - c) 1 online playable game (4 wheeler racing game)
 - d) Power cord
 - e) a/v cord
20. \$20.00 - 1 Playstation2 controller - transparent blue.
21. \$20.00 - 1 magicgate 8 meg memory card for the playstation2.
22. \$15.00 - 1 playstation2 remote control for playing DVD's.
23. \$8.00 - 1 t.v. to Playstation2 adapter.
24. playstation2 games:
 - a) WWE Smackdown Wrestling..... (Christmas gift from Linda)
 - b) Big Mutha Trucker.....(Christmas gift from Linda)
 - c)Gun griffon Blaze.....\$15.00
 - d) ATV off road fury2.....\$15.00

e) Spiderman.....(valentine's day gift from Linda)

25. \$90.00 - 1 Palmpilot - Palm IIIxe, box contains Palm IIIxe with stylus, cd-rom, docking cradle, instruction sheet.
26. Past DOT logs from work(trucking) May 4, 2003 - Aug. 30, 2003 (119 days) contained in 3-ring binder.
27. \$80.00 - Portable Kerosene heater - Dyna-Glo, Model RMC-55-R7.
28. \$5.00 - 1 syphon pump for kerosene.
29. \$10.00 - 1ea., 5 gal. kerosene container, white with blue label.
30. \$40.00 - Spare alternator for chevy Suburban..
31. \$60.00 - Snap-on Tool bag (red and black).
32. \$45.00 - Craftsman tool box (painted all silver).
33. \$60.00 - Coveralls, army issue, olive drab, with nametag and unit patch..
34. \$20.00 - Jack Stands (2) 20 ton.
35. \$15.00 - Sandblaster.
36. \$50.00 - Camouflage fishing vest.
37. \$40.00 (estimated) fishing tackle in vest.
38. \$35.00 - Quantum Ultra-light fishing rod & reel combo (broken rod).
39. \$27.00 - Truckopoly board game.
40. \$30.00 - Rain Suit, 2 piece, yellow and black.
41. \$20.00 - Rubber Boots, knee high, size 12w,black.
42. \$27.00 - Bolt cutters, 24" handles.
43. \$40.00 - Air powered grease gun.
44. \$10.00 - Chrome plated 5th wheel hook.

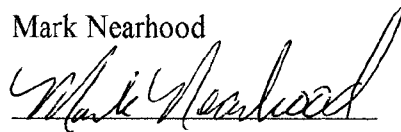
45. \$20.00 - gun cleaning equipment
46. \$15.00 - Coleman 40 qt. cooler, red with white top.
47. \$20.00 - Coleman extreme 40 qt. cooler, silver with white top.
48. \$65.00 - XM Radio home theater docking kit for the Delphi skyfi receiver.
49. \$350.00 - That Plaintiff did receive from Defendant for Plaintiff's house payment.
50. \$70.00 - That Plaintiff did receive from Defendant for Direct TV payment.
51. \$422.94 - That Defendant did pay for diamond engagement ring, Plaintiff did except ring regardless of current marriage to one Barney McGarry.

WHEREFORE, the Defendant respectfully requests that the following relief be granted:

\$2,031.27

Respectfully submitted,

Mark Nearhood

A handwritten signature in black ink, appearing to read 'Mark Nearhood', written over a horizontal line.