

Chris Henry v. Com of Pa  
2005-443-CD

05-443-CD  
Chris Henry vs. Comm. of PA

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

CHRIS E. HENRY,  
Plaintiff

-vs-

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
BUREAU OF DRIVING LICENSING,  
Defendant

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Docket No. 2005- 443 -CD

Type of pleading:  
NOTICE OF APPEAL OF  
DRIVER'S LICENSE  
SUSPENSION AND  
REQUEST FOR SUPERSEDEAS

Filed on behalf of:  
PLAINTIFF, Chris E.  
Henry

Counsel of record for  
this party:

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

FILED

03:17 PM  
MAR 29 2005

William A. Shaw  
Prothonotary/Clerk of Courts

*cc*  
*Any Koerber*  
*Any pd.*  
*85.00*

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

CHRIS E. HENRY,  
Plaintiff

-vs-

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
BUREAU OF DRIVER LICENSING,  
Defendant

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Docket No. 2005- -CD

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**NOTICE OF APPEAL OF DRIVER'S LICENSE SUSPENSION**  
**AND REQUEST FOR SUPERSEDEAS**

COMES NOW, Chris E. Henry, by and through his attorney, Dwight L. Koerber, Jr., Esquire, and files the within pleading, all of which is directed to the March 10, 2005 Notice of Suspension issued by the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing.

1. Appellant is Chris E. Henry (referred to hereinafter as Appellant"), who resides at 2215 Glenhope Boulevard, Irvona, Clearfield County, PA 16656.

2. Appellee is the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing (referred to hereinafter as "DOT" or "Appellee"), which has an address of P. O. Box 68693, Harrisburg, PA 17105-8693.

3. DOT is represented by the Office of Chief Counsel, Third Floor, Riverfront Office Center, Harrisburg, PA 17104.

4. Appellant holds a commercial driver's license, which is No. 21557367.

5. Appellant is a truck driver who earns his livelihood as an owner operator/motor carrier, operating under authority issued by the Federal Motor Carrier Safety Administration. Appellant owns a 2000 International truck tractor and a 2000 Wilson trailer.

6. On March 10, 2005, DOT served a notice upon Appellant, informing him that effective April 14, 2005, his privilege to drive a commercial motor vehicle was disqualified for a period of six months, for allegedly driving a commercial motor vehicle without a valid CDL. Attached hereto as Appendix A is a true and correct copy of the Notice of Disqualification.

7. In accordance with the appeal standards set forth in the Motor Vehicle Code, Appellant hereby requests that his appeal be granted. In making this request, Appellant references and hereby incorporates the portion of this pleading identified as "Request for Supersedeas", wherein Appellant sets forth that information which demonstrates the likelihood of prevailing on the merits of this appeal.

WHEREFORE, Appellant requests that his appeal be granted and that the March 10, 2005 Notice, attached hereto as Appendix A, be reversed, set aside and withdrawn.

### REQUEST FOR SUPERSEDEAS

Paragraphs 1 through 7 are hereby incorporated by reference as though set forth in full.

8. Section 1550(b)(2) of the Vehicle Code, 75 Pa.C.S.A. §1550(b)(2), provides that a supersedeas may be granted by the Court of Common Pleas on an ex parte basis, upon a showing of the reasonable likelihood of success of prosecution of the appeal.

9. Appellant hereby submits that there is a very strong probability of succeeding on the merits of the appeal herein, because of the following:

(a) Appellant has at all times had a valid CDL license and has never had it suspended as proven by the actual records of DOT itself;

(b) The actions of the State of New York in purporting to suspend Appellant's CDL license are invalid, inequitable and unlawful, as they stem from an incident that occurred on November 21, 1991, where Appellant was charged with blocking an intersection because a portion of the trailer from his tractor trailer combination did not make it fully through an intersection during traffic conditions;

(c) The actions of the State of New York are an affront to the regulatory process of the Commonwealth of Pennsylvania, in that it purported to suspend CDL driving privileges without notifying Appellant or without notifying the Commonwealth of Pennsylvania, so as to enable the Commonwealth to comply with the its own standards under the Pennsylvania Motor Vehicle Code for regulating the commercial driving license privileges of its residents;

(d) The actions of the State of New York are in violation of the Full Faith and Credit Clause of the United States Constitution, depriving Appellant of due process of law, and undermining the proper and orderly administration of

CDL driving privileges by the Commonwealth of Pennsylvania.

(e) There has never been a serious traffic violation by Appellant, as the only offense is an administrative matter caused by improper service upon Appellant by the State of New York.

10. The underlying circumstances herein arise out of and relate to an event that occurred on or about November 21, 1991, in New York City, New York, when Appellant was driving through the town in an orderly fashion and when the traffic stopped, a portion of the tail end of his trailer was extending into the walkway that pedestrians would traverse when going across the street. Thereupon, he was issued a summary citation for that offense. Appellant promptly presented the citation to his employer, who at that time was Leo Frailey Trucking, and the employer said that he would pay it as being an unavoidable event occurring in the course of Appellant's driving a tractor trailer combination for his employer. Appellant fully believed that the citation had been paid, as he received no further notice from the issuing authority, and received no notice through the Department of Transportation, Commonwealth of Pennsylvania, concerning his driving privileges.

11. It now appears that the citation issued on November 21, 1991 for obstructing the roadway was not paid, and the State of New York on its own took action to suspend the driving privileges of Appellant. Attached hereto as Appendix B is a copy of a notice issued by the New York Department of Transportation in year 2002,

issued as a result of an inspection that occurred on April 3, 2002, which confirms that the State of New York had purportedly suspended Appellant's driving privileges for an event that occurred eleven years earlier, on November 21, 1991.

12. Notwithstanding the fact that effective November 21, 1991, the State of New York purported to suspend the CDL driving privileges of Appellant, it never communicated that notice to Appellant, and never communicated it to the Commonwealth of Pennsylvania. In this regard, Appellant would state that the only state in which he has ever held a CDL issued is the Commonwealth of Pennsylvania, and when the incident of obstructing the walkway occurred on November 21, 1991, he was operating under the same CDL from Pennsylvania that is the subject of the present appeal before this Honorable Court.

13. In order to confirm that the Commonwealth of Pennsylvania has acknowledged that Appellant has a valid CDL and that it has never taken action to suspend the CDL because of the incident that occurred in New York on November 21, 1991, attached hereto as Appendix C is a copy of Appellant's driving records which were issued by the Commonwealth of Pennsylvania, effective April 15, 2004 and March 28, 2005. As noted there, Appellant's driver's license was acknowledged by the Commonwealth of Pennsylvania as being fully valid and not subject to any suspension.

14. As a result of the inspection that occurred on April 3,

2002, when Appellant was stopped in New York as part of a routine inspection, Appellant took prompt steps to pay the fine for obstructing an intersection relative to the summary citation issued in 1991, as that was the first time that he had any awareness that the citation that has been issued eleven years previously apparently had not been paid. Attached hereto as Appendix D is a copy of the confirmation that the 1991 payment in fact was issued.

15. As a result of the inspection that occurred on April 3, 2002, where the 1991 unpaid citation first came to Appellant's attention, the State of New York issued an additional charge against Appellant, accusing him of operating with a suspended CDL. Those charges were filed, notwithstanding the fact that no notice had ever been given to the Commonwealth of Pennsylvania, and that the Appellant's driving privileges in Pennsylvania, the only state in which he is issued a CDL license, remains in full force and effect.

16. There was a two year delay before the 2002 charges (erroneous) by the State of New York against Appellant proceeded to a hearing, as Appellant originally went to the hearing in 2002 and attempted to testify, but was informed that procedures did not work that way and it would have to be rescheduled. Two years later, when the hearing was rescheduled, Appellant complained about the immense inconvenience to him, and in response the court told him they would issue a provisional suspension if he pled guilty.

Appellant thereupon pled guilty, even though it was totally uncontested that the jurisdictional state for Appellant's CDL was the Commonwealth of Pennsylvania, and that no notice had ever been sent to the Commonwealth of Pennsylvania purporting to suspend Appellant's driving privileges.

17. On September 9, 2004, Appellant encountered another incident in New York in a routine stop as he was coming through Customs in Ogdenburg, New York. There, a computer check with the State of New York apparently showed that the Appellant's driving privileges were suspended, notwithstanding the fact that he had been placed on probation through an Order in July of 2004 as a result of a phone hearing in Rotterdam, New York, which in turn confirmed the fact that the summary citation for obstructing an intersection in 1991 had been paid.

18. When Appellant was stopped on September 9, 2004, as outlined in the preceding paragraph, he explained the fact that he was on probation and explained the fact that there was a mistake somewhere, and he was thereupon permitted to leave with his vehicle, after he received notice from the Rotterdam, New York hearing, confirming that his suspension was just a probationary one.

19. As a result of being stopped on September 9, 2004, the State of New York proceeded to issue a new citation, even though there was only the suspension was unlawfully imposed as a result of

a citation in 1991, and charged Appellant with driving when his CDL privileges were suspended.

20. Appellant went to a hearing in Ogdenburg, New York on October 7, 2004, and attempted to resolve the issues, but the proceeding was continued and he was not given a chance to prevail on the merits. He explained to the Clerk of Courts, however, that it was extremely costly to him in missing work to attend all the hearings, and as a result, in an effort to expedite matters, they sent to Appellant via fax a plea agreement that he could sign to bring the matter to a conclusion. Attached hereto as Appendix E is a copy of that plea. The manner in which it was handled and the prior history of the case was such that Appellant "assumed" that he was just following through on paperwork for the State of New York to bring final closure to the 1991 incident involving obstruction of an intersection, and he therefore signed that plea, which he had assumed was a plea agreement that would not hurt him.

21. By signing the plea, attached hereto as Exhibit E, a notice was issued by the State of New York, and for the first time in the thirteen year history of the episode stemming from the 1991 obstruction of intersections citation, the State of New York sent a notice to the Commonwealth of Pennsylvania, announcing that the Appellant had been found guilty of driving a commercial motor vehicle while his CDL privileges were suspended.

22. As a matter of law, all of the actions taken by the State

of New York are unlawful, and in direct contravention of the very purpose of 75 Pa.C.S.A. §1602(a), which provides that a CDL is to disqualify commercial drivers who have committed certain serious traffic offenses, which clearly was not the case here, where we are dealing with the only offense that has been committed, which was obstructing an intersection in 1991.

23. It is the position of Appellant that as a matter of law, the State of New York cannot disqualify his CDL privileges without first going through the Commonwealth of Pennsylvania, the state in which Appellant holds his CDL license. In failing to do so, the State of New York acted in an unlawful fashion in failing to give the procedures and licensing practices of the Commonwealth of Pennsylvania proper credit under the Full Faith and Credit Clause of the United States Constitution.

24. It is extremely important that the State of New York acknowledges that when Appellant was stopped on September 9, 2004, which gave rise to the citation that caused the Notice of Disqualification hereto to be issued, that Appellant was not operating in violation of New York law. Attached hereto as Appendix F is a copy of a notice issued by the Rotterdam, New York Town Court that shows the two charges that had been issued against Appellant. The first charge identified under "VTL" has a penned in entry that reads "ACOD 7/12/04". This means that as a result of a ruling made by the Honorable Judge Kenneth P. Litz, after speaking

with Appellant, that that suspension of Appellant's CDL driving privileges in New York was changed from "suspension" to "probationary" for a six month period, which expired on January 12, 2005. This is marked as the disposition date on the notice attached as Appendix F. All of the information set forth in this regard can be confirmed by speaking with Laurie, Clerk at the Rotterdam, New York Town Court, at phone number 1-518-355-7911.

25. The actions of the State of New York are further unlawful because under Section 1611(j) of the Pennsylvania Motor Vehicle Code, there is a specific requirement that in conjunction of the suspension of a commercial driver's license, it is mandatory for the Commonwealth of Pennsylvania to update the operator's driver's license to reflect that. By issuing notices that did not reflect that, the Commonwealth of Pennsylvania, as confirmed by the notices attached hereto as Appendix F, confirmed for Appellant that he had a valid CDL license at all times that the State of New York was purporting to suspend.

26. Section 1611(j) of the Pennsylvania Motor Vehicle Code, 75 Pa.C.S.A. §1611(j), is of further significance because it specifies that after suspending or cancelling a commercial driver's license issued by another state, it is mandatory for the Commonwealth of Pennsylvania to notify that state. These reciprocal provisions are essential for the nationwide system of commercial driver's licenses to exist. The State of New York

totally ignored this requirement when they purported to suspend Appellant's CDL privileges in 1991 because of obstructing an intersection, as they never gave notice to the Commonwealth of Pennsylvania, nor to the Appellant of that action.

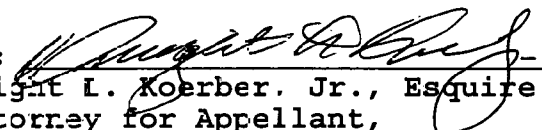
27. In further support of his position herein, Appellant would point out that if the six month suspension of his CDL driving privileges is implemented as ordered in the March 10, 2005 Notice identified as Appendix A herein, it will cause catastrophic financial harm to him, as he would lose his truck tractor because of non-payment of the monthly payments, he would lose his trailer because of non-payment of the monthly payments, and he would lose his home because of non-payment of the monthly payments. As a professional truck driver, Appellant has no other means of income beyond driving a commercial motor vehicle, as demonstrated by the fact that he is 37 years old and has been driving an over-the-road truck continuously for the past 16 years.

28. The action proposed herein is so discriminatory, unlawful and contrary to a sense of justice that it is a violation of Appellant's due process rights under the United States Constitution and the Constitution of the Commonwealth of Pennsylvania.

WHEREFORE, Appellant prays that a supersedeas be granted so that the notice issued by the DOT on March 10, 2005, attached hereto as Appendix A, does not result in a disqualification of his commercial driving privileges effective April 14, 2005, and that

the proposed Order, included with this pleading, be entered.

Respectfully submitted,

By:   
Dwight L. Koerber, Jr., Esquire  
Attorney for Appellant,  
CHRIS E. HENRY

### **VERIFICATION**

I certify that the statements made in the Notice of Appeal of Driver's License Suspension and Request for Supersedeas 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.

  
Chris E. Henry

APPENDIX A

Attached hereto is a true and correct copy of the Notice of Disqualification.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Bureau of Driver Licensing  
Harrisburg, PA 17123  
MARCH 10, 2005

CHRIS E HENRY  
2215 GLENHOPE BLVD  
IRVONA PA 16656

WID # 050629253549039 001  
PROCESSING DATE 03/03/2005  
DRIVER LICENSE # 21557367  
DATE OF BIRTH 05/31/1968

Dear Motorist:

As a result of your conviction on 11/17/2004 of violating Section 1606A of the Vehicle Code, DRIVING CMV WITHOUT CDL on 09/09/2004, your privilege to drive a commercial motor vehicle is being disqualified for a period of 6 MONTH(S) as mandated by Section 1611F of the Vehicle Code.

The effective date of disqualification is 04/14/2005, 12:01 a.m.

In order to comply with this sanction you are required to return any current driver's license, learner's permit and/or temporary driver's license (camera card) in your possession no later than the effective date listed. If you cannot comply with the requirements stated above, you are required to submit a DL16LC Form or a sworn affidavit stating that you are aware of the sanction against your driving privilege. Failure to comply with this notice shall result in this Bureau referring this matter to the Pennsylvania State Police for prosecution under SECTION 1571(a)(4) of the Vehicle Code.

Although the law mandates that your driving privilege is under suspension even if you do not surrender your license, Credit will not begin until all current driver's license product(s), the DL16LC Form, or a letter acknowledging your sanction is received in this Bureau.

WHEN THE DEPARTMENT RECEIVES YOUR LICENSE OR ACKNOWLEDGEMENT, WE WILL SEND YOU A RECEIPT. IF YOU DO NOT RECEIVE THIS RECEIPT WITHIN 15 DAYS CONTACT THE DEPARTMENT IMMEDIATELY. OTHERWISE, YOU WILL NOT BE GIVEN CREDIT TOWARD SERVING THIS SANCTION.

Please see the enclosed application for restoration fee information.

050629253549039

While your commercial driving privilege is disqualified, the Vehicle Code permits a driver to obtain a noncommercial Class C or M license, if the driver possesses the motorcycle qualification, to drive noncommercial motor vehicles. If you wish to obtain this license, please complete the enclosed application as instructed and return it to the Department.

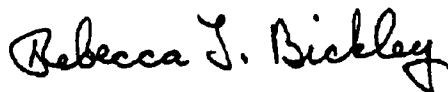
Please be aware that if you elect to obtain this noncommercial Class C or M license, you are still prohibited from operating a commercial motor vehicle. If you do so, you are subject to additional penalties, including possible lifetime disqualification of your commercial driving privilege.

You have the right to appeal the Department's action to the Court of Common Pleas (Civil Division) within 30 days of the mail date (MARCH 10, 2005) of this notice. You must still send in your license before the effective date of disqualification unless you appear in person before a Judge and receive an order permitting you to continue to drive. **PLEASE NOTE** that this Civil Appeal is in addition to any appeal you have to file from the criminal conviction.

**AFTER THE APPEAL HAS BEEN FILED IN THE COUNTY COURT, A TIME-STAMPED CERTIFIED COPY OF THE APPEAL MUST BE SENT BY CERTIFIED MAIL TO:**

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION  
OFFICE OF CHIEF COUNSEL  
THIRD FLOOR, RIVERFRONT OFFICE CENTER  
HARRISBURG, PA. 17104

Sincerely,



Rebecca L. Bickley, Director  
Bureau of Driver Licensing

SEND FEE/LICENSE/DL-16LC/TO:  
Department of Transportation  
Bureau of Driver Licensing  
P.O. Box 68693  
Harrisburg, PA 17106-8693

INFORMATION (7:00 AM TO 8:00 PM)  
IN STATE 1-800-932-4600  
OUT-OF-STATE 717-391-6190  
TDD IN STATE 1-800-228-0676  
TDD OUT-OF-STATE 717-391-6191

APPENDIX B

Attached hereto is a copy of the notice issued by the State of New York, Department of Transportation, in 2002.



New York State Department of Transportation  
Passenger & Freight Safety Division  
New York State Police  
Commercial Vehicle Enforcement Unit  
TE241f (7/01)

**DRIVER VEHICLE EXAMINATION REPORT**  
Report Number: NYG010000719  
Inspection Date: 04/03/2002  
Start Time: 10:19 AM End Time: 10:59 AM  
Insp. Level: 2-Walk-Around/No HM Insp.

CHRIS E HENRY  
HENRY ROAD  
IRVONA, PA 16656  
Phone#:  
USDOT#: 00658517  
State#:

Fax#:  
ICC#: 366510

Driver: HENRY, CHRIS E  
License#: 21 557 367  
Date of Birth: 05/31/1968  
CoDriver:  
License#:  
Date of Birth:  
State: PA  
State:

Location: T/ROTTERDAM  
Highway: I-88  
County: SCHENECTADY

MilePost:  
Origin: MOUNT OLIVE, NC  
Destination: NEWPORT, VT  
Shipper:  
Bill of Lading:  
Cargo: COTTON SEED

#### VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	License #	Company #	Vin #	GVWR	CVSA #	OOS#
1	TT	INTL	1998	PA	AE54711					
2	ST	BENS	1994	PA	XS73858					

**BRAKE ADJUSTMENTS** No Brake Inspection Required For Level 2-Walk-Around,

#### VIOLATIONS

Section Code	St	Unit	OOS	Citation #	Verify	Violations Discovered
393.75(a)(1)		2	N	Im182612 3	N	Tire-ply or belt material exposed- AXLE 5 DRIVERS SIDE -INSIDE TIRE
383.51(a)		D	Y	Im182613 4	N	Driving a CMV (CDL) while disqualified - SUSPENDED 11/27/91 failed to answer summons

**Placard Mat: No HM Transported.**

Placard: No Cargo Tank:

**Special Checks: No Data for Special Checks.**

Pursuant to the authority contained in NYS Transportation Law, I hereby notify and declare "CHRIS HENRY" Out of Service. No Motor Carrier shall permit or require this driver to operate any motor vehicle until: "license restored"

**NOTE TO DRIVER:** This report must be furnished to the motor carrier whose name appears at the top of this report.

**INFORM TRAFFIC TICKETS:** If issued, MUST be returned to the court whose address appears on the front of the ticket.

**NOTE TO REPAIRER:** If entries are made in the violation section above, please sign the report when repairs are completed.

Signature Of Repairer X: \_\_\_\_\_ Facility: \_\_\_\_\_ Date: \_\_\_\_\_

If violations are noted on this report, carrier certification is required and this report is to be returned within 15 days to: New York State Department of Transportation, Building 7-A Room 501A, 1220 Washington Ave, Albany New York 12232.

**CARRIER CERTIFICATION:** I hereby certify that all violations noted above have been corrected and action has been taken to ensure compliance with the NYS Transportation Law and Regulations.

Signature Of Motor Carrier X: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:  
SEPH O'SHAUGHNESSY  
Badge #: 2443

Copy Received By:  
HENRY, CHRIS E

Page 1 of 1



NYG010000719

APPENDIX C

Attached hereto is a copy of Appellant's driving record.

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION  
BUREAU OF DRIVER LICENSING  
TEN YEAR DRIVING RECORD  
MAR 28 2005

DRIVER: CHRIS E HENRY  
2215 GLENHOPE BLVD  
IRVONA, PA 16656

DRIVER LICENSE NO : 21557367  
DATE OF BIRTH : MAY 31 1968  
SEX : MALE  
RECORD TYPE : REG LICENSE

## DRIVER LICENSE (DL)

-----  
LICENSE CLASS :  
LICENSE ISSUE DATE: JUN 01 2004  
LICENSE EXPIRES :  
ORIG ISSUE DATE : JUL 31 1984  
MED RESTRICTIONS : NONE  
LEARNER PERMITS :  
LICENSE STATUS :

## COMMERCIAL DRIVER LICENSE (CDL)

-----  
CDL LICENSE CLASS : A\*  
CDL LICENSE ISSUED : JUN 01 2004  
CDL LICENSE EXPIRES: JUN 01 2008  
CDL ENDORSEMENTS : NONE  
CDL RESTRICTIONS : NONE  
CDL LEARNER PERMITS:  
CDL LICENSE STATUS : PENDING DISQ

SB ENDORSEMENT :

## PROBATIONARY LICENSE (PL)

-----  
PL LICENSE CLASS :  
PL LICENSE ORIG ISS:  
PL LICENSE ISSUED :  
PL LICENSE EXPIRES :  
PL LICENSE STATUS :

## OCCUPATIONAL LIMITED LICENSE (OLL)

-----  
OLL LICENSE CLASS :  
OLL LICENSE ISSUED :  
OLL LICENSE EXPIRES:  
OLL LICENSE STATUS :

PAGE 2

TEN YEAR DRIVING RECORD - MAR 28 2005 - LICENSE NUMBER 21557367 CONTINUED

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REPORT OF VIOLATIONS AND DEPARTMENTAL ACTIONS  
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VIOLATION DATE: MAY 25 2000  
VIOLATION: VEHICLE CODE: CDLMISC  
DESCRIPTION: MISC CDLIS CONVICTION  
VIOL. REPORT FROM GA (CDLIS CONV)  
CONVICTION DATE: JUN 28 2000  
ACTION: CDLIS OOS CONVICTION

VIOLATION DATE: APR 21 2001  
VIOLATION: VEHICLE CODE: CDLMISC  
DESCRIPTION: MISC CDLIS CONVICTION  
VIOL. REPORT FROM OH (CDLIS CONV)  
CONVICTION DATE: MAY 10 2001  
ACTION: CDLIS OOS CONVICTION

VIOLATION DATE: NOV 03 2001  
VIOLATION: VEHICLE CODE: CDLMISC  
DESCRIPTION: MISC CDLIS CONVICTION  
VIOL. REPORT FROM OH (CDLIS CONV)  
CONVICTION DATE: NOV 19 2001  
ACTION: CDLIS OOS CONVICTION

VIOLATION DATE: SEP 09 2004  
VIOLATION: VEHICLE CODE: 1606A  
DESCRIPTION: DRIVING CMV WITHOUT CDL  
VIOL. REPORT FROM NY (CDLIS CONV) CERTIFIED MAR 03 2005  
CONVICTION DATE: NOV 17 2004  
ACTION: DISQUALIFICATION FOR 6 MONTH(S) EFFECTIVE APR 14 2005  
OFFICIAL NOTICE MAILED MAR 10 2005

\*\*\* CONTINUED \*\*\*

PAGE 3

TEN YEAR DRIVING RECORD - MAR 28 2005 - LICENSE NUMBER 21557367 CONTINUED

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REPORT OF MEDICALS AND DEPARTMENTAL ACTIONS

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NO MEDICALS OR DEPARTMENTAL ACTIONS DURING THIS REPORTING PERIOD

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REPORT OF ACCIDENTS AND DEPARTMENTAL ACTIONS

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NO ACCIDENTS DURING THIS REPORTING PERIOD

THREE YEAR DRIVING RECORD - APR 15 2004 - LICENSE NUMBER 21557367 CONTINUED PAGE 2

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REPORT OF VIOLATIONS AND DEPARTMENTAL ACTIONS  
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VIOLATION DATE: APR 21 2001  
VIOLATION: VEHICLE CODE: CDLMISC  
DESCRIPTION: MISC CDLIS CONVICTION  
VIOL. REPORT FROM OH (CDLIS CONV)  
CONVICTION DATE: MAY 10 2001  
ACTION: CDLIS OOS CONVICTION

VIOLATION DATE: NOV 03 2001  
VIOLATION: VEHICLE CODE: CDLMISC  
DESCRIPTION: MISC CDLIS CONVICTION  
VIOL. REPORT FROM OH (CDLIS CONV)  
CONVICTION DATE: NOV 19 2001  
ACTION: CDLIS OOS CONVICTION

-----  
REPORT OF MEDICALS AND DEPARTMENTAL ACTIONS  
-----

NO MEDICALS OR DEPARTMENTAL ACTIONS DURING THIS REPORTING PERIOD

-----  
REPORT OF ACCIDENTS AND DEPARTMENTAL ACTIONS  
-----

NO ACCIDENTS DURING THIS REPORTING PERIOD

\*\*\* END OF RECORD \*\*\*

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION  
BUREAU OF DRIVER LICENSING  
THREE YEAR DRIVING RECORD  
APR 15 2004

DRIVER: CHRIS E HENRY  
PO BOX 80  
HENRYS ROAD  
IRVONA, PA 16656

DRIVER LICENSE NO : 21557367  
DATE OF BIRTH : MAY 31 1968  
SEX : MALE  
RECORD TYPE : REG LICENSE

DRIVER LICENSE (DL)

-----  
LICENSE CLASS :  
LICENSE ISSUE DATE: JUN 03 2000  
LICENSE EXPIRES :  
ORIG ISSUE DATE : JUL 31 1984  
MED RESTRICTIONS : NONE  
LEARNER PERMITS :  
LICENSE STATUS :

COMMERCIAL DRIVER LICENSE (CDL)

-----  
CDL LICENSE CLASS : A\*  
CDL LICENSE ISSUED : JUN 03 2000  
CDL LICENSE EXPIRES: JUN 01 2004  
CDL ENDORSEMENTS : NONE  
CDL RESTRICTIONS : NONE  
CDL LEARNER PERMITS:  
CDL LICENSE STATUS : VALID

SB ENDORSEMENT :

PROBATIONARY LICENSE (PL)

-----  
PL LICENSE CLASS :  
PL LICENSE ORIG ISS:  
PL LICENSE ISSUED :  
PL LICENSE EXPIRES :  
PL LICENSE STATUS :

OCCUPATIONAL LIMITED LICENSE (OLL)

-----  
OLL LICENSE CLASS :  
OLL LICENSE ISSUED :  
OLL LICENSE EXPIRES:  
OLL LICENSE STATUS :

\*\*\* CONTINUED \*\*\*

APPENDIX D

Attached hereto is a copy of the notice confirming payment of the citation.



# STATE OF NEW YORK DEPARTMENT OF MOTOR VEHICLES

Division of Adjudication and Support Services, 6 Empire State Plaza, Albany, New York 12228  
Telephone 1-800-CALL-DMV (518) 474-0941

Raymond P. Martinez  
Commissioner

Herman Fricke  
Chief of Operations

April 3, 2002

Mr. Chris E. Henry  
P. O. Box 80  
Irvona, Pennsylvania 16656

## Traffic Violations Offices

Dear Sir:

Bronx  
696 East Fordham Rd.  
Bronx, NY 10458

We have received and processed the payment for the summons(es) listed below.

Brooklyn North  
30 Rockwell Place  
Brooklyn, NY 11201

<u>Summons #</u>	<u>Violation</u>	<u>Fine</u>	<u>Date Paid</u>
1418108662	Obstru Intersection	\$ 65.00	4/3/02

Brooklyn South  
2875 West 8th Street  
Brooklyn, NY 11224

Please consider this letter as your permanent receipt. We have forwarded a 'notice of restoration' to the Pennsylvania Department of Motor Vehicles informing them of the payment.

Buffalo  
295 Main Street Room 360  
Buffalo, NY 14203

Manhattan North  
2116 Adam Clayton  
Powell Blvd.  
New York, NY 10027

Manhattan South  
19 Rector Street, 2nd Floor  
New York, NY 10006

Queens North  
30-56 Whitestone Expy  
Flushing, N.Y. 11354

Queens South  
168-35 Rockaway Blvd.  
Jamaica, NY 11434

Richmond  
141 E. Service Rd.  
Staten Island, NY 10314

Rochester  
228 Main St East  
Suite 250, 2nd Floor  
Rochester, NY 14604

Suffolk  
State Office Bldg., 2nd Floor  
Veterans Memorial Hwy  
Hauppauge, NY 11788

JM:kc  
Enc. 1

Very truly yours,

Jean McCarthy  
Representative  
Traffic Violations Division

APPENDIX E

Attached hereto is a copy of the faxed plea, dated November 12, 2004.



STATE OF NEW YORK  
UNIFIED COURT SYSTEM  
OGDENSBURG CITY COURT  
City Hall - 330 Ford Street - Room 15  
Ogdensburg, NY 13669  
Telephone: 315-393-3941  
Fax: 315-393-6839

HON. GEORGE E. SILVER  
City Court Judge

LISA MARIE MEYER  
Chief Clerk I

FAX COVER SHEET

TO: Chris Henry 1-814-672-3189  
FROM: Cathy  
RE: Aggravated Unlicensed operation #04-0909  
DATE: 11/12/04

NUMBER OF PAGES: (including cover page): 2

MESSAGE:

Please send me your bail receipt  
and copy of your Drivers license along  
with the following signed plea.  
Any questions, please call

APPENDIX F

Attached hereto is a copy of the Certificate of Disposition issued to Appellant.

# CERTIFICATE OF DISPOSITION

STATE OF NEW YORK  
SCHENECTADY COUNTY

ROTTERDAM TOWN COURT  
CRIMINAL PART

PEOPLE OF THE STATE OF NEW YORK

VS.

CHRIS E. HENRY; Defendant

CASE NO: 02040247

Date of Birth: 05/31/1968  
Date of Arrest: 04/03/2002  
Disposition Date: 01/12/2005

Section Charged	Section Disposed	Ticket No & Description	Disposition	Fine	Civil-Fee	Surchg
VTL 511 1A	VTL 511 1A	LM182613 4 A.U.O. 3rd	ACOD 7/12/04 Dism'd CPL170.55 ACD	0.00	0.00	0.00

Upon a proper request for an official statement of disposition, I certify that the above named defendant having appeared before this court was charged as shown above. Each of the charges was disposed of as indicated.

Dated: The 28th day of March 2005



Hon. Kenneth P. Litz

NOTE: A copy of the request will be filed with this certificate in the case records.

CAUTION: This information must not be divulged if the case is sealed or where the defendant has been adjudicated a youthful offender.

Copies: \_\_\_ Court, \_\_\_ Defendant, \_\_\_ Agency, \_\_\_ DA

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

CHRIS E. HENRY,  
Plaintiff

-vs-

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
BUREAU OF DRIVING LICENSING,  
Defendant

\*  
\*  
\*  
\*  
\*  
\*

Docket No. 2005-443 -CD

Type of pleading:  
ORDER

Filed on behalf of:  
PLAINTIFF, Chris E.  
Henry

Counsel of record for  
this party:

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

FILED

MAR 30 2005

William A. Shaw

Prothonotary/Clerk of Courts

6 cent to App

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

CHRIS E. HENRY,  
Plaintiff

-vs-

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
BUREAU OF DRIVING LICENSING,  
Defendant

\*

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Docket No. 2005-

-CD

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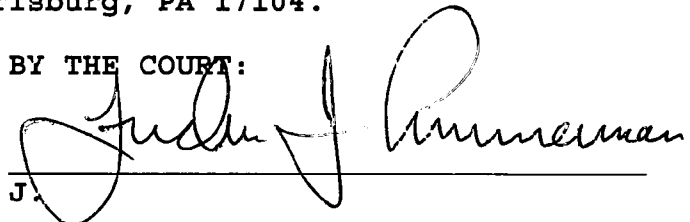
\*

ORDER

AND NOW, this 30<sup>th</sup> day of March, 2005, upon consideration of the Notice of Appeal of Driver's License Suspension and Request for Supersedeas filed on behalf of Chris E. Henry, IT IS THE ORDER AND DECREE OF THIS COURT that a supersedeas is hereby granted, and the March 10, 2005 Notice of the Bureau of Driver Licensing disqualifying Chris E. Henry from driving a commercial motor vehicle for six months is hereby vacated. The Court Administrator of Clearfield County is directed to schedule this case for trial at the next available date when driver suspension appeals are heard.

Counsel for Chris E. Henry is directed to serve forthwith a copy of this Order and Notice of Appeal upon the Pennsylvania Department of Transportation, Office of Chief Counsel, Third Floor, Riverfront Office Center, Harrisburg, PA 17104.

BY THE COURT:

  
J.

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

CHRIS E. HENRY,  
Plaintiff

-vs-

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
BUREAU OF DRIVER LICENSING,  
Defendant

\*  
\*  
\*  
\*  
\*

Docket No. 2005-443-CD

Type of pleading:  
CERTIFICATE OF SERVICE

Filed on behalf of:  
PLAINTIFF, Chris E.  
Henry

Counsel of record for  
this party:

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9511

FILED

APR 01 2005

William A. Shaw  
Prothonotary/Clerk of Courts

1cc  
Atty Koerber  
GW

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

CHRIS E. HENRY,  
Plaintiff

-vs-

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
BUREAU OF DRIVER LICENSING,  
Defendant


Docket No. 2005-443-CD

CERTIFICATE OF SERVICE

I certify that on the 30th day of March, 2005, a certified copy of the Notice of Appeal of Driver's License Suspension and Request for Supersedeas, and a certified copy of the March 30, 2005 Order of Court were served by United States First Class Mail upon the following:

Andrew S. Gordon, Chief Counsel  
PA DEPARTMENT OF TRANSPORTATION  
Third Floor, Riverfront Office Center  
Harrisburg, PA 17104

William A. Kuhar, Jr., Assistant Counsel  
PA DEPARTMENT OF TRANSPORTATION  
OFFICE OF CHIEF COUNSEL  
1209 State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222

  
Dwight L. Koerber, Jr., Esquire

*Law Office*

DWIGHT L. KOERBER, JR.

ATTORNEY-AT-LAW

110 NORTH SECOND STREET

P. O. Box 1320

CITTADELLA, PENNSYLVANIA 16830

CERTIFIED COPY

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

Chris E. Henry,  
Plaintiff

\*

\*

-VS-

\*

Docket No. 2005-443-CD

Commonwealth of Pennsylvania,  
Department of Transportation,  
Bureau of Driving Licensing,  
Defendant

\*

\*

Type of Pleading:  
PRAECIPE TO WITHDRAW  
NOTICE OF APPEAL

Filed on Behalf of:  
Chris E. Henry

Counsel of Record for  
This Party:  
Dwight L. Koerber, Jr., Esquire

LAW OFFICES OF  
DWIGHT L. KOERBER, JR.

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED** 3 cc  
0130104 Atty Koerber  
JUL 01 2005

William A. Shaw  
Prothonotary, Clerk of Courts

Copy to CIA

62

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

Chris E. Henry,  
Plaintiff

\*

\*

-vs-

\*

Docket No. 2005-443-CD

Commonwealth of Pennsylvania,  
Department of Transportation,  
Bureau of Driving Licensing,  
Defendant

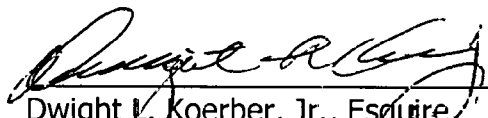
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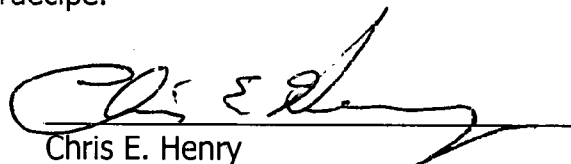
**PRAECIPE TO WITHDRAW NOTICE OF APPEAL**

Please mark the docket to show the Notice of Appeal filed by Chris E. Henry is  
withdrawn and discontinued.

Respectfully submitted,

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiff:  
Chris E. Henry

I consent to the entry of this Praecipe.

  
Chris E. Henry

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

Chris E. Henry,  
Plaintiff

\*

\*

-VS-

\*

Docket No. 2005-443-CD

Commonwealth of Pennsylvania,  
Department of Transportation,  
Bureau of Driving Licensing,  
Defendant

\*

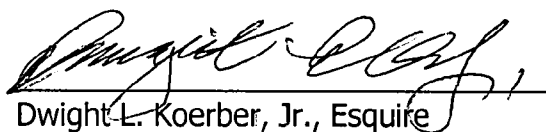
\*

**CERTIFICATE OF SERVICE**

I certify that on the 1<sup>st</sup> day of July 2005, the undersigned served a true and correct copy of the Praeceptum to Withdraw Notice of Appeal in the above-captioned matter by United States First Class Mail upon the following:

Andrew S. Gordon, Chief Counsel  
PA DEPARTMENT OF TRANSPORTATION  
Third Floor, Riverfront Office Center  
Harrisburg, PA 17104

William A. Kuhar, Esquire, Assistant Counsel  
Office of Chief Counsel  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
1209 State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222



Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiff:  
Chris E. Henry