

05-668-CD

PA Nat'l Mut Cas et al W&W Equipment
National Mutual vs. W&W Equip.

PA Nat'l Mut Cas et al W&W Equipment
2005-668-CD

Atty Salyński pd. 85.00

Commonwealth of Pennsylvania

Court of Common Pleas

Judicial District

46th

FILED

m/2/55/01
MAY 11 2005

ICC Atty Salyński

ICC Def.

ICC M&J Ford

NOTICE OF APPEAL

FROM

DISTRICT JUSTICE JUDGMENT

Common Pleas No.

05-1068-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.

Name of Appellant	BriCen			Mag. Dist. No. or Name of D.J.	46-3-01
Address of Appellant	P.O. Box 651			City	Penfield
Date of Judgment	4/28/05	In The Case Of	PA Nat'l Ins. Co., at/o Merlin	State	PA
Claim No.	CV-0000111-05			Signature of Appellant or His Attorney or Agent	
TA 19				Mary Kathryn Salyński	
LT 19				Mary Kathryn Salyński	
This block will be signed ONLY when this notation is required under Pa. R.C.P.J.P. No. 1008B.			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.		
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

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of the form to be used ONLY when appellant was DEFENDANT (see Pa.R.C.P.J.P. No. 1001(7) in the 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 (2) 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 is service was by mail is the date of mailing.

Date: _____, 20 _____

Signature of Prothonotary or Deputy

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-01

MDJ Name: Hon.

PATRICK N. FORD
Address: **309 MAPLE AVENUE**
PO BOX 452
DUBOIS, PA

Telephone: **(814) 371-5321** **15801**

ATTORNEY FOR PLAINTIFF :

MARY K. SALYNSKI
603 STANWIX STREET
2 GATEWAY CENTER STE 1450
PITTSBURGH, PA 15222

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

PA NATIONAL MUTUAL CASUALTY INS CO
256 HOOVERTOWN RD
A/S/O MERLYN BRICEN
PENFIELD, PA 15849

NAME and ADDRESS

VS.

DEFENDANT:

W & W EQUIPMENT, INC.
2740 BLINKER PARKWAY
DUBOIS, PA 15801

NAME and ADDRESS

Docket No.: **CV-0000117-05**
Date Filed: **3/08/05**



THIS IS TO NOTIFY YOU THAT:

Judgment:

FOR DEFENDANT

Judgment was entered for: (Name) **W & W EQUIPMENT, INC.**

Judgment was entered against: (Name) **PA NATIONAL MUTUAL CASUALTY I**

in the amount of \$.00 on: (Date of Judgment) 4/28/05

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	\$ <u>.00</u>
Judgment Costs	\$ <u>.00</u>
Interest on Judgment	\$ <u>.00</u>
Attorney Fees	\$ <u>.00</u>
Total	\$ <u>.00</u>
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 MAGISTERIAL DISTRICT JUDGES, IF THE JUDGEMENT 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 MAGISTERIAL DISTRICT JUDGE.

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 MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

4-28-05 Date Patrick N. Ford-ATF, Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

Date _____, Magisterial District Judge

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

SEAL

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-01

MDJ Name: Hon.

PATRICK N. FORD
Address: **309 MAPLE AVENUE**
PO BOX 452
DUBOIS, PA
Telephone: **(814) 371-5321**

15801

PATRICK N. FORD
309 MAPLE AVENUE
PO BOX 452
DUBOIS, PA 15801

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

NAME and ADDRESS
PA NATIONAL MUTUAL CASUALTY INS CO
256 HOOVERTOWN RD
A/S/O MERLYN BRICEN
PENFIELD, PA 15849

NAME and ADDRESS

VS.

DEFENDANT:

NAME and ADDRESS
W & W EQUIPMENT, INC.
2740 BLINKER PARKWAY
DUBOIS, PA 15801

NAME and ADDRESS

Docket No.: **CV-0000117-05**
Date Filed: **3/08/05**



05-668-CD

THIS IS TO NOTIFY YOU THAT:

Judgment:

FOR DEFENDANT

Judgment was entered for: (Name) **W & W EQUIPMENT, INC.**

Judgment was entered against: (Name) **PA NATIONAL MUTUAL CASUALTY I**

in the amount of \$ **.00** on: (Date of Judgment) **4/28/05**

Defendants are jointly and severally liable. (Date & Time) _____

Damages will be assessed on: _____

This case dismissed without prejudice. **FILED** *m/2/07/05* **MAY 17 2005**

Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ **William A. Shaw**
Prothonotary/Clerk of Courts

Portion of Judgment for physical damages arising out of residential lease \$ _____

Amount of Judgment	\$.00
Judgment Costs	\$.00
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$.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 MAGISTERIAL DISTRICT JUDGES, IF THE JUDGEMENT 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 MAGISTERIAL DISTRICT JUDGE.

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 MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

4-28-05 Date *Patrick N. Ford-pnf*, Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

Date _____, Magisterial District Judge

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

SEAL

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: CLEARFIELD

CIVIL COMPLAINT

Magisterial District Number:	46-3-01
District Justice Name:	Hon. Patrick N. Ford
Address:	309 Maple Avenue P.O. Box 452 DuBois, PA 15801
Telephone:	(814) 371-5321

PLAINTIFF:	NAME and ADDRESS
Pennsylvania National Mutual Casualty Insurance Company a/s/o. Merlyn Bricen d/b/a Bricen Towing & Repair P.O. Box 651 Penfield, PA 15849 VS.	
DEFENDANT:	NAME and ADDRESS
W & W Equipment, Inc. Route 119 South Blinker Parkway P.O. Box 295 Dubois, PA 15801	

Docket No.: **CV-117-05**
Date Filed: **3-8-05**



	AMOUNT	DATE PAID
FILING COSTS	\$ <u>37.00</u>	<u>3/18/05</u>
POSTAGE	\$ _____	<u>1/1</u>
SERVICE COSTS	\$ _____	<u>1/1</u>
CONSTABLE ED.	\$ _____	<u>1/1</u>
TOTAL	\$ _____	<u>1/1</u>

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$ 3,775.00 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

SEE DOCUMENT ATTACHED HERETO

I, Mary Kathryn Salyński, Esquire 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.

Mary Kathryn Salyński
(Signature of Plaintiff or Authorized Agent)

Plaintiff's
Attorney: Mary Kathryn Salyński, Esquire
Telephone: (412) 281-4541

Address: 2 Gateway Center Suite 1450
Pittsburgh, PA 15222

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD SO 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

PENNSYLVANIA NATIONAL
MUTUAL CASUALTY INSURANCE
COMPANY, as Subrogee of MERLYN
BRICEN, d/b/a BRICEN TOWING &
REPAIR,

Plaintiff,

vs.

W & W EQUIPMENT, INC.,

Defendant.

CIVIL DIVISION

NO.: 05-668-CD

COMPLAINT IN CIVIL ACTION

Filed on Behalf of Plaintiff

Counsel of Record For This Party:

David J. Rosenberg, Esquire
PA I.D. #37492

Mary Kathryn Salynski, Esquire
PA I.D. #85787

WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY LLP
Firm #594
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
Phone: (412) 281-4541
Fax: (412) 281-4547

FILED
MAY 19 2005
WILLIAM A. SHAW
PROTHONOTARY/CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PENNSYLVANIA NATIONAL)	CIVIL DIVISION
MUTUAL CASUALTY INSURANCE)	
COMPANY, as Subrogee of MERLYN)	NO.: 05-668-CD
BRICEN, d/b/a BRICEN TOWING &)	
REPAIR,)	
)	
Plaintiff,)	
)	
vs.)	
)	
W & W EQUIPMENT, INC.,)	
)	
Defendant.)	

NOTICE TO DEFEND

TO: W & W Equipment, Inc.
2740 Blinker Parkway
DuBois, PA 15801

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 AN 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:

David S. Meholick, Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641, Ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PENNSYLVANIA NATIONAL)	CIVIL DIVISION
MUTUAL CASUALTY INSURANCE)	
COMPANY, as Subrogee of MERLYN)	NO.: 05-668-CD
BRICEN, d/b/a BRICEN TOWING &)	
REPAIR,)	
)	
Plaintiff,)	
)	
vs.)	
)	
W & W EQUIPMENT, INC.,)	
)	
Defendant.)	

COMPLAINT IN CIVIL ACTION

AND NOW, comes the Plaintiff, Pennsylvania National Mutual Casualty Insurance Company as Subrogee of Merlyn Bricen d/b/a Bricen Towing & Repair, by its attorneys, David J. Rosenberg, Esquire, Mary Kathryn Salynski, Esquire and the law firm of Weber Gallagher Simpson Stapleton Fires & Newby LLP, and files the following Complaint against Defendant, W&W Equipment, Inc. In support thereof, it respectfully represents to the Court as follows:

1. Plaintiff, Pennsylvania National Mutual Casualty Insurance Company (hereinafter referred to as "Penn National"), is a corporation doing business within the Commonwealth of Pennsylvania having an address of P.O. Box 1670, Harrisburg, Pennsylvania, 17105.

2. Plaintiff, Merlyn Bricen, is an adult individual and resident of the Commonwealth of Pennsylvania.

3. At all times relevant hereto, Bricen was doing business as Bricen Towing & Repair, located at P.O. Box 651, Penfield, Clearfield County, Pennsylvania 15849.

4. Defendant, W & W Equipment, Inc. (hereinafter referred to as "W & W"), is a Pennsylvania corporation having a registered address of Route 119 South Blinker Parkway, P.O. Box 295, DuBois PA 15801.

5. Penn National issued an insurance policy to Bricen bearing policy number FA90070915, which was in full force and effect at all times relevant hereto.

6. Pursuant to said policy, Penn National is entitled to subrogation rights for any covered losses that were sustained by Bricen.

7. On or about February 2, 2004, Bricen rented a Bobcat Skidsteer machine from W & W for use at Bricen's place of business.

8. When Bricen started the engine in an attempt to operate the machine, oil sprung from the machine and onto the Bricen building.

9. As a result of the damage caused by the oil, Bricen's building required repairs in the amount of \$3,775.00.

10. Penn National compensated Bricen for the damages pursuant to its policy of insurance with Bricen.

COUNT I – NEGLIGENCE

11. The averments of paragraphs 1 through 10 above are incorporated by reference as if more fully set forth at length herein.

12. The damages suffered by Bricen and Penn National were the direct and proximate result of the negligence of the Defendant, generally and more specifically as follows:

- a. In renting a skidsteer machine to Bricen that was in a defective condition;
- b. In failing to inspect the skidsteer machine before renting it to Bricen;
- c. In permitting the skidsteer machine to leave its possession when it knew or should have known that the machine created an

unreasonable and foreseeable risk of causing the aforementioned damage; and

d. In failing to use due care under the circumstances.

WHEREFORE, Plaintiff, Pennsylvania National Mutual Casualty Insurance Company, as Subrogee of Merlyn Bricen d/b/a Bricen Towing & Repair, demands judgment in its favor and against the Defendant, W & W Equipment, Inc., in an amount within the arbitration limits of this Honorable Court, together with costs and interest.

Respectfully submitted,

WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY LLP

By: Mary Kathryn Salynski
Mary Kathryn Salynski, Esquire
Attorneys for Plaintiff

VERIFIED STATEMENT

I, Mary Kathryn Salynski, Esquire, being the attorney for Pennsylvania National Mutual Casualty Insurance Company, as Subrogee of Merlyn Bricen, d/b/a Bricen Towing & Repair in the within action, am duly authorized to make this Verified Statement on its behalf, and make this Verified Statement due to the fact that the Verified Statement of a representative of Penn National cannot be obtained within the time limits necessary for filing this pleading. I hereby verify that the statements set forth in the foregoing COMPLAINT IN CIVIL ACTION are true and correct to the best of my information and belief based upon knowledge obtained from representatives of Pennsylvania National Mutual Insurance Company.

I understand that false statements made herein are subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsifications to authorities.

Mary Kathryn Salynski
Mary Kathryn Salynski, Esquire

DATE: _____

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing COMPLAINT IN CIVIL ACTION has been served by first class U.S. mail, postage prepaid, this 17 day of May, 2005, upon the following party:

W & W Equipment, Inc.
P.O. Box 295
2740 Blinker Parkway
DuBois, PA 15801

Mary Kathryn Salynski
Mary Kathryn Salynski, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PENNSYLVANIA NATIONAL MUTUAL
CASUALTY INSURANCE COMPANY, as
Subrogee of MERLYN BRICEN, d/b/a
BRICEN TOWING & REPAIR,

CIVIL DIVISION

NO.: 05-668-CD

Plaintiff,

vs.

W & W EQUIPMENT, INC.,

Defendant.

Filed on Behalf of Plaintiff

Counsel of Record For This Party:

David J. Rosenberg, Esquire
PA I.D. #37492

Mary Kathryn Salynski, Esquire
PA I.D. #85787

WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY LLP
Firm #594
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
Phone: (412) 281-4541
Fax: (412) 281-4547

FILED ¹⁶
MAY 19 2005
NO CC
M 11:25 AM
MAY 19 2005

William A. Shaw
Prothonotary/Clerk of Courts

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. 05-668-CD, upon District Justice designnnated therein on

(date of service) May 16, 2005 by personal service by certified/registered mail, sender's receipt attached hereto, and upon the appellee, (name) W & W Equipment, on

May 14, 2005 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 _____, 20____ by personal service
 by certified/registered mail, sender's receipt attached hereto.

SWORN (AFFIRMED) AND SUBSCRIBED BEFORE ME

THIS 17th DAY OF May 2005

Mary Kathryn Salwyn
Signature of Affiant

Diane L. Swanson
Signature of Official Before Whom Affidavit was made

Title of Official COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Diane L. Swanson, Notary Public

City of Pittsburgh, Allegheny County

My Commission Expires 01-10-2009

20 ____

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:

District Justice Patrick Ford
District Court 46-3-01
309 Maple Avenue
P.O. Box 452
SUB015, PA 15801

2. Article Number

(Transfer from service label)

7003 7003 3110 0004 3902 1389

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

Patrick N. Ford

Agent
 Addressee

B. Received by (Printed Name)

Patrick N. Ford

C. Date of Delivery

5/16/05

D. Is delivery address different from item 1?

Yes
 No

If YES, enter delivery address below:

1616

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

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:

W+W Equipment
P.O. Box 295
2740 Blinker Parkway
DuBois, PA 15801

2. Article Number

(Transfer from service lab)

7003 3110 0004 3902 1372

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Robert Walker Agent
 Robert Walker Addressee

B. Received by (Printed Name)

Robert Walker 5-14-05

C. Date of Delivery

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

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PROOF OF SERVICE OF NOTICE OF APPEAL has been served by first class U.S. mail, postage prepaid, this 17 day of May, 2005, upon the following party:

W & W Equipment, Inc.
P.O. Box 295
2740 Blinker Parkway
DuBois, PA 15801

Mary Kathryn Salynski
Mary Kathryn Salynski, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PENNSYLVANIA NATIONAL
MUTUAL CASUALTY INSURANCE
COMPANY, as Subrogee of MERLYN
BRICEN, d/b/a BRICEN TOWING &
REPAIR,

CIVIL DIVISION

NO.: 05-668-CD

Plaintiff

ANSWER

Vs.

W & W EQUIPMENT, INC.,

Filed on behalf of Defendant

Defendant.

Counsel of Record for this Party:

Daniel A. Adams, Esquire
PA I.D. # 55823

Daniel A. Adams, Esquire
W & W EQUIPMENT, INC.
2740 Blinker Parkway
DuBois, PA 15801
Phone: (814) 375-9606
Fax: (814) 375-9460

FILED 6
8/9/05 2m 3cc Atty Adams
AUG 12 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PENNSYLVANIA NATIONAL)	CIVIL DIVISION
MUTUAL CASUALTY INSURANCE)	
COMPANY, as Subrogee of MERLYN)	NO.: 05-668-CD
BRICEN, d/b/a BRICEN TOWING &)	
REPAIR,)	
)	
Plaintiff)	
)	
vs.)	
)	
W & W EQUIPMENT, INC.,)	
)	
Defendant)	

ANSWER

AND NOW, comes the Defendant, W & W EQUIPMENT, INC., by and through its attorney, Vice President and General Manager of W & W EQUIPMENT, INC., and files its Answer and represents as follows:

1. The averments contained in Paragraph 1 of the Complaint are denied. Defendant has no knowledge of the averments contained in Paragraph 1 of the complaint and strict proof regarding the averments contained therein is demanded at time of trial.
2. Admitted.
3. Admitted
4. Admitted
5. The averments contained in Paragraph 5 of the Complaint are denied. Defendant has no knowledge of the averments contained in Paragraph 5 of the Complaint and strict proof regarding the averments contained therein is demanded at time of trial.
6. The averments contained in Paragraph 6 of the Complaint are denied. Defendant has no knowledge of the averments contained in Paragraph 6 of the Complaint and strict proof regarding the averments contained therein is demanded at time of trial.
7. The averments contained in Paragraph 7 of the Complaint are denied. Pursuant to the

records of the Defendant, at no time has the Bricen rented a skidsteer from Defendant, and strict proof regarding the averments contained therein is demanded at time of trial.

8. The averments contained in Paragraph 8 of the Complaint are denied. Defendant has no knowledge of the averments contained in Paragraph 8 of the Complaint and strict proof regarding the averments contained therein is demanded at time of trial.

9. The averments contained in Paragraph 9 of the Complaint are denied. Defendant has no knowledge of the averments contained in Paragraph 9 of the Complaint and strict proof regarding the averments contained therein is demanded at time of trial.

10. The averments contained in Paragraph 10 of the Complaint are denied. Defendant has no knowledge of the averments contained in Paragraph 10 of the Complaint and strict proof regarding the averments contained therein is demanded at time of trial.

11. The averments contained in Paragraph 11 of the Complaint are denied to the extent that they have been denied in the Answer set forth above.

12. The averments contained in Paragraph 12 of the Complaint are denied. Defendant believes and therefore avers as follows:

a. Defendant believes and therefore avers that it has never rented a skidsteer to the Plaintiff and further avers that if it had rented a skidsteer to the Plaintiff, that the skidsteer was or would have been in safe operating condition when delivered into the Plaintiff's custody and control and strict proof to the contrary is demanded at time of trial.

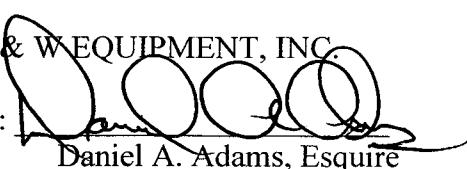
b. Defendant believes and therefore avers that any machine rented or delivered into the custody and control of the Plaintiff was inspected prior to delivery and strict proof to the contrary is demanded at time of trial.

c. Defendant believes and therefore avers that the machine leaving the custody and control of the Defendant was in a safe operating condition that Defendant had no knowledge that any machine leaving its custody and control could cause any unreasonable or unforeseen risk of any damages. Plaintiff believes and therefore avers that any damages caused by any machine of the Defendant's while in the custody and control of the Plaintiff were caused by the unauthorized use of the machine by the Plaintiff, and/or the improper use of the machine by the Plaintiff and/or negligent operation of the machine by the Plaintiff, and/or a manufacturer's defect in the machine or one of its components and are the sole responsibility of the Plaintiff and /or a manufacturer of the machine or one of its components and strict proof to the contrary is demanded at time of trial.

d. The Defendant believes and therefore avers that it used the acceptable and proper amount of care with respect to this commercial customer and any use of Defendant's equipment that was ever in the Plaintiff's custody or control and strict proof to the contrary is demanded at time of trial.

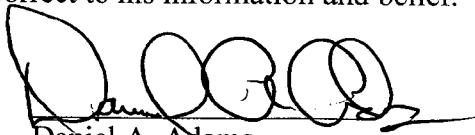
WEREFORE, Defendant, W & W EQUIPMENT, INC., demands judgment in its favor and against the Plaintiff, Pennsylvania National Mutual Casualty Insurance Company, as Subrogee of Merlyn Bricen d/b/a Bricen Towing and Repair, together with costs.

Respectfully submitted,

W & W EQUIPMENT, INC.
By: 
Daniel A. Adams, Esquire
Attorney for Defendant

VERIFIED STATEMENT

I, Daniel A. Adams, Esquire, being the Vice-President, General Manager and Attorney for W & W EQUIPMENT, INC., deposes and says subject to the penalties of 18Pa. C.S.A. Subsection 4904 relating to unsworn falsification to authorities that the facts set forth in the foregoing ANSWER are true and correct to his information and belief.



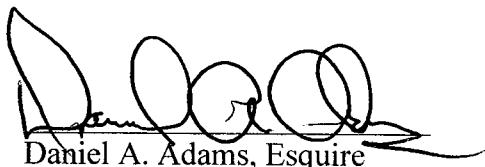
Daniel A. Adams
Vice-President & General Manager
W & W EQUIPMENT, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER has been served by First Class U.S. Mail, postage prepaid, and by Certified Mail, this 12th day of August, 2005 upon the following parties:

David J. Rosenberg, Esquire
WEBER GALLAGHER SIMPSON STAPLETON FIRES &
NEWBY LLP
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222

Mary Kathryn Salynski, Esquire
WEBER GALLAGHER SIMPSON STAPLETON FIRES &
NEWBY, LLP
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222



Daniel A. Adams, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PENNSYLVANIA NATIONAL MUTUAL
CASUALTY INSURANCE COMPANY, as
Subrogee of MERLYN BRICEN, d/b/a
BRICEN TOWING & REPAIR,

CIVIL DIVISION

NO.: 05-668-CD

Plaintiff,

vs.

W & W EQUIPMENT, INC.,

Defendant.

SUBSTITUTION OF APPEARANCE

Filed on Behalf of Plaintiff

Counsel of Record For This Party:

David J. Rosenberg, Esquire
PA I.D. #37492

Mary Kathryn Salynski, Esquire
PA I.D. #85787

WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY LLP
Firm #594
Two Gateway Center, Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222
Phone: (412) 281-4541
Fax: (412) 281-4547

FILED NO cc
m/1/24/01
JUN 26 2001
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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PENNSYLVANIA NATIONAL)	CIVIL DIVISION
MUTUAL CASUALTY INSURANCE)	
COMPANY, as Subrogee of MERLYN)	NO.: 05-668-CD
BRICEN, d/b/a BRICEN TOWING &)	
REPAIR,)	
Plaintiff,)	
)	
vs.)	
)	
W & W EQUIPMENT, INC.,)	
Defendant.)	

SUBSTITUTION OF APPEARANCE

TO: WILLIAM A. SHAW, SR. PROTHONOTARY

Kindly substitute the appearance of Christopher P. Deegan, Esquire and the law firm of Weber Gallagher Simpson Stapleton Fires & Newby LLP for the appearance of Mary Kathryn Salynski, Esquire and the law firm of Weber Gallagher Simpson Stapleton Fires & Newby LLP on behalf of the Plaintiff in the above-captioned action.

Respectfully submitted,

WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY LLP

By:

Mary Kathryn Salynski
Mary Kathryn Salynski, Esquire
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing SUBSTITUTION OF APPEARANCE has been served by first class U.S. mail, postage prepaid, this 20th day of June, 2006, upon the following party:

W & W Equipment, Inc.
P.O. Box 295
2740 Blinker Parkway
DuBois, PA 15801

Mary Kathryn Salynski
Mary Kathryn Salynski, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PENNSYLVANIA NATIONAL
MUTUAL CASUALTY INSURANCE
COMPANY, as Subrogee of MERLYN
BRICEN, d/b/a BRICEN TOWING &
REPAIR,

Plaintiff,

vs.

W & W EQUIPMENT, INC.,

Defendant.

CIVIL DIVISION

No.: 05-668-CD

CERTIFICATE OF READINESS

Filed on Behalf of Plaintiff

Counsel of Record for This Party:

Christopher P. Deegan, Esquire
PA I.D. No.: 85635

WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY LLP
Firm No.: 594

Two Gateway Center – Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222

(412) 281-4541
(412) 281-4547 **FAX**

FILED *Atty pd. 20.00*
9/11/06 SEP 22 2006 No CC

William A. Shaw
Prothonotary/Clerk of Courts

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

CERTIFICATE OF READINESS

TO THE PROTHONOTARY

05-668-CD

DATE PRESENTED 9/20/06

CASE NUMBER TYPE TRIAL REQUESTED ESTIMATED TRIAL TIME

Date Complaint () Jury () Non-Jury
Filed: 5/19/05 (xx) Arbitration

1 days/hours

PLAINTIFF(S)

Pennsylvania National Mutual Casualty
Insurance Company as subrogee of Merlyn
Bricen, d/b/a Bricen Towing & Repair, ()

Check block if a Minor
is a Party to the Case

DEFENDANT(S)

W & W Equipment, Inc.

()

ADDITIONAL DEFENDANT(S)

()

JURY DEMAND FILED BY:

DATE JURY DEMAND FILED:

AMOUNT AT ISSUE CONSOLIDATION DATE CONSOLIDATION ORDERED

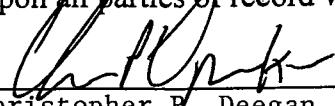
\$3,775.00

More than

& () 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:


Christopher P. Deegan, Esquire
Counsel for Plaintiff

FOR THE PLAINTIFF

TELEPHONE NUMBER

Christopher P. Deegan, Esquire
Two Gateway Center, Suite 1450
Pittsburgh, PA 15222

412-281-4541

FOR THE DEFENDANT

TELEPHONE NUMBER

Daniel A. Adams, Esquire
2740 Blinker Parkway
DuBois, PA 15801

814-375-9606

FOR ADDITIONAL DEFENDANT

TELEPHONE NUMBER

CERTIFICATE OF SERVICE

I, Christopher P. Deegan, Esquire, do hereby certify that a true and correct copy of the foregoing CERTIFICATE OF READINESS was mailed via U.S. first class mail, postage prepaid, upon the following party this 20th day of September, 2006:

Daniel A. Adams, Esquire
2740 Blinker Parkway
DuBois, PA 15801

(Attorney for Defendant, W & W Equipment, Inc.)


Christopher P. Deegan, Esquire

Counsel for Plaintiff

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

PENNSYLVANIA NATIONAL
MUTUAL CASUALTY INSURANCE
COMPANY, as Subrogee of MERLYN
BRICEN, d/b/a BRICEN TOWING &
REPAIR :
vs. : No. 05-668-CD
W & W EQUIPMENT, INC. :
:

ORDER

NOW, this 30 day of January, 2007, it is the ORDER of the Court that the above-captioned matter is scheduled for Arbitration on Friday, March 23, 2007 at 9:00 A.M. in the Conference/Hearing Room No. 3, 2nd Floor, Clearfield County Courthouse, Clearfield, PA. The following have been appointed as Arbitrators:

Dwight L. Koerber, Esquire, Chairman

John Sughrue, Esquire

Christopher E. Mohney, 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 is enclosed as well as a copy of said Local Rule of Court.

BY THE COURT:

~~FREDRIC J. AMMERMAN~~
President Judge

FILED
02-4564
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(GP)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PENNSYLVANIA NATIONAL
MUTUAL CASUALTY INSURANCE
COMPANY, as Subrogee of MERLYN
BRICEN, d/b/a BRICEN TOWING &
REPAIR,

Plaintiff,

vs.

W & W EQUIPMENT, INC.,

Defendant.

CIVIL DIVISION

No.: 05-668-CD

**PRAECIPE TO SETTLE DISCONTINUE
AND END**

Filed on Behalf of Plaintiff

Counsel of Record for This Party:

Christopher P. Deegan, Esquire
PA I.D. No.: 85635

WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY LLP
Firm No.: 594

Two Gateway Center – Suite 1450
603 Stanwix Street
Pittsburgh, PA 15222

(412) 281-4541
(412) 281-4547 **FAX**

FEB 09 2007

FEB 09 2007

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William A. Shaw
Prothonotary/Clerk of Courts

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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PENNSYLVANIA NATIONAL) CIVIL DIVISION
MUTUAL CASUALTY INSURANCE)
COMPANY, as Subrogee of MERLYN) NO.: 05-668-CD
BRICEN, d/b/a BRICEN TOWING &)
REPAIR,)
Plaintiff,)
vs.)
W & W EQUIPMENT, INC.,)
Defendant.)

PRAECIPE TO SETTLE DISCONTINUE AND END

TO: PROTHONOTARY

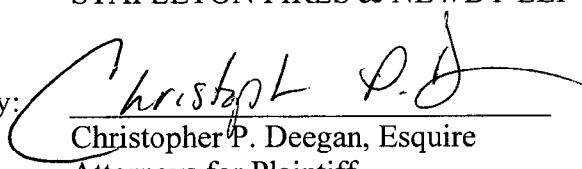
Kindly settle discontinue and end the above referenced matter.

Respectfully submitted,

WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY LLP

Date: 2/7/07

By:


Christopher P. Deegan, Esquire
Attorneys for Plaintiff