

05-1586-CD
John Roush vs W. Merryweather et al

John Roush vs William Merryman et al
2005-1586-CD

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

JOHN R. ROUSH
an adult individual;

PLAINTIFF,

No. 05-1586-CD

v.
WILLIAM MERRYWEATHER, t/d/b/a
EBENSBURG AUTO AUCTION

DEFENDANT.

Type of Pleading:

CIVIL COMPLAINT

Filed By:

Plaintiff

Counsel of Record:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

FILED

O 12:00 p.m 6K

OCT 13 2005

3CC TO ATTY
ATTY PAID 85.00

William A. Shaw
Prothonotary

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

JOHN R. ROUSH)
an adult individual;)
PLAINTIFF,)
v.) No. 05- 1586 -CD
WILLIAM MERRYWEATHER, t/d/b/a)
EBENSBURG AUTO AUCTION)
DEFENDANT.)

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIM 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 CLAIM IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF(S). 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 AN ATTORNEY, OR CANNOT FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

David Meholic, Court Administrator
c/o Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
(814)-765-2641

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

JOHN R. ROUSH)
an adult individual;)
PLAINTIFF,)
v.) No. 05- 1586 -CD
WILLIAM MERRYWEATHER, t/d/b/a)
EBENSBURG AUTO AUCTION)
DEFENDANT.)

CIVIL COMPLAINT

NOW COMES, the Plaintiff, John R. Roush, by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of his CIVIL COMPLAINT:

The Parties

1. Plaintiff is John R. Roush, an adult individual, who at all material times did reside at 11 N. Jared Street, DuBois, Clearfield County, Pennsylvania.
2. That Defendant is William Merryweather, t/d/b/a Ebensburg Auto Auction, with principal place of business located at 3347 New Germany Rd., Ebensburg, Cambria County, Pennsylvania 15931.

Background

3. That defendant owns and operates a business in which car dealers, their agents and or employees go to the defendant's place of business to offer for sale or examine, inspect and purchase, through auction, used cars, which occurs approximately one time a week.
4. To maximize revenue, upon information and belief, defendant also rents space to others who offer for sale various other items associated with automobiles which are in a booth type setting.
5. That on or about Wednesday, November 24, 2004, Mr. Roush was at the defendant's

aforementioned place of business, as a business invitee, to assist a friend of his, who is a car dealer, to transport purchased autos back to the DuBois Area.

6. While at said location, Mr. Roush was walking through the area in which the various "vendors" were located, carrying other items which he had purchased such as coffee and donuts.

7. That when he passed by a certain "booth", Mr. Roush did trip and fall over a box which was sticking out from underneath the vendor's table and into the walkway area, causing Mr. Roush to fall very forcibly, striking the ground.

Negligence

Count I

8. That the averments of paragraphs 1 - 7, inclusive, are hereby incorporated as if again fully set forth at length.

9. That as a business invitee, defendant owed Mr. Roush a duty of care, which included that the premises would be reasonably safe.

10. That Defendant breached that duty of care in that Defendant was negligent, as follows:

(a) He failed to properly maintain the premises in a safe condition such that there was insufficient room for the vendors to place their items for sale and not stick into the designated walk area;

(b) he failed to inspect the area occupied by the vendors to assure that the walk area was free and clear;

(c) he failed to instruct the vendors to keep the walk area free and clear of items; and

(d) he failed to provide a walk area through the vendors location which was free and clear of items which impeded one safely walking through the area;

11. That Defendant's negligence was a direct and proximate cause of Mr. Roush's accident and resulting injuries, which included besides contusions, twisting his back, and broken and/or cracked, bruised ribs.

12. That as a result of the aforementioned injuries, Mr. Roush needed and obtained medical care, which has included a visits to the DuBois Regional Medical Center Emergency Room and with his physician, at a cost to be determined at time of trial, all of which should be borne by the Defendant..

13. That Mr. Roush did suffer and does continue to suffer pain from his injuries for which he should be compensated in an amount to be determined at time of trial.

14. That Mr. Roush given his injuries and resulting treatments has had a loss of enjoyment of life for which he should be compensated in an amount to be determined at time of trial.

Miscellaneous

15. That jurisdiction is proper.

16. That venue is proper.

WHEREFORE, Plaintiff requests that judgment be entered in his favor, together with costs and interest in an amount to be determined but less than Twenty-Thousand Dollars.

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. #: 55942

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

JOHN R. ROUSH)
an adult individual;)
PLAINTIFF,)
v.) No. 05-_____ -CD
WILLIAM MERRYWEATHER, t/d/b/a)
EBENSBURG AUTO AUCTION)
DEFENDANT.)

VERIFICATION

I, John R. Roush, Plaintiff, do hereby swear and affirm that I have read the foregoing CIVIL COMPLAINT and that the averments therein contained are true and correct to the best of our knowledge, information and belief. Furthermore, I am over the age of 18 years of age and give this unsworn statement knowing it is to authorities and subject to the penalties of 18 Pa.C.S.A. 4901.

So made this 10th day of OCTOBER, 2005.

By,


John R. Roush, Plaintiff

FILED

OCT 13 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

CIVIL DIVISION

Plaintiff,

No.: 05-1586-CD

vs.

PRAECIPE FOR APPEARANCE

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

Defendant.

FILED ON BEHALF OF:
DEFENDANT

COUNSEL OF RECORD FOR
THIS PARTY:

DANIEL L. RIVETTI, ESQUIRE
PA I.D. #73015

MARK A. MARTINI, ESQUIRE
PA I.D. # 91001
ROBB LEONARD MULVIHILL
FIRM #249
2300 One Mellon Center
Pittsburgh, PA 15219
412/281-5431

JURY TRIAL DEMANDED

FILED NO CC
m/3/04 2004
DEC 09 2005
e

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

CIVIL DIVISION

Plaintiff,

No.: 05-1586-CD

vs.

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

Defendant.

PRAECIPE FOR APPEARANCE

TO THE PROTHONOTARY:

Kindly enter the appearance of Daniel L. Rivetti, Esquire, Mark A. Martini, Esquire and the law firm of Robb Leonard Mulvihill as attorneys on behalf of DEFENDANT in the above-captioned case.

Respectfully submitted,

ROBB LEONARD MULVIHILL

By

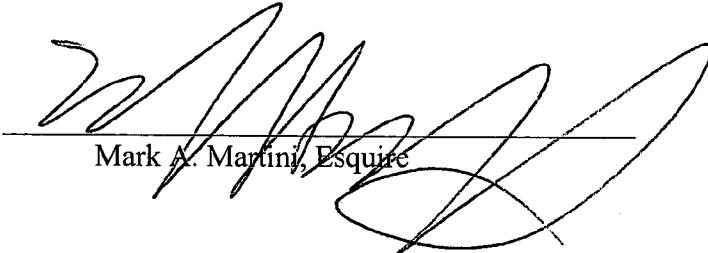
Mark A. Martini, Esq.
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **PRAECIPE FOR APPEARANCE** to be served on all counsel this 7th day of December, 2005 by U.S.

First Class Mail, postage pre-paid as follows:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830


Mark A. Martini, Esquire

FILED

DEC 09 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

CIVIL DIVISION

Plaintiff,

No.: 05-1586-CD

vs.

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

**PRAECIPE FOR WRIT TO JOIN
ADDITIONAL DEFENDANT**

Defendant.

FILED ON BEHALF OF:
DEFENDANT

COUNSEL OF RECORD FOR
THIS PARTY:

DANIEL L. RIVETTI, ESQUIRE
PA I.D. #73015

MARK A. MARTINI, ESQUIRE
PA I.D. # 91001
ROBB LEONARD MULVIHILL
FIRM #249
2300 One Mellon Center
Pittsburgh, PA 15219
412/281-5431

JURY TRIAL DEMANDED

FILED NO CC
m13:04/01/2005
DEC 09 2005
to Atty
William A. Shaw
Prothonotary/Clerk of Courts
GR

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

CIVIL DIVISION

Plaintiff,

No.: 05-1586-CD

vs.

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

Defendant.

PRAECIPE FOR WRIT TO JOIN ADDITIONAL DEFENDANT

TO THE PROTHONOTARY:

Kindly issue a Writ of Summons to Join Jude Pankiewicz, 952 Ringold Street, Pittsburgh, Pennsylvania 15220, as an Additional Defendant to the above captioned matter.

Respectfully submitted,

ROBB LEONARD MULVIHILL

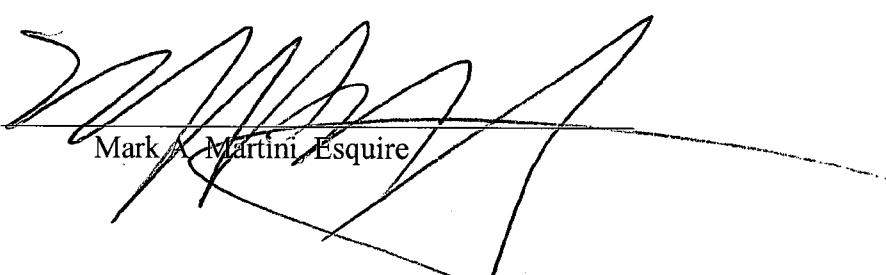
By

Mark A. Martini, Esq.
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **PRAECIPE FOR WRIT TO JOIN ADDITIONAL DEFENDANT** to be served on all counsel this 2nd day of December, 2005 by U.S. First Class Mail, postage pre-paid as follows:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830


Mark A. Martini, Esquire

FILED

DEC 09 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WRIT TO JOIN ADDITIONAL DEFENDANT

 COPY

John R. Roush

Plaintiff(s)

Vs.

William Merryman t/d/b/a Ebensburg Auto
Auction

2005-01586-CD

Defendant(s)

Vs.

Jude Pankiewicz

Additional Defendant(s)

To: Jude Pankiewicz

You are notified that William Merryweather t/d/b/a Ebensburg Auto Auction has joined you as an additional defendant in this action, which you are required to defend.

Dated: December 9, 2005

Prothonotary

Filing Attorney: Mark A. Martini, Esq.
2300 One Mellon Center
Pittsburgh, PA 15219
(412) 281-5431

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

CIVIL DIVISION

Plaintiff,

No.: 05-1586-CD

vs.

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

**JOINDER COMPLAINT DIRECTED
TO ADDITIONAL DEFENDANT,
JUDE PANKIEWICZ**

Defendant,

vs.

JUDE PANKIEWICZ,

Additional Defendant.

FILED ON BEHALF OF:
DEFENDANT

COUNSEL OF RECORD FOR
THIS PARTY:

DANIEL L. RIVETTI, ESQUIRE
PA I.D. #73015

MARK A. MARTINI, ESQUIRE
PA I.D. # 91001

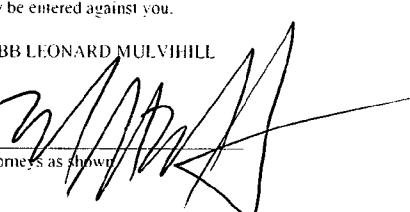
ROBB LEONARD MULVIHILL
FIRM #249
2300 One Mellon Center
Pittsburgh, PA 15219
412/281-5431

JURY TRIAL DEMANDED

To: All Parties

You are hereby notified to file a written response to
the enclosed **JOINDER COMPLAINT** within
twenty (20) days from service hereof or a judgment
may be entered against you.

ROBB LEONARD MULVIHILL

By: 
Attorneys as shown

FILED NO
m103701
DEC 23 2005
60

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

CIVIL DIVISION

Plaintiff,

No.: 05-1586-CD

vs.

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

Defendant,

vs.

JUDE PANKIEWICZ,

Additional Defendant.

JOINDER COMPLAINT DIRECTED TO
ADDITIONAL DEFENDANT, JUDE PANKIEWICZ

AND NOW, comes the Original Defendant, William Merryweather t/d/b/a Ebensburg Auto Auction, by and through his attorneys, Robb Leonard Mulvihill, Daniel L. Rivetti, Esquire, and Mark A. Martini, Esquire, and hereby files the following Joinder Complaint and avers as follows:

1. The Plaintiff, John R. Roush, filed a Complaint against the Defendant, William Merryweather t/d/b/a Ebensburg Auto Auction (hereinafter, "Merryweather"), alleging a claim of negligence. A true and correct copy of the Complaint is hereto attached as "**Exhibit A.**"
2. Defendant Merryweather denies that he is in any way liable to the Plaintiff as alleged in the Complaint.
3. Concurrently with the filing of the within Joinder Complaint, Defendant

Merryweather is filing his Answer and New Matter to Plaintiff's Complaint denying any and all liability for the incident and damages set forth in the Complaint. A true and correct copy of Defendant Merryweather's Answer and New Matter is attached hereto as "**Exhibit B**" and incorporated by reference herein as if fully set forth.

4. The Additional Defendant, Jude Pankiewicz, is an adult individual who currently resides at 952 Ringold Street, Pittsburgh, County of Allegheny, Pennsylvania 15220.

5. If Plaintiff's allegation that he tripped and fell "over a box which was sticking out from underneath [a] vendor's table and into the walkway area" is found to be true (which is specifically denied), it is believed and therefore that the vendor who was responsible for and caused a box to stick out and into a walkway area was Additional Defendant Pankiewicz.

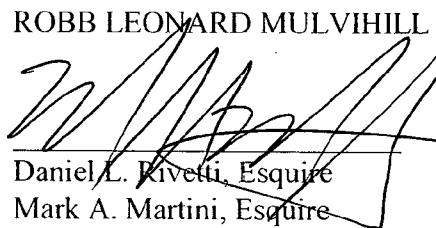
6. Therefore, should Defendant Merryweather be found liable to Plaintiff, which is Specifically Denied, then Defendant Merryweather asserts claims against Additional Defendant Pankiewicz, and any other parties joined hereafter, jointly, severally and together in any combination for contribution and/or indemnity, and for that purpose **only**, incorporates by reference herein Plaintiff's allegations against those other Defendants, including but not necessarily limited to, Additional Defendant Pankiewicz, and asserts that they are solely liable to the Plaintiff, or in the alternative, are liable over to Defendant Merryweather for contribution and/or indemnification.

7. Therefore this Defendant asserts all rights of contribution, indemnity, and liability over and against Additional Defendant Pankiewicz, either solely and/or jointly and/or severally.

WHEREFORE, the Original Defendant, William Merryweather t/d/b/a Ebensburg Auto Auction, hereby requests that this Honorable Court enter judgment in his favor and against all other parties and award costs of suit, and any other relief this Honorable Court deems appropriate, and demands a trial by jury.

Respectfully Submitted,

ROBB LEONARD MULVIHILL



Daniel L. Rivetti, Esquire
Mark A. Martini, Esquire

Attorneys for Original Defendant
William Merryweather t/d/b/a Ebensburg
Auto Auction

VERIFICATION

I, WILLIAM MERRYWEATHER, ~~individually, and on behalf of EBENSBURG~~
~~AUTO AUCTION~~, verify that the statements made herein in the filed **JOINER COMPLAINT**
DIRECTED TO ADDITIONAL DEFENDANT are true and correct to the best of my
knowledge, information and belief and are made subject to the penalties of 18 Pa. Con. Stat.
Ann. §4904 relating to unsworn falsification authorities.

Date: 12-20-05

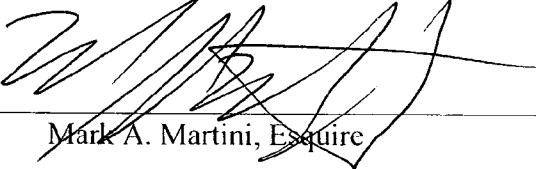
By: William Merryweather
William Merryweather

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **JOINDER**
COMPLAINT DIRECTED TO ADDITIONAL DEFENDANT to be served on all counsel
and unrepresented parties this 21st day of December, 2005 by U.S. First Class Mail, postage pre-
paid as follows:

THERON G. NOBLE, ESQUIRE
FERRARACCIO & NOBLE
301 EAST PINE STREET
CLEARFIELD, PA 16830

JUDE PANKIEWICZ
952 RINGOLD STREET
PITTSBURGH, PA 15220
(NO APPEARANCE ENTERED)



Mark A. Martini, Esquire

FILED

DEC 23 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DKT PG. 101102

JOHN R. ROUSH
-VS-
WILLIAM MERRYMAN t/d/b/a
-VS-
JUDE PANKIEWICZ

NO. 05-1586-CD

WRIT TO JOIN ADDITIONAL DEFENDANT

SHERIFF'S RETURN

NOW, December 22, 2005, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN WRIT TO JOIN ADDITIONAL DEFENDANT ON JUDE PANKIEWICZ.

NOW January 26, 2006 RETURN THE WITHIN WRIT TO JOIN ADDITIONAL DEFENDANT ON JUDE PANKIEWICZ, DEFENDANT. ALLEGHENY COUNTY RETURNED, NO ATTEMPTS, REQUIRE NOTARY FEE IN ADVANCE.

FILED
01/26/06
JAN 27 2006
LN
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101102
NO: 05-1586-CD
SERVICES 1
WRIT TO JOIN ADDITIONAL DEFENDANT

PLAINTIFF: JOHN R. ROUSH -vs- WILLIAM MERRYMAN t/d/b/a EBENSBURG AUTO AUCTION
vs.
DEFENDANT: JUDE PANKIEWICZ

SHERIFF RETURN

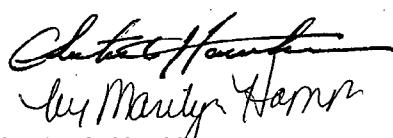
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	ROBB	58208	10.00
SHERIFF HAWKINS	ROBB	58208	26.00
ALLEGHENY CO.	ROBB	58207	0.00

Sworn to Before Me This

So Answers,

____ Day of _____ 2006


by Marilyn Hamr

Chester A. Hawkins
Sheriff

COUNTY OF ALLEGHENY

DATE RECEIVED _____

V S.

DATE RETURNED _____

**RETURNED BY THE ALLEGHENY COUNTY SHERIFF'S
DEPARTMENT FOR THE FOLLOWING REASON(S):**

Exact cost - must call ahead - no refunds.

Directions are needed.

A complete address is needed, including Street name & address number.
(Hospital Dept. Business office room number and floor)

An apartment building and /or suite number is needed.

An Allegheny County Sheriff's return of service form is needed (no photocopies or self made forms accepted).

Only put the names of the person/persons to be served on the forms.

Must be Deputized by _____ Sheriff's Department.

Your check needs to be signed.

We do not accept personal or business checks must be certified checks or money orders.

Checks should be made payable to "Sheriff of Allegheny County" or "Peter R. DeFazio, Sheriff".

No attorney checks accepted from out of state unless certified, cashiers checks or money orders

For papers filed out of county or out of state, check payable to "Sheila O'Brien, Notary".
(No reference to the Allegheny County sheriff's Office)

5.00

We require fifteen (15) days to make service.

We require the Original Notice of Suit/Summons issued by the Prothonotary's Office (no copies).

The "Sheriff's Return of Service" form is for up to three (3) defendants at the same address.
(Only one address per form)

We require one self addressed, stamped envelope for each return of service form.

Needed for "Personal Property Levy": Self addressed stamped envelope for return of service,
Stamped addressed envelope to each defendant, 1 claim for exemption form and 1 Original
Writ of Execution per defendant.

Needed for "Garnishee": Self addressed , stamped envelope to each defendant, Interrogatories,
Original Writ of Execution.

Other: _____

Any questions call Yolanda at (412) 350-3208



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office
Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641 EXT. 5986
AFTER 4:00 P.M. (814) 765-1533
FAX (814) 765-5915

ROBERT SNYDER
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

CYNTHIA AUGHENBAUGH
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
PAGE 101102

JOHN R. ROUSH -vs- WILLIAM MERRYMAN t/d/b/a EBENSBURG AUTO AUCTION
TERM & NO. 05-1586-CD

VS.

WRIT TO JOIN ADDITIONAL DEFENDANT

JUDE PANKIEWICZ

SERVE BY: 01/08/06

MAKE REFUND PAYABLE TO ROBB LEONARD MULVIHILL, ESQ.

SERVE: JUDE PANKIEWICZ

ADDRESS: 952 RINGOLD ST., PITTSBURGH, PA 15220

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF ALLEGHENY COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, December 22, 2005.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

PETER R. DEFAZIO
Sheriff

ALLEGHENY COUNTY SHERIFF'S DEPARTMENT
436 GRANT STREET
PITTSBURGH, PA 15219-2496
PHONE (412) 350-4700

DENNIS SKOSNIK
Chief Deputy

PLAINTIFF John R. Roush

DEFT. William Merryweather ^{VS.} Ed/B/A Ebensburg Auto Auction

ADD. DEFT.

ADD. DEFT. Jude Pankiewicz

GARNISHEE "

ADDRESS 952 Ringold St.
Pittsburgh, PA 15220

MUNICIPALITY OR CITY WARD

DATE: 12-21-05 2005

ATTY'S Phone 412-281-5431

INDICATE TYPE OF SERVICE: PERSONAL PERSON IN CHARGE DEPUTIZE CERT. MAIL POSTED OTHER LEVY SEIZED & STORE

Now. 19 I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby depose the Sheriff of

County to execute this Writ and make return thereof according to law

NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person or attachment without liability on the part of such deputy herein for any loss, destruction or removal of any property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at: _____

MAKE

MODEL

MOTOR NUMBER

SERIAL NUMBER

LICENSE NUMBER

SHERIFF'S OFFICE USE ONLY

I hereby CERTIFY AND RETURN that on the _____ day of _____, 19 _____ at _____ o'clock A.M./P.M. Address Above/Address Below. County of Allegheny, Pennsylvania

I have served in the manner described below:

- Defendant(s) personally served.
- Adult family member with whom said Defendant(s) reside(s). Name & Relationship _____
- Adult in charge of Defendant's residence who refused to give name or relationship.
- Manager/Clerk of place of lodging in which Defendant(s) reside(s).
- Agent or person in charge of Defendant(s) office or usual place of business.
- Other _____
- Property Posted _____

Defendant not found because: Moved Unknown No Answer Vacant Other

Certified Mail Receipt _____ Envelope Returned _____ Neither receipt or envelope returned: writ expired _____

Regular Mail Why _____

You are hereby notified that on _____, 19 _____, levy was made in the case of _____
Possession/Sale has been set for _____, 19 _____ at _____ o'clock.

YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.

ATTEMPTS _____ / _____ / _____ / _____ / _____ / _____ / _____ / _____

PETER R. DEFAZIO, Sheriff

Additional Costs Due \$ _____, This is placed
on writ when returned to Prothonotary. Please check before
satisfying case.

By _____ Deputy _____

District _____

PETER R. DEFAZIO
Sheriff

ALLEGHENY COUNTY SHERIFF'S DEPARTMENT
436 GRANT STREET
PITTSBURGH, PA 15219-2496
PHONE (412) 350-4700

DENNIS SKOSNIK
Chief Deputy

PLAINTIFF John R. Roush

VS.
DEFT. William Menyweather ^{Ed/b/a} Ebensburg Auto Auction

ADD. DEFT.

ADD. DEFT. Jude Pankiewicz

GARNISheeE

ADDRESS 952 Kingold St.
Pittsburgh, PA 15220

MUNICIPALITY or CITY WARD

DATE: 12-21-05 19-2005

ATTY'S Phone 412-281-5431

INDICATE TYPE OF SERVICE: PERSONAL PERSON IN CHARGE DEPUTIZE CERT. MAIL POSTED OTHER LEVY SEIZED & STORE

Now. 19 I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby depose the Sheriff of

County to execute this Writ and make return thereof according to law

NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomsoever is found in possession, after notifying person or attachment without liability on the part of such deputy herein for any loss, destruction or removal of any property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at: _____

MAKE	MODEL	MOTOR NUMBER	SERIAL NUMBER	LICENSE NUMBER

SHERIFF'S OFFICE USE ONLY

I hereby CERTIFY AND RETURN that on the _____ day of _____, 19 _____ at _____ o'clock A.M./P.M. Address Above/Address Below. County of Allegheny, Pennsylvania

I have served in the manner described below:

- Defendant(s) personally served.
- Adult family member with whom said Defendant(s) reside(s). Name & Relationship _____
- Adult in charge of Defendant's residence who refused to give name or relationship.
- Manager/Clerk of place of lodging in which Defendant(s) reside(s).
- Agent or person in charge of Defendant(s) office or usual place of business.
- Other _____
- Property Posted _____

Defendant not found because: Moved Unknown No Answer Vacant Other

Certified Mail Receipt _____ Envelope Returned _____ Neither receipt or envelope returned: writ expired _____

Regular Mail Why _____

You are hereby notified that on _____, 19 _____, levy was made in the case of _____
Possession/Sale has been set for _____, 19 _____ at _____ o'clock.

YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.

ATTEMPTS _____ / _____ / _____ / _____ / _____ / _____ / _____

PETER R. DEFAZIO, Sheriff

Additional Costs Due \$ _____, This is placed
on writ when returned to Prothonotary. Please check before
satisfying case.

By _____
Deputy _____
District _____

PETER R. DEFAZIO
Sheriff

ALLEGHENY COUNTY SHERIFF'S DEPARTMENT
436 GRANT STREET
PITTSBURGH, PA 15219-2496
PHONE (412) 350-4700

DENNIS SKOSNIK
Chief Deputy

PLAINTIFF John R. Roush

VS.
DEFT. William Mercury Weather Ebensburg Auto Auction ^{Ed/b/A}

ADD. DEFT.

ADD. DEFT. Jude Pankiewicz

GARNISHEE "

ADDRESS 952 Kingold St.
Pittsburgh, PA 15220

MUNICIPALITY or CITY WARD

DATE: 12-21-05 18-2005

ATTY'S Phone 412-281-5431

INDICATE TYPE OF SERVICE: PERSONAL PERSON IN CHARGE DEPUTIZE CERT. MAIL POSTED OTHER LEVY SEIZED & STORE

Now. 19 I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby depose the Sheriff of

County to execute this Writ and make return thereof according to law

NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person or attachment without liability on the part of such deputy herein for any loss, destruction or removal of any property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at: _____

MAKE	MODEL	MOTOR NUMBER	SERIAL NUMBER	LICENSE NUMBER
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

SHERIFF'S OFFICE USE ONLY

I hereby CERTIFY AND RETURN that on the _____ day of _____, 19 _____ at _____ o'clock A.M./P.M. Address Above/Address Below. County of Allegheny, Pennsylvania

I have served in the manner described below:

- Defendant(s) personally served.
- Adult family member with whom said Defendant(s) reside(s). Name & Relationship _____
- Adult in charge of Defendant's residence who refused to give name or relationship.
- Manager/Clerk of place of lodging in which Defendant(s) reside(s).
- Agent or person in charge of Defendant(s) office or usual place of business.
- Other _____
- Property Posted _____

Defendant not found because: Moved Unknown No Answer Vacant Other _____

Certified Mail Receipt _____ Envelope Returned _____ Neither receipt or envelope returned: writ expired _____

Regular Mail Why _____

You are hereby notified that on _____, 19 _____, levy was made in the case of _____
Possession/Sale has been set for _____, 19 _____ at _____ o'clock.

YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.

ATTEMPTS _____ / _____ / _____ / _____ / _____ / _____ / _____

PETER R. DEFAZIO, Sheriff

Additional Costs Due \$ _____, This is placed
on writ when returned to Prothonotary. Please check before
satisfying case.

By _____
Deputy _____
District _____

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WRIT TO JOIN ADDITIONAL DEFENDANT

John R. Roush
Plaintiff(s)

Vs.

William Merryman t/d/b/a Ebensburg Auto
Auction 2005-01586-CD
Defendant(s)

Vs.

Jude Pankiewicz
Additional Defendant(s)

To: Jude Pankiewicz

You are notified that William Merryweather t/d/b/a Ebensburg Auto Auction has joined you as an additional defendant in this action, which you are required to defend.

Dated: December 9, 2005



Prothonotary

Filing Attorney: Mark A. Martini, Esq.
2300 One Mellon Center
Pittsburgh, PA 15219
(412) 281-5431

FILED

JAN 27 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

CIVIL DIVISION

Plaintiff,

No.: 05-1586-CD

vs.

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

**ANSWER AND NEW MATTER TO
PLAINTIFF'S COMPLAINT**

Defendant,

vs.

JUDE PANKIEWICZ,

Additional Defendant.

FILED ON BEHALF OF:
DEFENDANT

COUNSEL OF RECORD FOR
THIS PARTY:

DANIEL L. RIVETTI, ESQUIRE
PA I.D. #73015

MARK A. MARTINI, ESQUIRE
PA I.D. # 91001

ROBB LEONARD MULVIHILL
FIRM #249
2300 One Mellon Center
Pittsburgh, PA 15219
412/281-5431

JURY TRIAL DEMANDED

To: All Parties

You are hereby notified to file a written response to
the enclosed ANSWER AND NEW MATTER within
twenty (20) days from service hereof or a judgment
may be entered against you.

ROBB LEONARD MULVIHILL

By: 
Attorneys as shown

FILED NO C
1103751
DEC 23 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

CIVIL DIVISION

Plaintiff,

No.: 05-1586-CD

vs.

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

Defendant,

vs.

JUDE PANKIEWICZ,

Additional Defendant.

ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT

AND NOW, comes the Defendant, William Merryweather t/d/b/a Ebensburg Auto Auction, by and through his attorneys, Robb Leonard Mulvihill, Daniel L. Rivetti, Esquire, and Mark A. Martini, Esquire, and hereby files the following Answer and New Matter and avers as follows:

ANSWER

1. After reasonable investigation, the Defendant is without information or knowledge sufficient to form a belief as to the truth of the averments contained in Paragraph 1 and therefore denies the same. Strict proof is demanded at trial.
2. Denied. It is denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) that William Merryweather is "trading and doing business as" Ebensburg Auto Auction. By way of further response, subject to and without waiver of the foregoing, Ebensburg Auto Auction is a duly organized corporation of which Mr. Merryweather is an employee and to which he has no

ownership interest. Strict proof is demanded at trial. It is Admitted that the corporation maintains a place of business at the address listed.

3. Denied. The averments of this paragraph are denied generally and specifically pursuant to Pa.R.C.P. 1029 (e), including, but not limited to, that William Merryweather owns and operates Ebensburg Auto Auction. Defendant's Response to Paragraph 2 is hereby incorporated by reference herein as if fully set forth. Strict proof is demanded at trial.

4. Denied. This averment is denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) for the reasons set forth in response to Paragraphs 2 and 3 which are fully incorporated by reference herein. Strict proof is demanded at trial.

5. After reasonable investigation, the Defendant is without information or knowledge sufficient to form a belief as to the truth of the averments contained in Paragraph 5 and therefore denies the same. This averment is further denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) for the reasons set forth in response to Paragraphs 2 and 3 which are fully incorporated by reference herein. Strict proof is demanded at trial.

6. After reasonable investigation, the Defendant is without information or knowledge sufficient to form a belief as to the truth of the averments contained in Paragraph 6 and therefore denies the same. This averment is further denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) for the reasons set forth in response to Paragraphs 2 and 3 which are fully incorporated by reference herein. Strict proof is demanded at trial.

7. After reasonable investigation, the Defendant is without information or knowledge sufficient to form a belief as to the truth of the averments contained in Paragraph 7 and therefore denies the same. This averment is further denied generally and specifically

pursuant to Pa.R.C.P. 1029 (e) for the reasons set forth in response to Paragraphs 2 and 3 which are fully incorporated by reference herein. Strict proof is demanded at trial.

8. Upon information and belief, this paragraph is one of incorporation to which no responsive pleading is required. To the extent a response is required, it is specifically and generally denied pursuant to Pa.R.C.P. 1029 (e) and strict proof is demanded at trial. By way of further response and without waiver of the foregoing, Defendant hereby incorporates its response to Paragraphs 1-8 by reference herein as if fully set forth.

9. The averments of Paragraph 9 are denied as conclusions of law to which no responsive pleading is required. To the extent a responsive pleading is required, the averments contained in Paragraph 9 of the Complaint are denied generally and specifically pursuant to Pa.R.C.P. 1029 (e). This averment is further denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) for the reasons set forth in response to Paragraphs 2 and 3 which are fully incorporated by reference herein. Strict proof is demanded at trial.

10. The averments of Paragraph 10 and its subparts a - d are denied as conclusions of law to which no responsive pleading is required. To the extent a responsive pleading is required, the averments contained in Paragraph 10 and its subparts a - d are denied generally and specifically pursuant to Pa.R.C.P. 1029 (e). This averment is further denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) for the reasons set forth in response to Paragraphs 2 and 3 which are fully incorporated by reference herein. Strict proof is demanded at trial.

11. The averments of Paragraph 11 are denied as conclusions of law to which no responsive pleading is required. To the extent a responsive pleading is required, the averments contained in Paragraph 11 of the Complaint are denied generally and specifically

pursuant to Pa.R.C.P. 1029 (e). This averment is further denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) for the reasons set forth in response to Paragraphs 2 and 3 which are fully incorporated by reference herein. Strict proof is demanded at trial.

12. After reasonable investigation, the Defendant is without information or knowledge sufficient to form a belief as to the truth of the averments contained in Paragraph 12 and therefore denies the same. By way of further response, and without waiver of the foregoing, it is denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) that any costs should be borne by this Defendant. This averment is further denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) for the reasons set forth in response to Paragraphs 2 and 3 which are fully incorporated by reference herein. Strict proof is demanded at trial.

13. After reasonable investigation, the Defendant is without information or knowledge sufficient to form a belief as to the truth of the averments contained in Paragraph 13 and therefore denies the same. By way of further response, and without waiver of the foregoing, it is denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) that Plaintiff should be compensated at the time of trial. This averment is further denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) for the reasons set forth in response to Paragraphs 2 and 3 which are fully incorporated by reference herein. Strict proof is demanded at trial.

14. After reasonable investigation, the Defendant is without information or knowledge sufficient to form a belief as to the truth of the averments contained in Paragraph 14 and therefore denies the same. By way of further response, and without waiver of the foregoing, it is denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) that Plaintiff should be compensated at the time of trial. This averment is further denied generally and specifically

pursuant to Pa.R.C.P. 1029 (e) for the reasons set forth in response to Paragraphs 2 and 3 which are fully incorporated by reference herein. Strict proof is demanded at trial.

15. The averments of Paragraph 15 are Denied as Conclusions of law to which no responsive pleading is required. To the extent a responsive pleading is required, the averments contained in Paragraph 15 of the Complaint are denied generally and specifically pursuant to Pa.R.C.P. 1029 (e). This averment is further denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) for the reasons set forth in response to Paragraphs 2 and 3 which are fully incorporated by reference herein. Strict proof is demanded at trial.

16. The averments of Paragraph 16 are denied as conclusions of law to which no responsive pleading is required. To the extent a responsive pleading is required, the averments contained in Paragraph 16 of the Complaint are denied generally and specifically pursuant to Pa.R.C.P. 1029 (e). This averment is further denied generally and specifically pursuant to Pa.R.C.P. 1029 (e) for the reasons set forth in response to Paragraphs 2 and 3 which are fully incorporated by reference herein.

WHEREFORE, the Defendant, William Merryweather t/d/b/a Ebensburg Auto Auction, respectfully requests that this Honorable Court enter Judgment in its favor, and against the Plaintiff, together with costs of suit.

NEW MATTER

17. Defendant hereby incorporates Paragraphs 1-16 by reference herein as if fully set forth.

18. Plaintiff's claims are barred by the doctrines of contributory negligence, comparative negligence, and/or assumption of the risk.

19. To the extent that discovery reveals, the incident and Plaintiff's alleged injuries and damages were caused solely by and/or exclusively by circumstances over which Defendant did not have any control and/or responsibility and/or by supervening, intervening and/or independent causes over which Defendant did not have control and/or responsibility and not in any manner whatsoever by the actions and/or inactions of Defendant.

20. Plaintiff's alleged injuries are solely the result of a pre-existing condition and were in no way caused by any actions or inactions of the Defendant.

21. Some or all of the Plaintiff's expenses for medical treatment and other losses alleged by the Plaintiff are entitled to be paid by another responsible party. If any of these expenses and/or losses are permitted to be introduced into evidence as items of damages, and if a verdict is entered in Plaintiff's favor, then Defendant claims a right of set-off against the verdict for an amount equal to those expenses.

22. Defendant is not liable for Plaintiff's injuries in that he failed to mitigate his damages.

23. To the extent that discovery reveals Plaintiff was trespassing, Defendant is not responsible for any injuries caused to the Plaintiff.

24. The subject property was in a reasonably safe condition.

25. Plaintiff failed to use his natural senses while ambulating on the subject property and therefore fails to state a claim upon which relief can be granted.

26. Plaintiff was ambulating through the subject property "blindly" and therefore fails to state a claim upon which relief can be granted.

27. Plaintiff's alleged accident was the result of a pre-existing condition and in no

way a result of the alleged actions and/or inactions of this Defendant.

28. To the extent that discovery reveals, Plaintiff otherwise fails to state a claim against this Defendant upon which relief can be granted.

29. This Defendant asserts that a third entity, Jude Pankiewicz, is solely and/or jointly and/or severally liable to the Plaintiff for the occurrence giving rise to this litigation for the reasons set forth in Plaintiff's Complaint.

30. This Defendant asserts all rights of contribution, indemnity, and liability over and against Jude Pankiewicz, either solely and/or jointly and/or severally.

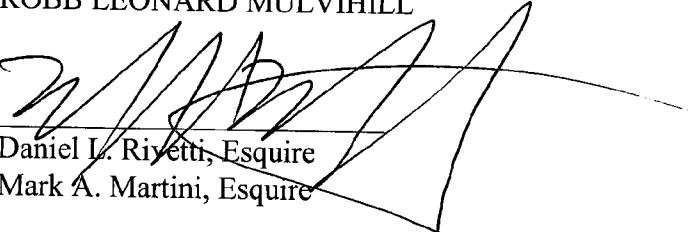
31. Defendant's claims are barred in that he failed to join an indispensable party.

32. For the reasons set forth in Response to Paragraphs 2 and 3 which are fully incorporated by reference herein, Plaintiff has failed to state a claim against William Merryweather upon which relief can be granted.

WHEREFORE, the Defendant, William Merryweather t/d/b/a Ebensburg Auto Auction, respectfully requests that this Honorable Court enter Judgment in its favor, and against the Plaintiff, together with costs of suit.

Respectfully Submitted,

ROBB LEONARD MULVIHILL

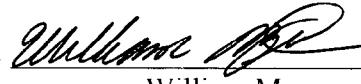

Daniel L. Rivetti, Esquire
Mark A. Martini, Esquire

Attorneys for Defendant

VERIFICATION

I, WILLIAM MERRYWEATHER, ~~individually, and on behalf of EBENSBURG~~
~~AUTO AUCTION~~, verify that the statements made herein in the filed **ANSWER AND NEW
MATTER** are true and correct to the best of my knowledge, information and belief and are made
subject to the penalties of 18 Pa. Con. Stat. Ann. §4904 relating to unsworn falsification
authorities.

Date: 12-20-05

By: 
William Merryweather

Nov 22 05 03:43p

K. Temme

610-869-6502

p.2

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

JOHN R. ROUSH
an adult individual;

PLAINTIFF,

No. 05-1586-CD

v.
WILLIAM MERRYWEATHER, t/d/b/a
EBENSBURG AUTO AUCTION

DEFENDANT.

Type of Pleading:

CIVIL COMPLAINT

Filed By:

Plaintiff

Counsel of Record:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA LD.#: 55942

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

OCT 13 2005

Attest.

William L. Ober
Prothonotary/
Clerk of Courts

EXHIBIT

tabbed

A

Nov 22 05 03:43p

K. Temme

610-869-6502

p.3

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

JOHN R. ROUSH
an adult individual;

PLAINTIFF,

v.
WILLIAM MERRYWEATHER, t/d/b/a
EBENSBURG AUTO AUCTION

DEFENDANT.

)
No. 05- _____-CD

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIM 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 CLAIM IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF(S). 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 AN ATTORNEY, OR CANNOT FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

David Meholic, Court Administrator
c/o Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
(814)-765-2641

Nov 22 05 03:43p

K. Temme

610-869-6502

p. 4

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

JOHN R. ROUSH
an adult individual;

PLAINTIFF,

v.
WILLIAM MERRYWEATHER, t/d/b/a
EBENSBURG AUTO AUCTION

DEFENDANT.

)
No. 05-_____ -CD

CIVIL COMPLAINT

NOW COMES, the Plaintiff, John R. Roush, by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of his CIVIL COMPLAINT:

The Parties

1. Plaintiff is John R. Roush, an adult individual, who at all material times did reside at 11 N. Jared Street, DuBois, Clearfield County, Pennsylvania.
2. That Defendant is William Merryweather, t/d/b/a Ebensburg Auto Auction, with principal place of business located at 3347 New Germany Rd., Ebensburg, Cambria County, Pennsylvania 15931.

Background

3. That defendant owns and operates a business in which car dealers, their agents and or employees go to the defendant's place of business to offer for sale or examine, inspect and purchase, through auction, used cars, which occurs approximately one time a week.
4. To maximize revenue, upon information and belief, defendant also rents space to others who offer for sale various other items associated with automobiles which are in a booth type setting.
5. That on or about Wednesday, November 24, 2004, Mr. Roush was at the defendant's

Nov 22 05 03:44p

K. Temme

610-869-6502

p.5

aforementioned place of business, as a business invitee, to assist a friend of his, who is a car dealer, to transport purchased autos back to the DuBois Area.

6. While at said location, Mr. Roush was walking through the area in which the various "vendors" were located, carrying other items which he had purchased such as coffee and donuts.

7. That when he passed by a certain "booth", Mr. Roush did trip and fall over a box which was sticking out from underneath the vendor's table and into the walkway area, causing Mr. Roush to fall very forcibly, striking the ground.

Negligence

Count I

8. That the averments of paragraphs 1 - 7, inclusive, are hereby incorporated as if again fully set forth at length.

9. That as a business invitee, defendant owed Mr. Roush a duty of care, which included that the premises would be reasonably safe.

10. That Defendant breached that duty of care in that Defendant was negligent, as follows:

(a) He failed to properly maintain the premises in a safe condition such that there was insufficient room for the vendors to place their items for sale and not stick into the designated walk area;

(b) he failed to inspect the area occupied by the vendors to assure that the walk area was free and clear;

(c) he failed to instruct the vendors to keep the walk area free and clear of items; and

(d) he failed to provide a walk area through the vendors location which was free and clear of items which impeded one safely walking through the area;

11. That Defendant's negligence was a direct and proximate cause of Mr. Roush's accident and resulting injuries, which included besides contusions, twisting his back, and broken and/or cracked, bruised ribs.

12. That as a result of the aforementioned injuries, Mr. Roush needed and obtained medical care, which has included a visits to the DuBois Regional Medical Center Emergency Room and with his physician, at a cost to be determined at time of trial, all of which should be borne by the Defendant..

Nov 22 05 03:44p

K. Temme

610-869-6502

p.6

13. That Mr. Roush did suffer and does continue to suffer pain from his injuries for which he should be compensated in an amount to be determined at time of trial.
14. That Mr. Roush given his injuries and resulting treatments has had a loss of enjoyment of life for which he should be compensated in an amount to be determined at time of trial.

Miscellaneous

15. That jurisdiction is proper.
16. That venue is proper.

WHEREFORE, Plaintiff requests that judgment be entered in his favor, together with costs and interest in an amount to be determined but less than Twenty-Thousand Dollars.

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. #: 55942

Nov 22 05 03:44p

K. Temme

610-869-6502

p.7

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

JOHN R. ROUSH
an adult individual;

PLAINTIFF,

v.
WILLIAM MERRYWEATHER, t/d/b/a
EBENSBURG AUTO AUCTION

DEFENDANT.

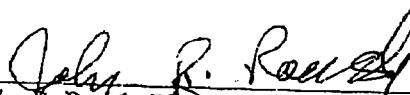
No. 05- _____-CD

VERIFICATION

I, John R. Roush, Plaintiff, do hereby swear and affirm that I have read the foregoing CIVIL COMPLAINT and that the averments therein contained are true and correct to the best of our knowledge, information and belief. Furthermore, I am over the age of 18 years of age and give this unsworn statement knowing it is to authorities and subject to the penalties of 18 Pa.C.S. A. 4901.

So made this 10th day of OCTOBER, 2005.

By,

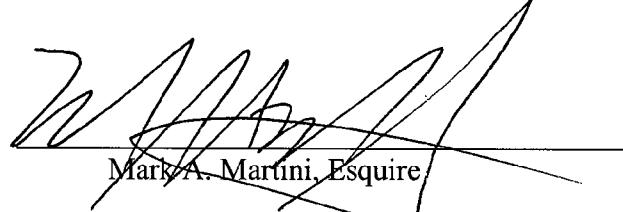

John R. Roush, Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **ANSWER AND NEW MATTER** to be served on all counsel and unrepresented parties this 21st day of December, 2005 by U.S. First Class Mail, postage pre-paid as follows:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Jude Pankiewicz
952 Ringold Street
Pittsburgh, PA 15220
(No Appearance Entered)


Mark A. Martini, Esquire

L
FILED

DEC 23 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

CIVIL DIVISION

Plaintiff,

No.: 05-1586-CD

vs.

NOTICE OF SERVICE

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

Defendant,

vs.

JUDE PANKIEWICZ,

Additional Defendant.

FILED ON BEHALF OF THE ORIGINAL
DEFENDANT:

WILLIAM MERRY WEATHER t/d/b/a
EBENSBURG AUTO AUCTION

COUNSEL OF RECORD FOR
THIS PARTY:

DANIEL L. RIVETTI, ESQUIRE
PA I.D. #73015

MARK A. MARTINI, ESQUIRE
PA I.D. # 91001

ROBB LEONARD MULVIHILL
FIRM #249
2300 One Mellon Center
Pittsburgh, PA 15219
412/281-5431

JURY TRIAL DEMANDED

FILED NO
m103764
DEC 23 2005
©

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

CIVIL DIVISION

Plaintiff,

No.: 05-1586-CD

vs.

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

Defendant,

vs.

JUDE PANKIEWICZ,

Additional Defendant.

NOTICE OF SERVICE

AND NOW, come the Defendant, WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION, by and through his attorneys, Robb Leonard Mulvihill, Daniel
L. Rivetti, Esquire and Mark A. Martini, Esquire and hereby certify that I caused a true and
correct copy of the foregoing **INTERROGATORIES (FIRST SET) AND REQUESTS FOR**
PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF AND ADDITIONAL
DEFENDANT to be served on the following counsel and unrepresented party this 21st day of
December, 2005 by U.S. First Class Mail, postage pre-paid as follows:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Jude Pankiewicz
952 Ringold Street
Pittsburgh, PA 15220
(No Appearance Entered)



Mark A. Martini, Esquire

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **NOTICE OF SERVICE** to be served on all counsel and unrepresented parties this 21st day of December, 2005 by U.S. First Class Mail, postage pre-paid as follows:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Jude Pankiewicz
952 Ringold Street
Pittsburgh, PA 15220
(No Appearance Entered)


Mark A. Martini, Esquire

FILED

DEC 23 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

Plaintiff,

vs.

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

Defendant.

CIVIL DIVISION

No.: 05-1586-CD

**PRAECIPE TO RE-ISSUE
WRIT TO JOIN
ADDITIONAL DEFENDANT**

FILED ON BEHALF OF:
DEFENDANT

COUNSEL OF RECORD FOR
THIS PARTY:

DANIEL L. RIVETTI, ESQUIRE
PA I.D. #73015

MARK A. MARTINI, ESQUIRE
PA I.D. # 91001
ROBB LEONARD MULVIHILL
FIRM #249
2300 One Mellon Center
Pittsburgh, PA 15219
412/281-5431

JURY TRIAL DEMANDED

FILED Atty pd. 7.00
10/38/06
JAN 31 2006 Writ Reissued
to Atty
William A. Shaw
Prothonotary/Clerk of Courts

GP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

CIVIL DIVISION

Plaintiff,

No.: 05-1586-CD

vs.

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

Defendant.

PRAECIPE TO RE-ISSUE WRIT TO JOIN ADDITIONAL DEFENDANT

TO THE PROTHONOTARY:

Kindly re-issue the Writ of Summons to Join Jude Pankiewicz, 952 Ringold Street,
Pittsburgh, Pennsylvania 15220, as an Additional Defendant to the above captioned matter.

Respectfully submitted,

ROBB LEONARD MULVIHILL

By Mark A. Martini
Mark A. Martini, Esquire

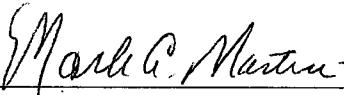
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **PRAECIPE TO RE-ISSUE WRIT TO JOIN ADDITIONAL DEFENDANT** to be served on all counsel this 24th day of January, 2006 by U.S. First Class Mail, postage pre-paid as follows:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Jude Pankiewicz
952 Ringold Street
Pittsburgh, PA 15220



Mark A. Martini, Esquire

FILED

JAN 31 2006

William A. Shaw
Prothonotary/Clerk of Courts

3928 74-00001

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

WRIT TO JOIN ADDITIONAL DEFENDANT

COPY

John R. Roush

Plaintiff(s)

Vs.

William Merryman t/d/b/a Ebensburg Auto
Auction

2005-01586-CD

Defendant(s)

Vs.

Jude Pankiewicz

Additional Defendant(s)

To: Jude Pankiewicz

You are notified that William Merryweather t/d/b/a Ebensburg Auto Auction has joined you as an additional defendant in this action, which you are required to defend.

Dated: December 9, 2005

Willie L. Hough Jr.
Prothonotary

1-31-06 Document
Reinstate/Reissued to Sheriff/Attorney
for service.

Willie L. Hough Jr.
Deputy Prothonotary

Filing Attorney: Mark A. Martini, Esq.
2300 One Mellon Center
Pittsburgh, PA 15219
(412) 281-5431

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100900
NO: 05-1586-CD
SERVICE # 1 OF 1
COMPLAINT

PLAINTIFF: JOHN R. ROUSH

vs.

DEFENDANT: WILLIAM MERRYWEATHER t/d/b/a EBENSBURG AUTO AUCTION

SHERIFF RETURN

NOW, October 19, 2005, SHERIFF OF CAMBRIA COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON WILLIAM MERRYWEATHER t/d/b/a EBENSBURG AUTO AUCTION.

NOW, October 27, 2005 AT 1:16 PM SERVED THE WITHIN COMPLAINT ON WILLIAM MERRYWEATHER t/d/b/a EBENSBURG AUTO AUCTION, DEFENDANT. THE RETURN OF CAMBRIA COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

FILED
01/21/06 BOL
FEB 09 2006
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100900
NO: 05-1586-CD
SERVICES 1
COMPLAINT

PLAINTIFF: JOHN R. ROUSH

vs.

DEFENDANT: WILLIAM MERRYWEATHER t/d/b/a EBENSBURG AUTO AUCTION

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	NOBLE	2084	10.00
SHERIFF HAWKINS	NOBLE	2084	30.00
CAMBRIA CO.	NOBLE	2085	23.91

Sworn to Before Me This

So Answers,

____ Day of _____ 2006


Chester A. Hawkins
Sheriff

CASE # PLAINTIFF
90298-05 ROUSH, JOHN 05-1586
DATE 10/27/05

DEFENDANT
MERRYWEATHER, WILLIAM

100900

AT 13:16 HRS. SERVED THE COMPLAINT WITH NOTICE TO DEFEND UPON WILLIAM MERRYWEATHER T/D/B/A EBENSBURG AUTO AUCTION BY HANDING A TRUE AND ATTESTED COPY THEREOF TO WILLIAM MERRYWEATHER PERSONALLY AT 3347 NEW GERMANY RD. EBENSBURG, PA. AND MAKING CONTENTS THEREOF KNOWN TO HIM. MY COSTS PAID BY ATTORNEY FOR PLAINTIFF.

SHERIFF COSTS 20.91
PRO 3.00
TOTAL COSTS 23.91

SO ANSWERS,

Bob Kolar

BOB KOLAR, SHERIFF

SWORN AND SUBSCRIBED TO ME THIS 9TH DAY OF NOV. 2005.

PROTHONOTARY

Patty Ben Rebile

S A N B R I A C O U N T Y
W H I T E H I L F E

11/02/05

THERON NOBLE, ESQ
301 EAST PINE ST

CLEARFIELD

PA 16830-0000

BOB KOLAR, SHERIFF
CAMBRIA COUNTY
PENNSYLVANIA

STATEMENT

BOB KOLAR, SHERIFF
SHERIFF, CAMBRIA COUNTY, PA

CIVIL REC & DOCKETING & R	9.00
CIVIL SERVICE	9.00
GENERAL MILEAGE	2.91
PROTHONOTARY NOTARY	3.00
REFUND ON DOCKET	76.09

ROUSH, JOHN 05-1586
90298-05
ROUSH VS. MERRYWEATHER
ROUSH, JOHN 05-1586

V S
MERRYWEATHER, WILLIAM

THERON NOBLE, ESQ
301 EAST PINE ST

CLEARFIELD, PA 16830

TOTAL COSTS..... 100.00
TOTAL RECEIPTS..... 100.00

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

JOHN R. ROUSH
an adult individual;

PLAINTIFF,

No. 05- 1586 -CD

v.
WILLIAM MERRYWEATHER, t/d/b/a
EBENSBURG AUTO AUCTION

DEFENDANT.

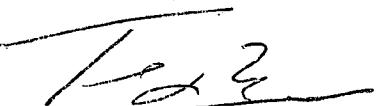
PRAECEIPE TO DISCONTINUE

To: William A. Shaw, Prothonotary

Date: March 7, 2006

Please mark the above captioned case, SETTLED, ENDED and FOREVER
DISCONTINUED, with prejudice.

Respectfully Submitted,


Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. #: 55942

FILED *CC & Cet*
m/2/07 *jm* *disc to*
MAR 13 2007 *Atty Martini*
+
1 Ctr to disc
to Atty
Noble
Copy to C/At
William A. Shaw
Prothonotary

FILED

MAR 13 2006

*William A. Shaw
Prothonotary*

MAR 08 2006

ROBB LEONARD MULVIHILL

ATTORNEYS AT LAW

March 9, 2006

Mark A. Martini
mmartini@rlmlawfirm.com

Prothonotary
Clearfield County Court
of Common Pleas - Civil Division
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830

**RE: John R. Roush v William Merryweather t/d/b/a Ebensburg Auto Auction
Civil Action No. 05-1586-CD
Our File No. 05-16267M/DR**

Dear Sir/Madam:

Enclosed for filing with the Court please find a Praecept to Discontinue the above-referenced action, which has been prepared and executed by counsel for Plaintiff in this matter. We have also an extra copy of same, and ask that you have the extra copy time-stamped and returned to us in the envelope provided. Thank you for your assistance in this regard.

DWC

Should you have any questions or concerns, please do not hesitate to contact us.

Very truly yours,



Mark A. Martini

:dah

Enclosures

cc: Theron G. Noble, Esquire

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

John R. Roush

Vs.

No. 2005-01586-CD

**William Merryman t/d/b/a
Ebensburg Auto Auction
Jude Pankiewicz**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on March 13, 2006, marked:

Settled, ended and forever discontinued, with prejudice

Costs in the amount of \$85.00 paid by Theron G. Noble, Esquire
Costs in the amount of \$7.00 paid by Daniel L. Rivetti, Esquire

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 13th day of March A.D. 2006.



William A. Shaw, Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101228
NO: 05-1586-CD
SERVICE # 1 OF 1
WRIT TO JOIN ADDITIONAL DEFENDANT

PLAINTIFF: JOHN R. ROUSH

vs.

DEFENDANT: WILLIAM MERRYMAN t/d/b/a EBENSBURG AUTO AUCTION
-VS- JUDE PANKIEWICZ, ADDL. DEFT.

SHERIFF RETURN

NOW, February 03, 2006, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN WRIT TO JOIN ADDITIONAL DEFENDANT ON JUDE
PANKIEWICZ.

NOW, February 21, 2006 AT 8:10 PM SERVED THE WITHIN WRIT TO JOIN ADDITIONAL DEFENDANT ON JUDE
PANKIEWICZ, DEFENDANT. THE RETURN OF ALLEGHENY COUNTY IS HERETO ATTACHED AND MADE PART
OF THIS RETURN.

FILED

MAR 28 2006
9:8:35 AM
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101228
NO: 05-1586-CD
SERVICES 1
WRIT TO JOIN ADDITIONAL DEFENDANT

PLAINTIFF: JOHN R. ROUSH

vs.

DEFENDANT: WILLIAM MERRYMAN t/d/b/a EBENSBURG AUTO AUCTION
-VS- JUDE PANKIEWICZ, ADDL. DEFT.

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	ROBB	58502	10.00
SHERIFF HAWKINS	ROBB	58502	19.00
ALLEGHENY CO.	ROBB	58503	50.00
ALLEGHENY CO.	ROBB	58504	5.00

Sworn to Before Me This

So Answers,

____ Day of _____ 2006



by *Mark H. Harris*

Chester A. Hawkins
Sheriff

10/12/08

ALLEGHENY COUNTY SHERIFF'S DEPARTMENT

436 GRANT STREET
 PITTSBURGH, PA 15219-2496
 PHONE (412) 350-4700
 FAX (412) 350-6388

11/6/08

PETER R. DEFAZIO
 Sheriff

PLAINTIFF: John P. Roush

DENNIS SKOSNIK
 Chief Deputy

CASE#: 05-1586 (D)

EXPIRES: 3-2-06

SUMMONS/PRAECIPE
 SEIZURE OR POSSESSION
 NOTICE AND COMPLAINT
 REVIVAL OR SCI FA
 INTERROGATORIES
 EXECUTION • LEVY OR GARNISHEE
 OTHER writ to John Add/deft.

DEFT: William Merryman tdba
 DEFT: SERVE: Judge PANKIEWICZ, addl.dept.
 DEFT: 952 Ringold St
 GARNISHEE: Pittsburgh PA 15220
 ADDRESS:

MUNICIPALITY OR CITY WARD: ATTY: Robb Leonard Mulvihill

DATE: 20 ADDRESS:

ATTY'S PHONE: 412-281-5431

INDICATE TYPE OF SERVICE: PERSONAL PERSON IN CHARGE DEPUTIZE MAIL POSTED OTHER LEVY SEIZED & STORED

NOW: Feb 3 2006, I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby depose the Sheriff of Allegheny County to execute this Writ and make return thereof according to law

NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, with out liability on the part of such deputy herein for any loss, destruction or removal of any such property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at:

MAKE	MODEL	MOTOR NUMBER	SERIAL NUMBER	LICENSE NUMBER

SHERIFF'S OFFICE USE ONLY

I hereby CERTIFY and RETURN that on the 1/31 day of FEBRUARY, 2006, at 8:10 o'clock, A.M./P.M. Address Above/ Address Below, County of Allegheny, Pennsylvania

I have served in the manner Described below:

Defendant(s) personally served.
 Adult family member with whom said Defendant(s) reside(s). Name & Relationship Maria PANKIEWICZ wife
 Adult in charge of Defendant's residence who refused to give name or relationship.
 Manager/other person authorized to accept deliveries of United States Mail
 Agent or person in charge of Defendant(s) office or usual place of business.

Other _____
 Property Posted _____

Defendant not found because: Moved Unknown No Answer Vacant Other _____

Certified Mail Receipt _____ Envelope Returned _____ Neither receipt or envelope retuned: writ expired _____

Regular Mail Why _____

You are hereby notified that on _____, _____, levy was made in the case of _____
 Possession/Sale has been set for _____, 20 _____ at _____ o'clock

YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.

ATTEMPTS _____ / _____ / _____ / _____ / _____ / _____ / _____

Additional Costs Due \$ _____, This is

placed on writ when returned to Prothonotary. Please check
 before satisfying case.

Affirmed and subscribed before me

this _____ day of FEB 03 2006

PETER R. DEFAZIO, Sheriff

By: Dan P (DEPUTY)

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
 Sheila R. O'Brien, Notary Public
 City of Pittsburgh, Allegheny County
 My Commission Expires June 19, 2008

DISTRICT: 10

Member, Pennsylvania Association of White Copy - Sheriff

Pink Copy • Attorney

Notary



Sheriff's Office Clearfield County

CHESTER A. HAWKINS
SHERIFF

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641 EXT. 5986
AFTER 4:00 P.M. (814) 765-1533
FAX (814) 765-5915

ROBERT SNYDER
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

CYNTHIA AUGHENBAUGH
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
PAGE 101228

JOHN R. ROUSH TERM & NO. 05-1586-CD

vs. WRIT TO JOIN ADDITIONAL DEFENDANT

WILLIAM MERRYMAN t/d/b/a EBENSBURG AUTO AUCTION
-VS- JUDE PANKIEWICZ, ADDL. DEFT.

SERVE BY: 03/02/06

MAKE REFUND PAYABLE TO ROBB LEONARD MULVIHILL, ATTORNEYS

SERVE: JUDE PANKIEWICZ

ADDRESS: 952 RINGOLD ST., PITTSBURGH, PA 15220

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF ALLEGHENY COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, February 03, 2006.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

do not serve party
said they already
served.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

Plaintiff,

vs.

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

Defendant,

vs.

JUDE PANKIEWICZ,

Additional Defendant.

CIVIL DIVISION

No.: 05-1586-CD

**JOINDER COMPLAINT DIRECTED
TO ADDITIONAL DEFENDANT,
JUDE PANKIEWICZ**

FILED ON BEHALF OF:
DEFENDANT

COUNSEL OF RECORD FOR
THIS PARTY:

DANIEL L. RIVETTI, ESQUIRE
PA I.D. #73015

MARK A. MARTINI, ESQUIRE
PA I.D. # 91001

ROBB LEONARD MULVIHILL
FIRM #249
2300 One Mellon Center
Pittsburgh, PA 15219
412/281-5431

JURY TRIAL DEMANDED

To: All Parties

You are hereby notified to file a written response to
the enclosed **JOINDER COMPLAINT** within
twenty (20) days from service hereof or a judgment
may be entered against you.

ROBB LEONARD MULVIHILL

By: *[Signature]*
Attorneys as shown

FILED
10/37
DEC 23 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JOHN R. ROUSH,

CIVIL DIVISION

Plaintiff,

No.: 05-1586-CD

vs.

WILLIAM MERRYWEATHER t/d/b/a
EBENSBURG AUTO AUCTION,

Defendant,

vs.

JUDE PANKIEWICZ,

Additional Defendant.

JOINDER COMPLAINT DIRECTED TO
ADDITIONAL DEFENDANT, JUDE PANKIEWICZ

AND NOW, comes the Original Defendant, William Merryweather t/d/b/a Ebensburg Auto Auction, by and through his attorneys, Robb Leonard Mulvihill, Daniel L. Rivetti, Esquire, and Mark A. Martini, Esquire, and hereby files the following Joinder Complaint and avers as follows:

1. The Plaintiff, John R. Roush, filed a Complaint against the Defendant, William Merryweather t/d/b/a Ebensburg Auto Auction (hereinafter, "Merryweather"), alleging a claim of negligence. A true and correct copy of the Complaint is hereto attached as "**Exhibit A.**"
2. Defendant Merryweather denies that he is in any way liable to the Plaintiff as alleged in the Complaint.
3. Concurrently with the filing of the within Joinder Complaint, Defendant

Merryweather is filing his Answer and New Matter to Plaintiff's Complaint denying any and all liability for the incident and damages set forth in the Complaint. A true and correct copy of Defendant Merryweather's Answer and New Matter is attached hereto as "**Exhibit B**" and incorporated by reference herein as if fully set forth.

4. The Additional Defendant, Jude Pankiewicz, is an adult individual who currently resides at 952 Ringold Street, Pittsburgh, County of Allegheny, Pennsylvania 15220.

5. If Plaintiff's allegation that he tripped and fell "over a box which was sticking out from underneath [a] vendor's table and into the walkway area" is found to be true (which is specifically denied), it is believed and therefore that the vendor who was responsible for and caused a box to stick out and into a walkway area was Additional Defendant Pankiewicz.

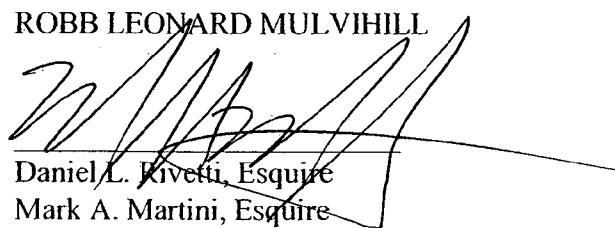
6. Therefore, should Defendant Merryweather be found liable to Plaintiff, which is Specifically Denied, then Defendant Merryweather asserts claims against Additional Defendant Pankiewicz, and any other parties joined hereafter, jointly, severally and together in any combination for contribution and/or indemnity, and for that purpose **only**, incorporates by reference herein Plaintiff's allegations against those other Defendants, including but not necessarily limited to, Additional Defendant Pankiewicz, and asserts that they are solely liable to the Plaintiff, or in the alternative, are liable over to Defendant Merryweather for contribution and/or indemnification.

7. Therefore this Defendant asserts all rights of contribution, indemnity, and liability over and against Additional Defendant Pankiewicz, either solely and/or jointly and/or severally.

WHEREFORE, the Original Defendant, William Merryweather t/d/b/a Ebensburg Auto Auction, hereby requests that this Honorable Court enter judgment in his favor and against all other parties and award costs of suit, and any other relief this Honorable Court deems appropriate, and demands a trial by jury.

Respectfully Submitted,

ROBB LEONARD MULVIHILL


Daniel L. Rivetti, Esquire
Mark A. Martini, Esquire

Attorneys for Original Defendant
William Merryweather t/d/b/a Ebensburg
Auto Auction

Nov 22 05 03:43p

K. Temme

610-869-6502

p.2

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

JOHN R. ROUSH
an adult individual;

PLAINTIFF,

No. 05-1586-CD

v.
WILLIAM MERRYWEATHER, t/d/b/a
EBENSBURG AUTO AUCTION

DEFENDANT.

Type of Pleading:

CIVIL COMPLAINT

Filed By:

Plaintiff

Counsel of Record:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA LD.#: 55942

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

OCT 13 2005

Attest

William E. Ober
Prothonotary/
Clerk of Courts

EXHIBIT

tabbed

A

Nov 22 05 03:43p

K. Temme

610-869-6502

p.3

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

JOHN R. ROUSH
an adult individual;

PLAINTIFF,

v.
WILLIAM MERRYWEATHER, t/d/b/a
EBENSBURG AUTO AUCTION

DEFENDANT.

No. 05-_____CD

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIM 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 CLAIM IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF(S). 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 AN ATTORNEY, OR CANNOT FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

David Meholick, Court Administrator
c/o Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
(814)-765-2641

Nov 22 05 03:43p

K. Temme

610-869-6502

p. 4

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

JOHN R. ROUSH
an adult individual;

PLAINTIFF,

v.
WILLIAM MERRYWEATHER, t/d/b/a
EBENSBURG AUTO AUCTION

DEFENDANT.

No. 05-_____ -CD

CIVIL COMPLAINT

NOW COMES, the Plaintiff, John R. Roush, by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of his CIVIL COMPLAINT:

The Parties

1. Plaintiff is John R. Roush, an adult individual, who at all material times did reside at 11 N. Jared Street, DuBois, Clearfield County, Pennsylvania.
2. That Defendant is William Merryweather, t/d/b/a Ebensburg Auto Auction, with principal place of business located at 3347 New Germany Rd., Ebensburg, Cambria County, Pennsylvania 15931.

Background

3. That defendant owns and operates a business in which car dealers, their agents and or employees go to the defendant's place of business to offer for sale or examine, inspect and purchase, through auction, used cars, which occurs approximately one time a week.
4. To maximize revenue, upon information and belief, defendant also rents space to others who offer for sale various other items associated with automobiles which are in a booth type setting.
5. That on or about Wednesday, November 24, 2004, Mr. Roush was at the defendant's

Nov 22 05 03:44p

K. Temme

610-869-6502

P.5

aforementioned place of business, as a business invitee, to assist a friend of his, who is a car dealer, to transport purchased autos back to the DuBois Area.

6. While at said location, Mr. Roush was walking through the area in which the various "vendors" were located, carrying other items which he had purchased such as coffee and donuts.

7. That when he passed by a certain "booth", Mr. Roush did trip and fall over a box which was sticking out from underneath the vendor's table and into the walkway area, causing Mr. Roush to fall very forcibly, striking the ground.

Negligence

Count I

8. That the averments of paragraphs 1 - 7, inclusive, are hereby incorporated as if again fully set forth at length.

9. That as a business invitee, defendant owed Mr. Roush a duty of care, which included that the premises would be reasonably safe.

10. That Defendant breached that duty of care in that Defendant was negligent, as follows:

(a) He failed to properly maintain the premises in a safe condition such that there was insufficient room for the vendors to place their items for sale and not stick into the designated walk area;

(b) he failed to inspect the area occupied by the vendors to assure that the walk area was free and clear;

(c) he failed to instruct the vendors to keep the walk area free and clear of items; and

(d) he failed to provide a walk area through the vendors location which was free and clear of items which impeded one safely walking through the area;

11. That Defendant's negligence was a direct and proximate cause of Mr. Roush's accident and resulting injuries, which included besides contusions, twisting his back, and broken and/or cracked, bruised ribs.

12. That as a result of the aforementioned injuries, Mr. Roush needed and obtained medical care, which has included a visits to the DuBois Regional Medical Center Emergency Room and with his physician, at a cost to be determined at time of trial, all of which should be borne by the Defendant..

Nov 22 05 03:44p

K. Temme

610-869-6502

p.6

13. That Mr. Roush did suffer and does continue to suffer pain from his injuries for which he should be compensated in an amount to be determined at time of trial.
14. That Mr. Roush given his injuries and resulting treatments has had a loss of enjoyment of life for which he should be compensated in an amount to be determined at time of trial.

Miscellaneous

15. That jurisdiction is proper.
16. That venue is proper.

WHEREFORE, Plaintiff requests that judgment be entered in his favor, together with costs and interest in an amount to be determined but less than Twenty-Thousand Dollars.

Respectfully Submitted,



T. G. Noble
THERON G. NOBLE, ESQUIRE
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA LD. #: 55942

VERIFICATION

I, WILLIAM MERRYWEATHER, ~~individually, and on behalf of EBENSBURG~~
AUTO AUCTION, verify that the statements made herein in the filed **JOINER COMPLAINT**
DIRECTED TO ADDITIONAL DEFENDANT are true and correct to the best of my
knowledge, information and belief and are made subject to the penalties of 18 Pa. Con. Stat.
Ann. §4904 relating to unsworn falsification authorities.

Date: 12-20-05

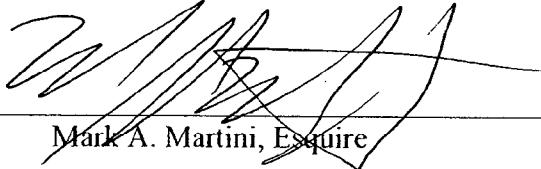
By: William Merryweather
William Merryweather

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **JOINDER**
COMPLAINT DIRECTED TO ADDITIONAL DEFENDANT to be served on all counsel
and unrepresented parties this 21st day of December, 2005 by U.S. First Class Mail, postage pre-
paid as follows:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830

Jude Pankiewicz
952 Ringold Street
Pittsburgh, PA 15220
(No Appearance Entered)



Mark A. Martini, Esquire