



## COMMONWEALTH OF PENNSYLVANIA

## COURT OF COMMON PLEAS

Judicial District, County Of

Clearfield

## NOTICE OF APPEAL

FROM

## DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2006-1293-CD

## NOTICE OF APPEAL

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

NAME OF APPELLANT <del>Brink Transportation, Inc</del> <b>ESPY TRANSPORT LLC</b>	MAG. DIST. NO. 46-304	NAME OF D.J. James L. Hawkins
ADDRESS OF APPELLANT 4654 Greenacre Road	CITY Houtzdale	STATE Pennsylvania
DATE OF JUDGMENT October 2, 2006	IN THE CASE OF (Plaintiff) Brink Transportation Inc	(Defendant) vs. Espy Transport, LLC
DOCKET No. CV-61-06	SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT Thomas M. Dickey	

This block will be signed ONLY when this notation is required under Pa. R.C.P.D.J. No. 1008B.

This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.

If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action

before a District Justice, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.

Signature of Prothonotary or Deputy

FILED

## PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

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

PRAECIPE: To Prothonotary

Enter rule upon

Brink Transportation, Inc

Name of appellee(s)

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

(Common Pleas No. 2006-1293) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Thomas M. Dickey

Signature of appellant or attorney or agent

RULE: To BRINK TRANSPORTATION, INC 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 MAY BE ENTERED AGAINST YOU.

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

Date: Nov. 1, 2006

Will

Signature of Prothonotary or Deputy

YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.

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

*(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing of the notice of appeal. Check applicable boxes.)*

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF \_\_\_\_\_; ss

**AFFIDAVIT:** I hereby (swear) (affirm) that I served

☐ a copy of the Notice of Appeal, Common Pleas No. \_\_\_\_\_, upon the District Justice designated therein on  
(date of service) \_\_\_\_\_, 20\_\_\_\_, ☐ by personal service ☐ by (certified) (registered) mail,  
sender's receipt attached hereto, and upon the appellee, (name) \_\_\_\_\_, on  
\_\_\_\_\_, 20\_\_\_\_ ☐ by personal service ☐ by (certified) (registered) mail,  
sender's receipt attached hereto.

(SWORN) (AFFIRMED) AND SUBSCRIBED BEFORE ME  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Signature of affiant*

\_\_\_\_\_  
*Signature of official before whom affidavit was made*

\_\_\_\_\_  
*Title of official*

My commission expires on \_\_\_\_\_, 20\_\_\_\_.

## COMMONWEALTH OF PENNSYLVANIA

## COURT OF COMMON PLEAS

Judicial District, County Of

clearfield

## NOTICE OF APPEAL

FROM

## DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2006-1793-CD

## NOTICE OF APPEAL

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

NAME OF APPELLANT <del>BRINK TRANSPORTATION, INC.</del> <b>ESPY TRANSPORT LLC</b>		MAG. DIST. NO. 46-304	NAME OF D.J. JAMES L. HAWKINS	
ADDRESS OF APPELLANT 4654 Greenacres Road		CITY Holtzclaw	STATE PENNSYLVANIA	ZIP CODE 16651
DATE OF JUDGMENT October 2, 2006	IN THE CASE OF (Plaintiff) Brink Transportation, Inc.		(Defendant) vs. Espy Transport, LLC	
DOCKET No. CV-19-00		SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT <i>Sharon M. Dickey</i>		
<p>This block will be signed ONLY when this notation is required under Pa. R.C.P.D.J. No. 1008B.</p> <p>This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p>_____ Signature of Prothonotary or Deputy</p>		<p>If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action before a District Justice, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE OF APPEAL.</p>		

## PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

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

PRAECIPE: To Prothonotary

Enter rule upon

Brink Transportation, Inc.

Name of appellee(s)

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

CR 12 to MDJ.  
HAWKINS, BRINK  
TRANSPORTATION &  
ATTY DICKY

(Common Pleas No. 2006-1793) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

*Sharon M. Dickey*  
Signature of appellant or attorney or agent

RULE: To BRINK TRANSPORTATION, INC. 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 MAY BE ENTERED AGAINST YOU.

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

Date: Nov. 1, 2006

*Will*  
Signature of Prothonotary or Deputy

Signature of Prothonotary or Deputy

YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.

**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 of the notice of appeal. Check applicable boxes.)*

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF \_\_\_\_\_; ss

**AFFIDAVIT:** I hereby (swear) (affirm) that I served

☐ a copy of the Notice of Appeal, Common Pleas No. \_\_\_\_\_, upon the District Justice designated therein on  
(date of service) \_\_\_\_\_, 20\_\_\_\_, ☐ by personal service ☐ by (certified) (registered) mail,  
sender's receipt attached hereto, and upon the appellee, (name) \_\_\_\_\_, on  
\_\_\_\_\_, 20\_\_\_\_ ☐ by personal service ☐ by (certified) (registered) mail,  
sender's receipt attached hereto.

(SWORN) (AFFIRMED) AND SUBSCRIBED BEFORE ME  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Signature of affiant*

\_\_\_\_\_  
*Signature of official before whom affidavit was made*

\_\_\_\_\_  
*Title of official*

My commission expires on \_\_\_\_\_, 20\_\_\_\_.

FROM :ESPY TRANSPORT LLC

FAX NO. :8146694321

Oct. 09 2006 08:52AM P1

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:	<b>46-3-04</b>
MCU Number:	
Name:	<b>JAMES L. HAWKINS</b>
Address:	<b>251 SPRING ST PO BOX 362 HOUTZDALE, PA</b>
Telephone:	<b>(814) 378-7160</b>
	<b>16651-0362</b>

**ESPY TRANSPORT, LLC**  
**5297 SPRUCE CREEK RD**  
**TYRONE, PA 16686**

**NOTICE OF JUDGMENT/TRANSCRIPT  
CIVIL CASE**

PLAINTIFF: **BRINK TRANSPORTATION, INC**  
**4654 GREEN ACRE RD**  
**HOUTZDALE, PA 16651**

VS.

DEFENDANT: **ESPY TRANSPORT, LLC**  
**5297 SPRUCE CREEK RD**  
**TYRONE, PA 16686**

Docket No.: **CV-0000059-06**  
 Date Filed: **7/10/06**

**THIS IS TO NOTIFY YOU THAT:**

- Judgment: **FOR PLAINTIFF** (Date of Judgment): **10/02/06**

<input checked="" type="checkbox"/> Judgment was entered for: (Name) <b>BRINK TRANSPORTATION, INC</b>	Amount of Judgment \$ <b>4,239.67</b> Judgment Costs \$ <b>123.50</b> Interest on Judgment \$ <b>.00</b> Attorney Fees \$ <b>.00</b> <b>Total \$ 4,363.17</b> Post Judgment Credits \$ <b></b> Post Judgment Costs \$ <b></b> <b>Certified Judgment Total \$</b>
<input checked="" type="checkbox"/> Judgment was entered against: (Name) <b>ESPY TRANSPORT, LLC</b> in the amount of \$ <b>4,363.17</b>	
<input type="checkbox"/> Defendants are jointly and severally liable.	
<input type="checkbox"/> Damages will be assessed on Date & Time	
<input type="checkbox"/> This case dismissed without prejudice.	
<input type="checkbox"/> Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$	
<input type="checkbox"/> Portion of Judgment for physical damages arising out of residential lease \$	

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 JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE 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.

10-2-06 Date James L. Hawkins, 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, **2012**

SEAL

AOPC 316-06

DATE PRINTED: **10/02/06 2:29:00 PM**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.: **46-3-04**  
MDJ Name: Hon. **JAMES L. HAWKINS**  
Address: **251 SPRING ST  
PO BOX 362  
HOUTZDALE, PA**  
Telephone: **(814) 378-7160** **16651-0362**

**JAMES L. HAWKINS  
251 SPRING ST  
PO BOX 362  
HOUTZDALE, PA 16651-0362**

**NOTICE OF JUDGMENT/TRANSCRIPT  
CIVIL CASE**

PLAINTIFF: NAME and ADDRESS  
**BRINK TRANSPORTATION, INC  
4654 GREEN ACRE RD  
HOUTZDALE, PA 16651**

VS.  
DEFENDANT: NAME and ADDRESS  
**ESPY TRANSPORT, LLC  
5297 SPRUCE CREEK RD  
TYRONE, PA 16686**

Docket No.: **CV-0000069-06**  
Date Filed: **7/10/06**



**THIS IS TO NOTIFY YOU THAT:**

Judgment: **FOR PLAINTIFF** (Date of Judgment) **10/02/06**

☒ Judgment was entered for: (Name) **BRINK TRANSPORTATION, INC**

☒ Judgment was entered against: (Name) **ESPY TRANSPORT, LLC**  
in the amount of \$ **4,363.17**

☐ Defendants are jointly and severally liable.

☐ Damages will be assessed on Date & Time \_\_\_\_\_

☐ This case dismissed without prejudice.

☐ Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127  
\$ \_\_\_\_\_

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

Amount of Judgment	\$ <b>4,239.67</b>
Judgment Costs	\$ <b>123.50</b>
Interest on Judgment	\$ <b>.00</b>
Attorney Fees	\$ <b>.00</b>
<b>Total</b>	\$ <b>4,363.17</b>
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
<b>Certified Judgment Total</b>	\$ _____

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 JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE 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.

**FILED**  
M 10:18 AM  
NOV 07 2006  
(6K)

William A. Shaw  
Prothonotary/Clerk of Courts

10-2-06 Date *James L. Hawkins*, Magisterial District Judge

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

11-2-06 Date *James L. Hawkins*, Magisterial District Judge

My commission expires first Monday of January, **2012**

SEAL

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

**CIVIL COMPLAINT**

Mag. Dist. No.:	<b>46-3-04</b>
DJ Name: Hon.	<b>JAMES L. HAWKINS</b>
Address:	<b>430 SPRING STREET P.O. BOX 362 HOUTZDALE, PA 16651-0362</b>
Telephone:	<b>(814) 378-7160</b>

PLAINTIFF: NAME and ADDRESS  
Brink Transportation, Inc.  
4654 Green Acre Rd.  
Houtzdale, PA 16651

VS.  
DEFENDANT: NAME and ADDRESS  
Espy Transport, LLC  
5297 Spruce Creek Rd.  
Tyrone, PA 16686

Docket No.: **CV-69-06**  
Date Filed: **7-10-06**



	AMOUNT	DATE PAID
FILING COSTS	\$ <u>123.50</u>	<u>7/10/06</u>
SERVING COSTS	\$ <u>          </u>	<u>   /   /   </u>
TOTAL	\$ <u>          </u>	<u>   /   /   </u>

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$ 7,853.83 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

For damage to our triaxle at Seward Power Plant on 12/20/05.  
Driver, Time Bruiner, of Espy Transport, Truck #818 backed into  
our truck.

Damages: \$6,853.83

(2) days downtime - \$500/day

Total loss: \$7,853.83

I, Samuel D. Brink 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. S.C.A. § 4904) related to unsworn falsification to authorities.

*Samuel D. Brink*  
(Signature of Plaintiff or Authorized Agent)

Plaintiff's Attorney: \_\_\_\_\_ Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT WILL BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within district justice jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five (5) days before the date set for the hearing. If you have a claim against the plaintiff which is not within district justice jurisdiction, you may request information from this office as to the procedures you may follow. **If you are disabled and require assistance, please contact the Magisterial District office at the address above.**



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

BRINK TRANSPORTATION, INC., \*  
and SAMUEL D. BRINK, and \*  
BRINK'S BODY SHOP \*  
Plaintiffs \*

v. \*

Docket No. 2006-1793-CD

ESPY TRANSPORT, LLC \*  
Defendant \*

Type of Pleading:  
COMPLAINT

Filed on Behalf of:  
Plaintiffs:  
BRINK TRANSPORTATION, INC.,  
SAMUEL D. BRINK and BRINK'S  
BODY SHOP

Counsel of Record for  
This Party:

Dwight L. Koerber, Jr., Esquire  
PA I.D. 16332

LAW OFFICES OF  
DWIGHT L. KOERBER, JR.  
110 N. Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED** 3cc AHK  
0/3:45 am Koerber  
DEC 05 2006 (S)

William A. Shaw  
Prothonotary/Clerk of Courts

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

BRINK TRANSPORTATION, INC.,  
and SAMUEL D. BRINK, and  
BRINK'S BODY SHOP  
Plaintiffs

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

v.

Docket No. 2006-1793-CD

ESPY TRANSPORT, LLC  
Defendant

**NOTICE TO DEFEND**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing 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 claims in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830  
(814) 765-2641

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

BRINK TRANSPORTATION, INC.,  
and SAMUEL D. BRINK, and  
BRINK'S BODY SHOP  
Plaintiffs

v.

ESPY TRANSPORT, LLC  
Defendant

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

Docket No. 2006-1793-CD

**COMPLAINT**

COME NOW, Brink Transportation, Inc., Samuel D. Brink and Brink's Body Shop, by and through their attorney, Dwight L. Koerber, Jr., Esquire and file the within Complaint against Defendant, Espy Transport, LLC. In support thereof, Plaintiffs aver and show as follows:

(1) Plaintiff, Brink Transportation, Inc. is a Pennsylvania Corporation with its offices at 214 Plank Road, Ebensburg, Pennsylvania 15931. Prior to moving during the latter portion of 2006, Brink Transportation, Inc. had its principal offices at 4654 Green Acre Road, Houtzdale, Pennsylvania 16651.

(2) Samuel D. Brink is an individual who is the owner and President of Brink Transportation, Inc. He is the owner of a 1995 Ford tri-axle dump truck, VIN number: 5VA43291. At all times pertinent herein, this vehicle was permanently leased to Brink Transportation, Inc. and was used in Brink Transportation, Inc. in its operations. This vehicle was identified as Brink truck number 302.

(3) In addition to being the owner and President of Brink Transportation, Inc.,

Samuel D. Brink, who resides at 1462 Punkin Ridge Road, LaJose, Pennsylvania, 15753, also operates a proprietorship named Brink's Body Shop. The operations of Brink's Body Shop are located in Clearfield County, but after Brink Transportation, Inc. moved its headquarters from 4654 Green Acre Road, Houtzdale, Pennsylvania 16651 to its current address at 241 Plank Road, Ebensburg, Pennsylvania, 15931, the administrative offices of Brink's Body Shop were moved to 241 Plank Road, Ebensburg, Pennsylvania, 15931.

(4) Defendant is Espy Transport, LLC, which is believed to be a Pennsylvania limited liability company, has its offices and principal place of being 5297 Spruce Creed Road, Tyrone, Pennsylvania 16686.

(5) On or about December 20, 2005, Brink Transportation, Inc. was operating truck number 302, under an arrangement where it delivered coal to the Seward Power Plant in Armaugh, Indiana County, Pennsylvania. When the said truck was waiting in line, immediately in front was a certain coal hauling truck owned by Espy Transport, LLC.

(6) While the Brink truck and Espy Transport vehicle were in line at the Seward Power Plant on December 20, 2005, waiting to make delivery, the truck operated by Espy Transport, LLC backed up and caused the rear end of its vehicle to collide with the front of Brink truck number 302, thereby causing damage to the Brink vehicle.

(7) The actions of Espy Transport, LLC, as described in paragraph 6 of this Complaint, through the driver operating the vehicle on or about December 20, 2005,

were negligent, as the vehicle backed up and hit a stationary vehicle behind it; failed to exercise due concern for the proper care of the vehicles waiting in line behind it; and acted contrary to established protocol for backing up a commercial motor vehicle while waiting in line, when it did not have other person directly guiding it backwards to make certain that it would not hit the vehicle stopped behind it.

(8) Espy Transport, LLC, during the aforesaid incident of December 20, 2005, was negligent as a matter of law and the legal cause of damages to the Brink vehicle number 302. The specific damage that occurred was as follows:

- (a) Damage to hood;
- (b) Damage to grill, and grill shell; and
- (c) Damage to air conditioner condenser and air charge cooler.

(9) Shortly after the Espy truck damaged Brink truck number 302, as discussed in this Complaint, Brink Transportation, Inc. contacted Espy Transport, LLC and explained that there were damages that need to be repaired. Espy Transport responded by telling Brink to do the repairs and present the invoice.

(10) Brink Transportation, Inc. towed truck number 302 to its body shop, and Brink's Body Shop did the repairs that were caused by Espy Transport, LLC vehicle when it backed into the Brink Transportation vehicle on or about December 20, 2005.

(11) Attached hereto as Exhibit A is a true and correct copy of the invoice of Brink's Body Shop which Brink Transportation, Inc. forwarded to Espy Transport, LLC. This invoice represents the work performed on the vehicle, all of which was necessitated and caused by the accident of December 20, 2005 when the Espy Transport vehicle backed into the Brink Transportation vehicle.

(12) Prior to the time that the Espy Transport vehicle backed into and damaged the Brink Transportation vehicle on or about December 20, 2005, the said vehicle was in sound operating condition, was in good physical condition, and was used on a regular basis by Brink Transportation to effect delivery of shipment to the marketplace where the accident occurred.

(13) Brink Transportation and Brink's Body Shop have made numerous and repeated requests to Espy Transport to pay the invoice of March 14, 2006, but Espy Transport has failed and refused to pay the invoice which represents the damages caused by the incident of December 20, 2005 when the Espy Transport vehicle that backed into the Brink vehicle which was fully stationary at that time.

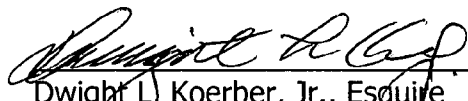
(14) The damages to Brink truck number 302 caused by Espy Transport was \$6,853.83.

(15) In addition to the cost of the physical damages done to the Brink Transportation vehicle, Espy Transport is also indebted to Brink Transportation for down time, with down time representing the days that the said vehicle could not operate because it was in the shop being repaired. Brink Transportation has set reasonable down time, in the amount of two (2) days, as this represents the time that the truck was not capable of being operated and removed from the Brink Transportation business, as a direct result of the negligent actions of Espy Transport, LLC in the December 20, 2005 incident.

(16) The total claim of Brink Transportation, Inc., Samuel D. Brink, and Brink's Body Shop is \$7,853.83. Plaintiffs aver that they individually and jointly are entitled to recover the combined sum of \$7,853.83. In addition to that, Plaintiffs seek prejudgment interest from the date of the repair invoice, March 14, 2006, to the date of the entry of the judgment in this case.

WHEREFORE, Plaintiffs, Brink Transportation, Inc., Samuel D. Brink, and Brink's Body Shop pray that judgment be entered in their favor and against Espy Transport, LLC, in the amount of \$7,853.83 plus prejudgment interest from March 13, 2006 and costs.

Respectfully submitted,

  
\_\_\_\_\_  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs: Brink Transportation,  
Inc., Samuel D. Brink and Brink's Body Shop

**VERIFICATION**

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



Samuel D. Brink

DATE: December 4, 2006



**EXHIBIT A**

Attached hereto as Exhibit A is a true and correct copy of the invoice of Brink's Body Shop which Brink Transportation, Inc. forwarded to Espy Transport, LLC.

~~R.R.1, Box 317~~ 4654 Green Acre Rd.  
Houtzdale, PA 16651  
(814) 672-5998

Invoice No. \_\_\_\_\_

**Vision Press 1198BBS**

Thanks You! (2) days downtime

## Plaintiffs

-VS-

**ESPY TRANSPORT, LLC,  
Defendant**

**: IN THE COURT OF COMMON PLEAS OF  
: CLEARFIELD COUNTY, PENNSYLVANIA**

: No. 2006-1793-CD

**: Type of Document:**

: Defendant's Answer to Plaintiffs' Complaint

**: Filed on behalf of:**

: Espy Transport, LLC, Defendant

**: Attorney for Defendant:**

: Thomas M. Dickey, Esquire

: Pennsylvania ID# 41475

**: LAW OFFICES OF THOMAS M. DICKEY**

: 312 Union Avenue

: Altoona, PA 16602

: (814) 942-7544 telephone

: (814) 942-9180 facsimile

FILED

JAN 05 2007

0/3:50/4

William A. Shaw

Prothonotary/Clerk of Courts

2 cent to AFU

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

BRINK TRANSPORTATION, AND	:	
SAMUEL BRINK AND BRINKS	:	
BODY SHOP,	:	
Plaintiffs	:	
	:	
-vs-	:	No. 2006-1793-CD
	:	
ESPY TRANSPORT, LLC,	:	
Defendant	:	

**DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT**

AND NOW, comes the Defendant, ESPY TRANSPORTATION, LLC, and files the within Answer to Plaintiff's Complaint, the following being a more specific statement thereof:

1.

Defendant lacks specific knowledge and information in order to form an answer to this paragraph. To the extent that an answer is required, all averments in this paragraph are denied and strict proof of the same is demanded at the time of trial.

2.

Defendant lacks specific knowledge and information in order to form an answer to this paragraph. To the extent that an answer is required, all averments in this paragraph are denied and strict proof of the same is demanded at the time of trial.

3.

Defendant lacks specific knowledge and information in order to form an answer to this paragraph. To the extent that an answer is required, all averments in this paragraph are denied and strict proof of the same is demanded at the time of trial.

4.

This paragraph as it is written is denied; however, it is admitted that Espy Transport, LLC has it's office and principle place of business at 5297 Spruce Creek Road, Tyrone, PA 16686.

5.

Defendant lacks specific knowledge and information in order to form an answer to this paragraph. To the extent that an answer is required, all averments in this paragraph are denied and strict proof of the same is demanded at the time of trial.

6.

Admitted in part and denied in part. It is admitted that a collision had occurred; however all damages allegedly a result therefrom are denied and strict proof of the same is demanded at trial.

7.

Insofar as this paragraph sets forth a legal conclusion, no answer is required. To the extent that an answer is required, all averments are denied and strict proof of the same is demanded at trial.

8.

Insofar as this paragraph sets forth a legal conclusion, no answer is required. To the extent that an answer is required, all averments are denied and strict proof of the same is demanded at trial.

9.

All averments in this paragraph are specifically denied and strict proof of the same is required.

10.

Defendant lacks specific knowledge and information in order to form an answer to this paragraph. To the extent that an answer is required, all averments in this paragraph are denied and strict proof of the same is demanded at the time of trial.

11.

Defendant lacks specific knowledge and information in order to form an answer to this paragraph. To the extent that an answer is required, all averments in this paragraph are denied and strict proof of the same is demanded at the time of trial.

12.

Defendant lacks specific knowledge and information in order to form an answer to this paragraph. To the extent that an answer is required, all averments in this paragraph are denied and strict proof of the same is demanded at the time of trial.

13.

All averments in this paragraph are specifically denied and strict proof of the same is demanded at trial.

14.

All averments in this paragraph are specifically denied and strict proof of the same is demanded at trial.

15.

All averments in this paragraph are specifically denied and strict proof of the same is demanded at trial.

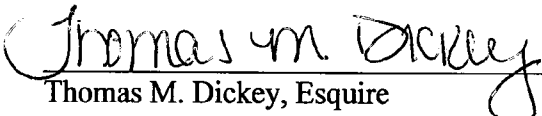
16.

All averments in this paragraph are specifically denied and strict proof of the same is demanded at trial.

WHEREFORE, this Defendant, hereby requests that judgment be entered in favor of Defendant and against the Plaintiffs.

Respectfully submitted,

***LAW OFFICES OF THOMAS M. DICKEY***

By:   
Thomas M. Dickey, Esquire  
Attorney for Defendant  
Pennsylvania ID# 41475

## VERIFICATION

I, Thomas M. Dickey, Esquire, do hereby sign this verification on behalf of my client, Paul Espy. I am authorized to make this verification on his behalf and certify that the statements made in the foregoing ANSWER TO COMPLAINT are true and correct to the best of my knowledge, information and belief as related to me by Paul Espy.

This statement is made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities, which provides that if I knowingly make false averments I may be subject to criminal penalties.

January 5, 2007  
Date

Thomas M. Dickey  
Thomas M. Dickey, Esquire

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

BRINK TRANSPORTATION, INC.,  
and SAMUEL D. BRINK, and  
BRINK'S BODY SHOP  
Plaintiffs

v.

ESPY TRANSPORT, LLC  
Defendant

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Docket No. 2006-1793-CD

Type of Pleading:  
CERTIFICATE OF SERVICE

Filed on Behalf of:  
Plaintiffs:  
BRINK TRANSPORTATION, INC.,  
SAMUEL D. BRINK and BRINK'S  
BODY SHOP

Counsel of Record for  
This Party:

Dwight L. Koerber, Jr., Esquire  
PA I.D. 16332

LAW OFFICES OF  
DWIGHT L. KOERBER, JR.  
110 N. Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED** <sup>ICC</sup>  
013:2161  
DEC 06 2006 *Atty Koerber*

William A. Shaw  
Prothonotary/Clerk of Courts



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

BRINK TRANSPORTATION, INC.,  
and SAMUEL D. BRINK, and  
BRINK'S BODY SHOP  
Plaintiffs

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v.

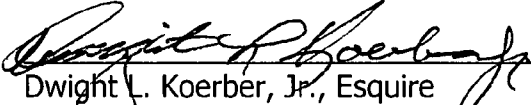
Docket No. 2006-1793-CD

ESPY TRANSPORT, LLC  
Defendant

**CERTIFICATE OF SERVICE**

I certify that on this 5<sup>th</sup> day of December, 2006, the undersigned served a  
certified copy of the Complaint in the above-captioned matter. Such document was  
served via United States First Class Mail upon the following individual:

Thomas M. Dickey, Esquire  
312 Union Avenue  
Altoona, PA 16602

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Plaintiffs: Brink Transportation,  
Inc., Samuel D. Brink and Brink's Body Shop

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

Brink Transportation, Inc., and  
Samuel D. Brink, and  
Brink's Body Shop  
Plaintiffs

\*

\*

\*

vs.

\*

Docket No. 2006-1793-CD

Espy Transport, LLC,  
Defendant

\*

\*

Type of Pleading:  
PRAECIPE TO SETTLE  
AND DISCONTINUE

Filed on behalf of:  
Plaintiffs: Brink Transportation, Inc.,  
and Samuel D. Brink, and  
Brink's Body Shop

Counsel of record for this party:  
Dwight L. Koerber, Jr., Esquire  
PA I.D. No. 16332

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

**FILED** 3cc + 2 Cert  
0/2:45 un of disc issued  
FEB 13 2007 to AB  
Koerber

William A. Shaw  
Prothonotary/Clerk of Courts

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

Brink Transportation, Inc., and  
Samuel D. Brink, and  
Brink's Body Shop  
Plaintiffs

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\*

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vs.

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Docket No. 2006-1793-CD

Espy Transport, LLC,  
Defendant

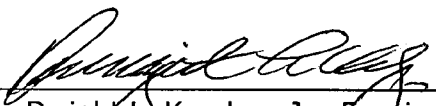
\*

\*

TO THE PROTHONOTARY:

Please mark this proceeding as discontinued and settled.

Respectfully submitted,

  
\_\_\_\_\_  
Dwight L. Koerber, Jr., Esquire  
Attorney for Samuel D. Brink,  
Plaintiff

DATE: 2/13/07

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Brink Transportation, Inc.  
Samuel D. Brink  
Brink's Body Shop

Vs.  
ESPY Transport, LLC

No. 2006-01793-CD

CERTIFICATE OF DISCONTINUATION

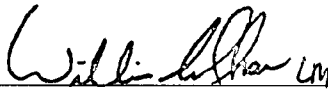
Commonwealth of PA  
County of Clearfield

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 February 13, 2007, marked:

Discontinued and settled

Record costs in the sum of \$85.00 have been paid in full by Thomas M. Dickey Esq. .

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 13th day of February A.D. 2007.

  
\_\_\_\_\_  
William A. Shaw, Prothonotary