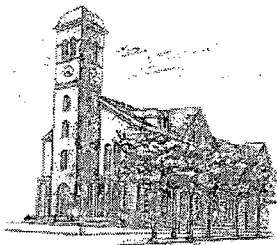


07-989-CD
A&D Transp. Vs Quality Fab & al

A&D Transp vs Quality Fab
2007-989-CD



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ www.clearfieldco.org

COPY

January 16, 2008

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

Re: A & D Transportation, Inc.
Vs.
Quality Fab & Mechanical, LLC
No. 07-989-CD
Superior Court No. 2231 WDA 2007

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office. A transcript has been requested and will be forwarded to your office upon its filing.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

FILED

018-43601
JAN 16 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

COPY

A & D Transportation, Inc.

Vs.

Case No. 2007-00989-CD

Quality Fab & Mechanical L.L.C.

CERTIFICATE OF CONTENTS

NOW, this 16th day of January, 2008, the undersigned, Prothonotary or Deputy Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, the said Court of record, does hereby certify that attached is the original record of the case currently on Appeal.

An additional copy of this Certificate is enclosed with the original hereof and the Clerk or Prothonotary of the Superior Court is hereby directed to acknowledge receipt of the Appeal Record by executing such copy at the place indicated by forthwith returning the same to this Court.

By:

William A. Shaw

William A. Shaw, Prothonotary

RECEIVED

JAN 18 2008

PITTSBURGH OFFICE OF
SUPERIOR COURT

Record, Etc. Received:

Date:

GM

(Signature & Title)

FILED

JAN 22 2008

William A. Shaw
Prothonotary/Clerk of Courts

10:38 A.M.

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 2231 WDA 2007

Page 1 of 3

December 11, 2007



A & D Transportation, Inc., Appellant

V.

Quality Fab & Mechanical, L.L.C.

07-989-CD

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: December 10, 2007 Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType: Assumpsit

Consolidated Docket Nos.:

Related Docket Nos.:

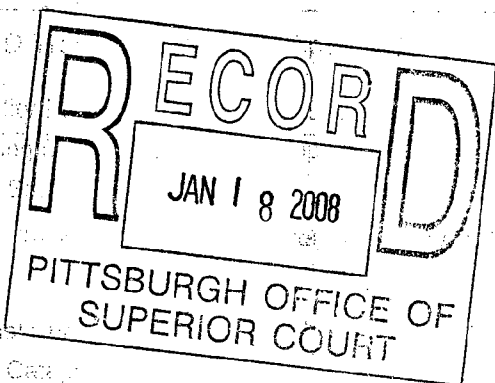
SCHEDULED EVENT

Next Event Type: Receive Docketing Statement

Next Event Due Date: December 26, 2007

Next Event Type: Original Record Received

Next Event Due Date: February 4, 2008



FILED

DEC 13 2007

William A. Shaw
Prothonotary/Clerk of Courts

Record

13

Appeal Docket Sheet**Superior Court of Pennsylvania****Docket Number: 2231 WDA 2007****Page 2 of 3****December 11, 2007****COUNSEL INFORMATION**

Appellant A & D Transportation, Inc.
Pro Se: Appoint Counsel Status:
IFP Status: No

Appellant Attorney Information:

Attorney: Carfley, John R.
Bar No.: 17621 **Law Firm:**
Address: 222 Presqueisle Street
 PO Box 249
 Philipsburg, PA 16866
Phone No.: (814)342-5581 **Fax No.:** (814)342-1127
Receive Mail: Yes
E-Mail Address: bjn1956@hotmail.com
Receive E-Mail: No

Appellee Quality Fab & Mechanical, L.L.C.
Pro Se: Appoint Counsel Status:
IFP Status:

Appellee Attorney Information:

Attorney: Bourgeois, Bruce M.
Bar No.: **Law Firm:**
Address: Quality Fab & Mechanical, L.L.C.
 P.O. Drawer 339, 1308 Airline Highway
 St. Rose, LA 70087
Phone No.: **Fax No.:**
Receive Mail: Yes
E-Mail Address:
Receive E-Mail: No

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
12/6/07	Notice of Appeal	60.00	60.00	2007SPRWD001504

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas
County: Clearfield **Division:** Civil
Date of Order Appealed From: November 5, 2007 **Judicial District:** 46
Date Documents Received: December 10, 2007 **Date Notice of Appeal Filed:** December 6, 2007
Order Type: Order Entered **OTN:**
Judge: Ammerman, Fredric J. **Lower Court Docket No.:** No. 2007-989-CD
 President Judge

ORIGINAL RECORD CONTENTS

Appeal Docket Sheet

Docket Number: 2231 WDA 2007

Page 3 of 3

December 11, 2007

Superior Court of Pennsylvania



Original Record Item

Filed Date

Content/Description

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
December 10, 2007	Notice of Appeal Filed	Appellant	A & D Transportation, Inc.
December 11, 2007	Docketing Statement Exited (Civil)		Western District Filing Office

FILED

DEC 13 2007

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA
RULE OF APPELLATE PROCEDURE 1931(C)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

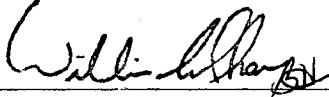
07-989-CD

A & D Transportation, Inc.
VS.
Quality Fab & Mechanical, LLC

In compliance with Pa. R.A.P. 1931 (c).

The documents comprising the record have been numbered from No. 1 to No. 18, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is January 16, 2008.


Prothonotary/Clerk of Courts

(seal)

Date: 01/16/2008

Time: 08:36 AM

Page 1 of 2

Field County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2007-00989-CD

Current Judge: Fredric Joseph Ammerman

A & D Transportation, Inc. vs. Quality Fab & Mechanical L.L.C.

Civil Other

Date		Judge
06/22/2007	New Case Filed.	No Judge
	Filing: Civil Complaint Paid by: Carfley, John R. (attorney for A & D Transportation, Inc.) Receipt number: 1919508 Dated: 06/22/2007 Amount: \$85.00 (Check) 2 cert. to Atty.	No Judge
07/05/2007	Certificate of Service, filed by Atty. Carfley Served copy of Complaint on Defendant by Cert. Mail on June 26, 2007 s/ Atty. Carfley 1 Cert. to Atty.	No Judge
07/20/2007	Certificate of Service, filed. That a true and correct copy of the ten day Notice of Default was served upon Quality Fab & Mechanical, LLC on July 18, 2007, filed by s/ John R. Carfley Esq. No CC.	No Judge
08/10/2007	Preliminary Objections, filed by s/ Bruce M. Bourgeois, Sr, Quality Fab & Mechanical, L.L.C. 1CC to Mollere, Flanagan & Landry	No Judge
08/14/2007	Order, this 10th day of August, 2007, argument on the Defendant's Preliminary Objections is scheduled for the 1st day of Oct., 2007 at 11:30 a.m. in Courtroom 1. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Carfley; 1CC Def. (by return envelope to Mollere, Flanagan, & Landry)	Fredric Joseph Ammerman
08/17/2007	Answers to Preliminary Objections And Motion For Extension of Time, filed by s/ John R. Carfley, Esquire. 1CC Atty.	Fredric Joseph Ammerman
09/17/2007	Praeipce For Entry of Appearance, filed on behalf of Defendant, enter appearance of Lee H. Roberts. No CC	Fredric Joseph Ammerman
09/21/2007	Motion to Allow Defendant Testimony by Telephone, filed by s/ Lee H. Roberts, Esquire. 2CC Atty. Roberts	Fredric Joseph Ammerman
09/24/2007	Order, NOW, this 24th day of Sept., 2007, it is Ordered that the Defendant is permitted to testify by telephone at the preliminary objection argument scheduled for Oct. 1, 2007 at 11:30 a.m. By The Court, /s/ Fredric J. Ammerman, pres. Judge. 2CC Atty. Roberts	Fredric Joseph Ammerman
10/03/2007	Order, this 1st day of Oct., 2007, following argument on the Preliminary Objections, it is the Order of this Court that counsel for the Plaintiff have no more than 20 days to submit appropriate letter brief. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: J. Carfley, Roberts	Fredric Joseph Ammerman
11/06/2007	Order, this 5th day of Nov., 2007, Defendant's Preliminary Objection are Granted. The Plaintiff's Complaint is Dismissed. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: J. Carfley, L. Roberts	Fredric Joseph Ammerman
12/06/2007	Filing: Appeal to High Court Paid by: Carfley, John R. (attorney for A & D Transportation, Inc.) Receipt number: 1921730 Dated: 12/06/2007 Amount: \$45.00 (Check) 1 Cert. to Superior Court w/\$60.00 check and 1 Certr. to Atty.	Fredric Joseph Ammerman
12/12/2007	Plaintiff's Request For Trial Transcript, filed by s/ John R. Carfley, Esquire. 2CC Atty. Carfley	Fredric Joseph Ammerman
12/13/2007	Appeal Docket Sheet, filed. Superior Court Number 2231 WDA 2007.	Fredric Joseph Ammerman
12/14/2007	Order, this 13th day of Dec, 2007, it is Ordered that the transcript of the trial held on Oct. 1, 2007 be transcribed upon payment to the Court Reporter of such amount that the Court Reporter deems appropriate. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Carfley	Fredric Joseph Ammerman

Date: 01/16/2008

Time: 08:36 AM

Page 2 of 2

Civil field County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2007-00989-CD

Current Judge: Fredric Joseph Ammerman

A & D Transportation, Inc. vs. Quality Fab & Mechanical L.L.C.

Civil Other

Date		Judge
12/14/2007	Order, this 14th day of Dec., 2007, this Court having been notified of Appeal to the Superior Court; it is Ordered that A&D Transportation, Inc., Appellant, file a concise statement of the matters complained of on said appeal no later than 21 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: J. Carfley, Roberts	Fredric Joseph Ammerman
01/07/2008	Concise Statement of Matters Complained of on Appeal, filed by s/ John R. Carfley, Esquire. 1CC Atty. Carfley	Fredric Joseph Ammerman
01/08/2008	Opinion, Pennsylvania does not have jurisdiction over this claim, which should be filed in the appropriate venue of Louisiana. by the Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC Attys: Carfley, Roberts; 1CC D. Mikesell and Law Library (without memo)	Fredric Joseph Ammerman
01/16/2008	January 16, 2008, Mailed Appeal to Superior Court. January 16, 2008, Letters, Re: Notification of mailing appeal mailed to John R. Carfley, Esq. and Lee H. Roberts, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931 (c).	Fredric Joseph Ammerman

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

JAN 16 2008

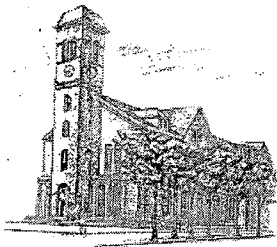
Attest.

William L. Brown
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 07-989-CD
A & D Transportation, Inc.
VS.
Quality Fab & Mechanical, LLC

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	06/22/07	Civil Complaint	28
02	07/05/07	Certificate of Service, Re: Complaint on Defendant	02
03	07/20/07	Certificate of Service, Ten day Notice of Default	01
04	08/10/07	Preliminary Objections	06
05	08/14/07	Order, Re: argument on Defendant's Preliminary Objections scheduled	01
06	08/17/07	Answers to Preliminary Objections and Motion for Extension of Time	05
07	09/17/07	Praecipe for Entry of Appearance	02
08	09/21/07	Motion to Allow Defendant Testimony by Telephone	04
09	09/24/07	Order, Re: Motion to Allow Defendant Testimony by Telephone	01
10a	10/03/07	Order, Re: letter brief to be submitted	01
10b	11/06/07	Order, Re: Defendant's Preliminary Objections are Granted. Plaintiff's Complaint is Dismissed	01
11	12/06/07	Appeal to High Court	05
12	12/12/07	Plaintiff's Request for Trial Transcript	01
13	12/13/07	Appeal Docket Sheet, Superior Court Number 2231 WDA 2007	03
14	12/14/07	Order, Re: transcript of the trial held October 1, 2007, be transcribed	01
15	12/14/07	Order, Re: concise statement of matters complained of on appeal to be filed	01
16	01/07/08	Concise Statement of Matters Complained of on Appeal	07
17	01/08/08	Opinion	04
18	01/16/08	Letters, Re: Notification of mailing appeal mailed to John R. Carfley, Esq. and Lee H. Roberts, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931 (c).	04



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ www.clearfieldco.org

COPY

Fredric J. Ammerman, P.J.
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

John R. Carfley, Esq.
PO Box 249
222 Presquisle Street
Philipsburg, PA 16866

Lee H. Roberts, Esq.
146 East Water Street
Lock Haven, PA 17745

A & D Transportation, Inc.
Vs.
Quality Fab & Mechanical, LLC

Court No. 07-989-CD; Superior Court No. 2231 WDA 2007

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on January 16, 2008. By their instruction, the transcript will be forwarded to Superior Court upon its filing.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

FILED
018:30/41
JAN 16 2008

William A. Shaw
Prothonotary/Clerk of Courts

418

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 07-989-CD
A & D Transportation, Inc.
VS.
Quality Fab & Mechanical, LLC

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17	01/08/08	Opinion	04

Date: 01/16/2008

Time: 08:22 AM

Page 1 of 2



Carfield County Court of Common Pleas

ROA Report

Case: 2007-00989-CD

Current Judge: Fredric Joseph Ammerman

A & D Transportation, Inc. vs. Quality Fab & Mechanical L.L.C.

User: BHUDSON

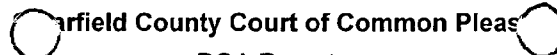
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Date: 01/16/2008

Time: 08:22 AM

Page 2 of 2



Carfield County Court of Common Pleas

ROA Report

Case: 2007-00989-CD

Current Judge: Fredric Joseph Ammerman

A & D Transportation, Inc. vs. Quality Fab & Mechanical L.L.C.

User: BHUDSON

Civil Other

Date		Judge
12/14/2007	Order, this 14th day of Dec., 2007, this Court having been notified of Appeal to the Superior Court; it is Ordered that A&D Transportation, Inc., Appellant, file a concise statement of the matters complained of on said appeal no later than 21 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: J. Carfley, Roberts	Fredric Joseph Ammerman
01/07/2008	Concise Statement of Matters Complained of on Appeal, filed by s/ John R. Carfley, Esquire. 1CC Atty. Carfley	Fredric Joseph Ammerman
01/08/2008	Opinion, Pennsylvania does not have jurisdiction over this claim, which should be filed in the appropriate venue of Louisiana. by the Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC Attys: Carfley, Roberts; 1CC D. Mikesell and Law Library (without memo)	Fredric Joseph Ammerman

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

JAN 16 2008

Attest.



William L. Shaw
Prothonotary/
Clerk of Courts

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

A & D TRANSPORTATION, INC.,
Plaintiff

vs.

QUALITY FAB & MECHANICAL, L.L.C.,
Defendant

NO. 07-989-CD

FILED

012-2761
JAN 08 2008

William A. Shaw
Prothonotary/Clerk of Courts

2 CC Atty's: Carley
Roberts

ICC - D. Mikesell and
Law Library
(without memo)

OPINION

A Complaint was filed by A & D Transportation, Inc., ("A & D"), the owners of a tractor and trailer that was leased to Defendant, Quality Fab & Mechanical, LLC ("Quality Fab"). The chief corporate officer of the Plaintiff is R. Brent Eminhizer. The President of the Defendant company is Bruce M. Bourgeois, Sr. The Defendant is organized and existing in the State of Louisiana at 10308 Airline Highway, St. Rose, LA 70087. Quality Fab filed preliminary objections to the Complaint claiming that the Court lacks subject matter jurisdiction. Following a hearing held on October 1, 2007 the Court agreed and issued its' Order of November 5, 2007 dismissing the Plaintiff's Complaint. A timely appeal was filed and this Opinion is issued pursuant to Rule of Appellate Procedure 1925(a).

The testimony of Mr. Bourgeois¹ established that Quality Fab primarily does all of its business in the State of Louisiana and does not conduct any business in Pennsylvania, nor does it solicit business in Pennsylvania. Mr. Bourgeois has never been to Pennsylvania, Quality Fab has never done any work whatsoever in Pennsylvania and has had no contact whatsoever with Pennsylvania. Hurricane Katrina hit New Orleans on August 29, 2005. Approximately 15 to 20 days thereafter Mr. Bourgeois encountered representatives of A & D at the 17th Street Canal in New

¹ Taken by telephone consistent with this Court's Order of September 24, 2007.

Orleans. This was the site of one of the major levy breaches. Quality Fab was engaged at that time, by the State and Federal Government, to assist in the repair of the breach.

After conversations in New Orleans, Quality Fab unilaterally signed a facsimile transmission on September 20, 2005, indicating that A & D was under contract to Quality Fab for \$750.00 per day for a trailer and tractor for the "dewatering" of Louisiana. No one from A & D signed the contract, nor did they transmit anything from Pennsylvania to New Orleans. The contract is attached to the Plaintiff's Complaint as appendix "1". All of the invoices are attached to the complaint as Exhibit "A" and indicate that all work was completed in St. Rose, Louisiana. Invoices were made to Quality Fab without an address stated on the invoice. The work involved the use of a tractor and trailer for hauling materials. Mr. Bourgeois indicated he did not make any phone calls or solicitations in the State of Pennsylvania.

Quality Fab provided a place for A & D workers to stay and provided fuel for its trucks. This all occurred in the greater New Orleans area. All payments, with the possible exception of one, were made directly by Quality Fab to A & D representatives in the greater New Orleans area. The Defendant did not hear from A & D after approximately 6 to 9 months time, after Hurricane Katrina struck the area. The first notice was the lawsuit. The Plaintiff is claiming a balance due of \$32,065.18 for work completed on invoices from January 3, 2006 through May 23, 2006.

Pa. R.C.P. Rule 1028(a)(1) provides that the lack of jurisdiction over the subject matter or the person of the defendant shall be raised by preliminary objection.

Pennsylvania's Long Arm Statute is found in 42 Pa. C.S.A. §5322, which provides that the Commonwealth of Pennsylvania can only have jurisdiction over the subject matter

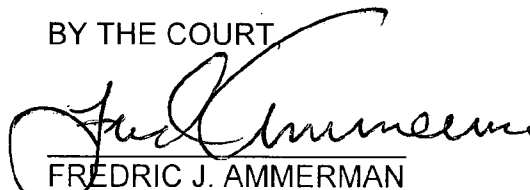
or the person if they are engaged in a series of transactions in the Commonwealth. The transaction of business is defined the doing by any person in the Commonwealth of a series of similar acts for the purpose of realizing pecuniary benefit or otherwise accomplishing an object. Quality Fab established that they have never solicited for or done any business in the Commonwealth of Pennsylvania. The initial contact and all work by the Plaintiff was performed in and around New Orleans. There certainly was no series of acts in Pennsylvania, even if it is believed, as the Plaintiff alleges, that a phone call was made to the Plaintiff. The contract itself was sent by facsimile transmission from New Orleans to the Plaintiff and the Plaintiff was not required to sign anything in Pennsylvania. The request for work was unilaterally signed in New Orleans. The work sheets indicate that all work was completed in New Orleans. Thus, this definition of transacting or doing business has not been met.

Doing business is further defined in Section a(1)(ii) of the statute as the doing of a single act in this Commonwealth for the purposes of thereby realizing pecuniary benefit or otherwise accomplishing an object with the intention of initiating a series of such acts. A & D claims that Quality Fab made a phone call to them in Pennsylvania. Quality Fab denies making any phone call to the Plaintiff in Pennsylvania, but even if it is accepted that such a phone call was made, this single act without the intention of initiating a series of acts in Pennsylvania is insufficient to provide minimum contact with the Commonwealth to cause jurisdiction of the subject matter and/or person.

Pennsylvania Courts can exercise general personal jurisdiction over a non-resident corporation if (1) the corporation qualifies as a foreign corporation under the laws of the Commonwealth; (2) the corporation consents to jurisdiction; or (3) the corporation carries on a continuous and systematic part of its business under the laws

of the Commonwealth. Cmwlth. ex rel. Pappert v. TAP Pharmaceuticals Products, Inc., 868 A.2d 624, 628 (Pa. Cmwlth. 2005). A court of this Commonwealth may exercise jurisdiction over a non-resident Defendant under this provision if the Defendant's activities in Pennsylvania are "continuous and substantial" even if the cause of action is not related to the Defendant's activities in the State. Bork v. Mills, 329 A.2d 247, 249 (1974); Efford v. Jockey Club, 796 A.2d 370, 373 (Pa.Super. 2002). Quality Fab is not a Pennsylvania Corporation; does not have bank accounts, nor does it rent or own office space in Pennsylvania. The testimony established that it has never done business in Pennsylvania and has never been to Pennsylvania. All work under the contract and the contract itself was initiated and completed in the State of Louisiana. Pennsylvania does not have jurisdiction over this claim, which should be filed in the appropriate venue of Louisiana.

BY THE COURT



FREDRIC J. AMMERMAN
President Judge

January 8, 2008

FILED

JAN 08 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/8/08

____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) X Plaintiff(s) Attorney ____ Other

____ Defendant(s) X Defendant(s) Attorney

____ Special Instructions:

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

:
:
:
: No.: 2007-989-CD
:
:
: Type of Pleading:
: Concise Statement of Matters
: Complained of on Appeal
:
: Filed on Behalf of: Plaintiff
:
: Attorney for Defendants:
:
: John R. Carfley, Esquire
: P.O. Box 249
: Philipsburg, PA 16866
: (814) 342-5581
: I. D. No. 17621

FILED ^{ICC}

m/12:34/51
JAN 07 2008

Att'y Carfley

612

William A. Shaw
Prothonotary/Clerk of Courts

#110

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

:
:
:
:
:
:
:

No.: 2007-989-CD

CONCISE STATEMENT OF MATTERS
COMPLAINED OF ON APPEAL PURSUANT TO
PA. R.A.P. 1925

AND NOW COMES, the Plaintiff, A & D Transportation, Inc., who by and through their counsel, John R. Carfley, Esquire, files the foregoing Concise Statement of Matters Complained of On Appeal, and in support thereof sets forth the following:

1. Plaintiff and Defendant entered into a contract wherein Plaintiff provided certain vehicles along with operators to provide services and assistance to the Defendant in the reconstruction efforts along the Gulf Coast subsequent to Hurricane Katrina which caused substantial damage to the Louisiana coastline on or about August 29, 2005. A contract was admittedly entered into by the Plaintiff and Defendant as evidenced by the exchange of a signed agreement on September 20, 2005. Payments exceeding \$300,000.00 were made by the Defendant to the Plaintiff pursuant to that agreement, thus formally recognizing the existence of, and enforceability of the contract. A balance remained on the alleged contract of over \$50,000 which Defendant refused to pay to the Plaintiff, despite repeated requests.

A Complaint was filed in the Court of Common Pleas of Clearfield County, Pennsylvania, based upon the exchange of signed documents between Plaintiff and Defendant.

Preliminary Objections were filed by the Defendant's counsel, testimony was taken by the Court from both representatives of the Plaintiff and Defendant and briefs were submitted by counsel for both parties. An Order was entered on November 5, 2007 and filed with the Prothonotary of Clearfield County on November 6, 2007 dismissing Plaintiff's Complaint for lack of jurisdiction. It is from this Order that an appeal was timely filed.

2. Plaintiff would argue that the Court erred in its determination that it was not reasonably foreseeable to the Defendant that the Defendant's activities, including its contact with employees and the principals of a corporation from the forum state, were such that it was reasonable to expect that the corporation would be subject to the jurisdiction of that state and could reasonably anticipate being called to account before the Courts in that forum state.

3. Plaintiff would argue that the diversion of their trucks from the state of Florida to the state of Louisiana, brought about as a result of the unfortunate events subsequent to Hurricane Katrina, and based upon the Defendant's request for the vehicles and cargo, along with the drivers, resulted in a signed lease agreement which was transmitted by facsimile to the Plaintiff at its corporate offices within the Commonwealth of Pennsylvania outlining the terms of employment, subject to acceptance of that contract to be evidenced by Plaintiff's signature.

4. Plaintiff would complain that the Court erred in failing to find that the Defendant was subject to the jurisdiction of the Pennsylvania Court system after the Defendant diverted and hired these drivers, after their delivery of pumps to the state of Louisiana. The Defendant, after contacting the corporate offices of the Plaintiff in Pennsylvania, eventually transmitted a signed employment contract containing specific terms and conditions of employment to the Plaintiff. This act should be construed as one by which the Defendant properly availed himself of the

benefits of doing business with a Pennsylvania resident thus subjecting his corporation to the jurisdiction of that state.

5. Defendant's additional correspondence acknowledging the debt owed to the Plaintiff after the completion of the contract and the payment of a substantial portion of the contract costs, should have resulted in the Court assuming jurisdiction over this matter. Plaintiff would argue that the purpose of the Pennsylvania Long Arm Statute is to provide an appropriate forum for its citizens to seek redress for harm caused by foreign corporations which have availed themselves of the privilege of "doing business" in Pennsylvania since Pennsylvania has an interest in protecting its residents by asserting jurisdiction over any foreign corporation whose contact with the state caused damage to a Pennsylvania resident. In this instance, Plaintiff would argue that the Court failed to provide this protection by refusing to impose jurisdiction over this foreign corporation.

6. The harm required to impose jurisdiction over a non-resident Defendant under the Pennsylvania Long Arm Statute is not restricted to personal injuries, but may also be financial injuries, such as income or profits. The actions of the Defendant in refusing to pay the Plaintiff the amount owed under the agreement therefore clearly constitutes a harm within the meaning of the Pennsylvania Long Arm Statute.

ISSUES

1. Whether the Trial Court erred in failing to apply the Pennsylvania Uniform Interstate and International Procedure Act, 42 Pa. C.S.A. §5322, also known as the Pennsylvania Long Arm Statute which reads in pertinent part that a tribunal of the Commonwealth of

Pennsylvania may exercise personal jurisdiction over a person or legal entity whose acts directly or by an agent, result in a cause of action arising from that contact?

2. Whether the Trial Court erred in failing to find that Appellee was subject to the jurisdiction of the Lower Court since Defendant "transacted business" in the Commonwealth of Pennsylvania by:

i. Engaging in a series of similar acts for the purpose of realizing pecuniary benefit or otherwise accomplishing an object?

ii. Engaged in the completion of a single act in this Commonwealth for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object with the intention of initiating a series of such acts?

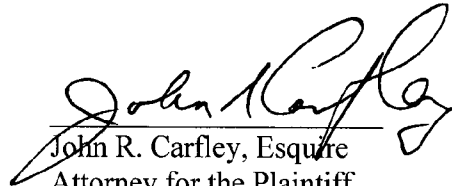
iii. Causing harm or injury in this Commonwealth by an act or omission outside the Commonwealth?

3. Whether the Trial Court erred as a matter of law in dismissing Plaintiff's Complaint for lack of jurisdiction over Defendant?

4. Whether the Trial Court erred as a matter of law in failing to find that the signed agreement outlining the terms of employment for the Pennsylvania drivers and their vehicles transmitted by the Defendant to the Plaintiff by facsimile for signature within the jurisdictional confines of the Commonwealth of Pennsylvania, was an enforceable contract which subjected

the Defendant to the jurisdiction of the Courts of the Commonwealth of Pennsylvania based upon Section 1 and 4 of the Pennsylvania Long Arm Statute?

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John R. Carfley", is written over a horizontal line.

John R. Carfley, Esquire
Attorney for the Plaintiff
P.O. Box 249
Philipsburg, PA 16866
(814) 342-5581

Dated: January 4, 2008

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

No.: 2007-989-CD

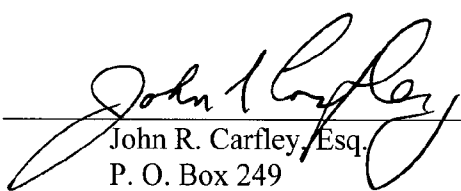
CERTIFICATE OF SERVICE

I hereby verify that a true and correct copy of the Plaintiff's Concise Statement of Matters Complained of on Appeal was served upon the following parties at the following addresses on January 4, 2008, by ordinary mail, first class, postage prepaid:

Quality Fab & Mechanical, L.L.C.
P. O. Drawer 339
1308 Airline Highway
St. Rose, Louisiana 70087

Lee H. Roberts, Esq.
Roberts, Miceli & Boileau
146 East Water Street
Lock Haven, PA 17745

Honorable Fredric Ammerman
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830


John R. Carfley, Esq.
P. O. Box 249
Philipsburg, PA 16866
Attorney for Plaintiff

CA

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

A & D TRANSPORTATION, INC.,
Plaintiff



vs.

QUALITY FAB & MECHANICAL, L.L.C.,
Defendant

*
*
*

NO. 07-989-CD

ORDER

NOW, this 14th day of December, 2007, this Court having been notified of Appeal to the Superior Court of Pennsylvania in the above-captioned matter; it is the ORDER of this Court that **A & D TRANSPORTATION, INC.**, Appellant, file a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days herefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED
012:3761
DEC 14 2007

William A. Shaw
Prothonotary/Clerk of Courts

ICC Atty's:
J. Carley
Roberts

CK

15

FILED

DEC 14 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/14/07

____ You are responsible for serving all appropriate parties.
☒ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ☒ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ☒ Defendant(s) Attorney

____ Special Instructions:

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

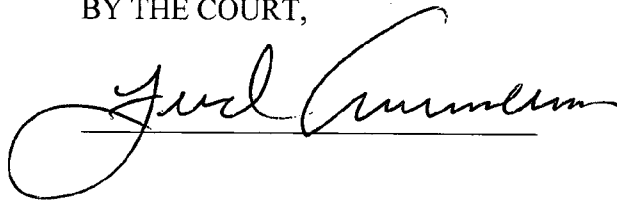
No.: 2007-989-CD

JURY TRIAL DEMANDED

ORDER

AND NOW, this 13 day of December, 2007, it is hereby Ordered and
Decreed that the transcript of the trial held on October 1, 2007 in the above captioned matter be
transcribed, upon payment to The Court Reporter of such amount
That The Court Reporter deems appropriate. FJA

BY THE COURT,



FILED

DEC 14 2007

William A. Shaw
Prothonotary/Clerk of Courts

019:42/32 2cc
Atty Carley

#14

FILED

DEC 14 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/14/07

☒ You are responsible for serving all appropriate parties.

___ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

___ Special Instructions:

0:38 A.M.

Appeal Docket Sheet

Docket Number: 2231 WDA 2007

Page 1 of 3

December 11, 2007

Superior Court of Pennsylvania



**A & D Transportation, Inc., Appellant
V.**

Quality Fab & Mechanical, L.L.C.

07-989-CD

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: December 10, 2007 Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType: Assumpsit

Consolidated Docket Nos.:

Related Docket Nos.:

SCHEDULED EVENT

Next Event Type: Receive Docketing Statement

Next Event Due Date: December 26, 2007

Next Event Type: Original Record Received

Next Event Due Date: February 4, 2008

Case Name:

A & D Transportation, Inc.

V.

Quality Fab & Mechanical, L.L.C.

Initiating Document:

Case Status:

Case Processing Status:

Journal Number:

Case Category:

Case Type:

Case Name:

Case Number:

Case Date:

Case Time:

Case Location:

Case Status:

Case Processing Status:

Case Name:

Case Number:

Case Date:

Case Time:

Case Location:

Case Status:

Case Processing Status:

Case Name:

Case Number:

**COPY
FILED
DEC 13 2007**

**William A. Shaw
Prothonotary/Clerk of Courts**

12/11/2007

3023



Appeal Docket Sheet**Superior Court of Pennsylvania****Docket Number: 2231 WDA 2007****Page 2 of 3****December 11, 2007****COUNSEL INFORMATION****Appellant** A & D Transportation, Inc.**Pro Se:** Appoint Counsel Status:**IFP Status:** No**Appellant Attorney Information:****Attorney:** Carley, John R.**Bar No.:** 17621 **Law Firm:****Address:** 222 Presqueisle Street

PO Box 249

Philipsburg, PA 16866

Phone No.: (814)342-5581**Fax No.:** (814)342-1127**Receive Mail:** Yes**E-Mail Address:** bjn1956@hotmail.com**Receive E-Mail:** No**Appellee** Quality Fab & Mechanical, L.L.C.**Pro Se:** Appoint Counsel Status:**IFP Status:****Appellee Attorney Information:****Attorney:** Bourgeois, Bruce M.**Bar No.:** **Law Firm:****Address:** Quality Fab & Mechanical, L.L.C.

P.O. Drawer 339, 1308 Airline Highway

St. Rose, LA 70087

Phone No.:**Fax No.:****Receive Mail:** Yes**E-Mail Address:****Receive E-Mail:** No**FEE INFORMATION**

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
12/6/07	Notice of Appeal	60.00	60.00	2007SPRWD001504

TRIAL COURT/AGENCY INFORMATION**Court Below:** Clearfield County Court of Common Pleas**County:** Clearfield**Division:** Civil**Date of Order Appealed From:** November 5, 2007**Judicial District:** 46**Date Documents Received:** December 10, 2007**Date Notice of Appeal Filed:** December 6, 2007**Order Type:** Order Entered**OTN:****Judge:** Ammerman, Fredric J.
President Judge**Lower Court Docket No.:** No. 2007-989-CD**ORIGINAL RECORD CONTENTS**

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 2231 WDA 2007

Page 3 of 3

December 11, 2007



Original Record Item

Filed Date

Content/Description

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
December 10, 2007	Notice of Appeal Filed	Appellant	A & D Transportation, Inc.
December 11, 2007	Docketing Statement Exited (Civil)		Western District Filing Office

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

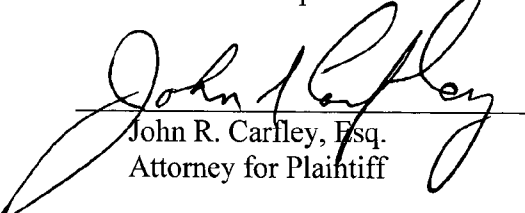
No.: 2007-989-CD

JURY TRIAL DEMANDED

PLAINTIFF'S REQUEST FOR TRIAL TRANSCRIPT

Plaintiff, A & D Transportation, through their undersigned counsel, hereby certifies that the transcript of the hearing held on October 1, 2007 is required to be transcribed for the appeal process.

WHEREFORE, Plaintiff requests that the entire transcript be transcribed.


John R. Carfley, Esq.
Attorney for Plaintiff

FILED
DEC 12 2007

William A. Shaw
Prothonotary/Clerk of Courts

#12

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

No.: 2007-989-CD

JURY TRIAL DEMANDED

Type of Pleading:

Notice of Appeal to Superior Court of
Pennsylvania

Filed on Behalf of: Plaintiff

Attorney for Defendants:

John R. Carfley, Esquire
P.O. Box 249
Philipsburg, PA 16866
(814) 342-5581
I. D. No. 17621

FILED

DEC 06 2007

0114:45 (un)

William A. Shaw
Prothonotary/Clerk of Courts

1 SENT TO SUPERIOR COURT
W/GO. (VEN.)

1 SENT TO ATTOR

(#11)

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

No.: 2007-989-CD

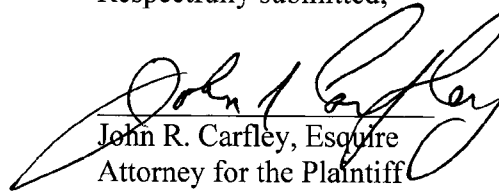
JURY TRIAL DEMANDED

NOTICE OF APPEAL

TO THE PROTHONOTARY:

Notice is hereby given that A & D Transportation, Inc., Plaintiff above named, hereby appeals to the Superior Court of Pennsylvania, pursuant to Pennsylvania Rule of Appellate Procedure 311(a)(6) from the Order entered in this matter on the 5th day of November, 2007 finding that this Court lacks jurisdiction over the case. This Order has been entered in the docket as evidenced by the attached copy of the docket entries.

Respectfully submitted,



John R. Carfley, Esquire
Attorney for the Plaintiff
P.O. Box 249
Philipsburg, PA 16866
(814) 342-5581

Dated: December 5, 2007

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

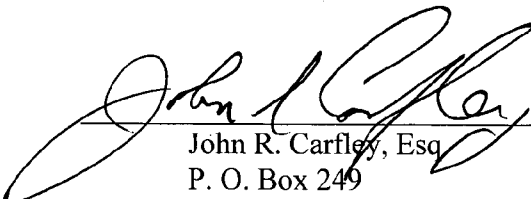
No.: 2007-989-CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby verify that a true and correct copy of the Notice of Appeal was served upon the following party at the following address on December 5, 2007, by ordinary mail, first class, postage prepaid.

Quality Fab & Mechanical, L.L.C.
P. O. Drawer 339
1308 Airline Highway
St. Rose, Louisiana 70087


John R. Carfley, Esq.
P. O. Box 249
Philipsburg, PA 16866
Attorney for Plaintiff

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

A & D TRANSPORTATION, INC.,
Plaintiff

vs.

QUALITY FAB & MECHANICAL, LLC,
Defendant

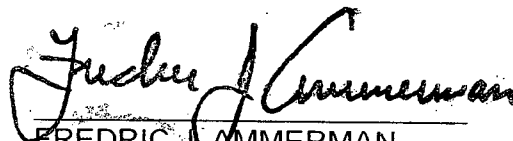
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NO. 07-989-CD

ORDER

NOW, this 5th day of November, 2007, in consideration of the Preliminary Objections filed on behalf of the Defendant, this Court finds that the Court lacks jurisdiction over the Defendant, Quality Fab & Mechanical, LLC, a Louisiana Company as the Defendant does not transact or solicit business in Pennsylvania. This Court also lacks subject matter jurisdiction as none of the alleged transactions and occurrences took place in Pennsylvania. Accordingly, it is the ORDER of this Court that the Defendant's Preliminary Objections be and are hereby GRANTED. The Plaintiff's Complaint is hereby DISMISSED.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

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

FILED
11/06/07
NOV 06 2007

ICC Atty's:


J. Caskey
L. Roberts

(GR)

William A. Shaw
Prothonotary/Clerk of Courts

DEC 05 2007

Attest.


Prothonotary/
Clerk of Courts

Date: 12/05/2007

Time: 04:11 PM

Page 1 of 1

Circuit Court of Common Pleas

ROA Report

User: BILLSHAW

Case: 2007-00989-CD

Current Judge: Fredric Joseph Ammerman

A & D Transportation, Inc. vs. Quality Fab & Mechanical L.L.C.

Civil Other

Date		Judge
06/22/2007	New Case Filed.	No Judge
	Filing: Civil Complaint Paid by: Carfley, John R. (attorney for A & D Transportation, Inc.) Receipt number: 1919508 Dated: 06/22/2007 Amount: \$85.00 (Check) 2 cert. to Atty.	No Judge
07/05/2007	Certificate of Service, filed by Atty. Carfley Served copy of Complaint on Defendant by Cert. Mail on June 26, 2007 s/ Atty. Carfley 1 Cert. to Atty.	No Judge
07/20/2007	Certificate of Service, filed. That a true and correct copy of the ten day Notice of Default was served upon Quality Fab & Mechanical, LLC on July 18, 2007, filed by s/ John R. Carfley Esq. No CC.	No Judge
08/10/2007	Preliminary Objections, filed by s/ Bruce M. Bourgeois, Sr, Quality Fab & Mechanical, L.L.C. 1CC to Mollere, Flanagan & Landry	No Judge
08/14/2007	Order, this 10th day of August, 2007, argument on the Defendant's Preliminary Objections is scheduled for the 1st day of Oct., 2007 at 11:30 a.m. in Courtroom 1. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Carfley; 1CC Def. (by return envelope to Mollere, Flanagan, & Landry)	Fredric Joseph Ammerman
08/17/2007	Answers to Preliminary Objections And Motion For Extension of Time, filed by s/ John R. Carfley, Esquire. 1CC Atty.	Fredric Joseph Ammerman
09/17/2007	Praeipie For Entry of Appearance, filed on behalf of Defendant, enter appearance of Lee H. Roberts. No CC	Fredric Joseph Ammerman
09/21/2007	Motion to Allow Defendant Testimony by Telephone, filed by s/ Lee H. Roberts, Esquire. 2CC Atty. Roberts	Fredric Joseph Ammerman
09/24/2007	Order, NOW, this 24th day of Sept., 2007, it is Ordered that the Defendant is permitted to testify by telephone at the preliminary objection argument scheduled for Oct. 1, 2007 at 11:30 a.m. By The Court, /s/ Fredric J. Ammerman, pres. Judge. 2CC Atty. Roberts	Fredric Joseph Ammerman
10/03/2007	Order, this 1st day of Oct., 2007, following argument on the Preliminary Objections, it is the Order of this Court that counsel for the Plaintiff have no more than 20 days to submit appropriate letter brief. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: J. Carfley, Roberts	Fredric Joseph Ammerman
11/06/2007	Order, this 5th day of Nov., 2007, Defendant's Preliminary Objection are Granted. The Plaintiff's Complaint is Dismissed. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: J. Carfley, L. Roberts	Fredric Joseph Ammerman

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

DEC 05 2007

Attest.

William H. Shaw
Prothonotary/
Clerk of Courts

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

A & D TRANSPORTATION, INC.,
Plaintiff

vs.

QUALITY FAB & MECHANICAL, LLC,
Defendant


*
*
*
*
*

NO. 07-989-CD

ORDER

NOW, this 5th day of November, 2007, in consideration of the Preliminary Objections filed on behalf of the Defendant, this Court finds that the Court lacks jurisdiction over the Defendant, Quality Fab & Mechanical, LLC, a Louisiana Company as the Defendant does not transact or solicit business in Pennsylvania. This Court also lacks subject matter jurisdiction as none of the alleged transactions and occurrences took place in Pennsylvania. Accordingly, it is the ORDER of this Court that the Defendant's Preliminary Objections be and are hereby GRANTED. The Plaintiff's Complaint is hereby DISMISSED.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

FILED
01/10/04/SL
NOV 06 2007

ICC Attys:

J. Castley
L. Roberts

(60)

William A. Shaw
Prothonotary/Clerk of Courts

#10b

FILED

NOV 06 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/6/07

 You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

 Plaintiff(s) X Plaintiff(s) Attorney Other

 Defendant(s) X Defendant(s) Attorney

 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

A&D TRANSPORTATION, INC. :

VS. : NO. 07-989-CD

QUALITY FAB & MECHANICAL, LLC :

O R D E R

AND NOW, this 1st day of October, 2007, following argument on the Preliminary Objections filed on behalf of the Defendant relative jurisdiction; with the Court noting that Defendant's brief has already been received, it is the ORDER of this Court that counsel for the Plaintiff have no more than twenty (20) days to submit appropriate letter brief.

BY THE COURT,



President Judge

FILED

07-10-07
OCT 03 2007

rec'd
J. Carley
Roberts

William A. Shaw
Prothonotary/Clerk of Courts

GP

#10a

FILED

OCT 03 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/30/07

____ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

____ Defendant(s) ☒ Defendant(s) Attorney

____ Special Instructions:

✓

VS.

AND NOW, this th24 day of September, 2007, IT IS HEREBY ORDERED AND DECREED that the Defendant is hereby permitted to testify by telephone to facts concerning the jurisdiction or lack of jurisdiction of the Court at the preliminary objection argument scheduled for October 1, 2007 at 11:30 a.m.

BY THE COURT.

Frederic J. Cummings

J.

acc Atty
Roberts
(6K)

49

9-24-2007

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

FILED

SEP 24 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA CIVIL ACTION-LAW

A & D TRANSPORTATION, INC.,)
 Plaintiff) No: 07-989-CD
)
vs.)
)
QUALITY FAB & MECHANICAL, LLC,)
 Defendant)

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FILED

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SEP 21 2007

Roberts
William A. Shaw
Prothonotary/Clerk of Courts

MOTION TO ALLOW DEFENDANT TESTIMONY BY TELEPHONE

The Defendant, Quality Fab & Mechanical, LLC, through its attorneys, Roberts, Miceli & Boileau, LLP, respectfully moves the Court as follows:

1. A Complaint in this matter was filed on June 22, 2007, alleging a breach of contract and a balance due and owing of work that the Plaintiff, A & D Transportation, Inc. performed for Quality Fab & Mechanical, LLC, as a result of Hurricane Katrina in and around New Orleans, Louisiana.

2. Preliminary Objections were filed by the corporation on August 9, 2007, objecting to jurisdiction over the subject matter and the person of the Defendant in that the Defendant alleges that it has done no business in Pennsylvania and does not meet the minimum contacts requirements for jurisdiction over the subject matter and over the person.

3. The above matter is scheduled for argument on October 1, 2007 at 11:30 a.m. before the Court.

4. The President of the company, Bruce M. Bourgeois, Sr. has requested that the Court and opposing counsel grant him permission to testify by telephone to avoid a

#8

lengthy trip to Clearfield, Pennsylvania concerning the facts or lack of facts to establish jurisdiction.

5. Plaintiff's counsel, John R. Carfley, Esquire, has been contacted and has agreed to allow the Defendant's President to testify by telephone provided the Court would agree to such an occurrence.

WHEREFORE, it is respectfully requested that the Court grant an Order that the Defendant be permitted to testify by telephone through its President Bruce M. Bourgeois, Sr. at the time of the Preliminary Hearing Argument.

ROBERTS, MICELI & BOILEAU

DATE: _____

9/18/07

BY: _____



LEE H. ROBERTS, ESQUIRE
Attorney for Defendant
146 East Water Street
Lock Haven, PA 17745
(570) 748-4059
ID #: 10032

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA CIVIL ACTION-LAW

A & D TRANSPORTATION, INC.,)
 Plaintiff) No: 07-989-CD
)
vs.)
)
QUALITY FAB & MECHANICAL, LLC,)
 Defendant)

CERTIFICATE OF CONSENT

Lee H. Roberts, Esquire, attorney for the Defendant has contacted Plaintiff's attorney John R. Carfley, Esquire and he has consented to the above Motion to allow the President of the Defendant, Bruce M. Bourgeois, Sr., to testify by telephone at the preliminary objections scheduled in this matter.

ROBERTS, MICELI & BOILEAU

DATE: _____

9/18/07

BY: _____



LEE H. ROBERTS, ESQUIRE
Attorney for Defendant
146 East Water Street
Lock Haven, PA 17745
(570) 748-4059
ID #: 10032

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA CIVIL ACTION-LAW

A & D TRANSPORTATION, INC.,)
 Plaintiff) No: 07-989-CD
)
vs.)
)
QUALITY FAB & MECHANICAL, LLC,)
 Defendant)

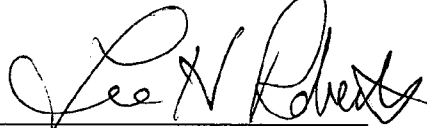
CERTIFICATE OF SERVICE

I, LEE H. ROBERTS, Esquire, do hereby certify that I did serve the foregoing
Motion to Allow Defendant Testimony by Phone on John Carfley, Esquire for the Plaintiff,
by placing same in the U.S. Mail at Lock Haven, Pennsylvania, First Class Postage
Prepaid, on the date set forth below and addressed as follows:

John R. Carfley, Esquire
P.O. Box 249
Philipsburg, PA 16866

ROBERTS, MICELI & BOILEAU

DATE: 9/18/07

BY: 
LEE H. ROBERTS, ESQUIRE
Attorney for Defendant
146 East Water Street
Lock Haven, PA 17745
(570)-748-4059
ID # 10032

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA CIVIL ACTION-LAW

A & D TRANSPORTATION, INC.,)
Plaintiff) No: 07-989-CD
vs.)
QUALITY FAB & MECHANICAL, LLC,)
Defendant)

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance on behalf of the above named defendant to contest
jurisdiction only.

ROBERTS, MICELI & BOILEAU

DATE: 9/13/07

BY: 

LEE H. ROBERTS, ESQUIRE
Attorney for Defendant
146 East Water Street
Lock Haven, PA 17745
(570) 748-4059
ID #: 10032

FILED
SEP 17 2007

William A. Shaw
Prothonotary/Clerk of Courts

Copy to
CIA
#7

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA CIVIL ACTION-LAW

A & D TRANSPORTATION, INC.,)
 Plaintiff) No: 07-989-CD
)
vs.)
)
QUALITY FAB & MECHANICAL, LLC,)
 Defendant)

CERTIFICATE OF SERVICE

I, LEE H. ROBERTS, Esquire, do hereby certify that I did serve the foregoing
Praecipe for Entry of Appearance on John Carfley, Esquire for the Plaintiff, by placing
same in the U.S. Mail at Lock Haven, Pennsylvania, First Class Postage Prepaid, on the
date set forth below and addressed as follows:

John R. Carfley, Esquire
P.O. Box 249
Philipsburg, PA 16866

ROBERTS, MICELI & BOILEAU

DATE: _____

9/13/07

BY: _____



LEE H. ROBERTS, ESQUIRE
Attorney for Defendant
146 East Water Street
Lock Haven, PA 17745
(570)-748-4059
ID # 10032

FILED

SEP 17 2007

William A. Shaw
Prothonotary/Clerk of Courts

540034/08

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

No.: 2007-989-CD

JURY TRIAL DEMANDED

5
FILED

M 11:24 AM
AUG 17 2007

William A. Shaw
Prothonotary/Clerk of Courts

ICC Atty (GW)

ANSWERS TO PRELIMINARY OBJECTIONS
AND MOTION FOR EXTENSION OF TIME

AND NOW comes the Plaintiff, A & D Transportation, Inc., (hereinafter "A & D"), who appears by their counsel, John R. Carfley, Esq., and answers the Preliminary Objections of the Defendant in the following manner:

1. Denied. On the contrary, it is averred that jurisdiction over the corporation is established by its transaction or solicitation of business in Pennsylvania as evidenced in the averments of the Complaint which stand uncontested at present. By way of further answer, it is averred that the said Defendant paid in the past for similar services, as the Plaintiff now seeks recovery for, in amounts exceeding Three Hundred Thousand Dollars (\$300,000.00) which establish the nexus required in order to file suit in the Courts of the Commonwealth of Pennsylvania.

2. Denied. On the contrary, it is averred that the jurisdiction of this Court over the Defendant is established by its connections to the Commonwealth of Pennsylvania as averred in Plaintiff's Complaint, which averments and those of paragraph one above are incorporated herein by reference as fully as though set forth at length.

#12

3. Denied. On the contrary, it is averred that venue is proper for those reasons set forth in the averments of the Complaint and in the averments of Paragraphs 1 and 2 of this Answer, which averments are incorporated herein by reference as fully as though set forth at length.

4. Denied. On the contrary, it is averred that Plaintiff's filing of a Ten Day Notice was in conformity with the Rules of Civil Procedure and as established by the record and as reflected in the docket entries of this proceeding, a true and correct copy of which is affixed hereto as Exhibit "A".

WHEREFORE, Plaintiff requests that these Preliminary Objections be dismissed, with prejudice, and that the Defendant be required to file an Answer within ten (10) days or suffer default for failing to respond to the Plaintiff's Complaint within the required time.

Answer to Motion for Extension of Time

AND NOW comes the Plaintiff, A & D Transportation, Inc., (hereinafter "A & D"), who appears by their counsel, John R. Carfley, Esq., and answers the Motion for Extension of Time of the Defendant in the following manner:

1. Denied. On the contrary, it is averred that Plaintiff has no knowledge with respect to the truth or veracity of the averments of paragraph 1 and insofar as relevant, proof thereof is demanded at the time of trial. By way of further answer, it is averred that Plaintiff followed all of the procedural and substantive rules necessary to properly serve its Complaint on an out of state entity and to serve notice of its intent to file a default judgment through the proper procedure by directing a ten day letter to that Defendant. Whether the Defendant took the time necessary to consult with legal counsel pertaining to the Complaint or whether a corporation engaged in business on a national level would not understand the nature or legal importance of

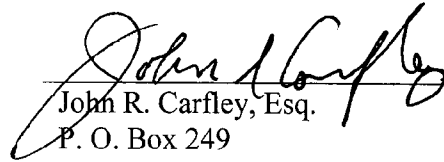
the documents forwarded is not relevant, nor is it believable in light of the past dealings and history of the business relationship of these two entities over a significant period of time

2. Denied. On the contrary it is averred that after reasonable investigation, Plaintiff is without knowledge sufficient to form a belief as to the truth of the averment set forth therein and insofar as relevant, proof thereof is demanded at time of trial.

3. Admitted.

WHEREFORE, Plaintiff requests this Honorable Court to deny Defendant's request for an extension of time and to dismiss the Defendant's Preliminary Objections, with prejudice.

Respectfully submitted,


John R. Carfley, Esq.
P. O. Box 249
Philipsburg, PA 16866
Attorney for Plaintiff

Date: 08/15/2007

Time: 10:18 AM

Page 1 of 1

field County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2007-00989-CD

Current Judge: Fredric Joseph Ammerman

A & D Transportation, Inc. vs. Quality Fab & Mechanical L.L.C.

Civil Other

Date		Judge
06/22/2007	New Case Filed.	No Judge
	Filing: Civil Complaint Paid by: Carfley, John R. (attorney for A & D Transportation, Inc.) Receipt number: 1919508 Dated: 06/22/2007 Amount: \$85.00 (Check) 2 cert. to Atty.	No Judge
07/05/2007	Certificate of Service, filed by Atty. Carfley Served copy of Complaint on Defendant by Cert. Mail on June 26, 2007 s/ Atty. Carfley 1 Cert. to Atty.	No Judge
07/20/2007	Certificate of Service, filed. That a true and correct copy of the ten day Notice of Default was served upon Quality Fab & Mechanical, LLC on July 18, 2007, filed by s/ John R. Carfley Esq. No CC.	No Judge
08/10/2007	Preliminary Objections, filed by s/ Bruce M. Bourgeois, Sr, Quality Fab & Mechanical, L.L.C. 1CC to Mollere, Flanagan & Landry	No Judge
08/14/2007	Order, this 10th day of August, 2007, argument on the Defendant's Preliminary Objections is scheduled for the 1st day of Oct., 2007 at 11:30 a.m. in Courtroom 1. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Carfley; 1CC Def. (by return envelope to Mollere, Flanagan, & Landry)	Fredric Joseph Ammerman

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

AUG 15 2007

Attest.

William A. Brown
Prothonotary/
Clerk of Courts

EXHIBIT "A"

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

No.: 2007-989-CD

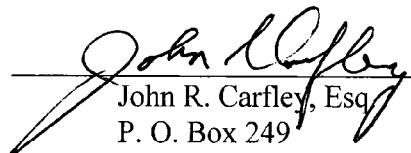
JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby verify that a true and correct copy of the Plaintiff's Answers to Preliminary
Objections and Motion for Extension of Time was served upon the following party at the
following address on the 17th day of August, 2007, by ordinary mail,
first class, postage prepaid.

Quality Fab & Mechanical, L.L.C.
P. O. Drawer 339
1308 Airline Highway
St. Rose, Louisiana 70087

Byrne N. Sherwood, III, Esq.
Mollere, Flanagan & Landry, L.L.C.
2341 Metairie Road
P. O. Box 247
Metairie, LA 70004-0247


John R. Carfley, Esq.
P. O. Box 249
Philipsburg, PA 16866
Attorney for Plaintiff

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

A & D TRANSPORTATION, INC.,
Plaintiff

vs.

QUALITY FAB & MECHANICAL, LLC,
Defendant

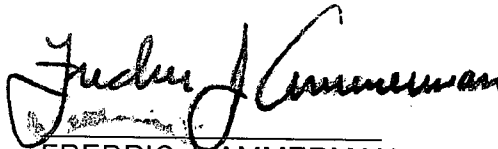
*
*
*
*
*

NO. 07-989-CD

ORDER

NOW, this 10th day of August, 2007, upon receipt of the Defendant's Preliminary Objections to Plaintiff's Complaint, it is the ORDER of this Court that argument on the Defendant's Preliminary Objections is scheduled for the 1st day of October, 2007 at 11:30 A m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, PA 16830.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

5
FILED

019.3764
AUG 14 2007

William A. Shaw
Prothonotary/Clerk of Courts

icc Atty Carlley
icc Def
(by return envelope
to Mollere, Flanagan
& Landry)

(GK)

(#5)

FILED

AUG 14 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/14/07

 You are responsible for serving all appropriate parties.

 X The Prothonotary's office has provided service to the following party:

 Plaintiff(s) X Plaintiff(s) Attorney Other

 X Defendant(s) Defendant(s) Attorney

 Special Instructions:

CA

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

A & D TRANSPORTATION, INC.,

Plaintiff

vs.

QUALITY FAB & MECHANICAL, L.L.C.,

Defendant

No.: 2007-989-CD

Type of Case: Civil-Jury Trial Demanded

Type of Pleading: Preliminary Objections

Filed on behalf of: Defendant

Counsel of Record for this Party:

5
FILED

M 110:47/84
AUG 10 2007

ICC to
Mollere, Flanagan
& Landry

William A. Shaw
Prothonotary/Clerk of Courts

(6K)

#4

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

A & D TRANSPORTATION, INC.,	:	No.: 2007-989-CD
	:	
Plaintiff	:	Jury Trial Demanded
	:	
vs.	:	
	:	
QUALITY FAB & MECHANICAL, L.L.C.,	:	
	:	
Defendant	:	
	:	

PRELIMINARY OBJECTIONS AND MOTION FOR EXTENSION OF TIME

AND NOW, comes the Defendant, Quality Fab & Mechanical, L.L.C., who appears *pro se* and sets forth the following Preliminary Objections to Plaintiff's Complaint:

1. This Court lacks jurisdiction over the person of Quality Fab & Mechanical, L.L.C. Quality Fab & Mechanical, L.L.C. is a Louisiana company, which does not transact or solicit business in Pennsylvania.
2. This Court lacks subject matter jurisdiction over this dispute. None of the alleged transactions and occurrences occurred as alleged, much less did any such transaction or occurrence take place in Pennsylvania.
3. Venue is not proper in this Court, pursuant to Rules 1006 and 2179 of the Pennsylvania Rules of Civil Procedure.
4. Plaintiff's filing of a ten day Notice was premature, as it was filed fifteen days after Quality Fab & Mechanical, L.L.C. received a copy of the Complaint in the mail.

FURTHER RESPONDING, Quality Fab & Mechanical, L.L.C. requests
an extension of time in which to file any additional responsive pleadings for the following
reasons:

1. While Quality Fab & Mechanical, L.L.C. received a copy of the complaint through the mail on July 5, 2007, as Quality Fab & Mechanical, L.L.C. has never had any contact or presence in the State of Pennsylvania, the mailing was not recognized by Quality Fab & Mechanical's staff as having any legal importance and was overlooked until 8 August 2007. When the true nature of the mailed Complaint was understood, Quality Fab & Mechanical, L.L.C. immediately sought legal counsel through its Louisiana lawyer.

2. In order to fully and intelligently respond to the allegations set forth in the Complaint, and to locate Pennsylvania counsel, Quality Fab & Mechanical, L.L.C. requires an additional thirty (30) days in which to file the appropriate responsive pleadings to Plaintiff's Complaint.

3. This is Defendant's first request for an extension of time and is brought ex parte.

WHEREFORE, Defendant requests this Honorable Court to dismiss Plaintiff's claim based on the preliminary objections. In the alternative, Defendant requests a thirty day extension in which to file responsive pleadings.

RESPECTFULLY SUBMITTED,


By: **Bruce M Bourgeois, Sr.**
Quality Fab & Mechanical, L.L.C.
P.O. Box 339
St. Rose, LA 70087

Date: 9 August 2007

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

A & D TRANSPORTATION, INC.,	:	No.: 2007-989-CD
	:	
Plaintiff	:	Jury Trial Demanded
	:	
vs.	:	
	:	
QUALITY FAB & MECHANICAL, L.L.C.,	:	
	:	
Defendant	:	

ORDER

Considering the foregoing *Preliminary Objections*, it is **ORDERED** that A & D Transportation, Inc. appear and show cause on the ____ day of _____, 2007, at ____ o'clock ____ M. why this matter should not be dismissed.

Clearfield, Pennsylvania, this ____ day of _____, 2007.

JUDGE

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

A & D TRANSPORTATION, INC.,	:	No.: 2007-989-CD
	:	
Plaintiff	:	Jury Trial Demanded
	:	
vs.	:	
	:	
QUALITY FAB & MECHANICAL, L.L.C.,	:	
	:	
Defendant	:	
	:	

ORDER

Considering the foregoing *Motion for Extension of Time*, it is **ORDERED** that Quality Fab & Mechanical, L.L.C. be granted a thirty (30) day extension in which to file additional responsive pleadings. Additional responsive pleadings shall be filed no later than the _____ day of _____, 2007.

Clearfield, Pennsylvania, this ____ day of _____, 2007.

JUDGE

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

A & D TRANSPORTATION, INC.,

Plaintiff

vs.

QUALITY FAB & MECHANICAL, L.L.C.,

Defendant

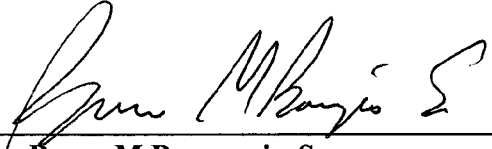
No.: 2007-989-CD

Jury Trial Demanded

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing pleading upon opposing counsel by placing same in the U.S. Mail, postage pre-paid, on this 8th day of August, 2007, addressed as follows:

John R. Carfley, Esq.
P.O. Box 249
Philipsburg, PA 16866


By: **Bruce M Bourgeois, Sr.**
Quality Fab & Mechanical, L.L.C.
P.O. Box 339
St. Rose, LA 70087

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

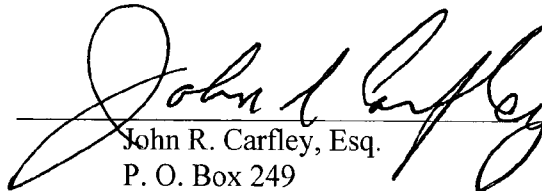
No.: 2007-989-CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby verify that a true and correct copy of the ten day Notice of Default was served upon the following party at the following address on July 18, 2007, by ordinary mail, first class, postage prepaid.

Quality Fab & Mechanical, L.L.C.
P. O. Drawer 339
1308 Airline Highway
St. Rose, Louisiana 70087


John R. Carfley, Esq.
P. O. Box 249

Philipsburg, PA 16866
Attorney for Plaintiff

5
FILED

m110:3627
JUL 20 2007

William A. Shaw
Prothonotary/Clerk of Courts

#3

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

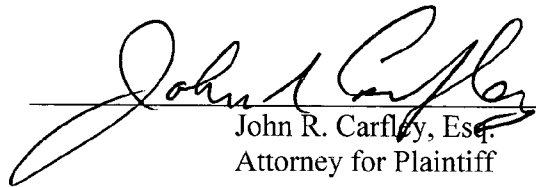
QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

No.: 2007-989-CD

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I do certify that I made service of the Complaint in the above captioned matter upon the Defendant, by certified mail, return receipt requested, as evidenced by the attached receipts indicating that the Complaint was picked up from the United States Post Office on June 26, 2007.


John R. Carfly, Esq.
Attorney for Plaintiff

Dated: July 3, 2007

5
FILED (K)
JUL 05 2007
W/11:00/W
William A. Shaw
Prothonotary/Clerk of Courts
CENT TO ATT

(#2)

7005 1160 0001 6140 0710

U.S. Postal Service
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only, No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 1.65
Certified Fee	\$ 2.65
Return Receipt Fee (Endorsement Required)	\$ 2.15
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
Total Postage & Fees	\$ 6.45

Sent To
Quality Fab & Mechanical
Street, Apt. No.,
or PO Box No. **P. O. Drawer 339**
City, State, ZIP+4
St. Rose, LA 70087

PS Form 3800, June 2002
See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"> A. Signature <div style="display: flex; justify-content: space-between;"> X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee </div> </div> <div style="display: flex; border-bottom: 1px solid black;"> <div style="flex: 1;"> B. Received by (Printed Name) </div> <div style="flex: 1;"> C. Date of Delivery 6-26-07 </div> </div> <div style="margin-top: 5px;"> D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No </div>
<div style="margin-top: 10px;"> 1. Article Addressed to: Quality Fab & Mechanical Attn: Bruce Bourgeois P. O. Drawer 339 10308 Airline Highway St. Rose, LA 70087 </div>	<div style="margin-top: 10px;"> 3. Service Type <div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail </div> <div> <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D. </div> </div> </div> <div style="margin-top: 5px;"> 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes </div>
<div style="margin-top: 10px;"> 2. Article Number <i>(Transfer from service label)</i> </div>	<div style="margin-top: 10px;"> <div style="border: 1px solid black; padding: 2px; display: flex; justify-content: space-between;"> 7005 1160 0001 6140 0710 </div> </div>

William A. Shaw
Prothonotary/Clerk of Courts

JUL 03 2007

FILED

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

A & D TRANSPORTATION, INC.

Plaintiff

vs.

QUALITY FAB & MECHANICAL,
L.L.C.,

Defendant

No.: 2007-989-C0

Type of Case: Civil - Jury Trial
Demanded

Type of Pleading: Complaint

Filed on behalf of: Plaintiff

Counsel of Record for this
Party:

John R. Carfley, Esq.

PA ID: 17621

P. O. Box 249

Philipsburg, PA 16866

814-342-5581

⁹
FILED

JUN 22 2007

0/12:45/w

William A. Shaw

Prothonotary/Clerk of Courts

2 CEnt to

Attc

#1

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

:
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:
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:
:
:

No.:

JURY TRIAL DEMANDED

NOTICE

A Complaint has been filed against you in Court. If you wish to defend against the matters set forth in the following Complaint, you must enter a written appearance personally or by attorney and file an answer in writing with the Prothonotary setting forth your defenses or objections to the matter set forth against you and serve a copy on the attorney or person filing the Complaint. You are warned that if you fail to do so, the case may proceed without you and an Order may be entered against you by the Court without further notice for the relief requested by the Petitioner. You may lose 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 N. Second Street
Clearfield, PA 16830
814-765-2641 – Ext. 5988

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

A & D TRANSPORTATION, INC.	:	:
Plaintiff	:	
	:	
vs.	:	No.:
	:	
QUALITY FAB & MECHANICAL,	:	JURY TRIAL DEMANDED
L.L.C.,	:	
Defendant	:	

COMPLAINT

AND NOW, comes the Plaintiff, A & D Transportation, Inc., who by and through their attorney, John R. Carfley, Esq., sets forth a claim against the Defendant, the following of which is a statement:

1. The Plaintiff, A & D Transportation, Inc. is a Pennsylvania Corporation, with its principal place of business located at P. O. Box 246, 6506 Kylertown-Drifting Highway, Drifting, PA 16834, and is comprised of corporate officers consisting of R. Brent Eminhizer who is the President of the corporation.
2. The Defendant is Quality Fab & Mechanical, LLC, (hereinafter "Quality Fab"), a corporation believed to be organized and existing under the laws of the State of Louisiana, with its principal place of business located at 10308 Airline Highway, St. Rose, Louisiana 70087.
3. On or about September 20, 2005, the Plaintiff was contacted by the Defendant, Quality Fab & Mechanical, LLC, who engaged the services of Plaintiff in a contractual relationship to assist the Defendant in the removal of flood waters and debris and contracted with the Plaintiff for the performance of certain other tasks rendered

necessary to assist the Defendant in the performance of services required to refurbish the structures and other miscellaneous facilities located throughout the city of New Orleans, its environs and neighborhoods and to provide assistance to its population, business establishments and other facilities, to assist in the renovation of its water supply, its electricity grid and other facilities so as to permit the city of New Orleans and the surrounding areas to return to a semblance of normalcy while at the same time begin to supply to its residents the normal items required for a civil population within that State and community after Hurricane Katrina.

4. The services to be performed by the Plaintiff was expected to include, but not limited to, refurbishment of water and sewage facilities, waste water treatment plants, trash removal and all other services necessitated by the municipal structure and to allow for the peaceful dissemination of individuals operating within a cooperative framework, subject to the payment of taxes while requiring governmental entities to provide these individuals, citizens and taxpayers with services and facilities which they would require as part of their contract with the Federal, State and Local communities so as to provide for the health, welfare and safety of the normal U. S. and State citizens under similar circumstances, without which a state of disorder and anarchy would exist causing unrest among the population and which would result in the inability to maintain control, even with the use of local police, National Guard and other military and para-military forces in times brought about by natural disasters and/or emergencies, the like of which had not been foreseen by this State or region for many years.

5. The agreed upon price to be paid by the Defendant to Plaintiff for the services provided for the removal of waste water in the neighborhoods, parishes or other

civil units was Seven Hundred Fifty Dollars (\$750.00) per day according to the lease agreement for equipment supplied by the Plaintiff. The said agreement was in the form of a facsimile from Quality Fab & Mechanical, L.L.C. dated September 20, 2005, a copy of which is attached hereto as Appendix #1.

6. To date, Plaintiff has billed the Defendant the total sum of Three Hundred Fifty Thousand Five Hundred Dollars (\$350,500.00) for the services which they have performed for Defendant from September, 2005 to the present date, all of which is specifically set forth on Exhibit "A" through "G" attached hereto.

7. To date, the following invoices remain unpaid:

Invoice 3635 – 1/03/06 - \$2,815.18
Invoice 4195 – 3/13/06 - \$5,250.00
Invoice 4264 – 3/21/06 - \$5,250.00
Invoice 4333 – 3/28/06 - \$5,250.00
Invoice 4608 – 4/25/06 - \$5,250.00
Invoice 4656 – 5/01/06 - \$5,250.00
Invoice 4838 – 5/23/06 - \$3,000.00

A copy of all outstanding, unpaid invoices is attached to this Complaint as Exhibits "A" through "G". The balance due on the above outstanding invoices totals Thirty-two Thousand Sixty-five and 18/100 Dollars (\$32,065.18).

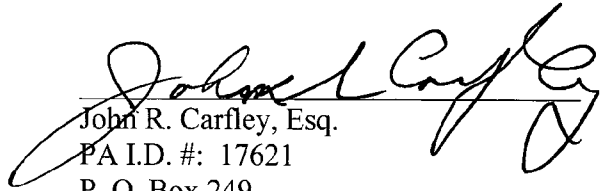
8. The Defendant, Quality Fab, has acknowledged the existence of the debt and the need for the Defendant to pay the Plaintiff, who is completely without fault in this particular instance. That liability is evidenced and acknowledged in the letter of June 1, 2006, a true and correct copy of which is attached hereto and marked Exhibit "H".

8. The Defendant has acknowledged the performance of the work, the quality of the services provided and the need for the Defendant to satisfy the balance still remaining due and owing to the Plaintiff.

9. Plaintiff has demanded immediate payment of the past due invoices listed above from Defendant, but despite the fact that Defendant acknowledges that the debt is due and owing, the Defendant refuses and continues to refuse to pay for all or any part of the sum still due.

WHEREFORE, Plaintiff requests your Honorable Court to enter an Order directing Defendant to pay the outstanding balance due and owing Plaintiff in the amount of Thirty-two Thousand Sixty-five and 18/100 Dollars (\$32,065.18), together with interest thereof and the costs of this proceeding and to enter judgment thereon in favor of the Plaintiff and against the Defendant in that amount.

Respectfully submitted,



John R. Carfley, Esq.

PA I.D. #: 17621

P. O. Box 249

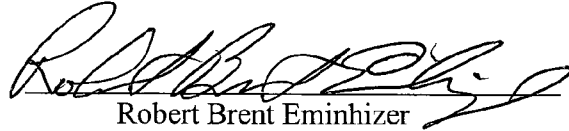
Philipsburg, PA 16866

814-342-5581

Date: 6-21-07

VERIFICATION

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


Robert Brent Eminhizer

Dated: *June 18, 2007*

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

A & D TRANSPORTATION, INC.
Plaintiff

vs.

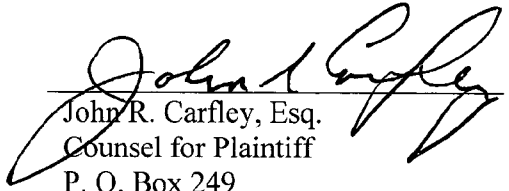
No.:

QUALITY FAB & MECHANICAL,
L.L.C.,
Defendant

CERTIFICATE OF SERVICE

I do certify that I made service of the foregoing Complaint upon defendant, Quality Fab & Mechanical, L.L.C., by depositing the same in the United States mail, certified mail, postage prepaid, this 22nd day of June, 2007, addressed as follows:

Quality Fab & Mechanical, L.L.C.
P. O. Drawer 339
1308 Airline Highway
St. Rose, Louisiana 70087


John R. Carfley, Esq.
Counsel for Plaintiff
P. O. Box 249
Philipsburg, PA 16866
(814) 342-5581



FAX COVER SHEET

COMPANY: A & D TransportationATTENTION: Fred BrentSUBJECT: Lease AgreementFAX #: 814-345-7524 FAX DATE: 09/20/05

PHONE#: _____

PAGES TO FOLLOW: - 0 - TIME: 2:00 pmTHIS FAX MESSAGE IS FROM: BRUCE M. BOURGEOIS, SR.

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Sign Reply ☐ Information You Requested

We are under agreement with A & D Transportation to perform multiple loads each
day for the sum of \$750.00 per day for lease agreement on trailer and tractor for
the dewatering of Louisiana, as instructed.


Bruce M. Bourgeois, Sr.

This facsimile transmission (and/or the documents accompanying it) may contain information belonging to the sender which is privileged and confidential. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone to arrange for return of the documents.

P.O. Drawer 339 • St. Rose, Louisiana 70087 • (504) 469-1272 • Fax (504) 469-1364

10308 Airline Hwy

A&D Transportation, Inc.

6506 Kylertown-Drifting Hwy
PO Box 246
Drifting, PA 16834

Invoice

Date	Invoice #
01/03/2006	3635

Bill To
Quality Fab & Mechanical LLC

Phone #	Fax #
814-345-1103	814-345-7524

P.O. No.	Terms	Due Date
A&D19054	Net 10 Days, 1.5% after	01/13/2006

Item	Qty	Description	Rate	Amount
1 Truck Load	7	DATE: 12/24/05 DAYS @ PER DAY MISC. MATERIALS SHIPPERS #: NONE GIVEN SHIPPER: QUALITY FAB ST. ROSE, LA CONSIGNEE: QUALITY FAB ST. ROSE, LA	750.00	5,250.00
Please Remit To; PO Box 644 Clearfield, PA 16830			Total	\$5,250.00

EXHIBIT "A"

BILL OF LADING - SHORT FORM - Original - Not Negotiable

A & D Transportation Inc 814-345-1103

P.O. Box 246, 6506 Hylkeboom-Drifting Hwy.

Drifting, PA 16834

Shipper's No.

A. & D. No. 19054

subject to the classifications and tariffs in effect on the date of this Bill of Lading

at _____ date _____ from _____

the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination, if on its own road or its own water line, otherwise to deliver to another carrier on the route to said destination, it is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained (as specified in Appendix B to Part 1035) which are hereby agreed to by the shipper and accepted for himself and his assigns.

TO: (Mail or street address of consignee for purposes of notification only.)

FROM:

Consignee

Quality Fab

Shipper

Quality Fab

Street

Appleone Hwy

Street

Appleone Hwy

Destination

Mount Rose LA Zip 70087

Origin

Mount Rose LA Zip 70087

Route:

Tractor No.

264

Driver's Name

Glenn A Clouser

No. of packages	HM	Description of articles, special marks, and exceptions	Hazard Class	I.D. Number	Packing Group	*Weight (subject to correction)	Class or rate	Labels required (or exemption)	Check column
12/23		12:00PM to 12:00PM 12/23	9th	WARD	Volvo				
12/24		12:00PM to 12:00PM 12/24	9th	WARD					
12/25		12:00 P.M. to 12:00 12/25	9th	WARD	Volvo				
12/26		12:00PM to 12:00 12/26	Volvo						
12/27		12:00 P.M. to 12:00 12/27	Volvo						
12/28		12:00 P.M. to 12:00 12/28	Volvo						
12/29		12:00 to 12:00 12/29	Volvo						
12/30		12:00 to 12:00 12/30	9th	WARD					

Signature of Receiver

X Trey Clouser

Print Name of Receiver

X Trey Clouser

Remit C.O.D. to:

Address:

City:

State:

Zip:

COD

AMT:

\$

Charges Advanced

\$

Subject to Section 7 of conditions, if this shipment is to be delivered to the consignee without recourse on the consignor, the consignor shall sign the following statement: The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

C. O. D. FEE:

Prepaid ☐

Collect ☐ \$

FREIGHT CHARGES

☐ Prepaid ☐ Collect

If the shipment moves between two ports by a carrier by water, the law requires that the bill of lading shall state whether it is "carrier's or shipper's weight". Note - when the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property. The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding _____ per _____.

This is to certify that the above-named materials are properly classified, described, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation.

PLACARDS REQUIRED

PLACARDS SUPPLIED

☐ YES ☐ NO - FURNISHED BY CARRIER

DRIVER'S SIGNATURE:

SPECIAL INSTRUCTIONS:

SHIPPER:

PER:

DATE:

CARRIER: A & D Transportation

PER: Glenn A Clouser

DATE: 12/30/05

EMERGENCY RESPONSE

TELEPHONE NUMBER: ()

Permanent post office address of shipper

Monitored at all times the Hazardous Material is in transportation including storage incidental to transportation (§172.604).

A&D Transportation, Inc.

6506 Kylertown-Drifting Hwy
PO Box 246
Drifting, PA 16834

Invoice

Date	Invoice #
03/13/2006	4195

Bill To
Quality Fab & Mechanical LLC

Phone #	Fax #
814-345-1103	814-345-7524

REVISED

P.O. No.	Terms	Due Date
A&D19584	Net 10 Days, 1.5% after	03/23/2006

Item	Qty	Description	Rate	Amount
1 Truck Load	7	DATE: 3/4/06 DAYS @ PER DAY MISC. MATERIALS SHIPPERS #: NONE GIVEN SHIPPER: QUALITY FAB ST. ROSE, LA CONSIGNEE: QUALITY FAB ST. ROSE, LA	750.00	5,250.00
Please Remit To; PO Box 644 Clearfield, PA 16830			Total	\$5,250.00

EXHIBIT "B"

A & D Transportation Inc 814-345-1103
P.O. Box 246, 6506 Kyledown-Drifling Hwy.
Drifling, PA 16834

A. & D. No. 19584

(Carrier)

SCAC.

A. & D. No.

Received, subject to the classifications and tariffs in effect on the date of this Bill of Lading:

at ST Rose La, date 3/4 - 3/11/66 from Quail-Ly Fish

the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination, 7 on its own road or its own water line, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained (as specified in Appendix B to Part 1035) which are hereby agreed to by the shipper and accepted for himself and his assigns.

TO: (Mail or street address of consignee for purposes of notification only.)

FROM:

Consignee**Shipper**

Street

Street

Destination

Zd

Origin

Route:

Tractor No. 248

Driver's Name

Signature of Receiver

Print Name of Receiver

Remit C.O.D. to:

Address:

City:

State:

Zip:

COD

AMT:

\$

Charges Advanced

\$.

Subject to Section 7 of conditions, if this shipment is to be delivered to the consignee without recourse* on the consignor, the consignor shall sign the following statement:

The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

(Signature of counselor)

C. O. D. FEE:

Prepaid ☐

Collect ☐ \$

FREIGHT CHARGES	
Freight	1.00
Insurance	0.50
Warehouse	0.25
Handling	0.10
Other	0.00
Total	1.85

☐ Prepaid ☐ Collect

☐ YES ☐ NO - FURNISHED BY CARRIER
DRIVER'S SIGNATURE:

SPECIAL INSTRUCTIONS:

SHIPPER:

PER: _____ DATE: _____

CARRIER: Agil

PER: [Signature] DATE: 3/4/06

EMERGENCY RESPONSE

TELEPHONE NUMBER:

Permanent post office address of shipper

Monitored at all times the Hazardous Material is in transportation including storage incidental to transportation (§172.604).

A&D Transportation, Inc.

6506 Kylertown-Drifting Hwy

PO Box 246

Drifting, PA 16834

Invoice

Date	Invoice #
03/21/2006	4264

Bill To
Quality Fab & Mechanical LLC

Phone #	Fax #
814-345-1103	814-345-7524

P.O. No.	Terms	Due Date
A&D19648	Net 10 Days, 1.5% after	03/31/2006

Item	Qty	Description	Rate	Amount
1 Truck Load	7	DATE: 3/11/06 DAYS @ PER DAY MISC. MATERIALS SHIPPERS #: NONE GIVEN SHIPPER: QUALITY FAB ST. ROSE, LA CONSIGNEE: QUALITY FAB ST. ROSE, LA	750.00	5,250.00
Please Remit To; PO Box 644 Clearfield, PA 16830			Total	\$5,250.00

EXHIBIT "C"

HT BILL OF LADING - SHORT FORM - Original - Not Negotiable

A & D Transportation Inc 814-345-1103

P.O. Box 246 6506 Hylton-Drifting Hwy.

Drifting, PA 16834

Shipper's No.

(Carrier)

SCAC.

A. & D. No.

Received, subject to the classifications and tariffs in effect on the date of this Bill of Lading:

at St Rose La

date 3/1 - 3/18/06

from Quality Fab

the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination, if on its own road or its own water line, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained (as specified in Appendix B to Part 1035) which are hereby agreed to by the shipper and accepted for himself and his assigns.

TO: (Mail or street address of consignee for purposes of notification only.)

FROM:

Consignee

PLD

Shipper

Quality Fab

Street

Street

Archie Hwy

Destination

Zip

Origin

St Rose La

Zip 70087

Route:

Tractor No. 248

Driver's Name

Terry Bohulinski

No. of packages	HM	Description of articles, special marks, and exceptions	Hazard Class	I.D. Number	Packing Group	Weight (subject to correction)	Class or rate	Labels required (or exemption)	Check column
3/1/06		Neon - Neon 3/12/06							
3/12/06		12:00 - 12:00 3/13/06							
3/13/06		12:00 - 12:00 3/14/06							
3/14/06		12:00 - 12:00 3/15/06							
3/15/06		12:00 - 12:00 3/16/06							
3/16/06		12:00 - 12:00 3/17/06							
3/17/06		12:00 - 12:00 3/18/06							

Signature of Receiver

X

Print Name of Receiver

X

RAY HOOD

Remit C.O.D. to:

Address:

City:

State:

Zip:

COD

AMT:

\$

Charges Advanced

\$

Subject to Section 7 of conditions, if this shipment is to be delivered to the consignee without recourse on the consignor, the consignor shall sign the following statement: The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

(Signature of consignor)

C. O. D. FEE:

Prepaid ☐

Collect ☐ \$

FREIGHT CHARGES

☐ Prepaid ☐ Collect

If the shipment moves between two ports by a carrier by water, the law requires that the bill of lading shall state whether it is "carrier's or shipper's weight". Note, - where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property. The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding per

This is to certify that the above-named materials are properly classified, described, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation.

PLACARDS REQUIRED

PLACARDS SUPPLIED

YES ☐ NO - FURNISHED BY CARRIER

DRIVER'S SIGNATURE:

SPECIAL INSTRUCTIONS:

SHIPPER:

PER:

DATE:

CARRIER: A&D

PER: RAY HOOD

DATE: 3/1 - 3/18/06

EMERGENCY RESPONSE

TELEPHONE NUMBER: ()

Permanent post office address of shipper

Monitored at all times the Hazardous Material is in transportation including storage incidental to transportation (\$172,804).

A&D Transportation, Inc.

6506 Kylertown-Drifting Hwy
PO Box 246
Drifting, PA 16834

Invoice

Date	Invoice #
03/28/2006	4333

Bill To
Quality Fab & Mechanical LLC

Phone #	Fax #
814-345-1103	814-345-7524

P.O. No.	Terms	Due Date
A&D19700	Net 10 Days, 1.5% after	04/07/2006

Item	Qty	Description	Rate	Amount
1 Truck Load	7	DATE: 3/18/06 DAYS @ PER DAY MISC. MATERIALS SHIPPERS #: NONE GIVEN SHIPPER: QUALITY FAB ST. ROSE, LA CONSIGNEE: QUALITY FAB ST. ROSE, LA	750.00	5,250.00
Please Remit To; PO Box 644 Clearfield, PA 16830			Total	\$5,250.00

EXHIBIT "D"

BILL OF LADING - SHORT FORM - Original - Not Negotiable

4333

A & D Transportation Inc 814-345-1103

P.O. Box 246, 6506 Hightstown-Drifting Hwy.

Shipper's No. _____

Carrier) Drifting, POA 16834

SCAC. _____

A. & D. No. 19700

received, subject to the classifications and tariffs in effect on the date of this Bill of Lading:

at St Rose La, date 3/18-3/25/06 from Quality Fab

the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination, if on its own road or its own water line, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each corner of bill or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained (as specified in Appendix B to Part 1035) which are hereby agreed to by the shipper and accepted for himself and his assigns.

TO: (Mail or street address of consignee for purposes of notification only.)

FROM:

Consignee

PLD

Shipper

Quality Fab

Street

Street

Airline Hwy

Destination

Zip

Origin

ST Rose La

Zip 70087

Route:

Tractor No.

248

Driver's Name

TERAY Bobulinski

Not for packages	H.M.D.	Description of articles, special marks, and exceptions	Hazard Class	I.D. Number	Packing Group	Weight (submitted for correction)	Class of Freight	Labels required (or exemption)	Check column
3/18/06		NOON - NOON 3/18/06							
3/18/06		12:00 - 12:00 3/20/06							
3/20/06		12:00 - 12:00 3/21/06							
3/21/06		12:00 - 12:00 3/22/06							
3/22/06		12:00 - 12:00 3/22/06							
3/23/06		12:00 - 12:00 3/24/06							
3/24/06		12:00 - 12:00 3/25/06							

Signature of Receiver

KAY HOOD

Print Name of Receiver

KAY HOOD

Remit C.O.D. to:

Address:

City:

State:

Zip:

COD

AMT:

\$

Subject to Section 7 of conditions, if this shipment is to be delivered to the consignee without recourse to the consignor, the consignor shall sign the following statement: The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

C. O. D. FEE:

Prepaid ☐

Collect ☐ \$

Charges Advanced

\$

FREIGHT CHARGES

☐ Prepaid ☐ Collect

(Signature of consignor)

☐ YES ☐ NO - FURNISHED BY CARRIER
DRIVER'S SIGNATURE:

SPECIAL INSTRUCTIONS:

SHIPPER:

PER:

DATE:

CARRIER:

PLD

PER:

PLD

DATE: 3/18-3/25/06

EMERGENCY RESPONSE

TELEPHONE NUMBER: ()

Permanent post office address of shipper

Monitored at all times the Hazardous Material is in transportation including storage incidental to transportation (§172.804).

Transportation, Inc.

6506 Kylertown-Drifting Hwy
PO Box 246
Drifting, PA 16834

Invoice

Date	Invoice #
04/25/2006	4608

Bill To
Quality Fab & Mechanical LLC

Phone #	Fax #
814-345-1103	814-345-7524

P.O. No.	Terms	Due Date
A&D 19977	Net 10 Days, 1.5% after	05/05/2006

Item	Qty	Description	Rate	Amount
1 Truck Load	7	Date: 4/15/06 days @ per day Misc. Materials Shipper#: none given Shipper: Quality Fab St. Rose, LA Consignee: Quality Fab St. Rose, LA	750.00	\$5,250.00
Please remit to above address.			Total	\$5,250.00

EXHIBIT "E"

STRAIGHT BILL OF LADING - SHORT FORM - Original - Not Negotiable

Inv# 4608

A & D Transportation Inc 814-345-1103

P.O. Box 246, 6506 Hylatoun-Drifting Hwy.

(Carrier) Drifting, POA 16834

Shipper's No. _____

Received, subject to the classifications and tariffs in effect on the date of this Bill of Lading:

SCAC. _____

A. & D. No. 10977

at ST Rose LA

date 4/15/06 - 4/22/06

from Houston TX

The property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at destination, if on its own road or its own water line, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier or all or any of said property over all or portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions not prohibited law, whether printed or written, herein contained (as specified in Appendix B to Part 1035) which are hereby agreed to by the shipper and accepted for himself and his designs.

TO: (Mail or street address of consignee for purposes of notification only.)

FROM:

Consignee A. Lord of Engineers

Shipper

Street

Florida Ave (pumphouse #5)

Street

Destination

New Orleans LA Zip

Origin

ST Rose LA

Zip 70087

Route:

Tractor No.

Driver's Name

2418

Terry Sobulinski

No. of packages	HMW Description of articles, special marks, and exceptions	Hazard Class	ID Number	Packing Group	Weight (kg)	Volume (m³)	Labels required (or exemption)	Chg. Col.
4/15/06	Noon - Noon	9 th	used					
4/16/06		9 th	used					
4/17/06		9 th	used					
4/18/06		9 th	used					
4/19/06		9 th	used					
4/20/06		9 th	used					
4/21/06		9 th	used					
4/22/06		9 th	used					
4/23/06		9 th	used					
4/24/06		9 th	used					
4/25/06		9 th	used					
4/26/06		9 th	used					
4/27/06		9 th	used					
4/28/06		9 th	used					
4/29/06		9 th	used					
4/30/06		9 th	used					
5/1/06		9 th	used					
5/2/06		9 th	used					
5/3/06		9 th	used					
5/4/06		9 th	used					
5/5/06		9 th	used					
5/6/06		9 th	used					
5/7/06		9 th	used					
5/8/06		9 th	used					
5/9/06		9 th	used					
5/10/06		9 th	used					
5/11/06		9 th	used					
5/12/06		9 th	used					
5/13/06		9 th	used					
5/14/06		9 th	used					
5/15/06		9 th	used					
5/16/06		9 th	used					
5/17/06		9 th	used					
5/18/06		9 th	used					
5/19/06		9 th	used					
5/20/06		9 th	used					
5/21/06		9 th	used					
5/22/06		9 th	used					
5/23/06		9 th	used					
5/24/06		9 th	used					
5/25/06		9 th	used					
5/26/06		9 th	used					
5/27/06		9 th	used					
5/28/06		9 th	used					
5/29/06		9 th	used					
5/30/06		9 th	used					
5/31/06		9 th	used					
6/1/06		9 th	used					
6/2/06		9 th	used					
6/3/06		9 th	used					
6/4/06		9 th	used					
6/5/06		9 th	used					
6/6/06		9 th	used					
6/7/06		9 th	used					
6/8/06		9 th	used					
6/9/06		9 th	used					
6/10/06		9 th	used					
6/11/06		9 th	used					
6/12/06		9 th	used					
6/13/06		9 th	used					
6/14/06		9 th	used					
6/15/06		9 th	used					
6/16/06		9 th	used					
6/17/06		9 th	used					
6/18/06		9 th	used					
6/19/06		9 th	used					
6/20/06		9 th	used					
6/21/06		9 th	used					
6/22/06		9 th	used					
6/23/06		9 th	used					
6/24/06		9 th	used					
6/25/06		9 th	used					
6/26/06		9 th	used					
6/27/06		9 th	used					
6/28/06		9 th	used					
6/29/06		9 th	used					
6/30/06		9 th	used					
7/1/06		9 th	used					
7/2/06		9 th	used					
7/3/06		9 th	used					
7/4/06		9 th	used					
7/5/06		9 th	used					
7/6/06		9 th	used					
7/7/06		9 th	used					
7/8/06		9 th	used					
7/9/06		9 th	used					
7/10/06		9 th	used					
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A&D Transportation, Inc.

6506 Kylertown-Drifting Hwy
PO Box 246
Drifting, PA 16834

Invoice

Date	Invoice #
05/01/2006	4656

Bill To
Quality Fab & Mechanical LLC

Phone #	Fax #
814-345-1103	814-345-7524

P.O. No.	Terms	Due Date
A&D 20034	Net 10 Days, 1.5% after	05/11/2006

Item	Qty	Description	Rate	Amount
1 Truck Load	7	Date: 4/22/06 days @ per day Misc. Materials Shipper: Quality Fab St. Rose, LA Consignee: Quality Fab St. Rose, LA	750.00	5,250.00
Please Remit To PO Box 644 Clearfield, PA 16830			Total	\$5,250.00

EXHIBIT "F"

A & D Transportation, Inc.
Booking & Dispatch Information

LCAD# 2004 DATE ORDER RECEIVED 4-22-04

EQUIP REQUIREMENT : FLAT___VAN___STEP DECK X OTHER___

DRIVER TERRY BOBULINSKI AGENT ALC

OWNER SAME UNIT # 248

ORDER # _____ TARP REQUIRED _____

SHIPPER Wally Felt CONSIGNEE Wally Felt

REC'D BY Technical LHO ADDRESS _____

Rose La 5-10

[illegible]

DATE SEP 4-72 TIME NOON DATE OF DEL. 9-11-72

COLLECT 3RD PARTY

BIL 111

NAME Mr. Fah + Mr. M. J. ... ADDRESS Lie

Page Billing 2-14

RATE PER PAGE 750.00 Dr. D. M.

FLAT _____ MILE _____ C.W.T. _____ STOP OFF _____ FUEL _____

DETENTION TIME _____ LAYOVER _____ TARP _____

# PIECES	COMMODITY DIS.	ACTUAL WEIGHT	AS WEIGHT	RATE	AMOUNT DUE
----------	-------------------	------------------	-----------	------	------------

SPECIAL INSTRUCTIONS _____ TOTAL REV _____

COMMENTS

En By Fago

A&D Transportation, Inc.

6506 Kylertown-Drifting Hwy
PO Box 246
Drifting, PA 16834

Invoice

Date	Invoice #
05/23/2006	4838

Bill To
Quality Fab & Mechanical LLC

Phone #	Fax #
814-345-1103	814-345-7524

P.O. No.	Terms	Due Date
A&D 20239	Net 10 Days, 1.5% after	06/02/2006

Item	Qty	Description	Rate	Amount
1 Truck Load		Date: 5/13/06 Drive Units Shipper#: None Given Shipper: Quality Fab St Rose, LA Consignee: MWI Vero Beach, FL	3,000.00	3,000.00
Please Remit To PO Box 644 Clearfield, PA 16830			Total	\$3,000.00

EXHIBIT "G"

[illegible]

RENTALS EQUIPMENT, LLC
10298 AIRLINE DRIVE
PO DRAWER 329
ST. ROSE, LA
TEL: 504-464-1212 FAX: 504-464-1313

VOLVO

DELIVERY TICKET

BILL TO:

Q7M

DELIVERY# :

DATE 4-28-06

ID.

REF:

PC#:

DIVISION:

SITE:

SHIP TO:

M.W.I.
Vero Beach, FL

954-868-3129

CUST #

TEL:

GST #:

PAGE:

1 Electric Drive
model - 2400
S/N - 8448

1 Electric Drive
model - 2400 F
S/N - 4371

1 Diesel Drive
model - 3600 DS
S/N - 6041

1 Diesel Drive
model - 6000
S/N - 2114

CUSTOMER'S SIGNATURE: _____

DELIVERY TIME: _____

Joe Hancock



June 1, 2006

To Whom It May Concern:

We recognize Quality Fab & Mechanical owes A&D Transportation for truck and transportation fees for Hurricane Katrina emergency relief work they performed. It's been real unfortunate. We've paid them substantial funds and we still owe them money. We're waiting for payment, which we are told every day is on its way. We're told it's in the system and it's all been set up for payment. That can mean anywhere from 2 - 5 days to 2 - 5 weeks, as far as we know. The second we receive payment we will cut a check to A&D. If you have any questions, please do not hesitate to call me at my office, (504) 469-1272 or on my cell, (504) 628-6091.

Thanks in advance!!!

Bruce M. Bourgeois by Kay Hood

Bruce M. Bourgeois, Sr.

BMB, Sr.: kh

P.O. Drawer 339 · St. Rose, Louisiana 70087 · (504) 469-1272 · Fax (504) 469-1364

EXHIBIT "H"

A. & D. TRANSPORTATION, INC.
P.O. BOX 246
DRIETING, PA 16834
TOLL FREE (877) 485-7766
FAX: (814) 345-7524

FACSIMILE TRANSMITTAL SHEET

TO: Barb FROM: Ann
COMPANY: John Carfley DATE: 3-21-07
FAX NUMBER: 1127 TOTAL NO. OF PAGES INCLUDING COVER: 4
PHONE NUMBER: SENDER'S REFERENCE NUMBER:
RE: 4838 YOUR REFERENCE NUMBER:

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

Please find invoices 4838
w/ supporting documents

Thanks

William A. Shaw
Prothonotary/Clerk of Courts

JUN 22 2007

FILED

07-989-CD

The Superior Court of Pennsylvania
Sitting at Pittsburgh

600 Grant Building
Pittsburgh, Pennsylvania
15219

**CERTIFICATE OF CONTENTS OF REMANDED RECORD
AND NOTICE OF REMAND**
under

PENNSYLVANIA RULES OF APPELLATE PROCEDURE 2571 AND 2572

THE UNDERSIGNED, Prothonotary (or Deputy Prothonotary) of the Superior Court of Pennsylvania, the said court of record, does hereby certify that annexed to the original hereof, is a true and correct copy of the entire record:

ORIGINAL RECORD 1 PARTS, 1 SUPERIOR COURT OPINION.

As remanded from said court in the following matter:

IN RE: A7D TRANSPORTATION, INC V. QUALITY FAB & MECHANICAL, LLC
No(s) 2231 WDA 2007

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL DIVISION COURT. NO. 2007-989-CD

In compliance with Pennsylvania Rules of Appellate Procedure 2571.

The date of which the record is remanded is **SEPTEMBER 25, 2008**

An additional copy of this certificate is enclosed with the original hereof and the clerk or prothonotary of the lower court or the head, chairman, deputy, or the secretary of the other government unit is hereby directed to acknowledge receipt of the remanded record by executing such copy at the place indicated by forthwith returning the same to this court.

Eleanor R. Valecko

DEPUTY PROTHONOTARY

RECORD, ETC. RECEIVED:

DATE: September 29, 2008

William A. Shaw

(Signature & Title)

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

FILED
m123661
SEP 29 2008 *BSU*

William A. Shaw
Prothonotary/Clerk of Courts

J. S40034/08

FILED

SEP 29 2008

William A. Shaw
Prothonotary/Clerk of Courts

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

A & D TRANSPORTATION, INC.,

IN THE SUPERIOR COURT OF
PENNSYLVANIA

Appellant

v.

QUALITY FAB & MECHANICAL, L.L.C.,

Appellee

No. 2231 WDA 2007

Appeal from the Order of November 5, 2007,
in the Court of Common Pleas of Clearfield County,
Civil Division at No. 2007-989-CD

BEFORE: PANELLA, KELLY and COLVILLE*, JJ.

MEMORANDUM:

FILED: August 15, 2008

This is an appeal from the order of the Court of Common Pleas of Clearfield County granting Quality Fab & Mechanical's ("Quality Fab") preliminary objections and dismissing A & D Transportation's ("A & D") complaint for lack of personal jurisdiction. We affirm.

The background underlying this matter can be summarized as follows. On August 29, 2005, Hurricane Katrina struck the city of New Orleans, Louisiana, resulting in numerous levy breaches, including the 17th Street Canal levy. A & D, a Pennsylvania corporation that engages in interstate trucking and hauling, contracted with a Florida-based company to transport water pumps to the breach site. Quality Fab, a full service fabrication and machine shop incorporated in Louisiana, installed water pumps at the breach site. At the height of the dewatering effort, a Quality Fab agent approached

*Retired Senior Judge assigned to the Superior Court.

an A & D agent; the agents reached an oral agreement, later reduced to writing, that A & D would accommodate Quality Fab's hauling needs in exchange for \$750.00 per day. A & D rendered services over the course of several months and billed Quality Fab a total of \$350,000.

A & D filed suit in Pennsylvania against Quality Fab, requesting the trial court direct payment of an outstanding balance of \$32,065.18. Quality Fab responded by filing preliminary objections challenging, *inter alia*, the court's exercise of personal jurisdiction. After conducting an evidentiary hearing, the court entered an order granting Quality Fab's preliminary objections and dismissing the action.¹ This timely appeal followed.

In its brief to this Court, A & D presents three interrelated questions for our consideration. These questions can be suitably framed as one cognizable claim:

[Did] the trial court err[] as a matter of law and/or abuse[] its discretion in finding that it did not have personal jurisdiction over [Quality Fab], [thus] granting [Quality Fab's] preliminary objection and dismissing [A & D's] complaint?

See Appellant's Brief at 3.

¹ In its preliminary objections, Quality Fab also averred the trial court lacked subject matter jurisdiction. The trial court stated in its order that it lacked both personal and subject matter jurisdiction. However, the trial court's order and accompanying opinion present reasons exclusively supporting its finding of lack of personal jurisdiction. Thus, it appears the trial court either conflated the concepts of personal and subject matter jurisdiction or used them interchangeably to refer to personal jurisdiction. We, therefore, conclude the trial court simply found a lack of personal jurisdiction.

In support of this claim, A & D argues that Pennsylvania's long-arm statute conferred on the trial court personal jurisdiction over Quality Fab in that Quality Fab initiated acts in Pennsylvania for purposes of its financial gain while causing financial harm in Pennsylvania by failing to fully compensate A & D. A & D further argues that personal jurisdiction passes constitutional muster insofar as Quality Fab, in the nature of its contacts with A & D, availed itself of the benefits and protections of Pennsylvania's laws and could have anticipated being haled into a Pennsylvania court.

Quality Fab refutes the claim that it initiated or conducted acts in Pennsylvania for the purpose of financial gain. While Quality Fab acknowledges its debt to A & D, it argues that Pennsylvania's long-arm statute does not contemplate financial harm as grounds for establishing personal jurisdiction. Finally, pointing to its lack of contact with Pennsylvania and the significant burden of defending here, Quality Fab challenges the fundamental constitutionality of a Pennsylvania court's exercise of personal jurisdiction.

In reviewing an order disposing of preliminary objections to a court's exercise of personal jurisdiction, we apply the following standard of review:

When preliminary objections, if sustained, would result in the dismissal of an action, such objections should be sustained only in cases which are clear and free from doubt. Only where record evidence does not fairly support the trial court's disposition of preliminary objections challenging personal jurisdiction will the case be remanded for further proceedings.

Taylor v. Fedra International, Ltd., 828 A.2d 378, 381 (Pa. Super. 2003) (citations omitted).

It is well-established that Pennsylvania courts may exercise either of two types of personal jurisdiction over a nonresident person or corporation.

Nutrition Management Services Co. v. Hinchcliff, 926 A.2d 531, 536 n.2 (Pa. Super. 2007).

The first type is general jurisdiction, which is founded upon the defendant's general activities within the forum, as evidenced by systematic contacts with the state. The second type is specific jurisdiction, which is premised upon the particular acts of the defendant that gave rise to the underlying cause of action.

Id. (citations omitted). "Regardless of whether general or specific personal jurisdiction is asserted, the propriety of such an exercise must be tested against both the Pennsylvania long-arm statute, 42 Pa.C.S.A. § 5322, and the due process clause of the [F]ourteenth [A]mendment." ***General Motors Acceptance Corp. v. Keller***, 737 A.2d 279, 281 (Pa. Super. 1999).

The Uniform Interstate and International Procedure Act, also known as the Pennsylvania Long-Arm Statute, states in relevant part:

§ 5322. Bases of personal jurisdiction over persons outside this Commonwealth

(a) General rule. A tribunal of this Commonwealth may exercise personal jurisdiction over a person . . . who acts directly or by an agent, as to a cause of action or other matter arising from such person:

(1) Transacting any business in this Commonwealth. Without excluding other acts which may constitute transacting business in this Commonwealth, any of the following shall constitute transacting business for the purpose of this paragraph:

(i) The doing by any person in this Commonwealth of a series of similar acts for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object.

(ii) The doing of a single act in this Commonwealth for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object with the intention of initiating a series of such acts.

...

(4) Causing harm or tortious injury in this Commonwealth by an act or omission outside this Commonwealth.

42 Pa.C.S.A. § 5322(a)(1)(i), (ii), (a)(4).

As noted above, in addition to identifying its authority under a provision of Pennsylvania's long-arm statute, a court's exercise of personal jurisdiction must conform to the Fourteenth Amendment's due process requirements. "An exercise of jurisdiction over a [nonresident] defendant would violate due process unless 'the defendant [has] sufficient [minimum] contacts with the forum [state] such that granting jurisdiction would not offend traditional notions of fair play and substantial justice.'" ***Insulations, Inc. v. Journeyman Welding & Fab***, 700 A.2d 530, 531 (Pa. Super. 1997) (quoting ***Snively & Sons v. Springland Associates***, 600 A.2d 972, 974

(Pa. Super. 1991)). In determining whether a nonresident defendant's contacts with a forum state are sufficient to satisfy due process,

[the] contacts with the forum state must be such that the defendant could reasonably anticipate being called to defend itself in the forum. Random, fortuitous and attenuated contacts cannot reasonably notify a party that it may be called to defend itself in a foreign forum and, thus, cannot support the exercise of personal jurisdiction. That is, the defendant must have purposefully directed its activities to the forum and conducted itself in a manner indicating that it has availed itself of the forum's privileges and benefits such that it should also be subject to the forum state's laws and regulations.

General Motors Acceptance Corp., 737 A.2d at 281 (citations omitted).

Notwithstanding the determination that a nonresident defendant purposefully established minimum contacts with the forum, [personal] jurisdiction may only be asserted over a nonresident defendant when the nature and quality of that defendant's activities are such as to make it reasonable and fair to require him to conduct his defense in the state. Factors to be considered include (1) the burden on the defendant, (2) the forum state's interest in adjudicating the dispute, (3) the plaintiff's interest in obtaining convenient and effective relief, (4) the interstate judicial system's interest in obtaining the most efficient resolution of controversies and (5) the shared interest of the several states in furthering fundamental substantive social policies.

Kubik v. Letteri, 614 A.2d 1110, 1114 (Pa. 1992) (citations omitted).

In the case *sub judice*, the trial court properly declined to exercise personal jurisdiction on the basis of Quality Fab's insufficient minimum contacts with the forum state of Pennsylvania.² Preliminarily, we acknowledge the arguable applicability of Section 5322(a)(4) of the Pennsylvania long-arm statute. Notwithstanding Quality Fab's position that "harm or tortious injury" is limited to matters of product liability, "[t]here is no question that 'harm' includes not only physical but also economic harm." ***Action Industries, Inc. v. Wiedeman***, 346 A.2d 798, 802 n.6 (Pa. Super. 1975). Nevertheless, in the absence of sufficient minimum contacts on the part of Quality Fab with the forum state, the economic harm suffered by A & D does not support the exercise of personal jurisdiction by a Pennsylvania court.

At the hearing on the preliminary objections, Quality Fab's president and CEO testified. The trial court determined that his testimony established the following. Quality Fab is incorporated in the state of Louisiana; its principal place of business is in St. Rose, Louisiana. Quality Fab does not

² It is undisputed that Quality Fab's alleged contacts with Pennsylvania did not rise to the level of "continuous and systematic," and consequently, the trial court could not have entertained general personal jurisdiction. ***Mar-Eco, Inc. v. T & R and Sons Towing and Recovery, Inc.***, 837 A.2d 512, 515 (Pa. Super. 2003) (stating "general jurisdiction . . . is founded upon a defendant's general activities within the forum as evidenced by continuous and systematic contacts with the state").

advertise, solicit, or conduct business in Pennsylvania. Quality Fab maintains no offices and has no employees stationed in Pennsylvania. Quality Fab's president and CEO has never visited Pennsylvania. His one phone call to A & D did not consist of contract negotiations or work-related discussions but simply an inquiry as to Quality Fab's outstanding balance. Quality Fab and A & D initially entered into an oral agreement in Louisiana. The subsequent written contract was hand-delivered to A & D's foreman in Louisiana and faxed by him to A & D's offices in Pennsylvania. No agent at A & D reciprocated by signing the contract and nothing was transmitted from Pennsylvania to Louisiana. All work performed under the terms of the contract was initiated and completed in Louisiana. Quality Fab directly made all payments, with the possible exception of one, to A & D's agents in Louisiana.

It is well-settled that,

[a]n individual's contract with an out-of-state party alone cannot automatically establish sufficient minimum contacts in the other party's home forum. Rather, the totality of the parties' dealings, including the contract negotiations, contemplated future consequences of the contract, and actual course of dealing must be evaluated in order to determine whether the foreign defendant is subject to suit in the plaintiff's chosen forum.

Hall-Woolford Tank Co., Inc. v. R.F. Kilns, Inc., 698 A.2d 80, 83 (Pa. Super. 1997) (citations omitted). Here, the trial court determined that the contract and the single follow-up phone call did not amount to Quality Fab

purposefully availing itself of the benefits and protections of Pennsylvania laws. The record amply supports the determination that the totality of A & D and Quality Fab's dealings was too attenuated to support the exercise of personal jurisdiction over Quality Fab. **See *id.*** at 84 (finding that contracting with a Pennsylvania corporation, making follow-up phone calls, and sending a payment invoice do not constitute purposeful availment such that nonresident could anticipate being haled into Pennsylvania court).

Given the lack of sufficient minimum contacts, we conclude that the trial court properly determined that it would be unreasonable and unfair to impose on Quality Fab the burden of defending in Pennsylvania. Moreover, we find that the record evidence fairly supported the trial court's disposition of Quality Fab's preliminary objections challenging personal jurisdiction.

Order affirmed.

J. S40034/08

FILED

SEP 29 2008

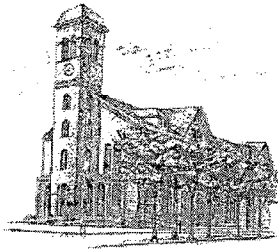
William A. Shaw
Prothonotary/Clerk of Courts

Judgment Entered:

Eleanor K. Valecko

Deputy Prothonotary

DATE: August 15, 2008



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ www.clearfieldco.org

COPY

Fredric J. Ammerman, P.J.
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

John R. Carfley, Esq.
PO Box 249
222 Presquise Street
Philipsburg, PA 16866

Lee H. Roberts, Esq.
146 East Water Street
Lock Haven, PA 17745

A & D Transportation, Inc.
Vs.
Quality Fab & Mechanical, LLC

Court No. 07-989-CD; Superior Court No. 2231 WDA 2007

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on January 16, 2008. By their instruction, the transcript will be forwarded to Superior Court upon its filing.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 07-989-CD

A & D Transportation, Inc.

VS.

Quality Fab & Mechanical, LLC

<i>ITEM NO.</i>	<i>DATE OF FILING</i>	<i>NAME OF DOCUMENT</i>	<i>NO. OF PAGES</i>
01	06/22/07	Civil Complaint	28
02	07/05/07	Certificate of Service, Re: Complaint on Defendant	02
03	07/20/07	Certificate of Service, Ten day Notice of Default	01
04	08/10/07	Preliminary Objections	06
05	08/14/07	Order, Re: argument on Defendant's Preliminary Objections scheduled	01
06	08/17/07	Answers to Preliminary Objections and Motion for Extension of Time	05
07	09/17/07	Praeipe for Entry of Appearance	02
08	09/21/07	Motion to Allow Defendant Testimony by Telephone	04
09	09/24/07	Order, Re: Motion to Allow Defendant Testimony by Telephone	01
10a	10/03/07	Order, Re: letter brief to be submitted	01
10b	11/06/07	Order, Re: Defendant's Preliminary Objections are Granted. Plaintiff's Complaint is Dismissed	01
11	12/06/07	Appeal to High Court	05
12	12/12/07	Plaintiff's Request for Trial Transcript	01
13	12/13/07	Appeal Docket Sheet, Superior Court Number 2231 WDA 2007	03
14	12/14/07	Order, Re: transcript of the trial held October 1, 2007, be transcribed	01
15	12/14/07	Order, Re: concise statement of matters complained of on appeal to be filed	01
16	01/07/08	Concise Statement of Matters Complained of on Appeal	07
17	01/08/08	Opinion	04

Date: 01/16/2008

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 08:22 AM

ROA Report

Page 1 of 2

Case: 2007-00989-CD

Current Judge: Fredric Joseph Ammerman

A & D Transportation, Inc. vs. Quality Fab & Mechanical L.L.C.

Civil Other

Date		Judge
06/22/2007	New Case Filed.	No Judge
	Filing: Civil Complaint Paid by: Carfley, John R. (attorney for A & D Transportation, Inc.) Receipt number: 1919508 Dated: 06/22/2007 Amount: \$85.00 (Check) 2 cert. to Atty.	No Judge
07/05/2007	Certificate of Service, filed by Atty. Carfley Served copy of Complaint on Defendant by Cert. Mail on June 26, 2007 s/ Atty. Carfley 1 Cert. to Atty.	No Judge
07/20/2007	Certificate of Service, filed. That a true and correct copy of the ten day Notice of Default was served upon Quality Fab & Mechanical, LLC on July 18, 2007, filed by s/ John R. Carfley Esq. No CC.	No Judge
08/10/2007	Preliminary Objections, filed by s/ Bruce M. Bourgeois, Sr, Quality Fab & Mechanical, L.L.C. 1CC to Mollere, Flanagan & Landry	No Judge
08/14/2007	Order, this 10th day of August, 2007, argument on the Defendant's Preliminary Objections is scheduled for the 1st day of Oct., 2007 at 11:30 a.m. in Courtroom 1. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Carfley; 1CC Def. (by return envelope to Mollere, Flanagan, & Landry)	Fredric Joseph Ammerman
08/17/2007	Answers to Preliminary Objections And Motion For Extension of Time, filed by s/ John R. Carfley, Esquire. 1CC Atty.	Fredric Joseph Ammerman
09/17/2007	Praecipe For Entry of Appearance, filed on behalf of Defendant, enter appearance of Lee H. Roberts. No CC	Fredric Joseph Ammerman
09/21/2007	Motion to Allow Defendant Testimony by Telephone, filed by s/ Lee H. Roberts, Esquire. 2CC Atty. Roberts	Fredric Joseph Ammerman
09/24/2007	Order, NOW, this 24th day of Sept., 2007, it is Ordered that the Defendant is permitted to testify by telephone at the preliminary objection argument scheduled for Oct. 1, 2007 at 11:30 a.m. By The Court, /s/ Fredric J. Ammerman, pres. Judge. 2CC Atty. Roberts	Fredric Joseph Ammerman
10/03/2007	Order, this 1st day of Oct., 2007, following argument on the Preliminary Objections, it is the Order of this Court that counsel for the Plaintiff have no more than 20 days to submit appropriate letter brief. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: J. Carfley, Roberts	Fredric Joseph Ammerman
11/06/2007	Order, this 5th day of Nov., 2007, Defendant's Preliminary Objection are Granted. The Plaintiff's Complaint is Dismissed. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: J. Carfley, L. Roberts	Fredric Joseph Ammerman
12/06/2007	Filing: Appeal to High Court Paid by: Carfley, John R. (attorney for A & D Transportation, Inc.) Receipt number: 1921730 Dated: 12/06/2007 Amount: \$45.00 (Check) 1 Cert. to Superior Court w/\$60.00 check and 1 Cert. to Atty.	Fredric Joseph Ammerman
12/12/2007	Plaintiff's Request For Trial Transcript, filed by s/ John R. Carfley, Esquire. 2CC Atty. Carfley	Fredric Joseph Ammerman
12/13/2007	Appeal Docket Sheet, filed. Superior Court Number 2231 WDA 2007.	Fredric Joseph Ammerman
12/14/2007	Order, this 13th day of Dec, 2007, it is Ordered that the transcript of the trial held on Oct. 1, 2007 be transcribed upon payment to the Court Reporter of such amount that the Court Reporter deems appropriate. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Carfley	Fredric Joseph Ammerman

Date: 01/16/2008

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 08:22 AM

ROA Report

Page 2 of 2

Case: 2007-00989-CD

Current Judge: Fredric Joseph Ammerman

A & D Transportation, Inc. vs. Quality Fab & Mechanical L.L.C.

Civil Other

Date		Judge
12/14/2007	Order, this 14th day of Dec., 2007, this Court having been notified of Appeal to the Superior Court; it is Ordered that A&D Transportation, Inc., Appellant, file a concise statement of the matters complained of on said appeal no later than 21 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: J. Carfley, Roberts	Fredric Joseph Ammerman
01/07/2008	Concise Statement of Matters Complained of on Appeal, filed by s/ John R. Carfley, Esquire. 1CC Atty. Carfley	Fredric Joseph Ammerman
01/08/2008	Opinion, Pennsylvania does not have jurisdiction over this claim, which should be filed in the appropriate venue of Louisiana. by the Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC Attys: Carfley, Roberts; 1CC D. Mikesell and Law Library (without memo)	Fredric Joseph Ammerman

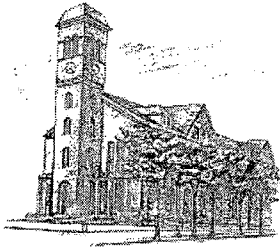
I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JAN 16 2008

Attest.



William L. Shaw
Prothonotary/
Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ www.clearfieldco.org

07-989-CD

December 13, 2007

Superior Court of Pennsylvania
310 Grant St., Ste. 600
Pittsburgh, PA 15219-2297

COPY

In Re: 2231 WDA 2007

A&D Transportation, Inc. vs. Quality Fab & Mechanical, LLC

Dear Ms. Eleanor R. Valecko:

Upon review of the Appeal Docket Sheet for the above-referenced case, I have noted that there is an attorney listed on my docket for the appellee, Quality Fab & Mechanical, LLC. Attorney Lee H. Roberts entered his appearance by praecipe filed September 17, 2007. The contact information and addresses I have on file are listed below. If you have any questions, please contact me at (814) 765-2641, ext. 1331.

Sincerely,

William A. Shaw
Prothonotary

Appellee:
Quality Fab & Mechanical, LLC
Attn: Bruce M. Bourgeois, Sr.
PO Box 339
St. Rose, LA 70087

Attorney:
Lee H. Roberts, Esq.
146 East Water Street
Lock Haven, PA 17745

Date: 01/15/2008

Time: 02:37 PM

Page 1 of 2

Clearfield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2007-00989-CD

Current Judge: Fredric Joseph Ammerman

A & D Transportation, Inc. vs. Quality Fab & Mechanical L.L.C.

Civil Other

Date		Judge
06/22/2007	New Case Filed.	No Judge
	(1) Filing: Civil Complaint Paid by: Carfley, John R. (attorney for A & D Transportation, Inc.) Receipt number: 1919508 Dated: 06/22/2007 Amount: \$85.00 (Check) 2 cert. to Atty. 28	No Judge
07/05/2007	Certificate of Service, filed by Atty. Carfley (2) Served copy of Complaint on Defendant by Cert. Mail on June 26, 2007 s/ Atty. Carfley 1 Cert. to Atty. 2	No Judge
07/20/2007	(3) Certificate of Service, filed. That a true and correct copy of the ten day Notice of Default was served upon Quality Fab & Mechanical, LLC on July 18, 2007, filed by s/ John R. Carfley Esq. No CC. 1	No Judge
08/10/2007	(4) Preliminary Objections, filed by s/ Bruce M. Bourgeois, Sr, Quality Fab & Mechanical, L.L.C. 1CC to Mollere, Flanagan & Landry 1	No Judge
08/14/2007	(5) Order, this 10th day of August, 2007, argument on the Defendant's Preliminary Objections is scheduled for the 1st day of Oct., 2007 at 11:30 a.m. in Courtroom 1. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Carfley; 1CC Def. (by return envelope to Mollere, Flanagan, & Landry)	Fredric Joseph Ammerman
08/17/2007	(6) Answers to Preliminary Objections And Motion For Extension of Time, filed by s/ John R. Carfley, Esquire. 1CC Atty. 5	Fredric Joseph Ammerman
09/17/2007	(7) Praecipe For Entry of Appearance, filed on behalf of Defendant, enter appearance of Lee H. Roberts. No CC 2	Fredric Joseph Ammerman
09/21/2007	(8) Motion to Allow Defendant Testimony by Telephone, filed by s/ Lee H. Roberts, Esquire. 2CC Atty. Roberts 64	Fredric Joseph Ammerman
09/24/2007	(9) Order, NOW, this 24th day of Sept., 2007, it is Ordered that the Defendant is permitted to testify by telephone at the preliminary objection argument scheduled for Oct. 1, 2007 at 11:30 a.m. By The Court, /s/ Fredric J. Ammerman, pres. Judge. 2CC Atty. Roberts 1	Fredric Joseph Ammerman
10/03/2007	(10) Order, this 1st day of Oct., 2007, following argument on the Preliminary Objections, it is the Order of this Court that counsel for the Plaintiff have no more than 20 days to submit appropriate letter brief. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: J. Carfley, Roberts 1	Fredric Joseph Ammerman
11/06/2007	(11) Order, this 5th day of Nov., 2007, Defendant's Preliminary Objection are Granted. The Plaintiff's Complaint is Dismissed. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: J. Carfley, L. Roberts 1	Fredric Joseph Ammerman
12/06/2007	(12) Filing: Appeal to High Court Paid by: Carfley, John R. (attorney for A & D Transportation, Inc.) Receipt number: 1921730 Dated: 12/06/2007 Amount: \$45.00 (Check) 1 Cert. to Superior Court w/\$60.00 check and 1 Certr. to Atty. 5	Fredric Joseph Ammerman
12/12/2007	(13) Plaintiff's Request For Trial Transcript, filed by s/ John R. Carfley, Esquire. 2CC Atty. Carfley 1	Fredric Joseph Ammerman
12/13/2007	(14) Appeal Docket Sheet, filed. 3 2231 WPA 2007	Fredric Joseph Ammerman
12/14/2007	Order, this 13th day of Dec, 2007, it is Ordered that the transcript of the trial held on Oct. 1, 2007 be transcribed upon payment to the Court Reporter of such amount that the Court Reporter deems appropriate. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Carfley 1	Fredric Joseph Ammerman

Date: 01/15/2008

Time: 02:54 PM

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Clearfield County Court of Common Pleas

ROA Report

User: HUDSON

Case: 2007-00989-CD

Current Judge: Fredric Joseph Ammerman

A & D Transportation, Inc. vs. Quality Fab & Mechanical L.L.C.

Civil Other

Date	Selected Items	Judge
12/14/2007	Order, this 14th day of Dec., 2007, this Court having been notified of Appeal to the Superior Court; it is Ordered that A&D Transportation, Inc., Appellant, file a concise statement of the matters complained of on said appeal no later than 21 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: J. Carfley, Roberts	Fredric Joseph Ammerman
01/07/2008	Concise Statement of Matters Complained of on Appeal, filed by s/ John R. Carfley, Esquire. 1CC Atty. Carfley	Fredric Joseph Ammerman
01/08/2008	Opinion, Pennsylvania does not have jurisdiction over this claim, which should be filed in the appropriate venue of Louisiana. by the Court, /s/ Fredric J. Ammerman, Pres. Judge 2CC Attys: Carfley, Roberts; 1CC D. Mikesell and Law Library (without memo)	Fredric Joseph Ammerman
	Concise Statement of Matters Complained of on Appeal, filed by s/ John R. Carfley, Esquire. No CC	Fredric Joseph Ammerman