

07-1738-CD

J. Palumbo vs Jim's Custom Coll.

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

JOSEPH L. R. PALUMBO, SR.,) NO. 07 - 1738 - CD
Plaintiff,)
v.) Type of Pleading: COMPLAINT IN
JIM'S CUSTOM COLLISION, INC.,) REPLEVIN
Defendant.) Filed on Behalf of: PLAINTIFF
) Counsel of Record:
) BENJAMIN S. BLAKLEY, III
)
) Supreme Court No. 26331
)
) BLAKLEY & JONES
) 90 Beaver Drive, Box 6
) DuBois, PA 15801
) (814) 371-2730
)

FILED Atty pd -85.00
OCT 3 12 2007 ICC Atty
OCT 26 2007 ICC Sheriff
W.M. Shaw
William A. Shaw
Prothonotary/Clerk of Courts

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

JOSEPH L. R. PALUMBO, SR.,	)	NO. 07 -	
	)		- CD
Plaintiff,)		
)		
v.)		
)		
JIM'S CUSTOM COLLISION, INC.,)		
)		
Defendant.)		
)		

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT IS SERVED, BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT REQUESTED BY PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

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

Daniel J. Nelson, Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641

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

JOSEPH L. R. PALUMBO, SR.,	)	NO. 07 -	
	)		- CD
Plaintiff,)		
)		
v.)		
)		
JIM'S CUSTOM COLLISION, INC.,)		
)		
Defendant.)		
)		

COMPLAINT IN REPLEVIN

AND NOW comes Plaintiff, **JOSEPH L. R. PALUMBO, SR.**, by and through his undersigned attorneys, **BLAKLEY & JONES**, and files this Complaint in Replevin against Defendant, **JIM'S CUSTOM COLLISION, INC.**, upon a cause of action of which the following is a statement:

1. Plaintiff, **JOSEPH L. R. PALUMBO, SR.**, is an adult individual, *sui juris*, residing at 1103 South Main Street, DuBois, Clearfield County, Pennsylvania.
2. Defendant, **JIM'S CUSTOM COLLISION, INC.**, is a Pennsylvania corporation authorized to do business in the Commonwealth of Pennsylvania, with a place of business at 500 DuBois Street, DuBois, Clearfield County, Pennsylvania.
3. At all times material hereto, Plaintiff was the owner of a 1964 Ford Mustang, Vehicle Identification Number 5F07C251866.

4. At all times material hereto, Defendant was in the business of the repair and restoration of motor vehicles.

5. During July of 2004, Plaintiff and Defendant entered into an oral agreement for the Defendant's repair and restoration of the Plaintiff's vehicle and orally agreed upon a price of no more than \$6,000.00.

6. At the time of the parties' agreement, Plaintiff delivered possession of the aforementioned 1964 Ford Mustang to the Defendant at the Defendant's place of business at 500 DuBois Street, DuBois, Clearfield County, Pennsylvania. Plaintiff believes and therefore avers, the vehicle continues to be located at Defendant's place of business.

7. At the time of the oral contract between the Plaintiff and Defendant, the Plaintiff advised the Defendant that the Plaintiff intended to give the aforesaid motor vehicle to the Plaintiff's grandson for his sixteenth birthday, said birthday occurring in the year 2006, with the Defendant agreeing that the restoration work to be done on the Plaintiff's vehicle would be done by that time.

8. During the Defendant's possession of the vehicle, the Defendant billed the Plaintiff at various times for work performed on the vehicle by the Defendant, said billings totaling \$3,900.00. Copies of said billings received by the Plaintiff between January 16, 2005, and May 30, 2006, are attached hereto and marked Plaintiff's Exhibits A, B. and C.

9. Plaintiff did make continuous inquiries of the Defendant as to the progress made by the Defendant on the said vehicle, but the Defendant had indicated that he has failed to

complete the restoration of the Plaintiff's vehicle despite his knowledge that the Plaintiff needed the vehicle completed during the year 2006 for the Plaintiff's grandson's birthday.

10. Plaintiff has demanded the return of the vehicle from the Defendant since the restoration work could be completed by others; however, the Defendant has failed and refused to deliver possession of the Plaintiff's vehicle to the Plaintiff, and the Plaintiff believes, and therefore avers, that the Defendant continues to have the said vehicle in its possession.

11. Plaintiff believes, and therefore avers, that the vehicle has a retail value of \$10,000.00.

12. Plaintiff has paid all sums billed to him by the Defendant and believes, and therefore avers, that no further sums are due the Defendant.

WHEREFORE, Plaintiff demands judgment of possession, together with judgment of possession of his 1964 Ford Mustang, Vehicle Identification Number 5F07C251866, together with reasonable attorney's fees, interest and costs.

Respectfully submitted,

BLAKLEY & JONES

Benjamin S. Blakley, III
Attorney for Plaintiff

VERIFICATION

I, JOSEPH L. R. PALUMBO, SR., hereby state that I am the Plaintiff in this action and verify that the statements made in the foregoing Complaint in Replevin are true and correct to the best of my knowledge, information, and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


JOSEPH L. R. PALUMBO, SR.

Dated: 10-25-07

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

JOSEPH L. R. PALUMBO, SR.,) NO. 07 - 1738 - CD
)
Plaintiff,) Type of Pleading: MOTION FOR
) ISSUANCE OF WRIT OF SEIZURE
v.)
File on Behalf of: PLAINTIFF
JIM'S CUSTOM COLLISION, INC.,)
) Counsel of Record:
Defendant.) BENJAMIN S. BLAKLEY, III
)
) Supreme Court No. 26331
)
) BLAKLEY & JONES
) 90 Beaver Drive, Box 6
) DuBois, PA 15801
) (814) 371-2730
)

FILED ICC
OCT 26 2007 Atty Blakley
William A. Shaw
Prothonotary/Clerk of Courts
S/ ICC Sheriff

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

JOSEPH L. R. PALUMBO, SR.,	)	NO. 07 -	- CD
)		
Plaintiff,)		
)		
v.)		
)		
JIM'S CUSTOM COLLISION, INC.,)		
)		
Defendant.)		
)		

MOTION FOR ISSUANCE OF WRIT OF SEIZURE

AND NOW comes Plaintiff, **JOSEPH L. R. PALUMBO, SR.**, by and through his undersigned attorneys, **BLAKLEY & JONES**, and moves this Honorable Court for an issuance of a Writ of Seizure in the above captioned matter, and in support thereof, the following is averred:

1. Plaintiff, **JOSEPH L. R. PALUMBO, SR.**, is an adult individual, *sui juris*, residing at 1103 South Main Street, DuBois, Clearfield County, Pennsylvania.
2. Defendant, **JIM'S CUSTOM COLLISION, INC.**, is a Pennsylvania corporation authorized to do business in the Commonwealth of Pennsylvania, with a place of business at 500 DuBois Street, DuBois, Clearfield County, Pennsylvania.
3. At all times material hereto, Plaintiff was the owner of a 1964 Ford Mustang, Vehicle Identification Number 5F07C251866.

4. The Plaintiff has instituted a Complaint in Replevin seeking return of the aforesaid vehicle which the Plaintiff believes and therefore avers is in the possession of the Defendant.

5. Plaintiff believes and therefore avers that a Writ of Seizure will be necessary to be issued by this Honorable Court in order to protect the property, as it is believed by the Plaintiff that the Defendant is taking steps to alter the property, thereby exposing the property to irreparable damage.

WHEREFORE, Plaintiff respectfully requests this Honorable Court grant his motion, and schedule a hearing upon this motion and issue a Writ of Seizure after said hearing ordering the Sheriff of Clearfield County to seize the 1964 Ford Mustang, Vehicle Identification Number 5F07C251866, in the possession of the Defendant until full hearing on Plaintiff's Complaint in Replevin.

Respectfully submitted,

BLAKLEY & JONES

Benjamin S. Blakley, III
Attorney for Plaintiff

VERIFICATION

I, **JOSEPH L. R. PALUMBO, SR.**, hereby state that I am the Plaintiff in this action and verify that the statements made in the foregoing Motion for Issuance of Writ of Summons are true and correct to the best of my knowledge, information, and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


JOSEPH L.R. PALUMBO, SR.

Dated: 10-25-07

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

JOSEPH L. R. PALUMBO, SR.,) NO. 07 - 1738 - CD
)
Plaintiff,)
)
v.)
)
JIM'S CUSTOM COLLISION, INC.,)
)
Defendant.)

FILED
01/01/00 PDX
OCT 29 2007 ICC Sheriff

William A. Shaw
Prothonotary/Clerk of Courts

(GK)

NOTICE OF HEARING FOR SEIZURE OF PROPERTY

TO: JIM'S CUSTOM COLLISION, INC.

You are hereby notified that

1. Plaintiff has commenced an action of replevin and has filed a Motion for Seizure of the property described in the Complaint. A copy of the Complaint and Motion is attached to this Notice;
2. There will be a hearing on this Motion on the 21st day of November, 2007 at 1:30'clock P.M., in Courtroom No. 2, of the Clearfield County Courthouse, Clearfield, Pennsylvania;
3. You may appear in person or by a lawyer at the time and place set forth or file written objections setting forth your reasons why the property should not be seized;
4. Your failure to appear at the hearing may result in the seizure of the property claimed by Plaintiff before a final decision in this case.

BY THE COURT:

DATE: October 29, 2007

Paul E. Cherry

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

JOSEPH L. R. PALUMBO, SR.,) NO. 07 - 1738 - CD
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 Plaintiff,) Type of Pleading: COMPLAINT IN
) REPLEVIN
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 JIM'S CUSTOM COLLISION, INC.,) Counsel of Record:
) Defendant.) BENJAMIN S. BLAKLEY, III
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) Supreme Court No. 26331
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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JOSEPH L. R. PALUMBO, SR.,)	NO. 07 -	- CD
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Plaintiff,)		
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3. At all times material hereto, Plaintiff was the owner of a 1964 Ford Mustang, Vehicle Identification Number 5F07C251866.

4. At all times material hereto, Defendant was in the business of the repair and restoration of motor vehicles.

5. During July of 2004, Plaintiff and Defendant entered into an oral agreement for the Defendant's repair and restoration of the Plaintiff's vehicle and orally agreed upon a price of no more than \$6,000.00.

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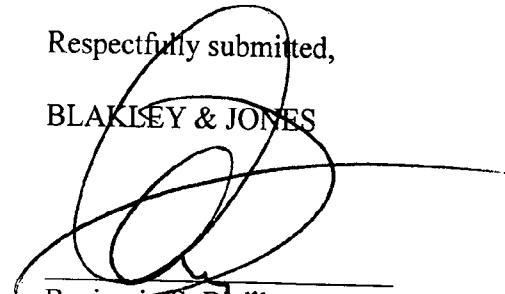
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WHEREFORE, Plaintiff demands judgment of possession, together with judgment of possession of his 1964 Ford Mustang, Vehicle Identification Number 5F07C251866, together with reasonable attorney's fees, interest and costs.

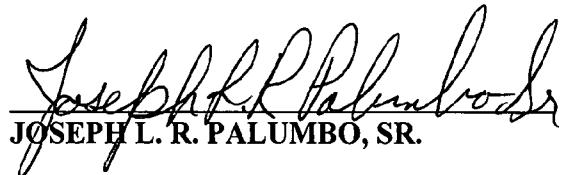
Respectfully submitted,
BLAKLEY & JONES


Benjamin S. Blakley, III
Attorney for Plaintiff

VERIFICATION

I, **JOSEPH L. R. PALUMBO, SR.**, hereby state that I am the Plaintiff in this action and verify that the statements made in the foregoing Complaint in Replevin are true and correct to the best of my knowledge, information, and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: 10-25-07



Joseph L. R. Palumbo, Sr.

JOSEPH L. R. PALUMBO, SR.

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

JOSEPH L. R. PALUMBO, SR.,) NO. 07 - 1738 - CD
Plaintiff,)
v.) Type of Pleading: MOTION FOR
JIM'S CUSTOM COLLISION, INC.,) ISSUANCE OF WRIT OF SEIZURE
Defendant.) Filed on Behalf of: PLAINTIFF
) Counsel of Record:
) BENJAMIN S. BLAKLEY, III
) Supreme Court No. 26331
)
) BLAKLEY & JONES
) 90 Beaver Drive, Box 6
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOSEPH L. R. PALUMBO, SR.,)	NO. 07 -	- CD
)		
Plaintiff,)		
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v.)		
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JIM'S CUSTOM COLLISION, INC.,)		
)		
Defendant.)		
)		

MOTION FOR ISSUANCE OF WRIT OF SEIZURE

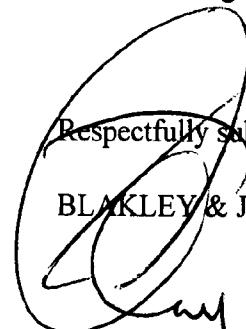
AND NOW comes Plaintiff, **JOSEPH L. R. PALUMBO, SR.**, by and through his undersigned attorneys, **BLAKLEY & JONES**, and moves this Honorable Court for an issuance of a Writ of Seizure in the above captioned matter, and in support thereof, the following is averred:

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2. Defendant, **JIM'S CUSTOM COLLISION, INC.**, is a Pennsylvania corporation authorized to do business in the Commonwealth of Pennsylvania, with a place of business at 500 DuBois Street, DuBois, Clearfield County, Pennsylvania.
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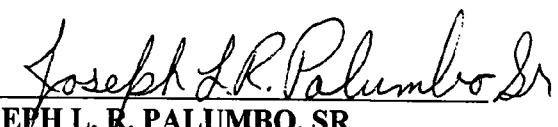
WHEREFORE, Plaintiff respectfully requests this Honorable Court grant his motion, and schedule a hearing upon this motion and issue a Writ of Seizure after said hearing ordering the Sheriff of Clearfield County to seize the 1964 Ford Mustang, Vehicle Identification Number 5F07C251866, in the possession of the Defendant until full hearing on Plaintiff's Complaint in Replevin.

Respectfully submitted,
BLAKLEY & JONES


Benjamin S. Blakley, III
Attorney for Plaintiff

VERIFICATION

I, JOSEPH L. R. PALUMBO, SR., hereby state that I am the Plaintiff in this action and verify that the statements made in the foregoing Motion for Issuance of Writ of Summons are true and correct to the best of my knowledge, information, and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


JOSEPH L.R. PALUMBO, SR.

Dated: 10-25-07

COPY

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

JOSEPH L. R. PALUMBO, SR.,) NO. 07 - 1738 - CD
)
Plaintiff,) Type of Pleading: WRIT OF SEIZURE
)
v.) Filed on Behalf of: PLAINTIFF
)
JIM'S CUSTOM COLLISION, INC.,) Counsel of Record:
) BENJAMIN S. BLAKLEY, III
Defendant..)
) Supreme Court No. 26331
)
) BLAKLEY & JONES
) 90 Beaver Drive, Box 6
) DuBois, PA 15801
) (814) 371-2730
)
)

FILED 1cc Atty
01/4/2007 1cc Sheriff
OCT 29 2007
6K

William A. Shaw
Prothonotary/Clerk of Courts

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

JOSEPH L. R. PALUMBO, SR.,	)	NO. 07 -	- CD
)		
Plaintiff,)		
)		
v.)		
)		
JIM'S CUSTOM COLLISION, INC.,)		
)		
Defendant.)		
)		

WRIT OF SEIZURE

TO THE SHERIFF OF CLEARFIELD COUNTY:

You are directed to seize the following property:

1964 Ford Mustang, Vehicle Identification No. 5F07C251866

If the property is found in the possession of any person not already a Defendant, you are directed to add that person as a Defendant, and notify that person that he or she has been added as a Defendant and is required to defend the action.

Date of Writ: October 29, 2007 WILLIAM A. SHAW, SR., PROTHONOTARY

By: William A. Shaw
(Deputy)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103367
NO: 07-1738-CD
SERVICE # 1 OF 1
COMPLAINT IN

REPLEVIN;MOTION;NOTICE;WRIT/SEIZURE

PLAINTIFF: JOSEPH R. PALUMBO, SR.
vs.
DEFENDANT: JIM'S CUSTOM COLLISION, INC.

SHERIFF RETURN

NOW, November 01, 2007 AT 11:45 AM SERVED THE WITHIN COMPLAINT IN REPLEVIN;MOTION;NOTICE;WRIT/SEIZURE ON JIM'S CUSTOM COLLISION, INC. DEFENDANT AT 500 DUBOIS ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JOE BENNETT, OWNER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN REPLEVIN;MOTION;NOTICE;WRIT/SEIZURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / NEVLING

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	BLAKLEY	4608	10.00
SHERIFF HAWKINS	BLAKLEY	4608	36.84

FILED
0/3:35 cm
NOV - 2 2007
LAW

William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

____ Day of _____ 2007

So Answers,

Chester A. Hawkins
by Marilyn Harr
Chester A. Hawkins
Sheriff

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

JOSEPH L. R. PALUMBO, SR., : No. 07-1738 C.D.
Plaintiff :
v. : Type of Pleading: Answer to Motion
for Issuance of Writ of Seizure
: Filed on Behalf of: Defendant
JIM'S CUSTOM COLLISION, INC., :
Defendant : Counsel of Record:
: Mark A. Wallisch, Esquire
: Supreme Court No. 23658
: Mark A. Wallisch, Esquire
: 201A Main Street
: Brookville, PA 15825
: (814) 849-3966

FILED
03:05p.m. GK
NOV 20 2007
2 cc to Aary
William A. Shaw
Prothonotary/Clerk of Courts
GK

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

JOSEPH L. R. PALUMBO, SR.,	:	
Plaintiff	:	
	:	No. 07-1738 C.D.
V.	:	
	:	
JIM'S CUSTOM COLLISION, INC.,	:	
Defendant	:	

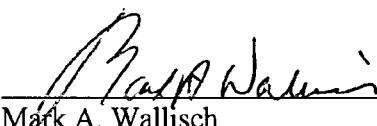
**ANSWER TO MOTION FOR ISSUANCE
OF WRIT OF SEIZURE**

AND NOW comes the Defendant, Jim's Custom Collision, Inc., by and through his attorney, Mark A. Wallisch, Esquire, and answers Plaintiff's Motion for Issuance of Writ of Seizure as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. The averments contained in Paragraph 5 of Plaintiff's Motion for Issuance of Writ of Seizure are denied and to the contrary Defendant has not and will not alter the subject property and, by way of further answer, Defendant avers that the subject property is subject to a common law repairman's lien entitling Defendant to possession of the subject property until the full amount of the cost of labor and materials furnished by Defendant has been paid by the Plaintiff.

WHEREFORE, Defendant respectfully requests this Honorable Court to deny Plaintiff's Motion and award Defendant possession of the vehicle until such time as the amount due and owing to the Defendant has been paid.

Respectfully submitted,



Mark A. Wallisch
Attorney for Defendant
Jim's Custom Collision, Inc.

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

JOSEPH L. R. PALUMBO, SR., : No. 07-1738 C.D.
Plaintiff :
v. : Type of Pleading: Answer, New Matter
and Counterclaim
JIM'S CUSTOM COLLISION, INC., : Filed on Behalf of: Defendant
Defendant :
: Counsel of Record:
: Mark A. Wallisch, Esquire
: Supreme Court No. 23658
: Mark A. Wallisch, Esquire
: 201A Main Street
: Brookville, PA 15825
: (814) 849-3966

FILED
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NOV 20 2007

William A. Shaw
Prothonotary/Clerk of Courts

2 C.C. TO

Atty
GK

GK

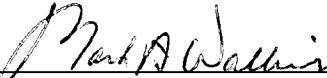
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JOSEPH L. R. PALUMBO, SR.,	:	
Plaintiff	:	
	:	No. 07-1738 C.D.
V.	:	
JIM'S CUSTOM COLLISION, INC.,	:	
Defendant	:	

NOTICE

TO: JOSEPH L. R. PALUMBO, SR.

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

By: 
Mark A. Wallisch, Esquire
Attorney for Defendant
Jim's Custom Collision, Inc.

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

JOSEPH L. R. PALUMBO, SR.,	:	
Plaintiff	:	
	:	No. 07-1738 C.D.
v.	:	
	:	
JIM'S CUSTOM COLLISION, INC.,	:	
Defendant	:	

ANSWER

AND NOW comes the Defendant, Jim's Custom Collision, Inc., by its attorney, Mark A. Wallisch, Esquire and answers the Plaintiff's Complaint as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted
5. The averments contained in Paragraph 5 of Plaintiff's Complaint are admitted to the extent that it is averred that an oral agreement for the repair and restoration of Plaintiff's vehicle was entered into between Plaintiff and Defendant. It is denied that a price had been set.
6. Admitted.
7. The averments contained in Paragraph 7 of Plaintiff's Complaint are denied, and to the contrary Defendant avers that at the time of the oral contract between Plaintiff and Defendant, the parties agreed that Defendant would work on the motor vehicle in between jobs done in connection with insurance coverage and that no deadline could be set.

8. The averments contained in Paragraph 8 are admitted to the extent that it is averred that several billings were submitted to the Defendant. No copies of the billings were attached to the Complaint.

9. The averments contained in Paragraph 9 of Plaintiff's Complaint are admitted to the extent that it was averred that Plaintiff made several inquires of the Defendant as to the progress made on the vehicle. It is denied that Plaintiff was told that the vehicle would be completed in 2006.

10. The averments contained in Paragraph 10 are admitted.

11. The averments contained in Paragraph 11 of Plaintiff's Complaint are denied and to the contrary Defendant avers that the retail value of the subject vehicle in its present as is condition is approximately Ten Thousand and 00/100ths (\$10,000.00) Dollars, but by way of further answer Defendant avers that with approximately Two Thousand Five Hundred and 00/100ths (\$2,500.00) Dollars more work, the subject vehicle would be worth approximately Fifteen Thousand and 00/100ths (\$15,000.00) Dollars.

12. The averments contained in Paragraph 12 of Plaintiff's Complaint are denied and to the contrary on October 4, 2007 Defendant's attorney was notified that Seven Thousand Six Hundred Ninety-Eight and 00/100ths (\$7,698.00) Dollars for parts and labor remained unpaid on the vehicle.

WHEREFORE, Defendant requests your Honorable Court to deny Defendant's demand for judgment and award Defendant reasonable attorney's fees and costs.

NEW MATTER

13. Defendant incorporates by reference its answers to Paragraphs 1-12 of Plaintiff's Complaint as well as the averments contained in Plaintiff's Complaint to which it has admitted.

14. The oral agreement between the parties did not specify an exact price.
15. Defendant initially told the Plaintiff that he felt the body work would cost the Plaintiff between Six Thousand and 00/100ths (\$6,000.00) Dollars and Six Thousand Five Hundred and 00/100ths (\$6,500.00) Dollars, but that could change depending upon what was found in the course of the work.
16. During the course of the work Defendant informed Plaintiff of additional parts and labor that were required, and Plaintiff agreed to pay for same.
17. The oral agreement between the parties did not specify an exact completion date.
18. Defendant initially told the Plaintiff that the Defendant's insurance work would have priority and that the work for the Plaintiff would be performed when they were not doing "insurance work".
19. The total price for parts and labor for work performed to date is Eleven Thousand Five Hundred Ninety-Eight and 00/100ths (\$11,598.00) Dollars.
20. The sum of Eleven Thousand Five Hundred Ninety-Eight and 00/100ths (\$11,598.00) Dollars is fair and reasonable for the work performed and the materials furnished.
21. Plaintiff has been informed of the amount due and owing, Defendant has demanded payment, and Plaintiff has refused to pay same.

COUNTERCLAIM

COUNT I - BREACH OF CONTRACT

22. Defendant incorporates by reference its answers to Paragraphs 1-12 of Plaintiff's Complaint as well as the averments contained in Plaintiff's Complaint to which it has admitted and the averments contained in Paragraphs 13-21 of Defendants New Matter.

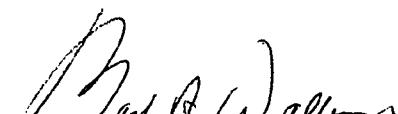
WHEREFORE, Defendant demands judgment against Plaintiff in the amount of Seven Thousand Six Hundred Ninety-Eight and 00/100ths (\$7,698.00) Dollars plus interest and costs.

COUNT II - QUANTUM MERUIT

23. Defendant incorporates by reference its answers to Paragraphs 1-12 of Plaintiff's Complaint as well as the averments contained in Plaintiff's Complaint to which it has admitted and the averments contained in Paragraphs 13-23 of Defendant's New Matter and Counterclaim.

WHEREFORE, Defendant demands judgment against Plaintiff in the amount of Seven Thousand Six Hundred Ninety-Eight and 00/100ths (\$7,698.00) Dollars plus interest and costs.

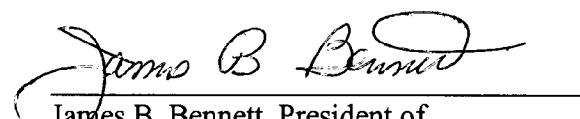
Respectfully submitted,



Mark A. Wallisch
Attorney for Defendant
Jim's Custom Collision, Inc.

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

Date: November 20, 2007



James B. Bennett
James B. Bennett, President of
Jim's Custom Collision, Inc., Defendant

FILED

NOV 27 2007

D 1130 fm
William A. Shaw
Prothonotary/Clerk of Courts

3 C.R. 1130 fm
OK

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

JOSEPH L. R. PALUMBO, SR.,) NO. 07 - 1738 - CD
)
Plaintiff,) Type of Pleading: PRAECIPE TO FILE
) BOND OF INDEMNITY
v.)
) Filed on Behalf of: PLAINTIFF
JIM'S CUSTOM COLLISION, INC.,)
) Counsel of Record:
Defendant.) BENJAMIN S. BLAKLEY, III
)
) Supreme Court No. 26331
)
) BLAKLEY & JONES
) 90 Beaver Drive, Box 6
) DuBois, PA 15801
) (814) 371-2730
)

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

JOSEPH L. R. PALUMBO, SR.,	)	NO. 07 - 1738 - CD
)	
Plaintiff,)	
)	
v.)	
)	
JIM'S CUSTOM COLLISION, INC.,)	
)	
Defendant.)	
)	

PRAECIPE TO FILE BOND OF INDEMNITY

TO: WILLIAM A. SHAW, SR., PROTHONOTARY

Please file the attached Bond of Indemnity in the above-captioned matter.

Respectfully submitted,

BLAKLEY & JONES

Benjamin S. Blakley, III

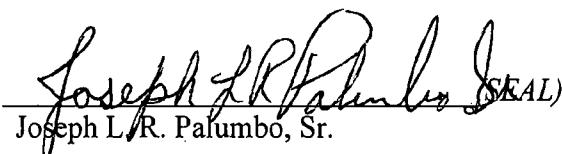
NOV 27 2007

BOND OF INDEMNITY

William A. Shaw
Prothonotary/Clerk of Courts
(K)

KNOW ALL MEN BY THESE PRESENTS, that I, Joseph L. R. Palumbo, Sr., of the City of DuBois, County of Clearfield and Commonwealth of Pennsylvania, designated as principal, and Pennsylvania National Mutual Casualty Insurance Company, designated as surety, am held and firmly bound unto Jim's Custom Collision, Inc., in the sum of Twenty Thousand and no/100 (\$20,000.00) Dollars, lawful money of the United States, to be paid to the said Commonwealth of Pennsylvania, or to their certain attorneys, executors, administrators or assigns; to which payment, well and truly to be made and done, I do bind myself, my heirs, executors and administrators and every one of them, firmly by the presents; sealed with my seal and dated the 26th day of November, 2007.

NOW THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the above bounded Joseph L. R. Palumbo, Sr., his heirs, executors, or any of them, shall and do well and sufficiently indemnify and save harmless the said Jim's Custom Collision, Inc., and its assigns of and from all legal costs, fees and damages sustained by reason of the issuance of a Writ of Seizure by the Court of Common Pleas of Clearfield County to No. 07-1738-CD should Joseph L. R. Palumbo, Sr., his heirs, executors and administrators, fail to maintain the right of possession in the Defendant, Jim's Custom Collision, Inc., and a 1964 Ford Mustang, Vehicle Identification Number 5F07C251866, until final Order of Court in the above matter, then the above obligation shall be void; otherwise, it shall be and remain in full force and virtue.


Joseph L.R. Palumbo, Sr. (SEAL)

SURETY:

By  (SEAL)
Attorney-in-fact

• **PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY**
Harrisburg, Pennsylvania

POWER OF ATTORNEY

Know All Men By these Presents, That PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY, a corporation of the Commonwealth of Pennsylvania, does hereby make, constitute and appoint REBECCA R. ASSALONE, OF DUBOIS, PENNSYLVANIA (EACH)

its true and lawful Attorney(s)-in-Fact to make, execute, seal and deliver for and on its behalf as surety as its act and deed: ANY AND ALL BONDS AND UNDERTAKINGS PROVIDED THE AMOUNT OF NO ONE BOND OR UNDERTAKING EXCEEDS THE SUM OF THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000.00)-----

ALL POWER AND AUTHORITY HEREBY CONFERRED SHALL HEREBY EXPIRE AND TERMINATE WITHOUT NOTICE AT MIDNIGHT OF THE 31ST DAY OF JANUARY 2011, AS RESPECTS EXECUTION SUBSEQUENT THERETO.

And the execution of such bonds in pursuance of these presents shall be as binding upon said Company as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Harrisburg Pennsylvania, in their own proper persons.

This appointment is made by and under the authorization of a resolution adopted by the Board of Directors of the Company on October 24, 1973 at Harrisburg, Pennsylvania, which resolution is shown on the reverse side hereof and is now in full force and effect. **In Witness Whereof:** PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY has caused these presents to be signed and its corporate seal to be affixed on JANUARY 24, 2006

PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY



Kenneth R. Shutts, Executive Vice-President, Secretary & General Counsel

Commonwealth of Pennsylvania, County of Dauphin – ss:

On JANUARY 24, 2006, before me appeared Kenneth R. Shutts to me personally known, who being by me duly sworn, did say that he resides in the Commonwealth of Pennsylvania, that he is Executive Vice-President, Secretary & General Counsel of PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY, That he is the individual described in and who executed the preceding instrument, and that the seal affixed on said instrument is the corporate seal of said Company, and that said instrument was signed and sealed on behalf of said Company by authority and direction of said Company, and the said office acknowledged said instrument to be the free act and deed of said Company.



Notary Public

Notarial Seal
Jacqueline A. Ellis, Notary Public
City Of Harrisburg, Dauphin County
My Commission Expires Dec. 19, 2009

Member, Pennsylvania Association of Notaries

I, Michael F. Greer, Vice President, Surety & Fidelity of the PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY, a corporation of the Commonwealth of Pennsylvania, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by the said Company, which is still in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the corporate seal of said Company on November 26, 2007

Vice President, Surety & Fidelity

IMPORTANT NOTICE: This border must be RED in color. If it is not RED, this is not a certified copy. Telephone us at Area Code 717-255-6870. ►

RESOLUTION
adopted by the Board of Directors of
Pennsylvania National Mutual Casualty Insurance Company
on October 24, 1973

RESOLVED, that (1) the President, any Vice President, the Secretary, or any Department Secretary shall have power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Company, and affix the Company's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any of such Officers of the Company may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-Fact with authority to execute waivers and consents on behalf of the Company; and (3) the signature of any such Officer or of any Assistant Secretary or Department Assistant Secretary and the Company seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seal when so used whether heretofore or hereafter, being hereby adopted by the Company as the original signature of such Officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

FILED

NOV 27 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

JOSEPH L.R. PAULUMBO, SR. : :

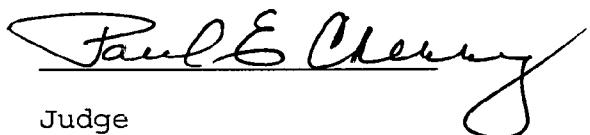
VS. : NO. 07-1738-CD

JIM'S CUSTOM COLLISION, INC. : :

O R D E R

AND NOW, this 21st day of November, 2007, this being the date set for hearing on Plaintiff's Complaint in Replevin; upon agreement of the parties, it is the ORDER of this Court that the Writ of Seizure be and is hereby granted and the Plaintiff shall post a bond in the amount of not less than Twenty Thousand (\$20,000.00) Dollars. Upon posting of the bond, the Plaintiff may retrieve the vehicle from Defendant's location on Tuesday, November 27, 2007, between 8:00 a.m. and 4:00 p.m.

BY THE COURT,


Judge

FILED 2cc Atty:
01/8/33/07 Blakley
NOV 27 2007 Wallisch

William A. Shaw
Prothonotary/Clerk of Courts

(6)

FILED

NOV 27 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/27/07

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

JOSEPH L. R. PALUMBO, SR.,) NO. 07 - 1738 - CD
Plaintiff,)
v.) Type of Pleading: REPLY TO NEW
JIM'S CUSTOM COLLISION, INC.,) MATTER & ANSWER TO
Defendant.) COUNTERCLAIM
) Filed on Behalf of: PLAINTIFF
) Counsel of Record:
) BENJAMIN S. BLAKLEY, III
) Supreme Court No. 26331
) BLAKLEY & JONES
) 90 Beaver Drive, Box 6
) DuBois, PA 15801
) (814) 371-2730

*FILED NO
M10:5/20/07
GK*

William A. Shatto
Judge of Court/Clerk of Courts

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

JOSEPH L. R. PALUMBO, SR.,	)	NO. 07 - 1738 - CD
)	
Plaintiff,)	
)	
v.)	
)	
JIM'S CUSTOM COLLISION, INC.,)	
)	
Defendant.)	
)	

REPLY TO NEW MATTER & ANSWER TO COUNTERCLAIM

AND NOW comes Plaintiff, **JOSEPH L. R. PALUMBO, SR.**, by and through his undersigned attorneys, **BLAKLEY & JONES**, and replies to Defendant's New Matter as follows:

13. Requires no answer.

14. It is admitted that the oral agreement between the parties did not specify the exact price; however, it is further averred that the Defendant did inform the Plaintiff that the cost of the work to be performed on the subject automobile would be approximately \$5,500.00. It is upon that representation that the Plaintiff agreed to permit the Defendant to work upon the automobile.

15. Denied, and on the contrary, it is averred that the Defendant had always represented to the Plaintiff that the work on the Plaintiff's vehicle would cost "around \$5,500.00." It is further denied that Plaintiff was told that the aforesaid figure would change

depending on what was found in the course of the work, and on the contrary, it is averred that the \$5,500.00 quote was to be the total approximate charge for the work done upon Plaintiff's vehicle.

16. Denied, and on the contrary, it is averred that the Defendant at no time did inform the Plaintiff of parts and labor which would exceed the agreed upon price; however, it is admitted that the Defendant billed the Plaintiff for work performed upon the subject vehicle, said billings having been paid by the Plaintiff.

17. Denied, and on the contrary, it is averred that the Defendant was aware that the Defendant represented to the Plaintiff that the Defendant would complete the restoration work upon Plaintiff's vehicle by the birthday of Plaintiff's grandson in July of 2006.

18. Admitted; however, it is further averred that Defendant represented to the Plaintiff that the work would be completed by July, 2006, that being the month of Plaintiff's grandson's birthday.

19. After reasonable investigation, Plaintiff is unable to determine the truth or falsity of the allegations contained within Paragraph 19 of Defendant's New Matter, and therefore denies the same and demands strict proof thereof at trial.

20. After reasonable investigation, Plaintiff is unable to determine the truth or falsity of the allegations contained within Paragraph 20 of Defendant's New Matter, and therefore denies the same and demands strict proof thereof at trial.

21. It is denied that the Plaintiff was informed of any further amounts due and owing the Defendant prior to the institution of the within proceedings, and on the contrary, it is averred that the Defendant billed the Plaintiff for all parts and labor performed on the aforesaid

vehicle, the same having been paid in full by the Plaintiff. It is further denied that the Plaintiff owes any more monies to the Defendant than that which was quoted by the Defendant, and on the contrary, it is averred that the Defendant appears to have performed unauthorized work upon the subject vehicle and, therefore, Plaintiff is not indebted to the Defendant for the same.

COUNTERCLAIM

Plaintiff hereby answers the Defendant's Counterclaim as follows:

COUNT I - BREACH OF CONTRACT

22. Requires no answer. To the extent an answer is required, Plaintiff denies that any further monies are owed to the Defendant for the reasons set forth in the Plaintiff's Reply to New Matter.

WHEREFORE, Plaintiff demands that Defendant's Counterclaim be dismissed.

COUNT II - QUANTUM MERUIT

23. Requires no answer. To the extent an answer is required, Plaintiff denies that any further monies are owed to the Defendant for the reasons set forth in the Plaintiff's Reply to New Matter.

WHEREFORE, Plaintiff demands that Defendant's Counterclaim be dismissed.

Respectfully submitted,

BLAKLEY & JONES

Benjamin S. Blakley, III
Attorney for Plaintiff

VERIFICATION

I, **JOSEPH L. R. PALUMBO, SR.**, hereby state that I am the Plaintiff in this action and verify that the statements made in the foregoing Reply to New Matter & Answer to Counterclaim are true and correct to the best of my knowledge, information, and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

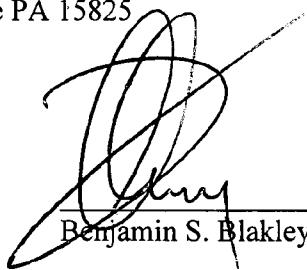
Dated: 11/29/07

Joseph L. R. Palumbo, Sr.
JOSEPH L. R. PALUMBO, SR.

CERTIFICATE OF SERVICE

This will certify that the undersigned served a copy of Plaintiff's Reply to New Matter & Answer to Counterclaim in the above-captioned matter on the following parties at the addresses shown below by first-class U.S. Mail on the 20th day of November, 2007:

Mark A. Wallisch, Esquire
201A Main Street
Brookville PA 15825



Benjamin S. Blakley, III

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

JOSEPH L. R. PALUMBO, SR., : No. 07- 1738 C.D.
Plaintiff, :
vs. : Type of Pleading: Praeclipe to Settle,
: Discontinue and End
: Filed on behalf of: Jim's Custom Collision,
JIM'S CUSTOM COLLISION, INC., : Inc.
Defendant. :
: Counsel of Record for this Party:
: Mark A. Wallisch, Esquire
: Supreme Court No.: 23658
: Achille, Ellermeyer & Wallisch
: 379 Main Street
: Brookville, PA 15825
: Phone: 814-849-6701

4CL & 4 cert
FILED of disc issued
m/2/2009 to AAAy
OCT 01 2009 BIGKEY +
S William A. Shaw
Prothonotary/Clerk of Courts
Copy to CJA.

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

JOSEPH L. R. PALUMBO, SR., :
Plaintiff, :
: No. 07 - 1738 C.D.
vs. :
: :
JIM'S CUSTOM COLLISION, INC., :
Defendant. :
:

PRAECIPE TO SETTLE, DISCONTINUE AND END

TO: William A. Shaw, Prothonotary

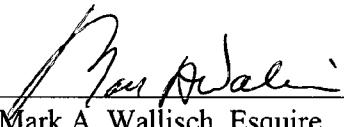
Please mark the above matter as settled, discontinued and ended.

BLAKLEY & JONES



Benjamin S. Blakley, III
Attorney for Plaintiff

ACHILLE, ELLERMEYER & WALLISCH



Mark A. Wallisch, Esquire
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Joseph R. Palumbo Sr.

Vs. No. 2007-01738-CD
Jim's Custom Collision, Inc.

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on October 1, 2009, marked:

Settled, discontinued and ended

Record costs in the sum of \$85.00 have been paid in full by Benjamin S. Blakley III Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 1st day of October A.D. 2009.



William A. Shaw, Prothonotary

Notice of Proposed Termination of Court Case

February 1, 2012

RE: 2007-01738-CD

Joseph R. Palumbo Sr.

Vs.

Jim's Custom Collision, Inc.

FILED

S FEB 01 2012

WAS William A. Shaw
Prothonotary/Clerk of Courts

To All Parties and Counsel:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **April 2, 2012**.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,

F. Cortez Bell III

F. Cortez Bell, III, Esq.
Court Administrator

Blakley
Wallisch

FILED
FEB 01 2012
William A. Sha'ar
Prothonotary/Clerk of Courts

Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division

Joseph R. Palumbo Sr.

Vs.

2007-01738-CD

Jim's Custom Collision, Inc.

FILED
JUL 27 2012
BRYAN WILLIAM A. SHAW
Prothonotary/Clerk of Courts
61

Termination of Inactive Case

This case is hereby terminated with prejudice this July 27, 2012, as per Rule 230.2

William A. Shaw

William A. Shaw
Prothonotary