

08-380-CD  
Drew McDowell vs G. Novosel

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

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

Vs.

GEORGE F. NOVOSEL,  
Defendant

No.: 2008- 380 - CD

Type of Case: Civil

Type of Pleading: Complaint

Filed on behalf of: Plaintiff

Counsel of record for this party:

John R. Carfley, Esq.  
PA ID No.: 17621  
P. O. Box 249  
Philipsburg, PA 16866  
814.342.5581

**FILED**  
MAR 04 2008  
0 / 2:30 / 445  
William A. Shaw  
Prothonotary/Clerk of Courts  
3 CENT TO  
ATTY

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 E. Market Street  
Clearfield, PA 16830  
814-765-2641 Ext. 5982

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

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

Vs.

No.: 2008-

GEORGE F. NOVOSEL,  
Defendant

COMPLAINT

AND NOW comes the Plaintiff, Drew A. McDowell, who by and through his attorney, John R. Carfley, Esq., sets forth a claim against the Defendant, the following of which is a statement:

1. The Plaintiff is Drew A. McDowell, an adult individual, t/d/b/a McDowell Repair and Inspection who presently resides and conducts business at 240 Country Air Road, Woodland, Clearfield County, Pennsylvania, 16881.
2. The Defendant is George F. Novosel, an adult individual, presently residing at 1000 N. Nixon Road, State College, Centre County, Pennsylvania 16803.
3. The Defendant, George F. Novosel, is believed, and therefore averred, to be the owner of a JCB Backhoe, 1550 B 1986 model, which equipment was used in the Defendant's conduct of various business related activities.
4. Early in June, 2006, the Defendant met with the Plaintiff at his place of business and related certain problems with the backhoe, including problems with the engine block and the cylinders which refused to fire in the proper sequence, thus causing the equipment to malfunction while in the course of operation.

5. An oral contractual arrangement was entered into by the parties whereby the Plaintiff would repair this equipment to insure that it was in good operating condition and on June 21, 2006, the backhoe was delivered by the Defendant to Plaintiff's place of business.

6. At the time of the initial conversation pertaining to the repair of this vehicle, it was determined that time was not of the essence in completing the repairs so the Plaintiff, with the knowledge and explicit consent and concurrence of the Defendant, engaged in the repair of the equipment as time and other business permitted.

7. After Plaintiff completed the initial inspection of the equipment, it became apparent that the damage to the engine, and the vehicle in general, was more extensive than originally believed. As a result, a complete overhaul was warranted and Plaintiff elected not to repair the vehicle on a limited basis so as to uphold his business reputation and because he believed the customer would not be satisfied if the equipment were not fully repaired and functional.

8. In December, 2006, the Defendant was notified that the backhoe repair had been completed and Plaintiff requested that the Defendant retrieve the said vehicle; which Defendant purported to do on December 21, 2006, at which time he was presented with a statement for the repairs rendered. A copy of said statement is attached hereto as Exhibit "A".

9. Throughout the period of the repair, the Defendant was advised of the extent of the repairs being undertaken and, in fact, authorized work in addition to the engine work originally discussed in the preliminary conference between the Plaintiff and the Defendant.

10. The statement which was presented to the Defendant in December, 2006 itemized the repairs, parts and service costs for the extensive engine, all of which resulted in a total bill of \$9,915.93.

11. At the time of the conference between Plaintiff and Defendant on the outstanding balance on the repair, Defendant became disgruntled and left the Plaintiff's place of business. Since then, Defendant has permitted the vehicle to be stored on the Plaintiff's property, thus utilizing valuable storage space which would otherwise have been available to the Plaintiff and requiring the Plaintiff to provide insurance, storage space and supervision of the equipment while it was entrusted to him at this facility.

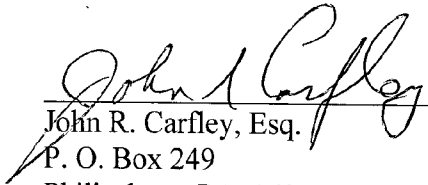
11. Plaintiff normally charges the sum of \$20.00 per day for storage of such equipment because of the need to retain the equipment while it is within his custody and control.

12. More than thirteen (13) months have elapsed since the equipment was repaired and the Defendant was notified that the equipment could be paid for and removed from Plaintiff's business premises, all of which results in additional compensation due the Plaintiff in the amount of \$8,120.00, which is calculated from January 1, 2007 to February 10, 2008, for which demand has been made and for which recovery is now sought.

13. Plaintiff has, on several occasions, requested the Defendant to make payment for the repairs as stated on the invoice as well as for charges for the storage fees imposed, but Defendant refuses and continues to refuse to pay all or any part of said sum due.

WHEREFORE, Plaintiff requests that judgment be entered in favor of Plaintiff and against the Defendant in the amount of \$18,035.93 for the repair charges and the storage charges, together with additional storage charges from February 10, 2008 until this matter is concluded, and any interest due, as well as the costs of this proceeding.

Respectfully submitted,



John R. Carfley, Esq.

P. O. Box 249  
Philipsburg, PA 16866

Dated: Feb 29, 2008

VERIFICATION

I hereby verify that the statements made in this instrument 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.

Drew A. McDowell  
Drew A. McDowell

Dated: 2-29-08

WOODRILL MECHANICS  
240 Country Air Rd.  
Woodland Pa. 16881  
814-857-7576

QUANTITY	PART NUMBER AND DESCRIPTION	PRICE	AMOUNT
1	1 - belt	17	61
1	oil pressure sensor	18	25
1	trans oil filter	8	93
1	engine oil filter	13	57
1	Fuel filter	6	98
1	trans. oil	134	54
1	Ballast nut	30	99
2	Bushings	35	41
1	Pivot Pin	62	95
2	King Pins + Bushings	336	25
2	Motor Mount	63	12
4	Bushings	46	38
1	Pin	102	80
2	Pivot Pins	204	98
4	Washers	19	74
2	Pinch Pins	9	95
1	Constant trace	98	04
1	Constant trace	50	73
1	Bypass hose	35	69
1	Production hose	44	40
1	adaptor (Tube)	103	18
1	Hose	114	56
2	Circle Clips	1	43
4	Grease fittings	9	46
8	Washers	39	52
TOTAL PARTS *		3359	68
TOTAL ACCESSORIES *		3359	68

**CUSTOMER INFORMATION**

NAME: George Novosel  
ADDRESS: JCB Backhoe  
CITY: JCB Backhoe  
PHONE: 837-1000  
CUSTOMER'S ORDER NO: 237-5591  
DATE: 12/1/06

**VEHICLE INFORMATION**

YEAR/MAKE/MODEL: 1994/Backhoe  
SERIAL NUMBER: MCD0533  
MOTOR NUMBER: /  
LICENSE NO: /

**INSTRUCTIONS**

OPER. NO: /  
LUBE ☐ CHANGE OIL ☐ OIL FILTER ☐  
DIFFERENTIAL ☐ AIR CLEANER ☐ TRANSMISSION ☐  
ADJUST BRAKES ☐ WHEEL ALIGN. ☐ ROTATE TIRES ☐  
WASH ☐ POLISH ☐ EMISSION SER. ☐

**REPAIR DESCRIPTION**

Backhoe came in with a loose knock in the engine. The estimate for the engine over haul was between \$5000 to \$6000. After the engine was taken apart, it was clear that there was more worn parts which meant more of a expense. Engine was cleaned, machine work done + new parts installed + done to spec. New trans. oil installed. It's changed oil, filter, install new sealant nut. New bucket was also replaced + loaded, along with front caliper + bushings + bearings. Rear bucket + front end were greased. New bucket + front end were greased. New bucket + front end were greased.

**BILLING:**

☐ C.O.D. ☐ Charge ☐ Guarantee ☐ Repeat

TOTAL GAS OIL, GREASE \* 32 00

TOTAL LABOR \* 32 00

TOTAL PARTS \* 3359 68

TOTAL ACCESSORIES \* 3359 68

TOTAL DUE \* 3359 68

**TERMS:** ☐ A.M. ☐ P.M.

AUTO REPAIR ORDER

OFFICE COPY

EXHIBIT  
A



MCDONELL INDUSTRIES  
 240 Country Air Rd.  
 Woodland Pa. 16881  
 814-857-7576

QTY	DESCRIPTION AND QUANTITY	PRICE	AMOUNT
1	Recon Rod		132 63
1	Cam		473 56
8	Tappets		71 63
1	oil pump		309 70
1	Blunger		6 44
1	Spring		2 34
4	Piston Kit		579 80
4	Rings		113 04
1	Thermostat		14 32
1	Water Pump		146 02
1	Front Seal		12 74
1	Rear Seal		37 08
1	Cam Bucking		14 65
8	Nuts (Rods)		5 92
4	Nuts (Bushing)		231 92
1	Bushes		31 53
1	oil Crater		417 37
2	Hoses		44 59
1	Line		28 40
1	Joint		5 96
1	Hose		14 96
1	Coarset		4 12
2	Rings		43 29
1	Adaptor		40 46
	<b>TOTAL PARTS *</b>		<b>2681 79</b>
	<b>AGGESSORIES</b>		
	Outside Repairs		
	Replace Cam Bearing		
	Grease, Resurface		
	Head, Pressure Ckt		
	Water seals + Valve		
	Guides		
	<b>TOTAL AGGESSORIES *</b>		<b>400 20</b>

NAME: <u>George Novak</u> ADDRESS: <u>240 Country Air Rd.</u> CITY: <u>Woodland Pa.</u> STATE: <u>Pa.</u> ZIP: <u>16881</u>		PHONE: <u>814-857-7576</u> CUSTOMER INFORMATION	
ORDER NO. <u>9915.93</u> INSTRUCTIONS: <u>185.37</u> LUBE <input type="checkbox"/> CHANGE OIL <input type="checkbox"/> OIL FILTER <input type="checkbox"/> DIFFERENTIAL <input type="checkbox"/> AIR CLEANER <input type="checkbox"/> TRANSMISSION <input type="checkbox"/> ADJUST BRAKES <input type="checkbox"/> WHEEL ALIGN. <input type="checkbox"/> ROTATE TIRES <input type="checkbox"/> WASH <input type="checkbox"/> POLISH <input type="checkbox"/> EMISSION SER. <input type="checkbox"/>		SERIAL NUMBER: <u>9930.54</u> MOTOR NUMBER: <u>9930.54</u> MILEAGE: <u>9930.54</u> LICENSE NO.: <u>9930.54</u>	

BILLING: <input type="checkbox"/> C.O.D. <input type="checkbox"/> Charge <input type="checkbox"/> Guarantee <input type="checkbox"/> Repeat		TOTAL LABOR * <u>3600 00</u> TOTAL PARTS * <u>6041 47</u> TOTAL GAS, OIL, GREASE * <u>380 82</u> OUTSIDE WORK <u>400 20</u> TOTAL DUE * <u>9915 93</u>	
TAX <u>563 90</u>		DATE: <u>12/1/64</u> TIME: <u>11 07</u>	

AUTO REPAIR ORDER

OFFICE COPY

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

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

vs.

GEORGE F. NOVOSEL,  
Defendant

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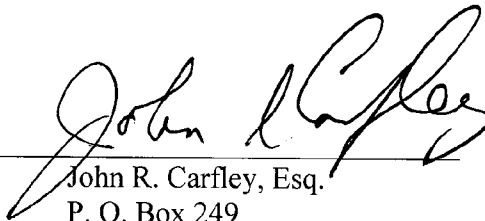
No.: 2008-380-CD

JURY TRIAL DEMANDED


CERTIFICATE OF SERVICE

I hereby verify that a true and correct copy of the within document was served upon the following party at the following address on April 18, 2008, by ordinary mail, first class, postage prepaid.

George F. Novosel  
1000 N. Nixon Road  
State College, PA 16803



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

FILED *no cc*  
*m 19:1031*  
APR 21 2008  
  
William A. Shaw  
Prothonotary/Clerk of Courts

ORIGINAL

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

vs.

GEORGE F. NOVOSEL,  
Defendant

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No. 2008-380-CD

TYPE OF CASE:  
Civil

TYPE OF PLEADING:  
Entry of Appearance

FILED ON BEHALF OF:  
George F. Novosel

COUNSEL OF RECORD FOR THIS  
PARTY:

Kathleen V. Yurchak, Esquire

PA I.D. No. 55948

Kara S. Bowser, Esquire

PA.I.D. 93386

GOODALL & YURCHAK, P.C.

328 South Atherton Street

State College, PA 16801

(814) 237-4100

(814) 237-5601 (Fax)

yurchak@centrelaw.com

kbowser@centrelaw.com

FILED No CC  
m/10-380-CD  
APR 22 2008 (514)

William A. Shaw  
Prothonotary/Clerk of Courts

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

vs.

GEORGE F. NOVOSEL,  
Defendant

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No. 2008-380-CD

**ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Please enter my appearance on behalf of Defendant George F. Novosel. All papers may be served on the undersigned at the office of Goodall & Yurchak, P.C., 328 South Atherton Street, State College, Pennsylvania.

Respectfully submitted,



Kara S. Bowser, Esquire

Pa.I.D. 93386

Kathleen V. Yurchak, Esquire

Pa.I.D. 55948

Date: April 21, 2008

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

vs.


GEORGE F. NOVOSEL,  
Defendant

No. 2008-380-CD

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of our Entry of Appearance has been sent by United States first class mail, postage prepaid on this 21<sup>st</sup> day of April, 2008 to the following attorney:

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

  
Kara S. Bowser, Esquire

~~COPY~~

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

vs.

GEORGE F. NOVOSEL,  
Defendant

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No. 2008-380-CD

TYPE OF CASE:  
Civil

TYPE OF PLEADING:  
Answer, New Matter and Counterclaim

FILED ON BEHALF OF:  
George F. Novosel

COUNSEL OF RECORD FOR THIS  
PARTY:

Kathleen V. Yurchak, Esquire

PA I.D. No. 55948

Kara S. Bowser, Esquire

PA.I.D. 93386

GOODALL & YURCHAK, P.C.

328 South Atherton Street

State College, PA 16801

(814) 237-4100

(814) 237-5601 (Fax)

[yurchak@centrelaw.com](mailto:yurchak@centrelaw.com)

[kbowser@centrelaw.com](mailto:kbowser@centrelaw.com)

FILED NO CC  
m/11: 2687  
APR 25 2008 @

William A. Shaw  
Prothonotary/Clerk of Courts

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

DREW A. McDOWELL, t/d/b/a	:	
McDOWELL'S REPAIR,	:	
Plaintiff	:	
	:	
vs.	:	No. 2008-380-CD
	:	
GEORGE F. NOVOSEL,	:	
Defendant	:	

NOTICE TO PLEAD

To: Drew A. McDowell, t/d/b/a  
McDowell's Repair  
c/o John R. Carfley, Esquire

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

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

DREW A. McDOWELL, t/d/b/a	:	
McDOWELL'S REPAIR,	:	
Plaintiff	:	
	:	
vs.	:	No. 2008-380-CD
	:	
GEORGE F. NOVOSEL,	:	
Defendant	:	

**DEFENDANT'S ANSWER, NEW MATTER, AND COUNTERCLAIM  
TO PLAINTIFF'S COMPLAINT**

Defendant George F. Novosel, by and through his attorneys, Goodall & Yurchak, P.C., files the following Answer, New Matter, and Counterclaim to Plaintiff's Complaint and states as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Denied. When Defendant met Plaintiff in early June 2006, Defendant informed Plaintiff that one cylinder was not firing in the subject backhoe.
5. Admitted.
6. Denied. Defendant did not have knowledge of, nor did he consent to, Plaintiff taking approximately six months to complete his work on the subject backhoe.
7. Denied in part. The necessary repairs were those which had been discussed when Defendant initially met with Plaintiff in June 2006. It is denied that a complete overhaul was warranted. Any repairs to the engine beyond those initially discussed were necessitated by Plaintiff's faulty workmanship. Moreover, Defendant is



without knowledge of Plaintiff's reasoning or beliefs.

8. Denied. Defendant went to Plaintiff's place of business to retrieve the subject backhoe from Plaintiff on December 21, 2006, at which time he discovered that Plaintiff had not in fact repaired the backhoe, as it would not start and it lacked the power necessary to go up an inclined surface. Furthermore, the statement of repairs referred to in paragraph 8 of Plaintiff's Complaint has not been attached, as Plaintiff has averred.

9. Denied. Defendant lacks knowledge as to the extent of the repairs allegedly being performed by Plaintiff on Defendant's backhoe. During the six month period in which Plaintiff took to perform his repairs Defendant was only informed that the pins were "wobbly" on the backhoe. Defendant did not authorize Plaintiff to perform repairs in the amount of \$9,915.93, particularly in light of the fact that the backhoe is only worth between \$5,000 and \$6,000. Instead, after presenting Defendant with a bill that was over \$6,000 more than the originally agreed to amount, Plaintiff stated to Defendant that Plaintiff "just suspected that he wanted it done right."

10. Admitted.

11. Denied. Defendant left his backhoe at Plaintiff's place of business only after he was informed that Plaintiff performed more than \$6,000 in unauthorized repairs on the backhoe. Because Defendant is not willing to pay these unapproved charges, he left the backhoe at Plaintiff's place of business pending the outcome of this case. Any consequences to Plaintiff, such as use of storage space, are due to his faulty workmanship and unscrupulous billing practices.

11. (Sic. Plaintiff's Complaint has two paragraphs numbered as paragraph 11). Defendant is without knowledge or information sufficient to form a belief as to the truth to the averment in paragraph 11, and strict proof thereof is demanded.

12. Denied. Plaintiff has yet to repair the subject backhoe such that it is in a workable condition. Moreover, Plaintiff is not entitled to additional compensation as a result of his faulty workmanship and unauthorized repairs.

13. Admitted. By way of further response, Defendant refuses to make said payment because the repairs were unauthorized, as well as improperly performed. Furthermore, any alleged storage fees are necessitated by Plaintiff's own actions.

WHEREFORE, Defendant George F. Novosel respectfully requests that this Honorable Court enter a judgment in its favor and against Plaintiff Drew A. McDowell, t/d/b/a McDowell's Repair.

#### **NEW MATTER AND COUNTERCLAIM**

14. Paragraphs 1 through 13 are incorporated herein and made part hereof as though set forth in full.

15. Plaintiff's business practices in the transaction at issue violated the Pennsylvania Unfair Trade Practices and Consumer Protection Law ("UTPCPL") (73 P.S. § 201-1 et seq.).

16. Specifically, under 73 P.S. § 201-2(4)(vii), it is a violation of the UTPCPL to "represent that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another."

17. Furthermore, under 73 P.S. § 201-2(4)(xv), it is a violation of the UTPCPL to "knowingly misrepresent the services, replacements or repairs are needed if they are not needed."

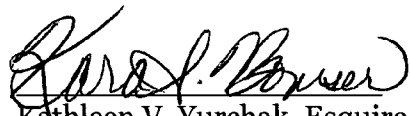
18. In the present matter, Plaintiff violated the above provision of the UTPCPL by representing that he had repaired the subject backhoe when in fact he had not and by performing and then attempting to charge Defendant for unnecessary repairs to the backhoe.

19. Defendant has sustained damages as a result of Plaintiff's unfair and deceptive acts, including the costs to have the backhoe properly repaired and the loss which has resulted from Defendant's inability to use the backhoe for approximately 22 months.

20. Under 73 P.S. § 201-9.2(a) Defendant is entitled to treble damages for the loss which he has sustained.

WHEREFORE, Defendant George F. Novosel respectfully requests this Honorable Court: (1) enter judgment in his favor and against Plaintiff Drew A. McDowell, t/d/b/a McDowell's Repairs and (2) award Defendant treble damages as provided for in the UTPCPL; (3) award Defendant attorneys' fees and costs and such other relief as the Court deems proper.

Respectfully submitted,

  
Kathleen V. Yurchak, Esquire  
Pa.I.D. 55948  
Kara S. Bowser, Esquire  
Pa.I.D. 93386

Date: April 24, 2008


THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

DREW A. McDOWELL, t/d/b/a	:	
McDOWELL'S REPAIR,	:	
Plaintiff	:	
	:	
vs.	:	No. 2008-380-CD
	:	
GEORGE F. NOVOSEL,	:	
Defendant	:	

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Defendant's Answer, New Matter and Counterclaim has been sent by United States first class mail, postage prepaid on this 24<sup>th</sup> day of April, 2008 to the following attorney:

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

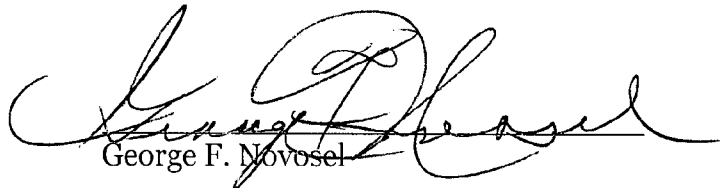
  
Kara S. Bowser, Esquire

COMMONWEALTH OF PENNSYLVANIA :  
COUNTY OF CENTRE :

**VERIFICATION**

I verify that the statements made in the foregoing are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Dated: 4/24/08

  
George F. Novosel

**FILED**

**APR 25 2008**

William A. Shaw  
Prothonotary/Clerk of Courts

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

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

No.: 2008-380-CD

Type of Case: Civil

Vs.

Type of Pleading: Plaintiff's Answer to  
New Matter and Counterclaim

GEORGE F. NOVOSEL,  
Defendant

Filed on behalf of: Plaintiff

Counsel of record for this party:

John R. Carfley, Esq.  
PA ID No.: 17621  
P. O. Box 249  
Philipsburg, PA 16866  
814.342.5581

FILED 3cc Att  
6/12/2008 J. Carfley  
MAY 08 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

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

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

Vs.

No.: 2008-380-CD

GEORGE F. NOVOSEL,  
Defendant

PLAINTIFF'S ANSWER TO NEW MATTER  
AND COUNTERCLAIM

AND NOW comes the Plaintiff, Drew A. McDowell, who by and through his attorney, John R. Carfley, Esq., sets forth the following:

14. The averments of Defendant's answers to paragraphs 1 through 13 of Plaintiff's Complaint are incorporated herein as the same are called into issue by the answers contained in the body of Defendant's Answer, New Matter and Counterclaim.

15. Denied. On the contrary, it is averred that Paragraph 15 of Defendant's New Matter states a conclusion of law as to which no specific response is required.

16. Denied. On the contrary, it is averred that Paragraph 16 of Defendant's New Matter states a conclusion of law as to which no specific response is required.

17. Denied. On the contrary, it is averred that Paragraph 17 of Defendant's New Matter states a conclusion of law as to which no specific response is required. By way of further answer, it is averred that Paragraph 17 of Defendant's New Matter and Counterclaim in no way states specific facts as required by the Pennsylvania Rules of Civil Procedure to show that the Plaintiff "knowingly misrepresented the services, replacements or repairs" as needed in the repair of the subject vehicle. As a result



thereof, Defendant's Paragraph 17 should be stricken in its entirety for failure to state a claim upon which relief can be granted.

18. Denied. On the contrary, it is averred that at the time Defendant came to the Plaintiff's place of business, the vehicle was in working order with all repairs having been completed, but Defendant refused and continues to refuse, to pay the necessary amount due to remove the said vehicle from the bailment which he entrusted the Plaintiff at the time of the original contract.

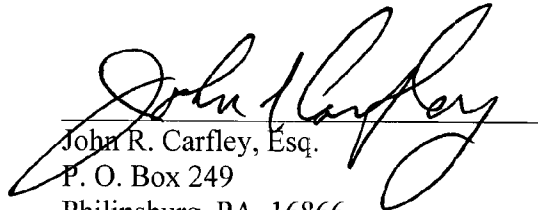
19. It is denied that the Defendant has sustained any damages as result of Plaintiff's acts. By way of further answer, it is averred that no such alleged damages are set forth with any degree of specificity and therefore, this paragraph should be stricken in its entirety. Moreover, any loss which has resulted as a result of Defendant's inability to utilize the backhoe for over twenty-two months has resulted solely from Defendant's actions in failing to retrieve the vehicle in a reasonable and timely manner subsequent to its repair.

20. It is denied that actual circumstances are such as to entitle the Defendant to treble damages for the loss which he has sustained. By way of further answer, it is averred that there are no damages set forth in Defendant's Answer, New Matter and Counterclaim so as to enlighten the Plaintiff as to the claim made by the Defendant in this regard.

WHEREFORE, Plaintiff requests this Honorable Court to enter an Order dismissing all of Defendant's claims, including (1) his claim to enter judgment in his favor, (2) to award the Defendant treble damages, and (3) to award the Defendant attorney's fees and costs. On the contrary, Plaintiff requests that judgment be entered in

favor of the Plaintiff and against the Defendant, consistent with the prayer of Plaintiff's Complaint, which is incorporated herein by reference as fully as though set forth at length.

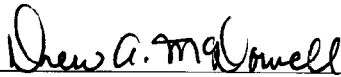
Respectfully submitted,

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

Dated: May 8, 2008

VERIFICATION

I hereby verify that the statements made in this instrument 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.

  
Drew A. McDowell

Dated: 5-7-08

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

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

Vs.

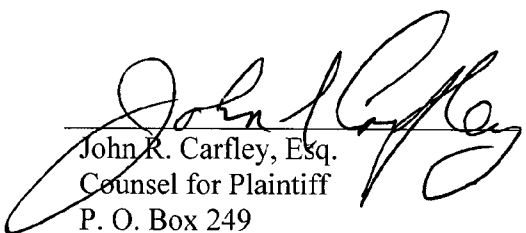
No.: 2008-380-CD

GEORGE F. NOVOSEL,  
Defendant

CERTIFICATE OF SERVICE

I do certify that I made service of the foregoing Answer to New Matter and Counterclaim upon the following, by depositing a copy of the same in the United States Mail, postage prepaid, on the 8th day of May, 2008, to the address listed below:

Kara S. Bowser, Esq.  
Goodall & Yurchak, P.C.  
328 South Atherton Street  
State College, PA 16801

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

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

vs.

GEORGE F. NOVOSEL,  
Defendant

No. 2008-380-CD

**NOTICE OF TAKING DEPOSITION**

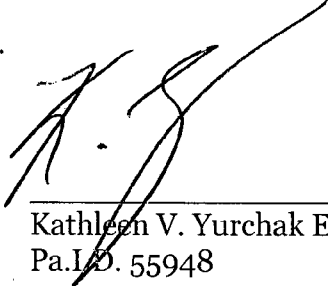
TO: Drew A. McDowell  
c/o John R. Carfly  
222 Presqueisle Street  
P.O. Box 249  
Philipsburg, PA 16866

PLEASE TAKE NOTICE that the deposition of Drew A. McDowell, will be taken at the law offices of Goodall & Yurchak, 328 South Atherton Street, State College, Pennsylvania, on June 30, 2008, at 10:00 a.m., prevailing time before a Court Reporter or a person duly qualified by law to administer the oath.

YOU ARE FURTHER DIRECTED TO BRING WITH YOU AND PRODUCE THE FOLLOWING:

Any and all documents, not already produced, in your possession, custody or control regarding the above captioned matter.

Date: May 23, 2008

  
Kathleen V. Yurchak Esquire  
Pa.L.D. 55948

FILED <sup>NO CC</sup>  
MAY 28 2008  
@

William A. Shaw  
Prothonotary/Clerk of Courts

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

vs.

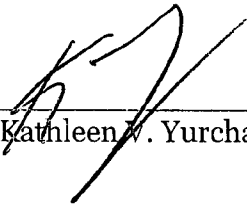
GEORGE F. NOVOSEL,  
Defendant

No. 2008-380-CD

**CERTIFICATE OF SERVICE**

I hereby certify that the above Notice of Deposition has been sent via United States first class mail, postage prepaid on this 23<sup>rd</sup> day of May, 2008, to the following:

Drew A. McDowell  
c/o John R. Carfly  
222 Presqueisle Street  
P.O. Box 249  
Philipsburg, PA 16866

  
Kathleen W. Yurchak, Esq.

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

DOCKET # 103842  
NO: 08-380-CD  
SERVICE # 1 OF 1  
COMPLAINT

PLAINTIFF: DREW A. McDOWELL t/d/d/a McDOWELL'S REPAIR  
vs.  
DEFENDANT: GEORGE F. NOVOSEL

**SHERIFF RETURN**

---

NOW, March 19, 2008, SHERIFF OF CENTRE COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON GEORGE F. NOVOSEL.

NOW, March 25, 2008 AT 2:05 PM SERVED THE WITHIN COMPLAINT ON GEORGE F. NOVOSEL, DEFENDANT. THE RETURN OF CENTRE COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

**FILED**

013:40cm  
JUN 25 2008

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103842  
NO: 08-380-CD  
SERVICES 1  
COMPLAINT

PLAINTIFF: DREW A. McDOWELL t/d/d/a McDOWELL'S REPAIR  
vs.  
DEFENDANT: GEORGE F. NOVOSEL

SHERIFF RETURN

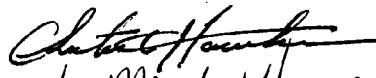
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	CARFLEY	6879	10.00
SHERIFF HAWKINS	CARFLEY	6879	21.00
CENTRE CO.	CARFLEY	6882	50.50

Sworn to Before Me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2008

So Answers,

  
by Marilyn Harris

Chester A. Hawkins  
Sheriff



# SHERIFF'S OFFICE

## CENTRE COUNTY

JOHN R. CARFLEY, ESQ.

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

SHERIFF SERVICE PROCESS RECEIPT, AND AFFIDAVIT OF RETURN		INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. please type or print legibly. Do Not detach any copies.	
1. Plaintiff(s) Drew A McDowell d/b/a McDowell's Repair		2. Case Number 08-380-CD	
3. Defendant(s) George F Novosel		4. Type of Writ or Complaint: Complaint 501018	
SERVE → AT	5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levied, Attached or Sold. George F Novosel		
	6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code) 1000 N. Nixon Road, State College, PA 16803		
7. Indicate unusual service: <input type="checkbox"/> Reg Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Deputize <input type="checkbox"/> Post <input type="checkbox"/> Other			
Now, 20____, I SHERIFF OF CENTRE COUNTY, PA., do hereby deputize the Sheriff of _____ County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff. _____ Sheriff of Centre County			
8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE			
NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.			
9. Print/Type Name and Address of Attorney/Originator JOHN R. CARFLEY, ESQ. P.O. BOX 249  PHILIPSBURG, PA. 16866		10. Telephone Number (814) 342-5581	11. Date
		12. Signature	
<b>SPACE BELOW FOR USE OF SHERIFF ONLY - DO NOT WRITE BELOW THIS LINE</b>			
13. I acknowledge receipt of the writ or complaint as indicated above.		SIGNATURE of Authorized CCSD Deputy of Clerk and Title	
		14. Date Filed	15. Expiration/Hearing Date
<b>TO BE COMPLETED BY SHERIFF</b>			
16. Served and made known to George Novosel, on the 25 day of March 20 2008, at 2:05 PM o'clock, m., at 1000 N. Nixon Road, State College, PA 16803, County of Centre Commonwealth of Pennsylvania, in the manner described below: <input type="checkbox"/> Defendant(s) personally served. <input type="checkbox"/> Adult family member with whom said Defendant(s) resides(s). Relationship is defendant <input type="checkbox"/> Adult in charge of Defendant's residence. <input type="checkbox"/> Manager/Clerk of place of lodging in which Defendant(s) resides(s). <input type="checkbox"/> Agent or person in charge of Defendant's office or usual place of business. _____ Other _____ and officer of said Defendant company.			
On the _____ day of _____, 20____, at _____ o'clock, _____ M.			
Defendant not found because: <input type="checkbox"/> Moved <input type="checkbox"/> Unknown <input type="checkbox"/> No Answer <input type="checkbox"/> Vacant <input type="checkbox"/> Other _____			
Remarks:			
Advance Costs 75.00	Docket 9.00	Service 9.00	Sur Charge 0.00
Affidavit 2.50	Mileage 30.00	Postage	Misc.
Total Costs 50.50		Costs Due or Refund (24.50)	
17. AFFIRMED and subscribed to before me this 31 March 2008 20 day of March 2008 Arlene Peters Notary Public My Commission Expires		So Answer. 18. Signature of Dep. Sheriff 19. Date 21. Signature of Sheriff 22. Date SHERIFF OF CENTRE COUNTY Amount Pd. Page	
24. I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE OF AUTHORIZED AUTHORITY AND TITLE.		25. Date Received	



CHESTER A. HAWKINS  
SHERIFF

# Sheriff's Office Clearfield County

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

OFFICE (814) 765-2641

FAX (814) 765-5915

ROBERT SNYDER  
CHIEF DEPUTY

MARILYN HAMM  
DEPT. CLERK

CYNTHIA AUGHENBAUGH  
OFFICE MANAGER

KAREN BAUGHMAN  
CLERK TYPIST

PETER F. SMITH  
SOLICITOR

## DEPUTATION

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

PAGE 103842

DREW A. McDOWELL t/d/a McDOWELL'S REPAIR

VS.

GEORGE F. NOVOSEL

TERM & NO. 08-380-CD

COMPLAINT

**SERVE BY: 04/02/08**

**COURT DATE:**

**MAKE REFUND PAYABLE TO JOHN R. CARFLEY, ESQ.**

**SERVE:** GEORGE F. NOVOSEL

**ADDRESS:** 1000 N. NIXON ROAD, STATE COLLEGE, PA

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF CENTRE COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, March 19, 2008.

RESPECTFULLY,

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

**JOHN R. CARFLEY**  
ATTORNEY AT LAW  
222 PRESQUEISLE STREET  
P. O. BOX 249  
PHILIPSBURG, PENNSYLVANIA 16866

AREA CODE 814  
TELEPHONE 342-5581  
FAX 342-1127

March 4, 2008

Chester A. Hawkins, Sheriff  
Clearfield County Courthouse  
1 North Second St., Ste. 116  
Clearfield, PA 16830

Denny Nau, Sheriff  
Centre County Courthouse  
Allegheny Street  
Bellefonte, PA 16823

Re: McDowell vs. Novosel

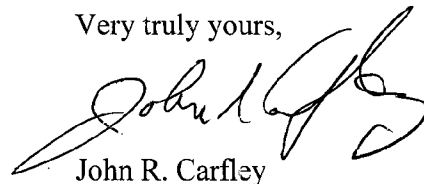
Dear Sheriff Hawkins and Sheriff Nau:

This letter accompanies a Complaint which we have filed on behalf of Drew A. McDowell against George F. Novosel. Also with this letter is a check payable to the Clearfield County Sheriff's Office for \$100.00 and a check payable to the Centre County Sheriff's Office in the amount of \$75.00. Please send the check and Complaint over to Centre County and proceed as required to have the Complaint served on Mr. Novosel in Centre County.

Mr. Novosel's address is 1000 N. Nixon Road, State College, Pennsylvania. It is our understanding that this is both his residence and place of business. I cannot provide you with a good time for service of this Complaint. I would guess that perhaps afternoons or early evenings might be best.

Thank you for your cooperation in this matter.

Very truly yours,



John R. Carfley

JRC:bjc  
Enclosure

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

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

No.: 2008- 380 - C D

Type of Case: Civil

COPY

Vs.

Type of Pleading: Complaint

GEORGE F. NOVOSEL,  
Defendant

Filed on behalf of: Plaintiff

Counsel of record for this party:

John R. Carfley, Esq.

PA ID No.: 17621

P. O. Box 249

Philipsburg, PA 16866

814.342.5581

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

MAR 04 2008

Attest.

*William A. Brown*  
Prothonotary/  
Clerk of Courts

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 E. Market Street  
Clearfield, PA 16830  
814-765-2641 Ext. 5982

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

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

Vs.

No.: 2008-

GEORGE F. NOVOSEL,  
Defendant

COMPLAINT

AND NOW comes the Plaintiff, Drew A. McDowell, who by and through his attorney, John R. Carfley, Esq., sets forth a claim against the Defendant, the following of which is a statement:

1. The Plaintiff is Drew A. McDowell, an adult individual, t/d/b/a McDowell Repair and Inspection who presently resides and conducts business at 240 Country Air Road, Woodland, Clearfield County, Pennsylvania, 16881.
2. The Defendant is George F. Novosel, an adult individual, presently residing at 1000 N. Nixon Road, State College, Centre County, Pennsylvania 16803.
3. The Defendant, George F. Novosel, is believed, and therefore averred, to be the owner of a JCB Backhoe, 1550 B 1986 model, which equipment was used in the Defendant's conduct of various business related activities.
4. Early in June, 2006, the Defendant met with the Plaintiff at his place of business and related certain problems with the backhoe, including problems with the engine block and the cylinders which refused to fire in the proper sequence, thus causing the equipment to malfunction while in the course of operation.

5. An oral contractual arrangement was entered into by the parties whereby the Plaintiff would repair this equipment to insure that it was in good operating condition and on June 21, 2006, the backhoe was delivered by the Defendant to Plaintiff's place of business.

6. At the time of the initial conversation pertaining to the repair of this vehicle, it was determined that time was not of the essence in completing the repairs so the Plaintiff, with the knowledge and explicit consent and concurrence of the Defendant, engaged in the repair of the equipment as time and other business permitted.

7. After Plaintiff completed the initial inspection of the equipment, it became apparent that the damage to the engine, and the vehicle in general, was more extensive than originally believed. As a result, a complete overhaul was warranted and Plaintiff elected not to repair the vehicle on a limited basis so as to uphold his business reputation and because he believed the customer would not be satisfied if the equipment were not fully repaired and functional.

8. In December, 2006, the Defendant was notified that the backhoe repair had been completed and Plaintiff requested that the Defendant retrieve the said vehicle; which Defendant purported to do on December 21, 2006, at which time he was presented with a statement for the repairs rendered. A copy of said statement is attached hereto as Exhibit "A".

9. Throughout the period of the repair, the Defendant was advised of the extent of the repairs being undertaken and, in fact, authorized work in addition to the engine work originally discussed in the preliminary conference between the Plaintiff and the Defendant.

10. The statement which was presented to the Defendant in December, 2006 itemized the repairs, parts and service costs for the extensive engine, all of which resulted in a total bill of \$9,915.93.

11. At the time of the conference between Plaintiff and Defendant on the outstanding balance on the repair, Defendant became disgruntled and left the Plaintiff's place of business. Since then, Defendant has permitted the vehicle to be stored on the Plaintiff's property, thus utilizing valuable storage space which would otherwise have been available to the Plaintiff and requiring the Plaintiff to provide insurance, storage space and supervision of the equipment while it was entrusted to him at this facility.

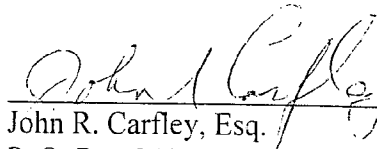
11. Plaintiff normally charges the sum of \$20.00 per day for storage of such equipment because of the need to retain the equipment while it is within his custody and control.

12. More than thirteen (13) months have elapsed since the equipment was repaired and the Defendant was notified that the equipment could be paid for and removed from Plaintiff's business premises, all of which results in additional compensation due the Plaintiff in the amount of \$8,120.00, which is calculated from January 1, 2007 to February 10, 2008, for which demand has been made and for which recovery is now sought.

13. Plaintiff has, on several occasions, requested the Defendant to make payment for the repairs as stated on the invoice as well as for charges for the storage fees imposed, but Defendant refuses and continues to refuse to pay all or any part of said sum due.

WHEREFORE, Plaintiff requests that judgment be entered in favor of Plaintiff and against the Defendant in the amount of \$18,035.93 for the repair charges and the storage charges, together with additional storage charges from February 10, 2008 until this matter is concluded, and any interest due. as well as the costs of this proceeding.

Respectfully submitted,

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

Dated: Feb 29, 2008



VERIFICATION

I hereby verify that the statements made in this instrument 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.

Drew A. McDowell  
Drew A. McDowell

Dated: 2-29-08

240 Country Air Rd.  
Woodland Pa. 16881  
814-857-7576

AMOUNT		DATE	
1	17	61	
1	18	25	
1	8	93	
1	13	57	
1	6	90	
1	14	54	
1	30	99	
1	35	41	
1	43	95	
1	336	25	
1	43	12	
1	46	38	
1	102	80	
1	204	98	
1	19	76	
1	9	95	
1	98	04	
1	50	73	
1	35	69	
1	44	40	
1	103	18	
1	114	56	
1	1	43	
1	9	46	
1	39	52	
TOTAL PARTS *			
TOTAL ACCESSORIES *			
TOTAL		3359	68

240 Country Air Rd.

Woodland Pa. 16881

814-857-7576

NAME

George Novosel

PHONE

237-1000

DATE

12/1/06

CUSTOMER INFORMATION

ADDRESS

237-5591

CUSTOMER'S ORDER NO.

MC00533

DATE & TIME PROMISED

1/1

YEAR/MAKE/MODEL

JCB Backhoe

CHASSIS NO.

102

CHASSIS NO.

80

CHASSIS NO.

98

INSTRUCTIONS

LUBE

CHANGE OIL

OIL FILTER

DIFFERENTIAL

AIR CLEANER

TRANSMISSION

ADJUST BRAKES

WHEEL ALIGN.

ROTATE TIRES

WASH

POLISH

EMISSION SER.

AMOUNT

DATE

12/1/06

1

oil pressure sensor

17

61

1

trans oil filter

18

25

1

engine oil filter

8

93

1

fuel filter

13

57

1

trans. oil

6

90

1

diagnostic nut

14

54

1

bushings

30

99

1

pin

35

41

1

king pins + bushings

43

95

1

motor mounts

336

25

1

bushings

43

12

1

pin

46

38

1

pin

102

80

1

pin

204

98

1

bushings

19

76

1

pin

9

95

1

constant track

98

04

1

constant track

50

73

1

bypass hose

35

69

1

production hose

44

40

1

adaptor (tube)

103

18

1

hose

114

56

1

circle clip

1

43

1

bushings

9

46

1

bushings

39

52

1

pin

97

12

1

bushings

2

80

1

bushings

134

21

1

nuts

3

17

1

bushings

42

22

1

pin

120

79

1

bushings

154

49

1

bushings

129

38

1

bushings

84

47

1

bushings

6

17

1

bushings

984

46

1

bushings

3359

68

1

pin

97

12

1

bushings

2

80

1

bushings

134

21

1

nuts

3

17

1

bushings

42

22

1

pin

120

79

1

bushings

154

49

1

bushings

129

38

1

bushings

84

47

1

bushings

6

17

1

bushings

984

46

1

bushings

3359

68

1

pin

97

12

1

bushings

2

80

1

bushings

134

21

1

nuts

3

17

1

bushings

42

22

1

pin

120

79

1

bushings

154

49

1

bushings

129

38

1

bushings

84

47

1

bushings

6

17

1

bushings

984

46

1

bushings

3359

68

1

pin

97

12

1

bushings

2

80

1

bushings

134

21

1

nuts

3

17

1

bushings

42

22

1

pin

120

79

1

bushings

154

49

1

# EXHIBIT

A

WOODLAND 100 MILES  
240 Country Air Rd.  
Woodland Pa. 16881  
814-857-7576

1	Recon Rod		132	63
1	Cam		473	56
8	Tappets		71	63
1	oil pump		209	70
1	Plunger		6	44
1	Spring		2	34
4	Piston kit		579	80
4	Rings		113	04
1	Thermostat		14	32
1	Water Pump		146	02
1	Front Seal		12	76
1	Rear Seal		37	08
1	Cam Bucking		14	65
8	Nuts (Rods)		5	92
4	Washers (Bushing)		231	92
1	Bracket		31	53
1	oil Carter		417	37
2	Howa		44	59
1	Howe		28	40
1	Joint		5	96
1	Howe		14	96
1	Coilbet		4	12
2	Rings		43	29
1	Adaptor		40	46
(SEE BACK)				
TOTAL PARTS *			2681	79
ACCESSORIES				
Outside Repairs				
Replace Cam Bearing				
Grease, Remanace				
Head, Pressure Oil				
Make seals + valve				
guide				
TOTAL ACCESSORIES *			400	20

NAME <i>George Wood</i>		CUSTOMER INFORMATION		PHONE	DATE <i>12/1/66</i>
ADDRESS <i>George Wood</i>		CUSTOMER'S ORDER NO.		DATE & TIME PROCESSED	
CITY		WRITTEN BY <i>McA0533</i>		/ /	
YEAR/MODEL <i>JCB Buckhoe</i>		SERIAL NUMBER		MILEAGE	
MOTOR NUMBER		LICENSE NO.		TERMS <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	
OPER. NO.	INSTRUCTIONS				AMOUNT
LUBE <input type="checkbox"/>		CHANGE OIL <input type="checkbox"/>		OIL FILTER <input type="checkbox"/>	
DIFFERENTIAL <input type="checkbox"/>		AIR CLEANER <input type="checkbox"/>		TRANSMISSION <input type="checkbox"/>	
ADJUST BRAKES <input type="checkbox"/>		WHEEL ALIGN. <input type="checkbox"/>		ROTATE TIRES <input type="checkbox"/>	
WASH <input type="checkbox"/>		POLISH <input type="checkbox"/>		EMISSION SER. <input type="checkbox"/>	
9915.93					
185.37					
9430.54					
Returned Parts					
TOTAL LABOR *					2600 00
TOTAL PARTS *					6041 47
TOTAL GAS, OIL, GREASE *					380 82
GAS, OIL, GREASE *					32 00
OUTSIDE WORK					400 20
TOTAL					11 61
Freight					114 07
Sub-total					9352 03
TAX					563 90
TOTAL DUE *					9915 93

AUTO REPAIR ORDER

OFFICE COPY

946.1  
23352  
MADE IN U.S.A.

WILCOXVILLE 10000  
240 Country Air Rd.  
Woodland Pa. 16881  
814-657-7576

CUSTOMER INFORMATION

NAME <i>George Novak</i>	PHONE	DATE <i>12/1/66</i>
ADDRESS <i>10000</i>	CUSTOMER'S ORDER NO. <i>10000</i>	DATE & TIME PROVIDED
CITY <i>Woodland</i>	WRITTEN BY <i>McN</i>	TERMS <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.
VEHICLE MODEL <i>JCB Beetle</i>	SERIAL NUMBER	MILEAGE
YEAR	MOTOR NUMBER	LICENSE NO.

INSTRUCTIONS

LUBE <input type="checkbox"/>	CHANGE OIL <input type="checkbox"/>	OIL FILTER <input type="checkbox"/>
DIFFERENTIAL <input type="checkbox"/>	AIR CLEANER <input type="checkbox"/>	TRANSMISSION <input type="checkbox"/>
ADJUST BRAKES <input type="checkbox"/>	WHEEL ALIGN. <input type="checkbox"/>	ROTATE TIRES <input type="checkbox"/>
WASH <input type="checkbox"/>	POLISH <input type="checkbox"/>	EMISSION SER. <input type="checkbox"/>

QTY	DESCRIPTION	AMOUNT
1	Recon End	132 63
1	Cam	473 56
8	Tappets	71 63
1	oil pump	809 70
1	Plunger	6 44
1	Spring	2 24
4	Piston kit	579 80
4	Rings	113 04
1	Thermostat	14 32
1	Water Pump	146 02
1	Front Seal	12 76
1	Rear Seal	37 08
1	Cam Bucking	14 65
8	Nuts (Rods)	5 92
4	Washers (Bushing)	231 92
1	Washer	31 53
1	oil cutter	417 37
2	Washers	44 59
1	Washers	28 40
1	Washers	5 96
1	Washers	14 96
1	Washer	4 12
2	Rings	43 29
1	Adaptor	40 46
TOTAL PARTS *		2681 79

ACCESSORIES

Outside Repair  
Replace Cam bearing,  
Washers, Pump face  
Head, Buwme City,  
Washers & Washers  
Washers

BILLING:	GALLONS GAS	TOTAL LABOR *	2600 00
<input type="checkbox"/> C.O.D.	QUARTS OIL	TOTAL PARTS *	6041 47
<input type="checkbox"/> Guarantee <input type="checkbox"/> Repeat	LBS. GREASE	Freight	380 82
	TOTAL GAS, OIL, GREASE *	GAS, OIL, GREASE *	32 00
		OUTSIDE WORK	400 20
		Postage	11 61
		Credit	114 07
		SUB-TOTAL	9352 03
		TAX	563 90
		* TOTAL DUE *	9915 93

I HEREBY AUTHORIZE THE ABOVE REPAIR WORK TO BE DONE ALONG WITH THE NECESSARY MATERIALS. I HEREBY GRANT YOU AND YOUR EMPLOYEES PERMITS TO OPERATE THE VEHICLE ABOVE DESCRIBED ON STREETS, HIGHWAYS, OR ELSEWHERE FOR THE PURPOSES OF TESTING, INSPECTION AND DELIVERY. AN EXPRESS MECHANIC'S LIEN IS HEREBY ACKNOWLEDGED ON THE ABOVE DESCRIBED VEHICLE TO SECURE THE AMOUNT OF REPAIRS THEREON. IT IS UNDERSTOOD THAT YOU WILL NOT BE HELD RESPONSIBLE FOR LOSS OR DAMAGE TO THE ABOVE DESCRIBED VEHICLE, OR ARTICLES LEFT THEREIN, IN CASE OF FIRE, THEFT, ACCIDENT OR OTHER CAUSE BEYOND YOUR CONTROL.

AUTO REPAIR ORDER

OFFICE COPY

## Notice of Proposed Termination of Court Case

February 1, 2012

RE: 2008-00380-CD

Drew A. McDowell  
McDowell's Repair

Vs.

George F. Novosel

5  
FILED  
FEB 01 2012  
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,

FCB III  
F. Cortez Bell, III, Esq.  
Court Administrator

Carley  
Yurchak  
Bauer

FILED  
FEB 01 2012  
William A. Shaw  
Prothonotary/Clerk of Courts

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

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

Vs.

GEORGE F. NOVOSEL,  
Defendant

No.: 2008-380-CD

Type of Case: Civil

Type of Pleading: Settlement Agreement  
and Mutual Release

Filed on behalf of: Plaintiff

Counsel of record for this party:

John R. Carfley, Esq.  
PA ID No.: 17621  
P. O. Box 249  
Philipsburg, PA 16866  
814.342.5581

**FILED**

FEB 09 2012

0/11:55  
William A. Shaw  
Prothonotary/Clerk of Courts

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A-111

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

DREW A. McDOWELL, t/d/b/a	:	
McDOWELL'S REPAIR,	:	
Plaintiff	:	
	:	
vs.	:	No. 2008-380-CD
	:	
GEORGE F. NOVOSEL,	:	
Defendant	:	

**Settlement Agreement and Mutual Release**

This is a SETTLEMENT AGREEMENT AND MUTUAL RELEASE, dated September 4, 2008, by and between Drew A. McDowell t/d/b/a McDowell's Repair (hereinafter "Plaintiff") and George F. Novosel (hereinafter "Defendant"), in settlement of litigation pending in the Court of Common Pleas of Clearfield County at 2008-380-CD (hereinafter "Litigation").

WITNESSETH:

WHEREAS, in said Litigation, Plaintiff filed a Complaint against Defendant arising out of a contractual agreement whereby Plaintiff would perform repair work on a JCB 1550 backhoe (hereinafter "Backhoe") owned by Defendant;

WHEREAS, Defendant thereafter filed a Counterclaim against Plaintiff under the Pennsylvania Unfair Trade Practices and Consumer Protection Law, said Counterclaim relating to the same transaction described above;

WHEREAS, Plaintiff and Defendant have agreed to amicably resolve and settle the Litigation, upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises and of the agreements herein contained, which consideration is expressly acknowledged, and intending to be legally bound hereby, Plaintiff and Defendant agree as follows:

**I. Terms of Settlement**

- A. Defendant agrees to transfer possession of the Backhoe to Plaintiff with no monetary payment from Plaintiff to Defendant. Plaintiff expressly acknowledges that said Backhoe is being transferred to him in "as-is" condition, with no express or implied warranties;



- B. Plaintiff agrees to withdraw any repair charges for the Backhoe stemming from any work performed by him that is the subject of the Litigation;
- C. Plaintiff agrees to withdraw any storage charges for the Backhoe stemming from any storage of the Backhoe that is the subject of the Litigation.

## **II. Mutual Release**

- A. In consideration of the Terms of Settlement provided above, Plaintiff and Defendant do hereby remise, release, and forever discharge each other, as well as each other's successors, heirs, executors, administrators, assigns, agents, employees, officers, directors, insurers, and/or any and all other persons, firms, or entities with whom any of the former have been, are now, and/or may hereafter be affiliated, of and from any and all past, present, or future claims, demands, obligations, actions, causes of action, rights, demands, costs, expenses, and/or compensation of any nature whatsoever, whether based on a tort, contract, or other theory of recovery, and whether for compensatory or punitive damages, which the parties now have, or which may hereafter accrue or otherwise be acquired, on account of, or in any way arising from, or which are the subject of the Litigation, including, without limitation, any and all known or unknown, foreseen or unforeseen, matured or unmatured claims and the consequences thereof, which have resulted from the acts or omissions of either Plaintiff or Defendant.
- B. This Mutual Release on the part of the parties hereto shall be a fully binding and complete settlement between Plaintiff and Defendant and all parties represented by or claiming through Plaintiff and Defendant, save only the executory provisions of this Mutual Release.

## **III. Termination of Litigation**

Upon the execution of this Settlement Agreement and Mutual Release, counsel for Plaintiff shall file with the Court of Common Pleas of Clearfield County at 2008-360-CD an executed stipulation of dismissal with prejudice and/or an order to settle, discontinue, and end with prejudice the Litigation.

## **IV. No Admission of Liability**

Plaintiff and Defendant agree that neither party admits or denies any liability with respect to the claims and counterclaims contained in the Litigation. This Settlement Agreement and Mutual Release is made as a compromise of the disputed claims and counterclaims in the Litigation in order to avoid expense and to terminate all controversy between the parties.

## **V. Governing Law**

This Settlement Agreement and Mutual Release shall be construed in accordance with the substantive laws of the Commonwealth of Pennsylvania.

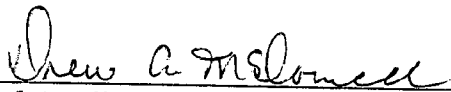
## **VI. Acknowledgment**

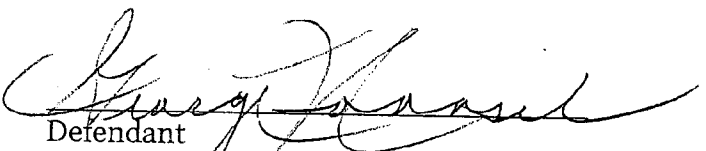
Plaintiff and Defendant acknowledge that they have read and fully understand the terms of this Settlement Agreement and Mutual Release and that they voluntarily accept the same for the purpose of making a full and final compromise and settlement of any and all claims and counterclaims contained in the Litigation and for the purpose of precluding any further controversy arising out of the subject matter of the Litigation.

## **VII. Complete Agreement**

This Settlement Agreement and Mutual Release constitutes the complete agreement between Plaintiff and Defendant with respect to the claims and counterclaims contained in the Litigation and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors, and assigns of each party. There are no other understandings or agreements, verbal or otherwise, in relation thereto, between the parties.

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement and Mutual Release the day and year first above written intending to be legally bound.

  
Plaintiff

  
Defendant

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

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

Vs.

GEORGE F. NOVOSEL,  
Defendant

No.: 2008- 380 - 20

Type of Case: Civil

Type of Pleading: Praecipe for  
Discontinuance

Filed on behalf of: Plaintiff

Counsel of record for this party:

John R. Carfley, Esq.  
PA ID No.: 17621  
P. O. Box 249  
Philipsburg, PA 16866  
814.342.5581

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William A. Shaw  
Prothonotary/Clerk of Courts  
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ATTY

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

DREW A. McDOWELL, t/d/b/a  
McDOWELL'S REPAIR,  
Plaintiff

vs.

GEORGE F. NOVOSEL,  
Defendant

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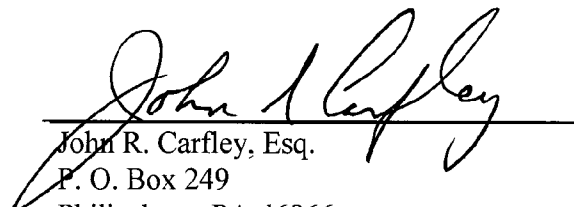
No.: 2008-380-CD

JURY TRIAL DEMANDED

PRAECIPE FOR DISCONTINUANCE

TO THE PROTHONOTARY:

Please mark the above captioned matter as settled, discontinued and ended upon payment of costs by the Plaintiff and upon further compliance with the terms of the Settlement Agreement and Mutual Release filed coincident and contemporaneous to the filing of this Praecipe.

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

Dated: 2-7-12