

08-1224-CD

JJ Powell Inc vs James B. Devine et al

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

J.J. POWELL, INC., :
Plaintiff : No. 2008- 1224-CD
vs. : Type of Case:
: CIVIL
JAMES B. DEVINE and :
DOROTHY E. DEVINE t/d/b/a : Type of Pleading
DID-IT TRUCKING, : COMPLAINT
Defendants :
: Filed on Behalf of:
: PLAINTIFF
: Counsel for This Party:
: Peter F. Smith, Esquire
: Supreme Court ID #34291
: P. O. Box 130
: 30 South Second Street
: Clearfield, PA 16830
: (814) 765-5595
:
:
:
:
:
:

FILED 1cc Atty Smith
01/03/08 2cc Sheriff
JUL 03 2008
William A. Shaw
Prothonotary/Clerk of Courts
Atty 95.00

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

J. J. POWELL , INC., :
Plaintiff : No. 2008-
:
vs. :
:
JAMES B. DEVINE and :
DOROTHY E. DEVINE t/d/b/a :
DID-IT TRUCKING, :
Defendants

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you, and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or other rights important to you.

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

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

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Clearfield County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

Clearfield County Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

J. J. POWELL, INC.,	:	
	:	
Plaintiff	:	No. 2008-
	:	
vs.	:	
	:	
JAMES B. DEVINE and	:	
DOROTHY E. DEVINE t/d/b/a	:	
DID-IT TRUCKING,	:	
	:	
Defendants	:	

COMPLAINT

COMES NOW, J. J. Powell, Inc., by its attorney Peter F. Smith, who states in support of this complaint:

1. The Plaintiff, **J. J. POWELL, INC.**, is a Pennsylvania business corporation with principal office in Philipsburg (Chester Hill), Clearfield County, Pennsylvania and with mailing address of P.O. Box 30, Philipsburg, Pennsylvania 16866.

2. The names of the Defendants are **JAMES B. DEVINE** and **DOROTHY E. DEVINE**, husband and wife. Their last known address is 5643 State Highway 184, Trout Run, (Lycoming County) Pennsylvania 17771.

3. The Defendants do business under the fictitious name of "Did-It Trucking." The last known address for this business is 5643 State Highway 184, Trout Run, (Lycoming County) Pennsylvania 17771.

4. Plaintiff sells gasoline, diesel fuel and petroleum products at the wholesale and retail levels.

5. Plaintiff and Defendants had a charge relationship. It was based on an account application signed and submitted by Defendant, James B. Devine, on behalf of the partners as the partnership's agency on 3/20/0002. A true and correct Copy of which is attached as Exhibit 1.

6. The contract between the parties was not formed until the Defendants' application was accepted and approved by Plaintiff at its main office in Clearfield County, Pennsylvania.

7. Commencing on or before May 30, 2006, Plaintiff permitted the Defendants to charge the purchase of diesel fuel and gasoline with a cardlock card.

8. Balances due would be billed by Plaintiff twice a month.

9. Bills were to be paid within ten (10) days of receipt.

10. All payments were to be made to the Plaintiff's office in Philipsburg, Clearfield County, Pennsylvania.

11. Amounts unpaid for more than ten (10) days accrued interest at the rate of 18% per annum.

12. A statement of the Defendants' account with the Plaintiff commencing on May 30, 2006 and continuing until May 31, 2008 is attached hereto and incorporated herein by reference as Plaintiff's Exhibit 2.

13. Written and oral demand have been made on the Defendants to pay the balance due, but he has failed to do so.

14. As of May 31, 2008, the amounts owed to Plaintiff by the Defendant for purchases of diesel fuel and gasoline pursuant to their agreement follows:

A)	Balance	\$11,653.63
B)	Finance Charges to 05/31/08	\$ 2,114.89
C)	Finance Charges accruing at \$5.30 per day from 5/15/08 (to be added)	\$
D)	Attorney fees (to be added)	\$
E)	Court costs (to be added)	\$ _____
	PRELIMINARY TOTAL	\$13,768.52
	FINAL TOTAL	\$ _____

WHEREFORE, Plaintiff prays this Honorable Court to enter judgment in its favor and against the Defendants James B. Devine, Dorothy E. Devine t/d/b/a Did-It Trucking in the amount of \$13,768.52 together with interest accruing after May 31, 2008, reasonable attorney fees and court costs.

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Plaintiff

Date: 7/31/08

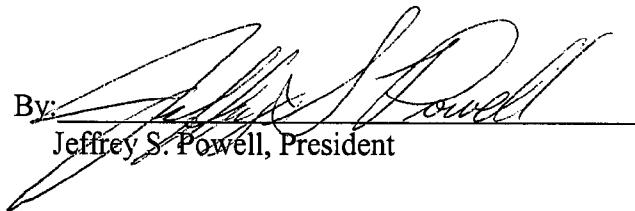
VERIFICATION

I verify that the statements made in this Complaint 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.

J. J. POWELL, INC.

Dated: 6/30/2008

By:


Jeffrey S. Powell, President

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

J. J. POWELL, INC.,	:	
Plaintiff	:	No. 2008-1224-CD
vs.	:	
JAMES B. DEVINE and	:	
DOROTHY E. DEVINE /d/b/a	:	
DID-IT TRUCKING,	:	
Defendants	:	

PRAECIPE TO DISCONTINUE

To: William A. Shaw, Prothonotary

Dear Sir:

I am counsel for the Plaintiff in the above-captioned matter. I request this action be discontinued due to the Defendant's discharge in Bankruptcy.

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Plaintiff
P. O. Box 130, 30 South Second St.
Clearfield, PA 16830
(814) 765-5595

Date: August 19, 2008

cc: J. J. Powell, Inc.
Stephen J. Banik, Esquire

FILED No. 2467
01/10/2008 | Cert. of Disc.
AUG 20 2008 to Atty. Smith
William A. Shaw
Prothonotary/Clerk of Courts (60)

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COPY

CIVIL DIVISION

J. J. Powell, Inc.

Vs.

No. 2008-01224-CD

**James B. Devine
Dorothy E. Devine
Did-It Trucking**

CERTIFICATE OF DISCONTINUATION

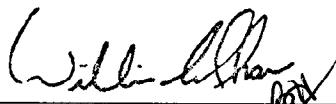
Commonwealth of PA
County of Clearfield

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 August 20, 2008, marked:

Discontinued

Record costs in the sum of \$95.00 have been paid in full by Peter F. Smith, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 20th day of August A.D. 2008.



William A. Shaw, Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104373
NO: 08-1224-CD
SERVICE # 1 OF 2
COMPLAINT

PLAINTIFF: J.J. POWELL, INC.

VS.

DEFENDANT: JAMES B. DEVINE and DOROTHY E. DEVINE t/d/b/a DID-IT TRUCKING

SHERIFF RETURN

NOW, July 10, 2008, SHERIFF OF LYCOMING COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON JAMES B. DEVINE t/d/b/a DID-IT TRUCKING.

NOW, July 18, 2008 AT 12:10 PM SERVED THE WITHIN COMPLAINT ON JAMES B. DEVINE t/d/b/a DID-IT TRUCKING, DEFENDANT. THE RETURN OF LYCOMING COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

FILED
07/31/2008
SEP 19 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104373
NO: 08-1224-CD
SERVICE # 2 OF 2
COMPLAINT

PLAINTIFF: J.J. POWELL, INC.

VS.

DEFENDANT: JAMES B. DEVINE and DOROTHY E. DEVINE t/d/b/a DID-IT TRUCKING

SHERIFF RETURN

NOW, July 10, 2008, SHERIFF OF LYCOMING COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON DOROTHY E. DEVINE t/d/b/a DID-IT TRUCKING.

NOW, July 18, 2008 AT 12:10 PM SERVED THE WITHIN COMPLAINT ON DOROTHY E. DEVINE t/d/b/a DID-IT TRUCKING, DEFENDANT. THE RETURN OF LYCOMING COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104373
NO: 08-1224-CD
SERVICES 2
COMPLAINT

PLAINTIFF: J.J. POWELL, INC.

vs.

DEFENDANT: JAMES B. DEVINE and DOROTHY E. DEVINE t/d/b/a DID-IT TRUCKING

SHERIFF RETURN

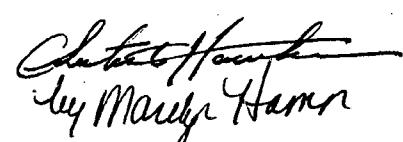
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	J.J. POWELL INC	29800	20.00
SHERIFF HAWKINS	J.J. POWELL INC	29800	21.00
LYCOMING CO.	J.J. POWELL INC.	29801	48.72

Sworn to Before Me This

____ Day of _____ 2008

So Answers,



Chester A. Hawkins
Sheriff

Case No 2008-01224 T
J.J. POWELL, INC. (VS) JAMES B. DEVINE, ET AL

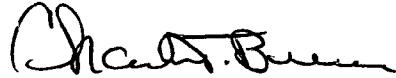
Date
Filed

7/03/08 COMPLAINT (FROM CLEARFIELD COUNTY). 75.00 DEPOSIT.

7/18/08 AT 12:10 P.M., SERVED THE WITHIN COMPLAINT UPON THE WITHIN NAMED DEFENDANT, JAMES B. DEVINE, T/D/B/A DID-IT-TRUCKING, BY HANDING A TRUE AND ATTESTED COPY OF SAME TO DOROTHY DEVINE, WIFE, AT 5643 STATE HIGHWAY 184, TROUT RUN, PA., AND BY MAKING KNOWN TO HER THE CCNTENTS THEREOF. SO ANSWERS, CHARLES T. BREWER, SHERIFF OF LYCOMING COUNTY; BY: MICHAEL L. SINGER, DEPUTY.

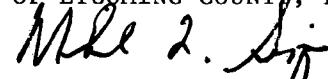
7/18/08 AT 12:10 P.M., SERVED THE WITHIN COMPLAINT UPON THE WITHIN NAMED DEFENDANT, DOROTHY E. DEVINE T/D/B/A DID-IT-TRUCKING, BY HANDING A TRUE AND ATTESTED COPY OF SAME TO HER PERSONALLY AT 5643 STATE HIGHWAY 184, TROUT RUN, PA., AND BY MAKING KNOWN TO HER THE CONTENTS THEREOF. SO ANSWERS, CHARLES T. BREWER, SHERIFF OF LYCOMING COUNTY; BY: MICHAEL L. SINGER, DEPUTY.

So Answers,



Charles T. Brewer,

SHERIFF OF LYCOMING COUNTY, PA.

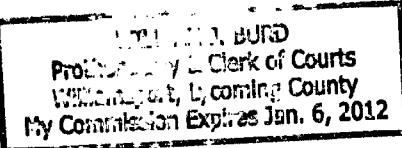
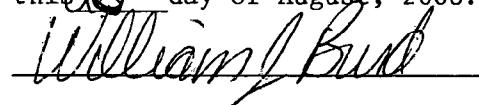


BY: Michael L. Singer,
Deputy

SHERIFF'S COSTS: \$48.72

PAID 8/14/08

Sworn and Subscribed before me
this 18 day of August, 2008.



PETER F. SMITH
ATTORNEY
30 SOUTH SECOND STREET
P.O. BOX 130
CLEARFIELD, PENNSYLVANIA 16830

(814) 765-5595
FAX (814) 765-6662

E-mail
pfsatty@verizon.net

Charles Brewer
Lycoming County Sheriff
Lycoming County Courthouse
48 West Third Street
Williamsport, PA 17701

Re: J.J. Powell, Inc. v. James B. & Dorothy E., Devine, t/d/b/a Did-It Trucking

Dear Sheriff Brewer:

I filed a Complaint in the matter above with the Clearfield County Prothonotary in Clearfield, Pennsylvania.

The Sheriff of Clearfield County has been directed to deputize you. He will forward two certified copies of the Complaint to you for service on the Defendants at the following address:

James B. Devine
Dorothy E. Devine
t/d/b/a Did-It Trucking
5643 State Highway 184
Trout Run, PA 17771

I enclose a check for your costs of service.

If you have any questions or additional information is needed, please do not hesitate to contact my office.

Sincerely,

Peter F. Smith

PFS/jac

Enclosure

cc: Jeffrey S. Powell, J. J. Powell, Inc.



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 104373

TERM & NO. 08-1224-CD

J.J. POWELL, INC.

COMPLAINT

VS.

JAMES B. DEVINE and DOROTHY E. DEVINE t/d/b/a DID-IT TRUCKING

SERVE BY: 08/02/08
COURT DATE:

MAKE REFUND PAYABLE TO J.J. POWELL INC.

SERVE: JAMES B. DEVINE t/d/b/a DID-IT TRUCKING

ADDRESS: 5643 STATE HIGHWAY 184, TROUT RUN, PA 17771

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF LYCOMING COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, July 10, 2008.

RESPECTFULLY,

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

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA



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 104373

TERM & NO. 08-1224-CD

J.J. POWELL, INC.

COMPLAINT

VS.

JAMES B. DEVINE and DOROTHY E. DEVINE t/d/b/a DID-IT TRUCKING

SERVE BY: 08/02/08
COURT DATE:

MAKE REFUND PAYABLE TO J.J. POWELL INC.

SERVE: DOROTHY E. DEVINE t/d/b/a DID-IT TRUCKING

ADDRESS: 5643 STATE HIGHWAY 184, TROUT RUN, PA 17771

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RESPECTFULLY,

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

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA