

08-1237-CD

Martin Harbaugh vs David Michaels

## COMMONWEALTH OF PENNSYLVANIA

## COURT OF COMMON PLEAS

Judicial District, County Of CLEARFIELD

46th

## NOTICE OF APPEAL

FROM

MAGISTERIAL DISTRICT JUDGE JUDGMENT

COMMON PLEAS No. 2008- 1237- CD

## NOTICE OF APPEAL

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

|  |   |                                 |
|--|---|---------------------------------|
| NAME OF APPELLANT<br>Martin Harbaugh, SR.  | MAG. DIST. NO.<br>46-3-04   | NAME OF MDJ<br>James L. Hawkins |
| ADDRESS OF APPELLANT<br>81 South Main Street, Box 216, Cherry Tree, PA 15724   | CITY  | STATE                           |
| DATE OF JUDGMENT<br>06/05/08   | IN THE CASE OF (Plaintiff)<br>Martin Harbaugh, Sr. vs. David Michaels   | (Defendant)                     |
| DOCKET No.<br>CV-0000018-08  | SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT<br> |                                 |
| <p>This block will be signed ONLY when this notation is required under Pa. R.C.P.D. J. No. 1008B.<br/>       This Notice of Appeal, when received by the Magisterial District Judge, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p>If appellant was Claimant (see Pa. R.C.P.D. J. No. 1001(6) in action before a Magisterial District Judge, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.</p> <p>Signature of Prothonotary or Deputy</p> |   |                                 |

pd \$95.00  
6/12/14 pm ICC Atty  
ICC deft  
III 07 2008 tsc mjt  
Hawkins

## PRAECLPICE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

William A. Shaw

Prothonotary/Clerk of Courts

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

PRAECLPICE: To Prothonotary

Enter rule upon \_\_\_\_\_ appellee(s), to file a complaint in this appeal

Name of appellee(s)

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

Signature of appellant or attorney or agent

RULE: To \_\_\_\_\_ appellee(s)

Name of appellee(s)

OWNER

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU.

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

Date \_\_\_\_\_, 20\_\_\_\_

Signature of Prothonotary or Deputy

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

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

**46-3-04**

MDJ Name: Hon

**JAMES L. HAWKINS**  
Address: **251 SPRING ST  
PO BOX 362  
ROUTE 11, PA**

Telephone: **(814) 378-7160 16651-0362**

**MARTIN HARBAUGH, SR**  
**81 S. MAIN ST**  
**PO BOX 216**  
**CHERRY TREE, PA 15724**

**NOTICE OF JUDGMENT/TRANSCRIPT  
CIVIL CASE**

PLAINTIFF:

NAME and ADDRESS

**HARBAUGH, SR, MARTIN**  
**81 S. MAIN ST**  
**PO BOX 216**  
**CHERRY TREE, PA 15724**

VS.

DEFENDANT:

NAME and ADDRESS

**MICHAELS, DAVID**  
**997 PATCHIN HWY**  
**CHERRY TREE, PA 15724**

Docket No.: **CV-0000018-08**  
Date Filed: **2/21/08**

**THIS IS TO NOTIFY YOU THAT:**Judgment: **FOR DEFENDANT**(Date of Judgment) **6/05/08**

|  |                                    |
|--|------------------------------------|
| <input checked="" type="checkbox"/> Judgment was entered for: (Name) <b>MICHAELS, DAVID</b>  | Amount of Judgment \$ <b>.00</b>   |
| <input checked="" type="checkbox"/> Judgment was entered against: (Name) <b>HARBAUGH, SR, MARTIN</b><br>in the amount of \$ <b>.00</b> | Judgment Costs \$ <b>.00</b>       |
| <input type="checkbox"/> Defendants are jointly and severally liable.  | Interest on Judgment \$ <b>.00</b> |
| <input type="checkbox"/> Damages will be assessed on Date & Time _____   | Attorney Fees \$ <b>.00</b>        |
| <input type="checkbox"/> This case dismissed without prejudice.  | Total \$ <b>.00</b>                |
| <input type="checkbox"/> Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127<br>\$ _____  | Post Judgment Credits \$ _____     |
| <input type="checkbox"/> Portion of Judgment for physical damages arising out of<br>residential lease \$ _____                         | Post Judgment Costs \$ _____       |
| Certified Judgment Total \$ _____  |                                    |

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE. UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

6-5-08 Date James L. Hawkins, Magisterial District Judge

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

Date \_\_\_\_\_, Magisterial District Judge

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

SEAL

AOPC 315-07

DATE PRINTED: **6/05/08 11:07:00 AM**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **CLEARFIELD**

**NOTICE OF JUDGMENT/TRANSCRIPT  
CIVIL CASE**

Mag. Dist. No.:

**46-3-04**

MDJ Name: Hon.

**JAMES L. HAWKINS**  
Address: **251 SPRING ST**  
**PO BOX 362**  
**HOUTZDALE, PA**  
Telephone: **(814) 378-7160** **16651-0362**

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

THIS IS TO NOTIFY YOU THAT:

**FOR DEFENDANT**

Judgment: \_\_\_\_\_ (Date of Judgment) **6/05/08**

|  |                                    |
|--|------------------------------------|
| <input checked="" type="checkbox"/> Judgment was entered for: (Name) <b>MICHAELS, DAVID</b>  | Amount of Judgment \$ <b>.00</b>   |
| <input checked="" type="checkbox"/> Judgment was entered against: (Name) <b>HARBAUGH, SR, MARTIN</b><br>in the amount of \$ <b>.00</b> | Judgment Costs \$ <b>.00</b>       |
| <input type="checkbox"/> Defendants are jointly and severally liable.  | Interest on Judgment \$ <b>.00</b> |
| <input type="checkbox"/> Damages will be assessed on Date & Time _____   | Attorney Fees \$ <b>.00</b>        |
| <input type="checkbox"/> This case dismissed without prejudice.  | Total \$ <b>.00</b>                |
| <input type="checkbox"/> Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127<br>\$ _____  | Post Judgment Credits \$ _____     |
| <input type="checkbox"/> Portion of Judgment for physical damages arising out of<br>residential lease \$ _____                         | Post Judgment Costs \$ _____       |
| Certified Judgment Total \$ _____  |                                    |

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

**FILED**  
JUL 11 2008  
CR

William A. Shaw  
Prothonotary/Clerk of Courts  
, Magisterial District Judge

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

**7-10-08** Date **James L. Hawkins**, Magisterial District Judge

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

SEAL

AOPC 315-07

DATE PRINTED: **6/05/08 11:07:00 AM**

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

MARTIN HARBAUGH SR., : NO. 2008-1237-CD  
Plaintiff :  
VS. : Type of Pleading: COMPLAINT  
DAVID MICHAELS, : Filed on Behalf of: PLAINTIFF  
Defendant : Counsel of Record:  
: GEORGE D. KULAKOWSKI, ESQUIRE  
: Supreme Court No. 35439  
: KULAKOWSKI LAW OFFICE  
: 41 East Main Street  
: Sykesville, PA 15865  
: (814) 894-5030

FILED NOCC  
M10:41804  
JUL 24 2008  
(B10)

William A. Shaw  
Prothonotary/Clerk of Courts

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

MARTIN HARBAUGH, SR., :  
Plaintiff :  
vs. : NO. 2008-1237-CD  
DAVID MICHAELS, :  
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

MARTIN HARBAUGH, SR., :  
Plaintiff :  
vs. : NO. 2008-1237-CD  
DAVID MICHAELS, :  
Defendant :  
.

**COMPLAINT**

AND NOW, comes the Plaintiff, **MARTIN HARBAUGH, SR.**, by and through his undersigned Attorney, **GEORGE D. KULAKOWSKI**, and files the following Complaint,

**GENERAL ALLEGATIONS AS TO ALL COUNTS**

1. The Plaintiff, Martin Harbaugh Sr., is an adult individual who resides at 81 South Main Street, P.O. Box 216, Cherry Tree, Pennsylvania, 15724.

2. The Defendant, David Michaels, is an adult individual who resides at 997 Patchin Highway, Cherry Tree, Pennsylvania, 15724.

3. At all times relevant to this Complaint the Plaintiff was the owner of a 1991 Chevrolet ¾ ton van, said van being an essential and necessary part of the Plaintiffs business.

4. At all times relevant to this Complaint the Defendant was believed to be the owner and operator of a 2006 Ford pick-up truck.

5. On September 27, 2007, at approximately 7:45 a.m., the Defendant was driving northbound on PA Route 219 just north of Cherry Tree, Pennsylvania.

6. The Plaintiff, was also driving north of Route 219 and was directly behind the Defendant.

7. Suddenly, without warning, and without the use of turn signals, the Defendant veered his vehicle to the left across the southbound lane of traffic and appeared to be

attempting to park his vehicle in a wide cleared out area adjacent to the southbound lane of travel.

8. Again, suddenly and without warning or the use of turn signals, the Defendant veered out of the cleared off area across the southbound lane of travel and back into the northbound lane of travel and struck the Plaintiff's vehicle on the drivers side, causing extensive damage to Plaintiff's vehicle.

#### **COUNT I - NEGLIGENCE**

9. Paragraphs 1 through 8 are hereby incorporated by reference as though they were set forth in full.

10. The Defendant, David Michaels, was negligent in the following respects:

- a. In failing to use his turn signals while changing lanes;
- b. In driving at an unsafe speed;
- c. In failing to keep a proper lookout for oncoming vehicles;
- d. In failing to yield to oncoming vehicles;
- e. In driving recklessly and without regard to other vehicles upon the highway;
- f. In failing to comply with the motor vehicle and traffic laws of the Commonwealth of Pennsylvania.

WHEREFORE, the Plaintiff demands judgment against the Defendant.

#### **COUNT II - DAMAGES**

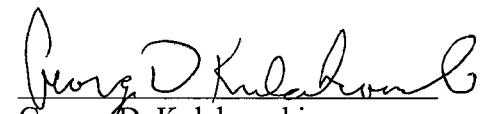
11. Paragraphs 1 through 10 are hereby incorporated by reference as though they were set forth in full.

12. As a result of the negligent driving of the Defendant the Plaintiff suffered damage to his 1991 Chevrolet ¾ ton van in the amount of \$3,510.63.

13. As a direct and proximate result of the negligence of the Defendant the Plaintiff suffered economic damages in the amount of \$800.00 due to his inability to use the van in the course of his business.

WHEREFORE, the Plaintiff demands judgment against the Defendant in the amount of \$4,310.63.

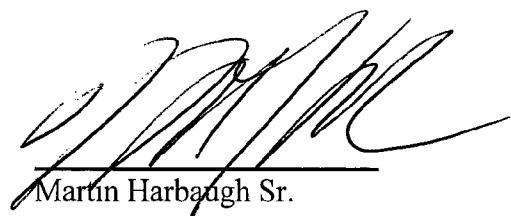
Respectfully submitted,

  
George D. Kulakowski  
Attorney for Plaintiff

## VERIFICATION

I, **Martin Harbaugh Sr.**, verify that the statements made in this Complaint, are true and correct to the best of my information, knowledge 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.

Date: 7/23/08



A handwritten signature in black ink, appearing to read "MARTIN HARBAUGH SR".

Martin Harbaugh Sr.

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

MARTIN HARBAUGH, SR.,  
Plaintiff

vs.

DAVID MICHAELS,  
Defendant

NO. 2008-1237-CD

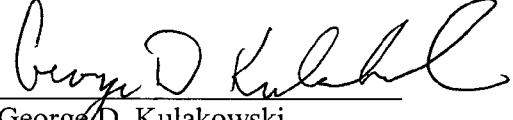
**FILED**

JUL 31 2008  
M/ 10:05/ (S)  
William A. Shaw  
Prothonotary/Clerk of Courts  
No. 4/ (S)

**CERTIFICATE OF SERVICE**

I, George D. Kulakowski, Attorney for the Plaintiff, do hereby certify that a filed copy of the Complaint in the above captioned matter was served upon the Defendant, David Michaels, via regular mail, on July 28, 2008 at the following address:

997 Patchin Highway  
Cherry Tree, PA 15724

  
George D. Kulakowski  
Attorney for Plaintiff

**FILED**  
in 1:00pm 6X  
**AUG 18 2008** *LLC Atty*

William A. Shaw  
Prothonotary/Clerk of Courts

*(610)*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARTIN HARBAUGH

CIVIL DIVISION

v.

**CASE NO. 2008-1237-CD**

DAVID MICHAELS

**ENTRY OF APPEARANCE**

FILED ON BEHALF OF DEFENDANT:

David Michaels

COUNSEL OF RECORD FOR THIS PARTY:

DONNA MARIE FLAHERTY, ESQ.  
PA No. 70403

LAW OFFICES OF TWANDA TURNER-  
HAWKINS  
600 Grant Street  
1180 U.S. Steel Tower  
Pittsburgh, PA 15219  
Telephone: 412-255-4142

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARTIN HARBAUGH

CIVIL DIVISION

V.

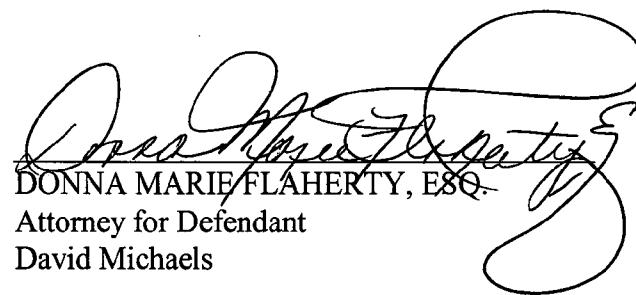
**CASE NO. 2008-1237-CD**

DAVID MICHAELS

**ENTRY OF APPEARANCE**

TO THE CLERK:

Please enter my Appearance on behalf of Defendant, David Michaels, in reference to the  
above captioned case.

  
DONNA MARIE FLAHERTY, ESQ.  
Attorney for Defendant  
David Michaels

I hereby certify that I have served a copy of this paper upon all other parties or their  
attorney of record by Regular US Mail

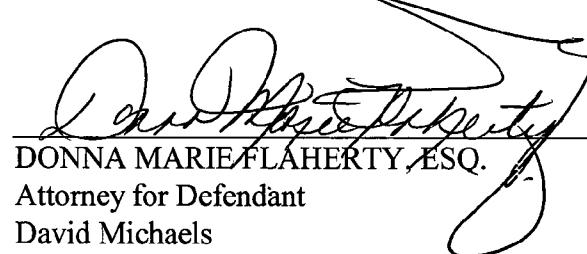
**CERTIFICATE OF SERVICE**

I do hereby certify that on August 14, 2008 service of a true and correct copy of the within entry of appearance was made on all relevant parties or their counsel of record pursuant to Pa.R.C.P. 440.

George D. Kulakowski, Esquire

41 East Main Street

Sykesville, PA 15865

  
DONNA MARIE FLAHERTY, ESQ.  
Attorney for Defendant  
David Michaels

FILED  
m 1:08 p.m. GK  
AUG 18 2008 ICC ATTY

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARTIN HARBAUGH

CIVIL DIVISION

v.

CASE NO. 2008-1237-CD

DAVID MICHAELS

**DEFENDANT'S ANSWER TO COMPLAINT  
AND NEW MATTER**

**FILED ON BEHALF OF DEFENDANT:**

**David Michaels**

COUNSEL OF RECORD FOR THIS PARTY:

DONNA MARIE FLAHERTY, ESQ.  
PA No. 70403

LAW OFFICES OF TWANDA TURNER-  
HAWKINS  
600 Grant Street  
1180 U.S. Steel Tower  
Pittsburgh, PA 15219  
Telephone: 412-255-4142

**TRIAL BY JURY OF TWELVE DEMANDED**

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

MARTIN HARBAUGH

CIVIL DIVISION

V.

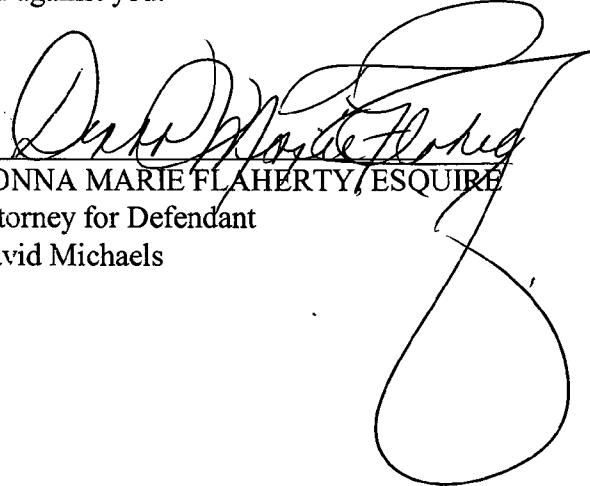
**CASE NO. 2008-1237-CD**

DAVID MICHAELS

**NOTICE TO PLEAD**

TO: Martin Harbaugh, Plaintiff  
c/o George D. Kulakowski, Esquire

You are notified to Plead to the enclosed Answer and New Matter within 20 days from the date of service or a judgment may be entered against you.

  
DONNA MARIE FLAHERTY, ESQUIRE  
Attorney for Defendant  
David Michaels

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

MARTIN HARBAUGH

CIVIL DIVISION

v.

CASE NO. 2008-1237-CD

DAVID MICHAELS

**DEFENDANT'S ANSWER TO COMPLAINT  
AND NEW MATTER**

Defendant, David Michaels, by and through the undersigned counsel, answers the Plaintiff's Complaint as follows:

1. DENIED. After reasonable investigation, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph.
2. ADMITTED.
3. DENIED. After reasonable investigation, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph.
4. ADMITTED.
5. ADMITTED.
6. DENIED. After reasonable investigation, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this paragraph.

7. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e). By way of further response, it is specifically denied that Answering Defendant was in any way negligent, careless, or reckless. To the contrary, at all times pertinent hereto Defendant acted reasonably, cautiously, and with due care.

8. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

**COUNT I**

9. DENIED. Defendant incorporates by reference his responses to the averments set forth in previous paragraphs as though same were fully set forth at length.

10. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

**COUNT II**

11. DENIED. Defendant incorporates by reference his responses to the averments set forth in previous paragraphs as though same were fully set forth at length.

12. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

13. DENIED. The allegations contained in this paragraph are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

WHEREFORE, Defendant demands Judgment in his favor and against all parties.

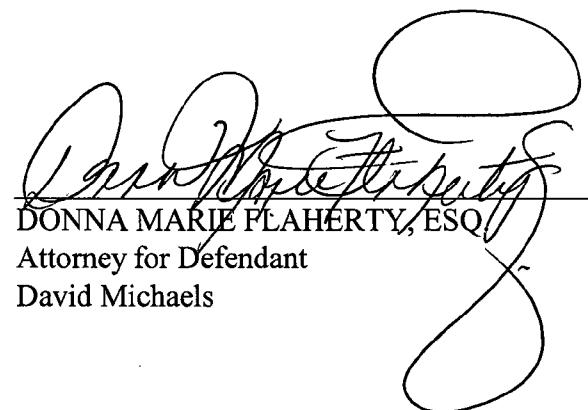
**DEFENDANT'S NEW MATTER AFFIRMATIVE DEFENSES**

**14. Failure to State Cause of Action**

The Civil Actions/Complaints of the Plaintiff fail to set forth a cause of action upon which relief can be granted.

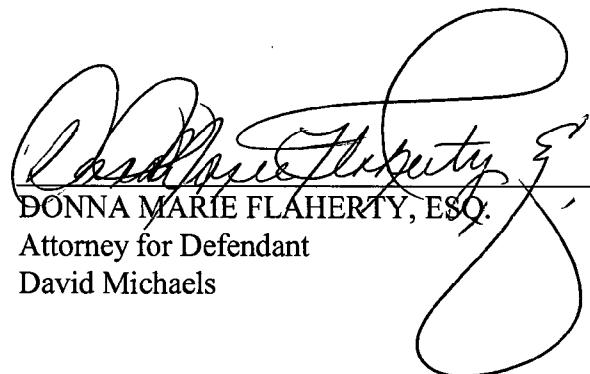
WHEREFORE, Defendant demands Judgment in his favor and against all parties.

**TRIAL BY JURY OF TWELVE DEMANDED.**

  
DONNA MARIE FLAHERTY, ESQ.  
Attorney for Defendant  
David Michaels

## VERIFICATION

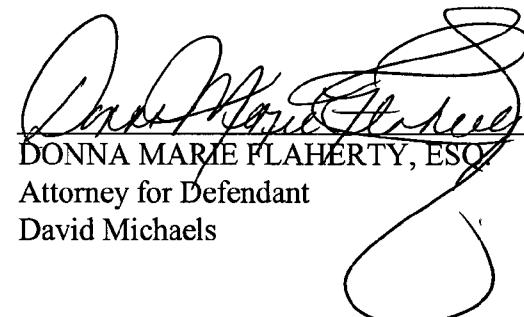
Donna Marie Flaherty, Esquire, states that he/she is the attorney for the within named Defendant, David Michaels, and the facts set forth in the foregoing pleading are true and correct to the best of his/her knowledge, information, and belief; and this statement is made subject to the penalties of 18 Pa. C. §4904, relating to unsworn falsification to authorities.

  
DONNA MARIE FLAHERTY, ESQ.  
Attorney for Defendant  
David Michaels

**CERTIFICATE OF SERVICE**

I do hereby certify that on August 14, 2008 service of a true and correct copy of the within pleading was made on all relevant parties or their counsel of record pursuant to Pa.R.C.P. 440.

George D. Kulakowski, Esquire  
Kulakowski Law Office  
41 East Main Street  
Sykesville, PA 15865

  
DONNA MARIE FLAHERTY, ESC  
Attorney for Defendant  
David Michaels

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

MARTIN HARBAUGH, SR.,  
Plaintiff

vs. : NO. 2008-1237-CD

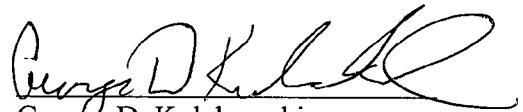
DAVID MICHAELS,  
Defendant

**ANSWER TO NEW MATTER**

14. It is specifically denied that the Plaintiff has failed to set forth a cause of action upon which relief can be granted.

WHEREFORE, Plaintiff demands Defendant's New Matter be dismissed.

Respectfully submitted,

  
George D. Kulakowski  
Attorney for Plaintiff

**FILED**  
in 10:46 a.m. GL  
SEP 12 2008  
1cc Atty  
William A. Shaw  
Prothonotary/Clerk of Courts  
(CIO)

## VERIFICATION

I, GEORGE D. KULAKOWSKI, verify that the statements set forth in the foregoing Answer to New Matter are true and correct to the best of my knowledge, information and belief. The information contained herein was supplied to me by the Plaintiff.

This statement and verification is made subject to the penalties of 18 Pa.C.S. 4904 relating to Unsworn Falsification to Authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.

Date: 9/16-08

  
George D. Kulakowski

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

Civil Trial Listing/Certificate of Readiness

Plaintiff(s): MARTIN HARBAUGH, SR.  
81 SOUTH MAIN STREET, P.O. BOX 216  
CHERRY TREE, PA. 15724

Case Number: NO. 2008-1237-C.D.

Defendant(s): DAVID MICHAELS  
997 PATCHIN HIGHWAY  
CHERRY TREE, PA 15724

5  
**FILED** Atty pd.  
MAY 11 2009 2000  
APR 02 2009  
ICC Atty  
William A. Shaw  
Prothonotary/Clerk of Courts  
Kulakowski

To the Prothonotary:

Arbitration Limit: \_\_\_\_\_  
Type Trial Requested:  Jury  Non-Jury  Arbitration  
Estimated Trial Time: 1 DAY

Jury Demand Filed By: \_\_\_\_\_  
Date Jury Demand Filed: \_\_\_\_\_

Please place the above-captioned case on the trial list. I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel.

George D. Kulakowski  
(Signature)

3/24/09  
(Date)

For the Plaintiff: GEORGE D. KULAKOWSKI, ESQUIRE (814) 894-5030 Telephone Number

For the Defendant: DONNA FLAHERTY, ESQUIRE (412) 255-4142 Telephone Number

For Additional Defendant: \_\_\_\_\_ Telephone Number

Certification of Current Address for all parties or counsel of record:

|                                   |                                       |   |
|-----------------------------------|---------------------------------------|---|
| Name: <u>GEORGE D. KULAKOWSKI</u> | Address: <u>41 EAST MAIN STREET</u>   | City/State/Zips: <u>ZIPSYKESVILLE, PA 15865</u> |
| Name: <u>DONNA FLAHERTY</u>       | Address: <u>1180 U.S. STEEL TOWER</u> | City/State/Zip: <u>PITTSBURGH, PA 15219</u>     |
| Name: _____                       | Address: <u>600 GRANT STREET</u>      | City/State/Zip: _____                           |
| Name: _____                       | Address: _____                        | City/State/Zip: _____                           |
| Name: _____                       | Address: _____                        | City/State/Zip: _____                           |
| Name: _____                       | Address: _____                        | City/State/Zip: _____                           |

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN HARBAUGH

v.

DAVID MICHAELS

CIVIL DIVISION

CASE NO. 2008-1237-CD

**MOTION TO CONTINUE ARBITRATION  
HEARING**

FILED ON BEHALF OF DEFENDANT: David  
Michaels

COUNSEL OF RECORD FOR THIS PARTY:

DONNA MARIE FLAHERTY, ESQ.  
PA No. 70403

LAW OFFICES OF TWANDA TURNER-  
HAWKINS  
600 Grant Street  
1180 U.S. Steel Tower  
Pittsburgh, PA 15219

Telephone: (412) 255-4142

FILED 1CC  
MAY 21 2009 Atty Flaherty  
S  
William A. Shaw  
Prothonotary/Clerk of Courts  
(610)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN HARBAUGH

v.

DAVID MICHAELS

CIVIL DIVISION

CASE NO. 2008-1237-CD

**MOTION TO CONTINUE ARBITRATION HEARING**

AND NOW, comes the Defendant, David Michaels, by and through the undersigned Counsel, Donna Marie Flaherty, Esquire, hereby moves the Court to enter an Order of Court to Continue the June 4, 2009 Arbitration Hearing to a later date.

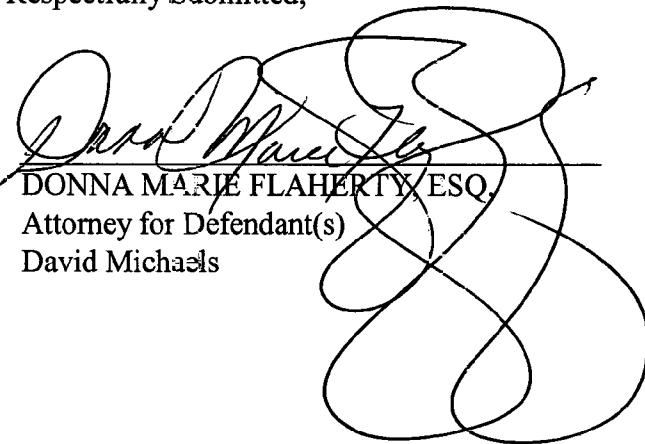
In support of this Motion, this Defendant aver(s) as follows:

1. The instant Civil Action is currently scheduled for an Arbitration Hearing to be held on Thursday, June 4, 2009 before a Board of Arbitrators of Clearfield County. All pertinent pleadings have been filed previously as on behalf of these respective parties accordingly.
2. The Defense, unfortunately, has scheduling conflicts relative to the June 4th scheduled hearing date.
3. Counsel for Plaintiff, Geogre D. Kulakowski, Esquire, has graciously agreed and has consented, via telephone, to a Continuance of the Arbitration Hearing to a later date.
4. This is the first request for a Continuance of the matter; as on behalf of either party to date; as this is the first listed hearing date.
5. Counsel for Defendant Michaels has contacted Attorney Kulakowski's staff and understands the following dates are dates upon which Attorney Kulakowski's schedule would accommodate,

in an attempt and effort by counsel to avoid any potential conflicts to Attorney Kulakowski by the rescheduling of this hearing to a later date: July 2<sup>nd</sup>, 7<sup>th</sup>, 9<sup>th</sup>, 23<sup>rd</sup>, 24<sup>th</sup>, 29<sup>th</sup>, 30<sup>th</sup> and 31<sup>st</sup> and August 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 12<sup>th</sup> and 19<sup>th</sup>.

**WHEREFORE**, the Defendant respectfully requests this Honorable Court to enter an Order continuing the Arbitration Hearing scheduled in this matter to a later date.

Respectfully Submitted,

  
DONNA MARIE FLAHERTY, ESQ.  
Attorney for Defendant(s)  
David Michaels

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN HARBAUGH

CIVIL DIVISION

V.

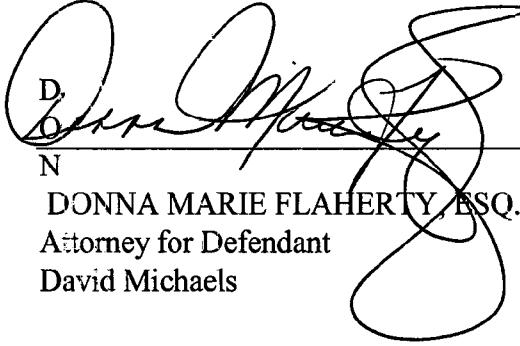
CASE NO. 2008-1237-CD

DAVID MICHAELS

**CERTIFICATE OF SERVICE**

I, Donna Marie Flaherty, Esquire, hereby certify that a true and correct copy of the within **MOTION TO CONTINUE ARBITRATION HEARING** was served upon all other parties or their attorney of record by First Class Mail and Facsimile on this 19<sup>th</sup> day of May, 2009.

**George D. Kulakowski, Esquire**  
41 E. Main Street  
Sykesville, PA 15865

  
D.  
N  
DONNA MARIE FLAHERTY, ESQ.  
Attorney for Defendant  
David Michaels

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN HARBAUGH

v.

DAVID MICHAELS

CIVIL DIVISION

CASE NO. 2008-1237-CD

FILED

MAY 22 2009

0/9:40/09

William A. Shaw

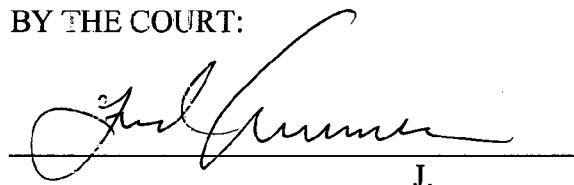
Prothonotary/Clerk of Courts

1000 to 1000

**ORDER OF COURT**

AND NOW, this 21 day of May, 2009, upon consideration of the foregoing Motion, it is hereby Ordered, Adjudged and Decreed that the Arbitration Hearing currently scheduled in this Civil Matter before a Board of Arbitrations for Thursday, June 4, 2009, shall be continued to Thursday, August 6, 2009 @ 9:00 A.M.

BY THE COURT:



Prothonotary/Clerk of Courts  
William A. Shaw

MAY 22 2009

**FILED**

Special Instructions:

Plaintiff(s)  Defendant(s)  Attorney

Plaintiff(s)  Plaintiff(s) Attorney  Other

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

You are responsible for serving all appropriate parties.

DATE: 5-22-09

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

MARTIN HARBAUGH

vs.

: No. 08-1237-CD

DAVID MICHAELS

FILED 

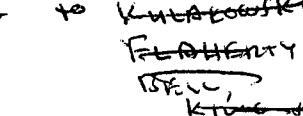
MAY 27 2009

05/27/09

William A. Shaw  
Prothonotary/Clerk of Courts

6

C/A



ORDER

NOW, this 27<sup>th</sup> day of May, 2009, it is the ORDER of the Court that the ~~hearing~~  
above-captioned matter shall be and is hereby continued from June 4, 2009 at 9:00 A.M. and  
rescheduled for Arbitration on Thursday, August 6, 2009 at 9:00 A.M. The following have  
been appointed as Arbitrators:

Richard A. Bell, Esquire, Chairman

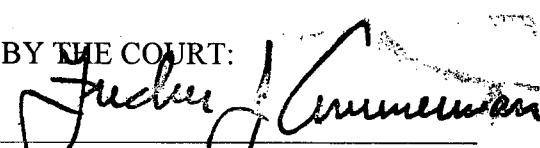
David P. King, Esquire

Mark A. Falvo, Esquire

Pursuant to Local Rule 1306A, you must submit your Pre-Trial Statement seven  
(7) days prior to the scheduled Arbitration. The original should be forwarded to the Court  
Administrator's Office and copies to opposing counsel and each member of the Board of  
Arbitrators. For your convenience, a Pre-Trial (Arbitration) Memorandum Instruction Form  
is enclosed as well as a copy of said Local Rule of Court.

Please report to Hearing Room No. 3, 2<sup>nd</sup> Floor, Clearfield County Courthouse,  
Clearfield, PA.

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN HARBAUGH

v.

DAVID MICHAELS

CIVIL DIVISION

CASE NO. 2008-1237-CD

**NOTICE OF CONTINUANCE OF  
ARBITRATION HEARING TO AUGUST 6,  
2009**

FILED ON BEHALF OF DEFENDANT: David Michaels

COUNSEL OF RECORD FOR THIS PARTY:

DONNA MARIE FLAHERTY, ESQ.  
PA No. 70403

LAW OFFICES OF TWANDA TURNER-  
HAWKINS  
600 Grant Street  
1180 U.S. Steel Tower  
Pittsburgh, PA 15219

Telephone: (412) 255-4142

FILED  
13/11/09  
JUN 03 2009  
S  
no cc  
GK

William A. Shaw  
Prothonotary/Clerk of Courts

**LAW OFFICES OF  
TWANDA TURNER-HAWKINS**

**1180 U.S. STEEL TOWER**

**600 GRANT STREET**

**PITTSBURGH, PENNSYLVANIA 15219**

*Susan D. O'Connell*

*Marianne C. Mnich*

*Laura R. Signorelli*

*Michael C. Maselli*

*Donna Marie Flaherty*

**Fax: (412) 471-6708**

**STAFF COUNSEL**

*Allstate Insurance Company*

*Encompass Insurance*

*All Attorneys are Employees of  
Allstate Insurance Company*

*This Office is not a Partnership or a Corporation*

*Attorney*

*Administrative Assistant*

*Scheduling*

**(412) 255-4142**

**(412) 255-4135**

**(877) 227-5067**

June 1, 2009

**George Kulakowski, Esquire  
41 East Main Street  
Sykesville, PA 15865**

Re: Harbaugh v. Michaels  
Court Number: 2008-1237-CD  
Date of Loss: 09/27/2007  
Our File Number: 2426721532.1

Dear Mr. Kulakowski:

Kindly allow this correspondence to serve as follow up to my recent voice mail messages; as well as the facsimile forwarded to your offices by my paralegal, June Randolph, on the 28<sup>th</sup> of May.

**Enclosed herein, please kindly find a true and correct copy of the Order Of Court continuing the Arbitration Hearing in the above captioned matter to Thursday, August 6, 2009 in Clearfield County.**

Your professional courtesies in agreeing to the Continuance is most appreciated; and I look forward to seeing you at the upcoming hearing in August. Thank you for your prompt attention to this matter.

Sincerely,

  
Donna Marie Flaherty  
dflah@allstate.com

dmf

W/Enclosures

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN HARBAUGH

V.

DAVID MICHAELS

CIVIL DIVISION

CASE NO. 2008-1237-CD

ORDER OF COURT

AND NOW, this 21<sup>ST</sup> day of MAY, 2009, upon consideration of the foregoing Motion, it is hereby Ordered, Adjudged and Decreed that the Arbitration Hearing currently scheduled in this Civil Matter before a Board of Arbitrations for Thursday, June 4, 2009, shall be continued to Thursday, Aug. 6, 2009 (A) 9:00

BY THE COURT:

/S/ Fredric J Ammerman

\_\_\_\_\_  
J.

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

MAY 22 2009

Attest.

*William H. Ammerman*  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN HARBAUGH

v.

DAVID MICHAELS

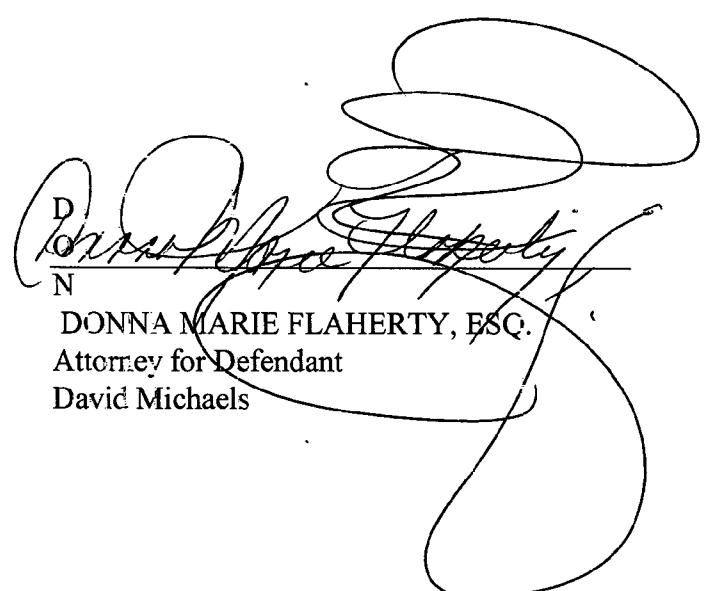
CIVIL DIVISION

CASE NO. 2008-1237-CD

**CERTIFICATE OF SERVICE**

I, Donna Marie Flaherty, Esquire, hereby certify that a true and correct copy of the within **NOTICE OF CONTINUANCE OF ARBITRATION HEARING TO AUGUST 6, 2009** was served upon all other parties or their attorney of record by First Class Mail on this 1st day of June, 2009.

**George D. Kulakowski, Esquire**  
**Attorney at Law**  
41 E. Main Street  
Sykesville, MD 21785

  
DONNA MARIE FLAHERTY, ESQ.  
Attorney for Defendant  
David Michaels

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

Martin Harbaugh Sr.

vs.

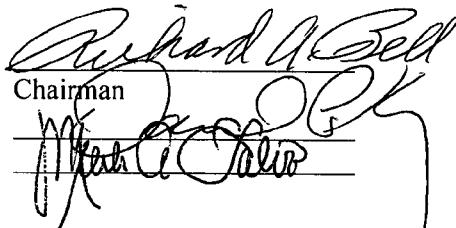
David Michaels

No. 2008-01237-CD

**OATH OR AFFIRMATION OF ARBITRATORS**

Now, this 6th day of August, 2009, we the undersigned, having been appointed arbitrators in the above case do hereby swear, or affirm, that we will hear the evidence and allegations of the parties and justly and equitably try all matters in variance submitted to us, determine the matters in controversy, make an award, and transmit the same to the Prothonotary within twenty (20) days of the date of hearing of the same.

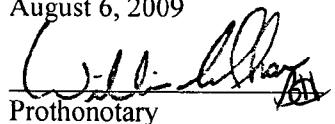
Richard A. Bell, Esq.

  
Richard A. Bell  
Chairman

David P. King, Esq.

Mark A. Falvo, Esq.

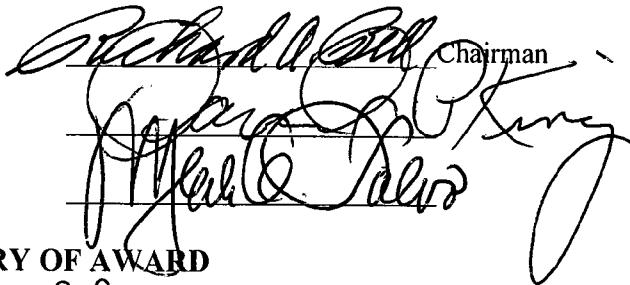
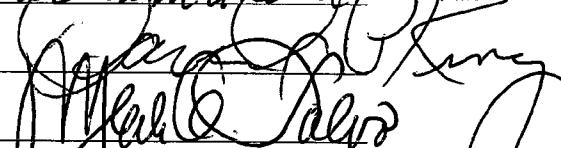
Sworn to and subscribed before me this  
August 6, 2009

  
Prothonotary

**AWARD OF ARBITRATORS**

Now, this 6 day of August, 2009, we the undersigned arbitrators appointed in this case, after being duly sworn, and having heard the evidence and allegations of the parties, do award and find as follows:

award for Plaintiff in the amount  
of \$ 1500.00 . No delay damages

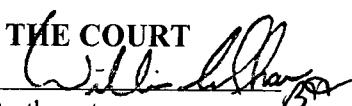
  
Richard A. Bell  
Chairman  
  
David P. King  
  
Mark A. Falvo

(Continue if needed on reverse.)

**ENTRY OF AWARD**

Now, this 6<sup>th</sup> day of August, 2009 I hereby certify that the above award was entered of record this date in the proper dockets and notice by mail of the return and entry of said award duly given to the parties or their attorneys.

**WITNESS MY HAND AND THE SEAL OF THE COURT**

  
Prothonotary  
By \_\_\_\_\_

**FILED**

025561  
AUG 06 2009

William A. Shaw  
Prothonotary/Clerk of Courts  
8/6/09 Notice mailed to  
Attorneys Kulakowski & Flaherty

**COPY**

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

Martin Harbaugh Sr. :

Vs. : No. 2008-01237-CD

David Michaels :

**NOTICE OF AWARD**

TO: George D. Kulakowski, Esq.

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on August 6, 2009, and have awarded:

Award for Plaintiff in the amount of \$1,500.00. No delay damages.



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

August 6, 2009

Date

This notice of award was placed on the docket and given by mail to the parties or their attorneys on August 6, 2009, at 2:56 p.m.

An Appeal from Award of Arbitration must be filed within thirty (30) days of date of award. Filing fee is fifty percent (50%) of the total award or the amount of compensation paid to the arbitrators, whichever is the least. Arbitrators' compensation to be paid upon appeal: \$825.00.

**COPY**

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

Martin Harbaugh Sr. :

Vs. : No. 2008-01237-CD

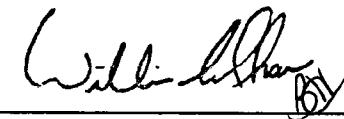
David Michaels :

**NOTICE OF AWARD**

TO: Donna Marie Flaherty, Esq.

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on August 6, 2009, and have awarded:

Award for Plaintiff in the amount of \$1,500.00. No delay damages.



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

August 6, 2009

Date

This notice of award was placed on the docket and given by mail to the parties or their attorneys on August 6, 2009, at 2:56 p.m.

An Appeal from Award of Arbitration must be filed within thirty (30) days of date of award. Filing fee is fifty percent (50%) of the total award or the amount of compensation paid to the arbitrators, whichever is the least. Arbitrators' compensation to be paid upon appeal: \$825.00.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN HARBAUGH

v.

DAVID MICHAELS

CIVIL DIVISION

CASE NO. 2008-1237-CD

**NOTICE OF APPEAL FROM AWARD OF  
BOARD OF ARBITRATORS**

**FILED ON BEHALF OF DEFENDANT:**

**David Michaels**

**COUNSEL OF RECORD FOR THIS PARTY:**

**DONNA MARIE FLAHERTY, ESQUIRE  
PA No. 70403**

**LAW OFFICES OF TWANDA TURNER-  
HAWKINS  
600 Grant Street  
1180 U.S. Steel Tower  
Pittsburgh, PA 15219**

**Telephone: (412) 255-4142**

CA  
S  
FILED 10/11/05 BY 1CC SEP 02 2009 (611)  
Atty  
Flaherty  
William A. Shaw  
Prothonotary/Clerk of Courts  
Atty pd.  
825.00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN HARBAUGH

CIVIL DIVISION

v.

CASE NO. 2008-1237-CD

DAVID MICHAELS

**NOTICE OF APPEAL FROM AWARD OF BOARD OF ARBITRATORS**

TO THE PROTHONOTARY:

Notice is given that David Michaels appeals from the Award of the Board of Arbitrators entered in this case on Thursday, August 06, 2009.

A Jury Trial of Twelve is demanded~~⊗~~. (Check if a jury trial is demanded. Otherwise jury trial is waived.)

I hereby certify that:

(Strike out the inapplicable clause.)

- (1) the compensation of the arbitrators has been paid, or;
- (2) ~~application has been made for permission to proceed in forma pauperis.~~

*David Michaels*  
Appellant or Attorney for Appellant

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

Martin Harbaugh Sr. :

Vs. : No. 2008-01237-CD

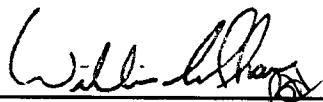
David Michaels :

NOTICE OF AWARD

TO: Donna Marie Flaherty, Esq.

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on August 6, 2009, and have awarded:

Award for Plaintiff in the amount of \$1,500.00. No delay damages.



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

August 6, 2009

Date

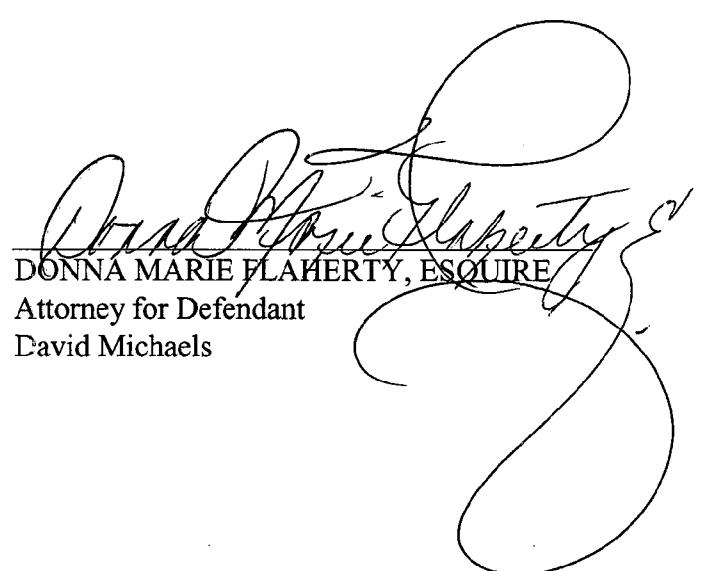
This notice of award was placed on the docket and given by mail to the parties or their attorneys on August 6, 2009, at 2:56 p.m.

An Appeal from Award of Arbitration must be filed within thirty (30) days of date of award. Filing fee is fifty percent (50%) of the total award or the amount of compensation paid to the arbitrators, whichever is the least. Arbitrators' compensation to be paid upon appeal: \$825.00.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on August 31, 2009, a true and correct copy of the foregoing NOTICE OF APPEAL FROM AWARD OF BOARD OF AREITRATORS was mailed to:

**George Kulakowski, Esquire  
Kulakowski Law Office  
41 East Main Street  
Sykesville, PA 15865**

  
DONNA MARIE FLAHERTY, ESQUIRE  
Attorney for Defendant  
David Michaels

**ARBITRATION APPEAL  
DATA COLLECTION RECORD**

CASE NUMBER: 2008-1237-CD

DATA CASE FILED: 8/5/2008

PLAINTIFF(S): Martin Harbaugh  
PLAINTIFF'S STATE I.D.# CASE CLASS CODES:  
ATTORNEY(S): George Kulakowski  
Trespass – Motor Vehicle 001  
Trespass – Ag. Prop Own. 003  
Trespass – Prod. Liab. 004  
Trespass – R.E.L.A. 005  
Trespass – A & B 006  
Trespass – Med/Hosp/Mal 007  
Trespass – Defamation 008  
Trespass – Other 009  
Assumpsit 010  
Assumpsit/Trespass 011  
STATE I.D.# CASE CLASS CODES:  
DEFENDANT(S): David Michaels  
ATTORNEY(S): Donna Marie Flaherty  
70403 Comp. In Ejectment 040  
Mech. Lein Complaint 060  
Replevin 100  
Mortgage Foreclosure 140  
Miscellaneous 190

Date of Arbitration Board Hearing: Thursday, August 6, 2009  
Month – Day – Year

Award for: Plaintiff

Date of Appeal August 31, 2009  
Party Taking Appeal: Defendant

XXXXXXXXXXXX Jury  
XXXXXXXXXXXX Non-Jury

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

MARTIN HARBAUGH :  
vs. : No. 08-1237-CD  
DAVID MICHAELS :

O R D E R

AND NOW, this 2nd day of December, 2009, it is the Order of the Court that a Non-Jury pre-trial conference in the above-captioned matter shall be and is hereby scheduled for Wednesday, December 16, 2009 at 10:30 A.M. in Judges Chambers, Clearfield County Courthouse, Clearfield, PA.

Additionally, Jury Selection in this matter shall be and is hereby scheduled for January 5, 2010 at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

  
PAUL E. CHERRY  
Judge

FILED *ICC, Attn's:*  
*01256cm* *Kulakowski*  
DEC 02 2009 *Flaherty*

William A. Shaw  
Prothonotary/Clerk of Courts

(60)

# FILED

DEC 02 2009

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 12.2.2009

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

MARTIN HARBAUGH, SR., :  
Plaintiff :  
vs. : No. 2008-1237-CD  
DAVID MICHAELS, :  
Defendant :  
:

**PRAECIPE FOR DISCONTINUANCE**

TO THE PROTHONOTARY:

Mark the above captioned case discontinued and ended.

Respectfully submitted by,



George D. Kulakowski

Attorney for Plaintiff

5  
**FILED** No CC  
09/14/09  
DEC 14 2009  
Copy to CIA  
William A. Shaw  
Prothonotary/Clerk of Courts



**KULAKOWSKI  
LAW OFFICE**

**GEORGE D. KULAKOWSKI, Esq.**

**41 EAST MAIN STREET**

**SYKESVILLE, PA 15865**

**PH 814-894-5030**

**FAX 814-894-5035**

*Arbitration  
8/6*

July 29, 2009

Clearfield County Court Administrator  
230 E. Market Street  
Clearfield, PA 16830

**Re: Martin Harbaugh, Sr. vs. David Michaels  
No. 1237 of 2008 C.D.**

Dear Madam or Sir,

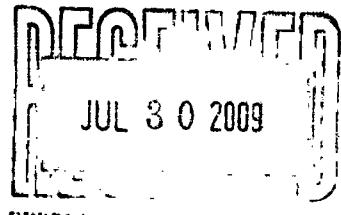
Enclosed please find Plaintiff's Pre-Trial Statement with regard to the above captioned case.

Yours very truly,

George D. Kulakowski  
Attorney at Law

Enclosure

GDK/kll



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

**MARTIN HARBAUGH, SR.** :  
Plaintiff :  
vs. :  
: No. 1237 of 2008 C.D.  
:  
**DAVID MICHAELS,** :  
Defendant :  
: Counsel of Record for this Filing Party:  
: GEORGE D. KULAKOWSKI, ESQUIRE  
: KULAKOWSKI LAW OFFICE  
: 41 East Main Street  
: Sykesville, PA 15865  
: (814) 894-5030

**PLAINTIFF'S PRE-TRIAL STATEMENT**

**1. NARRATIVE STATEMENT OF FACTS**

On September 27, 2007, the parties were involved in an automobile accident. The accident occurred Northbound on PA Route 219 north of Cherry Tree Pennsylvania. The Plaintiff was driving North on Route 219 directly following the Defendant. Suddenly and without warning or use of turn signals the Defendant veered his vehicle to the left across the Southbound lane of traffic. The Defendant then veered back into the Northbound lane of travel and struck the Plaintiff's vehicle on the driver's side causing damage to the Plaintiff's vehicle.

**2. UNUSUAL QUESTIONS OF LAW**

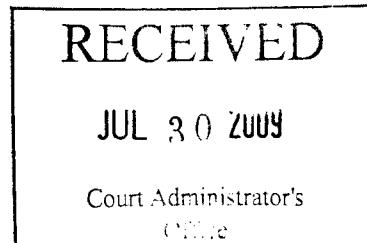
None

**3. WITNESSES**

Martin Harbaugh, Plaintiff, liability and damages

815 Main Street

Cherry Tree, PA



John Berish, damages  
213 Brewer Avenue  
Patton, PA

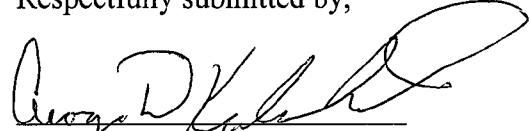
4. EXHIBITS

Photographs of accident scene  
Map of accident scene  
Business records of Plaintiff

5. ESTIMATED TIME OF TRIAL

Three hours

Respectfully submitted by,



George D. Kulakowski, Esquire

**LAW OFFICES OF  
TWANDA TURNER-HAWKINS**

**1180 U.S. STEEL TOWER  
600 GRANT STREET**

**PITTSBURGH, PENNSYLVANIA 15219**

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July 28, 2009

**Office of Court Administrator**

Clearfield County Courthouse  
230 East Market Street, Suite 228  
Clearfield, PA 16830

Re: **Harbaugh v. Michaels**

Court Number: 2008-1237-CD  
Our File Number: 2426721532.1

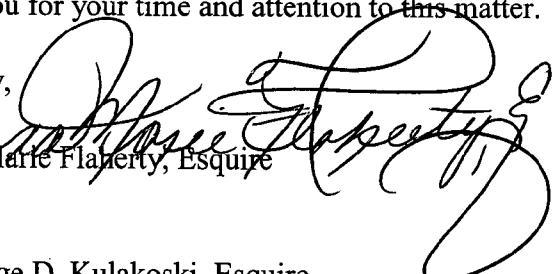
Dear Sir or Madam:

Enclosed please find a **Pre-Trial (Arbitration) Memorandum** filed on behalf of the defendant, David Michaels, regarding the above captioned case.

Please file the original and return the time stamped copy to me. I have enclosed a self-addressed, stamped envelope for your convenience.

Thank you for your time and attention to this matter.

Sincerely,

  
Donna Marie Flaherty, Esquire

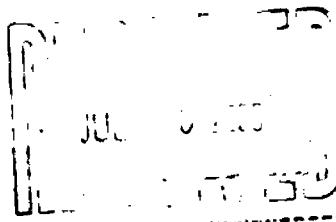
dmf

ct: George D. Kulakoski, Esquire

Richard A. Bell, Esquire

David P. King, Esquire

Mark A. Falvo, Esquire



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

MARTIN HARBAUGH

CIVIL DIVISION

V.

CASE NO. 2008-1237-CD

DAVID MICHAELS

**DEFENDANT'S PRE-TRIAL MEMORANDUM**

**FILED ON BEHALF OF DEFENDANT: David  
Michaels**

COUNSEL OF RECORD FOR THIS PARTY:

DONNA MARIE FLAHERTY, ESQUIRE  
PA No. 70403

LAW OFFICES OF TWANDA TURNER-  
HAWKINS  
600 Grant Street  
1180 U.S. Steel Tower  
Pittsburgh, PA 15219

Telephone: (412) 255-4142

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
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MARTIN HARBAUGH

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FILED ON BEHALF OF DEFENDANT: David Michaels

COUNSEL OF RECORD FOR THIS PARTY:

DONNA MARIE FLAHERTY, ESQUIRE  
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**DEFENDANT'S PRE-TRIAL MEMORANDUM**

AND NOW, comes the Defendant, David Michaels, by and through the undersigned counsel, Donna Marie Flaherty, Esquire, and Pursuant to the Local Rules of Court of Clearfield County states as follows:

**I. BRIEF NARRATIVE STATEMENT OF CASE**

The within Civil Action Suit arises from a motor vehicle accident occurring on or about September 27, 2007 along PA Route 219 Northbound. On said date, a collision did occur as between these respective parties vehicles from which the plaintiff has alleged property damages.

Moreover, there are conflicting versions of the circumstances surrounding the subject incident; and liability is contested and disputed in this action before the Court. Defendant would aver the affirmative defenses as cited below and herein.

**II. CITATION TO APPLICABLE CASE OR STATUTES:**

- 1.) **75 Pa. C.S. Section 3361-Driving vehicle at safe speed (Assured Clear Distance Rule)**
- 2.) **Pennsylvania Comparative Negligence Act, 42 Pa. C.S.A. Section 7102**

**III. LIST OF WITNESSES:**

**A. Liability**

- a. All respective parties to this action as named herein;

This Defendant reserves the right to call as liability witnesses any individual identified in the Pre-Trial Statement of other parties

**B. Damages:**

- a. All respective parties to this action as named herein;

This Defendant reserves the right to call as damage witnesses any individual identified in the Pre-Trial Statement of other parties.

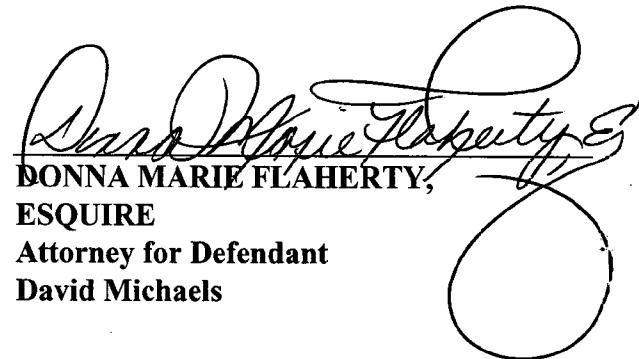
**III. LIST OF EXHIBITS**

Defendant, David Michaels, may offer any or all of the following Exhibits at the time of trial:

- A. All pleadings and discovery documents for case number 2008-1237-CD;
- B. Plaintiff's property damage repair estimate and/or bills;
- C. Defendant's property damage repair estimate and/or bills;
- D. Photographs of vehicular damage;
- E. Photographs of the scene of the occurrence;
- F. Any exhibits listed in the Pre-Trial Statements of all other parties.

**RESERVATIONS**

This Defendant reserves the right to modify or amend this Pre-Trial Statement at any time up to and including the time of trial.

  
DONNA MARIE FLAHERTY,  
ESQUIRE  
Attorney for Defendant  
David Michaels

**CERTIFICATE OF SERVICE**

I do hereby certify that I have served a copy of Defendant(s) Pretrial Memorandum upon all other parties or their attorney of record by First Class Mail on this 28th day of July, 2009

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*Donna Marie Flaherty, Esq.*  
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Attorney for Defendant(s)  
David Michaels