

08-2021-CD

Graham Trucking vs Transportation P.S.

CIVIL DIVISION - LAW

Defendant

[illegible]

David R. Thompson, Esq.
Attorney at Law
Supreme Court I.D. 73053
P.O. Box 587
308 Walton Street, Suite 4
Philipsburg PA 16866
(814) 342-4100

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL ACTION - LAW

GRAHAM TRUCKING, INC.,

Plaintiff

VS.

TRANSPORTATION PERSONNEL
SERVICES, INC.,

Defendant

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No. 08-

TYPE OF CASE:
Civil Action - Law

TYPE OF PLEADING:
Complaint

NOTICE

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 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 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 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.

Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641


David R. Thompson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL DIVISION - LAW

GRAHAM TRUCKING, INC.

Plaintiff

vs.

TRANSPORTATION PERSONNEL
SERVICES, INC.

Defendant

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No. 08-

COMPLAINT

1. Plaintiff Graham Trucking is a Pennsylvania corporation with its principal place of business at 158 Als Road, RR1 Box 529B, Woodland, Pennsylvania, 16880.

2. Defendant Transportation Personnel Services (hereinafter: TPS) is believed to be an Illinois corporation with its principal place of business at P.O. Box 3753, 1000 Jorie Boulevard, Suite 228, Oak Brook, Illinois, 60522-3753.

3. Defendant Superior Business Solutions (hereinafter: Superior) is believed to be an Illinois corporation with its principal place of business at 1000 Jorie Boulevard, Suite 228, Oak Brook, Illinois, 60523.

3. On or about June 10, 2001, Plaintiff entered into a valid Service Agreement (hereinafter Service Agreement) with Superior Business Solutions. A true and correct copy of which is attached hereto as exhibit "A".

4. At some point between June 10, 2001 and the present it is believed that Defendant TPS acquired Defendant Superior and assumed all contracts, debts, and

liabilities of Superior.

5. On or about December 20, 2007, Plaintiff received a letter from the Pennsylvania Department of Labor and Industry Office of Unemployment Compensation Tax Services (hereinafter: UC Tax Office) that stated that their Pennsylvania Unemployment Compensation (UC) account showed a balance due of \$4,652.48 excluding legal costs. By way of further pleading the letter also includes a spreadsheet denoting the various UC contributions made by Plaintiff. A true and correct copy of the letter and spreadsheet is attached hereto as exhibit "B".

6. On or about June 27, 2008, Plaintiff received another letter from the UC Tax Office stating the balance due had increased to \$7,228.28. A true and correct copy of the letter and spreadsheet is attached hereto as exhibit "C".

7. On or about September 30, 2008, Plaintiff received another letter from the UC Tax Office stating the balance due had increased to \$7,352.27. A true and correct copy of the letter and spreadsheet is attached hereto as exhibit "D".

8. On or about July 28, 2008 the UC Tax Office responded to inquires made by Plaintiff's counsel which indicated that an incorrect rate was used by TPS to calculate the Employee UC tax. A true and correct copy of the letter and spreadsheet is attached hereto as exhibit "E".

COUNT I

BREACH OF CONTRACT

Paragraphs 1 - 8 are hereby incorporated by reference as though the same were set forth at length herein:

9. Section 3.1(a) of the Service Agreement states: Superior is the Administrative Employer of the co-employees and is responsible for: a. payment of wages and compliance with rules and regulations governing the reporting and payment of federal and state payroll taxes on wages paid under this Agreement including, but not limited to; (i) federal income tax withholding provisions of the Internal Revenue Code, (ii) state and/or local income tax withholding provisions, if applicable, (iii) Federal Insurance Contributions Act (FICA), (iv) Federal Unemployment Tax Act (FUTA) and (v) applicable state employment laws.

10. The Service Agreement represents a valid contract between Plaintiff and Defendant TPS and/or Defendant Superior.

11. Defendant TPS and/or Defendant Superior has failed to perform its/their obligations under section 3.1(a) of the Service Agreement in the following ways:

A. The Defendant(s) failed to correctly calculate the UC tax assessed by the applicable state laws.

B. The Defendant(s) failed to keep Plaintiff compliant with all applicable state tax laws.

12. Defendant(s) has/have been informed of its breach by Plaintiff.

13. Defendant(s) has/have refused to remedy its/their breach.

14. As a consequence of the breach by Defendant(s), Plaintiff is in violation of the appropriate Pennsylvania UC Tax Laws.

15. As a further consequence, Plaintiff has been assessed with fines, interest and penalties.

16. As of September 30, 2008, Plaintiff is reported to owe \$7,352.27.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendants in an amount of \$7,352.27 plus reasonable interest.

COUNT II

ATTORNEY FEES

Paragraphs 1 - 16 are hereby incorporated by reference as though the same were set forth at length herein:

17. Plaintiff has had to hire counsel at a rate of \$125.00 per hour to assist with the prosecution of this action.

WHEREFORE, Plaintiff demands that judgement be entered in his favor and against Defendants for reasonable attorney fees.

Respectfully Submitted




David R. Thompson, Esquire

VERIFICATION

I certify that the facts set forth in the foregoing **COMPLAINT** is true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of 18 Pa. C. S. § 4904, relating to unsworn falsification to authorities.

Dated:


Darrin Graham

CIVIL ACTION - LAW

PLAINTIFF

TRANSPORTATION PERSONNEL
SERVICES, INC.,

DEFENDANT

[illegible]

TYPE OF CASE:
Civil Action - Law

Affidavit of Service

COUNSEL OF RECORD FOR THIS PARTY:

David R. Thompson, Esquire
P.O. Box 587
Philipsburg, PA 16866
(814) 342-4100
I.D. No. 73053

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FILED
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William A. Shaw
Prothonotary/Clerk of Courts
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Amy (60)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

GRAHAM TRUCKING, INC.,

PLAINTIFF

VS.

TRANSPORTATION PERSONNEL
SERVICES, INC.,

DEFENDANT

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No. 08-2021-CD

AFFIDAVIT OF SERVICE

I, DAVID R. THOMPSON, Esquire, hereby certify that I have caused to be served a certified copy of the **COMPLAINT** in the above captioned matter. I served the same by depositing in the U.S. Mail, postage prepaid, certified mail, return receipt requested, addressed as follows:

Transportation Personnel Services, Inc.
P.O. Box 3753
1000 Jorie Boulevard
Suite 228
Oak Brook, IL 60522-3753

DATED:



David R. Thompson, Esquire
Attorney for Plaintiff

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Transportation Personnel
Services, Inc.
PO Box 3753
1000 Jorie Boulevard
Suite 228
Oak Brook, IL 60522-3753

2. Article Number

(Transfer from service label)

7008 1300 0001 8477 9452

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

10/31/18

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☐ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

CIVIL DIVISION - LAW

Plaintiff

VS

Defendant

08-2021 CD
No. 08-588-CD

TYPE OF CASE
Civil Case

TYPE OF PLEADING:
Certificate of Service

FILED ON BEHALF OF:
Plaintiff

COUNSEL OF RECORD FOR
THIS PARTY:

David R. Thompson, Esq.
Attorney at Law
Supreme Court I.D. 73053
P.O. Box 587
308 Walton Street, Suite 4
Philipsburg PA 16866
(814) 342-4100


FILED
012:24601
FEB 11 2009

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, David R. Thompson, Esquire, hereby certify that an original copy of the Plaintiff's 10 Day Default Notice was served upon Defendant, Transportation Personnel Services Inc., by First Class U.S. Mail, postage prepaid, this 26th day of January, 2009, at the following address:

Transportation Personnel Services, Inc.
PO Box 3753
1000 Jolie Boulevard
Suite 228
Oak Brook, IL 60522-3753



David R. Thompson, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL ACTION - LAW

GRAHAM TRUCKING, INC.,

Plaintiff

VS

TRANSPORTATION PERSONNEL
SERVICES, INC.,

Defendant

2021
No. 08-588-CD

TYPE OF CASE
Civil Case

TYPE OF PLEADING:
Praeipe for Entry of
Default Judgment

FILED ON BEHALF OF:
Plaintiff

COUNSEL OF RECORD FOR
THIS PARTY:
David R. Thompson, Esquire
Attorney at Law
Supreme Court I.D. 73053
P.O. Box 587
308 Walton Street, Suite 4
Philipsburg PA 16866
(814) 342-4100

FILED
JUN 24 2009
William A. Shaw
Prothonotary/Clerk of Courts
Atty Paid 20.00
3 CC Atty
1 CC Def.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

GRAHAM TRUCKING, INC.,

Plaintiff

vs.

TRANSPORTATION PERSONNEL
SERVICES, INC.,

Defendant

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No. 08-588-CD

NOTICE OF ENTRY OF JUDGMENT

TO ALL PARTIES:

Please take notice that Judgment in the above-captioned action was entered in the office of the Prothonotary of Clearfield County on this 24th day of June, 2009. A copy of the judgment is attached hereto, together with a Statement of Costs and Disbursements.

Dated: June 24, 2009

By: William L. Hester GIL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA

CIVIL ACTION - LAW

GRAHAM TRUCKING, INC.,

Plaintiff

vs.

TRANSPORTATION PERSONNEL
SERVICES, INC.,

Defendant

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No. 08-588-CD

Praecipe for Entry of Default Judgment

TO THE PROTHONOTARY:

1. Plaintiff Graham Trucking is a Pennsylvania corporation with its principal place of business at 158 Als Road, RR1 Box 529B, Woodland, Pennsylvania, 16880.

2. Defendant Transportation Personnel Services (hereinafter: TPS) is believed to be an Illinois corporation with its principal place of business at P.O. Box 3753, 1000 Jorie Boulevard, Suite 228, Oak Brook, Illinois, 60522-3753.

3. On October 22, 2008, Plaintiff filed a Complaint in the Clearfield County Courthouse with an attached Notice to Plead within Twenty (20) days to the above captioned matter. Said Complaint and Notice are hereby incorporated by reference to records in the Courthouse of the filing of this Praecipe.

4. On November 10, 2008, Plaintiff's attorney completed and filed an Affidavit of Service with Clearfield County Courthouse Prothonotary's Office. Said Affidavit is hereby incorporated by reference to records in the Courthouse of the filing of this Praecipe.

5. On January 26, 2009, Plaintiff filed and served an important notice on Defendant in the form required by law.

6. As of this date no responsive pleading has been filed by Defendant TPS.

WHEREFORE, Plaintiff requests that default judgment be entered in his favor and against Defendant TPS in the amount of \$7,352.27 plus statutory interest.

Respectfully Submitted,



David R. Thompson, Esquire

**COUNSEL OF RECORD FOR
THIS PARTY:**
Joseph M. Scipione, Esq.
Attorney at Law
Supreme Court I.D. 210163
P.O. Box 587
308 Walton Street, Suite 4
Philipsburg PA 16866
(814) 342-4100

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

GRAHAM TRUCKING, INC.,

Plaintiff

vs.

TRANSPORTATION PERSONNEL
SERVICES, INC.,

Defendant

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No. 08-2021-CD

CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

I, **JOSEPH M. SCIPIONE, ESQUIRE**, do hereby certify that I served a true and correct copy of the **Praecipe for Entry of Default Judgment** in the above captioned matter by depositing the same in the U.S. First Class Mail, postage prepaid, addressed as follows:

Lane M. Gensburg, Esq.
DALE & GENSBURG, P.C.
200 West Adams Street
Suite 2425
Chicago, IL 60606

DATE:

BY:


Joseph M. Scipione, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

GRAHAM TRUCKING, INC.,

Plaintiff

vs.

TRANSPORTATION PERSONNEL
SERVICES, INC.,

Defendant

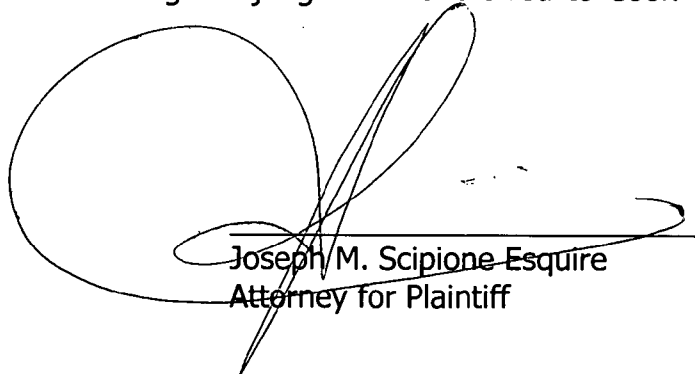
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No. 2008 - 2021 - CD

PRAECIPE TO TRANSFER JUDGEMENT

TO THE PROTHONOTARY:

Would you kindly exemplify the judgment entered to the above-captioned matter against the Defendant and in favor of the Plaintiff in the amount of \$7,352.27, plus interest at the rate of 6% per annum from June 24, 2009, plus costs of suit, and certified copy of the docket in this case, to facilitate having the judgment transferred to Cook County, Illinois.



Joseph M. Scipione Esquire
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

I, **William A. Shaw**, Prothonotary/Clerk of Courts of Common Pleas in and for said County, do hereby certify that the foregoing is a full, true and correct copy of the Docket Entries entered of the case therein stated, wherein

Graham Trucking, Inc.

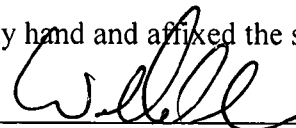
Vs.

Transportation Personnel Services, Inc.

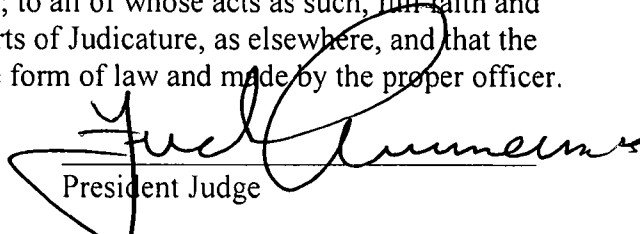
08-2021-CD

So full and entire as the same remains of record before the said Court, at No. **2008-2021-CD**

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 27th Day of Jan., 2010.


Prothonotary/Clerk of Courts

I, **Fredric J. Ammerman**, President Judge of the Forty-sixth Judicial District, do certify that **William A. Shaw** by whom the annexed record, certificate and attestation were made and given, and who, in his own proper handwriting, thereunto subscribed his name and affixed the seal of the Court of Common Pleas of said county, was at the time of so doing and now is Prothonotary/Clerk of Courts in and for said County of Clearfield, the Commonwealth of Pennsylvania, duly commissioned and qualified; to all of whose acts as such, full faith and credit are and ought to be given, as well in Courts of Judicature, as elsewhere, and that the said record, certificate and attestation are in due form of law and made by the proper officer.


President Judge

I, **William A. Shaw**, Prothonotary/Clerk of Courts of the Court of Common Pleas in and for said county, do certify that the Honorable **Fredric J. Ammerman**, President Judge by whom the foregoing attestation was made and who has thereunto subscribed his name was at the time of making thereof and still is President Judge, in and for said county, duly commissioned and qualified; to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere.

In Testimony Whereof, I have
hereunto set my hand and affixed
the seal of said Court, this 27th
day of Jan., 2010


Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
OFFICE OF THE PROTHONOTARY

Graham Trucking, Inc.

Vs.

NO. 2008-02021-CD

Transportation Personnel Services, Inc.

CERTIFICATION OF DOCKET ENTRIES AND JUDGMENT

I, William A. Shaw, Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, do hereby certify that the attached is a certified and full copy of the docket entries in the above captioned case.

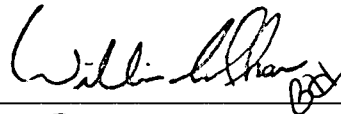
I further certify that a Judgment was entered in the above captioned matter in favor of Graham Trucking, Inc. and against Transportation Personnel Services, Inc. on June 24, 2009, in the amount of \$7,352.27.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the said Court, on the 27th day of January, A.D., 2010.

William A. Shaw

Prothonotary

BY:



Deputy

Graham Trucking, Inc. vs. Transportation Personnel Services, Inc.

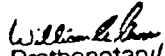
Civil Other-COUNT

Date		Judge
10/22/2008	Filing: Civil Complaint Paid by: Thompson, David R. (attorney for Graham Trucking, Inc.) Receipt number: 1926452 Dated: 10/22/2008 Amount: \$95.00 (Check) For: Graham Trucking, Inc. (plaintiff) 3 Cert. to Atty.	No Judge
11/10/2008	Affidavit of Service filed. Copy of the Complaint served by U.S. Mail, certified mail, to Transportation Personnel Services, Inc. Date of Delivery- 10-31-08. Filed by s/ David R. Thompson, Esquire. 2CC to Atty.	No Judge
2/11/2009	Certificate of Service, filed. That an original copy of the Plaintiff's 10 Day Default Notice was served upon Transportation Personnel Services Inc by first class mail this 26th day of January 2009 filed by s/ David R. Thompson Esq. 3CC Atty Thompson.	No Judge
6/24/2009	Filing: Praecipe for Entry of Default Judgment. Paid by: Thompson, David, Esq. Receipt number: 1929987 Dated: 6/24/2009 Amount: \$20.00 (Cash) For: Graham Trucking, Inc. (plaintiff) Judgment entered in favor of the Plaintiff and against the defendant in the amount of \$7,352.27. 3CC Atty and 1CC deft w/notice.	No Judge
9/2/2009	Certificate of Service, a copy of the Praecipe for Entry of Default Judgment was served by First Class Mail on Lane M. Gensburg, Esquire. Filed by s/Joseph M. Scipione, Esquire. 2CC Atty. Scipione	No Judge
1/26/2010	Filing: Praecipe to Transfer Judgment Paid by: Thompson, David R. (attorney for Graham Trucking, Inc.) Receipt number: 1933165 Dated: 1/26/2010 Amount: \$15.00 (Check) For: Graham Trucking, Inc. (plaintiff) Three CC Attorney Scipione Three Certification of Docket Entries with Judgment to Attorney Scipione	No Judge

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

JAN 27 2010

Attest.


Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

GRAHAM TRUCKING, INC.,

Plaintiff

VS.

TRANSPORTATION PERSONNEL
SERVICES, INC.,

Defendant

No. 2008-2021-CD

TYPE OF CASE:
Civil Division - Law

TYPE OF PLEADING:
Satisfaction of Judgment

FILED ON BEHALF OF:
Plaintiff

COUNSEL OF RECORD FOR
THIS PARTY:
Joseph M. Scipione, Esquire
Supreme Court I.D. 210163
P.O. Box 587
308 Walton Street, Suite 4
Philipsburg PA 16866
(814) 342-4100

FILED

MAY 25 2010

William A. Shaw
Prothonotary/Clerk of Courts

2 sent to

ATTN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - LAW

GRAHAM TRUCKING, INC.,

Plaintiff

vs.

TRANSPORTATION PERSONNEL
SERVICES, INC.,

Defendant

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No. 2008 - 2021 - CD

SATISFACTION OF JUDGMENT

TO THE PROTHONOTARY:

AND NOW, this 25 day of May, 2010, Plaintiff hereby acknowledges payment satisfaction in full of debt, interest and costs on the within stated Judgment, and authorize and direct the Prothonotary to mark the same satisfied on the record upon payment of his fee.



Plaintiff/Attorney

DATED: 5-25-10