

DOCKET NO. 173

NUMBER	TERM	YEAR
<u>498</u>	<u>February</u>	<u>1961</u>

Floyd C. Martell

VERSUS

William P. Richy

Floyd C. Martell

vs.

William P. Ricky

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY

No. 498

February Term, 1961

PRAECIPE FOR APPOINTMENT OF ARBITRATORS (1)

TO THE PROTHONOTARY OF SAID COURT:

The undersigned, pursuant to the Act of June 16, 1836, P. L. 715, as amended by the Act of June 14, 1952 (1951-52) P. L. 2087 and further amended July 22, 1955, Laws 1955, Act No. 91 and Clearfield County Court Rule....., requests you to appoint a BOARD OF ARBITRATORS and certifies that:

- () The amount in controversy is \$2,000 or less.
- () The case is at issue.
- () An agreement of reference has been filed of record.
- () Judgment has been entered for want of an appearance.

RECORD APPEARANCES HAVE BEEN ENTERED FOR:-

Plaintiff Floyd C. Martell Defendant William P. Ricky
John B. Gates, ady. J. Cutty Bill, Atty.
 Date Oct 25, 1962 John Gates
 Attorney for plaintiff

TEN DAY PERIOD FOR APPOINTMENT OF ARBITRATORS IS WAIVED (2)

Attorney for

Attorney for

Attorney for

Attorney for

TIME AND PLACE OF HEARING and APPOINTMENT OF BOARD

Now, 195....., hearing of the above case is fixed for Wednesday, 195....., in Room, Clearfield County Court House, Clearfield, Pa., and the following Clearfield County Bar members:

Glenn J. Thompson Chairman
John A. Cherry
Donald J. Mikesell

are appointed as the BOARD OF ARBITRATORS to hear testimony, make report, and render their award within twenty (20) days from date of hearing.

I hereby certify that notice by mail was duly given to said Arbitrators, Attorneys, and/or parties of record of said appointment, time, and place of hearing.

WITNESS MY HAND AND THE SEAL OF THE COURT

Prothonotary

by
Deputy

(1) See Court Rule 27
 (2) Waiver requires signatures of counsel for all parties.

In the Court of Common Pleas
of Clearfield County

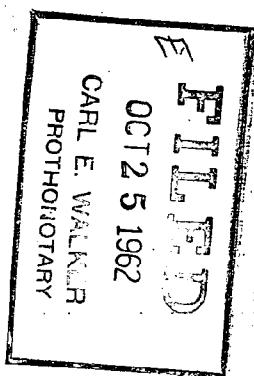
No. 498 February Term, 1951

Jay C. Marcell

vs.

William P. Rehley

PRAECLPPE FOR APPOINTMENT OF
ARBITRATORS



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FLOYD C. MARTELL

-vs-

WILLIAM P. RICHY

No. 498 *February* September Term, 1960

IN TRESPASS

C O M P L A I N T

The Plaintiff, Floyd C. Martell, complains of the Defendant, William P. Richy as follows:

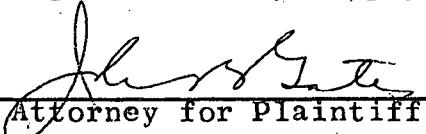
1. The Plaintiff is an individual residing at LeContes Mills, Girard Township, Clearfield County, Pennsylvania.
2. The Defendant, William P. Richy, is an individual residing at Curryville, Blair County, Pennsylvania.
3. One June 24, 1957, the Plaintiff was the owner of a 1956 Chevrolet dump truck, Model 6400, and it was being operated at or about 6:00 A.M. on said date, by George W. Osewalt, servant and employee of the Plaintiff.
4. On the date and time aforesaid, the Plaintiff's vehicle, operated by George W. Osewalt, servant and employee of the Plaintiff, was proceeding in a Southerly direction on Highway Route 322, approximately one and one-half miles North of Philipsburg, and which highway is located in Clearfield County, Pennsylvania.
5. At the time and place aforesaid, the Defendant was the owner and operator of an Oldsmobile Station Wagon, travelling in a Northerly direction.
6. At the time and place aforesaid, the Defendant's vehicle crossed the center line of said highway into the lane of traffic

occupied by the Plaintiff's vehicle and negligently collided with the Plaintiff's vehicle causing damages to the Plaintiff's vehicle in the sum of \$1,554.41, in accordance with the itemized statement of repairs attached hereto and marked Plaintiff's Exhibit I.

7. In operation of his vehicle, the Defendant was negligent in the following respects:

- (a). Crossing a center line into the lane of traffic occupied by the Plaintiff's vehicle.
- (b). Not having his vehicle under proper control.
- (c). Driving too fast for conditions.
- (d). In otherwsie failing to regard the rights of other lawful users of the highway and failure to yield the right of way.

WHEREFORE the Plaintiff brings this suit to recover the sum of \$1,554.41, together with damages for delay in payment.



Attorney for Plaintiff

EXHIBIT I

FRED DIEHL MOTORS, INC.

CLEARFIELD, PENNSYLVANIA

FLOYD C. MARTELL

LECONTES MILLS, PENNSYLVANIA

MAKE OF CAR CHEVROLET YEAR 1956 (6400) BODY TYPE DUMP TRUCK

UNITS	DETAILS OF REPAIRS AND REPLACEMENTS	LABOR HOURS	PARTS AT LIST
1	Frame Assy.	R&R 52.0	52.0 169.00
	Remove Dump Body	R&R 25.0	25.0
3	wheels @ \$49.95 Each		1.7 149.85
1	Tire 900x20x10 ply tube logger type nylon	incl	173.11
1	Tube 900x20	incl	13.34
1	Housing rear axle	R&R 8.0	6.0 129.25
2	Springs, rear (Complete w/helpers) @ \$75.00	incl	151.20
1	Support, left rear spring lower	incl	3.25
2	Brackets & bolts, rear helper spring @ \$2.65 each	incl	5.30
2	Hangers, R/r Spring w/shackles	incl	14.90
2	Hangers, L/r Spring w/shackles	incl	14.90
1	Hanger, R/f of R/r Spring	incl	11.05
4	Bolts, rear Spring "N" @ \$2.50 each	incl	10.00
8	Pins and Lock Bolts, rear spring shackle @ \$1.35 each	incl	10.80
1	Shield, L/r wheel (under bed)	1.0	14.00
1	Flap L/r rubber mud	1.0	10.00
1	Tank, Auxillary fuel w/lines and fittings	1.5	17.00
1	Shaft, frt. drive	incl	24.20
1	Shaft, rear drive	incl	29.45
1	Drive shaft carrier bearing assy.	incl	10.65
2	U. Joint	incl	19.20
1	Flange, rear U. joint	incl	8.75
1	Yoke, frt. U-Joint	incl	5.25
2	Vac. lines and hoses	incl	15.00
1	line, brake & fittings (4) Fluid Overhaul differential and adjust	incl	12.00
	Towing \$35.00	7.0	
	Door L/f Str. 7.0		
	Ref. 1.0 2.00	8.0	
1	Mirror L/f Door Western	1.0	14.95
1	Glass L/f Door	0.8	7.75
1	Cover, rear housing inspection	incl	3.05
	Fender, L/f Str. 3.0		
	Ref. Sp 1.0 \$2.00	4.0	

EXHIBIT I

This is a guaranteed estimate
/s/ John A. Semelsberger

	\$39.00	\$1047.20
Labor 109.2 Hrs. @ \$4.00 Per Hr.		436.80
\$1047.20 Parts, Less		
Sublet & Net \$39.00		39.00
Tax at 3%		31.41
 TOTAL		1554.41

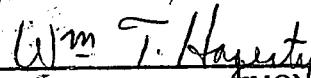
STATE OF PENNSYLVANIA : : SS:
COUNTY OF CLEARFIELD : :

FLOYD C. MARTELL, being duly sworn according to law
deposes and says that the facts set forth in the foregoing Com-
plaint are true and correct to the best of his knowledge and belief



Floyd C. Martell

Sworn to and subscribed
before me this 11th day
of April 1961


Wm T. Haysty
PROTHONOTARY
My Commission Expires
1st Monday Jan. 1962

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 448 September Term, 1961
IN TRESPASS

ELROY C. MARTELL

-VS-

WILLIAM I. RICAY

C C E L L A I N T

TO WITHIN NAMED DEFENDANT:

You are hereby notified to plead to the enclosed Complaint within twenty (20) days from the service hereof.

JOHN B. GATES,
Attorney for Plaintiff

By *John B. Gates*

FILED

APR 14 1961

WM. T. HAGERTY
PROTHONOTARY
ATTORNEY-AT-LAW
CLEARFIELD, PA.

See K. Carter

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

FLOYD C. MARTELL

-vs-

No. 498 February Term, 1961.

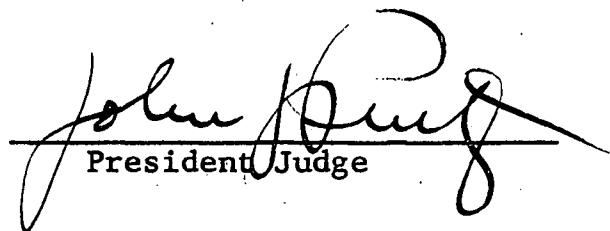
WILLIAM P. RICHY

IN TRESPASS

O R D E R

NOW, March 21, 1962, motion for judgment in favor of Floyd C. Martell, the plaintiff, and against William P. Richy, the defendant, on the counter-claim of William P. Richy for lost earnings is sustained, said claim being barred by the Statute of Limitations as pleaded by the plaintiff. Exception noted.

BY THE COURT,


John F. King
President Judge

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 498 February Term, 1961

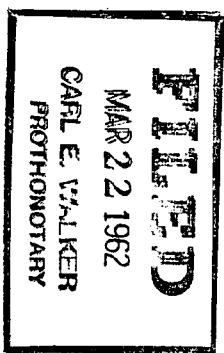
In Trespass

FLOYD C. MARTELL

-vs-

WILLIAM P. RICHY

O R D E R



JOHN J. PENTZ
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA

NO. 28

TERM, 19

Nov. 1961

D.A.

NO.

TERM, 19

TERM, 19

NO.

TERM, 1961

NO.

498 D.A. 28/11/61

NO. 661 May TERM, 1961
~~Frank S. Pennebaker~~
~~Walter W. Weber~~
NO. 9-14-61 TERM, 19

NO. 1961 TERM, 19
36-87-28-29-34-31-32-
NO. TERM, 19
~~Frank S. Pennebaker~~
NO. 323-H (1961) TERM, 19

In the Court of Common Pleas of Clfd County, Pa.

Floyd C. Martell

No 498 Feb Term 1961

vr

William P. Richy known as
William P. Ritchey

Complaint In Trespass

Now, May 8, 1961 deputized the Sheriff Of Blair County to serve the within Complaint In Trespass on William P Richy Known as William P. Ritchey.

Now, May 18, 1961 I served the within Complaint In Trespass on William P. Richy known as William P. Ritchey, by deputized the Sheriff of Blair County. The return of service of V. Paul Reed Sheriff Of Blair County is hereto attached and made part of this return of service.

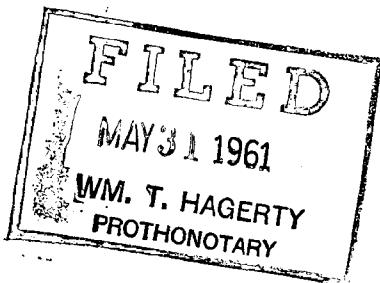
Costs Sheriff Ammerman \$6.00
Sheriff Of Blair County. \$13.00
(Paid by Atty Gates)

So Answers,

Charles G. Ammerman
Sheriff

Sworn to before me this 31st
day of May 1961 A.D.

Wm. H. Hargrave
Prothomotary.



Know all men by these presents, That I, Charles G. Ammerman,
High Sheriff of Clearfield County, State of Pennsylvania, do hereby depuitize Sheriff of Blair
County, V. Paul Reed to execute this writ; this deputation being made at the
request and risk of the Plaintiff.

Given under my hand and seal this May 8, , day of May

A. D. 1961.

Charles G. Ammerman
Sheriff.

Affidavit of Service

Floyd C. Martell

vs.

William P. Richy known as
William P. Ritchey

No. 498 February Term, 1961

Complaint in Trespass

Returnable within twenty days
from date of service hereof.

NOW May 18, 1961 at 11:30 o'clock A.M. D.S.T.

served the within Complaint-Trespass on William P. Richy known as William P. Ritchey
at Curryville, Pa.,

by handing to Ethel Ritchey, his wife, an adult member of his family at his dwelling
house at Curryville, Pa., a true and attested copy of the original Complaint-Trespass and made
known to her the contents thereof.

Sworn to before me this 18th,

day of May A.D. 1961

So answers,

Henry D. Miller
Prothonotary

W. Paul Reed
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FLOYD C. MARTELL :
vs : No. 498 February Term, 1961
WILLIAM P. RICHY :

ANSWER TO COUNTER-CLAIM AND NEW MATTER

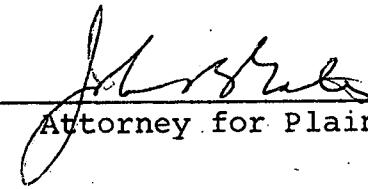
The Plaintiff, FLOYD C. MARTELL, replies to the Counter-
Claim of the Defendant as follows:

1. Paragraph one is denied. The Plaintiff avers that the Defendant was not travelling on his own side of the road.
2. Paragraph two of the Counter-Claim is denied as stated. It is admitted, however, that the dump truck of the Plaintiff was travelling towards Philipsburg at the time and place aforesaid and that the dump truck was in its own proper lane of traffic prior to and at the time of the collision.
3. Paragraph three of the Counter-Claim is denied.
4. Paragraph four of the Counter-Claim is denied.
5. Paragraph five of the Counter-Claim is denied.
6. Paragraph six of the Counter-Claim is denied. The facts as alleged are within the exclusive knowledge of the Defendant and if material strict proof is demanded.
7. Paragraph seven of the Counter-Claim is denied.

8. Paragraph eight of the Counter-Claim is denied. The Plaintiff avers that he has no knowledge as to the facts alleged as the same are exclusively within the knowledge of the Defendant and strict proof is demanded. at the time of trial or hearing. The Plaintiff also avers that any matter heretofore contained is incorporated herein in answer to the said paragraph.

NEW MATTER

1. The claim of the Defendant for loss of earnings is barred by the Statute of Limitations.



Attorney for Plaintiff

STATE OF PENNSYLVANIA :
: SS:
COUNTY OF CLEARFIELD :

FLOYD C. MARTELL, being duly sworn according to law
deposes and states that the facts set forth in the foregoing
Answer to Counter-Claim and New Matter are true and correct to
the best of his knowledge, information and belief.

Floyd C. Martell

Sworn to and subscribed
before me this 10th day
of OCT. 1961.

William F. Edmunds
JUSTICE OF THE PEACE

My commission expires
January 4th, 1966

John B. Gates
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 498 February Term, 1961

FLOYD C. MARTELL

VS

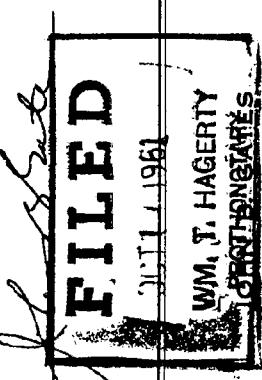
WILLIAM P. RICHY

ANSWER TO COUNTER-CLAIM
AND NEW MATTER

TO WITHIN NAMED DEFENDANT:

You are hereby notified
to plead to the within New
Matter within twenty (20)
days from the date of ser-
vice hereof.

JOHN B. GATES
Attorney for Plaintiff
BY *[Signature]*



COMMERCIAL PRINTING CO., CLEARFIELD, PA.

Now Rec'd 78 1961 served accepted by copy
Bill Lubinski
[Signature]

No. 498 Term February 1961

FLOYD C. MARTELL

vs.

WILLIAM P. RICHY

(E)

APPEARANCE
FILED
For Defendant JUN 6 1961
WM. T. HAGERTY
PROTHONOTARY

Scheeline & Leopold
Central Trust Building
Altoona, Pennsylvania
and
Bell, Silberblatt & Swoope
Clearfield Trust Co. Bldg.
Clearfield, Pennsylvania

FLOYD G. MARTELL.

VERSUS

WILLIAM P. RICHY

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PA.

No. 498 Term February 1961

To William T. Hagerty

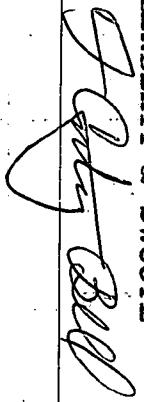
Prothonotary.

Sir: Enter our appearance for William P. Richy, Defendant

in above case.

SCHEELINE & LEOPOLD and
BELL, SILBERBLATT & SWOPE

BY



Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FLOYD C. MARTELL :
VS. : No. 498 February Term, 1961
WILLIAM P. RICHY :
:

ANSWER AND COUNTER-CLAIM

The Defendant, William P. Richy, answers the Complaint assigned to the above number and term as follows:

- (1). Paragraph (1) of the Complaint is admitted.
- (2). Paragraph (2) of the Complaint is admitted.
- (3). In answer to Paragraph (3) of the Complaint, the Defendant has no knowledge as to the ownership of the 1956 Chevrolet dump truck, nor as to the employment by the Plaintiff of George W. Osewalt, and the same is therefore denied and strict proof is required at the trial of this cause.
- (4). Paragraph (4) of the Complaint is admitted, except as to the location of the point of collision, being $1\frac{1}{2}$ miles North of Philipsburg, which distance is denied and strict proof is required at the trial of this cause.
- (5). Paragraph (5) is denied. It is admitted that on the 24th day of June the Defendant was operating an Oldsmobile station wagon, being owned by his wife, Ethyl Richy.
- (6). Paragraph (6) is denied. It is particularly denied that the station wagon operated by the Defendant caused the accident by crossing the center line of the highway into the line of traffic occupied by Plaintiff's vehicle. It is admitted that a collision occurred, which rendered the Defendant unconscious, and required his removal to the Philipsburg State Hospital and the Roaring Springs Hospital. Mr. Richy suffered a fracture of his left kneecap and other injuries. It is unknown whether the statement of repairs, attached as Exhibit 1, were required by reason of the collision, and the same are therefore denied and strict proof is required at the trial of this cause. For other matters in answer to said paragraph, see the paragraphs attached hereto under Counter-claim, which are incorporated hereunder by reference.

(7). Paragraph (7) is denied. It is denied that the Defendant was negligent in crossing the center line of the highway, and that he did not have his vehicle under proper control, or that he was driving too fast for conditions, or that he failed to regard the rights of other users of the highway and failed to yield the right of way. On the contrary, it is averred that the collision was caused solely by the actions of the driver of the dump truck, traveling in the opposite direction as set out in the Counter-Claim attached hereto and incorporated hereunder by reference.

COUNTER-CLAIM

The Defendant makes counter-claim against the Plaintiff on the following set of facts:

(1). That on the 24th day of June, on or about 6:00 a.m., the Defendant was traveling from Philipsburg towards Clearfield on his own side of the road in an Oldsmobile station wagon.

(2). That the Chevrolet dump truck, claimed to be owned by Floyd C. Martell, was traveling in the opposite direction towards Philipsburg, at or about said time and place.

(3). That as the two vehicles approached, the Chevrolet dump truck went off the road in the direction in which it was traveling on the right side and came back on the highway and crossed the center line, so that the left front of the Oldsmobile station wagon came in contact with the dual left wheels of the dump truck.

(4). That following the contact between the two vehicles, the Chevrolet dump truck continued past the point of the collision for a distance of 150 to 200 feet, crossing the highway to the left side thereof.

(5). The Oldsmobile station wagon, after the collision, likewise crossed the highway and went off the road on its left side of the highway.

(6). That the Defendant was rendered unconscious by reason of the collision and suffered personal injuries requiring his confinement in the

hospital for a period of two or three months and incapacitating him for work for a period of over seven months.

(7). That the driver of the Chevrolet dump truck was negligent in the following respects:

(a). In operating said motor truck at too great a rate of speed for the circumstances existing.

(b). In operating the motor vehicle at a rate of speed that caused the truck to leave the highway and then to swerve back too far over the center line.

(c). In failing to yield the right of way to the Defendant.

(d). In failing to operate his motor vehicle in such a way as to allow the other users of the highway one-half portion thereof.

(8). No claim is made in this action for hospital or doctor bills or for the damage to the Oldsmobile station wagon, which was completely demolished, but a claim is made for loss of earnings in the following respects:

(a). The Defendant at that time was an electrical employee earning \$3.44 an hour.

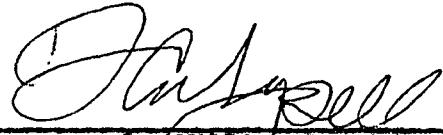
(b). For a 40-hour week his earnings would be \$137.60.

(c). That the Defendant, William P. Richy, was unable to resume employment for a period of seven months making a total loss to the Defendant of \$3852.80, for which sum he asks that a verdict be rendered in his favor and against the Plaintiff.

(d). That the Defendant continues to suffer from the fracture of his left leg and has had to take inside work at \$2.85 a hour, because his other job required him to climb to high places, and he cannot do this because he cannot bend his left leg very far.

WHEREFORE, the Defendant asks that a verdict be rendered to him against the Plaintiff in this action.

BELL, SILBERBLATT & SWOOPPE
By



Attorneys for William P. Richy

STATE OF PENNSYLVANIA:

SS:

COUNTY OF CLEARFIELD :

Before me, the undersigned officer, personally appeared WILLIAM P. RICHY, who, deposes and says that the facts set forth in the foregoing Answer and Counter-Claim are true and correct to the best of his knowledge, information and belief.

William P. Richy

Sworn to and subscribed
before me this 24th day
of August, 1961.

John O. Dugerty

PROTHONOTARY
My Commission Expires
1st Monday Jan. 1962

John H. Martell

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
No. 498 February Term, 1961

FLOYD C. MARTELL

VS.

WILLIAM P. RICHT

ANSWER AND COUNTER-CLAIM

To the within named Plaintiff;

You are hereby notified to
plead to the enclosed Counter-
Claim within twenty (20) days
from the service hereof.

BELL, SILBERBLATT & SWOPE
By

John Bell
Attorneys for Defendant

FILED

AUG 26 1961
BELL, SILBERBLATT & SWOPE
ATTORNEYS FOR DEFENDANT
PROFESSIONAL TRUST CO., INC.
CLEARFIELD, PENNA.

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

Nov August 30, 1961 copy of Answer accepted

*John Bell
Attn: Dr. Floyd C. Martell*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FLOYD C. MARTELL :
vs : No. 498 February Term, 1961
WILLIAM P. RICHY : IN TRESPASS

M O T I O N

TO JOHN J. PENTZ, PRESIDENT JUDGE OF SAID COURT:

The Plaintiff, by his attorney, John B. Gates, Esq. moves your Honorable Court for judgment on the pleadings with respect to the counter-claim filed by the Defendant as follows:

1. The Plaintiff filed a Complaint April 14, 1961 captioned to the above number and term.
2. That the Defendant filed an Answer and Counter-claim to the above captioned proceedings.
3. That the said counter-claim requests judgment for loss of earnings as a result of the said accident.
4. That the collision in question upon which the said counter-claim for loss of earnings is based, occurred June 24, 1957.
5. That the Plaintiff filed an Answer to the said Counter-claim and also pled new matter averring that the Counter-claim for loss of earnings was barred by the Statute of Limitations.

WHEREFORE the Plaintiff prays judgment on the pleadings be rendered in favor of the Plaintiff with regards to the Counter-claim filed by the Defendant for loss of earnings.

John B. Gates
Attala for plaintiff

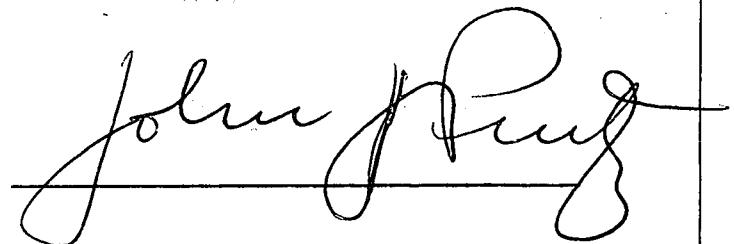
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FLOYD C. MARTELL :
vs : No. 498 February Term, 1961
WILLIAM P. RICHY : IN TRESPASS

O R D E R

NOW, February 12, 1962 motion for judgment on the pleadings with respect to the counter-claim filed by the Defendant having been made, it is ordered and decreed that the same be returnable at the next term of argument court.

BY THE COURT



F. Conley Reed to accept

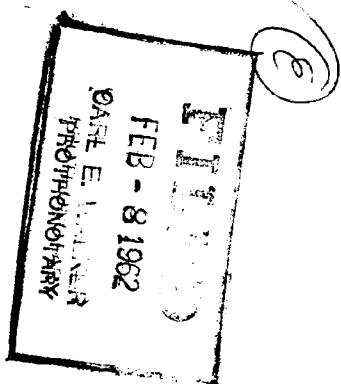
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 498 February Term, 1961
IN TRESPASS

FLOYD C. MARTELL

VS

WILLIAM P. RICHY

M O T I O N



JOHN B. GATES
ATTORNEY-AT-LAW
CLEARFIELD, PA.