

State of New York

Town COURT Scholavie COUNTY

Town of Blenheim OF Blenheim SMALL CLAIMS PART No. 2006-2

NOTICE TO DEFENDANT:

To: Leland H Neff  
2426 State Route 30  
Fultonham, NY 12071

TAKE NOTICE THAT Dana & Lawrence Schraefel PLAINTIFFS

asks judgment in this court against you for \$ 2,680<sup>00</sup> together with costs,  
upon the following claim:

See Attached

In agreement with which the Plaintiff hereby signs and demands Judgment.

Dana Schraefel Plaintiff Signature Dana Schraefel 301 Hollandale Ave  
and Address CLIFTON PARK NY 12065

There will be a hearing before the Court upon this claim on August 30, 2006  
at 7 o'clock, P.M., in the Small Claims Part of this Court, held at  
N. Blenheim

YOU MUST APPEAR to present your defense, or to present any claim that you may have against the other party at the hearing described above. IF YOU DO NOT APPEAR IN PERSON OR BY AN ATTORNEY, JUDGMENT WILL BE ENTERED AGAINST YOU, EVEN THOUGH YOU MAY HAVE A DEFENSE. If your defense or counterclaim is supported by witnesses, account books, receipts or other documents, you must bring them to the hearing.

If you admit the claim but desire time to pay, you must appear personally on the day set for the hearing, state to the court that you require time to pay and show your reason for same.

Dated: 7/26 19 2006 Wm K... Justice - Court Clerk

NOTE: If you desire a jury trial, you must, before the day set for the hearing, file with the justice or clerk of the court a written demand for a trial by jury. You must also pay to the justice or clerk a jury fee of \$6.00 and file an undertaking in the sum of \$50.00 or deposit such sum in cash to secure the payment of costs that may be awarded against you. You will also be required to make an affidavit specifying the issues of fact which you desire to have tried by jury stating that such trial is desired and demanded in good faith.

Under the law, the court may award \$25.00 additional costs to the plaintiff if a jury trial is demanded by you and a decision is rendered against you.

Adjourn to \_\_\_\_\_, 19 \_\_\_\_\_, 19 \_\_\_\_\_, 19

BRING THIS NOTICE WITH YOU.

SMALL CLAIMS COURT FOR THE TOWN OF BLenheim

Lawrence Schaefer )  
    &                  )  
Dana Schaefer      )  
    Claimants       )                  Claim  
                      )  
    v.                  )  
                      )  
Leland Neff          )  
    Defendant       )

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PARTIES

1. This is a Small Claims Court claim for Lawrence Schaefer and Dana Schaefer.
2. The defendant is Leland Neff, who resides within the town limits of the town of Blenheim.
3. As the defendant is a resident of the town of Blenheim, the Small Claims court of the town of Blenheim has jurisdiction in this matter.

SUMMARY

4. This is a claim for damage to claimants' 1995 Dodge Ram pick-up truck caused by defendant Neff and related expenses. The 1995 Dodge Ram in question had a V-10 engine with oversized tires and heavy-duty suspension for towing. The truck is owned by, and registered to, claimant Lawrence Schaefer.
5. Defendant Neff operated the truck until it broke down and then afterwards abandoned the truck on a country road without as much as a telephone call to the owners, the claimants herein, and without even so much as an apology to claimants.
6. Claimants only learned that the truck broke down through a fortuitous phone call to defendant Neff.

BACKGROUND

7. On September 15, 2005, claimant Dana Schaefer leased a horse known as *Celtic Magic* to defendant Neff.
8. The purpose of this lease was for defendant Neff to breed *Celtic Magic* to a stallion, for defendant Neff to keep the offspring and return *Celtic Magic* to the claimants.

9. On April 19, 2006, with the consent of claimant Lawrence Schaefer, claimant Dana Schaefer loaned the 1995 Dodge Ram pick-up truck to defendant Neff, along with claimant's 1997 Adams trailer.

10. When defendant Neff requested to borrow the truck and trailer, both were maintained at Stonecroft Farm in Stillwater, NY. At that time, claimants were on vacation in Florida and did not have the opportunity to clean the truck or trailer, to remove personal items, or otherwise prepare either for defendant Neff's use.

11. Claimants loaned defendant Neff the truck and trailer based upon defendant Neff's representations that he was licensed to operate the vehicle, that he knew how to operate a pickup and that he would exercise a customary standard of care with regard to the truck and trailer.

12. However, the claimants have since learned that the trust in defendant Neff was misplaced.

13. The purpose for loaning defendant Neff the truck and trailer was to transport *Celtic Magic* for breeding.

14. Claimants have since learned that defendant Neff used the truck and trailer for a variety of personal uses, other than transporting *Celtic Magic*.

15. In addition to transporting horses, neighbors witnessed defendant Neff use the vehicle for his personal transportation.

16. When claimant Dana Schaefer inspected the truck after it broke down, she found huge wooden beams in the bed of the truck – indicating that the truck was clearly not used solely to transport horses.

17. Moreover, neighbors witnessed defendant Neff operate the vehicle in an abusive fashion. This allegation is substantiated by the damage to the undercarriage of the truck.

18. Regarding the cause of the breakdown, it appears that defendant Neff operated the truck with little or no oil, causing the engine to seize. Significant burn damage around the motor area indicates that defendant Neff operated the truck while it was overheating.

19. Although defendant Neff claims that he adequately cared for the truck – his admissions contradict that conclusion.

20. Defendant Neff claims that he asked a mechanic to “do a check up and a tune up when [he] picked [up the truck], but the mechanic “put me off” until after the truck broke down. Thus, no maintenance was performed on the truck.

21. Defendant Neff thought that work might be required on the truck, but did not have a mechanic look at the vehicle, nor did he contact the claimants to express his concerns – he kept on operating the vehicle.

22. Indeed, from April 19, 2006 to May 24, 2006, defendant Neff never contacted the claimants to indicate that there were problems with the truck. Claimants incorrectly assumed that the situation was working fine.

23. In an email after the truck broke down, defendant Neff acknowledged that the truck was “spewing oil fumes [and] was cutting out” but defendant Neff continued to operate the truck in spite of these conditions to move heavy timbers.

24. In a June 01, 2006 email, claimant Dana Schaefer wrote to defendant Neff “[n]o the fact that the truck broke down is not your fault. . .”

25. However, at defendant Neff’s insistence, on July 21, 2006, claimants spoke with Gary Trombley, the owner and operator of a service station in nearby Breakabeen, New York.

26. Mr. Trombley indicated that he never examined the truck in question.

27. Moreover, Mr. Trombley further indicated that on one day, defendant Neff drove to his service station in claimants’ truck, said that the “oil cap had blown off” and that the truck was “cutting out.”

28. Mr. Trombley indicated to defendant Neff that he had many other customers waiting and could not look at the truck.

29. Claimants’ truck was obviously in distress at time. Knowing that, defendant Neff then drove off and never brought the truck back to Trombley’s service station.

30. Defendant Neff was aware that the truck was in distress as he brought it to the service station. Having such knowledge, defendant Neff then operated the truck, without service, until the engine finally seized. This clearly demonstrates negligence, misuse and abuse on the part of defendant Neff, especially as he failed to even contact the owners about the truck’s problems.

31. After the truck broke down due to his negligence, defendant Neff was obviously embarrassed and abandoned the vehicle on the side of Bear Ladder Road, in North Blenheim, New York, without so much as a phone call to the owners.

32. It was only through a fortuitous, unsolicited offer to purchase the truck that the claimants became aware the truck had broken down.

33. On Wednesday, May 24, 2006, claimant Dana Schaefer received an unsolicited offer from Thomas Sullivan regarding the truck.

34. Mr. Sullivan indicated that he recently purchase property near Lake Placid, that he was familiar with the claimants' truck and that he would pay \$2,500 for the truck.

35. Upon receiving that information, on May 24, 2006, at approximately 9:30pm, claimant Dana Schaefer contacted defendant Neff to inform defendant Neff of the potential sale and request that the truck be returned as soon as possible.

36. During that conversation on May 24, 2006, defendant Neff informed claimant Dana Schaefer that the truck had broken down.

37. Although defendant Neff claims that the truck had 'just broken down' given what has been revealed, that assertion seems highly unlikely and it is more likely that the truck had been broken down for many days before the May 24, 2006 conversation.

38. During that conversation, defendant Neff further said that he did not have the truck towed to a repair facility, but instead had left the truck on the side of the road where it broke down.

39. On Sunday, May 28, 2006, claimant Dana Schaefer traveled to Fultonham to inspect the truck. On that date, the truck was still situated where it had broken down.

40. On Wednesday, May 31, 2006, claimant Dana Schaefer traveled with a mechanic to Fultonham to inspect the truck. Again, the truck was still exactly where it had broken down.

41. On Sunday, June 4, 2006, claimant Dana Schaefer traveled again to Fultonham to have the truck towed back to Schenectady, NY. Again, eleven days after defendant Neff admitted the truck broke down, the truck was still sitting in the same exact location.

42. Upon return back to Schenectady, the mechanics at AAMACO on State Street in Schenectady indicated that the engine had seized, that the truck was a total loss, and recommended that it be given to a scrap yard.

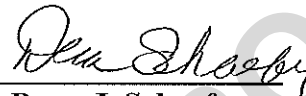
43. Given that claimants received an offer of \$2,500 for the vehicle on May 24, 2006, claimants believe that the fair market value of the vehicle is \$2,500.

44. Claimants further spent \$80 to have the vehicle towed to Clifton Park, NY where the vehicle presently sits.

45. Claimants also loaned defendant Neff their horse trailer with the truck in April.

46. When claimant Dana Schaefer inspected the truck on May 28, 2006, she found claimants' horse trailer in the middle of the horses' paddock.
47. Claimant Dana Schaefer requested that the horse trailer be immediately removed from the field and that it be returned to the Stonecroft Farm in Stillwater, New York.
48. Defendant Neff refused to do so, stating that his truck has likewise blown an engine and transmission.
49. Because claimant's truck had been ruined, claimants had no truck to tow their trailer to Stillwater Farm.
50. Accordingly, on July 21, 2006 paid Robert Mann Sr. the sum of one-hundred (\$100) dollars to have the trailer towed back to Stillwater Farm.

Wherefore, defendant Leland was negligent in the maintenance, use and operation of defendant's 1995 Dodge Ram pickup truck and that negligence caused the truck to be a total loss, claimants Dana and Lawrence Schaefer demand judgment in the amount of \$2,680 against defendant Leland Neff, and for any other relief that is just and equitable.



Dana J. Schaefer

  
Lawrence H. Schaefer