

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

|                                    |   |                             |
|------------------------------------|---|-----------------------------|
| WILLIAM METCALF t/a EURO CLASSICS, | : | NO. 11 – 02,062             |
| Plaintiff                          | : |                             |
|                                    | : | CIVIL ACTION - LAW          |
| vs.                                | : |                             |
|                                    | : |                             |
| JEEV TRIKA,                        | : |                             |
| Defendant                          | : | Motion for Summary Judgment |

**OPINION AND ORDER**

Before the court is Defendant’s motion for summary judgment, filed April 10, 2012. Argument on the motion was heard May 21, 2012.

Plaintiff’s complaint alleges that Defendant delivered his vehicle to Plaintiff for the purpose of repair, that Defendant sent to Plaintiff a check for \$3000, that Plaintiff told Defendant it would cost more than \$3000 to repair the vehicle, that Plaintiff incurred \$2250 in parts and labor in partially repairing the vehicle, that Defendant made no further payments, that Plaintiff notified Defendant to pick up the vehicle and that storage fees would be assessed if he failed to do so, and that Defendant never picked up the vehicle. Plaintiff seeks storage fees for the vehicle. In his Answer and New Matter, Defendant asserts that he obtained a judgment for possession of the vehicle against Plaintiff by Order of a court in Indiana which is res judicata to the issue raised in the complaint, and that the payment of \$3000 constitutes accord and satisfaction since the check was marked “full payment” and was cashed by Plaintiff.

In his motion for summary judgment, Defendant seeks judgment in his favor on the bases of accord and satisfaction and res judicata.

With respect to the issue of accord and satisfaction, while Plaintiff’s cashing the check marked “full payment” may act as satisfaction of a claim for repairs since the check was submitted as payment for repairs, it does not act to bar a claim for storage fees. The check was sent to Plaintiff before any storage fees began to accrue and therefore could not be considered payment for such. Therefore, judgment cannot be entered on this basis.

With respect to the issue of res judicata, however, the court does find Plaintiff’s claim for storage fees to be barred by that doctrine. At the time of the Indiana hearing in August

2011, Plaintiff had already made a demand for storage fees. He should have brought that claim in the Indiana lawsuit.<sup>1</sup> Plaintiff's argument that the Indiana court had no jurisdiction over him is misplaced: that argument needs to be addressed by the Indiana court. Therefore, the court will enter the following:

**ORDER**

AND NOW, this 22<sup>nd</sup> day of May 2012, for the foregoing reasons, the motion for summary judgment is hereby GRANTED. Judgment is hereby entered in favor of Defendant and against Plaintiff.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Robert Hoffa, Esq.  
Melody Protasio, Esq.  
Gary Weber, Esq.  
Hon. Dudley Anderson

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<sup>1</sup> See Day v. Volkswagenwerk Aktiengesellschaft, 464 A.2d 1313 (Pa. Super. 1983)(Doctrine of res judicata bars relitigation of matters actually decided as well as those which could have been litigated in the first suit but were not.)