

00-311-CD
NATIONAL UNION FIRE INSURANCE COMPANY a/s/o -vs- L.J.F. INC. et al

Attorney for
plaintiff

Diane Rice. ESQ

158 Dolington RD

YARDLEY PA 19067

215 493 9670

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

CIVIL DIVISION

No. 00-311-CD

Plaintiffs

VS.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC.,
JOSEPH C. LEWIS, DUN-RITE TOWING,
KEITH DANIEL VLACH, BURLINGTON
MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS,

Defendants

TYPE OF PLEADING:

PRAECIPE FOR APPEARANCE

Filed on Behalf of Defendant:

KEITH DANIEL VLACH

Counsel of Record for This Party:

SCOTT T. REDMAN, ESQUIRE
PA I.D. #36752

870 Six PPG Place
Pittsburgh, Pennsylvania 15222
(412) 263-3360

JURY TRIAL DEMANDED

FILED

JUL 31 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE	)	CIVIL DIVISION
COMPANY a/s/o PENN TRAFFIC, INC.,)	
and PENN TRAFFIC, INC.,	)	No. 00-311-CD
)	
Plaintiffs)	
)	
VS.)	
)	
L.J.F., INC., MARK ALBRIGHT,)	
SUPERIOR CARRIERS, INC.,)	
JOSEPH C. LEWIS, DUN-RITE TOWING,)	
KEITH DANIEL VLACH, BURLINGTON)	
MOTOR CARRIERS, INC., and)	
MICHAEL WAYNE PHILLIPS,)	
)	
Defendants)	

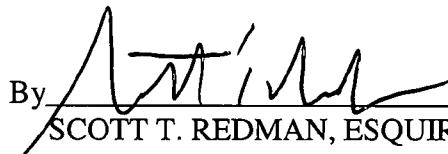
PRAECIPE FOR APPEARANCE

TO THE PROTHONOTARY:

Kindly enter the appearance of the undersigned on behalf of the Defendant, Keith Daniel Vlach, in the above-captioned case.

Respectfully submitted,

By


SCOTT T. REDMAN, ESQUIRE
Counsel for Defendant

CERTIFICATE OF SERVICE

I, Scott T. Redman, Esquire, counsel for Defendant, hereby certify that I served a true and correct copy of the foregoing Praecipe for Appearance by first-class mail, postage pre-paid on July 27, 2000, upon the following counsel of record and/or parties:

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, Pennsylvania 19067-2737

Louise D. Hayne, Esquire
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, Pennsylvania 19107


L.J.F., Inc.
R.D. #1, Box 62
Irvona, Pennsylvania 16656

Mark W. Albright
P.O. Box 184
Reed Street Extension
Brisbin, Pennsylvania 16620

Superior Carriers, Inc.
2122 York Road, Suite 150
Oak Brook, Illinois 60521

Joseph C. Lewis
416 Shields Road
Youngstown, Ohio 44512

Dun-Rite Towing, Inc.
15 Hayes Street
Elmsford, New York 10523



SCOTT T. REDMAN, ESQUIRE
Counsel for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

CIVIL DIVISION

No. 00-311-CD

Plaintiffs

VS.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC.,
JOSEPH C. LEWIS, DUN-RITE TOWING,
KEITH DANIEL VLACH, BURLINGTON
MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS,

Defendants

TYPE OF PLEADING:

PRAECIPE FOR APPEARANCE

Filed on Behalf of Defendant:

DUN-RITE TOWING, INC.

Counsel of Record for This Party:

SCOTT T. REDMAN, ESQUIRE
PA I.D. #36752

870 Six PPG Place
Pittsburgh, Pennsylvania 15222
(412) 263-3360

FILED

AUG 14 2000
m/8:30 / w
William A. Shaw
Prothonotary
no c/c C/

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE	)	CIVIL DIVISION
COMPANY a/s/o PENN TRAFFIC, INC.,)	
and PENN TRAFFIC, INC.,	)	No. 00-311-CD
)	
Plaintiffs)	
)	
VS.)	
)	
L.J.F., INC., MARK ALBRIGHT,)	
SUPERIOR CARRIERS, INC.,)	
JOSEPH C. LEWIS, DUN-RITE TOWING,)	
KEITH DANIEL VLACH, BURLINGTON)	
MOTOR CARRIERS, INC., and)	
MICHAEL WAYNE PHILLIPS,)	
)	
Defendants)	

PRAECIPE FOR APPEARANCE

TO THE PROTHONOTARY:

Kindly enter the appearance of the undersigned on behalf of the Defendant, Dun-Rite Towing, Inc., in the above-captioned case.

Respectfully submitted,

By


SCOTT T. REDMAN, ESQUIRE
Counsel for Defendant

CERTIFICATE OF SERVICE

I, Scott T. Redman, Esquire, counsel for Defendant, hereby certify that I served a true and correct copy of the foregoing Praecipe for Appearance by first-class mail, postage pre-paid on August 10, 2000, upon the following counsel of record and/or parties:

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, Pennsylvania 19067-2737


Louise D. Hayne, Esquire
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, Pennsylvania 19107

L.J.F., Inc.
R.D. #1, Box 62
Irvona, Pennsylvania 16656

Mark W. Albright
P.O. Box 184
Reed Street Extension
Brisbin, Pennsylvania 16620

Superior Carriers, Inc.
2122 York Road, Suite 150
Oak Brook, Illinois 60521

Joseph C. Lewis
416 Shields Road
Youngstown, Ohio 44512



SCOTT T. REDMAN, ESQUIRE
Counsel for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

CIVIL DIVISION

No. 00-311-CD

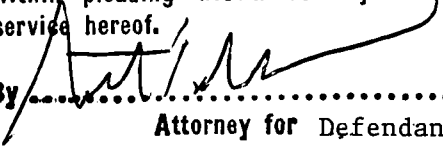
Plaintiffs

VS.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC.,
JOSEPH C. LEWIS, DUN-RITE TOWING,
KEITH DANIEL VLACH, BURLINGTON
MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS,

Defendants

To the within named parties.....:
You are hereby notified to plead to the
within pleading within 20 days from
service hereof.

By 
Attorney for Defendants

TYPE OF PLEADING:

**ANSWER, NEW MATTER AND
NEW MATTER PURSUANT TO
PA. R.C.P. 2252(d)**

Filed on Behalf of Defendants:

DUN-RITE TOWING, INC. and
KEITH DANIEL VLACH

Counsel of Record for This Party:

SCOTT T. REDMAN, ESQUIRE
PA I.D. #36752

870 Six PPG Place
Pittsburgh, Pennsylvania 15222
(412) 263-3360

FILED

AUG 24 2000

William A. Shaw
Prothonotary

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE	)	CIVIL DIVISION
COMPANY a/s/o PENN TRAFFIC, INC.,)	
and PENN TRAFFIC, INC.,	)	No. 00-311-CD
)	
Plaintiffs)	
)	
VS.)	
)	
L.J.F., INC., MARK ALBRIGHT,)	
SUPERIOR CARRIERS, INC.,)	
JOSEPH C. LEWIS, DUN-RITE TOWING,)	
KEITH DANIEL VLACH, BURLINGTON)	
MOTOR CARRIERS, INC., and)	
MICHAEL WAYNE PHILLIPS,)	
)	
Defendants)	

ANSWER, NEW MATTER AND
NEW MATTER PURSUANT TO PA. R.C.P. 2252(d)

AND NOW, come the Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach, by their attorney, Scott T. Redman, Esquire, and file the within Answer, New Matter and New Matter Pursuant to Pa. R.C.P. 2252(d) in response to the Complaint, averring as follows:

1-6. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraphs 1 through 6 of the Complaint, thus said allegations are denied and strict proof is demanded at trial.

7-8. The allegations in Paragraphs 7 and 8 of the Complaint are admitted.

9-12. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraphs 9 through 12 of the Complaint, thus said allegations are denied and strict proof is demanded at trial.

13. The allegations in Paragraph 13 of the Complaint are admitted.

14. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 14 of the Complaint, thus said allegations are denied and strict proof is demanded at trial.

15. The allegations in Paragraph 15 of the Complaint to the extent that they allege negligence, carelessness and recklessness on the part of Dun-Rite Towing and Keith Daniel Vlach are denied pursuant to Pa. R.C.P. 1029. It is also specifically averred that the operator of the vehicle of the Plaintiff, Penn Traffic, Inc., was also negligent in the operation of his vehicle causing the Plaintiff's own injuries.

16. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 16 of the Complaint, thus said allegations are denied and strict proof is demanded at trial.

17. To the extent that Paragraph 17 of the Complaint incorporates by reference Paragraphs 1 through 16 of the Complaint, Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach, hereby incorporate by reference their responses to Paragraphs 1 through 16 of the Complaint as if more fully set forth at length herein.

18. The allegations in Paragraph 18 of the Complaint are denied pursuant to Pa. R.C.P. 1029.

19. After reasonable investigation, Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 19 of the Complaint, thus said allegations are denied and strict proof is demanded at trial.

20-22. The allegations in Paragraphs 20 through 22 of the Complaint pertain to the co-Defendants, Superior Carriers, Inc. and Joseph C. Lewis, for which reason no response is required of these Defendants.

WHEREFORE, Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach, deny any and all liability to the Plaintiffs and demand judgment in their favor with prejudice together with the cost of this action.

NEW MATTER

By way of further response, Defendants submit the following New Matter, averring as follows:

23. Any and all claims by the Plaintiffs are barred by the contributory negligence of the operator of the vehicle of the Plaintiff, Penn Traffic, Inc., who was operating said vehicle in the course and scope of his employment with the Plaintiff, Penn Traffic, Inc., pursuant to the provisions of the Pennsylvania Comparative Negligence Act, 42 Pa. C.S. §7102.

24. Any and all claims are barred by the voluntary assumption of the risk by the driver of the vehicle of the Plaintiff, Penn Traffic, Inc., which driver was operating his vehicle in the scope and course of his employment for Penn Traffic, Inc.

25. Any and all claims against the Defendants are barred based upon the doctrine of sudden emergency since the Defendant-Vlach did not cause the initial accident, but was an

innocent victim of a prior impact while he was operating his vehicle in a reasonable and prudent manner.

26. Any and all claims against the Defendants are barred based upon the fact that the weather and road conditions at the time of the alleged accident were of such nature that the accident could not have been avoided despite the fact that the Defendant-Vlach was operating his vehicle in a reasonable and prudent manner.

WHEREFORE, Defendants deny any and all liability to the Plaintiffs and demand judgment in their favor with prejudice together with the cost of this action.

NEW MATTER PURSUANT TO PA. R.C.P. 2252(d)

By way of further response, Defendants submit the following New Matter cross-claims, averring as follows:

27. Defendants hereby submit the following cross-claims in the nature of contribution, indemnity and/or liability over against the co-Defendants and further demand that the co-Defendants be found solely liable in judgment to the Plaintiffs.

28. Solely for purposes of the cross-claims pursuant to Pa. R.C.P. 2252(d), and without admitting same, Defendants hereby incorporate by reference the allegations set forth in the Plaintiffs' Complaint as if more fully set forth at length herein.

29. If liability is predicated against the Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach, said Defendants demand judgment in contribution, indemnity and/or liability over against the co-Defendants and further demand that the co-Defendants be found solely liable in judgment to the Plaintiffs.

WHEREFORE, Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach, deny any and all liability to the Plaintiffs and any and all other parties and demand judgment in their favor with prejudice together with the cost of this action. To the extent that liability is predicated against the Defendants, said Defendants demand judgment in contribution, indemnity and/or liability over against the co-Defendants and further demand that the co-Defendants be found solely liable in judgment to the Plaintiffs.

Respectfully submitted,

By



SCOTT T. REDMAN, ESQUIRE
Counsel for Defendants

VERIFICATION

I, KEITH DANIEL VLACH, do hereby verify that the averments of fact set forth in the foregoing Answer, New Matter and New Matter Pursuant to Pa. R.C.P. 2252(d) are true and correct based on knowledge, information and belief.

I understand that false statements herein are made subject to penalty of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

DATED: _____

8/12/00

Keith Vlach
(Signature)

CERTIFICATE OF SERVICE

I, Scott T. Redman, Esquire, counsel for Defendants, hereby certify that I served a true and correct copy of the foregoing Answer, New Matter and New Matter Pursuant to Pa. R.C.P. 2252(d) by first-class mail, postage pre-paid on August 22, 2000, upon the following counsel of record and/or parties:

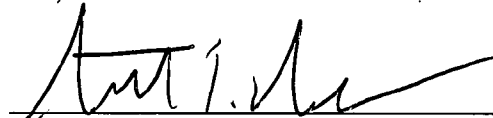
Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, Pennsylvania 19067-2737

Louise D. Hayne, Esquire
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, Pennsylvania 19107

George P. Kachulis, Esquire
Two PPG Place, Suite 400
Pittsburgh, Pennsylvania 15222

Superior Carriers, Inc.
2122 York Road, Suite 150
Oak Brook, Illinois 60521

Joseph C. Lewis
416 Shields Road
Youngstown, Ohio 44512



SCOTT T. REDMAN, ESQUIRE
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

CIVIL DIVISION

No. 00-311-CD

Plaintiffs

VS.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC.,
JOSEPH C. LEWIS, DUN-RITE TOWING,
KEITH DANIEL VLACH, BURLINGTON
MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS,

Defendants

TYPE OF PLEADING:

**REPLY TO NEW MATTER
PURSUANT TO RULE 2252(d)**

Filed on Behalf of Defendants:

DUN-RITE TOWING, INC. and
KEITH DANIEL VLACH

Counsel of Record for This Party:

SCOTT T. REDMAN, ESQUIRE
PA I.D. #36752

FILED

SEP 22 2000

William A. Shaw
Prothonotary

870 Six PPG Place
Pittsburgh, Pennsylvania 15222
(412) 263-3360

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE	)	CIVIL DIVISION
COMPANY a/s/o PENN TRAFFIC, INC.,)	
and PENN TRAFFIC, INC.,	)	No. 00-311-CD
)	
Plaintiffs)	
)	
VS.)	
)	
L.J.F., INC., MARK ALBRIGHT,)	
SUPERIOR CARRIERS, INC.,)	
JOSEPH C. LEWIS, DUN-RITE TOWING,)	
KEITH DANIEL VLACH, BURLINGTON)	
MOTOR CARRIERS, INC., and)	
MICHAEL WAYNE PHILLIPS,)	
)	
Defendants)	

REPLY TO NEW MATTER
PURSUANT TO RULE 2252(d)

AND NOW, come the Defendants, Keith Daniel Vlach and Dun-Rite Towing, Inc., by their attorney, Scott T. Redman, Esquire, and file the within Reply to New Matter Pursuant to Rule 2252(d) of the Defendants, L.J.F., Inc. and Mark Albright, averring as follows:

31. The allegations set forth in Paragraph 31 and the subsequent Paragraph numbered 16 constitute a conclusion of law to which no response is required. To the extent a response is required, Defendants hereby incorporate by reference in response their Answer, New Matter and New Matter Pursuant to Pa. R.C.P. 2252(d) as if more fully set forth at length herein.

WHEREFORE, Defendants, Keith Daniel Vlach and Dun-Rite Towing, Inc., deny any and all liability to the Plaintiffs and any and all other parties and demand judgment in their favor

CERTIFICATE OF SERVICE


I, Scott T. Redman, Esquire, counsel for Defendants, hereby certify that I served a true and correct copy of the foregoing Reply to New Matter Pursuant to Rule 2252(d) by first-class mail, postage pre-paid on September 19, 2000, upon the following counsel of record:

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, Pennsylvania 19067-2737

Louise D. Hayne, Esquire
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, Pennsylvania 19107

George P. Kachulis, Esquire
Two PPG Place, Suite 400
Pittsburgh, Pennsylvania 15222

Robert W. Jozwik, Esquire
The Curtis Center, Suite 1130 East
Independence Square West
Philadelphia, Pennsylvania 19106



SCOTT T. REDMAN, ESQUIRE
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

Plaintiffs

VS.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC.,
JOSEPH C. LEWIS, DUN-RITE TOWING,
KEITH DANIEL VLACH, BURLINGTON
MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS,

Defendants

CIVIL DIVISION

No. 00-311-CD

TYPE OF PLEADING:

**REPLY TO NEW MATTER CROSS-
CLAIM PURSUANT TO PA. R.C.P.
2252(d)**

Filed on Behalf of Defendants:

DUN-RITE TOWING, INC. and
KEITH DANIEL VLACH

Counsel of Record for This Party:

SCOTT T. REDMAN, ESQUIRE
PA I.D. #36752

FILED

OCT 23 2000

William A. Shaw
Prothonotary

870 Six PPG Place
Pittsburgh, Pennsylvania 15222
(412) 263-3360

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE	)	CIVIL DIVISION
COMPANY a/s/o PENN TRAFFIC, INC.,)	
and PENN TRAFFIC, INC.,	)	No. 00-311-CD
)	
Plaintiffs)	
)	
VS.)	
)	
L.J.F., INC., MARK ALBRIGHT,)	
SUPERIOR CARRIERS, INC.,)	
JOSEPH C. LEWIS, DUN-RITE TOWING,)	
KEITH DANIEL VLACH, BURLINGTON)	
MOTOR CARRIERS, INC., and)	
MICHAEL WAYNE PHILLIPS,)	
)	
Defendants)	

REPLY TO NEW MATTER CROSS-CLAIM
PURSUANT TO PA. R.C.P. 2252(d)


AND NOW, come the Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach, by their attorney, Scott T. Redman, Esquire, and file the within Reply to New Matter Cross-Claim Pursuant to Pa. R.C.P. 2252(d) of Defendants, Burlington Motor Carriers, Inc. and Michael Wayne Phillips, averring as follows:

44. The allegations in Paragraph 44 require no response of these Defendants.

45. The allegations in Paragraph 45 constitute a conclusion of law to which no response is required. To the extent a response is required, Defendants hereby incorporate by reference their Answer, New Matter and New Matter Pursuant to Pa. R.C.P. 2252(d) as if more fully set forth at length herein.

WHEREFORE, Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach, deny any and all liability to the Plaintiff and any and all other parties and demand judgment in their favor with prejudice together with the cost of this action and any and all other relief as pled in their Answer, New Matter and New Matter Pursuant to Pa. R.C.P. 2252(d).

Respectfully submitted,

By 
SCOTT T. REDMAN, ESQUIRE
Counsel for Defendants

VERIFICATION

I, Scott T. Redman, Esquire, counsel for Defendants, verify that the averments of fact made in the within Reply to New Matter Cross-Claim Pursuant to Pa. R.C.P. 2252(d) are true and correct based on knowledge, information and belief.

I further verify that I am authorized by the Defendants, as counsel for same, to make this verification.

I understand that false statements herein are made subject to penalty of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



SCOTT T. REDMAN, ESQUIRE

DATED: October 20, 2000

CERTIFICATE OF SERVICE


I, Scott T. Redman, Esquire, counsel for Defendants, hereby certify that I served a true and correct copy of the foregoing Reply to New Matter Cross-Claim Pursuant to Pa. R.C.P. 2252(d) by first-class mail, postage pre-paid on October 20, 2000, upon the following counsel of record:

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, Pennsylvania 19067-2737

Drew J. Dedo, Esquire
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, Pennsylvania 19107

George P. Kachulis, Esquire
Two PPG Place, Suite 400
Pittsburgh, Pennsylvania 15222

Robert W. Jozwik, Esquire
The Curtis Center, Suite 1130 East
Independence Square West
Philadelphia, Pennsylvania 19106



SCOTT T. REDMAN, ESQUIRE
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

Plaintiffs

VS.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC.,
JOSEPH C. LEWIS, DUN-RITE TOWING,
KEITH DANIEL VLACH, BURLINGTON
MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS,

Defendants

CIVIL DIVISION

No. 00-311-CD

TYPE OF PLEADING:

**REPLY TO NEW MATTER TO CO-
DEFENDANTS PURSUANT TO PA.
R.C.P. 2252(D)**

Filed on Behalf of Defendants:

DUN-RITE TOWING, INC. and
KEITH DANIEL VLACH

Counsel of Record for This Party:

SCOTT T. REDMAN, ESQUIRE
PA I.D. #36752

FILED

NOV 10 2000

William A. Shaw
Prothonotary

870 Six PPG Place
Pittsburgh, Pennsylvania 15222
(412) 263-3360

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE	)	CIVIL DIVISION
COMPANY a/s/o PENN TRAFFIC, INC.,)	
and PENN TRAFFIC, INC.,	)	No. 00-311-CD
)	
Plaintiffs)	
)	
VS.)	
)	
L.J.F., INC., MARK ALBRIGHT,)	
SUPERIOR CARRIERS, INC.,)	
JOSEPH C. LEWIS, DUN-RITE TOWING,)	
KEITH DANIEL VLACH, BURLINGTON)	
MOTOR CARRIERS, INC., and)	
MICHAEL WAYNE PHILLIPS,)	
)	
Defendants)	

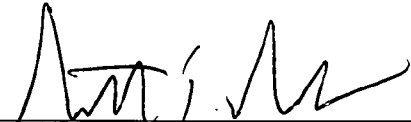
REPLY TO NEW MATTER TO CO-DEFENDANTS
PURSUANT TO PA. R.C.P. 2252(D)

AND NOW, come the Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach, by their attorney, Scott T. Redman, Esquire, and file the within Reply to New Matter to co-Defendants Pursuant to Pa. R.C.P. 2252(D) of Defendants, Superior Carriers, Inc. and Joseph C. Lewis, averring as follows:

33. The allegations in Paragraph 33 of the New Matter constitute a conclusion of law to which no response is required. To the extent a response is required, Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach, incorporate by reference their Answer, New Matter and New Matter Pursuant to Pa. R.C.P. 2252(d) as if more fully set forth at length herein.

WHEREFORE, Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach, deny any and all liability to any and all parties and demand judgment in their favor with prejudice together with the costs of this action and any and all other relief as plead in their Answer, New Matter and New Matter Pursuant to Pa. R.C.P. 2252(d) as if more fully set forth at length herein.

Respectfully submitted,

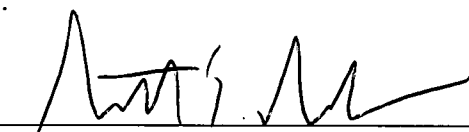
By 
SCOTT T. REDMAN, ESQUIRE
Counsel for Defendants

VERIFICATION

I, Scott T. Redman, Esquire, counsel for Defendants, verify that the averments of fact made in the within Reply to New Matter to co-Defendants Pursuant to Pa. R.C.P. 2252(D) are true and correct based on knowledge, information and belief.

I further verify that I am authorized by the Defendants, as counsel for same, to make this verification.

I understand that false statements herein are made subject to penalty of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



SCOTT T. REDMAN, ESQUIRE

DATED: November 13, 2000

CERTIFICATE OF SERVICE

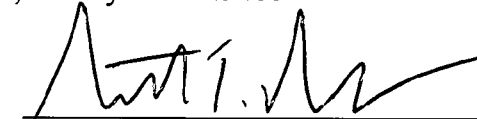
I, Scott T. Redman, Esquire, counsel for Defendants, hereby certify that I served a true and correct copy of the foregoing Reply to New Matter to Co-Defendants Pursuant to Pa. R.C.P. 2252(D) by first-class mail, postage pre-paid on November 13, 2000, upon the following counsel of record:

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
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The Widener Building
One South Penn Square
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Two PPG Place, Suite 400
Pittsburgh, Pennsylvania 15222

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The Curtis Center, Suite 1130 East
Independence Square West
Philadelphia, Pennsylvania 19106



SCOTT T. REDMAN, ESQUIRE
Counsel for Defendants

RAWLE & HENDERSON
L.L.P.

BETH CASTELL FITT

ATTORNEY AT LAW
bcastell@rawle.com

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THE NATION'S OLDEST LAW OFFICES
ESTABLISHED 1783

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TEN LAKE CENTER EXECUTIVE PARK
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401 ROUTE 73 NORTH
MARTON, NJ 08053
(856) 596-4800
FAXSIMILE (856) 596-6164

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY, a/s/o PENN TRAFFIC, INC.
and PENN TRAFFIC, INC.

CIVIL DIVISION

NO. 00-311-CD

Plaintiffs

v.

L.J.F., INC.; MARK W. ALBRIGHT; SUPERIOR
CARRIERS, INC.; JOSEPH C. LEWIS;
DUN-RITE TOWING, INC.; KEITH VLACH;
BURLINGTON MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS

Defendants

TYPE OF PLEADING:

REPLY TO NEW MATTER OF
DEFENDANTS DUN-RITE
TOWING AND KEITH VLACH
PURSUANT TO P.A.R.C.P. 2252(d)

Filed on behalf of defendants:
**SUPERIOR CARRIERS, INC.
AND JOSEPH C. LEWIS**

Counsel of record for this party:

Robert W. Jozwik, Esquire
PA. ID #70705

FILED

NOV 13 2000

William A. Shaw
Prothonotary

NOTICE TO PLEAD

TO: *Dun Rite Towing & Keith Vlach*
You are hereby notified to file
a written response to
the enclosed *New Matter (Pa RCP 2252(d))*
within (30) days from service hereof or a
judgment may be entered against you.

Attorney for

Superior Carriers Inc.
& Joseph C Lewis.

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP
1130 THE CURTIS CENTER -
SUITE 1130 EAST
INDEPENDENCE SQUARE WEST
PHILADELPHIA, PA 19106
(215) 627-6900

JURY TRIAL DEMANDED

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP
THE CURTIS CENTER • SUITE 1130 EAST • INDEPENDENCE SQUARE WEST • PHILADELPHIA, PA 19106
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WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP

BY: Robert W. Jozwik, Esquire
IDENTIFICATION NO. 70705
THE CURTIS CENTER - SUITE 1130 EAST
INDEPENDENCE SQUARE WEST
PHILADELPHIA, PA 19106
(215) 627-6900

Attorneys for Defendants
Superior Carrier, Inc. and
Joseph C. Lewis

NATIONAL UNION FIRE INSURANCE
COMPANY, a/s/o PENN TRAFFIC, INC.
and PENN TRAFFIC, INC.

Plaintiffs

v.

L.J.F., INC.; MARK W. ALBRIGHT; SUPERIOR
CARRIERS, INC.; JOSEPH C. LEWIS;
DUN-RITE TOWING, INC.; KEITH VLACH;
BURLINGTON MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS

Defendants

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

JURY TRIAL DEMANDED

NO. 00-311-CD

**ANSWER OF DEFENDANTS SUPERIOR CARRIERS, INC. AND JOSEPH C. LEWIS
TO NEW MATTER PURSUANT TO Pa.R.C.P. 2252(d) OF DEFENDANTS
DUN-RITE TOWING INC. AND KETIH DANIEL VLACH**

Superior Carriers, Inc. and Joseph C. Lewis, by their attorneys, respond as follows to the
New Matter Cross-claim of defendants Dun-Rite Towing, Inc. and Keith Daniel Vlach:

27. To the extent, if at all, the allegations of paragraph 27 are not conclusions of law
to which no response is required, they are denied.

28. No response is required as paragraph 28 contains no averments of facts.

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP
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PHONE: (215) 627-6900 • FAX: (215) 627-2665

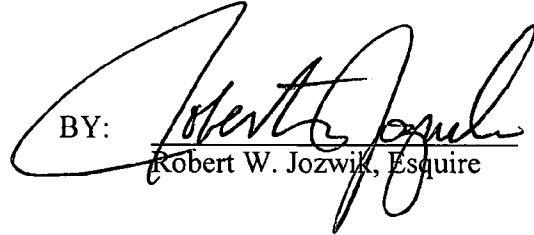
29. To the extent, if at all, the allegations of paragraph 29 are not conclusions of law to which no response is required, they are denied.

WHEREFORE, defendants Superior Carriers, Inc. and Joseph C. Lewis demand judgment in their favor and against defendants Dun-Rite Towing, Inc. and Keith Daniel Vlach.

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

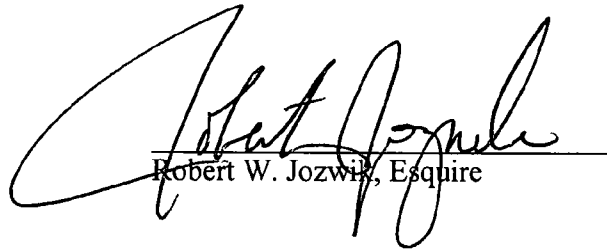
BY:



Robert W. Jozwik, Esquire

VERIFICATION

I, Robert W. Jozwik, Esquire, state that I am the attorney for defendants Superior Carriers, Inc. and Joseph C. Lewis; that I have the authority to make this verification on their behalf; that I am acquainted with the facts set forth in the foregoing Answer to New Matter Cross-claim of defendants Dun-Rite Towing, Inc. and Keith Daniel Vlach; and that the same is true and correct to the best of my knowledge, information and belief. I understand this statement is made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.



Robert W. Jozwik, Esquire

CERTIFICATE OF SERVICE

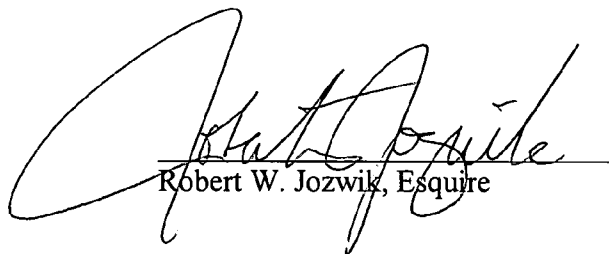
Robert W. Jozwik, Esquire, counsel for defendants Superior Carriers, Inc. and Joseph C. Lewis hereby certifies that a copy of the foregoing Answer to New Matter Cross-claim of defendants Burlington Motor Carriers, Inc. and Michael Wayne Phillips was served by First Class United States mail, postage prepaid, on November 10, 2000 upon the following:

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, PA 19067-2737

Drew J. Dedo, Esquire
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, PA 19107

Scott T. Redman, Esquire
870 Six PPG Place
Pittsburgh, PA 15222

George P. Kachulis, Esquire
Dickie, McCamey & Chilcote, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402


Robert W. Jozwik, Esquire

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

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PHONE: (215) 627-6900 • FAX: (215) 627-2665

FILED

NOV 13 2000

WAS
03/13/1000
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY, a/s/o PENN TRAFFIC, INC.
and PENN TRAFFIC, INC.

CIVIL DIVISION

NO. 00-311-CD

Plaintiffs

v.

L.J.F., INC.; MARK W. ALBRIGHT; SUPERIOR
CARRIERS, INC.; JOSEPH C. LEWIS;
DUN-RITE TOWING, INC.; KEITH VLACH;
BURLINGTON MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS

Defendants

FILED

NOV 13 2000

William A. Shaw
Prothonotary

TYPE OF PLEADING:

REPLY TO NEW MATTER OF
DEFENDANTS BURLINGTON
MOTOR CARRIERS, INC. AND
MICHAEL WAYNE PHILLIP
PURSUANT TO P.A.R.C.P. 2252(d)

Filed on behalf of defendants:
**SUPERIOR CARRIERS, INC.
AND JOSEPH C. LEWIS**

Counsel of record for this party:

Robert W. Jozwik, Esquire
PA. ID #70705

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP
1130 THE CURTIS CENTER -
SUITE 1130 EAST
INDEPENDENCE SQUARE WEST
PHILADELPHIA, PA 19106
(215) 627-6900

JURY TRIAL DEMANDED

NOTICE TO PLEAD

TO: *Burlington Motor Carriers & Michael Phillips*
You are hereby notified to file a written response to
the enclosed *New Matter (Pa.R.C.P. 2252(d))*
within (30) days from service hereof or a
judgment may be entered against you.

Robert W. Jozwik
Attorney for *Superior Carriers Inc.*
& *Joseph C. Lewis*

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP
THE CURTIS CENTER • SUITE 1130 EAST • INDEPENDENCE SQUARE WEST • PHILADELPHIA, PA 19106
PHONE: (215) 627-6900 • FAX: (215) 627-2665

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP

BY: Robert W. Jozwik, Esquire
IDENTIFICATION NO. 70705
THE CURTIS CENTER – SUITE 1130 EAST
INDEPENDENCE SQUARE WEST
PHILADELPHIA, PA 19106
(215) 627-6900

Attorneys for Defendants
Superior Carrier, Inc. and
Joseph C. Lewis

NATIONAL UNION FIRE INSURANCE
COMPANY, a/s/o PENN TRAFFIC, INC.
and PENN TRAFFIC, INC.

Plaintiffs

v.

L.J.F., INC.; MARK W. ALBRIGHT; SUPERIOR
CARRIERS, INC.; JOSEPH C. LEWIS;
DUN-RITE TOWING, INC.; KEITH VLACH;
BURLINGTON MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS

Defendants

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

JURY TRIAL DEMANDED

NO. 00-311-CD

**ANSWER OF DEFENDANTS SUPERIOR CARRIERS, INC. AND JOSEPH C. LEWIS
TO NEW MATTER PURSUANT TO Pa.R.C.P. 2252(d) OF DEFENDANTS
BURLINGTON MOTOR CARRIERS, INC. AND MICHAEL WAYNE PHILLIPS**

Superior Carriers, Inc. and Joseph C. Lewis, by their attorneys, respond as follows to the
New Matter Cross-claim of defendants Burlington Motor Carriers, Inc. and Michael Wayne
Phillips:

44. No response is required.

45. To the extent, if at all, the allegations of paragraph 29 are not conclusions of law o
which no response is required, they are denied.

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP

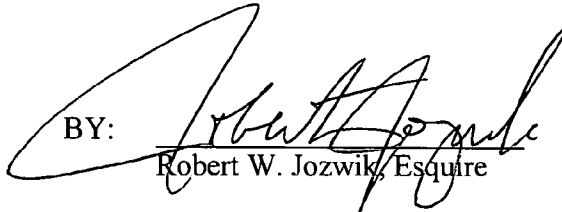
THE CURTIS CENTER • SUITE 1130 EAST • INDEPENDENCE SQUARE WEST • PHILADELPHIA, PA 19106
PHONE: (215) 627-6900 • FAX: (215) 627-2665

WHEREFORE, defendants Superior Carriers, Inc. and Joseph C. Lewis demand judgment in their favor and against defendants Burlington Motor Carriers, Inc. and Michael Wayne Phillips.

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

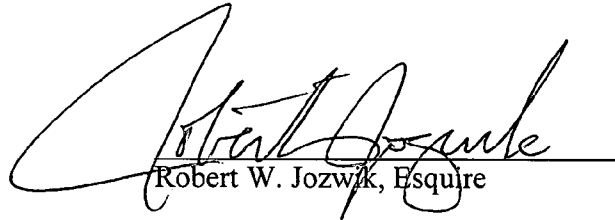
BY:



Robert W. Jozwik, Esquire

VERIFICATION

I, Robert W. Jozwik, Esquire, state that I am the attorney for defendants Superior Carriers, Inc. and Joseph C. Lewis; that I have the authority to make this verification on their behalf; that I am acquainted with the facts set forth in the foregoing Answer to New Matter Cross-claim of defendants Burlington Motor Carriers, Inc. and Michael Wayne Phillips; and that the same is true and correct to the best of my knowledge, information and belief. I understand this statement is made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.



Robert W. Jozwik, Esquire

CERTIFICATE OF SERVICE

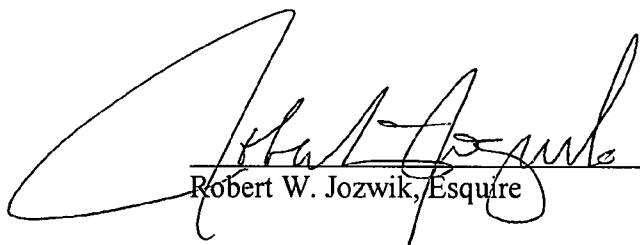
Robert W. Jozwik, Esquire, counsel for defendants Superior Carriers, Inc. and Joseph C. Lewis hereby certifies that a copy of the foregoing Answer to New Matter Cross-claim of defendants Burlington Motor Carriers, Inc. and Michael Wayne Phillips was served by First Class United States mail, postage prepaid, on November¹⁰, 2000 upon the following:

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, PA 19067-2737

Drew J. Dedo, Esquire
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, PA 19107

Scott T. Redman, Esquire
870 Six PPG Place
Pittsburgh, PA 15222

George P. Kachulis, Esquire
Dickie, McCamey & Chilcote, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402



Robert W. Jozwik, Esquire

FILED

NOV 13 2000

~~W~~ 3:13 PM 10CC
William A. Shaw
Prothonotary

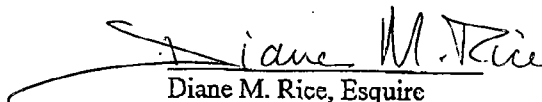
FILED

NOV 13 2000

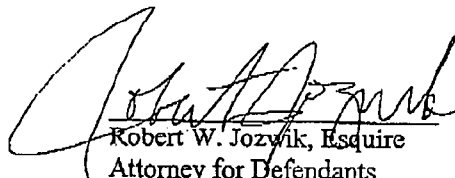
W
W
W
O/313/Doc
William A. Shaw
Prothonotary

Stipulation
Page 2

Dated: 11.08.00


Diane M. Rice, Esquire
Attorney for Plaintiffs

Dated: 10.13.00


Robert W. Jozwik, Esquire
Attorney for Defendants
Superior Carriers, Inc. and
Joseph C. Lewis

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP

BY: Robert W. Jozwik, Esquire
 IDENTIFICATION NO. 70705
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 PHILADELPHIA, PA 19106
 (215) 627-6900

Attorneys for Defendants
 Superior Carrier, Inc. and
 Joseph C. Lewis

NATIONAL UNION FIRE INSURANCE
 COMPANY, a/s/o PENN TRAFFIC, INC.
 and PENN TRAFFIC, INC.

COURT OF COMMON PLEAS
 CLEARFIELD COUNTY

Plaintiffs

v.

L.J.F., INC.; MARK W. ALBRIGHT; SUPERIOR
 CARRIERS, INC.; JOSEPH C. LEWIS;
 DUN-RITE TOWING, INC.; KEITH VLACH;
 BURLINGTON MOTOR CARRIERS, INC., and
 MICHAEL WAYNE PHILLIPS

JURY TRIAL DEMANDED

NO. 00-3110-CD

Defendants

STIPULATION

IT IS HEREBY STIPULATED by and between plaintiffs and defendants Superior Carriers, Inc. and Joseph C. Lewis, as represented by their undersigned attorneys, that the following paragraphs are stricken from the complaint:

21. (k) Negligence at law, and

It is further agreed the allegations in paragraphs 15, 16 and 21 that defendants Superior Carriers, Inc. and/or Joseph C. Lewis were "reckless" or acted with "recklessness" are also stricken from the complaint.

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP

THE CURTIS CENTER - SUITE 1130 EAST - INDEPENDENCE SQUARE WEST - PHILADELPHIA, PA 19106
 46602.1
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RAWLE & HENDERSON LLP
By: Drew J. Dedo, Esquire
Identification No.: 40319
The Widener Building
One South Penn Square
Philadelphia, PA 19107
(215) 575-4283

Attorneys for Defendants,
Burlington Motor Carriers, Inc.
and Michael Wayne Phillips

NATIONAL UNION FIRE INSURANCE CO. :
a/s/o PENN TRAFFIC INC. and :
PENN TRAFFIC, INC. :

v. :

L.J.F., INC., MARK W. ALBRIGHT, *et al.* :

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

FILED

OCT 20 2000

NO. 00-311-CD

William A. Shaw
Prothonotary

**ANSWER OF DEFENDANTS, MICHAEL WAYNE PHILLIPS
AND BURLINGTON MOTOR CARRIERS, INC. TO
NEW MATTER PURSUANT TO RULE 2252(d) OF
DEFENDANTS, L.J.F., INC. AND MARK ALBRIGHT**

COMES NOW, Defendants, Burlington Motor Carriers, Inc. and Michael Wayne Phillips (hereinafter "Answering Defendants") and, by and through their counsel, Rawle & Henderson LLP hereby answers the New Matter Pursuant to Rule 2252(d) of Defendants, L.J.F., Inc. and Mark Albright pursuant to the paragraphs numbered therein as follows:

31. Incorporation of Plaintiffs' Complaint, only is admitted. With respect to the averments contained herein directed to Answering Defendants, said allegations are denied as conclusions of law pursuant to the Pennsylvania Rules of Civil Procedure. With respect to the remaining allegations contained herein, said allegations are directed to other parties and Answering Defendants have been advised, and therefore believe, that no response thereto is required. To the extent that a response is required, Answering Defendants aver that after

reasonable investigation, they are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained herein and, therefore, said averments are denied and strict proof thereof is demanded at time of trial. Moreover said remaining averments are deemed denied as conclusions of law pursuant to the Pennsylvania Rules of Civil Procedure.

32. (Misnumbered in the New Matter Pursuant to Rule 2252(d) of Defendants, L.J.F., Inc. and Mark Albright as paragraph 16.) Incorporation of Plaintiffs' Complaint, only is admitted. Answering Defendants incorporate herein their Answers With New Matter and New Matter Crossclaims as though same were fully set forth at length herein. With respect to the averments contained herein directed to Answering Defendants, said allegations are denied as conclusions of law pursuant to the Pennsylvania Rules of Civil Procedure. With respect to the remaining allegations contained herein, said allegations are directed to other parties and Answering Defendants have been advised, and therefore believe, that no response thereto is required. To the extent that a response is required, Answering Defendants aver that after reasonable investigation, they are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained herein and, therefore, said averments are denied and strict proof thereof is demanded at time of trial. Moreover said remaining averments are deemed denied as conclusions of law pursuant to the Pennsylvania Rules of Civil Procedure.

WHEREFORE, Answering Defendants deny that they are liable upon the claims set forth in the New Matter Pursuant to Rule 2252(d) of defendants, L.J.F., Inc. and Mark

Albright and demand judgment in their favor and against defendants, L.J.F., Inc. and Mark Albright.

RAWLE & HENDERSON LLP

By:

A handwritten signature in black ink, appearing to read 'Drew J. Dedo', is written over a horizontal line.

DREW J. DEDO

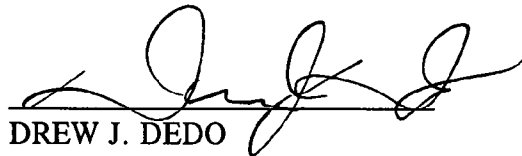
Attorneys for Defendants,
Burlington Motor Carriers, Inc.
and Michael Wayne Phillips

VERIFICATION

DREW J. DEDO states that he is the attorney for defendants, Burlington Motor Carriers, Inc. and Michael Wayne Phillips and as such is authorized to take this Verification on their behalf; that he has reviewed the foregoing Answer to New Matter Pursuant to Pa.R.C.P. 2252(d) of Defendants, L.J.F., Inc. and Mark Albright; and that the facts set forth are true and correct to the best of his knowledge, information and belief. These statements are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

RAWLE & HENDERSON LLP

By:



DREW J. DEDO
Attorneys for Defendants,
Burlington Motor Carriers
and Michael Wayne Phillips

Date: 10/23/00

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Answer to New Matter Pursuant to Pa.R.C.P. 2252(d) of Defendants, L.J.F., Inc. and Mark Albright was served via first-class mail, postage prepaid, on the following:

Stephen T. Carpenito, Esquire
615 Center Street
Ashland, PA 17921
570-875-3500
Fax: 570-875-0699

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, PA 19067-2737
215-493-9670

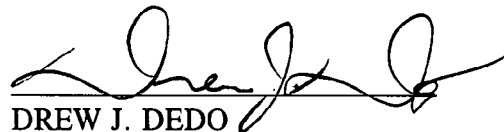
Scott T. Redman, Esquire
870 Six PPG Place
Pittsburgh, PA 15222
412-263-3364
Fax: 412-263-2144

George P. Kachulis, Esquire
Dickie, McCamey & Chilcote, P.C.
Firm #067
Two PPC Place, Suite 400
Pittsburgh, PA 15222-5402
412-281-7272
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Robert W. Jozwik, Esquire
Wilson Elser Moskowitz Edelman
& Dicker LLP
1130 The Curtis Center
Independence Square West
Philadelphia, PA 19106
215-627-6900
Fax: 215-627-2665

RAWLE & HENDERSON LLP

By:



DREW J. DEDO
Attorneys for Defendants,
Burlington Motor Carriers
and Michael Wayne Phillips

Date: 10/23/00

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY, a/s/o PENN TRAFFIC, INC.
and PENN TRAFFIC, INC.

CIVIL DIVISION

NO. 00-311-CD

Plaintiffs

v.

L.J.F., INC.; MARK W. ALBRIGHT; SUPERIOR
CARRIERS, INC.; JOSEPH C. LEWIS;
DUN-RITE TOWING, INC.; KEITH VLACH;
BURLINGTON MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS

Defendants

FILED

NOV 13 2000

William A. Shaw
Prothonotary

TYPE OF PLEADING:

REPLY TO NEW MATTER OF
DEFENDANTS L.F.J., INC. AND
MARK W. ALBRIGHT
PURSUANT TO PA.R.C.P. 2252(d)

Filed on behalf of defendants:
**SUPERIOR CARRIERS, INC.
AND JOSEPH C. LEWIS**

Counsel of record for this party:

Robert W. Jozwik, Esquire
PA. ID #70705

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP
1130 THE CURTIS CENTER -
SUITE 1130 EAST
INDEPENDENCE SQUARE WEST
PHILADELPHIA, PA 19106
(215) 627-6900

JURY TRIAL DEMANDED

NOTICE TO PLEAD

TO: *L.J.F. Inc + Mark Albright*
You are hereby notified to file
a written response to
the enclosed *New Matter (Pa R.C.P. 2252(d))*
within (20) days from service hereof or a
judgment may be entered against you.

Robert W. Jozwik
Attorney for
Superior Carriers, Inc
& Joseph C. Lewis

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

THE CURTIS CENTER • SUITE 1130 EAST • INDEPENDENCE SQUARE WEST • PHILADELPHIA, PA 19106

PHONE: (215) 627-6900 • FAX: (215) 627-2665

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP

BY: Robert W. Jozwik, Esquire
IDENTIFICATION NO. 70705
THE CURTIS CENTER – SUITE 1130 EAST
INDEPENDENCE SQUARE WEST
PHILADELPHIA, PA 19106
(215) 627-6900

Attorneys for Defendants
Superior Carrier, Inc. and
Joseph C. Lewis

NATIONAL UNION FIRE INSURANCE
COMPANY, a/s/o PENN TRAFFIC, INC.
and PENN TRAFFIC, INC.

Plaintiffs

v.

L.J.F., INC.; MARK W. ALBRIGHT; SUPERIOR
CARRIERS, INC.; JOSEPH C. LEWIS;
DUN-RITE TOWING, INC.; KEITH VLACH;
BURLINGTON MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS

Defendants

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

JURY TRIAL DEMANDED

NO. 00-311-CD

**ANSWER OF DEFENDANTS SUPERIOR CARRIERS, INC. AND JOSEPH C. LEWIS
TO NEW MATTER PURSUANT TO Pa.R.C.P. 2252(d) OF DEFENDANTS
L.J.F., INC. AND MARK W. ALBRIGHT**

Superior Carriers, Inc. and Joseph C. Lewis, by their attorneys, respond as follows to the
New Matter Cross-claim of Defendants L.J.F., Inc. and Mark W. Albright:

31. To the extent, if at all, the allegations of paragraph 31 are not conclusions of law
to which no response is required, they are denied.

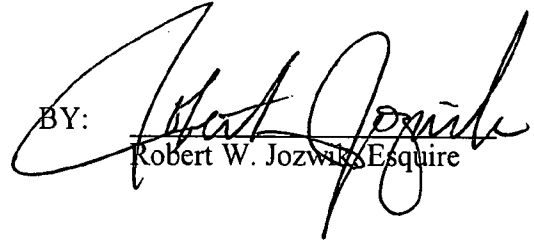
16. To the extent, if at all, the allegations of 16 (misnumbered) are not conclusions of
law to which no response is required, they are denied.

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP
THE CURTIS CENTER • SUITE 1130 EAST • INDEPENDENCE SQUARE WEST • PHILADELPHIA, PA 19106
PHONE: (215) 627-6900 • FAX: (215) 627-2665

WHEREFORE, defendants Superior Carriers, Inc. and Joseph C. Lewis demand judgment in their favor and against defendants L.J.F., Inc. and Mark W. Albright.

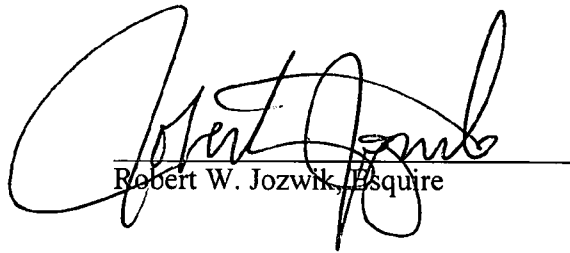
Respectfully submitted,

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

BY: 
Robert W. Jozwiak Esquire

VERIFICATION

I, Robert W. Jozwik, Esquire, state that I am the attorney for defendants Superior Carriers, Inc. and Joseph C. Lewis; that I have the authority to make this verification on their behalf; that I am acquainted with the facts set forth in the foregoing Answer to New Matter Cross-claim of defendants L.J.F., Inc. and Mark W. Albright; and that the same is true and correct to the best of my knowledge, information and belief. I understand this statement is made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.



Robert W. Jozwik, Esquire

CERTIFICATE OF SERVICE

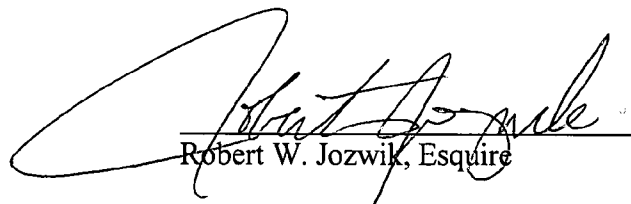
Robert W. Jozwik, Esquire, counsel for defendants Superior Carriers, Inc. and Joseph C. Lewis hereby certifies that a copy of the foregoing Answer to New Matter Cross-claim of defendants Burlington Motor Carriers, Inc. and Michael Wayne Phillips was served by First Class United States mail, postage prepaid, on November¹⁰, 2000 upon the following:

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, PA 19067-2737

Drew J. Dedo, Esquire
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, PA 19107

Scott T. Redman, Esquire
870 Six PPG Place
Pittsburgh, PA 15222

George P. Kachulis, Esquire
Dickie, McCamey & Chilcote, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402


Robert W. Jozwik, Esquire

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

THE CURTIS CENTER • SUITE 1130 EAST • INDEPENDENCE SQUARE WEST • PHILADELPHIA, PA 19106
PHONE: (215) 627-6900 • FAX: (215) 627-2665

FILED

NOV 13 2000

0131NOCC

William A. Shaw

Prothonotary

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY, a/s/o PENN TRAFFIC, INC.
and PENN TRAFFIC, INC.

CIVIL DIVISION

NO. 00-311-CD

Plaintiffs

v.

L.J.F., INC.; MARK W. ALBRIGHT; SUPERIOR
CARRIERS, INC.; JOSEPH C. LEWIS;
DUN-RITE TOWING, INC.; KEITH VLACH;
BURLINGTON MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS

Defendants

TYPE OF PLEADING:

ANSWER, NEW MATTER AND
NEW MATTER PURSUANT TO
PA.R.C.P. 2252(d)

Filed on behalf of defendants:
**SUPERIOR CARRIERS, INC.
AND JOSEPH C. LEWIS**

Counsel of record for this party:

Robert W. Jozwik, Esquire
PA. ID #70705

WILSON, ELSE, MOSKOWITZ,
EDELMAN & DICKER LLP
1130 THE CURTIS CENTER -
SUITE 1130 EAST
INDEPENDENCE SQUARE WEST
PHILADELPHIA, PA 19106
(215) 627-6900

JURY TRIAL DEMANDED

FILED

NOV 13 2000

William A. Shaw
Prothonotary

NOTICE TO PLEAD

TO: *Plaintiffs*
You are hereby notified to file
a written response to
the enclosed *Answer, New Matter*

within *20* days from service hereof or a
judgment may be entered against you.

Attorney for *Superior Carriers Inc*
- Joseph C Lewis

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP

BY: Robert W. Jozwik, Esquire
IDENTIFICATION NO. 70705
THE CURTIS CENTER – SUITE 1130 EAST
INDEPENDENCE SQUARE WEST
PHILADELPHIA, PA 19106
(215) 627-6900

Attorneys for Defendants
Superior Carrier, Inc. and
Joseph C. Lewis

NATIONAL UNION FIRE INSURANCE
COMPANY, a/s/o PENN TRAFFIC, INC.
and PENN TRAFFIC, INC.

Plaintiffs

v.

L.J.F., INC.; MARK W. ALBRIGHT; SUPERIOR
CARRIERS, INC.; JOSEPH C. LEWIS;
DUN-RITE TOWING, INC.; KEITH VLACH;
BURLINGTON MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS

Defendants

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

JURY TRIAL DEMANDED

NO. 00-3110-CD

ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO Pa.R.C.P. 2252(d)
OF DEFENDANTS SUPERIOR CARRIERS, INC. AND JOSEPH C. LEWIS

Defendants, Superior Carriers, Inc. and Joseph C. Lewis, by their attorneys, hereby file this Answer, New Matter and New Matter pursuant to Pa.R.C.P. 2252(d) to the Complaint averring as follows:

1.-4. After reasonable investigation, defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraphs 1 through 4 of the complaint. These allegations are therefore denied, and strict proof thereof is demanded at trial.

5. Admitted.

6. Admitted as qualified. Defendant Joseph C. Lewis resides at 744 Miller Street, Youngstown, OH.

7.-10. After reasonable investigation, defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraphs 7 through 10 of the complaint. These allegations are therefore denied, and strict proof thereof is demanded at trial.

11. The averments of paragraph 11 are addressed to parties other than the defendants and therefore no response is required.

12. Admitted.

13-14. The averments of paragraph 13 and 14 are addressed to parties other than the defendants and therefore no response is required.

15. To the extent, if at all, the allegations of Paragraph 15 of the complaint are not directed to other parties or conclusions of law to which no response is required, they are denied. By way of further answer and after reasonable investigation, defendants are without knowledge or information sufficient to form a belief as to their truth. Strict proof thereof is demanded at trial. Furthermore, in accordance with the Stipulation attached as Exhibit "A," plaintiffs have agreed to strike any and all allegations that defendants Superior Carriers, Inc. and Joseph C. Lewis operated their vehicle in a "reckless" fashion.

16. To the extent the allegations of paragraph 16 of the complaint contain averments of fact they are denied pursuant to Pa.R.C.P. 1029; otherwise they are conclusions of law to which no answer is necessary. By way of further answer, in accordance with the Stipulation attached as Exhibit "A," plaintiffs have agreed to strike any and all allegations that defendants Superior Carriers, Inc. and Joseph C. Lewis operated their vehicle in a "reckless" fashion.

COUNT I

PLAINTIFFS v. LJF., MARK W. ALBRIGHT; BURLINGTON MOTOR CARRIERS; MICHAEL WAYNE PHILLIPS; DUN-RITE TOWING AND KEITH DANIEL VLACH

17. Defendants hereby incorporate by reference their responses to the allegations of Paragraphs 1 through 16 of the Complaint as though fully set forth at length herein.

18-19. Since the allegations contained in Paragraphs 18 and 19 of the complaint are directed to parties other than defendants, no response is required.

WHEREFORE, defendants Superior Carriers, Inc. and Joseph C. Lewis demand judgment in their favor and against plaintiffs.

COUNT II

PLAINTIFFS v. SUPERIOR CARRIERS AND JOSEPH C. LEWIS

20. Defendants hereby incorporate by reference their responses to the allegations of Paragraphs 1 through 19 of the Complaint as though fully set forth at length herein.

21-22. To the extent, if at all, the allegations of Paragraphs 21 and 22 of the Complaint are not conclusions of law to which no response is required, they are denied pursuant to Pa.R.C.P. 1029. By way of further answer and in accordance with the Stipulation attached as Exhibit "A," plaintiffs have agreed to strike the allegations contained in paragraphs 21(k) and (l), as well as to strike any and all allegations that defendants Superior Carriers, Inc. and Joseph C. Lewis engaged in acts of "recklessness" as alleged in paragraph 21.

WHEREFORE, defendants Superior Carriers, Inc. and Joseph C. Lewis demand judgment in their favor and against plaintiffs.

NEW MATTER

23. Plaintiffs' right to recovery is barred by the applicable statute or statutes of limitations.

24. Plaintiffs have failed to state claims upon which relief can be granted.

25. Plaintiffs' damages, if any, were caused in whole or in part by the acts or omissions of third parties, including but not limited to the co-defendants herein, over whose actions defendants Superior Carriers, Inc. and Joseph C. Lewis had no control or right to control and for whose conduct it is not responsible.

26. Plaintiffs' damages, if any, were caused in whole or in part by the acts, omissions, carelessness, negligence and/or lack of due care of plaintiffs and/or its agents, and recovery herein is barred or diminished in accordance with the Pennsylvania Comparative Negligence Act, 42 Pa.C.S.A. §7102.

27. Plaintiffs' damages, if any, were caused solely by the carelessness, negligence and lack of care of the driver of the vehicle owned and/or operated by plaintiff Penn Traffic, Inc.

28. Plaintiffs' damages, if any, were not proximately caused by defendants Superior Carriers, Inc. and Joseph C. Lewis.

29. Plaintiffs' damages, if any, are barred by the doctrine of assumption of risk.

30. Plaintiffs' damages, if any, are barred by the doctrine of sudden emergency stop as it pertains to the actions/omissions of defendant Joseph C. Lewis.

31. Defendants Superior Carriers, Inc. and Joseph C. Lewis did not proximately or actually cause plaintiffs' damages.

32. Defendants Superior Carriers, Inc. and Joseph C. Lewis were not careless or negligent.

WHEREFORE, defendants Superior Carrier, Inc. and Joseph C. Lewis demand judgment in their favor and against plaintiffs.

NEW MATTER TO CODEFENDANTS PURSUANT TO PA.R.C.P. 2252(D)

33. Defendants Superior Carriers, Inc. and Joseph C. Lewis have denied, and continue to deny, any and all liability to plaintiffs herein. However, if it is judicially determined that defendants Superior Carriers, Inc. and Joseph C. Lewis are in any way liable, that liability will be the direct and proximate result of the actions or inactions of co-defendants herein, as set forth in greater detail in plaintiffs' complaint, the allegations of which are hereby incorporated by reference but not admitted. Defendants Superior Carriers, Inc. and Joseph C. Lewis hereby join these co-defendants as additional defendants, and aver they are solely liable to the plaintiffs; or are jointly and/or severally liable with defendants Superior Carriers, Inc. and Joseph C. Lewis; or are liable over to defendants Superior Carriers, Inc. and Joseph C. Lewis for some or all of any liability determined against it.

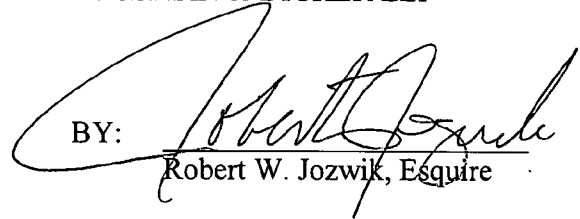
WHEREFORE, defendants Superior Carrier, Inc. and Joseph C. Lewis demand judgment in their favor and against codefendants, L.J.F., Inc., Mark Albright, Dun-Rite Towing, Keith

Daniel Vlach, Burlington Motor Carriers, Inc. and Michael Wayne Phillips for contribution and/or indemnity.

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

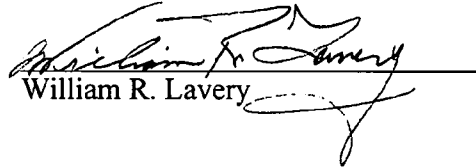
BY:

A handwritten signature in dark ink, appearing to read "Robert W. Jozwik", is written over a horizontal line.

Robert W. Jozwik, Esquire

VERIFICATION

William R. Lavery states that he is Vice President of Administration for defendant Superior Carriers, Inc.; that he has the authority to make this verification on its behalf; that he is acquainted with the facts set forth in the foregoing Answers to Plaintiffs' Complaint; that the same are true and correct to the best of his knowledge, information and belief; and that this statement is made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.


William R. Lavery

Dated: 9-25-00

CERTIFICATE OF SERVICE

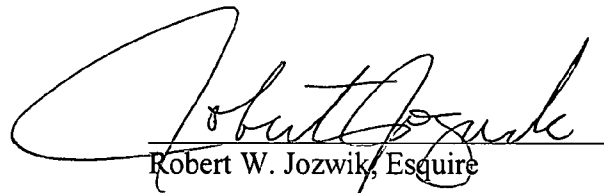
Robert W. Jozwik, Esquire, counsel for defendants Superior Carriers, Inc. and Joseph C. Lewis hereby certifies that a copy of the foregoing Answer to New Matter Cross-claim of defendants Dun-Rite Towing, Inc. and Keith Daniel Vlach was served by First Class United States mail, postage prepaid, on November 7th, 2000 upon the following:

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, PA 19067-2737

Drew J. Dedo, Esquire
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, PA 19107

Scott T. Redman, Esquire
870 Six PPG Place
Pittsburgh, PA 15222

George P. Kachulis, Esquire
Dickie, McCamey & Chilcote, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402


Robert W. Jozwik, Esquire

Printed By: MAR Limited-Form 4-11 5-000098	Diane M. Rice, Esq.	NATIONAL UNION FIRE INSURANCE COMPANY a/s/o PENN TRAFFIC, INC. and PENN TRAFFIC, INC.	MARCH 10, 2000, PRAECIPE FOR SUMMONS, filed by Diane M. Rice, Esq., Attorney for the Plaintiff Four Writs to Sheriff Twelve Writs to Attorney MARCH 10, 2000, SUMMONS ISSUED.	
		00-311-CD	APR. 13, 2000, AFFIDAVIT of SERVICE, PLAINTIFF'S PRAECIPE and WRIT of SUMMONS in CIVIL ACTION, UPON JOSEPH C. LEWIS, filed by s/Diane M. Rice, Esquire. NO CC Verification, s/Diane M. Rice, Esq. Certificate of Service, filed.	(2)
	George P. Kachulis	L.J.F., INC. and MARK W. ALBRIGHT and	APR. 13, 2000, AFFIDAVIT OF SERVICE, PLAINTIFF'S PRAECIPE and WRIT of SUMMONS in Civil Action, Upon DUN-RITE TOWING, INC., filed by s/DIANE M. RICE, ESQUIRE NO CC VERIFICATION, s/DIANE M. RICE, ESQ. CERTIFICATION of SERVICE, filed.	(3)
	Robert W. Jozwik, Esq.	SUPERIOR CARRIERS, INC. and JOSEPH C. LEWIS and	MAY 31, 2000, ENTRY OF APPEARANCE, filed. NO CC Kindly enter my appearance on behalf of defendants, MICHAEL WAYNE PHILLIPS and BURLINGTON MOTOR CARRIERS, only in the above-captioned matter. s/LOUISE D. HAYNE, ESQ.	4
	Scott T. Redman	*DUN-RITE TOWING, INC. and *KEITH DANIEL VLACH a/k/a	MAY 31, 2000, PRAECIPE FOR RULE TO FILE COMPLAINT, filed. NO CC Please enter rule upon plaintiff to file a Complaint within twenty (20) days or suffer judgment of non pros. s/LOUISE D. HAYNE, ESQ.	
	Louise D. Hayne + Drew J. Dedo	KEITH DANIEL VALCH and + BURLINGTON MOTOR CARRIERS, INC. + and MICHAEL WAYNE PHILLIPS	RULE ISSUED UPON PLAINTIFF, May 31, 2000. JUL 17, 2000, COMPLAINT, filed by s/DIANE M. RICE, ESQ. VERIFICATION, s/DIANE M. RICE, ESQ. CERTIFICATE OF SERVICE, filed.	
			JUL 31, 2000, PRAECIPE FOR APPEARANCE, filed by s/SCOTT T. REDMAN, ESQ.	
			AUG. 14, 2000, PRAECIPE FOR APPEARANCE, filed by s/SCOTT T. REDMAN, ESQUIRE (FOR DEFENDANT: DUN-RITE TOWING, INC) CERTIFICATE OF SERVICE, filed.	5
			AUG. 21, 2000, PRAECIPE FOR ENTRY OF APPEARANCE, filed by s/GEORGE P. KACHULIS, ESQUIRE CERTIFICATE OF SERVICE, filed.	6
	Pro. BY ATTY 80.00 Shff Hawkins By Atty 143.83 Shff Green By Atty 116.00 Shff Lotwick By Atty 25.50		AUG. 24, 2000, ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO PA. R.C.P. 2252(d), filed by s/SCOTT T. REDMAN, ESQ. VERIFICATION, s/KEITH DANIEL VLACH CERTIFICATE OF SERVICE, filed.	11
			AUG. 25, 2000, SHERIFF RETURN, filed. NOW, April 18, 2000, after diligent search in my bailiwick I return the within Praecipe & Summons "NOT FOUND" as to Mark W. Albright, Defendant. Several attempts never home. SO-ANSWERS, CRISTER A. HAWKINS, SHERIFF by s/Marilyn Hamm	
			AUGUST 28, 2000, ENTRY OF APPEARANCE, filed by Robert W. Jozwik, Esq. CERTIFICATE OF SERVICE, filed. NO CC	
			SEP. 20, 2000, ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO RULE 2252(d), filed by s/GEORGE P. KACHULIS, ESQUIRE VERIFICATION, s/LEO FRAXLEY CERTIFICATE OF SERVICE, filed.	1
		SEP. 21, 2000, REPLY TO NEW MATTER OF DUN-RITE TOWING AND KEITH DANIEL VLACH, filed by s/DIANE M. RICE, ESQ. VERIFICATION, s/DIANE M. RICE, ESQUIRE CERTIFICATE OF SERVICE, filed.		
		SEP. 22, 2000, REPLY TO NEW MATTER PURSUANT TO RULE 2252(d), filed by s/SCOTT T. REDMAN, ESQ. VERIFICATION, s/SCOTT T. REDMAN, ESQ. CERTIFICATE OF SERVICE, filed.		1
		SEP 25, 2000, SUBSTITUTION OF APPEARANCE, filed. Kindly substitute Drew J. Dedo, Esquire, as attorney for defendants, Michael Wayne Phillips and Burlington Motor Carriers lieu of Louise D. Hayne, Esquire. s / DREW J. DEDO, ESQ.		1
		SEP. 29, 2000, REPLY TO NEW MATTER OF DEFENDANTS, L.J.F., INC. and MARK W. ALBRIGHT, filed by s/DIANE M. RICE, ESQUIRE VERIFICATION, s/DIANE M. RICE, ESQ. CERTIFICATE OF SERVICE, filed.		17
		OCTOBER 10, 2000, ANSWER OF DEFENDANTS, BURLINGTON MOTOR CARRIERS, INC. AND MICHAEL WAYNE PHILLIPS TO NEW MATTER PURSUANT TO PA. R.C.P. 2252(D) OF DEFENDANTS, DUN-RITE TOWING, INC. AND KEITH DANIEL VALCH, filed by Atty. Debo No Cert. Copies		17
		OCT. 19, 2000, BURLINGTON MOTOR CARRIERS, INC. AND MICHAEL WAYNE PHILLIPS' ANSWER TO THE PLAINTIFFS' COMPLAINT WITH NEW MATTER AND NEW MATTER CORSSCLAIM PURSUANT TO PA. R.C.P. 2252(a), filed by s/DREW J. DEDO, ESQ. VERIFICATION, s/THOMAS N. BARIOW CERTIFICATE OF SERVICE, filed.		17
		OCT. 23, 2000, REPLY TO NEW MATTER CROSSCLAIM PURSUANT TO PA. R.C.P. 2252(d), filed by s/SCOTT T. REDMAN, ESQUIRE VERIFICATION, s/SCOTT T. REDMAN, ESQ. CERTIFICATE OF SERVICE		17

CONTINUED FROM PAGE 63, NATIONAL UNION FIRE INSURANCE CO., al v. L.J.F., INC., et al 00-311-CD

OCT. 25, 2000, ANSWER OF DEFENDANTS, MICHAEL WAYNE PHILLIPS AND BURLINGTON MOTOR CARRIERS, INC. TO (21)
NEW MATTER PURSUANT TO RULE 22(d) OF DEFENDANTS, L.J.F., INC. AND MARK ALBRIGHT, filed by
s/DREW J. DEDO, ESQ.
VERIFICATION, s/DREW J. DEDO, ESQ.
CERTIFICATE OF SERVICE

**PLEASE REFER TO COMPUTER
FOR FURTHER ENTRIES**

No. 00-311-CD

**NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.
and PENN TRAFFIC, INC.**

vs.

**L.J.F., INC.,
MARK W. ALBRIGHT,**

**SUPERIOR CARRIERS, INC.,
JOSEPH C. LEWIS,**

**DUN-RITE TOWING, INC.,
KEITH DANIEL VLACH or VALCH,**

**BURLINGTON MOTOR CARRIERS, INC.,
MICHAEL WAYNE PHILLIPS**

DIANE M. RICE, ESQ.
O'Brien & Hennessy Group
158 Dolington Rd, Ste. 201
Yardley, PA 19067-2737
215-493-9670

GEORGE P. KACHULIS, ESQ.
Dickie, McCamey & Chilcote, P.C.
Two PPG Place, Ste. 400
PGH 15222 412-281-7272
ROBERT JOZWICK, ESQ.
Wilson, Elser, Moskowitz, Edelman
& Dicker
The Curtis Center, Ste. 1130 East
Independence Square West
Phila 19106 215-627-6900
SCOTT T. REDMAN, ESQ.
Bonacci, Muchow & Redman
870 Six PPG Place
PGH 15222 412-263-3360
DREW DEDO, ESQ.
Rawle & Henderson
The Widener Bldg., One South
Penn Square, Phila. 19107
215-575-4283

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
COUNTY PENNSYLVANIA

CIVIL DIVISION

13 NATIONAL UNION FIRE INSURANCE COMPANY :

a/s/o PENN TRAFFIC, INC. :

Morris Corporate Center II :

400 Interpace Parkway :

Building D, 3d Floor :

Parsippany, New Jersey 07054 and :

PENN TRAFFIC, INC. :

RT. 255 and Shaffer Road :

DuBois, PA. 15801 :

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

00-311-CP

v.

14 L.J.F., INC.

RD 1, Box 62

Irvona, PA. 16656

and

15 MARK W. ALBRIGHT

P.O. Box 184, Reed Street Exit

Brisbin, PA. 16620

and

14 SUPERIOR CARRIERS, INC.

2122 York Road, Suite 150

Oak Brook, Illinois

and

15 JOSEPH C. LEWIS

416 Shields Road

Youngstown, Ohio

and

15 DUN-RITE TOWING, INC.

15 Hayes Street

Elmsford, New York 10523

and

15 KEITH DANIEL VLACH or VALCH

526 Washington Avenue

Pleasantville, NY 10570

and

14 BURLINGTON MOTOR CARRIERS, INC.

14611 West Commerce Road

Daleville, IN. 47334

and

15 MICHAEL WAYNE PHILLIPS

2807 Kingston Court

Tulsa, OK 74115

FILED

MAR 10 2000

William A. Shaw
Prothonotary

CIVIL ACTION:

PRAECIPE FOR SUMMONS

TO THE PROTHONOTARY/CLERK OF THE SAID COURT:

Kindly issue a Summons in Civil Action in the above case. Writ of Summons shall be forwarded to the Sheriff and Attorney for Plaintiff.


SIGNATURE OF ATTORNEY

DIANE M. RICE, ESQUIRE
158 DOLINGTON ROAD, SUITE 201
YARDLEY, PA. 19067-2737
215..493.9670/215.972.0503
ATTY. I.D. No.: 37723

DATE: 03-09-00

SUMMONS IN CIVIL ACTION

TO: L. J. F., INC.

YOU ARE HEREBY NOTIFIED THAT THE ABOVE NAMED PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.

PROTHONOTARY/CLERK, CIVIL DIVISION

DATE: 3-10-00

BY: 
DEPUTY

FILED

MAR 10 2000
m/3:50/ was
William A. Shaw
Prothonotary
PP
80-
BY ATTY

4 WRITS TO SHERIFF
12 WRITS TO ATTY

~~8 WRITS TO ATTY~~

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
COUNTY PENNSYLVANIA

CIVIL DIVISION

NATIONAL UNION FIRE INSURANCE COMPANY

a/s/o PENN TRAFFIC, INC.

Morris Corporate Center II

400 Interpace Parkway

Building D, 3d Floor

Parsippany, New Jersey 07054 and

PENN TRAFFIC, INC.

RT. 255 and Shaffer Road

DuBois, PA. 15801

v.

L.J.F., INC.

RD 1, Box 62

Irvona, PA. 16656

and

MARK W. ALBRIGHT

P.O. Box 184, Reed Street Exit

Brisbin, PA. 16620

and

SUPERIOR CARRIERS, INC.

2122 York Road, Suite 150

Oak Brook, Illinois

and

JOSEPH C. LEWIS

416 Shields Road

Youngstown, Ohio

and

DUN-RITE TOWING, INC.

15 Hayes Street

Elmsford, New York 10523

and

KEITH DANIEL VLACH or VALCH

526 Washington Avenue

Pleasantville, NY 10570

and

BURLINGTON MOTOR CARRIERS, INC.

14611 West Commerce Road

Daleville, IN. 47334

and

MICHAEL WAYNE PHILLIPS

2807 Kingston Court

Tulsa, OK 74115

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

00-311-CD

FILED

MAR 10 2000

William A. Shaw
Prothonotary

CIVIL ACTION:

PRAECIPE FOR SUMMONS

TO THE PROTHONOTARY/CLERK OF THE SAID COURT:

Kindly issue a Summons in Civil Action in the above case. Writ of Summons shall be forwarded to the Sheriff and Attorney for Plaintiff.



SIGNATURE OF ATTORNEY

DIANE M. RICE, ESQUIRE
158 DOLINGTON ROAD, SUITE 201
YARDLEY, PA. 19067-2737
215.493.9670/215.972.0503
ATTY. I.D. No.: 37723

DATE: 03-09-00

SUMMONS IN CIVIL ACTION

TO: MARK W. ALBRIGHT

YOU ARE HEREBY NOTIFIED THAT THE ABOVE NAMED PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.

PROTHONOTARY/CLERK, CIVIL DIVISION

DATE: 3-10-00

BY: 

DEPUTY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
COUNTY PENNSYLVANIA

CIVIL DIVISION

NATIONAL UNION FIRE INSURANCE COMPANY :

a/s/o PENN TRAFFIC, INC. :

Morris Corporate Center II :

400 Interpace Parkway :

Building D, 3d Floor :

Parsippany, New Jersey 07054 and :

PENN TRAFFIC, INC. :

RT. 255 and Shaffer Road :

DuBois, PA. 15801 :

v. :

L.J.F., INC. :

RD 1, Box 62 :

Irvona, PA. 16656 :

and :

MARK W. ALBRIGHT :

P.O. Box 184, Reed Street Exit :

Brisbin, PA. 16620 :

and :

SUPERIOR CARRIERS, INC. :

2122 York Road, Suite 150 :

Oak Brook, Illinois :

and :

JOSEPH C. LEWIS :

416 Shields Road :

Youngstown, Ohio :

and :

DUN-RITE TOWING, INC. :

15 Hayes Street :

Elmsford, New York 10523 :

and :

KEITH DANIEL VLACH or VALCH :

526 Washington Avenue :

Pleasantville, NY 10570 :

and :

BURLINGTON MOTOR CARRIERS, INC. :

14611 West Commerce Road :

Daleville, IN. 47334 :

and :

MICHAEL WAYNE PHILLIPS :

2807 Kingston Court :

Tulsa, OK 74115 :

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

00-311-00

FILED

MAR 10 2000


William A. Shaw
Prothonotary

CIVIL ACTION:

PRAECIPE FOR SUMMONS

TO THE PROTHONOTARY/CLERK OF THE SAID COURT:

Kindly issue a Summons in Civil Action in the above case. Writ of Summons shall be forwarded to the Sheriff and Attorney for Plaintiff.


SIGNATURE OF ATTORNEY

DIANE M. RICE, ESQUIRE
158 DOLINGTON ROAD, SUITE 201
YARDLEY, PA. 19067-2737
215.493.9670/215.972.0503
ATTY. I.D. No.: 37723

DATE: 03-09-00

SUMMONS IN CIVIL ACTION

TO: SUPERIOR CARRIERS, INC.

YOU ARE HEREBY NOTIFIED THAT THE ABOVE NAMED PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.

PROTHONOTARY/CLERK, CIVIL DIVISION

DATE: 3-10-00

BY: 
DEPUTY

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

CIVIL DIVISION

NATIONAL UNION FIRE INSURANCE COMPANY

a/s/o PENN TRAFFIC, INC.

Morris Corporate Center II

400 Interpace Parkway

Building D, 3d Floor

Parsippany, New Jersey 07054 and

PENN TRAFFIC, INC.

RT. 255 and Shaffer Road

DuBois, PA. 15801

v.

L.J.F., INC.

RD 1, Box 62

Irvona, PA. 16656

and

MARK W. ALBRIGHT

P.O. Box 184, Reed Street Exit

Brisbin, PA. 16620

and

SUPERIOR CARRIERS, INC.

2122 York Road, Suite 150

Oak Brook, Illinois

and

JOSEPH C. LEWIS

416 Shields Road

Youngstown, Ohio

and

DUN-RITE TOWING, INC.

15 Hayes Street

Elmsford, New York 10523

and

KEITH DANIEL VLACH or VALCH

526 Washington Avenue

Pleasantville, NY 10570

and

BURLINGTON MOTOR CARRIERS, INC.

14611 West Commerce Road

Daleville, IN. 47334

and

MICHAEL WAYNE PHILLIPS

2807 Kingston Court

Tulsa, OK 74115

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

00-311-00

FILED

MAR 10 2000

William A. Shaw
Prothonotary

CIVIL ACTION:

PRAECIPE FOR SUMMONS

TO THE PROTHONOTARY/CLERK OF THE SAID COURT:

Kindly issue a Summons in Civil Action in the above case. Writ of Summons shall be forwarded to the Sheriff and Attorney for Plaintiff.


SIGNATURE OF ATTORNEY

DIANE M. RICE, ESQUIRE
158 DOLINGTON ROAD, SUITE 201
YARDLEY, PA. 19067-2737
215..493.9670/215.972.0503
ATTY. I.D. No.: 37723

DATE: 03-09-00

SUMMONS IN CIVIL ACTION

TO: JOSEPH C. LEWIS

YOU ARE HEREBY NOTIFIED THAT THE ABOVE NAMED PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.

PROTHONOTARY/CLERK, CIVIL DIVISION

DATE: _____

BY: _____
DEPUTY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
COUNTY PENNSYLVANIA

CIVIL DIVISION

NATIONAL UNION FIRE INSURANCE COMPANY :

a/s/o PENN TRAFFIC, INC. :

Morris Corporate Center II :

400 Interpace Parkway :

Building D, 3d Floor :

Parsippany, New Jersey 07054 and :

PENN TRAFFIC, INC. :

RT. 255 and Shaffer Road :

DuBois, PA. 15801 :

v. :

L.J.F., INC. :

RD 1, Box 62 :

Irvona, PA. 16656 :

and :

MARK W. ALBRIGHT :

P.O. Box 184, Reed Street Exit :

Brisbin, PA. 16620 :

and :

SUPERIOR CARRIERS, INC. :

2122 York Road, Suite 150 :

Oak Brook, Illinois :

and :

JOSEPH C. LEWIS :

416 Shields Road :

Youngstown, Ohio :

and :

DUN-RITE TOWING, INC. :

15 Hayes Street :

Elmsford, New York 10523 :

and :

KEITH DANIEL VLACH or VALCH :

526 Washington Avenue :

Pleasantville, NY 10570 :

and :

BURLINGTON MOTOR CARRIERS, INC. :

14611 West Commerce Road :

Daleville, IN. 47334 :

and :

MICHAEL WAYNE PHILLIPS :

2807 Kingston Court :

Tulsa, OK 74115 :

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

00-311-00

FILED

MAR 10 2000

William A. Shaw
Prothonotary

CIVIL ACTION:



PRAECIPE FOR SUMMONS

TO THE PROTHONOTARY/CLERK OF THE SAID COURT:

Kindly issue a Summons in Civil Action in the above case. Writ of Summons shall be forwarded to the Sheriff and Attorney for Plaintiff.

Diane M. Rice
SIGNATURE OF ATTORNEY

DIANE M. RICE, ESQUIRE
158 DOLINGTON ROAD, SUITE 201
YARDLEY, PA. 19067-2737
215.493.9670/215.972.0503
ATTY. I.D. No.: 37723

DATE: 03-09-00

SUMMONS IN CIVIL ACTION

TO: DUN-RITE TOWING, INC.

YOU ARE HEREBY NOTIFIED THAT THE ABOVE NAMED PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.

PROTHONOTARY/CLERK, CIVIL DIVISION

DATE: _____

BY: _____
DEPUTY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
COUNTY PENNSYLVANIA

CIVIL DIVISION

NATIONAL UNION FIRE INSURANCE COMPANY

a/s/o PENN TRAFFIC, INC.

Morris Corporate Center II

400 Interpace Parkway

Building D, 3d Floor

Parsippany, New Jersey 07054 and

PENN TRAFFIC, INC.

RT. 255 and Shaffer Road

DuBois, PA. 15801

v.

L.J.F., INC.

RD 1, Box 62

Irvona, PA. 16656

and

MARK W. ALBRIGHT

P.O. Box 184, Reed Street Exit

Brisbin, PA. 16620

and

SUPERIOR CARRIERS, INC.

2122 York Road, Suite 150

Oak Brook, Illinois

and

JOSEPH C. LEWIS

416 Shields Road

Youngstown, Ohio

and

DUN-RITE TOWING, INC.

15 Hayes Street

Elmsford, New York 10523

and

KEITH DANIEL VLACH or VALCH

526 Washington Avenue

Pleasantville, NY 10570

and

BURLINGTON MOTOR CARRIERS, INC.

14611 West Commerce Road

Daleville, IN. 47334

and

MICHAEL WAYNE PHILLIPS

2807 Kingston Court

Tulsa, OK 74115

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

00-311-00

FILED

MAR 10 2000

William A. Shaw
Prothonotary

CIVIL ACTION:

PRAECIPE FOR SUMMONS

TO THE PROTHONOTARY/CLERK OF THE SAID COURT:

Kindly issue a Summons in Civil Action in the above case. Writ of Summons shall be forwarded to the Sheriff and Attorney for Plaintiff.


SIGNATURE OF ATTORNEY

DIANE M. RICE, ESQUIRE
158 DOLINGTON ROAD, SUITE 201
YARDLEY, PA. 19067-2737
215..493.9670/215.972.0503
ATTY. I.D. No.: 37723

DATE: 03-09-00

SUMMONS IN CIVIL ACTION

TO: KEITH DANIEL VLACH or VALCH

YOU ARE HEREBY NOTIFIED THAT THE ABOVE NAMED PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.

PROTHONOTARY/CLERK, CIVIL DIVISION

DATE: 3-10-00

BY: 
DEPUTY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
COUNTY PENNSYLVANIA

CIVIL DIVISION

NATIONAL UNION FIRE INSURANCE COMPANY

a/s/o PENN TRAFFIC, INC.

Morris Corporate Center II

400 Interpace Parkway

Building D, 3d Floor

Parsippany, New Jersey 07054 and

PENN TRAFFIC, INC.

RT. 255 and Shaffer Road

DuBois, PA. 15801

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

00-311-CD

v.

L.J.F., INC.

RD 1, Box 62

Irvona, PA. 16656

and

MARK W. ALBRIGHT

P.O. Box 184, Reed Street Exit

Brisbin, PA. 16620

and

SUPERIOR CARRIERS, INC.

2122 York Road, Suite 150

Oak Brook, Illinois

and

JOSEPH C. LEWIS

416 Shields Road

Youngstown, Ohio

and

DUN-RITE TOWING, INC.

15 Hayes Street

Elmsford, New York 10523

and

KEITH DANIEL VLACH or VALCH

526 Washington Avenue

Pleasantville, NY 10570

and

BURLINGTON MOTOR CARRIERS, INC.

14611 West Commerce Road

Daleville, IN. 47334

and

MICHAEL WAYNE PHILLIPS

2807 Kingston Court

Tulsa, OK 74115

FILED

MAR 10 2000

William A. Shaw
Prothonotary

CIVIL ACTION:

PRAECIPE FOR SUMMONS

TO THE PROTHONOTARY/CLERK OF THE SAID COURT:

Kindly issue a Summons in Civil Action in the above case. Writ of Summons shall be forwarded to the Sheriff and Attorney for Plaintiff.


SIGNATURE OF ATTORNEY

DIANE M. RICE, ESQUIRE
158 DOLINGTON ROAD, SUITE 201
YARDLEY, PA. 19067-2737
215.493.9670/215.972.0503
ATTY. I.D. No.: 37723

DATE: 03-09-00

SUMMONS IN CIVIL ACTION

TO: BURLINGTON MOTOR CARRIERS, INC.

YOU ARE HEREBY NOTIFIED THAT THE ABOVE NAMED PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.

PROTHONOTARY/CLERK, CIVIL DIVISION

DATE: 3-10-00

BY: 
DEPUTY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
COUNTY PENNSYLVANIA

CIVIL DIVISION

NATIONAL UNION FIRE INSURANCE COMPANY : COURT OF COMMON PLEAS
a/s/o PENN TRAFFIC, INC. : CLEARFIELD COUNTY

Morris Corporate Center II
400 Interpace Parkway
Building D, 3d Floor
Parsippany, New Jersey 07054 and
PENN TRAFFIC, INC.
RT. 255 and Shaffer Road
DuBois, PA. 15801

00-311-CD

v.

L.J.F., INC.

RD 1, Box 62
Irvona, PA. 16656
and

MARK W. ALBRIGHT

P.O. Box 184, Reed Street Exit
Brisbin, PA. 16620
and

SUPERIOR CARRIERS, INC.

2122 York Road, Suite 150
Oak Brook, Illinois
and

JOSEPH C. LEWIS

416 Shields Road
Youngstown, Ohio
and

DUN-RITE TOWING, INC.

15 Hayes Street
Elmsford, New York 10523
and

KEITH DANIEL VLACH or VALCH

526 Washington Avenue
Pleasantville, NY 10570
and

BURLINGTON MOTOR CARRIERS, INC.

14611 West Commerce Road
Daleville, IN. 47334
and

MICHAEL WAYNE PHILLIPS

2807 Kingston Court
Tulsa, OK 74115

FILED

MAR 10 2000

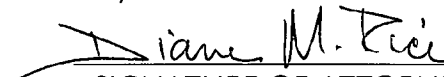
William A. Shaw
Prothonotary

CIVIL ACTION:

PRAECIPE FOR SUMMONS

TO THE PROTHONOTARY/CLERK OF THE SAID COURT:

Kindly issue a Summons in Civil Action in the above case. Writ of Summons shall be forwarded to the Sheriff and Attorney for Plaintiff.


SIGNATURE OF ATTORNEY

DIANE M. RICE, ESQUIRE
158 DOLINGTON ROAD, SUITE 201
YARDLEY, PA. 19067-2737
215.493.9670/215.972.0503
ATTY. I.D. No.: 37723

DATE: 03-09-00

SUMMONS IN CIVIL ACTION

TO: MICHAEL WAYNE PHILLIPS

YOU ARE HEREBY NOTIFIED THAT THE ABOVE NAMED PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.

PROTHONOTARY/CLERK, CIVIL DIVISION

DATE: _____

BY: _____
DEPUTY



O'BRIEN
&
HENNESSY
GROUP

NATIONWIDE SUBROGATION

Of Counsel: DIANE M. RICE
ADMITTED PA

MARCH 09, 2000

COURT OF COMMON PLEAS
Clearfield County
Clearfield County Courthouse, Room 124
230 east market Street
Clearfield, PA. 16830
ATTN: PROTHONOTARY

RE: NATIONAL UNION FIRE INSURANCE CO., et al. v. L.J.F., INC. et. al.
CCP, Clearfield County

Dear Sir or Madam:

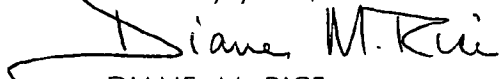
Enclosed please find eight (8) original Praecipe and Writ of Summons relative to the above matter along with the required filing fee of \$ 80.00. Kindly file the original Praecipes and execute the Summons as required. I have also attached two copies to each original which I am asking you to time-stamp and return as required to me in the self-addressed stamped envelope enclosed for your use.

This matter then becomes a bit complicated. I will handle service upon the four (4) out-of state defendants. The remaining four (4) summonses should be transmitted to the Sheriff's Office along with the enclosed letter and filing fees payable to the Sheriff of Clearfield County, the Sheriff of Dauphin County and the Sheriff of Philadelphia County. I have marked the Summonses on the front, to facilitate this process.

This is being filed close to the last day of the statute of limitations. Therefore, if there is any difficulty with filing the enclosed item,s, it would be greatly appreciated if you would please call me immediately at (215) 972-0503 or my cell phone (215) 431-6838, so that I can resolve the problem, if possible. Your courtesy in this regard is appreciated.

Thank you in advance for your prompt attention to this request.

Sincerely yours,


DIANE M. RICE

DMR/sr

VIA UPS NEXT DAY AIR

ATTORNEY FOR PLAINTIFFS

: COURT OF COMMON PLEAS
: CLEARFIELD COUNTY

V.

FILED

APR 13 2000

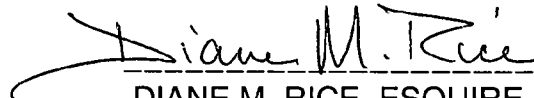
William A. Shaw
Prothonotary

00-3110-CD

DIANE M. RICE, ESQUIRE, being duly sworn according to law deposes and states that on March 21, 2000, she sent a copy of Plaintiff's Praecipe and Writ of Summons in Civil Action to defendant JOSEPH C. LEWIS, 416 Shields Road, Youngstown, Ohio 44512 via Certified Mail, Return Receipt

Requested: 7099 3400 0000 0699 1128. See transmittal letter attached hereto and marked as Exhibit A. The Praecipe and Writ of Summons was signed for by the defendant, JOSEPH C. LEWIS, on or about April 07, 2000, as indicated by the original green return card attached hereto as Exhibit B. This Verification is made subject to the penalties of 18 Pa CSA 4904, relating to unsworn falsification to authorities.

DATE: 04-11-00



DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs



O'BRIEN
&
HENNESSY
GROUP

NATIONWIDE SUBROGATION

MARCH 21, 2000

JOSEPH C. LEWIS
416 Shields Road
Youngstown, Ohio 44512

RE: NATIONAL UNION FIRE INSURANCE CO. v. L.J.F., Inc. et. al.
Court of Common Pleas, Clearfield County, No. 00-3110CD

Dear Mr. Lewis:

Enclosed please find a Summons in Civil Action relative to the above captioned matter, which has been filed in the Clearfield County Court of Common Pleas as an Arbitration matter.

Kindly forward the enclosed legal document to your employer, Superior Carriers and have the attorney for the company contact me regarding this case. If you would like to discuss this matter in further detail, please do not hesitate to contact me at either the telephone number listed above or at 215.972.0503.

Thank you for your courtesies in this matter

Sincerely yours,

Diane M. Rice
DIANE M. RICE

DMR/abl

VIA CERTIFIED MAIL-- RETURN RECEIPT REQUESTED : 7099 3400 0000 0699 1128

7099 3400 0000 0699 1128

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
Article Sent To:	
Postage	\$ 33
Certified Fee	140
Return Receipt Fee (Endorsement Required)	1.25
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 2.98
Name (Please Print Clearly) (to be completed by mailer) JOSEPH C. LEWIS	
Street, Apt. No., or PO Box No. 416 SHIELDS ROAD	
City, State, ZIP+4 YOUNGSTOWN, OHIO 44512	
PS Form 3800, July 1999	



Counsel: DIANE M. RICE
ADMITTED PA

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:

JOSEPH C. LEWIS
416 Shields Road
Youngstown, Ohio
44512

2. Article Number (Copy from service label)

7099 3400 0000 0699 1128

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

JOSEPH C. LEWIS 4-7-00

C. Signature

Joseph C. Lewis

☐ Agent
☐ Addressee

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.

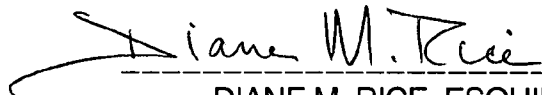
4. Restricted Delivery? (Extra Fee)

☐ Yes**EXHIBIT B**

VERIFICATION

DIANE M. RICE, ESQUIRE,, hereby verifies that the information set forth in the foregoing Affidavit of Service is true -and -correct to the best of her knowledge, information, and belief. This verification is made subject to the penalties of 18 Pa. CSA 4904, relating to unsworn falsification to authorities.

DATE: 04-11-00

A handwritten signature in cursive script, reading "Diane M. Rice", is written over a horizontal dashed line.

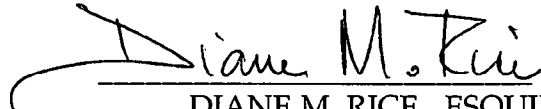
DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

CERTIFICATION OF SERVICE

I, Diane M. Rice, Esquire, do hereby certify and say that a true-and-correct copy of the foregoing Affidavit of Service of the Summons in Civil Action Upon Defendant, JOSEPH C. LEWIS , was served on the below listed corporations and/or individuals by regular mail on April 11, 2000:

- (1) **L.J.F., INC.**
RD !, Box 62
Irvona, PA. 16656
- (2) **MARK W. ALBRIGHT**
P.O. Box 184, Reed Street Exit
Brisbin, PA. 16620
- (3) **SUPERIOR CARRIERS, INC.**
2122 York Road, Suite 150
Oak brook, Illinois 66521
- (4) **JOSEPH C. LEWIS**
416 Shields Road
Youngstown, Ohio 44512
- (5) **DUN-RITE TOWING, INC.**
15 Hayes Street
Elmsford, New York 10523
- (6) **KEITH DANIEL VLACH**
319 Willis Avenue
Hawthorne, NY 10532-1922
- (7) **BURLINGTON MOTOR CARRIERS, INC.**
14611 West Commerce Road
Daleville, IN. 47334
- (8) **MICHAEL WAYNE PHILLIPS**
2807 Kingston Court
Tulsa, OK 74115

DATE: 04-11-00


DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

FILED

APR 13 2000

M/A:27/ncc

Winston A. Shaw
Prothonotary

[Handwritten signature]

DIANE M. RICE
ATTORNEY AT LAW
158 Dolington Road
Suite 201
Yardley, PA 19067-2737
(215) 493 - 9670
IDENTIFICATION NUMBER : 37723

NATIONAL UNION FIRE INSURANCE CO.
a/s/o PENN TRAFFIC, INC. and
PENN TRAFFIC, INC.

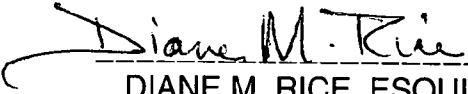
V.

FILED

AFFIDAVIT OF SERVICE

Hayes Street, Elmsford, New York 10523 ATTN: Manager via Certified Mail, Return Receipt Requested: 7099 3400 0000 0699 1159. See transmittal letter attached hereto and marked as Exhibit A. The Praecipe and Writ of Summons was signed for by an unknown person at the address given on or about April 05, 2000, as indicated by the original green return card attached hereto as Exhibit B. This Verification is made subject to the penalties of 18 Pa CSA 4904, relating to unsworn falsification to authorities.

DATE: 04-10-00


DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs



O'BRIEN
&
HENNESSY
GROUP

NATIONWIDE SUBROGATION

Of Counsel: DIANE M. RICE
ADMITTED PA

MARCH 20, 2000

DUN-RITE TOWING, INC.
15 Hayes Street
Elmsford, New York 10523
ATTN: Manager

RE: NATIONAL UNION FIRE INSURANCE CO. v. L.J.F., Inc. et. al.
Court of Common Pleas, Clearfield County, No. 00-3110CD

Dear Sir or Madam:

Enclosed please find a Summons in Civil Action relative to the above captioned matter, which has been filed in the Clearfield County Court of Common Pleas as an Arbitration matter.

Kindly forward the enclosed legal document to local counsel and have him/her contact me regarding this case. If you would like to discuss this matter in further detail, please do not hesitate to contact me at either the telephone number listed above or at 215.972.0503.

Thank you for your courtesies in this matter

Sincerely yours,

Diane M. Rice
DIANE M. RICE

DMR/abl

VIA CERTIFIED MAIL-- RETURN RECEIPT REQUESTED

158 DOLINGTON ROAD, SUITE 201 • YARDLEY, PA 19168
TELEPHONE 215-493-9670

7099 3400 0000 0699 1159

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
Article Sent To:	
Name (Please Print Clearly) (To be completed by mailer)	
DUN-RITE TOWING, INC.	
Street, Apt. No., or PO Box No.	
15 HAYES STREET	
City, State, Zip+4	
ELMSFORD, NY 10523	
ATTN: MGR.	
PS Form 3800, July 1999 See Reverse for Instructions	
Total Postage & Fees	\$ 2.98
Postage	\$ 33
Certified Fee	1.40
Return Receipt Fee (Endorsement Required)	1.25
Restricted Delivery Fee (Endorsement Required)	

Penn. Center Postal Store PA 18101

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:

DUN-RITE TOWING, INC.
15 Hayis Street
Elmsford, NY

10523
ATTN: MANAGER

2. Article Number (Copy from service label)

7099 3400 0000 0699 1159

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

4-5-00

C. Signature

X

☐ Agent
☐ Addressee

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

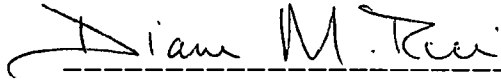
102595-99-M-1789

EXHIBIT B

VERIFICATION

DIANE M. RICE, ESQUIRE,, hereby verifies that the information set forth in the foregoing Affidavit of Service is true -and -correct to the best of her knowledge, information, and belief. This verification is made subject to the penalties of 18 Pa. CSA 4904, relating to unsworn falsification to authorities.

DATE: 04-10-00

_____

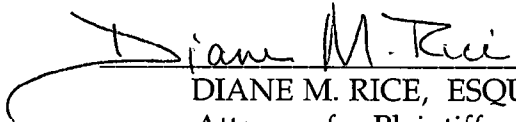
DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

CERTIFICATION OF SERVICE

I, Diane M. Rice, Esquire, do hereby certify and say that a true-and-correct copy of the foregoing Affidavit of Service of the Summons in Civil Action Upon Dun-Rite Towing, Inc. , was served on the below listed corporations and/or individuals by regular mail on April 10, 2000:

- (1) **L.J.F., INC.**
RD 1, Box 62
Irvona, PA. 16656
- (2) **MARK W. ALBRIGHT**
P.O. Box 184, Reed Street Exit
Brisbin, PA. 16620
- (3) **SUPERIOR CARRIERS, INC.**
2122 York Road, Suite 150
Oak brook, Illinois 66521
- (4) **JOSEPH C. LEWIS**
416 Shields Road
Youngstown, Ohio 44512
- (5) **DUN-RITE TOWING, INC.**
15 Hayes Street
Elmsford, New York 10523
- (6) **KEITH DANIEL VLACH**
319 Willis Avenue
Hawthorne, NY 10532-1922
- (7) **BURLINGTON MOTOR CARRIERS, INC.**
14611 West Commerce Road
Daleville, IN. 47334
- (8) **MICHAEL WAYNE PHILLIPS**
2807 Kingston Court
Tulsa, OK 74115

DATE: 04-10-00


DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

FILED

APR 13 2000

m/2:50/nacc

William A. Shatt
Prothonotary

[Signature]

RAWLE & HENDERSON LLP

By: Louise D. Hayne
Identification No.: 55198
The Widener Building
One South Penn Square
Philadelphia, PA 19107
(215) 575-4283

Attorneys for Defendants, Michael Wayne Phillips
and Burlington Motor Carriers, Inc.

NATIONAL UNION FIRE INSURANCE CO. : COURT OF COMMON PLEAS
a/s/o PENN TRAFFIC INC. and PENN TRAFFIC : CLEARFIELD COUNTY
INC. :
v. :
LJF, INC., MARK W. ALBRIGHT, SUPERIOR :
CARRIERS, INC., JOSEPH C. LEWIS, DUN-RITE: :
TOWING, KEITH DANIEL VLACH, :
BURLINGTON MOTOR CARRIERS, and :
MICHAEL WAYNE PHILLIPS : NO: 00-3110-CD

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of defendants, **Michael Wayne Phillips and Burlington Motor Carriers**, only in the above-captioned matter.

RAWLE & HENDERSON LLP

BY: Louise D. Hayne
LOUISE D. HAYNE

Date: 5/24/00

FILED

0406280.01

MAY 31 2000

William A. Shaw
Prothonotary

RAWLE & HENDERSON LLP

By: Louise D. Hayne
Identification No.: 55198
The Widener Building
One South Penn Square
Philadelphia, PA 19107
(215) 575-4283

Attorneys for Defendants, Michael Wayne Phillips
and Burlington Motor Carriers, Inc.

NATIONAL UNION FIRE INSURANCE CO.
a/s/o PENN TRAFFIC INC. and PENN TRAFFIC
INC.

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

v.

LJF, INC., MARK W. ALBRIGHT, SUPERIOR
CARRIERS, INC., JOSEPH C. LEWIS, DUN-RITE
TOWING, KEITH DANIEL VLACH,
BURLINGTON MOTOR CARRIERS, and
MICHAEL WAYNE PHILLIPS

NO: 00-3110-CD

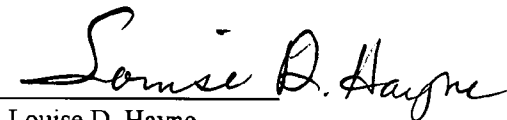
PRAECIPE FOR RULE TO FILE COMPLAINT

TO THE PROTHONOTARY:

Please enter rule upon plaintiff to file a Complaint within twenty (20) days or suffer
judgment of non pros.

RAWLE & HENDERSON LLP

BY:



Louise D. Hayne
Attorneys for Defendants, Michael
Wayne Phillips and Burlington Motor Carriers

RULE

TO THE PLAINTIFF:

You are ruled to file a Complaint within twenty (20) days from service hereof.



PROTHONOTARY

Date: May 31, 2000

0406276.01

FILED

MAY 31 2000

William A. Shaw
Prothonotary

DIANE M. RICE
ATTORNEY-AT-LAW
158 Dolington Road
Suite 201
Yardley, PA. 19067-2737
(215) 493-9670

ATTORNEY FOR PLAINTIFS

IDENTIFICATION NO: 37723

NATIONAL UNION FIRE INSURANCE COMPANY
a/s/o PENN TRAFFIC
Morris Corporate Center II
400 Interpace Parkway, Building D
Parsippany, New Jersey 07054
and
PENN TRAFFIC, INC.
RT 255 and Shaffer Road
DuBois, PA. 15801
v.

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

L.J.F., Inc.
RD 1, Box 62
Irvona, PA. 16656
and
MARK W. ALBRIGHT
PO Box 184, Reed Street Exit
Brisbin, PA. 16620
and
SUPERIOR CARRIERS, INC
2122 York Road, Suite 150
Oak Brook, Illinois 60521
and
JOSEPH C. LEWIS
416 Shields Road
Youngstown, Ohio 44512

FILED

JUL 17 2000

William A. Shaw
Prothonotary

NO: 00-3114-CD

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against these claims, you must take action within twenty (20) days after this complaint and notice are served by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections. You are warned that if you fail to do so the case may proceed without you and a judgement may be entered against you by the court without further notice. A judgement may also be entered against you 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.

DAVID S. MEHOLICK, Court Administrator
Clearfield County Courthouse
Clearfield, PA. 16830
814.765.2641

AVISO

Usted ha sido demandado en corte. Si usted quiere defenderse en contra de estas demandas, usted debe tomar accion dentro ve veinte (20) dias despues que esta queja y aviso sean servidas, registrando una comparecencia personalmente o por su abogado y llenando en escrito en la corte su defensa u objeciones con la corte. Usted esta advertido que si fallah de hacerlo, el caso puede seguir sin usted y un desicion puede ser registrado en contra suya por la corte sin ningun otro aviso. Ademias, la corte puede decidir a favor del demandante y requiere que usted cumpia con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

USTED DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO O NO PUEDE PAGAR UNO VAYA O LLAME POR TELEFONO A LA OFFICINA ESCRITA ABAJO PARA AVERIGULAR DONDE USTED PUEDE CONSEQUIRE ASISTENCIA LEGAL.

DAVID S. MEHOLICK, Court Administrator
Clearfield County Courthouse
Clearfield, PA. 16830
814.765.2641

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

COVER SHEET (CONTINUED)

NATIONAL UNION FIRE INSURANCE COMPANY : **COURT OF COMMON PLEAS**
a/s/o PENN TRAFFIC, INC. : **CLEARFIELD COUNTY**
and :
PENN TRAFFIC, INC. :

v.

L.J.F., INC. :
and :
MARK W. ALBRIGHT :
and :
SUPERIOR CARRIERS, INC. :
and :
JOSEPH C. LEWIS :
and :
DUN-RITE TOWING, INC. :
15 Hayes Street :
Elmsford, New York 10523 :
and :
KEITH DANIEL VLACH or VALCH :
526 Washington Avenue :
Pleasantville, NY 10570 :
and :
BURLINGTON MOTOR CARRIERS, INC. :
14611 West Commerce Road :
Daleville, IN. 47334 :
and :
MICHAEL WAYNE PHILLIPS :
2807 Kingston Court :
Tulsa, OK 74115 :

: NO: 00-3110-CD

NOTICE TO DEFEND

**(See front sheet attached for IMPORTANT NOTICE
directed to all defendants)**

DIANE M. RICE
ATTORNEY AT LAW
158 Dolington Road
Suite 201
Yardley, PA 19067-2737
(215) 493 - 9670
IDENTIFICATION NUMBER : 37723

ATTORNEY FOR PLAINTIFFS

NATIONAL UNION FIRE INSURANCE COMPANY	:	COURT OF COMMON PLEAS
a/s/o PENN TRAFFIC, INC.	:	CLEARFIELD COUNTY
and	:	
PENN TRAFFIC, INC.	:	
	:	
	:	
v.	:	
L.J.F., INC.	:	
and	:	
MARK W. ALBRIGHT	:	
and	:	
SUPERIOR CARRIERS, INC.	:	
and	:	
JOSEPH C. LEWIS	:	
and	:	
DUN-RITE TOWING	:	
and	:	
KEITH DANIEL VLACH	:	
and	:	
BURLINGTON MOTOR CARRIERS, INC.	:	
and	:	
MICHAEL WAYNE PHILLIPS	:	NO. 00-3116-CD

COMPLAINT - CIVIL ACTION

1. Plaintiff, NATIONAL UNION FIRE INSURANCE COMPANY, (hereinafter National) is an insurance carrier licensed and authorized to perform business in the Commonwealth of Pennsylvania, with an address of Morris Corporate Center II, 400 Interpace Parkway, Building D, 3d Floor, Parsippany, New Jersey. 07054.

2. Plaintiff, PENN TRAFFIC INC., is a Pennsylvania Corporation with an address of Rt. 255 and Shaffer Road, DuBois, Clearfield County, PA. 15801.

3. Defendant L.J.F., Inc, is a Pennsylvania Corporation primarily engaged in the over-the-road trucking business with its principal place of business located at RD 1, Box 62, Irvona, PA. 16656,

4. Defendant, MARK W. ALBRIGHT, (hereinafter Albright) , is an individual, citizen and resident of the Commonwealth of Pennsylvania who at all times material hereto resided at PO Box 184, Reed Street Exit, Brisbin, PA. 16620.

5. Defendant, SUPERIOR CARRIERS, INC. (hereinafter Superior) is a Virginia Corporation authorized to do business in Pennsylvania as an over-the road trucking company, with its principal place of business located at 2122 York Road, Suite 150, Oak Brook, Illinois, 60521 and an address for service of process in pennsylvania c/o CT Corporate Systems, 1635 Market Street, Philadelphia, PA. 19103.

6. Defendant, JOSEPH C. LEWIS, (hereinafter Lewis) , is an individual, citizen and resident of the State of Ohio and who at all times material hereto resided at 416 Shields Road, Youngstown, Ohio 44512.

7. Defendant, DUN-RITE TOWING, INC. (hereinafter Dun-Rite) is a New York Corporation, with its principal place of business at 15 Hayes Street, Elmsford, New York 10523.

8. Defendant, KEITH DANIEL VLACH or VLACH,(hereinafter Vlach) , is an individual, citizen and resident of the State of New York and who at all times material hereto resided at 319 Willis Avenue, Hawthorne, New York 10532-1922

9. Defendant, BURLINGTON MOTOR CARRIERS, INC. (hereinafter Burlington)) is a Delaware Corporation authorized to do business in Pennsylvania as an over-the road trucking company, with its principal place of business located at 14611 West Commerce Road, Daleville, Indiana, 47334 and an address for service of process in Pennsylvania c/o Corporate Service Company, 319 Market Street, Harrisburg, PA. 17101.

10.. Defendant, MICHAEL WAYNE PHILLIPS, (hereinafter Phillips), is an individual, citizen and resident of the State of Oklahoma and who at all times material hereto resided at 2807 Kingston Court, Tulsa, Oklahoma 74115.

11. At all times material hereto, the Defendant, ALBRIGHT, was an agent, servant, workman and/or employee of the defendant LJF Inc. acting on his masters business and within the scope and course of his employment.

12. At all times material hereto, the Defendant, LEWIS, was an agent, servant, workman and/or employee of the defendant, SUPERIOR,. acting on his masters business and within the scope and course of his employment.

13. At all times material hereto, the Defendant, VLACH, was an agent, servant, workman and/or employee of the defendant, DUN-RITE, acting on his masters business and within the scope and course of his employment.

14. At all times material hereto, the Defendant, PHILLIPS, was an agent, servant, workman and/or employee of the defendant, BURLINGTON, acting on his masters business and within the scope and course of his employment.

15. On or about March 12, 1998, at approximately 8:20 a.m., the vehicle owned by the Plaintiff, Penn Traffic and insured by co-Plaintiff National Union, was being operated in a westerly direction on Interstate 80, at or near the 103 Mile Marker when it jack-knifed attempting to avoid an accident that had already occurred between the vehicles owned by LJF, Burlington and Dun-Rite which were being operated in a negligent, careless and reckless fashion by their respective agents as aforestated and which placed the Plaintiff's operator in a position of danger by occupying most of the available roadway.

16. While stopped at the above location, the Plaintiff's vehicle was struck by the vehicle owned by defendant, Superior, and being operated by their driver as aforestated.

COUNT I

PLAINTIFFS v. LIF, Inc., Mark W. Albright; Burlington Motor Carriers; Michael Wayne Phillips; Dun-Rite Towing & Keith Daniel Vlach

17. Plaintiffs hereby incorporate by reference paragraphs one through sixteen (1-16) above as if set forth fully below.

18. The carelessness, negligence and recklessness of the Defendants and their operators, jointly and or severally consisted of the following:

- (a) Failing to control the aforementioned vehicle in a safe and proper manner under the circumstances;
- (b) Failing to exercise the proper degree of care to the plaintiff;
- (c) Operating said vehicle without due regard for the rights, safety and position of the plaintiff's vehicle and those of others similarly situated;
- (d) Failing to follow the various ordinances of the Township of Sandy, the County of Clearfield as well as the statutes of the Commonwealth of Pennsylvania;
- (e) Failure to keep a proper lookout for other vehicles upon the highway so as to avoid colliding with them;
- (f) Failure to keep the vehicle under proper control at all times;
- (g) Failure to properly operate the vehicle;
- (h) Failure to properly operate the vehicle at a safe speed under the circumstances then and there existing;
- (i) Negligent entrustment;
- (j) Negligence at law; and
- (k) Such other acts of negligence, carelessness and recklessness as may be determined during discovery and trial.

19. As a result of the aforesaid negligence of the defendant, Plaintiff, PENN TRAFFIC'S, vehicle was damaged in the amount of TWENTY-SEVEN THOUSAND THREE HUNDRED SIXTY-THREE DOLLARS AND EIGHT CENTS (\$ 27,363.08)

WHEREFORE, Plaintiffs demand judgment in their favor and against the Defendants, jointly and/or severally in the amount of TWENTY- SEVEN THOUSAND THREE HUNDRED SIXTY-THREE DOLLARS AND EIGHT CENTS (\$ 27,363.08) plus court costs as well as any further relief deemed appropriate by the court.

COUNT II

PLAINTIFFS v. SUPERIOR CARRIERS and JOSEPH C. LEWIS

20. Plaintiffs hereby incorporate by reference paragraphs one through nineteen (1-19) above as if set forth fully below.

21. The carelessness, negligence and recklessness of the Defendant and its operator consisted of the following:

- (a) Failing to control the aforementioned vehicle in a safe and proper manner under the circumstances;
- (b) Failing to exercise the proper degree of care to the plaintiff;
- (c) Operating said vehicle without due regard for the rights, safety and position of the plaintiff's vehicle and those of others similarly situated;
- (d) Failing to follow the various ordinances of the Township of Sandy, the County of Clearfield as well as the statutes of the Commonwealth of Pennsylvania;
- (e) Failure to keep a proper lookout for other vehicles upon the highway so as to avoid colliding with them;
- (f) Failure to keep the vehicle under proper control at all times;

(g) Failure to properly operate the vehicle;

(h) Failure to properly operate the vehicle at a safe speed under the circumstances then and there existing;

(i) Striking the vehicle owned by the Plaintiff with such force as to cause it to be pushed down the road and to break into pieces;

(j) Negligent entrustment;

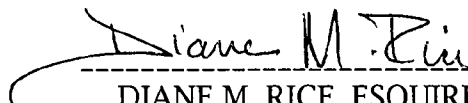
(k) Negligence at law; and

(l) Such other acts of negligence, carelessness and recklessness as may be determined during discovery and trial.

22. As a result of the aforesaid negligence of the defendant, Plaintiff's vehicle was damaged in the amount of TWENTY-SEVEN THOUSAND THREE HUNDRED SIXTY-THREE DOLLARS AND EIGHT CENTS (\$ 27,363.08)

WHEREFORE, Plaintiffs demand judgment in their favor and against the Defendants, jointly and/or severally in the amount of TWENTY- SEVEN THOUSAND THREE HUNDRED SIXTY-THREE DOLLARS AND EIGHT CENTS (\$ 27,363.08) plus court costs as well as any further relief deemed appropriate by the court.

DATE: 07/14/00

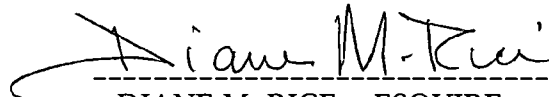

DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

VERIFICATION

DIANE M. RICE, ESQUIRE, hereby verifies that the information set forth in the foregoing. is true -and -correct to the best of her knowledge, information, and belief.

Further, this verification is made on behalf of the Plaintiff(s) because the said Plaintiff(s) are unavailable and unable to make this verification on its/his/her own behalf in the time allotted for the filing of this pleading, and that the facts set forth in the forgoing pleading are true and correct to the best of counsel's information and belief and is made based on interviews, conferences, reports, records and other investigative materials in the file. This verification is made subject to the penalties of 18 Pa. CSA 4904 and related federal statutes, relating to unsworn falsification to authorities.

DATE: 07/14/00


DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

CERTIFICATION OF SERVICE

I, Diane M. Rice, Esquire, do hereby certify and say that a true-and-correct copy of the foregoing Compliant in Civil Action, was served on the below listed attorney, corporations and/or individuals by regular mail on July 14, 2000:

- | | |
|---|---|
| (1) L.J.F., INC.
RD 1 Box 62
Irvona, PA. 16656 | (2) MARK W. ALBRIGHT
P.O. BOX 184, Reed Street Exit
Brisbin, PA. 16620 |
| (3) SUPERIOR CARRIERS, INC.
2122 York Road, Suite 150
Oak Brook, Illinois 60521 | (4) JOSEPH C. LEWIS
416 Shields Road
Youngstown, Ohio 44512 |
| (6) DUN-RITE TOWING, INC.
15 Hayes Street
Elmsford, New York 10523 | (7) STEVEN CARPENITO, ESQUIRE
615 Centre Street
Ashland, PA. 17921
(for defendant, KEITH DAVID VLACH) |
| (8) LOUISE D. HAYNE, ESQUIRE
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, PA. 19107
(for defendants, BURLINGTON and MICHAEL WAYNE PHILLIPS) | |

DATE: 07/14/00

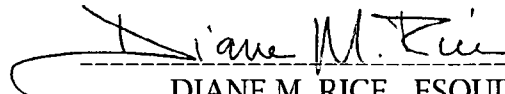

DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

EXHIBIT A



American International Adjustment Company, Inc.

ESTIMATE CONTINUATION SHEET

*Heavy Traffic*252-065685
CASE #6-12-98
DATE

OWNER

PAGE NO. 1 OF 2

DESCRIPTION	QUANTITY	UNIT PRICE (WHEN USED)	MATERIAL COST	LABOR COST	TOTAL
1991 Ford Aero Max LTA 9000 Tractor					
Cab. damaged in R/R quarters - Panel + floor. Rocker - cracked on frame					
Replace cab - shell			4682. ²²	52 hrs	52. ⁰
Repair cab - INT 7. ⁰ EXT 14. ⁰				18 hrs	18. ⁰
front fender bar. R/F 1. ⁰ H.			612. ³¹	2 hrs	+ 1 = 3. ⁰
front valance			494. ²⁷		
L. hood hinge			78. ⁹⁶	1.0	1.0
R hood hinge			76. ²⁹	1.0	1.0
Replace L. fl. tire 295-75R-225/6152	275		1855.50	9/32	137.50
Align - re-set hood assembly				5.0	
muffler			244. ¹⁶	—	
shield			128. ³⁶	—	
muffler ext			185. ⁰⁵	3.0	
muffler support			38. ⁶⁷	—	
2 clamps			18. ⁷⁶	—	
2 insulators			21. ⁷⁶	—	
flex pipe section			21. ⁰¹	—	
Repair R. door <i>refinish</i>				3.0	3.0 = 6.0
4) replace front to body mty bracket	R.F		112. ³⁸	4.0	
	R.R		77. ⁴		
	L.F		75. ⁷⁴		
	L.R		77. ¹¹		
Replace R. fuel tank cover			229. ⁵¹	2.0	
Replace R battery box section			389. ⁰⁰	—	
evacuate + recharge air cond		120. ⁰⁰		2.0	
repair frame - rear corner + mty		500. ⁰⁰	sublt.		
	6/15				
TOTAL					\$
COST TO REPAIR OR REPLACE					\$
LESS - DEPRECIATION					\$
ACTUAL CASH VALUE OF LOSS					\$
LESS - DEDUCTIBLE OR CO-INSURANCE PENALTY					\$
TOTAL					\$

Donna Traffic

OWNER

CASE #

DATE _____

PAGE NO. 2 OF 2

DESCRIPTION	QUANTITY	UNIT PRICE (WHEN USED)	MATERIAL	LABOR	TOTAL
			COST	COST	
2-leaf rear hanger			217.54		
V bolts			13.71		
Torque arm			78.00		
					4.0
Paint time				22	
Material 22 x 18" hr.		396.00			
Total parts					7871.58
FRAME					500.00
AIR cond					120.00
Tire 50% betterment					137.50
paint/material					396.00
paint time sublet		22 hrs x 40.00 hr.			880.00
Labor hours - by bonded		76.00 @ 23.00 per hr.			1748

	TOTAL	\$
COST TO REPAIR OR REPLACE	paint - for - + PARTS. + sublet	\$9905.08
LESS - DEPRECIATION	labor @ insureds cost	\$1748.00
ACTUAL CASH VALUE OF LOSS		\$653.08
LESS - DEDUCTIBLE OR CO-INSURANCE PENALTY		\$5,000
	TOTAL	\$ 6653.08



AIG Claim Services, Inc.

HEAVY/MEDIUM DUTY TRUCK TOTAL LOSS EVALUATION									
Vehicle Owner <i>Penn Traffic</i>					Address <i>DoBois, PA</i>				
Insured <i>"</i>					Date of Loss <i>3-12-78</i>		Claim Number <i>252-065685</i>		
YEAR <i>1991</i>	MAKE <i>Ford</i>	MODEL <i>Hero Max</i>	STYLE <i>L-79000</i>	SERIAL NUMBER <i>1FTXY95X0MVA30274</i>	MILEAGE <i>636,387</i>	LICENSE NO.	STATE <i>PA</i>		
UNIT # <i>100</i>					MARKET VALUE SURVEY				
Dealer		Salesman		Phone	In Stock	Quote			
1 <i>Wolfe Ford</i>		<i>Butch Perry</i>		<i>(717) 299-4331</i>	<i>✓</i>	<i>17,500</i>			
2 <i>Paul Miller Ford</i>		<i>Tan</i>		<i>(610) 233-1412</i>	<i>✓?</i>	<i>17,000</i>			
3 <i>Allegheny Ford</i>		<i>Bill</i>		<i>(412) 481-9600</i>	<i>NO</i>	<i>15,000</i>			
GUIDE BOOK VALUE					Market Value Average <i>15,000 To 17,000</i>				
					+ or - Reconditioning + Repair				
Item	Book Truck	Subject Truck	Book Value	Market Value ACV		EST TOTAL		\$	
Model				ACV		TOTAL		\$	
Engine				ACV		TOTAL		\$	
Front Axle			<i>310 CAT</i>	ACV		TOTAL		\$	
Rear Axle			<i>44,000 LB Rockwell</i>	ACV		TOTAL		\$	
Transmission			<i>8 SP. FL45P</i>	ACV		TOTAL		\$	
Brakes			<i>Take Brake</i>	ACV		TOTAL		\$	
Sleeper			<i>NO</i>	ACV		TOTAL		\$	
Air Cond.			<i>YES</i>	ACV		TOTAL		\$	
Interior Trim			<i>used paint</i>	ACV		TOTAL		\$	
Exterior Trim			<i>used paint</i>	ACV		TOTAL		\$	
New Paint			<i>used paint</i>	ACV		TOTAL		\$	
New Tires			<i>—</i>	ACV		TOTAL		\$	
Radial Tires			<i>—</i>	ACV		TOTAL		\$	
*Disc Wheels			<i>—</i>	ACV		TOTAL		\$	
Fuel Tanks			<i>2 50.0</i>	ACV		TOTAL		\$	
Radio			<i>NEW</i>	ACV		TOTAL		\$	
*Fifth Wheel			<i>AIR Ride</i>	ACV		TOTAL		\$	
*Tractor Package			<i>AIR Ride</i>	ACV		TOTAL		\$	
Owner/Oper. Pkg.			<i>YES</i>	ACV		TOTAL		\$	
Power Steering			<i>YES</i>	ACV		TOTAL		\$	
SUBTOTAL <i>17,000</i>					Total Reconditioning <i>1,000</i>				
Regional Conversion <i>N/A.</i>					SALVAGE BIDS				
Less Repair & Reconditioning					Name & Phone No.				
Local Market Adjustment (Optional)					Person Contacted				
TOTAL VALUE <i>EST. 17,000</i>					Amount of Bid				
*Included in TRUCK BOOK listing if under 'TRACTOR' heading.					COMMENTS <i>? - miles on motor hinder return</i>				
Not included in TRUCK BOOK valuations even if listed as standard equipment.					APPRaiser <i>[Signature]</i>				
					DATE				

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

Plaintiffs,

v.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC., JOSEPH C.
LEWIS, DUN-RITE TOWING, KEITH
DANIEL VLACH, BURLINGTON MOTOR
CARRIERS, INC. and MICHAEL WAYNE
PHILLIPS,

Defendants.

No. 00-311-CD

Issue No.

**PRAECIPE FOR ENTRY OF
APPEARANCE**

Code:

Filed on behalf of Defendants, L.J.F., Inc.
and Mark Albright

Counsel of record for this party:

George P. Kachulis, Esq.
Pa. I.D. #43666

DICKIE, McCAMEY & CHILCOTE, P.C.
Firm #067
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

(412) 281-7272

JURY TRIAL DEMANDED

FILED

AUG 21 2000

no/ 8:30/ w
William A. Shaw
Prothonotary

no c/c

9/2/00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

No. 00-311-CD

Plaintiffs,

v.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC., JOSEPH C.
LEWIS, DUN-RITE TOWING, KEITH
DANIEL VLACH, BURLINGTON MOTOR
CARRIERS, INC. and MICHAEL WAYNE
PHILLIPS,

Defendants.

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter the appearance of Dickie, McCamey & Chilcote, P.C. and George
P. Kachulis, Esquire on behalf of defendants, L.J.F., Inc. and Mark Albright with respect to
the above-captioned matter.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.



George P. Kachulis, Esquire

Attorney for Defendants, L.J.F., Inc. and
Mark Albright

CERTIFICATE OF SERVICE

I, George P. Kachulis, Esquire, hereby certify that true and correct copies of the foregoing Praecipe for Entry of Appearance have been served this 16th day of August, 2000, by U.S. first-class mail, postage prepaid, to all counsel of record.

DICKIE, McCAMEY & CHILCOTE, P.C.

By 

George P. Kachulis, Esquire

Attorneys for Defendants, L.J.F., Inc. and
Mark Albright

(11)

DIANE RICE-LIPPINCOTT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE

00-311-CD

VS

L.J.F. INC.

PRAECIPE & SUMMONS

SHERIFF RETURNS

NOW MARCH 16, 2000 AT 2:00 PM EST SERVED THE WITHIN PRAECIPE & SUMMONS ON L.J.F. INC., DEFENDANT AT SHERIFF'S OFFICE, MARKET ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO F. CORTEZ BELL, III, ATTORNEY FOR DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL PRAECIPE & SUMMONS AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: SHULTZ

NOW MARCH 14, 2000 JOHN LOTWICK, SHERIFF OF DAUPHIN COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PRAECIPE & SUMMONS ON BURLINGTON MOTOR CARRIERS, INC., DEFENDANT.

NOW MARCH 16, 2000 SERVED THE WITHIN PRAECIPE & SUMMONS ON BURLINGTON MOTOR CARRIERS INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF DAUPHIN COUNTY. THE RETURN OF SHERIFF LOTWICK IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED JAMIE OLITSKY, AGENT FOR DEFENDANT.

NOW MARCH 14, 2000, JOHN GREEN, SHERIFF OF PHILADELPHIA WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PRAECIPE & SUMMONS ON SUPERIOR CARRIERS INC., DEFENDANT.

NOW MARCH 30, 2000 SERVED THE WITHIN PRAECIPE & SUMMONS ON SUPERIOR CARRIERS, INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF PHILADELPHIA. THE RETURN OF SHERIFF GREEN IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED SANDRA SOLOMON, AGENT FOR DEFENDANT.

DIANE RICE-LIPPINCOTT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE

00-311-CD

VS

L.J.F. INC.

PRAECIPE & SUMMONS

SHERIFF RETURNS

NOW APRIL 18, 2000 AFTER DILIGENT SEARCH IN MY BAILIWICK I
RETURN THE WITHIN PRAECIPE & SUMMONS "NOT FOUND" AS TO MARK
W. ALBRIGHT, DEFENDANT. SEVERAL ATTEMPTS NEVER HOME.

SWORN AND SUBSCRIBED BEFORE ME THIS
25th DAY OF AUGUST, 2000.



WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co., Clearfield, PA.

FILED

AUG 25 2000
01:11:30 am
William A. Shaw
Prothonotary *es*

DIANE RICE-LIPPINCOTT

NATIONAL UNION FIRE INSURANCE
VS
L.J.F. INC.

00-311-CD

CHARGES

PRAECIPE & SUMMONS

103.83 SHFF. HAWKINS PAID BY: *Atty*
116.00 SHFF. GREEN PAID BY: ATTY.
25.50 SHFF. LOTWICK PAID BY: ATTY.
40.00 SURCHARGE PAID BY: ATTY.

SWORN TO BEFORE ME THIS

_____ DAY OF _____ 2000

SO ANSWERS,

Chester A. Hawkins
by Marilyn Hays

CHESTER A. HAWKINS
SHERIFF

NATIONAL UNION
FIRE INS CO.COMMON PLEAS NO.
COUNTY COURT

VERSUS

TERM, 2000

L. J. F. INC
SUPERIOR CARRIERS INC
C/O CT CORP SYSTEM

NO. 311

☐ Defendant

SERVED AND MADE KNOWN TO ABOVE NAMED ☒ Defendant Company
by handing a true and attested copy of the within Summons/Complaint, issued in the above captioned matter
on MARCH 30, 2000, at 10:00 o'clock, A M., E.S.T./~~D.S.T.~~
at 1635 MARKET ST., in the County of Philadelphia,
State of Pennsylvania, to SANDRA SOLOMON

- ☐ (1) the aforesaid defendant, personally;
- ☐ (2) an adult member of the family of said defendant, with whom said defendant resides, who stated that his/her relationship to said defendant is that of _____;
- ☐ (3) an adult person in charge of defendant's residence; the said adult person having refused, upon request, to give his/her name and relationship to said defendant;
- ☐ (4) the manager/clerk of the place of lodging in which said defendant resides;
- ☒ (5) agent or person for the time being in charge of defendant's office or usual place of business.
- ☐ (6) the _____ and officer of said defendant Company;

So Answers,

JOHN D. GREEN, Sheriff

By:

John A. Talarnine
Deputy Sheriff



Sheriff's Office Clearfield County

SUITE 116
1 NORTH SECOND STREET - COURTHOUSE
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641
AFTER 4:00 P.M. (814) 765-1533

CLEARFIELD COUNTY FAX
(814) 765-6089

CHESTER A. HAWKINS
SHERIFF

DARLENE SHULTZ
CHIEF DEPUTY

MARGARET PUTT
OFFICE MANAGER

MARILYN HAMM
DEPT. CLERK

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE CO.

NO. 00-311-CD

VS

ACTION: PRAECIPE & SUMMONS

L.J.F. INC. al

SERVE BY: 4/9/00

OR

HEARING DATE:

SERVE: SUPERIOR CARRIERS, INC.

ADDRESS: c/o C.T. Corporate Systems, 1635 Market St., Suite 1120,
Philadelphia, Pa. 19103

Know all men by these presents, that I, CHESTER A. HAWKINS,
HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby
deputize the SHERIFF of PHILADELPHIA County to execute this writ.

This deputation being made at the request and risk of the plaintiff
this 14th day of MARCH 2000.

Respectfully

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

MAKE REFUND PAYABLE TO: DIANE RICE-LIPPINCOTT, Attorneys

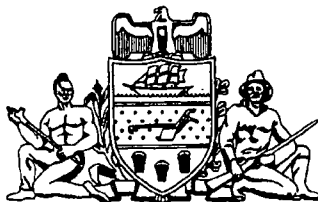
CASH RECEIPT		OFFICE OF THE SHERIFF		BOOK	
APPEARANCE DOCKET		CITY AND COUNTY OF PHILADELPHIA		SERIAL NO.	
No. F 50812	COURT	TERM		PROTH. NO.	
VS.					
IN PAYMENT OF THE FOLLOWING ITEMS					
FEE	CODE	AMOUNT	DEPOSITS AND COSTS	CODE	AMOUNT
Sheriff's Fee	311		Advertising	331	
Registered Mail	311		Deputized Service	332	
			State Fee	335	
Mileage	312		Affidavit	339	
			Other Costs	340	
TOTAL				301	
ATTORNEY			APPEARANCE CLERK		

CUSTOMER'S COPY

Office of the Sheriff

Mary Jane Snyder
Real Estate Deputy

William T. Tully
Solicitor



Ralph G. McAllister
Chief Deputy

Michael W. Rinehart
Assistant Chief Deputy

Dauphin County
Harrisburg, Pennsylvania 17101
ph: (717) 255-2660 fax: (717) 255-2889

Jack Lotwick
Sheriff

Commonwealth of Pennsylvania : NATIONAL UNION FIRE INSURANCE COMPANY

VS

County of Dauphin : BURLINGTON MOTOR CARRIERS INC

Sheriff's Return

No. 0596-T - - -2000

OTHER COUNTY NO. 00-311-CD

AND NOW: March 16, 2000 at 1:50PM served the within

PRAECIPE & WRIT OF SUMMONS upon

BURLINGTON MOTOR CARRIERS INC by personally handing

to JAMIE OLITSKY-CSA 1 true attested copy(ies)

of the original PRAECIPE & WRIT OF SUMMONS and making known

to him/her the contents thereof at 319 MARKET ST

HBG, PA 17101-0000

Sworn and subscribed to
before me this 16TH day of MARCH, 2000

Stephen C. Arina

PROTHONOTARY

So Answers,

J R Lotwick

Sheriff of Dauphin County, Pa.

By *Stephen W. Woodward*

Deputy Sheriff

Sheriff's Costs: \$25.50 PD 03/16/2000

RCPT NO 134607

TJ/LW



Sheriff's Office Clearfield County

SUITE 116
1 NORTH SECOND STREET - COURTHOUSE
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641
AFTER 4:00 P.M. (814) 765-1533

CLEARFIELD COUNTY FAX
(814) 765-6089

CHESTER A. HAWKINS
SHERIFF

DARLENE SHULTZ
CHIEF DEPUTY

MARGARET PUTT
OFFICE MANAGER

MARILYN HAMM
DEPT. CLERK

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE COMPANY

NO. 00-311-CD

VS

ACTION: PRAECIPE & SUMMONS

L.J.F. INC. al

SERVE BY: 4/9/00

or

HEARING DATE:

SERVE: BURLINGTON MOTOR CARRIERS, INC.

ADDRESS: c/o Corp. Service Co., 319 Market St., Harrisburg, Pa. 17101

Know all men by these presents, that I, CHESTER A. HAWKINS,
HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby
deputize the SHERIFF of DAUPHIN County to execute this writ.

This deputation being made at the request and risk of the plaintiff
this 14th day of MARCH 2000.

Respectfully,


CHESTER A. HAWKINS
SHERIFF OF CLEARFIELD COUNTY

MAKE REFUND PAYABLE TO: DIANE RICE-LIPPINCOTT, Attorneys



COUNTY OF DAUPHIN
HARRISBURG, PA.

J. R. LOTWICK
SHERIFF OF DAUPHIN COUNTY

OFFICIAL RECEIPT

RECEIPT NUMBER...134607
RECEIVED FROM....DIANE RICE-LIPPINCOT
DESCRIPTION.....(1) CIVIL ACTION-NOTICE
DOCKET NUMBER....0596T 2000
DEFENDANT.....PRENTICE HALL

RECEIPT DATE...03/16/2000

OPERATOR.....KH

COUNTY.....*****23.00
STATE.....*****.00
AGENCY.....*****2.50
TOTAL.....*****25.50

CASH.....*****.00
CHECK.....*****25.50

RECD. BY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
COUNTY PENNSYLVANIA

CIVIL DIVISION

NATIONAL UNION FIRE INSURANCE COMPANY

a/s/o **PENN TRAFFIC, INC.**

Morris Corporate Center II

400 Interpace Parkway

Building D, 3d Floor

Parsippany, New Jersey 07054 and

PENN TRAFFIC, INC.

RT. 255 and Shaffer Road

DuBois, PA. 15801

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

00-311-CD

v.

L.J.F., INC.

RD 1, Box 62

Irvona, PA. 16656

and

MARK W. ALBRIGHT

P.O. Box 184, Reed Street Exit

Brisbin, PA. 16620

and

SUPERIOR CARRIERS, INC.

2122 York Road, Suite 150

Oak Brook, Illinois

and

JOSEPH C. LEWIS

416 Shields Road

Youngstown, Ohio

and

DUN-RITE TOWING, INC.

15 Hayes Street

Elmsford, New York 10523

and

KEITH DANIEL VLACH or VALCH

526 Washington Avenue

Pleasantville, NY 10570

and

BURLINGTON MOTOR CARRIERS, INC.

14611 West Commerce Road

Daleville, IN. 47334

and

MICHAEL WAYNE PHILLIPS

2807 Kingston Court

Tulsa, OK 74115

CIVIL ACTION:

PRAECIPE FOR SUMMONS

TO THE PROTHONOTARY/CLERK OF THE SAID COURT:

Kindly issue a Summons in Civil Action in the above case. Writ of Summons shall be forwarded to the Sheriff and Attorney for Plaintiff.


SIGNATURE OF ATTORNEY

DIANE M. RICE, ESQUIRE
158 DOLINGTON ROAD, SUITE 201
YARDLEY, PA. 19067-2737
215.493.9670/215.972.0503
ATTY. I.D. No.: 37723

DATE: 03-09-00

SUMMONS IN CIVIL ACTION

TO: MARK W. ALBRIGHT

YOU ARE HEREBY NOTIFIED THAT THE ABOVE NAMED PLAINTIFFS HAVE COMMENCED AN ACTION AGAINST YOU.

PROTHONOTARY/CLERK, CIVIL DIVISION

DATE: 3-10-00

BY:


DEPUTY

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

BY: Robert W. Jozwik, Esquire
IDENTIFICATION NO. 70705
THE CURTIS CENTER – SUITE 1130 EAST
INDEPENDENCE SQUARE WEST
PHILADELPHIA, PA 19106
(215) 627-6900

Attorneys for Defendants
Superior Carrier, Inc. and
Joseph C. Lewis

NATIONAL UNION FIRE INSURANCE
COMPANY, a/s/o PENN TRAFFIC, INC.
and PENN TRAFFIC, INC.

Plaintiffs

v.

L.J.F., INC.; MARK W. ALBRIGHT; SUPERIOR
CARRIERS, INC.; JOSEPH C. LEWIS;
DUN-RITE TOWING, INC.; KEITH VLACH;
BURLINGTON MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS

Defendants

COURT OF COMMON PLEAS
CLEARFIELD COUNTY

JURY TRIAL DEMANDED

NO. 00-3118-CD

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter the appearance of the undersigned on behalf of defendants Superior Carrier,
Inc. and Joseph C. Lewis in the above-captioned matter.

Respectfully submitted,

FILED

AUG 28 2000

William A. Shaw
Prothonotary

Dated: August 23, 2000

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

BY:

Robert W. Jozwik, Esquire

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

THE CURTIS CENTER • SUITE 1130 EAST • INDEPENDENCE SQUARE WEST • PHILADELPHIA, PA 19106
PHONE: (215) 627-6900 • FAX: (215) 627-2665

CERTIFICATE OF SERVICE

Robert W. Jozwik, Esquire, counsel for defendants Superior Carriers, Inc. and Joseph C. Lewis hereby certifies that a copy of the foregoing Entry of Appearance was served by First Class United States mail, postage prepaid, on August 23, 2000 upon the following:

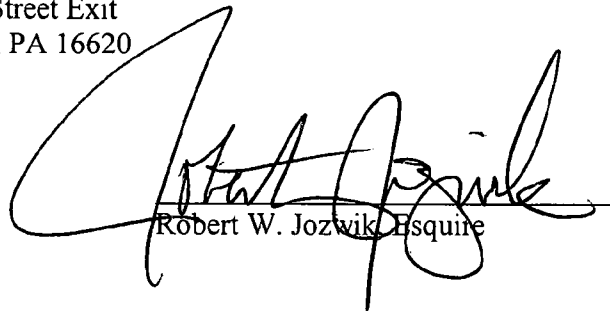
Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, PA 19067-2737

Louise D. Hayne, Esquire
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, PA 19107

Scott T. Redman, Esquire
870 Six PPG Place
Pittsburgh, PA 15222

L.J.F. Inc.
R.D. #1, Box 62
Irvona, PA 16656

Mark W. Albright
P.O. Box 184
Reed Street Exit
Brisbin, PA 16620



Robert W. Jozwik, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

Plaintiffs,

v.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC., JOSEPH C.
LEWIS, DUN-RITE TOWING, KEITH
DANIEL VLACH, BURLINGTON MOTOR
CARRIERS, INC. and MICHAEL WAYNE
PHILLIPS,

Defendants.

NOTICE TO PLEAD

TO: Plaintiffs and Defendants

You are hereby notified to file a written response to
the enclosed Answer, New Matter and New Matter
Pursuant to Rule 2252(d) within twenty (20) days
from the date of service hereof or a judgment may be
entered against you.

By


George P. Kachulis, Esquire

No. 00-311-CD

Issue No.

**ANSWER, NEW MATTER AND NEW
MATTER PURSUANT TO RULE 2252(d)**

Code:

Filed on behalf of Defendants, L.J.F., Inc.
and Mark Albright

Counsel of record for this party:

George P. Kachulis, Esq.
Pa. I.D. #43666

DICKIE, McCAMEY & CHILCOTE, P.C.
Firm #067
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

(412) 281-7272

JURY TRIAL DEMANDED

FILED

SEP 20 2000

M / 11:00 / WSR
William A. Shaw
Prothonotary

no c/c



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

No. 00-311-CD

Plaintiffs,

v.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC., JOSEPH C.
LEWIS, DUN-RITE TOWING, KEITH
DANIEL VLACH, BURLINGTON MOTOR
CARRIERS, INC. and MICHAEL WAYNE
PHILLIPS,

Defendants.

ANSWER, NEW MATTER AND NEW MATTER PURSUANT TO RULE 2252(d)

AND NOW, comes the Defendants, L.J.F., Inc. and Mark W. Albright, by their attorneys, Dickie, McCamey & Chilcote, P.C. and George P. Kachulis, Esquire and submits the following:

1. After reasonable investigation, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 1 of Plaintiffs' Complaint and proof thereof is demanded at time of trial.
2. After reasonable investigation, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 2 of Plaintiffs' Complaint and proof thereof is demanded at time of trial.
3. The allegations contained in Paragraph 3 of Plaintiffs' Complaint are generally admitted. It is admitted that Defendant, L.J.F., Inc., is a Pennsylvania Corporation, with its principal place of business located at R.D. #1, Box 60F, Irvona, Pennsylvania 16656.

4. The allegations contained in Paragraph 4 are generally admitted.
5. The allegations contained in Paragraph 5 of Plaintiffs' Complaint pertain to a party other than this answering Defendant, and thus no responsive pleading is required.
6. The allegations contained in Paragraph 6 of Plaintiffs' Complaint pertain to a party other than this answering Defendant, and thus no responsive pleading is required.
7. The allegations contained in Paragraph 7 of Plaintiffs' Complaint pertain to a party other than this answering Defendant, and thus no responsive pleading is required.
8. The allegations contained in Paragraph 8 of Plaintiffs' Complaint pertain to a party other than this answering Defendant, and thus no responsive pleading is required.
9. The allegations contained in Paragraph 9 of Plaintiffs' Complaint pertain to a party other than this answering Defendant, and thus no responsive pleading is required.
10. The allegations contained in Paragraph 10 of Plaintiffs' Complaint pertain to a party other than this answering Defendant, and thus no responsive pleading is required.
11. The allegations contained in Paragraph 11 of Plaintiffs' Complaint are admitted in part and denied in part. It is admitted that at all times relevant to the allegations contained in Plaintiffs' Complaint, that the Defendant, Mark W. Albright, was operating his vehicle as part of his employment with the Defendant, L.J.F., Inc. The remaining allegations contained in Paragraph 11 of Plaintiffs' Complaint contains conclusions of law to which no responsive pleading are required by Pennsylvania Rules of Civil Procedure. To the extent that any portion of these remaining portions of Paragraph 11 can be construed as containing factual averments pertaining to these Defendants, said averments are specifically denied and proof thereof demanded at time of trial.

12. The allegations contained in Paragraph 12 of Plaintiffs' Complaint pertain to a party other than these answering Defendants, and thus no responsive pleading is required.

13. The allegations contained in Paragraph 13 of Plaintiffs' Complaint pertain to a party other than these answering Defendants, and thus no responsive pleading is required.

14. The allegations contained in Paragraph 14 of Plaintiffs' Complaint pertain to a party other than these answering Defendants, and thus no responsive pleading is required.

15. The allegations contained in Paragraph 15 of Plaintiffs' Complaint are admitted in part and denied in part. It is admitted that on or about March 12, 1998, at approximately 8:20 a.m., a multiple vehicle, accident occurred on Interstate 80, at or near mile marker 103, traveling West. The remaining allegations contained in Paragraph 15 of Plaintiffs' Complaint are denied as stated. By way of further response, it is specifically averred that said remaining allegations contain conclusions of law to which no responsive pleading are required by Pennsylvania Rules of Civil Procedure. To the extent that any portion of these remaining portions of Paragraph 15 can be construed as containing factual averments pertaining to these Defendants, said averments are specifically denied and proof thereof demanded at time of trial. By way of further response, it is specifically averred that at all times relevant to the allegations contained in Plaintiffs' Complaint, that Defendant, Mark W. Albright, through the operation of his vehicle for L.J.F., Inc., did so in a proper, appropriate and non-negligent manner.

16. After reasonable investigation, this Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 16 of Plaintiffs' Complaint and proof thereof is demanded at time of trial.

17. With respect to Paragraph 17 of Plaintiffs' Complaint, this Defendant incorporates by reference Paragraph 1 through 16 of this Answer as though fully set forth herein.

18. Paragraph 18 of Plaintiffs' Complaint contains conclusions of law to which no responsive pleading are required by Pennsylvania Rules of Civil Procedure. To the extent that any portion of Paragraph 18 can be construed as containing factual averments pertaining to these Defendants, said averments are specifically denied and proof thereof demanded at time of trial. By way of further response, it is specifically averred that at all times relevant to the allegations contained in Plaintiffs' Complaint, that these Defendants operated and maintained their vehicle in a proper, appropriate and non-negligent manner.

19. Paragraph 19 of Plaintiffs' Complaint contains conclusions of law to which no responsive pleading are required by Pennsylvania Rules of Civil Procedure. To the extent that any portion of Paragraph 19 can be construed as containing factual averments pertaining to these Defendants, said averments are specifically denied and proof thereof demanded at time of trial. By way of further response, it is specifically averred that at all times relevant to the allegations contained in Plaintiffs' Complaint, that these Defendants operated and maintained their vehicle in a proper, appropriate and non-negligent manner.

20. With respect to Paragraph 20, this Defendant incorporates by reference Paragraph 1 through 19 of this Answer as though fully set forth herein.

21. The allegations contained in Paragraph 21 of Plaintiffs' Complaint pertain to a party other than these answering Defendants, and thus no responsive pleading is required. To the extent that any portion of Paragraph 21 can be construed as containing factual averments pertaining to these Defendants, said averments are specifically denied and proof thereof is demanded at time of trial.

22. The allegations contained in Paragraph 22 of Plaintiffs' Complaint pertain to a party other than these answering Defendants, and thus no responsive pleading is required. To the extent that any portion of Paragraph 22 can be construed as containing factual averments pertaining to these Defendants, said averments are specifically denied and proof thereof is demanded at time of trial.

WHEREFORE, Defendants, L.J.F., Inc., and Mark W. Albright, deny and all liability in this matter and requests that judgment be entered in their behalf.

NEW MATTER

23. It is specifically averred that at all times relevant to the allegations contained in Plaintiffs' Complaint, that Mark W. Albright, through the operation of his vehicle on behalf of L.J.F., Inc., did so in a proper, appropriate and non-negligent manner under the prevailing conditions and circumstances.

24. The injuries and damages of Plaintiffs, if any, were solely the result of, or were contributed to, by Plaintiffs' own negligence.

25. The injuries and damages of Plaintiffs, if any, were solely the result of, or were contributed to, by a party over whom these answering Defendants had no control and for whose conduct these Defendants are not liable.

26. The injuries and damages of Plaintiffs, if any, were solely the result of, or were contributed to, by a superseding and intervening cause, and not caused by these Defendants or their actions.

27. The injuries and damages of Plaintiffs, if any, were solely the result or, or were contributed to, by the conduct of parties over whom these answering Defendants had no control, and for whose actions these Defendants are not liable.

28. The injuries and damages of Plaintiffs, if any, were solely the result of, or were contributed to, by the prevailing extreme, unusual and unexpected weather conditions, and not caused by these Defendants or these Defendants' actions.

29. Plaintiffs' claims are barred by the applicable statute of limitations.

30. The injuries and damages of Plaintiffs, if any, were solely the result of, or were contributed to, by risks of which the Plaintiffs were aware and knowingly assumed.

NEW MATTER PURSUANT TO RULE 2252(d)

31. To the extent it is demonstrated at trial that Plaintiffs are entitled to any recovery in this matter, which is specifically denied, this Defendant avers that Defendants Superior Carriers, Inc., Joseph C. Lewis, Dun-Rite Towing, Inc., Keith Vlach, Burlington Motor Carriers, Inc. are solely liable to the Plaintiffs for the reasons aforesaid, and as set forth in Plaintiffs' Complaint, which is incorporated herein by reference.

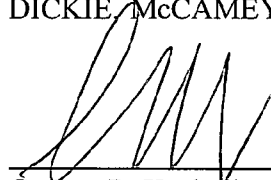
16. To the extent it is demonstrated at trial that Plaintiffs are entitled to any recovery in this matter, which is specifically denied, and to the extent that this Defendant is found liable to Plaintiffs in this matter, which liability is again specifically denied, then Defendants L.J.F., Inc. and Mark W. Albright avers that Defendants Superior Carriers, Inc., Joseph C. Lewis, Dun-Rite Towing, Inc., Keith Vlach, Burlington Motor Carriers, Inc. are

either jointly and/or severally liable with this Defendant to Plaintiffs or liable over to this Defendant entitling this Defendant to indemnity and/or contribution for the reasons aforesaid, and as set forth in Plaintiffs' Complaint, which is incorporated herein by reference.

WHEREFORE, Defendants L.J.F., Inc. and Mark W. Albright denies any and all liability to Plaintiffs and to any other party in the within matter and respectfully requests judgment be entered in its favor and against Defendants Superior Carriers, Inc., Joseph C. Lewis, Dun-Rite Towing, Inc., Keith Vlach, Burlington Motor Carriers, Inc. In the alternative, Defendant, L.J.F., Inc. and Mark W. Albright respectfully requests contribution and/or indemnification from Defendants Superior Carriers, Inc., Joseph C. Lewis, Dun-Rite Towing, Inc., Keith Vlach, Burlington Motor Carriers, Inc.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.



George P. Kachulis, Esquire

Attorney for Defendants, L.J.F., Inc. and
Mark Albright

VERIFICATION

I, Leo Frailey, of L.J.F., Inc., have read the foregoing Answer, New Matter and New Matter Pursuant to Rule 2252(d). The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false statements, I may be subject to criminal penalties.

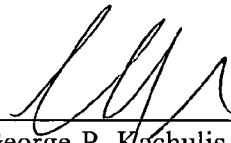

Leo Frailey

DATED: 9-12-00

CERTIFICATE OF SERVICE

I, George P. Kachulis, Esquire, hereby certify that true and correct copies of the foregoing Answer, New Matter and New Matter Pursuant to Rule 2252(d) have been served this 18th day of September, 2000, by U.S. first-class mail, postage prepaid, to all counsel of record.

DICKIE, McCAMEY & CHILCOTE, P.C.

By 
George P. Kachulis, Esquire

Attorneys for Defendants, L.J.F., Inc. and
Mark Albright

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.
and PENN TRAFFIC, INC.

Plaintiffs

v.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC.,
JOSEPH C. LEWIS, DUN-RITE TOWING,
DANIEL VLACH, BURLINGTON
MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS

Defendants

CIVIL DIVISION

NO. 00-311-CD

TYPE OF PLEADING:

**REPLY TO NEW MATTER OF KEITH
DEFENDANTS, DUN-RITE TOWING
and KEITH DANIEL VLACH**

Filed on Behalf of Plaintiffs
NATIONAL UNION FIRE
INSURANCE COMPANY a/s/o
PENN TRAFFIC, INC. and PENN
TRAFFIC, INC.

Counsel of record for this Party:

DIANE M. RICE
ATTORNEY AT LAW
IDENTIFICATION NUMBER : 37723
158 Dolington Road
Suite 201
Yardley, PA 19067-2737
(215) 493 - 9670

FILED

SEP 21 2000

William A. Shaw
Prothonotary

DIANE M. RICE
ATTORNEY AT LAW
158 Dolington Road
Suite 201
Yardley, PA 19067-2737
(215) 493 - 9670
IDENTIFICATION NUMBER : 37723

ATTORNEY FOR PLAINTIFFS

NATIONAL UNION FIRE INSURANCE COMPANY	:	COURT OF COMMON PLEAS
a/s/o PENN TRAFFIC, INC.	:	CLEARFIELD COUNTY
and	:	
PENN TRAFFIC, INC.	:	
	:	
v.	:	
L.J.F., INC.	:	
and	:	
MARK W. ALBRIGHT	:	
and	:	
SUPERIOR CARRIERS, INC.	:	
and	:	
JOSEPH C. LEWIS	:	
and	:	
DUN-RITE TOWING	:	
and	:	
KEITH DANIEL VLACH	:	
and	:	
BURLINGTON MOTOR CARRIERS, INC.	:	
and	:	
MICHAEL WAYNE PHILLIPS	:	NO. 00-3110-CD

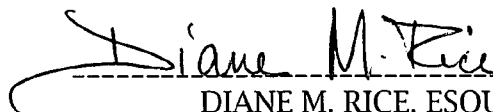
PLAINTIFFS' REPLY TO NEW MATTER OF
DUN-RITE TOWING and KEITH DANIEL VLACH

Plaintiffs, by and through their attorney, DIANE M. RICE, ESQUIRE, Reply
to the New Matter of Defendants, DUN-RITE TOWING and KEITH DANIEL VLACH
as follows:

23-26, inclusive. DENIED. The allegations of the corresponding paragraphs state conclusions of law to which no responsive pleading is required herein. To the extent that any of the remaining allegations of these paragraphs are judicially determined to state facts, Plaintiffs are, after reasonable investigation without knowledge or information sufficient to form a belief as to the truth of the matters asserted as all means of proof are within the exclusive control of the Defendant or other persons or entities over whom Plaintiffs have no control. By way of further answer, Plaintiffs assert that the operator of the Penn Traffic vehicle was in no way negligent, careless or reckless in the operation of the said vehicle on the date in question. To the contrary, said vehicle was operated in a reasonable manner and with due care under the circumstances. Strict proof of the allegations of these paragraphs is demanded at the time of hearing in this matter.

WHEREFORE, Plaintiffs, NATIONAL UNION FIRE INSURANCE COMPANY and PENN TRAFFIC INC. demand judgment in their favor and against the Defendants, DUN-RITE TOWING and KEITH DANIEL VLACH , and requests that this New Matter be DISMISSED as well as any further relief deemed appropriate by this court.

DATE: 09.18.00


DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

CERTIFICATION OF SERVICE

I, Diane M. Rice, Esquire, do hereby certify and say that a true-and-correct copy of the foregoing Reply to New Matter, was served on the below listed attorneys by regular mail on September 18, 2000:

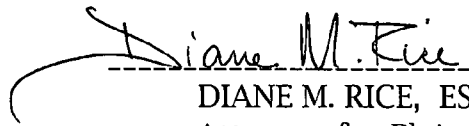
- (1) **GEORGE P. KACHULIS, ESQUIRE**
Dickie. McCamey & Chilcote
Two PPG Place, Suite 400
Pittsburgh, PA. 15222
(for Defendants, L.J.F., INC. and MARK W. ALBRIGHT)

- (2) **ROBERT JOSWICK, ESQUIRE**
Wilson, Elser. Moskowitz, Edelman & Dicker
The Curtis Center, Suite 1130 East
Independence Square West
Philadelphia, PA. 19106
(for Defendants, SUPERIOR CARRIERS, INC. and JOSEPH C. LEWIS)

- (8) **SCOTT T. REDMAN, ESQUIRE**
Bonacci, Muchow & Redman
870 Six PPG Place
Pittsburgh, PA. 15222
(for Defendants, DUN-RITE TOWING, INC. and KEITH DAVID VLACH)

- (4) **LOUISE D. HAYNE, ESQUIRE**
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, PA. 19107
(for Defendants, BURLINGTON and MICHAEL WAYNE PHILLIPS)

DATE: 09.18.00


DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

RAWLE & HENDERSON LLP

By: Drew J. Dedo, Esquire

Identification No.: 40319

The Widener Building

One South Penn Square

Philadelphia, PA 19107

(215) 575-4283

Attorneys for Defendants,
Michael Wayne Phillips and
Burlington Motor Carriers, Inc.

NATIONAL UNION FIRE INSURANCE CO. : COURT OF COMMON PLEAS
a/s/o PENN TRAFFIC INC. and : CLEARFIELD COUNTY
PENN TRAFFIC, INC. :

v. :

NO. 00-311-CD

L.J.F., INC., MARK W. ALBRIGHT, *et al.* :

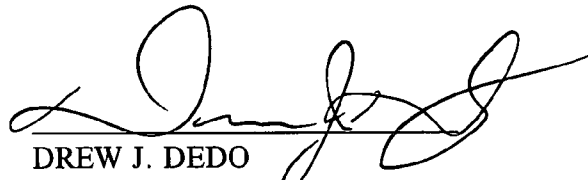
SUBSTITUTION OF APPEARANCE

TO THE PROTHONOTARY:

Kindly substitute Drew J. Dedo, Esquire, as attorneys for defendants, Michael Wayne Phillips and Burlington Motor Carriers lieu of Louise D. Hayne, Esquire.

RAWLE & HENDERSON LLP

By:



DREW J. DEDO
Attorney for Defendants,
Michael Wayne Phillips and
Burlington Motor Carriers

FILED

SEP 25 2000

0441917.01

William A. Shaw
Prothonotary

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within-captioned
Substitution of Appearance was served via first-class mail, postage prepaid, on the following:

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, PA 19067-2737
Counsel for Plaintiff

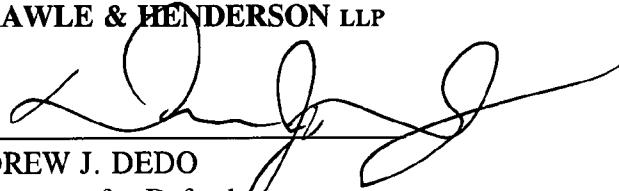
Scott T. Redman, Esquire
870 Six PPG Place
Pittsburgh, PA 15222
412-263-3360
**Counsel for Defendants, Keith
Daniel Vlach and Dun-Rite Towing, Inc.**

George P. Kachulis, Esquire
Dickie, McCamey & Chilcote, P.C.
Firm #067
Two PPC Place, Suite 400
Pittsburgh, PA 15222-5402
412-281-7272
**Counsel for Defendants, L.J.F.,
Inc. and Mark Albright**

Robert W. Jozwik, Esquire
Wilson Elser Moskowitz Edelman
& Dicker LLP
1130 The Curtis Center
Independence Square West
Philadelphia, PA 19106
215-627-6900
215-627-2665 (fax)
**Counsel for Defendants, Superior
Carrier, Inc. and Joseph C. Lewis**

RAWLE & HENDERSON LLP

By:


DREW J. DEDO
Attorney for Defendants,
Michael Wayne Phillips and
Burlington Motor Carriers

Date: 9/29/00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.
and PENN TRAFFIC, INC.

CIVIL DIVISION

NO. 00-311-CD

Plaintiffs

v.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC.,
JOSEPH C. LEWIS, DUN-RITE TOWING,
DANIEL VLACH, BURLINGTON
MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS

Defendants

TYPE OF PLEADING:

REPLY TO NEW MATTER OF
DEFENDANTS, L.J.F., INC. and
MARK W. ALBRIGHT

Filed on Behalf of Plaintiffs
NATIONAL UNION FIRE
INSURANCE COMPANY a/s/o
PENN TRAFFIC, INC. and PENN
TRAFFIC, INC.

Counsel of record for this Party:

DIANE M. RICE
ATTORNEY AT LAW
IDENTIFICATION NUMBER : 37723
158 Dolington Road
Suite 201
Yardley, PA 19067-2737
(215) 493 - 9670

FILED

SEP 29 2000

William A. Shaw
Prothonotary

DIANE M. RICE
ATTORNEY AT LAW
158 Dolington Road
Suite 201
Yardley, PA 19067-2737
(215) 493 - 9670
IDENTIFICATION NUMBER : 37723

ATTORNEY FOR PLAINTIFFS

NATIONAL UNION FIRE INSURANCE COMPANY	:	COURT OF COMMON PLEAS
a/s/o PENN TRAFFIC, INC.	:	CLEARFIELD COUNTY
and	:	
PENN TRAFFIC, INC.	:	
	:	
	:	
v.	:	
L.J.F., INC.	:	
and	:	
MARK W. ALBRIGHT	:	
and	:	
SUPERIOR CARRIERS, INC.	:	
and	:	
JOSEPH C. LEWIS	:	
and	:	
DUN-RITE TOWING	:	
and	:	
KEITH DANIEL VLACH	:	
and	:	
BURLINGTON MOTOR CARRIERS, INC.	:	
and	:	
MICHAEL WAYNE PHILLIPS	:	NO. 00-3110-CD

PLAINTIFFS' REPLY TO NEW MATTER OF
DEFENDANTS, L.J.F., INC. and MARK ALBRIGHT

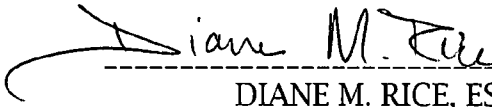
Plaintiffs, NATIONAL UNION FIRE INSURANCE COMPANY and PENN TRAFFIC, by and through their attorney, DIANE M. RICE, ESQUIRE, Reply to the New Matter of Defendants, L.J.F., INC. and MARK W. ALBRIGHT, as follows:

23-30, inclusive. DENIED. The allegations of the corresponding paragraphs state conclusions of law to which no responsive pleading is required herein.

To the extent that any of the remaining allegations of these paragraphs are judicially determined to state facts, Plaintiffs are, after reasonable investigation without knowledge or information sufficient to form a belief as to the truth of the matters asserted as all means of proof are within the exclusive control of the Defendant or other persons or entities over whom Plaintiffs have no control. By way of further answer, Plaintiffs assert that the operator of the Penn Traffic vehicle was in no way negligent, careless or reckless in the operation of the said vehicle on the date in question. To the contrary, said vehicle was operated in a reasonable manner and with due care under the circumstances. Further, the vehicles of the defendant was not being operated in a safe manner under the circumstances then and there existing on the roadway given the severe weather conditions. Strict proof of the allegations of these paragraphs is demanded at the time of hearing in this matter.

WHEREFORE, Plaintiffs, NATIONAL UNION FIRE INSURANCE COMPANY and PENN TRAFFIC INC. demand judgment in their favor and against the Defendants, L.J.F., INC. and MARK W. ALBRIGHT, and respectfully requests that this New Matter be DISMISSED as well as any further relief deemed appropriate by this court.

DATE: 09.27.00

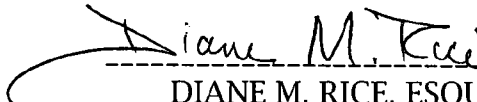


DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

VERIFICATION

DIANE M. RICE, ESQUIRE,, hereby verifies that the information set forth in the foregoing Reply to New Matter, is true -and -correct to the best of her knowledge, information, and belief. This verification is made subject to the penalties of 18 Pa. CSA 4904, relating to unsworn falsification to authorities.

DATE:: 09.27.00



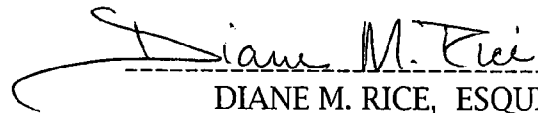
DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

CERTIFICATION OF SERVICE

I, Diane M. Rice, Esquire, do hereby certify and say that a true-and-correct copy of the foregoing Reply to New Matter, was served on the below listed attorneys by regular mail on September 27, 2000:

- (1) **GEORGE P. KACHULIS, ESQUIRE**
Dickie. McCamey & Chilcote
Two PPG Place, Suite 400
Pittsburgh, PA. 15222
(for Defendants, L.J.F., INC. and MARK W. ALBRIGHT)
- (2) **ROBERT JOSWICK, ESQUIRE**
Wilson, Elser. Moskowitz, Edelman & Dicker
The Curtis Center, Suite 1130 East
Independence Square West
Philadelphia, PA. 19106
(for Defendants, SUPERIOR CARRIERS, INC. and JOSEPH C. LEWIS)
- (8) **SCOTT T. REDMAN, ESQUIRE**
Bonacci, Muchow & Redman
870 Six PPG Place
Pittsburgh, PA. 15222
(for Defendants, DUN-RITE TOWING, INC. and KEITH DAVID VLACH)
- (4) **DREW DEDO, ESQUIRE**
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, PA. 19107
(for Defendants, BURLINGTON and MICHAEL WAYNE PHILLIPS)

DATE: 09.27.00


DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

RAWLE & HENDERSON LLP

By: Drew J. Dedo, Esquire

Identification No.: 40319

The Widener Building

One South Penn Square

Philadelphia, PA 19107

(215) 575-4283

**Attorneys for Defendants,
Burlington Motor Carriers, Inc.
and Michael Wayne Phillips**

NATIONAL UNION FIRE INSURANCE CO. :	COURT OF COMMON PLEAS
a/s/o PENN TRAFFIC INC. and :	CLEARFIELD COUNTY
PENN TRAFFIC, INC. :	
v. :	NO. 00-311-CD
L.J.F., INC., MARK W. ALBRIGHT, <i>et al.</i> :	

**ANSWER OF DEFENDANTS, BURLINGTON MOTOR CARRIERS, INC.
AND MICHAEL WAYNE PHILLIPS TO
NEW MATTER PURSUANT TO PA.R.C.P. 2252(d) OF DEFENDANTS,
DUN-RITE TOWING, INC. AND KEITH DANIEL VLACH**

COMES NOW, defendants, Burlington Motor Carriers, Inc. and Michael Wayne Phillips (hereinafter "Answering Defendants") and by and through their counsel Rawle & Henderson LLP hereby answer the New Matter Pursuant to Pa.R.C.P. 2252(d) of Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach pursuant to the paragraphs numbered therein as follows:

27. Denied as a conclusion of law pursuant to the Pennsylvania Rules of Civil Procedure.

28. Incorporation only is admitted. Answering Defendants incorporate herein their Answer with New Matter and New Matter Crossclaim Pursuant to Pa.R.C.P. 2252(d) as though same were fully set forth at length herein.

0446421.01

FILED

OCT 10 2000

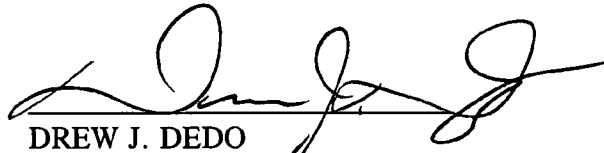
William A. Shaw
Prothonotary

29. Denied as a conclusion of law pursuant to the Pennsylvania Rules of Civil Procedure.

WHEREFORE, Answering Defendants, Burlington Motor Carriers, Inc. and Michael Wayne Phillips deny any and all liability to defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach on their New Matter Pursuant to Pa.R.C.P. 2252(d) and demand judgment in their favor and against defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach together with attorneys fees, costs and such other reasonable compensation as this Honorable Court shall deem just and appropriate.

RAWLE & HENDERSON LLP

By:

A handwritten signature in black ink, appearing to read 'Drew J. Dedo', written over a horizontal line.

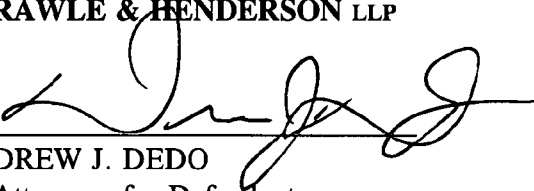
DREW J. DEDO
Attorneys for Defendants,
Burlington Motor Carriers, Inc.
and Michael Wayne Phillips

VERIFICATION

DREW J. DEDO states that he is the attorney for defendants, Burlington Motor Carriers, Inc. and Michael Wayne Phillips and as such is authorized to take this Verification on their behalf; that he has reviewed the foregoing Answer to New Matter Pursuant to Pa.R.C.P. 2252(d) of Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach; and that the facts set forth are true and correct to the best of his knowledge, information and belief. These statements are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

RAWLE & HENDERSON LLP

By:



DREW J. DEDO
Attorneys for Defendants,
Burlington Motor Carriers
and Michael Wayne Phillips

Date: 10/4/00

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Answer to New Matter Pursuant to Pa.R.C.P. 2252(d) of Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach was served via first-class mail, postage prepaid, on the following:

Stephen T. Carpenito, Esquire
615 Center Street
Ashland, PA 17921
570-875-3500
Fax: 570-875-0699

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, PA 19067-2737
215-493-9670

Scott T. Redman, Esquire
870 Six PPG Place
Pittsburgh, PA 15222
412-263-3364
Fax: 412-263-2144

George P. Kachulis, Esquire
Dickie, McCamey & Chilcote, P.C.
Firm #067
Two PPC Place, Suite 400
Pittsburgh, PA 15222-5402
412-281-7272
Fax: 412-392-5367

Robert W. Jozwik, Esquire
Wilson Elser Moskowitz Edelman
& Dicker LLP
1130 The Curtis Center
Independence Square West
Philadelphia, PA 19106
215-627-6900
Fax: 215-627-2665

RAWLE & HENDERSON LLP

By:



DREW J. DEDO
Attorneys for Defendants,
Burlington Motor Carriers
and Michael Wayne Phillips

Date: 10/4/00

FILED

OCT 19 2000

William A. Shaw
Prothonotary

To: **PLAINTIFFS**

You are hereby notified to file a written response to the enclosed New Matter within twenty (20) days from service hereof or a judgment may be entered against you.

RAWLE & HENDERSON LLP

By: **DREW J. DEDO**
Attorneys for Defendants,
Burlington Motor Carriers, Inc.
and Michael Wayne Phillips.

RAWLE & HENDERSON LLP
By: **Timothy J. Abeel, Esquire**
Identification No.: 23104
By: **Drew J. Dedo, Esquire**
Identification No.: 40319
The Widener Building
One South Penn Square
Philadelphia, PA 19107
(215) 575-4283

**Attorneys for Defendant,
Burlington Motor Carriers, Inc.
and Michael Wayne Phillips**

NATIONAL UNION FIRE INSURANCE CO.	:	COURT OF COMMON PLEAS
a/s/o PENN TRAFFIC INC. and	:	CLEARFIELD COUNTY
PENN TRAFFIC, INC.	:	
	:	
	:	
v.	:	NO. 00-311-CD
	:	
L.J.F., INC., MARK W. ALBRIGHT, <i>et al.</i>	:	

**BURLINGTON MOTOR CARRIERS, INC.
AND MICHAEL WAYNE PHILLIPS' ANSWER
TO THE PLAINTIFFS' COMPLAINT WITH NEW MATTER AND
NEW MATTER CROSSCLAIM PURSUANT TO PA. R.C.P. 2252(d)**

COMES NOW, defendants, Burlington Motor Carriers, Inc. (hereinafter "Defendant Burlington") and Michael Wayne Phillips (hereinafter "Defendant Phillips") (hereinafter collectively "Answering Defendants") and by and through their counsel Rawle & Henderson

LLP hereby answer Plaintiffs' Complaint pursuant to the paragraphs numbered therein as follows:

1.-8. Denied. All allegations of law are denied without the need for further response. In the event and to the extent that an answer is deemed necessary, after reasonable investigation, Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in these paragraphs, and they are therefore denied. Strict proof thereof is demanded at the time of trial, if relevant.

9. Admitted.

10. Admitted.

11.-13. Denied. The allegations contained in these paragraphs are directed to a party other than Answering Defendants and, therefore, no response is required pursuant to the Rules of Civil Procedure. In the event and to the extent that an answer is deemed necessary, all allegations of law are denied without the need for further response. After reasonable investigation, Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in this paragraph, and they are therefore denied. Strict proof thereof is demanded at the time of trial, if relevant.

14. Admitted in part; denied in part. It is admitted only that on March 12, 1998, Defendant Phillips was employed by Defendant Burlington. All allegations of law are denied without the need for further response.

15. Denied as stated. It is admitted only that on or about March 12, 1998, a vehicle owned by Defendant Burlington and operated by Defendant Phillips was struck in the rear by a

vehicle owned by L.J.F. and operated by Albright. All allegations of law are denied without the need for further response. In the event and to the extent that an answer is deemed necessary, it is specifically denied that Answering Defendants were negligent, careless or reckless in any manner whatsoever. On the contrary, Answering Defendants acted properly and with due care at all times material and relevant hereto. It is further denied that the initial accident or the subsequent accident involving the Plaintiffs' vehicle was due to any act or failure to act on the part of Answering Defendants. After reasonable investigation, Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in this paragraph, and they are therefore denied. Strict proof thereof is demanded at the time of trial, if relevant.

16. Denied. All allegations of law are denied without the need for further response. In the event and to the extent that an answer is deemed necessary, after reasonable investigation, Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in this paragraph, and they are therefore denied. Strict proof thereof is demanded at the time of trial, if relevant.

COUNT I.

**Plaintiffs v. L.J.F., Inc., Mark W. Albright, Burlington Motor Carriers, Inc.,
Michael Wayne Phillips, Dun-Rite Towing, Inc. & Keith Daniel Vlach**

17. Incorporation only is admitted. Answering Defendants hereby incorporate by reference thereto their answers to paragraphs 1 through 16 of the Plaintiffs' Complaint inclusive, as though fully set forth here at length.

18. Denied. All allegations of law are denied without the need for further response.

With respect to the averments herein directed to Answering Defendants, it is specifically denied that Answering Defendants were negligent, careless or reckless in any manner whatsoever. On the contrary, Answering Defendants acted properly and with due care at all times material and relevant hereto. By way of further denial, Answering Defendants respond to the allegations directed to Answering Defendants in the subparagraphs of paragraph 18 as follows:

- (a) Denied. It is denied that Answering Defendants failed to control the vehicle under the circumstances;
- (b) Denied. It is denied that Answering Defendants failed to exercise the proper degree of care to the plaintiffs. It is further denied that Answering Defendants owed a duty of care to the Plaintiffs;
- (c) Denied. It is denied that Answering Defendants operated a motor vehicle without due regard for the rights, safety or position of Plaintiffs' vehicle or of those similarly situated;
- (d) Denied. It is denied that Answering Defendants failed to follow the various ordinances of the Township of Sandy, or the County of Clearfield. It is further denied that Answering Defendantss failed to follow the statutes of the Commonwealth of Pennsylvania;
- (e) Denied. It is denied that Answering Defendants failed to keep a proper lookout for other vehicles upon the highway so as to avoid colliding with them;
- (f) Denied. It is denied that Answering Defendants failed to keep a vehicle under proper control at all times;
- (g) Denied. It is denied that Answering Defendants failed to properly operate a vehicle;
- (h) Denied. It is denied that Answering Defendants failed to properly operate a vehicle at a safe speed under the circumstances then and there existing;

- (i) Denied. It is denied that Answering Defendant, Burlington Motor Carriers negligently entrusted their vehicle to Defendant, Michael Wayne Phillips;
- (j) Denied. It is denied that Answering Defendants were negligent in any manner whatsoever. On the contrary, Answering Defendants acted properly and with due care at all times material and relevant hereto; and
- (k) Denied. It is specifically denied that Answering Defendants were negligent, careless or reckless in any manner whatsoever. On the contrary, Answering Defendants acted properly and with due care at times material and relevant hereto.

The remaining averments contained herein are directed to other parties and Answering Defendants have been advised, and therefore believe that no response thereto is required. To the extent that a response is required, Answering Defendants aver that after reasonable investigation, they are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained herein and, therefore, said remaining averments are denied and strict proof thereof is demanded at time of trial.

19. Denied. All allegations of law are denied without the need for further response. In the event and to the extent that an answer is deemed necessary, it is specifically denied that Answering Defendants were negligent in any manner whatsoever. On the contrary, Answering Defendants acted properly and with due care at all times material and relevant hereto. It is further denied that the Plaintiffs' damages, if any, occurred as the result of the negligence of Answering Defendants. After reasonable investigation, Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in this paragraph, and they are therefore denied. Strict proof thereof is demanded at the time of trial, if relevant.

WHEREFORE, defendants, Burlington Motor Carriers, Inc. and Michael Wayne Phillips pray that judgment, together with costs and interest, be entered in their favor, that the Plaintiffs' Complaint be dismissed with prejudice insofar as it attempts to state a cause of action against them, and that they be awarded such other and further relief as may be appropriate under the circumstances.

COUNT II.

Plaintiffs v. Superior Carriers, Inc. and Joseph C. Lewis

20. Incorporation only is admitted. Answering Defendants hereby incorporate by reference thereto their answers to paragraphs 1 through 19 inclusive, as though fully set forth here at length.

21.-22. Denied. The allegations contained in these paragraphs are directed to parties other than Answering Defendants, and therefore no response is required by the Rules of Civil Procedure. In the event and to the extent that an answer is deemed necessary, all allegations of law are denied without the need for further response. After reasonable investigation, Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in these paragraphs, and they are therefore denied and strict proof thereof is demanded at the time of trial, if relevant.

WHEREFORE, defendants, Burlington Motor Carriers, Inc. and Michael Wayne Phillips pray that judgment, together with costs and interest, be entered in their favor, that the Plaintiffs' Complaint be dismissed with prejudice insofar as it attempts to state a cause of

action against them, and that they be awarded such other and further relief as may be appropriate under the circumstances.

NEW MATTER

23. Incorporation only is admitted. Answering Defendants hereby incorporate Paragraphs 1 through 22 above as fully as though the same were set forth at length herein.

24. Plaintiffs' claims are barred, or must be reduced, as a result of Plaintiffs' own negligence, which was the proximate cause of the incident described in Plaintiffs' Complaint, pursuant to the Pennsylvania Comparative Negligence Act, 42 Pa.C.S.A. §7100.

25. Plaintiffs' claims are barred and/or limited by the Motor Vehicle Financial Responsibility Law, 75 Pa.C.S.A. §1701, *et seq.*

26. Plaintiffs voluntarily adopted a dangerous and hazardous method or manner of performing their actions when there was available to them a safe method and they thereby assumed the risk of injury in performing said actions.

27. Plaintiffs' claims are barred and/or limited by the Pennsylvania Motor Vehicle No-Fault Insurance Act.

28. Plaintiffs' claims are barred, in whole and/or in part, by the appropriate Statute of Limitations.

29. Plaintiffs' Complaint fails to state a claim upon which relief may be granted.

30. Plaintiffs' Complaint fails to state a claim upon which relief for punitive damages may be awarded.

31. If Plaintiffs sustained the injuries and damages as alleged in the Complaint, then same were caused by other entities or parties over which Answering Defendants had no control.

32. If Plaintiffs sustained the injuries and damages as alleged in the Complaint, then same were not proximately caused by any action or failure to act on behalf of Answering Defendants.

33. Plaintiffs have failed to mitigate the claimed damages.

34. It is further specifically denied that any act or omission on the part of the Answering Defendants was the sole or proximate cause of the Plaintiffs' alleged damages and injuries.

35. The accident and all damages involved in this case were caused by the direct and proximate result of the negligence and recklessness of Plaintiffs, generally and in the following particulars:

- (a) failing to maintain an assured clear distance;
- (b) failing to control their vehicle in a safe and proper manner under the circumstances;
- (c) failing to exercise the appropriate degree of care under the circumstances;
- (d) operating a vehicle without due regard for the rights, safety and position of others lawfully on the road;
- (e) failing to follow and abide by various ordinances of the Township of Sandy, the County of Clearfield and the statutes of the Commonwealth of Pennsylvania with respect to operation of motor vehicles and the rules of the road;

- (f) failing to keep a proper lookout for other vehicles upon the highway;
- (g) failing to keep their vehicle under proper and adequate control at all times;
- (h) failing to operate their vehicle at a safe speed under the circumstances then and there existing;
- (i) negligence at law; and
- (j) such other acts of negligence, carelessness and recklessness as may be determined during discovery and trial.

36. Plaintiffs' claims herein are barred by the Doctrine of Spoliation.

37. Answering Defendants were all times reasonable, proper and acted in good faith and without malice and did not deprive the Plaintiffs of any rights secured by law or Constitution.

38. At all times relevant herein, Answering Defendants acted in accordance with the applicable state and federal laws.

39. Plaintiffs' claims for damages are excessive and unsupported and, therefore, must be barred or reduced.

40. Any acts or omissions of the Answering Defendants alleged to constitute negligence were not a substantial contributing factor to the injuries and/or losses claimed by Plaintiffs.

41. Answering Defendants aver that Plaintiffs' cause of action is barred and/or limited by the Sudden Emergency Doctrine.

42. Inasmuch as Pa.R.C.P. 1032 provides that a party waives all defenses not presented by way of answer, Answering Defendants, upon advice of counsel, hereby assert all of the affirmative defenses set forth in Pa.R.C.P. 1010(a).

43. Answering Defendants aver that the claims against him/her/it are barred by Plaintiffs' failure to properly serve the Summons or Complaint.

WHEREFORE, defendants, Burlington Motor Carriers, Inc. and Michael Wayne Phillips pray that judgment, together with costs and interest, be entered in their favor, that the Plaintiffs' Complaint be dismissed with prejudice insofar as it attempts to state a cause of action against them, and that they be awarded such other and further relief as may be appropriate under the circumstances.

**BURLINGTON MOTOR CARRIERS, INC.'S NEW MATTER
CROSSCLAIM PURSUANT TO PA.R.C.P. 2252(d) AGAINST DEFENDANTS,
L.J.F., INC., MARK W. ALBRIGHT, SUPERIOR CARRIERS, INC.,
JOSEPH C. LEWIS, DUN-RITE TOWING, INC. AND KEITH DANIEL VLACH**

44. Answering Defendants hereby incorporate Paragraphs 1 through 43 above as fully as though the same were set forth at length herein.

45. In the event that Answering Defendants are found liable to Plaintiffs, any such liability denied, then in that case, L.J.F., Inc., Mark W. Albright, Superior Carriers, Inc., Joseph C. Lewis, Dun-Rite Towing, Inc. and Keith Daniel Vlach are solely liable on the cause of action set forth in Plaintiff's Complaint or jointly and severally liable together with Answering Defendants or liable over to Answering Defendants by way of contribution and/or indemnification for the whole amount of any judgment found against Answering Defendants.

WHEREFORE, Answering Defendants demand judgment finding L.J.F., Inc., Mark W. Albright, Superior Carriers, Inc., Joseph C. Lewis, Dun-Rite Towing, Inc. and Keith Daniel Vlach solely liable on the cause of action set forth in Plaintiffs' Complaint or jointly and/or severally liable thereon, or liable over to Answering Defendants, for contribution and/or indemnity.

RAWLE & HENDERSON LLP

By: 

DREW J. DEDO
Attorneys for Defendants,
Burlington Motor Carriers, Inc
and Michael Wayne Phillips

VERIFICATION

THOMAS N. BARLOW states that he is the Vice President of Safety and Risk Management for Defendant, Burlington Motor Carriers, Inc. and as such is authorized to take this Verification on its behalf; that he has reviewed the foregoing Answer to Plaintiffs' Complaint; and that the facts set forth are true and correct to the best of his knowledge, information and belief. These statements are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

BURLINGTON MOTOR CARRIERS, INC.

BY: _____

THOMAS N. BARLOW

Vice President of Safety and Risk Mgmt.

Date: _____

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Answer to Plaintiffs' Complaint With New Matter and New Matter Crossclaim Pursuant to Pa.R.C.P. 2252(d) was served via first-class mail, postage prepaid, on the following:

Stephen T. Carpenito, Esquire
615 Center Street
Ashland, PA 17921
570-875-3500
Fax: 570-875-0699

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, PA 19067-2737
215-493-9670

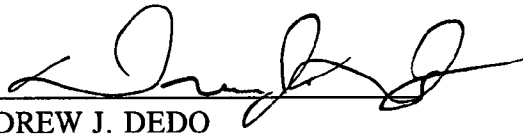
Scott T. Redman, Esquire
870 Six PPG Place
Pittsburgh, PA 15222
412-263-3364
Fax: 412-263-2144

George P. Kachulis, Esquire
Dickie, McCamey & Chilcote, P.C.
Firm #067
Two PPC Place, Suite 400
Pittsburgh, PA 15222-5402
412-281-7272
Fax: 412-392-5367

Robert W. Jozwik, Esquire
Wilson Elser Moskowitz Edelman
& Dicker LLP
1130 The Curtis Center
Independence Square West
Philadelphia, PA 19106
215-627-6900
Fax: 215-627-2665

RAWLE & HENDERSON LLP

By:



DREW J. DEDO
Attorneys for Defendants,
Burlington Motor Carriers
and Michael Wayne Phillips

Date: 10/12/00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

Plaintiffs,

v.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC., JOSEPH C.
LEWIS, DUN-RITE TOWING, KEITH
DANIEL VLACH, BURLINGTON MOTOR
CARRIERS, INC. and MICHAEL WAYNE
PHILLIPS,

Defendants.

No. 00-311-CD

Issue No.

**REPLY TO NEW MATTER PURSUANT
TO RULE 2252(d) OF DEFENDANT
SUPERIOR CARRIERS, INC. AND
JOSEPH C. LEWIS**

Code:

Filed on behalf of Defendants, L.J.F., Inc. and
Mark Albright

Counsel of record for this party:

George P. Kachulis, Esq.
Pa. I.D. #43666

DICKIE, McCAMEY & CHILCOTE, P.C.
Firm #067
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

(412) 281-7272

JURY TRIAL DEMANDED

FILED

NOV 16 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

No. 00-311-CD

Plaintiffs,

v.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC., JOSEPH C.
LEWIS, DUN-RITE TOWING, KEITH
DANIEL VLACH, BURLINGTON MOTOR
CARRIERS, INC. and MICHAEL WAYNE
PHILLIPS,

Defendants.

**REPLY TO NEW MATTER PURSUANT TO RULE 2252(d) OF
DEFENDANT SUPERIOR CARRIERS, INC. AND JOSEPH C. LEWIS**

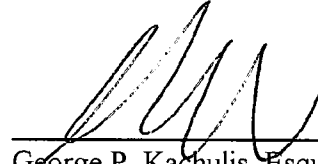
AND NOW, comes the Defendants, L.J.F., Inc. and Mark W. Albright, by their attorneys, Dickie, McCamey & Chilcote, P.C. and George P. Kachulis, Esquire and submits the following:

1. Paragraph 33 of the Answer, New Matter and New Matter Pursuant to Rule 2252(d) of Defendants Superior Carrier, Inc. and Joseph C. Lewis, contains conclusions of law to which no responsive pleading are required by Pennsylvania Rules of Civil Procedure. To the extent that any portion of Paragraph 33 can be construed as containing factual averments pertaining to these Defendants, said averments are specifically denied and proof thereof demanded at time of trial. By way of further response, these Defendants hereby incorporate by reference the totality of their Answer, New Matter and New Matter Pursuant to Rule 2252(d) previously filed in conjunction with this action.

WHEREFORE, Defendants, L.J.F., Inc., and Mark W. Albright, deny any and all liability in this matter and request that judgment be entered in their behalf.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

A handwritten signature in black ink, appearing to read 'G. Kachulis', is written over a horizontal line.

George P. Kachulis, Esquire

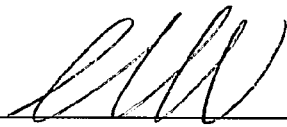
Attorney for Defendants, L.J.F., Inc. and
Mark Albright

VERIFICATION

I, George P. Kachulis, Esquire, hereby state that I am the counsel for Defendants, L.J.F., Inc. and Mark Albright and that as such being authorized so to do, state that the facts contained in the within Reply to New Matter are true and correct, not from my own information but from information supplied to me by others, and that a verification of L.J.F., Inc. and Mark Albright will be supplied if requested.

This statement is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities and is given pursuant to the provisions for verification of pleadings as defined and provided for in Rule 1024 of the Pennsylvania Rules of Civil Procedure.

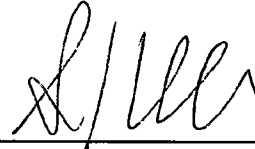
DICKIE, McCAMEY & CHILCOTE, P.C.

By  _____
George P. Kachulis, Esquire
Attorneys for Defendants,
L.J.F., Inc. and Mark Albright

CERTIFICATE OF SERVICE

I, George P. Kachulis, Esquire, hereby certify that true and correct copies of the foregoing Reply to New Matter have been served this 14th day of November, 2000, by U.S. first-class mail, postage prepaid, to all counsel of record.

DICKIE, McCAMEY & CHILCOTE, P.C.

By 

George P. Kachulis, Esquire

Attorneys for Defendants, L.J.F., Inc. and Mark Albright

FILED

NOV 16 2000

Shaw
Custary

FILED

NOV 16 2000

1110-961122

William A. Shaw
Prothonotary



DIANE M. RICE
ATTORNEY AT LAW
158 Dolington Road
Suite 201
Yardley, PA 19067-2737
(215) 493 - 9670
IDENTIFICATION NUMBER : 37723

ATTORNEY FOR PLAINTIFFS

NATIONAL UNION FIRE INSURANCE COMPANY	:	COURT OF COMMON PLEAS
a/s/o PENN TRAFFIC, INC.	:	CLEARFIELD COUNTY
and	:	
PENN TRAFFIC, INC.	:	
	:	
	:	
v.	:	
L.J.F., INC.	:	
and	:	
MARK W. ALBRIGHT	:	
and	:	
SUPERIOR CARRIERS, INC.	:	
and	:	
JOSEPH C. LEWIS	:	
and	:	
DUN-RITE TOWING	:	
and	:	
KEITH DANIEL VLACH	:	
and	:	
BURLINGTON MOTOR CARRIERS, INC.	:	
and	:	
MICHAEL WAYNE PHILLIPS	:	NO. 00-3110-CD

**PLAINTIFFS' REPLY TO NEW MATTER OF DEFENDANTS, BURLINGTON
MOTOR CARRIERS AND MICHAEL WAYNE PHILLIPS**

Plaintiffs, NATIONAL UNION FIRE INSURANCE COMPANY and PENN
TRAFFIC, by and through their attorney, DIANE M. RICE, ESQUIRE, Reply to
the New Matter of Defendants, BURLINGTON MOTOR CARRIERS, INC. and
MICHAEL WAYNE PHILLIPS, as follows:

FILED

NOV 16 2000

11/16/00 3:00 PM

William A. Shaw
Prothonotary

2 copy to Att

[Signature]

23. This is an incorporation paragraph requiring no response herein.

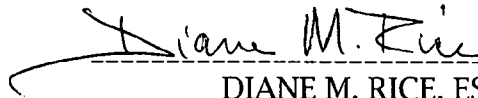
24- 42, inclusive. DENIED. The allegations of the corresponding paragraphs state conclusions of law to which no responsive pleading is required herein.

To the extent that any of the remaining allegations of these paragraphs are judicially determined to state facts, Plaintiffs are, after reasonable investigation without knowledge or information sufficient to form a belief as to the truth of the matters asserted as all means of proof are within the exclusive control of the Defendants, or other persons or entities over whom Plaintiffs have no control. By way of further answer, Plaintiffs assert that the operator of the Penn Traffic vehicle was in no way negligent, careless or reckless in the operation of the said vehicle on the date in question. To the contrary, said vehicle was operated in a reasonable manner and with due care under the circumstances. The Plaintiff's vehicle was sheared in half during the course of the collisions and the charges related to the vehicle were customary and are not excessive and/or unsupported. Further, the vehicles of the defendant was not being operated in a safe manner under the circumstances then and there existing on the roadway given the sever weather conditions. Strict proof of the allegations of these paragraphs is demanded at the time of hearing in this matter.

43. DENIED. To the contrary, the Summons was served upon the Defendant, Burlington Motor carriers, by the Sheriff of Dauphin County, on March 16, 2000, at 1:50 PM. See attached.

WHEREFORE, Plaintiffs, NATIONAL UNION FIRE INSURANCE COMPANY and PENN TRAFFIC INC. demand judgment in their favor and against the Defendants, BURLINGTON MOTOR CARRIERS and MICHAEL WAYNE PHILLIPS , and respectfully requests that this New Matter be DISMISSED as well as any further relief deemed appropriate by this court.

DATE: 11.13.00

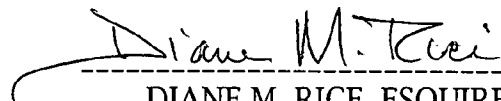
A handwritten signature in cursive script, reading "Diane M. Rice", is written over a horizontal dashed line.

DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

VERIFICATION

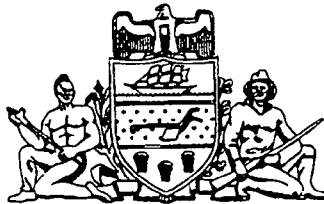
DIANE M. RICE, ESQUIRE, hereby verifies that the information set forth in the foregoing Reply to New Matter of Defendants, Burlington Motor carriers and Michael Wayne Phillips, is true -and -correct to the best of her knowledge, information, and belief. This verification is made subject to the penalties of 18 Pa. CSA 4904, relating to unsworn falsification to authorities.

DATE:: 11.13.00



DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

Office of the Sheriff



Mary Jane Snyder
Real Estate Deputy

William T. Tully
Solicitor

COPE

Ralph G. McAllister
Chief Deputy

Michael W. Rinehart
Assistant Chief Deputy

Dauphin County
Harrisburg, Pennsylvania 17101
ph: (717) 255-2660 fax: (717) 255-2889

Jack Lotwick
Sheriff

Commonwealth of Pennsylvania : NATIONAL UNION FIRE INSURANCE COMPANY
vs
County of Dauphin : BURLINGTON MOTOR CARRIERS INC

Sheriff's Return

No. 0596-T - - -2000

OTHER COUNTY NO. 00-311-CD

AND NOW: March 16, 2000 at 1:50PM served the within

PRAECIPE & WRIT OF SUMMONS upon
BURLINGTON MOTOR CARRIERS INC by personally handing
to JAMIE OLITSKY-CSA 1 true attested copy(ies)
of the original PRAECIPE & WRIT OF SUMMONS and making known
to him/her the contents thereof at 319 MARKET ST
HBG, PA 17101-0000

Sworn and subscribed to
before me this 16TH day of MARCH, 2000

Stephen C. Marina

PROTHONOTARY

So Answers,

J R Lotwick

Sheriff of Dauphin County, Pa.

By *Stephen W. Weaver*

Deputy Sheriff

Sheriff's Costs: \$25.50 PD 03/16/2000

RCPT NO 134607

TJ/LW

CERTIFICATION OF SERVICE

I, Diane M. Rice, Esquire, do hereby certify and say that a true-and-correct copy of the foregoing Reply to New Matter, was served on the below listed attorneys by regular mail on November 12, 2000:

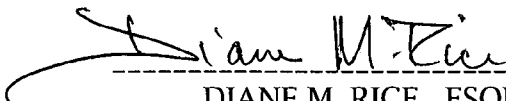
- (1) **GEORGE P. KACHULIS, ESQUIRE**
Dickie. McCamey & Chilcote
Two PPG Place, Suite 400
Pittsburgh, PA. 15222
(for Defendants, L.J.F., INC. and MARK W. ALBRIGHT)

- (2) **ROBERT JOSWICK, ESQUIRE**
Wilson, Elser. Moskowitz, Edelman & Dicker
The Curtis Center, Suite 1130 East
Independence Square West
Philadelphia, PA. 19106
(for Defendants, SUPERIOR CARRIERS, INC. and JOSEPH C. LEWIS)

- (8) **SCOTT T. REDMAN, ESQUIRE**
Bonacci, Muchow & Redman
870 Six PPG Place
Pittsburgh, PA. 15222
(for Defendants, DUN-RITE TOWING, INC. and KEITH DAVID VLACH)

- (4) **DREW DEDO, ESQUIRE**
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, PA. 19107
(for Defendants, BURLINGTON and MICHAEL WAYNE PHILLIPS)

DATE: 11.13.00



DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

CA

RAWLE & HENDERSON LLP

By: Drew J. Dedo, Esquire

Identification No.: 40319

The Widener Building

One South Penn Square

Philadelphia, PA 19107

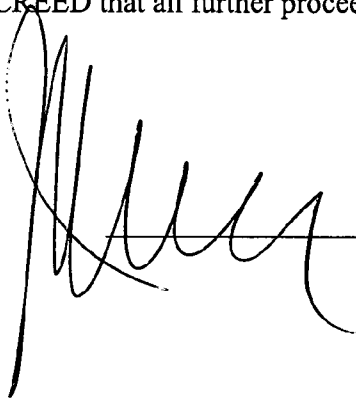
(215) 575-4283

**Attorneys for Defendants,
Burlington Motor Carriers, Inc.
and Michael Wayne Phillips**

NATIONAL UNION FIRE INSURANCE CO. :	COURT OF COMMON PLEAS
a/s/o PENN TRAFFIC INC. and :	CLEARFIELD COUNTY
PENN TRAFFIC, INC. :	
v. :	NO. 00-311-CD
L.J.F., INC., MARK W. ALBRIGHT, <i>et al.</i> :	

ORDER

AND NOW this 16th day of August 2001, upon consideration of the Motion to Stay all Further Proceedings of Defendants, Michael Wayne Phillips and Burlington Motor Carriers, Inc., as well as the Petition for Chapter 11 filed by Defendants, Michael Wayne Phillips Burlington Motor Carriers, Inc., in the United States Bankruptcy Court for the Southern District of Indiana, it is ORDERED and DECREED that all further proceedings in this matter are STAYED.


_____ J.

0549182.01

FILED

AUG 16 2001

William A. Shaw
Prothonotary

FILED
01103434
AUG 16 2001
2 cc
Atty Leds
William A. Shaw
Prothonotary

RAWLE & HENDERSON LLP
By: Drew J. Dedo, Esquire
Identification No.: 40319
The Widener Building
One South Penn Square
Philadelphia, PA 19107
(215) 575-4283

Attorneys for Defendants,
Burlington Motor Carriers, Inc.
and Michael Wayne Phillips

NATIONAL UNION FIRE INSURANCE CO.	:	COURT OF COMMON PLEAS
a/s/o PENN TRAFFIC INC. and	:	CLEARFIELD COUNTY
PENN TRAFFIC, INC.	:	
	:	
	:	
v.	:	NO. 00-311-CD
	:	
L.J.F., INC., MARK W. ALBRIGHT, <i>et al.</i>	:	

MOTION TO STAY FURTHER PROCEEDINGS

Defendants, Michael Wayne Phillips and Burlington Motor Carriers, Inc., by and through their attorneys, Rawle & Henderson LLP, comes before the Court on this Motion To Stay Further Proceedings and in support thereof, avers as follows:

1. On July 9, 2001, Defendants, Michael Wayne Phillips Burlington Motor Carriers, Inc., filed a Voluntary petition for Chapter 11 in the United States Bankruptcy Court for the Southern District of Indiana, a copy of the Petition is attached hereto, and incorporated by reference, as Exhibit "A".

2. Pursuant to 11 U.S.C.A. §1141, *et. seq.*, an automatic stay is imposed upon all actions once the Petition is filed in Bankruptcy Court.

FILED
AUG 06 2001
William A. Shaw
Prothonotary

Wherefore, Defendant, Burlington Motor Carriers, Inc, respectfully suggests that all further proceedings in this matter should be Stayed, and the Court should enter the proposed Order attached hereto.

Respectfully submitted:

RAWLE & HENDERSON LLP

By: 

Timothy J. Abel

Drew J. Dedo

Attorneys for Defendant,

Burlington Motor Carriers, Inc.

Dated:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Motion to Stay Further Proceedings was served via first-class mail, postage prepaid, on the following:

Stephen T. Carpenito, Esquire
615 Center Street
Ashland, PA 17921

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, PA 19067-2737

Scott T. Redman, Esquire
870 Six PPG Place
Pittsburgh, PA 15222

George P. Kachulis, Esquire
Dickie, McCamey & Chilcote, P.C.
Firm #067
Two PPC Place, Suite 400
Pittsburgh, PA 15222-5402
412-281-7272
Fax: 412-392-5367

Robert W. Jozwik, Esquire
Wilson Elser Moskowitz Edelman
& Dicker LLP
1130 The Curtis Center
Independence Square West
Philadelphia, PA 19106

RAWLE & HENDERSON LLP

By: 

Drew J. Dedo
Attorneys for Defendants,
Burlington Motor Carriers
and Michael Wayne Phillips

Date: 8/2/01

(Official Form 1) (9/97)

FORM 1 United States Bankruptcy Court
Southern District of Indiana**Voluntary Petition**

Name of Debtor (if individual, enter Last, First, Middle): Burlington Motor Carriers Inc.	Name of Joint Debtor (Spouse) (Last, First, Middle):
All Other Names used by the Debtor in the last 6 years (Include married, maiden, and trade names): Burlington Motor Carriers Logistics Spirit Logistics	All Other Names used by the Joint Debtor in the last 6 years (Include married, maiden, and trade names):
Soc. Sec./Tax I.D. No. (if more than one, state all): 23-2865975	Soc. Sec./Tax I.D. No. (if more than one, state all):
Street Address of Debtor (No. & Street, City, State, & Zip Code): 14611 W Commerce Rd. Daleville, In 47334	Street Address of Joint Debtor (No. & Street, City, State, & Zip Code): JUDGE METZ
County of Residence or of the Principal Place of Business: Delaware	County of Residence or of the Principal Place of Business:
Mailing Address of Debtor (if different from street address):	Mailing Address of Joint Debtor (if different from street address):
Location of Principal Assets of Business Debtor (If different from street address above):	

Information Regarding the Debtor (Check the Applicable Boxes)

Debtors (Check any applicable box)
Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.
There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.

Type of Debtor (Check all boxes that apply) <input type="checkbox"/> Individual(s) <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other	<input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker	Chapter or Section of Bankruptcy Code Under Which the Petition is Filed (Check one box) <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Sec. 304 - Case ancillary to foreign proceeding <input checked="" type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13
Nature of Debts (Check one box) <input type="checkbox"/> Consumer/Non-Business <input checked="" type="checkbox"/> Business	Filing Fee (Check one box) <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to individuals only.) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3.	
Chapter 11 Small Business (Check all boxes that apply) <input type="checkbox"/> Debtor is a small business as defined in 11 U.S.C. § 101 <input type="checkbox"/> Debtor is and elects to be considered a small business under 11 U.S.C. § 1121(c) (Optional)		

Statistical/Administrative Information (Estimates only)

☒ Debtor estimates that funds will be available for distribution to unsecured creditors.
☐ Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.

Estimated Number of Creditors	1-15	16-49	50-99	100-199	200-499	500-over		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Estimated Assets	\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated Debts	\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

THIS SPACE IS FOR COURT USE ONLY
RELIEF ORDERED

FILED
U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
JOHN A. O'NEAL
CLERK
JUL - 9 PM 4:30

DOCUMENT NO. 12
KK

(Official Form 1) (9/97)

Voluntary Petition

(This page must be completed and filed in every case)

Name of Debtor(s): FOR
Burlington Motor Carriers, Inc.

1, Page 2

Prior Bankruptcy Case Filed Within Last 6 Years (If more than one, attach additional sheet)

Location
Where Filed: District of DelawareCase Number:
95-1559-HSBDate Filed:
12/5/95

Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)

Name of Debtor:
Jolliff Transportation, Inc.

Case Number:

Date Filed:
7/9/01

District: Southern District of Indiana

Relationship: Related Company

Judge:

Signatures Indianapolis Division

Signature(s) of Debtor(s) (Individual/Joint)

I declare under penalty of perjury that the information provided in this petition is true and correct.

(If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7) I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X
Signature of DebtorX
Signature of Joint Debtor

Telephone Number (If not represented by attorney)

Date

Signature of Attorney

X Paul T. Deignan
Signature of Attorney for Debtor(s)Paul T. Deignan, Atty No. 4798-49
Printed Name of Attorney for Debtor(s)Angel & Dunlap, LLP
Firm Name1770 Market Square Center
151 N. Delaware Street
Indianapolis, Indiana 46204

Address

(317) 634-9052

Telephone Number

Date 7/9/01

Exhibit A

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities and Exchange Act of 1934 and is requesting relief under chapter 11)

☐ Exhibit A is attached and made a part of this petition.**Exhibit B**

(To be completed if debtor is an individual whose debts are primarily consumer debts)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that (he or she) may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter.

X
Signature of Attorney for Debtor(s)

Date

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X Brian Gast
Signature of Authorized Individual

Brian Gast

Printed Name of Authorized Individual

Sr. Vice President

Title of Authorized Individual

Date 7/9/01

Signature of Non-Attorney Petition Preparer

I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.

Printed Name of Bankruptcy Petition Preparer

Social Security Number

Address

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

X
Signature of Bankruptcy Petition Preparer

Date

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. § 110; 16 U.S.C. § 156.

Form 4. LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS

United States Bankruptcy Court
Southern District of IndianaIn re BURLINGTON MOTOR CARRIERS, INC.

Debtor

Case No. _____

Chapter 11

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS

Following is the list of the debtor's creditors holding the 20 largest unsecured claims. The list is prepared in accordance with Fed. R. Bankr. P. 1007(d) for filing in this chapter 11 [or chapter 9] case. The list does not include (1) persons who come within the definition of "insider" set forth in 11 U.S.C. § 101, or (2) secured creditors unless the value of the collateral is such that the unsecured deficiency places the creditor among the holders of the 20 largest unsecured claims.

Name of creditor and complete mailing address, including zip code	Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted	Nature of claim (trade debt, bank loan, government contract, etc.)	Indicate if claim is contingent, unliquidated, disputed, or subject to setoff	Amount of claim [if secured, also state value of security]
PLAN NOTE C/O SEYMOUR PRESTON, PLAN ADMIN. 767 FIFTH AVENUE, 28TH FLOOR NEW YORK, NY 10153	SEYMOUR PRESTON, PLAN ADMIN. PLAN NOTE 767 FIFTH AVENUE, 28TH FLOOR NEW YORK, NY 10153 212-593-2255; FAX 212-888-2841	Unsecured note for prior bankruptcy Plan.		1,525,621.00
ESF NATIONAL BANK C/O EDWARD LABRY, III, PRES. 2525 HORIZAN LAKE DR., SUITE 120 MEMPHIS, TN 38133	EDWARD LABRY, III, PRES. ESF NATIONAL BANK 2525 HORIZAN LAKE DR., SUITE 120 MEMPHIS, TN 38133 901-371-8000; FAX 901-371-8121	Trade Debt		1,400,000.00
IRS/US DEPT OF JUSTICE, TAX DIV. C/O CHRISTOPHER ZAETTA 555 FOURTH ST., NW, ROOM 6834 BEN FRANKLIN STATION WASHINGTON, DC 20044	CHRISTOPHER ZAETTA IRS/US DEPT OF JUSTICE, TAX DIV. 555 FOURTH ST., NW, ROOM 6834 WASHINGTON, DC 20044 202-307-6528; FAX 202-514-6866	Tax claim settlement		1,104,785.00
TRUCK (IN) QRS 14-3, INC. C/O GORDON J. WHITING, SEN. VP 50 ROCKEFELLER PLAZA, 2ND FLOOR NEW YORK, NY 10020	GORDON J. WHITING, SEN. VP TRUCK (IN) QRS 14-3, INC. 50 ROCKEFELLER PLAZA, 2ND FLOOR NEW YORK, NY 10020 212-492-1100; FAX 212-977-3022	Rent on facility		861,600.00
QUALCOMM INCORPORATED 0260F 5775 MOREHOUSE DRIVE SAN DIEGO, CA 92121	QUALCOMM INCORPORATED 0260F 5775 MOREHOUSE DRIVE SAN DIEGO, CA 92121 858-587-1121; FAX 858-658-1577	Trade Debt		397,508.00

In re BURLINGTON MOTOR CARRIERS, INC.

Debtor

Case No. _____

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS (Continuation Sheet)

Name of creditor and complete mailing address, including zip code	Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted	Nature of claim (trade debt, bank loan, government contract, etc.)	Indicate if claim is contingent, unliquidated, disputed, or subject to setoff	Amount of claim [if secured, also state value of security]
MCI WORLD COM C/O VICKI BABBY 6415 BUSINESS CENTER DRIVE HIGH LANDS RANCH, CO 80130	VICKI BABBY MCI WORLD COM 6415 BUSINESS CENTER DRIVE HIGH LANDS RANCH, CO 80130 866-682-3376; FAX 877-353-8197	Trade Debt		379,093.00
BRIDGESTONE/FIRESTONE, INC C/O IVAN DEATSCH, REG. CR. MGR. 2100 INTERNATIONAL PARKWAY LOCK BOX 73418 WOODRIDGE, IL 60517	IVAN DEATSCH, REG. CR. MGR. BRIDGESTONE/FIRESTONE, INC 2100 INTERNATIONAL PARKWAY WOODRIDGE, IL 60517 630-972-5000; FAX 630-972-4978	Trade Debt		358,151.00
STOOPS FREIGHTLINER, INC. 1851 W. THOMPSON ROAD INDIANAPOLIS, IN 46217	STOOPS FREIGHTLINER, INC. 1851 W. THOMPSON ROAD INDIANAPOLIS, IN 46217 317-788-1533; FAX 317-782-4087	Trade Debt		311,118.00
THE GOODYEAR TIRE & RUBBER CO REF. NO. 00210970 1144 EAST MARKET ST. AKRON, OH 44316	THE GOODYEAR TIRE & RUBBER CO REF. NO. 00210970 1144 EAST MARKET ST. AKRON, OH 44316 330-796-2490; FAX 330-798-2222	Trade Debt		217,088.00
DIAMOND STATES VENTURES C/O JOE HAYS MANAGING PARTNER 225 SOUTH PULASKI LITTLE ROCK, AR 72201-1925	JOE HAYS MANAGING PARTNER DIAMOND STATES VENTURES 225 SOUTH PULASKI LITTLE ROCK, AR 72201-1925 501-374-9247; FAX 501-374-9425	Purchase note from purchaser of a company		200,000.00
WHITE TIRE DISTRIBUTORS, INC 1513 SEIBEL DRIVE N.E. ROANOKE, VA 24012	WHITE TIRE DISTRIBUTORS, INC 1513 SEIBEL DRIVE N.E. ROANOKE, VA 24012 540-343-0770; FAX 540-343-3241	Trade Debt		162,331.00

In r

BURLINGTON MOTOR CARRIERS, INC.

Case No. _____

Debtor

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code	Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted	Nature of claim (trade debt, bank loan, government contract, etc.)	Indicate if claim is contingent, unliquidated, disputed, or subject to setoff	Amount of claim [if secured, also state value of security]
GREYHOUND LINES INC C/O DAVID REEVES 2425 EAST KEARNEY SPRINGFIELD, MO 65803	DAVID REEVES GREYHOUND LINES INC 2425 EAST KEARNEY SPRINGFIELD, MO 65803 800-440-7712; FAX 888-440-7799	Trade Debt		141,084.00
MICHELIN TIRE CORPORATION ONE PARKWAY SOUTH BUILDING 4A GREENVILLE, SC 25614	MICHELIN TIRE CORPORATION ONE PARKWAY SOUTH BUILDING 4A GREENVILLE, SC 25614 864-458-5000; FAX 864-458-5345	Trade Debt		129,037.00
O C TANNER RECOGNITION COMPANY 1930 SOUTH STATE STREET SALT LAKE CITY, UT 84115-2383	O C TANNER RECOGNITION COMPANY 1930 SOUTH STATE STREET SALT LAKE CITY, UT 84115-2383 800-453-7490; FAX 801-483-8210	Trade Debt		61,062.00
HOLIDAY INN 5920 SCATTERFIELD ROAD ANDERSON, IN 46013	HOLIDAY INN 5920 SCATTERFIELD ROAD ANDERSON, IN 46013 765-644-2581; FAX 765-642-8545	Trade Debt		58,850.00
SUMMIT GLOBAL PARTNERS OF TX P.O. BOX 130026 3100 MONTICELLO, SUITE 300 DALLAS, TX 75205	SUMMIT GLOBAL PARTNERS OF TX P.O. BOX 130026 3100 MONTICELLO, SUITE 300 DALLAS, TX 75205 800-322-1572; FAX 214-443-3900	Trade Debt		56,293.00
UNIFIED GROUP SERVICES ATTN: FAITH HALEY 741 E. WATER ST. PENDLETON, IN 46064	ATTN: FAITH HALEY UNIFIED GROUP SERVICES 741 E. WATER ST. PENDLETON, IN 46064 765-778-1535; FAX 765-778-1610	Trade Debt		55,755.00

JUL-06-2001 15:21

ANCEL & DUNLAP

3172633871 P.08/09

re BURLINGTON MOTOR CARRIERS, INC.

Case No. _____

Debtor

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS (Continuation Sheet)

Name of creditor and complete mailing address, including zip code	Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted	Nature of claim (trade debt, bank loan, government contract, etc.)	Indicate: if claim is contingent, unliquidated, disputed, or subject to setoff	Amount of claim [if secured, also state value of security]
FREIGHTLINER OF HARRISBURG BOX 4174 3 CHAMBERS HILL RD HARRISBURG, PA 17111	FREIGHTLINER OF HARRISBURG P.O. BOX 4174 4400 CHAMBERS HILL RD HARRISBURG, PA 17111 717-564-6151; FAX 717-564-6238	Trade Debt		55,308.00
XEROX CORPORATION LONG RIDGE ROAD STAMFORD, CT	XEROX CORPORATION 800 LONG RIDGE ROAD STAMFORD, CT 203-968-3000; FAX 203-968-4299	Lease payments on equipment		52,803.00
RTC MAINTENANCE 60 N. BAILEY RD. NORTH JACKSON, OH 44451	RTC MAINTENANCE 1450 N. BAILEY RD. NORTH JACKSON, OH 44451 330-538-3702; FAX 330-538-3705	Trade Debt		49,307.00

DECLARATION UNDER PENALTY OF PERJURY ON BEHALF OF CORPORATION OR PARTNERSHIP

I, the _____ of the corporation named as the debtor in this case, declare under penalty of perjury that I have read the foregoing List of Creditors Holding 20 Largest Unsecured Claims and that it is true and correct to the best of my information and belief.

Date 7-9-01Signature 

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both.
18 U.S.C §§ 152 and 3571.

JUL-06-2001 15:21

ANCEL & DUNLAP

3172633871 P.09/09

United States Bankruptcy Court
Southern District of Indiana

In re BURLINGTON MOTOR CARRIERS, INC.,

Debtor

Case No. _____

Chapter 11

LIST OF EQUITY SECURITY HOLDERS

Following is the list of the Debtor's equity security holders which is prepared in accordance with Rule 1007(a)(3) for filing in this chapter 11 case.

Name and last known address or place of business of holder	Security Class	Number of Securities	Kind of Interest
---	-------------------	-------------------------	---------------------

(See Attached Exhibit A)

DECLARATION UNDER PENALTY OF PERJURY ON BEHALF OF CORPORATION OR PARTNERSHIP

I, the Senior VP of the above named as the debtor in this case, declare under penalty of perjury that I have read the foregoing List of Equity Security Holders and that it is true and correct to the best of my information and belief.

Date 7-9-01

Signature [Signature]

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both.
18 U.S.C §§ 152 and 3571.

Continuation sheets attached to List of Equity Security Holders

**United States Bankruptcy Court
Southern District of Indiana**

In re BURLINGTON MOTOR CARRIERS, INC.

Debtor

Case No. _____

Chapter 11

LIST OF EQUITY SECURITY HOLDERS

Following is the list of the Debtor's equity security holders which is prepared in accordance with Rule 1007(a)(3) for filing in this chapter 11 case.

Name and last known address or place of business of holder	Security Class	Number of Securities	Kind of Interest
DIMELING SCHREIBER & PARK Reorganization Fund, L.P. 1629 Locust Street Philadelphia, PA 19103	Common	118,080	Common
BMC Co-Investment Partnership, L.P. 1629 Locust Street Philadelphia, PA 19103	Preferred	Unknown	Preferred
DIMELING SCHREIBER & PARK Doug Heller/George Hickox 1629 Locust Street Philadelphia, PA 19103	Common and Preferred	4,920	Common and Preferred
Exeter Equity Partners, L.P. 10 E. 53rd Street New York, NY 10022	Common	25,000	Common
Exeter Venture Lenders, L.P. 10 E. 53rd Street New York, NY 10022	Common	13,000	Common
Tufton Limited 6 Front Street Hamilton, HM 11 Bermuda	Common and Preferred	24,000	Common and Preferred
Durham Limited 6 Front Street Hamilton, HM 11 Bermuda	Common and Preferred	24,000	Common and Preferred
TFG, L.P. Thomas F. Grojean, Sr. 14611 W. Commerce Road Daleville, IN 47334	Common and Preferred	24,000	Common and Preferred
BMC Old Bondholders c/o Seymour Preston, Goldin Assoc., LLC 767 Fifth Avenue, 28th Floor New York, NY 10153	Preferred	Unknown	Preferred

Exhibit A

Continuation sheets attached to List of Equity Security Holders

DR
FILED
AUG 16 2001
William A. Shaw
Prothonotary
cc
Ady

CP

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

NATIONAL UNION FIRE INSURANCE
COMPANY, a/s/o PENN TRAFFIC,
INC., and PENN TRAFFIC, INC.,
Plaintiffs

vs.

KEITH DANIEL VLACH, et al
Defendants

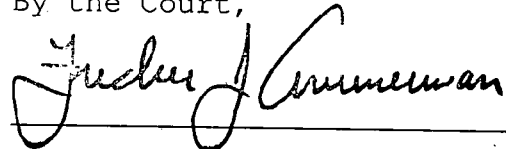
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NO. 2000-311-C.D.

O R D E R

NOW, this 13th day of May, 2004, upon consideration of Attorney Scott T. Redman's request for a status conference with the Court and counsel for purposes of determining how the parties can move this case forward toward resolution, it is the ORDER of this Court that a status conference be scheduled for the 14 day of June, 2004, in Chambers at 10:00 o'clock A.m. One half hour has been reserved for this conference.

By the Court,



HONORABLE FREDRIC J. AMMERMAN
President Judge

FILED

MAY 13 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

10c
MAY 13 2004

William A. Shaw
Prothonotary/Clerk of Courts

10c
Attys ^{Diane} Rice, George Kachulis, Robert Tozwin,
Scott Redman, Drew ~~Deedo~~

LAW OFFICE
OF
MUCHOW & REDMAN
(Employees of a Member Company of Zurich North America)
870 SIX PPG PLACE
PITTSBURGH, PENNSYLVANIA 15222

*Richard L. Muchow
Scott T. Redman
Scott E. Becker
Robert J. Pasquarelli
Melody A. Cook
Dana M. McCarty*

*Phone (412) 263-3360
Fax (412) 263-2144*

May 7, 2004

Fredric J. Ammerman, President Judge
Clearfield County Courthouse
230 E. Market Street
Clearfield, Pennsylvania 16830

**Re: National Union Fire Insurance Company a/s/o Penn Traffic, Inc. and
Penn Traffic, Inc., v. Keith Daniel Vlach, et al.**
Case No. 00-311-CD; Clearfield County
Claim No. 454-0071059

Dear Judge Ammerman:

I am writing as counsel for two of the Defendants, Keith Vlach and Dun-Rite Towing, in this case to request that the Court schedule a Status Conference in the above-captioned matter for purposes of determining how the parties can move this case forward toward resolution. have discussed this matter with the other Defendants and they are in agreement that a Status Conference would be helpful in determining what steps are needed to advance this case which has been inactive for quite some time.

This case is a property damage action arising out of a multi-vehicle collision on Interstate 80 which occurred on March 13, 1998. It has been over six years since the accident and over four years since suit was filed. There has been little activity in the suit since the filing of the Complaint. One of the reasons for the inactivity is the bankruptcy of one of the co-Defendants, Burlington Motor Carriers, however, we have requested on numerous occasions that the Plaintiffs' counsel seek the appropriate relief from the bankruptcy stay and/or seek some relief against Burlington through the bankruptcy claim process.

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Fredric J. Ammerman, President Judge

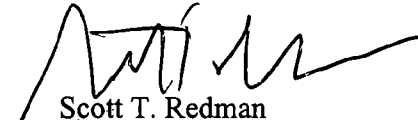
Nat'l Union v. Vlach, et al.

May 7, 2004

Page 2

Thank you in advance for any help in moving this case towards resolution.

Very truly yours,



Scott T. Redman
Direct Dial: (412) 263-3364

STR/mg

cc: Beth Fitt, Esquire
George P. Kachulis, Esquire
Lisa Huckfeldt - Law Firm of Wilson, Elser,
Moskowitz, Edelman & Dicker
Diane M. Rice, Esquire

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830

William A. Shaw
Prothonotary/Clerk of Courts

FILED

MAY 24 2004

10:48 AM

Re-mailed to:
Drew J. Dedo, Esq.
1421 Arch St.
Philadelphia, PA 19102

Drew J. Dedo, Esq.
One South Penn Square
Philadelphia, PA 19107

A ☒ INSUFFICIENT ADDRESS
C ☐ ATTEMPTED NOT KNOWN
S ☐ NO SUCH NUMBER/ STREET
☐ OTHER
☐ NOT DELIVERABLE AS ADDRESSED
- UNABLE TO FORWARD

RTS
RETURN TO SENDER

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

NATIONAL UNION FIRE INSURANCE *
COMPANY, a/s/o PENN TRAFFIC, *
INC., and PENN TRAFFIC, INC., *
Plaintiffs *

vs. *

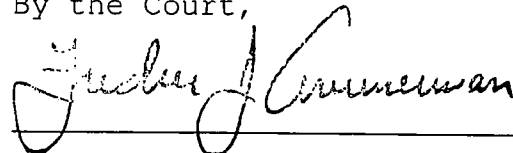
NO. 2000-311-C.D. *

KEITH DANIEL VLACH, et al *
Defendants *

O R D E R

NOW, this 13th day of May, 2004, upon consideration of Attorney Scott T. Redman's request for a status conference with the Court and counsel for purposes of determining how the parties can move this case forward toward resolution, it is the ORDER of this Court that a status conference be scheduled for the 14 day of June, 2004, in Chambers at 10:00 o'clock A.m. One half hour has been reserved for this conference.

By the Court,

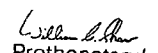


HONORABLE FREDRIC J. AMMERMAN
President Judge

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

MAY 13 2004

Attest.


Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

NATIONAL UNION FIRE
INSURANCE COMPANY a/s/o
PENN TRAFFIC, INC., and
PENN TRAFFIC, INC.

-VS-

L.J.F., INC., MARK
ALBRIGHT, SUPERIOR
CARRIERS, INC., JOSEPH C.
LEWIS, DUN-RITE TOWING,
KEITH DANIEL VLACH,
BURLINGTON MOTOR CARRIERS,
INC., and MICHAEL WAYNE
PHILLIPS

No. 00-311-CD

FILED

JUN 15 2004

William A. Shaw
Prothonotary

O R D E R

NOW, this 14th day of June, 2004, following
status conference among the Court and counsel, with the
Court noting counsel for the Plaintiff, Diane Rice,
Esquire, participated via telephone conference call, and
upon agreement of the attorneys, it is the ORDER of this
Court as follows:

1. Burlington Motor Carriers, Inc., and Michael
wayne Phillips are hereby removed as defendants in the
case;

2. The Court Administrator shall list the case
for jury trial the next available Term of Court.

BY THE COURT,



President Judge

FILED

0 3:35 PM
JUN 15 2004

cc atty Lee
cc H. J. Lee
cc Kathy Lee
cc Atty. General
cc Atty. General

William A. Shaw
Prothonotary

CERTIFICATE OF SERVICE

I, Adrian J Gordon, Esquire, counsel for defendants Superior Carriers, Inc. and Joseph C. Lewis, hereby certify that I served a true and correct copy of the foregoing Pre-Trial Statement via first-class mail, postage pre-paid on August 4, 2004 upon the following counsel of record:

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road
Suite 201
Yardley, Pennsylvania 19067-2737

Beth Fitt, Esquire
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, Pennsylvania 19107

George P. Kachulis,
Esquire Dickie, McCamey & Chilcote
Two PPG Place
Suite 400
Pittsburgh, Pennsylvania 15222

Scott T. Redman, Esquire
Muchow & Redman
870 Six PPG Place
Pittsburgh, PA 15222



Adrian Joseph Gordon, Esquire

FILED

0130501
AUG 06 2004

NO
CC

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN. TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

CIVIL DIVISION

No. 00-311-CD

Plaintiffs

v.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC.,
JOSEPH C. LEWIS, DUN-RITE TOWING
KEITH DANIEL VLACH, BURLINGTON
MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS,

Defendants

Type of Pleading

PRE-TRIAL STATEMENT

Filed on Behalf of Defendants:

SUPERIOR CARRIERS, INC. and
JOSEPH C. LEWIS

Counsel for this Party:

ADRIAN JOSEPH GORDON, ESQUIRE
PENNSYLVANIA ATTORNEY ID #29512

Wilson, Elser, Moskowitz, Edelman & Dicker LLP
Suite 1130 Curtis Center
601 Walnut Street
Philadelphia, PA 19106
(215) 627-6900

RECEIVED

AUG 05 2004

COURT ADMINISTRATOR'S
OFFICE

LAW OFFICE
OF
MUCHOW & REDMAN
(Employees of a Member Company of Zurich North America)
870 SIX PPG PLACE
PITTSBURGH, PENNSYLVANIA 15222

Richard L. Muchow
Scott T. Redman
Scott E. Becker
Robert J. Pasquarelli
Melody A. Cook
Dana M. McCarty

Phone (412) 263-3360
Fax (412) 263-2144

August 10, 2004

Marcy Kelley, Deputy Court Administrator
Clearfield County Courthouse
230 East Market Street, Suite 228
Clearfield, Pennsylvania 16830

VIA FACSIMILE TRANSMISSION AND REGULAR MAIL

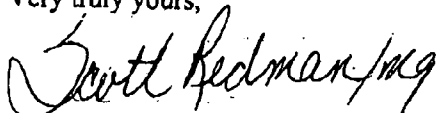
Re: National Union Fire Insurance Company a/s/o Penn Traffic, Inc. and
Penn Traffic, Inc. v. Keith Daniel Vlach, et al.
Case No. 00-311-CD; Clearfield County
Claim No. 454-0071059

Dear Marcy:

I am writing to advise you that the above-captioned case scheduled for Pre-Trial Conference on Thursday, August 12, 2004, before Judge Ammerman has now been settled. Plaintiffs' counsel will be filing a Praecipe to Settle and Discontinue in the near future.

Thank you for your courtesy.

Very truly yours,



Scott T. Redman
Direct Dial: (412) 263-3364

STR/mg

cc: Diane M. Rice, Esquire
George P. Kachulis, Esquire
Adrian J. Gordon, Esquire

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP ⁽⁴⁾

The Curtis Center, Suite 1130 East, Independence Square West, Philadelphia, PA 19106

Tel: (215) 627-6900 Fax: (215) 627-2665

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KENNETH SCOTT *
LOUIS J. ISAACSON **
KEVIN T. KAVANAGH **
ROCHELLE M. FEDULLO
MICHAEL S. TAKACS **
DANIEL J. MIRARCHI
RYAN L. LEONARD **
THOMAS S. DOWNIE **
HOPE LESTER

JONATHAN DRYER
KATHLEEN D. WILKINSON **
ADRIAN J. GORDON
M. DOUGLAS EISLER +
WENDY TESTA **
SALVATORE A. CLEMENTE **
BROOKE L. WILLIAMS
JOSHUA H. BEISLER **
JESSICA S. MAILMAN **

* ALSO ADMITTED IN NY
+ ALSO ADMITTED IN NC
** ALSO ADMITTED IN MD
** ALSO ADMITTED IN NJ

August 4, 2004

BY FEDERAL EXPRESS

Court of Common Pleas of Clearfield County
Forty-sixth Judicial District of Pennsylvania
Clearfield County Courthouse
Clearfield, PA 16830

Attention: David S. Meholick
Court Administrator

Re: National Union Fire Insurance Company, et al. v. L.J.F., Inc., et al.
No. 00-311-CD
Our File No.: 04203.00007

Dear Sir:

Enclosed is the Pre-Trial Statement of defendants Superior Carriers and Joseph C. Lewis in the above referenced matter.

Very truly yours,

WILSON, ELSE, MOSKOWITZ,
EDELMAN & DICKER LLP

Adrian Joseph Gordon

AJG

cc: Diane M. Rice, Esquire
Beth Fitt, Esquire
George P. Kachulis,
Scott T. Redman, Esquire

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AUG 05 2004

COURT ADMINISTRATOR'S
OFFICE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN. TRAFFIC, INC., C.,
and PENN. TRAFFIC, INC., C.,

CIVIL DIVISION DIVISION

No: 00-311-CD-311-CD

Plaintiffs vs.

v. v.

L.J.F., INC., MARK ALBRIGHT, IT,
SUPERIOR CARRIERS, INC., C.,
JOSEPH C. LEWIS, DUN-RITE TOWING, C,
KEITH DANIEL VLACH, BURLINGTON, V
MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS, PS,

Defendants vs.

PRE-TRIAL STATEMENT of Pleading

AND NOW, come the Defendants, Superior CARRIERS, INC. (Superior") and Joseph C.

Lewis ("Lewis"), by their attorney, Adrian Joseph Gordon, Esquire, who has the within Pre-Trial
Statement prepared to the Local Rules of the Clearfield County Court of Common Pleas and the
Pennsylvania Rules of Civil Procedure, appearing as Counsel for this Party:

RECEIVED

I. FA ADRIAN JOSEPH GORDON, ESQUIRE
PENNSYLVANIA ATTORNEY ID #29512

This is a motion for summary judgment filed by the Plaintiffs, National Union Fire
Insurance Company and Penn Traffic, Inc., in connection with a multiple vehicle accident that
occurred on March 1, 2004. It is alleged that the accident occurred on Interstate 80 near Clearfield. It is believed that this accident occurred during a weather condition
known as a white out. There were several vehicles involved in the accident, some of which were
owned by the Defendants.

5. Any and all other witnesses identified in the Pre-Trial Statement of the Plaintiffs or any other party.

IV. LEGAL THEORY OF DEFENSE

Defendants Superior and Lewis, believe they were subjected to a sudden emergency situation caused by weather conditions which relieved them of any liability. Defendants also believe that the chain reaction collision was not initiated by Mr. Lewis and Mr. Lewis was confronted with a situation which he could not avoid and thus has no negligence as a matter of law based upon the facts in the case.

V. EXTRAORDINARY EVIDENCE PROBLEMS

Defendants do not believe there are any extraordinary evidentiary problems in this case.

VI. STIPULATIONS

The parties have not entered into any stipulations at this time.

VII. POINTS FOR CHARGE

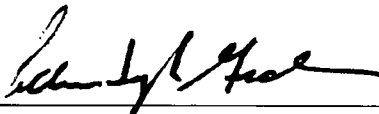
It is not expected that there will be any special Points for Charge other than Points to be submitted on sudden emergency situations caused by unforeseen weather conditions.

VIII. ESTIMATED TIME FOR TRIAL

One day.

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

By: 

Adrian Joseph Gordon, Esquire
Attorneys for Defendants
Superior Carriers, Inc. and
Joseph C. Lewis

(A)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.,
and PENN TRAFFIC, INC.,

CIVIL DIVISION

No. 00-311-CD

Plaintiffs

VS.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC.,
JOSEPH C. LEWIS, DUN-RITE TOWING,
KEITH DANIEL VLACH, BURLINGTON
MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS,

Defendants

TYPE OF PLEADING:

PRE-TRIAL STATEMENT

RECEIVED

JUL 29 2004

**COURT ADMINISTRATOR'S
OFFICE**

Filed on Behalf of Defendants:

DUN-RITE TOWING, INC. and
KEITH DANIEL VLACH

Counsel of Record for This Party:

SCOTT T. REDMAN, ESQUIRE
PA I.D. #36752

Muchow & Redman
870 Six PPG Place
Pittsburgh, Pennsylvania 15222
(412) 263-3360

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE	)	CIVIL DIVISION
COMPANY a/s/o PENN TRAFFIC, INC.,)	
and PENN TRAFFIC, INC.,	)	No. 00-311-CD
)	
Plaintiffs)	
)	
VS.)	
)	
L.J.F., INC., MARK ALBRIGHT,)	
SUPERIOR CARRIERS, INC.,)	
JOSEPH C. LEWIS, DUN-RITE TOWING,)	
KEITH DANIEL VLACH, BURLINGTON)	
MOTOR CARRIERS, INC., and)	
MICHAEL WAYNE PHILLIPS,)	
)	
Defendants)	

PRE-TRIAL STATEMENT

AND NOW, come the Defendants, Dun-Rite Towing, Inc. and Keith Daniel Vlach, by their attorney, Scott T. Redman, Esquire, and file the within Pre-Trial Statement pursuant to the Local Rules of the Clearfield County Court of Common Pleas and the Pennsylvania Rules of Civil Procedure, averring as follows:

I. FACTS

This is a subrogation property damage action filed by the Plaintiffs, National Union Fire Insurance Company and Penn Traffic, Inc., in connection with a motor vehicle accident that occurred on March 13, 1998. It is alleged in the Complaint that the motor vehicle owned by Penn Traffic and insured by National Union sustained damage in a multiple car accident that occurred on Interstate 80 near Clearfield. It is believed that the accident occurred during a

weather condition known as a white out. There were several vehicles involved in the accident, some of which were owned by the Defendants.

A vehicle owned by Defendant, Dun-Rite Towing, and operated by its employee, Defendant, Keith Daniel Vlach, was one of the vehicles that was involved in the pile up. However, Mr. Vlach was not operating one of the vehicles that initiated the chain reaction collision and was involved in the accident only because he was confronted with an emergency caused by weather conditions. It is thus the principal defense of the Defendants, Dun-Rite Towing and Keith Daniel Vlach, that Vlach was not negligent but rather was confronted with an emergency not of Vlach's making and which he could not reasonably avoid.

In addition, it is believed that the vehicle owned by Penn Traffic and insured by National Union did not come into direct contact with the vehicle owned by Dun-Rite Towing and operated by Vlach. It is believed that other vehicles were the ones responsible for causing the direct damage to the vehicle owned by Penn Traffic and insured by National Union. For this reason as well, Defendants, Dun-Rite Towing and Vlach, believe they have no liability to the Plaintiffs.

II. EXHIBITS

1. Any and all exhibits identified in the Plaintiffs' Pre-Trial Statement or the Pre-Trial Statement of any other party in this case;
2. Copy of the police report for the accident in question; and,
3. Photographs of the vehicles in question and the accident scene.

III. WITNESSES

1. Keith Daniel Vlach
319 Willis Avenue
Hawthorne, New York 10532-1922;
2. Melissa Atkins
c/o Road One
P.O. Box 22087
Chattanooga, Tennessee 37422-2087; and,
3. Any and all other witnesses identified in the Pre-Trial Statement of the Plaintiffs or any other party.

IV. LEGAL THEORY OF DEFENSE

Defendants, Keith Daniel Vlach and Dun-Rite Towing, Inc., believe they were subjected to a sudden emergency situation caused by weather conditions which relieved them of any liability. Defendants also believe that the chain reaction collision was not initiated by Mr. Vlach and Mr. Vlach was confronted with a situation which he could not avoid and thus has no negligence as a matter of law based upon the facts in the case.

V. EXTRAORDINARY EVIDENCE PROBLEMS

Defendants do not believe there are any extraordinary evidentiary problems in this case.

VI. STIPULATIONS

The parties have not entered into any stipulations at this time.

VII. POINTS FOR CHARGE

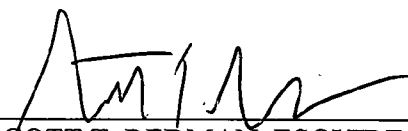
It is not expected that there will be any special Points for Charge other than Points to be submitted on sudden emergency situations caused by unforeseen weather conditions.

VIII. ESTIMATED TIME FOR TRIAL

One day.

Respectfully submitted,

By

A handwritten signature in black ink, appearing to read "Scott T. Redman", is written over a horizontal line.

SCOTT T. REDMAN, ESQUIRE
Counsel for Defendants

CERTIFICATE OF SERVICE

I, Scott T. Redman, Esquire, counsel for Defendants, hereby certify that I served a true and correct copy of the foregoing Pre-Trial Statement via first-class mail, postage pre-paid on July 28, 2004, upon the following counsel of record:

Diane M. Rice, Esquire
O'Brien & Hennessy Group
158 Dolington Road, Suite 201
Yardley, Pennsylvania 19067-2737

Beth Fitt, Esquire
Rawle & Henderson
The Widener Building
One South Penn Square
Philadelphia, Pennsylvania 19107

George P. Kachulis, Esquire
Dickie, McCamey & Chilcote
Two PPG Place, Suite 400
Pittsburgh, Pennsylvania 15222

Adrian J. Gordon, Esquire
Wilson, Elser
The Curtis Center, Suite 1130 East
Independence Square West
Philadelphia, Pennsylvania 19106



SCOTT T. REDMAN, ESQUIRE
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC.
and PENN TRAFFIC, INC.

CIVIL DIVISION

NO. 00-311-CD

Plaintiffs

v.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC.,
JOSEPH C. LEWIS, DUN-RITE TOWING,
DANIEL VLACH, BURLINGTON
MOTOR CARRIERS, INC., and
MICHAEL WAYNE PHILLIPS

Defendants

TYPE OF PLEADING:

PRAECIPE TO MARK CASE
SETTLED, DISCONTINUED AND
ENDED

Filed on Behalf of Plaintiffs
NATIONAL UNION FIRE
INSURANCE COMPANY a/s/o
PENN TRAFFIC, INC. and PENN
TRAFFIC, INC.

Counsel of record for this Party:

DIANE M. RICE
ATTORNEY AT LAW
158 Dolington Road
Suite 201
Yardley, PA 19067-2737
(215) 493 - 9670
IDENTIFICATION NUMBER : 37723

File
FILED

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AUG 27 2004

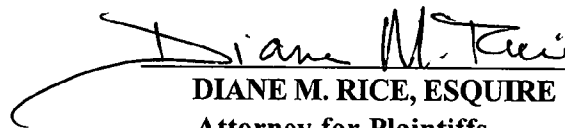
*2 Certificates of
Dise. to Atty
copy to CIA*

William A. Shaw
Prothonotary/Clerk of Courts

VERIFICATION

DIANE M. RICE, ESQUIRE, hereby verifies that the information set forth in the foregoing Praecipe to Settled Discontinue and End is true -and -correct to the best of her knowledge, information, and belief. This verification is made subject to the penalties of 18 Pa. CSA 4904, relating to unsworn falsification to authorities.

DATE: 08/25/04



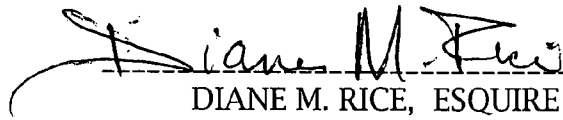
DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

CERTIFICATION OF SERVICE

I, Diane M. Rice, Esquire, do hereby certify and say that a true-and-correct copy of the foregoing Reply to New Matter, was served on the below listed attorneys by regular mail on November 12, 2000:

- (1) **GEORGE P. KACHULIS, ESQUIRE**
Dickie. McCamey & Chilcote
Two PPG Place, Suite 400
Pittsburgh, PA. 15222
(for Defendants, L.J.F., INC. and MARK W. ALBRIGHT)
- (2) **ADRIAN J. GORDON, ESQUIRE**
Wilson, Elser. Moskowitz, Edelman & Dicker
The Curtis Center, Suite 1130 East
Independence Square West
Philadelphia, PA. 19106
(for Defendants, SUPERIOR CARRIERS, INC. and JOSEPH C. LEWIS)
- (8) **SCOTT T. REDMAN, ESQUIRE**
Bonacci, Muchow & Redman
870 Six PPG Place
Pittsburgh, PA. 15222
(for Defendants, DUN-RITE TOWING, INC. and KEITH DAVID VLACH)

DATE: 08/25/04


DIANE M. RICE, ESQUIRE
Attorney for Plaintiffs

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

CIVIL DIVISION

COPY

**National Union Fire Insurance Company
Penn Traffic, Inc.**

Vs.

No. 2000-00311-CD

**L. J. F., Inc.
Mark W. Albright
Superior Carriers, Inc.
Joseph C. Lewis
Dun-Rite Towing, Inc.
Keith Daniel Vlach
Burlington Motor Carriers, Inc.
Michael Wayne Phillips**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on August 27, 2004, marked:

Settled, Discontinued and Ended

Record costs in the sum of \$80.00 have been paid in full by Diane M. Rice, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 27th day of August A.D. 2004.

William A. Shaw, Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC., and
PENN TRAFFIC, INC.,

Plaintiffs,

v.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC., JOSEPH C.
LEWIS, DUN-RITE TOWING, KEITH
DANIEL VLACH, BURLINGTON MOTOR
CARRIERS, INC. and MICHAEL WAYNE
PHILLIPS,

Defendants.

No. 00-311-CD

**PRAECIPE FOR WITHDRAWAL AND
SUBSTITUTION OF APPEARANCE**

Code:

Filed on behalf of Defendants, L.J.F., Inc. and
Mark Albright

Counsel of record for this party:

George P. Kachulis, Esq.
Pa. I.D. #43666

DICKIE, McCAMEY & CHILCOTE, P.C.
Firm #067
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

(412) 281-7272

JURY TRIAL DEMANDED

FILED

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na/ 11-23/4
William A. Shaw
Prothonotary/Clerk of Courts
1 Cont to Affl

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL UNION FIRE INSURANCE
COMPANY a/s/o PENN TRAFFIC, INC., and
PENN TRAFFIC, INC.,

No. 00-311-CD

Plaintiffs,

v.

L.J.F., INC., MARK ALBRIGHT,
SUPERIOR CARRIERS, INC., JOSEPH C.
LEWIS, DUN-RITE TOWING, KEITH
DANIEL VLACH, BURLINGTON MOTOR
CARRIERS, INC. and MICHAEL WAYNE
PHILLIPS,

Defendants.

PRAECIPE FOR WITHDRAWAL AND SUBSTITUTION OF APPEARANCE

TO THE PROTHONOTARY:

Kindly substitute the appearance of Klett, Lieber, Rooney & Schorling, P.C. and withdraw
the appearance of Dickie, McCamey & Chilcote, P.C. and George P. Kachulis, Esquire.

~~Klett, Lieber, Rooney & Schorling, P.C.~~



Eugene A. Giotto Esquire

Dickie, McCamey & Chilcote, P.C.



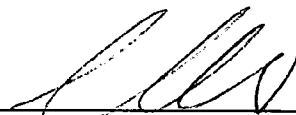
George P. Kachulis, Esquire

CERTIFICATE OF SERVICE

I, George P. Kachulis, Esquire, hereby certify that true and correct copies of the foregoing Praecipe for Withdrawal and Substitution of Appearance have been served this 24th day of February , 2005, by U.S. first-class mail, postage prepaid, to all counsel of record.

DICKIE, McCAMEY & CHILCOTE, P.C.

By


George P. Kachulis, Esquire

Attorneys for Defendants, L.J.F., Inc. and Mark Albright