

00-449-CD
TWILLA G. PETERSON -vs- KEPHART TRUCKING CO. et al

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. 00-449-CD

TWILA G. PETERSON, Plaintiff

vs.

KEPHART TRUCKING CO. and SANOR
W. BENNETT,
Defendants

PRAECIPE TO DISCONTINUE

FILED

JAN 25 2002

W.A. Shaw
William A. Shaw
~ Prothonotary

3cc atty

KIM C. KESNER
ATTORNEY AT LAW
23 North Second Street
CLEARFIELD, PA 16830
(814) 765-1706

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

(6) TWILA G. PETERSON,
Plaintiff

vs.

(14) KEPHART TRUCKING CO.
and SANOR W. BENNETT,
(8) Defendants

*
*
* No.: 00-449-C.D.
*
* Type of Case: Civil
*
*
* Type of Pleading: Praecipe to Discontinue
*
*
*
* Filed on Behalf of: Plaintiff
*

* Counsel of Record for this Party:

* Kim C. Kesner, Esquire
* Supreme Court I.D. #28307
* 23 North Second Street
* Clearfield, PA 16830
* Phone: (814) 765-1706
* Fax: (814) 765-7006
*

* Other Counsel of Record:

* Edward L. McCandless, Esquire
* 1700 Sansom Street, 12th Floor
* Philadelphia, PA 19103-5215
* Phone: (215) 832-1000

FILED

JAN 25 2002

William A. Shaw
Prothonotary

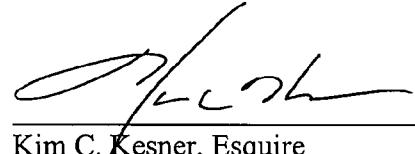
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

TWILA G. PETERSON, *
Plaintiff *
* No.: 00-449-CD
vs. *
*
KEPHART TRUCKING CO. *
and SANOR W. BENNETT, *
Defendants *
*

PRAECIPE TO DISCONTINUE

TO: WILLIAM A. SHAW, PROTHONOTARY.

Kindly mark the above-captioned matter discontinued and ended.



Kim C. Kesner, Esquire
Attorney for Plaintiff

DATE: January 24, 2002

COPY

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

CIVIL DIVISION

Twila G. Peterson

Vs. **No. 2000-00449-CD**
Kephart Trucking Co. and
Sanor W. Bennett

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 January 25, 2002 marked:

Discontinued and Ended.

Record costs in the sum of \$139.93 have been paid in full by Kim C. Kesner, Esquire.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 25th day of January A.D. 2002.

William A. Shaw, Prothonotary

FILED

APR 17 2009

0110:2615cc atty

William A. Shaw

Prothonotary

Kim
Kesner
P.O. 8000

KIM C. KESNER
ATTORNEY AT LAW
23 North Second Street
CLEARFIELD, PA 16830
(814) 763-1706

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

95 TWILA G. PETERSON,
Plaintiff

vs.

KEPHART TRUCKING CO.
and SANOR W. BENNETT,
Defendants

FILED

APR 17 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

TWILA G. PETERSON,	*
Plaintiff	*
vs.	*
	No. 00- -C.D.
KEPHART TRUCKING CO.	*
and SANOR W. BENNETT,	*
Defendants	*

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may process without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET HELP.

Court Administrator's Office
Clearfield County Courthouse
1 North Second Street
Clearfield, PA 16830
Telephone: (814) 765-2941

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

TWILA G. PETERSON,	*
Plaintiff	*
vs.	*
KEPHART TRUCKING CO.	No. 00- -C.D.
and SANOR W. BENNETT,	*
Defendants	*

COMPLAINT

1. Plaintiff is Twila G. Peterson, an adult individual residing at R.D. #1, Box 270, Mahaffey, Pennsylvania 15757.

2. Defendants are Kephart Trucking Co., ("KEPHART TRUCKING"), a Pennsylvania business corporation with its principal place of business located at Route 322, Bradford Township, Clearfield County, Pennsylvania with a mailing address of P. O. Box 386, Bigler, Pennsylvania 16825 and Sanor W. Bennett ("BENNETT"), an adult individual residing at R. D. #2, Box 115, Mahaffey, Pennsylvania 15757.

3. On April 21, 1998, at approximately 10:00 a.m. Plaintiff was preceding in a 1997 Dodge Intrepid automobile driven by her in an easterly direction on Pennsylvania Legislative Route 286 in Burnside Township, Clearfield County, Pennsylvania. As Plaintiff was proceeding eastbound, a tractor-trailer truck proceeding westbound on Pennsylvania Legislative Route 219, owned by KEPHART TRUCKING and operated by BENNETT, as an employee or agent of Kephart Trucking within the scope of his employment or agency, drove into and/or pulled across Plaintiff's path colliding with her vehicle and causing personal injury to Plaintiff.

4. The collision described above and Plaintiff's personal injuries were directly and proximately caused by the negligence, carelessness, gross negligence, and recklessness of the Defendants in general and in the following particulars:

- a. In failing to maintain control of their vehicle;
- b. In failing to keep a proper lookout;
- c. In driving their vehicle into the path of Plaintiff's vehicle when such could not be done safely.
- d. In violating the Pennsylvania Motor Vehicle Code, 75 Pa. C.S.A. §3301, in, inter alia, failing to drive their vehicle in its lane of traffic;
- e. In violating the Pennsylvania Motor Vehicle Code, 72 Pa. C.S.A. §3302, in, inter alia, failing to pass Plaintiff's vehicle on the right;
- f. In violating the Pennsylvania Motor Vehicle Code, 72 Pa. C.S.A. §3322, in, inter alia, turning to the left at an intersection without yielding the right-of-way to Plaintiff's vehicle approaching from the opposite direction;
- g. In violating the Pennsylvania Motor Vehicle Code, 75 Pa. C.S.A §3714, in, inter alia, driving their vehicle in a careless disregard for Plaintiff's person or property.
- h. In failing to use due care and caution under all the circumstances.

5. As a direct and proximate result of the collision and of the conduct of the Defendants aforesaid, Plaintiff has suffered injuries which are serious and permanent in nature consisting of:

- a. Hearing loss;
- b. Tinnitus.

6. As a further direct and proximate result of the collision and the conduct of the Defendants aforesaid, Plaintiff has incurred and will in the future incur medical expense for medicine and medical care for the injuries she has suffered.

7. As a direct and proximate result of the collision and the conduct of the Defendants aforesaid, Plaintiff has suffered and will suffer in the future physical pain, mental and emotional anguish, anxiety and suffering.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, in a sum in excess of Twenty Thousand (\$20,000.00) Dollars, plus interest and her record costs expended.

Respectfully submitted,



Kim C. Kesner, Esquire
Attorney for Plaintiff
23 North Second Street
Clearfield, PA 16830
Phone: (814) 765-1706
Fax: (814) 765-7006
Supreme Court ID No.: 28307

COMMONWEALTH OF PENNSYLVANIA

: S. S.

COUNTY OF CLEARFIELD

On this the 13th day of April, 2000, before me the undersigned authority personally appeared, TWILA G. PETERSON, who acknowledged herself and according to law deposes and says that the facts and averments set forth in the foregoing Complaint are true and correct to the best of her knowledge, information, and belief.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and official seal.

Twila G. Peterson
Twila G. Peterson

Sworn to and subscribed before me this 13th day of April, 2000.

Barbara J. Hugney-Shope
Notary Public

My Commission Expires:

NOTARIAL SEAL
BARBARA J. HUGNEY-SHOPE, Notary Public
Clearfield Boro, Clearfield County, PA
My Commission Expires Oct. 20, 2003

KIM C. KESNER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PETERSON, TWILA G.

00-449-CD

VS

KEPHART TRUCKING CO.

COMPLAINT

SHERIFF RETURNS

NOW APRIL 19, 2000 AT 10:47 AM DST SERVED THE WITHIN
COMPLAINT ON KEPHART TRUCKING CO., DEFENDANT AT EMPLOYMENT
RT. 322, P.O. BOX 386, BIGLER, CLEARFIELD COUNTY,
PENNSYLVANIA BY HANDING TO DIANE MILLS, ADMINISTRATIVE ASST.
TO C.E.O. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT
AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: MCCLEARY

NOW APRIL 27, 2000 AT 1:11 PM DST SERVED THE WITHIN
COMPLAINT ON SANOR W. BENNETT, DEFENDANT AT RESIDENCE RD 2,
BOX 115 MAHAFFEY, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING
TO SANOR W. BENNETT A TRUE AND ATTESTED COPY OF THE ORIGINAL
COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: NEVLING/MCCLEARY

39.93 SHFF. HAWKINS PAID BY: ATTY
20.00 SURCHARGE PAID BY: ATTY

SWORN TO BEFORE ME THIS

3rd DAY OF MAY 2000
Weld

SO ANSWERS,

Chester A. Hawkins
My Marilyn Hawn
CHESTER A. HAWKINS
SHERIFF

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

FILED

MAY 03 2000

3:45

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

TWILA G. FETERSON,
Plaintiff

vs.

KEPHART TRUCKING CO.
and SANOR W. BENNETT,
Defendants

*
* No.: 00449-CD
*
* Type of Case: Civil
*
* Jury Trial Demanded
*
* Type of Pleading: Entry of Appearance
*
*
* Filed on behalf of: Defendants
*
* Counsel of Record for this Party:
*
* Edward L. McCandless, Esquire
* Supreme Court I.D. #21240
* The North American Building
* 121 South Broad Street
* Suite 310
* Philadelphia, PA 19107
* Phone: (215) 546-8445
* Fax: (215) 546-8431
*
*
*
* Other Counsel of Record:
*
* Kim C. Kesner, Esquire
* Supreme Court I.D. #28307
* 23 North Second Street
* Clearfield, PA 16830
* Phone: (814) 765-1706
* Fax: (814) 765-7006
*
*
*

FILED

2700

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

TWILA G. PETERSON,
Plaintiff

*
* No.: 00449-CD

vs.

* CIVIL ACTION

KEPHART TRUCKING CO.
and SANOR W. BENNETT,
Defendants

* JURY TRIAL DEMANDED
*
*

ENTRY OF APPEARANCE

TO THE FROTHONOTARY:

Kindly enter my APPEARANCE for Defendants, Kephart Trucking Company and Sanor
W. Bennett in the above matter.



Edward L. McCandless, Esquire
McCandless Law Associates, P.C.
The North American Building
121 South Broad Street
Suite 310
Philadelphia, PA 19107
Phone: (215) 546-8445
Fax: (215) 546-8431
Supreme Court I.D. No.: 21240

FILED

MAY 1 2000
M 11:04 PM CC
William A. Shaw
Prothonotary *ES*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

TWILA G. PETERSON,
Plaintiff

vs.

KEPHART TRUCKING CO.
and SANOR W. BENNETT,
Defendants

*
* No.: 00449-CD
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* Type of Case: Civil
*
* Jury Trial Demanded
*
* Type of Pleading: Jury Trial Demand
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* Filed on behalf of: Defendants
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* Counsel of Record for this Party:
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* Edward L. McCandless, Esquire
* Supreme Court I.D. #21240
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FILED

MAY 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

TWILA G. PETERSON,
Plaintiff

*
* No.: 00449-CD

vs.

KEPHART TRUCKING CO.
and SANOR W. BENNETT,
Defendants

* CIVIL ACTION
*
* JURY TRIAL DEMANDED
*
*

JURY TRIAL DEMAND

TO THE PROTHONOTARY:

Defendants demand a trial by a jury of twelve.



Edward L. McCandless, Esquire
McCandless Law Associates, P.C.
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121 South Broad Street
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Phone: (215) 546-8445
Fax: (215) 546-8431
Supreme Court I.D. No.: 21240

FILED

MAY 12 2000
11:05 AM CDT
William A. Shaw
Prothonotary
SS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

TWILA G. PETERSON,
Plaintiff

vs.

KEPHART TRUCKING CO.
and SANOR W. BENNETT,
Defendants

*
* No.: 00449-CD
*
* Type of Case: Civil
*
* Jury Trial Demanded
*
* Type of Pleading: Defendants' Answer
* With New Matter
*
* Filed on behalf of: Defendants
*
* Counsel of Record for this Party:
*
* Edward L. McCandless, Esquire
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FILED

MAY 17 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

TWILA G. PETERSON,
Plaintiff

*

* No.: 00449-CD

*

vs.

* CIVIL ACTION

*

KEPHART TRUCKING CO.
and SANOR W. BENNETT,
Defendants

* JURY TRIAL DEMANDED

*

*

DEFENDANTS' ANSWER WITH NEW MATTER

1. Admitted.
2. Admitted.
3. Admitted.
4. Denied. Each and every allegation within this paragraph of the Complaint is denied.
5. After reasonable investigation the defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in the corresponding paragraph of the Complaint and the same are therefore effectively denied pursuant to the Rules of Civil Procedure.
6. After reasonable investigation the defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in the corresponding paragraph of the Complaint and the same are therefore effectively denied pursuant to the Rules of Civil Procedure.
7. After reasonable investigation the defendants are without knowledge or information

sufficient to form a belief as to the truth of the averments contained in the corresponding paragraph of the Complaint and the same are therefore effectively denied pursuant to the Rules of Civil Procedure.

WHEREFORE, defendants demand judgment in their favor and against the plaintiff.

NEW MATTER

1. Defendants hereby assert all rights, privileges, limitations on damages and preclusion of damages as may be appropriate under the Pennsylvania Motor Vehicle Financial Responsibility Law and, in particular, demand that any recovery to which plaintiff might be entitled be calculated strictly in accordance with limited tort principles.

2. Any recover to which plaintiff might be entitled in this action may be restricted to limited tort depending upon the coverage election made by the plaintiff on her personal automobile policy.

WHEREFORE, defendants demand judgment in their favor and against the plaintiff or, if plaintiff is shown to be entitled to prevail in this matter, demand that any recovery be in accordance with damages allowed by the Pennsylvania Motor Vehicle Financial Responsibility Law and in accordance with limited tort.



Edward L. McCandless, Esquire
McCandless Law Associates, P.C.
The North American Building
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Suite 310
Philadelphia, PA 19107
Phone: (215) 546-8445
Fax: (215) 546-8431
Supreme Court I.D. No.: 21240

File #20,851

VERIFICATION

Burton J. Clearwater hereby states that he/she is the Safety Director of Kephart Trucking, Inc. in this action and verifies that he/she is authorized to make this verification on its behalf and further verifies that the statements made in the foregoing Answer with New Matter are true and correct to the best of his/her knowledge, information and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

DATED: 5/8/00



FILED

MAY 11 2000
m 1.05 / NOCC
William A. Shaw
Prothonotary *SS*

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY,
PENNSYLVANIA

868

TWILA G. PETERSON, PLAINTIFF

VS.

KEPHART TRUCKING CO. and SANOR W.
BENNETT,
DEFENDANTS

NO. : 00-449-CD

PLAINTIFF'S REPLY TO DEFENDANTS'
NEW MATTER

FILED

MAY 25 2000
11:55 AM
William A. Shaw
Prothonotary

3 Cents ATT
868

KIM C. KESNER
ATTORNEY AT LAW
23 North Second Street
CLEARFIELD, PA 16830
(814) 765-1706

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

TWILA G. PETERSON,
Plaintiff

VS.

KEPHART TRUCKING CO.
and SANOR W. BENNETT,
Defendants

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*
* No.: 00-449-C.D.
*
* Type of Case: Civil
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*
* Type of Pleading: Plaintiff's Reply to
* Defendants' New Matter
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* Filed on Behalf of: Plaintiff
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* Counsel of Record for this Party:
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* Kim C. Kesner, Esquire
* Supreme Court I.D. #28307
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*

FILED

MAY 25 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

TWILA G. PETERSON,
Plaintiff
vs.

KEPHART TRUCKING CO.
and SANOR W. BENNETT,
Defendants

*
*
* No. 00-449-C.D.
*
*
*

PLAINTIFF'S REPLY TO DEFENDANTS' NEW MATTER

1. The averments contained in paragraph 1 of Defendants' New Matter constitute allegations or conclusions of law to which no reply is required. To the extent that a reply is required and is relevant, it is specifically denied that Plaintiff's entitlements are governed by limited tort principals because at all times pertinent to this action, Plaintiff had full tort coverage.

2. The averments contained in paragraph 1 of Defendants' New Matter constitute allegations or conclusions of law to which no reply is required. To the extent that a reply is required and is relevant, it is specifically denied that Plaintiff's entitlements are governed by limited tort principals because at all times pertinent to this action, Plaintiff had full tort coverage.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, in accordance with her Complaint.

Respectfully submitted,

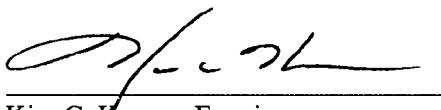


Kim C. Kesner, Esquire
Attorney for Plaintiff
23 North Second Street
Clearfield, PA 16830
Phone: (814) 765-1706
Fax: (814) 765-7006
Supreme Court ID No.: 28307

VERIFICATION

I, KIM C. KESNER, ESQUIRE, verify that the statements made in this Reply to Defendants' New Matter are true and correct to the best of my knowledge. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Date: 5/25/00



Kim C. Kesner, Esquire

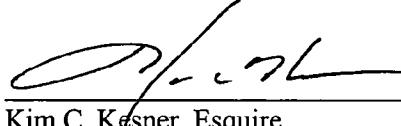
CERTIFICATE OF SERVICE

AND NOW, I do hereby certify that on the 25th day of MAY, 2000, I caused to be served a true and correct copy of Plaintiff's Reply to Defendants' New Matter on the following and in the manner indicated below:

By United States Mail, First Class,
Postage Prepaid, Addressed as Follows:

Edward L. McCandless, Esquire
Attorney for Defendants
The North American Building
121 South Broad Street
Suite 310
Philadelphia, PA 19107

Date: 5/25/00



Kim C. Kesner, Esquire
Attorney for Plaintiff