

00-1501-CD
JOSEPH M. NEBROSKE d/b/a -vs- MARC I. ROTHSTEIN
NEBROSKE TRUCKING

John S. Kokonos & Associates
BY: Speros John Kokonos, Esquire
One Veterans Square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

Attorney for Plaintiff,
Joseph M. Nebroskie d/b/a
Nebroskie Trucking

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING
284 High Road
Pottsville, Pennsylvania 17901

Plaintiff,

Civil Action - Law

v.

MARC I. ROTHSTEIN
396 Howe Road
Cuyahoga Fall, Ohio 44221

Defendant.

No. 00-1501-00

CIVIL COVER SHEET

1. Document filed: Complaint.
2. Document filed on behalf of: Plaintiff
3. Identification of filing Party
or attorney for filing party:

Speros John Kokonos, Esquire
John S. Kokonos & Associates
One Veterans Square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D.# 73384

FILED

DEC 01 2000

William A. Shaw
Prothonotary

Respectfully Submitted,

JOHN S. KOKONOS & ASSOCIATES

Date: November 30, 2000

By:


SPEROS JOHN KOKONOS

John S. Kokonos & Associates
BY: Speros John Kokonos, Esquire
One Veterans square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

Attorney for Plaintiff,
Joseph M. Nebroskie d/b/a
Nebroskie Trucking

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A :
NEBROSKIE TRUCKING :
 :
Plaintiff, : Civil Action - Law
 :
v. : No.
 :
MARC I. ROTHSTEIN :
 :
 :
Defendant.

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 proceed 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 LEGAL HELP.

LAWYER REFERENCE SERVICE
COURT ADMINISTRATOR
Clearfield County Courthouse
Second & Market Streets
Clearfield, Pennsylvania 16830

(814) 765-2641 ext. 50-51

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Joseph M. Nebroskie d/b/a
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IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A	:	
NEBROSKIE TRUCKING	:	
284 High Road	:	
Pottsville, Pennsylvania 17901	:	
	:	
Plaintiff,	:	Civil Action - Law
	:	
v.	:	
	:	
MARC I. ROTHSTEIN	:	No.
396 Howe Road	:	
Cuyahoga Fall, Ohio 44221	:	
	:	
Defendant.	:	

COMPLAINT

Plaintiff, Joseph M. Nebroskie d/b/a Nebroskie Trucking, by his undersigned attorney, files this Complaint demanding Judgment in his favor and against Defendant, Marc I. Rothstein, and in support thereof avers as follows:

1. Plaintiff, Joseph M. Nebroskie d/b/a Nebroskie trucking ("Nebroskie"), is an adult individual and currently resides at 284 High Road, Pottsville, Pennsylvania 17901.

1.1. At all times pertinent hereto, Plaintiff has been principally engaged in the business of hauling aggregate materials as the sole proprietor of Nebroskie Trucking.

2. Defendant, Marc I. Rothstein, is an adult individual and currently resides at 396 Howe Road, Cuyahoga Fall, Ohio 44221.

Common Facts As To All Counts

3. On or about August 19, 1999, at approximately 9:30 a.m., Plaintiff/Nebroskie operated his 2000 MAC dump trailer, vehicle identification number 5MADN4223YC003082, in the right westbound lane of Interstate 80 near milepost 110 in Pine Township, Clearfield County, Pennsylvania.

3.1. Plaintiff/Nebroskie was operating his vehicle in the ordinary course of his business at that time.

3.2. Plaintiff/Nebroskie was operating his vehicle within the posted speed limit and otherwise in full compliance with the Pennsylvania Motor Vehicle Code at that time.

4. Further, on or about August 19, 1999, at approximately 9:30 a.m., Defendant/Rothstein operated a 1998 GMC truck, Ohio registration number PAM-6288, in the left westbound lane of Interstate 80 near milepost 110 in Pine Township, Clearfield County, Pennsylvania.

4.1. On information and belief Plaintiff avers that Defendant/Rothstein leased the 1998 GMC truck which he was operating at that time from Penske Truck Leasing having its principal place of business at 7600 Forst Place, Oakwood, Ohio 44146.

COUNT ONE

NEGLIGENCE

5. Plaintiff/Nebroskie incorporates all Paragraphs of this

Complaint by reference as if the same were fully set forth at length herein.

6. Defendant/Rothstein negligently, carelessly, recklessly and without warning to Plaintiff/Nebroskie exited the left westbound lane of Interstate 80 and entered the right westbound lane of Interstate 80 causing his vehicle to collide with Plaintiff/Nebroskie's vehicle.

7. The August 19, 1999 collision occurred as the direct and proximate result of Defendant/Rothstein's:

7.1. Failure to maintain adequate, safe and proper control of his vehicle;

7.2. Failure to maintain a proper look out;

7.3. Failure to exercise due caution or due care under the circumstances;

7.4. Failure to yield the right-of-way to Plaintiff/Nebroskie's vehicle which at all times was lawfully within the right westbound lane of Interstate 80;

7.5. Breach of his duty to operate his vehicle in a safe and proper manner under the circumstances, without endangering or exposing Plaintiff/Nebroskie and/or his property to injury, harm or loss;

7.6. Operation of his vehicle at an excessive rate of speed under the circumstances;

7.7. Violation of various provisions of the Pennsylvania Motor Vehicle Code regulating the proper operation of motor vehicles upon a public highway;

7.8. Failure to give adequate warning or notice to

Plaintiff/Nebroskie prior to colliding with Plaintiff/Nebroskie's vehicle;

7.9. Failure to take proper or evasive action to avoid colliding with Plaintiff/Nebroskie's vehicle; and

7.10. Operation of his vehicle in such a negligent, careless and/or reckless manner that he could not stop before colliding with Plaintiff/Nebroskie's vehicle.

8. Defendant/Rothstein's negligent, careless and reckless operation of his 1998 GMC vehicle, as more fully described herein, directly and proximately caused Plaintiff/Nebroskie to incur substantial property damage to his 2000 MAC dump trailer.

9. Plaintiff/Nebroskie sustained the aforesaid damages to his vehicle through no fault of his own.

10. At no time was Plaintiff/Nebroskie contributorily or comparatively negligent.

11. At no time did Plaintiff/Nebroskie assume or voluntarily submit to any risk.

WHEREFORE, Plaintiff, Joseph M. Nebroskie, demands judgment in his favor and against Defendant, Marc I. Rothstein in the amount of all losses which he suffered as the result of the August 19, 1999 collision, together with interest, costs and such additional and further relief as this Honorable Court deems appropriate.

COUNT TWO

NEGLIGENCE PER SE

12. Plaintiff/Nebroskie incorporates all Paragraphs of this Complaint by reference as if the same were fully set forth at

length herein.

13. Defendant/Rothstein's conduct as more fully described herein was negligent per se having occurred in violation of the laws of the Commonwealth of Pennsylvania including, but not limited to failure to maintain his vehicle within a single lane of travel in violation of, inter alia, 75 Pa.C.S.A. §3301.

14. At all times pertinent hereto it was or should have been clearly evident to Defendant/Rothstein that entering the right westbound lane of Interstate 80 posed an imminent danger of collision with Plaintiff/Nebroskie's vehicle.

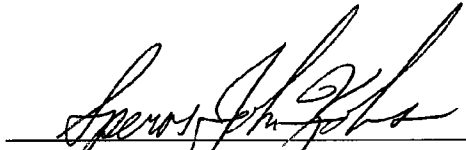
15. Plaintiff/Nebroskie suffered substantial damages as the direct and proximate result of Defendant/Rothstein's negligent and reckless breach of duty in violation of the laws of the Commonwealth of Pennsylvania.

WHEREFORE, Plaintiff, Joseph M. Nebroskie, demands judgment in his favor and against Defendant, Marc I. Rothstein, in an amount not in excess of the jurisdictional amount requiring mandatory arbitration, together with interest, costs and such additional and further relief as this Honorable Court deems appropriate.

Respectfully submitted,

JOHN S. KOKONOS & ASSOCIATES

By:


SPEROS JOHN KOKONOS
Attorney for Plaintiff

Date: October 25, 2000

V E R I F I C A T I O N

I, Joseph M. Nebroskie, hereby Verify that the facts set forth in the attached Document are true and correct to the best of my knowledge, information and belief. This Verification is made subject to the Penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



Joseph M. Nebroskie

Date: 10/30/00

FILED

~~FILED~~ DEC 01 2000

William A. Shaw
Prothonotary

att'y Katonas
att'y Katonas per \$80.00

Return On Service Of Writ

On the 3RD day of FEBRUARY, 2001

I served this Writ together with a copy of the complaint herein on the within named defendant:

MARC I. ROTHSTEIN

as follows:

by PERSONAL SERVICE AT 12:30 p.m.,
AT 1086 PARKEDGE DR., MACEDONIA, OHIO

By [Signature] Sheriff
[Signature] Deputy Sheriff
proctor secy

SHERIFF FEES

Service _____
 Copies _____
 Mileage _____
 Total _____

Subscribed and sworn to before me, a

Notary Public

This 5th day of FEB., 2001

[Signature]

my commission expires 10-15-02

C of C 203/3014

FILED

FEB 14 2001

m/10:53/NOCC
 William A. Shaw
 Prothonotary

John S. Kokonos & Associates
BY: Speros John Kokonos, Esquire
One Veterans Square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

Attorney for Plaintiff,
Joseph M. Nebroskie d/b/a
Nebroskie Trucking

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING
284 High Road
Pottsville, Pennsylvania 17901

Plaintiff,

Civil Action - Law

v.

MARC I. ROTHSTEIN
396 Howe Road
Cuyahoga Fall, Ohio 44221

Defendant.

No. CO-1501-CO

CIVIL COVER SHEET

1. Document filed: Complaint.
2. Document filed on behalf of: Plaintiff
3. Identification of filing Party
or attorney for filing party:

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

Speros John Kokonos, Esquire
John S. Kokonos & Associates
One Veterans Square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D.# 73384

DEC 01 2000

Attest.

Respectfully Submitted,

JOHN S. KOKONOS & ASSOCIATES

Date: November 30, 2000

By:


SPEROS JOHN KOKONOS

John S. Kokonos & Associates
BY: Speros John Kokonos, Esquire
One Veterans square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

Attorney for Plaintiff,
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IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A	:	
NEBROSKIE TRUCKING	:	
	:	
Plaintiff,	:	Civil Action - Law
	:	
v.	:	No.
	:	
MARC I. ROTHSTEIN	:	
	:	
Defendant.	:	

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IN THE COURT OF COMMON PLEAS
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v.	:	
	:	
MARC I. ROTHSTEIN	:	No.
396 Howe Road	:	
Cuyahoga Fall, Ohio 44221	:	
	:	
Defendant.	:	

COMPLAINT

Plaintiff, Joseph M. Nebroskie d/b/a Nebroskie Trucking, by his undersigned attorney, files this Complaint demanding Judgment in his favor and against Defendant, Marc I. Rothstein, and in support thereof avers as follows:

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1.1. At all times pertinent hereto, Plaintiff has been principally engaged in the business of hauling aggregate materials as the sole proprietor of Nebroskie Trucking.

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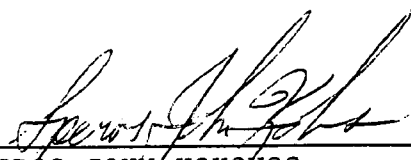
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Respectfully submitted,

JOHN S. KOKONOS & ASSOCIATES

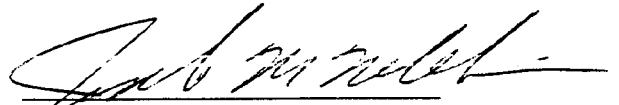
By:


SPEROS JOHN KOKONOS
Attorney for Plaintiff

Date: October 25, 2000

V E R I F I C A T I O N

I, Joseph M. Nebroskie, hereby Verify that the facts set forth in the attached Document are true and correct to the best of my knowledge, information and belief. This Verification is made subject to the Penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


Joseph M. Nebroskie

Date: 10/30/00

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING,

PLAINTIFF

vs.

MARC I. ROTHSTEIN,

DEFENDANT

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

NO. 00-1501-CD

ENTRY OF APPEARANCE

Please enter my appearance on behalf of MARC I. ROTHSTEIN, Defendant in
the above captioned case. Papers may be served at the address stated below.

DEMAND FOR JURY TRIAL

Pursuant to Rule 1007.1 of the Pennsylvania Rules of Civil Procedure, as
amended, a Jury Trial is demanded on all issues raised by the pleadings in the above captioned
case.

I certify that this Entry of Appearance and Demand for Jury Trial shall be served
forthwith by ordinary mail upon all parties herein.

Dated: February 14, 2001



ANDREW L. HORVATH,
ATTORNEY FOR DEFENDANT
969 Eisenhower Blvd.
P.O. Box 5500
Johnstown, PA 15904
(814) 262-7341
I.D. No. 41092

FILED

FEB 20 2001

William A. Shaw
Prothonotary

FILED

FEB 20 2001

M/9,30/105
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE, dba
NEBROSKIE TRUCKING

Plaintiff

-vs-

MARC I. ROTHSTEIN

Defendant

CASE NO. 00-1501-~~CD~~CD

ANSWER OF DEFENDANT,
MARC I. ROTHSTEIN

Now comes Marc I. Rothstein, and for his Answer to the Complaint, herein states as follows:

1. For want of knowledge and otherwise, denies each and every allegation contained in Paragraphs 1, 1.1, 3, 3.1, 3.2, and 4 of the Complaint.
2. Admits the allegations contained in Paragraphs 2 and 4.1 of the Complaint.
3. Defendant incorporates his previous admissions and denials and further denies each and every allegation contained in Paragraphs 5, 6, 7, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 7.10, 8, 9, 10, and 11 of the Complaint.
4. In answer to Paragraph 12, defendant incorporates the previous admissions and denials and herein denies each and every allegation contained in Paragraphs 13, 14, and 15 of the Complaint.

AFFIRMATIVE DEFENSES

FILED

MAR 14 2001

William A. Shaw
Prothonotary

The Complaint fails to state a claim upon which relief can be granted.

2. Plaintiff has failed to join all necessary parties needed for a just adjudication of this matter.

3. Plaintiff's negligence has exceeded the negligence of defendant and, accordingly, plaintiff is barred from recovery.

WHEREFORE, having duly answered, defendant prays that the Complaint be dismissed, with prejudice, at plaintiff's costs.

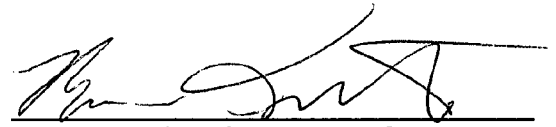
Respectfully submitted,



MARC I. ROTHSTEIN, Pro Se
1086 Park Ledge
Macedonia, Ohio 44056

SERVICE

A copy of the foregoing Answer of Defendant, Marc I. Rothstein, was sent by Ordinary U.S., Mail, postage prepaid, this 1 day of March, 2001, to Speros John Kokonos, Attorney for Plaintiff, John S. Kokonos & Assoc., One Veterans Square, Suite 201, Media, PA. 19063.



MARC I. ROTHSTEIN, Pro Se

FILED

MAR 14 2001
10:26/10C
William A. Shaw
Protonotary *WAS*

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE, dba
NEBROSKIE TRUCKING

Plaintiff

-VS-

MARC I. ROTHSTEIN

Defendant

CASE NO. 00-1501-00

ANSWER OF DEFENDANT.
MARC I. ROTHSTEIN

Now comes Marc I. Rothstein, and for his Answer to the Complaint, herein states as follows:

1. For want of knowledge and otherwise, denies each and every allegation contained in Paragraphs 1, 1.1, 3, 3.1, 3.2, and 4 of the Complaint.
2. Admits the allegations contained in Paragraphs 2 and 4.1 of the Complaint.
3. Defendant incorporates his previous admissions and denials and further denies each and every allegation contained in Paragraphs 5, 6, 7, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 7.10, 8, 9, 10, and 11 of the Complaint.
4. In answer to Paragraph 12, defendant incorporates the previous admissions and denials and herein denies each and every allegation contained in Paragraphs 13, 14, and 15 of the Complaint.

FILED

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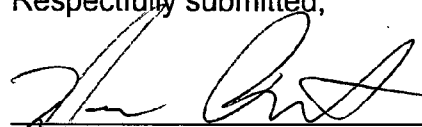
William A. Shaw
Prothonotary

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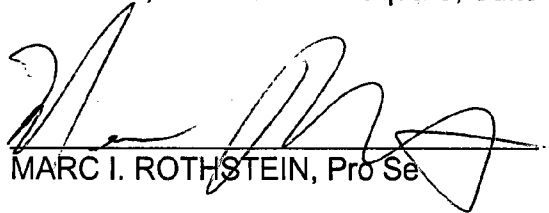
Respectfully submitted,



MARC I. ROTHSTEIN, Pro Se
1086 Park Ledge
Macedonia, Ohio 44056

SERVICE

A copy of the foregoing Answer of Defendant, Marc I. Rothstein, was sent by Ordinary U.S., Mail, postage prepaid, this ____ day of March, 2001, to Speros John Kokonos, Attorney for Plaintiff, John S. Kokonos & Assoc., One Veterans Square, Suite 201, Media, PA. 19063.



MARC I. ROTHSTEIN, Pro Se

FILED

MAR 15 2001
M) 2:23/10 <<
William A. Shaw
Prothonotary
WAS

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING,

PLAINTIFF

vs.

MARC I. ROTHSTEIN,

DEFENDANT

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

NO. 00-1501-cd

MOTION FOR RULE FOR DATE CERTAIN TO
ADDRESS DEFENSE COUNSEL'S MOTION TO WITHDRAW,
WITH STAY OF PROCEEDINGS

NOW comes counsel for Defendant, and avers as follows:

1. The present matter relates to a claim for property damage allegedly arising from a two-vehicle accident of August 19, 1999.
2. Suit was initiated with the filing of a Complaint on December 1, 2000, and proof of service upon the out-of-state Defendant was filed with the Court on February 14, 2001.
3. Defense counsel was contacted by the insurer for Defendant for the immediate purpose of entering an appearance to protect the record while an initial determination regarding coverage for the underlying incident could be made.
4. In accordance with the foregoing, defense counsel forwarded an Entry of Appearance to the Court and Plaintiff's counsel on February 14, 2001.
5. By letter from the insurer to Defendant of March 1, 2001 (Exhibit A), a determination was made that no coverage or policy defense was owed to Defendant relative to the events giving rise to the Complaint.
6. As a result of the foregoing, counsel for Defendant is no longer authorized by the insurer to act as counsel for Defendant, and counsel for Defendant has no separate agreement with Defendant relative to representation.

FILED

MAR 23 2001

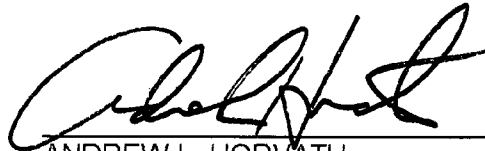
William A. Shaw
Prothonotary

7. Counsel for Defendant has called and left machine messages with Defendant that have gone unreturned relative to the matters contained herein.

8. Counsel for Defendant seeks issuance of a Rule Returnable on a date certain for consideration of Defense counsel's Motion to Withdraw as counsel for Defendant.

9. In connection with the foregoing, counsel for Defendant also seeks a stay of proceedings pending the outcome of the Motion to Withdraw so as to maintain the status quo, and avoid any prejudice to any involved persons or parties.

WHEREFORE, counsel for Defendant seeks the entry of an Order of Court scheduling a hearing on a date certain to consider Defense counsel's Motion to Withdraw, and a stay of all proceedings in the matter pending further Order of Court.

A handwritten signature in black ink, appearing to read 'Andrew L. Horvath', is written over a horizontal line.

ANDREW L. HORVATH,
ATTORNEY FOR DEFENDANT



11279 Perry Highway, Suite 402 * Wexford, PA 15090-9979 **

March 1, 2001

Marc Rothstein
P O Box 513
Cuyahoga Falls, OH 44222-0513

OUR INSURED : Marc Rothstein
OUR CLAIM NUMBER : 92 34 H 344922 08191999 01
DATE OF ACCIDENT : 08-19-1999

As you know, our obligation to you as an insurer is to reimburse you for losses which are covered under the terms of your policy.

After carefully considering the evidence, we have determined that the claim in question is not a covered loss. For this reason, payment cannot be made. It was determined that the rental vehicle that you were in at the time of the loss was one that was being used for regular use. Our conversations with Penske Truck Leasing revealed that you initiated the rental for this 15ft. box van on May 20th, 1999 and did not return this vehicle to Penske until August 24th, 1999. This is well over the 28 days allotted for this type of rental and would exclude you from being covered for any losses.

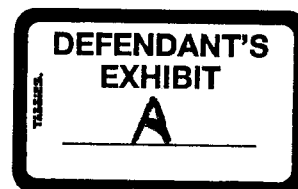
I have enclosed a copy of the section(s) of your policy that do not include, or that specifically excludes your type of loss.

If you have any questions, please contact me.

NATIONWIDE MUTUAL INSURANCE COMPANY
Kevin D. Mulroy
Claims Department
1-(800)985-1057 Ext. 5673

cc:
Penske Truck Lease
John S. Kokonos & Associates
MARTIN S AXEL -- Agent Number: 0000179

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such a person to criminal and civil penalties.



JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING,

PLAINTIFF

vs.

MARC I. ROTHSTEIN,

DEFENDANT

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

NO. 00-1501-cd

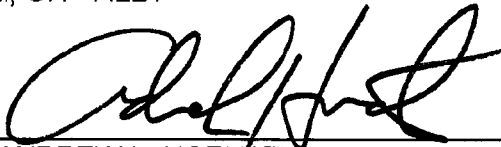
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 22nd day of March, a Motion for Rule for Dates Certain to Address Defense Counsel's Motion to Withdraw, with Stay of Proceedings, was forwarded by U.S. Mail, postage prepaid, to counsel of record, addressed as follows:

John S. Kokonos, Esquire
One Veterans Square, Suite 201
Media, PA 19053

Marc I. Rothstein
396 Howe Road
Cuyahoga Fall, OH 44221

Dated: March 22, 2001


ANDREW L. HORVATH,
ATTORNEY FOR DEFENDANT

FILED

MAR 23 2001

11 28 07 11 00
William A. Shaw
Prothonotary

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING,

PLAINTIFF

vs.

MARC I. ROTHSTEIN,

DEFENDANT

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA


CIVIL ACTION - LAW

NO. 00-1501-cd

ORDER

AND NOW, this 9th day of April, 2001, upon consideration of the foregoing Motion, it is hereby ordered that a hearing is scheduled before Judge Billy in Courtroom No. 1 of the Clearfield County Courthouse on May, 4, 2001, at 1:30, to address defense counsel's Motion to Withdraw. It is further ordered that all proceedings in this matter are stayed pending further Order of Court.

BY THE COURT:



_____ J.

FILED

APR 09 2001

William A. Shaw
Prothonotary

FILED

2:26

APR 09 2001

William A. Shaw
Prothonotary

2 cc ^{CA} Letter

to

2- Mr. A. Horvath

~~Mr. A. Horvath~~

Enc

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING,

PLAINTIFF

vs.

MARC I. ROTHSTEIN,

DEFENDANT

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

: CIVIL ACTION - LAW

: NO. 00-1501-cd

MOTION FOR RULE FOR DATE CERTAIN TO
ADDRESS DEFENSE COUNSEL'S MOTION TO WITHDRAW,
WITH STAY OF PROCEEDINGS

NOW comes counsel for Defendant, and avers as follows:

1. The present matter relates to a claim for property damage allegedly arising from a two-vehicle accident of August 19, 1999.
2. Suit was initiated with the filing of a Complaint on December 1, 2000, and proof of service upon the out-of-state Defendant was filed with the Court on February 14, 2001.
3. Defense counsel was contacted by the insurer for Defendant for the immediate purpose of entering an appearance to protect the record while an initial determination regarding coverage for the underlying incident could be made.
4. In accordance with the foregoing, defense counsel forwarded an Entry of Appearance to the Court and Plaintiff's counsel on February 14, 2001.
5. By letter from the insurer to Defendant of March 1, 2001 (Exhibit A), a determination was made that no coverage or policy defense was owed to Defendant relative to the events giving rise to the Complaint.
6. As a result of the foregoing, counsel for Defendant is no longer authorized by the insurer to act as counsel for Defendant, and counsel for Defendant has no separate agreement with Defendant relative to representation.

FILED

APR 05 2001

William A. Shaw
Prothonotary

7. Counsel for Defendant has called and left machine messages with Defendant that have gone unreturned relative to the matters contained herein.

8. Counsel for Defendant seeks issuance of a Rule Returnable on a date certain for consideration of Defense counsel's Motion to Withdraw as counsel for Defendant.

9. In connection with the foregoing, counsel for Defendant also seeks a stay of proceedings pending the outcome of the Motion to Withdraw so as to maintain the status quo, and avoid any prejudice to any involved persons or parties.

WHEREFORE, counsel for Defendant seeks the entry of an Order of Court scheduling a hearing on a date certain to consider Defense counsel's Motion to Withdraw, and a stay of all proceedings in the matter pending further Order of Court.

A handwritten signature in black ink, appearing to read 'Andrew L. Horvath', is written over a horizontal line.

ANDREW L. HORVATH,
ATTORNEY FOR DEFENDANT



11279 Perry Highway, Suite 402 * Wexford, PA 15090-9979 * *

March 1, 2001

Marc Rothstein
P O Box 513
Cuyahoga Falls, OH 44222-0513

OUR INSURED : Marc Rothstein
OUR CLAIM NUMBER : 92 34 H 344922 08191999 01
DATE OF ACCIDENT : 08-19-1999

As you know, our obligation to you as an insurer is to reimburse you for losses which are covered under the terms of your policy.

After carefully considering the evidence, we have determined that the claim in question is not a covered loss. For this reason, payment cannot be made. It was determined that the rental vehicle that you were in at the time of the loss was one that was being used for regular use. Our conversations with Penske Truck Leasing revealed that you initiated the rental for this 15ft. box van on May 20th, 1999 and did not return this vehicle to Penske until August 24th, 1999. This is well over the 28 days allotted for this type of rental and would exclude you from being covered for any losses.

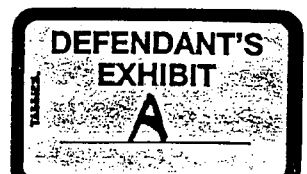
I have enclosed a copy of the section(s) of your policy that do not include, or that specifically excludes your type of loss.

If you have any questions, please contact me.

NATIONWIDE MUTUAL INSURANCE COMPANY
Kevin D. Mulroy
Claims Department
1-(800)985-1057 Ext. 5673

cc:
Penske Truck Lease
John S. Kokonos & Associates
MARTIN S AXEL -- Agent Number: 0000179

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such a person to criminal and civil penalties.



JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING.

PLAINTIFF

vs.

MARC I. ROTHSTEIN,

DEFENDANT

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

NO. 00-1501-cd

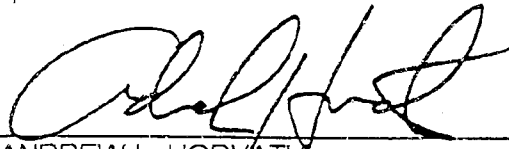
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 22nd day of March, a Motion for Rule for Dates Certain to Address Defense Counsel's Motion to Withdraw, with Stay of Proceedings, was forwarded by U.S. Mail, postage prepaid, to counsel of record, addressed as follows:

John S. Kokonos, Esquire
One Veterans Square, Suite 201
Media, PA 19053

Marc I. Rothstein
396 Howe Road
Cuyahoga Fall, OH 44221

Dated: March 22, 2001


ANDREW L. HORVATH,
ATTORNEY FOR DEFENDANT

FILED

APR 05 2001

M1:45/NO CC
William A. Shanahan
Prothonotary

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING,

PLAINTIFF

vs.

MARC I. ROTHSTEIN,

DEFENDANT

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

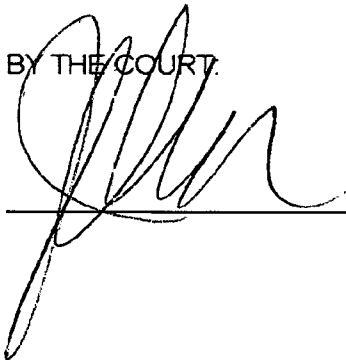
CIVIL ACTION - LAW

NO. 00-1501-cd

ORDER

AND NOW, this 18th day of April, 2001, upon consideration of the foregoing Motion, it is hereby ordered that a hearing is scheduled before Judge *Reilly* in Courtroom No. 1 of the Clearfield County Courthouse on June 6, 2001, at 1:30 to address defense counsel's Motion to Withdraw. It is further ordered that all proceedings in this matter are stayed pending further Order of Court.

BY THE COURT:


_____ J.

FILED

APR 18 2001

013:4913 < atty
William A. Shaw
Prothonotary

Howarth
get
KED

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING,

PLAINTIFF

vs.

MARC I. ROTHSTEIN,

DEFENDANT

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

NO. 00-1501-cd

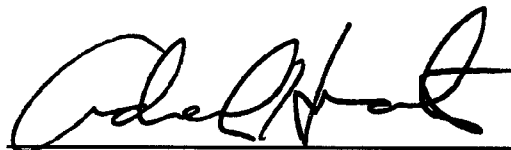
AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CAMBRIA

SS:

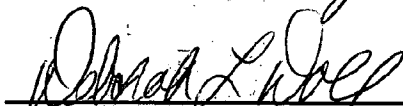
Before me, the undersigned Notary Public, personally appeared ANDREW L. HORVATH, ESQUIRE, who being duly sworn according to law, deposes and says that he did serve a copy of the Order of Court in the above matter on John S. Kokonos, Esquire by Certified Mail No. 7000 1670 0013 4342 9144/Return Receipt Requested, as shown by the attached Receipt for Certified Mail dated April 23, 2001, and Return Receipt Card dated April 25, 2001.



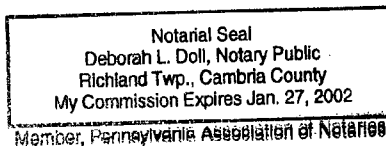
ANDREW L. HORVATH, ESQUIRE

SWORN to and subscribed before me

this 4th day of May, 2001.



Notary Public



FILED

MAY 07 2001

William A. Shaw
Prothonotary

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

7000 1670 0013 4342 9144

Postage	\$.34
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.90
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 3.74

Postmark
 APR 23 2001
 JOHNSTOWN, PA 15804
 USPS

Sent To
 John S. Kokonos, Esquire
 One Veterans Square, Suite 201
 Media, PA 19053

PS Form 3800, May 2000
 See Reverse for Instructions

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:
 John S. Kokonos, Esq.
 One Veterans Square,
 Suite 201
 Media, PA 19053

2. Article Number (Copy from service label)
 7000 1670 0013 4342 9144

PS Form 3811, July 1999

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery
 4/25/01

C. Signature
 x [Signature]
☐ 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

Domestic Return Receipt

102595-00-M-0952

NO
cc
g
fss

137
11/18/2001
MAY 11 2001

William A. Shaw
Prothonotary

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING,

PLAINTIFF

VS.

MARC I. ROTHSTEIN,

DEFENDANT

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

: CIVIL ACTION - LAW

: NO. 00-1501-cd

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF CAMBRIA :

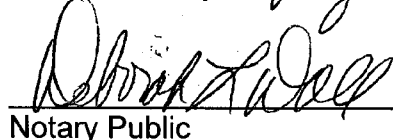
Before me, the undersigned Notary Public, personally appeared ANDREW L. HORVATH, ESQUIRE, who being duly sworn according to law, deposes and says that he did serve a copy of the Order of Court in the above matter on Marc I. Rothstein by U.S. First Class Mail and by Certified Mail No. 7000 1670 0013 4342 9137/Return Receipt Requested, as shown by the attached Receipt for Certified Mail dated April 23, 2001. Also enclosed is a copy of the Certified Mailing which was returned as unclaimed by Marc Rothstein from the postal service.



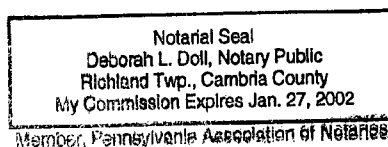
ANDREW L. HORVATH, ESQUIRE

SWORN to and subscribed before me

this 4th day of May, 2001.



Notary Public



FILED

MAY 07 2001

William A. Shaw
Prothonotary

7000 1670 0013 4342 9137

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
OFFICE OF THE POSTMASTER GENERAL	
Postage	\$.34
Certified Fee	1.90
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 3.74

JOHNSTOWN, PA 15904

Postmark Here

APR 24 2001

USPS

Sent To	
Marc I. Rothskin	
Street, Apt. No., or PO Box No.	
396 Howe Road	
City, State, ZIP+4	
Cuyahoga Falls, OH 44221	

PS Form 3800, May 2000

See Reverse for Instructions

R. THOMAS STRAYER LAW OF
960 EISENHOWER BOULEVARD
SUITE E
P.O. BOX 5500
JOHNSTOWN, PENNSYLVANIA
15904

5-4

CERTIFIED MAIL



7000 1670 0013 4342 9137



Marc I. Rothstein
396 Howe Road

RTS
RETURN TO SENDER

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

A
C
S

Unclaimed

44221-1

PLACE STICKER AT TOP OF ENVELOPE
TO THE RIGHT OF RETURN ADDRESS

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:

Marc I. Rotnstein
396 Howe Road
Cuyahoga Falls, OH
44221

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

☒ 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

2. Article Number (Copy from service label)

7000 1670 0013 4342 9137

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

FILED
MAY 07 2007
FBI
WILLIAM A. SHAW
PROTHONOTARY

CP

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

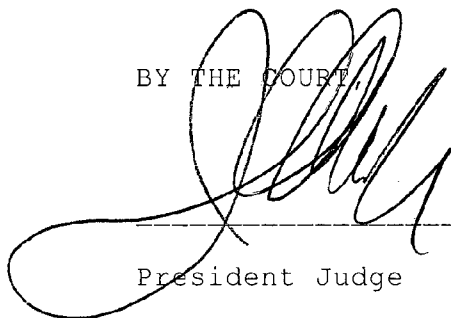
CIVIL DIVISION

JOSEPH M. NEBROSKIE, d/b/a :
NEBROSKIE TRUCKING :
-vs- : No. 00-1501-CD
MARC I. ROTHSTEIN :

O R D E R

NOW, this 6th day of June, 2001, upon consideration of the Motion to Withdraw as Counsel filed on behalf of Andrew L. Horvath, Esquire, counsel for the Defendant; this being the day and date set for hearing therein, nobody having appeared to oppose said Motion; the Court being satisfied that proper notice has been made upon all necessary parties, it is the ORDER of this Court that said Motion be and is hereby granted and Andrew L. Horvath, Esquire, permitted to withdraw as counsel for Defense. It is the further ORDER of this Court that all stays of proceedings entered thereto shall be and are hereby lifted.

BY THE COURT



President Judge

FILED

JUN 07 2001

William A. Shaw
Prothonotary

FILED

JUN 07 2001

013.29115c
William A. Shaw
Prothonotary

cc athy Havath
cc athy Kdonos

John S. Kokonos & Associates
BY: Speros John Kokonos, Esquire
One Veterans square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

Attorney for Plaintiff,
Joseph M. Nebroskie d/b/a
Nebroskie Trucking

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A :
NEBROSKIE TRUCKING :
Plaintiff, : Civil Action - Law
v. : No. 00-1501-CD
MARC I. ROTHSTEIN :
Defendant. :

RECEIVED
JAN 14 2002
COURT ADMINISTRATOR'S
OFFICE

MEMORANDUM OF LAW IN SUPPORT OF
MOTION OF PLAINTIFF,
JOSEPH M. NEBROSKIE D/B/A NEBROSKIE TRUCKING,
TO
COMPEL DEFENDANT TO ANSWER
PLAINTIFF'S FIRST SET OF INTERROGATORIES

STATEMENT OF THE FACTS

On or about December 1, 2000, Plaintiff, Joseph Nebroskie D/B/A/ Nebroskie Trucking, commenced the instant civil action against Defendant, Marc I. Rothstein, by way of a Complaint. Plaintiff demands judgment in his favor for damages which he has incurred as the result of an August 19, 1999 motor vehicle accident which was directly and proximately caused by Defendant.

On August 29, 2001, Plaintiff served "Plaintiff's First Set of Interrogatories" upon Defendant, Marc I. Rothstein a copy of which is attached to Plaintiff's Motion as Exhibit "A". On October 9, 2001, Defendant requested an additional thirty (30) days within which to answer Plaintiff's Interrogatories by way of

his attorney, Jaye M. Schlachet. A copy of Defendant's written request is attached to Plaintiff's Motion as Exhibit "B".

Defendant was required to answer Plaintiff's First Set of Interrogatories no later than Thursday, November 8, 2001 in accordance with Pa.R.C.P. 4006 as amended by the Parties' October 9, 2001 agreement. Defendant has failed to answer Plaintiff's First Set of Interrogatories as of the date of the filing of this Motion in violation of Rules 4002 and 4006 of the Pennsylvania Rules of Civil Procedure.

STATEMENT OF THE LAW

This Court should grant Plaintiff's Motion on the basis of Defendant's continued failure to answer Plaintiff's First Set of Interrogatories is in violation of Rules 4002 and 4006. Substantial prejudice to Plaintiff's ability to prepare for trial may only be avoided by compelling Defendant to immediately respond to Plaintiff's outstanding discovery request.

Rule 4006(a)(2) initially required Defendant to answer Plaintiff's First Set of Interrogatories within thirty (30) days of service thereof, or no later than Friday, September 28, 2001 and provides, in pertinent part, as follows:

The answering party shall serve a copy of the answers, and objections, if any, within thirty days after the service of the interrogatories.

Pa.R.C.P. 4006(a)(2). Defendant's failure to answer Plaintiff's discovery request on or before September 28, 2001 occurred in violation of Rule 4006(a)(2).

Plaintiff's October 9, 2001 agreement extended the time within which Defendant was required to answer Plaintiff's

outstanding discovery request to Thursday, November 8, 2001 pursuant to Rule 4002 which provides, in pertinent part, as follows:

The parties may by agreement . . . modify the procedures provided by these rules for methods of discovery.

Pa. R. Civ. P. 4002(2). Plaintiff accommodated Defendant's written request to avoid the necessity of filing a Motion to Compel and further delay of the instant cause of action, and to otherwise avoid substantial prejudice to Plaintiff's ability to prepare for trial.

Accordingly, and by reason of Defendant's continued failure to answer Plaintiff's First Set of Interrogatories within the time period prescribed by Rule 4006(a)(2), as modified by Plaintiff's agreement pursuant to Rule 4002, this Court should compel Defendant to answer Plaintiff's outstanding discovery request within ten (10) days. The Court should further award such additional and further relief in Plaintiff's favor as it shall deem appropriate pursuant to Rule 4019 which states, in pertinent part, as follows:

The Court may, on motion, make an appropriate order if:

(i) a party fails to serve answers, sufficient answers or objections to written interrogatories under Rule 4005 . . .

Pa. R. Civ. P. 4019(a)(1)(i).

* * *

The court, when acting under subdivision (a) of this rule, may make . . . such order with regard to the failure to make discovery as is just.

Pa. R. Civ. P. 4019(c)(5).

CONCLUSION

For the reason set forth herein, this Court should grant Plaintiff's Motion and enter an Order:

1. Compelling Defendant to answer Plaintiff's First Set of Interrogatories within ten (10) days; and
2. Granting such additional and further relief in Plaintiff's favor as this Court shall deem appropriate including an award of attorney's fees which have been incurred to prepare the instant Motion and Memorandum.

Respectfully submitted,

JOHN S. KOKONOS & ASSOCIATES

By: 

SPEROS JOHN KOKONOS
One Veterans Square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

Attorney for Plaintiff,
Joseph Nebroskie
D/B/A/ Nebroskie Trucking

Date: January 10, 2002

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A :
NEBROSKIE TRUCKING :
 :
Plaintiff, : Civil Action - Law
 :
v. : No. 00-1501-CD
 :
MARC I. ROTHSTEIN :
 :

Defendant.

CERTIFICATE OF SERVICE

I, Speros John Kokonos, Esquire, hereby certify that on Thursday, January 10, 2002, I caused a true and correct copy of the attached "MEMORANDUM OF LAW IN SUPPORT OF MOTION OF PLAINTIFF, AMANDA IMSENIK, FOR ENTRY OF SANCTION ORDER PURSUANT TO Pa.R.C.P. 4019 ON THE BASIS OF DEFENDANTS' COLLECTIVE AND CONTINUING FAILURE TO MAKE DISCOVERY IN VIOLATION OF THE COURT'S DECEMBER 30, 1998 ORDER COMPELLING DISCOVERY" to be served upon Jaye M. Schlachet, attorney for Defendant, Marc I. Rothstein, at the Law Offices of Jaye M. Schlachet, 620 Terminal Tower, 50 Public Square, Cleveland, Ohio 44113-2204, by First Class Mail, postage prepaid.

JOHN S. KOKONOS & ASSOCIATES

By:


SPEROS JOHN KOKONOS

Date: January 10, 2002

LAW OFFICES

JOHN S. KOKONOS & ASSOCIATES

ATTORNEYS AT LAW

PHILADELPHIA AND EASTERN PENNSYLVANIA OFFICE

ONE VETERANS SQUARE, SUITE 201

MEDIA, PA 19063

JOHN S. KOKONOS*
SPEROS JOHN KOKONOS*
Of Counsel:
FREDERIC L. CONTI
WENDELL H. LIVINGSTON

TEL: (215) 922-4455

FAX: (610) 789-0812

NEW JERSEY OFFICE
SUITE 299
3000 ATRIUM WAY
MT. LAUREL, N.J. 08054
(856) 727-3546

*ADMITTED TO PRACTICE
IN NEW JERSEY

RECEIVED
JAN 14 2002
COURT ADMINISTRATOR'S
OFFICE

January 10, 2002

Office Of The Prothonotary
Clearfield County Courthouse
P.O. Box 549
Clearfield, PA 16830

Re: Nebroskie v. Rothstein;
In The Court of Common Pleas, Clearfield County,
Civil Action No. 00-1501-CD;
Our File No. P-1210

To The Prothonotary of Clearfield County:

Enclosed, please find the original and one (1) copy of the following documents:

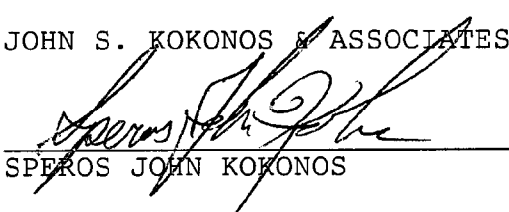
1. Plaintiff's Motion to compel Defendant to answer Plaintiff's First Set of Interrogatories; and
2. Plaintiff's Memorandum of Law in support of Plaintiff's Motion.

I respectfully request the Court to accept the original Motion and Memorandum for filing in this matter and to return a time-stamped copy of the same to my office. I have enclosed a self-addressed, stamped envelope for your convenience.

Respectfully yours,

JOHN S. KOKONOS & ASSOCIATES

By:


SPEROS JOHN KOKONOS

SJK/s
enclosures
cc: Jaye M. Schlachet, Esquire

John S. Kokonos & Associates
BY: Speros John Kokonos, Esquire
One Veterans square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

Attorney for Plaintiff,
Joseph M. Nebroskie d/b/a
Nebroskie Trucking

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A :
NEBROSKIE TRUCKING :
Plaintiff, : Civil Action - Law
v. : No. 00-1501-CD
MARC I. ROTHSTEIN :
Defendant. :

CIVIL COVER SHEET

1. Document filed: MOTION OF PLAINTIFF, JOSEPH M. NEBROSKIE
D/B/A NEBROSKIE TRUCKING, TO COMPEL DEFENDANT
TO ANSWER PLAINTIFF'S FIRST SET OF
INTERROGATORIES
2. Document filed on behalf of: Plaintiff
3. **ORAL ARGUMENT IS NOT REQUESTED**
4. Identification of filing Party
or attorney for filing party: Speros John Kokonos, Esquire
John S. Kokonos & Associates
One Veterans Square, Suite 201
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FILED

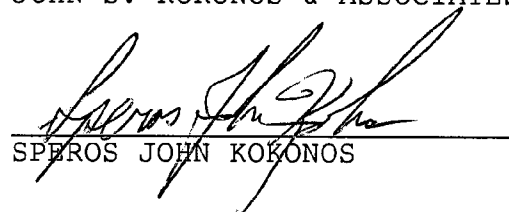
JAN 14 2002

William A. Shaw
Prothonotary

Respectfully Submitted,

JOHN S. KOKONOS & ASSOCIATES

By:


SPEROS JOHN KOKONOS

Date: January 10, 2002

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING

Plaintiff,

v.

MARC I. ROTHSTEIN

Defendant.

ORDER

AND NOW, this 24 Day of Jan, 2002, upon consideration of "Motion of Plaintiff, Joseph M. Nebroskie d/b/a Nebroskie Trucking, to Compel Defendant to Answer Plaintiff's First Set of Interrogatories", and all responses thereto, it is hereby ORDERED and DECREED that:

1. Plaintiff's Motion is GRANTED;
2. Defendant is hereby COMPELLED to serve appropriate Answers to Plaintiff's First Set of Interrogatories within ten (10) days of the entry of this Order; and
3. Plaintiff is awarded the amount of \$ 300.00 representing the reasonable cost of attorneys fees incurred to prepare, file and serve the instant Motion which shall be deducted by the Law Firm of John S. Kokonos & Associates from any future invoices for legal services which it has rendered in this matter in behalf of Plaintiff, Joseph M. Nebroskie d/b/a Nebroskie Trucking.

FILED

JAN 24 2002
01/31/02 atty kokonos
William A. Shaw
Prothonotary

BY THE COURT:

[Signature]

J.

John S. Kokonos & Associates
BY: Speros John Kokonos, Esquire
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Attorney I.D. No. 73384

Attorney for Plaintiff,
Joseph M. Nebroskie d/b/a
Nebroskie Trucking

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A	:	
NEBROSKIE TRUCKING	:	
	:	
Plaintiff,	:	Civil Action - Law
	:	
v.	:	No. 00-1501-CD
	:	
MARC I. ROTHSTEIN	:	
	:	
Defendant.	:	

MOTION OF PLAINTIFF,
JOSEPH M. NEBROSKIE D/B/A NEBROSKIE TRUCKING,
TO
COMPEL DEFENDANT TO ANSWER
PLAINTIFF'S FIRST SET OF INTERROGATORIES

Plaintiff, Joseph Nebroskie D/B/A/ Nebroskie Trucking, by his undersigned attorney, hereby Moves this Honorable Court for an Order (1) Compelling Defendant, Marc I. Rothstein, to serve appropriate Answers to Plaintiff's First Set of Interrogatories, and (2) Granting such additional and further relief in Plaintiff's favor as the Court shall deem appropriate, and in support thereof avers as follows:

1. On or about December 1, 2000, Plaintiff, Joseph Nebroskie D/B/A/ Nebroskie Trucking, commenced the instant civil action against Defendant, Marc I. Rothstein, by way of a

Complaint.

1.1. Plaintiff demands judgment in his favor for damages which he has incurred as the result of an August 19, 1999 motor vehicle accident which was directly and proximately caused by Defendant.

2. August 29, 2001, Plaintiff served "Plaintiff's First Set of Interrogatories" upon Defendant, Marc I. Rothstein. (Exhibit "A").

3. On October 9, 2001, Defendant requested an additional thirty (30) days within which to answer Plaintiff's Interrogatories by way of his attorney, Jaye M. Schlachet. (Exhibit "B").

4. Accordingly, Defendant was required to answer Plaintiff's First Set of Interrogatories no later than Thursday, November 8, 2001 in accordance with Pa.R.C.P. 4006 as amended by the Parties' October 9, 2001 agreement.

5. Defendant has failed to answer Plaintiff's First Set of Interrogatories as of the date of the filing of this Motion in violation of Rules 4002 and 4006 of the Pennsylvania Rules of Civil Procedure.

6. Accordingly, Plaintiff moves this Honorable Court to compel Defendant to answer Plaintiff's First Set of Interrogatories within ten (10) days and to award such additional and further relief as permitted by Rule 4019(c)(5) of the Pennsylvania Rules of Civil Procedure.

WHEREFORE, Plaintiff, Joseph Nebroskie D/B/A/ Nebroskie Trucking, moves this Honorable Court for the following relief:

1. Entry of an Order compelling Defendant to answer Plaintiff's First Set of Interrogatories within ten (10) days thereof; and
2. To Award such additional and further relief as this Court deems appropriate including, but not limited to, an award of attorneys fees representing the cost of preparation of this Motion and the attached Memorandum of Law.

Respectfully submitted,

JOHN S. KOKONOS & ASSOCIATES

By: 

SPEROS JOHN KOKONOS
One Veterans Square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

Attorney for Plaintiff,
Joseph Nebroskie
D/B/A/ Nebroskie Trucking

Date: January 10, 2002

John S. Kokonos & Associates
BY: Speros John Kokonos, Esquire
One Veterans square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

Attorney for Plaintiff,
Joseph M. Nebroskie d/b/a
Nebroskie Trucking

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A	:	
NEBROSKIE TRUCKING	:	
	:	
Plaintiff,	:	Civil Action - Law
	:	
v.	:	No. 00-1501-CD
	:	
MARC I. ROTHSTEIN	:	
	:	
Defendant.	:	

VERIFICATION

I, Speros John Kokonos, am the attorney for Plaintiff, Joseph Nebroskie D/B/A/ Nebroskie Trucking, in the within action and in such capacity am duly authorized to make this Verification. I hereby verify that the facts set forth herein are true and correct to the best of my knowledge, information and belief and that I make this statement subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

JOHN S. KOKONOS & ASSOCIATES

By:


SPEROS JOHN KOKONOS

Date: January 10, 2002

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A :
NEBROSKIE TRUCKING :
 :
Plaintiff, : Civil Action - Law
 :
v. : No. 00-1501-CD
 :
MARC I. ROTHSTEIN :
 :

Defendant. :

CERTIFICATE OF SERVICE

I, Speros John Kokonos, Esquire, hereby certify that on Thursday, January 10, 2002, I caused a true and correct copy of the attached "MOTION OF PLAINTIFF, AMANDA IMSENIK, FOR ENTRY OF SANCTION ORDER PURSUANT TO Pa.R.C.P. 4019 ON THE BASIS OF DEFENDANTS' COLLECTIVE AND CONTINUING FAILURE TO MAKE DISCOVERY IN VIOLATION OF THE COURT'S DECEMBER 30, 1998 ORDER COMPELLING DISCOVERY" to be served upon Jaye M. Schlachet, attorney for Defendant, Marc I. Rothstein, at the Law Offices of Jaye M. Schlachet, 620 Terminal Tower, 50 Public Square, Cleveland, Ohio 44113-2204, by First Class Mail, postage prepaid.

JOHN S. KOKONOS & ASSOCIATES

By:


SPEROS JOHN KOKONOS

Date: January 10, 2002

EXHIBIT "A"

John S. Kokonos & Associates
BY: Speros John Kokonos, Esquire
One Veterans square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

Attorney for Plaintiff,
Joseph M. Nebroskie d/b/a
Nebroskie Trucking

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A	:	
NEBROSKIE TRUCKING	:	
	:	
Plaintiff,	:	Civil Action - Law
	:	
v.	:	
	:	
MARC I. ROTHSTEIN	:	No. 00-1501-CD
	:	
Defendant.	:	

PLAINTIFF'S FIRST SET OF INTERROGATORIES
PROPOUNDED UPON DEFENDANT, MARC I. ROTHSTEIN

Plaintiff hereby propounds the following Interrogatories to be answered separately and fully in writing under oath within thirty (30) days after service hereof, by Defendant, Marc I. Rothstein, in accordance with Rule 4006 of the Pennsylvania Rules of Civil Procedure.

I. INSTRUCTIONS AND DEFINITIONS

A. Each of the following interrogatories shall be answered separately and fully in writing.

B. Where knowledge or information in possession of a party is requested, such request includes knowledge of the party's agents, employees, servants, officers, directors, accountants, attorneys (unless privileged), or other persons acting or

purporting to act on behalf of the party to whom interrogatories are addressed. You must make inquiries of your agents, employees, etc., whenever such inquiry is necessary to enable you to answer these interrogatories completely and accurately.

C. You are instructed to supplement your answers from now until the time of trial without further notice in accordance with Rule 4007.4, whenever you or your counsel obtain further information that is responsive to the Interrogatories or information indicating that a previous Answer was incorrect or incomplete.

D. The words "**the accident**" when used herein refer to the August 19, 1999 collision that occurred in the right westbound lane of Interstate 80 near milepost 110 in Pine Township, Clearfield County, Pennsylvania at approximately 9:30 a.m. which is more fully described in ¶¶ 3 - 6 of the Complaint.

E. The words "**your vehicle**" when used herein refer to the 1998 GMC truck, Ohio registration number PAM-6288, that you were operating at the time of the accident which occurred on August 19, 1999 in the right westbound lane of Interstate 80 near milepost 110 in Pine Township, Clearfield County, Pennsylvania at approximately 9:30 a.m. which is more fully described in ¶¶ 3 - 6 of the Complaint.

F. As used herein, the words "you" or "your" refer to Defendant, Marc I. Rothstein, and to all of your present and former agents, servants and employees, if any.

G. As used herein, "identify" when used in reference to an individual or person means to state his/her (1) full name, (2)

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present or last known business and private addresses and telephone numbers, and (3) present or last known occupation, employer, and employer's address.

H. As used herein, "identify" when used in reference to a business, institution, agency, or other entity means to state (1) its full name, (2) its present address and telephone numbers, (3) its address at the time of the accident, (4) any fictitious names under which it operates, and (5) the name and position of the employees, owners, officers and directors, with their current addresses, referred to in the Interrogatory.

I. As used herein, the word "document" shall mean any medium in which information or intelligence can be recorded or retrieved, and includes, without limitation, the original or copy, regardless of origin and location, of any book, pamphlet, periodical, letter memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order, form, receipt, financial statement, accounting entry, diary, calendar, telex, telegram, cable, report, record, contract, study, handwritten note, draft, working paper, chart, paper print, drawing, sketch, blueprint, index, list, photograph (the original and any copy), regardless of origin or location, or any book, pamphlet, periodical, letter, memorandum, telegram, report, study, handwritten note, working paper, or any other written, recorded, punched or taped matter, however produced, which is in your possession, custody or control.

J. The term "communication" means any oral or written utterance, notation, or statement of any nature whatsoever

between or among two or more persons, by or to whomsoever made,
and including without limitation correspondence, documents,
conversations, dialogues, discussions, interviews, consultations,
agreements, other understandings.

INTERROGATORIES

1. Identify all persons who prepared or assisted in the preparation of any one or more of your Answers to these Interrogatories specifying all of the following:

- 1.1. The name and address of each person;
- 1.2. The name and address of each person's employer;
- 1.3. The title and/or position that each person presently maintains with his/her employer; and
- 1.4. The specific answer(s) (to be identified by corresponding Interrogatory Number) that each person prepared or provided assistance in the preparation thereof.

2. State all of the following:

2.1. Your full name;

2.2. All other names that you are known by or have been known by at any time;

2.3. The date and place of birth;

2.4. Your social security number;

2.5. Your veteran's identification number;

2.6. Your marital status at the time of "the accident";

2.7. Your present marital status;

2.8. Your address at the time of "the accident"; and

2.9. Your present address

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3. If you are self-employed, identify all of the following:

3.1. The name and address of your business;

3.2. The specific nature of your business;

3.3. The period of time during which you have remained self-employed;

3.4. Whether the business which you have identified is a sole proprietorship;

3.5. Whether the business which you have identified is a partnership or corporation and if so, the names and addresses of all partners, stockholders, officers and directors specifying the period of time during which each person maintained their respective position(s);

3.6. All fictitious and trade names under which you have conducted your business at any time specifying the period of time during which you continued to conduct business under each name that you have identified; and

3.7. All of your former business locations specifying the period of time during which you continued to conduct business at each business location.

4. Identify all of your employers during the past ten (10) years and for each employer whom you have identified state the following:

4.1. The name and address of each employer;

4.2. The specific periods of time during which you were employed by each employer whom you have identified;

4.3. Your title(s) and corresponding employment responsibilities for each employer whom you have identified; and

4.4. The reason(s) for your termination from each place of employment that you have identified.

5. State whether you were ever in the armed forces and if so, identify the branch thereof in which you served, the type of discharge you received and the date thereof.

6. State whether you use or are required to use corrective lenses for vision and if so, state the following:

6.1. The specific nature of the condition requiring such use;

6.2. Whether you were using corrective lenses at the time of "the accident";

6.3. The name and address of your ophthalmologist, optician, or other eye care professional at the present and at the time of "the accident";

6.4. The date on which you received the prescription for the corrective lens utilized by you at the time of "the accident";

6.5. The date of the last eye examination which you received prior to "the accident" and the name and address of the person who conducted said examination.

7. State whether within a ten (10) year period prior to "the accident" you had any temporary or permanent impairment or restriction of vision, hearing, muscle control, or other bodily function and if so, state the following:

7.1. The date of each such impairment/restriction;

7.2. The nature of each such impairment/restriction;

7.3. The cause of each such impairment/restriction;

7.4. The identity of all persons/entities who provided you with services or medical treatment in relation to or otherwise arising from each such impairment/restriction, and the approximate dates of such services/treatment;

7.5. Whether you continue to receive services or treatment from each such impairment/restriction and if so, the identity of all persons/entities who provide such services or treatment.

8. State whether within a ten (10) year period prior to "the accident" you suffered from any illnesses, allergies, diseases, or injuries and if so, state the following:

8.1. The date(s) of each such condition;

8.2. The cause of each such condition;

8.3. The nature of each such condition;

8.4. The identity of all persons/entities who provided you with services or medical treatment in relation to or otherwise arising from each such condition, and the approximate dates of such services/treatment;

8.5. Whether you continue to receive such services/treatment and if so, the identity of all persons/entities who provide such services/treatment to you.

9. Identify each person:

9.1. Whom you know or believe to have witnessed "the accident" through sight or hearing;

9.2. Whom you know or believe to have knowledge of the facts concerning the happening of "the accident" or conditions or circumstances at the scene of "the accident" prior to, after, or at the time of "the accident";

9.3. Whom you know or believe to otherwise have any discoverable information relating to the claims or defenses that are in this civil action;

9.4. With respect to each person whom you have identified state that person's exact location and activity at the time of "the accident". and

9.5. With respect to each person whom you have identified state that person's name, address and the substance of their knowledge or of the information which they possess.

10. Identify all witnesses, both fact and expert, whom you intend to call at the trial of this matter and for each person whom you have identified state the following:

10.1. Name and address; and

10.2. The subject matter of their expected testimony.

11. Have you or anyone acting on your behalf prepared and/or obtained from any person any statement as defined by the Pennsylvania Rules of Civil Procedure concerning this civil action or its subject matter? If yes, state the following:

11.1. The name and address of each person who prepared and obtained each statement;

11.2. When, where, by whom, and to whom each statement was made, and whether it has been reduced to writing or otherwise recorded;

11.3. All persons who have custody of each statement;
and

11.4. The date(s) each statement was made.

12. Have you given any statements as defined by the Pennsylvania Rules of Civil Procedure concerning this action or its subject matter to any person or entity? If yes, state the following:

12.1. The name and address of each person or entity to whom each statement was given;

12.2. When and where each statement was made, and whether the same has been reduced to writing or otherwise recorded;

12.3. The reason(s) each statement was made.

13. Do you or anyone acting on your behalf know of the existence of any photographs, motion pictures, video recordings, maps, diagrams, models, or other physical evidence relating to "the accident", the Parties, or otherwise to the subject matter of this civil action? If yes, state the following:

13.1. The date when each item was made;

13.2. The specific nature of each item;

13.3. The name and address of each person or entity who made or otherwise created each item;

13.4. The name and address of each person or entity presently having custody or control of each item; and

13.5. The subject matter of each item.

14. Have you or anyone acting in your behalf conducted any investigation(s) of "the accident"? If yes, state the following:

14.1. The name and address of each person or entity who conducted each investigation;

14.2. The date(s) of each investigation; and

14.3. All notes, reports, or other documents prepared during or as a result of each investigation and the identity of each person or entity having custody or control thereof.

15. Identity all of the following:

15.1. The name and address of each person whom you expect to call as an expert witness at trial and state the subject matter on which the expert is expected to testify;

15.2. Identity the substance of the facts and opinions to which each expert is expected to testify and summarize the grounds for each such opinion; and

15.3. The qualifications of each expert whom you have identified listing the schools attended, years of attendance, degrees received, experience in any particular field of specialization or expertise, and all civil/criminal actions in which he/she has provided an expert report and/or expert testimony.

16. State whether you maintained or were covered by any type of insurance, including any excess or umbrella insurance, at the time of "the accident" providing coverage for the damages which Plaintiff claims to have sustained as the result of "the accident". If yes, state the following:

16.1. The name of the insurance carrier(s) which issued each policy of insurance;

16.2. The type of policy(s) and the effective date(s) thereof;

16.3. The amount of coverage provided to each person, for each occurrence and in the aggregate for each policy;

16.4. Whether any one or more of the insurance carriers which you have identified have denied such coverage and if so:

16.4.1. The identity of ~~the~~ insurance carrier(s);

16.4.2. The date(s) of each denial; and

16.4.3. The stated reason(s) for each denial.

16.5. All claims which you have made under each policy, at any time, the nature of each claim, the amount of recovery, if any, and the date of recovery if applicable.

17. State whether any motor vehicle liability insurance carrier has ever refused to provide you with coverage, refused to renew an existing policy, disclaimed coverage for an existing claim, or imposed a personal policy premium increase due to your driving record and if so, state the following:

17.1. Which of the categories applies;

17.2. The date(s) of such action(s);

17.3. The name and address of the insurance company taking such action;

17.4. The specific basis for each such action(s).

18. State whether it is your opinion or belief that the Plaintiff precipitated, caused, or otherwise contributed to "the accident" in any manner and if so, state the following:

18.1. The specific facts upon which you rely in support of your opinion or belief; and

18.2. All witnesses whom you believe support your opinion or belief.

19. State whether it is your opinion or belief that "the accident" was caused or otherwise related to the conduct of persons or entities other than the Plaintiff and if so, state the following:

19.1. The name and address of each such person and entity;

19.2. The specific facts upon which you rely in support of your opinion or belief; and

19.3. All witnesses whom you believe support your opinion or belief.

20. State whether you ingested any medication, drug, or alcoholic beverage at the time of "the accident", or within twenty-four hours prior to "the accident", and if so, state the following:

20.1. Each item that you ingested by name, description, quantity, time of ingestion, and the source from which you obtained such item;

20.2. The medical reason(s), if any, for taking each item that you ingested;

20.3. How long you had been taking each item that you ingested prior to "the accident";

20.4. All known side effects, if any, of each item that you ingested.

21. State the following with respect to your operator's license, including prior to, at the time of, and subsequent to "the accident":

21.1. Licensing state;

21.2. Class of license;

21.3. All license restrictions;

21.4. Whether said license was in effect at the time of "the accident";

21.5. Whether said license had ever been revoked, suspended, or received any traffic citations and, if so, identify all of the following:

21.5.1. The date(s) and reason(s) for each such revocation/suspension/citation; and

21.5.2. All court imposed penalties for each citation.

22. State whether you have ever been convicted of a felony or a crime classified as crimen falsi (involving fraud, misrepresentation, or deception) and if so, state the following:

22.1. The specific crime(s);

22.2. The date and place of all convictions;

22.3. The judicial resolution of each conviction.

23. State whether you have been involved in any other motor vehicle accidents within a five (5) year period prior to "the accident" and if so, state the following:

23.1. All persons/entities involved;

23.2. The date and exact location for each accident;

23.3. If any claims were made or suits filed, state by whom and against whom, the identity of counsel for each party, the court, term and number of each suit, and the present status or final disposition thereof.

24. Specifically identify all of the following:

24.1. How many miles you had driven "your vehicle" from your original point of departure up to the time of "the accident";

24.2. Your original point of departure prior to "the accident" and all locations, by name, address and time of departure, if any, which you visited:

24.2.1. From your original point of departure up to the time of "the accident"; and

24.2.2. From the time of "the accident" to the conclusion of your trip.

24.3. Your intended and immediate destination at the time of "the accident"; and

24.4. How many hours you had slept, and where you slept within the twenty-four (24) hour ~~period~~ preceding "the accident".

25. Specifically identify the reason(s) that you were traveling on Interstate 80 near milepost 110 in Pine Township, Clearfield County, Pennsylvania on August 19, 1999 at approximately 9:30 a.m. (e.g. at the time of the accident).

26. Identify how many times you, as either a driver or a passenger, had passed the scene of "the accident" within a one (1) year period prior to the date of "the accident", and the latest date thereof (excluding the time of accident).

27. Identify all persons who maintained an ownership interest in the vehicle that you were operating at the time of "the accident".

28. Identify all of the following relative to "your vehicle" at the time of the accident:

28.1. The vehicle's make, model, color, and vehicle identification number;

28.2. The date upon which the vehicle last passed a state inspection prior to "the accident", the state of inspection, and the person/entity who performed such inspection;

28.3. Whether the vehicle ever failed an inspection at any time and, if so, state the date(s) thereof, the reason(s) thereof, and the persons/entities with knowledge thereof;

28.4. The type of braking system;

28.5. The type of transmission;

28.6. The type and horsepower of the vehicle's engine;

28.7. The type of steering;

28.8. The type and condition of each tire thereof;

28.9. All repairs/services which were performed upon "your vehicle" within one (1) year prior to the date of "the accident" including, the nature of each repair/service, the person/entity who performed such repair/service, and the date(s) for each such repair/service.

29. State whether "your vehicle" was damaged in "the accident" and if so, state the following:

- 29.1. The exact nature of such damage;
- 29.2. The date(s) of any repair of such damage;
- 29.3. The person/entity who performed such repair; and
- 29.4. The cost of such repair.

30. State whether "your vehicle" possessed any mechanical or physical defects or damage immediately prior to "the accident" and if so, state the following:

30.1. The specific nature and location of each defect/item of damage;

30.2. Whether you know or believe that any one or more of the defects which you have identified caused or contributed to "the accident" and if so, state with specificity the basis for such knowledge or belief;

30.3. The name and address of all individuals having knowledge of such defect/damage;

30.4. The date(s) upon which you became aware of each such defect/damage and the source of your knowledge;

30.5. Whether such defect/damage has subsequently been repaired and, if so, the identity of the ~~per~~son/entity who performed such repair(s) and the date(s) thereof.

31. State whether the police or any other persons/entities examined "your vehicle" at the time of, or subsequent to, "the accident" in relation to either "the accident" or to any one or more of the defects/damages which you have identified in your answer to Interrogatory No. 30 or its subparts, and if so, state the following:

31.1. The name, address and employer of each investigator;

31.2. The date(s) of each such investigation;

31.3. All conclusions or statements which each investigator has asserted as the result of each such investigation.

32. State whether you experienced, observed and/or were advised of any difficulties in the braking, steering, or operation generally of "your vehicle" prior to "the accident" and, if so, describe in detail, the nature of such difficulty.

33. With respect to "the accident", state the following:

33.1. The exact date and time of "the accident";

33.2. The exact location of "the accident" including, but not limited to, the name of all pertinent streets, the location of each vehicle, the distance from the curb or other reference point, and any specific landmarks at the point of impact;

33.3. The weather conditions including, but not limited to, temperature, precipitation, and natural or artificial lighting;

33.4. The nature of the road surfaces with reference to composition (e.g. dirt, asphalt, concrete, other), depressions, holes, grade, curves, and obstructions in the general area, if any;

33.5. The condition of the road surface at "the accident"(s) scene, specifying whether it was wet, dry, icy, snow covered, or slick/slippy from some other substance, and furthermore whether there were road surface defects such as potholes, broken road surface, debris, or ongoing road construction;

33.6. The extent of visibility at the time and location of "the accident"(s) and, if limited, the extent of visibility in feet; and

33.7. The nature of any artificial lighting, if any.

34. State in detail how "the accident" occurred including, but not limited to, identification of all vehicles and their specific location, speed, and direction of travel at all times immediately prior to, at the time of, and after "the accident".

35. State the posted speed limit for each of the streets or roadways at the scene of "the accident" and at the time of "the accident".

36. Identify the nature of the general vicinity of "the accident" such as residential, rural, commercial, industrial, or otherwise.

37. State whether you observed the existence of any parked or stopped vehicles in the immediate vicinity of "the accident" and if so, state the following:

37.1. The specific location of each such vehicle;

37.2. The make, model and color of each such vehicle;

37.3. Whether you contend that such vehicle(s) caused or contributed to "the accident" and, if so, state the specific basis for your opinion and all fact/expert witnesses with knowledge thereof.

38. State whether you are aware of, or believe, that the vision of any of the drivers of any of the vehicles involved in "the accident" was obstructed in any manner and, if so, describe such obstruction and the vehicle which it affected, its specific nature, exact location, size, composition, shape, and configuration.

39. State whether you observed any of the vehicles involved in "the accident" activate a turn signal, brake lights, horn, or any other such signal immediately prior to "the accident" and if so, state the following:

39.1. The make, model, color, or other identifying characteristic of each such vehicle;;

39.2. The nature of all signals which you observed;

39.3. The specific location and time when you observed such signals;

39.4. Your specific reaction to such signal(s).

40. State whether "your vehicle" changed direction, location, speed and/or position relative to any other vehicles immediately prior to and/or at the time of "the accident" and if so, state the following:

40.1. When such change(s) in direction, location, speed and/or position occurred;

40.2. The nature and purpose for such change(s) in direction, location, speed and/or position relative to any other vehicles;

40.3. Whether such change(s) in direction, location, speed and/or position were successfully completed/executed.

41. Identify the exact location at which "your vehicle" made its last full stop prior to "the accident", the reason(s) therefor, and identify all events which you observed thereafter and up to the time of "the accident".

42. Specifically described all of the following:

42.1. All evasive action which you attempted and/or observed with regard to all vehicles involved in "the accident" including, but not limited to, braking, turning, accelerating, and/or sounding of a horn, to avoid "the accident";

42.2. Where such evasive action was taken;

42.3. By whom such evasive action was taken;

42.4. The time interval between each such evasive action and impact;

42.5. Why such evasive action was unsuccessful.

43. Identify all passengers in "your vehicle" at the time of "the accident" by name and address, and state their age, gender, relationship to you, and seating location within the vehicle.

44. State whether any conversations or comments were exchanged between you and the operator(s), witness(s), or any other person(s) including, but not limited to, police officers or other emergency personnel, present at "the accident"(s) scene at any time and for each conversation and comment which you have identified, state the following:

44.1. The individuals involved in each conversation or comment;

44.2. The date, time and exact location of each such conversation or comment;

44.3. The names and addresses of all individuals overhearing or witnessing each such conversation or comment, identifying which conversation and/or comment were overheard or witnessed by each such person;

44.4. If such conversation or ~~comment~~ constituted a statement, state whether it was oral or written, signed or unsigned, and the identity of the individual to whom it was made.

45. State whether you provided any investigating police officers or other emergency personnel with a description of how "the accident" occurred based on your personal observations and opinions and if so, state the following:

45.1. The name and address of each police officer or emergency personnel to whom you provided this description;

45.2. The exact date, time, location and mode of each such communication(s);

45.3. The specific content of all such descriptions and communications.

46. State whether any individual(s) within "your vehicle" gave any warning of the potential for an accident prior to the occurrence of "the accident" and, if so, state the following:

46.1. The name and address of each individual; and

46.2. The exact nature of such warning including a verbatim recitation of such warning.

47. Describe, in detail:

47.1. The means by which you departed from "the accident" scene;

47.2. The operator of the vehicle in which you departed;

47.3. Your destination(s) after you departed "the accident" scene and for the following twenty-four (24) hours;

47.4. The date and time at which you arrived at all such subsequent destinations;

47.5. The name(s) and address(s) of all persons with whom you spoke at all such subsequent destinations within a twenty-four (24) hour period after "the accident".

48. State whether the driver of any of the vehicles involved in "the accident" was charged with any violations of the Pennsylvania Motor Vehicle Code or any misdemeanors or criminal offenses as a result of "the accident" or any investigation of "the accident" and if so, state the following for each person so charged:

48.1. The name and address of the individual;

48.2. The specific charge(s) against the individual;

48.3. The dates and locations of all hearings held as a result of each such charge(s) and the name of the presiding official in each such instance;

48.4. The present status of each such matter, and if concluded, the final disposition.

49. Identity specifically, the point(s) of impact on each vehicle involved in "the accident"(s) and identify which other vehicle or object each such vehicle came into contact with at the point of impact.

50. Identify the speed of each vehicle involved in "the accident" at the moment of impact.

51. State whether any of the vehicles involved in "the accident" left skid marks and, if so, identify which vehicle, the length, direction and exact location of each set of skid marks with reference to the street, curb, and any other identifying landmarks.

52. With reference to your first observation of the Plaintiff's vehicle state the following:

52.1. The location of the Plaintiff's vehicle at the exact moment of your initial observation of the vehicle;

52.2. The distance between "your vehicle" and the Plaintiff's vehicle at the exact moment of your initial observation of the vehicle;

52.3. The period of time that elapsed between the moment of your first observation of the Plaintiff's vehicle and "the accident";

52.4. Whether your observation of the Plaintiff's vehicle was continuous from the moment of your initial observation of the vehicle up to the time of "the accident" and if not, what caused your observation to be discontinued, for what length of time did such discontinuance ~~persist~~ ^{persist}, and how much time elapsed from the moment your observation of the vehicle was re-established and the moment of impact;

52.5. How, if at all, the respective positions of "your vehicle" and the Plaintiff's vehicle changed in relation to each other during the period of time immediately after your first observation of the Plaintiff's vehicle up to the time of "the accident".

53. What was the speed of "your vehicle" at the moment of your initial observation of the Plaintiff's vehicle and did "your vehicle"'s speed change at any time prior to "the accident" and if so, to what speed(s).

54. What was the speed of the Plaintiff's vehicle at the moment of your initial observation thereof and did said vehicle's speed change at any time prior to accident and if so, to what speed(s).

55. Identify the period of time that elapsed between the moment of your first observation of the Plaintiff's vehicle and "the accident".

56. State how far from the point of impact "your vehicle" was located and the speed at which it was traveling at the following times:

56.1. When you first thought there was the potential for a collision with another vehicle or object;

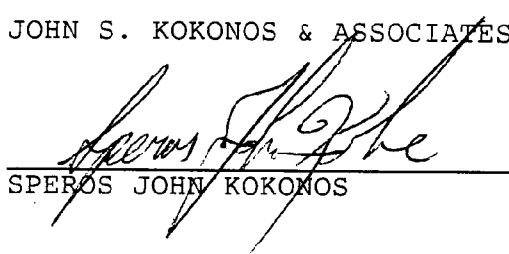
56.2. When you first knew that there would be such a collision.

57. Identify all persons who have participated in the preparation of your Answers to these Interrogatories. Further identify the specific Interrogatory(s), by number, for which each person provided you with information and the specific nature of their participation.

Respectfully Submitted,

JOHN S. KOKONOS & ASSOCIATES

By:


SPEROS JOHN KOKONOS

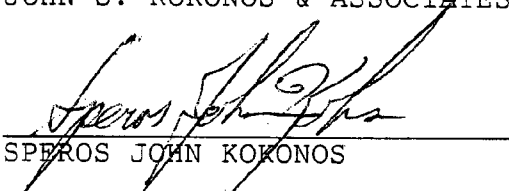
Date: August 29, 2001

CERTIFICATE OF SERVICE

I, Speros John Kokonos, Attorney for Plaintiff, Joseph M. Nebroskie d/b/a Nebroskie Trucking, hereby certify that on Wednesday, August 29, 2001, I caused a true and correct copy of the attached "PLAINTIFF'S FIRST SET OF INTERROGATORIES PROPOUNDED UPON DEFENDANT, MARC I. ROTHSTEIN" to be served upon Marc I. Rothstein (pro se Defendant), at 1086 Parkledge Drive, Macedonia, Ohio 44056 by First Class Mail, postage pre-paid.

JOHN S. KOKONOS & ASSOCIATES

By:


SPEROS JOHN KOKONOS

Date: August 29, 2001

EXHIBIT "B"

LAW OFFICES OF
JAYE M. SCHLACHET
620 TERMINAL TOWER
50 PUBLIC SQUARE
CLEVELAND, OHIO 44113-2204
(216) 781-3434
FAX 781-1749

MESSAGE — REPLY

☐ URGENT
☐ PLEASE RESPOND BY _____
☐ NO REPLY NECESSARY

TO: SPEROS JOHN KOKONIS

DATE: 10-9-01

ONE VETERANS SQUARE SUITE 201

SUBJECT: JOSEPH NEGROSKIE V.

MEDRY P.A. 19063

MARC RUBINSTEIN

MESSAGE: Dear Mr. Kokonis my client Marc Rubinstein who has been out of town on an extended business assignment called and asked me to contact you to advise that there are apparently outstanding discovery requests. Marc assured me he will respond to the discovery immediately upon his return to Ohio. I expect you will have answers within 30 days. If this is a problem please advise and I'll attempt to reach Marc and ask him to contact you directly. My only involvement was to send you this note. Thanks for your understanding.

J Schlachet

RETAIN ONE COPY FOR YOUR RECORD.

FILED

JAN 14 2002

m/10:42/170 cc
William A. Shaw
Prothonotary

WAS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

<p>JOSEPH M. NEBROSKIE D/B/A NEBROSKIE TRUCKING 284 High Road Pottsville, PA 17901</p> <p>Plaintiff,</p> <p>v.</p> <p>MARC I. ROTHSTEIN 396 Howe Road Cuyahoga Fall, Ohio 44221</p> <p>Defendant.</p>	<p>CIVIL ACTION - LAW</p> <p>No. 00-1501-00</p> <p>PRAECIPE FOR APPEARANCE</p> <p>Filed on behalf of Defendant, Marc I. Rothstein</p> <p>Counsel of Record for this Party:</p> <p>RICHARD J. MILLS, ESQUIRE Pa. I.D. #11016</p> <p>MILLS & HENRY 200 Benedum Trees Building 223 Fourth Avenue Pittsburgh, PA 15222</p> <p>(412) 471-2442</p> <p>JURY TRIAL DEMANDED</p>
---	---

FILED

APR 29 2002

17/1042/10CC
William A. Shaw
Prothonotary *WAS*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A	:	
NEBROSKIE TRUCKING	:	
284 High Road	:	Civil Action - Law
Pottsville, Pennsylvania 17901	:	
	:	
Plaintiff,	:	
	:	No. 00-1501-00
v.	:	
MARC I. ROTHSTEIN	:	
396 Howe Road	:	
Cuyahoga Fall, Ohio 44221	:	
	:	
Defendant.	:	

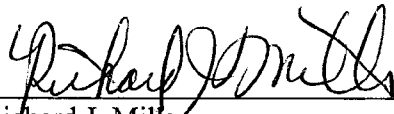
PRAECIPE FOR APPEARANCE

To: William A. Shaw, Prothonotary

KINDLY ENTER OUR APPEARANCE on behalf of the Defendant,
MARC I. ROTHSTEIN, in connection with the above-captioned action.

A JURY TRIAL IS DEMANDED.

MILLS & HENRY

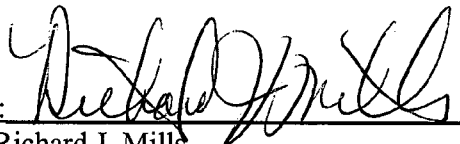
By: 
Richard J. Mills
Counsel for Defendant
Marc I. Rothstein

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within **PRAECIPE FOR APPEARANCE** has been served upon counsel of record, by U. S. mail, postage prepaid, this 26 day of April, 2002, at the following address:

SPEROS JOHN KOKONOS, ESQUIRE
JOHN S. KOKONOS & ASSOCIATES
ONE VETERANS SQUARE, SUITE 201
MEDIA, PA 19063
(Counsel for Plaintiff)

MILLS & HENRY

By: 
Richard J. Mills
Counsel for Defendant
Marc I. Rothstein

John S. Kokonos & Associates
BY: Speros John Kokonos, Esquire
One Veterans Square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

Attorney for Plaintiff,
Joseph M. Nebroskie d/b/a
Nebroskie Trucking

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A :
NEBROSKIE TRUCKING :
Plaintiff, : Civil Action - Law
v. : No. 00-1501-CD
MARC I. ROTHSTEIN :
Defendant. :

CIVIL COVER SHEET

1. Document filed: PLAINTIFF'S MOTION FOR THE IMPOSITION OF
ADDITIONAL SANCTIONS AGAINST DEFENDANT FOR
FAILURE TO MAKE DISCOVERY IN VIOLATION OF
THE COURT'S JANUARY 24, 2002 DISCOVERY ORDER

2. Document filed on behalf of: Plaintiff

3. **ORAL ARGUMENT IS NOT REQUESTED**

4. Identification of filing Party
or attorney for filing party: Speros John Kokonos, Esquire
John S. Kokonos & Associates
One Veterans Square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D.# 73384

FILED
OCT 07 2002
Kokonos

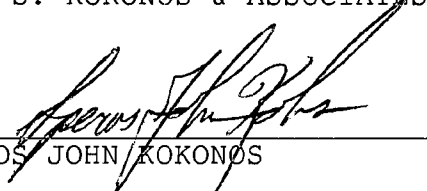
William A. Shaw
Prothonotary

Respectfully Submitted,

JOHN S. KOKONOS & ASSOCIATES

Date: October 2, 2002

By:


SPEROS JOHN KOKONOS

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A	:	
NEBROSKIE TRUCKING	:	
	:	
Plaintiff,	:	Civil Action - Law
	:	
v.	:	No. 00-1501-CD
	:	
MARC I. ROTHSTEIN	:	
	:	
Defendant.	:	

ORDER

AND NOW, this Day of , 2002, upon consideration of "Plaintiff's motion for additional sanctions against Defendant for failure to make discovery in violation of the Court's January 24, 2002 Discovery Order", and all responses thereto, it is hereby ORDERED and DECREED that:

1. Plaintiff's Motion is GRANTED;
2. All matters of inquiry in Plaintiff's First Set of Interrogatories are CONCLUSIVELY ESTABLISHED for the purposes of this action in accordance with Plaintiff's claims;
3. Defendant is PROHIBITED from opposing Plaintiff's claims and supporting all defenses heretofore asserted in this action at trial; and
4. Defendant is DIRECTED to pay Plaintiff the additional amount of \$_____ as reasonable expenses, including attorney's fees, to obtain this order for compliance and sanctions necessitated by Defendant's continuing violation and contempt of this Court's January 24, 2002 Order.

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING

Plaintiff,

v.

MARC I. ROTHSTEIN

Defendant.

:

:

:

:

:

Civil Action - Law

No. 00-1501-CD

FILED

OCT 10 2002

William A. Shaw
Prothonotary

ORDER

AND NOW, this 10th Day of October, 2002, upon consideration of "Plaintiff's motion for additional sanctions against defendant make discovery in violation of the Court's January 24, 2002 discovery order", and all responses thereto, it is hereby ORDERED and DECREED that:

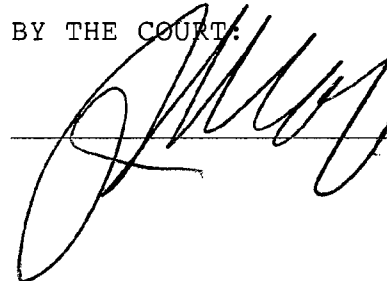
1. Plaintiff's Motion is GRANTED;

2. JUDGMENT BY DEFAULT is entered in favor of Plaintiff, Joseph M. Nebroskie d/b/a Nebroskie Trucking and against Defendant, Marc I. Rothstein as to all Counts;

3. The Parties are DIRECTED to appear before this Court in Courtroom 1 on Nov. 20, 2002/2:30 at which time this Court shall conduct a hearing to assess damages in Plaintiff's favor and against Defendant; and

4. Defendant is DIRECTED to pay Plaintiff the additional amount of \$_____ as reasonable expenses, including attor not getting filed in this order for compliance and sanct in now Defendant's continuing violation and conte January 24, 2002 Order.

BY THE COURT:



J.

FILED
JH 9/24/02
OCT 10 2002

1cc
Amy Kokonos

William A. Shaw
Prothonotary

John S. Kokonos & Associates
BY: Speros John Kokonos, Esquire
One Veterans Square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

CP
Attorney for Plaintiff,
Joseph M. Nebroskie d/b/a
Nebroskie Trucking

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A :
NEBROSKIE TRUCKING :
 :
Plaintiff, : Civil Action - Law
 :
v. : No. 00-1501-CD
 :
MARC I. ROTHSTEIN :
 :
 :
Defendant. :

PLAINTIFF'S MOTION FOR ADDITIONAL SANCTIONS AGAINST DEFENDANT
FOR FAILURE TO MAKE DISCOVERY
IN VIOLATION AND CONTEMPT
OF THE COURT'S JANUARY 24, 2002 DISCOVERY ORDER

Plaintiff, Joseph Nebroskie, by his undersigned attorney,
respectfully Moves this Honorable Court for an Order imposing
additional sanctions against Defendant, Marc I. Rothstein, for
failure to make discovery in violation and contempt of the
Court's January 24, 2002 Order and in support thereof avers as
follows:

Plaintiff's First Set of Interrogatories

1. August 29, 2001, Plaintiff served Defendant, Marc I. Rothstein, with "Plaintiff's First Set of Interrogatories."
2. On October 9, 2001, Defendant requested an additional thirty (30) days within which to answer Plaintiff's Interrogatories by way of his former attorney, Jaye M. Schlachet.

2.1. Defendant was therefore required to answer Plaintiff's First Set of Interrogatories no later than Thursday, November 8, 2001 in accordance with Pa.R.C.P. 4006 as amended by the Parties' October 9, 2001 agreement.

3. Defendant thereafter failed to answer Plaintiff's First Set of Interrogatories in violation of Rules 4002 and 4006 of the Pennsylvania Rules of Civil Procedure.

Pertinent Procedural History

4. On or about January 10, 2002, Plaintiff filed a Motion to compel Defendant's answers to Plaintiff's First Set of Interrogatories.

5. On January 24, 2002, this Honorable Court granted Plaintiff's Motion by way of the following discovery Order:

AND NOW, this **24th** Day of **January**, 2002, upon consideration of "Motion of Plaintiff, Joseph M. Nebroskie d/b/a Nebroskie Trucking, to Compel Defendant to Answer Plaintiff's First Set of Interrogatories", and all responses thereto, it is hereby ORDERED and DECREED that:

1. Plaintiff's Motion is GRANTED;

2. Defendant is hereby COMPELLED to serve appropriate Answers to Plaintiff's First Set of Interrogatories within ten (10) days of the entry of this Order; and

3. Plaintiff is awarded the amount of \$ 300.00 representing the reasonable cost of attorneys fees incurred to prepare, file and serve the instant Motion which shall be deducted by the Law Firm of John S. Kokonos & Associates from any future invoices for legal services which it has rendered in this matter in behalf of Plaintiff, Joseph M. Nebroskie d/b/a Nebroskie Trucking.

BY THE COURT:

/s/ John K. Reilly, Jr.
President Judge

(Exhibit "A").

6. On August 8, 2002, the undersigned forwarded a copy of the Court's January 24, 2002 Order to Richard Mills, Esquire¹. (Exhibit "B").

7. On August 9, 2002, the undersigned forwarded a copy of Plaintiff's First Set of Interrogatories which are the subject of the Court's January 24, 2002 Order to Mr. Mills in response to Mr. Mills's request for the same. (Exhibit "C").

**Defendant's Continuing Violation and Contempt
of the Court's January 24, 2002 Order**

8. Defendant has failed to answer Plaintiff's First Set of Interrogatories, in whole or in part, as of the date of the filing of this Motion in violation and contempt of the Court's January 24, 2002 Order.

9. Defendant has failed to pay the amount of Three Hundred (\$300.00) Dollars, or any portion thereof, to Plaintiff as of the date of the filing of this Motion in violation and contempt of the Court's January 24, 2002 Order.

Motion for Additional Sanctions

10. This Court should impose the following additional sanctions against Defendant respectively prescribed in Rules 4019(c)(1)-(5) and (g)(1) of the Pennsylvania Rules of Civil Procedure on the basis of Defendant's continuing violation and

¹ Mr. Mills entered his appearance of record on behalf of Defendant, Marc I. Rothstein on or about April 26, 2002.

contempt of the Court's January 24, 2002 Order:

Judgment by Default

10.1. Enter judgment by default in Plaintiff's favor and against Defendant as prescribed in Pa.R.Civ.P. No. 4019(c)(3);

10.2. Direct the Parties to appear before this Court for a hearing to assess damages in Plaintiff's favor and against Defendant; and

10.3. Additionally award Plaintiff reasonable expenses, including attorney's fees, to obtain an order for compliance and sanctions by/against Defendant as prescribed in Pa.R.Civ.P. No. 4019(g)(1).

Alternative Discovery Sanctions

10.4. In the alternative, this Court should impose the following sanctions against Defendant prescribed in Rule 4019(c):

10.4.1. Direct that all matters of inquiry in Plaintiff's First Set of Interrogatories are conclusively established for the purposes of this action in accordance with Plaintiff's claims as prescribed in Pa.R.Civ.P. No. 4019(c)(1);

10.4.2. Prohibit Defendant from opposing Plaintiff's claims and supporting any defenses heretofore asserted in this action as prescribed in Pa.R.Civ.P. No. 4019(c)(2);

10.4.3. Impose all additional sanctions against Defendant as this Honorable Court shall deem necessary and appropriate to cure Defendant's continuing violation and contempt

of the Court's January 24, 2002 Order as prescribed in
Pa.R.Civ.P. No. 4019(c)(4);

10.4.4. Award such additional and further relief
in Plaintiff's favor as this Court deems just as prescribed in
Pa.R.Civ.P. No. 4019(c)(5); and

10.4.5. Award Plaintiff reasonable expenses,
including attorney's fees, to obtain an order for compliance and
sanctions by/against Defendant by way of the instant Motion as
prescribed in Pa.R.Civ.P. No. 4019(g)(1).

WHEREFORE, Plaintiff, Joseph M. Nebroskie d/b/a Nebroskie
Trucking respectfully Moves this Honorable Court for an Order
imposing additional sanctions against Defendant, Marc I.
Rothstein, as prescribed in Rule 4019(c)(1)-(5) and (g)(1) on the
basis of Defendant's continuing violation and contempt of the
Court's January 24, 2002 Order.

Respectfully submitted,

JOHN S. KOKONOS & ASSOCIATES

By: 

SPEEROS JOHN KOKONOS
One Veterans Square, Suite 201
Media, PA 19063
(215) 922-4455

Attorney for Plaintiff,
Joseph Nebroskie

Date: October 2, 2002

John S. Kokonos & Associates
BY: Speros John Kokonos, Esquire
One Veterans square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

Attorney for Plaintiff,
Joseph M. Nebroskie d/b/a
Nebroskie Trucking

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

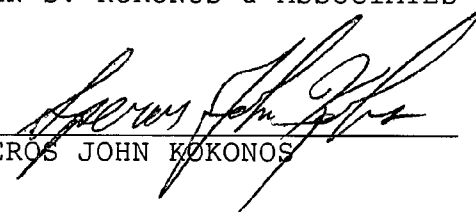
JOSEPH M. NEBROSKIE D/B/A	:	
NEBROSKIE TRUCKING	:	
	:	
Plaintiff,	:	Civil Action - Law
	:	
v.	:	No. 00-1501-CD
	:	
MARC I. ROTHSTEIN	:	
	:	
Defendant.	:	

VERIFICATION

I, Speros John Kokonos, am the attorney for Plaintiff, Joseph Nebroskie D/B/A/ Nebroskie Trucking, in the within action and in such capacity am duly authorized to make this Verification. I hereby verify that the facts set forth herein are true and correct to the best of my knowledge, information and belief and that I make this statement subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

JOHN S. KOKONOS & ASSOCIATES

By:


SPEROS JOHN KOKONOS

Date: October 2, 2002

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A	:	
NEBROSKIE TRUCKING	:	
	:	
Plaintiff,	:	Civil Action - Law
	:	
v.	:	No. 00-1501-CD
	:	
MARC I. ROTHSTEIN	:	
	:	
Defendant.	:	

CERTIFICATE OF SERVICE

I, Speros John Kokonos, Esquire, hereby certify that on Wednesday, October 2, 2002, I caused a true and correct copy of "Plaintiff's motion for additional sanctions against Defendant for failure to make discovery in violation and contempt of the Court's January 24, 2002 Discovery Order" to be served upon Richard J. Mills, attorney for Defendant, Marc I. Rothstein, at the Law Offices of Mills & Henry, 200 Benedum Trees Building, 223 Fourth Avenue, Pittsburgh, Pennsylvania 15222, by First Class Mail, postage prepaid.

JOHN S. KOKONOS & ASSOCIATES

By:


SPEROS JOHN KOKONOS

Date: October 2, 2002

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING

Plaintiff,

v.

MARC I. ROTHSTEIN

Defendant.

:

:

:

:

:

Civil Action - Law

No. 00-1501-CD

ORDER

AND NOW, this 24 Day of Jan, 2002, upon
consideration of "Motion of Plaintiff, Joseph M. Nebroskie d/b/a
Nebroskie Trucking, to Compel Defendant to Answer Plaintiff's
First Set of Interrogatories", and all responses thereto, it is
hereby ORDERED and DECREED that:

1. Plaintiff's Motion is GRANTED;

2. Defendant is hereby COMPELLED to serve appropriate
Answers to Plaintiff's First Set of Interrogatories within ten
(10) days of the entry of this Order; and

3. Plaintiff is awarded the amount of \$ 300.00
representing the reasonable cost of attorneys fees incurred to
prepare, file and serve the instant Motion which shall be
deducted by the Law Firm of John S. Kokonos & Associates from any
future invoices for legal services which it has rendered in this
matter in behalf of Plaintiff, Joseph M. Nebroskie d/b/a
Nebroskie Trucking.

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

BY THE COURT:

/s/ JOHN K. REILLY, JR.

President Judge

JAN 24 2002

Attest

William L. Khan
Prothonotary

EXHIBIT "B"

LAW OFFICES

JOHN S. KOKONOS & ASSOCIATES

ATTORNEYS AT LAW

PHILADELPHIA AND EASTERN PENNSYLVANIA OFFICE

ONE VETERANS SQUARE, SUITE 201

MEDIA, PA 19063

JOHN S. KOKONOS
SPEROS JOHN KOKONOS
Of Counsel
FREDERIC L. CONTI
WENDELL H. LIVINGSTON

TEL: (215) 922-4455

FAX: (610) 789-0812

NEW JERSEY OFFICE
SUITE 299
3000 ATRIUM WAY
MT. LAUREL, N.J. 08054
(856) 727-3546

ADMITTED TO PRACTICE
IN NEW JERSEY

January 29, 2001

Richard J. Mills, Esquire
Mills & Henry
200 Benedum Trees Building
223 Fourth Avenue
Pittsburgh, PA 15222

Re: Nebroskie v. Rothstein;
In The Court of Common Pleas, Clearfield County,
Civil Action No. 00-1501-CD;
Our File No. P-1210

Dear Mr. Mills:

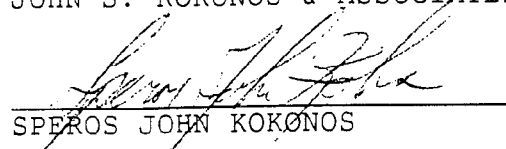
On January 24, 2002 the Court entered an Order compelling your client to serve appropriate answers to Plaintiff's Interrogatories within ten (10) days a copy of which is enclosed. The Court further awarded Plaintiff the amount of \$300.00 for reasonable attorneys fees incurred to prepare, file and serve Plaintiff's discovery motion.

I have neither received your client's answers to Plaintiff's Interrogatories nor a check in the amount of \$300.00 as of the date of this correspondence. I respectfully request your client's immediate compliance with the Court's Order to avoid the necessity of further application to the Court.

Thank you for your attention to this matter.

Very truly yours,
JOHN S. KOKONOS & ASSOCIATES

By:


SPEROS JOHN KOKONOS

SJK/s
enclosure

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING

Plaintiff,

v.

MARC I. ROTHSTEIN

Defendant.

Civil Action - Law

No. 00-1501-CD

ORDER

AND NOW, this 24 Day of Jan, 2002, upon consideration of "Motion of Plaintiff, Joseph M. Nebroskie d/b/a Nebroskie Trucking, to Compel Defendant to Answer Plaintiff's First Set of Interrogatories", and all responses thereto, it is hereby ORDERED and DECREED that:

1. Plaintiff's Motion is GRANTED;
2. Defendant is hereby COMPELLED to serve appropriate Answers to Plaintiff's First Set of Interrogatories within ten (10) days of the entry of this Order; and
3. Plaintiff is awarded the amount of \$ 300.00 representing the reasonable cost of attorneys fees incurred to prepare, file and serve the instant Motion which shall be deducted by the Law Firm of John S. Kokonos & Associates from any future invoices for legal services which it has rendered in this matter in behalf of Plaintiff, Joseph M. Nebroskie d/b/a Nebroskie Trucking.

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

JAN 24 2002

Attest

William K. Reilly, Jr.
Prothonotary

BY THE COURT:

/s/ JOHN K. REILLY, JR.

President Judge

EXHIBIT "C"

LAW OFFICES

JOHN S. KOKONOS & ASSOCIATES

ATTORNEYS AT LAW

PHILADELPHIA AND EASTERN PENNSYLVANIA OFFICE

ONE VETERANS SQUARE, SUITE 201

MEDIA, PA 19063

JOHN S. KOKONOS
SPEROS JOHN KOKONOS
Of Counsel
FREDERIC L. CONTI
WENDELL H. LIVINGSTON

TEL: (215) 922-4455

FAX: (610) 789-0812

NEW JERSEY OFFICE
SUITE 299
3000 ATRIUM WAY
MT. LAUREL, N.J. 08054
(856) 727-3546

ADMITTED TO PRACTICE
IN NEW JERSEY

August 9, 2002

Richard J. Mills, Esquire
Mills & Henry
200 Benedum Trees Building
223 Fourth Avenue
Pittsburgh, PA 15222

Re: Nebroskie v. Rothstein;
In The Court of Common Pleas, Clearfield County,
Civil Action No. 00-1501-CD;
Our File No. P-1210

Dear Mr. Mills:

As per your request, enclosed please find a complete copy of Plaintiff's First Set of Interrogatories propounded upon Defendant, Marc I. Rothstein. Thank you for your attention to this matter.

Very truly yours,

JOHN S. KOKONOS & ASSOCIATES

SJK/s
enclosure

By:


SPEROS JOHN KOKONOS

CP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING
284 High Road
Pottsville, PA 17901

Plaintiff,

v.

MARC I. ROTHSTEIN
396 Howe Road
Cuyahoga Falls, Ohio 44221

Defendant.

CIVIL ACTION - LAW

No. 00-1501-^{CD}~~00~~

**DEFENDANT'S PETITION TO
OPEN JUDGMENT AND FOR
RECONSIDERATION**

Filed on behalf of Defendant,
Marc I. Rothstein

Counsel of Record for this Party:

RICHARD J. MILLS, ESQUIRE
Pa. I.D. #11016

MILLS & HENRY
200 Benedum Trees Building
223 Fourth Avenue
Pittsburgh, PA 15222

(412) 471-2442

JURY TRIAL DEMANDED

FILED

OCT 21 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A	:	
NEBROSKIE TRUCKING	:	
284 High Road	:	Civil Action - Law
Pottsville, Pennsylvania 17901	:	
	:	
Plaintiff,	:	
	:	No. 00-1501-00
v.	:	
MARC I. ROTHSTEIN	:	
396 Howe Road	:	
Cuyahoga Fall, Ohio 44221	:	
	:	
Defendant.	:	

**DEFENDANT'S PETITION TO OPEN JUDGMENT AND FOR
RECONSIDERATION**

AND NOW, COMES the Defendant Marc I. Rothstein, through his attorneys,
Mills & Henry, and Petitions this Honorable Court to Open Judgment and for
Reconsideration as follows:

1. By letter dated October 2, 2002, Counsel for Plaintiff forwarded to Counsel for Defendant a Motion for Additional Sanctions. A copy of this letter is attached hereto as Exhibit "A". Counsel for Defendant did not receive the Motion until October 7, 2002.
2. Counsel for Defendant began preparing a reply to this Motion in a prompt manner.
3. On October 10, 2002, the Honorable John K. Reilly Jr. entered an Order granting Plaintiff's Motion. This Order was received by Defendant's Counsel on October 16, 2002.
4. While Defendant's counsel had in fact prepared a draft response to Plaintiff's Motion for Sanctions, it had not been completed nor filed with the court

because of the short duration from its receipt, and Counsel's belief that this Honorable Court would schedule argument on this Motion given the nature of the relief requested by Plaintiff.

5. The sole reason that no response was filed on behalf of Defendants was Defendant's counsel's failure to know the requirements of Clearfield County Local Rules.

6. Contemporaneously with the filing of this Motion for Reconsideration and/or to Open Judgment, counsel for Plaintiffs has filed his Reply to Plaintiff's Motion for Additional Sanctions.

7. As set forth in the Reply filed on behalf of Defendants, Defendant's Counsel was unaware of the existence of the Interrogatories or prior Order of this Honorable Court given that they were entered during a period of time that the Defendant was pro se. As stated therein, Counsel for Defendant has been negotiating with Plaintiff's Counsel towards the settlement of the case since his representation began, and has been endeavoring to answer Plaintiff's extremely complex interrogatories since they were received in August 2002.

8. This Petition has been timely filed.

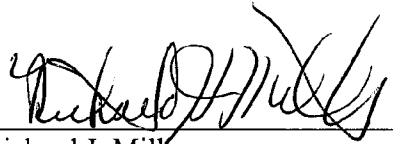
9. Defendant has a meritorious defense to Plaintiff's claims.

10. Courts have permitted the opening of a judgment where "errors of counsel which indicate an oversight rather than a deliberate decision not to defend, have been held to constitute sufficient legal justification to open a default judgment." Johnson v. Yellow Cab Company, 226 Pa. 27, 307 A.2d 423, 424 (1973), cited with approval by the Supreme Court of Pennsylvania in Commonwealth Department of Transportation v.

Nemeth, 497 Pa. 580, 442 A.2d, 689, 691 (1982). See also, Stephens v. Bartholomew, 422 Pa. 311, 220 A.2d 617, 618 (1966), while the opinion stated “it seems a shame to impose a large liability upon the defendant because of the inexcusable neglect of his attorney, especially when plaintiff will not be prejudiced if he has a meritorious claim” and the court upheld the opening of default judgment for that reason.

WHEREFORE, Defendant Marc I. Rothstein respectfully requests this Honorable Court to open the judgment entered by Order of Court dated October 10, 2002 and to reconsider the motion for sanctions in light of the reply filed contemporaneously with this Petition.

MILLS & HENRY

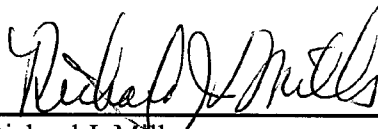
By: 
Richard J. Mills
Counsel for Defendant
Marc I. Rothstein

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within
DEFENDANT'S DEFENDANT'S PETITION TO OPEN JUDGMENT AND FOR
RECONSIDERATION has been served upon counsel of record, by U. S. mail, postage
prepaid, this 18 day of October, 2002, at the following address:

Speros John Kokonos, Esquire
John S. Kokonos & Associates
One Veterans Square, Suite 201
Media, Pa 19063
(Counsel for Plaintiff)

MILLS & HENRY

By: 
Richard J. Mills
Counsel for Defendant
Marc I. Rothstein

FILED

ICC
Amy Mills

m10:39 AM
OCT 21 2002

William A. Shaw
Prothonotary

[Signature]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING
284 High Road
Pottsville, PA 17901

Plaintiff,

v.

MARC I. ROTHSTEIN
396 Howe Road
Cuyahoga Falls, Ohio 44221

Defendant.

CIVIL ACTION - LAW

No. 00-1501-^{C2}~~00~~

**DEFENDANT'S REPLY TO
PLAINTIFF'S MOTION FOR
ADDITONAL SANCTIONS
AGAINST DEFENDANT**

Filed on behalf of Defendant,
Marc I. Rothstein

Counsel of Record for this Party:

RICHARD J. MILLS, ESQUIRE
Pa. I.D. #11016

MILLS & HENRY
200 Benedum Trees Building
223 Fourth Avenue
Pittsburgh, PA 15222

(412) 471-2442

JURY TRIAL DEMANDED

FILED

OCT 21 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A	:	
NEBROSKIE TRUCKING	:	
284 High Road	:	Civil Action - Law
Pottsville, Pennsylvania 17901	:	
	:	
Plaintiff,	:	
	:	No. 00-1501-00
v.	:	
MARC I. ROTHSTEIN	:	
396 Howe Road	:	
Cuyahoga Fall, Ohio 44221	:	
	:	
Defendant.	:	

**DEFENDANT'S REPLY TO PLAINTIFF'S MOTION FOR ADDITIONAL
SANCTIONS AGAINST DEFENDANT**

AND NOW, COMES the Defendant Marc I. Rothstein, through his attorneys,
Mills & Henry, and Replies to Plaintiff's Motion for Additional Sanctions Against
Defendant for failure to make discovery in violation and contempt of the Court's January
24, 2002 Discovery Order as follows:

1. The present action arises from a two vehicle side swipe accident that
occurred on August 19, 1999 on Interstate 80 in Clearfield County, Pennsylvania. On or
about December 1, 2000, Plaintiff, Joseph M. Nebroskie commenced suit in this
Honorable Court for property damage which allegedly occurred at the time of the
accident. Plaintiff's Complaint is comprised of two counts, both asserting claims of
negligence against Defendant Marc I. Rothstein in the operation of his vehicle at the time
of the accident. The only claim asserted by Plaintiff is for alleged property damage to his
vehicle.

2. Plaintiff served the Complaint of Defendant Marc I. Rothstein in Ohio, his state of residence. Sometime after the commencement of this lawsuit, Defendant Marc I. Rothstein filed an Answer to Plaintiff's Complaint Pro Se.

3. At sometime after Plaintiff's commencement of suit, Defendant Marc I. Rothstein consulted with an attorney in his home state of Ohio by the name of J. M. Schlachet.

4. At no point did Attorney Schlachet ever enter his appearance in the present lawsuit on behalf of Defendant Marc I. Rothstein. It is the further belief of Defendant's current counsel that Attorney Schlachet is not admitted to practice in the Commonwealth of Pennsylvania, nor is he familiar with the Pennsylvania Rules of Civil Procedure.

5. Plaintiff's Counsel asserts, and Defendant's Counsel does not deny, that Plaintiff served Interrogatories on Defendant Marc I. Rothstein on or about August 29, 2001. Although this is a simple two vehicle side-swipe accident, the Interrogatories that Plaintiff served on Defendant Rothstein consist of 57 interrogatories with 167 subparts.

6. Upon Motion of Plaintiff, On or about January 24, 2002, this Honorable Court entered an Order requiring Defendant Marc I. Rothstein to provide Answers to Plaintiff's Interrogatories.

7. In March 2002, Plaintiff's attorney contacted the owner of the vehicle operated by Marc I. Rothstein at the time of the accident, Penske Truck Leasing Co., L.P., and informed them of the pendency of this action before this Honorable Court.

8. On March 19, 2002, Penske Truck Leasing Co., L.P. promptly retained Mills & Henry to represent Marc I. Rothstein in this present action. Defendant's counsel was provided with copies of the Complaint and Answer, however, at no time was either Penske Truck Leasing Co. or Mills & Henry informed by Defendant, Attorney Schlachet, or Plaintiff's counsel of the outstanding Interrogatories as served upon Defendant, or of

the previous Order of this Honorable Court compelling such Answers to said Interrogatories.

9. From March 2002 to the present, Defendant's counsel has been negotiating with Plaintiff's counsel in good faith for the settlement of this case.

10. Despite the ongoing nature of these negotiations, the existence of the interrogatories was never mentioned by Plaintiff's Counsel to Counsel for Defendant. In fact, it was not until August 9, 2002 that Defendant's counsel learned of these Interrogatories, or of the previous Order of this Honorable Court.

11. Since service of these Interrogatories, Defendant's counsel has been endeavoring to answer same. Unfortunately, given difficulty in communicating with the Defendant, it has been difficult for Defendant's counsel to provide said answers.

12. Defendant's efforts to Answer Interrogatories have been further compounded by the unnecessary and onerous complexity of these Interrogatories. In a simple "red car - blue car" side swipe collision, in which the only damages being asserted are a property damage claim on behalf of the Plaintiff, Plaintiff has served 57 Interrogatories with 167 sub-parts which request the Defendant to produce long accounts of his health, work and employment histories, as well as very detailed accounts of the accident.


13. The Superior Court has set forth five important factors for courts to consider when determining an appropriate sanction: (1) the nature and severity of the discovery violation; (2) the defaulting party's willfulness or bad faith; (3) prejudice to the opposing party; (4) the ability to cure the prejudice; and (5) the importance of the precluded evidence in light of the failure to comply. Luszczynski v. Bradley, 729 A.2d 83, 87 (1999).

14. Given the fact that at the time the Interrogatories were first served on a pro se defendant, who did not realize the necessity to provide them to his attorney, and given that Defendant's Counsel was not provided with copies of these extremely complex

Interrogatories until August 2002, it is clear that Defendant has not ignored the Order of this Honorable Court, that the failure to reply is not willful or in bad faith. Furthermore, Plaintiff has not suffered any prejudice to date. On these facts sanctions are not warranted at this time.

WHEREFORE, Defendant Marc I. Rothstein respectfully requests this Honorable Court to deny Plaintiffs motion for sanctions.

MILLS & HENRY

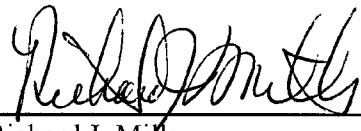
By: 
Richard J. Mills
Counsel for Defendant
Marc I. Rothstein

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within
DEFENDANT'S REPLY TO PLAINTIFF'S MOTION FOR ADDITIONAL
SANCTIONS AGAINST DEFENDANT has been served upon counsel of record, by U.
S. mail, postage prepaid, this 18 day of October, 2002, at the following
address:

Speros John Kokonos, Esquire
John S. Kokonos & Associates
One Veterans Square, Suite 201
Media, Pa 19063
(Counsel for Plaintiff)

MILLS & HENRY

By: 
Richard J. Mills
Counsel for Defendant
Marc I. Rothstein

FILED
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OCT 21 2002
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477A

William A. Shaw
Prothonotary

John S. Kokonos & Associates
BY: Speros John Kokonos, Esquire
One Veterans Square, Suite 201
Media, PA 19063
(215) 922-4455
Attorney I.D. No. 73384

Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A :
NEBROSKIE TRUCKING :
 :
Plaintiff, : Civil Action - Law
 :
v. : No. 00-1501-CD
 :
MARC I. ROTHSTEIN :
 :

Defendant.

SATISFACTION OF JUDGMENT


TO THE PROTHONOTARY:

Kindly mark the judgment in the above matter satisfied upon
payment of your costs.

Respectfully submitted,

JOHN S. KOKONOS & ASSOCIATES

By:


SPEROS JOHN KOKONOS

Date: December 27, 2002

FILED

JAN 06 2003

William A. Shaw
Prothonotary

CERTIFICATE OF SERVICE

I, Speros John Kokonos, Attorney for Plaintiff, Joseph Nebroskie d/b/a Nebroskie Trucking certify that on Friday, December 27, 2002, I caused a true and correct copy of the attached "Satisfaction of Judgment" to be served upon Richard J. Mills, Attorney for Defendant, Marc I. Rothstein, at the Law Offices of Mills & Henry, 200 Benedum Trees Building, 223 Fourth Avenue, Pittsburgh, Pennsylvania 15222 by First Class Mail, Postage Pre-paid.

JOHN S. KOKONOS & ASSOCIATES

By:


SPEROS JOHN KOKONOS

Date: December 27, 2002

FILED

acc

JAN 12:54 PM
JAN 06 2003

Atty Kokonos

Atty pd. 7.00

SPD
Atty William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

JOSEPH M. NEBROSKIE D/B/A
NEBROSKIE TRUCKING
284 High Road
Pottsville, Pennsylvania 17901

Plaintiff,

v.

MARC I. ROTHSTEIN
396 Howe Road
Cuyahoga Fall, Ohio 44221

Defendant.

:
:
:
:
:
:
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:
:
:

Civil Action - Law

No. 00-1501-00

PRAECIPE TO SETTLE AND DISCONTINUE

TO: WILLIAM A. SHAW , PROTHONOTARY

Kindly mark the above-captioned matter SETTLED AND
DISCONTINUED, with prejudice.

By: _____

Speros J. Kokonos
Counsel for Plaintiff
Joseph M. Nebroskie

FILED

JUL 28 2003

William A. Shaw
Prothonotary

FILED

on 11:02 AM

JUL 28 2003

200 v. Cantor & Alleg
Q. Deputy to CR
RJA

William A. Shaw
Prothonotary

2

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

CIVIL DIVISION

**Joseph M Nebroskie
Nebroskie Trucking**

**Vs.
Marc I Rothstein**

No. 2000-01501-CD

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 July 28, 2003, marked:

Settled, Discontinued and Ended, with prejudice.

Record costs in the sum of \$87.00 have been paid in full by Attorney.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 28th day of July A.D. 2003.

William A. Shaw, Prothonotary