

01-1903-CD
SUPER 322 DRIVE-IN THEATRE, INC. -vs- SWIFT TRANSPORTATION, INC.
etal

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

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

PLAINTIFF,

v.

SWIFT TRANSPORTATION, INC., a
properly doing business in Pennsylvania, and
ABBAS ALRAMAHI, an adult individual,

DEFENDANTS.

No. 01- 1903 -CD

Type of Pleading:

CIVIL COMPLAINT

Filed By:

Plaintiff

Counsel of Record:

Theron G. Noble, Esquire
Ferraracio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

FILED

NOV-20 2001

William A. Shaw
Prothonotary

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

PLAINTIFF,

v.

SWIFT TRANSPORTATION, Inc., a corporation
properly doing business in Pennsylvania, and
ABBAS ALRAMAHI, an adult individual,

DEFENDANTS.

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIM 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 CLAIM IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF(S). YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

David Meholick, Court Administrator
c/o Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
(814)-765-2641

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

V.

DEFENDANTS.

No. 01-_____-CD

NOW COMES, the Plaintiff, Super 322 Drive-In Theatre, Inc., by and through its counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of its CIVIL COMPLAINT:

1. Plaintiff is Super 322 Drive-In Theatre, Inc., a duly formed and existing Pennsylvania Corporation with mailing address of RD #1, Box 236 Frenchville, Clearfield County, Pennsylvania 16836 and principal place of business located at along 322 West, Bradford Township, Clearfield County Pennsylvania.

2. That first defendant is Swift Transportation, Inc., upon information and belief, a duly formed and existing corporation, doing business in Pennsylvania with principal office located at 2200 S. 75th Avenue, Phoenix, Arizona 85043.

3. That second defendant is Abbas Alramahi, upon information and belief, an adult individual, with 324 Stone Arch Drive, Independence, Missouri 64052, unknown address, but who is believed to have a business address with defendant Swift Transportation.

Background

4. Plaintiff is the owner and operator of a drive-in movie theatre located in Bradford Township, Clearfield County, Pennsylvania, directly off of State Route 322.
5. As part of this business, Plaintiff did own, operate and maintain a structure best described as a "marquee" upon which advertisements were illuminated and displayed showing the movies which were playing and the times at which they could be seen.
6. This marquee was located in easterly front side of the Plaintiff's land.
7. That on or about June 22, 2001, at approximately 11:30 P.M., a vehicle, best described as a "tractor and trailer" with markings indicating it was owned by defendant Swift Transportation, Inc., was seen to exit from its easterly travel on State Route 322 and enter onto Plaintiff's property.
8. That defendants' vehicle, while attempting to turn around, and upon information and belief, re-enter onto State Route 322 in a westerly direction, did strike Plaintiff's marquee causing the marquee to move from its foundation and lean, the damage is more fully defined in the estimate of repairs attached hereto as Exhibit "A", which will require Twenty-Two Thousand Seven Hundred Two Dollars and Ten Cents to repair, to be more fully determined at time of trial.
9. That in addition, Plaintiff's primary source of advertising was destroyed and lost for the remainder of the season, and might be lost for next season, causing a loss of business revenue in an amount to be determined at time of trial.
10. That after defendant Swift Transportation's vehicle did strike and cause damage to the marquee, the driver did not stop and identify himself but continued to re-enter upon State Route 322 in a westerly direction.
11. That upon information and belief, defendant Abbas Alramahi was the driver of defendant Swift Transportation's vehicle at the aforementioned time.
12. That upon information and belief, defendant Abbas Alramahi was an employee and/or agent of defendant Swift Transportation and was acting in the course of such employment or agency relationship at the subject time.
13. That defendants are jointly and severally liable for the forementioned damages.

Count I: Negligence

14. The averments of paragraphs 1 - 13, inclusive, are hereby incorporated as if again fully set forth at length.

15. That defendant Abbas Alramahi was negligent in that he:

(a) did not pay attention to his surroundings while turning the vehicle around;

(b) did not maintain proper observation of his circumstances such that he did strike the marquee; and

(c) did not use proper judgment in attempting to the vehicle around in an area occupied by the marquee.

16. That defendant Swift Transportation was negligent in that that are liable for the acts of their employee and or agent defendant Abbas Alramahi.

17. That the negligence of defendants was a direct and proximate cause of the aforementioned injuries suffered by Plaintiff.

WHEREFORE, Plaintiff requests judgment in its favor and against defendants, jointly and severally, in an amount in excess of Twenty Thousand Dollars, together with costs of suit.

Count II: Trespass

18. That the averments of paragraphs 1 - 17, inclusive, are hereby incorporated as if again fully set forth at length.

19. That defendants were not authorized to enter upon the lands of Plaintiff for the purpose of turning around.

20. That the area in which defendant Abbas Alramahi attempted to turn around was a grass field and not in any manner designed nor designated for vehicular traffic.

21. That defendants did trespass upon the lands of Plaintiff.

22. That Plaintiff did suffer the aforementioned damages as a result of defendants trespass.

23. That defendants should also pay punitive damages, in an amount to be determined, for the trespass.

24. That defendants should also pay Plaintiff's reasonable attorney fees, in an amount to be determined, because of their trespass.

WHEREFORE, Plaintiff requests judgment in its favor and against Defendants, jointly and severally, in an amount in excess of Twenty Thousand Dollars, together with attorney's fees, punitive damages and costs of suit.

Count III: Hit and Run

25. That the averments of paragraphs 1 - 24, inclusive, are hereby incorporated as if again fully set forth at length.

26. That defendants were obligated to identify themselves when they caused damage to Plaintiff's marquee with their vehicle.

27. That defendants failed to stop and identify themselves after so causing the aforementioned damages.

28. That as a result of defendants' failure to identify themselves, Plaintiff had to incur expense in determining who caused the damages which included travel to the Wall Mart Distribution Center as well as numerous phone calls to Defendant Swift Transportation and the Pennsylvania State Police all in an amount to be determined at time of trial.

29. That defendants should also pay punitive damages, in an amount to be determined, for this "hit and run".

30. That defendants should also pay for Plaintiff's reasonable attorney's fees, in an amount to be determined at time of trial.

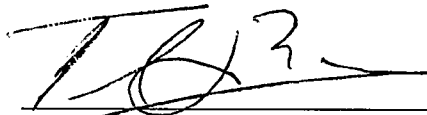
WHEREFORE, Plaintiff requests judgment in its favor and against defendants, jointly and severally, in an amount in excess of Twenty Thousand Dollars, together with punitive damages, attorney's fees and costs of suit.

Miscellaneous

31. That jurisdiction is appropriate.

32. That venue is appropriate.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'T. G. Noble', written over a horizontal line.

Theron G. Noble, Esquire
Attorney for Plaintiff

RHINE CONSTRUCTION

John C. Rhine
P.O. 1, Box 434-R
Curwensville, PA 16833
(814) 236-3639

PROPOSAL AND ACCEPTANCE

ATTN.
Arland Sandvik

PROPOSAL SUBMITTED TO <u>Bill Frankhouser</u>	PHONE	DATE <u>8/10/01</u>
STREET <u>322 Drive Inn.</u>	JOB NAME <u>322 Drive Inn</u>	
CITY, STATE AND ZIP CODE <u>Frenchville Pa. 16836</u>	JOB LOCATION <u>RT 322</u>	
ARCHITECT	DATE OF PLANS	JOB PHONE

We hereby submit specifications and estimates for:

- Rebuilding the Marquee at the 322 Drive Inn.
1. Removal of the old marquee and haul debris to the landfill, pour new footings, lay 8" block, pour new 4" floor and removal of landscaping trees and shrubs. To be done by Bowman masonry. \$5,400.00
 2. New electrical service (1st quote sent by Rhine Const. to Mr. Sandvik) \$1,582.10
 3. Wood construction includes: 2x6 rafters, 5/8" oak sheathing, Felt paper, Drip edge, shingles, Att. soffit & fascia, 1/2" plywood on the interior ceiling with access hatch, 2x6 stud wall on two sides behind the illuminated sign, prime & paint interior & exterior. 1- 3068 steel door & lockset, Treated 1x10 sill plates, vinyl siding on 2 gable ends. To be done by Rhine construction. \$10,680.00
 4. Reconnect main water line to the Drive Inn (meter), and install 4' Fluorescent lights behind the marquee sign, and rewired lights, receptacles & switches.
 5. New stainless wire racks & Fiberglass panels will be installed (purchased from Wagner SS Frame Co. and installed by Rhine Construction (sign cost \$3,400.00)
 6. Landscaping by Harriger's Landscape & Lawncare, to replace with the same landscaping. \$1,470.00
 7. Temporary sign Rental for 1 month \$170.00

We Propose hereby to furnish material and labor — complete in accordance with above specifications, for the sum of:

Twenty-two thousand Seven hundred - two 10/100 — dollars (\$22,702.10).

Payment to be made as follows:

1/2 Down before starting, 1/2 upon the Day of completion.

All material is guaranteed to be as specified. All work to be completed in a workman-like manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized
Signature

John C. Rhine

Note: This proposal may be withdrawn by us if not accepted within 30 days.

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date of Acceptance _____

Signature _____

PAOC-833-3
PRINTED IN U.S.A.

Exhibit "A"

RHINE CONSTRUCTION

John C. Rhine
R.D. 1, Box 434-R
Curwensville, PA 16833
(814) 246-3539

PROPOSAL AND ACCEPTANCE

ATTN:
Arland Sandvik

PROPOSAL SUBMITTED TO <u>Bill Frankhauser (322 Drive Inn)</u>		PHONE	DATE <u>8/2/01</u>
STREET		JOB NAME <u>322 Drive Inn</u>	
CITY, STATE AND ZIP CODE <u>Frenchville, PA. 16836</u>		JOB LOCATION <u>RT 322 Drive Inn</u>	
ARCHITECT	DATE OF PLANS	JOB PHONE	

We hereby submit specifications and estimates for:

Replace Electric Service damaged at the 322 Drive Inn

- | | |
|---|------------------------|
| 1. New Pole 30' | \$ 175.00 |
| 2. Drill hole for pole & set 3 hours | \$ 300.00 |
| 3. Install meter, Trailer style disconnect & weather tight panel labor | 96.00 |
| 4. Install 3" Sch 40 pipe w/ 2 sweeps to put 12-2 Elect. | |
| Supplies into new panel in a 2' Deep Ditch 1 hour back hoe | 55.00 |
| 5. 10' pipe 2 sweeps 2 terminal adaptors | 30.00 |
| 6. 250' 12/2 wire | 29.00 |
| 7. Labor for panel work | 288.00 |
| 8. Service Material, weather tight 100 Amp panel, meter cab, | |
| ground rods, weather tight cable adp, ground rod clamps, | |
| 30' 100 Amp. cable, 14 lbs amp cable straps & screws, 2' x 4' ply wood, | |
| 1 weather hood, 3/4 x 14" Eye bolt (washed), 12-20 amp GFI breakers, | |
| 2- 20 Amp Double pole breakers 1- 30 Amp Breaker | |
| 1- 100 Amp trailer disconnect | mat: 609.10 |
| | Lab & mat: \$ 1,582.10 |

We Propose hereby to furnish material and labor — complete in accordance with above specifications, for the sum of:

One thousand five hundred - eighty - two 10/100 — dollars (\$ 1,582.10)

Payment to be made as follows:

1/3 down to start, Remaining 2/3 due upon the day of completion.

All material is guaranteed to be as specified. All work to be completed in a workman-like manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon sickness, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized
Signature

John C. Rhine

Note: This proposal may be withdrawn by us if not accepted within 30 days.

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date of Acceptance _____

Signature _____

Attn: Arland Sandvik. 322 Drive Inn

Rhine Construction,

Arland,

Hear's the breakdown for material and labor for the 322 drive Inn.

1. Bowman Masonry;	
A. Tare down old marquee and haul it to the dump.	1,500.00
B. Block, sand, mortar (material)	495.00
C. Concrete floor, wire mat, expansion joint, 2 1/2 gravel	346.00
Labor	850.00
D. Form for pit in floor for plumbing and wire access.	135.00
E. Steel door and steel jamb, lockset, paint	455.00
Install (labor)	245.00
F. Remove tree and shrubs and haul away.	174.00


	5,400.00
2. Electrical Service 1 st . proposal sent:	1,582.10
3 Rhine construction:	
A. wood construction. 2x6 rafters, 5/8 osb on roof, felt, dripedge, shingles, aluminum soffit and fascia, 1/2 plywood on interior ceiling, 2x6 studded walls, primer, paint, treated sill plates, vinyl siding on gable ends, four foot flourescent lights, bulbs.	
(material)	3,690.00
Labor:	6,990.00

	10,680.00
4. Lanagers landscaping:	
A. Replace with equal value plants (material)	775.00
B. Labor:	695.00

	1,470.00
5. New stainless steel wire racks, fiberglass panels and letters.	
A. (labor to install, is included in Rhine const. Price.)	3,400.00
6. Temporary sign rental: (one month rental.)	170.00
7. Total estimated price:	-----
	22,702.10

Arland, if you need anything else, give me a call.

Thank you.
John C. Rhine
Rhine Construction
(814) 236- 3539


William Frankhouser, President, 322 Super Drive-In
Theatre, Inc., Plaintiff

FILED

NOV 20 2001

EX-130 of Gatty Noble

William A. Shaw
Prothonotary

per \$80.00

Secretary Noble

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

Plaintiff,

v.

SWIFT TRANSPORTATION, INC., a
corporation properly doing business in
Pennsylvania, and ABBAS ALRAMAHI,
an adult individual,

Defendants.

CIVIL DIVISION

G.D. No. 01-1903-CD

Issue No.

PRAECIPE FOR APPEARANCE

Code:

Filed on behalf of Defendants Swift
Transportation, Inc. and Abbas Alramahi

Counsel of record for this party:

John T. Pion, Esq.
Pa. I.D. #43675

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

(412) 281-7272

JURY TRIAL DEMANDED

FILED

DEC 17 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUPER 322 DRIVE-IN THEATRE, INC., a)	CIVIL DIVISION
Pennsylvania corporation,)	
)	
Plaintiff,)	
)	
v.)	G.D. No. 01-1903-CD
)	
SWIFT TRANSPORTATION, INC., a corporation)	
properly doing business in Pennsylvania, and)	
ABBAS ALRAMAHI, an adult individual,)	
)	
Defendants.)	

PRAECIPE FOR APPEARANCE


TO: PROTHONOTARY

KINDLY enter our appearance on behalf of the Defendants, SWIFT TRANSPORTATION, INC., a corporation properly doing business in Pennsylvania, and ABBAS ALRAMAHI, an adult individual, in the above-entitled action.

A JURY TRIAL IS DEMANDED.

DICKIE, McCAMEY & CHILCOTE

Dated: 12/13/01

By: 
John T. Pion, Esquire

Two PPG Place, Suite 400
Pittsburgh, PA 15222
(412) 392-5452

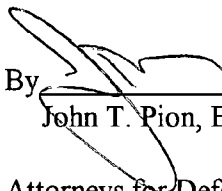
Attorneys for Defendants

CERTIFICATE OF SERVICE

I, John T. Pion, Esquire, hereby certify that true and correct copies of the foregoing **Praecipe for Appearance** have been served this 14th day of December, 2001, by *facsimile* and by U.S. first-class mail, postage prepaid, to counsel of record listed below:

Theron G. Noble, Esquire
FARRARACIO & NOBLE
301 East Pine Street
Clearfield, PA 16830
Attorneys for Plaintiff

DICKIE, McCAMEY & CHILCOTE, P.C.

By  _____
John T. Pion, Esquire

Attorneys for Defendants Swift Transportation,
Inc. and Abbas Alramahi

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 11783

SUPER 322 DRIVE-IN THEATRE, INC.

01-1903-CD

VS.

SWIFT TRANSPORTATION, INC. AI

COMPLAINT

SHERIFF RETURNS

NOW, NOVEMBER 21, 2001, MAILED THE WITHIN COMPLAINT TO SWIFT TRANSPORT INC., THE DEFENDANT, BY CERTIFIED MAIL #7000 0600 0022 9001 8225 TO 2200 S. 75TH AVE., PHOENIX, ARIZONA 85043, BEING THEIR LAST KNOWN ADDRESS. THE RETURN RECEIPT IS HERETO ATTACHED AND MADE A PART OF THIS RETURN ENDORSED BY AGENT FOR DEFENDANT.

NOW, NOVEMBER 26, 2001 SERVED THE WITHIN COMPLAINT ON ABBAS ALRAMAHL, DEFENDANT BY CERTIFIED MAIL # 7000 0600 0022 9001 8218 AT 324 STONE ARCH DRIVE, INDEPENDENCE, MISSOURI 64-52 BEING HIS LAST KNOWN ADDRESS. THE RETURN RECEIPT IS HERETO ATTACHED AND MADE A PART OF THIS RETURN ENDORSED BY DEFENDANT. LETTER WAS SENT MARKED "ADDRESSEE ONLY".

Return Costs

Cost	Description
39.54	SHERIFF HAWKINS, PAID BY : ATTY.
20.00	SURCHARGE, PAID BY : ATTY.

FILED

JAN 11 2002

01:42pm
William A. Shaw
Prothonotary

Sworn to Before Me This

16th Day Of January 2002

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,

Chester A. Hawkins
Chester A. Hawkins
Sheriff

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Fill in 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:

SWIFT TRANSPORT, INC.
2200 S. 75th Ave.
Phoenix, AZ. 85043

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)

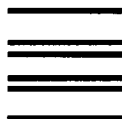
7000 0600 0022 9001 8225

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

UNITED STATES POSTAL SERVICE

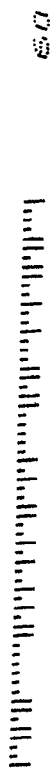


First-Class Mail[®]
Postage & Fees Paid
USPS
Permit No. 101

• Sender: Please print your name, address, and ZIP+4 in this box •

CHESTER A. HAWKINS
Sheriff of Clearfield County
1 N. 2nd St. Suite 116
Clearfield, Pa. 16830

1783



7000 0600 0022 9001 8225

POSTPAID MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:

Postage

\$

88

Certified Fee

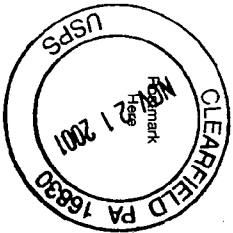
Return Receipt Fee
(Endorsement Required)

Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees

\$

7.60



Name (Please Print Clearly) (To Be Completed by Mailer)

SUITE TRANSPORT INC

Street, Apt. No. or PO Box

City, State, ZIP+4

2200 S. 75th Ave.
Phoenix AZ 85043

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

Important Reminders:

- Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- Certified Mail is not available for any class of international mail.
- NO INSURANCE, COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider insured or Registered Mail.
- For an additional fee, a Return Receipt may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.

- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT: Save this receipt and present it when making an inquiry.

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:

ABBAS ALRAMAHI
324 Stone Arch Drive
Independence, Missouri 64052

COMPLETE THIS SECTION ON DELIVERY

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

ABBAS ALRAMAHI 11/26/01

C. Signature ☐ Agent ☒ Addressee

D. Is delivery address different from item 1? ☐ Yes ☒ No

If YES, enter delivery address below:

3. Service Type

- ☒ Certified Mail ☐ Express Mail
- ☐ Registered ☐ Return Receipt for Merchandise
- ☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

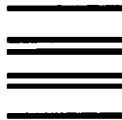
2. Article Number (Copy from service label)
7000 0600 0022 9001 8218

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

UNITED STATES POSTAL SERVICE

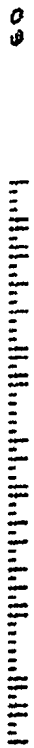


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

CHESTER A. HAWKINS
Sheriff of Clearfield County
1 N. 2nd St. Suite 116
Clearfield, Pa. 16830

11783

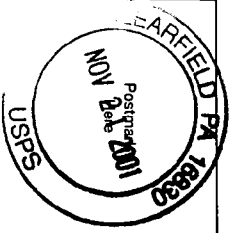


7000 0600 0022 9001 8218

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

Article Sent To:

Postage	\$ 7.60
Certified Fee	DDRE
Return Receipt Fee (Endorsement Required)	ONLY
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 7.60



Name (Please Print Clearly) (to be completed by mailer)
ABBAS ALRAMAHI
Street, Apt. No., or PO Box No.
324 Stone Arch Drive
City, State, Zip+4
Independence, Missouri 64052

Certified Mail Provides:

A mailing receipt

A unique identifier for your mailpiece

A signature upon delivery

A record of delivery kept by the Postal Service for two years

Important Reminders:

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■ For an additional fee, a **Return Receipt** may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.

■ For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".

■ If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT: Save this receipt and present it when making an inquiry.

PS Form 3800, July 1999 (Reverse)

102595-99-M-2087

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

Plaintiff,

v.

SWIFT TRANSPORTATION, INC., a
corporation properly doing business in
Pennsylvania, and ABBAS ALRAMAHI,
an adult individual,

Defendants.

CIVIL DIVISION

G.D. No. 01-1903-CD

Issue No.

**PRELIMINARY OBJECTIONS ON
BEHALF OF DEFENDANTS**

Code:

Filed on behalf of Defendants Swift
Transportation, Inc. and Abbas Alramahi

Counsel of record for this party:

John T. Pion, Esq.
Pa. I.D. #43675

Brant T. Miller, Esq.
Pa. I.D. #83297

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

(412) 281-7272

JURY TRIAL DEMANDED

FILED

JAN 09 2002

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William A. Shaw
Prothonotary

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUPER 322 DRIVE-IN THEATRE, INC., a CIVIL DIVISION
Pennsylvania corporation,

Plaintiff,

G.D. No. 01-1903-CD

Issue No.

v.

SWIFT TRANSPORTATION, INC., a
corporation properly doing business in
Pennsylvania, and ABBAS ALRAMAHI,
an adult individual,

Defendants.

PRELIMINARY OBJECTIONS ON BEHALF OF DEFENDANT

AND NOW, come the Defendants, by and through counsel, Dickie, McCamey & Chilcote, P.C., John T. Pion, Esquire, and Brant T. Miller, Esquire, and pursuant to Rule 1028 of the Pennsylvania Rules of Civil Procedure, hereby file the following Preliminary Objections in the Nature of Demurrers as follows:

I. INTRODUCTION

1. On November 20, 2001, Plaintiff Super 322 Drive-In Theatre, Inc. filed a Complaint with this court purportedly setting forth three causes of action against the Defendants in the form of negligence, trespass, and hit and run. (See Complaint, generally).

2. The Complaint alleges damage to a marquee allegedly as a result of a motor vehicle accident and damage to a grass lawn area. Plaintiffs allege the Defendants are responsible for the accident and the accompanying damages.

3. The Plaintiff's Complaint also sets forth a request for punitive damages as a result of the alleged trespass and alleged failure to stop at the scene of the accident after the accident occurred.

4. Finally, Plaintiff's Complaint also sets forth a request for attorney's fees.

II. PRELIMINARY OBJECTIONS

A. PLAINTIFFS HAVE FAILED TO STATE A CAUSE OF ACTION WHICH WOULD ALLOW FOR THE RECOVERY OF PUNITIVE DAMAGES BECAUSE POST-ACCIDENT BEHAVIOR CANNOT BE USED AS A BASIS FOR A REQUEST FOR PUNITIVE DAMAGES

5. Defendants incorporate the averments of paragraphs 1 through 4 above as if set forth at length.

6. Count III of the Plaintiff's Complaint is entitled "Hit and Run."

7. In paragraphs 25 through 29 of the Plaintiff's Complaint, Plaintiffs allege that the driver, Abbas Alramahi, caused the subject accident and failed to stop and identify himself following the accident.

8. In addition to asserting a claim for compensatory damages, Plaintiff also seeks recovery of punitive damages predicated solely upon evidence that Defendant's driver allegedly attempted to flee from the accident scene following the accident.

9. Significantly, pursuant to Pennsylvania law, post-accident conduct is not relevant, not admissible and cannot form the predicate for a punitive damages claim. See, *Burke v. Maassen*, 904 F.2d 178, 183 (3rd Cir. 1990).

10. In the current action, Plaintiffs evidence that Defendant Alramahi allegedly attempted to flee the scene of the accident relates exclusively to post accident events. At best, such evidence could be argued as an effort to conceal the accident.

11. Pursuant to *Burke, supra.*, the egregious conduct upon which punitive damages are based must be conduct that causes the injury, harm or damage to the Plaintiff.

12. Because there is no allegation of any such conduct prior to or at the time of the subject accident, no viable claim for punitive damages exists in this case and the request for punitive damages contained within Count III of Plaintiff's Complaint should be stricken.

B. PLAINTIFF FAILS TO SET FORTH A VIABLE CAUSE OF ACTION IN COUNT III BECAUSE "HIT AND RUN" IS NOT A CAUSE OF ACTION UNTO ITSELF, BUT RATHER, HAS ALREADY BEEN BROKEN DOWN INTO THE ELEMENTS OF NEGLIGENCE AND TRESPASS

13. Defendants incorporate the averments of paragraphs 1 through 12 above as if set forth at length.

14. Count III of Plaintiff's Complaint is entitled "Hit and Run."

15. Pennsylvania does not recognize a civil cause of action for an alleged "hit and run."

16. An alleged hit and run is more properly set forth in Counts I and II of Plaintiff's Complaint, entitled "Negligence" and "Trespass", respectively.

17. Therefore, Count III of Plaintiff's Complaint should be dismissed in its entirety.

C. PLAINTIFF HAS FAILED TO STATE A CAUSE OF ACTION SUFFICIENT TO SUSTAIN A CLAIM FOR PUNITIVE DAMAGES WITH RESPECT TO COUNT II OF PLAINTIFF'S COMPLAINT ENTITLED "TRESPASS".

18. Defendants incorporate the averments of paragraphs 1 through 17 above as if set forth at length.

19. Plaintiffs have not pled any malicious, outrageous or intentional conduct on the part of the Defendants, but only purport to plead a cause of action in ordinary negligence.

20. Simple or ordinary negligence, as alleged in the Plaintiff's Complaint, will not support a claim for punitive damages against the Defendant.

21. Thus, the request for punitive damages in Counts II and III of Plaintiff's Complaint should be stricken.

D. PLAINTIFF'S CLAIM FOR ATTORNEY'S FEES MUST BE STRICKEN

22. Defendants incorporate the averments of paragraphs 1 through 21 above as if set forth at length.

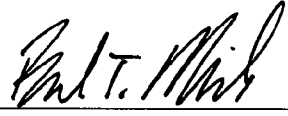
23. In Counts II and III of Plaintiff's Complaint, entitled "Trespass" and "Hit and Run", respectively, Plaintiff has made a request for attorney's fees.

24. It is the well established rule that absent statutory authority, a litigant is not entitled to recover damages in the nature of those attorney's fees incurred in litigating its claim. *Corace v. Balint*, 418 Pa. 252, 210 A.2d 882, 887 (1965); *Becker v. Borough of Schuylkill Haven*, 200 Pa. Super. 305, 189 A.2d 764, 767 (1963).

25. Nowhere in the Complaint has Plaintiff alleged any statutory authority which would entitle it to recovery of attorney's fees.

26. Accordingly, Plaintiff's claims for attorney's fees in Counts II and III of its Complaint must be stricken and dismissed with prejudice.

Respectfully submitted,
DICKIE, McCAMEY & CHILCOTE, P.C.

By: _____

John T. Pion, Esquire
Brant T. Miller, Esquire

Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(412) 392-5422
(412) 392-5367 (fax)


Attorneys for Defendants

CERTIFICATE OF SERVICE

I, Brant T. Miller, Esquire, hereby certify that true and correct copies of the foregoing
PRELIMINARY OBJECTIONS ON BEHALF OF DEFENDANTS have been served this 8th
day of January, 2002, by U.S. first-class mail, postage prepaid, to counsel of record listed below:

Theron G. Noble, Esquire
FARRARACIO & NOBLE
301 East Pine Street
Clearfield, PA 16830
Attorneys for Plaintiff

DICKIE, McCAMEY & CHILCOTE, P.C.

By 
Brant T. Miller, Esquire

Attorneys for Defendants

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

SUPER 322 DRIVE-IN THEATRE, INC., :
a Pennsylvania corporation :

-vs- :

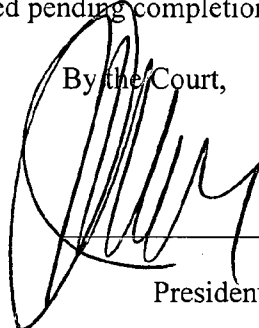
No. 01 – 1903 – CD

SWIFT TRANSPORTATION, INC., a :
corporation properly doing business in :
Pennsylvania, and ABBAS ALRAMAHI, :
an adult individual :

ORDER

NOW, this 25th day of April, 2002, upon consideration of Preliminary
Objections filed on behalf of Defendants above-named, and argument and briefs thereon, it is
the ORDER of this Court that said Objections shall be and are hereby sustained to the extent
that Plaintiff's claim for counsel fees shall be and is hereby dismissed. It is the further ORDER
of this Court that said Objections to Plaintiff's count of hit and run and claim for punitive
damages shall be and is hereby continued pending completion of discovery.

By the Court,



President Judge

FILED

APR 25 2002

William A. Shaw
Prothonotary

FILED

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APR 25 2002

1 cc T. Noble
1 cc J. Ron

for
cc

William A. Shaw
Prothonotary

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

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

PLAINTIFF,

v.

SWIFT TRANSPORTATION, INC., a
properly doing business in Pennsylvania, and
ABBAS ALRAMAHI, an adult individual,

DEFENDANTS.

No. 01- 1903 -CD

Type of Pleading:

PLAINTIFF'S NOTICE OF SERVICE

Filed By:

Plaintiff

Counsel of Record:

Theron G. Noble, Esquire
Ferraracio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

FILED

MAY 01 2002
m/l.18/120CC
William A. Shaw
Prothonotary

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

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

PLAINTIFF,

v.

SWIFT TRANSPORTATION, Inc., a corporation
properly doing business in Pennsylvania, and
ABBAS ALRAMAHI, an adult individual,

DEFENDANTS.

No. 01-__1903__-CD

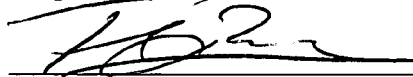
PLAINTIFF'S NOTICE OF SERVICE

To: William A. Shaw, Prothonotary

I, Theron G. Noble, Esquire, of Ferraraccio & Noble, counsel for Plaintiff, does hereby affirm that I did propound Plaintiff's first set of discovery materials on the Defendants, consisting of an Interrogatory, Request for Production of Documents, and a Request for Admission, by sending an original and two (2) copies of the same to their counsel of record, as below indicated, via United States Mail, postage pre-paid, first class, this 30th day of April, 2002.

John T. Pion, Esquire
Dickie, McCamey & Chilcote
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.No.: 55942

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

Plaintiff,

v.

SWIFT TRANSPORTATION, INC., a
corporation properly doing business in
Pennsylvania, and ABBAS ALRAMAHI,
an adult individual,

Defendants.

CIVIL DIVISION

G.D. No. 01-1903-CD

Issue No.

**ANSWER AND NEW MATTER OF
DEFENDANTS**

Code:

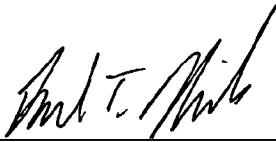
Filed on behalf of Defendants Swift
Transportation, Inc. and Abbas Alramahi

NOTICE TO PLEAD

TO: Plaintiff

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

By



Brant T. Miller, Esquire

FILED

MAY 01 2002
m/1.26/100ec
William A. Shaw
Prothonotary



Counsel of record for this party:

John T. Pion, Esq.
Pa. I.D. #43675

Brant T. Miller, Esq.
Pa. I.D. #83297

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

(412) 281-7272

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

Plaintiff,

v.

SWIFT TRANSPORTATION, INC., a
corporation properly doing business in
Pennsylvania, and ABBAS ALRAMAHI,
an adult individual,

Defendants.

CIVIL DIVISION

G.D. No. 01-1903-CD

Issue No.

ANSWER AND NEW MATTER OF DEFENDANTS

AND NOW, come the Defendants, Swift Transportation, Inc. and Abbas Alramahi, by and through counsel, Dickie, McCamey & Chilcote, P.C., John T. Pion, Esquire, and Brant T. Miller, Esquire, and for their Answer and New Matter to Plaintiff's Complaint, state as follows:

1. After reasonable investigation, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 1 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

2. Admitted.

3. After reasonable investigation, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 3 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

4. After reasonable investigation, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 4 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

5. After reasonable investigation, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 5 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

6. After reasonable investigation, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 6 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

7. After reasonable investigation, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 7 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

8. The averments set forth in paragraph 8 of Plaintiff's Complaint are denied.

9. The averments set forth in paragraph 9 of Plaintiff's Complaint are denied.

10. After reasonable investigation, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 10 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

11. After reasonable investigation, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 11 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

12. After reasonable investigation, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 12 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

13. After reasonable investigation, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 13 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

COUNT I- NEGLIGENCE

14. In response to the averments into paragraph 14 of Plaintiff's Complaint, Defendants restate and reaver each every defense and denial previously set forth in their Answer as if the same were set forth herein at length.

15. The averment set forth in paragraph 15 and subparagraphs (a), (b), and (c) are denied as stated.

16. The averments set forth in paragraph 16 of Plaintiff's Complaint state conclusions of law to which no response is required. To the extent a response may be deemed required, said allegations are denied.

17. The averments set forth in paragraph 17 of Plaintiff's Complaint state conclusions of law to which no response is required. To the extent a response may be deemed required, said allegations are denied.

COUNT II-TRESPASS

18. In response to the averments incorporated into paragraph 18 of Plaintiff's Complaint, Defendants restate and reaver each and every defense and denial previously set forth in their Answer as if the same were set forth herein at length.

19. After reasonable investigation, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 19 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

20. After reasonable investigation, Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 20 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

21. The averments set forth in paragraph 21 of Plaintiff's Complaint state conclusions of law to which no response is required. To the extent a response may be deemed required, said allegations are denied.

22. The averments set forth in paragraph 22 of Plaintiff's Complaint state conclusions of law to which no response is required. To the extent a response may be deemed required, said allegations are denied.

23. Pursuant to Order of Court, this paragraph will not be answered by Defendants.

24. This paragraph has been voluntarily withdrawn by Plaintiffs.

COUNT III-HIT AND RUN

25-30. Pursuant to Order of Court, Defendants will not answer Count III of Plaintiff's Complaint.

MISCELLANEOUS

31. Admitted.

32. Admitted.

NEW MATTER

33. Plaintiff's Complaint fails to state a claim for which relief can be granted.

34. To the extent applicable by the facts developed during discovery or the evidence introduced at the time of trial, Defendants raise the applicable Statute of Limitations as a complete and/or partial bar to Plaintiff's claims.

35. Defendants raise Plaintiff's contributory/comparative negligence as a complete and/or partial bar to Plaintiff's claims.

36. Defendants raise Plaintiff's failure to mitigate damages as a complete and/or partial bar to Plaintiff's claims.

37. Upon information and belief, Defendants raise the intervening/superseding acts and omissions of third parties over whom it had neither the right nor duty to control as a complete and/or partial bar to Plaintiff's claims.

WHEREFORE, Defendants deny any and all liability to any party under any theory of law whatsoever and respectfully request that judgment be entered in their favor, together with costs.

Respectfully submitted,
DICKIE, McCAMEY & CHILCOTE, P.C.

By: _____

John T. Pion, Esquire

Brant T. Miller, Esquire

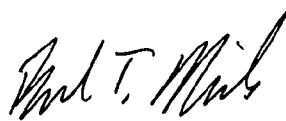
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(412) 392-5422
(412) 392-5367 (fax)

Attorneys for Defendants

VERIFICATION

I, Brant T. Miller, Esquire, have read the foregoing Answer and New Matter of Defendants. The statements therein are correct to the best of my personal knowledge or information and belief.

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



Brant T. Miller, Esquire


DATE: 4-30-2002

CERTIFICATE OF SERVICE

I, Brant T. Miller, Esquire, hereby certify that true and correct copies of the foregoing **ANSWER AND NEW MATTER** have been served this 30 day of April, 2002, by U.S. first-class mail, postage prepaid, to counsel of record listed below:

Theron G. Noble, Esquire
FARRARACIO & NOBLE
301 East Pine Street
Clearfield, PA 16830
Attorneys for Plaintiff

DICKIE, McCAMEY & CHILCOTE, P.C.

By 
Brant T. Miller, Esquire

Attorneys for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

Plaintiff,

v.

SWIFT TRANSPORTATION, INC., a
corporation properly doing business in
Pennsylvania, and ABBAS ALRAMAHI,
an adult individual,

Defendants.

CIVIL DIVISION

G.D. No. 01-1903-CD

Issue No.

**AMENDED ANSWER AND NEW
MATTER OF DEFENDANTS**

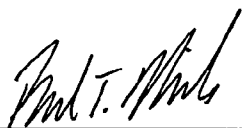
Code:

Filed on behalf of Defendants Swift
Transportation, Inc. and Abbas Alramahi

NOTICE TO PLEAD

TO: Plaintiff

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

By 
Brant T. Miller, Esquire

Counsel of record for this party:

John T. Pion, Esq.
Pa. I.D. #43675

Brant T. Miller, Esq.
Pa. I.D. #83297

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

(412) 281-7272

JURY TRIAL DEMANDED

FILED

MAY 15 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

Plaintiff,

v.

SWIFT TRANSPORTATION, INC., a
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Defendants.

CIVIL DIVISION

G.D. No. 01-1903-CD

Issue No.

AMENDED ANSWER AND NEW MATTER OF DEFENDANTS

AND NOW, come the Defendants, Swift Transportation, Inc. and Abbas Alramahi, by and through counsel, Dickie, McCamey & Chilcote, P.C., John T. Pion, Esquire, and Brant T. Miller, Esquire, and for their Amended Answer and New Matter to Plaintiff's Complaint, state as follows:

1. The averments set forth in paragraph 1 of Plaintiff's Complaint are admitted.
2. The averments set forth in paragraph 2 of Plaintiff's Complaint are admitted.
3. The averments set forth in paragraph 3 of Plaintiff's Complaint are admitted.
4. Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 4 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

5. Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 5 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

6. Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 6 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

7. Denied. By way of further response, upon information and belief, a tractor unrelated to Defendants but hauling the very same trailer is believed to have struck the Marquee prior to the trailer being hitched to Defendant's tractor.

8. The averments set forth in paragraph 8 of Plaintiff's Complaint are denied.

9. Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in paragraph 9 of Plaintiff's Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

10. The averments set forth in paragraph 10 of Plaintiff's Complaint are denied.

11. It is admitted that Abbas Alramahi was the driver of a Swift Transportation tractor, however, it is specifically denied that either Swift Transportation or Abbas Alramahi was involved in any damage to the Marquee.

12. The averments set forth in paragraph 12 of Plaintiff's Complaint are admitted.

13. The averments set forth in paragraph 13 of Plaintiff's Complaint are denied.

COUNT I-NEGLIGENCE

14. In response to the averments incorporated into paragraph 14 of Plaintiff's Complaint, Defendants restate and reaver each every defense and denial previously set forth in their Answer as if the same were fully rewritten herein at length.

15. The averments set forth in paragraph 15 of Plaintiff's Complaint contain conclusions of law to which no response is required. To the extent a response may be deemed required, said allegations contained in paragraph 15 and subparts (a) through (c) are denied.

16. The averments set forth in paragraph 16 of Plaintiff's Complaint are denied.

17. The averments set forth in paragraph 17 of Plaintiff's Complaint are denied.

WHEREFORE, Defendants, Swift Transportation Company and Abbas Alramahi, deny any and all liability to the Plaintiffs under any theory of law whatsoever and respectfully request judgment in their favor, together with costs of suit.

COUNT II-TRESPASS

18. In response to the averments incorporated into paragraph 18 of Plaintiff's Complaint, Defendants restate and reaver each and every defense and denial previously set forth in their Answer as if fully rewritten herein.

19. The averments contained in paragraph 19 of Plaintiff's Complaint are admitted.

20. It is denied that Abbas Alramahi attempted to turn around in a grass field owned by the Plaintiff. As to the remaining averments set forth in paragraph 20 of Plaintiff's Complaint, these Defendants are without sufficient information or knowledge sufficient to form a belief as to the truth of the remaining averments, and therefore deny same. Strict proof thereof is demanded at the time of trial.

21. The averments set forth in paragraph 21 of Plaintiff's Complaint are denied.

22. The averments set forth in paragraph 22 of Plaintiff's Complaint are denied.

23. The averments set forth in paragraph 23 of Plaintiff's Complaint are denied.

24. This paragraph has been withdrawn by Plaintiffs.

WHEREFORE, Defendants deny liability to the Plaintiff under any theory of law whatsoever and respectfully request judgment in their favor, together with costs of suit.

COUNT III-HIT AND RUN

25-30. Pursuant to Order of Court, Defendants will refrain from answering Plaintiff's Count III at this time.

MISCELLANEOUS

31. The averments contained in paragraph 31 of Plaintiff's Complaint are admitted.

32. The averments contained in paragraph 32 of Plaintiff's Complaint are admitted.

NEW MATTER

33. Plaintiff's Complaint fails to state a claim for which relief can be granted.

34. To the extent applicable by the facts developed during discovery or the evidence introduced at the time of trial, Defendants raise the applicable Statute of Limitations as a complete and/or partial bar to Plaintiff's claims.

35. Defendants raise Plaintiff's contributory/comparative negligence as a complete and/or partial bar to Plaintiff's claims.

36. Defendants raise Plaintiff's failure to mitigate damages as a complete and/or partial bar to Plaintiff's claims.

37. Upon information and belief, Defendants raise the intervening/superseding acts and omissions of third parties over whom it had neither the right nor duty to control as a complete and/or partial bar to Plaintiff's claims.

WHEREFORE, Defendants deny any and all liability to any party under any theory of law whatsoever and respectfully request that judgment be entered in their favor, together with costs.

Respectfully submitted,
DICKIE, McCAMEY & CHILCOTE, P.C.

By: 

John T. Pion, Esquire
Brant T. Miller, Esquire

Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(412) 392-5422
(412) 392-5367 (fax)

Attorneys for Defendants

VERIFICATION

I, Abbas Alramahi, have read the foregoing ^{Amended} Answer and New Matter of Defendants The statements therein are correct to the best of my personal knowledge or information and belief.

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



Abbas Alramahi


DATE: 05-07-02

CERTIFICATE OF SERVICE

I, Brant T. Miller, Esquire, hereby certify that true and correct copies of the foregoing
AMENDED ANSWER AND NEW MATTER have been served this 14 day of May, 2002, by
U.S. first-class mail, postage prepaid, to counsel of record listed below:

Theron G. Noble, Esquire
FARRARACIO & NOBLE
301 East Pine Street
Clearfield, PA 16830
Attorneys for Plaintiff

DICKIE, McCAMEY & CHILCOTE, P.C.

By 

Brant T. Miller, Esquire

Attorneys for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

Plaintiff,

v.

SWIFT TRANSPORTATION, INC., a
corporation properly doing business in
Pennsylvania, and ABBAS ALRAMAHI,
an adult individual,

Defendants.

CIVIL DIVISION

G.D. No. 01-1903-CD

Issue No.

**NOTICE OF SERVICE OF RESPONSE
TO REQUEST FOR ADMISSION**

Code:

Filed on behalf of Defendants Swift
Transportation, Inc. and Abbas Alramahi

Counsel of record for this party:

John T. Pion, Esq.
Pa. I.D. #43675

Brant T. Miller, Esq.
Pa. I.D. #83297

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

(412) 281-7272

JURY TRIAL DEMANDED

FILED

MAY 15 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

Plaintiff,

v.

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Defendants.

CIVIL DIVISION

G.D. No. 01-1903-CD

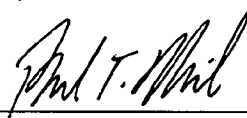
Issue No.

NOTICE OF SERVICE
OF RESPONSE TO REQUEST FOR ADMISSION

TO: Clerk of Court

Kindly take notice that the Response to Request for Admission was served Theron G.
Noble, Esquire, FARRARACIO & NOBLE, 301 East Pine Street, Clearfield, PA 16830 this
14 day of May, 2002.

Respectfully submitted,
DICKIE, McCAMEY & CHILCOTE, P.C.

By: 
John T. Pion, Esquire
Brant T. Miller, Esquire

Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(412) 392-5422
(412) 392-5367 (fax)


Attorneys for Defendants

CERTIFICATE OF SERVICE

I, Brant T. Miller, Esquire, hereby certify that true and correct copies of the foregoing
NOTICE OF SERVICE OF RESPONSE TO REQUEST FOR ADMISSION have been served
this 14 day of May, 2002, by U.S. first-class mail, postage prepaid, to counsel of record listed
below:

Theron G. Noble, Esquire
FARRARACIO & NOBLE
301 East Pine Street
Clearfield, PA 16830
Attorneys for Plaintiff

DICKIE, McCAMEY & CHILCOTE, P.C.

By 
Brant T. Miller, Esquire

Attorneys for Defendants

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

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

PLAINTIFF,

v.

SWIFT TRANSPORTATION, INC., a
properly doing business in Pennsylvania, and
ABBAS ALRAMAHI, an adult individual,

DEFENDANTS.

No. 01- 1903 -CD

Type of Pleading:

REPLY TO NEW MATTER

Filed By:

Plaintiff

Counsel of Record:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

FILED

MAY 20 2002
m/11:29/120CC
William A. Shaw
Prothonotary

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

PLAINTIFF,

v.

SWIFT TRANSPORTATION, Inc., a corporation
properly doing business in Pennsylvania, and
ABBAS ALRAMAHI, an adult individual,

DEFENDANTS.

AND NOW, comes the Plaintiff, Super 322 Drive-In Theatre, Inc., by and through its counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows as Plaintiff's **REPLY TO NEW MATTER:**

33. The same is a legal conclusion for which no response is deemed necessary. To the extent such a response might be deemed necessary, the same is strictly DENIED and proof of the same is demanded at time of trial.

34. The same is a legal conclusion for which no response is deemed necessary. To the extent such a response might be deemed necessary, the same is strictly DENIED and proof of the same is demanded at time of trial.

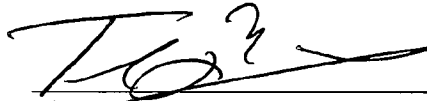
35. The same is a legal conclusion for which no response is deemed necessary. To the extent such a response might be deemed necessary, the same is strictly DENIED and proof of the same is demanded at time of trial.

36. The same is a legal conclusion for which no response is deemed necessary. To the extent such a response might be deemed necessary, the same is strictly DENIED and proof of the same

is demanded at time of trial.

37. The same is a legal conclusion for which no response is deemed necessary. To the extent such a response might be deemed necessary, the same is strictly DENIED and proof of the same is demanded at time of trial.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'T. G. Noble', is written over a horizontal line.

Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.No.: 55942

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

SUPER 322 DRIVE-IN THEATRE, INC., a)	
Pennsylvania corporation,)	
)	
PLAINTIFF,)	
)	No. 01- <u>1903</u> -CD
v.)	
)	
SWIFT TRANSPORTATION, Inc., a corporation)	
properly doing business in Pennsylvania, and)	
ABBAS ALRAMAHI, an adult individual,)	
)	
DEFENDANTS.)	


PLAINTIFF'S NOTICE OF SERVICE

To: William A. Shaw, Prothonotary

I, Theron G. Noble, Esquire, of Ferraraccio & Noble, counsel for Plaintiff, does hereby affirm that I did serve Plaintiff's REPLY TO NEW MATTER, by sending a true and correct copy of the same to Defendants' counsel of record, as below indicated, via United States Mail, postage pre-paid, first class, this 17th day of May, 2002.

John T. Pion, Esquire
Dickie, McCamey & Chilcote
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.No.: 55942

CA

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

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

PLAINTIFF,

v.

SWIFT TRANSPORTATION, INC., a
properly doing business in Pennsylvania, and
ABBAS ALRAMAHI, an adult individual,

DEFENDANTS.

No. 01- 1903 -CD

Type of Pleading:

PRELIMINARY OBJECTIONS

Filed By:

Plaintiff

Counsel of Record:

Theron G. Noble, Esquire
Ferraracio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

FILED

MAY 13 2002

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William A. Shaw
Prothonotary

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

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

PLAINTIFF,

v.

SWIFT TRANSPORTATION, Inc., a corporation
properly doing business in Pennsylvania, and
ABBAS ALRAMAHI, an adult individual,

DEFENDANTS.

No. 01- 1903 -CD

**PLAINTIFF'S PRELIMINARY OBJECTIONS AS TO
DEFENDANTS' ANSWER & NEW MATTER**

AND NOW, comes the Plaintiff, Super 322 Drive-In Theatre, Inc., by and through its counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of its **PRELIMINARY OBJECTIONS AS TO DEFENDANTS' ANSWER & NEW MATTER**:

1. This matter was commenced by the filing of a civil complaint on November 20, 2002.
2. The defendants initially responded by the filing of Preliminary Objections.
3. The PRELIMINARY OBJECTIONS were resolved, for the time being, on April 25th, 2002.
4. That Defendants filed an ANSWER & NEW MATTER to the civil complaint on, or about, April 30th.

Count I: Pa.R.Civ.P. 1028(a)(2)

5. Pa.R.Civ.P. 1029(a) provides that a responsive pleading shall admit or deny each averment of fact in the preceding pleading or any part thereof to which it is responsive.

6. Pa.R.Civ.P. 1028(a)(2) permits preliminary objections when a pleading does not conform to law.

7. Although Pa.R.Civ.P. 1029(c) permits a party to respond by failing to admit or deny a fact if after reasonable investigation a belief can not be formed, this does not apply when the pleader must know whether an allegation is true or not. Cercone v. Cercone, 382 A.2d 1 (1978).

10. That other than a few general denials (which pursuant to Pa.R.Civ.P. 1028(b) are thus deemed admitted), the Defendants failed to admit or deny facts and relied upon Pa.R.Civ.P. 1029(c) for their entire answer.

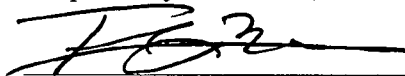
11. That the Defendants failed to make any comments about facts which they absolutely know or should know, such as:

- (a) Whether Defendant's Swift truck entered upon the Plaintiff's land;
- (b) Whether Defendants' truck struck Plaintiff's marquee;
- (c) The relationship between the Defendants; and
- (d) Defendant Alramahi's address.

12. In so doing, Defendants have absolutely failed to frame factual issues and have frustrated, if not defeated, the entire purposes and principles of responsive pleadings, especially Pennsylvania's fact specific pleading requirements.

WHEREFORE, Plaintiff requests that Defendants be required to file a more responsive pleading.

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.No.: 55942

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

SUPER 322 DRIVE-IN THEATRE, INC., a)	
Pennsylvania corporation,)	
)	
PLAINTIFF,)	
)	No. 01- <u>1903</u> -CD
v.)	
)	
SWIFT TRANSPORTATION, Inc., a corporation)	
properly doing business in Pennsylvania, and)	
ABBAS ALRAMAHI, an adult individual,)	
)	
DEFENDANTS.)	

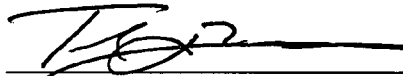
PLAINTIFF'S NOTICE OF SERVICE

To: William A. Shaw, Prothonotary

I, Theron G. Noble, Esquire, of Ferraraccio & Noble, counsel for Plaintiff, does hereby affirm that I did serve Plaintiff's PRELIMINARY OBJECTIONS on the Defendants, by sending a true and correct copy of the same to their counsel of record, as below indicated, via United States Mail, postage pre-paid, first class, this 10th day of May, 2002.

John T. Pion, Esquire
Dickie, McCamey & Chilcote
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.No.: 55942

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

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

PLAINTIFF,

v.

SWIFT TRANSPORTATION, INC., a
properly doing business in Pennsylvania, and
ABBAS ALRAMAHI, an adult individual,

DEFENDANTS.

No. 01- 1903 -CD

Type of Pleading:

PRAECIPE TO DISCONTINUE

Filed By:

Plaintiff

Counsel of Record:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

FILED

AUG 08 2002

M/10301 NOCC

William A. Shaw Cent. AS

Prothonotary

to Atty
Gory CL

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

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

PLAINTIFF,

v.

SWIFT TRANSPORTATION, Inc., a corporation
properly doing business in Pennsylvania, and
ABBAS ALRAMAHI, an adult individual,

DEFENDANTS.

No. 01-1903-CD

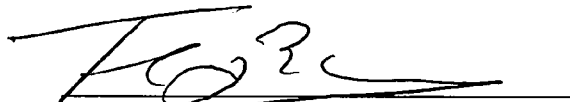
PRAECIPE TO DISCONTINUE

To: Clearfield County Prothonotary

Date: August 2, 2002

Please mark the above referenced case settled, ended and forever discontinued.

Respectfully Submitted,



Theron G. Noble, Esquire
Ferraraccio & Noble
Attorney for Plaintiff
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

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

SUPER 322 DRIVE-IN THEATRE, INC., a
Pennsylvania corporation,

PLAINTIFF,

v.

SWIFT TRANSPORTATION, Inc., a corporation
properly doing business in Pennsylvania, and
ABBAS ALRAMAHI, an adult individual,

DEFENDANTS.

No. 01- 1903 -CD

PLAINTIFF'S NOTICE OF SERVICE

To: William A. Shaw, Prothonotary

I, Theron G. Noble, Esquire, of Ferraraccio & Noble, counsel for Plaintiff, does hereby affirm that I did serve Plaintiff's PRAECIPE TO DISCONTINUE, by sending a true and correct copy of the same to Defendants' counsel of record, as below indicated, via United States Mail, postage pre-paid, first class, this 2nd day of August, 2002.

John T. Pion, Esquire
Dickie, McCamey & Chilcote
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.No.: 55942

COPY

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Super 322 Drive-In Theatre, Inc.

Vs.

No. 2001-01903-CD

**Swift Transportation, Inc.
Abbas Alramahi**

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on August 6, 2002 marked:

Settled, Ended and Forever Discontinued.

Record costs in the sum of \$139.54 have been paid in full by Theron Noble, Esquire.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 6th day of August A.D. 2002.



William A. Shaw, Prothonotary