

02-756-CD  
SHEILA A. PATTON etux -vs- WARREN TRANSPORT, INC. etal

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and  
ROBERT PATTON,  
husband & wife,

CIVIL DIVISION

No. 02-756-CO

Plaintiffs,

vs.

WARREN TRANSPORT, INC., and  
ROBERT MICHAEL PENN,  
an individual,

COMPLAINT IN CIVIL  
ACTION

Defendants

Filed on behalf of Plaintiffs  
Sheila A. Patton and Robert  
Patton, husband & wife

Counsel of Record for this  
Party:

Michelle H. Lally, Esquire  
4220 Wm. Penn Highway  
Sixth Floor  
Monroeville, PA 15146  
(412) 731-2028  
PA ID #39591

**FILED**

MAY 13 2002

*WAS*  
*90* m/3:19 lally pd 80.00  
William A. Shaw  
Prothonotary *acc atty lally*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and  
ROBERT PATTON,  
husband & wife,  
Plaintiffs,  
vs.

CIVIL DIVISION

No. 02-756-CD

WARREN TRANSPORT, INC., and  
ROBERT MICHAEL PENN,  
an individual,  
Defendants

**NOTICE TO DEFEND**

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.

Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830  
814-765-2641

BY: Michelle H. Lally, Esquire for the Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and  
ROBERT PATTON,  
husband & wife,  
Plaintiffs,

CIVIL DIVISION

No.

vs.

WARREN TRANSPORT, INC., and  
ROBERT MICHAEL PENN,  
an individual,  
Defendants

COMPLAINT IN CIVIL ACTION

1. The Plaintiffs, Sheila A. Patton and Robert Patton, are adult individuals who reside at 20 Piney Lane, DuBois, Clearfield County, Pennsylvania 15801.

2. The Defendant, Warren Transport, Inc., is a corporation whose principal place of business is located at 210 Beck Street, Waterloo, Iowa 50704.

3. The Defendant, Robert Michael Penn, is an adult individual who resides at 705 W. Market Street, Warsaw, Indiana 46580.

4. At all times relevant hereto, the wife-plaintiff operated the

1993 Honda Accord bearing Pennsylvania registration AEY-8070.

5. At all times relevant hereto, the Defendant Robert Michael Penn operated a 1990 Peterbilt eighteen (18) wheel tractor trailer bearing Iowa license plate PJ6546.

6. At all times relevant hereto, the truck the individual defendant was operating at the time of this incident was placarded with the identification of ownership of defendant Warren Transport. It is averred that the individual defendant was operating the truck pursuant to a trip-lease with defendant Warren Transport, Inc.

7. On or about June 13, 2000, at approximately 5:30 p.m., the Wife-Plaintiff was stopped for a red light in the left hand lane of northbound Pennsylvania Route 219. The wife-plaintiff was the third vehicle in a line of vehicles stopped for a red light when she observed the approach, from the rear, of the individual defendant in his tractor trailer truck. At all times relevant hereto, the wife-plaintiff was stopped with her foot on the brake pedal. When the traffic control signal for the wife-plaintiff changed from red to green, the wife-plaintiff was in the process of removing her foot from the brake pedal to the accelerator when suddenly, and without warning, she was violently struck from behind by the individual defendant Robert Michael Penn and pushed approximately 10

feet forward in her northbound lane of Pennsylvania Route 219. The impact of the defendants' vehicle on the wife-plaintiff's vehicle caused serious and severe injuries to the wife-plaintiff as are hereinafter set forth.

COUNTONE  
SHEILA A. PATTON vs. WARREN TRANSPORT, INC.

8. The injuries and damages hereinafter set forth suffered by the wife-plaintiff were caused by and were the direct and proximate result of the negligence of the defendant Warren Transport, Inc., jointly and severally with the negligence of the defendant Robert Michael Penn, generally and in the following particulars:

- a. In negligently entrusting their vehicle to defendant Robert Michael Penn;
- b. In negligently entrusting their vehicle to defendant Robert Michael Penn when Defendant Warren Transport knew or should have known that defendant Robert Michael Penn was incapable of safely operating said vehicle;
- c. In negligently failing to properly maintain their vehicle in a road-worthy condition;
- d. In otherwise being negligent under the circumstances.

9. As a direct and proximate result of the negligence of the defendant Warren Transport, Inc., the wife-plaintiff sustained the following injuries:

- a. Cervical spine sprain and strain;
- b. Lumbar spine sprain and strain;
- c. Cervical radiculopathy with pain into both shoulder regions and upper arms;
- d. Lumbar radiculopathy with numbness and tingling into legs;
- e. Headaches;
- f. Myofascial back pain;
- g. Aggravation of degenerative disc disease;
- h. Other serious and severe injuries, all of which are possibly permanent in nature.

10. As a direct and proximate result of the negligence of the defendant Warren Transport the wife-plaintiff has sustained the following damages:

- a. Wife-plaintiff was forced to undergo painful physical rehabilitation to treat her injuries;
- b. Wife-plaintiff has in the past and will in the future suffer great pain, suffering, inconvenience, embarrassment and mental anguish;
- c. Wife-plaintiff has in the past and will in the future suffer shock and injury to the nerves and nervous system and may suffer emotional distress;
- d. Wife-plaintiff has been deprived of the ordinary pleasures of life;

- e. Wife-plaintiff has lost income as a result of being unable to work;
- f. Wife-plaintiff has incurred medical expenses for treatment of her injuries;
- g. Wife-plaintiff's economic horizons have been permanently impaired by the injuries sustained herein.
- h. All of the foregoing injuries and damages are possibly permanent in nature.

WHEREFORE the plaintiffs demand judgment in their favor and against the defendants, jointly and severally, in an amount in excess of Twenty-Five Thousand (\$25,000.00) Dollars.

**JURY TRIAL DEMANDED**

COUNT TWO

SHEILA A. PATTON vs. ROBERT MICHAEL PENN

11. Wife-plaintiff, hereby incorporates by reference the foregoing Paragraphs 1 through 10 inclusive as though the same were fully set forth herein.

12. The injuries and damages hereinafter set forth, suffered by the wife-plaintiff were caused by and were the direct and proximate result of the negligence of the defendant Robert Michael Penn, jointly and severally with the negligence of defendant Warren Transport, Inc., generally and in



the following particulars:

- a. In negligently failing to have his vehicle under control at all times relevant hereto;
- b. In negligently failing to warn the wife-plaintiff of his approach;
- c. In negligently failing to keep a proper lookout ahead for all prevailing road and traffic conditions;
- d. In negligently accelerating when the path in front of him was blocked by the wife-plaintiff's lawfully stopped vehicle;
- e. In negligently failing to bring his vehicle to a stop within the assured clear distance ahead;
- f. In negligently violating the provisions of the Motor Vehicle Act;
- g. In negligently operating his vehicle in a careless manner.
- h. In otherwise being negligent under the circumstances.

13. As a result of the negligence of the Defendant Robert Michael Penn as aforesaid, the wife-plaintiff sustained the following serious and severe injuries, all of which are or may be permanent in nature:

- a. Cervical spine sprain and strain;
- b. Lumbar spine sprain and strain;

- c. Cervical radiculopathy with pain into both shoulder regions and upper arms;
- d. Lumbar radiculopathy with numbness and tingling into legs;
- e. Headaches
- f. Myofascial back pain;
- g. Aggravation of degenerative disc disease;
- h. Other serious and severe injuries, all of which are possibly permanent in nature.

14. As a direct and proximate result of the negligence of the defendant Warren Transport the wife-plaintiff has sustained the following damages:

- a. Wife-plaintiff was forced to undergo painful physical rehabilitation to treat her injuries;
- b. Wife-plaintiff has in the past and will in the future suffer great pain, suffering, inconvenience, embarrassment and mental anguish;
- c. Wife-plaintiff has in the past and will in the future suffer shock and injury to the nerves and nervous system and may suffer emotional distress;
- d. Wife-plaintiff has been deprived of the ordinary pleasures of life;
- e. Wife-plaintiff has lost income as a result of being unable to work;

- f. Wife-plaintiff has incurred medical expenses for treatment of her injuries;
- g. Wife-plaintiff's economic horizons have been permanently impaired by the injuries sustained herein.
- h. All of the foregoing injuries and damages are possibly permanent in nature.

WHEREFORE the plaintiffs demand judgment in their favor and against the defendants, jointly and severally, in an amount in excess of Twenty-Five Thousand (\$25,000.00) Dollars.

**JURY TRIAL DEMANDED**

COUNT THREE  
ROBERT PATTON vs. WARREN TRANSPORT, INC.  
and ROBERT MICHAEL PENN

15. Husband-plaintiff hereby incorporates by reference the foregoing Paragraphs 1 through 14 inclusive as though the same were fully set forth herein.

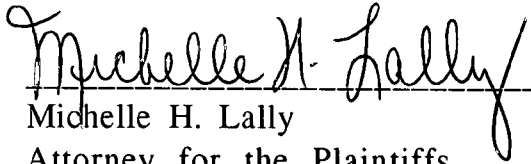
16. As a result of the injuries sustained by the wife-plaintiff, the husband-plaintiff has in the past and may in the future be deprived of the wife-plaintiff's care, comfort, society, companionship and consortium.

WHEREFORE the Plaintiffs demand judgment in their favor and

against the Defendants, jointly and severally, in an amount in excess of  
Twenty-Five Thousand (\$25,000.00) Dollars.

**JURY TRIAL DEMANDED.**

Respectfully submitted,

  
Michelle H. Lally  
Attorney for the Plaintiffs

**VERIFICATION**

WE, SHEILA A. PATTON and ROBERT PATTON, husband & wife, verify that the averments contained in the foregoing COMPLAINT are true and correct to the best of our knowledge, information and belief and are made subject to the penalties of 18 Pa. Con. Stat. Ann. Section 4904 relating to unsworn falsification to authorities.

May 4, 2002  
Date

May 4, 2002  
Date

Sheila A. Patton  
Sheila A. Patton

Robert Patton  
Robert Patton

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

SHEILA A. PATTON and ROBERT  
PATTON, husband and wife,

Plaintiffs,

-vs-

WARREN TRANSPORT, INC. and ROBERT  
MICHAEL PENN, an individual,

Defendants.

CIVIL DIVISION

No.: 02-756-CD

**PRAECIPE FOR ENTRY OF  
APPEARANCE**

Filed on behalf of:  
Defendants, Warren Transport, Inc. and Robert  
Michael Penn

Counsel of Record for this Party:

Edmond R. Joyal, Jr., Esquire  
Pa. I.D. #65907

GIGLER & JOYAL

612 Frick Building  
437 Grant Street  
Pittsburgh, PA 15219

(412) 471-9640

**FILED**

MAY 31 2002

mll-261no cc

William A. Shaw  
Prothonotary

Copy to

EKEB

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

SHEILA A. PATTON and ROBERT  
PATTON, husband and wife,

Plaintiffs,

-vs-

WARREN TRANSPORT, INC. and ROBERT  
MICHAEL PENN, an individual,

Defendants.

CIVIL DIVISION

No.: 02-756-CD

**PRAECIPE FOR ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Kindly enter the appearance of Edmond R. Joyal, Jr., Esquire on behalf of  
Defendants, Warren Transport, Inc. and Robert Michael Penn, concerning the above-captioned  
action.

GIGLER & JOYAL

BY: 

Edmond R. Joyal, Jr., Esquire  
Attorney for Defendants.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Praecipe for Entry of Appearance has been served by First Class Mail, postage pre-paid, upon the following parties on this 29<sup>th</sup> day of May, 2002.

Michelle H. Lally, Esquire  
4220 William Penn Highway, Suite 616  
Monroeville, PA 15146

GIGLER & JOYAL

BY: 

Edmond R. Joyal, Jr., Esquire  
Attorney for Defendants.



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and  
ROBERT PATTON,  
husband & wife,

Plaintiffs,

vs.

WARREN TRANSPORT, INC., and  
ROBERT MICHAEL PENN,  
an individual,

Defendants

CIVIL DIVISION

No. 02-756-CD

AFFIDAVIT OF SERVICE

Filed on behalf of Plaintiffs  
Sheila A. Patton and Robert  
Patton, husband & wife

Counsel of Record for this  
Party:

Michelle H. Lally, Esquire  
4220 Wm. Penn Highway  
Sixth Floor  
Monroeville, PA 15146  
(412) 731-2028  
PA ID #39591

**FILED**

JUN 05 2002

William A. Shaw  
Prothonotary

**SHEILA A. PATTON and  
ROBERT PATTON,  
husband & wife,** Plaintiffs,  
**vs.**

No. 02-756-CD

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA           )  
  ) SS:  
COUNTY OF ALLEGHENY                     )

BEFORE ME, a Notary Public in and for said County and Commonwealth, personally appeared MICHELLE H. LALLY and says that a true and correct copy of the Complaint in Civil Action in the above case was served on the defendants, Warren Transport, Inc., and Robert Michael Penn at the addresses shown below, the 21st day of May, 2002 by First Class U.S. Mail, Certified Nos. 7001 0320 003 9831 0902 and 7001 0320 0003 9831 0919, respectively, Return Receipt Requested, per the attached Return Receipts:

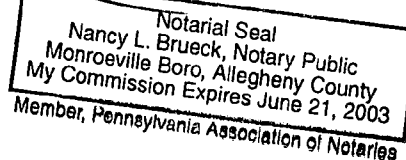
Warren Transport, Inc.  
210 Beck Street  
Waterloo, Iowa 50704

Robert Michael Penn  
705 W. Market Street  
Warsaw, Indiana 46580

Michelle H. Lally  
Michelle H. Lally

SWORN to and SUBSCRIBED  
before me this 31st day of May, 2002.

Notary Public



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Received by (Please Print Clearly) B. Date of Delivery  MAY 21 2002</p>	
<p>1. Article Addressed to:</p> <p>Warrent Transport, Inc.  210 Beck St.  Waterloo, Iowa  50704</p>		<p>C. Signature  <i>[Signature]</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>2. Article Number (Transfer from service label) 7001 0320 0003 9831 090</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>PS Form 3811, March 2001 Domestic Return Receipt</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Received by (Please Print Clearly) B. Date of Delivery  DEGGYM-H-UMS 21-02</p>	
<p>1. Article Addressed to:</p> <p>Robert Michael Penner  75 W. Market Street  Warsaw, Indiana  46580</p>		<p>C. Signature  <i>[Signature]</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>2. Article Number (Transfer from service label) 7001 0320 0003 9831 0919</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>PS Form 3811, March 2001 Domestic Return Receipt</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

FILED

JUN 05 2002

William A. Shaw  
Prothonotary

NO cc  
BY [signature]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and ROBERT  
PATTON, husband and wife,

Plaintiffs,

-vs-

WARREN TRANSPORT, INC. and ROBERT  
MICHAEL PENN, an individual,

Defendants.

CIVIL DIVISION

No.: 02-756-CD

**PRAECIPE FOR SUBSTITUTION OF  
APPEARANCE**

Filed on behalf of:  
Defendants, Warren Transport, Inc. and Robert  
Michael Penn

Counsel of Record for this Party:

John B. Cromer, Esquire  
Pa. I.D. #66773

GIGLER & JOYAL

612 Frick Building  
437 Grant Street  
Pittsburgh, PA 15219

(412) 471-9640

**FILED**

JUL 29 2002

m/1:30/nocc  
William A. Shaw  
Prothonotary

Copy CA  
EKB

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

SHEILA A. PATTON and ROBERT  
PATTON, husband and wife,

Plaintiffs,

-vs-

WARREN TRANSPORT, INC. and ROBERT  
MICHAEL PENN, an individual,

Defendants.

CIVIL DIVISION

No.: 02-756-CD

**PRAECIPE FOR SUBSTITUTION OF APPEARANCE**

TO THE PROTHONOTARY:

PLEASE substitute the appearance of John B. Cromer, Esquire, of Gigler & Joyal  
in place of Edmond R. Joyal, Jr. for Defendants with regard to the above-captioned case.

GIGLER & JOYAL

BY: 

John B. Cromer, Esquire  
Attorney for Defendants.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Praeipe for Substitution of Appearance has been served by First Class Mail, postage pre-paid, upon the following parties on this 25 day of July, 2002.

Michelle H. Lally, Esquire  
4220 William Penn Highway, Suite 616  
Monroeville, PA 15146

GIGLER & JOYAL

BY: 

\_\_\_\_\_  
John B. Cromer, Esquire  
Attorney for Defendants.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and ROBERT  
PATTON, husband and wife,

Plaintiffs,

-vs-

WARREN TRANSPORT, INC. and ROBERT  
MICHAEL PENN, an individual,

Defendants.

CIVIL DIVISION

No.: 02-756-CD

**NOTICE OF SERVICE OF REQUEST  
FOR PRODUCTION OF DOCUMENTS  
AND INTERROGATORIES DIRECTED  
TO PLAINTIFFS**

Filed on behalf of:  
Defendants, Warren Transport, Inc. and Robert  
Michael Penn

Counsel of Record for this Party:

John B. Cromer, Esquire  
Pa. I.D. #66773

GIGLER & JOYAL

612 Frick Building  
437 Grant Street  
Pittsburgh, PA 15219

(412) 471-9640

**FILED**

JUL 29 2002

m/137/nocc  
William A. Shaw  
Prothonotary



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and ROBERT  
PATTON, husband and wife,

CIVIL DIVISION

No.: 02-756-CD

Plaintiffs,

-vs-

WARREN TRANSPORT, INC. and ROBERT  
MICHAEL PENN, an individual,

Defendants.

**NOTICE OF SERVICE**

I hereby certify that a true and correct copy of a Request for Production of Documents and Interrogatories Directed to Plaintiffs has been served by First Class Mail, postage pre-paid, upon the following parties on this 26 day of July, 2002.

Michelle H. Lally, Esquire  
4220 William Penn Highway, Suite 616  
Monroeville, PA 15146

GIGLER & JOYAL

BY: 

John B. Cromer, Esquire  
Attorney for Defendants.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and ROBERT  
PATTON, husband and wife,

Plaintiffs,

-vs-

WARREN TRANSPORT, INC. and ROBERT  
MICHAEL PENN, an individual,

Defendants.

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

By: \_\_\_\_\_

John B. Cromer, Esquire

CIVIL DIVISION

No.: 02-756-CD

ANSWER AND NEW MATTER

Filed on behalf of:  
Defendant, Warren Transport, Inc.

Counsel of Record for this Party:

John B. Cromer, Esquire  
Pa. I.D. #66773

GIGLER & JOYAL

612 Frick Building  
437 Grant Street  
Pittsburgh, PA 15219

(412) 471-9640

**FILED**

AUG 21 2002

01/25/2002  
William A. Shaw  
Prothonotary

*ESD*

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

SHEILA A. PATTON and ROBERT  
PATTON, husband and wife,

Plaintiffs,

-vs-

WARREN TRANSPORT, INC. and ROBERT  
MICHAEL PENN, an individual,

Defendants.

CIVIL DIVISION

No.: 02-756-CD

**ANSWER AND NEW MATTER**

AND NOW comes the Defendant, Warren Transport, Inc. by its attorneys Gigler & Joyal and files this Answer to Plaintiff's Complaint as follows:

1. In answer to the averments of Paragraph 1 of Plaintiffs' Complaint, Defendant states that after reasonable investigation, it is unable to form a belief as to their truth, therefore the same are denied and strict proof thereof is demanded at the time of trial.

2. In answer to the averments of Paragraph 2 of Plaintiffs' Complaint, Defendant admits that it is a corporation whose principal place of business is located at 210 Beck Ave., Waterloo, Iowa 50701.

3. The averments of Paragraph 3 are not directed to this Defendant and no response, therefore, is required of it.

4. In answer to the averments of Paragraph 4 of Plaintiffs' Complaint, Defendant states that after reasonable investigation, it is unable to form a belief as to their truth, therefore the same are denied and strict proof thereof is demanded at the time of trial.

5. Admitted.

6. The averments of Paragraph 6 are denied as stated. At the time of the event, it is admitted that the truck operated by Robert Michael Penn was placarded with a door sign which identified Warren Transport, Inc. It is denied that the placard identified Warren Transport as the owner. To the contrary, Robert Michael Penn is the owner of the truck. It is further denied that Robert Michael Penn was operating this truck pursuant to a trip-lease with Warren Transport, Inc.; however, the truck was operated by Robert Michael Penn pursuant to a independent contractor agreement with Warren Transport, Inc.

7. The averments of Paragraph 7 constitute conclusions of law to which no response is required. To the extent that a response may be required the Defendant admits so much of Paragraph 7 that alleges that an accident happened between the vehicle driven by Defendant Penn and the vehicle driven by Plaintiff Patton on June 13, 2000, at approximately 5:30 p.m. on S.R. 219 when Defendant Penn accidentally pulled from a stopped position forward into the rear of the Patton vehicle. All other remaining averments are denied pursuant to Pa.R.C.P. 1029.

## **COUNT I**

8. The averments of Paragraph 8 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 8 are denied pursuant to Pa.R.C.P. 1029.

9. The averments of Paragraph 9 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 9 are denied pursuant to Pa.R.C.P. 1029.

10. The averments of Paragraph 10 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 10 are denied pursuant to Pa.R.C.P. 1029.

WHEREFORE, Defendant denies all liability and demands that judgment be entered in it's favor.

JURY TRIAL DEMANDED.

## COUNT II

11. The Defendant repeats and incorporates by reference all of its responses as set forth within this Answer and New Matter.

12. The averments of Paragraph 12 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 12 are denied pursuant to Pa.R.C.P. 1029.

13. The averments of Paragraph 13 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 13 are denied pursuant to Pa.R.C.P. 1029.

14. The averments of Paragraph 14 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 14 are denied pursuant to Pa.R.C.P. 1029.

WHEREFORE, Defendant denies all liability and demands that judgment be entered in it's favor.

JURY TRIAL DEMANDED.

### **COUNT III**

15. The Defendant repeats and incorporates by reference all of its responses as set forth within this Answer and New Matter.

16. The averments of Paragraph 16 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 16 are denied pursuant to Pa.R.C.P. 1029.

WHEREFORE, Defendant denies all liability and demands that judgment be entered in it's favor.

JURY TRIAL DEMANDED.

### **NEW MATTER**

1. Defendant asserts all defenses, limitations and exclusions under the Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. Section 1701 et seq. and avers that Plaintiff may not plead, prove, introduce into evidence or recover any benefits paid or payable under the Motor Vehicle Financial Responsibility Law nor recover to the extent Plaintiff is covered by the limited tort option.

2. The Complaint fails to state a claim against the Defendant.

3. The acts and/or omissions of Plaintiff or third persons for whose actions Defendant is not legally responsible proximately caused the damages and injuries allegedly sustained by the Plaintiff.

4. The right to file such additional defenses, affirmative defenses, cross claims, counterclaims and/or third party claims as may be appropriate upon completion of investigation and discovery in this matter is reserved.

5. The court has no personal jurisdiction over this Defendant.

WHEREFORE, Defendant demands judgment against the Plaintiffs, and for the Defendant, and for such other relief as the Court deems appropriate.

JURY TRIAL DEMANDED.

GIGLER & JOYAL

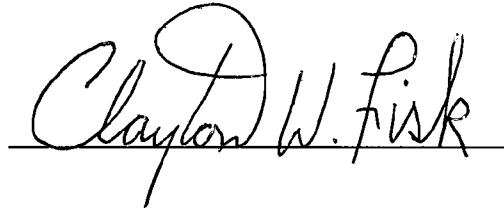
BY: 

\_\_\_\_\_  
John B. Cromer, Esquire  
Attorney for Defendant.

**VERIFICATION**

I, Clayton W. Fisk on behalf of Warren Transport, Inc., have read the foregoing ANSWER AND NEW MATTER. The statements therein are correct to the best of my personal knowledge or information and belief.

This Verification is made subject to the penalties of 18 Pa.C.S.A., Section 4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.

  
\_\_\_\_\_

DATED: August 1, 2002

RE: Patton



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Answer and New Matter has been served by First Class Mail, postage pre-paid, upon the following parties on this 19 day of August, 2002.

Michelle H. Lally, Esquire  
4220 William Penn Highway, Suite 616  
Monroeville, PA 15146

GIGLER & JOYAL

BY: 

\_\_\_\_\_  
John B. Cromer, Esquire  
Attorney for Defendant,  
Warren Transport, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and ROBERT  
PATTON, husband and wife,

Plaintiffs,

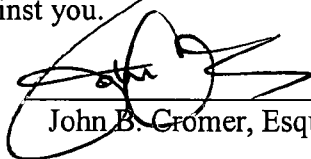
-vs-

WARREN TRANSPORT, INC. and ROBERT  
MICHAEL PENN, an individual,

Defendants.

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

By:

  
John B. Cromer, Esquire

CIVIL DIVISION

No.: 02-756-CD

ANSWER AND NEW MATTER

Filed on behalf of:  
Defendant, Robert Michael Penn.

Counsel of Record for this Party:

John B. Cromer, Esquire  
Pa. I.D. #66773

GIGLER & JOYAL

612 Frick Building  
437 Grant Street  
Pittsburgh, PA 15219

(412) 471-9640

**FILED**

AUG 21 2002

011-25/NOCL

William A. Shaw  
Prothonetary



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

SHEILA A. PATTON and ROBERT  
PATTON, husband and wife,

CIVIL DIVISION

No.: 02-756-CD

Plaintiffs,

-vs-

WARREN TRANSPORT, INC. and ROBERT  
MICHAEL PENN, an individual,

Defendants.

**ANSWER AND NEW MATTER**

AND NOW comes the Defendant, Robert Michael Penn, by its attorneys Gigler & Joyal and files this Answer to Plaintiff's Complaint as follows:

1. In answer to the averments of Paragraph 1 of Plaintiffs' Complaint, Defendant states that after reasonable investigation, he is unable to form a belief as to their truth, therefore the same are denied and strict proof thereof is demanded at the time of trial.

2. The averments of Paragraph 2 are not directed to this Defendant and no response, therefore, is required of it.

3. Admitted.

4. In answer to the averments of Paragraph 4 of Plaintiffs' Complaint, Defendant states that after reasonable investigation, it is unable to form a belief as to their truth, therefore the same are denied and strict proof thereof is demanded at the time of trial.

5. Admitted.

6. The averments of Paragraph 6 are denied as stated. At the time of the event, it is admitted that the truck operated by Robert Michael Penn was placarded with a door sign which identified Warren Transport, Inc. It is denied that the placard identified Warren Transport as the owner. To the contrary, Robert Michael Penn is the owner of the truck. It is further denied that Robert Michael Penn was operating this truck pursuant to a trip-lease with Warren Transport, Inc, however, the truck was operated by Robert Michael Penn pursuant to a independent contractor agreement with Warren Transport, Inc.

7. The averments of Paragraph 7 constitute conclusions of law to which no response is required. To the extent that a response may be required the Defendant admits so much of Paragraph 7 that alleges that an accident happened between the vehicle driven by Defendant Penn and the vehicle driven by Plaintiff Patton on June 13, 2000, at approximately 5:30 p.m. on S.R. 219 when Defendant Penn accidentally pulled from a stopped position forward into the rear of the Patton vehicle. All other remaining averments are denied pursuant to Pa.R.C.P. 1029.

### **COUNT I**

8. The averments of Paragraph 8 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 8 are denied pursuant to Pa.R.C.P. 1029.

9. The averments of Paragraph 9 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 9 are denied pursuant to Pa.R.C.P. 1029.

10. The averments of Paragraph 10 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 10 are denied pursuant to Pa.R.C.P. 1029.

WHEREFORE, Defendant denies all liability and demands that judgment be entered in his favor.

JURY TRIAL DEMANDED.

## **COUNT II**

11. The Defendant repeats and incorporates by reference all of its responses as set forth within this Answer and New Matter.

12. The averments of Paragraph 12 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 12 are denied pursuant to Pa.R.C.P. 1029.

13. The averments of Paragraph 13 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 13 are denied pursuant to Pa.R.C.P. 1029.

14. The averments of Paragraph 14 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 14 are denied pursuant to Pa.R.C.P. 1029.

WHEREFORE, Defendant denies all liability and demands that judgment be entered in his favor.

### **COUNT III**

15. The Defendant repeats and incorporates by reference all of its responses as set forth within this Answer and New Matter.

16. The averments of Paragraph 16 constitute conclusions of law to which no response is required. By way of further answer, the averments of Paragraph 16 are denied pursuant to Pa.R.C.P. 1029.

WHEREFORE, Defendant denies all liability and demands that judgment be entered in his favor.

JURY TRIAL DEMANDED.

### **NEW MATTER**

1. Defendant asserts all defenses, limitations and exclusions under the Motor Vehicle Financial Responsibility Law, 75 Pa. C.S.A. Section 1701 et seq. and avers that Plaintiff may not plead, prove, introduce into evidence or recover any benefits paid or payable under the Motor Vehicle Financial Responsibility Law nor recover to the extent Plaintiff is covered by the limited tort option.

2. The Complaint fails to state a claim against the Defendant.

3. The acts and/or omissions of Plaintiff or third persons for whose actions Defendant is not legally responsible proximately caused the damages and injuries allegedly sustained by the Plaintiff.

4. The right to file such additional defenses, affirmative defenses, cross claims, counterclaims and/or third party claims as may be appropriate upon completion of investigation and discovery in this matter is reserved.

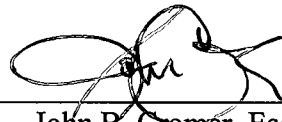
5. The court has no personal jurisdiction over this Defendant.

WHEREFORE, Defendant demands judgment and against the Plaintiffs, and for the Defendant, and for such other relief as the Court deems appropriate.

JURY TRIAL DEMANDED.

GIGLER & JOYAL

BY:

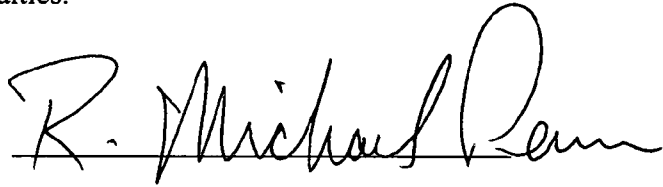
A handwritten signature in black ink, appearing to read "John B. Cromer", is written over a horizontal line.

John B. Cromer, Esquire  
Attorney for Defendant, Robert  
Michael Penn

**VERIFICATION**

I, Robert Michael Penn have read the foregoing ANSWER AND NEW MATTER. The statements therein are correct to the best of my personal knowledge or information and belief.

This Verification is made subject to the penalties of 18 Pa.C.S.A., Section 4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.



DATED: 7-29-02.

Re: Patton



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Answer and New Matter has been served by First Class Mail, postage pre-paid, upon the following parties on this 19 day of August 2002.

Michelle H. Lally, Esquire  
4220 William Penn Highway, Suite 616  
Monroeville, PA 15146

GIGLER & JOYAL

BY: 

John B. Cromer, Esquire  
Attorney for Defendant, Robert  
Michael Penn

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and  
ROBERT PATTON,  
husband & wife,

CIVIL DIVISION

No. 02-756-CD

Plaintiffs,

vs.

WARREN TRANSPORT, INC., and  
ROBERT MICHAEL PENN,  
an individual,

REPLY TO NEW MATTER

Defendants

Filed on behalf of Plaintiffs  
Sheila A. Patton and Robert  
Patton, husband & wife

Counsel of Record for this  
Party:

**FILED**

SEP 30 2002

William A. Shaw  
Prothonotary

Michelle H. Lally, Esquire  
4220 Wm. Penn Highway  
Sixth Floor  
Monroeville, PA 15146  
(412) 731-2028  
PA ID #39591

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and  
ROBERT PATTON,  
husband & wife,  
Plaintiffs,  
vs.

CIVIL DIVISION

No. 02-756-CD

WARREN TRANSPORT, INC., and  
ROBERT MICHAEL PENN,  
an individual,  
Defendants

REPLY TO NEW MATTER

AND NOW come the plaintiffs by their attorney Michelle H. Lally and submit the following Reply to the New Matter of the Defendant Warren Transport, Inc.

1. The averments contained in Paragraph 1 state legal conclusions to which no responsive pleading is required. To the extent a response is required, the plaintiffs specifically and completely deny that the wife plaintiff cannot plead and prove her damages. At the time of this motor vehicle accident, the defendant's vehicle was licensed in a state other than the Commonwealth of Pennsylvania and such out of state licensing vitiates the limited tort option available to insured drivers in Pennsylvania.

2. The averments contained in Paragraph 2 of Defendant's New Matter are denied. The plaintiffs' Complaint does state a legally cognizable claim against the defendants.

3. The averments contained in Paragraph 3 are denied. At no time relevant hereto did the plaintiffs' acts or omissions cause the wife plaintiff's injuries or damages. Defendant is jointly responsible for the actions of his own corporation and of its driver, and as such, is responsible for the injuries and damages caused to the wife plaintiff.

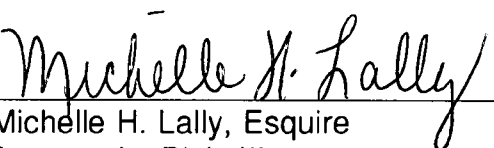
4. The statement made in paragraph 4 of defendant's New Matter neither raises a legal defense nor states any legal conclusions, and consequently, cannot be replied to.

5. The averments contained in Paragraph 5 of Defendant's New Matter are denied. The court has jurisdiction over defendant Warren Transport because its vehicle was traversing a road located in the Commonwealth of Pennsylvania and defendant was trading and doing and business in the Commonwealth and in Clearfield County. Consequently, the court does have jurisdiction over this defendant. Clearfield County was also the place of the accident giving rise to this claim and as a result, both venue and jurisdiction are proper in Clearfield County.

WHEREFORE, plaintiffs demand judgment in their favor and against the defendants, jointly and severally.

JURY TRIAL DEMANDED

Respectfully submitted,


  
Michelle H. Lally, Esquire  
Attorney for Plaintiffs


**VERIFICATION**

WE, SHEILA A. PATTON and ROBERT PATTON, husband & wife, verify that the averments contained in the foregoing REPLY TO NEW MATTER are true and correct to the best of our knowledge, information and belief and are made subject to the penalties of 18 Pa. Con. Stat. Ann. Section 4904 relating to unsworn falsification to authorities.

9-24-02  
Date

9-24-02  
Date

  
Sheila A. Patton

  
Robert Patton

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and  
ROBERT PATTON,  
husband & wife,

CIVIL DIVISION

No. 02-756-CD

Plaintiffs,

vs.

WARREN TRANSPORT, INC., and  
ROBERT MICHAEL PENN,  
an individual,

REPLY TO NEW MATTER

Defendants

Filed on behalf of Plaintiffs  
Sheila A. Patton and Robert  
Patton, husband & wife

Counsel of Record for this  
Party:

**FILED**

SEP 05 2002

William A. Shaw  
Prothonotary

Michelle H. Lally, Esquire  
4220 Wm. Penn Highway  
Sixth Floor  
Monroeville, PA 15146  
(412) 731-2028  
PA ID #39591

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and  
ROBERT PATTON,  
husband & wife,  
Plaintiffs,

CIVIL DIVISION

No. 02-756-CD

vs.

WARREN TRANSPORT, INC., and  
ROBERT MICHAEL PENN,  
an individual,  
Defendants

REPLY TO NEW MATTER

AND NOW come the plaintiffs by their attorney Michelle H. Lally and submit the following Reply to the New Matter of the Defendant Robert Michael Penn.

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2. The averments contained in Paragraph 2 of Defendant's New Matter are denied. The plaintiffs' Complaint does state a legally cognizable claim against the defendants.

3. The averments contained in Paragraph 3 are denied. At no time relevant hereto did the plaintiffs' acts or omissions cause the wife plaintiff's injuries or damages. Defendant is jointly responsible for his actions as driver, and as such, is responsible for the injuries and damages caused to the wife plaintiff.

4. The statement made in paragraph 4 of defendant's New Matter neither raises a legal defense nor states any legal conclusions, and consequently, cannot be replied to.

5. The averments contained in Paragraph 5 of Defendant's New Matter are denied. The court has jurisdiction over defendant Warren Transport because its vehicle was traversing a road located in the Commonwealth of Pennsylvania and his company was trading and doing and business in the Commonwealth and in Clearfield County. Consequently, the court does have jurisdiction over this defendant. Clearfield County was also the place of the accident giving rise to this claim and as a result, both venue and jurisdiction are proper in Clearfield County.

WHEREFORE, plaintiffs demand judgment in their favor and against the defendants, jointly and severally.

JURY TRIAL DEMANDED

Respectfully submitted,

  
Michelle H. Lally, Esquire  
Attorney for plaintiffs





**VERIFICATION**

WE, SHEILA A. PATTON and ROBERT PATTON, husband & wife, verify that the averments contained in the foregoing REPLY TO NEW MATTER are true and correct to the best of our knowledge, information and belief and are made subject to the penalties of 18 Pa. Con. Stat. Ann. Section 4904 relating to unsworn falsification to authorities.

9-24-02  
Date

9-24-02  
Date

  
Sheila A. Patton

  
Robert Patton

**FILED**

*no cc*

SEP 30 2002

11:15 AM

*[Signature]*

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and  
ROBERT PATTON,  
husband & wife,

CIVIL DIVISION

No. 02-756-CD

Plaintiffs,

vs.

WARREN TRANSPORT, INC., and  
ROBERT MICHAEL PENN,  
an individual,

PRAECIPE TO SETTLE  
AND DISCONTINUE

Defendants

Filed on behalf of Plaintiffs  
Sheila A. Patton and Robert  
Patton, husband & wife

Counsel of Record for this  
Party:

Michelle H. Lally, Esquire  
4220 Wm. Penn Highway  
Sixth Floor  
Monroeville, PA 15146  
(412) 731-2028  
PA ID #39591

FILED *Noce*  
*7/16/2004* *Certificate of*  
*Disc. to Atty*  
William A. Shaw  
Prothonotary/Clerk of Courts *copy to CIA*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SHEILA A. PATTON and  
ROBERT PATTON,  
husband & wife,

CIVIL DIVISION

No. 02-756-CD

Plaintiffs,

vs.

WARREN TRANSPORT, INC., and  
ROBERT MICHAEL PENN,  
an individual,

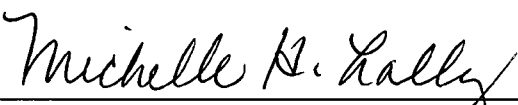
Defendants

**PRAECIPE TO SETTLE AND DISCONTINUE**

TO: Prothonotary

SIR: Kindly mark the docket in the above-captioned case "Settled  
and Discontinued with Prejudice".

Respectfully submitted,

  
Michelle H. Lally, Esquire  
Attorney for the Plaintiffs

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

**CIVIL DIVISION**

COPY

**Sheila A. Patton  
Robert Patton**

**Vs.**

**No. 2002-00756-CD**

**Warren Transport, Inc.  
Robert Michael Penn**

**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 16, 2004, marked:

Settled and Discontinued with Prejudice

Record costs in the sum of \$80.00 have been paid in full by Michelle H. Lally, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 16th day of July A.D. 2004.

---

William A. Shaw, Prothonotary