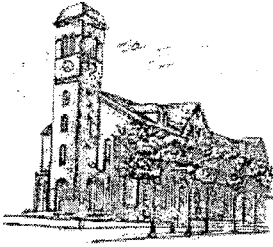


02-962-CD

Martin Slifko Jr vs Junior Coal Contr.

02

02-962-CD
MARTIN R. SLIFKO, JR. -vs- JUNIOR COAL CONTRACTING, INC.



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ www.clearfieldco.org

COPY

March 6, 2008

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

Re: Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.
No. 02-962-CD
Superior Court No. 2156 WDA 2007


Dear Prothonotary:

Enclosed you will find a supplement to the above-referenced appeal, previously transferred to your office.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

FILED
0175761
MAR 06 2008

 William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

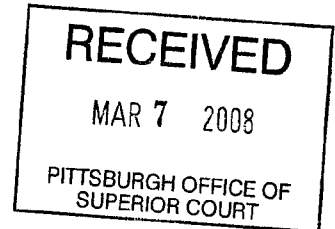
COPY

Martin R. Slifko Jr.

Vs.

Case No. 2002-00962-CD

Junior Coal Contracting, Inc.



CERTIFICATE OF CONTENTS

NOW, this 6th day of March, 2008, the undersigned, Prothonotary or Deputy Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, the said Court of record, does hereby certify that attached is the original record of the case currently on Appeal.

An additional copy of this Certificate is enclosed with the original hereof and the Clerk or Prothonotary of the Superior Court is hereby directed to acknowledge receipt of the Appeal Record by executing such copy at the place indicated by forthwith returning the same to this Court.

By:

A handwritten signature in cursive script, appearing to read "William A. Shaw".

William A. Shaw, Prothonotary

FILED

MAR 10 2008

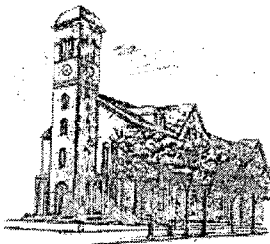
A handwritten signature in cursive script, appearing to read "William A. Shaw".
William A. Shaw
Prothonotary/Clerk of Courts

Record, Etc. Received:

Date:

March 7, 2008

Diane Smith - File Clerk
(Signature & Title)



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

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COPY

Fredric J. Ammerman, P.J.
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Theron G. Noble, Esq.
301 East Pine St.
Clearfield, PA 16830

Richard A. Bell, Esq.
PO Box 670
319 E. Locust St.
Clearfield, PA 16830

Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.

Court No. 02-962-CD; Superior Court No. 2156 WDA 2007

Dear Counsel:

Please be advised that a supplement to the above referenced record was forwarded to the Superior Court of Pennsylvania on March 6, 2008.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 02-962-CD

Martin R. Slifko, Jr.

Vs.

Junior Coal Contracting, Inc.

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
58	2/07/08	Letter to Superior Court	01
59	2/13/08	Certificate of Contents	01
60	3/06/08	Transcript of Proceedings, Civil Jury Trial, Day 1, before Honorable Fredric J. Ammerman, P.J., October 22, 2008, 9:07 a.m.	Separate Cover
61	3/06/08	Excerpt Transcript of Proceedings, Civil Jury Trial, Day II, held before the Honorable Fredric J. Ammerman, P.J., October 23, 2007	Separate Cover

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**No. 02-962-CD
Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.**

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	06/17/02	Civil Complaint	07
02	07/10/02	Praecipe for Appearance	03
03	08/06/02	Answer and New Matter	11
04	08/12/02	Sheriff Return, Papers served on Defendant	01
05	08/13/02	Plaintiff's Reply to New Matter	04
06	08/13/02	Plaintiff's Notice of Service of Plaintiff's First Set of Discovery Materials upon R. Bell, Esq.	02
07	08/21/02	Verification	03
08	09/04/02	Motion for Protective Order and Order with rule returnable for written response	05
09	09/12/02	Affidavit of Service, Motion for Protective Order and Rule returnable upon T. Noble, Esq.	03
10	09/16/02	Reply to Motion for Protective Order	04
11	10/10/02	Order, Re: following arguments regarding Motions	01
12	03/12/03	Plaintiff's Certificate of Service, Notice of Deposition, upon R. Bell, Esq.	01
13	01/26/04	Motion to Consolidate and scheduling order, re: oral argument scheduled	07
14	02/23/04	Order of Court, civil actions consolidated for the purpose of discovery and trial to docket number 03-1240-CD	01
15	05/24/04	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition	01
16	11/17/04	Motion for Summary Judgment	10
17	11/17/04	Praecipe for Argument	03
18	11/17/04	Order, re: Motion for Summary Judgment	02
19	12/16/04	Order, Re: argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled	01
20	12/27/04	Motion for Continuance	05
21	01/06/05	Praecipe to Withdraw Motion for Continuance	03
22	05/05/05	Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment and Rule to Show Cause issuing rule upon Plaintiff	46
23	05/11/05	Original Transcript, March 15, 2005, Deposition of Cprl. Thomas E. Josephson, PSP	Separate Cover
24	05/11/05	Transcript of Deposition of James Mock, June 8, 2005	Separate Cover
25	05/11/05	Answer to Defendant Junior Coal Contracting Inc.'s Motion for Summary Judgment	15
26	05/17/05	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment	05
27	05/19/05	Order, Re: argument on Attorney Bell's Preliminary Objections has been scheduled	02
28a	05/19/05	Certificate of Service, copy of Order dated May 19, 2005	01
28b	05/20/05	Order, May 10, 2005, Re: Summary judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties	01
28c	05/20/05	Order, May 17, 2005, Re: Summary judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties	01
29	08/24/05	Opinion and Order, Re: Motion for Summary Judgment is hereby Granted, Summary Judgment entered in favor of Junior Coal Contracting, Inc. and against Plaintiff	09
30	09/16/05	Notice of Appeal to Superior Court	05
31	09/20/05	Order, Re: concise statement	02
32	09/21/05	Appeal Docket Sheet, Superior Court Number 1618 WDA 2005	02
33	09/28/05	Concise Statement of Matters Complained of on Appeal	06
		Appeal Mailed September 28, 2005	

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

*No. 02-962-CD
Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.*

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
34	10/27/05	Certified Mail Receipt	01
35	10/31/05	Domestic Return Receipt	01
36	11/15/06	Superior Court Order	05
37	11/15/06	Certificate of Contents of Remanded Record and Notice of Remand	01
38	03/30/07	Praecipe to List for Trial	03
39	07/27/07	Order, Re: Pre-Trial Conference scheduled	01
40	08/09/07	Motion in Limine (Defendant)	05
41	08/27/07	Order, Re: Jury Selection scheduled	02
42	09/04/07	Motion in Limine (Plaintiff)	08
43	09/04/07	Certificate of Service, Re: Letter Brief	02
44	09/05/07	Order, Re: oral argument on all outstanding Petitions and Motions in Limine scheduled	01
45	09/06/07	Order, Re: Motion in Limine (Defendant)	01
46	09/20/07	Order, Re: Motion in Limine (Plaintiff)	02
47	10/23/07	Verdict	02
48	10/29/07	Motion for Post-Trial Relief	05
49	10/31/07	Order, Re: Motion for Post-Trial Relief Dismissed	01
50	11/09/07	Praecipe for Entry of Judgment and Certificate of Mailing	07
51	11/27/07	Notice of Appeal	07
52	11/29/07	Order, Re: concise statement to be filed	01
53	12/07/07	Appeal Docket Sheet, 2156 WDA 2007	02
54	12/07/07	Amended Order, Re: concise statement to be filed	01
55	12/10/07	Precise Statement of Matters Complained of on Appeal	04
56	02/6/08	Opinion	03
57	02/07/08	Letters, Re: Notification of mailing appeal mailed to Theron G. Noble, Esq. and Richard A. Bell, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	07
		Appeal Mailed February 7, 2008	

Date: 3/6/2008
Time: 01:28 PM
Page 1 of 1

Clearfield County Court of Common Pleas

User: HUDSON

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
2/7/2008	Letter to Superior Court, Re: Appeal mailed February 7, 2008.	Fredric Joseph Ammerman
2/13/2008	Certificate of Contents, This 7th day of Feb., 2008, Prothonotary of Clfd. Co. does certify that attached is the original record of the case currently on appeal. Case received by Superior Court on Feb. 11, 2008. No CC	Fredric Joseph Ammerman
3/6/2008	Transcript of Proceedings, Civil Jury Trial, Day 1, before Honorable Fredric J. Ammerman, P.J., October 22, 2008, 9:07 a.m., filed.	Fredric Joseph Ammerman
	Excerpt Transcript of Proceedings, Civil Jury Trial, Day II, held before the Honorable Fredric J. Ammerman, P.J., October 23, 2007, filed.	Fredric Joseph Ammerman

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

MAR 06 2008

Attest.



William A. Shaw
Prothonotary/
Clerk of Courts

Date: 3/6/2008

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 01:30 PM

ROA Report

Page 1 of 5

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
6/17/2002	Filing: Civil Complaint Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1844027 Dated: 06/17/2002 Amount: \$80.00 (Check) Four CC Attorney Noble	No Judge
7/10/2002	Praecipe For Appearance on behalf of Defendant, JUNIOR COAL CONTRACTING, INC. filed by s/Richard A. Bell, Esquire no cc	No Judge
8/6/2002	Answer and New Matter. Filed by s/Richard A. Bell, Esq. Verification s/George D. Cowfer, Jr., President Certificate of Service no cc	No Judge
8/12/2002	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
8/13/2002	Plaintiff's Reply To New Matter. Filed by s/Theron G. Noble, Esq. Certificate of Service no cc	No Judge
	Plaintiff's Notice of Service of Plaintiffs' FIRST SET OF DISCOVERY MATERIALS upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esq.	No Judge
8/21/2002	Filing: Verification s/ Plaintiff and Certificate of Service for Reply to New Matter. No cc.	No Judge
9/4/2002	Motion For Protective ORDER, filed by Atty. Bell no Cert. copies ORDER, filed one cert. to Atty. Bell AND NOW, this 4th day of September, 2002, Rule returnable the 24th day of September, 2002 for filing written response.	John K. Reilly Jr. John K. Reilly Jr.
9/12/2002	Affidavit of Service, Motion For Protective Order and Rule Returnable upon THERON G. NOBLE, ESQ. s/Richard A. Bell, Esquire no cc	John K. Reilly Jr.
9/16/2002	Reply To Motion For Protective Order. filed by s/Theron G. Noble, Esq. Certificate of Service no cc	John K. Reilly Jr.
10/10/2002	ORDER: NOW, this 9th day of October, 2002, following arguments regarding Motions. s/JKR One CC to Atty. Noble. One CC Atty. Bell.	John K. Reilly Jr.
3/12/2003	Plaintiff's Certificate Of Service, Notice of Deposition upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esquire no cc	John K. Reilly Jr.
1/26/2004	Motion To Consolidate. filed by, s/Illegible Signature Cert of Svc no cc Orig. filed to 03-1240-CD	John K. Reilly Jr.
1/28/2004	Scheduling ORDER: AND NOW, this 28th day of Jan. 2004, it is hereby Ordered that oral argument on the Motion to Consolidate filed by Defendant, shall be heard on Feb. 23, 2004. S/FJA 1 CC to Atty. Ramaley	Fredric Joseph Ammerman
2/23/2004	ORDER OF COURT, AND NOW, this 23rd day of February, 2004, IT IS HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the purpose of discovery and trial to Docket No. 03-1240-CD. by the Court, s/FJA, P.J.	Fredric Joseph Ammerman
5/24/2004	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition, upon: Richard A. Bell, Esq., Jeffrey A. Ramaley, Esq., Robert Leight, Esq. and David F. Wilk, Esq. filed by, s/Theron G. Noble, Esquire no cc	Fredric Joseph Ammerman
11/17/2004	Motion for Summary Judgment, filed by s/Jeffrey A. Ramaley, Esq. No CC	Fredric Joseph Ammerman
	Praecipe for Argument, filed by s/Jeffrey A. Ramaley, Esq. No CC	Fredric Joseph Ammerman
	ORDER, filed 5 cert. & memo to Atty. Ramaley ORDER of Court that Atty. Ramaley's Motion for Summary Judgment has been scheduled for the 21st day of December, 2004.	Fredric Joseph Ammerman

Civil Other

Date	Selected Items	Judge
12/16/2004	Order, AND NOW, this 16th day of December, 2004, Order that argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled from December 21, 2004 to January 12, 2005 at 10:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attys: Noble, Bell, Ramaley, Leight, Walk	Fredric Joseph Ammerman
12/27/2004	Motion for Continuance, filed by s/Theron G. Noble, Esq. No CC	Fredric Joseph Ammerman
1/6/2005	Praecipe To Withdraw Motion For Continuance, filed by s/ Theron G. Noble. No CC	Fredric Joseph Ammerman
5/5/2005	Defendant Junior Coal Contracting, Inc.'s Motion For Summary Judgment, filed by s/Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
5/9/2005	Rule To Show Cause, AND NOW, this 6th day of May, 2005 upon consideration of the Motion for Summary Judgment filed by the Defendant Junior Coal Contracting , a Rule is issued upon plaintiff. Rule shall be returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. 1CC Atty. Bell	Fredric Joseph Ammerman
5/11/2005	Original Transcript, March 15, 2005 Deposition of Cprl Thomas E. Josephson, PSP, filed.	Fredric Joseph Ammerman
	Transcript of Deposition of James Mock, June 8, 2005. Orig. to 03-1240-CD	Fredric Joseph Ammerman
	Answer To Defendant Junior Coal Contracting's Inc., Motion for Summary Judgment, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
5/17/2005	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections--Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment, filed by s/Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
5/19/2005	Order, AND NOW, this 19th day of May, 2005, it is the ORDER of the Court that argument on Attorney Bell's Preliminary Objections filed in the above matter has been scheduled for the 23rd day of May, 2005, at 11:00 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty Bell w/service memo	Fredric Joseph Ammerman
	Certificate of Service, Copy of Order Dated May 19, 2005 with regard to our Preliminary Objections in the above matter served upon Theron G. Noble, Esq., David F. Wilk, Esq., Jeffrey A. Ramaley, Esq., Robert R. Leight, Esq. Filed By Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
5/20/2005	Order, AND NOW, this 10th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J.	Fredric Joseph Ammerman
	Order, AND NOW, this 17th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J. Five CC Atty Ramaley	Fredric Joseph Ammerman

Date: 3/6/2008
Time: 01:30 PM
Page 3 of 5

Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
8/24/2005	Opinion and Order. (see original for opinion). Order: NOW, this 23rd day of August, 2005, following review of the record, oral argument, and submission of briefs, it is the Order of this Court as follows: The Motion for Summary Judgment filed on behalf of Defendant, Junior Coal Contracting, Inc., is hereby Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Noble, J. Ramaley, R. Leight, D. Wilk, R. Bell, and D. Mikesell. Original filed to 03-1240-CD	Fredric Joseph Ammerman
9/16/2005	Filing: Appeal to High Court Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1908398 Dated: 09/16/2005 Amount: \$45.00 (Check)	Fredric Joseph Ammerman
	Notice of Appeal, filed by s/ Theron G. Noble, Esquire. 1CC Sup. Crt. w/ck	Fredric Joseph Ammerman
9/20/2005	Order, NOW, this 20th day of Sept., 2005, the court having been notified of Appeal to the Superior Court of Pennsylvania, it is the Order of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, Ramaley, Leight, Wilk, R. Bell	Fredric Joseph Ammerman
9/21/2005	Appeal Docket Sheet, filed.	Fredric Joseph Ammerman
9/28/2005	Concise Statement of Matters Complained of On Appeal, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/27/2005	Appeal mailed to Superior Court October 27, 2005.	Fredric Joseph Ammerman
	Certified Mail Receipt, sent to Superior Court of Pa., Prothonotary on 10/27/2005.	Fredric Joseph Ammerman
10/31/2005	Domestic Return Receipt, received Superior Court of Pa, in re: Appeal.	Fredric Joseph Ammerman
11/15/2006	Appeal from the Order entered August 23, 2005, in the Court of Common Pleas of Clearfield County, Civil Division, at No. 02-962-CD: Order reversed. Case remanded. Jurisdiction relinquished. (docket sheet corrected 12-13-07)	Fredric Joseph Ammerman
	Certificate of Contents of Remanded Record and Notice of Remand, Record remanded Nov. 13, 2006. Copy to Superior Court.	Fredric Joseph Ammerman
3/30/2007	Praecipe to List for Trial, Re: Jury Trial, filed by Atty. Noble no cert. copies.	Fredric Joseph Ammerman
7/27/2007	Order, this 27th day of July, 2007, it is Ordered that Pre-Trial Conference shall be held on the 24th day of August, 2007, in Chambers at 9:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
8/9/2007	Motion in Limine, filed by s/ Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
8/27/2007	Order, this 24th day of August, 2007, Jury Selection will be held on August 28, 2007 at 9:00 a.m. in Courtroom 1. Jury Trial is scheduled for Monday, Tuesday and Wednesday, Oct. 22nd, 23rd and 24th, 2007, commencing at 9:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Noble, Bell	Fredric Joseph Ammerman
9/4/2007	Motion In Limine, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman

Date: 3/6/2008
Time: 01:30 PM
Page 4 of 5

Clearfield County Court of Common Pleas

User: BHUDSON

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
9/4/2007	Certificate of Service, filed. That a copy of my Letter Brief filed on behalf of Junior Coal Contracting Inc., in the above matter was mailed on the 31st day of August 2007 to Theron G. Noble Esq., filed by s/ Richard A. Bell Esq. No CC.	Fredric Joseph Ammerman
9/5/2007	Order, this 4th day of Sept., 2007, it is Ordered that oral argument on all outstanding Petitions and Motions in Limine have been scheduled for Sept. 17, 2007 at 1:30 p.m. in Courtroom 3. Answers to said Motions shall be filed on or before Sept. 14, 2007. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
9/6/2007	Order, this 5th day of Sept., 2007, upon consideration of the Motion In Limine filed by the Defendant, it is Ordered that: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. R. Bell	Fredric Joseph Ammerman
9/20/2007	Order, this 18th day of Sept., 2007, following argument on the Plaintiff's Motion in Limine, it is Ordered: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, Bell	Fredric Joseph Ammerman
10/23/2007	Verdict, filed NOW, this 23rd day of October, 2007, we the Jurors empanelled in the above entitled case, find as follows: Do you find that the Defendant, Junior Coal Contracting, Inc. was negligent? NO. s/ Michelle Cristini, Foreperson.	Fredric Joseph Ammerman
10/29/2007	Motion For Post-Trial Relief, filed by s/Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/31/2007	Order, this 31st day of Oct., 2007, Motion for Post-Trial Relief is Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: R. Bell, Noble	Fredric Joseph Ammerman
11/9/2007	Praecipe for Entry of Judgment, filed by Atty. Bell Enter Judgment in favor of the Defendant and against the Plaintiff on the verdict of the jury entered October 23, 2007. Notice of Judgment to Atty. Noble. no cert. copies	Fredric Joseph Ammerman
	Certificate of Mailing Copy of Praecipe for Entry of Judgment and Praecipe for Entry of Judgment, filed by Atty. Bell no cert. copies.	Fredric Joseph Ammerman
11/27/2007	Filing: Notice of Appeal Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1921600 Dated: 11/27/2007 Amount: \$45.00 (Check) 1CC & ck \$60.00 to Superior Court.	Fredric Joseph Ammerman
11/29/2007	Order NOW, this 29th day of November 2007, this Court having been notified of Appeal to the Commonwealth Court of Pennsylvania in the above-captioned matter, it is the ORDER of this Court that Martin R. Slifko, Appellant, filed a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days therefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: Noble and Bell	Fredric Joseph Ammerman
12/7/2007	Appeal Docket Sheet, filed. Docket # 2156 WDA 2007	Fredric Joseph Ammerman

Date: 3/6/2008
Time: 01:30 PM
Page 5 of 5

Clearfield County Court of Common Pleas
ROA Report
Case: 2002-00962-CD

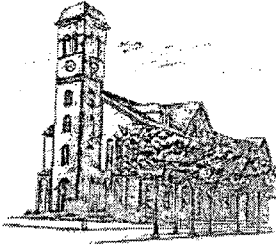
User: BHUDSON

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
12/7/2007	Amended Order, NOW, this 7th day of Dec., 2007, it is Ordered that this Court's Order of Nov., 29, 2007, is Amended to read as follows: NOW, this 29th day of Nov., 2007, the Court having been notified of Appeal to Superior Court, it is Ordered that Martin R. Slifko, Appellant, file a concise statement of the matters complained of on said Appeal no later than 21 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
12/10/2007	Precise Statement of Matters Complained of on Appeal, filed by Atty. Noble, no cert. copies.	Fredric Joseph Ammerman
2/6/2008	Opinion, filed by the Court Cert. to Atty's Bell & Noble.	Fredric Joseph Ammerman
2/7/2008	February 7, 2008, Mailed Appeal to Superior Court. February 7, 2008, Letters, Re: Notification of mailing appeal mailed to Theron G. Noble, Esq. and Richard A. Bell, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	Fredric Joseph Ammerman



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ www.clearfieldco.org

COPY

Fredric J. Ammerman, P.J.
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Theron G. Noble, Esq.
301 East Pine St.
Clearfield, PA 16830

Richard A. Bell, Esq.
PO Box 670
319 E. Locust St.
Clearfield, PA 16830

Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.

Court No. 02-962-CD; Superior Court No. 2156 WDA 2007

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on February 7, 2008. Two additional transcripts are pending and will be forwarded to Superior Court upon filing in my office, pursuant to Superior Court's instructions.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 02-962-CD
Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.

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40	08/09/07	Motion in Limine (Defendant)	05
41	08/27/07	Order, Re: Jury Selection scheduled	02
42	09/04/07	Motion in Limine (Plaintiff)	08
43	09/04/07	Certificate of Service, Re: Letter Brief	02
44	09/05/07	Order, Re: oral argument on all outstanding Petitions and Motions in Limine scheduled	01
45	09/06/07	Order, Re: Motion in Limine (Defendant)	01
46	09/20/07	Order, Re: Motion in Limine (Plaintiff)	02
47	10/23/07	Verdict	02
48	10/29/07	Motion for Post-Trial Relief	05
49	10/31/07	Order, Re: Motion for Post-Trial Relief Dismissed	01
50	11/09/07	Praecipe for Entry of Judgment and Certificate of Mailing	07
51	11/27/07	Notice of Appeal	07
52	11/29/07	Order, Re: concise statement to be filed	01
53	12/07/07	Appeal Docket Sheet, 2156 WDA 2007	02
54	12/07/07	Amended Order, Re: concise statement to be filed	01
55	12/10/07	Precise Statement of Matters Complained of on Appeal	04
56	02/6/08	Opinion	03

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**No. 02-962-CD
Martin R. Slifko, Jr.
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Junior Coal Contracting, Inc.**

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07	08/21/02	Verification	03
08	09/04/02	Motion for Protective Order and Order with rule returnable for written response	05
09	09/12/02	Affidavit of Service, Motion for Protective Order and Rule returnable upon T. Noble, Esq.	03
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14	02/23/04	Order of Court, civil actions consolidated for the purpose of discovery and trial to docket number 03-1240-CD	01
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21	01/06/05	Praecipe to Withdraw Motion for Continuance	03
22	05/05/05	Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment and Rule to Show Cause issuing rule upon Plaintiff	46
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25	05/11/05	Answer to Defendant Junior Coal Contracting Inc.'s Motion for Summary Judgment	15
26	05/17/05	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment	05
27	05/19/05	Order, Re: argument on Attorney Bell's Preliminary Objections has been scheduled	02
28a	05/19/05	Certificate of Service, copy of Order dated May 19, 2005	01
28b	05/20/05	Order, May 10, 2005, Re: Summary judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties	01
28c	05/20/05	Order, May 17, 2005, Re: Summary judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties	01
29	08/24/05	Opinion and Order, Re: Motion for Summary Judgment is hereby Granted, Summary Judgment entered in favor of Junior Coal Contracting, Inc. and against Plaintiff	09
30	09/16/05	Notice of Appeal to Superior Court	05
31	09/20/05	Order, Re: concise statement	02
32	09/21/05	Appeal Docket Sheet, Superior Court Number 1618 WDA 2005	02
33	09/28/05	Concise Statement of Matters Complained of on Appeal	06
		Appeal Mailed September 28, 2005	

Date: 02/07/2008

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 02:16 PM

ROA Report

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Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
06/17/2002	Filing: Civil Complaint Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1844027 Dated: 06/17/2002 Amount: \$80.00 (Check) Four CC Attorney Noble	No Judge
07/10/2002	Praeipie For Appearance on behalf of Defendant, JUNIOR COAL CONTRACTING, INC. filed by s/Richard A. Bell, Esquire no cc	No Judge
08/06/2002	Answer and New Matter. Filed by s/Richard A. Bell, Esq. Verification s/George D. Cowfer, Jr., President Certificate of Service no cc	No Judge
08/12/2002	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
08/13/2002	Plaintiff's Reply To New Matter. Filed by s/Theron G. Noble, Esq. Certificate of Service no cc	No Judge
	Plaintiff's Notice of Service of Plaintiffs' FIRST SET OF DISCOVERY MATERIALS upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esq.	No Judge
08/21/2002	Filing: Verification s/ Plaintiff and Certificate of Service for Reply to New Matter. No cc.	No Judge
09/04/2002	Motion For Protective ORDER, filed by Atty. Bell no Cert. copies ORDER, filed one cert. to Atty. Bell AND NOW, this 4th day of September, 2002, Rule returnable the 24th day of September, 2002 for filing written response.	John K. Reilly Jr. John K. Reilly Jr.
09/12/2002	Affidavit of Service, Motion For Protective Order and Rule Returnable upon THERON G. NOBLE, ESQ. s/Richard A. Bell, Esquire no cc	John K. Reilly Jr.
09/16/2002	Reply To Motion For Protective Order. filed by s/Theron G. Noble, Esq. Certificate of Service no cc	John K. Reilly Jr.
10/10/2002	ORDER: NOW, this 9th day of October, 2002, following arguments regarding Motions. s/JKR One CC to Atty. Noble. One CC Atty. Bell.	John K. Reilly Jr.
03/12/2003	Plaintiff's Certificate Of Service, Notice of Deposition upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esquire no cc	John K. Reilly Jr.
01/26/2004	Motion To Consolidate. filed by, s/Illegible Signature Cert of Svc no cc Orig. filed to 03-1240-CD	John K. Reilly Jr.
01/28/2004	Scheduling ORDER: AND NOW, this 28th day of Jan. 2004, it is hereby Ordered that oral argument on the Motion to Consolidate filed by Defendant, shall be heard on Feb. 23, 2004. S/FJA 1 CC to Atty. Ramaley	Fredric Joseph Ammerman
02/23/2004	ORDER OF COURT, AND NOW, this 23rd day of February, 2004, IT IS HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the purpose of discovery and trial to Docket No. 03-1240-CD. by the Court, s/FJA, P.J.	Fredric Joseph Ammerman
05/24/2004	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition, upon: Richard A. Bell, Esq., Jeffrey A. Ramaley, Esq., Robert Leight, Esq. and David F. Wilk, Esq. filed by, s/Theron G. Noble, Esquire no cc	Fredric Joseph Ammerman
11/17/2004	Motion for Summary Judgment, filed by s/Jeffrey A. Ramaley, Esq. No CC Praeipie for Argument, filed by s/Jeffrey A. Ramaley, Esq. No CC ORDER, filed 5 cert. & memo to Atty. Ramaley ORDER of Court that Atty. Ramaley's Motion for Summary Judgment has been scheduled fo the 21st day of December, 2004.	Fredric Joseph Ammerman Fredric Joseph Ammerman Fredric Joseph Ammerman

Date: 02/07/2008

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 02:16 PM

ROA Report

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Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
12/16/2004	Order, AND NOW, this 16th day of December, 2004, Order that argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled from December 21, 2004 to January 12, 2005 at 10:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attys: Noble, Bell, Ramaley, Leight, Walk	Fredric Joseph Ammerman
12/27/2004	Motion for Continuance, filed by s/Theron G. Noble, Esq. No CC	Fredric Joseph Ammerman
01/06/2005	Praecipe To Withdraw Motion For Continuance, filed by s/ Theron G. Noble. No CC	Fredric Joseph Ammerman
05/05/2005	Defendant Junior Coal Contracting, Inc.'s Motion For Summary Judgment, filed by s/Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
05/09/2005	Rule To Show Cause, AND NOW, this 6th day of May, 2005 upon consideration of the Motion for Summary Judgment filed by the Defendant Junior Coal Contracting , a Rule is issued upon plaintiff. Rule shall be returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. 1CC Atty. Bell	Fredric Joseph Ammerman
05/11/2005	Original Transcript, March 15, 2005 Deposition of Cprl Thomas E. Josephson, PSP, filed.	Fredric Joseph Ammerman
	Transcript of Deposition of James Mock, June 8, 2005. Orig. to 03-1240-CD	Fredric Joseph Ammerman
	Answer To Defendant Junior Coal Contracting's Inc., Motion for Summary Judgment, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
05/17/2005	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections--Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment, filed by s/Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
05/19/2005	Order, AND NOW, this 19th day of May, 2005, it is the ORDER of the Court that argument on Attorney Bell's Preliminary Objections filed in the above matter has been scheduled for the 23rd day of May, 2005, at 11:00 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty Bell w/service memo	Fredric Joseph Ammerman
	Certificate of Service, Copy of Order Dated May 19, 2005 with regard to our Preliminary Objections in the above matter served upon Theron G. Noble, Esq., David F. Wilk, Esq., Jeffrey A. Ramaley, Esq., Robert R. Leight, Esq. Filed By Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
05/20/2005	Order, AND NOW, this 10th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J.	Fredric Joseph Ammerman
	Order, AND NOW, this 17th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J. Five CC Atty Ramaley	Fredric Joseph Ammerman
08/24/2005	Opinion and Order. (see original for opinion). Order: NOW, this 23rd day of August, 2005, following review of the record, oral argument, and submission of briefs, it is the Order of this Court as follows: The Motion for Summary Judgment filed on behalf of Defendant, Junior Coal Contracting, Inc., is hereby Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Noble, J. Ramaley, R. Leight, D. Wilk, R. Bell, and D. Mikesell. Original filed to 03-1240-CD	Fredric Joseph Ammerman

Date: 02/07/2008

Clearfield County Court of Common Pleas

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Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
09/16/2005	Filing: Appeal to High Court Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1908398 Dated: 09/16/2005 Amount: \$45.00 (Check)	Fredric Joseph Ammerman
09/20/2005	Notice of Appeal, filed by s/ Theron G. Noble, Esquire. 1CC Sup. Crt. w/ck Order, NOW, this 20th day of Sept., 2005, the court having been notified of Appeal to the Superior Court of Pennsylvania, it is the Order of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, Ramaley, Leight, Wilk, R. Bell	Fredric Joseph Ammerman
09/21/2005	Appeal Docket Sheet, filed.	Fredric Joseph Ammerman
09/28/2005	Concise Statement of Matters Complained of On Appeal, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/27/2005	Appeal mailed to Superior Court October 27, 2005.	Fredric Joseph Ammerman
	Certified Mail Receipt, sent to Superior Court of Pa., Prothonotary on 10/27/2005.	Fredric Joseph Ammerman
10/31/2005	Domestic Return Receipt, received Superior Court of Pa, in re: Appeal.	Fredric Joseph Ammerman
11/15/2006	Appeal from the Order entered August 23, 2005, in the Court of Common Pleas of Clearfield County, Civil Division, at No. 02-962-CD: Order reversed. Case remanded. Jurisdiction relinquished. (docket sheet corrected 12-13-07)	Fredric Joseph Ammerman
	Certificate of Contents of Remanded Record and Notice of Remand, Record remanded Nov. 13, 2006. Copy to Superior Court.	Fredric Joseph Ammerman
03/30/2007	Praeipce to List for Trial, Re: Jury Trial, filed by Atty. Noble no cert. copies.	Fredric Joseph Ammerman
07/27/2007	Order, this 27th day of July, 2007, it is Ordered that Pre-Trial Conference shall be held on the 24th day of August, 2007, in Chambers at 9:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
08/09/2007	Motion in Limine, filed by s/ Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
08/27/2007	Order, this 24th day of August, 2007, Jury Selection will be held on August 28, 2007 at 9:00 a.m. in Courtroom 1. Jury Trial is scheduled for Monday, Tuesday and Wednesday, Oct. 22nd, 23rd and 24th, 2007, commencing at 9:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Noble, Bell	Fredric Joseph Ammerman
09/04/2007	Motion In Limine, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
	Certificate of Service, filed. That a copy of my Letter Brief filed on behalf of Junior Coal Contracting Inc., in the above matter was mailed on the 31st day of August 2007 to Theron G. Noble Esq., filed by s/ Richard A. Bell Esq. No CC.	Fredric Joseph Ammerman
09/05/2007	Order, this 4th day of Sept., 2007, it is Ordered that oral argument on all outstanding Petitions and Motions in Limine have been scheduled for Sept. 17, 2007 at 1:30 p.m. in Courtroom 3. Answers to said Motions shall be filed on or before Sept. 14, 2007. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
09/06/2007	Order, this 5th day of Sept., 2007, upon consideration of the Motion In Limine filed by the Defendant, it is Ordered that: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. R. Bell	Fredric Joseph Ammerman

Date: 02/07/2008

Time: 02:16 PM

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Clearfield County Court of Common Pleas

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

User: BHUDSON

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

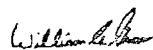
Civil Other

Date		Judge
09/20/2007	Order, this 18th day of Sept., 2007, following argument on the Plaintiff's Motion in Limine, it is Ordered: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, Bell	Fredric Joseph Ammerman
10/23/2007	Verdict, filed NOW, this 23rd day of October, 2007, we the Jurors empanelled in the above entitled case, find as follows: Do you find that the Defendant, Junior Coal Contracting, Inc. was negligent? NO. s/ Michelle Cristini, Foreperson.	Fredric Joseph Ammerman
10/29/2007	Motion For Post-Trial Relief, filed by s/Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/31/2007	Order, this 31st day of Oct., 2007, Motion for Post-Trial Relief is Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: R. Bell, Noble	Fredric Joseph Ammerman
11/09/2007	Praecipe for Entry of Judgment, filed by Atty. Bell Enter Judgment in favor of the Defendant and against the Plaintiff on the verdict of the jury entered October 23, 2007. Notice of Judgment to Atty. Noble. no cert. copies	Fredric Joseph Ammerman
	Certificate of Mailing Copy of Praecipe for Entry of Judgment and Praecipe for Entry of Judgment, filed by Atty. Bell no cert. copies.	Fredric Joseph Ammerman
11/27/2007	Filing: Notice of Appeal Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1921600 Dated: 11/27/2007 Amount: \$45.00 (Check) 1CC & ck \$60.00 to Superior Court.	Fredric Joseph Ammerman
11/29/2007	Order NOW, this 29th day of November 2007, this Court having been notified of Appeal to the Commonwealth Court of Pennsylvania in the above-captioned matter, it is the ORDER of this Court that Martin R. Slifko, Appellant, filed a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days therefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: Noble and Bell	Fredric Joseph Ammerman
12/07/2007	Appeal Docket Sheet, filed. Docket # 2156 WDA 2007	Fredric Joseph Ammerman
	Amended Order, NOW, this 7th day of Dec., 2007, it is Ordered that this Court's Order of Nov., 29, 2007, is Amended to read as follows: NOW, this 29th day of Nov., 2007, the Court having been notified of Appeal to Superior Court, it is Ordered that Martin R. Slifko, Appellant, file a concise statement of the matters complained of on said Appeal no later than 21 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
12/10/2007	Precise Statement of Matters Complained of on Appeal, filed by Atty. Noble, no cert. copies.	Fredric Joseph Ammerman
02/06/2008	Opinion, filed by the Court Cert. to Atty's Bell & Noble.	Fredric Joseph Ammerman

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

FEB 07 2008

Attest.


Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

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08	09/04/02	Motion for Protective Order and Order with rule returnable for written response	05
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11	10/10/02	Order, Re: following arguments regarding Motions	01
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13	01/26/04	Motion to Consolidate and scheduling order, re: oral argument scheduled	07
14	02/23/04	Order of Court, civil actions consolidated for the purpose of discovery and trial to docket number 03-1240-CD	01
15	05/24/04	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition	01
16	11/17/04	Motion for Summary Judgment	10
17	11/17/04	Praeipie for Argument	03
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24	05/11/05	Transcript of Deposition of James Mock, June 8, 2005	Separate Cover
25	05/11/05	Answer to Defendant Junior Coal Contracting Inc.'s Motion for Summary Judgment	15
26	05/17/05	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment	05
27	05/19/05	Order, Re: argument on Attorney Bell's Preliminary Objections has been scheduled	02
28a	05/19/05	Certificate of Service, copy of Order dated May 19, 2005	01
28b	05/20/05	Order, May 10, 2005, Re: Summary judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties	01
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29	08/24/05	Opinion and Order, Re: Motion for Summary Judgment is hereby Granted, Summary Judgment entered in favor of Junior Coal Contracting, Inc. and against Plaintiff	09
30	09/16/05	Notice of Appeal to Superior Court	05
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Date: 12/31/2007

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 04:06 PM

ROA Report

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Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
10/27/2005	Appeal mailed to Superior Court October 27, 2005.	Fredric Joseph Ammerman
	(34) Certified Mail Receipt, sent to Superior Court of Pa., Prothonotary on 10/27/2005.	Fredric Joseph Ammerman
10/31/2005	(35) Domestic Return Receipt, received Superior Court of Pa, in re: Appeal.	Fredric Joseph Ammerman
11/15/2006	Appeal from the Order entered August 23, 2005, in the Court of Common Pleas of Clearfield County, Civil Division, at No. 02-962-CD: Order reversed. Case remanded. Jurisdiction relinquished. (docket sheet corrected 12-13-07)	Fredric Joseph Ammerman
	(36)	5
	(37) Certificate of Contents of Remanded Record and Notice of Remand, Record remanded Nov. 13, 2006. Copy to Superior Court.	Fredric Joseph Ammerman
03/30/2007	(38) Praecipe to List for Trial, Re: Jury Trial, filed by Atty. Noble no cert. copies.	Fredric Joseph Ammerman
07/27/2007	Order, this 27th day of July, 2007, it is Ordered that Pre-Trial Conference shall be held on the 24th day of August, 2007, in Chambers at 9:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
	(39)	1
08/09/2007	(40) Motion in Limine, filed by s/ Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
08/27/2007	Order, this 24th day of August, 2007, Jury Selection will be held on August 28, 2007 at 9:00 a.m. in Courtroom 1. Jury Trial is scheduled for Monday, Tuesday and Wednesday, Oct. 22nd, 23rd and 24th, 2007, commencing at 9:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Noble, Bell	Fredric Joseph Ammerman
	(41)	2
09/04/2007	(42) Motion In Limine, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
	(43) Certificate of Service, filed. That a copy of my Letter Brief filed on behalf of Junior Coal Contracting Inc., in the above matter was mailed on the 31st day of August 2007 to Theron G. Noble Esq., filed by s/ Richard A. Bell Esq. No CC.	Fredric Joseph Ammerman
09/05/2007	Order, this 4th day of Sept., 2007, it is Ordered that oral argument on all outstanding Petitions and Motions in Limine have been scheduled for Sept. 17, 2007 at 1:30 p.m. in Courtroom 3. Answers to said Motions shall be filed on or before Sept. 14, 2007. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
	(44)	1
09/06/2007	(45) Order, this 5th day of Sept., 2007, upon consideration of the Motion In Limine filed by the Defendant, it is Ordered that: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. R. Bell	Fredric Joseph Ammerman
09/20/2007	(46) Order, this 18th day of Sept., 2007, following argument on the Plaintiff's Motion in Limine, it is Ordered: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, Bell	Fredric Joseph Ammerman
10/23/2007	Verdict, filed NOW, this 23rd day of October, 2007, we the Jurors empanelled in the above entitled case, find as follows: Do you find that the Defendant, Junior Coal Contracting, Inc. was negligent? NO. s/ Michelle Cristini, Foreperson.	Fredric Joseph Ammerman
	(47)	0
10/29/2007	(48) Motion For Post-Trial Relief, filed by s/Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/31/2007	Order, this 31st day of Oct., 2007, Motion for Post-Trial Relief is Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: R. Bell, Noble	Fredric Joseph Ammerman
	(49)	1

Date: 12/31/2007

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 04:06 PM

ROA Report

Page 2 of 2

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
11/09/2007	(50) Praecipe for Entry of Judgment, filed by Atty. Bell Enter Judgment in favor of the Defendant and against the Plaintiff on the verdict of the jury entered October 23, 2007. Notice of Judgment to Atty. Noble. no cert. copies 7 (51) Certificate of Mailing Copy of Praecipe for Entry of Judgment and Praecipe for Entry of Judgment, filed by Atty. Bell no cert. copies.	Fredric Joseph Ammerman Fredric Joseph Ammerman
11/27/2007	(51) Filing: Notice of Appeal Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1921600 Dated: 11/27/2007 Amount: \$45.00 (Check) 1CC & ck \$60.00 to Superior Court. 7	Fredric Joseph Ammerman
11/29/2007	Order NOW, this 29th day of November 2007, this Court having been notified of Appeal to the Commonwealth Court of Pennsylvania in the above-captioned matter, it is the ORDER of this Court that Martin R. Slifko, (52) Appellant, filed a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days therefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: Noble and Bell 1	Fredric Joseph Ammerman
12/07/2007	(53) Appeal Docket Sheet, filed. Docket # 2156 WDA 2007 2 (54) Amended Order, NOW, this 7th day of Dec., 2007, it is Ordered that this Court's Order of Nov., 29, 2007, is Amended to read as follows: NOW, this 29th day of Nov., 2007, the Court having been notified of Appeal to Superior Court, it is Ordered that Martin R. Slifko, Appellant, file a concise statement of the matters complained of on said Appeal no later than 21 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman Fredric Joseph Ammerman
12/10/2007	(55) Precise Statement of Matters Complained of on Appeal, filed by Atty. Noble, no cert. copies. 4	Fredric Joseph Ammerman

October 27, 2005

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219


Re: Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.
No. 02-962-CD
Superior Court No. 1618 WDA 2005

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office. Also, please find enclosed two transcripts.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

 COPY

Fredric J. Ammerman, P.J.
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Theron G. Noble
301 E. Pine Street
Clearfield, PA 16830

Jeffrey A. Ramaley
3300 US Steel Tower
600 Grant Street
Pittsburgh, PA 15219

Robert Leight, Esq.
One Oxford Centre, 38th Floor
301 Grant Street
Pittsburgh, PA 15219

David F. Wilk
33 W. Third St., Ste. 200
Williamsport, PA 17701

Richard A. Bell
PO Box 670
Clearfield, PA 16830

Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.

Martin R. Slifko, Jr.
Vs.
Gary Baldwin, t/d/b/a Gary Baldwin
Trucking; Albert Green Trucking, Inc.;
Senex Explosives, Inc.

Court No. 02-962-CD and 03-1240-CD
Superior Court No. 1617 WDA 2005 and 1618 WDA 2005

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on October 27, 2005.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

Date: 10/27/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:15 AM

ROA Report

Page 1 of 3

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
06/17/2002	Filing: Civil Complaint Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1844027 Dated: 06/17/2002 Amount: \$80.00 (Check) Four CC Attorney Noble	No Judge
07/10/2002	Praecipe For Appearance on behalf of Defendant, JUNIOR COAL CONTRACTING, INC. filed by s/Richard A. Bell, Esquire no cc	No Judge
08/06/2002	Answer and New Matter. Filed by s/Richard A. Bell, Esq. Verification s/George D. Cowfer, Jr., President Certificate of Service no cc	No Judge
08/12/2002	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
08/13/2002	Plaintiff's Reply To New Matter. Filed by s/Theron G. Noble, Esq. Certificate of Service no cc	No Judge
	Plaintiff's Notice of Service of Plaintiffs' FIRST SET OF DISCOVERY MATERIALS upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esq.	No Judge
08/21/2002	Filing: Verification s/ Plaintiff and Certificate of Service for Reply to New Matter. No cc.	No Judge
09/04/2002	Motion For Protective ORDER, filed by Atty. Bell no Cert. copies ORDER, filed one cert. to Atty. Bell AND NOW, this 4th day of September, 2002, Rule returnable the 24th day of September, 2002 for filing written response.	John K. Reilly Jr. John K. Reilly Jr.
09/12/2002	Affidavit of Service, Motion For Protective Order and Rule Returnable upon THERON G. NOBLE, ESQ. s/Richard A. Bell, Esquire no cc	John K. Reilly Jr.
09/16/2002	Reply To Motion For Protective Order. filed by s/Theron G. Noble, Esq. Certificate of Service no cc	John K. Reilly Jr.
10/10/2002	ORDER: NOW, this 9th day of October, 2002, following arguments regarding Motions. s/JKR One CC to Atty. Noble. One CC Atty. Bell.	John K. Reilly Jr.
03/12/2003	Plaintiff's Certificate Of Service, Notice of Deposition upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esquire no cc	John K. Reilly Jr.
01/26/2004	Motion To Consolidate. filed by, s/Illegible Signature Cert of Svc no cc Orig. filed to 03-1240-CD	John K. Reilly Jr.
01/28/2004	Scheduling ORDER: AND NOW, this 28th day of Jan. 2004, it is hereby Ordered that oral argument on the Motion to Consolidate filed by Defendant, shall be heard on Feb. 23, 2004. S/FJA 1 CC to Atty. Ramaley	Fredric Joseph Ammerman
02/23/2004	ORDER OF COURT, AND NOW, this 23rd day of February, 2004, IT IS HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the purpose of discovery and trial to Docket No. 03-1240-CD. by the Court, s/FJA, P.J.	Fredric Joseph Ammerman
05/24/2004	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition, upon: Richard A. Bell, Esq., Jeffrey A. Ramaley, Esq., Robert Leight, Esq. and David F. Wilk, Esq. filed by, s/Theron G. Noble, Esquire no cc	Fredric Joseph Ammerman
11/17/2004	Motion for Summary Judgment, filed by s/Jeffrey A. Ramaley, Esq. No CC Praecipe for Argument, filed by s/Jeffrey A. Ramaley, Esq. No CC ORDER, filed 5 cert. & memo to Atty. Ramaley ORDER of Court that Atty. Ramaley's Motion for Summary Judgment has been scheduled fo the 21st day of December, 2004.	Fredric Joseph Ammerman Fredric Joseph Ammerman Fredric Joseph Ammerman
12/16/2004	Order, AND NOW, this 16th day of December, 2004, Order that argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled from December 21, 2004 to January 12, 2005 at 10:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attys: Noble, Bell, Ramaley, Leight, Walk	Fredric Joseph Ammerman
12/27/2004	Motion for Continuance, filed by s/Theron G. Noble, Esq. No CC	Fredric Joseph Ammerman

Date: 10/27/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:15 AM

ROA Report

Page 2 of 3

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
01/06/2005	Praeipce To Withdraw Motion For Continuance, filed by s/ Theron G. Noble. No CC	Fredric Joseph Ammerman
05/05/2005	Defendant Junior Coal Contracting, Inc.'s Motion For Summary Judgment, filed by s/Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
05/09/2005	Rule To Show Cause, AND NOW, this 6th day of May, 2005 upon consideration of the Motion for Summary Judgment filed by the Defendant Junior Coal Contracting , a Rule is issued upon plaintiff. Rule shall be returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. 1CC Atty. Bell	Fredric Joseph Ammerman
05/11/2005	Original Transcript, March 15, 2005 Deposition of Cprl Thomas E. Josephson, PSP, filed.	Fredric Joseph Ammerman
	Transcript of Deposition of James Mock, June 8, 2005. Orig. to 03-1240-CD	Fredric Joseph Ammerman
	Answer To Defendant Junior Coal Contracting's Inc., Motion for Summary Judgment, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
05/17/2005	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections--Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment, filed by s/Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
05/19/2005	Order, AND NOW, this 19th day of May, 2005, it is the ORDER of the Court that argument on Attorney Bell's Preliminary Objections filed in the above matter has been scheduled for the 23rd day of May, 2005, at 11:00 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty Bell w/service memo	Fredric Joseph Ammerman
	Certificate of Service, Copy of Order Dated May 19, 2005 with regard to our Preliminary Objections in the above matter served upon Theron G. Noble, Esq., David F. Wilk, Esq., Jeffrey A. Ramaley, Esq., Robert R. Leight, Esq. Filed By Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
05/20/2005	Order, AND NOW, this 10th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J.	Fredric Joseph Ammerman
	Order, AND NOW, this 17th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J. Five CC Atty Ramaley	Fredric Joseph Ammerman
08/24/2005	Opinion and Order. (see original for opinion). Order: NOW, this 23rd day of August, 2005, following review of the record, oral argument, and submission of briefs, it is the Order of this Court as follows: The Motion for Summary Judgment filed on behalf of Defendant, Junior Coal Contracting, Inc., is hereby Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Noble, J. Ramaley, R. Leight, D. Wilk, R. Bell, and D. Mikesell. Original filed to 03-1240-CD	Fredric Joseph Ammerman
09/16/2005	Filing: Appeal to High Court Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1908398 Dated: 09/16/2005 Amount: \$45.00 (Check)	Fredric Joseph Ammerman
	Notice of Appeal, filed by s/ Theron G. Noble, Esquire. 1CC Sup. Crt. w/ck	Fredric Joseph Ammerman
09/20/2005	Order, NOW, this 20th day of Sept., 2005, the court having been notified of Appeal to the Superior Court of Pennsylvania, it is the Order of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, Ramaley, Leight, Wilk, R. Bell	Fredric Joseph Ammerman

Date: 10/27/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:15 AM

ROA Report

Page 3 of 3

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
09/21/2005	Appeal Docket Sheet, filed.	Fredric Joseph Ammerman
09/28/2005	Concise Statement of Matters Complained of On Appeal, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/27/2005	Appeal mailed to Superior Court October 27, 2005.	Fredric Joseph Ammerman

Date: 10/05/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 09:40 AM

ROA Report

Page 1 of 2

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
06/17/2002	① Filing: Civil Complaint Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1844027 Dated: 06/17/2002 Amount: \$80.00 (Check) Four CC Attorney Noble 7	No Judge
07/10/2002	② Praecipe For Appearance on behalf of Defendant, JUNIOR COAL CONTRACTING, INC. filed by s/Richard A. Bell, Esquire no cc 3	No Judge
08/06/2002	③ Answer and New Matter. Filed by s/Richard A. Bell, Esq. Verification s/George D. Cowfer, Jr., President Certificate of Service no cc 11	No Judge
08/12/2002	④ Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm 1	No Judge
08/13/2002	⑤ Plaintiff's Reply To New Matter. Filed by s/Theron G. Noble, Esq. Certificate of Service no cc 4	No Judge
	⑥ Plaintiff's Notice of Service of Plaintiffs' FIRST SET OF DISCOVERY MATERIALS upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esq. 2	No Judge
08/21/2002	⑦ Filing: Verification s/ Plaintiff and Certificate of Service for Reply to New Matter. No cc. 3	No Judge
09/04/2002	⑧ Motion For Protective ORDER, filed by Atty. Bell no Cert. copies 5 ORDER, filed one cert. to Atty. Bell AND NOW, this 4th day of September, 2002, Rule returnable the 24th day of September, 2002 for filing written response.	John K. Reilly Jr. John K. Reilly Jr.
09/12/2002	⑨ Affidavit of Service, Motion For Protective Order and Rule Returnable upon THERON G. NOBLE, ESQ. s/Richard A. Bell, Esquire no cc 3	John K. Reilly Jr.
09/16/2002	⑩ Reply To Motion For Protective Order. filed by s/Theron G. Noble, Esq. Certificate of Service no cc 4	John K. Reilly Jr.
10/14/2002	⑪ ORDER: NOW, this 9th day of October, 2002, following arguments regarding Motions. s/JKR One CC to Atty. Noble. One CC Atty. Bell. 1	John K. Reilly Jr.
03/12/2003	⑫ Plaintiff's Certificate Of Service, Notice of Deposition upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esquire no cc 1	John K. Reilly Jr.
01/26/2004	⑬ Motion To Consolidate. filed by, s/Illegible Signature Cert of Svc no cc Orig. filed to 03-1240-CD	John K. Reilly Jr.
01/28/2004	⑭ Scheduling ORDER: AND NOW, this 28th day of Jan. 2004, it is hereby Ordered that oral argument on the Motion to Consolidate filed by Defendant, shall be heard on Feb. 23, 2004. S/FJA 1 CC to Atty. Ramaley 7	Fredric Joseph Ammerman
02/23/2004	⑮ ORDER OF COURT, AND NOW, this 23rd day of February, 2004, IT IS HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the purpose of discovery and trial to Docket No. 03-1240-CD. by the Court, s/FJA, P.J. 1	Fredric Joseph Ammerman
05/24/2004	⑯ Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition, upon: Richard A. Bell, Esq., Jeffrey A. Ramaley, Esq., Robert Leight, Esq. and David F. Wilk, Esq. filed by, s/Theron G. Noble, Esquire no cc 1	Fredric Joseph Ammerman
11/17/2004	⑰ Motion for Summary Judgment, filed by s/Jeffrey A. Ramaley, Esq. No CC 10 ⑱ Praecipe for Argument, filed by s/Jeffrey A. Ramaley, Esq. No CC 3 ⑲ ORDER, filed 5 cert. & memo to Atty. Ramaley 2 ⑳ ORDER of Court that Atty. Ramaley's Motion for Summary Judgment has been scheduled for the 21st day of December, 2004.	Fredric Joseph Ammerman Fredric Joseph Ammerman Fredric Joseph Ammerman
12/16/2004	㉑ Order, AND NOW, this 16th day of December, 2004, Order that argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled from December 21, 2004 to January 12, 2005 at 10:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attys: Noble, Bell, Ramaley, Leight, Walk 1	Fredric Joseph Ammerman
12/27/2004	㉒ Motion for Continuance, filed by s/Theron G. Noble, Esq. No CC 5	Fredric Joseph Ammerman

Date: 10/05/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 09:40 AM

ROA Report

Page 2 of 2

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
01/06/2005	21 Praecipe To Withdraw Motion For Continuance, filed by s/ Theron G. Noble. No CC 3	Fredric Joseph Ammerman
05/05/2005	Defendant Junior Coal Contracting, Inc.'s Motion For Summary Judgment, filed by s/Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
05/09/2005	22 Rule To Show Cause, AND NOW, this 6th day of May, 2005 upon consideration of the Motion for Summary Judgment filed by the Defendant Junior Coal Contracting, a Rule is issued upon plaintiff. Rule shall be returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. 1CC Atty. Bell 46	Fredric Joseph Ammerman
05/11/2005	23 Original Transcript, March 15, 2005 Deposition of Cprl Thomas E. Josephson, PSP, filed. sic	Fredric Joseph Ammerman
	24 Transcript of Deposition of James Mock, June 8, 2005. Orig. to 03-1240-CD sic.	Fredric Joseph Ammerman
	25 Answer To Defendant Junior Coal Contracting's Inc., Motion for Summary Judgment, filed by s/ Theron G. Noble, Esquire. No CC 5	Fredric Joseph Ammerman
05/17/2005	26 Defendant Junior Coal Contracting, Inc.'s Preliminary Objections--Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment, filed by s/Richard A. Bell, Esq. No CC 5	Fredric Joseph Ammerman
05/19/2005	27 Order, AND NOW, this 19th day of May, 2005, it is the ORDER of the Court that argument on Attorney Bell's Preliminary Objections filed in the above matter has been scheduled for the 23rd day of May, 2005, at 11:00 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty Bell w/service memo 2	Fredric Joseph Ammerman
	28 Certificate of Service, Copy of Order Dated May 19, 2005 with regard to our Preliminary Objections in the above matter served upon Theron G. Noble, Esq., David F. Wilk, Esq., Jeffrey A. Ramaley, Esq., Robert R. Leight, Esq. Filed By Richard A. Bell, Esq. No CC 1	Fredric Joseph Ammerman
08/24/2005	29 Opinion and Order. (see original for opinion). Order: NOW, this 23rd day of August, 2005, following review of the record, oral argument, and submission of briefs, it is the Order of this Court as follows: The Motion for Summary Judgment filed on behalf of Defendant, Junior Coal Contracting, Inc., is hereby Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Noble, J. Ramaley, R. Leight, D. Wilk, R. Bell, and D. Mikesell. Original filed to 03-1240-CD 9	Fredric Joseph Ammerman
09/16/2005	30 Filing: Appeal to High Court Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1908398 Dated: 09/16/2005 Amount: \$45.00 (Check) 5	Fredric Joseph Ammerman
	Notice of Appeal, filed by s/ Theron G. Noble, Esquire. 1CC Sup. Crt. w/ck	Fredric Joseph Ammerman
09/20/2005	31 Order, NOW, this 20th day of Sept., 2005, the court having been notified of Appeal to the Superior Court of Pennsylvania, it is the Order of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, Ramaley, Leight, Wilk, R. Bell 2	Fredric Joseph Ammerman
09/21/2005	32 Appeal Docket Sheet, filed. 2	Fredric Joseph Ammerman
09/28/2005	33 Concise Statement of Matters Complained of On Appeal, filed by s/ Theron G. Noble, Esquire. No CC 6	Fredric Joseph Ammerman

1:28 P.M.

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 2156 WDA 2007

Page 1 of 2

December 5, 2007



Martin R. Slifko, Jr., an adult individual, Appellant

V.

Junior Coal Contracting, Inc., a Pennsylvania Corporation

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: December 4, 2007

Awaiting Original Record

Journal Number:

Case Category: Civil

Case Type:

Trespass

Consolidated Docket Nos.:

Related Docket Nos.:

02-962-CD

FILED

DEC 07 2007

m/11:30/w

William A. Shaw
Prothonotary/Clerk of Courts

SCHEDULED EVENT

Next Event Type: Receive Docketing Statement

Next Event Due Date: December 19, 2007

Next Event Type: Original Record Received

Next Event Due Date: January 28, 2008

COUNSEL INFORMATION

Appellant

Slifko Jr., Martin R.

Pro Se:

Appoint Counsel Status:

IFP Status:

No

Appellant Attorney Information:

Attorney: Noble, Theron G.

Bar No.: 55942

Law Firm: Ferraraccio & Noble

Address: 301 E Pine Street

Clearfield, PA 16830

Phone No.: (814)765-4990

Fax No.: (814)765-9377

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellee

Junior Coal Contracting, Inc.

Pro Se:

Appoint Counsel Status:

IFP Status:

Appellee Attorney Information:

Attorney: Bell, Richard A.

Bar No.: 6808

Law Firm: Bell, Silberblatt & Wood

Address: 318 E Locust St Box 670

Clearfield, PA 16830

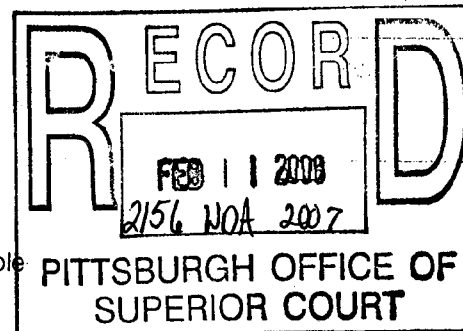
Phone No.: (814)765-5537

Fax No.: (814)765-9730

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No



Record 2 Parts
52 Transcripts
1 Exhibit

Appeal Docket Sheet**Superior Court of Pennsylvania****Docket Number: 2156 WDA 2007****Page 2 of 2****December 5, 2007****FEE INFORMATION**

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
11/27/07	Notice of Appeal	60.00	60.00	2007SPRWD001472

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

County: Clearfield

Division: Civil

Date of Order Appealed From: October 31, 2007

Judicial District: 46

Date Documents Received: December 4, 2007

Date Notice of Appeal Filed: November 27, 2007

Order Type: Order Entered

OTN:

Judge: Ammerman, Fredric J.
President Judge

Lower Court Docket No.: No. 02-962-CD

ORIGINAL RECORD CONTENTS**Original Record Item****Filed Date****Content/Description****Date of Remand of Record:****BRIEFS****DOCKET ENTRIES**

Filed Date	Docket Entry/Document Name	Party Type	Filed By
December 4, 2007	Notice of Appeal Filed	Appellant	Slifko Jr., Martin R.
Post-trial Motions denied			
December 5, 2007	Docketing Statement Exited (Civil)		
Western District Filing Office			

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA
RULE OF APPELLATE PROCEDURE 1931(C)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

02-962-CD

Martin R. Slifko, Jr.


VS.

Junior Coal Contracting, Inc.

In compliance with Pa. R.A.P. 1931 (c).

The documents comprising the record have been numbered from No. 1 to No. 57, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is February 7, 2008.


Prothonotary/Clerk of Courts

(seal)

Date: 02/07/2008

Time: 02:29 PM

Page 1 of 4

field County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
06/17/2002	Filing: Civil Complaint Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1844027 Dated: 06/17/2002 Amount: \$80.00 (Check) Four CC Attorney Noble	No Judge
07/10/2002	Praecipe For Appearance on behalf of Defendant, JUNIOR COAL CONTRACTING, INC. filed by s/Richard A. Bell, Esquire no cc	No Judge
08/06/2002	Answer and New Matter. Filed by s/Richard A. Bell, Esq. Verification s/George D. Cowfer, Jr., President Certificate of Service no cc	No Judge
08/12/2002	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
08/13/2002	Plaintiff's Reply To New Matter. Filed by s/Theron G. Noble, Esq. Certificate of Service no cc	No Judge
	Plaintiff's Notice of Service of Plaintiffs' FIRST SET OF DISCOVERY MATERIALS upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esq.	No Judge
08/21/2002	Filing: Verification s/ Plaintiff and Certificate of Service for Reply to New Matter. No cc.	No Judge
09/04/2002	Motion For Protective ORDER, filed by Atty. Bell no Cert. copies ORDER, filed one cert. to Atty. Bell AND NOW, this 4th day of September, 2002, Rule returnable the 24th day of September, 2002 for filing written response.	John K. Reilly Jr. John K. Reilly Jr.
09/12/2002	Affidavit of Service, Motion For Protective Order and Rule Returnable upon THERON G. NOBLE, ESQ. s/Richard A. Bell, Esquire no cc	John K. Reilly Jr.
09/16/2002	Reply To Motion For Protective Order. filed by s/Theron G. Noble, Esq. Certificate of Service no cc	John K. Reilly Jr.
10/10/2002	ORDER: NOW, this 9th day of October, 2002, following arguments regarding Motions. s/JKR One CC to Atty. Noble. One CC Atty. Bell.	John K. Reilly Jr.
03/12/2003	Plaintiff's Certificate Of Service, Notice of Deposition upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esquire no cc	John K. Reilly Jr.
01/26/2004	Motion To Consolidate. filed by, s/Illegible Signature Cert of Svc no cc Orig. filed to 03-1240-CD	John K. Reilly Jr.
01/28/2004	Scheduling ORDER: AND NOW, this 28th day of Jan. 2004, it is hereby Ordered that oral argument on the Motion to Consolidate filed by Defendant, shall be heard on Feb. 23, 2004. S/FJA 1 CC to Atty. Ramaley	Fredric Joseph Ammerman
02/23/2004	ORDER OF COURT, AND NOW, this 23rd day of February, 2004, IT IS HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the purpose of discovery and trial to Docket No. 03-1240-CD. by the Court, s/FJA, P.J.	Fredric Joseph Ammerman
05/24/2004	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition, upon: Richard A. Bell, Esq., Jeffrey A. Ramaley, Esq., Robert Leight, Esq. and David F. Wilk, Esq. filed by, s/Theron G. Noble, Esquire no cc	Fredric Joseph Ammerman
11/17/2004	Motion for Summary Judgment, filed by s/Jeffrey A. Ramaley, Esq. No CC Praecipe for Argument, filed by s/Jeffrey A. Ramaley, Esq. No CC ORDER, filed 5 cert. & memo to Atty. Ramaley ORDER of Court that Atty. Ramaley's Motion for Summary Judgment has been scheduled for the 21st day of December, 2004.	Fredric Joseph Ammerman Fredric Joseph Ammerman Fredric Joseph Ammerman

Date: 02/07/2008

Time: 02:29 PM

Page 2 of 4

Field County Court of Common Pleas

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

User: BHUDSON

Civil Other

Date		Judge
12/16/2004	Order, AND NOW, this 16th day of December, 2004, Order that argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled from December 21, 2004 to January 12, 2005 at 10:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attys: Noble, Bell, Ramaley, Leight, Walk	Fredric Joseph Ammerman
12/27/2004	Motion for Continuance, filed by s/Theron G. Noble, Esq. No CC	Fredric Joseph Ammerman
01/06/2005	Praeipce To Withdraw Motion For Continuance, filed by s/ Theron G. Noble. No CC	Fredric Joseph Ammerman
05/05/2005	Defendant Junior Coal Contracting, Inc.'s Motion For Summary Judgment, filed by s/Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
05/09/2005	Rule To Show Cause, AND NOW, this 6th day of May, 2005 upon consideration of the Motion for Summary Judgment filed by the Defendant Junior Coal Contracting , a Rule is issued upon plaintiff. Rule shall be returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. 1CC Atty. Bell	Fredric Joseph Ammerman
05/11/2005	Original Transcript, March 15, 2005 Deposition of Cpri Thomas E. Josephson, PSP, filed.	Fredric Joseph Ammerman
	Transcript of Deposition of James Mock, June 8, 2005. Orig. to 03-1240-CD	Fredric Joseph Ammerman
	Answer To Defendant Junior Coal Contracting's Inc., Motion for Summary Judgment, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
05/17/2005	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections--Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment, filed by s/Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
05/19/2005	Order, AND NOW, this 19th day of May, 2005, it is the ORDER of the Court that argument on Attorney Bell's Preliminary Objections filed in the above matter has been scheduled for the 23rd day of May, 2005, at 11:00 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty Bell w/service memo	Fredric Joseph Ammerman
	Certificate of Service, Copy of Order Dated May 19, 2005 with regard to our Preliminary Objections in the above matter served upon Theron G. Noble, Esq., David F. Wilk, Esq., Jeffrey A. Ramaley, Esq., Robert R. Leight, Esq. Filed By Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
05/20/2005	Order, AND NOW, this 10th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J.	Fredric Joseph Ammerman
	Order, AND NOW, this 17th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J. Five CC Atty Ramaley	Fredric Joseph Ammerman
08/24/2005	Opinion and Order. (see original for opinion). Order: NOW, this 23rd day of August, 2005, following review of the record, oral argument, and submission of briefs, it is the Order of this Court as follows: The Motion for Summary Judgment filed on behalf of Defendant, Junior Coal Contracting, Inc., is hereby Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Noble, J. Ramaley, R. Leight, D. Wilk, R. Bell, and D. Mikesell. Original filed to 03-1240-CD	Fredric Joseph Ammerman

Date: 02/07/2008

Time: 02:29 PM

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Clearfield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
09/16/2005	Filing: Appeal to High Court Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1908398 Dated: 09/16/2005 Amount: \$45.00 (Check)	Fredric Joseph Ammerman
09/20/2005	Notice of Appeal, filed by s/ Theron G. Noble, Esquire. 1CC Sup. Crt. w/ck Order, NOW, this 20th day of Sept., 2005, the court having been notified of Appeal to the Superior Court of Pennsylvania, it is the Order of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, Ramaley, Leight, Wilk, R. Bell	Fredric Joseph Ammerman
09/21/2005	Appeal Docket Sheet, filed.	Fredric Joseph Ammerman
09/28/2005	Concise Statement of Matters Complained of On Appeal, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/27/2005	Appeal mailed to Superior Court October 27, 2005.	Fredric Joseph Ammerman
	Certified Mail Receipt, sent to Superior Court of Pa., Prothonotary on 10/27/2005.	Fredric Joseph Ammerman
10/31/2005	Domestic Return Receipt, received Superior Court of Pa, in re: Appeal.	Fredric Joseph Ammerman
11/15/2006	Appeal from the Order entered August 23, 2005, in the Court of Common Pleas of Clearfield County, Civil Division, at No. 02-962-CD: Order reversed. Case remanded. Jurisdiction relinquished. (docket sheet corrected 12-13-07)	Fredric Joseph Ammerman
	Certificate of Contents of Remanded Record and Notice of Remand, Record remanded Nov. 13, 2006. Copy to Superior Court.	Fredric Joseph Ammerman
03/30/2007	Praeipce to List for Trial, Re: Jury Trial, filed by Atty. Noble no cert. copies.	Fredric Joseph Ammerman
07/27/2007	Order, this 27th day of July, 2007, it is Ordered that Pre-Trial Conference shall be held on the 24th day of August, 2007, in Chambers at 9:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
08/09/2007	Motion in Limine, filed by s/ Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
08/27/2007	Order, this 24th day of August, 2007, Jury Selection will be held on August 28, 2007 at 9:00 a.m. in Courtroom 1. Jury Trial is scheduled for Monday, Tuesday and Wednesday, Oct. 22nd, 23rd and 24th, 2007, commencing at 9:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Noble, Bell	Fredric Joseph Ammerman
09/04/2007	Motion In Limine, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
	Certificate of Service, filed. That a copy of my Letter Brief filed on behalf of Junior Coal Contracting Inc., in the above matter was mailed on the 31st day of August 2007 to Theron G. Noble Esq., filed by s/ Richard A. Bell Esq. No CC.	Fredric Joseph Ammerman
09/05/2007	Order, this 4th day of Sept., 2007, it is Ordered that oral argument on all outstanding Petitions and Motions in Limine have been scheduled for Sept. 17, 2007 at 1:30 p.m. in Courtroom 3. Answers to said Motions shall be filed on or before Sept. 14, 2007. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
09/06/2007	Order, this 5th day of Sept., 2007, upon consideration of the Motion In Limine filed by the Defendant, it is Ordered that: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. R. Bell	Fredric Joseph Ammerman

Date: 02/07/2008

Time: 02:29 PM

Page 4 of 4

Civil field County Court of Common Pleas

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

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

FEB 07 2008

Civil Other

Attest.

William L. Hudson
Prothonotary/
Clerk of Courts

Date		Judge
09/20/2007	Order, this 18th day of Sept., 2007, following argument on the Plaintiff's Motion in Limine, it is Ordered: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, Bell	Fredric Joseph Ammerman
10/23/2007	Verdict, filed NOW, this 23rd day of October, 2007, we the Jurors empanelled in the above entitled case, find as follows: Do you find that the Defendant, Junior Coal Contracting, Inc. was negligent? NO. s/ Michelle Cristini, Foreperson.	Fredric Joseph Ammerman
10/29/2007	Motion For Post-Trial Relief, filed by s/Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/31/2007	Order, this 31st day of Oct., 2007, Motion for Post-Trial Relief is Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: R. Bell, Noble	Fredric Joseph Ammerman
11/09/2007	Praecipe for Entry of Judgment, filed by Atty. Bell Enter Judgment in favor of the Defendant and against the Plaintiff on the verdict of the jury entered October 23, 2007. Notice of Judgment to Atty. Noble. no cert. copies	Fredric Joseph Ammerman
	Certificate of Mailing Copy of Praecipe for Entry of Judgment and Praecipe for Entry of Judgment, filed by Atty. Bell no cert. copies.	Fredric Joseph Ammerman
11/27/2007	Filing: Notice of Appeal Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1921600 Dated: 11/27/2007 Amount: \$45.00 (Check) 1CC & ck \$60.00 to Superior Court.	Fredric Joseph Ammerman
11/29/2007	Order NOW, this 29th day of November 2007, this Court having been notified of Appeal to the Commonwealth Court of Pennsylvania in the above-captioned matter, it is the ORDER of this Court that Martin R. Slifko, Appellant, filed a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days therefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: Noble and Bell	Fredric Joseph Ammerman
12/07/2007	Appeal Docket Sheet, filed. Docket # 2156 WDA 2007	Fredric Joseph Ammerman
	Amended Order, NOW, this 7th day of Dec., 2007, it is Ordered that this Court's Order of Nov., 29, 2007, is Amended to read as follows: NOW, this 29th day of Nov., 2007, the Court having been notified of Appeal to Superior Court, it is Ordered that Martin R. Slifko, Appellant, file a concise statement of the matters complained of on said Appeal no later than 21 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
12/10/2007	Precise Statement of Matters Complained of on Appeal, filed by Atty. Noble, no cert. copies.	Fredric Joseph Ammerman
02/06/2008	Opinion, filed by the Court Cert. to Atty's Bell & Noble.	Fredric Joseph Ammerman
02/07/2008	February 7, 2008, Mailed Appeal to Superior Court. February 7, 2008, Letters, Re: Notification of mailing appeal mailed to Theron G. Noble, Esq. and Richard A. Bell, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	Fredric Joseph Ammerman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

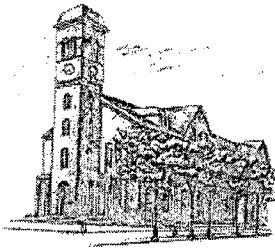
**No. 02-962-CD
Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.**

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	06/17/02	Civil Complaint	07
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05	08/13/02	Plaintiff's Reply to New Matter	04
06	08/13/02	Plaintiff's Notice of Service of Plaintiff's First Set of Discovery Materials upon R. Bell, Esq.	02
07	08/21/02	Verification	03
08	09/04/02	Motion for Protective Order and Order with rule returnable for written response	05
09	09/12/02	Affidavit of Service, Motion for Protective Order and Rule returnable upon T. Noble, Esq.	03
10	09/16/02	Reply to Motion for Protective Order	04
11	10/10/02	Order, Re: following arguments regarding Motions	01
12	03/12/03	Plaintiff's Certificate of Service, Notice of Deposition, upon R. Bell, Esq.	01
13	01/26/04	Motion to Consolidate and scheduling order, re: oral argument scheduled	07
14	02/23/04	Order of Court, civil actions consolidated for the purpose of discovery and trial to docket number 03-1240-CD	01
15	05/24/04	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition	01
16	11/17/04	Motion for Summary Judgment	10
17	11/17/04	Praeipe for Argument	03
18	11/17/04	Order, re: Motion for Summary Judgment	02
19	12/16/04	Order, Re: argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled	01
20	12/27/04	Motion for Continuance	05
21	01/06/05	Praeipe to Withdraw Motion for Continuance	03
22	05/05/05	Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment and Rule to Show Cause issuing rule upon Plaintiff	46
23	05/11/05	Original Transcript, March 15, 2005, Deposition of Cpl. Thomas E. Josephson, PSP	Separate Cover
24	05/11/05	Transcript of Deposition of James Mock, June 8, 2005	Separate Cover
25	05/11/05	Answer to Defendant Junior Coal Contracting Inc.'s Motion for Summary Judgment	15
26	05/17/05	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment	05
27	05/19/05	Order, Re: argument on Attorney Bell's Preliminary Objections has been scheduled	02
28a	05/19/05	Certificate of Service, copy of Order dated May 19, 2005	01
28b	05/20/05	Order, May 10, 2005, Re: Summary judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties	01
28c	05/20/05	Order, May 17, 2005, Re: Summary judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties	01
29	08/24/05	Opinion and Order, Re: Motion for Summary Judgment is hereby Granted, Summary Judgment entered in favor of Junior Coal Contracting, Inc. and against Plaintiff	09
30	09/16/05	Notice of Appeal to Superior Court	05
31	09/20/05	Order, Re: concise statement	02
32	09/21/05	Appeal Docket Sheet, Superior Court Number 1618 WDA 2005	02
33	09/28/05	Concise Statement of Matters Complained of on Appeal	06
		Appeal Mailed September 28, 2005	

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**No. 02-962-CD
Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.**

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37	11/15/06	Certificate of Contents of Remanded Record and Notice of Remand	01
38	03/30/07	Praeceptum to List for Trial	03
39	07/27/07	Order, Re: Pre-Trial Conference scheduled	01
40	08/09/07	Motion in Limine (Defendant)	05
41	08/27/07	Order, Re: Jury Selection scheduled	02
42	09/04/07	Motion in Limine (Plaintiff)	08
43	09/04/07	Certificate of Service, Re: Letter Brief	02
44	09/05/07	Order, Re: oral argument on all outstanding Petitions and Motions in Limine scheduled	01
45	09/06/07	Order, Re: Motion in Limine (Defendant)	01
46	09/20/07	Order, Re: Motion in Limine (Plaintiff)	02
47	10/23/07	Verdict	02
48	10/29/07	Motion for Post-Trial Relief	05
49	10/31/07	Order, Re: Motion for Post-Trial Relief Dismissed	01
50	11/09/07	Praeceptum for Entry of Judgment and Certificate of Mailing	07
51	11/27/07	Notice of Appeal	07
52	11/29/07	Order, Re: concise statement to be filed	01
53	12/07/07	Appeal Docket Sheet, 2156 WDA 2007	02
54	12/07/07	Amended Order, Re: concise statement to be filed	01
55	12/10/07	Precise Statement of Matters Complained of on Appeal	04
56	02/6/08	Opinion	03
57	02/07/08	Letters, Re: Notification of mailing appeal mailed to Theron G. Noble, Esq. and Richard A. Bell, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	07



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ www.clearfieldco.org

Fredric J. Ammerman, P.J.
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Theron G. Noble, Esq.
301 East Pine St.
Clearfield, PA 16830

Richard A. Bell, Esq.
PO Box 670
319 E. Locust St.
Clearfield, PA 16830

Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.

Court No. 02-962-CD; Superior Court No. 2156 WDA 2007

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on February 7, 2008. Two additional transcripts are pending and will be forwarded to Superior Court upon filing in my office, pursuant to Superior Court's instructions.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

FILED
02:23:01
FEB 07 2008

William A. Shaw
Prothonotary/Clerk of Courts

#57

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**No. 02-962-CD
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Vs.
Junior Coal Contracting, Inc.**

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47	10/23/07	Verdict	02
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50	11/09/07	Praecipe for Entry of Judgment and Certificate of Mailing	07
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53	12/07/07	Appeal Docket Sheet, 2156 WDA 2007	02
54	12/07/07	Amended Order, Re: concise statement to be filed	01
55	12/10/07	Precise Statement of Matters Complained of on Appeal	04
56	02/6/08	Opinion	03

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

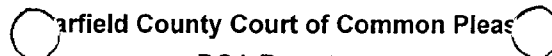
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		Appeal Mailed September 28, 2005	

Date: 02/07/2008

Time: 02:16 PM

Page 1 of 4



Fairfield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
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07/10/2002	Praeipce For Appearance on behalf of Defendant, JUNIOR COAL CONTRACTING, INC. filed by s/Richard A. Bell, Esquire no cc	No Judge
08/06/2002	Answer and New Matter. Filed by s/Richard A. Bell, Esq. Verification s/George D. Cowfer, Jr., President Certificate of Service no cc	No Judge
08/12/2002	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
08/13/2002	Plaintiff's Reply To New Matter. Filed by s/Theron G. Noble, Esq. Certificate of Service no cc	No Judge
	Plaintiff's Notice of Service of Plaintiffs' FIRST SET OF DISCOVERY MATERIALS upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esq.	No Judge
08/21/2002	Filing: Verification s/ Plaintiff and Certificate of Service for Reply to New Matter. No cc.	No Judge
09/04/2002	Motion For Protective ORDER, filed by Atty. Bell no Cert. copies	John K. Reilly Jr.
	ORDER, filed one cert. to Atty. Bell	John K. Reilly Jr.
	AND NOW, this 4th day of September, 2002, Rule returnable the 24th day of September, 2002 for filing written response.	
09/12/2002	Affidavit of Service, Motion For Protective Order and Rule Returnable upon THERON G. NOBLE, ESQ. s/Richard A. Bell, Esquire no cc	John K. Reilly Jr.
09/16/2002	Reply To Motion For Protective Order. filed by s/Theron G. Noble, Esq. Certificate of Service no cc	John K. Reilly Jr.
10/10/2002	ORDER: NOW, this 9th day of October, 2002, following arguments regarding Motions. s/JKR One CC to Atty. Noble. One CC Atty. Bell.	John K. Reilly Jr.
03/12/2003	Plaintiff's Certificate Of Service, Notice of Deposition upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esquire no cc	John K. Reilly Jr.
01/26/2004	Motion To Consolidate. filed by, s/Illegible Signature Cert of Svc no cc Orig. filed to 03-1240-CD	John K. Reilly Jr.
01/28/2004	Scheduling ORDER: AND NOW, this 28th day of Jan. 2004, it is hereby Ordered that oral argument on the Motion to Consolidate filed by Defendant, shall be heard on Feb. 23, 2004. S/FJA 1 CC to Atty. Ramaley	Fredric Joseph Ammerman
02/23/2004	ORDER OF COURT, AND NOW, this 23rd day of February, 2004, IT IS HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the purpose of discovery and trial to Docket No. 03-1240-CD. by the Court, s/FJA, P.J.	Fredric Joseph Ammerman
05/24/2004	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition, upon: Richard A. Bell, Esq., Jeffrey A. Ramaley, Esq., Robert Leight, Esq. and David F. Wilk, Esq. filed by, s/Theron G. Noble, Esquire no cc	Fredric Joseph Ammerman
11/17/2004	Motion for Summary Judgment, filed by s/Jeffrey A. Ramaley, Esq. No CC	Fredric Joseph Ammerman
	Praeipce for Argument, filed by s/Jeffrey A. Ramaley, Esq. No CC	Fredric Joseph Ammerman
	ORDER, filed 5 cert. & memo to Atty. Ramaley	Fredric Joseph Ammerman
	ORDER of Court that Atty. Ramaley's Motion for Summary Judgment has been scheduled fo the 21st day of December, 2004.	

Date: 02/07/2008

Time: 02:16 PM

Page 2 of 4



ROA Report

User: BHUDSON

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
12/16/2004	Order, AND NOW, this 16th day of December, 2004, Order that argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled from December 21, 2004 to January 12, 2005 at 10:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attys: Noble, Bell, Ramaley, Leight, Walk	Fredric Joseph Ammerman
12/27/2004	Motion for Continuance, filed by s/Theron G. Noble, Esq. No CC	Fredric Joseph Ammerman
01/06/2005	Praeipce To Withdraw Motion For Continuance, filed by s/ Theron G. Noble. No CC	Fredric Joseph Ammerman
05/05/2005	Defendant Junior Coal Contracting, Inc.'s Motion For Summary Judgment, filed by s/Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
05/09/2005	Rule To Show Cause, AND NOW, this 6th day of May, 2005 upon consideration of the Motion for Summary Judgment filed by the Defendant Junior Coal Contracting , a Rule is issued upon plaintiff. Rule shall be returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. 1CC Atty. Bell	Fredric Joseph Ammerman
05/11/2005	Original Transcript, March 15, 2005 Deposition of Cpri Thomas E. Josephson, PSP, filed.	Fredric Joseph Ammerman
	Transcript of Deposition of James Mock, June 8, 2005. Orig. to 03-1240-CD	Fredric Joseph Ammerman
	Answer To Defendant Junior Coal Contracting's Inc., Motion for Summary Judgment, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
05/17/2005	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections--Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment, filed by s/Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
05/19/2005	Order, AND NOW, this 19th day of May, 2005, it is the ORDER of the Court that argument on Attorney Bell's Preliminary Objections filed in the above matter has been scheduled for the 23rd day of May, 2005, at 11:00 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty Bell w/service memo	Fredric Joseph Ammerman
	Certificate of Service, Copy of Order Dated May 19, 2005 with regard to our Preliminary Objections in the above matter served upon Theron G. Noble, Esq., David F. Wilk, Esq., Jeffrey A. Ramaley, Esq., Robert R. Leight, Esq. Filed By Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
05/20/2005	Order, AND NOW, this 10th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J.	Fredric Joseph Ammerman
	Order, AND NOW, this 17th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J. Five CC Atty Ramaley	Fredric Joseph Ammerman
08/24/2005	Opinion and Order. (see original for opinion). Order: NOW, this 23rd day of August, 2005, following review of the record, oral argument, and submission of briefs, it is the Order of this Court as follows: The Motion for Summary Judgment filed on behalf of Defendant, Junior Coal Contracting, Inc., is hereby Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Noble, J. Ramaley, R. Leight, D. Wilk, R. Bell, and D. Mikesell. Original filed to 03-1240-CD	Fredric Joseph Ammerman

Date: 02/07/2008

Time: 02:16 PM

Page 3 of 4



Clearfield County Court of Common Pleas

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

User: BHUDSON

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

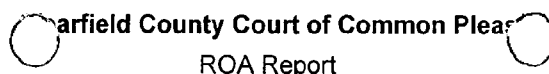
Civil Other

Date		Judge
09/16/2005	Filing: Appeal to High Court Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1908398 Dated: 09/16/2005 Amount: \$45.00 (Check)	Fredric Joseph Ammerman
09/20/2005	Notice of Appeal, filed by s/ Theron G. Noble, Esquire. 1CC Sup. Crt. w/ck Order, NOW, this 20th day of Sept., 2005, the court having been notified of Appeal to the Superior Court of Pennsylvania, it is the Order of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, Ramaley, Leight, Wilk, R. Bell	Fredric Joseph Ammerman
09/21/2005	Appeal Docket Sheet, filed.	Fredric Joseph Ammerman
09/28/2005	Concise Statement of Matters Complained of On Appeal, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/27/2005	Appeal mailed to Superior Court October 27, 2005. Certified Mail Receipt, sent to Superior Court of Pa., Prothonotary on 10/27/2005.	Fredric Joseph Ammerman Fredric Joseph Ammerman
10/31/2005	Domestic Return Receipt, received Superior Court of Pa, in re: Appeal.	Fredric Joseph Ammerman
11/15/2006	Appeal from the Order entered August 23, 2005, in the Court of Common Pleas of Clearfield County, Civil Division, at No. 02-962-CD: Order reversed. Case remanded. Jurisdiction relinquished. (docket sheet corrected 12-13-07) Certificate of Contents of Remanded Record and Notice of Remand, Record remanded Nov. 13, 2006. Copy to Superior Court.	Fredric Joseph Ammerman Fredric Joseph Ammerman
03/30/2007	Praecipe to List for Trial, Re: Jury Trial, filed by Atty. Noble no cert. copies.	Fredric Joseph Ammerman
07/27/2007	Order, this 27th day of July, 2007, it is Ordered that Pre-Trial Conference shall be held on the 24th day of August, 2007, in Chambers at 9:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
08/09/2007	Motion in Limine, filed by s/ Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
08/27/2007	Order, this 24th day of August, 2007, Jury Selection will be held on August 28, 2007 at 9:00 a.m. in Courtroom 1. Jury Trial is scheduled for Monday, Tuesday and Wednesday, Oct. 22nd, 23rd and 24th, 2007, commencing at 9:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Noble, Bell	Fredric Joseph Ammerman
09/04/2007	Motion In Limine, filed by s/ Theron G. Noble, Esquire. No CC Certificate of Service, filed. That a copy of my Letter Brief filed on behalf of Junior Coal Contracting Inc., in the above matter was mailed on the 31st day of August 2007 to Theron G. Noble Esq., filed by s/ Richard A. Bell Esq. No CC.	Fredric Joseph Ammerman Fredric Joseph Ammerman
09/05/2007	Order, this 4th day of Sept., 2007, it is Ordered that oral argument on all outstanding Petitions and Motions in Limine have been scheduled for Sept. 17, 2007 at 1:30 p.m. in Courtroom 3. Answers to said Motions shall be filed on or before Sept. 14, 2007. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
09/06/2007	Order, this 5th day of Sept., 2007, upon consideration of the Motion In Limine filed by the Defendant, it is Ordered that: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. R. Bell	Fredric Joseph Ammerman

Date: 02/07/2008

Time: 02:16 PM

Page 4 of 4



Berks County Court of Common Pleas

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

User: BHUDSON

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
09/20/2007	Order, this 18th day of Sept., 2007, following argument on the Plaintiff's Motion in Limine, it is Ordered: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, Bell	Fredric Joseph Ammerman
10/23/2007	Verdict, filed NOW, this 23rd day of October, 2007, we the Jurors empanelled in the above entitled case, find as follows: Do you find that the Defendant, Junior Coal Contracting, Inc. was negligent? NO. s/ Michelle Cristini, Foreperson.	Fredric Joseph Ammerman
10/29/2007	Motion For Post-Trial Relief, filed by s/Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/31/2007	Order, this 31st day of Oct., 2007, Motion for Post-Trial Relief is Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: R. Bell, Noble	Fredric Joseph Ammerman
11/09/2007	Praecipe for Entry of Judgment, filed by Atty. Bell Enter Judgment in favor of the Defendant and against the Plaintiff on the verdict of the jury entered October 23, 2007. Notice of Judgment to Atty. Noble. no cert. copies	Fredric Joseph Ammerman
	Certificate of Mailing Copy of Praecipe for Entry of Judgment and Praecipe for Entry of Judgment, filed by Atty. Bell no cert. copies.	Fredric Joseph Ammerman
11/27/2007	Filing: Notice of Appeal Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1921600 Dated: 11/27/2007 Amount: \$45.00 (Check) 1CC & ck \$60.00 to Superior Court.	Fredric Joseph Ammerman
11/29/2007	Order NOW, this 29th day of November 2007, this Court having been notified of Appeal to the Commonwealth Court of Pennsylvania in the above-captioned matter, it is the ORDER of this Court that Martin R. Slifko, Appellant, filed a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days therefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: Noble and Bell	Fredric Joseph Ammerman
12/07/2007	Appeal Docket Sheet, filed. Docket # 2156 WDA 2007	Fredric Joseph Ammerman
	Amended Order, NOW, this 7th day of Dec., 2007, it is Ordered that this Court's Order of Nov., 29, 2007, is Amended to read as follows: NOW, this 29th day of Nov., 2007, the Court having been notified of Appeal to Superior Court, it is Ordered that Martin R. Slifko, Appellant, file a concise statement of the matters complained of on said Appeal no later than 21 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
12/10/2007	Precise Statement of Matters Complained of on Appeal, filed by Atty. Noble, no cert. copies.	Fredric Joseph Ammerman
02/06/2008	Opinion, filed by the Court Cert. to Atty's Bell & Noble.	Fredric Joseph Ammerman

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

FEB 07 2008

Attest.

Prothonotary

Prothonotary/
Clerk of Courts

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

MARTIN R. SLIFKO, JR., an adult
Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania Corporation

Defendant

No. 02-962-CD

FILED

FEB 06 2003

01/14/2003
William A. Shaw
Prothonotary/Clerk of Courts

CEnt to Atty's
BELL & HOWE

OPINION

Junior Coal Contracting, Inc (hereafter Defendant) is a coal contractor that maintains a job site, known as the "Runk Job", located off of State Route 2024. Martin R. Slifko (hereafter Plaintiff) was operating his motorcycle on State Route 2024 in a westerly direction in the vicinity of the "Runk Job". Plaintiff alleges that there was an oil slick on the westbound lane of State Route 2024 that was leading from the entrance to the "Runk Job". On September 18, 2001, as Plaintiff traveled over the oil slick, he lost control of his motorcycle, which left the roadway leading to the Plaintiff being thrown from his motorcycle and sustaining injuries. The Plaintiff brought this action against the Defendant that contained a single count of negligence. In his Concise Statement the Plaintiff raises issues which stem from this Court's granting of the Defendant's Motion in Limine to preclude use of a highway occupancy permit and supplemental permit which the Defendant obtained to widen Defendant's existing driveway. The Plaintiff sought to introduce at Trial evidence of the Defendant's Highway Occupancy Permit and Supplemental Highway Occupancy Permits (hereafter Permits). The Defendant objected to the use of the Permits at Trial because it would introduce a new cause of action that would be barred by the Statute of Limitations. The Court agreed and excluded the Permits from being introduced at Trial. Ultimately the case proceeded to Trial and the jury found no negligence on the part of

the Defendant. The Plaintiff's Post-Trial Motions were denied by the Court and a timely appeal filed. The Opinion is written pursuant to Rule of Appellate Procedure 1925(a).

The Defendant filed its Motion in Limine on August 9, 2007, objecting to Plaintiff's use of the Permits. As noted, the accident happened on September 8, 2001 which was almost seven years before the Jury Trial. The Plaintiff's Complaint did not mention the Permits or any violation of the duties listed therein. Therefore, because the violation of the Permits was not mentioned in the Complaint, evidence of a violation of the Permits would have introduced a new cause of action that had to be excluded as outside either a two year or four year Statute of Limitations.

However, even if the cause of action would not be precluded as being outside of the Statute of Limitations, the Permits still could not be introduced as evidence as the Plaintiff did not plead negligence per se. The Superior Court has stated that in order to prove a claim of negligence per se four elements must be met:

- (1) The purpose of the statute must be, at least in part, to protect the interest of a group of individuals, as opposed to the public generally;
- (2) The statute or regulation must clearly apply to the conduct of the defendant;
- (3) The defendant must violate the statute or regulation;
- (4) The violation of the statute or regulation must be the proximate cause of the plaintiff's injuries.

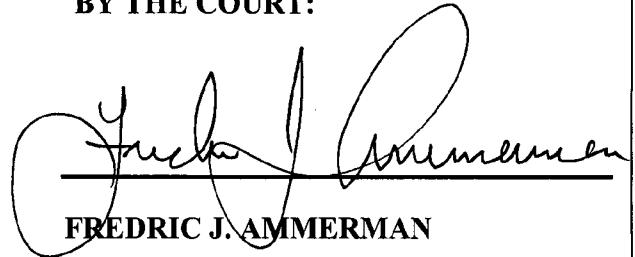
Wagner v. Anzon, Inc., 684 A.2d 570, 574 (Pa.Super. 1996).

The second element cannot be met here, as the Permits were issued for the purpose of widening the Defendant's driveway. The Permits stated that the work on widening the driveway could start on May 14, 1999 and had to be completed by May 14, 2001. The Plaintiff's accident occurred after the period of time covered by the Permits. Additionally, the Plaintiff alleged in his Complaint, and throughout the course of the proceedings, that the oil slick came about through the Defendant's business operations. The Permits only covered the widening of the

driveway, they did not apply to the Defendant's business operations. The Permits required the Defendant to keep the roadway free of debris in the course of widening the driveway, it did not require the Defendant to keep the roadway free of debris in its ordinary business operations. Further, the Permits covered a period of time that ended four months before the Plaintiff had his accident and Permits were not in effect on September 21, 2001. Therefore, because the Plaintiff could not meet the four elements required to prove negligence per se, the Permits were properly excluded.

February 5, 2008

BY THE COURT:



FREDRIC J. AMMERMAN
President Judge

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

MARTIN R. SLIFKO, JR., an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02-____962____-CD

Type of Pleading:

**PRECISE STATEMENT OF
MATTERS COMPLAINED
OF ON APPEAL**

Filed By:

Plaintiff

JURY TRIAL DEMANDED

Counsel of Record:

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

FILED

DEC 10 2007

m/12/20/07
William A. Shaw
Prothonotary/Clerk of Courts
no clerk 10/20

#55

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation, et.al.

DEFENDANTS.

No. 02-__962__-CD

**PLAINTIFF'S CONCISE STATEMENT OF
MATTERS COMPLAINED OF ON APPEAL**

AND NOW COMES Martin R. Slifko, Jr., by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in response to the Honorable Court's ORDER of November 29th to file a concise statement of matters complained of on appeal pursuant to Rule 1925(b) of the Rules of Appellate Procedure:

1. That appellant is Plaintiff Martin R. Slifko, Jr..
2. That Plaintiff intends to appeal the Court's decision granting Defendant's Motion in Limine, by Order of September 5, 2007, precluding Plaintiff from introducing as evidence or otherwise using at trial the Highway Occupancy Permit or Supplemental Highway Occupancy Permit, issued by the Pennsylvania Department of Transportation to the Defendant concerning the Defendant's entranceway which required the Defendant to keep the road free of debris from vehicles using the entranceway.
3. Defendant sought to exclude this evidence on the basis that Plaintiff failed to plead the same in its complaint and he was in essence attempting to inject a new cause of action beyond the

applicable statute of limitations into the case.

4. That Plaintiff argued that this was evidence which need not be pled under Pennsylvania pleading practice.

5. The Honorable Court further explained its ruling, at the argument held on September 17th concerning the other outstanding Motions in Limine, to state this could not be used to rebut the Defendant's defense that others caused the fluid, starting at said entranceway, to be on the road.

6. Plaintiff believes the Court's decision regarding this matter was reversible error.

7. This issue was preserved by Plaintiff by (i) timely objection to the Defendant's Motion in Limine; (ii) offer of proof at trial; and (iii) timely post trial motion.

WHEREFORE, Plaintiff respectfully submits that it has complied with this Honorable Court's ORDER of November 29, 2007.

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)

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02-__962__-CD

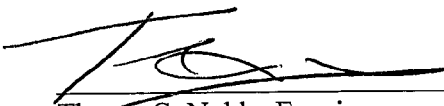
CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 8th day of December, 2007, that I did mail a true and correct copy of Plaintiff's PRECISE STATEMENT OF MATTERS COMPLAINED OF ON APPEAL to the below indicated person, being counsel of record for the Defendant and the trial court, via United States Mail, postage prepaid, first class, as follows:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

Hon. Fredric J. Ammerman, PJ
Court of Common Pleas
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830

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
CIVIL DIVISION

MARTIN R. SLIFKO,
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC.,
Defendant

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NO. 02-962-CD

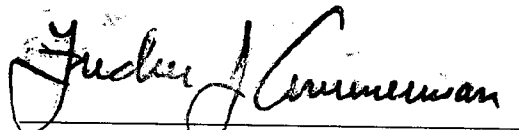
AMENDED ORDER

NOW, this 7th day of December, 2007, it is the ORDER of this Court that this Court's Order of November 29, 2007 shall be and is hereby AMENDED to read as follows:

ORDER

NOW, this 29th day of November, 2007, this Court having been notified of Appeal to the Superior Court of Pennsylvania in the above-captioned matter; it is the ORDER of this Court that **MARTIN R. SLIFKO**, Appellant, file a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days herefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED

DEC 07 2007

William A. Shaw
Prothonotary/Clerk of Courts

cc
Dyys: Noble
R. Bell

(OK)

#54

FILED

DEC 07 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/7/07

___ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ☒ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ☒ Defendant(s) Attorney

___ Special Instructions:

0

Appeal Docket Sheet

Docket Number: 2156 WDA 2007

Page 1 of 2

December 5, 2007

Superior Court of Pennsylvania

Martin R. Slifko, Jr., an adult individual, Appellant
V.

Junior Coal Contracting, Inc., a Pennsylvania Corporation

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: December 4, 2007

Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType:

Trespass

COPY FILED
DEC 07 2007
m/11:30/w
William A. Shaw
Prothonotary/Clerk of Courts

Consolidated Docket Nos.:

Related Docket Nos.:

SCHEDULED EVENT

Next Event Type: Receive Docketing Statement

Next Event Due Date: December 19, 2007

Next Event Type: Original Record Received

Next Event Due Date: January 28, 2008

COUNSEL INFORMATION

Appellant Slifko Jr., Martin R.

Pro Se: Appoint Counsel Status:

IFP Status: No

Appellant Attorney Information:

Attorney: Noble, Theron G.

Bar No.: 55942

Law Firm: Ferraraccio & Noble

Address: 301 E Pine Street

Clearfield, PA 16830

Phone No.: (814)765-4990

Fax No.: (814)765-9377

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellee Junior Coal Contracting, Inc.

Pro Se: Appoint Counsel Status:

IFP Status:

Appellee Attorney Information:

Attorney: Bell, Richard A.

Bar No.: 6808

Law Firm: Bell, Silberblatt & Wood

Address: 318 E Locust St Box 670

Clearfield, PA 16830

Phone No.: (814)765-5537

Fax No.: (814)765-9730

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

#53

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 2156 WDA 2007

Page 2 of 2

December 5, 2007



FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
11/27/07	Notice of Appeal	60.00	60.00	2007SPRWD001472

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

County: Clearfield

Division: Civil

Date of Order Appealed From: October 31, 2007

Judicial District: 46

Date Documents Received: December 4, 2007

Date Notice of Appeal Filed: November 27, 2007

Order Type: Order Entered

OTN:

Judge: Ammerman, Fredric J.
President Judge

Lower Court Docket No.: No. 02-962-CD

ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description
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Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
December 4, 2007	Notice of Appeal Filed	Appellant	Slifko Jr., Martin R.
	Post-trial Motions denied		
December 5, 2007	Docketing Statement Exited (Civil)		
			Western District Filing Office

CM

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

MARTIN R. SLIFKO,
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC.,
Defendant

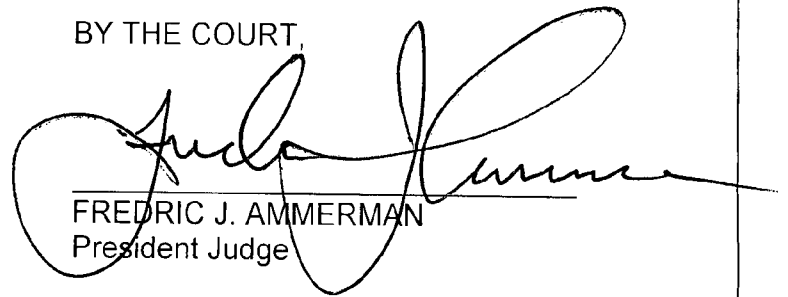
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NO. 02-962-CD

ORDER

NOW, this 29th day of November, 2007, this Court having been notified of Appeal to the Commonwealth Court of Pennsylvania in the above-captioned matter; it is the ORDER of this Court that **MARTIN R. SLIFKO**, Appellant, file a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days herefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED 11/29/07
01:40:00 PM
NOV 29 2007
Noble
R. Bell

William A. Shaw
Prothonotary/Clerk of Courts

52

FILED

NOV 29 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/29/07

☐ You are responsible for serving all appropriate parties.
☒ The Prothonotary's office has provided service to the following parties:
Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other
Defendant(s) ☒ Defendant(s) Attorney
Special Instructions:

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

MARTIN R. SLIFKO, JR., an adult
individual,

Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania Corporation,
Defendant

No. 02-962-CD

Type of Pleading: Notice of Appeal

Filed on behalf of : Martin Slifko Jr.,
Plaintiff

Counsel of Record for this Party:

THERON G. NOBLE, ESQUIRE
FERRARACCIO & NOBLE
Attorneys and Counselors at Law
Supreme Court I.D. #: 55942

301 East Pine Street
Clearfield, PA 16830
(814) 375-2221
Fax: (814) 765-9377

FILED

01/11:45 am
NOV 27 2007

William A. Shaw
Prothonotary/Clerk of Courts

pd \$45.00 AHY
ICC & ck \$60.00
to Superior Court

#51

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

**MARTIN R. SLIFKO, JR.,
an adult individual,**

PLAINTIFF

v

**JUNIOR COAL CONTRACTING, INC.,
A Pennsylvania Corporation**

:
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No. 02 - 962 - CD

NOTICE OF APPEAL

Notice is hereby given that Plaintiff named above hereby appeals to the Superior Court of Pennsylvania from the Order entered on the Thirty-First day of October, 2007, denying Plaintiff's Post-trial Motion, said Order being a final order pursuant to Pa. R.A.P. 341, with Defendant having entered Judgment accordingly, as evidenced by the attached copy of the docket entries.



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

November 27, 2007

Date: 11/26/2007

Time: 10:17 AM

Page 1 of 4

C field County Court of Common Pleas

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

User: BHUDSON

Civil Other

Date		Judge
06/17/2002	Filing: Civil Complaint Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1844027 Dated: 06/17/2002 Amount: \$80.00 (Check) Four CC Attorney Noble	No Judge
07/10/2002	Praecipe For Appearance on behalf of Defendant, JUNIOR COAL CONTRACTING, INC. filed by s/Richard A. Bell, Esquire no cc	No Judge
08/06/2002	Answer and New Matter. Filed by s/Richard A. Bell, Esq. Verification s/George D. Cowfer, Jr., President Certificate of Service no cc	No Judge
08/12/2002	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
08/13/2002	Plaintiff's Reply To New Matter. Filed by s/Theron G. Noble, Esq. Certificate of Service no cc	No Judge
	Plaintiff's Notice of Service of Plaintiffs' FIRST SET OF DISCOVERY MATERIALS upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esq.	No Judge
08/21/2002	Filing: Verification s/ Plaintiff and Certificate of Service for Reply to New Matter. No cc.	No Judge
09/04/2002	Motion For Protective ORDER, filed by Atty. Bell no Cert. copies ORDER, filed one cert. to Atty. Bell AND NOW, this 4th day of September, 2002, Rule returnable the 24th day of September, 2002 for filing written response.	John K. Reilly Jr. John K. Reilly Jr.
09/12/2002	Affidavit of Service, Motion For Protective Order and Rule Returnable upon THERON G. NOBLE, ESQ. s/Richard A. Bell, Esquire no cc	John K. Reilly Jr.
09/16/2002	Reply To Motion For Protective Order. filed by s/Theron G. Noble, Esq. Certificate of Service no cc	John K. Reilly Jr.
10/10/2002	ORDER: NOW, this 9th day of October, 2002, following arguments regarding Motions. s/JKR One CC to Atty. Noble. One CC Atty. Bell.	John K. Reilly Jr.
03/12/2003	Plaintiff's Certificate Of Service, Notice of Deposition upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esquire no cc	John K. Reilly Jr.
01/26/2004	Motion To Consolidate. filed by, s/Illegible Signature Cert of Svc no cc Orig. filed to 03-1240-CD	John K. Reilly Jr.
01/28/2004	Scheduling ORDER: AND NOW, this 28th day of Jan. 2004, it is hereby Ordered that oral argument on the Motion to Consolidate filed by Defendant, shall be heard on Feb. 23, 2004. S/FJA 1 CC to Atty. Ramaley	Fredric Joseph Ammerman
02/23/2004	ORDER OF COURT, AND NOW, this 23rd day of February, 2004, IT IS HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the purpose of discovery and trial to Docket No. 03-1240-CD. by the Court, s/FJA, P.J.	Fredric Joseph Ammerman
05/24/2004	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition, upon: Richard A. Bell, Esq., Jeffrey A. Ramaley, Esq., Robert Leight, Esq. and David F. Wilk, Esq. filed by, s/Theron G. Noble, Esquire no cc	Fredric Joseph Ammerman
11/17/2004	Motion for Summary Judgment, filed by s/Jeffrey A. Ramaley, Esq. No CC	Fredric Joseph Ammerman
	Praecipe for Argument, filed by s/Jeffrey A. Ramaley, Esq. No CC	Fredric Joseph Ammerman
	ORDER, filed 5 cert. & memo to Atty. Ramaley	Fredric Joseph Ammerman
	ORDER of Court that Atty. Ramaley's Motion for Summary Judgment has been scheduled for the 21st day of December, 2004.	

Date: 11/26/2007

Time: 10:17 AM

Page 2 of 4



Circuit Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
12/16/2004	Order, AND NOW, this 16th day of December, 2004, Order that argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled from December 21, 2004 to January 12, 2005 at 10:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attys: Noble, Bell, Ramaley, Leight, Walk	Fredric Joseph Ammerman
12/27/2004	Motion for Continuance, filed by s/Theron G. Noble, Esq. No CC	Fredric Joseph Ammerman
01/06/2005	Praecipe To Withdraw Motion For Continuance, filed by s/ Theron G. Noble. No CC	Fredric Joseph Ammerman
05/05/2005	Defendant Junior Coal Contracting, Inc.'s Motion For Summary Judgment, filed by s/Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
05/09/2005	Rule To Show Cause, AND NOW, this 6th day of May, 2005 upon consideration of the Motion for Summary Judgment filed by the Defendant Junior Coal Contracting , a Rule is issued upon plaintiff. Rule shall be returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. 1CC Atty. Bell	Fredric Joseph Ammerman
05/11/2005	Original Transcript, March 15, 2005 Deposition of Cprl Thomas E. Josephson, PSP, filed.	Fredric Joseph Ammerman
	Transcript of Deposition of James Mock, June 8, 2005. Orig. to 03-1240-CD	Fredric Joseph Ammerman
	Answer To Defendant Junior Coal Contracting's Inc., Motion for Summary Judgment, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
05/17/2005	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections--Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment, filed by s/Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
05/19/2005	Order, AND NOW, this 19th day of May, 2005, it is the ORDER of the Court that argument on Attorney Bell's Preliminary Objections filed in the above matter has been scheduled for the 23rd day of May, 2005, at 11:00 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty Bell w/service memo	Fredric Joseph Ammerman
	Certificate of Service, Copy of Order Dated May 19, 2005 with regard to our Preliminary Objections in the above matter served upon Theron G. Noble, Esq., David F. Wilk, Esq., Jeffrey A. Ramaley, Esq., Robert R. Leight, Esq. Filed By Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
05/20/2005	Order, AND NOW, this 10th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J.	Fredric Joseph Ammerman
	Order, AND NOW, this 17th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J. Five CC Atty Ramaley	Fredric Joseph Ammerman
08/24/2005	Opinion and Order. (see original for opinion). Order: NOW, this 23rd day of August, 2005, following review of the record, oral argument, and submission of briefs, it is the Order of this Court as follows: The Motion for Summary Judgment filed on behalf of Defendant, Junior Coal Contracting, Inc., is hereby Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Noble, J. Ramaley, R. Leight, D. Wilk, R. Bell, and D. Mikesell. Original filed to 03-1240-CD	Fredric Joseph Ammerman

Date: 11/26/2007

Time: 10:17 AM

Page 3 of 4



ROA Report

User: BHUDSON

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
09/16/2005	Filing: Appeal to High Court Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1908398 Dated: 09/16/2005 Amount: \$45.00 (Check)	Fredric Joseph Ammerman
09/20/2005	Notice of Appeal, filed by s/ Theron G. Noble, Esquire. 1CC Sup. Crt. w/ck Order, NOW, this 20th day of Sept., 2005, the court having been notified of Appeal to the Superior Court of Pennsylvania, it is the Order of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, Ramaley, Leight, Wilk, R. Bell	Fredric Joseph Ammerman
09/21/2005	Appeal Docket Sheet, filed.	Fredric Joseph Ammerman
09/28/2005	Concise Statement of Matters Complained of On Appeal, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/27/2005	Appeal mailed to Superior Court October 27, 2005.	Fredric Joseph Ammerman
10/31/2005	Certified Mail Receipt, sent to Superior Court of Pa., Prothonotary on 10/27/2005.	Fredric Joseph Ammerman
11/15/2006	Domestic Return Receipt, received Superior Court of Pa, in re: Appeal.	Fredric Joseph Ammerman
03/30/2007	Appeal from the Order entered August 23, 2005, in the Court of Common Pleas of Clearfield County, Civil Division, at No. 02-962-CD: The order of the trial court granting summary judgment in favor of Appellee, Junior Coal Contracting, Inc., is affirmed.	Fredric Joseph Ammerman
07/27/2007	Certificate of Contents of Remanded Record and Notice of Remand, Record remanded Nov. 13, 2006. Copy to Superior Court.	Fredric Joseph Ammerman
08/09/2007	Praeipce to List for Trial, Re: Jury Trial, filed by Atty. Noble no cert. copies.	Fredric Joseph Ammerman
08/27/2007	Order, this 27th day of July, 2007, it is Ordered that Pre-Trial Conference shall be held on the 24th day of August, 2007, in Chambers at 9:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
09/04/2007	Motion in Limine, filed by s/ Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
09/05/2007	Order, this 24th day of August, 2007, Jury Selection will be held on August 28, 2007 at 9:00 a.m. in Courtroom 1. Jury Trial is scheduled for Monday, Tuesday and Wednesday, Oct. 22nd, 23rd and 24th, 2007, commencing at 9:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Noble, Bell	Fredric Joseph Ammerman
09/06/2007	Motion In Limine, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
09/06/2007	Certificate of Service, filed. That a copy of my Letter Brief filed on behalf of Junior Coal Contracting Inc., in the above matter was mailed on the 31st day of August 2007 to Theron G. Noble Esq., filed by s/ Richard A. Bell Esq. No CC.	Fredric Joseph Ammerman
09/06/2007	Order, this 4th day of Sept., 2007, it is Ordered that oral argument on all outstanding Petitions and Motions in Limine have been scheduled for Sept. 17, 2007 at 1:30 p.m. in Courtroom 3. Answers to said Motions shall be filed on or before Sept. 14, 2007. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
09/06/2007	Order, this 5th day of Sept., 2007, upon consideration of the Motion In Limine filed by the Defendant, it is Ordered that: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. R. Bell	Fredric Joseph Ammerman

Date: 11/26/2007

Time: 10:17 AM

Page 4 of 4

C field County Court of Common Pleas

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

User: BHUDSON

Civil Other

Date		Judge
09/20/2007	Order, this 18th day of Sept., 2007, following argument on the Plaintiff's Motion in Limine, it is Ordered: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, Bell	Fredric Joseph Ammerman
10/23/2007	Verdict, filed NOW, this 23rd day of October, 2007, we the Jurors empanelled in the above entitled case, find as follows: Do you find that the Defendant, Junior Coal Contracting, Inc. was negligent? NO. s/ Michelle Cristini, Foreperson.	Fredric Joseph Ammerman
10/29/2007	Motion For Post-Trial Relief, filed by s/Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/31/2007	Order, this 31st day of Oct., 2007, Motion for Post-Trial Relief is Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: R. Bell, Noble	Fredric Joseph Ammerman
11/09/2007	Praecipe for Entry of Judgment, filed by Atty. Bell Enter Judgment in favor of the Defendant and against the Plaintiff on the verdict of the jury entered October 23, 2007. Notice of Judgment to Atty. Noble. no cert. copies	Fredric Joseph Ammerman
	Certificate of Mailing Copy of Praecipe for Entry of Judgment and Praecipe for Entry of Judgment, filed by Atty. Bell no cert. copies.	Fredric Joseph Ammerman

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

NOV 26 2007

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

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

**MARTIN R. SLIFKO, JR.,
an adult individual,**

PLAINTIFF

v

**JUNIOR COAL CONTRACTING, INC.,
A Pennsylvania Corporation**

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No. 02 - 962 - CD

CERTIFICATE OF SERVICE

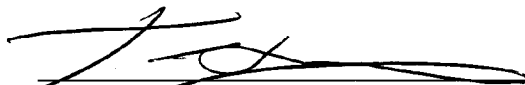
I, THERON G. NOBLE, Esquire, counsel for the Plaintiff, do hereby certify that I did serve on the below listed individuals, Plaintiff's NOTICE OF APPEAL, this 27th day of November, 2007, via United States Mail, First Class Mail, Postage Prepaid, certified as follows:

Honorable Fredric J. Ammerman, PJ
Court of Common Pleas
Clearfield County Courthouse
2nd & Market Streets
Clearfield, PA 16830

Court Administrator
Court of Common Pleas
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830

Richard A. Bell, Esquire
BELL, SILVERBLATT & WOOD
P.O. Box 670
Clearfield, PA 16830

Date: November 27, 2007


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
CIVIL DIVISION

MARTIN R. SLIFKO, JR., an adult individual
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

NO. 02-962-CD

FILED

NOV 09 2007

01/12/05/2
William A. Shaw
Prothonotary/Clerk of Courts

NO CHG COPY
NOTICE TO ATT
Noble

Type of Pleading
PRAECIPE FOR ENTRY OF
JUDGMENT

Filed on Behalf of:
Defendant

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

#50

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

NO. 02-962-CD

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

PRAECIPE FOR ENTRY OF JUDGMENT

TO: WILLIAM SHAW, Prothonotary

Please enter Judgment in favor of the Defendant and against the Plaintiff on the verdict of the jury entered October 23, 2007, the Court having denied the Plaintiff's Motion For Post-Trial Relief requesting a new trial.

BELL, SILBERBLATT & WOOD
BY



Richard A. Bell, Esquire
Attorney for Defendant

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

MARTIN R. SLIFKO, JR., an adult individual
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

NO. 02-962-CD

FILED

NOV 09 2007

0/12:10/2
William A. Shaw
Prothonotary/Clerk of Courts

No. C/C

Type of Pleading

CERTIFICATE OF MAILING
COPY OF PRAECIPE FOR
ENTRY OF JUDGMENT
AND
PRAECIPE FOR ENTRY OF
JUDGMENT

Filed on Behalf of:

Defendant

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

#50

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

NO. 02-962-CD

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

CERTIFICATE OF MAILING COPY OF PRAECIPE FOR ENTRY OF JUDGMENT

TO: WILLIAM SHAW, Prothonotary

The undersigned attorney for Defendant certifies pursuant to PA. R.C.P. 237 that on
November 9, 2007, a copy of the attached Praecipe For Entry Of Judgment was mailed by
first class mail, postage prepaid to the attorney for Plaintiff as listed below.

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830



Richard A. Bell, Esquire
Attorney for Defendant

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

MARTIN R. SLIFKO, JR., an adult individual
Plaintiff

NO. 02-962-CD

vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

Type of Pleading
PRAECIPE FOR ENTRY OF
JUDGMENT

Filed on Behalf of:
Defendant

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

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

NO. 02-962-CD

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

PRAECIPE FOR ENTRY OF JUDGMENT

TO: WILLIAM SHAW, Prothonotary

Please enter Judgment in favor of the Defendant and against the Plaintiff on the verdict of the jury entered October 23, 2007, the Court having denied the Plaintiff's Motion For Post-Trial Relief requesting a new trial.

BELL, SILBERBLATT & WOOD
BY



Richard A. Bell, Esquire
Attorney for Defendant

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

NO. 02-962-CD

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

NOTICE OF JUDGMENT

TO:

MARTIN R. SLIFKO, JR.
C/o
Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

NOTICE is given that a JUDGMENT on the jury verdict in the above captioned matter
has been entered against you and in favor of the Defendant.

William A. Shaw
Prothonotary



11-9-03

William A. Shaw

CP

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

MARTIN R. SLIFKO, JR.,
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania Corporation
Defendant

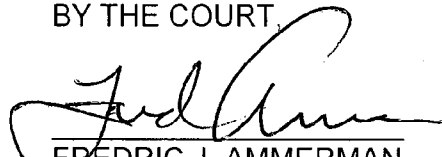
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NO. 02-962-CD

ORDER

NOW this 31st day of October, 2007, the Court being in receipt of the Plaintiff's Motion for Post-Trial Relief and having reviewed the same, it is the ORDER of this Court that said Motion be and is hereby DISMISSED.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

FILED
OCT 31 2007

William A. Shaw
Prothonotary/Clerk of Courts

(60)

#49

FILED

OCT 31 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/31/07

___ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) X Plaintiff(s) Attorney ___ Other

___ Defendant(s) X Defendant(s) Attorney

___ Special Instructions:

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

MARTIN R. SLIFKO, JR., an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02-____962____-CD

Type of Pleading:

**MOTION FOR
POST-TRIAL RELIEF**

Filed By:

Plaintiff

JURY TRIAL DEMANDED

Counsel of Record:

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

FILED
m10:28/20
OCT 29 2007 (CK)

William A. Shaw
Prothonotary/Clerk of Courts

#48

○ ○

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation, et.al.

DEFENDANTS.

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) No. 02- 962 -CD
)
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MOTION FOR POST-TRIAL RELIEF

AND NOW COMES Martin R. Slifko, Jr., by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of his MOTION FOR POST-TRIAL RELIEF:

1. This matter was tried before this honorable court in a jury trial on October 22nd - 23rd in a jury trial, which returned a verdict for the defense.
2. That prior to trial the Court granted the Defendant's MOTION IN LIMINE to preclude use of a highway occupancy permit and supplemental permit which the defendant obtained concerning the creation and use of the entranceway to its coal operations on State Route 2024 because the same was not pled in Plaintiff's Civil Complaint. Such permit was offered as Plaintiff's Exhibit 23 as an offer of proof at trial.
3. On September 17th, following or during argument on Plaintiff's MOTIONS IN LIMINE, Plaintiff inquired whether the Court's ORDER to preclude use of the highway occupancy and supplemental permits concerning the entranceway also included in the event the defendant put

forth a theory that others were responsible for the fluid being on the highway and the Court said even in such event Plaintiff could not use such information.

4. In fact the defendant's theory of its defense was in essence that others not related to the defendant's coal operations used their entranceway to "turn around" and were responsible for the fluid on State Route 2024 which caused the accident.

5. That pursuant to the permits the defendant was obligated to keep the State Route 2024 free from "mud, silt and other debris" and was not limited to such things only from the defendant but from the defendant's entranceway.

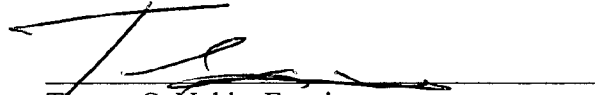
6. That it was error not to allow Plaintiff to introduce the Highway Occupancy Permit and Supplemental Permit admitted as Exhibit 23 in that the same was evidence which need not be pled.

7. It was additional error not to permit Plaintiff to use the same to attack the defendant's defense theory that others were responsible for the fluid once it was introduced.

8. That Plaintiff believes, and therefore avers, that the same was not "harmless" error in that this was direct evidence of the defendant's duty to keep the entranceway and State Route 2024 free from "mud, silt and other debris", extending to instances in which "others" might have made such condition and would have substantially aided Plaintiff in its case against the defendant.

WHEREFORE, Plaintiff respectfully requests that its MOTION FOR POST-TRIAL RELIEF be granted and a new trial scheduled in which Plaintiff is allowed to use the Highway Occupancy Permit and Supplemental Permit at trial.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read 'Theron 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)

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

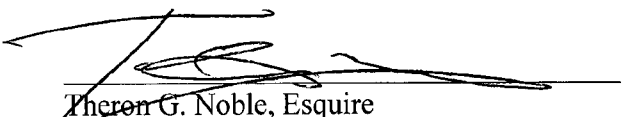
No. 02- 962 -CD

CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 26th day of October, 2007, that I did mail a true and correct copy of Plaintiff's MOTION FOR POST-TRIAL RELIEF to the below indicated person, being counsel of record for the Defendant, via United States Mail, postage prepaid, first class, as follows:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

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
CIVIL DIVISION

MARTIN R. SLIFKO, JR.,
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania Corporation
Defendant

NO. 02-962-CD

FILED

OCT 23 2007

03:30/

William A. Shaw
Prothonotary/Clerk of Courts

VERDICT SLIP

AND NOW TO WIT, October 23, 2007, we the Jurors empanelled in the

above entitled case, find as follows:

Question 1:

Do you find that the Defendant, Junior Coal Contracting, Inc., was negligent?

YES _____

NO X

If you answer Question 1 "NO", the Plaintiff cannot recover and you should not answer any further questions and should return to the Courtroom.

Question 2:

Was the Defendant's negligence a factual cause in bringing about the Plaintiff's harm?


YES _____

NO _____

If you answer Question 2 "NO", the Plaintiff cannot recover and you should not answer any further questions and should return to the Courtroom.

Question 3:

State the amount of damages, if any, sustained by the Plaintiff as a result of the accident. \$ _____


Foreperson

#47

COURT OF COMMON PLEAS, CLEARFIELD COUNTY
PENNSYLVANIA

CASE NO. 02-962-CD

Date of Jury Selection: August 28, 2007

Presiding Judge: Fredric J. Ammerman, President

Martin R. Slifko Jr

Court Reporter: Beth Krupa day 1
Cathy Provost day 2

VS

Date of Trial: October 22-24, 2007

Junior Coal Contracting Inc

Date Trial Ended: 10-23-07

MEMBERS OF THE JURY

1. Elva Fleisher
2. Michelle Cristini
3. Gloria Webb
4. Tracy Bakaysa
5. William Shugarts
6. Jean Bloom
- ALT #1 Lindsey Robison

7. Michele Monteforte
8. Phyllis Luzier
9. Lisa Snyder
10. James Emigh
11. Ellery Solt
12. Frederick Cutler
- ALT #2 Carol Pizzella

PLAINTIFF'S WITNESSES:

1. MARTIN SLIFKO JR
2. JAMES MOCK
3. Cpl Thomas Josephson PSP
4. ~~James Mock~~
- 4 5. George Cowper Jr.
6. Dr. Rudolpho Poluntan

DEFENDANT'S WITNESSES:

1. Dennis Hughes
2. George Cowper Jr
3. James Mock
4. _____
5. _____
6. _____

PLAINTIFF'S ATTY: Theron G. Noble Esq

DEFENDANT'S ATTY: Richard A. Bell Esq

ADDRESS TO JURY: 11:08 AM - 11:52 PM ADDRESS TO JURY: 10:55 AM 10-23-07

JUDGE'S ADDRESS TO JURY: 1:20 PM JURY OUT: _____ JURY IN: 3:00 PM

VERDICT: No negligence.

FOREPERSON: # 2

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

MARTIN R. SLIFKO, JR.,
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania Corporation
Defendant

NO. 02-962-CD

FILED
01:00:00 PM
SEP 20 2007

William A. Shaw
Prothonotary/Clerk of Courts
ICC Atty's: Noble
Bell

ORDER

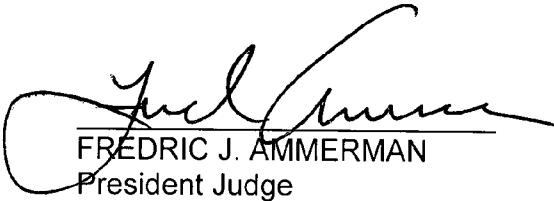
NOW, this 18th day of September, 2007, following argument on the Plaintiff's Motion in Limine filed September 4, 2007, it is the ORDER of this Court as follows:

1. The Plaintiff's Motion in Limine to prohibit the Defendant from introducing information during trial as to the Defendant's subsequent motorcycle accident is hereby granted. Defendant shall be precluded at time of trial from soliciting testimony or providing documentation which indicates that the Plaintiff had the subsequent motorcycle accident. However, the Defendant shall be permitted, through documentation or questioning, to show that the Plaintiff may have suffered injuries and/or complications in the subsequent accident as they may relate to the Plaintiff's claims for damages for injuries in this case;
2. The Plaintiff's second Motion in Limine requesting that the Defendant be precluded from having Corporal Thomas E. Josephson testify to his estimate of the Plaintiff's speed at the time

#46

he was operating the motorcycle immediately prior to the accident is granted. Corporal Josephson was not qualified as an expert and his "estimated guess" is inadmissible.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED

SEP 20 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/20/07

 You are responsible for serving all appropriate parties.

 X The Prothonotary's office has provided service to the following parties:

 Plaintiff(s) X Plaintiff(s) Attorney Other

 Defendant(s) X Defendant(s) Attorney

 Special Instructions:

CA

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

NO. 02-962-CD

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

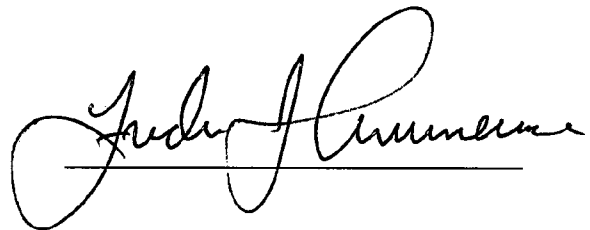
Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

ORDER OF COURT

AND NOW this 5th day of September, 2007, upon consideration of the Motion
In Limine filed by the Defendant, it is hereby ORDERED and DECREED that the Plaintiff shall
be precluded from presenting any testimony, evidence or exhibits at trial pertaining to a Highway
Occupancy Permit or Supplemental Highway Occupancy Permit from the Department Of
Transportation to the Defendant, and to prohibit the Plaintiff, his witnesses or his counsel from
making any reference to the Highway Occupancy Permits, either at trial, or at jury selection.

BY THE COURT



FILED 3cc
SEP 06 2007
SEP 10 21 04
Att'y R. Bell
CR

William A. Shaw
Prothonotary/Clerk of Courts

45

FILED

SEP 06 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/6/07

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

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

MARTIN R. SLIFKO, JR., an adult
individual

vs.

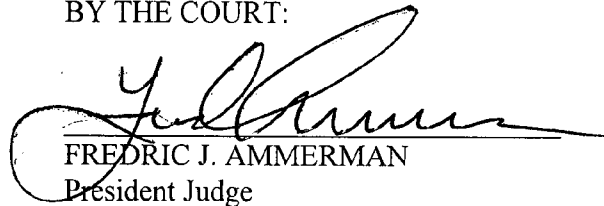
No. 02-962-CD

JUNIOR COAL CONTRACTING, INC.:
a Pennsylvania Corporation

ORDER

AND NOW, this 24 day of September, 2007, it is the ORDER of
the Court that oral argument on all outstanding Petitions and Motions in Limine in the
above-captioned matter have been scheduled for **Monday, September 17, 2007 at**
1:30 P.M. in Courtroom No. 3, Clearfield County Courthouse, Clearfield, PA.
Answers to said Motions shall be filed on or before Friday, September 14, 2007.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED ^{cc Atty's}
01/31/07 Noble
SEP 05 2007 R. Bell
EK

William A. Shaw
Prothonotary/Clerk of Courts

#44

FILED

SEP 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/5/07

X You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) X Plaintiff(s) Attorney ____ Other

____ Defendant(s) X Defendant(s) Attorney

____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

MARTIN R. SLIFKO, JR., an adult individual,
Plaintiff

vs.

No. 02-962-CD

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

Type of Pleading
CERTIFICATE OF SERVICE
OF LETTER BRIEF

Filed on Behalf of:
Defendant

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED No CC.
0/11:35am
SEP 04 2007 *SM*

William A. Shaw
Prothonotary/Clerk of Courts

#43

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

MARTIN R. SLIFKO, JR., an adult individual,
Plaintiff

vs.


No. 02-962-CD

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of my Letter Brief filed on behalf of Junior Coal Contracting, Inc., in the above matter was mailed the 31st day of August, 2007, by regular mail postage prepaid at the post office in Clearfield, PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830


Richard A. Bell, Esquire
Attorney for Defendant

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

MARTIN R. SLIFKO, JR., an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02- 962 -CD

Type of Pleading:

MOTION IN LIMINE

Filed By:

Plaintiff

JURY TRIAL DEMANDED

Counsel of Record:

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

FILED ^{no cc}
SEP 04 2007 ^{12:25 PM} ^(BK)

William A. Shaw
Prothonotary/Clerk of Courts

#42

No. 02-962-CD

3. That the Defendant has indicated that it intends to introduce evidence and/or solicit testimony about another motorcycle accident that Plaintiff had nearly two years later than the accident subject matter of this lawsuit.
4. That in order for Defendant to do as above set forth, the evidence must be relevant (probative) and satisfy fundamental evidentiary requirements.

5. In this case, there are fundamentally two issues in controversy, liability and damages.
6. That the subsequent accident is exactly the type of evidence to be precluded generally by Pennsylvania law, often called “other acts evidence”. See Packel and Poulin §405.3; citing Levant v. Leonard Wasserman Co., 284 A.2d 794 (1971); Jamison v. Ardes, 182 A.2d 497 (1962); and Roney v. Clearfield County Grange Mut. Fire Ins. Co., 3 A.2d 365 (1939).
7. The general rule is that proof “that a person has done an act on one occasion is not probative of the contention that he did a similar act upon another occasion”. See Packel and Poulin §405.3; citing Roney.
8. There are a few exceptions to this general evidentiary rule, such as character evidence (not at issue in this matter), and habit or custom. See Packel and Poulin §405.3.
9. That the two motorcycle accidents, one in 2001 and the other in 2003, can not be determined to amount to a habit or custom in that they do not establish “invariable regularity” of the usage or habit, the keystone to such evidence. See Packel and Poulin §406.
10. Likewise, “other acts evidence” might be admissible if the actor’s knowledge, interest or motive is at issue, which it is not in this matter. See Packel and Poulin §405.3.
11. Plaintiff has herein provided sufficient basis to exclude the evidence of the accident in 2003.
12. Plaintiff would readily admit that if there was some evidence that the subsequent [or prior] accident injured parts of his body injured in this accident, that might be admissible [but not the details or nature of the accident itself].
13. However, the defense has not asserted, nor is there any evidence of record to support any claim or assertion that Mr. Slifko was hurt let alone hurt sustained similar injuries in the 2003

accident.

14. There is no basis whatsoever for the defense to introduce any evidence or to solicit testimony concerning Mr. Slifko's subsequent motorcycle accident of 2003.

WHEREFORE, Plaintiff respectfully requests that his MOTION IN LIMINE preventing any introduction into evidence or solicitation of testimony concerning his 2003 motorcycle accident be granted.

Issue II: Speed Testimony

15. The defense most likely intends to offer into evidence some evidence of Mr. Slifko's contributory negligence as it has pled the same and listed the same in its pre-trial memorandum.

16. Plaintiff speculates that a portion of the defense issue on contributory negligence is to attempt to show that Mr. Slifko "might have been" speeding at the time of the accident.

17. The only possible evidence of Mr. Slifko's speed at the time of the accident of record is from Cpl. Josephson, the investigating officer.

18. During Cpl. Josephson's deposition, he offered an opinion that he "estimated" Mr. Slifko's speed at 50 MPH, based upon skid marks and damage to the motorcycle. See Cpl. Josephson deposition transcript pages 7 - 8, lines 18 - 7.

19. That during the cross examination of Cpl. Josephson on the issue of speed, he readily and candidly admitted that it was an "educated guess". See lines 2 -3, page 8. (also see Exhibit "A" attached hereto, being relevant copies of the transcript previously submitted into the record of this case.)

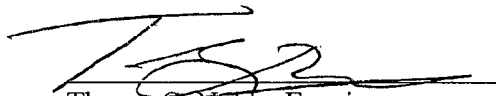
20. Pa.R.E. 701 requires that a witness, not testifying as an expert, can opine only if the opinions

or inferences are rationally based on the perceptions of the witness and helpful to a clear understanding of the witness's testimony or a determination of a fact in issue.

20. Based upon Cpl. Josephson's admission that his estimate of speed is only an "estimated guess", this evidence concerning Mr. Slifko's possible speed at the time of the accident should not be permitted into evidence.

WHEREFORE, Plaintiff respectfully requests that his MOTION IN LIMINE preventing any introduction into evidence or solicitation of testimony from Cpl. Josephson concerning his speed at the time of the accident be granted.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'T. Noble', with a long horizontal line extending to the right.

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

1 the typical trooper is going to have to really come out
2 with a speed, I mean, I can only take an educated guess from
3 my experience.

4 BY MR. NOBLE:

5 Q. What was the basis of your estimated speed of 50
6 miles per hour, if you remember?

7 A. Just the damage to the motorcycle, the skid marks.

8 Q. Do you remember what the posted speed limit was on
9 State Route 2024 in the area of the accident?

10 A. I don't recall, but I mean I'm guessing it's 40 or
11 45. I don't know which one.

12 MR. BELL: I object to a guess.

13 BY MR. NOBLE:

14 Q. Do you remember up in the area of this accident an
15 entranceway or exitway to a coal company?

16 A. There is a dirt road. I don't know what it was to.
17 It would have been on the north side according to the
18 diagram, right prior to the curve. Prior to the accident
19 happening, there is a dirt road leading off to the north.

20 Q. Do you remember the area on State Route 2024 where
21 Mr. Slifko first started to lose control of the bike?

22 A. I believe it was in the curve.

23 Q. Do you have any idea how far it would be from that
24 dirt road that you just referenced to that spot in the curve?

25 A. It was just a short distance. I don't know

1 Q. When you draw a diagram, you try to draw it
2 accurately?

3 A. Certainly.

4 Q. So would it be a fair statement that if the diagram
5 shows the substance in the middle of the westbound lane, that
6 you were trying to be accurate when you did the diagram?

7 A. Yes.

8 Q. As part of your investigation, would you have been
9 concerned with the speed of the motorcycle at the time of the
0 accident?

1 A. Somewhat, yes.

2 Q. Do you remember if during your investigation if you
3 were ever able to determine -- strike that. Who was the
4 operator of the motorcycle? I don't think we have that on
5 record.

6 A. I have a first initial M, I believe it was Martin,
7 Slifko, Jr.

8 Q. During your investigation, were you ever able to
9 determine in your opinion whether or not Mr. Slifko was
0 safely operating his motorcycle at the time of the accident?

1 MR. RAMALEY: Just note an objection here. You are
2 asking an opinion of an expert, and he hasn't been qualified
3 as such.

4 THE WITNESS: I can only make a -- I estimated on
5 here 50 miles per hour. Without a lot more expertise than

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

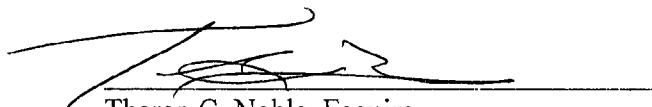
No. 02- 962 -CD

CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 1st day of September, 2007, that I did mail a true and correct copy of Plaintiff's MOTION IN LIMINE to the below indicated person, being counsel of record for the Defendant, via United States Mail, postage prepaid, first class, as follows:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

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
CIVIL DIVISION

MARTIN R. SLIFKO, JR.,
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania Corporation
Defendant

NO. 02-962--CD

FILED

AUG 27 2007

2cc Atty's:
Noble
Bell
(EK)

ORDER

William A. Shaw
Prothonotary/Clerk of Courts

NOW, this 24th day of August, 2007, following pre-trial conference with counsel for the parties as set forth above, it is the ORDER of this Court as follows:

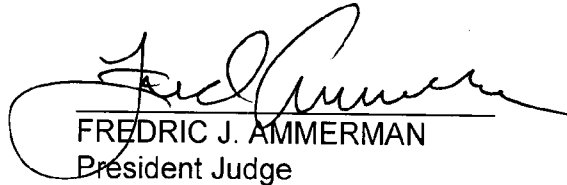
1. Jury Selection will be held on August 28, 2007 at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled for Monday, Tuesday and Wednesday, October 22nd, 23rd and 24th, 2007, commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of Trial shall submit said objections to the Court, in writing, no later than thirty (30) days prior to the commencement of Trial. All objections shall reference specific page and line numbers within the deposition(s) in question along with that party's brief relative same. The opposing party shall submit its brief in opposition to said objections no later than fifteen (15) days prior to the commencement to Trial.
4. Any party filing any Motion or Petition regarding limitation or exclusion of evidence or testimony to be presented at time of Trial, including but not

#41

limited to Motions in Limine, shall file the same within no more than fifteen (15) days from this date. The party's Petition or Motion shall be accompanied by an appropriate brief. The responding party thereto shall file its Answer and submit appropriate response brief no later than fifteen (15) days after service of the other party's Motion or Petition.

5. Counsel shall submit letter briefs within no more than ten (10) days from this date relative the Motion in Limine filed by the Defendant on August 9, 2007 concerning the highway occupancy permit.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

DATE: 8-27-2007

____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) X Plaintiff(s) Attorney ____ Other

____ Defendant(s) X Defendant(s) Attorney

____ Special Instructions:

FILED

AUG 27 2007

William A. Shaw
Prothonotary/Clerk of Courts

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

MARTIN R. SLIFKO, JR., an adult individual
Plaintiff

NO. 02-962-CD

vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

Type of Pleading
MOTION IN LIMINE

Filed on Behalf of:
Defendant

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED ^{no cc}
m 11:25 AM
AUG 09 2007

William A. Shaw
Prothonotary/Clerk of Courts

#40

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

NO. 02-962-CD

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

MOTION IN LIMINE

AND now this 9th day of August, 2007, JUNIOR COAL CONTRACTING, INC., by its attorney, Richard A. Bell, of Bell, Silberblatt & Wood, moves your Honorable Court to preclude the Plaintiff from presenting any testimony, evidence or exhibits at trial pertaining to a Highway Occupancy Permit or Supplemental Highway Occupancy Permit from the Department Of Transportation to the Defendant, and to prohibit the Plaintiff, his witnesses or his counsel from making any reference to the Highway Occupancy Permits, either at trial, or at jury selection. In support of this Motion the Defendant presents the following:

1. This is a lawsuit in which the Plaintiff has claimed that he suffered personal injuries and property damage when a motorcycle he was riding slipped out from under him. He alleged that the motorcycle slipped because of a substance on the highway for which he blamed the Defendant.
2. The bases of recovery is stated in the Complaint as the negligence of the Defendant as follows:
 - A. Its agent, servants or employees operating trucks or other

equipment placed the aforementioned oil or fuel on State Route 2024;

B. It failed to detect that its business operations caused a dangerous condition to others, including Mr. Slifko;

C. It failed to correct the dangerous condition of an oil slick its business operations caused on State Route 2024 until after Mr. Slifko's accident; and/or

D. It failed to warn Mr. Slifko, and others, of the dangerous condition.

3. At no time in the Complaint or any other pleadings has there been any mention of a Highway Occupancy Permit, or a violation of it.

4. The Highway Occupancy Permit is a contract between the Defendant as permittee, and the Commonwealth Of Pennsylvania through the Department Of Transportation.

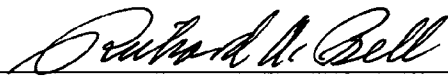
5. A violation of a Highway Occupancy Permit, if it occurred, would be a violation of the contractual obligation of the Defendant, and is separate and apart from the Plaintiff from presenting any testimony, evidence or exhibits at trial pertaining to a Highway Occupancy Permit or Supplemental Highway Occupancy Permit from the Department Of Transportation to the

Defendant, and to prohibit the Plaintiff, his witnesses or his counsel from making any reference to the Highway Occupancy Permits, either at trial, or at jury selection. the negligence alleged in the Complaint.

6. The violation of the Highway Occupancy Permit, if it occurred, has not been pled, and would introduce a new cause of action which would be barred by the Statute Of Limitations.

WHEREFORE, Defendant, Junior Coal Contracting, Inc., respectfully requests that your Honorable Court enter an Order precluding the Plaintiff from presenting any testimony, evidence or exhibits at trial pertaining to a Highway Occupancy Permit or Supplemental Highway Occupancy Permit from the Department Of Transportation to the Defendant, and to prohibit the Plaintiff, his witnesses or his counsel from making any reference to the Highway Occupancy Permits, either at trial, or at jury selection.

BELL, SILBERBLATT & WOOD
BY

A handwritten signature in cursive script, appearing to read "Richard A. Bell", is written over a horizontal line.

Richard A. Bell, Esquire
Attorney for Defendant

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

MARTIN R. SLIFKO, JR., an adult individual,
Plaintiff

vs.


No. 02-962-CD

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of a Motion In Limine filed on behalf of Junior Coal Contracting, Inc., in the above matter was mailed the 9th day of August 2007, by regular mail postage prepaid at the post office in Clearfield, PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830



Richard A. Bell, Esquire
Attorney for Defendant

LA

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

MARTIN R. SLIFKO, JR.,
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania Corporation
Defendant

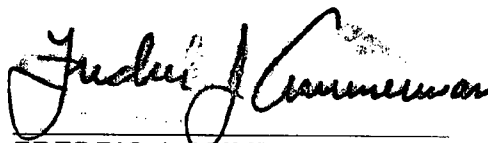
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NO. 02-962--CD

ORDER

AND NOW, this 27th day of July, 2007, it is the ORDER of the Court that a Pre-Trial Conference in the above matter shall be held on the **24th day of August, 2007, in Chambers at 9:00 o'clock a.m.**

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED
9:40:00 AM
JUL 27 2007

ICC
Atty. Noble
R. Bell

William A. Shaw
Prothonotary/Clerk of Courts

GR

#39

FILED

JUL 27 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 7/27/07

☐ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

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

MARTIN R. SLIFKO, JR., an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02- 962 -CD

Type of Pleading:

**PRAECIPE TO LIST
FOR TRIAL**

Filed By:

Plaintiff

JURY TRIAL DEMANDED

Counsel of Record:

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

FILED *EW*

MAR 30 2007
m/12-25/w
William A. Shaw
Prothonotary/Clerk of Courts
no c/c

38

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02-__962__-CD

PRAECIPE TO LIST FOR TRIAL


To: William A. Shaw, Prothonotary

Date: March 29, 2007

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that in the above captioned matter, (i) pleadings are closed; (ii) there is no outstanding discovery requests; and (iii) attempts to amicably resolve this matter have failed or would be non-productive.

Therefore, request is hereby made that the same be placed on the jury trial list and listed for a two (2) trial days.

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)

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

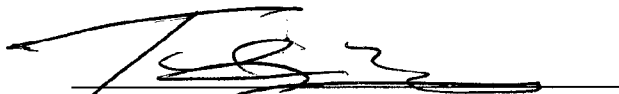
No. 02-__962__-CD

CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 29th day of March, 2007, that I did mail a true and correct copy of Plaintiff's PRAECIPE TO LIST FOR TRIAL to the below indicated person, being counsel of record for the Defendant, via United States Mail, postage prepaid, first class, as follows:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

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

The Superior Court of Pennsylvania
Sitting at Pittsburgh

GRANT BUILDING
310 Grant Street – Suite 600
Pittsburgh, Pennsylvania
15219

**CERTIFICATE OF CONTENTS OF REMANDED RECORD
AND NOTICE OF REMAND**
under

PENNSYLVANIA RULES OF APPELLATE PROCEDURE 2571 AND 2572

THE UNDERSIGNED, Prothonotary (or Deputy Prothonotary) of the Superior Court of Pennsylvania, the said court of record, does hereby certify that annexed to the original hereof, is a true and correct copy of the entire record:
ORIGINAL RECORD IN 2 PARTS, 2 TRANSCRIPTS, SUPERIOR COURT MEMORANDUM.

As remanded from said court in the following matter:

MARTIN SILFKO VS GARY BALDWIN
NO. 1617, 1618 WDA 2006

COURT OF COMMON PLEAS, CIVIL DIVISION, CLEARFIELD COUNTY
NO. 03-1240-CD, 02-962-CD

In compliance with Pennsylvania Rules of Appellate Procedure 2571.

The date of which the record is remanded is: November 13, 2006

An additional copy of this certificate is enclosed with the original hereof and the clerk or prothonotary of the lower court or the head, chairman, deputy, or the secretary of the other government unit is hereby directed to acknowledge receipt of the remanded record by executing such copy at the place indicated by forthwith returning the same to this court.

FILED

NOV 15 2006

W. A. Shaw
William A. Shaw
Prothonotary/Clerk of Courts (GC)
copy to Sup Ct.

DEPUTY PROTHONOTARY

RECORD, ETC. RECEIVED:

DATE: 11-15-06

W. A. Shaw
(Signature & Title)

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

#37

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P.
65.37**

MARTIN R. SLIFKO, JR.,
AN ADULT INDIVIDUAL,

Appellant

v.

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING; ALBERT GREEN
TRUCKING, INC., A PENNSYLVANIA
CORPORATION; and SENEX
EXPLOSIVES, INC., A PENNSYLVANIA
CORPORATION,

Appellee

IN THE SUPERIOR COURT OF
PENNSYLVANIA

FILED

NOV 15 2006

William A. Shaw
Prothonotary/Clerk of Courts

CONSENTED 12-13-07 WAS

No. 1617 WDA 2005

Appeal from the Order entered August 23, 2005
in the Court of Common Pleas of Clearfield County,
Civil Division, at No. 03-1240-CD

MARTIN R. SLIFKO, JR.,
AN ADULT INDIVIDUAL,

Appellant

v.

JUNIOR COAL CONTRACTING, INC.,

Appellee

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1618 WDA 2005

Appeal from the Order entered August 23, 2005
in the Court of Common Pleas of Clearfield County,
Civil Division, at No. 02-962-CD

BEFORE: FORD ELLIOTT, P.J., DEL SOLE, P.J.E. and JOYCE, J.

#36

MEMORANDUM:

FILED: July 24, 2006

Martin Slifko ("Appellant") appeals from the order of court granting summary judgment in favor of Junior Coal Contracting, Inc. ("Junior Coal"). We reverse.

Preliminarily, we note that when reviewing the granting of a motion for summary judgment, this Court must examine the record in the light most favorable to the non-moving party and resolve all doubts against the moving party as to the existence of a triable issue. ***Petrongola v. Comcast-Spectacor, L.P.***, 789 A.2d 204, 209 (Pa. Super. 2001). We are not bound by the trial court's conclusions of law, but may reach our own conclusions. ***Id.*** This Court may disturb the trial court's order only upon an error of law or an abuse of discretion. The scope of review is plenary and the appellate court applies the same standard for summary judgment as the trial court. ***Id.***

The facts, in the light most favorable to Appellant, are as follows. Appellant was riding his motorcycle on State Route 2024 in Clearfield County. Along this road was the entrance to a strip-mining operation maintained by Junior Coal, known as the Runk job. As he ascended a curve, Appellant lost control of his motorcycle, fell off of the motorcycle, skidded across the ground and came to rest near a driveway. James Mock owned the property on to which Appellant skidded. Mr. Mock, who heard the

accident as it occurred, went to the scene and offered his assistance. After calling 911, Mr. Mock looked at the road and observed a slick of what he believed to be hydraulic fluid. This slick, according to Mr. Mock, was approximately 100 yards from the entrance to the Runk job. In his deposition, Mr. Mock indicated that the overwhelming majority of truck traffic, between 95 and 98 percent, on that part of Route 2024 is related to the Runk job.

Corporal Thomas Josephson of the Pennsylvania State Police responded to the scene of the accident. Through his investigation, he surmised that the oily substance began at the entrance to the Runk job and continued on Route 2024, to the point where the accident occurred. This accident left Appellant with multiple injuries and permanent disfigurement.

Appellant brought a cause of action for negligence against Junior Coal. In his complaint, Appellant alleges that trucks operated by Junior Coal, its agents or employees left the oily substance on the road, causing his accident. After the completion of discovery, Junior Coal moved for summary judgment. Following argument, the trial court granted the motion. Appellant appeals this determination.

Summary judgment may be granted where the "evidentiary record ... contains insufficient evidence of facts to make out a *prima facie* cause of action or defense and, therefore, there is no issue to be submitted to the jury." **Petrongola** , 789 A.2d at 208. "Where a motion for summary

judgment is based upon insufficient evidence of facts, the adverse party must come forward with evidence essential to preserve the cause of action. The non-moving party must adduce sufficient evidence on an issue essential to its case and on which it bears the burden of proof such that a jury could return a verdict favorable to the non-moving party." *Id.* at 208-09.

Here, the trial court granted Junior Coal's motion for summary judgment upon finding that Appellant failed to establish that Junior Coal caused the oily substance to be on Route 2024, concluding, "The evidence established through discovery shows that it is just as likely as not the substance came to be on the public road from a vehicle not related to the Defendant Junior Coal or its' [sic] agents." Trial Court Order, 8/24/05, at 8. Drawing this conclusion was in error.

First, we note that in order to survive summary judgment, Appellant was not required to "negate all other possible causes of an occurrence, ... or prove with mathematical certainty, to the exclusion of other possibilities, that an occurrence could only have been caused in one manner consistent with ... [the appellees'] liability." *First v. Zem Zem Temple*, 686 A.2d 18, 22 (Pa. Super. 1996) (citations omitted). Appellant needed only to establish evidence on an issue vital to his case such that a jury could return a verdict in its favor. *Petrongola*, 789 A.2d at 209.

Viewing the evidence in the light most favorable to Appellant, we find it sufficiently creates a question as to causation. Whether Appellant's

evidence stands in the face of evidence presented by Junior Coal is a question for another day. At this stage in the proceedings, the trial court determines whether an issue of fact for trial exists; it does not resolve the factual issue. ***Fine v. Checcio***, 870 A.2d 850, 862 (Pa. 2005). Thus, when the parties presented conflicting accounts, it was not for the trial court to weigh this evidence. Accordingly, we reverse the order of the trial court and remand this case for further proceedings.

Order reversed. Case remanded. Jurisdiction relinquished.

Joyce, J. files a Dissenting Statement.

Judgment Entered:

Eleanor K. Valecko
Deputy Prothonotary

DATE: July 24, 2006

The majority concludes that the evidence, viewed in a light most favorable to the Appellant, creates a factual issue relating to causation, and claims that the trial court erred by resolving that factual issue. Consequently, the majority is reversing the grant of summary judgment and

remanding for further proceedings. Because I do not believe that the trial court resolved a factual issue, and because I believe the trial court properly entered summary judgment in Appellee's favor, I respectfully dissent.

The trial court recognized that "to recover on a theory of negligence, the plaintiff must prove (1) that the defendant owed a duty to the plaintiff; (2) that the defendant breached that duty; (3) that the breach was the proximate or legal cause of the accident and (4) that the plaintiff suffered actual loss or damage." Trial Court Opinion, 8/24/05, at 4 (citation omitted). Further, "[i]f the plaintiff fails to establish one of the essential elements of actionable negligence, the defendant has valid grounds for summary judgment. Therefore, as a matter of law, no recovery can lie against any party, absent a legal duty owed to the person injured." *Id.* (citations and quotations omitted).

In his complaint, Appellant alleged that Appellee owed a duty to Appellant as a person on a Commonwealth highway, and that Appellee breached that duty by depositing oil along a roadway, thereby creating a dangerous condition. Appellant further claimed that Appellee was negligent for failing to correct the dangerous condition, and for failing to warn Appellant of the dangerous condition. Complaint at ¶¶ 21 and 22. However, despite undertaking written and deposition discovery, a review of the entire record reveals that Appellant has failed to unearth any proof that Appellee

was responsible for creating any dangerous condition, or was even aware of any such condition.

The trial court determined that the only way a jury could decide the causation issue was through speculation or conjecture. I agree. It is well-settled that "[a] jury can not be allowed to reach a verdict merely on the basis of speculation or conjecture." ***Young v. Com., Dept of Transp.***, 560 Pa. 373, 376, 744 A.2d 1276, 1277 (2000). "Summary judgment is properly granted when '... the record contains insufficient evidence of facts to make out a prima facie cause of action or defense and, therefore, there is no issue to be submitted to a jury.'" Trial Court Opinion, 8/24/05, at 2 (quoting the Note to Pa.R.C.P. 1035.2). When, as here, a motion for summary judgment is based on insufficiency of evidence:

[T]he adverse party must come forward with evidence essential to preserve the cause of action. If the non-moving party fails to come forward with sufficient evidence to establish or contest a material issue to the case, the moving party is entitled to judgment as a matter of law. The non-moving party must adduce sufficient evidence on an issue essential to its case and on which it bears the burden of proof such that a jury could return a verdict favorable to the non-moving party. As with all summary judgment cases, the court must examine the record in the light most favorable to the non-moving party and resolve all doubts against the moving party as to the existence of a triable issue.

Petrongola v. Comcast-Spectacor, L.P., 789 A.2d 204, 208-09 (Pa. Super. 2001).

I agree with the trial court that Appellant has failed come to forward with sufficient evidence to establish two material issues to the case, *i.e.*, the existence of a duty or causation. As the trial court observed, "[t]he evidence established through discovery shows that it is just as likely as not the substance came to be on the public road from a vehicle not related to [Appellee] or [its] agents." Trial Court Opinion, 8/24/05, at 8.¹

¹ Appellant highlights testimony of the investigating officer, Corporal Thomas Josephson, and an individual who lived near the accident scene, James Mock, in an effort to demonstrate the existence of a triable factual issue related to causation. However, a review of their respective testimonies underscores the inescapable conclusion that the issue of causation cannot be resolved without engaging in speculation or conjecture. For instance, Corporal Josephson stated that he could not identify the oily substance on the highway, did not know how it got on the roadway or how long it had been there, but could state that the oil stains were dark in color and were wet the "whole way along the roadway," covering a distance of "within a hundred yards" from the dirt roadway to the scene of the accident. Deposition of Corporal Josephson, 3/15/05, at 9-16. (We note that portions of the Corporal's deposition are included in Appellant's Reproduced Record, although pages 9, 14, 15, and 16 are not.) Mr. Mock, on the other hand, testified that the fluid on the road at the site of the accident was hydraulic fluid, a clear substance that spanned six to eight feet. Deposition of James Mock, 6/8/04, at 22-24, and 48. He did not know how it got there, but believed it was recent. *Id.* at 39 and 58. That fluid was a different substance from the dark oil stains depicted in Corporal Josephson's photographs. *Id.* at 34-35. Further, while oil stains on the roadway—such as those depicted in the photographs—were common, hydraulic fluid was not. *Id.* In his opinion, the oil stains did not contribute to the accident; rather, the accident was caused by the hydraulic fluid. *Id.* at 41 ("[T]here was tracks through it and that's what made me think in my opinion that he had hit that oil and lost it."). (Portions of the Mock deposition are likewise included in the Reproduced Record, although pages 23 and 24, cited above, and 41, quoted above, are not.)

Recognizing that Appellant has no memory of the accident, a jury presented with the testimony of Josephson and Mock would have to guess whether the accident was caused by the dark oil stains or the hydraulic fluid; whether the substance or substances came to be on the roadway as a result

This Court should not disturb a trial court's order granting summary judgment absent error of law or abuse of discretion. Finding neither of those exhibited in the trial court's ruling, I would affirm the order of the trial court granting summary judgment in favor of Appellee, Junior Coal Contracting, Inc.

of Appellee's activities or whether they came from some other source; and how long the offending substance or substances had been there. Absent other evidence, whether consisting of lay or expert testimony or otherwise, Appellant has not produced sufficient evidence to enable a jury to resolve the issues of causation or breach of duty without engaging in guesswork.

835

Prothonotary/Clerk of Courts
William A. Shaw

FILED
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PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540	
2. Article Number 7002 2030 0004 5014 7920 (Transfer from service label)	
1. Article Addressed to: Superior Court of PA Office of the Prothonotary 310 Grant St. Pittsburgh, PA 15219	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
A. Signature X <i>921 M</i>	B. Received by (Printed Name) C. Date of Delivery 10-28
COMPLETE THIS SECTION ON DELIVERY	
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.	

02-962-03
03-1240-03
05-471-03

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02-962-CD, 03-1240-CD, 05-471-CD

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City, State, ZIP+4
Pittsburgh, PA 15219

PS Form 3800, June 2002

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02-962-CD

03-1240-CD

05-471-CD

FILED

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OCT 27 2005 @

William A. Shaw
Prothonotary/Clerk of Courts

#34

Appeal Docket Sheet

Docket Number: 1618 WDA 2005

Superior Court of Pennsylvania

Page 1 of 2

September 19, 2005



02-962-CD

Martin R. Slifko, Jr., an adult individual, Appellant
V.

Junior Coal Contracting, Inc.

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: September 19, 2005

Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType: Trespass

Consolidated Docket Nos.:

Related Docket Nos.:

1617 WDA 2005 Same Issue(s)

SCHEDULED EVENT

Next Event Type: Receive Docketing Statement

Next Event Due Date: October 3, 2005

Next Event Type: Original Record Received

Next Event Due Date: October 31, 2005

COUNSEL INFORMATION

Appellant Slifko Jr., Martin R.

Pro Se: Appoint Counsel Status:

IFP Status: Pending

Appellant Attorney Information:

Attorney: Noble, Theron G.

Bar No.: 55942

Law Firm: Ferraraccio & Noble

Address: 301 E Pine Street
Clearfield, PA 16830

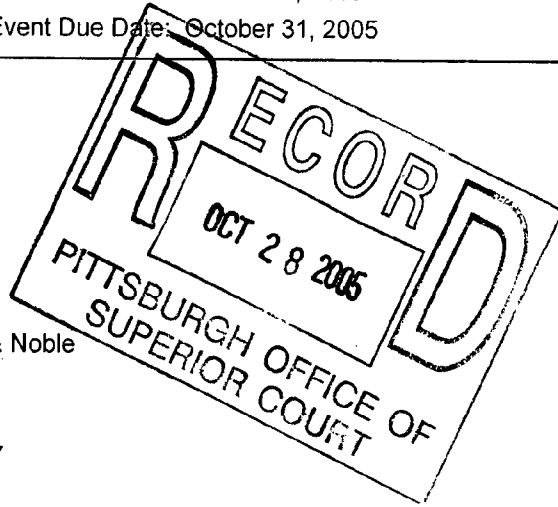
Phone No.: (814)765-4990

Fax No.: (814)765-9377

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No



Appellee Junior Coal Contracting, Inc.

Pro Se: Appoint Counsel Status:

IFP Status:

Appellee Attorney Information:

Attorney: Bell, Richard A.

Bar No.: 6808

Law Firm: Bell, Silberblatt & Wood

Address: 318 E Locust St Box 670
Clearfield, PA 16830

Phone No.: (814)765-5537

Fax No.: (814)765-9730

Receive Mail: Yes

E-Mail Address: rbell@pennswoods.net

Receive E-Mail: No

FILED
m1123/61
SEP 21 2005 (6K)

William A. Shaw
Prothonotary/Clerk of Courts

23

Appeal Docket Sheet**Docket Number: 1618 WDA 2005****Page 2 of 2****September 19, 2005****Superior Court of Pennsylvania****FEE INFORMATION**

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
9/19/05	Notice of Appeal	60.00	60.00	2005SPRWD001138

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

County: Clearfield

Division: Civil

Date of Order Appealed From: August 23, 2005

Judicial District: 46

Date Documents Received: September 19, 2005

Date Notice of Appeal Filed: September 16, 2005

Order Type: Order Dated

OTN:

Judge: Ammerman, Fredric J.
President Judge

Lower Court Docket No.: No. 02-962-CD

ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description
----------------------	------------	---------------------

Date of Remand of Record:

BRIEFS**DOCKET ENTRIES**

Filed Date	Docket Entry/Document Name	Party Type	Filed By
September 19, 2005	Notice of Appeal Filed	Appellant	Slifko Jr., Martin R.
September 19, 2005	Docketing Statement Exited (Civil)		Western District Filing Office

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA
RULE OF APPELLATE PROCEDURE 1931(C)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

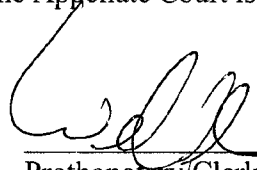
02-962-CD

Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.

In compliance with Pa. R.A.P. 1931 (c).

The documents comprising the record have been numbered from **No. 1 to No. 33**, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is
Oct. 27, 2005.



Prothonotary/Clerk of Courts

(seal)

Date: 10/11/2005

Time: 09:03 AM

Page 1 of 3

Clarendon County Court of Common Pleas

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

User: BHUDSON

Civil Other

Date		Judge
06/17/2002	Filing: Civil Complaint Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1844027 Dated: 06/17/2002 Amount: \$80.00 (Check) Four CC Attorney Noble	No Judge
07/10/2002	Praeipce For Appearance on behalf of Defendant, JUNIOR COAL CONTRACTING, INC. filed by s/Richard A. Bell, Esquire no cc	No Judge
08/06/2002	Answer and New Matter. Filed by s/Richard A. Bell, Esq. Verification s/George D. Cowfer, Jr., President Certificate of Service no cc	No Judge
08/12/2002	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
08/13/2002	Plaintiff's Reply To New Matter. Filed by s/Theron G. Noble, Esq. Certificate of Service no cc	No Judge
	Plaintiff's Notice of Service of Plaintiffs' FIRST SET OF DISCOVERY MATERIALS upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esq.	No Judge
08/21/2002	Filing: Verification s/ Plaintiff and Certificate of Service for Reply to New Matter. No cc.	No Judge
09/04/2002	Motion For Protective ORDER, filed by Atty. Bell no Cert. copies ORDER, filed one cert. to Atty. Bell AND NOW, this 4th day of September, 2002, Rule returnable the 24th day of September, 2002 for filing written response.	John K. Reilly Jr. John K. Reilly Jr.
09/12/2002	Affidavit of Service, Motion For Protective Order and Rule Returnable upon THERON G. NOBLE, ESQ. s/Richard A. Bell, Esquire no cc	John K. Reilly Jr.
09/16/2002	Reply To Motion For Protective Order. filed by s/Theron G. Noble, Esq. Certificate of Service no cc	John K. Reilly Jr.
10/10/2002	ORDER: NOW, this 9th day of October, 2002, following arguments regarding Motions. s/JKR One CC to Atty. Noble. One CC Atty. Bell.	John K. Reilly Jr.
03/12/2003	Plaintiff's Certificate Of Service, Notice of Deposition upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esquire no cc	John K. Reilly Jr.
01/26/2004	Motion To Consolidate. filed by, s/Illegible Signature Cert of Svc no cc Orig. filed to 03-1240-CD	John K. Reilly Jr.
01/28/2004	Scheduling ORDER: AND NOW, this 28th day of Jan. 2004, it is hereby Ordered that oral argument on the Motion to Consolidate filed by Defendant, shall be heard on Feb. 23, 2004. S/FJA 1 CC to Atty. Ramaley	Fredric Joseph Ammerman
02/23/2004	ORDER OF COURT, AND NOW, this 23rd day of February, 2004, IT IS HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the purpose of discovery and trial to Docket No. 03-1240-CD. by the Court, s/FJA, P.J.	Fredric Joseph Ammerman
05/24/2004	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition, upon: Richard A. Bell, Esq., Jeffrey A. Ramaley, Esq., Robert Leight, Esq. and David F. Wilk, Esq. filed by, s/Theron G. Noble, Esquire no cc	Fredric Joseph Ammerman
11/17/2004	Motion for Summary Judgment, filed by s/Jeffrey A. Ramaley, Esq. No CC Praeipce for Argument, filed by s/Jeffrey A. Ramaley, Esq. No CC ORDER, filed 5 cert. & memo to Atty. Ramaley ORDER of Court that Atty. Ramaley's Motion for Summary Judgment has been scheduled fo the 21st day of December, 2004.	Fredric Joseph Ammerman Fredric Joseph Ammerman Fredric Joseph Ammerman
12/16/2004	Order, AND NOW, this 16th day of December, 2004, Order that argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled from December 21, 2004 to January 12, 2005 at 10:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attys: Noble, Bell, Ramaley, Leight, Walk	Fredric Joseph Ammerman
12/27/2004	Motion for Continuance, filed by s/Theron G. Noble, Esq. No CC	Fredric Joseph Ammerman

Attest.

OC 11 2005

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

Prothonotary/
Clerk of Courts

Date: 10/11/2005

Time: 09:03 AM

Page 2 of 3

Clearfield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date		Judge
01/06/2005	Praecipe To Withdraw Motion For Continuance, filed by s/ Theron G. Noble. No CC	Fredric Joseph Ammerman
05/05/2005	Defendant Junior Coal Contracting, Inc.'s Motion For Summary Judgment, filed by s/Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
05/09/2005	Rule To Show Cause, AND NOW, this 6th day of May, 2005 upon consideration of the Motion for Summary Judgment filed by the Defendant Junior Coal Contracting, a Rule is issued upon plaintiff. Rule shall be returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. 1CC Atty. Bell	Fredric Joseph Ammerman
05/11/2005	Original Transcript, March 15, 2005 Deposition of Cprl Thomas E. Josephson, PSP, filed.	Fredric Joseph Ammerman
	Transcript of Deposition of James Mock, June 8, 2005. Orig. to 03-1240-CD	Fredric Joseph Ammerman
	Answer To Defendant Junior Coal Contracting's Inc., Motion for Summary Judgment, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
05/17/2005	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections--Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment, filed by s/Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
05/19/2005	Order, AND NOW, this 19th day of May, 2005, it is the ORDER of the Court that argument on Attorney Bell's Preliminary Objections filed in the above matter has been scheduled for the 23rd day of May, 2005, at 11:00 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty Bell w/service memo	Fredric Joseph Ammerman
	Certificate of Service, Copy of Order Dated May 19, 2005 with regard to our Preliminary Objections in the above matter served upon Theron G. Noble, Esq., David F. Wilk, Esq., Jeffrey A. Ramaley, Esq., Robert R. Leight, Esq. Filed By Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
05/20/2005	Order, AND NOW, this 10th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J.	Fredric Joseph Ammerman
	Order, AND NOW, this 17th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J. Five CC Atty Ramaley	Fredric Joseph Ammerman
08/24/2005	Opinion and Order. (see original for opinion). Order: NOW, this 23rd day of August, 2005, following review of the record, oral argument, and submission of briefs, it is the Order of this Court as follows: The Motion for Summary Judgment filed on behalf of Defendant, Junior Coal Contracting, Inc., is hereby Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Noble, J. Ramaley, R. Leight, D. Wilk, R. Bell, and D. Mikesell. Original filed to 03-1240-CD	Fredric Joseph Ammerman
09/16/2005	Filing: Appeal to High Court Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1908398 Dated: 09/16/2005 Amount: \$45.00 (Check)	Fredric Joseph Ammerman
	Notice of Appeal, filed by s/ Theron G. Noble, Esquire. 1CC Sup. Crt. w/ck	Fredric Joseph Ammerman
09/20/2005	Order, NOW, this 20th day of Sept., 2005, the court having been notified of Appeal to the Superior Court of Pennsylvania, it is the Order of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, Ramaley, Leight, Wilk, R. Bell	Fredric Joseph Ammerman

Date: 10/11/2005

Time: 09:03 AM

Page 3 of 3

Clatsop County Court of Common Pleas

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

User: BHUDSON

Civil Other

Date		Judge
09/21/2005	Appeal Docket Sheet, filed.	Fredric Joseph Ammerman
09/28/2005	Concise Statement of Matters Complained of On Appeal, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**No. 02-962-CD
Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.**

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	06/17/02	Civil Complaint	07
02	07/10/02	Praeipe for Appearance	03
03	08/06/02	Answer and New Matter	11
04	08/12/02	Sheriff Return, Papers served on Defendant	01
05	08/13/02	Plaintiff's Reply to New Matter	04
06	08/13/02	Plaintiff's Notice of Service of Plaintiff's First Set of Discovery Materials upon R. Bell, Esq.	02
07	08/21/02	Verification	03
08	09/04/02	Motion for Protective Order and Order with rule returnable for written response	05
09	09/12/02	Affidavit of Service, Motion for Protective Order and Rule returnable upon T. Noble, Esq.	03
10	09/16/02	Reply to Motion for Protective Order	04
11	10/10/02	Order, Re: following arguments regarding Motions	01
12	03/12/03	Plaintiff's Certificate of Service, Notice of Deposition, upon R. Bell, Esq.	01
13	01/26/04	Motion to Consolidate and scheduling order, re: oral argument scheduled	07
14	02/23/04	Order of Court, civil actions consolidated for the purpose of discovery and trial to docket number 03-1240-CD	01
15	05/24/04	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition	01
16	11/17/04	Motion for Summary Judgment	10
17	11/17/04	Praeipe for Argument	03
18	11/17/04	Order, re: Motion for Summary Judgment	02
19	12/16/04	Order, Re: argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled	01
20	12/27/04	Motion for Continuance	05
21	01/06/05	Praeipe to Withdraw Motion for Continuance	03
22	05/05/05	Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment and Rule to Show Cause issuing rule upon Plaintiff	46
23	05/11/05	Original Transcript, March 15, 2005, Deposition of Cprl. Thomas E. Josephson, PSP	Separate Cover
24	05/11/05	Transcript of Deposition of James Mock, June 8, 2005	Separate Cover
25	05/11/05	Answer to Defendant Junior Coal Contracting Inc.'s Motion for Summary Judgment	15
26	05/17/05	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment	05
27	05/19/05	Order, Re: argument on Attorney Bell's Preliminary Objections has been scheduled	02
28a	05/19/05	Certificate of Service, copy of Order dated May 19, 2005	01
28b	05/20/05	Order, May 10, 2005, Re: Summary judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties	01
28c	05/20/05	Order, May 17, 2005, Re: Summary judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties	01
29	08/24/05	Opinion and Order, Re: Motion for Summary Judgment is hereby Granted, Summary Judgment entered in favor of Junior Coal Contracting, Inc. and against Plaintiff	09
30	09/16/05	Notice of Appeal to Superior Court	05
31	09/20/05	Order, Re: concise statement	02
32	09/21/05	Appeal Docket Sheet, Superior Court Number 1618 WDA 2005	02
33	09/28/05	Concise Statement of Matters Complained of on Appeal	06

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

I, **William A. Shaw**, Prothonotary/Clerk of Courts of Common Pleas in and for said County, do hereby certify that the foregoing is a full, true and correct copy of the whole record of the case therein stated, wherein

Martin R. Slifko, Jr.

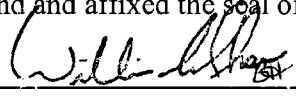
VS.

Junior Coal Contracting, Inc.

02-962-CD

So full and entire as the same remains of record before the said Court, at **No. 02-962-CD**

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 25th Day of October, 2005.


Prothonotary/Clerk of Courts

I, **Fredric J. Ammerman**, President Judge of the Forty-sixth Judicial District, do certify that **William A. Shaw** by whom the annexed record, certificate and attestation were made and given, and who, in his own proper handwriting, thereunto subscribed his name and affixed the seal of the Court of Common Pleas of said county, was at the time of so doing and now is Prothonotary/Clerk of Courts in and for said County of Clearfield, the Commonwealth of Pennsylvania, duly commissioned and qualified; to all of whose acts as such, full faith and credit are and ought to be given, as well in Courts of Judicature, as elsewhere, and that the said record, certificate and attestation are in due form of law and made by the proper officer.


President Judge

I, **William A. Shaw**, Prothonotary/Clerk of Courts of the Court of Common Pleas in and for said county, do certify that the Honorable **Fredric J. Ammerman**, President Judge by whom the foregoing attestation was made and who has thereunto subscribed his name was at the time of making thereof and still is President Judge, in and for said county, duly commissioned and qualified; to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere.

In Testimony Whereof, I have
hereunto set my hand and affixed
the seal of said Court, this 27th
day of Oct., 2005


Prothonotary/Clerk of Courts

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

MARTIN R. SLIFKO, JR., an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02-____962____-CD

Type of Pleading:

**CONCISE STATEMENT
OF MATTERS COMPLAINED
OF ON APPEAL**

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 *Wp CC*
m11:38 AM
SEP 28 2005 *6K*

William A. Shaw
Prothonotary Clerk of Courts

#33

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

MARTIN R. SLIFKO, JR.,)	
an adult individual,)	
)	
PLAINTIFF,)	
)	No. 03- <u>1240</u> -CD
v.)	
)	
GARY BALDWIN, t/d/b/a GARY BALDWIN)	
TRUCKING; ALBERT GREEN TRUCKING, INC.,)	
a Pennsylvania Corporation; and SENEX)	
EXPLOSIVES, Inc., a Pennsylvania Corporation.)	
)	
DEFENDANTS.)	

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

MARTIN R. SLIFKO, JR.,)	
an adult individual,)	
)	
PLAINTIFF,)	
)	No. 02- <u>962</u> -CD
v.)	
)	
JUNIOR COAL CONTRACTING, INC., a)	
Pennsylvania Corporation,)	
)	
DEFENDANT.)	

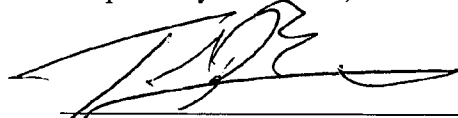
PLAINTIFF'S CONCISE STATEMENT OF
MATTERS COMPLAINED OF ON APPEAL

AND NOW, comes the Plaintiff, Martin R. Slifko, Jr., by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, avers as follows to this Honorable Court's September 20, 2005 ORDER, invoking PaR.Ap.P. 1925(b):

1. That the trial Court erred, as a matter of law, in its determination that Defendant did not owe a duty to Mr. Slifko when in fact such a duty was established by the issuance of the Pennsylvania Department of Transportation Highway Occupancy Permit which permitted the defendant to cut open and use a private driveway connecting to the adjacent State Road only upon certain terms and conditions;
2. That the trial Court erred, as a matter of law, by failing to give to Mr. Slifko inferences he was entitled to from the facts of record, namely that the fluid (oil type, possibly hydraulic fluid) on the State Road originated from defendant's business operations given the testimony of witnesses placing the lead of the fluid at the entranceway to defendant's business and was the type of fluid one would expect to be in vehicles using defendant's private drive;
3. That the trial Court erred, as a matter of law, by failing to give Mr. Slifko inferences he was entitled to from the facts of record, namely that defendant failed to detect the fluid on the State Road;
4. That the trial Court erred, as a matter of law, in granting defendant's motion for summary judgment in that Mr. Slifko stated a cause of action and produced evidence in support of that cause of action by showing that defendant owed the general public a duty (as per the Highway Occupancy Permit), breached that duty (by failing to keep and or observe debris (namely the oil type fluid) from the State Road and that said breach of said duty was a legal cause of the injuries sustained by Mr. Slifko as per Mr. Slifko's CIVIL COMPLAINT identified at averments 22(b)(c) and (d);

5. That the trial Court erred, as a matter of law, by determining that defendant did not have a duty to keep the State Road free from debris;
6. That the trial Court erred, as a matter of law, by determining that defendant was not the legal cause of Mr. Slifko's injuries when in fact defendant failed to keep the fluid off the State Road and or failed to detect the fluid on the State Road, each of which violated the terms and conditions upon which defendant received permission to open a private driveway and were legal causes of Mr. Slifko's injuries;
7. That the trial Court erred, as a matter of law, by determining that the fluid came from other vehicles, not belonging to defendant, its agents or employees, when the facts relied upon are based upon defendant's self serving testimony and also are immaterial and irrelevant in that the duty imposed upon by defendant concerning the Highway Occupancy Permit does not limit defendant's duty in said regard;
8. That the trial Court erred, as a matter of law, by determining these issues as matters of law when whether there was a duty, breach and whether said breach was a legal cause are determinations best left to the providence of a jury.

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)

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

GARY BALDWIN, t/d/b/a GARY BALDWIN
TRUCKING; ALBERT GREEN TRUCKING, INC.,
a Pennsylvania Corporation; and SENEX
EXPLOSIVES, Inc., a Pennsylvania Corporation.

DEFENDANTS.

No. 03- 1240 -CD

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02- 962 -CD

PLAINTIFF'S CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 27th day of September, 2005, that I did mail a true and correct copy of Plaintiffs' CONCISE STATEMENT OF MATTERS COMPLAINED OF ON APPEAL to the below indicated persons, being all counsel of record and the trial court, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

Hon. Fredric J. Ammerman, PJ
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Theron 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

Appeal Docket Sheet

Docket Number: 1618 WDA 2005

Page 1 of 2

September 19, 2005

Superior Court of Pennsylvania



02-962-CD

Martin R. Slifko, Jr., an adult individual, Appellant
V.

Junior Coal Contracting, Inc.

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: September 19, 2005

Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType: Trespass

Consolidated Docket Nos.:

Related Docket Nos.:

1617 WDA 2005 Same Issue(s)

SCHEDULED EVENT

Next Event Type: Receive Docketing Statement

Next Event Due Date: October 3, 2005

Next Event Type: Original Record Received

Next Event Due Date: October 31, 2005

COUNSEL INFORMATION

Appellant Slifko Jr., Martin R.

Pro Se: Appoint Counsel Status:

IFP Status: Pending

Appellant Attorney Information:

Attorney: Noble, Theron G.

Bar No.: 55942

Law Firm: Ferraraccio & Noble

Address: 301 E Pine Street

Clearfield, PA 16830

Phone No.: (814)765-4990

Fax No.: (814)765-9377

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellee Junior Coal Contracting, Inc.

Pro Se: Appoint Counsel Status:

IFP Status:

Appellee Attorney Information:

Attorney: Bell, Richard A.

Bar No.: 6808

Law Firm: Bell, Silberblatt & Wood

Address: 318 E Locust St Box 670

Clearfield, PA 16830

Phone No.: (814)765-5537

Fax No.: (814)765-9730

Receive Mail: Yes

E-Mail Address: rbell@pennswoods.net

Receive E-Mail: No

FILED
m/123/67
SEP 21 2005
(6K)

William A. Shaw
Prothonotary Clerk of Courts

27

4:06 P.M.

Appeal Docket Sheet

Docket Number: 1618 WDA 2005

Page 2 of 2

September 19, 2005

Superior Court of Pennsylvania



FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
9/19/05	Notice of Appeal	60.00	60.00	2005SPRWD001138

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas

County: Clearfield

Division: Civil

Date of Order Appealed From: August 23, 2005

Judicial District: 46

Date Documents Received: September 19, 2005

Date Notice of Appeal Filed: September 16, 2005

Order Type: Order Dated

OTN:

Judge: Ammerman, Fredric J.
President Judge

Lower Court Docket No.: No. 02-962-CD

ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description
----------------------	------------	---------------------

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
September 19, 2005	Notice of Appeal Filed		
		Appellant	Slifko Jr., Martin R.
September 19, 2005	Docketing Statement Exited (Civil)		
			Western District Filing Office

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

MARTIN R. SLIFKO, JR., an adult individual,
Plaintiff

vs.

GARY BALDWIN, t/d/b/a GARY BALDWIN
TRUCKING., a Pennsylvania Corporation; and
SENEX EXPLOSIVES, INC., a Pennsylvania
Corporation,

Defendants

NO. 03-1240-CD

MARTIN R. SLIFKO, JR., an adult individual,
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

Defendant

NO. 02-962-CD

FILED
01/10:53/BA
SEP 20 2005

William A. Shaw
Prothonotary/Clerk of Courts
i cc Atty's: Noble
Ramaley
Leight
W. H.
R. Bell

ORDER

NOW, this 20th day of September, 2005, the Court having been notified of
Appeal to the Superior Court of Pennsylvania in the above-captioned matter, it is the ORDER
of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters
complained of on said Appeal no later than fourteen (14) days herefrom, as set forth in Rule
1925(b) of the Rules of Appellate Procedure.

BY THE COURT

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

Attest.

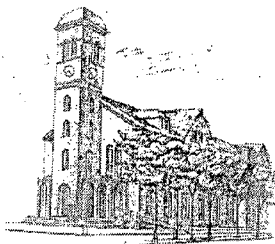
SEP 20 2005
COP 1

William A. Shaw
Prothonotary/
Clerk of Courts

/s/ Fredric J. Ammerman

FREDRIC J. AMMERMAN
President Judge

#31



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

☒ Plaintiff(s)/Attorney(s)

☒ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

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

MARTIN R. SLIFKO, JR.,
an adult individual,
Plaintiff

vs.

GARY BALDWIN, t/d//b/a GARY
BALDWIN TRUCKING; ALBERT
GREEN TRUCKING, INC., a Pennsylvania
Corporation; and SENEX EXPLOSIVES,
INC., a Pennsylvania Corporation,
Defendants

No.03-1240-CD

Type of Pleading:
NOTICE OF APPEAL

MARTIN R. SLIFKO, JR., an adult
individual,
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania Corporation,
Defendant

No. 02-962-CD

Filed on behalf of : Martin Slifko Jr.,
Plaintiff

Counsel of Record for this Party:

THERON G. NOBLE, ESQUIRE
FERRARACCIO & NOBLE
Attorneys and Counselors at Law
Supreme Court I.D. #: 55942

301 East Pine Street
Clearfield, PA 16830
(814) 375-2221
Fax: (814) 765-9377

FILED
012:0384
SEP 16 2005
William A. Shaw
Prothonotary/Clerk of Courts

39

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

MARTIN R. SLIFKO, JR.,
an adult individual,
Plaintiff

vs.

GARY BALDWIN, t/d//b/a GARY
BALDWIN TRUCKING; ALBERT
GREEN TRUCKING, INC., a Pennsylvania
Corporation; and SENEX EXPLOSIVES,
INC., a Pennsylvania Corporation,
Defendants

No.03-1240-CD

Type of Pleading:
NOTICE OF APPEAL

MARTIN R. SLIFKO, JR., an adult
individual,
Plaintiff

vs.

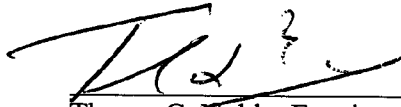
JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania Corporation,
Defendant

No. 02-962-CD

NOTICE OF APPEAL

Notice is hereby given that Plaintiff hereby appeals to the Superior Court of Pennsylvania from the Order of the Court of Common Please of Clearfield dated August 23, 2005, and entered August 24, 2005, as to Defendant Junior Coal Contracting, Inc., a Pennsylvania Corporation, said Order having granted said Defendant's Motion for Summary Judgment in this consolidated

matter. Said Order is final, all other parties having been dismissed by Court Order or by Agreement, and appears on the attached copy of the docket entries pursuant to Pa.R.A.P. 341 and appear on the attached copy of the docket entries.



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
CIVIL DIVISION

MARTIN R. SLIFKO, JR.,	:	
an adult individual,	:	No.03-1240-CD
Plaintiff	:	
	:	
vs.	:	
	:	Type of Pleading:
GARY BALDWIN, t/d//b/a GARY	:	NOTICE OF APPEAL
BALDWIN TRUCKING; ALBERT	:	
GREEN TRUCKING, INC., a Pennsylvania	:	
Corporation; and SENEX EXPLOSIVES,	:	
INC., a Pennsylvania Corporation,	:	
Defendants	:	

MARTIN R. SLIFKO, JR., an adult	:	
individual,	:	
Plaintiff	:	No. 02-962-CD
	:	
vs.	:	
	:	
JUNIOR COAL CONTRACTING, INC.,	:	
a Pennsylvania Corporation,	:	
Defendant	:	

CERTIFICATE OF SERVICE

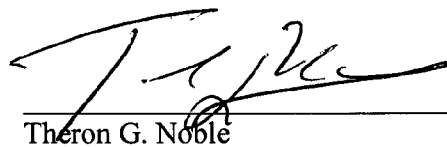
I, THERON G. NOBLE, Esquire, counsel for the Plaintiff, does hereby certify that I did serve on the below listed individuals, being all counsel of record, and all other persons required to be served, Plaintiff's NOTICE OF APPEAL, this 16th day of September, 2005, via United States Mail, First Class Mail, Postage Prepaid, certified as follows:

Honorable Fredric J. Ammerman, PJ
Court of Common Pleas
Clearfield County Courthouse
2nd & Market Streets
Clearfield, PA 16830

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

David A. Meholick, Court Administrator
Court of Common Pleas
Clearfield County Courthouse
2nd & Market Streets
Clearfield, PA 16830

Date: 9/16/05



Theron G. Noble
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
CIVIL DIVISION

MARTIN R. SLIFKO, JR., an adult individual, :
Plaintiff

vs.

: No. 03-1240-CD

GARY BALDWIN, t/d/b/a GARY BALDWIN :
TRUCKING; ALBERT GREEN TRUCKING,
INC., a Pennsylvania Corporation; and :
SENEX EXPLOSIVES, INC., a Pennsylvania
Corporation, :
Defendants

MARTIN R. SLIFKO, JR., an adult individual, :
Plaintiff

vs.

: No. 02-962-CD

JUNIOR COAL CONTRACTING, INC., a :
Pennsylvania Corporation,
Defendant

CP
FILED
AUG 24 2005
William A. Shaw
Prothonotary/Clerk of Courts
icc Atty's: T. Noble, J. Ramaley,
R. Leight, D. Wilk, R. Bell,
D. Mikesell
@

OPINION and ORDER

On June 17, 2002, Martin R. Slifko, Jr., hereinafter "Plaintiff", filed a Complaint against Junior Coal Contracting, Inc., hereinafter "Defendant". The Complaint alleges that Plaintiff was injured as a result of the Defendant's negligence. Specifically, Plaintiff was operating his motorcycle in a westerly direction along State Route 2024 in Decatur Township, Clearfield County, Pennsylvania on September 18, 2001 near the entranceway to the "Runk Job", which is a job site of the Defendant's. Furthermore, it is alleged that Plaintiff passed through an oil slick on State Route 2024 and lost control of his motorcycle, and as a result of the accident he suffered injuries.

The Plaintiff also filed suit regarding this incident in Clearfield County Civil Docket No. 2003-1240, which was consolidated with this action for the purposes of discovery.¹

Presently before this Court are Defendant's Motion for Summary Judgment² and Defendant's Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment.

I. Summary Judgment

As set forth in Rule 1035.2 of the Rules of Civil Procedure,

...any party may move for summary judgment in whole or in part as a matter of law

(1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or

(2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury. Pa. R.C.P. No. 1035.2, 42 Pa.C.S.A.

Pursuant to Rule 1035.2 (2), summary judgment is properly granted when "...the record contains insufficient evidence of facts to make out a prima facie cause of action or defense and, therefore, there is no issue to be submitted to a jury." *Id. Note*.

Black's law Dictionary defines "prima facie" as "...at first sight; on the first appearance but subject to further evidence or information." Lanning v. West, 803 A.2d 753, 765 (Pa.Super. 2002)(citing BLACK'S LAW DICTIONARY 1209 (7th ed. 1999)).

¹ See Order of February 23, 2004, which sets forth that the civil actions filed to No. 03-1240-CD and No. 02-962-CD are consolidated for the purpose of discovery and trial at Docket No. 03-1240-CD.

² Defendant's Motion for Summary Judgment was filed on May 9, 2005.

Furthermore, prima facie evidence is "...evidence that will establish a fact or sustain a judgment unless contradictory evidence is produced." *Id.*

When a party files for summary judgment,

[w]here a motion for summary judgment is based upon insufficient evidence of facts, the adverse party must come forward with evidence essential to preserve the cause of action. If the non-moving party fails to come forward with sufficient evidence to establish or contest a material issue to the case, the moving party is entitled to judgment as a matter of law. The non-moving party must adduce sufficient evidence on an issue essential to its case and on which it bears the burden of proof such that a jury could return a verdict favorable to the non-moving party. As with all summary judgment cases, the court must examine the record in the light most favorable to the non-moving party and resolve all doubts against the moving party as to the existence of a triable issue. Pa.R.C.P. No. 1035.2 *Note* and Petrongola v. Comcast-Spectacor, 789 A.2d 204, 208-209 (Pa.Super. 2001). *See also* Biernacki v. Presque Isle Condominiums Unit Owners Ass'n, Inc., 828 A.2d 1114, 1116 (Pa. Super. 2003).

In this case, Plaintiff timely filed an Answer to the Defendant's Motion for Summary Judgment. Both parties submitted briefs. On May 23, 2005, oral argument was held in accordance with Clearfield County Local Rule 1035.2 (a).

II. The Record

Rule 1035.1 of the Rules of Civil Procedure sets forth the definition of "record" for purposes of summary judgment. Pa. R.C.P. No. 1035.1, 42 Pa.C.S.A. Accordingly, the Court has examined the pleadings and discovery materials filed in this matter. There are no expert reports in this case; however, the police report of Cprl. Josephson was attached to Plaintiff's Reply Brief to Defendant's Motion for Summary Judgment.³

The Complaint sets forth a negligence claim and includes the following:

³ There was an objection made on the record as to an opinion of an expert at Cprl. Josephson's deposition. In addition, the testimony was focused on whether the Plaintiff was safely operating the motorcycle at the time. *See* Deposition, page 7. Cprl. Josephson also testified that he is not involved with the accident reconstruction experts with the State Police. Deposition, page 16.

Count I: Negligence

20. That the averments of paragraphs 1-19 inclusive, are hereby incorporated as if again fully set forth at length.

21. That Defendant owed Mr. Slifko a duty of care as a person on the highway, roadway or traffic ways of this Commonwealth.

22. That Defendant breached this duty of care owed to Mr. Slifko in that, upon information and belief, Defendant was negligent as follows:

A. Its agent, servants or employees operating trucks or other equipment placed the aforementioned oil or fuel on State Route 2024;

B. It failed to detect that its business operations caused a dangerous condition to others, including Mr. Slifko;

C. It failed to correct the dangerous condition of an oil slick its business operations caused on State Route 2024 until after Mr. Slifko's accident; and/or

D. It failed to warn Mr. Slifko, and others, of the dangerous condition

23. That the aforementioned injuries and damages suffered by Mr. Slifko are a direct and proximate cause of the Defendant's aforementioned negligent conduct.

24. That associated with this incident, Mr. Slifko did also suffer damage to some personal property for which he should be compensated at time of trial in an amount to be determined. Civil Complaint, filed on June 17, 2002 to Docket No. 02-962-CD.

It is well established to recover on a theory of negligence, the plaintiff must prove (1) that the defendant owed a duty to the plaintiff; (2) that the defendant breached that duty; (3) that the breach was the proximate or legal cause of the accident and (4) that the plaintiff suffered actual loss or damage. Braxton v. Commonwealth of Pa., Dep't of Transp., 160 Pa. Cmwlt. 32, 634 A.2d 1150 (1993). In addition, "[i]f the plaintiff fails to establish one of the essential elements of actionable negligence, the defendant has valid grounds for summary judgment." *Id.* at 48, 634 A.2d at 1158. Therefore, "[a]s a matter of law, no recovery can lie against any party, absent a legal duty owed to the person injured." *Id.* (citation omitted).

Defendant has steadfastly denied that it owed a duty to the Plaintiff under the circumstances of this case or that it was responsible for, or even knew about, the oil or fuel on the public road. *See Answer and New Matter.*

As set forth in Young v. Commonwealth of Pa., Dep't of Transp., 560 Pa. 373, 744 A.2d 1276 (2000), "[a] jury can not be allowed to reach a verdict merely on the basis of speculation or conjecture." Young, 560 Pa. 373, 376, 744 A.2d 1276, 1277 (Pa. 2000)(citation omitted). Moreover,

[t]his Court has long held that the existence of tragic circumstances alone does not impart liability. The mere happening of an accident is not evidence of negligence. Plaintiff must prove by a fair preponderance of the evidence that the defendant was negligent and that his negligence was the proximate cause of the accident. *Id.*

The record clearly shows that the Plaintiff and this Defendant engaged in the discovery process.⁴ On August 13, 2002, Notice of Service (as to Discovery Materials) was filed by Plaintiff. On September 4, 2002, Defendant filed a motion for Protective Order regarding the Plaintiff's Interrogatories to the Defendant and Request for Production of Documents. On May 11, 2005, the depositions of James Mock and Cprl. Thomas E. Josephson, PSP were filed.

The record does contain some undisputed facts. Those undisputed facts include the following:

1. Defendant maintains a job site, known as the "Runk Job", located off of State Route 2024 in Decatur Township, Clearfield County. *Answer and New Matter*, paragraph 4.
2. Ingress and egress to and from the "Runk Job" is via an entrance to a private road which intersects with the aforementioned State Route 2024. *Id.*

⁴ The other Defendants and the Plaintiff also engaged in the discovery process, as these two cases were consolidated for that purpose.

3. James Mock is an individual who lived in the vicinity of the accident scene. Motion for Summary Judgment, paragraph 7 (E).

4. Mr. Mock stated that the entrance to the Defendant's job site was approximately 100 yards from where the liquid was on the highway. *Id.*

5. Mr. Mock believed the substance to be hydraulic fluid. *Id.*

6. Cprl. Thomas E. Josephson, PSP was a patrol trooper in 2001 and responded to the report of the motorcycle accident.

As the Plaintiff points out, Cprl. Josephson's deposition testimony included that a photograph,

...shows the intersection with the dirt roadway and it has this, apparently the lead, the beginning, of this substance. Or the end. I mean, I'm not sure which. There's a heavier deposit there onto the dirt roadway and where it leads out onto the state road. Deposition, page 10, lines 21-25.

Cprl. Josephson further explained his response by stating that he believed it to be the beginning due to proper lanes of traffic and proper direction of travel. *Id.* at page 11. In addition, he stated that, [t]he substance came right from that roadway, then led up onto the state road and then along the whole length to where the crash happened." *Id.* at page 12. Although Cprl. Josephson did not know what the oily substance was, he stated that, "it appeared to be the same type of substance." Deposition, page 13. Cprl. Josephson also indicated that despite his investigation he had no idea how the substance got on the road. *Id.*, page 9, lines 2 - 4. Here, Plaintiff seems to rest Defendant's responsibility for the substance solely on the location of the substance and offers no evidence to show that the Defendant, its' employees or agents were the ones which leaked the substance.

The discovery process has established various facts which are dispositive of the Defendant's Motion. State Route 2024 is a heavily traveled road. Deposition of James Mock, page 39. Trucks unrelated to the Defendant's operation used the road for local deliveries. *Id.* page 71. It was common to see oil streaks on the road in this area. *Id.* page 35. The municipality was doing a sewer or water job in the area which brought truck traffic into the area about a mile from the entrance to the Defendant's job site. Trucks from the municipality have used the entrance to the Defendant's access road for a turnaround. *Id.* page 70 and Deposition of George Cowfer, Jr., page 15. Other vehicles have also used the Defendant's road as a turnaround. Deposition of Dennis Hughes, page 12.⁵

III. Discussion

Defendant argues that summary judgment in its favor is proper because the Plaintiff has not produced any evidence that connects the Defendant with the cause of the accident. Plaintiff argues that the connection of the "oil slick" to Defendant is established by showing "... (i) that the "oil slick" started at the Defendant's job site and was in the west bound lane of State Route 2024; and (ii) that this Defendant had an affirmative obligation to keep debris off of State Route 2024..." Answer to Motion for Summary Judgment, paragraph 7. As set forth previously, Plaintiff must come forth with evidence showing the existence of the facts essential to the cause of action. Causation is certainly a necessary element and has already been addressed herein.

Plaintiff's responses, the Answer and brief, refer to parts of the existing record, and Plaintiff has attached Pennsylvania Department of Transportation forms dealing with

⁵ Portions of the Depositions of George Cowfer, Jr. and Dennis Hughes are attached to the Defendant's Motion for Summary Judgment.

Defendant's Highway Occupancy Permit and Application for Minimum Use Driveway to the Answer to Defendant Junior Coal's Motion for Summary Judgment, to try to establish the Defendant's responsibilities regarding the Highway Occupancy Permit.

Thereafter, Defendant raised Preliminary Objections to the inclusion of those documents into this matter at this point in time, as this is the first time such documents have been mentioned, and disputes any violation of its obligation to the Department of Transportation. The Highway Occupancy Permit sets forth that the work shall be completed on or before April 14, 2001, and requires, in part, that "Permittee is responsible for ensuring that mud, silt and other debris is removed from vehicles and tires (by power wash, etc.) before entering onto the highway." The Court agrees that if trucks belonging to the Defendant or another company using the road to facilitate the Defendant's business caused the substance to be on the road the Defendant would have a duty to clean or remove it.

At this time, there is no need to decide the issue of the Preliminary Objections, as this Court must agree with the Defendant's assertion that there has been no prima facie showing that the Defendant was in any way responsible for the hydraulic fluid. The evidence established through discovery shows that it is just as likely as not the substance came to be on the public road from a vehicle not related to the Defendant Junior Coal or its' agents.

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

MARTIN R. SLIFKO, JR., an adult individual, :
Plaintiff

vs.

: No. 03-1240-CD

GARY BALDWIN, t/d/b/a GARY BALDWIN :
TRUCKING; ALBERT GREEN TRUCKING,
INC., a Pennsylvania Corporation; and :
SENEX EXPLOSIVES, INC., a Pennsylvania
Corporation, :
Defendants

MARTIN R. SLIFKO, JR., an adult individual, :
Plaintiff

vs.

: No. 02-962~~2~~CD

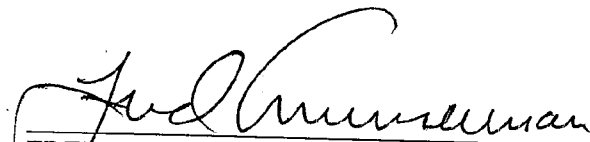
JUNIOR COAL CONTRACTING, INC., a :
Pennsylvania Corporation,
Defendant :

ORDER

AND NOW, this 23rd day of August 2005, following review of the record,
oral argument, and submission of briefs, it is the ORDER of this Court as follows:

The Motion for Summary Judgment filed on behalf of Defendant, Junior
Coal Contracting, Inc., is hereby GRANTED and Summary Judgment is entered in
favor of Junior Coal Contracting, Inc. and against the Plaintiff.

BY THE COURT:


FREDRIC J. AMMERMAN
PRESIDENT JUDGE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

MARTIN R. SLIFKO, JR., an adult individual, CIVIL DIVISION
Plaintiff,

v.

No. 03-1240-CD

No. 02-962-CD

GARY BALDWIN, t/d/b/a GARY BALDWIN
TRUCKING, ALBERT GREEN TRUCKING,
INC., a Pennsylvania corporation; and SENEX
EXPLOSIVES, INC., a Pennsylvania
corporation,

ORDER OF COURT

Defendants.

No. 03-1240 - CD

.....
MARTIN R. SLIFKO, JR., an adult individual,
Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania corporation,
Defendant.

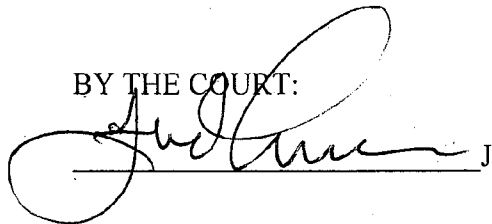
No. 02-962 CD

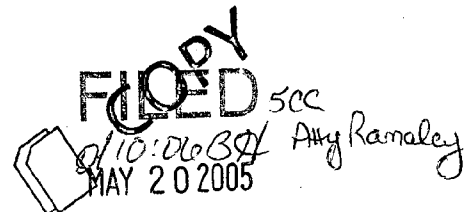
ORDER OF COURT

AND NOW this 17th day of May, 2005, it is hereby

ORDERED that Summary Judgment is entered in favor of the Defendant, GARY BALDWIN
t/d/b/a GARY BALDWIN TRUCKING, and against all other parties to this civil action.

BY THE COURT:

 J.



William A. Shaw
Prothonotary/Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

MARTIN R. SLIFKO, JR., an adult
individual,

Plaintiff,

v.

CIVIL DIVISION

No. 03-1240-CD

No. 02-962-CD

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, ALBERT GREEN
TRUCKING, INC., a Pennsylvania
corporation; and SENEX EXPLOSIVES,
INC., a Pennsylvania corporation,
Defendants.

ORDER OF COURT

No. 03-1240 - CD

.....
MARTIN R. SLIFKO, JR., an adult
individual,

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania corporation,
Defendant.

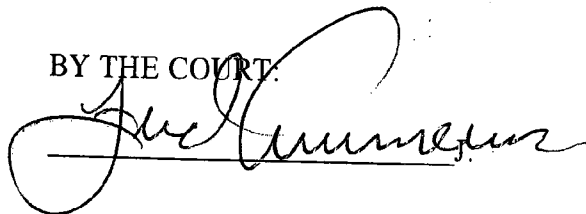
No. 02-962 CD

ORDER OF COURT

AND NOW this 10th day of May, 2005, it is hereby

ORDERED that Summary Judgment is entered in favor of the Defendant, GARY BALDWIN
t/d/b/a GARY BALDWIN TRUCKING, and against all other parties to this civil action.

BY THE COURT:



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6456.1216

FILED

MAY 20 2005

William A. Shaw
Prothonotary/Clerk of Courts

#28b

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

MARTIN R. SLIFKO, an adult
individual Plaintiff

NO. 03-1240-CD

Vs.

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, ALBERT GREEN
TRUCKING, INC., a Pennsylvania
Corporation and SENEX EXPLOSIVES,
INC., a Pennsylvania Corporation
Defendants

COPY

FILED

O 2:15 p.m. OK

MAY 19 2005

No CC
Original to
03-1240-CD

William A. Shaw
Prothonotary

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

NO. 02-962-CD

Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of Order dated May 19, 2005 with regard to our
Preliminary Objections in the above matter was mailed the 19th day of
May, 2005, by regular mail postage prepaid at the post office in Clearfield,

PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

Jeffrey A. Ramaley, Esquire
ZIMMER KUNZ, P.L.L.C.
3300 U.S. Steel Tower
Pittsburgh, Pa 15219-2702

David F. Wilk, Esquire
MARSHALL, DENNEHEY, WARNER,
COLEMAND & GOGGIN
33 West Third Street, Suite 200
Williamsport, PA 17701

Robert R. Leight, Esquire
PIETRAGALLO, BOSICK & GORDON
One Oxford Centre, 38th Floor
Pittsburgh, PA 16219



Richard A. Bell, Esquire
Attorney for Defendant Junior Coal
Contracting, Inc.

COPY

FILED
MAY 19 2005
CLERK OF COURT
JANUARY 1, 2005

FILED

MAY 19 2005

William A. Shaw
Prothonotary

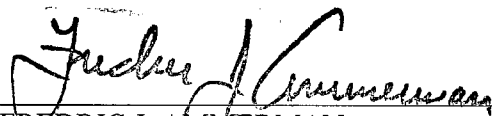
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

MARTIN R. SLIFKO, JR., an adult :
individual :
vs. : No. 02-962-CD
JUNIOR COAL CONTRACTING, :
INC., a Pennsylvania corporation :

ORDER

AND NOW, this 19th day of May, 2005, it is the ORDER of the
Court that argument on Attorney Bell's Preliminary Objections filed in the above
matter has been scheduled for the 23rd day of May, 2005, at
11:00 A.M, in Courtroom No. 1, Clearfield County
Courthouse, Clearfield, PA.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED 400
p/10:38 By Amy Bell
MAY 19 2005 w/ service
William A. Shaw memo
Prothonotary/Clerk of Courts



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

MEMO: To all parties filing Petitions/Motions in Clearfield County:

Please make note of the following:

Rule 206(f) The party who has obtained the issuance of a Rule to Show Cause shall forthwith serve a true and correct copy of both the Court Order entering the Rule and specifying a return date, and the underlying Petition or Motion, upon every other party to the proceeding in the manner prescribed by the Pennsylvania Rules of Civil Procedure (see PA. R.C.P. 440) and upon the Court Administrator.

Rule 206(g) The party who has obtained the issuance of a Rule to Show Cause shall file with the Prothonotary, within seven (7) days of the issuance of the Rule, an Affidavit of Service indicating the time, place and manner of service. Failure to comply with this provision may constitute sufficient basis for the Court to deny the prayer of the Petition or Motion.

***** Please note: This also includes service of scheduling orders obtained as the result of the filing of any pleading.**

CA

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

MARTIN R. SLIFKO, an adult
individual Plaintiff

NO. 03-1240-CD

Vs.

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, ALBERT GREEN
TRUCKING, INC., a Pennsylvania
Corporation and SENEX EXPLOSIVES,
INC., a Pennsylvania Corporation
Defendants

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

NO. 02-962-CD

Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

Type of Pleading

Defendant Junior Coal
Contracting, Inc.'s
Preliminary Objections

Filed on Behalf of:

Defendant

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT & WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

FILED
MAY 17 2005
William A. Shaw
Prothonotary/Clerk of Courts
Orig. to 03-1240-CD

#26

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

MARTIN R. SLIFKO, an adult
individual Plaintiff

NO. 03-1240-CD

Vs.

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, ALBERT GREEN
TRUCKING, INC., a Pennsylvania
Corporation and SENEX EXPLOSIVES,
INC., a Pennsylvania Corporation
Defendants

NO. 02-962-CD

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

PRELIMINARY OBJECTIONS TO PLAINTIFF'S ANSWER TO DEFENDANT
JUNIOR COAL CONTRACTING, INC., 'S MOTION FOR SUMMARY JUDGMENT

NOW COMES Defendant Junior Coal Contracting, Inc., and files the following
Preliminary Objections to the Answer filed by the Plaintiff to this Defendant's Motion
For Summary Judgment:

1. In paragraph seven of the Answer filed by the Plaintiff, the Plaintiff refers to
an affirmative obligation of the Defendant to keep debris off State Route 2024, and
refers to Defendant's Bonding Permit which the Plaintiff then attaches to its Answer.

2. The Defendant did obtain a Highway Occupancy Permit from the Department
Of Transportation Of the Commonwealth Of Pennsylvania which placed a contractual
obligation on the Defendant owing to the Department Of Transportation to keep debris

off of the highway.

3. There is no indication that there was any violation noted by the Department Of Transportation, nor any indication that the alleged material in Plaintiff's Complaint is the type of material covered by the Highway Occupancy Permit.

4. Plaintiff's Complaint did not allege any violation of a Highway Occupancy Permit as a basis for recovery from this Defendant. The basis for recovery in the Complaint was negligence alleged on the part of the Defendant as follows:

A. Its agent, servants or employees operating trucks or other equipment placed the aforementioned oil or fuel on State Route 2024.

B. It failed to detect that its business operations caused a dangerous condition to others including Mr. Slifko.

C. It failed to correct the dangerous condition of an oil slick its business operations caused on State Route 2024 until after Mr. Slifko's accident; and/or

D. It failed to warn Mr. Slifko, and others, of the dangerous condition.


5. At no time in any pleadings nor in any of the depositions has there been any mention of a Highway Occupancy Permit or a violation of it.

6. A violation of a Highway Occupancy Permit is not connected with the negligence alleged in the Complaint, and seeks to introduce a new cause of action which would be barred by the Statute Of Limitations.

WHEREFORE, Defendant Junior Coal Contracting, Inc., respectfully requests that

any reference in the Plaintiff's Answer to the Motion For Summary Judgment to a Highway Occupancy Permit, Bond or violation of any contractual obligation under the Highway Occupancy Permit be dismissed both from the Answer and be dismissed from the Brief which the Plaintiff has filed.

BELL, SILBERBLATT & WOOD
BY


Richard A. Bell, Esquire, Attorney
For Defendant Junior Coal Contracting,
Inc.

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

MARTIN R. SLIFKO, an adult
individual Plaintiff

NO. 03-1240-CD

Vs.

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, ALBERT GREEN
TRUCKING, INC., a Pennsylvania
Corporation and SENEX EXPLOSIVES,
INC., a Pennsylvania Corporation
Defendants

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

NO. 02-962-CD

Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

CERTIFICATE OF SERVICE


I hereby certify that a copy of Defendant Junior Coal Contracting, Inc.'s
Preliminary Objections to Plaintiff's Answer To Defendant's Motion For Summary
Judgment in the above matter was mailed the 17th day of may
2005, by regular mail postage prepaid at the post office in Clearfield, PA 16830 to
the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

Jeffrey A. Ramaley, Esquire
ZIMMER KUNZ, P.L.L.C.
3300 U.S. Steel Tower
Pittsburgh, Pa 15219-2702

David F. Wilk, Esquire
MARSHALL, DENNEHEY, WARNER,
COLEMAND & GOGGIN
33 West Third Street, Suite 200
Williamsport, PA 17701

Robert R. Leight, Esquire
PIETRAGALLO, BOSICK & GORDON
One Oxford Centre, 38th Floor
Pittsburgh, PA 16219


Richard A. Bell, Esquire
Attorney for Defendant Junior Coal
Contracting, Inc.

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

GARY BALDWIN, t/d/b/a GARY BALDWIN
TRUCKING; ALBERT GREEN TRUCKING, INC.,
a Pennsylvania Corporation; and SENEX
EXPLOSIVES, Inc., a Pennsylvania Corporation.

DEFENDANTS.

No. 03- 1240 -CD

Type of Pleading:
**ANSWER TO DEFENDANT JUNIOR
COAL CONTRACTING'S, INC.,
MOTION FOR SUMMARY
JUDGMENT**

MARTIN R. SLIFKO, JR., an adult individual,

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

Defendant.

No. 02-962-CD

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 11 2005

William A. Shaw
Prothonotary/Clerk of Courts

#25

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

MARTIN R. SLIFKO, JR.,)	
an adult individual,)	
)	
PLAINTIFF,)	
)	
v.)	No. 03- <u>1240</u> -CD
)	
GARY BALDWIN, t/d/b/a GARY BALDWIN)	
TRUCKING; ALBERT GREEN TRUCKING, INC.,)	
a Pennsylvania Corporation; and SENEX)	
EXPLOSIVES, Inc., a Pennsylvania Corporation.)	
)	
DEFENDANTS.)	

MARTIN R. SLIFKO, JR., an adult individual,)	
)	
Plaintiff,)	
)	
v.)	No. 02-962-CD
)	
JUNIOR COAL CONTRACTING, INC., a)	
Pennsylvania Corporation,)	
)	
Defendant.)	

**PLAINTIFFS ANSWER TO DEFENDANT JUNIOR COAL
CONTRACTING'S, INC., MOTION FOR SUMMARY JUDGMENT**

AND NOW, comes the Plaintiff, Martin R. Slifko, Jr., by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows as his ANSWER to Defendant's MOTION FOR SUMMARY JUDGMENT:

1. Admitted.
2. Admitted.
3. Admitted.

4. Admitted. By way of further response, such allegation is not the only basis for relief sought against this defendant, see response to Averment 5 for a more complete understanding of Plaintiff's Civil Complaint against this defendant.

5. Admitted.

6. Admitted.

7. Denied. It is DENIED that the "oil slick" was in no way connected to this Defendant through depositions or other discovery. It is conclusively established (i) that the "oil slick" started at the Defendant's job site and was in the west bound lane of State Route 2024; and (ii) that this Defendant had an affirmative obligation to keep debris off of State Route 2024 adequately comply with such preventive measures. (These points will be more fully demonstrated in the accompanying brief, but for now Plaintiff cites as to points (i) Cpl Josphson deposition pages 7 & 8, lines 18 -21; and (ii) Defendant's bonding permit, attached hereto as Exhibit "A.")

As to the specific assertions made by the defendant herein, Plaintiff responds as follows:

A. Admitted. By way of further answer, there is no evidence that said trucks were the ones which leaked the oil or hydraulic fluid;

B. Admitted.

C. Admitted. By way of further response Mr. George Cowfer's testimony, better referred to as speculation, that the "oil slick" was left by a vehicle coming into the job site from the east bound lane was based upon a photograph showing only the beginning of the "oil slick" at the "entranceway", however, as the more complete array of photographs show, the "oil slick" came

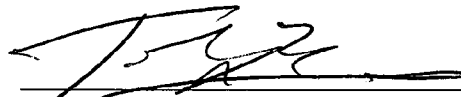
back into the west bound lane and traveled up the west bound lane, all of which led Cpl. Josephson to testify that most likely the "oil slick" was from a vehicle leaving the job site and turning right, i.e. onto the west bound lane. See pg. 11 of Cpl. Josephson deposition.

D. Denied. Cpl. Josephson never said that in his judgment that Mr. Slifko was traveling 50 miles per hour or that the speed limit was 40 miles per hour. In Fact, Cpl. Josephson testified he was "guessing" at the speed, this guess was based upon the damage to the bike and skid marks "guessing at the speed limit". See Cpl. Josephson depositions pages 7 & 8, lines 18 -21.

E. Admitted.

WHEREFORE, Plaintiff requests that Defendant's MOTION FOR SUMMARY JUDGMENT be DENIED and this matter placed on the civil jury trial list.

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



*Punk
So*

HIGHWAY OCCUPANCY PERMIT

PERMIT NO. 02011441

S-2

ORGANIZATION

022

DATE ISSUED

051499

PERMIT FEES

25.00

ACCOUNT NO.

COUNTY

17

TOWNSHIP/BORO

212

PERMITTEE

JUNIOR COAL CONTRACTING, INC.

ADDRESS

R.D. 3, BOX 225-A

POST OFFICE

PHILIPSBURG

PA

ZIP CODE

12378-

COUNTY

CLEARFIELD

TOWNSHIP/BORO

DECATUR

BOND/AGREEMENT NUMBER

DESCRIPTION

513

STATE ROUTE NO.

2024

SEGMENTS

0290 0290

OFFSET TO OFFSET

1950 1950

ALL WORK UNDER THIS PERMIT MAY BE STARTED ON

05/14/99

AND SHALL BE COMPLETED ON OR BEFORE

05/14/00 5/14/00

Immediately upon completion of the work, Permittee shall notify the permit office where application was made. Subject to all the conditions, restrictions, and regulations prescribed by the Pennsylvania Department of Transportation, (see in particular 67 Pa. Code, Chapter 203, 441 and 459) and subject to the plans, special conditions, or restrictions herein set forth or attached hereto. This permit shall be located at the work site and shall be available for inspection by any police officer or department representative.

DESCRIPTION

STATE ROUTE NO.

SEGMENT(S)

OFFSET TO OFFSET

DESCRIPTION

STATE ROUTE NO.

SEGMENT(S)

OFFSET TO OFFSET

TOWNSHIP/BORO

DESCRIPTION

STATE ROUTE NO.

SEGMENT(S)

OFFSET TO OFFSET

DESCRIPTION OF WORK

ALTER EXISTING MINIMUM USE DRIVEWAY BY WIDENING AND ADDING MINIMUM 15" PIPE AT SR 2024 SEG 0290 OFFSET 1950 TO SEG 0290 OFFSET 1950

MINIMUM WORK ZONE TRAFFIC CONTROL TO BE IN ACCORDANCE WITH PUB. 203, FIGURE(S) 5.

PERMITTEE MUST MAINTAIN EXISTING SHOULDER DURING CONSTRUCTION.

SURFACE DRAINAGE MAY NOT BE DIRECTED ONTO STATE RIGHT OF WAY.

IT IS THE PERMITTEE'S RESPONSIBILITY TO KEEP VEGETATION TRIMMED IN ORDER TO MAINTAIN MINIMUM SIGHT DISTANCE. NO OBJECTS MAY BE PLACED WITHIN THE LINE OF SIGHT.

DRAINAGE INSTALLED BY THIS PERMIT IS THE RESPONSIBILITY OF THE PERMITTEE TO CONTINUALLY MAINTAIN OR REPLACE.

PERMITTEE IS RESPONSIBLE FOR ENSURING THAT MUD, SILT AND OTHER DEBRIS IS REMOVED FROM VEHICLES AND TIRES (BY POWER WASH, ETC.) BEFORE ENTERING ONTO THE HIGHWAY. PERMITTEE SHOULD CONTACT DISTRICT BONDED ROAD COORDINATOR TO DETERMINE IF HAUL ROADS ARE RESTRICTED (SEE ATTACHED SUPPLEMENT).

X
X
X
X

THIS PERMIT IS NOT VALID UNTIL SIGNED BY THE DISTRICT ENGINEER OR HIS AUTHORIZED REPRESENTATIVE

Acknowledgement of Completion

Permitted work has been completed.

Date

By

FOR

BRADLEY L. MALLORY

Secretary of Transportation

BY

GEORGE M. KHOURY, P.E.

District Engineer

RECORDING COPY/COUNTY COMPLETION REPORT

Exhibit "A"



APPLICATION FOR MINIMUM USE DRIVEWAY

Minimum Use Driveway is a Residential or Other Driveway Which is
Expected to Be Used By Not More Than 25 Vehicles Per Day (i.e. 50 A.D.T.)

READ INSTRUCTIONS ON REVERSE

APPL. NO. **95588**Applicant / Property Owner
Junior Coal Contracting, Inc.

Address

R.D. #3 Box 225-A

Post Office

Zip Code

Phillipsburg, PA.

16866

(814)-342-2012

Fee \$85.00

Check No.

12378

LOCATION OF PROPOSED DRIVEWAY

County **Clearfield**Township/Boro **Decatur**Route No. **S.R. 2024**Name of Nearest
Intersection **S.R. 2024 & T-677**Distance to Nearest
Intersection in Feet **1330'**

For the purpose of measuring sight distance, the drivers' eye height shall be 3.50 feet above the proposed access surface and highway pavement surface and the vehicles' height shall be 4.25 feet above the proposed access surface and highway pavement surface.

APPLICATION IS MADE TO

☐ CONSTRUCT A NEW DRIVEWAY ☒ ALTER AN EXISTING DRIVEWAY

DATE WORK SCHEDULED TO BEGIN **Summer, 1999**DATE WORK SCHEDULED TO BE COMPLETED **Summer, 1999**

CENTER LINE

AREA TO BE
CLEAR OF VIEW
OBSTRUCTIONSVEHICLE
TURNAROUNDDRIVEWAY WIDTH
MUST BE AT LEAST
10 FEET FOR CARS.

FOR DEPARTMENT USE ONLY

EDGE OF PAVEMENT



ROADWAY

EDGE OF PAVEMENT

RADIUS (R) OF BOTH DRIVEWAY CURVES
MUST BE AT LEAST FIVE FEET FOR CARS

FOR DEPARTMENT USE ONLY

Site Reviewed On _____

Date: _____

Comments _____

ROADWAY

SHOULDER

(Fill in appropriate
line)

slope

(Fill in appropriate
slope)

Des. _____

S.R. _____

Segment _____

Offset _____

Field Viewed By _____

Signature _____

Date _____

Under and subject to all the conditions, restrictions and regulations prescribed by the Pennsylvania Department of Transportation and on the issued Permit, Form M-945P.

The applicant certifies that all statements contained herein are true and correct.

By **X** _____

SIGNATURE(S)

HAVE YOU READ INSTRUCTIONS ON REVERSE?
HAVE YOU COMPLETED ALL BLANKS?

APPLICANT

4/12/99
DATE

12.3 Haulroads

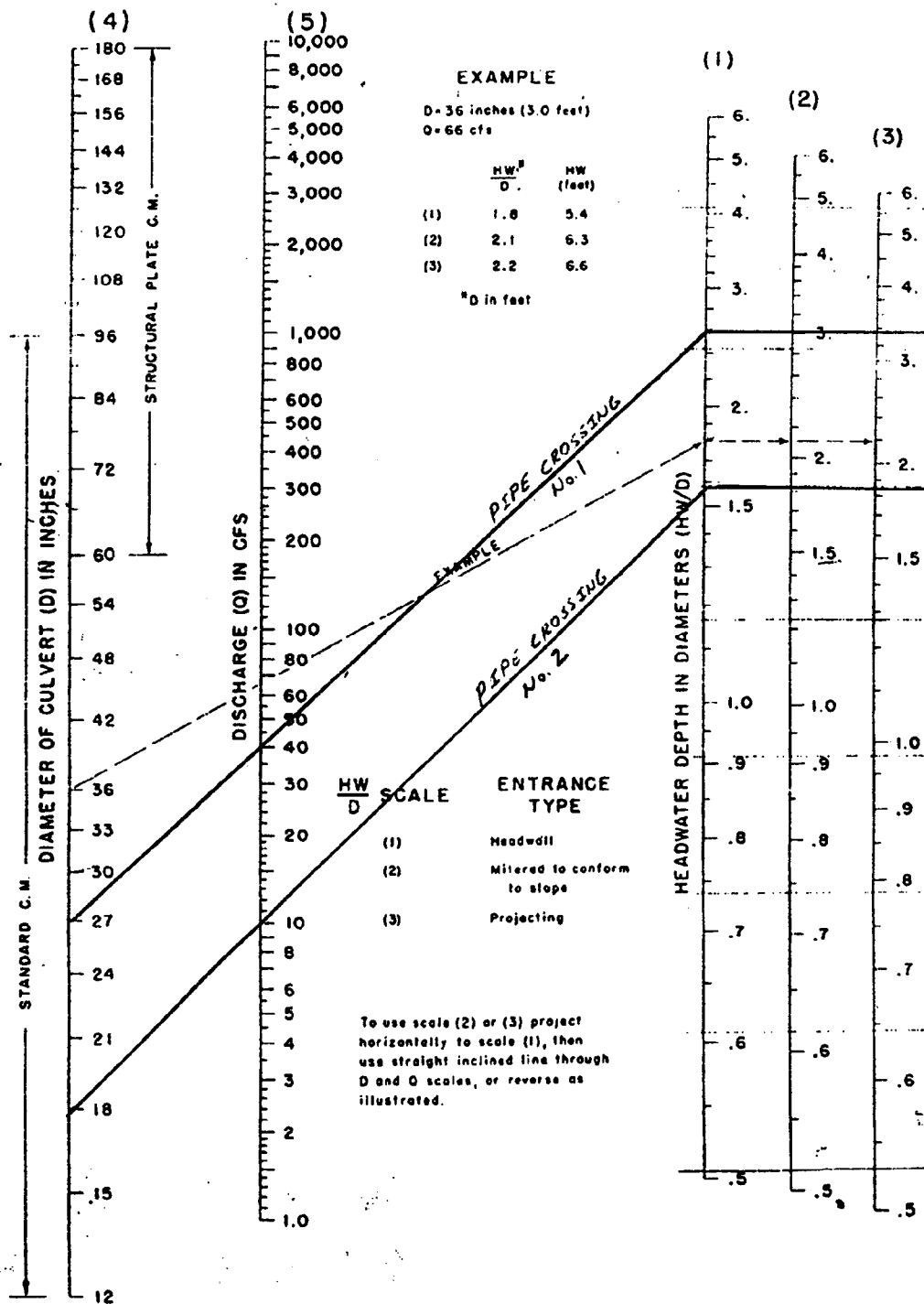
- a.) Leading in from either S.R. 322 or S.R. 2024.
- b.) Please see attached details.
- c.) Where possible, haulroad runoff will be directed into a major erosion control device, if not, sediment traps will be placed every 200 feet.
- d.) Upon completion of mining, the access road off of S.R. 2024 will be removed and reclaimed and the access road off of S.R. 322 will remain.
- e.) Not Applicable
- f.) Yes

(12.3 Haulroads)

Proposed Pipe Crossings

Crossing	Drainage Area (Acres)	Required cfs	Energy Dissipator	Proposed Pipe Size
1	12.0	40	R-2	27"
2	3.0	10	R-2	18"

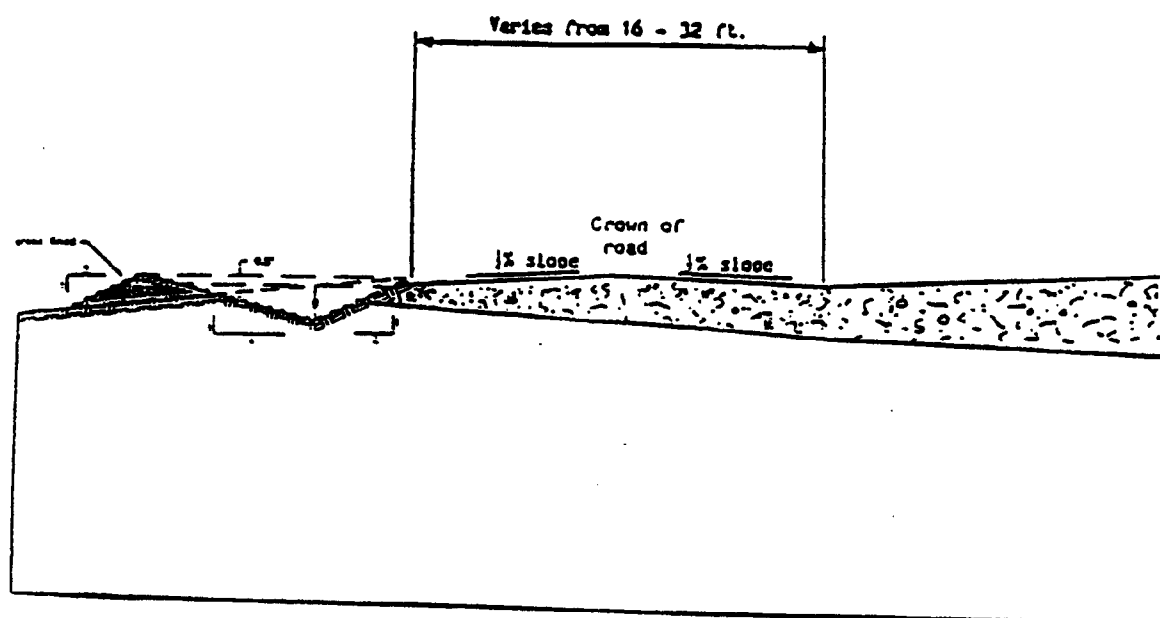
Refer to Exhibit 9.0 Map for crossing location.



12-19
Exhibit 3-10 Headwater depth for CM pipe culverts with inlet control (Ref. Hyd. Eng. Cir. No. 5, USBPR, 1965)

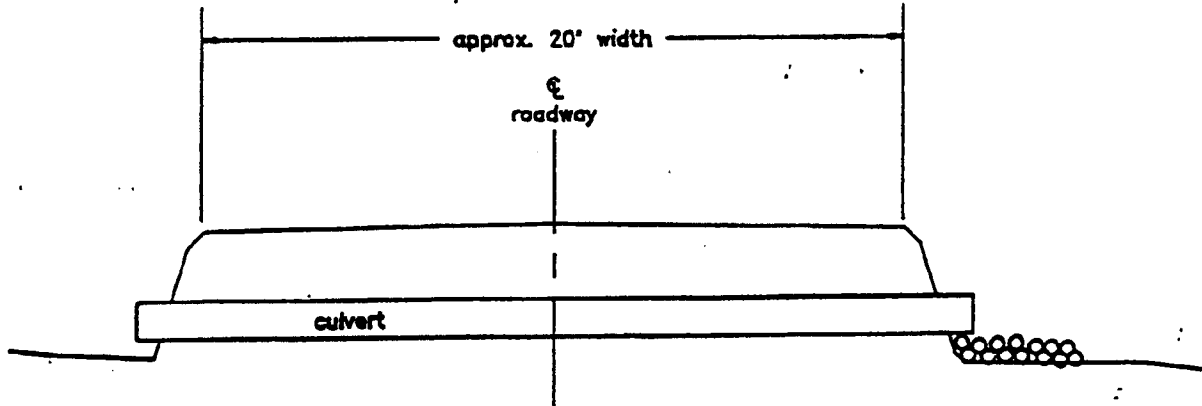
(12.3 Haul Road)

**TYPICAL CROSS SECTION
OF ACCESS ROAD CONSTRUCTION TECHNIQUES**
nts

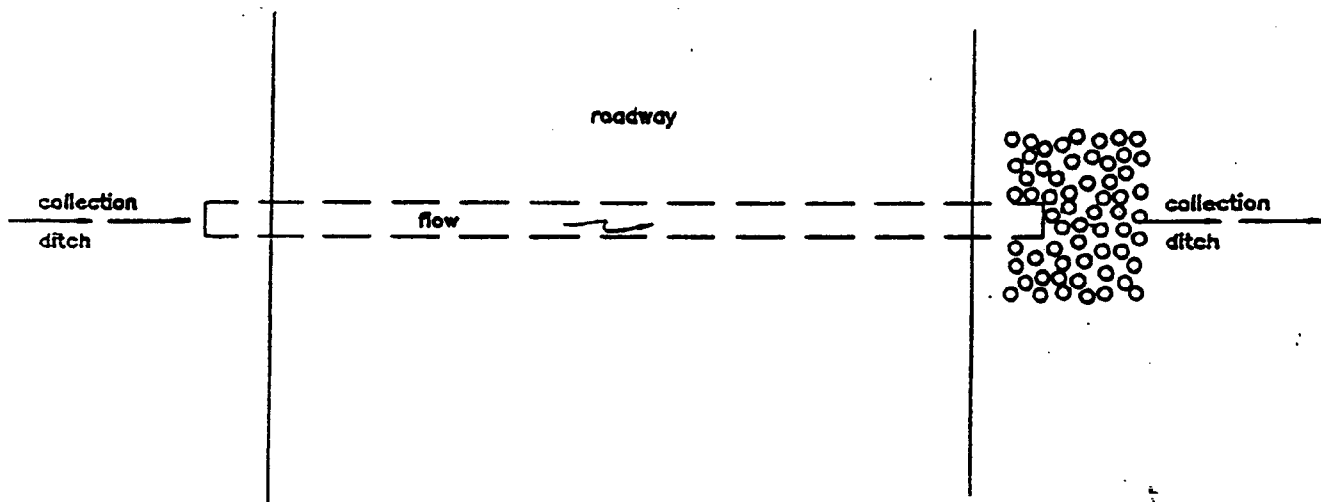


Clean compacted rock will be utilized to establish a stable base. This base will consist of existing road fill or newly added material.

TYPICAL ROAD CROSSING



TYPICAL SECTION



PLAN

(12.3 Haul Road)

HEAD LOSS COEFFICIENT, Kp, FOR CIRCULAR PIPE FLOWING FULL Kp = $\frac{5087 n^2}{d^5}$																	
Pipe Diam. Inches	Flow Area Sq. Ft.	MANNING'S COEFFICIENT OF ROUGHNESS "n"															
		0.010	0.011	0.012	0.013	0.014	0.015	0.016	0.017	0.018	0.019	0.020	0.021	0.022	0.023	0.024	0.025
6	0.196	.0467	.0565	.0672	.0789	.0914	.1050	.1194	.1348	.151	.168	.187	.206	.226	.247	.269	.292
8	0.349	.0318	.0385	.0458	.0537	.0623	.0715	.0814	.0919	.1030	.1148	.1272	.140	.154	.168	.183	.199
10	0.545	.0236	.0286	.0340	.0399	.0463	.0531	.0604	.0682	.0765	.0852	.0944	.1041	.1143	.1249	.136	.148
12	0.785	.0185	.0224	.0267	.0313	.0363	.0417	.0474	.0535	.0600	.0668	.0741	.0817	.0896	.0980	.1067	.1157
14	1.069	.0151	.0182	.0217	.0255	.0295	.0339	.0386	.0436	.0488	.0544	.0603	.0665	.0730	.0798	.0868	.0942
15	1.23	.0138	.0166	.0198	.0232	.0270	.0309	.0352	.0397	.0446	.0496	.0550	.0606	.0666	.0727	.0792	.0859
16	1.40	.0126	.0153	.0182	.0213	.0247	.0284	.0323	.0365	.0409	.0455	.0505	.0556	.0611	.0667	.0727	.0789
18	1.77	.01078	.0130	.0155	.0182	.0211	.0243	.0276	.0312	.0349	.0389	.0431	.0476	.0522	.0570	.0621	.0674
21	2.41	.00878	.01062	.0126	.0148	.0172	.0198	.0225	.0254	.0284	.0317	.0351	.0387	.0425	.0464	.0506	.0549
24	3.14	.00735	.00889	.01058	.0124	.0144	.0165	.0188	.0212	.0238	.0265	.0294	.0324	.0356	.0389	.0423	.0459
27	3.98	.00628	.00760	.00904	.01061	.0123	.0141	.0161	.0181	.0203	.0227	.0251	.0277	.0304	.0332	.0362	.0393
30	4.91	.00546	.00660	.00786	.00922	.01070	.01228	.0140	.0158	.0177	.0197	.0218	.0241	.0264	.0289	.0314	.0341
36	7.07	.00428	.00518	.00616	.00723	.00839	.00963	.01096	.0124	.0139	.0154	.0171	.0189	.0207	.0226	.0246	.0267
42	9.62	.00348	.00422	.00502	.00589	.00683	.00784	.00892	.01007	.01129	.0126	.0139	.0154	.0169	.0184	.0201	.0218
48	12.57	.00292	.00353	.00420	.00493	.00572	.00656	.00747	.00843	.00945	.01053	.01166	.0129	.0141	.0154	.0168	.0182
54	15.90	.00249	.00302	.00359	.00421	.00488	.00561	.00638	.00720	.00808	.00900	.00997	.01099	.0121	.0132	.0144	.0156
60	19.63	.00217	.00262	.00312	.00366	.00424	.00487	.00554	.00626	.00702	.00782	.00866	.00955	.01048	.0115	.0125	.0135

HEAD LOSS COEFFICIENT, Kc, FOR
SQUARE CONDUIT FLOWING FULL Kc = $\frac{29.16 n^2}{r^4}$

Conduit Size feet	Flow area sq. ft.	MANNING'S COEFFICIENT OF ROUGHNESS "n"				
		0.012	0.013	0.014	0.015	0.016
2x2	4.00	.01058	.01242	.01440	.01653	.01880
2½x2½	6.25	.00786	.00922	.01070	.01228	.01397
3x3	9.00	.00616	.00723	.00839	.00956	.01096
3½x3½	12.25	.00502	.00589	.00683	.00784	.00892
4x4	16.00	.00420	.00493	.00572	.00656	.00746
4½x4½	20.25	.00359	.00421	.00488	.00561	.00638
5x5	25.00	.00312	.00366	.00425	.00487	.00554
5½x5½	30.25	.00275	.00322	.00374	.00429	.00488
6x6	36.00	.00245	.00287	.00333	.00382	.00435
6½x6½	42.25	.00220	.00258	.00299	.00343	.00391
7x7	49.00	.00199	.00234	.00271	.00311	.00354
7½x7½	56.25	.00182	.00213	.00247	.00284	.00323
8x8	64.00	.00167	.00196	.00227	.00260	.00296
8½x8½	72.25	.00154	.00180	.00209	.00240	.00273
9x9	81.00	.00142	.00167	.00194	.00223	.00253
9½x9½	90.25	.00133	.00156	.00180	.00207	.00236
10x10	100.00	.00124	.00145	.00168	.00193	.00220

$$H_L = (K_p \text{ or } K_c) L \frac{v^2}{2g}$$

Nomenclature:

- a = Cross-sectional area of flow in sq. ft.
- d = Inside diameter of pipe in inches.
- g = Acceleration of gravity = 32.2 ft. per. sec.
- H_L = Loss of head in feet due to friction in length L.
- K_c = Head loss coefficient for square conduit flowing full.
- K_p = Head loss coefficient for circular pipe flowing full.
- L = Length of conduit in feet.
- n = Manning's coefficient of roughness.
- Q = Discharge or capacity in cu. ft. per. sec.
- r = Hydraulic radius in feet.
- v = Mean velocity in ft. per. sec.

Example 1: Compute the head loss in 300 ft. of 24 in. dia concrete pipe flowing full and discharging 30 c.f.s. Assume n = 0.015

$$v = \frac{Q}{a} = \frac{30}{3.14} = 9.55 \text{ f.p.s.}; \frac{v^2}{2g} = \frac{(9.55)^2}{64.4} = 1.42 \text{ ft.}$$

$$H_L = K_p L \frac{v^2}{2g} = 0.0165 \times 300 \times 1.42 = 7.03 \text{ ft.}$$

Example 2: Compute the discharge of a 250 ft. 3 x 3 square conduit flowing full if the loss of head is determined to be 2.25 ft. Assume n = 0.014.

$$H_L = K_c L \frac{v^2}{2g} = \frac{H_L}{K_c L} = \frac{2.25}{0.00839 \times 250} = 1.073 \text{ ft.}$$

$$v = \sqrt{64.4 \times 1.073} = 8.31; Q = 9 \times 8.31 = 74.8 \text{ c.f.s.}$$

Head loss coefficients for circular and square conduits flowing full (Ref. NEM Section 5, ES-42)

Module 12: Erosion and Sedimentation Controls

12.1 Diversion Controls (See Attached)

Provide a plan for the collection and conveyance to a natural drainageway of the runoff from upslope undisturbed areas. Provide a separate general design for a temporary highwall diversion which limits the amount of runoff which can enter the pit (where applicable). Include design criteria, capacity calculations, profile of proposed channel slopes, typical cross sections, required erosion resistant channel linings and applicable details on Module 12.1 Diversion/Collection Ditch Data Sheet.

12.2 Erosion and Sediment Control (See Attached)

Provide a plan for the control of erosion and sedimentation for lands within the permit area to be disturbed by surface mining activities. Include a narrative describing the implementation of the plan, and detailed design and construction plans and specifications for each structure or facility used in the plan. The plan must be site specific for each phase or phases of mining. Include design criteria, capacity calculations, profile of proposed channel slopes, typical cross sections, required erosion resistant channel linings and applicable details on Module 12.1 Diversion/Collection Ditch Data Sheet for all collection ditches and dikes (if applicable). Provide documentation of the capacity of the existing drainage system and the effect proposed mining activities will have on the drainage. Show discharge points to natural drainageways and all culverts that intercept upslope drainage or carry drainage away from the site. Show all facilities to scale on Exhibits 9 and 18 as appropriate.

12.3 Haul Roads (See Attached)

Provide the following information for each haul road to be constructed, reconstructed or used in the operation:

- a) A narrative description of the location and the location shown on Exhibit 9 (and Exhibit 18 if road will remain as part of postmining land use);
- b) Description and typical cross sections which show the construction of the haul road including existing ground, road widths, surfacing materials, grades, slopes, culverts, bridges, outlet protection and other drainage controls;
- c) Measures to control and prevent erosion and sedimentation; include proposed spacing of sediment traps, turnouts, culverts, check dams, etc.;
- d) Plan for reclamation after mining is completed;
- e) If the haul road involves the crossing of any intermittent or perennial stream include Module 14;
- f) Will a PennDOT highway occupancy permit be needed? ☒ Yes ☐ No

If "yes" checked, PennDOT Occupancy Permit must be submitted prior to permit activation.

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

GARY BALDWIN, t/d/b/a GARY BALDWIN
TRUCKING; ALBERT GREEN TRUCKING, INC.,
a Pennsylvania Corporation; and SENEX
EXPLOSIVES, Inc., a Pennsylvania Corporation.

DEFENDANTS.

No. 03- 1240 -CD

MARTIN R. SLIFKO, JR., an adult individual,

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

Defendant.

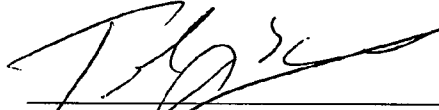
No. 02-962-CD

PLAINTIFF'S CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 10th day of May, 2005, that I did mail a true and correct copy of Plaintiffs' ANSWER TO DEFENDANT JUNIOR COAL CONTRACTING'S., INC., MOTION FOR SUMMARY JUDGMENT to the below indicated person, being such Defendant counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Theron G. Noble', 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



THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PA
CIVIL DIVISION

* * * * *

MARTIN R. SLIFKO, *

JR., an adult *

individual, *

Plaintiff *

vs. *

GARY BALDWIN, *

t/d/b/a GARY *

BALDWIN TRUCKING; *

ALBERT GREEN *

TRUCKING, INC., a *

Pennsylvania * DEPOSITION OF

corporation; and * JAMES MOCK

SENEX EXPLOSIVES, *

INC., a * JUNE 8, 2004

Pennsylvania *

corporation, *

Defendants *

* * * * *

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is prohibited without authorization
by the certifying agency

Consolidated with
02-962-C

COPY FILED
m/b:0881
MAY 11 2005
William A. Shaw
Prothonotary/Clerk of Courts
Orig. to 03-1240C2

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,
Plaintiff

vs.

CIVIL DIVISION

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania corporation;
GARY BALDWIN t/d/b/a GARY
BALDWIN TRUCKING; ALBERT GREEN
TRUCKING, INC., a Pennsylvania
corporation; and SENEX
EXPLOSIVES, INC., a
Pennsylvania corporation,
Defendants

NO. 02 - 962 - CD

COPY
FILED
MAY 11 2005

William A. Shaw
Prothonotary/Clerk of Courts

Deposition of : CPRL. THOMAS E. JOSEPHSON, PSP

Date : Tuesday, March 15, 2005
10:00 a.m.

Place : Law Offices of
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

Reported By : Jan M. Merritt
Court Reporter & Notary Public

APPEARANCES:

THERON G. NOBLE, Esquire
appeared on behalf of Plaintiff

JEFFREY A. RAMALEY, Esquire
RICHARD A. BELL, Esquire
DAVID F. WILK, Esquire
appeared on behalf of Defendants

SCHREIBER REPORTING SERVICES
P.O. BOX 997
St. Marys PA 15857
(814) 834-5337

#23

P.O. Box 997 - St. Marys, PA 15857
Phone: (814) 834-5337
Fax: (814) 834-5338

CA

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

MARTIN R. SLIFKO, an adult
individual Plaintiff

NO. 03-1240-CD

Vs.

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, ALBERT GREEN
TRUCKING, INC., a Pennsylvania
Corporation and SENEX EXPLOSIVES,
INC., a Pennsylvania Corporation
Defendants

(62)
FILED ^{icc}

01:00 PM Amy Bell
MAY 09 2005

NO. 02-962-CD

William A. Shaw
Prothonotary/Clerk of Courts

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

RULE TO SHOW CAUSE

AND NOW this 6th day of May, 2005, upon consideration of the Motion For Summary Judgment filed by the Defendant Junior Coal Contracting, Inc., a Rule is issued upon the Plaintiff to show cause why the said Motion should not be granted. The Rule shall be returnable the 23 day of May, 2005 at 11:00 A.M. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania with oral argument to be held at that time.

NOTICE

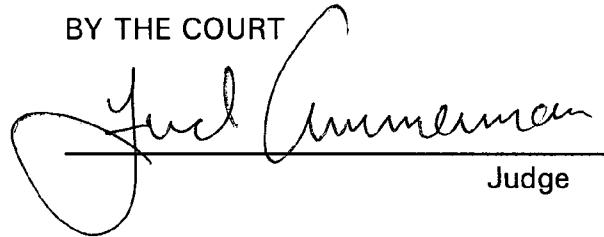
A Petition or Motion has been filed against you in Court. If you wish to defend against the claims set forth in the following pages, you must take action on or before May 23, 2005, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the matter set forth against you. You are warned that if you fail to do so the case may proceed without you and an order may be entered against you by the Court without further notice for relief requested by the petitioner or movant. You may lose rights important to you.

(22)

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
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641 Ext. 50-51

BY THE COURT

A handwritten signature in cursive script, appearing to read "Judith C. Zimmerman", is written over a horizontal line. The signature is fluid and extends across the line.

Judge

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

MARTIN R. SLIFKO, an adult
individual Plaintiff

NO. 03-1240-CD

Vs.

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, ALBERT GREEN
TRUCKING, INC., a Pennsylvania
Corporation and SENEX EXPLOSIVES,
INC., a Pennsylvania Corporation
Defendants

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

NO. 02-962-CD

Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

Type of Pleading

Defendant Junior Coal
Contracting, Inc.'s Motion
For Summary Judgment

Filed on Behalf of:
Defendant

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT & WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

FILED ⁶⁴ NO
10/3:00 PM CC
MAY 05 2005

William A. Shaw
Prothonotary/Clerk of Courts

#22

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

MARTIN R. SLIFKO, an adult
individual Plaintiff

NO. 03-1240-CD

Vs.

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, ALBERT GREEN
TRUCKING, INC., a Pennsylvania
Corporation and SENEX EXPLOSIVES,
INC., a Pennsylvania Corporation
Defendants

NO. 02-962-CD

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

MOTION FOR SUMMARY JUDGMENT

NOW comes Defendant Junior Coal Contracting, Inc., by and through its attorney, Richard A. Bell, Esquire of Bell, Silberblatt & Wood, and files the following Motion For Summary Judgment based upon the following:

1. The Plaintiff filed a Complaint against this Defendant, Junior Coal Contracting, Inc., alleging that he suffered injuries and damages when a motor cycle he was riding on State Route 2024 in Decatur Township, Clearfield County, Pennsylvania went through an "oil slick" and the Plaintiff lost control. The motorcycle left the highway, the Plaintiff was thrown off of it, and the damages he alleges resulted. This Complaint was filed to NO. 02-962-CD.

2. The Plaintiff also filed a lawsuit against three other Defendants filed to No. 03-1240-CD. The two lawsuits were consolidated by the Court.

3. The Defendant has a coal mining job site known as the "Runk Job" located off State Route 2024 in Decatur Township, Clearfield County, Pennsylvania.

4. The Plaintiff alleges that the "oil slick" which caused him to lose control was caused by the Defendant, its agents, servants, or employees.

5. The grounds for recovery against this Defendant were alleged under the heading of negligence as the acts of this Defendant, its agents, servants or employees placing the oil or fuel on State Route 2024, failing to detect that its business operations caused a dangerous condition to others, failing to correct a dangerous condition of the oil slick, and finally failure to warn the Plaintiff of the dangerous condition.

6. The Plaintiff further alleged that the "oil slick" led from the entrance way to the Defendant's job site onto State Route 2024 and on to the west bound lane which is the lane on which the Plaintiff was traveling.

7. Various depositions were taken and none of the depositions or other discovery in any way connected the actions of this Defendant, its agents, servants or employees with the "oil slick" on the highway. To support this statement the

Defendant has attached the following excerpts from various depositions:

A. The deposition of George Cowfer, Jr., President of Junior Coal Contracting, Inc., in which he referred to a sewer line job being done by the municipality about a mile from the entrance to the Defendant's job site, and Mr. Cowfer stated that trucks from that job had come and used his entrance way as a turn around. See page 15 attached.

B. Deposition of Dennis L. Hughes in which he stated that he had seen various vehicles using the entrance way as a turn around and that further he has never seen oil on the highway or had to clean it. See pages 12, 16 and 17 of his deposition.

C. The deposition of David Cowfer in which he was being shown a photograph by Plaintiff's counsel showing marks at the entrance way to the job site. Mr. Cowfer testified that it appeared that those marks were caused by vehicles coming in to the job site because the marks on the highway came from the east bound lane. He stated the photograph indicated that the marks on the highway appeared to cross over the center line into the east bound lane. He further testified that as an employee of Junior Coal he never had to clean up any oil from the highway. See pages 15, 17, 18, and 19 of his deposition.

D. The deposition of Corporal Thomas E. Josephson of the Pennsylvania State Police who investigated this accident and who was on the scene soon after the accident testified that in his judgment the Plaintiff was traveling 50 miles per hour and he further stated that the speed limit at that point on State Route 2024 was 40 miles per hour. See pages 7, 8 and 18 of his deposition.

E. The deposition of James Mock who lived in the vicinity of the accident scene and came over to where the Plaintiff and his motorcycle were lying off the road way. Mr. Mock caused the ambulance to be called and immediately after Mr. Slifko had been transported from the scene he walked down and looked over the scene of the accident. He stated that the entrance to the Defendant's job site was approximately 100 yards from where the liquid was on the highway that allegedly caused the Plaintiff to lose control. He stated that the fluid that he saw was not motor oil, it was a hydraulic fluid. He differentiated between the appearance of oil on the highway and the hydraulic fluid and that what he saw was hydraulic fluid. He further stated that it was not unusual to see some oil slicks on the highway, but it was unusual to see hydraulic fluid on the highway. He recited his experience with the different types of fluid used in vehicles and that he had had experience with hydraulic fluid. The hydraulic fluid which he saw was there just very recent. He further stated that he saw tracks which were caused by a motorcycle tire and that he did not see those tracks coming into the fluid or going through it but he saw them on the roadway coming out of the fluid and he deduced that the hydraulic fluid was what caused the Plaintiff to lose control of his motorcycle. He stated that he had seen some oil marks on the highway, but they were dried and more of a stain than a liquid. He also said that many cars used the highway and left tracks on the road, and in referring to what was designated as an oil stain on the road, he stated in his opinion from what he observed that that oil stain did not contribute to the accident in any way. See pages 20, 21, 22, 26, 33, 34, 35, 38, 39, 40, 48, 52, 53, 55, 56, 57, 58, 67, 74, 80, and 81 of

his deposition.


There has been nothing shown by the extensive discovery taken to date that the Defendant, its agents, servants or employees were in any way connected or caused the substance on the highway that allegedly caused the Plaintiff to lose control of his motorcycle resulting in his damages.

The Plaintiff himself testified in his deposition that he had no recollection of his losing control or the accident itself so there is no issue of material fact which would bar entry of a Summary Judgment.

WHEREFORE, based upon what has been set forth herein Defendant Junior Coal Contracting, Inc., respectfully requests that Summary Judgment be entered in its behalf and against the Plaintiff and all other parties to this action.

Respectfully Submitted,

BELL, SILBERBLATT & WOOD
BY


Richard A. Bell, Esquire, Attorney
For Defendant Junior Coal
Contracting, Inc.

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

MARTIN R. SLIFKO, an adult
individual Plaintiff

NO. 03-1240-CD

Vs.

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, ALBERT GREEN
TRUCKING, INC., a Pennsylvania
Corporation and SENEX EXPLOSIVES,
INC., a Pennsylvania Corporation
Defendants

MARTIN R. SLIFKO, JR., an adult
individual Plaintiff

NO. 02-962-CD

Vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendant Junior Coal Contracting, Inc.'s
Motion For Summary Judgment in the above matter was mailed the 5th
day of may, 2005, by regular mail postage prepaid at the post office in
Clearfield, PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

Jeffrey A. Ramaley, Esquire
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Pittsburgh, Pa 15219-2702

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Williamsport, PA 17701

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One Oxford Centre, 38th Floor
Pittsburgh, PA 16219

Richard A. Bell
Richard A. Bell, Esquire
Attorney for Defendant Junior Coal
Contracting, Inc.

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

* * * * *

MARTIN R. SLIFKO, *
JR., an adult *
individual, *
Plaintiff * Case No.
vs. * 02-962 CD
JUNIOR COAL *
CONTRACTING, INC., *
a Pennsylvania *
Corporation, *
Defendant *

* * * * *

DEPOSITION OF
GEORGE COWFER, JR.
MARCH 27, 2003

7

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1 then you drop down the other side,
2 there at the bottom of the hill is
3 where that started. I would say it's
4 probably a mile from our road or
5 something like that, just guessing.

6 Q. And to your knowledge, did you
7 ever see any of those vehicles or
8 equipment that were involved in that
9 work come up to the Runk job site and
10 turn around or anything like that?

11 A. I have seen dump trucks maybe
12 the size of what they call them a U
13 or a V plate with trailers and
14 backhoes I've seen turn around there.
15 I can't say they belonged to that
16 company, but I've seen them turn
17 around on our road or come into our
18 job site and turn around and go back
19 out the road. It seems to be a
20 pretty popular spot to turn around.

21 Q. The people who would be out on
22 that road turning around, would they
23 be heading west from Phillipsburg to
24 the Runk job site, turn around and
25 head back towards Phillipsburg or

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

* * * * *

MARTIN R. SLIFKO, *
JR., an adult *
individual, *
Plaintiff * Case No.
vs. * 02-962 CD
JUNIOR COAL *
CONTRACTING, INC., *
a Pennsylvania *
Corporation, *
Defendant *

* * * * *

DEPOSITION OF
DENNIS L. HUGHES
MARCH 27, 2003

7

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1 I'd say two years, 11 months. So
2 we're close to that.

3 Q. If my math is correct then,
4 you'd have been working there
5 approximately a year and a half
6 before this accident?

7 A. Yes, right.

8 Q. Besides the access from Old
9 Route State 322, was there any other
10 access in or out of the Runk job
11 site?

12 A. No.

13 Q. What can you tell me about the
14 vehicular traffic that comes in and
15 out of the Runk job?

16 A. Coal trucks, a fuel truck
17 occasionally. When I got up on
18 higher places working there all day
19 long, I seen it was used as a turn
20 around. I have seen everything from
21 Verizon trucks to water company
22 trucks working out of West Decatur
23 that summer. It's a big, wide road
24 so they turn around and away they go.

25 Q. Do you specifically remember

- 1 A. Yes.
- 2 Q. Who normally does that work?
- 3 A. We do.
- 4 Q. And who would be we?
- 5 A. Me and Dave.
- 6 Q. And is that just something you
- 7 guys did or did somebody direct you
- 8 to do that?
- 9 A. We just try to keep an eye on
- 10 the road and if we thought it needed
- 11 a little bit, we put some on it.
- 12 Q. What are you looking for when
- 13 you keep an eye on the road as to
- 14 when you put gravel down, softness or
- 15 mud?
- 16 A. it doesn't really get soft but
- 17 as traffic gets on it, it starts to
- 18 make it brown more or less and you do
- 19 not want to get that tracked out on
- 20 the road so we put dry stuff on.
- 21 Q. Have you ever noticed oil on
- 22 the highway in the vicinity of the
- 23 entranceway?
- 24 A. No.
- 25 Q. Have you ever had to clean oil

1 off of Old State Route 322 in the
2 vicinity of the Runk job?

3 A. Nope.

4 ATTORNEY NOBLE:

5 I'm going to first show
6 these photographs to Mr. Bell.

7 ATTORNEY BELL:

8 Is this one coming out
9 and going west?

10 OFF RECORD DISCUSSION

11 BY ATTORNEY NOBLE:

12 Q. Mr. Hughes, so that we have
13 some recollection a little on reading
14 the transcript. We've got actually
15 two types of photographs here. One
16 are typical pictures and the other
17 ones are on sheets of paper like from
18 a computer.

19 A. Picture printout.

20 ATTORNEY NOBLE:

21 I'm going to mark this
22 photograph here as P-1, okay.

23 So that we are ---.

24 (Plaintiff's Exhibit

25 One marked for

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

* * * * *

MARTIN R. SLIFKO, *

JR., an adult *

individual, *

Plaintiff * Case No.

vs. * 02-962 CD

JUNIOR COAL *

CONTRACTING, INC., *

a Pennsylvania *

Corporation, *

Defendant *

* * * * *

DEPOSITION OF

DAVID COWFER

MARCH 27, 2003

7

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1 photograph there appears to be what
2 appears to be to me an oil or grease
3 mark leading from the entrance or
4 exitway onto State Route 322?

5 A. I would say that looks like it
6 was coming into the road. Because it
7 comes from the east-bound lane. If
8 it was leaving it would be going up
9 the wrong side of the road.

10 Q. And what you're talking about
11 is because the mark that we're
12 discussing appears to cross over the
13 center line?

14 A. Yes.

15 Q. Did you ever see anything like
16 what is depicted on that picture?

17 A. That one I've never seen.

18 Q. Have you ever seen anything
19 similar to it up in that area?

20 A. No, I would notice that
21 because that could be a problem and I
22 would watch that.

23 Q. And why would you say that
24 could be a problem?

25 A. Because anything we tracked on

1 picture, do you believe you would
2 make a right or left-hand turn to get
3 to that area from the exitway?

4 A. Right.

5 Q. And about how far from the
6 exitway would you estimate that to
7 be?

8 A. I would estimate 200 yards.

9 Q. And would you agree with me
10 that in the center of what I think is
11 the west-bound lane, would you agree
12 with me that where I'm pointing to
13 would be the west-bound lane?

14 A. Yes.

15 Q. In the center there also
16 appears to be some type of oil or
17 grease depicted in that picture?

18 A. Something there, oil, tar.

19 Q. Had you ever seen anything
20 like that on the road?

21 A. No, I don't recall and I would
22 notice if I saw anything like that,
23 yes.

24 Q. Mr. Cowfer, would you have any
25 idea as to the vehicle or the type of

1 vehicle that would have reason to be
2 in or out of the Rank job site that
3 either caused this or might be able
4 to cause these markings on the road
5 that we have been discussing?

6 A. No, that would be pure
7 speculation.

8 Q. If you --- have you ever
9 talked to any of the drivers that
10 come in or out of the area, of fuel
11 trucks, coal trucks, that type of
12 vehicle, concerning repairs that were
13 needed to their truck? Do you
14 remember ever having any
15 conversations with somebody that
16 said, boy, I've got to get my truck
17 fixed, it was leaking oil, grease or
18 fuel?

19 A. No.

20 Q. And in your capacity as an
21 employee at the Runk job site, have
22 you ever had to clean up any type of
23 debris that's depicted in the
24 pictures on Old State Route 322?

25 A. No, if I had seen it, I would

1 have put dust over it or something.

2 No, I've never done that.

3 Q. And if you had seen it, why
4 would you have put dust or something
5 on it?

6 A. To soak up the spill.

7 ATTORNEY NOBLE:

8 That's all I have. I
9 don't know if Mr. Bell has any
10 questions.

11 ATTORNEY BELL:

12 No, I have no
13 questions.

14 ATTORNEY NOBLE:

15 You have the right to
16 review the transcript before
17 it becomes formal, you know,
18 to make sure that the Court
19 Reporter has accurately
20 recorded your answers or you
21 can waive that. That's up to
22 you if you want to review it
23 or just waive the right to
24 review. Most people waive.

25 A. I'll waive.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,
Plaintiff

vs.

CIVIL DIVISION

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania corporation;
GARY BALDWIN t/d/b/a GARY
BALDWIN TRUCKING; ALBERT GREEN
TRUCKING, INC., a Pennsylvania
corporation; and SENEX
EXPLOSIVES, INC., a
Pennsylvania corporation,
Defendants

NO. 02 - 962 - CD

COPY

Deposition of : CPRL. THOMAS E. JOSEPHSON, PSP
Date : Tuesday; March 15, 2005
10:00 a.m.
Place : Law Offices of
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830
Reported By : Jan M. Merritt
Court Reporter & Notary Public

APPEARANCES:

THERON G. NOBLE, Esquire
appeared on behalf of Plaintiff

JEFFREY A. RAMALEY, Esquire
RICHARD A. BELL, Esquire
DAVID F. WILK, Esquire
appeared on behalf of Defendants

SCHREIBER REPORTING SERVICES
P.O. BOX 997
St. Marys PA 15857
(814) 834-5337

1 Q. When you draw a diagram, you try to draw it
2 accurately?

3 A. Certainly.

4 Q. So would it be a fair statement that if the diagram
5 shows the substance in the middle of the westbound lane, that
6 you were trying to be accurate when you did the diagram?

7 A. Yes.

8 Q. As part of your investigation, would you have been
9 concerned with the speed of the motorcycle at the time of the
10 accident?

11 A. Somewhat, yes.

12 Q. Do you remember if during your investigation if you
13 were ever able to determine -- strike that. Who was the
14 operator of the motorcycle? I don't think we have that on
15 record.

16 A. I have a first initial M, I believe it was Martin,
17 Slifko, Jr.

18 Q. During your investigation, were you ever able to
19 determine in your opinion whether or not Mr. Slifko was
20 safely operating his motorcycle at the time of the accident?

21 MR. RAMALEY: Just note an objection here. You are
22 asking an opinion of an expert, and he hasn't been qualified
23 as such.

24 THE WITNESS: I can only make a -- I estimated on
25 here 50 miles per hour. Without a lot more expertise than

1 the typical trooper is going to have to really come out
2 with a speed, I mean, I can only take an educated guess from
3 my experience.

4 BY MR. NOBLE:

5 Q. What was the basis of your estimated speed of 50
6 miles per hour, if you remember?

7 A. Just the damage to the motorcycle, the skid marks.

8 Q. Do you remember what the posted speed limit was on
9 State Route 2024 in the area of the accident?

10 A. I don't recall, but I mean I'm guessing it's 40 or
11 45. I don't know which one.

12 MR. BELL: I object to a guess.

13 BY MR. NOBLE:

14 Q. Do you remember up in the area of this accident an
15 entranceway or exitway to a coal company?

16 A. There is a dirt road. I don't know what it was to.
17 It would have been on the north side according to the
18 diagram, right prior to the curve. Prior to the accident
19 happening, there is a dirt road leading off to the north.

20 Q. Do you remember the area on State Route 2024 where
21 Mr. Slifko first started to lose control of the bike?

22 A. I believe it was in the curve.

23 Q. Do you have any idea how far it would be from that
24 dirt road that you just referenced to that spot in the curve?

25 A. It was just a short distance. I don't know

1 A. Yes.

2 Q. Does that appear to be Page 5 of your report?

3 A. Yes.

4 Q. One of the informations you have to provide is the
5 speed limit on State Route 2024; is that correct?

6 A. Right.

7 Q. What do you have that speed listed as?

8 A. 40.

9 Q. Do you have Page 6?

10 A. Yes.

1 Q. And am I correct, for illumination you have
2 daylight?

3 A. Correct.

4 Q. For weather conditions you have no adverse
5 conditions?

6 A. Correct.

7 Q. Page 7, if you could go to that?

8 A. Okay.

9 Q. You have indicated on your diagram, oil or fuel on
10 roadway.

1 A. Correct.

2 Q. And you are not able to give us any more specifics
3 beyond that?

4 A. Correct.

5 Q. Could we go to Page 8?

THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PA
CIVIL DIVISION

* * * * *

MARTIN R. SLIFKO, *
JR., an adult *
individual, *
Plaintiff * No.
vs. * 03-1240CD
GARY BALDWIN, *
t/d/b/a GARY *
BALDWIN TRUCKING; *
ALBERT GREEN *
TRUCKING, INC., a *
Pennsylvania * DEPOSITION OF
corporation; and * JAMES MOCK
SENEX EXPLOSIVES, *
INC., a * JUNE 8, 2004
Pennsylvania *
corporation, *
Defendants *

* * * * *

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1 seemed like an awful long time, but I
2 don't think it was that long.

3 Q. Did anybody else get there in
4 between the time the ambulance got
5 there?

6 A. There was some people stopped,
7 yes. I don't know who they were or
8 anything else.

9 Q. Did any of the people that
10 stopped by profess to have any
11 knowledge or recollection of the
12 events any witnesses?

13 A. I can't tell you that, no. I
14 was more concerned about ---.

15 Q. Do you know a strippings job up
16 in your area by the name of the Runk
17 job?

18 A. Yeah, it borders on my
19 property.

20 Q. In relationship to your
21 property, can you tell me where the
22 entranceway to the Runk job site is?

23 A. Well, it's down the hill ----
24 I'm not really good at judging, it's
25 down the hill --- let's see, from

1 where the accident started, it was
2 down the hill probably 100 yards or a
3 little over. It's right on the curve,
4 on a curve there is a couple going up
5 the hill.

6 Q. What type --- what were the
7 weather conditions on the day of this
8 accident?

9 A. It was a nice day. It was
10 nice, it was a typical fall day. It
11 wasn't warm and it wasn't cold and it
12 wasn't raining, the sun was shining.

13 Q. Did you notice anything about
14 the road conditions on Route, I
15 believe what you said you think is
16 Route 2024?

17 A. Yeah. After the ambulance had
18 come and taken Martin and the police
19 left and everybody left, I thought to
20 myself, I am go to walk back over and
21 see --- you know, see what happened.
22 And I walked back over and there is a
23 curve coming off the top of the hill
24 before you hit the straightaway and I
25 walked back over to the curve and I

1 could see the trail where he went up
2 into the field. So on the curve, I
3 noticed there was a bunch of fluid on
4 the road and it wasn't motor oil, it
5 wasn't a lubricant. To me, it was a
6 hydraulic fluid. And I didn't know
7 what it came from, but I assumed it
8 came from a lift on a truck bed or on
9 a hydraulic system on the truck. And
10 then I could see where he had lost
11 control of it there and he was trying
12 to get it back under control and then
13 he went right up over a small bank
14 into the field. And he was going
15 across the field and I figured, when
16 that happened is when the motor picked
17 up like it was running and then it
18 slowed down and it didn't --- and when
19 he come across there, there was a
20 limb, probably about a four inch
21 diameter limb laying in the field that
22 had fallen off the tree and it was
23 right where he was coming. And I
24 think, myself, this is my opinion, I
25 think he hit the limb and it threw the

1 yards?

2 BY ATTORNEY NOBLE:

3 Q. Did you understand what Mr.
4 Bell ---?

5 A. Yeah. What I'm doing is
6 measuring from the road that goes up
7 to the strippings to where the spot
8 was on the curve where the fluid was.

9 ATTORNEY BELL:

10 And my understanding of
11 your answer was the spot was
12 100 yards from the entrance; is
13 that correct?

14 A. Yeah, right on the corner.

15 BY ATTORNEY NOBLE:

16 Q. Are you any good at sketching
17 things out?

18 A. Yeah --- well, I don't know,
19 but I can sketch.

20 Q. Would you mind drawing us a
21 little sketch of the road and trying
22 to put the curve in there and I guess
23 we'll probably have you mark that a
24 little bit.

25 A. Okay. The road coming up the

1 And I'll likewise mark that
2 photograph.

3 (Exhibit JM-4 marked for
4 identification).

5 A. And this other one is --- this
6 one here is right in this area here,
7 this one here would be JM-4.

8 BY ATTORNEY NOBLE:

9 Q. Now, as far as the photographs
10 go, Mr. Mock, do they also fairly and
11 accurately depict the oil slick on the
12 roadway?

13 A. Not the one I'm talking about,
14 but where they --- this dark streak is
15 about where that --- in the area of
16 that oil slick I saw. It was towards
17 the middle of the road.

18 Q. What is different on these
19 photographs than the oil slick as you
20 observed it?

21 A. Well, this is dark oil, this is
22 engine oil, this is hydraulic oil.
23 See, hydraulic oil is sort of clear
24 and it's you lot more watery looking
25 than lubricant --- and it was just on

1 the road there, but this dark line
2 that you see there is just about where
3 that --- and that's the location on
4 the road where the oil slick was.

5 ATTORNEY BELL:

6 Your using a term, oil
7 slick but you're saying what
8 you saw was hydraulic. Can we
9 differentiate?

10 A. Okay. Just call it hydraulic
11 slick.

12 ATTORNEY BELL:

13 May I see that picture
14 where he said there was
15 hydraulic fluid?

16 BY ATTORNEY NOBLE:

17 Q. Mr. Mock, do you ever know what
18 happened to the hydraulic slick that
19 was on the road?

20 A. No, I didn't --- after I went
21 over and --- I think I went over the
22 next day to look at it again and it
23 wasn't --- it had been run over and it
24 wasn't like it was when it happened
25 that night there, but it was --- the

1 area was there you could tell where it
2 was.

3 Q. Would you have any idea how
4 that hydraulic slick got onto the
5 road?

6 A. No.

7 Q. Is that something that is
8 common or uncommon up in that area to
9 have hydraulic or engine oil on the
10 road?

11 A. I would say that it's uncommon,
12 oil slicks, no. The oil streaks no,
13 but hydraulic, yes.

14 ATTORNEY WILK:

15 Can you just clarify, is
16 it not uncommon to find oil
17 slicks?

18 A. Yeah. Well, you can see just
19 by these photographs the black line
20 there. That to me is an oil slick.

21 ATTORNEY WILK:

22 Those you would see with
23 some frequency?

24 A. Yeah, it's there all the time.
25 But hydraulic, I ---.

1 started up there.

2 Q. Thank you. If I could see that
3 back. And again, I think I've already
4 asked you this, but just to make
5 certain, as part of your examination
6 of the area after Mr. Slifko was taken
7 by ambulance, you didn't walk from
8 JM-3 down to the Runk job site?

9 A. No, I just walked down to this
10 slick --- and probably to the end of
11 that.

12 Q. To the end of the curve area?

13 A. No, to the end of the slick ---
14 where the slick was there.

15 Q. Okay. One final question, Mr.
16 Mock, the --- your testimony that you
17 believe that was hydraulic fluid that
18 was on the road as compared to engine
19 oil, what experiences are you basing
20 that on?

21 A. Well, when I was in high school
22 I worked in at the Emblem Oil Company
23 or the Keystone Station this side of
24 Philipsburg, over by the bridge. And
25 one of my jobs was on Saturdays and

1 Sundays was to lubricate trucks, coal
2 trucks that were hauling from the
3 stripping. And I've had experience
4 with hydraulic fluid.

5 ATTORNEY NOBLE:

6 I thank you. That would
7 be all I would have. Anybody
8 else?

9 EXAMINATION

10 BY ATTORNEY BRYAN:

11 Q. Sir, my name is John Bryan. I
12 just have a few questions for you.

13 A. Okay, John.

14 Q. This road, 2024, how heavily
15 traveled is that?

16 A. It's pretty heavily traveled.

17 Q. And are there trucks that pass
18 by on that road that aren't
19 necessarily going down to the Runk job
20 that might be going other places?

21 A. Back at that time there wasn't,
22 now there is.

23 Q. Where are they going now?

24 A. They go back to what used to be
25 Albert property, they have a stripping

1 back there and they go to the top of
2 the hill which is called Ayers Hill,
3 they're stripping up on top of there
4 now. At that time it wasn't --- there
5 was only one strip.

6 Q. And you're saying that any
7 truck traffic that was on that road,
8 all of it would be going only to the
9 strip mine and not potentially to any
10 other place? I'm just asking about
11 the trucks?

12 A. Yeah, I'm saying that's ---
13 let's put it not 100 percent, you
14 know, not 100 percent, but maybe 95
15 percent of it or 98 percent of it.

16 Q. So most of the truck traffic,
17 anyway, went to the Runk job?

18 A. Yes.

19 Q. And you said you didn't know
20 where this substance came from. Do
21 you know how long it was there prior
22 to the accident?

23 A. It was recent, it was there
24 very recent.

25 Q. How could you tell that?

1 track and then I got on track.

2 Q. Had you ever seen hydraulic
3 fluid on the road before?

4 A. No, I wouldn't even go looking
5 for it.

6 Q. And I believe you said that
7 that was uncommon, but oil on the road
8 may have been a more common
9 occurrence?

10 A. Yes.

11 Q. Did you happen to touch this
12 substance, the fluid?

13 A. Yes, I reached down and touched
14 it.

15 Q. And what did it feel like?

16 A. Hydraulic fluid.

17 Q. Okay. Did you smell it?

18 A. I don't recall. I probably
19 would have, but my smeller isn't that
20 good.

21 Q. So there's no doubt in your
22 mind as we sit here today that that
23 was hydraulic fluid?

24 A. No. No, there was --- there is
25 no doubt in my mind.

1 that?

2 A. I just went up and picked up
3 the scraps.

4 Q. Did you look at the roadway?

5 A. See, there's loose gravel there
6 and I think what happened when he was
7 go ---.

8 Q. You're talking about the other
9 accident?

10 A. Yes, the other accident. He
11 was going down and he hit the gravel
12 and lost it and went right into
13 the ---.

14 Q. Was there any gravel on the
15 roadway at the time of Mr. Slifko's
16 accident?

17 A. I didn't notice any.

18 Q. I was a little confused when
19 you said before that you saw narrow
20 tracks near where the oil slick ---
21 I'm sorry, where the hydraulic slick
22 was located?

23 A. In my opinion, it was a
24 motorcycle tire.

25 Q. Now, you said that the tracks

1 were not going through the slick,
2 though?

3 A. I didn't notice it going
4 through. The tracks that I saw were
5 what was picked up on the tire as it
6 come through there.

7 Q. I'm still confused. Now, on
8 your map you said this is where the
9 slick is, okay. And you actually have
10 an oil slick and that's from the
11 photograph.

12 A. Yeah.

13 Q. You notice it an oil slick
14 on ---.

15 A. Well, it was a hydraulic slick.

16 Q. Pardon me?

17 A. This was ---.

18 Q. This was ---?

19 A. That has oil slick. Change
20 that to hydraulic oil slick.

21 Q. And this was the location and
22 it was --- I believe you said close to
23 the center of the travel lane, but not
24 right in the center?

25 A. Right, it was ---.

1 line?

2 A. Right, but it would be more
3 towards the center of the road.

4 Q. And you can't testify whether
5 this oil slick, the brown mark here
6 was there on the day of the accident
7 or not?

8 A. No.

9 Q. Do you think that if it was
10 there the day of the accident you
11 would have noticed it?

12 A. No, because I wasn't looking
13 for something like that. I just went
14 out to look and see if I could piece
15 together in my mind what was
16 transpiring.

17 Q. You've seen these oil slicks,
18 do you call an oil slick on this road
19 before; correct?

20 A. Uh-huh (yes).

21 Q. Would this have been dried or
22 would it have been wet?

23 A. Dried.

24 Q. So when you talk about oil?

25 A. It's more of a stain than a

1 liquid.

2 Q. The only liquid substance that
3 you saw on the day of the accident,
4 September 18, 2001, would have been
5 that hydraulic?

6 A. Right.

7 Q. And if there was any other
8 liquid in that area, you would have
9 noticed it because you looked?

10 A. (Indicates yes).

11 Q. Now, you said that the
12 hydraulic ---?

13 A. Well, let's stop a minute. You
14 said if there's any other --- besides
15 that hydraulic --- I wasn't paying any
16 attention. I saw the motorcycle track
17 on the other side of the oil slick of
18 where it had gone through ---.

19 Q. Oil or hydraulic?

20 A. Hydraulic, excuse me, hydraulic
21 oil, put it that way. I saw the
22 motorcycle tread on the other side of
23 the hydraulic oil going up the road
24 and I figured out from there or I
25 assumed from there that he had lost

1 control.

2 Q. Okay. My question to you was
3 that if there was any other liquid in
4 that area, you would have noticed it,
5 though, because you were looking in
6 that area?

7 A. I wouldn't have paid any
8 attention to any other liquid in that
9 area, other than because I was
10 interested not in the oil spills that
11 come up there because many, many cars
12 come up there, not in the oil --- I
13 don't want to say slicks, but the
14 stains from cars. I wouldn't have
15 been interested in that. I just saw
16 this liquid there and to me that said
17 ---.

18 Q. That's what I'm trying to get
19 at. Was there any other liquid there
20 other than that?

21 A. I don't recall of any.

22 Q. You don't recall any other
23 liquid other than the hydraulic ---

24 A. Liquid.

25 Q. --- liquid, all right. And I'm

1 saying that if this oil stain on the
2 roadway was there, it would have been
3 dried?

4 A. Right.

5 Q. Okay. And I believe you
6 testified that the hydraulic slick
7 looked fresh to you?

8 A. Yeah.

9 Q. Is that because it wasn't
10 dirty, it was still clear?

11 A. It was clear, yeah.

12 Q. Do these photographs, JM-2, 3
13 and 4 accurately depict the roadway as
14 it looked on the day of the accident?
15 Do they appear the same to you?

16 A. The angle and the location,
17 yeah, it doesn't change. It may have
18 been resurfaced since the accident, I
19 don't know.

20 Q. I understand that, but I'm
21 saying that the day of the accident,
22 did the roadway look like this, the
23 surface of the roadway with the ---?

24 A. With the exception, I'm not
25 going to say on the stain.

1 the Runk job entrance that day?

2 A. No.

3 Q. So anything you observed was up
4 100 yards said away from the Runk
5 entrance?

6 A. Right up there where the
7 accident took place.

8 Q. Mr. Leight has already gone
9 through and I think I understand the
10 distance, but just so we're positive,
11 the tire marks from the motorcycle
12 were past the hydraulic fluid?

13 A. They were on the upper side
14 towards where he went into the field.
15 You could see his tracks out of the
16 fluid.

17 Q. You referred to another
18 accident that happened to someone
19 going the other way. When did that
20 take place?

21 A. I don't remember.

22 Q. Was it before this accident?

23 A. Oh, yeah.

24 Q. Quite a long time?

25 A. Oh, yeah, several years before

1 where they go. I just sort of
2 surmised in my mind that they bring
3 coal to the sawmill electric plant,
4 but I don't know that for a fact.

5 Q. Okay. And you can get to
6 Shawville on Route 2024 going through
7 West Decatur?

8 A. Yeah, you go down and get on
9 322 and go right out 322 to
10 Clearfield.

11 Q. Also in response to some of the
12 other questioning, you were pretty
13 specific that you did not see tracks
14 in or running through the hydraulic
15 fluid, but you saw tracks after them?

16 A. Right, it's sort of like a
17 stamp. In other words, the tire tread
18 went threw the oil and it's just like
19 an ink pad and it left a trail after
20 it got out, but you didn't see the
21 tracks through the oil.

22 Q. How far would you estimate the
23 tracks ran after the hydraulic spill?

24 A. Well, where he went up in
25 there, I would say it was about 20

1 looking?

2 A. I can't tell you because I
3 can't distinguish the hydraulic fluid
4 from ---.

5 Q. I understand.

6 ATTORNEY BELL:

7 When were those taken,
8 Terry?

9 ATTORNEY NOBLE:

10 Off the record.

11 OFF RECORD DISCUSSION

12 ATTORNEY NOBLE:

13 That's all I would have
14 anybody else have anything.

15 ATTORNEY LEIGHT:

16 I have one follow up.

17 RE-EXAMINATION

18 BY ATTORNEY LEIGHT:

19 Q. Mr. Mock, on JM-4 it shows the
20 oil stain on the road?

21 A. Right.

22 Q. Is it your opinion based upon
23 what you observed the day of the
24 accident shortly thereafter and your
25 experience as a motorcycle rider, that

1 this stain did not contribute to the
2 accident in any way?

3 A. It wasn't slick. No, it didn't
4 contribute to the accident in my
5 opinion.

6 ATTORNEY LEIGHT:

7 I have no further
8 questions. Thank you.

9 ATTORNEY BELL:

10 I just have one.

11 RE-EXAMINATION

12 BY ATTORNEY BELL:

13 Q. You've already told us about
14 three times that you saw the tracks of
15 the motorcycle after it passed through
16 the fluid, did you see any motorcycle
17 tracks prior to it entering the fluid?

18 A. No.

19 ATTORNEY WILK:

20 I don't have anything
21 else.

22 ATTORNEY NOBLE:

23 Mr. Mock, I thank you
24 very much. I've got one other
25 thing to try and explain to

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

MARTIN R. SLIFKO, JR., an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02- 962 -CD

Type of Pleading:

**PRAECIPE TO WITHDRAW
MOTION FOR CONTINUANCE**

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

JAN 06 2005

William A. Shaw

Prothonotary/Clerk of Courts

W. A. Shaw

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation, et.al.

DEFENDANTS.

No. 02- 962 -CD

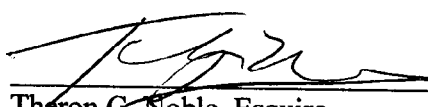
No. 03- 1240 -CD

PLAINTIFF'S CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 5th day of January, 2005, that I did mail a true and correct copy of Plaintiffs' PRAECIPE TO WITHDRAW MOTION FOR CONTINUANCE to the below indicated persons, being all Defendants' counsels of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire	Jeffrey A. Ramaley, Esquire	Robert Leight, Esquire	David F. Wilk, Esquire
Bell, Silberblatt & Wood	Zimmer Kuntz	Pietragallo, Bosick & Gordon	Marshall, Dennehey etal
P.O. Box 670	3300 U.S. Steel Tower	One Oxford Centre, 38th Floor	33 W. 3rd St., Suite 220
Clearfield, PA 16830	Pittsburgh, PA 15219-2702	Pittsburgh, PA 15219	Williamsport, PA 17701

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

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

CP

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

MARTIN R. SLIFKO, JR., an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation, et.al.

DEFENDANT.

No. 02- 962 -CD

Type of Pleading:

MOTION FOR CONTINUANCE

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 *no cc*
11/12/04
DEC 27 2004
William A. Shaw
Prothonotary/Clerk of Courts
20

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation, et.al.

DEFENDANTS.

No. 02-__962__-CD

ORDER

AND NOW this _____ day of _____, 20_____, argument
on Defendant Gary Baldwin's MOTION FOR SUMMARY JUDGMENT, currently scheduled
for January 12, 2005, at 10:30 A.M., is hereby CONTINUED until the _____ day of
_____, 2005, at _____:_____, ____M..

By the Court,

Fredric J. Ammerman, PJ

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation, et.al.

DEFENDANTS.

No. 02-__962__-CD

MOTION FOR CONTINUANCE

AND NOW COMES Martin R. Slifko, Jr., by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in Support of his MOTION FOR CONTINUANCE:

1. Defendant Gary Baldwin filed a MOTION FOR SUMMARY JUDGMENT.
2. Argument on said MOTION FOR SUMMARY JUDGMENT was scheduled for December 21, 2004.
3. Said Argument was continued for some unknown reason, although Plaintiff was ready willing and able to participate.
4. Argument has now been rescheduled for January 12, 2005 at 10:00.
5. Plaintiff's counsel is scheduled to be in Beaver County on January 12 at 10:30 and would be unable to attend argument on this matter.

WHEREFORE, Plaintiff requests that argument on Defendant Baldwin's MOTION FOR SUMMARY JUDGMENT be again rescheduled.

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
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)

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation, et.al.

DEFENDANTS.

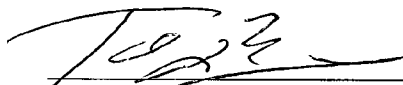
No. 02-__962__-CD

PLAINTIFF'S CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 24th day of December, 2004, that I did mail a true and correct copy of Plaintiffs' MOTION FOR CONTINUANCE to the below indicated persons, being all Defendants' counsels of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire	Jeffrey A. Ramaley, Esquire	Robert Leight, Esquire	David F. Wilk, Esquire
Bell, Silberblatt & Wood	Zimmer Kuntz	Pietragallo, Bosick & Gordon	Marshall, Dennehey etal
P.O. Box 670	3300 U.S. Steel Tower	One Oxford Centre, 38th Floor	33 W. 3rd St., Suite 220
Clearfield, PA 16830	Pittsburgh, PA 15219-2702	Pittsburgh, PA 15219	Williamsport, PA 17701

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 OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

MARTIN R. SLIFKO

vs.

GARY BALDWIN, al

MARTIN R. SLIFKO

vs.

JUNIOR COAL CONTRACTING, INC. :

:
:
: No. 03-1240-CD
:
:
:
: No. 02-962-CD /

ORDER

AND NOW, this 16th day of December, 2004, it is the ORDER of
the Court that argument on Attorney Ramaley's Motion for Summary Judgment in the
above-captioned matter is hereby rescheduled from December 21, 2004 to
Wednesday, January 12, 2005 at 10:30 A.M. in Courtroom No. 1, Clearfield
County Courthouse, Clearfield, PA.

FILED ^{EBK}
01:27:00
DEC 16 2004
1cc atty Noble
1cc atty Bee
1cc atty Ramaley
1cc atty Wright
1cc atty Will

William A. Shaw
Prothonotary

BY THE COURT:

Fredric J. Ammerman

FREDRIC J. AMMERMAN
President Judge

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

MARTIN R. SLIFKO, JR., an adult
individual

vs.

JUNIOR COAL CONTRACTING,
INC., a Pennsylvania corporation

:
:
:
: No. 02-962-CD
:
:

ORDER

AND NOW, this 17th day of November, 2004, it is the ORDER
of the Court that argument on Attorney Ramaley's Motion for Summary Judgment
filed in the above matter has been scheduled for the 21 day of
December, 2004, at 2:00 P.M, in Courtroom No. 1,
Clearfield County Courthouse, Clearfield, PA.

FILED
13:55
NOV 17 2004

5009 Memo
Re: Service
to Atty Ramaley

William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT:

Fredric J. Ammerman

FREDRIC J. AMMERMAN
President Judge

#18



OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

DAVID S. MEHOLICK
COURT ADMINISTRATOR

PHONE: (814) 765-2641
FAX: 1-814-765-7649

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

MEMO: To all parties filing Petitions/Motions in Clearfield County:

Please make note of the following:

Rule 206(f) The party who has obtained the issuance of a Rule to Show Cause shall forthwith serve a true and correct copy of both the Court Order entering the Rule and specifying a return date, and the underlying Petition or Motion, upon every other party to the proceeding in the manner prescribed by the Pennsylvania Rules of Civil Procedure (see PA. R.C.P. 440) and upon the Court Administrator.

Rule 206(g) The party who has obtained the issuance of a Rule to Show Cause shall file with the Prothonotary, within seven (7) days of the issuance of the Rule, an Affidavit of Service indicating the time, place and manner of service. Failure to comply with this provision may constitute sufficient basis for the Court to deny the prayer of the Petition or Motion.

***** Please note: This also includes service of scheduling orders obtained as the result of the filing of any pleading.**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

MARTIN R. SLIFKO, JR., an adult
individual,

Plaintiff,

v.

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, ALBERT GREEN
TRUCKING, INC., a Pennsylvania
corporation; and SENEX EXPLOSIVES,
INC., a Pennsylvania corporation,
Defendants.

No. 03-1240 - CD

.....
MARTIN R. SLIFKO, JR., an adult
individual,

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania corporation,
Defendant.

No. 02-962 CD

JURY TRIAL DEMANDED

CIVIL DIVISION

No. 03-1240-CD

No. 02-262-CD
Q

PRAECIPE FOR ARGUMENT

Filed on behalf of:

Defendant, GARY BALDWIN, t/d/b/a
GARY BALDWIN TRUCKING

Counsel of Record for this party:

JEFFREY A. RAMALEY, ESQUIRE

Pa. I.D. #41559

ZIMMER KUNZ, P.L.L.C.

Firm #920

3300 U. S. Steel Tower

Pittsburgh, PA 15219

(412) 281-8000

FILED

NOV 17 2004

William A. Shaw
Prothonotary/Clerk of Courts


PRAECIPE FOR ARGUMENT

TO THE PROTHONOTARY:

Kindly place Defendant's Motion for Summary Judgment on the next available argument list. Oral Argument is requested.

Respectfully submitted,

ZIMMER KUNZ, P.L.L.C.

A handwritten signature in black ink, consisting of a large, stylized 'J' and 'R' that are intertwined.

JEFFREY A. RAMALEY, ESQ.
Attorneys for Defendant,
GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, only

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within PRAECIPE FOR
ARGUMENT was forwarded to counsel below named by United States Mail on the 5th
day of Nov., 2004:

Thereon G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(Attorney for Plaintiff)

Richard A. Bell, Esquire
Bell, Silverblatt & Wood
318 E. Locust Street
P.O. Box 670
Clearfield, PA 16830
(Attorney for Defendant,
Junior Coal Contracting, Inc.)

David F. Wilk, Esquire
Marshall, Dennehey, Warner, Colemand
& Goggin
33 West Third Street, Suite 200
Williamsport, PA 17701
(Attorney for Defendant,
Senex Explosives, Inc..)

Robert R. Leight, Esquire
Pietragallo Bosick & Gordon
One Oxford Centre, 38th Floor
Pittsburgh, PA 16219
(Attorney for Defendant,
Albert Green Trucking.)

ZIMMER KUNZ, P.L.L.C.

By 

JEFFREY A. RAMALEY, ESQUIRE

CP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

MARTIN R. SLIFKO, JR., an adult
individual,

Plaintiff,

v.

CIVIL DIVISION

No. 03-1240-CD

No. 02-~~162~~-CD

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, ALBERT GREEN
TRUCKING, INC., a Pennsylvania
corporation; and SENEX EXPLOSIVES,
INC., a Pennsylvania corporation,
Defendants.

MOTION FOR SUMMARY JUDGMENT

Filed on behalf of:

Defendant, GARY BALDWIN, t/d/b/a
GARY BALDWIN TRUCKING

No. 03-1240 - CD

.....
MARTIN R. SLIFKO, JR., an adult
individual,

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania corporation,
Defendant.

Counsel of Record for this party:

JEFFREY A. RAMALEY, ESQUIRE

Pa. I.D. #41559

ZIMMER KUNZ, P.L.L.C.

Firm #920

3300 U. S. Steel Tower

Pittsburgh, PA 15219

(412) 281-8000

No. 02-962 CD

JURY TRIAL DEMANDED

FILED

NOV 17 2004

William A. Shaw
Prothonotary/Clerk of Courts

MOTION FOR SUMMARY JUDGMENT

Defendant, GARY BALDWIN, t/d/b/a GARY BALDWIN TRUCKING, by his attorneys, ZIMMER KUNZ, P.L.L.C., files the following Motion for Summary Judgment and, in support thereof, avers as follows:

1. The Plaintiff filed a Complaint in Civil Action against, inter alia, this Defendant, alleging that he suffered injuries and damages when a motorcycle he was operating on State Route 2024 in Decatur Township lost control allegedly as a result of an oil slick on the roadway. See Plaintiff's Complaint, paragraphs 5 through 9.

2. Plaintiff alleges, inter alia, that this Defendant's trucks traveled on the roadway in question before the accident and placed the oil on the roadway. Id.

3. Discovery has occurred in this case consisting of, inter alia, this Defendant providing Answers to Interrogatories and Responses to Request for Production of Documents to the Plaintiff. Further, Plaintiff has taken the deposition of this Defendant on June 8, 2004 along with the only other driver for this Defendant, Francis Rowles.

4. During the aforementioned depositions, it was confirmed that this Defendant and his driver drove trucks through the area in question before the accident in question. However, no evidence has been produced in discovery to date that either truck caused an oil slick to be placed on the roadway.

5. On June 8, 2004, the Plaintiff also took the deposition of an independent witness, James Mock. During Mr. Mock's deposition, he described the substance on the roadway as "hydraulic fluid." See excerpt from James Mock's deposition at pages 21 through 25. Copies are attached hereto and marked as Exhibit "A".

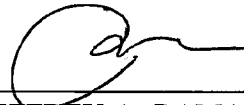
6. Discovery to date has failed to reveal that either of this Defendant's trucks deposited hydraulic fluid or any other fluid on the roadway in question.

7. No issue of material fact exists which would bar entry of summary judgment.

WHEREFORE, for the reasons set forth above, Defendant requests that summary judgment be entered in his behalf and against all other parties to this civil action.

Respectfully submitted,

ZIMMER KUNZ, P.L.L.C.



JEFFREY A. RAMALEY, ESQ.
Attorneys for Defendant,
GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, only

1 where the accident started, it was
2 down the hill probably 100 yards or a
3 little over. It's right on the curve,
4 on a curve there is a couple going up
5 the hill.

6 Q. What type --- what were the
7 weather conditions on the day of this
8 accident?

9 A. It was a nice day. It was
10 nice, it was a typical fall day. It
11 wasn't warm and it wasn't cold and it
12 wasn't raining, the sun was shining.

13 Q. Did you notice anything about
14 the road conditions on Route, I
15 believe what you said you think is
16 Route 2024?

17 A. Yeah. After the ambulance had
18 come and taken Martin and the police
19 left and everybody left, I thought to
20 myself, I am go to walk back over and
21 see --- you know, see what happened.
22 And I walked back over and there is a
23 curve coming off the top of the hill
24 before you hit the straightaway and I
25 walked back over to the curve and I

1 could see the trail where he went up
2 into the field. So on the curve, I
3 noticed there was a bunch of fluid on
4 the road and it wasn't motor oil, it
5 wasn't a lubricant. To me, it was a
6 hydraulic fluid. And I didn't know
7 what it came from, but I assumed it
8 came from a lift on a truck bed or on
9 a hydraulic system on the truck. And
10 then I could see where he had lost
11 control of it there and he was trying
12 to get it back under control and then
13 he went right up over a small bank
14 into the field. And he was going
15 across the field and I figured, when
16 that happened is when the motor picked
17 up like it was running and then it
18 slowed down and it didn't --- and when
19 he come across there, there was a
20 limb, probably about a four inch
21 diameter limb laying in the field that
22 had fallen off the tree and it was
23 right where he was coming. And I
24 think, myself, this is my opinion, I
25 think he hit the limb and it threw the

1 motorcycle and I think it hit the tree
2 and there was a --- it used to be a
3 mulberry tree there and it threw him
4 off the bike and he went in motion
5 from there. But I think he was
6 getting control of it at that
7 particular time and hit that limb and
8 that ended the whole situation.

9 Q. What makes you believe that it
10 was hydraulic fluid that you observed
11 on the road?

12 A. Because it was clear.

13 Q. Where on the road was this
14 located at?

15 A. You mean as the edge, the
16 middle or --- it was on the curve and
17 it was probably not quite halfway out,
18 not quite halfway out on the road. It
19 was on the --- coming up the hill, it
20 would be the right-hand lane.

21 Q. Just to make sure that I'm
22 understanding you correctly, it was
23 located on the road in the area where
24 there is a curve?

25 A. Right.

1 Q. And it was in the right-hand
2 lane?

3 A. It was in the right-hand lane
4 approximately in the middle of that
5 lane.

6 Q. Of the right-hand lane?

7 A. (Indicates yes).

8 Q. Can you in any manner, Mr.
9 Mock, describe how much fluid was on
10 the road?

11 A. No, I can't. I can't remember.
12 There was a pretty good splash of it
13 there. In fact, I think it was like
14 something had broken and it come up to
15 that spot in a pretty good spot, you
16 know, there was a pretty good spot of
17 it.

18 Q. How about as far as the length
19 of this spot?

20 A. The big spot, it was probably
21 about six to eight feet,
22 approximately.

23 Q. Now, did you say the big spot
24 of it was six, eight feet and there
25 was more than the big spot there?

1 A. No, it ---- there was a tail on
2 it that went like something came loose
3 and then it went up to this spot. And
4 I think the motorcycle got up and hit
5 that spot because this location where
6 that was, why, it was right on the
7 curve and I think it just started to
8 go out from under him.

9 Q. In relationship to the entrance
10 to the Runk job site where was the
11 spot of what you believed to be
12 hydraulic fluid?

13 A. I'd say that your somewhere in
14 the neighborhood --- I'm no good at
15 feet, but I would say somewhere in the
16 neighborhood of 100 yards --- it was
17 about 100 yards.

18 Q. 100 yards in which direction,
19 towards the top or the bottom ---

20 A. Towards the top.

21 Q. --- of the hill?

22 ATTORNEY BELL:

23 Excuse me. I'm not sure
24 where he's measuring from. Is
25 this from --- from what is 100

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

MARTIN R. SLIFKO, JR., an adult
individual,

Plaintiff,

v.

CIVIL DIVISION

No. 03-1240-CD

No. 02-262-CD

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, ALBERT GREEN
TRUCKING, INC., a Pennsylvania
corporation; and SENEX EXPLOSIVES,
INC., a Pennsylvania corporation,
Defendants.

ORDER OF COURT

No. 03-1240 - CD

.....
MARTIN R. SLIFKO, JR., an adult
individual,

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania corporation,
Defendant.

No. 02-962 CD

ORDER OF COURT

AND NOW this _____ day of _____, 2004, it is hereby

ORDERED that Summary Judgment is entered in favor of the Defendant, GARY BALDWIN
t/d/b/a GARY BALDWIN TRUCKING, and against all other parties to this civil action.

BY THE COURT:

_____. J.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within MOTION FOR SUMMARY JUDGMENT was forwarded to counsel below named by United States Mail on the 5th day of Nov, 2004:

Thereon G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(Attorney for Plaintiff)

Richard A. Bell, Esquire
Bell, Silverblatt & Wood
318 E. Locust Street
P.O. Box 670
Clearfield, PA 16830
(Attorney for Defendant,
Junior Coal Contracting, Inc.)

David F. Wilk, Esquire
Marshall, Dennehey, Warner, Coleman
& Goggin
33 West Third Street, Suite 200
Williamsport, PA 17701
(Attorney for Defendant,
Senex Explosives, Inc..)

Robert R. Leight, Esquire
Pietragallo Bosick & Gordon
One Oxford Centre, 38th Floor
Pittsburgh, PA 16219
(Attorney for Defendant,
Albert Green Trucking.)

ZIMMER KUNZ, P.L.L.C.

By 
JEFFREY A. RAMALEY, ESQUIRE

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation, et.al.

DEFENDANTS.

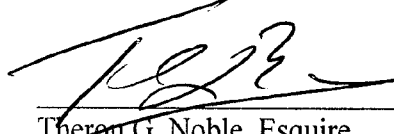
No. 02- 962 -CD

PLAINTIFF'S CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 21st day of May, 2004, that I did mail a true and correct copy of Plaintiffs' NOTICE OF DEPOSITION to the below indicated persons, being all Defendants' counsels of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire	Jeffrey A. Ramaley, Esquire	Robert Leight, Esquire	David F. Wilk, Esquire
Bell, Silberblatt & Wood	Zimmer Kuntz	Pietragallo, Bosick & Gordon	Marshall, Dennehey etal
P.O. Box 670	3300 U.S. Steel Tower	One Oxford Centre, 38th Floor	33 W. 3rd St., Suite 220
Clearfield, PA 16830	Pittsburgh, PA 15219-2702	Pittsburgh, PA 15219	Williamsport, PA 17701

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

FILED

MAY 24 2004

William A. Shaw
Prothonotary/Clerk of Courts

#15

3/1:18/24
MAY 24 2004

[Signature]

[Signature]

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

MARTIN R. SLIFKO, JR., an adult individual, :

Plaintiff, :

v. :

GARY BALDWIN, t/d/b/a GARY BALDWIN
TRUCKING, ALBERT GREEN TRUCKING,
INC., a Pennsylvania corporation; and SENEX
EXPLOSIVES, INC., a Pennsylvania
corporation, :

Defendants. :

No. 03-1240 CD

MARTIN R. SLIFKO, JR., an adult individual, :

Plaintiff, :

v. :

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania corporation, :

Defendant. :

No. 02-962 CD

ORDER OF COURT

AND NOW, this 23 day of February, 2004, IT IS HEREBY
ORDERED that the two civil actions listed above are hereby consolidated for the purpose of
discovery and trial at Docket No. 03-1240-CD.

BY THE COURT:

/s/ Fredric J. Ammerman

J.

FILED

FEB 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

original to 03-1240-CD

CP

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

MARTIN R. SLIFKO, JR., an adult individual,

Plaintiff,

v.

GARY BALDWIN, t/d/b/a GARY BALDWIN
TRUCKING, ALBERT GREEN TRUCKING,
INC., a Pennsylvania corporation; and SENEX
EXPLOSIVES, INC., a Pennsylvania
corporation,

Defendants.

No. 03-1240 CD

MARTIN R. SLIFKO, JR., an adult individual,

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania corporation,

Defendant.

No. 02-962 CD

ORDER OF COURT

AND NOW, this ____ day of _____, 2004, IT IS HEREBY

ORDERED that the two civil actions listed above are hereby consolidated for the purpose of
discovery and trial at Docket No. 03-1240-CD.

BY THE COURT:

J.

13

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

MARTIN R. SLIFKO, JR., an adult individual,

Plaintiff,

v.

GARY BALDWIN, t/d/b/a GARY BALDWIN
TRUCKING, ALBERT GREEN TRUCKING,
INC., a Pennsylvania corporation; and SENEX
EXPLOSIVES, INC., a Pennsylvania
corporation,

Defendants.

No. 03-1240 CD

FILED

JAN 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

MARTIN R. SLIFKO, JR., an adult individual,

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania corporation,

Defendant.

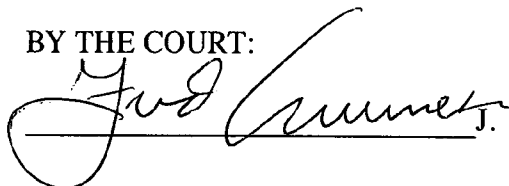
No. 02-962 CD

SCHEDULING ORDER

AND NOW, this 28 day of Jan., 2004, IT IS HEREBY

ORDERED that oral argument on the MOTION TO CONSOLIDATE filed by Defendant, Gary
Baldwin, t/d/b/a Gary Baldwin Trucking, shall be heard on the 28 day of February
2004 at 10:30 A.m.

BY THE COURT:



FILED ^{icc}
01/11/14/2014
JAN 28 2004
Amy Randley

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR., an adult
individual,

Plaintiff,

v.

GARY BALDWIN, t/d/b/a GARY
BALDWIN TRUCKING, ALBERT GREEN
TRUCKING, INC., a Pennsylvania
corporation; and SENEX EXPLOSIVES,
INC., a Pennsylvania corporation,
Defendants.

No. 03-1240 - CD

.....
MARTIN R. SLIFKO, JR., an adult
individual,

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania corporation,
Defendant.

No. 02-962 CD

JURY TRIAL DEMANDED

CIVIL DIVISION

No. 03-1240-CD

~~No. 02-262-CD~~

02-962-CD
MOTION TO CONSOLIDATE

Filed on behalf of:

Defendant, GARY BALDWIN, t/d/b/a
GARY BALDWIN TRUCKING

Counsel of Record for this party:

JEFFREY A. RAMALEY, ESQUIRE

Pa. I.D. #41559

JOSEPH F. BUTCHER, ESQUIRE

Pa. I.D. #86464

ZIMMER KUNZ

**PROFESSIONAL LIMITED LIABILITY
COMPANY**

Firm #920

3300 U. S. Steel Tower

Pittsburgh, PA 15219

(412) 281-8000

FILED

JAN 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

MARTIN R. SLIFKO, JR., an adult individual, :
 :
 Plaintiff, :
 :
 v. : No. 03-1240 CD
 :
 GARY BALDWIN, t/d/b/a GARY BALDWIN :
 TRUCKING, ALBERT GREEN TRUCKING, :
 INC., a Pennsylvania corporation; and SENEX :
 EXPLOSIVES, INC., a Pennsylvania :
 corporation, :
 :
 Defendants. :

MARTIN R. SLIFKO, JR., an adult individual, :
 :
 Plaintiff, :
 :
 v. : No. 02-962 CD
 :
 JUNIOR COAL CONTRACTING, INC., :
 a Pennsylvania corporation, :
 :
 Defendant. :

MOTION TO CONSOLIDATE

Defendant, GARY BALDWIN, t/d/b/a GARY BALDWIN TRUCKING, by his
attorneys, ZIMMER KUNZ, P.L.L.C. and files the following MOTION TO CONSOLIDATE
the two (2) Civil Actions listed above for the purposes of discovery and trial pursuant to Pa.
R.C.P. 213(a) and, in support thereof, avers as follows:

1. Plaintiff, Martin R. Slifko, Jr., at docket number 02-962 CD filed a civil
action against Defendant Junior Coal Contracting, Inc., a Pennsylvania corporation.

2. In the civil action brought by Plaintiff Slifko v. Defendant, Junior Coal Contracting, Inc., Plaintiff alleges that he sustained injuries and damages as a result of a motorcycle accident on September 8, 2001 where he allegedly passed through an oil slick on State Route 2024 in Decatur Township, Clearfield County, Pennsylvania.

3. Plaintiff alleges in his Complaint that the Defendant, Junior Coal Contracting, Inc. maintained a job site known as the "Runk Job" site located off of State route 2024 and that the Defendant allegedly caused oil to be on the road and failed to detect the oil slick and correct it or warn Plaintiff of the oil slick prior to his motorcycle accident.

4. Plaintiff, Martin R. Slifko, Jr. also filed an action against Defendants, Gary Baldwin, t/d/b/a Gary Baldwin Trucking, Albert Green Trucking, Inc., a Pennsylvania corporation and Senex Explosives, Inc., a Pennsylvania corporation at Docket No. 03-1240 CD.

5. In Plaintiff's Complaint he alleges that the Defendants, Gary Baldwin, t/d/b/a/ Gary Baldwin Trucking, Albert Green Trucking, Inc., a Pennsylvania corporation and Senex Explosives, Inc., a Pennsylvania corporation each maintained and operated vehicles which entered or left the "Runk" job site and allegedly placed oil or fuel on State Route 2024.

6. Defendant submits that the two civil actions listed above involved common questions of law and fact and arise from the same transaction or occurrence. Defendant further submits that a consolidation of the two civil actions listed above would avoid unnecessary cost and/or delay.

7. Consolidation of these two cases is permitted by the Pennsylvania Rule of Civil Procedure 213(a).

WHEREFORE, for the reasons set forth above, Defendant requests that the Court enter an Order consolidating the two civil actions listed above the purpose of discovery and trial.

Respectfully submitted,

ZIMMER KUNZ, P.L.L.C.

BY: 

Jeffrey A. Ramaley, Esquire
Pa. I.D. No. 41559
Joseph F. Butcher, Esquire
Pa. I.D. No. 86464
Attorneys for Gary Baldwin,
t/d/b/a Gary Baldwin Trucking
3300 U. S. Steel Tower
Pittsburgh, PA 15219

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within MOTION TO CONSOLIDATE, has been sent to all counsel of record, via U.S. First Class Mail, postage prepaid, this ____ day of _____, 2004, as follows:

Theron G. Noble, Esquire
Ferraccio & Noble
301 East Pine Street
Clearfield, PA 16830
Counsel for Plaintiff

Richard A. Bell, Esquire
Bell, Silverblatt & Wood
318 E. Locust Street
P. O. Box 670
Clearfield, PA 16830
Counsel for Junior Coal Contracting, Inc.

David F. Wilk, Esquire
Marshall, Dennehey, Warner, Coleman
& Goggin
33 West Third Street, Suite 200
Williamsport, PA 17701
Counsel for Senex Explosives, Inc.

Robert Leight, Esquire
Pietragallo, Bosick & Gordon
One Oxford Centre, 38th Floor
301 Grant Street
Pittsburgh, PA 15219
Counsel for Albert Green Trucking

~~ZIMMER KUNZ~~, P.L.L.C.

BY 

Jeffrey A. Ramaley, Esquire
Pa. I.D. No. 41559
Joseph F. Butcher, Esquire
Pa. I.D. No. 86464

FILED No CC

m/10:30
JAN 26 2004

Orig. filed to

William A. Shaw
Prothonotary/Clerk of Courts

E
K

03-1240-CD

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

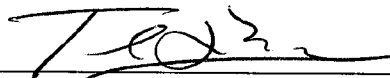
No. 02- 962 -CD

PLAINTIFF'S CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 10th day of March, 2003, that I did mail a true and correct copy of Plaintiffs' NOTICE OF DEPOSITION to the below indicated person, being Defendant's counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

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

FILED

MAR 11 2003
MAR 12 2003

William A. Shaw
Prothonetary

#12

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FILED

CIVIL ACTION

OCT 10 2002

MARTIN R. FLIFKO, JR., an adult
individual

William A. Shaw
Prothonotary

-vs-

No. 02 - 962 - CD

JUNIOR COAL CONTRACTING, INC.,
a Pennsylvania Corporation

ORDER

NOW, this 9th day of October, 2002, following argument into Defendant's Motion for Protective Order, it is the ORDER of this Court that with regards to Plaintiff's Interrogatory #2, said Motion shall be and is hereby dismissed. With regards to Plaintiff's Interrogatory #4, said Motion shall be and is hereby granted and Defendant shall respond thereto for the period of August 18, 2001 to September 18, 2001.

With regards to Plaintiffs' Request for Production of Documents #2, Defendant's Motion for Protective Order shall be and is hereby granted and the Defendant relieved from responding thereto. With regards to Request for Production of Documents #3, Defendant's Motion for Protective Order shall be and is hereby granted to the extent that Defendant shall only need to respond to the request for documents from the period of August 18, 2001, to September 18, 2001, and with regards to Defendant's Motion for Protective Order concerning Plaintiff's Request for Production of Documents #4, said Motion shall be and is hereby granted to the extent that Defendant need only respond for the period of August 18, to September 18, 2001.

By the Court,

President Judge

#11

FILED

X 0/3:27 ~~en~~
OCT 10 2002

1 cc Atty T. Noble
1 cc Atty Bell's office

William A. Shaw
Prothonotary

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

MARTIN R. SLIFKO, JR., an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02- 962 -CD

Type of Pleading:

**REPLY TO MOTION
FOR PROTECTIVE ORDER**

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

SEP 16 2002

m11:50/rocc
William A. Shaw
Prothonotary



#10

No. 02-962-CD

1. Admitted. By way of further response, said oil slick actually started and led from the Defendant's private road which connected to said private road.
2. Admitted.
3. The same is a legal conclusion for which no response is necessary. To the extent such a response is deemed necessary, it is DENIED that the requested information is overly broad or burdensome. In fact, all requests seek information which is in a very narrow time frame and likely to produce not only relevant but material evidence directly related to (i) whether the "alleged " oil slick was present and (ii) who was responsible for putting the oil on the road.

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

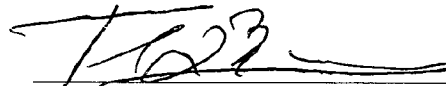
No. 02- 962 -CD

PLAINTIFF'S CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 14th day of September, 2002, that I did mail a true and correct copy of Plaintiffs' REPLY TO DEFENDANT'S MOTION FOR PROTECTIVE ORDER, to the below indicated person, being Defendant's counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

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
CIVIL DIVISION

MARTIN R. SLIFKO, JR., an adult individual
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

NO. 02-962-CD

Type of Pleading
AFFIDAVIT OF SERVICE

Filed on Behalf of:
Defendant

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED

SEP 12 2002

01/11:00/10 CC
William A. Shaw
Prothonotary

a
[Signature]

#9

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

MARTIN R. SLIFKO, JR., an adult individual,
Plaintiff

vs.

No. 02-962-CD

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

AFFIDAVIT OF SERVICE

I, Richard A. Bell, being duly sworn according to law, depose and say
that I am the Attorney for the Defendant in the above captioned case.

On September 11, 2002, I caused to be mailed to Theron G. Noble,
Esquire, attorney for Plaintiff, by regular mail a Certified Copy of a Motion For
Protective Order and Rule Returnable with reference to the above captioned case
addressed to:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

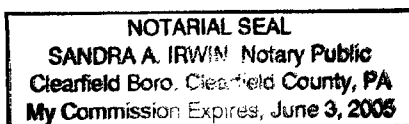
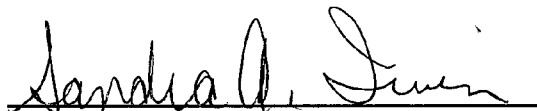
Copy of the covering letter is attached hereto.

BELL, SILBERBLATT & WOOD
BY



Richard A. Bell, Esquire
Attorney for Defendant

SWORN to and SUBSCRIBED before
me this 11th day of September
2002.



Law Office
BELL, SILBERBLATT & WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

e-mail: bswlaw@pennswoods.net

Writer's direct e-mail: rbell@pennswoods.net

RICHARD A. BELL
ANN B. WOOD
F. CORTEZ BELL, III

(814) 765-5537

Fax (814) 765-9730

PAUL SILBERBLATT 1954-1985
F. CORTEZ BELL, JR. 1954-1995(Ret)

OF COUNSEL:
DANIEL C. BELL

September 11, 2002

RE: MARTIN R. SLIFKO, JR., an
Adult individual, Plaintiff

Vs.

JUNIOR COAL CONTRACTING
INC., a Pennsylvania Corporation
Defendant

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

Dear Terry:

Enclosed for your file is a copy of the Order Of Court dated September 4, 2002, and signed by the Honorable John K. Reilly, Jr., with reference to the above matter. As you can see the response date set by the Court is September 24, 2002.

We apologize for the delay in forwarding the same to you as we just received this Order as it was misdelivered to one of the other attorneys in our office and just found its way to our desk this date.

Very truly yours,

BELL, SILBERBLATT & WOOD
BY



Richard A. Bell

RAB/sai
CC: Rockwood Casualty Ins., Co.
File No. 243436

<p>IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA. CIVIL DIVISION NO. 02-962-CD</p>	<p>MARTIN R. SLIFKO, JR., an adult individual, Plaintiff vs. JUNIOR COAL CONTRACTING, INC a Pennsylvania Corporation, Defendant</p>	<p>MOTION FOR PROTECTIVE ORDER</p>		<p>BELL, SILBERBLATT & WOOD ATTORNEYS AT LAW 318 EAST LOCUST STREET P. O. BOX 670 CLEARFIELD, PA. 16830</p>
---	---	--	--	---

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

William A. Shaw
Prothonotary

SEP 04 2002

FILED

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

MARTIN R. SLIFKO, JR., an adult individual,
Plaintiff

vs.

No. 02-962-CD

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

ORDER OF COURT

AND NOW this 4th day of September, 2002, upon consideration of the Motion For Protective Order filed by the Defendant, a Rule is issued upon the Plaintiff to show cause why the said Motion should not be granted. The Rule shall be returnable the 24 day of September, 2002 for filing a written response. Hearing or Argument, if necessary, shall be set following the return date of the Rule.

NOTICE

A Petition or Motion has been filed against you in Court. If you wish to defend against the claims set forth in the following pages, you must take action on or before September 24, 2002, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the matter set forth against you. You are warned that if you fail to do so the case may proceed without you and an order may be entered against you by the Court without further notice for relief requested by the petitioner or movant. You may lose 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
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641 Ext. 50-51

FILED

SEP 04 2002

0/3:00 / m
William A. Shaw
Prothonotary
1 CENT TO ATT

BY THE COURT

Judge

18

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

MARTIN R. SLIFKO, JR., an adult individual
Plaintiff

NO. 02-962-CD

vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

Type of Pleading
MOTION FOR PROTECTIVE
ORDER

Filed on Behalf of:
Defendant

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED

SEP 04 2002

01/2002/m

William A. Shaw
Prothonotary

no c/c

\$

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

MARTIN R. SLIFKO, JR., an adult individual,
Plaintiff

vs.

No. 02-962-CD

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

MOTION FOR PROTECTIVE ORDER

1. Your Petitioner is the Defendant in the above captioned lawsuit which is based upon injuries to the Plaintiff when his motor cycle on which he was riding slid in an alleged oil slick on a public road, and the Plaintiff has accused the Defendant for being responsible for that oil slick.

2. In connection with the lawsuit the Plaintiff has filed Discovery consisting of Interrogatories to the Defendant and Request for Production of Documents.

3. The date on which the Plaintiff was injured was September 18, 2001. The Defendant objects to Interrogatories 2, and 4 and Requests 2, 3, and 4 on the basis that they are unnecessarily burdensome to the Defendant, that they are not only asking for information that is not relevant, but would not lead to the discovery of relevant information. The Defendant believes that these Interrogatories and Requests are unnecessarily broad, and would subject persons with whom the Defendant does

business to investigations into matters that have no relationship to the lawsuit and would unnecessarily have an adverse effect on Defendant's business.

WHEREFORE, the Defendant respectfully requests that your Honorable Court Order the Plaintiff modify his Discovery as follows:

1. That Interrogatory 2 be limited to and including the date of the accident and not any dates following it.

2. Interrogatory 4 would be limited to any deliveries made up to and including September 18, 2001 the day of the accident. Further that it be limited to vehicles owned by the Defendant or deliveries of some material that would have possibly caused the alleged oil slick.

3. Request 2 that requests be limited only to those items in the file which are within the scope of Discovery as defined in the Pennsylvania Rules Of Civil Procedure, particularly PaRCP 4011.

4. That Request 3 be eliminated in its entirety because the information requested has no relationship to the lawsuit or its causes.

5. That Request 4 be limited to trucking activities by vehicles of the Defendant

and be limited to that taking place up to September 18, 2001, and not any later date.

The Defendant requests that his duty to answer the Interrogatories and Requests for Production of Documents be Stayed until this Motion is resolved.

Respectfully submitted,

BELL, SILBERBLATT & WOOD
BY

A handwritten signature in cursive script, reading "Richard A. Bell", is written over a horizontal line.

Richard A. Bell, Esquire
Attorney for Defendant

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

MARTIN R. SLIFKO, JR., an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02- 962 -CD

Type of Pleading:

VERIFICATION

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

(Signature)

AUG 21 2002

m11:30/NOCC
William A. Shaw
Prothonotary

67

Martin R. Slifko, Jr.
Martin R. Slifko, Jr., Plaintiff

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02-__962__-CD

PLAINTIFF'S CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 19th day of August, 2002, that I did mail a true and correct copy of Plaintiffs' VERIFICATION OF REPLY TO NEW MATTER, to the below indicated person, being Defendant's counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

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)

MARTIN R. SLIFKO, JR., an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02- 962 -CD

Type of Pleading:

NOTICE OF SERVICE
(as to Discovery Materials)

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

#6

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

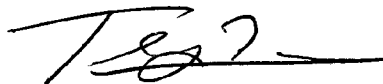
No. 02- 962 -CD

PLAINTIFF'S NOTICE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 11th day of August, 2002, that I did propound Plaintiffs' FIRST SET OF DISCOVERY MATERIALS, on the below indicated person, being Defendant's counsel of record, via United States Mail, postage prepaid, first class, in accordance with Pa.R.Civ.P. 4000, et.seq.:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

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)

MARTIN R. SLIFKO, JR., an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02- 962 -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

AUG 13 2002

m / 1:15 / ms
William A. Shaw
Prothonotary

no c/c

E
RET
#3

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

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02- 962 -CD

PLAINTIFF'S REPLY TO NEW MATTER

AND NOW, comes the Plaintiff, Martin R. Slifko, Jr., by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows as his REPLY TO NEW MATTER:

27. The same is a legal conclusion for which no response is necessary.

28. It is strictly DENIED that Plaintiff negligently operated his motorcycle at the time of the accident, specifically:

(a) Plaintiff operated his motorcycle at all relevant and material times at a safe speed and within the posted speed;

(b) Plaintiff kept a proper lookout although he did not observe the oil slick which was not visible from a distance given the nature of an oil slick;

(c) Plaintiff did not have a reasonable opportunity to avoid the oil slick;

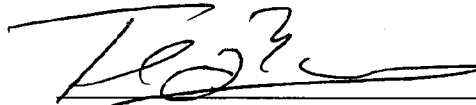
(d) Plaintiff did not have a reasonable opportunity to keep his motorcycle under control; and

(e) Plaintiff kept his motorcycle in good order and repair.

Strict proof of the same is demanded at time of trial.

WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against defendant, in an amount in excess of Twenty-Five Thousand Dollars, together with costs and interest.

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
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)

MARTIN R. SLIFKO, JR.,
an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

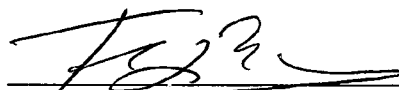
No. 02- 962 -CD

PLAINTIFF'S CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 11th day of August, 2002, that I did mail a true and correct copy of Plaintiffs' REPLY TO NEW MATTER, to the below indicated person, being Defendant's counsel of record, via United States Mail, postage prepaid, first class:

Richard A. Bell, Esquire
Bell, Silberblatt & Wood
P.O. Box 670
Clearfield, PA 16830

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

Sheriff Docket # 12660

SLIFKO, MARTIN R. JR.

02-962-CD

VS.

JUNIOR COAL CONTRACTING, INC.

COMPLAINT

SHERIFF RETURNS

NOW JUNE 27, 2002 AT 12:00 NOON DST SERVED THE WITHIN COMPLAINT ON JUNIOR COAL COMPANY, INC., DEFENDANT AT EMPLOYMENT, RR#3 BOX 225A, PHILIPSBURG, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDNIG TO GEORGE COWFER, PRES. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY:MCCLEARY/NEVLING

Return Costs

Cost	Description
28.74	SHFF. HAWKINS PAID BY: ATTY.
10.00	SURCHARGE PAID BY: ATTY.

Sworn to Before Me This

12th Day Of June 2002

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

So Answers,

Chester A. Hawkins
by *Marilyn Harris*
Chester A. Hawkins
Sheriff

FILED

AUG 12 2002
8/4:00
William A. Shaw
Prothonotary

#4

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA. CIVIL DIVISION NO. 02-962-CD	MARTIN R. SLIFKO, JR., an adult individual, Plaintiff vs. JUNIOR COAL CONTRACTING, INC. a Pennsylvania Corporation, Defendant	ANSWER AND NEW MATTER	BELL, SILBERBLATT & WOOD ATTORNEYS AT LAW 318 EAST LOCUST STREET P. O. BOX 670 CLEARFIELD, PA. 16830
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

MARTIN R. SLIFKO, JR., an adult individual
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

NO. 02-962-CD

Type of Pleading
ANSWER AND NEW MATTER

Filed on Behalf of:
Defendant

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED

AUG 06 2002

012:28/10<<
William A. Shaw
Prothonotary

#3

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

MARTIN R. SLIFKO, JR., an adult individual,
Plaintiff

vs.

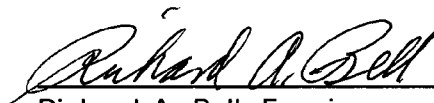
No. 02-962-CD

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

NOTICE TO PLEAD

TO: MARTIN R. SLIFKO, JR., Plaintiff
c/o Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830

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


Richard A. Bell, Esquire
Attorney for Defendant

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

MARTIN R. SLIFKO, JR., an adult individual,
Plaintiff

vs.

No. 02-962-CD

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

ANSWER AND NEW MATTER

AND NOW comes the Defendant Junior Coal Contracting, Inc., by its attorney Richard A. Bell, Esquire of Bell, Silberblatt & Wood and files the following Answer and New Matter to the Complaint of the Plaintiff as follows:

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted.

6. After reasonable investigation the Defendant is without sufficient information to form a belief as to the truth of the facts averred and the same are therefore denied and strict proof demanded.

7. It is denied that an oil slick led from the Defendant's job site as plead.

8. After reasonable investigation the Defendant is without sufficient information to form a belief as to the truth of the facts averred and the same are therefore denied and strict proof demanded.

9. After reasonable investigation the Defendant is without sufficient information to form a belief as to the truth of the facts averred and the same are therefore denied and strict proof demanded.

10. After reasonable investigation the Defendant is without sufficient information to form a belief as to the truth of the facts averred and the same are therefore denied and strict proof demanded.

11. After reasonable investigation the Defendant is without sufficient information to form a belief as to the truth of the facts averred and the same are therefore denied and strict proof demanded.

12. After reasonable investigation the Defendant is without sufficient information to form a belief as to the truth of the facts averred and the same are therefore denied and strict proof demanded.

13. After reasonable investigation the Defendant is without sufficient information to form a belief as to the truth of the facts averred and the same are therefore denied and strict proof demanded.

14. After reasonable investigation the Defendant is without sufficient information to form a belief as to the truth of the facts averred and the same are therefore denied and strict proof demanded.

15. After reasonable investigation the Defendant is without sufficient information to form a belief as to the truth of the facts averred and the same are therefore denied and strict proof demanded.

16. After reasonable investigation the Defendant is without sufficient information to form a belief as to the truth of the facts averred and the same are therefore denied and strict proof demanded.

17. After reasonable investigation the Defendant is without sufficient information to form a belief as to the truth of the facts averred and the same are

therefore denied and strict proof demanded.

18. After reasonable investigation the Defendant is without sufficient information to form a belief as to the truth of the facts averred and the same are therefore denied and strict proof demanded.

19. After reasonable investigation the Defendant is without sufficient information to form a belief as to the truth of the facts averred and the same are therefore denied and strict proof demanded.

20. 15. The answers to paragraphs one (1) through nineteen (19) are incorporated herein.

21. It is denied that the Defendant under the circumstances of this case owed a duty of care to Mr. Slifko as he rode along a public road.

22. It is denied that the Defendant breached any duty of care owed to Mr. Slifko and the subparagraphs are denied as follows:

(a). It is specifically denied that any agents, servants or employees operating any vehicles belonging to the Defendant placed the oil or fuel on State Route 2024.

(b). It is denied that the business operations of the Defendant created any dangerous condition to anybody using the highway as alleged.

(c). It is denied that an oil slick existed, it is further denied that if it did exist that it was caused by the business operations of the Defendant and it is further denied that the Defendant had any duty to correct any dangerous conditions of an oil slick.

(d). The Defendant had no knowledge of an oil slick or any other dangerous condition on the public road in the proximity of its job site and therefore had no duty to warn Mr. Slifko or anyone else of a dangerous condition which either did not exist or of which the Defendant had no knowledge.

23. It is denied that any injuries or damages suffered by Mr. Slifko were the result of any negligence on the part of the Defendant and it is denied that the Defendant was guilty of any negligence.

24. The Defendant is without knowledge as to any damage to personal property of Mr. Slifko, but specifically denies that if such damage existed that the Defendant is in anyway responsible for it.

25. Admitted.

26. Admitted.

NEW MATTER

In further response to the Complaint of the Plaintiff, the Defendant alleges the following New Matter:

27. The Defendant pleads the provisions of the Comparative Negligence Statute.

28. The Plaintiff was willfully and wantonly in the following particulars:

(a). The Plaintiff was driving his motorcycle too fast for the conditions then and there existing.

(b). The Plaintiff failed to keep a proper lookout on the highway and if any oil slick existed the Plaintiff failed to observe it.

(c). If any oil slick existed on the highway, the Plaintiff failed to avoid riding through the oil slick.

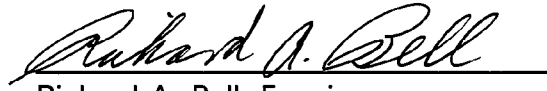
(d). The Plaintiff failed to control his motorcycle so as to avoid the accident as alleged.

(e). The Plaintiff failed to maintain his motorcycle in a

condition which would have allowed him to maintain control
and avoid the alleged oil slick, and further avoid the
accident as alleged.

WHEREFORE, the Defendant respectfully requests that the Complaint of the
Plaintiff be dismissed.

BELL, SILBERBLATT & WOOD
BY

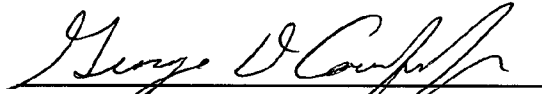

Richard A. Bell, Esquire

VERIFICATION

I, George D. Cowfer, Jr., as President of Junior Coal Contracting, Inc., state that the statements in the within ANSWER AND NEW MATTER are true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsifications to authorities.

JUNIOR COAL CONTRACTING, INC.
By

Dated: Aug 1, 2002


George D. Cowfer, Jr. President

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

MARTIN R. SLIFKO, JR., an adult individual,
Plaintiff

vs.

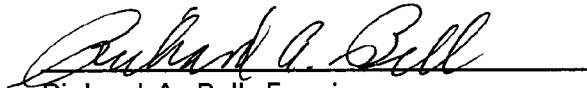
No. 02-962-CD

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of my ANSWER & NEW MATTER entered on behalf
of Junior Coal Contracting, Inc., in the above matter was mailed the 6th
day of Aug, 2002, by regular mail postage prepaid at the post
office in Clearfield, PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830


Richard A. Bell, Esquire
Attorney for Defendant

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
CIVIL DIVISION

MARTIN R. SLIFKO, JR., an
adult individual, Plaintiff

vs.

JUNIOR COAL CONTRACTING,
INC., a Pennsylvania
Corporation,
Defendant

APPEARANCE

FILED

JUL 10 2002

William A. Shaw
Prothonotary

BELL, SILBERBLATT & WOOD
ATTORNEYS AT LAW
318 EAST LOCUST STREET
P. O. BOX 670
CLEARFIELD, PA. 16830

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

MARTIN R. SLIFKO, JR., an adult individual
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

NO. 02-962-CD

Type of Pleading
APPEARANCE

Filed on Behalf of:
Defendant

Counsel of Record for
this Party:

Richard A. Bell, Esquire
PA I.D. #06808
BELL, SILBERBLATT &
WOOD
318 East Locust Street
P.O. Box 670
Clearfield, PA 16830

(814) 765-5537

FILED

JUL 10 2002

William A. Shaw
Prothonotary

22

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

MARTIN R. SLIFKO, JR., an adult individual
Plaintiff

NO. 02-962-CD

vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

PRAECIPE FOR APPEARANCE

To William A. Shaw, Prothonotary:

Please enter my Appearance in the above matter on behalf of the above named
Defendant.

BELL, SILBERBLATT & WOOD
BY

Dated:

July 9, 2002


RICHARD A. BELL, ESQUIRE

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

MARTIN R. SLIFKO, JR., an adult individual
Plaintiff

NO. 02-962-CD

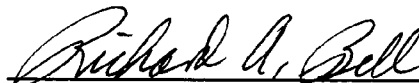
vs.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,
Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of my Appearance entered on behalf of Junior Coal Contracting, Inc., in the above matter was mailed the 10th day of July, 2002, by regular mail postage prepaid at the post office in Clearfield, PA 16830 to the following:

Theron G. Noble, Esquire
FERRARACCIO & NOBLE
301 East Pine Street
Clearfield, PA 16830


Richard A. Bell, Esquire
Attorney for Defendant

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

MARTIN R. SLIFKO, JR., an adult individual,

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a
Pennsylvania Corporation,

DEFENDANT.

No. 02- 962 -CD

Type of Pleading:

CIVIL COMPLAINT

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

JUN 17 2002

William A. Shaw
Prothonotary

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

No. 02-_____ -CD

3. That Defendant is in the business of mining and hauling coal.
4. That Defendant, as part of its business, does maintain a job site, known as the “Runk Job“, located off of State Route 2024, in Decatur Township, Clearfield County, Pennsylvania.
5. That, upon information and belief, the only reasonable ingress and egress to and from the “Runk Job” is via an entrance to a private road which intersects with the aforementioned State

Route 2024.

6. That on September 18, 2001, Mr. Slifko was taking a leisurely ride and safely operating his motorcycle in a westerly direction along State Route 2024, approximately 1.5 miles to the east of Decatur Township, Clearfield County, Pennsylvania, in the vicinity of the entranceway to the "Runk Job".

7. That a substance, best described as an oil slick, leading from the aforementioned entranceway onto State Route 2024, was on the west bound lane of State Route 2024.

8. That as he passed through the oil slick Mr. Slifko did start to loose control of his motorcycle and shortly thereafter it left the roadway, traveling through a grassy area, throwing Mr. Slifko from the motorcycle.

9. That as a result of the aforementioned accident, Mr. Slifko did suffer numerous injuries to his person, including, but not limited to multiple contusions, segmental fracture of the left clavicle and severe dislocated fracture of the right elbow.

10. That as a result of the aforementioned injuries, Mr. Slifko was taken to the Philipsburg Hospital where he was treated, which included surgery to repair said fractures.

11. That in addition to the hospitalization, Mr. Slifko did receive other medical care which included physical therapy.

12. That Mr. Slifko remains under the care of Dr. Rodolfo S. Polintan, the orthopedic surgeon who performed the surgery.

13. It is believed and therefore averred that Mr. Slifko will need an additional surgery later this year to remove some of the metal rods placed in him during the aforementioned surgery and will again undergo physical therapy following said surgery.

14. That Mr. Slifko's medical bills for these treatments are expected to approach \$100,000, in an amount to be more fully and accurately determined at time of trial for past and future treatment.

15. That Mr. Slifko also missed work from the date of the accident until January 3rd, suffering an approximate loss of income in the amount of \$10,000 in an amount to be more fully determined at time of trial.

16. That although he is recovering, Mr. Slifko did suffer severe pain from these injuries and still suffers significant pain at different times and should be compensated in an amount to be determined at time of trial for such pain.

17. That Mr. Slifko although improving, still is not able to enjoy life in the same capacity as before the accident and should be compensated for his loss of enjoyment of life in an amount to be determined at time of trial.

18. That Mr. Slifko has also suffered scarring and should be compensated for the same in an amount to be determined at time of trial.

19. That while he was initially recuperating from these injuries, Mr. Slifko needed tremendous assistance with his day to day living needs which required the care and attention of his parents whom should be compensated in an amount to be determined at time of trial.

Count I: Negligence

20. That the averments of paragraphs 1 - 19 inclusive, are hereby incorporated as if again fully set forth at length.

21. That Defendant owed Mr. Slifko a duty of care as a person on the highway, roadway or traffic ways of this Commonwealth.

22. That Defendant breached this duty of care owed to Mr. Slifko in that, upon information and belief, Defendant was negligent as follows:

A. Its agent, servants or employees operating trucks or other equipment placed the aforementioned oil or fuel on State Route 2024;

B. It failed to detect that its business operations caused a dangerous condition to others, including Mr. Slifko;

C. It failed to correct the dangerous condition of an oil slick its business operations caused on State Route 2024 until after Mr. Slifko's accident; and/or

D. It failed to warn Mr. Slifko, and others, of the dangerous condition.

23. That the aforementioned injuries and damages suffered by Mr. Slifko are a direct and proximate cause of the Defendant's aforementioned negligent conduct.

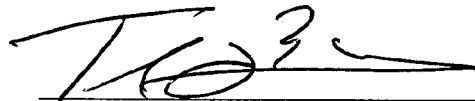
24. That associated with this incident, Mr. Slifko did also suffer damage to some personal property for which he should be compensated at time of trial in an amount to be determined.

Miscellaneous

- 25. That venue is proper.
- 26. That jurisdiction is proper.

WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against defendant, in an amount in excess of Twenty-Five Thousand Dollars, together with costs and interest.

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

No. 02-_____ -CD

Mart R Slifko Jr
Martin R. Slifko, Jr., Plaintiff

FILED

011:04-24
JUN 17 2002

Att'y Noble
Att'y p.c. 80.00

W. William A. Shaw
Prothonotary

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA
RULE OF APPELLATE PROCEDURE 1931(c)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the Court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

Martin R. Slifko, Jr.

VS.

Junior Coal Contracting, Inc.

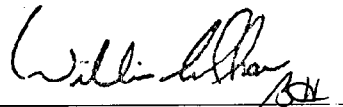
02-962-CD

2156 WPA 2007

In compliance with Pa. R.A.P. 1931 (c).

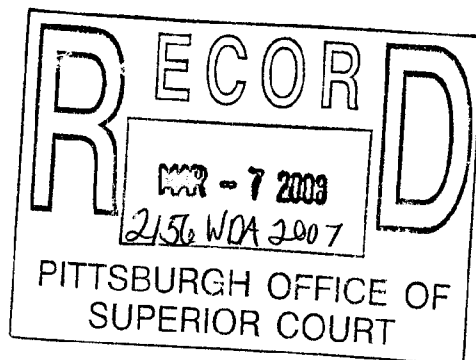
The documents comprising the record have been numbered from No. 58 to 102, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is March 6, 2008.



William A. Shaw
Prothonotary/Clerk of Courts

(seal)



Date: 3/6/2008
Time: 01:46 PM
Page 1 of 1

Jefferson County Court of Common Pleas
ROA Report
Case: 2002-00962-CD

User: BHUDSON

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

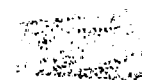
Civil Other

Date	Selected Items	Judge
2/7/2008	Letter to Superior Court, Re: Appeal mailed February 7, 2008.	Fredric Joseph Ammerman
2/13/2008	Certificate of Contents, This 7th day of Feb., 2008, Prothonotary of Clfd. Co. does certify that attached is the original record of the case currently on appeal. Case received by Superior Court on Feb. 11, 2008. No CC	Fredric Joseph Ammerman
3/6/2008	Transcript of Proceedings, Civil Jury Trial, Day 1, before Honorable Fredric J. Ammerman, P.J., October 22, 2008, 9:07 a.m., filed.	Fredric Joseph Ammerman
	Excerpt Transcript of Proceedings, Civil Jury Trial, Day II, held before the Honorable Fredric J. Ammerman, P.J., October 23, 2007, filed.	Fredric Joseph Ammerman
	March 6, 2008, Mailed supplement to Appeal to Superior Court.	Fredric Joseph Ammerman
	March 6, 2008, Letters, Re: Notification of mailing appeal mailed to Theron G. Noble, Esq. and Richard A. Bell, Esq. with certified copies of docket sheet and Document Listing required by Pa.R.A.P. 1931(c).	

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

MAR 06 2008

Attest.



William L. Shaw
Prothonotary/
Clerk of Courts

Date: 3/6/2008

Time: 01:30 PM

Page 1 of 5

Warfield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
6/17/2002	Filing: Civil Complaint Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1844027 Dated: 06/17/2002 Amount: \$80.00 (Check) Four CC Attorney Noble	No Judge
7/10/2002	Praecipe For Appearance on behalf of Defendant, JUNIOR COAL CONTRACTING, INC. filed by s/Richard A. Bell, Esquire no cc	No Judge
8/6/2002	Answer and New Matter. Filed by s/Richard A. Bell, Esq. Verification s/George D. Cowfer, Jr., President Certificate of Service no cc	No Judge
8/12/2002	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
8/13/2002	Plaintiff's Reply To New Matter. Filed by s/Theron G. Noble, Esq. Certificate of Service no cc	No Judge
	Plaintiff's Notice of Service of Plaintiffs' FIRST SET OF DISCOVERY MATERIALS upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esq.	No Judge
8/21/2002	Filing: Verification s/ Plaintiff and Certificate of Service for Reply to New Matter. No cc.	No Judge
9/4/2002	Motion For Protective ORDER, filed by Atty. Bell no Cert. copies ORDER, filed one cert. to Atty. Bell AND NOW, this 4th day of September, 2002, Rule returnable the 24th day of September, 2002 for filing written response.	John K. Reilly Jr. John K. Reilly Jr.
9/12/2002	Affidavit of Service, Motion For Protective Order and Rule Returnable upon THERON G. NOBLE, ESQ. s/Richard A. Bell, Esquire no cc	John K. Reilly Jr.
9/16/2002	Reply To Motion For Protective Order. filed by s/Theron G. Noble, Esq. Certificate of Service no cc	John K. Reilly Jr.
10/10/2002	ORDER: NOW, this 9th day of October, 2002, following arguments regarding Motions. s/JKR One CC to Atty. Noble. One CC Atty. Bell.	John K. Reilly Jr.
3/12/2003	Plaintiff's Certificate Of Service, Notice of Deposition upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esquire no cc	John K. Reilly Jr.
1/26/2004	Motion To Consolidate. filed by, s/Illegible Signature Cert of Svc no cc Orig. filed to 03-1240-CD	John K. Reilly Jr.
1/28/2004	Scheduling ORDER: AND NOW, this 28th day of Jan. 2004, it is hereby Ordered that oral argument on the Motion to Consolidate filed by Defendant, shall be heard on Feb. 23, 2004. S/FJA 1 CC to Atty. Ramaley	Fredric Joseph Ammerman
2/23/2004	ORDER OF COURT, AND NOW, this 23rd day of February, 2004, IT IS HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the purpose of discovery and trial to Docket No. 03-1240-CD. by the Court, s/FJA, P.J.	Fredric Joseph Ammerman
5/24/2004	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition, upon: Richard A. Bell, Esq., Jeffrey A. Ramaley, Esq., Robert Leight, Esq. and David F. Wilk, Esq. filed by, s/Theron G. Noble, Esquire no cc	Fredric Joseph Ammerman
11/17/2004	Motion for Summary Judgment, filed by s/Jeffrey A. Ramaley, Esq. No CC	Fredric Joseph Ammerman
	Praecipe for Argument, filed by s/Jeffrey A. Ramaley, Esq. No CC	Fredric Joseph Ammerman
	ORDER, filed 5 cert. & memo to Atty. Ramaley	Fredric Joseph Ammerman
	ORDER of Court that Atty. Ramaley's Motion for Summary Judgment has been scheduled fo the 21st day of December, 2004.	Fredric Joseph Ammerman

Date: 3/6/2008

Time: 01:30 PM

Page 2 of 5



Fairfield County Court of Common Pleas

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

User: BHUDSON

Civil Other

Date	Selected Items	Judge
12/16/2004	Order, AND NOW, this 16th day of December, 2004, Order that argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled from December 21, 2004 to January 12, 2005 at 10:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attys: Noble, Bell, Ramaley, Leight, Walk	Fredric Joseph Ammerman
12/27/2004	Motion for Continuance, filed by s/Theron G. Noble, Esq. No CC	Fredric Joseph Ammerman
1/6/2005	Praecipe To Withdraw Motion For Continuance, filed by s/ Theron G. Noble. No CC	Fredric Joseph Ammerman
5/5/2005	Defendant Junior Coal Contracting, Inc.'s Motion For Summary Judgment, filed by s/Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
5/9/2005	Rule To Show Cause, AND NOW, this 6th day of May, 2005 upon consideration of the Motion for Summary Judgment filed by the Defendant Junior Coal Contracting , a Rule is issued upon plaintiff. Rule shall be returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. 1CC Atty. Bell	Fredric Joseph Ammerman
5/11/2005	Original Transcript, March 15, 2005 Deposition of Cprl Thomas E. Josephson, PSP, filed.	Fredric Joseph Ammerman
	Transcript of Deposition of James Mock, June 8, 2005. Orig. to 03-1240-CD	Fredric Joseph Ammerman
	Answer To Defendant Junior Coal Contracting's Inc., Motion for Summary Judgment, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
5/17/2005	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections--Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment, filed by s/Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
5/19/2005	Order, AND NOW, this 19th day of May, 2005, it is the ORDER of the Court that argument on Attorney Bell's Preliminary Objections filed in the above matter has been scheduled for the 23rd day of May, 2005, at 11:00 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty Bell w/service memo	Fredric Joseph Ammerman
	Certificate of Service, Copy of Order Dated May 19, 2005 with regard to our Preliminary Objections in the above matter served upon Theron G. Noble, Esq., David F. Wilk, Esq., Jeffrey A. Ramaley, Esq., Robert R. Leight, Esq. Filed By Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
5/20/2005	Order, AND NOW, this 10th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J.	Fredric Joseph Ammerman
	Order, AND NOW, this 17th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J. Five CC Atty Ramaley	Fredric Joseph Ammerman

Date: 3/6/2008

Time: 01:30 PM

Page 3 of 5



ROA Report

User: BHUDSON

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
8/24/2005	Opinion and Order. (see original for opinion). Order: NOW, this 23rd day of August, 2005, following review of the record, oral argument, and submission of briefs, it is the Order of this Court as follows: The Motion for Summary Judgment filed on behalf of Defendant, Junior Coal Contracting, Inc., is hereby Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Noble, J. Ramaley, R. Leight, D. Wilk, R. Bell, and D. Mikesell. Original filed to 03-1240-CD	Fredric Joseph Ammerman
9/16/2005	Filing: Appeal to High Court Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1908398 Dated: 09/16/2005 Amount: \$45.00 (Check)	Fredric Joseph Ammerman
	Notice of Appeal, filed by s/ Theron G. Noble, Esquire. 1CC Sup. Crt. w/ck	Fredric Joseph Ammerman
9/20/2005	Order, NOW, this 20th day of Sept., 2005, the court having been notified of Appeal to the Superior Court of Pennsylvania, it is the Order of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, Ramaley, Leight, Wilk, R. Bell	Fredric Joseph Ammerman
9/21/2005	Appeal Docket Sheet, filed.	Fredric Joseph Ammerman
9/28/2005	Concise Statement of Matters Complained of On Appeal, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/27/2005	Appeal mailed to Superior Court October 27, 2005.	Fredric Joseph Ammerman
	Certified Mail Receipt, sent to Superior Court of Pa., Prothonotary on 10/27/2005.	Fredric Joseph Ammerman
10/31/2005	Domestic Return Receipt, received Superior Court of Pa, in re: Appeal.	Fredric Joseph Ammerman
11/15/2006	Appeal from the Order entered August 23, 2005, in the Court of Common Pleas of Clearfield County, Civil Division, at No. 02-962-CD: Order reversed. Case remanded. Jurisdiction relinquished. (docket sheet corrected 12-13-07)	Fredric Joseph Ammerman
	Certificate of Contents of Remanded Record and Notice of Remand, Record remanded Nov. 13, 2006. Copy to Superior Court.	Fredric Joseph Ammerman
3/30/2007	Praeipce to List for Trial, Re: Jury Trial, filed by Atty. Noble no cert. copies.	Fredric Joseph Ammerman
7/27/2007	Order, this 27th day of July, 2007, it is Ordered that Pre-Trial Conference shall be held on the 24th day of August, 2007, in Chambers at 9:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
8/9/2007	Motion in Limine, filed by s/ Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
8/27/2007	Order, this 24th day of August, 2007, Jury Selection will be held on August 28, 2007 at 9:00 a.m. in Courtroom 1. Jury Trial is scheduled for Monday, Tuesday and Wednesday, Oct. 22nd, 23rd and 24th, 2007, commencing at 9:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Noble, Bell	Fredric Joseph Ammerman
9/4/2007	Motion In Limine, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman

Date: 3/6/2008

Time: 01:30 PM

Page 4 of 5

Charfield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
9/4/2007	Certificate of Service, filed. That a copy of my Letter Brief filed on behalf of Junior Coal Contracting Inc., in the above matter was mailed on the 31st day of August 2007 to Theron G. Noble Esq., filed by s/ Richard A. Bell Esq. No CC.	Fredric Joseph Ammerman
9/5/2007	Order, this 4th day of Sept., 2007, it is Ordered that oral argument on all outstanding Petitions and Motions in Limine have been scheduled for Sept. 17, 2007 at 1:30 p.m. in Courtroom 3. Answers to said Motions shall be filed on or before Sept. 14, 2007. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
9/6/2007	Order, this 5th day of Sept., 2007, upon consideration of the Motion In Limine filed by the Defendant, it is Ordered that: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. R. Bell	Fredric Joseph Ammerman
9/20/2007	Order, this 18th day of Sept., 2007, following argument on the Plaintiff's Motion in Limine, it is Ordered: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, Bell	Fredric Joseph Ammerman
10/23/2007	Verdict, filed NOW, this 23rd day of October, 2007, we the Jurors empanelled in the above entitled case, find as follows: Do you find that the Defendant, Junior Coal Contracting, Inc. was negligent? NO. s/ Michelle Cristini, Foreperson.	Fredric Joseph Ammerman
10/29/2007	Motion For Post-Trial Relief, filed by s/Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/31/2007	Order, this 31st day of Oct., 2007, Motion for Post-Trial Relief is Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: R. Bell, Noble	Fredric Joseph Ammerman
11/9/2007	Praecipe for Entry of Judgment, filed by Atty. Bell Enter Judgment in favor of the Defendant and against the Plaintiff on the verdict of the jury entered October 23, 2007. Notice of Judgment to Atty. Noble. no cert. copies	Fredric Joseph Ammerman
	Certificate of Mailing Copy of Praecipe for Entry of Judgment and Praecipe for Entry of Judgment, filed by Atty. Bell no cert. copies.	Fredric Joseph Ammerman
11/27/2007	Filing: Notice of Appeal Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1921600 Dated: 11/27/2007 Amount: \$45.00 (Check) 1CC & ck \$60.00 to Superior Court.	Fredric Joseph Ammerman
11/29/2007	Order NOW, this 29th day of November 2007, this Court having been notified of Appeal to the Commonwealth Court of Pennsylvania in the above-captioned matter, it is the ORDER of this Court that Martin R. Slifko, Appellant, filed a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days therefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: Noble and Bell	Fredric Joseph Ammerman
12/7/2007	Appeal Docket Sheet, filed. Docket # 2156 WDA 2007	Fredric Joseph Ammerman

Date: 3/6/2008

Time: 01:30 PM

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Charfield County Court of Common Pleas

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

User: BHUDSON

Civil Other

Date	Selected Items	Judge
12/7/2007	Amended Order, NOW, this 7th day of Dec., 2007, it is Ordered that this Court's Order of Nov., 29, 2007; is Amended to read as follows: NOW, this 29th day of Nov., 2007, the Court having been notified of Appeal to Superior Court, it is Ordered that Martin R. Slifko, Appellant, file a concise statement of the matters complained of on said Appeal no later than 21 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
12/10/2007	Precise Statement of Matters Complained of on Appeal, filed by Atty. Noble, no cert. copies.	Fredric Joseph Ammerman
2/6/2008	Opinion, filed by the Court Cert. to Atty's Bell & Noble.	Fredric Joseph Ammerman
2/7/2008	February 7, 2008, Mailed Appeal to Superior Court. February 7, 2008, Letters, Re: Notification of mailing appeal mailed to Theron G. Noble, Esq. and Richard A. Bell, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	Fredric Joseph Ammerman

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 02-962-CD

Martin R. Slifko, Jr.

Vs.

Junior Coal Contracting, Inc.

<i>ITEM NO.</i>	<i>DATE OF FILING</i>	<i>NAME OF DOCUMENT</i>	<i>NO. OF PAGES</i>
58	2/07/08	Letter to Superior Court	01
59	2/13/08	Certificate of Contents	01
60	3/06/08	Transcript of Proceedings, Civil Jury Trial, Day 1, before Honorable Fredric J. Ammerman, P.J., October 22, 2008, 9:07 a.m.	Separate Cover
61	3/06/08	Excerpt Transcript of Proceedings, Civil Jury Trial, Day II, held before the Honorable Fredric J. Ammerman, P.J., October 23, 2007	Separate Cover
62	3/06/08	Letters, Re: Notification of mailing appeal mailed to Theron G. Noble, Esq. and Richard A. Bell, Esq. with certified copies of docket sheet and Document Listing required by Pa.R.A.P. 1931(c).	10

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

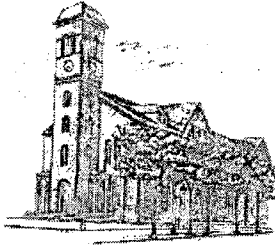
No. 02-962-CD
 Martin R. Slifko, Jr.
 Vs.
 Junior Coal Contracting, Inc.

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	06/17/02	Civil Complaint	07
02	07/10/02	Praecipe for Appearance	03
03	08/06/02	Answer and New Matter	11
04	08/12/02	Sheriff Return, Papers served on Defendant	01
05	08/13/02	Plaintiff's Reply to New Matter	04
06	08/13/02	Plaintiff's Notice of Service of Plaintiff's First Set of Discovery Materials upon R. Bell, Esq.	02
07	08/21/02	Verification	03
08	09/04/02	Motion for Protective Order and Order with rule returnable for written response	05
09	09/12/02	Affidavit of Service, Motion for Protective Order and Rule returnable upon T. Noble, Esq.	03
10	09/16/02	Reply to Motion for Protective Order	04
11	10/10/02	Order, Re: following arguments regarding Motions	01
12	03/12/03	Plaintiff's Certificate of Service, Notice of Deposition, upon R. Bell, Esq.	01
13	01/26/04	Motion to Consolidate and scheduling order, re: oral argument scheduled	07
14	02/23/04	Order of Court, civil actions consolidated for the purpose of discovery and trial to docket number 03-1240-CD	01
15	05/24/04	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition	01
16	11/17/04	Motion for Summary Judgment	10
17	11/17/04	Praecipe for Argument	03
18	11/17/04	Order, re: Motion for Summary Judgment	02
19	12/16/04	Order, Re: argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled	01
20	12/27/04	Motion for Continuance	05
21	01/06/05	Praecipe to Withdraw Motion for Continuance	03
22	05/05/05	Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment and Rule to Show Cause issuing rule upon Plaintiff	46
23	05/11/05	Original Transcript, March 15, 2005, Deposition of Cpl. Thomas E. Josephson, PSP	Separate Cover
24	05/11/05	Transcript of Deposition of James Mock, June 8, 2005	Separate Cover
25	05/11/05	Answer to Defendant Junior Coal Contracting Inc.'s Motion for Summary Judgment	15
26	05/17/05	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment	05
27	05/19/05	Order, Re: argument on Attorney Bell's Preliminary Objections has been scheduled	02
28a	05/19/05	Certificate of Service, copy of Order dated May 19, 2005	01
28b	05/20/05	Order, May 10, 2005, Re: Summary judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties	01
28c	05/20/05	Order, May 17, 2005, Re: Summary judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties	01
29	08/24/05	Opinion and Order, Re: Motion for Summary Judgment is hereby Granted, Summary Judgment entered in favor of Junior Coal Contracting, Inc. and against Plaintiff	09
30	09/16/05	Notice of Appeal to Superior Court	05
31	09/20/05	Order, Re: concise statement	02
32	09/21/05	Appeal Docket Sheet, Superior Court Number 1618 WDA 2005	02
33	09/28/05	Concise Statement of Matters Complained of on Appeal	06
		Appeal Mailed September 28, 2005	

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 02-962-CD
 Martin R. Slifko, Jr.
 Vs.
 Junior Coal Contracting, Inc.

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
34	10/27/05	Certified Mail Receipt	01
35	10/31/05	Domestic Return Receipt	01
36	11/15/06	Superior Court Order	05
37	11/15/06	Certificate of Contents of Remanded Record and Notice of Remand	01
38	03/30/07	Praeipie to List for Trial	03
39	07/27/07	Order, Re: Pre-Trial Conference scheduled	01
40	08/09/07	Motion in Limine (Defendant)	05
41	08/27/07	Order, Re: Jury Selection scheduled	02
42	09/04/07	Motion in Limine (Plaintiff)	08
43	09/04/07	Certificate of Service, Re: Letter Brief	02
44	09/05/07	Order, Re: oral argument on all outstanding Petitions and Motions in Limine scheduled	01
45	09/06/07	Order, Re: Motion in Limine (Defendant)	01
46	09/20/07	Order, Re: Motion in Limine (Plaintiff)	02
47	10/23/07	Verdict	02
48	10/29/07	Motion for Post-Trial Relief	05
49	10/31/07	Order, Re: Motion for Post-Trial Relief Dismissed	01
50	11/09/07	Praeipie for Entry of Judgment and Certificate of Mailing	07
51	11/27/07	Notice of Appeal	07
52	11/29/07	Order, Re: concise statement to be filed	01
53	12/07/07	Appeal Docket Sheet, 2156 WDA 2007	02
54	12/07/07	Amended Order, Re: concise statement to be filed	01
55	12/10/07	Precise Statement of Matters Complained of on Appeal	04
56	02/6/08	Opinion	03
57	02/07/08	Letters, Re: Notification of mailing appeal mailed to Theron G. Noble, Esq. and Richard A. Bell, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	07
		Appeal Mailed February 7, 2008	



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ www.clearfieldco.org

COPY

Fredric J. Ammerman, P.J.
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Theron G. Noble, Esq.
301 East Pine St.
Clearfield, PA 16830

Richard A. Bell, Esq.
PO Box 670
319 E. Locust St.
Clearfield, PA 16830

Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.

FILED

011:39:31
MAR 06 2008

WAS
William A. Shaw
Prothonotary/Clerk of Courts

Court No. 02-962-CD; Superior Court No. 2156 WDA 2007

Dear Counsel:

Please be advised that a supplement to the above referenced record was forwarded to the Superior Court of Pennsylvania on March 6, 2008.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

#62

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

*No. 02-962-CD
Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.*

<i>ITEM NO.</i>	<i>DATE OF FILING</i>	<i>NAME OF DOCUMENT</i>	<i>NO. OF PAGES</i>
58	2/07/08	Letter to Superior Court	01
59	2/13/08	Certificate of Contents	01
60	3/06/08	Transcript of Proceedings, Civil Jury Trial, Day 1, before Honorable Fredric J. Ammerman, P.J., October 22, 2008, 9:07 a.m.	Separate Cover
61	3/06/08	Excerpt Transcript of Proceedings, Civil Jury Trial, Day II, held before the Honorable Fredric J. Ammerman, P.J., October 23, 2007	Separate Cover

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**No. 02-962-CD
Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.**

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	06/17/02	Civil Complaint	07
02	07/10/02	Praecipe for Appearance	03
03	08/06/02	Answer and New Matter	11
04	08/12/02	Sheriff Return, Papers served on Defendant	01
05	08/13/02	Plaintiff's Reply to New Matter	04
06	08/13/02	Plaintiff's Notice of Service of Plaintiff's First Set of Discovery Materials upon R. Bell, Esq.	02
07	08/21/02	Verification	03
08	09/04/02	Motion for Protective Order and Order with rule returnable for written response	05
09	09/12/02	Affidavit of Service, Motion for Protective Order and Rule returnable upon T. Noble, Esq.	03
10	09/16/02	Reply to Motion for Protective Order	04
11	10/10/02	Order, Re: following arguments regarding Motions	01
12	03/12/03	Plaintiff's Certificate of Service, Notice of Deposition, upon R. Bell, Esq.	01
13	01/26/04	Motion to Consolidate and scheduling order, re: oral argument scheduled	07
14	02/23/04	Order of Court, civil actions consolidated for the purpose of discovery and trial to docket number 03-1240-CD	01
15	05/24/04	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition	01
16	11/17/04	Motion for Summary Judgment	10
17	11/17/04	Praecipe for Argument	03
18	11/17/04	Order, re: Motion for Summary Judgment	02
19	12/16/04	Order, Re: argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled	01
20	12/27/04	Motion for Continuance	05
21	01/06/05	Praecipe to Withdraw Motion for Continuance	03
22	05/05/05	Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment and Rule to Show Cause issuing rule upon Plaintiff	46
23	05/11/05	Original Transcript, March 15, 2005, Deposition of Cprl. Thomas E. Josephson, PSP	Separate Cover
24	05/11/05	Transcript of Deposition of James Mock, June 8, 2005	Separate Cover
25	05/11/05	Answer to Defendant Junior Coal Contracting Inc.'s Motion for Summary Judgment	15
26	05/17/05	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment	05
27	05/19/05	Order, Re: argument on Attorney Bell's Preliminary Objections has been scheduled	02
28a	05/19/05	Certificate of Service, copy of Order dated May 19, 2005	01
28b	05/20/05	Order, May 10, 2005, Re: Summary judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties	01
28c	05/20/05	Order, May 17, 2005, Re: Summary judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties	01
29	08/24/05	Opinion and Order, Re: Motion for Summary Judgment is hereby Granted, Summary Judgment entered in favor of Junior Coal Contracting, Inc. and against Plaintiff	09
30	09/16/05	Notice of Appeal to Superior Court	05
31	09/20/05	Order, Re: concise statement	02
32	09/21/05	Appeal Docket Sheet, Superior Court Number 1618 WDA 2005	02
33	09/28/05	Concise Statement of Matters Complained of on Appeal	06
		Appeal Mailed September 28, 2005	

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 02-962-CD

Martin R. Slifko, Jr.

Vs.

Junior Coal Contracting, Inc.

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
34	10/27/05	Certified Mail Receipt	01
35	10/31/05	Domestic Return Receipt	01
36	11/15/06	Superior Court Order	05
37	11/15/06	Certificate of Contents of Remanded Record and Notice of Remand	01
38	03/30/07	Praeipie to List for Trial	03
39	07/27/07	Order, Re: Pre-Trial Conference scheduled	01
40	08/09/07	Motion in Limine (Defendant)	05
41	08/27/07	Order, Re: Jury Selection scheduled	02
42	09/04/07	Motion in Limine (Plaintiff)	08
43	09/04/07	Certificate of Service, Re: Letter Brief	02
44	09/05/07	Order, Re: oral argument on all outstanding Petitions and Motions in Limine scheduled	01
45	09/06/07	Order, Re: Motion in Limine (Defendant)	01
46	09/20/07	Order, Re: Motion in Limine (Plaintiff)	02
47	10/23/07	Verdict	02
48	10/29/07	Motion for Post-Trial Relief	05
49	10/31/07	Order, Re: Motion for Post-Trial Relief Dismissed	01
50	11/09/07	Praeipie for Entry of Judgment and Certificate of Mailing	07
51	11/27/07	Notice of Appeal	07
52	11/29/07	Order, Re: concise statement to be filed	01
53	12/07/07	Appeal Docket Sheet, 2156 WDA 2007	02
54	12/07/07	Amended Order, Re: concise statement to be filed	01
55	12/10/07	Precise Statement of Matters Complained of on Appeal	04
56	02/6/08	Opinion	03
57	02/07/08	Letters, Re: Notification of mailing appeal mailed to Theron G. Noble, Esq. and Richard A. Bell, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	07
		Appeal Mailed February 7, 2008	

Date: 3/6/2008
Time: 01:28 PM
Page 1 of 1

Cleveland County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

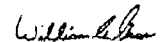
Civil Other

Date	Selected Items	Judge
2/7/2008	Letter to Superior Court, Re: Appeal mailed February 7, 2008.	Fredric Joseph Ammerman
2/13/2008	Certificate of Contents, This 7th day of Feb., 2008, Prothonotary of Clfd. Co. does certify that attached is the original record of the case currently on appeal. Case received by Superior Court on Feb. 11, 2008. No CC	Fredric Joseph Ammerman
3/6/2008	Transcript of Proceedings, Civil Jury Trial, Day 1, before Honorable Fredric J. Ammerman, P.J., October 22, 2008, 9:07 a.m., filed.	Fredric Joseph Ammerman
	Excerpt Transcript of Proceedings, Civil Jury Trial, Day II, held before the Honorable Fredric J. Ammerman, P.J., October 23, 2007, filed.	Fredric Joseph Ammerman

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

MAR 06 2008

Attest.


Prothonotary/
Clerk of Courts

Date: 3/6/2008
Time: 01:30 PM
Page 1 of 5

Clarendon County Court of Common Pleas
ROA Report
Case: 2002-00962-CD

User: BHUDSON

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
6/17/2002	Filing: Civil Complaint Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1844027 Dated: 06/17/2002 Amount: \$80.00 (Check) Four CC Attorney Noble	No Judge
7/10/2002	Praecipe For Appearance on behalf of Defendant, JUNIOR COAL CONTRACTING, INC. filed by s/Richard A. Bell, Esquire no cc	No Judge
8/6/2002	Answer and New Matter. Filed by s/Richard A. Bell, Esq. Verification s/George D. Cowfer, Jr., President Certificate of Service no cc	No Judge
8/12/2002	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
8/13/2002	Plaintiff's Reply To New Matter. Filed by s/Theron G. Noble, Esq. Certificate of Service no cc	No Judge
	Plaintiff's Notice of Service of Plaintiffs' FIRST SET OF DISCOVERY MATERIALS upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esq.	No Judge
8/21/2002	Filing: Verification s/ Plaintiff and Certificate of Service for Reply to New Matter. No cc.	No Judge
9/4/2002	Motion For Protective ORDER, filed by Atty. Bell no Cert. copies ORDER, filed one cert. to Atty. Bell AND NOW, this 4th day of September, 2002, Rule returnable the 24th day of September, 2002 for filing written response.	John K. Reilly Jr. John K. Reilly Jr.
9/12/2002	Affidavit of Service, Motion For Protective Order and Rule Returnable upon THERON G. NOBLE, ESQ. s/Richard A. Bell, Esquire no cc	John K. Reilly Jr.
9/16/2002	Reply To Motion For Protective Order. filed by s/Theron G. Noble, Esq. Certificate of Service no cc	John K. Reilly Jr.
10/10/2002	ORDER: NOW, this 9th day of October, 2002, following arguments regarding Motions. s/JKR One CC to Atty. Noble. One CC Atty. Bell.	John K. Reilly Jr.
3/12/2003	Plaintiff's Certificate Of Service, Notice of Deposition upon RICHARD A. BELL, ESQ. s/Theron G. Noble, Esquire no cc	John K. Reilly Jr.
1/26/2004	Motion To Consolidate. filed by, s/Illegible Signature Cert of Svc no cc Orig. filed to 03-1240-CD	John K. Reilly Jr.
1/28/2004	Scheduling ORDER: AND NOW, this 28th day of Jan. 2004, it is hereby Ordered that oral argument on the Motion to Consolidate filed by Defendant, shall be heard on Feb. 23, 2004. S/FJA 1 CC to Atty. Ramaley	Fredric Joseph Ammerman
2/23/2004	ORDER OF COURT, AND NOW, this 23rd day of February, 2004, IT IS HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the purpose of discovery and trial to Docket No. 03-1240-CD. by the Court, s/FJA, P.J.	Fredric Joseph Ammerman
5/24/2004	Plaintiff's Certificate of Service, Plaintiff's Notice of Deposition, upon: Richard A. Bell, Esq., Jeffrey A. Ramaley, Esq., Robert Leight, Esq. and David F. Wilk, Esq. filed by, s/Theron G. Noble, Esquire no cc	Fredric Joseph Ammerman
11/17/2004	Motion for Summary Judgment, filed by s/Jeffrey A. Ramaley, Esq. No CC	Fredric Joseph Ammerman
	Praecipe for Argument, filed by s/Jeffrey A. Ramaley, Esq. No CC	Fredric Joseph Ammerman
	ORDER, filed 5 cert. & memo to Atty. Ramaley	Fredric Joseph Ammerman
	ORDER of Court that Atty. Ramaley's Motion for Summary Judgment has been scheduled for the 21st day of December, 2004.	Fredric Joseph Ammerman

Date: 3/6/2008

Time: 01:30 PM

Page 2 of 5

Clifford County Court of Common Pleas

ROA Report

Case: 2002-00962-CD

User: BHUDSON

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
12/16/2004	Order, AND NOW, this 16th day of December, 2004, Order that argument on Attorney Ramaley's Motion for Summary Judgment is rescheduled from December 21, 2004 to January 12, 2005 at 10:30 a.m. in Courtroom No. 1. BY THE COURT: /s/Fredric J. Ammerman, P.J. One CC Attys: Noble, Bell, Ramaley, Leight, Walk	Fredric Joseph Ammerman
12/27/2004	Motion for Continuance, filed by s/Theron G. Noble, Esq. No CC	Fredric Joseph Ammerman
1/6/2005	Praecipe To Withdraw Motion For Continuance, filed by s/ Theron G. Noble. No CC	Fredric Joseph Ammerman
5/5/2005	Defendant Junior Coal Contracting, Inc.'s Motion For Summary Judgment, filed by s/Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
5/9/2005	Rule To Show Cause, AND NOW, this 6th day of May, 2005 upon consideration of the Motion for Summary Judgment filed by the Defendant Junior Coal Contracting , a Rule is issued upon plaintiff. Rule shall be returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. 1CC Atty. Bell	Fredric Joseph Ammerman
5/11/2005	Original Transcript, March 15, 2005 Deposition of Cprl Thomas E. Josephson, PSP, filed.	Fredric Joseph Ammerman
	Transcript of Deposition of James Mock, June 8, 2005. Orig. to 03-1240-CD	Fredric Joseph Ammerman
	Answer To Defendant Junior Coal Contracting's Inc., Motion for Summary Judgment, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
5/17/2005	Defendant Junior Coal Contracting, Inc.'s Preliminary Objections--Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment, filed by s/Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
5/19/2005	Order, AND NOW, this 19th day of May, 2005, it is the ORDER of the Court that argument on Attorney Bell's Preliminary Objections filed in the above matter has been scheduled for the 23rd day of May, 2005, at 11:00 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty Bell w/service memo	Fredric Joseph Ammerman
	Certificate of Service, Copy of Order Dated May 19, 2005 with regard to our Preliminary Objections in the above matter served upon Theron G. Noble, Esq., David F. Wilk, Esq., Jeffrey A. Ramaley, Esq., Robert R. Leight, Esq. Filed By Richard A. Bell, Esq. No CC	Fredric Joseph Ammerman
5/20/2005	Order, AND NOW, this 10th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J.	Fredric Joseph Ammerman
	Order, AND NOW, this 17th day of May, 2005, Ordered that Summary Judgment is entered in favor of Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, J. Five CC Atty Ramaley	Fredric Joseph Ammerman

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
8/24/2005	Opinion and Order. (see original for opinion). Order: NOW, this 23rd day of August, 2005, following review of the record, oral argument, and submission of briefs, it is the Order of this Court as follows: The Motion for Summary Judgment filed on behalf of Defendant, Junior Coal Contracting, Inc., is hereby Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Noble, J. Ramaley, R. Leight, D. Wilk, R. Bell, and D. Mikesell. Original filed to 03-1240-CD	Fredric Joseph Ammerman
9/16/2005	Filing: Appeal to High Court Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1908398 Dated: 09/16/2005 Amount: \$45.00 (Check)	Fredric Joseph Ammerman
	Notice of Appeal, filed by s/ Theron G. Noble, Esquire. 1CC Sup. Crt. w/ck	Fredric Joseph Ammerman
9/20/2005	Order, NOW, this 20th day of Sept., 2005, the court having been notified of Appeal to the Superior Court of Pennsylvania, it is the Order of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, Ramaley, Leight, Wilk, R. Bell	Fredric Joseph Ammerman
9/21/2005	Appeal Docket Sheet, filed.	Fredric Joseph Ammerman
9/28/2005	Concise Statement of Matters Complained of On Appeal, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/27/2005	Appeal mailed to Superior Court October 27, 2005.	Fredric Joseph Ammerman
	Certified Mail Receipt, sent to Superior Court of Pa., Prothonotary on 10/27/2005.	Fredric Joseph Ammerman
10/31/2005	Domestic Return Receipt, received Superior Court of Pa, in re: Appeal.	Fredric Joseph Ammerman
11/15/2006	Appeal from the Order entered August 23, 2005, in the Court of Common Pleas of Clearfield County, Civil Division, at No. 02-962-CD: Order reversed. Case remanded. Jurisdiction relinquished. (docket sheet corrected 12-13-07)	Fredric Joseph Ammerman
	Certificate of Contents of Remanded Record and Notice of Remand, Record remanded Nov. 13, 2006. Copy to Superior Court.	Fredric Joseph Ammerman
3/30/2007	Praecipe to List for Trial, Re: Jury Trial, filed by Atty. Noble no cert. copies.	Fredric Joseph Ammerman
7/27/2007	Order, this 27th day of July, 2007, it is Ordered that Pre-Trial Conference shall be held on the 24th day of August, 2007, in Chambers at 9:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
8/9/2007	Motion in Limine, filed by s/ Richard A. Bell, Esquire. No CC	Fredric Joseph Ammerman
8/27/2007	Order, this 24th day of August, 2007, Jury Selection will be held on August 28, 2007 at 9:00 a.m. in Courtroom 1. Jury Trial is scheduled for Monday, Tuesday and Wednesday, Oct. 22nd, 23rd and 24th, 2007, commencing at 9:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Noble, Bell	Fredric Joseph Ammerman
9/4/2007	Motion In Limine, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman

Date: 3/6/2008
Time: 01:30 PM
Page 4 of 5

Clifford County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

Civil Other

Date	Selected Items	Judge
9/4/2007	Certificate of Service, filed. That a copy of my Letter Brief filed on behalf of Junior Coal Contracting Inc., in the above matter was mailed on the 31st day of August 2007 to Theron G. Noble Esq., filed by s/ Richard A. Bell Esq. No CC.	Fredric Joseph Ammerman
9/5/2007	Order, this 4th day of Sept., 2007, it is Ordered that oral argument on all outstanding Petitions and Motions in Limine have been scheduled for Sept. 17, 2007 at 1:30 p.m. in Courtroom 3. Answers to said Motions shall be filed on or before Sept. 14, 2007. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
9/6/2007	Order, this 5th day of Sept., 2007, upon consideration of the Motion In Limine filed by the Defendant, it is Ordered that: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. R. Bell	Fredric Joseph Ammerman
9/20/2007	Order, this 18th day of Sept., 2007, following argument on the Plaintiff's Motion in Limine, it is Ordered: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, Bell	Fredric Joseph Ammerman
10/23/2007	Verdict, filed NOW, this 23rd day of October, 2007, we the Jurors empanelled in the above entitled case, find as follows: Do you find that the Defendant, Junior Coal Contracting, Inc. was negligent? NO. s/ Michelle Cristini, Foreperson.	Fredric Joseph Ammerman
10/29/2007	Motion For Post-Trial Relief, filed by s/Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
10/31/2007	Order, this 31st day of Oct., 2007, Motion for Post-Trial Relief is Dismissed. By the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: R. Bell, Noble	Fredric Joseph Ammerman
11/9/2007	Praeipce for Entry of Judgment, filed by Atty. Bell Enter Judgment in favor of the Defendant and against the Plaintiff on the verdict of the jury entered October 23, 2007. Notice of Judgment to Atty. Noble. no cert. copies	Fredric Joseph Ammerman
	Certificate of Mailing Copy of Praeipce for Entry of Judgment and Praeipce for Entry of Judgment, filed by Atty. Bell no cert. copies.	Fredric Joseph Ammerman
11/27/2007	Filing: Notice of Appeal Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1921600 Dated: 11/27/2007 Amount: \$45.00 (Check) 1CC & ck \$60.00 to Superior Court.	Fredric Joseph Ammerman
11/29/2007	Order NOW, this 29th day of November 2007, this Court having been notified of Appeal to the Commonwealth Court of Pennsylvania in the above-captioned matter, it is the ORDER of this Court that Martin R. Slifko, Appellant, filed a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days therefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: Noble and Bell	Fredric Joseph Ammerman
12/7/2007	Appeal Docket Sheet, filed. Docket # 2156 WDA 2007	Fredric Joseph Ammerman

Date: 3/6/2008
Time: 01:30 PM
Page 5 of 5

Clark County Court of Common Pleas

ROA Report

Case: 2002-00962-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Junior Coal Contracting, Inc.

User: BHUDSON

Civil Other

Date	Selected Items	Judge
12/7/2007	Amended Order, NOW, this 7th day of Dec., 2007, it is Ordered that this Court's Order of Nov., 29, 2007, is Amended to read as follows: NOW, this 29th day of Nov., 2007, the Court having been notified of Appeal to Superior Court, it is Ordered that Martin R. Slifko, Appellant, file a concise statement of the matters complained of on said Appeal no later than 21 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Noble, R. Bell	Fredric Joseph Ammerman
12/10/2007	Precise Statement of Matters Complained of on Appeal, filed by Atty. Noble, no cert. copies.	Fredric Joseph Ammerman
2/6/2008	Opinion, filed by the Court Cert. to Atty's Bell & Noble.	Fredric Joseph Ammerman
2/7/2008	February 7, 2008, Mailed Appeal to Superior Court. February 7, 2008, Letters, Re: Notification of mailing appeal mailed to Theron G. Noble, Esq. and Richard A. Bell, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	Fredric Joseph Ammerman

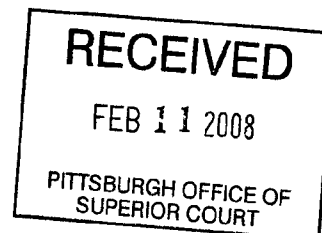
IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

Martin R. Slifko Jr.

Vs.

Case No. 2002-00962-CD

Junior Coal Contracting, Inc.



CERTIFICATE OF CONTENTS

NOW, this 7th day of February, 2008, the undersigned, Prothonotary or Deputy Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, the said Court of record, does hereby certify that attached is the original record of the case currently on Appeal.

An additional copy of this Certificate is enclosed with the original hereof and the Clerk or Prothonotary of the Superior Court is hereby directed to acknowledge receipt of the Appeal Record by executing such copy at the place indicated by forthwith returning the same to this Court.

By:

William A. Shaw

William A. Shaw, Prothonotary

Record, Etc. Received:

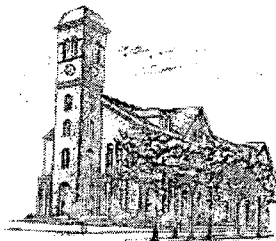
Date: 2/11/08

Diane Smith - Clerk
(Signature & Title)

FILED ^{NO CC}
m 10:46
FEB 13 2008
GP

William A. Shaw
Prothonotary/Clerk of Courts

59



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ www.clearfieldco.org

COPY

February 7, 2008

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

Re: Martin R. Slifko, Jr.
Vs.
Junior Coal Contracting, Inc.
No. 02-962-CD
Superior Court No. 2156 WDA 2007

Dear Prothonotary:


Enclosed you will find the above referenced complete record appealed to your office. Two transcripts are enclosed. Two additional transcripts are pending and will be forwarded upon filing in my office.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

FILED

FEB 07 2008

 William A. Shaw
Prothonotary/Clerk of Courts

#58

Appellee

William A. Shaw
Prothonotary/Clerk of Courts

No. 2156 WDA 2007

BEFORE: KLEIN, POPOVICH, and FITZGERALD*, JJ.

Filed: February 4, 2009

Appellant Martin R. Slifko, Jr., an adult individual, appeals from the judgment entered in favor of Appellee Junior Coal Contracting, Inc., a Pennsylvania Corporation, on November 9, 2007 in the Court of Common Pleas of Clearfield County.¹ Upon review, we affirm.

¹ Appellant purportedly appeals from the September 5, 2007 order granting Appellee's motion *in limine*. Appellant challenged the grant of this motion *in limine* in a post-trial motion that was denied on October 31, 2007. We note that an order denying post-trial motions is not appealable until the order is reduced to judgment. ***Rachlin v. Edmison***, 813 A.2d 862, 864 fn1 (Pa. Super. 2002) (citation and quotation marks omitted). Therefore, the appeal in this case properly lies from the judgment entered on November 9, 2007, rather than from the September 5, 2007 order.

* Former Justice specially assigned to Superior Court.

The trial court stated the factual and procedural history as follows.

On September 18, 2001, as [Appellant] traveled over [an] oil slick, he lost control of his motorcycle, which left the roadway leading to the [Appellant] being thrown from his motorcycle and sustaining injuries. [Appellant] brought this action against [Appellee] that contained a single count of negligence. In his Concise Statement [Appellant] raises issues which stem from [the trial court's] granting of [Appellee's] Motion *in Limine* to preclude use of a highway occupancy permit and supplemental permit which [Appellee] obtained to widen [Appellee's] existing driveway. [Appellant] sought to introduce at Trial evidence of [Appellee's] Highway Occupancy Permit and Supplemental Highway Occupancy Permits (hereafter Permits). [Appellee] objected to the use of the Permits at Trial because it would introduce a new cause of action that would be barred by the Statute of Limitations. [The trial court] agreed and excluded the Permits from being introduced at Trial. Ultimately the case proceeded to Trial and the jury found no negligence on the part of [Appellee].

Trial court opinion, 2/5/08, at 2.

On October 29, 2007, Appellant filed a post-trial motion requesting a new trial and challenging the trial court's grant of Appellee's motion *in limine* that prohibited Appellant from introducing as evidence during trial the Highway Occupancy Permit and Supplemental Permit (permits). On October 31, 2007, the trial court denied Appellant's request for post-trial relief. Appellant filed a timely notice of appeal on November 27, 2007. The trial court ordered Appellant to file a Pa.R.A.P. 1925(b) statement of the errors complained of on appeal and he complied. In response, the trial court authored a Rule 1925(a) opinion.

Appellant presents one issue for our review:

Whether the [trial] court erred in excluding probative evidence of the [Appellee's] duty to keep its worksite entranceway free of debris because such evidence was not pled?

Appellant's brief, at 4.

In reviewing a ruling on a motion *in limine*, we apply the scope of review appropriate to the particular evidentiary matter. **Cacurak v. St. Francis Med. Ctr. (In re Almar Radiology)**, 823 A.2d 159, 168 (Pa. Super. 2003) (citation omitted). When a party challenges a ruling pertaining to the admissibility of evidence, we will not reverse the ruling unless the trial court abused its discretion or committed an error of law. **Id.**, 823 A.2d at 168 (citation omitted).

Appellant alleges that the trial court's characterization of the admission of the permits as a new cause of action unrelated to Appellant's negligence claim that he raised in his original civil complaint was in error. Further, Appellant contends that, because the admission of the permits would not constitute a new cause of action, the introduction of the permits would not be barred by the applicable Statute of Limitations. We disagree.

An amendment introducing a new cause of action will not be permitted after the Statute of Limitations has run in favor of a defendant. **Laursen v. General Hosp.**, 494 Pa. 238, 243, 431 A.2d 237, 240 (1981) (citations omitted). However, if the proposed amendment does not change the cause of action but merely amplifies that which has already been averred, it should

be allowed even though the Statute of Limitations has already run. ***Id.***, at 243, 431 A.2d at 240 (citations omitted). Further, a "cause of action" is defined as the negligent act or acts which occasioned the injury. ***Saracina v. Cotoia***, 417 Pa. 80, 82, 208 A.2d 764, 766 (Pa. Super. 1965) (citations and quotation marks omitted).

Appellant pleaded one count of negligence in his original civil complaint. He averred that Appellee owed him a duty of care and that it breached its duty to Appellant. Specifically, Appellant stated that Appellee was negligent in that *its* "agents, servants or employees operating trucks or other equipment placed the aforementioned oil or fuel on State Route 2024," that it failed to detect that this caused a dangerous condition, that it failed to correct this dangerous condition, and that it failed to warn Appellant and others of the existence of this dangerous condition. Further, Appellant averred that this negligent conduct was the direct and proximate cause of his injuries. The original complaint did not include an allegation of the violation of the permits that imposed a duty upon Appellee to keep the entranceway free of "mud, silt, and other debris" from both its vehicles *and* from other vehicles and entities using that entranceway. Appellant attempted to introduce the permits not as a new cause of action but as "evidence of Appellee's duty."

However, allowing the admission of the permits into evidence would establish a new cause of action because it would result in the introduction of

a new negligent act that occasioned the injury alleged, *i.e.*, Appellee's negligent act in failing to keep the entranceway free of mud, silt, and other debris from *other* vehicles and entities using its entranceway. In contrast, Appellant's initial complaint alleged Appellee was negligent because *its* agents, servants or employees operating trucks or other equipment placed the oil or fuel on State Route 2024. As a partial defense at trial, Appellee offered testimony indicating that other vehicles and entities aside from Appellee used this entranceway, and, therefore, these other vehicles may have been responsible for the oil or fuel spill on Route 2024. **See** N.T. Trial, 10/22/08, 93 (witness stated other trucks besides coal company trucks used road). Appellant sought to introduce a second theory of negligence by attempting to hold Appellee responsible, by introduction of the permits, for the actions of other vehicles and entities that may have been negligent in spilling oil or fuel on Route 2024. Accordingly, we agree with the trial court that the admission of the permits would introduce a second theory of negligence by which Appellee could be found liable for the liquid spill on the road. Therefore, we find the trial court's characterization of the introduction of the permits as a new cause of action to be proper.

Furthermore, as noted by the trial court, Appellant's new cause of action would be barred by the two-year Statute of Limitations on negligence

claims.² **See** 42 Pa.C.S.A. § 5524(7); **see also** *Wilson v. Howard Johnson Restaurant*, 421 Pa. 455, 461, 219 A.2d 676, 679 (1966) (amendment introducing new cause of action will not be permitted after Statute of Limitations has run in favor of defendant). Therefore, Appellant's allegation of error fails.³

² Appellant avers in his brief that he attempted to seek leave to amend to plead a violation of the permits in his response to Appellee's motion for summary judgment. However, our review of Appellant's response indicates no request for leave to amend. **See** Answer to Defendant Junior Coal Contracting Inc., Motion for Summary Judgment, 5/11/05.

³ Appellant contends that he was never given a proper opportunity to present his argument in opposition to the grant of Appellee's motion *in limine* to the trial court. He avers that the trial court's September 4, 2007 order scheduled oral argument for all motions *in limine* on September 17, 2007, but that the trial court granted Appellee's motion *in limine* the next day. However, our review of the record reveals that the trial court issued an order on August 27, 2007, that stated: "following [a] pre-trial conference with counsel for the parties..." counsel shall submit letter briefs no more than 10 days from this date addressing Appellee's August 9, 2007 motion *in limine*. **See** August 27, 2007 order. Additionally, the order stated that any party filing a motion or petition regarding limitation or exclusion of evidence or testimony to be presented at trial should file a brief within 15 days of the date of the order. Both parties submitted letter briefs as ordered. However, Appellant's brief addressed his motions *in limine* and not Appellee's August 9, 2007 motion *in limine* that sought to bar admission of the permits at trial. As a result, the trial court issued an order on September 4, 2007 that scheduled oral argument for the outstanding motions filed by Appellant and not the motion *in limine* filed by Appellee. On September 5, 2007, the trial court granted the motion *in limine* filed by Appellee. Additionally, the trial court filed an order on September 18, 2007 granting Appellant's motions *in limine*.

Despite Appellant's contention to the contrary, he was given the opportunity to present argument in opposition to the grant of Appellee's August 9, 2007 motion *in limine* in his letter brief submitted pursuant to the trial court's August 27, 2007 order. For reasons unknown, Appellant chose to raise his own motions *in limine* but not to address Appellee's motion at that time. Accordingly, we find no merit to this argument.

J. A30021/08

Consequently, we affirm the November 9, 2007 judgment entered in favor of Appellee.

Judgment affirmed.

FITZGERALD, J. files a Concurring Statement.

Judgment Entered:

Eleanor K. Valecko

Deputy Prothonotary

DATE: February 4, 2009

: IN THE SUPERIOR COURT OF
: PENNSYLVANIA

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No. 2156 WDA 2007

BEFORE: KLEIN, POPOVICH, and FITZGERALD*, JJ.

I concur with the result reached by the majority. I find this matter controlled by Appellant's failure to respond to Appellee's motion in *limine* to preclude the evidence complained of on appeal. What is not in the certified record does not exist for purposes of appellate review. **See *Commonwealth v. O'Black*, 897 A.2d 1234, 1240 (Pa. Super. 2006).** Although Appellant included an unsigned copy of his brief-in-opposition in the reproduced record, no certificate of service was attached and the brief-in-opposition was not made part of the certified record.¹ The September 17,

* Former Justice specially assigned to Superior Court.

2007 hearing transcript was also not made part of the certified record. Because the certified record does not establish properly whether Appellant timely preserved his grounds for permitting the introduction of this evidence, I am constrained to conclude that Appellant has waived same.²

² Moreover, I would find that simply because disputed evidence can serve multiple purposes, *e.g.*, establish evidence of Appellee's duty and establish a new cause of action, such reasoning does not automatically preclude its admission. I would conclude that the admission of evidence is initially controlled by its relevance. Pa.R.E. 401. I discern nothing contradictory in precluding relevant evidence for one purpose and admitting it for another. Conversely, I am reluctant to conclude the cases the majority cites in support of its analysis of the admissibility of the evidence, ***Laursen v. Gen. Hosp.***, 494 Pa. 238, 243, 431 A.2d 237, 240 (1981) and ***Wilson v. Howard Johnson Rest.***, 421 Pa. 455, 461, 219 A.2d 676, 679 (1966), control. Both cases, which predate the Pennsylvania Rules of Evidence, address amendments to the complaint and not the admissibility of evidence.

The Superior Court of Pennsylvania
Sitting at Pittsburgh

1015 Grant Building
Pittsburgh, Pennsylvania
15219

FILED

MAR 16 2009

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William A. Shaw
Prothonotary/Clerk of Courts

copy to

*Sub.
Cm.*

**CERTIFICATE OF CONTENTS OF REMANDED RECORD
AND NOTICE OF REMAND**

under

PENNSYLVANIA RULES OF APPELLATE PROCEDURE 2571 AND 2572

THE UNDERSIGNED, Prothonotary (or Deputy Prothonotary) of the Superior Court of Pennsylvania, the said court of record, does hereby certify that annexed to the original hereof, is a true and correct copy of the entire record:

Record two part, five transcript, one exhibit; Superior Court Memorandum Opinion

As remanded from said court in the following matter:

Martin R. Slifko Jr. etc. v Junior Coal Contracting

No. 2156 WDA 2007

Court of Common Pleas, Civil Division, Clearfield County

at No. 02-962-CD

In compliance with Pennsylvania Rules of Appellate Procedure 2571.

The date of which the record is remanded is: March 12, 2009

An additional copy of this certificate is enclosed with the original hereof and the clerk or prothonotary of the lower court or the head, chairman, deputy, or the secretary of the other government unit is hereby directed to acknowledge receipt of the remanded record by executing such copy at the place indicated by forthwith returning the same to this court.

DEPUTY PROTHONOTARY

RECORD, ETC. RECEIVED:

DATE: 3-16-09



(Signature & Title)

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield, PA