

02-1608-CD

RANDALL D. WELLS, etal. vs. GERALD E. ORT, etal.

Civil Other

Date		Judge
11/1/2004	X Sheriff Return, Papers served on PA Dept. of Trans. Oct. 21, 2002, Ort Trucking Oct. 21, 2002, Eddie C. Roberts Oct. 19, 2002, Samuel Thomas Knight Oct. 22, 2002, R. and F. Miller, Inc. Oct. 21, 2002, Jamie Harvey Parker, Oct. 23, 2002, Simon Transportation services, inc. was returned marked "Attempted not Known" and Gerald E. Ort. Complaint returned marked "Unclaimed". Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Costs \$192.14 Shff. Hawkins.	John K. Reilly Jr.
9/5/2006	X Motion For Leave to Amend New Matter Pursuant to Pa.R.C.P. 1033, filed by s/ Michael F. Nerone, Esquire. No CC	John K. Reilly Jr.
9/11/2006	X Order, NOW, this 6th day of Sept., 2006, the hearing of Defendants' Motion for Leave to Amend New Matter will be held on 13th of Oct., 2006 at 1:30 p.m. By The court, /s/ Fredric J. Ammerman, Pres. Judge. 6CC Atty. Nerone	Fredric Joseph Ammerman
10/13/2006	X Order of Court AND NOW, to wit, this 13th day of October 2006, upon consideration of the Defendants, Gerald E. Ort, Ort Trucking Inc., and Samuel Thomas Knight's Motion for Leave to Amend New Matter, it is hereby ORDERED, ADJUDGED AND DECREED that the Defendants' Motion is hereby GRANTED and leave is GRANTED for defendants to file an Amended New Matter. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Atty Totodo, 1CC Ort and Knight in person without memo and 1CC Attys: S. Shaw, Pion & Nerone, Heilman, Yurcon, Seiferth and Berty (with memo)	Fredric Joseph Ammerman
10/18/2006	X Amended New Matter, filed by s/ Ashley Totodo, Esquire. No CC	Fredric Joseph Ammerman
11/3/2006	X Motion For Summary Judgment or in the Alternative, Motion to Excuse these Defendants from any further Participation, or in the Alternative Motion to Place this Matter on the Next Available Trial List, filed by Atty. Pion. No Cert. Copies.	Fredric Joseph Ammerman
11/8/2006	X Order, NOW, this 7th day of Nov., 2006, Ordered that the argument on the Defendants' Motion for Summary Judgment is scheduled for the 17th day of Nov., 2006, at 11:00 a.m. in Courtroom No. 1 of the Clfd. Co. Courthouse. by The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: C. Shaw, J. Pion, M. Nerone, N. Heilman, E. Yurcon, R. Seiferth, J. Berty	Fredric Joseph Ammerman

11-17-06 ✓ Order, dated 11-17-06

12-26-06 ✓ Motion to Dismiss

1-3-07 ✓ Scheduling order, dated 1-2-07

Date: 11/16/2006

Clearfield County Court of Common Pleas

User: LMILLER

Time: 02:22 PM

ROA Report

Page 1 of 1

Case: 2006-01909-CD

Current Judge: No Judge

Omega Bank, N.A. vs. Eric O. Gilliland, Bernadette Gilliland

Civil Other

Date		Judge
11/16/2006	New Case Filed.	No Judge
	Filing: Civil Complaint Paid by: Dupuis, Elizabeth A. Esq (attorney for Omega Bank, N.A.) Receipt number: 1916479 Dated: 11/16/2006 Amount: \$85.00 (Check)	No Judge

Chester Hill Borou	Astare	Jean	M.	4/24/1996	4/24/2000
Chester Hill Borou	Astre	Jean	M.	4/28/2000	5/12/2004
Lawrence Township	Aughenbaugh	Lisa	A.	5/1/2006	4/8/2010
Clearfield Borough	Ayers Jr.	John	A.	1/11/1999	1/11/2003
Clearfield Borough	Ayres	John	A.	1/11/1999	1/30/2003
Clearfield Borough	Ayres	John	A.	1/17/2003	1/30/2007
Clearfield Borough	Bailey	Sharon	J.	6/19/1997	6/19/2001
Lawrence Townshi	Bailey	Valjean	Kay	11/29/1995	11/29/1999
Clearfield Borough	Bailey	Sharon	J.	6/19/2001	6/23/2005
Philipsburg	Bailey	Brenda	J.	4/29/2002	4/29/2006
Clearfield Borough	Bailey	Sharon	J.	6/21/2005	6/23/2009
Chester Hill Boro	Bailey	Brenda	J.	4/26/2006	4/29/2010
Dubois City	Baka	John	S.	8/15/2005	7/26/2009
Clearfield Borough	Baker	William	G.	3/20/1997	3/20/2001
Bell Township	Ball	Mary	J.	6/8/2000	5/10/2004
Houtzdale	Ball	Jennie	E.	7/15/2002	7/15/2006
Sandy Township	Banker	John	H.	8/30/1995	8/30/1999
Girard Township	Barger	Jean	A.	11/20/1997	11/20/2001
DuBois City	Barley	Christina	M.	10/8/2005	10/6/2009
City of DuBois	Barnacastle	Linda	L.	7/16/1999	7/14/2003
City of DuBois	Barnacastle	Linda	L.	8/14/2003	7/14/2007
	Barnacastle	Linda	L.	7/16/1999	7/16/2003
Clearfield Borough	Baronak	William	J.	5/5/2000	5/16/2004
Jordan Township	Baronak	William	J.	4/24/1996	4/24/2000
Clearfield Borough	Baronak	William	J.	4/19/2004	5/16/2008
Sandy Township	Baroni	Donald	C.	12/26/2000	1/15/2004
DuBois City	Baroni	Donald	L.	1/29/1997	1/29/2001
DuBois City	Baroni	Donald	C.	3/22/2005	3/7/2009
Grampian Borough	Barrett	Brian	D.	2/4/1997	2/4/2001
Sandy Township	Barrett	Lynda	N.	4/9/1999	4/22/2003
DuBois City	Barrett	Lynda	N.	4/24/1995	4/24/1999
Sandy Township	Barrett	Lynda	N.	4/15/2003	4/22/2007
Clearfield Borough	Barton	Carol	L.	11/15/2001	12/4/2005
DuBois City	Batson	Lisa	M.	10/15/2001	10/15/2005
DuBois City	Batson	Lisa	M.	10/21/2005	10/15/2009
Woodward Towns	Baughman	Margaret	J.	8/26/1999	8/2/2003

Date: 11/16/2006

Time: 03:45 PM

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Clearfield County Court of Common Pleas

ROA Report

User: LMILLER

Case: 2002-01608-CD

Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
10/16/2002	X Filing: Civil Complaint Paid by: Shaw, Christopher Receipt number: 1850007 Dated: 10/16/2002 Amount: \$80.00 (Check) 9 Cert. to Atty. Shaw	No Judge
11/13/2002	X Preliminary Objections to Plaintiffs' Complaint. filed by s/Robert A. Seiferth, Esq. Certificate of Service 1 cc to Atty	No Judge
11/18/2002	X Praecipe For Appearance On Behalf of R. AND F. MILLER, INC. and EDDIE C. ROBERTS. filed by s/Edward A. Yurcon, Esq. Certificate of Service no cc	No Judge
	X Praecipe For Appearance On Behalf of GERALD E. ORT, ORT TRUCKING, INC. and SAMUEL THOMAS KNIGHT. filed by s/John T. Pion, Esq. and Michael F. Nerone, Esq. Certificate of Service no cc	No Judge
	X Answer and New Matter. filed by s/Michael F. Nerone, Esquire Verification s/Michael F. Nerone, Esq. Certificate of Service no cc	No Judge
	X Praecipe For Appearance On Behalf of Defendant, PENNSYLVANIA DEPARTMENT OF TRANSPORTATION. filed by s/John R. Benty, Esq., Sr. Deputy Attorney General Certificate of Service no cc	No Judge
1/13/2003	X Stipulation: Defendants R&F Miller, Inc. and Eddie C. Roberts waive, release, discharge and dismiss with prejudice any and all cross-claims for contributions and claims for indemnity against Gerald E. Ort-Trucking, Inc. Ort Trucking and Samuel Thomas Knight. Ort Trucking and Samuel Thomas Knight waive, release, discharge and dismiss with prejudice any and all cross-claims, claims for contribution and claims for indemnity against R&F Miller, Inc. and Eddie CV. Roberts.	John K. Reilly Jr.
2/24/2003	X Answer and New Matter. filed by s/Edward A. Yurcon, Esquire Verification s/Eddie C. Roberts Verification s/Linda Long Certificate of Service no cc	John K. Reilly Jr.
4/11/2003	X ORDER, NOW, this 11th day of April, 2003, re: Objections be and are hereby SUSTAINED and Defendant Parker DISMISSED as a party defendant. Opinion to be filed in the event of an appeal. by the Court, s/JKR, JR., P.J. 1 cc Atty Shaw, Pion & Nerone, Heilman, Yurcon, Seiferth, and Benty	John K. Reilly Jr.
4/21/2004	X Commonwealth Defendant's Answer and New Matter to Plaintiffs' Complaint and New Matter Under Pa. R.C.P. 2252(d). filed by, s/John R. Benty, Esquire Verification s/Peter M. Filo Certificate of Service no cc	John K. Reilly Jr.
4/22/2004	X Notice of Service To Request To Produce Under Pa. R.C.P. 40-09 Directed to Plaintiffs. filed by, s/John R. Benty, Esquire Certificate of Service no cc	John K. Reilly Jr.
4/29/2004	X Reply to New Matter Pursuant to Rule 2252 (d), filed by s/ Michael F. Nerone Esq.	Fredric Joseph Ammerman
5/10/2004	X Reply To 2252(d) New Matter of Commonwealth of Pennsylvania, Department of Transportation. filed by, s/Edward A. Yurcon, Esquire Verified Statement s/Linda Long s/Eddie C. Roberts Certificate of Service no cc	John K. Reilly Jr.

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

**RANDALL D. WELLS and
TAMMY WELLS**

Plaintiffs

VS.

**GERALD E. ORT
ORT TRUCKING, INC.,
SIMON TRANSPORTATION
SERVICES, INC.,
R. AND F. MILLER, INC.,
SAMUEL THOMAS KNIGHT,
EDDIE C. ROBERTS,
JAMIE HARVEY PARKER, and
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,**

Defendants

: No. 02 - 1608 - C.D.
:
: TYPE OF CASE: Personal Injury
:
: TYPE OF PLEADING:
: Civil Complaint
:
: FILED ON BEHALF OF:
: Randall D. Wells & Tammy Wells
: Plaintiffs
:
: COUNSEL OF RECORD FOR
: THESE PARTIES:
: CHRISTOPHER J. SHAW, ESQ.
: Pa. Sup. Ct. I.D. #46836
:
: P.O. Box 392
: DuBois, PA 15801
: (814) 375 - 9700 ext. 706

JURY TRIAL DEMANDED

FILED

17 OCT 10 2002
01 2:05 PM
William A. Shaw
Prothonotary
9 cent to Att
BY ATT.

RANDALL D. WELLS and
TAMMY WELLS,
Plaintiffs
vs.
GERALD E. ORT TRUCKING, INC.,
ORT TRUCKING, INC.,
SIMON TRANSPORTATION
SERVICES, INC.,
R. AND F. MILLER, INC.,
SAMUEL THOMAS KNIGHT,
EDDIE C. ROBERTS,
JAMIE HARVEY PARKER, and
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,
Defendants

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

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

**Office of Court Administrator
1 North Second Street
Clearfield, PA 16830
(814) 765-2641**

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION – LAW)**

RANDALL D. WELLS and	:	
TAMMY WELLS,	:	
Plaintiffs	:	
	:	
vs.	:	No. 02 - 1608 - C.D.
	:	
GERALD E. ORT TRUCKING, INC.,	:	
ORT TRUCKING, INC.,	:	
SIMON TRANSPORTATION	:	
SERVICES, INC.,	:	
R. AND F. MILLER, INC.,	:	
SAMUEL THOMAS KNIGHT,	:	
EDDIE C. ROBERTS,	:	
JAMIE HARVEY PARKER, and	:	
PENNSYLVANIA DEPARTMENT OF	:	
TRANSPORTATION,	:	
Defendants	:	

COMPLAINT

AND NOW, come the Plaintiffs, **RANDALL D. WELLS and TAMMY WELLS**, by and through their Attorney, Christopher J. Shaw, Esq., and files this Complaint, of which the following is a statement.

1. Plaintiffs, Randall D. Wells and Tammy Wells, are adult individuals sui juris who reside at 17 South Highland Street, DuBois, Clearfield County, Pennsylvania 15801.

2. At all times relevant hereto and continuing, Plaintiffs, Randall D. Wells and Tammy Wells have been and are husband and wife having been married on June 7, 1997.

3. Defendant Gerald E. Ort Trucking, Inc. is a corporation incorporated pursuant to the laws of the State of Wisconsin with a principal address located at 775 Industrial Park Road, New London, Wisconsin, 54961, and is or was engaged in the business of long distance and local trucking.

4. Defendant Ort Trucking, Inc. is a corporation incorporated pursuant to the laws of the State of Wisconsin with a principal address at P. O. Box 267, New London, Wisconsin, 54961, and at 775 Industrial Park Road, New London, Wisconsin, 54961, and is or was engaged in the business of long distance and local trucking.

5. Defendant Simon Transportation Services, Inc. is a corporation incorporated pursuant to the laws of the State of Nevada, with a principal address located at 6100 Neil Road, Reno, Nevada, 89511, and is the successor in interest to Gerald E. Ort Trucking, Inc.

6. Defendant Samuel Thomas Knight is an adult individual residing at 2915 Shirley Road, Youngstown, Ohio, 44502 and at all times relevant hereto was the operator of a 2000 Volvo truck, owned by Defendant Gerald E. Ort Trucking, Inc.

7. Defendant R. and F. Miller, Inc. is a corporation incorporated pursuant to the laws of the State of Indiana, with a principal place of business located at 58255 Crumstown Highway, South Bend, Indiana, 46619-9541.

8. Defendant Eddie C. Roberts is an adult individual residing at 23700/64 Marquette Blvd., South Bend, Indiana, 46628, and at all times relevant hereto was the operator of a 2000 Freightliner truck owned by Defendant R. and F. Miller, Inc.

9. Defendant Jamie Harvey Parker is an adult individual residing at 500 South Ohio Street, Humansville, Missouri, 65613, and at all time relevant hereto was the owner and operator of a 1988 International truck.

10. Defendant Commonwealth of Pennsylvania, Department of Transportation (hereinafter referred to as "PennDot") is a Commonwealth Agency with a place of business as it pertains to roads in Clearfield County, Pennsylvania located at 1924-30 Daisy Street, Clearfield County, PA 16830.

11. The events hereinafter complained of occurred on or about Tuesday, October 24, 2000 between approximately 1:00 A.M. and 3:30 A.M. on Interstate Highway Route 80 at a place approximately .6 miles West of mile marker 103 in Union Township, Clearfield County, Pennsylvania.

12. At said location, at or about 1:00 A.M., Defendant Eddie C. Roberts was operating a 2000 Freightliner truck in a Westerly direction on the above-identified Highway Route 80.

13. Defendant Eddie C. Roberts operated this vehicle in a negligent manner, violently striking the 1988 truck owned and operated by Defendant Jamie Harvey Parker.

14. The impact of this initial collision was sufficient to severely damage both the truck operated by Defendant Eddie C. Roberts and the truck operated by Defendant Jamie Harvey Parker; to create a large two foot by two foot hole in the highway; and to cause vehicle parts to be strewn about on the highway; and to cause oil and/or other

vehicle fluids to completely cover the right lane of the highway and other proximate areas.

15. Defendant Jamie Harvey Parker, who was driving the truck without a driver's license or a license to operate said 18-wheeled vehicle, fled the scene of the initial collision, further spreading fluids and vehicle parts along the highway, and ultimately causing the Pennsylvania State Police who otherwise could have been protecting the area of this accident to pursue this fleeing defendant, leaving no police presence at the scene of this accident.

16. Thereafter, Plaintiff, Randall D. Wells, who was a member of the Sandy Township Volunteer Fire Department, was called to the scene of this first accident to assist in the emergency services being provided there and to remain there while repairs and clean-up to the highway was effectuated by Agents of Defendant Pennsylvania Department of Transportation ("PennDot").

17. Plaintiff, Randall D. Wells, was an occupant of a 1987 International Fireman's Squad Rescue Truck which was parked on the right hand eastbound lane of Route 80, with its emergency warning lights activated, and its tower lights erected to illuminate the scene of the repair work and highway cleanup being conducted by Defendant PennDot.

18. Thereafter, at or about 3:30 A.M., while the Firemen's Squad Rescue Truck remained parked in the right lane of Interstate 80 Eastbound providing the aforementioned services for the Defendant PennDot, Defendant Samuel Thomas Knight, without braking and at a high rate of speed, drove the 2000 Volvo truck he was operating through an area of safety cones and brightly burning emergency flares placed on the

highway, over and on to the closed right hand lane, and directly and violently collided with the International Squad Rescue Truck, propelling the Squad Rescue Truck approximately 150 feet, and causing it to roll completely over, until it came to rest on its left side, facing to the West, on a grassy area to the right of the right hand berm of Interstate 80 Eastbound.

19. As a result of said collision, Plaintiff, Randall D. Wells suffered serious and extensive injuries, including but not limited to the following:

- a. Severe and permanent damage to his back, spine, and potentially nervous system, including T7 burst Fracture, T8 compression fracture requiring a T7 laminectomy, transpedicular decompression of fracture, T5 through T10 fusion to repair the damage to his spine and prevent further damage to his neurological system, in an emergency surgical procedure.
- b. Multiple trauma to his body, including but not limited to lacerations, contusions, bruising, etc.
- c. Damage and instability requiring an operation to fuse his vertebrae and spinal area spanning T5 through T10, by means of the surgical implantation of steel plates and rods adjacent to his spinal column;
- d. Loss of consciousness;
- e. Infection secondary to the sight of surgical intervention necessitating a subsequent surgical intervention for debridement and resultant hospitalizations.

f. Additional surgical intervention to perform thoracotomy for thoracic corpectomy and fusion from T6 through T9, necessitated due to failed fusion of grafting performed earlier.

g. Substantial and pervasive pain and suffering which decreases although never resolves following each surgical procedure.

h. Mental, psychological and emotional damage resulting from the same.

Count I-Negligence

**Plaintiff Randall D. Wells vs.
Defendant Samuel Thomas Knight,
Defendant Gerald E. Ort Trucking, Inc, and
Defendant Ort Trucking, Inc.**

20. Paragraphs 1 through 19 and 24 through 45 are hereby incorporated by reference as if fully restated herein.

21. At the time and place of the second collision described above, Samuel Thomas Knight was an agent and/or employee of Defendants Gerald E. Ort Trucking, Inc. and Ort Trucking, Inc., and was at all times relevant hereto acting within the scope and course of his duties and/or employment responsibilities.

22. Defendants Gerald E. Ort Trucking, Inc. and Ort Trucking, Inc. are vicariously liable for the actions of their agent and/or employee, Samuel T. Knight, who was negligent in the following particulars:

a. In operating his vehicle while susceptible to, and in actuality falling asleep at the wheel;

b. In failing to observe and heed warning apparatus, including but not limited to brightly burning warning flares, warning cones, and flashing

lights, but instead driving over and through the same without reduction in speed;

c. In failing to observe and heed a Squad Rescue Truck stopped on the highway on the other side of the above referenced warning apparatus, with its emergency and boom illumination lights turned on;

d. In operating his vehicle at an excessive rate of speed considering the circumstances existent at the time of the second collision;

e. In failing to keep and maintain his vehicle under safe and adequate control;

f. In losing control of his vehicle;

g. In failing to operate his vehicle in a safe and prudent manner considering the circumstances existent at the time of the second collision;

h. In operating his vehicle when he was not fit and competent to do so;

i. In driving in a careless and reckless fashion;

j. In failing to stop, slow, or take evasive action before colliding with the above-mentioned Squad Rescue Truck at a high rate of speed.

23. The negligence of Defendants Samuel T. Knight, Gerald E. Ort Trucking, Inc., and Ort Trucking, Inc. were substantial factors in causing the second collision described above, and this were substantial factors in causing the serious injuries suffered by the Plaintiff, Randall D. Wells.

WHEREFORE, Plaintiff, Randall D. Wells demands judgment against Defendants Samuel T. Knight, Gerald E. Ort Trucking, Inc. and Ort Trucking, Inc., jointly and severally for an amount in excess of the statutory arbitration limits for the injuries and damages he has suffered.

Count II-Negligence

**Plaintiff Randall D. Wells vs.
Defendant Eddie C. Roberts, and
Defendant R and F Miller, Inc.**

24. Paragraphs 1 through 23 and 28 through 45 are hereby incorporated by reference as if fully restated herein.

25. At the time and place of the first collision described above, Eddie C. Roberts was an agent and/or employee of R. and F. Miller, Inc., and was at all times relevant hereto acting within the scope and course of his and/or employment responsibilities.

26. Defendant R. and F. Miller, Inc. is vicariously liable for the actions of its agent and/or employee, Eddie C. Roberts, who was negligent in the following particulars:

- a. In operating his vehicle while susceptible to, and in actuality falling asleep at the wheel;
- b. In failing to observe and heed another truck traveling on the highway in front of him, and colliding with it;
- c. In operating his vehicle at an excessive rate of speed considering the circumstances existent at the time of the first collision;

- d. In failing to keep and maintain his vehicle under safe and adequate control;
- e. In losing control of his vehicle;
- f. In failing to operate his vehicle in a safe and prudent manner considering the circumstances existent at the time of the first collision;
- g. In operating his vehicle when he was not fit and competent to do so;
- h. In driving in a careless and reckless fashion;
- i. In failing to stop, slow, or take evasive action before colliding with the above mentioned truck operated by Jamie Harvey Parker at a high rate of speed.

27. The negligence of Defendants Eddie C. Roberts, and R. and F. Miller, Inc. were substantial factors In causing the first and second collisions described herein, and thus were substantial factors in causing the serious injuries suffered by the Plaintiff, Randall D. Wells.

WHEREFORE, Plaintiff, Randall D. Wells demands judgment against Defendants Eddie C. Roberts and R. and F. Miller, Inc. jointly and severally for an amount in excess of the statutory arbitration limits for the injuries and damages he has suffered.

Count III-Negligence

**Plaintiff Randall D. Wells vs.
Defendant Jamie Harvey Parker**

28. Paragraphs 1 through 27 and 31 through 45 are hereby incorporated by reference as if fully restated herein.

29. At the time of the first collision described herein, Jamie Harvey Parker was negligent in the following particulars:

- a. In operating his 1998 International Truck and attached cargo trailer without a valid commercial driver's license;
- b. In operating his vehicle at a dangerously slow speed;
- c. In failing to display and utilize the proper safety warning apparatus upon his vehicle;
- d. In fleeing the scene of the first collision, without identifying himself, and in doing so spreading the field of collision debris across a greater area than that caused by the initial collision;
- e. In fleeing the scene of the first collision, and causing law enforcement officials at the scene of the first collision to be required to leave the scene of the first collision in order to apprehend and arrest him, thus diverting them from activities in securing and safeguarding the scene of the first collision;
- f. In failing to operate his vehicle in a safe and prudent manner considering the circumstances existent at the time of the first collision;

g. In operating his vehicle when he was not fit and competent to do so;

h. In driving in a careless and reckless fashion.

30. The negligence of Defendant Jamie Harvey Parker was a substantial factor in causing the first and second collisions described above, and thus was a substantial factor in causing the serious injuries suffered by the Plaintiff, Randall D. Wells.

WHEREFORE, Plaintiff, Randall D. Wells demands judgment against Defendant Jamie Harvey Parker for an amount in excess of the statutory arbitration limits for the injuries and damages he has suffered.

Count IV-Negligence

Plaintiff Randall D. Wells vs. Defendants Gerald E. Ort Trucking, Inc. and Ort Trucking, Inc.

31. Paragraphs 1 through 30 and 34 through 45 are hereby incorporated by reference as if fully restated herein.

32. Defendants Gerald E. Ort Trucking, Inc. and Ort Trucking, Inc. were negligent in the following particulars:

a. Failing to adequately train their driver/operators, including Defendant Samuel Thomas Knight;

b. Failing to adequately supervise their driver/operators, including Defendant Samuel Thomas Knight;

c. Failing to adequately perform background investigations and otherwise negligently hiring unqualified or unfit individuals, including Defendant Samuel Thomas Knight;

- d. Requiring and/or permitting their drivers/operators to drive without proper rest, and/or in violation of applicable hours of service limitations;
- e. Failing to adequately supervise and monitor the activities of their drivers/operators, including Defendant Samuel Thomas Knight.
- f. Failing to take corrective measures for improper and unsafe activities of their drivers/operators, including Defendant Samuel Thomas Knight;
- g. Permitting their drivers/operators, including Defendant Samuel Thomas Knight, to continue driving despite repetitive safety violations, and in violation of motor carrier safety regulations;
- h. Negligently entrusting the operation of their trucks to drivers/operators who were incompetent and/or reckless.

33. The negligence of Defendants Gerald E. Ort Trucking and Ort Trucking, Inc. was a substantial factor in causing the first and second collisions described above, and thus was a substantial factor in causing the serious injuries suffered by the Plaintiff, Randall D. Wells.

WHEREFORE, Plaintiff, Randall D. Wells demands judgment against Defendants Gerald E. Ort Trucking and Ort Trucking, Inc. for an amount in excess of the statutory arbitration limits for the injuries and damages he has suffered.

Count V-Negligence

**Plaintiff Randall D. Wells vs.
Defendant R. and F. Miller, Inc.**

34. Paragraphs 1 through 33 and 37 through 45 are hereby incorporated by reference as if fully restated herein.

35. Defendant R. and F. Miller, Inc. was negligent in the following particulars:

a. Failing to adequately train their drivers/operators, including Defendant Eddie C. Roberts;

b. Failing to adequately supervise their driver/operators, including Defendant Eddie C. Roberts;

c. Failing to adequately perform background investigations and otherwise negligently hiring unqualified or unfit individuals, including Defendant Eddie C. Roberts;

d. Requiring and/or permitting their drivers/operators to drive without proper rest, and/or in violation of applicable hours of service limitations;

e. Failing to adequately supervise and monitor the activities of their drivers/operators, including Defendant Eddie C. Roberts;

f. Negligently entrusting the operation of their trucks to drivers/operators who were incompetent and/or reckless.

36. The negligence of Defendant R. and F. Miller, Inc. was a substantial factor in causing the first and second collisions described above, and thus was a substantial factor in causing the serious injuries suffered by the Plaintiff, Randall D. Wells.

WHEREFORE, Plaintiff, Randall D. Wells, demands judgment against R. and F. Miller, Inc. for an amount in excess of the statutory arbitration limits for the injuries and damages he has suffered.

Count VI-Negligence

**Plaintiff Randall D. Wells vs.
Defendant Commonwealth of Pennsylvania**

37. Paragraphs 1 through 36 and 41 through 45 are hereby incorporated by reference as if fully restated herein.

38. Defendant PennDot is charged with the responsibility of keeping the roadways that it owns and or controls in a reasonable safe condition for the traveling public.

39. Defendant PennDot negligently caused, allowed or permitted a dangerous condition of Interstate 80, a highway which it owned or had custody of, in the following particulars:

- a. In failing to provide a reasonably safe roadway;
- b. In negligently conducting repairs of conditions in the roadway caused by the first collision.

- c. In violating the PennDot regulations and requirements for placement and maintenance of a traffic plan for the protection of traveling public in a construction or accident zone;
- d. In failing to place advance warning signs in the proper and required positions on and adjacent to Interstate 80 to warn the traveling public of the construction or accident zone ahead;
- e. In failing to place a left arrow board truck and a crash truck at the appropriate locations to warn the traveling public of the construction or accident zone, instead necessitating the presence of the Squad Safety vehicle which was then collided into at the time of the second collision;
- f. In failing to provide adequate equipment, repair supplies and materials, and safety vehicles sufficient to secure and safeguard the scene of the repairs being undertaken;
- g. In unreasonably delaying in the conduct of its repair activities;

40. The negligence of PennDot was a substantial factor in causing the second collision described above, and thus was a substantial factor in causing the serious injuries suffered by the Plaintiff, Randall D. Wells.

WHEREFORE, Plaintiff, Randall D. Wells demands judgment against Defendant PennDot for an amount in excess of the statutory arbitration limits for the injuries and damages he has suffered.

COUNT VII-LOSS OF CONSORTIUM

**Plaintiff, Tammy Wells v. Gerald E. Ort Trucking, Inc.; Ort Trucking, Inc.,
Simon Transportation Services, Inc., R. and F. Miller, Inc.; Samuel Thomas
Knight; Eddie C. Roberts; Jamie Harvey Parker; and Pennsylvania Department
Of Transportation**

41. Paragraphs 1 through 40 are hereby incorporated by reference as if fully restated herein.

42. Prior to October 24, 2000, the Plaintiff, Tammy Wells, was legally married to Randall D. Wells, and, as husband and wife, each became entitled to the companionship, society, guidance, material services and consortium of their respective spouses during the period of coverture.

43. Due to the injuries sustained by her husband, Randall D. Wells, resulting from the negligence of the various defendants specified herein, Plaintiff, Randall D. Wells, has been unable to provide and/or has had only a diminished ability to provide the companionship, society, co-operation, affection, guidance, material services, and consortium including conjugal fellowship or the loss or impairment of sexual relations.

44. Plaintiff, Tammy Wells has been deprived of, and will in the future be deprived of the companionship, society, co-operation, affection, guidance, material services and consortium including conjugal fellowship or loss or impairment of sexual relations of her spouse to which she would have been entitled absent the negligence of the Defendants in causing the injury to her Husband, Randall D. Wells, which injury sustain by Randall D. Wells has resulted in Plaintiff's injury for "loss of consortium".

WHEREFORE, Plaintiff, Tammy Wells demands judgment against Defendants, Gerald E. Ort Trucking, Inc.; Ort Trucking, Inc., Simon Transportation Services, Inc., R.

and F. Miller, Inc.; Samuel Thomas Knight; Eddie C. Roberts; Jamie Harvey Parker; and Pennsylvania Department Of Transportation for an amount in excess of the statutory arbitration limits for the injuries and damages she has suffered.

Jury Trial Demanded

Respectfully submitted,





Christopher J. Shaw, Esquire
Attorney for Plaintiffs,
Randall D. Wells & Tammy Wells

VERIFICATION

We, RANDALL D. WELLS and TAMMY WELLS, hereby state that we are the Plaintiffs in the foregoing Complaint. We hereby verify that we have read this complaint, and that the statements made in the foregoing Complaint are true and correct to the best of my/our knowledge information, and belief.

This statement is made pursuant to the penalties of 18 Pa. Cons.Stat.Ann. §4904, relating to unsworn falsification to authorities, which provides for criminal penalties if I/We make false statements herein.


Randall D. Wells
Tammy Wells

Dated: 10/13/02

RANDALL D. WELLS and TAMMY
WELLS

Plaintiffs

v.

GERALD E. ORT;
ORT TRUCKING, INC.;
SIMON TRANSPORTATION
SERVICES, INC.;
R. AND F. MILLER, INC.;
SAMUEL THOMAS KNIGHT;
EDDIE C. ROBERTS;
JAMIE HARVEY PARKER; and
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION

Defendants

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

:
: CIVIL ACTION – LAW
: NO. 02-1608-CD

FILED

NOV 13 2002

William A. Shaw
Prothonotary

: JURY TRIAL DEMANDED

PRELIMINARY OBJECTIONS TO PLAINTIFFS' COMPLAINT

AND NOW, comes Defendant, Jamie Harvey Parker, by and through his attorneys Marshall, Dennehey, Warner, Coleman & Goggin, and files the within Preliminary Objections and in support thereof avers as follows:

1. This lawsuit arises out of two motor vehicle accidents which occurred on Interstate 80 in Clearfield County on October 24, 2000.

2. According to Plaintiffs' Complaint, the first accident occurred at approximately 1:00 a.m. when a truck operated by Defendant Eddie C. Roberts rear ended a truck operated by Defendant Jamie Harvey Parker.

3. The second accident occurred at approximately 3:30 a.m. when a vehicle occupied by Plaintiff Randall D. Wells was rear ended by a truck operated by Defendant Samuel Thomas Knight.

✓

4. At the time of the second accident, Plaintiff Randall Wells was providing emergency services in his capacity as a volunteer fireman.

5. As set forth in Count III of Plaintiffs' Complaint, the claim against Defendant Jamie Harvey Parker relates to his involvement in the first accident and his leaving of the scene of the first accident.

6. The same allegations contained in Count III of Plaintiffs Wells' Complaint were asserted against Defendant Parker in the case of James U. Lux v. Jamie Harvey Parker, et al., Common Pleas of Clearfield County, Civil #01-466-CD.

7. Defendant Parker filed preliminary objections in the nature of a demurer in the prior action and those preliminary objections were granted by Order dated August 21, 2001 of the Honorable Judge John K. Reilly, Jr. (Judge Reilly also denied reconsideration by Order dated October 1, 2001.)

8. As in the Lux case, Defendant Parker maintains that his alleged negligence was not a substantial factor in causing Plaintiffs' harm. (Bell v. Irace, 422 Pa.Super. 298, 618 A.2d 365 (1993).)

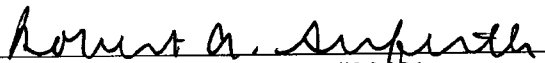
9. As Plaintiff Randall Wells was in the exact same location and under the same circumstances as Plaintiff Lux in the prior action, the facts as they relate to the potential liability of Defendant Parker are identical and Defendant Parker should be dismissed from Plaintiffs' Wells' cause of action.

10. The Complaint filed by Plaintiffs against Defendant Jamie Harvey Parker fails to state a cause of action.

WHEREFORE, Defendant, Jamie Harvey Parker, requests that Plaintiffs' Complaint against him be dismissed.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

BY



Robert A. Seiferth - I.D. #20481

David F. Wilk - I.D. #65992

Attorneys for Defendant Jamie Harvey
Parker

33 W. Third Street, Suite 200

Williamsport, PA 17701

(570)326-9094

Date: 11/12/02

CERTIFICATE OF SERVICE

I, Robert A. Seiferth, Esquire, hereby certify that I have served a true and correct copy of the foregoing **Preliminary Objections to Plaintiffs' Complaint** upon all parties:

VIA UNITED STATES REGULAR MAIL:

Christopher J. Shaw, Esquire
P.O. Box 392
DuBois, PA 15801

Michael F. Nerone, Esquire
Dickie, McCamey & Chilcote
2 PPG Place, Suite 400
Pittsburgh, PA 15222

Nancy L. Heilman, Esquire
Cohen & Grigsby
11 Stanwix Street, 15th Floor
Pittsburgh, PA 15222-1312

Edward A. Yurcon, Esquire
Anstandig, McDyer, Burdette & Yurcon
707 Grant Street, Suite 1300
Pittsburgh, PA 15219-1911

John R. Benty, Esquire
Office of Attorney General
Tort Litigation Unit
Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

BY Robert A. Seiferth
Robert A. Seiferth - I.D. #20481
David F. Wilk - I.D. #65992
Attorneys for Defendant Jamie Harvey
Parker
33 W. Third Street, Suite 200
Williamsport, PA 17701
(570)326-9094

Date: 11/12/02

FILED
NOV 13 2002
11:25 AM
FBI

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RANDALL D. WELLS and TAMMY
WELLS,

Plaintiffs,

v.

GERALD E. ORT, ORT TRUCKING,
INC., SIMON TRANSPORTATION
SERVICES, INC., R. AND F. MILLER,
INC., SAMUEL THOMAS KNIGHT,
EDDIE C. ROBERTS, JAMIE HARVEY
PARKER, and PENNSYLVANIA
DEPARTMENT OF
TRANSPORTATION,

Defendants.

CIVIL DIVISION

CASE NO: 02-1608 – C.D.

PRAECIPE FOR APPEARANCE

FILED ON BEHALF OF:

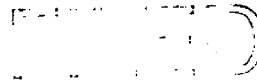
R. AND F. MILLER, INC. and EDDIE C.
ROBERTS, Defendants

COUNSEL OF RECORD:

EDWARD A. YURCON, ESQUIRE
PA. I.D. #30830

Anstandig, McDyer, Burdette
& Yurcon, P.C.
Firm #866
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(412) 765-3700

JURY TRIAL DEMANDED



JUL 18 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RANDALL D. WELLS and TAMMY WELLS,	)	CIVIL DIVISION
)	
Plaintiffs,	)	CASE NO: 02-1608 – C.D.
)	
v.)	
)	
GERALD E. ORT, ORT TRUCKING, INC., SIMON TRANSPORTATION SERVICES, INC., R. AND F. MILLER, INC., SAMUEL THOMAS KNIGHT, EDDIE C. ROBERTS, JAMIE HARVEY PARKER, and PENNSYLVANIA DEPARTMENT OF TRANSPORTATION,)	
)	
Defendants.)	

PRAECIPE FOR APPEARANCE

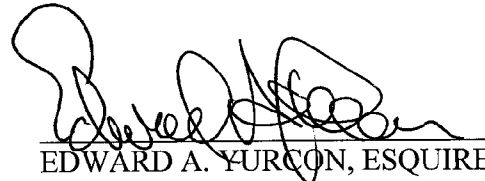
TO: PROTHONOTARY:

Kindly enter the appearance of EDWARD A. YURCON, ESQUIRE and the law firm of ANSTANDIG, MCDYER, BURDETTE & YURCON, P.C. as counsel of record for defendants R. AND F. MILLER, INC. and EDDIE C. ROBERTS in the above-captioned case.

Respectfully submitted,

Anstandig, McDyer, Burdette
& Yurcon, P.C.

By:



EDWARD A. YURCON, ESQUIRE
Attorney for Defendants R. AND F.
MILLER, INC. and EDDIE C. ROBERTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within
PRAECIPE FOR APPEARANCE has been served upon the following counsel
by U.S. mail, postage pre-paid, this 15th day of November, 2002,
to the following:

Christopher J. Shaw
P.O. Box 392
DuBois, PA 15801

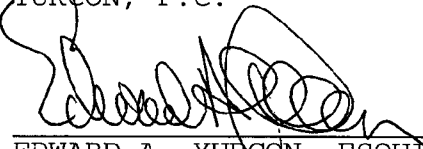
Michael F. Nerone, Esquire
DICKIE, McCAMEY & CHILCOTE
Two PPG Place, Suite 400
Pittsburgh, PA 15222

John R. Benty, Esquire
Commonwealth of PA
Office of Attorney General
Tort Litigation Unit
Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

Nancy Heilman, Esquire
Cohen & Grigsby, P.C.
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222

ANSTANDIG, McDYER, BURDETTE &
YURCON, P.C.

BY:



EDWARD A. YURCON, ESQUIRE
ATTORNEYS FOR DEFENDANTS,
R & F MILLER, INC. AND
EDDIE C. ROBERTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiffs,

No. 02-1608 - C.D.

v.

PRAECIPE FOR APPEARANCE

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C. Roberts,
Jamie Harvey Parker, and Pennsylvania
Department of Transportation,

Filed on behalf of Defendants Gerald E. Ort, Ort
Trucking, Inc. and Samuel Thomas Knight

Counsel of record for this party:

Defendants.

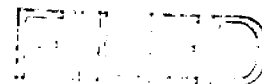
John T. Pion, Esquire
PA. I.D. #43675

Michael F. Nerone, Esq.
PA. I.D. #62446

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

(412) 281-7272

JURY TRIAL DEMANDED



NOV 18 2002

William A. Shaw
Prothonotary

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Kindly enter the appearances of John T. Pion, Esquire, Michael F. Nerone, Esquire and Dickie, McCamey & Chilcote, P.C. in the above-captioned case on behalf of the Defendants, Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: 

John T. Pion, Esquire
Michael F. Nerone, Esquire
Counsel for the Defendants, Gerald
E. Ort Trucking, Inc., Ort Trucking,
Inc., and Samuel Thomas Knight

Certificate of Service

I hereby certify that I have served a copy of the Praecipe for Appearance upon the following counsel, this 13th day of November, 2002 by first class mail, postage prepaid:

Edward A. Yurcon, Esquire
ANSTANDIG, McDYER, BURDETTE
& YURCON, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219-1911
(Attorney for Eddie C. Roberts and
F. Miller, Inc.)

Nancy Heilman, Esquire
COHEN & GRIGSBY
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222
(Attorney for Simon Transportation)

John R. Benty, Esquire
Commonwealth of Pennsylvania
Office of Attorney General
Tort Litigation Unit
Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219
(Attorney for PennDot)

Christopher J. Shaw, Esquire
P.O. Box 392
DuBois, PA 15801
(Attorney for Plaintiff)

DICKIE, McCAMEY & CHILCOTE, P.C.

BY: Michael F. Nerone
John T. Pion, Esquire
Michael F. Nerone, Esquire
Defendants, Gerald E. Ort, Ort Trucking,
Inc. and Samuel Thomas Knight

NO
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William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiffs,

No. 02-1608 - C.D.

v.

ANSWER AND NEW MATTER

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C. Roberts,
Jamie Harvey Parker, and Pennsylvania
Department of Transportation,

Filed on behalf of Defendants Gerald E. Ort, Ort
Trucking, Inc. and Samuel Thomas Knight

Counsel of record for this party:

Defendants.

John T. Pion, Esquire
PA. I.D. #43675

Notice to Plead:

Michael F. Nerone, Esq.
PA. I.D. #62446

To: Within Parties

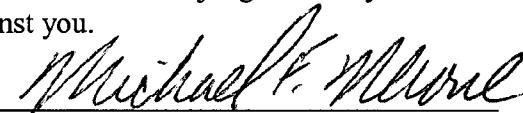
You are hereby notified to file a written
response to the enclosed Answer and New
Matter within twenty (20) days from the date of
service hereof or a judgment may be entered
against you.

DICKIE, McCAMEY & CHILCOTE, P.C.
Firm #067

Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402

(412) 281-7272

By:



Michael F. Nerone, Esquire

JURY TRIAL DEMANDED



NOV 18 2002

William A. Shaw
Prothonotary

ANSWER AND NEW MATTER

AND NOW, come the Defendants, Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight, by and through their counsel, Dickie, McCamey & Chilcote, P.C. and Michael F. Nerone, Esquire and file this Answer and New Matter, in support of which they aver the following:

1-2. After reasonable investigation, these Defendants lack sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in Paragraphs 1 and 2 of Plaintiffs' Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

3-4. The averments set forth in Paragraphs 3 and 4 of Plaintiffs' Complaint are denied as stated. To the contrary, Gerald E. Ort Trucking, Inc., no longer exists and is no longer a viable on-going business entity.

5. After reasonable investigation, these Defendants lack sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in Paragraph 5 of Plaintiffs' Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

6. The averments regarding Defendant Knight are admitted. However, said vehicle is no longer owned by Gerald E. Ort Trucking, Inc., and Gerald E. Ort Trucking, Inc., no longer actively conducts business.

7-10. The averments set forth in Paragraphs 7 through 10 of Plaintiffs' Complaint are directed to parties other than this Defendant. To the extent a response may be

deemed required, said averments are denied and strict proof thereof is demanded at the time of trial.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

16. After reasonable investigation, the Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in Paragraph 16 of Plaintiffs' Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

17. After reasonable investigation, the Defendants are without sufficient information or knowledge to form a belief as to the truth or falsity of the averments set forth in Paragraph 17 of Plaintiffs' Complaint. Therefore, the same are denied and strict proof thereof is demanded at the time of trial.

18. It is admitted that Defendant Knight's tractor trailer impacted with a fire truck at the scene of the subject accident. However, after reasonable investigation these Defendants lack sufficient information or knowledge to form a belief as to the truth or falsity of the remaining allegations set forth in Paragraph 18 of Plaintiffs' Complaint. Therefore, said allegations are denied and strict proof thereof is demanded at the time of trial.

19. The averments set forth in Paragraph 19 and subparagraphs (a) through (h) state conclusions of law to which no response is required. To the extent a response may be deemed required, after reasonable investigation, these Defendants are without sufficient

information or knowledge to form a belief as to the truth or falsity of the same. Therefore, said allegations are denied and strict proof thereof is demanded at the time of trial.

COUNT I - Negligence

**Plaintiff Randall D. Wells vs.
Defendant Samuel Thomas Knight,
Defendant Gerald E. Ort Trucking, Inc., and
Defendant Ort Trucking, Inc.**

20. In response to Paragraph 20 of Plaintiffs' Complaint, these Defendants incorporate herein by reference the averments set forth in Paragraphs 1 through 19 above and 24 through 45 below, as if the same were set forth herein at length.

21. It is admitted that at the time of the subject accident, Defendant Knight was an employee of Gerald E. Ort Trucking, Inc. However, it is averred that Gerald E. Ort Trucking, Inc., no longer exists.

22. The averments set forth in Paragraph 22 and subparagraphs (a) through (j) of Plaintiffs' Complaint state conclusions of law to which no response is required. To the extent a response may be deemed required, said allegations are specifically denied.

23. The averments set forth in Paragraph 23 of Plaintiffs' Complaint state conclusions of law to which no response is required. To the extent a response may be deemed required, said allegations are specifically denied.

COUNT II - Negligence

**Plaintiff Randall D. Wells vs.
Defendant Eddie C. Roberts, and
Defendant R and F Miller, Inc.**

24. In response to Paragraph 24 of Plaintiffs' Complaint, these Defendants incorporate herein by reference the averments set forth in Paragraphs 1 through 23 above and Paragraphs 28 through 45 below.

25-27. The averments set forth in Paragraph 25 through 27 of Plaintiffs' Complaint are directed to parties other than these Defendants. Therefore, no response is required. To the extent a response may be deemed required, said allegations are denied.

COUNT III - Negligence

**Plaintiff Randall D. Wells vs.
Defendant Jamie Harvey Parker**

28. In response to Paragraph 28, these Defendants incorporate herein by reference the averments set forth in Paragraphs 1 through 27 above and Paragraphs 31 through 45 below as if the same were set forth herein at length.

29-30. The averments set forth in Paragraphs 29 and 30 of Plaintiff's Complaint is directed to parties other than these Defendants. Therefore, no response is required. To the extent a response may be deemed required, said allegations are denied.

COUNT IV - Negligence

**Plaintiff Randall D. Wells vs.
Defendants Gerald E. Ort Trucking, Inc. and Ort Trucking, Inc.**

31. In response to Paragraph 31 of Plaintiffs' Complaint, these Defendants incorporate herein by reference the averments set forth in Paragraphs 1 through 30 and 34 through 45 as if the same were set forth herein at length.

32-33. It is averred that Gerald E. Ort Trucking, Inc., no longer exists. By way of further response, it is averred that the allegations set forth in Paragraphs 32 and 33 of Plaintiffs' Complaint state conclusions of law to which no response is required. To the extent a response may be deemed required, said allegations are denied.

COUNT V - Negligence

**Plaintiff Randall D. Wells vs.
Defendant R. and F. Miller, Inc.**

34. In response to Paragraph 34 of Plaintiffs' Complaint, these Defendants incorporate herein by reference the averments set forth in Paragraphs 1 through 33 above and 37 through 45 below as if the same were set forth herein at length.

35-36. The averments set forth in Paragraphs 35 and 36 of Plaintiffs' Complaint are directed to parties other than these Defendants. Therefore, no response is required. To the extent a response may be deemed required, said allegations are denied.

COUNT VI - Negligence

**Plaintiff Randall D. Wells vs.
Defendant Commonwealth of Pennsylvania**

37. In response to Paragraph 37 of Plaintiffs' Complaint, these Defendants incorporate herein by reference the averments set forth in Paragraphs 1 through 36 below and 41 through 45 above as if the same were set forth herein at length.

38-40. The averments set forth in Paragraphs 38 through 40 of Plaintiffs' Complaint are directed to parties other than these Defendants. Therefore, no response is required. To the extent a response may be deemed required, said allegations are denied.

COUNT VII - Loss of Consortium

**Plaintiff, Tammy Wells v. Gerald E. Ort Trucking, Inc.; Ort Trucking, Inc.,
Simon Transportation Services, Inc., R and F. Miller, Inc.; Samuel Thomas
Knight; Eddie C. Roberts; Jamie Harvey Parker; and Pennsylvania Department
Of Transportation**

41. In response to Paragraph 41 of Plaintiffs' Complaint these Defendants incorporate herein by reference the averments set forth in Paragraphs 1 through 40 above, as if the same were set forth herein at length.

42-44. The averments set forth in Paragraphs 42 through 44 of Plaintiffs' Complaint state conclusions of law to which no response is required. To the extent a response may be deemed required, and to the extent said averments are directions to these Defendants, the same are denied.

WHEREFORE, these Defendants deny any and all liability to the Plaintiffs under any theory of whatsoever and respectfully requests that judgment be entered in their favor together with costs.

NEW MATTER

45. These Defendants raise as a complete and total bar to any and all liability asserted against them in this action by the Plaintiffs or by any Co-Defendants or other persons, entities or parties, the Pro Rata Joint Tortfeasor Release executed by Plaintiff, a true, correct and complete copy of which is attached hereto as Exhibit "A".

46. These Defendants raise Plaintiffs' contributory and/or comparative negligence as a complete and/or partial bar.

47. These Defendants raise Plaintiffs' assumption of a known risk as a complete and/or partial bar.

48. These Defendants raise Plaintiffs' failure to mitigate damages as a complete and/or partial bar.

49. These Defendants raise the superceding, intervening acts of third-parties over whom they had neither the duty nor right of control as a complete and/or partial bar to Plaintiffs' claims.

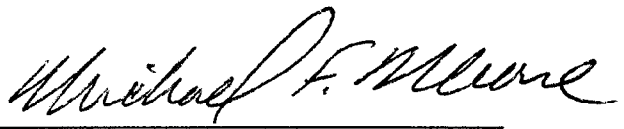
50. To the extent applicable based upon the facts developed during discovery or the evidence introduced at the time of trial, these Defendants raise the applicable statute of limitations as a complete and/or partial bar to Plaintiffs' claims.

51. These Defendants raise the Pennsylvania Motor Vehicle Financial Responsibility law and all of the terms and provisions set forth therein as a complete and/or partial bar to Plaintiffs' claims.

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

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: 

John T. Pion, Esquire
Michael F. Nerone, Esquire
Counsel for the Defendants, Gerald
E. Ort Trucking, Inc., Ort Trucking,
Inc., and Samuel Thomas Knight

VERIFICATION

I, Michael F. Nerone, Attorney for Defendants, Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight, have read the foregoing Answer and New Matter. The statements therein are correct to the best of my personal knowledge or information and belief.

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

A handwritten signature in black ink, reading "Michael F. Nerone". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Michael F. Nerone

.

.

EXHIBIT “A”

PRO-RATA JOINT TORTFEASOR RELEASE

1. BY THESE PRESENTS, WE, Randall D. Wells and Tammy L. Wells, for the total consideration of **TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$225,000.00)**, do hereby release and forever discharge Gerald E. Ort Trucking, Inc., Ort Trucking, Inc., and Samuel Thomas Knight, their heirs, administrators, executors, successors, assigns and insurers ("Releasees"), from any and all actions, causes of action, claims, compensatory damages, punitive damages and demands of whatsoever kind or nature, on account of any and all known injuries, losses and damages to us sustained or received on or about October 24, 2000 in a motor vehicle accident on or about Interstate 80 in Clearfield County, Pennsylvania at or about mile markers 103/104.

2. The settlement proceeds of \$225,000.00 represent a total settlement of all claims we possess against the Releasees and is intended to cover and does cover not only all now known injuries, losses and damages, but any future injuries, losses and damages not now known or anticipated, but which may later develop or be discovered, including all the effects and consequences thereof.

3. It is understood and agreed that this settlement represents a compromise of disputed claims, and that the payment made is not to be construed as an admission of liability on the part of the Releasees. To the contrary, Releasees expressly deny any and all liability and we realize that there is considerable doubt and uncertainty as to the liability of Releasees.

4. We reserve the right to make claims against any and every other person, entity or organization, including but not limited to Simon Transportation Services, Inc., R. and F. Miller, Inc.,

Eddie C. Roberts, Jamie Harvey Parker and the Commonwealth of Pennsylvania, Department of Transportation, who may be liable to us and to claim that they, and not the Releasees, are solely liable for the claimed injuries, losses and damages.

5. For the above consideration paid and pursuant to the Uniform Contribution Among Tortfeasors Act, 42 Pa.C.S.A. § 8321, should it be determined that the provisions of the Comparative Negligence Act, 42 Pa.C.S.A. § 1701 et. seq. apply to this action or that Releasees are joint tortfeasors, we further agree that the damages recoverable against any non-released person, association, governmental entity or corporation shall be reduced by the total amount of the Releasees' PRO-RATA share of liability (Releasees' percentage/proportionate share of causal responsibility) as determined by any verdict, award, decision or opinion.

6. Should the jury return a verdict, or should there be any other such determination, that Releasees are not liable to any degree for the claimed injuries and damages or that Releasees are not joint tortfeasors, then the amount claimed by us against any other alleged tortfeasor shall not be reduced by any amount.

7. Should we recover from any non-settling joint tortfeasor (including but not limited to Simon Transportation Services, Inc., R. and F. Miller, Inc., Eddie C. Roberts, Jamie Harvey Parker and the Commonwealth of Pennsylvania, Department of Transportation) any amounts apportioned to Releasees by any verdict, award, decision or opinion and should said non-settling joint tortfeasor assert claims against the Releasees for any amounts it has paid to us but which were apportioned to Releasees by verdict, award, decision or opinion, we agree to indemnify, defend and hold Releasees harmless from and against such claims up to the amount paid to us by a non-settling joint tortfeasor in excess of said non-settling joint tortfeasor's proportionate share of liability.

8. It is further understood by us and our attorneys that all medical liens/subrogation claims, workers compensation liens/subrogation claims, insurance liens/subrogation claims, and all liens/subrogation claims from any governmental body or program that relate to benefits paid to us or on our behalf or expenses incurred by us or on our behalf of whatsoever kind arising out of this accident or relating in any way to treatment received for our injuries and/or damages, shall be satisfied, settled and/or resolved by us and that all such claims, liens and expenses are solely our responsibility and that the satisfaction or any such claim is a material condition/term of this release agreement. We further agree to defend and indemnify Releasees for and against any such claim or lien asserted by any third party which relates to or arises from the above referenced October 24, 2000 accident and any benefits paid to us or on our behalf or expenses incurred by us or on our behalf.

9. It is further understood and agreed and made a part hereof, that we, our counsel and other representatives will keep the fact of this settlement and all of the terms and provisions of this settlement confidential from all persons, firms, and entities and that neither we nor our counsel or other representatives, will in any way discuss or publicize, including but not limited to newspapers, magazines, radio, internet or television, the facts or terms and conditions of this settlement. We expressly agree to decline comment on any aspect of this settlement to any person. However, it is expressly understood and agreed that either we or the Releasees may disclose the terms and facts of this settlement to any Court of competent jurisdiction solely for the purpose of enforcement of this settlement should such action become necessary. This paragraph is intended to become part of the consideration for settlement of this claim.

9. This Joint Tortfeasor Release shall be construed that wherever applicable the use of the singular number shall include the plural number and shall be binding upon and inure to the

successors, assigns, heirs, executors, administrators, and legal representatives of the respective parties hereto.

10. This Joint Tortfeasor Release contains the entire agreement between the parties hereto, and the terms hereof are contractual and not a mere recital. We have carefully read the foregoing with the assistance of legal counsel of our own choosing and know and understand the contents and meaning thereof, and sign the same as our free act.

IN WITNESS WHEREOF, and intending to be legally bound, we have hereunto set our hands and seal this 8th day October, 2002.

WITNESSED BY:

Christopher J Shaw Randall D. Wells
Randall D. Wells

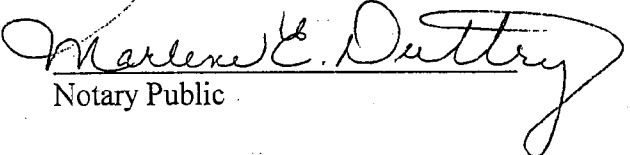
Christopher J Shaw Tammy L Wells
Tammy L. Wells

Commonwealth of Pennsylvania))
) SS:
County of Clearfield)

On this 8th day of October, 2002, before me personally appeared **Randall D. Wells and Tammy L. Wells**, to me known to be the persons named in and who executed the above **PRO-RATA JOINT TORTFEASOR RELEASE** and acknowledged that they executed same as their free act and deed.

Witness my hand and notarial seal the date aforesaid.

My Commission Expires


Notary Public

Notary Public

NOTARIAL SEAL
Marlene E. Duttry, Notary Public
City of Du Bois, Clearfield County
My commission expires August 22, 2006

Certificate of Service

I hereby certify that I have served a copy of the Answer and New Matter upon the following counsel, this 13th day of November, 2002 by first class mail, postage prepaid:

Edward A. Yurcon, Esquire
ANSTANDIG, McDYER, BURDETTE
& YURCON, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219-1911
(Attorney for Eddie C. Roberts and
F. Miller, Inc.)

John R. Benty, Esquire
Commonwealth of Pennsylvania
Office of Attorney General
Tort Litigation Unit
Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219
(Attorney for PennDot)

Nancy Heilman, Esquire
COHEN & GRIGSBY
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222
(Attorney for Simon Transportation)

Christopher J. Shaw, Esquire
P.O. Box 392
DuBois, PA 15801
(Attorney for Plaintiff)

DICKIE, McCAMEY & CHILCOTE, P.C.

BY: 

John T. Pion, Esquire
Michael F. Nerone, Esquire
Defendants, Gerald E. Ort, Ort Trucking,
Inc. and Samuel Thomas Knight

Certificate of Service

I hereby certify that I have served a copy of the Answer and New Matter upon the following counsel, this 13th day of November, 2002 by first class mail, postage prepaid:

Edward A. Yurcon, Esquire
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& YURCON, P.C.
1300 Gulf Tower
707 Grant Street
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(Attorney for Eddie C. Roberts and
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Pittsburgh, PA 15219
(Attorney for PennDot)

Nancy Heilman, Esquire
COHEN & GRIGSBY
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222
(Attorney for Simon Transportation)

Christopher J. Shaw, Esquire
P.O. Box 392
DuBois, PA 15801
(Attorney for Plaintiff)

DICKIE, McCAMEY & CHILCOTE, P.C.

BY: 

John T. Pion, Esquire
Michael F. Nerone, Esquire
Defendants, Gerald E. Ort, Ort Trucking,
Inc. and Samuel Thomas Knight

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RANDALL D. WELLS and
TAMMY WELLS,

Plaintiffs,

vs.

GERALD E. ORT TRUCKING, INC.,
ORT TRUCKING, INC.,
SIMON TRANSPORTATION
SERVICES, INC.,
R. AND F. MILLER, INC.,
SAMUEL THOMAS KNIGHT,
EDDIE C. ROBERTS,
JAMIE HARVEY PARKER, and
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Defendants.

CIVIL DIVISION

No. 02-1608-C.D.

**COMMONWEALTH DEFENDANT'S
PRAECIPE FOR APPEARANCE**

Filed on Behalf of Defendant:

Pennsylvania Department of
Transportation

Counsel of Record for this
party:

JOHN R. BENTY
Sr. Deputy Attorney General
Pa. I. D. #44606

Office of Attorney General
Tort Litigation Unit
6th Floor, Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

(412) 565-3539

FILED

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William A. Shaw
Prothonotary/Clerk of Courts
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KCH

PRAECIPE FOR APPEARANCE

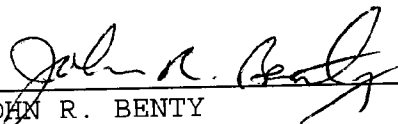
TO THE PROTHONOTARY:

Please enter my appearance in the above-referenced case on behalf of defendant, Pennsylvania Department of Transportation. The defendant, Pennsylvania Department of Transportation, hereby demands a trial by a jury of twelve.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

BY:



JOHN R. BENTY
Sr. Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praecipe for Appearance was served upon the following counsel of record by mailing the same via first class mail, postage pre-paid, on November 13, 2002:

Christopher J. Shaw, Esquire
P.O. Box 392
DuBois, PA 15801
(Counsel for Plaintiffs)

Gerald E. Ort Trucking, Inc.
& Ort Trucking, Inc.
775 Industrial Park Road
New London, WI 54961

Simon Transportation Services, Inc.
6100 Neil Road
Reno, NV 89511

Samuel Thomas Knight
2915 Shirley Road
Youngstown, OH 44502

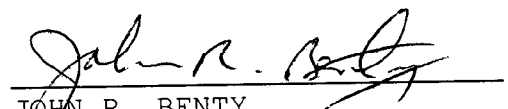
R. and F. Miller, Inc.
58255 Crumstown Highway
South Bend, IN 46619-9541

Eddie C. Roberts
23700/64 Marquette Boulevard
South Bend, IN 46628

Jamie Harvey Parker
500 South Ohio Street
Humansville, MO 65613

D. MICHAEL FISHER
Attorney General

BY:


JOHN R. BENTY
Sr. Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiffs,

No. 02-1608 - C.D.

v.

STIPULATION

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C. Roberts,
Jamie Harvey Parker, and Pennsylvania
Department of Transportation,

Filed on behalf of Defendants Gerald E. Ort, Ort
Trucking, Inc. and Samuel Thomas Knight

Counsel of record for this party:

Defendants.

John T. Pion, Esquire
PA. I.D. #43675

Michael F. Nerone, Esq.
PA. I.D. #62446

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

(412) 281-7272

JURY TRIAL DEMANDED

FILED

JAN 13 2003

William A. Shaw
Prothonotary

STIPULATION

AND NOW, come the Defendants Gerald E. Ort Trucking, Inc., Samuel Thomas Knight, R&F Miller, Inc. and Eddie C. Roberts, by and through their counsel, Dickie, McCamey & Chilcote, P.C., John T. Pion, Esquire and Michael F. Nerone, Esquire and do hereby stipulate and agree as follows:

1. Defendants R&F Miller, Inc., and Eddie C. Roberts do hereby waive, release, discharge and dismiss with prejudice any and all cross-claims, claims for contribution and claims for indemnity which have been asserted or could have been asserted against Defendants, Gerald E. Ort Trucking, Inc., Ort Trucking, Inc. and Samuel Thomas Knight.
2. Defendants Gerald E. Ort Trucking, Inc., Ort Trucking, Inc. and Samuel Thomas Knight do hereby waive, release, discharge and dismiss with prejudice any and all cross-claims, claims for contribution and claims for indemnity which have been asserted or could have been asserted against R&F Miller, Inc., and Eddie C. Roberts.

ANSTANDIG, McDYER, BURDETTE
& YURCON, P.C.

BY: 

Edward A. Yurcon, Esquire
Attorneys for Eddie C. Roberts and
R&F Miller, Inc.

DICKIE, McCAMEY & CHILCOTE, P.C.

BY: 

Michael F. Nerone, Esquire
Attorneys for Gerald E. Ort Trucking,
Inc., Ort Trucking, Inc. and Samuel
Thomas Knight

Certificate of Service

I hereby certify that I have served a copy of the Praecipe for Appearance upon the following counsel, this 8th day of January, 2003 by first class mail, postage prepaid:

Edward A. Yurcon, Esquire
ANSTANDIG, McDYER, BURDETTE
& YURCON, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219-1911
(Attorney for Eddie C. Roberts and
F. Miller, Inc.)

John R. Benty, Esquire
Commonwealth of Pennsylvania
Office of Attorney General
Tort Litigation Unit
Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219
(Attorney for PennDot)

Nancy Heilman, Esquire
COHEN & GRIGSBY
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222
(Attorney for Simon Transportation)

Christopher J. Shaw, Esquire
P.O. Box 392
DuBois, PA 15801
(Attorney for Plaintiff)

DICKIE, McCAMEY & CHILCOTE, P.C.

BY: 

John T. Pion, Esquire
Michael F. Nerone, Esquire
Defendants, Gerald E. Ort, Ort Trucking,
Inc. and Samuel Thomas Knight

FILED
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JAN 13 2003

William A. Shaw
Prothonetary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RANDALL D. WELLS and TAMMY
WELLS,

Plaintiffs,

v.

GERALD E. ORT TRUCKING,
INC., ORT TRUCKING, INC.,
SIMON TRANSPORTATION
SERVICES, INC., R. AND F.
MILLER, INC., SAMUEL THOMAS
KNIGHT, EDDIE C. ROBERTS,
JAMIE HARVEY PARKER, and
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Defendants.

CIVIL DIVISION

Case No. 02-1608-C.D.

ANSWER AND NEW MATTER

FILED ON BEHALF OF:

R. AND F. MILLER, INC., and
EDDIE C. ROBERTS,
Defendants.

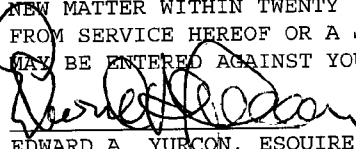
COUNSEL OF RECORD:

EDWARD A. YURCON, ESQUIRE
Pa. I.D. #30830

ANSTANDIG, MCDYER, BURDETTE
& YURCON, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(412) 765-3700

To: ALL PARTIES

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.


EDWARD A. YURCON, ESQUIRE
Attorney for Defendant

FILED

FEB 24 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RANDALL D. WELLS and TAMMY	)	CIVIL DIVISION
WELLS,)	
	)	Case No. 02-1608-C.D.
Plaintiffs,)	
)	
v.)	
)	
GERALD E. ORT TRUCKING, INC.,)	
ORT TRUCKING, INC., SIMON)	
TRANSPORTATION SERVICES, INC.,)	
R. AND F. MILLER, INC., SAMUEL)	
THOMAS KNIGHT, EDDIE C.)	
ROBERTS, JAMIE HARVEY PARKER,)	
and PENNSYLVANIA DEPARTMENT OF)	
TRANSPORTATION,)	
)	
Defendants.)	

ANSWER AND NEW MATTER

AND NOW, come the defendants, Eddie C. Roberts (hereinafter "Roberts") and R. and F. Miller, Inc. (hereinafter "Miller"), by and through their attorneys, ANSTANDIG, MCDYER, BURDETTE, & YURCON, P.C. and EDWARD A. YURCON, ESQUIRE, and files the following Answer and New Matter to Plaintiff's Complaint, and in support thereof, avers as follows:

1. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 1 of the Complaint. Therefore, same are denied and strict proof at trial demanded.

2. After reasonable investigation, defendants Miller and

Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 2 of the Complaint. Therefore, same are denied and strict proof at trial demanded.

3. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 3 of the Complaint. Therefore, same are denied and strict proof at trial demanded.

4. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 4 of the Complaint. Therefore, same are denied and strict proof at trial demanded.

5. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 5 of the Complaint. Therefore, same are denied and strict proof at trial demanded.

6. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 6 of the Complaint. Therefore, same are denied and strict proof at trial demanded.

7. Admitted.

8. It is admitted that Roberts resides in South Bend, Indiana. It is denied, however, that Defendant operated a truck at any time relevant to the accident which resulted in Plaintiff's injuries.

9. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 9 of the Complaint. Therefore, same are denied and strict proof at trial demanded.

10. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 10 of the Complaint. Therefore, same are denied and strict proof at trial demanded.

11. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 11 of the Complaint. Therefore, same are denied and strict proof at trial demanded.

12. Admitted.

13. It is admitted that the vehicle driven by defendant Roberts struck the vehicle operated by defendant Parker. It is denied, however, that defendant Roberts ever operated his vehicle in a negligent manner.

14. The averments contained in paragraph 14 of plaintiff's

Complaint are denied pursuant to Pa.R.C.P. 1029(e). Strict proof at trial demanded.

15. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 15 of the Complaint. Therefore, same are denied and strict proof at trial demanded.

16. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 16 of the Complaint. Therefore, same are denied and strict proof at trial demanded.

17. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 17 of the Complaint. Therefore, same are denied and strict proof at trial demanded.

18. Admitted.

19. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 19 and subparagraphs 19(a) through (h) of the Complaint. Therefore, same are denied and strict proof at trial demanded.

WHEREFORE, defendants Eddie C. Roberts and R. and F. Miller, Inc. deny liability and demand judgment in their favor and

against plaintiffs and all other parties.

COUNT I

20. Defendants hereby incorporate their responses to paragraphs 1 through 19, and 24 through 45 as if fully stated herein.

21. Paragraph 21 pertains to another party and, therefore, no response is required from these defendants.

22. Paragraph 22 pertains to another party and, therefore, no response is required from these defendants.

23. Paragraph 23 pertains to another party and, therefore, no response is required from these defendants.

WHEREFORE, defendants Eddie C. Roberts and R. and F. Miller, Inc. deny liability and demand judgment in their favor and against plaintiff and all other parties.

COUNT II

24. Defendants hereby incorporate their responses to paragraphs 1 through 23 and 28 through 45, as if fully stated herein.

25. The averments contained in paragraph 25 constitute conclusions of law to which no response is required. To the extent a response is required, it is admitted that defendant Roberts was operating a tractor trailer for defendant Miller.

26. The averments contained in paragraph 26 of the plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent that a response may be

required, the averments contained in paragraphs 26 and subparagraphs 26(a) through (i), inclusive, are denied pursuant to Pennsylvania Rule of Civil Procedure 1029(e).

27. The averments contained in paragraph 27 of plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent that a response is required, the averments are denied pursuant to Pa.R.C.P. §1029(e). In further response, any actions on the part of these defendants had no relationship to the second accident and, therefore, were not a substantial cause of the second accident. In fact, there is no relationship or causal connection between the two accidents described in plaintiff's Complaint. Furthermore, defendant Knight's falling asleep at the wheel was a superceding cause with regard to the second accident.

WHEREFORE, defendants Eddie C. Roberts and R. and F. Miller, Inc. deny liability and demand judgment in their favor and against plaintiff and all other parties.

COUNT III

28. Defendants hereby incorporate their responses to paragraphs 1 through 27 and 31 through 45, as if fully stated herein.

29. Paragraph 29 pertains to another party and therefore no response is required from these defendants.

30. Paragraph 30 pertains to another party and therefore no response is required from these defendants.

WHEREFORE, defendants Eddie C. Roberts and R. and F. Miller, Inc. deny liability and demand judgment in their favor and against plaintiff and all other parties.

COUNT IV

31. Defendants hereby incorporate their responses to paragraphs 1 through 30 and 34 through 45, as if fully stated herein.

32. Paragraph 32 pertains to another party and therefore no response is required from these defendants.

33. Paragraph 33 pertains to another party and therefore no response is required from these defendants.

WHEREFORE, defendants Eddie C. Roberts and R. and F. Miller, Inc. deny liability and demand judgment in their favor and against plaintiff and all other parties.

COUNT V

34. Defendants hereby incorporate their responses to paragraphs 1 through 33 and 37 through 45, as if fully stated herein.

35. The averments contained in paragraph 35 of plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent that a response may be required, the averments contained in paragraphs 35 and subparagraphs 35(a) through (f), inclusive, are denied pursuant to Pa.R.C.P. §1029(e).

36. The averments contained in paragraph 36 of plaintiff's

Complaint constitute conclusions of law to which no response is required. To the extent that a response is required, the averments are denied pursuant to Pa.R.C.P. §1029(e). In further response, any actions on the part of these defendants had no relationship to the second accident and, therefore, were not a substantial cause of the second accident. In fact, there is no relationship or causal connection between the two accidents described in plaintiff's Complaint. Furthermore, defendant Knight's falling asleep at the wheel was a superceding cause with regard to the second accident.

WHEREFORE, defendants Eddie C. Roberts and R. and F. Miller, Inc. deny liability and demand judgment in their favor and against plaintiff and all other parties.

COUNT VI

37. Defendants hereby incorporate their responses to paragraphs 1 through 36 and 41 through 45, as if fully stated herein.

38. Paragraph 38 pertains to another party and therefore no response is required from these defendants.

39. Paragraph 39 pertains to another party and therefore no response is required from these defendants.

40. Paragraph 40 pertains to another party and therefore no response is required from these defendants.

WHEREFORE, defendants Eddie C. Roberts and R. and F. Miller, Inc. deny liability and demand judgment in their favor and

against plaintiff and all other parties.

COUNT VII

41. Defendants hereby incorporate their responses to paragraphs 1 through 40, above, as if fully stated herein.

42. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 42 of the Complaint. Therefore, same are denied and strict proof at trial demanded.

43. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 43 of the Complaint. Therefore, same are denied and strict proof at trial demanded. Defendants Miller and Roberts deny any and all allegations of negligence as more fully set forth in this Answer and New Matter.

44. After reasonable investigation, defendants Miller and Roberts are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 44 of the Complaint. Therefore, same are denied and strict proof at trial demanded. Defendants Miller and Roberts deny any and all allegations of negligence as more fully set forth in this Answer and New Matter.

WHEREFORE, defendants Eddie C. Roberts and R. and F. Miller, Inc. deny liability and demand judgment in their favor and

against plaintiff and all other parties.

NEW MATTER

45. Defendants incorporate by reference the allegations and averments contained in their Answer fully and completely as though the same were set forth at length herein.

46. The plaintiff fails to state a claim against defendants Miller and/or Roberts for which relief can be granted by this Court.

47. Plaintiff's claims are barred by the applicable statute of limitation(s).

48. To the extent the plaintiff sustained injury and damages, they were the result of an accident which occurred when a vehicle operated by defendant Knight and owned by defendants Ort and/or Simon Transportation struck a vehicle occupied by plaintiff.

49. The accident in which defendants Miller and Roberts were involved in was not a substantial factor in causing the second accident which resulted in plaintiff's injuries.

50. There is no causal connection between the accident involving defendants Miller and Roberts and the second accident which resulted in injury to the plaintiff.

51. Plaintiff's injuries and/or damages, as such may be proven at the time of trial, are the result of the conduct of other parties.

52. Plaintiff's injuries and/or damages, as such may be

proven at the time of trial, are the result of a superceding, intervening act for which these defendants are not responsible.

53. Accordingly, should plaintiff prove damages, said damages being denied, then said damages must be reduced to the degree in which plaintiff has failed to mitigate them.

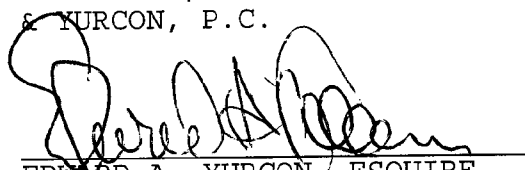
54. Plaintiffs' claims against defendants R. and F. Miller, Inc. and Eddie C. Roberts are barred by virtue of a joint tortfeasor's release executed by plaintiffs Randall D. Wells and Tammy Wells in favor of defendants R. and F. Miller, Inc. and Eddie C. Roberts, said release being executed pursuant to provisions of the Uniform Contribution Among Joint Tortfeasor's Act 42 Pa.C.S.A. §8321 and the Pennsylvania Comparative Negligence Act 42 Pa.C.S.A. §7102, a copy of said release being attached hereto as Exhibit "A", the same being hereby pled as a bar and/or affirmative defense.

WHEREFORE, defendants Eddie C. Roberts and R. and F. Miller, Inc. deny liability and demand judgment in their favor and against plaintiff and all other parties.

Respectfully submitted,

ANSTANDIG, McDYER, BURDETTE
& YURCON, P.C.

BY:


EDWARD A. YURCON, ESQUIRE
ATTORNEYS FOR DEFENDANTS, EDDIE C.
ROBERTS and R. AND F. MILLER, INC.

JURY TRIAL DEMANDED

EXHIBIT 'A'

JOINT TORTFEASOR RELEASE AND SETTLEMENT AGREEMENT

THIS Joint Tortfeasor Release and Settlement Agreement is made by and between Randall D. Wells and Tammy Wells, hereinafter referred to as "Releasors," and R. & F. Miller, Inc. and Eddie C. Roberts, hereinafter referred to as "Releasees."

WHEREAS, the parties hereto wish to enter into a full and final release and settlement of Releasors' claims against Releasees arising from injuries and damages to Randall D. Wells and Tammy Wells in a motor vehicle accident which occurred on October 24, 2000, on Interstate Highway 80 in Union Township, Clearfield County, Pennsylvania; and

WHEREAS, the Releasors further intend to preserve and do hereby exclude all of their rights to pursue claims against Gerald E. Ort, Ort Trucking, Inc., Simon Transportation Service, Inc., Samuel Thomas Knight, Jamie Harvey Parker, and Pennsylvania Department of Transportation, their subsidiaries, affiliates, agents, servants and employees for injuries to Randall D. Wells and Tammy Wells;

NOW, THEREFORE, the parties hereto hereby covenant and agree as follows:

1. Releasors, for and in consideration of the payment of the sum of One Hundred Thousand Dollars (\$100,000.00) by Safeco Insurance Company, the receipt of which sum is hereby acknowledged, do hereby release and forever discharge and,

by these presents, do for themselves, their heirs, executors, administrators, and assigns, release and forever discharge R. & F. Miller, Inc., Eddie C. Roberts and Safeco Insurance Company, and their respective heirs, executors, administrators, agents, employees, successors and assigns from any and all liability, claims, causes of action, liens, damages, costs and demands, whatsoever, in law or in equity, which against the said parties' Releasors ever had, now have, or which their heirs, executors, administrators, or assigns, hereafter can or may have by reason of the bodily and personal injury sustained by Releasors and the consequences thereof, known or unknown, foreseen or unforeseen, arising or which may arise as a result of or in any way connected with the accident referred to above.

2. It is understood that no claims or demands are being released which Releasors may have against any other party on account of the aforesaid accident or any injuries arising therefrom; but the damages recoverable against such other parties shall be reduced, extinguished or satisfied in accordance with the terms of this release if the verdict or judgment is also against any of the entities being released herein. The damages against such other party shall be reduced by the greater of that proportion of the total dollar amount awarded as damages or the ratio of the amount of causal negligence of the parties herein released to the amount of the causal negligence attributed to all parties against whom a verdict or judgment is obtained.

3. Should Releasors receive a verdict or judgment solely against a party other than the released parties, then the reduction or damages referred to herein shall not apply. But if a verdict or judgment in favor of Releasors results in a claim, verdict or judgment for contribution and/or indemnity against any of the released parties, at any time, then Releasors agree that they will not enforce their rights to collect the verdict or judgment to the extent that such enforcement creates any further liability against the released parties, it being the expressed intent and purpose of this Agreement to hold the released parties harmless from and against further liability which may arise by virtue of Releasors' claim against any other party. In such event, Releasors agree that they will reduce their claim or satisfy the verdict or judgment to the extent necessary to eliminate any further liability of the released parties, either to Releasors or to any party claiming contribution and/or indemnity.

4. In the event that Releasors enter into additional settlement agreements with persons or entities not released herein, Releasors agree to include a provision in such future releases shall not institute any action for contribution or common law indemnity against previous Releasees or against persons or entities subsequently released by the Releasors;

5. Releasees agree not to institute any action for contribution of common law indemnity against any person or

entity not a party to this Agreement in any way related to claims arising from the said accident;

6. Releasors understand and agree that payment of the said sums by Safeco on behalf of the Releasees is in compromise and settlement of a disputed claim and is not to be construed as an admission of liability for the said accident;

7. Releasors hereby discharge and agree to indemnify and save harmless the Releasees and Safeco Insurance Company from any liens asserted by any health care provider, hospital, insurer, or attorney for medical expenses, hospital expense, lost earnings, payments, attorneys liens, subrogation claims or liens and any worker's compensation liens as a result of the above-described accident or occurrence.

8. The parties hereto understand that this is a complete agreement and that there is no written or oral understanding or agreement between the parties which is not set forth herein;

9. This Agreement is to be construed in accordance with the laws of the Commonwealth of Pennsylvania.

WE HAVE READ THIS RELEASE AND SETTLEMENT AGREEMENT,
UNDERSTAND SAID TERMS AND AGREE TO BE LEGALLY BOUND BY ALL
OF THE TERMS OF THIS AGREEMENT.

IN WITNESS WHEREOF, we hereunto set forth our hands and
seals this 8th day of JANUARY, 2003.

Christopher J Shaw
Witness

Randall D. Wells (Seal)
RANDALL D. WELLS

Christopher J Shaw
Witness

Tammy Wells (Seal)
TAMMY WELLS

SWORN to and SUBSCRIBED
to this 08 day of
JANUARY, 2003.

Tina L. Conrad
NOTARY PUBLIC

Notarial Seal
Tina L. Conrad, Notary Public
City of DuBois, Clearfield County
My Commission Expires Mar. 27, 2006
Member, Pennsylvania Association of Notaries

VERIFICATION

I, EDDIE C. ROBERTS hereby verify that the statements set forth in the foregoing ANSWER AND NEW MATTER are true and correct to the best of my knowledge, information and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsifications to authorities.

Date: 1-24-03

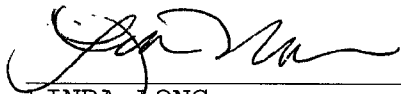
Eddie C Roberts
EDDIE C. ROBERTS

VERIFICATION

I, LINDA LONG hereby verify that the statements set forth in the foregoing ANSWER AND NEW MATTER are true and correct to the best of my knowledge, information and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsifications to authorities.

Date: 2/12/03



LINDA LONG
Secy R&F Mills Inc.
Title:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within ANSWER AND NEW MATTER has been served upon the following counsel by U.S. mail, postage pre-paid, this 20th day of February, 2003, to the following:

Christopher J. Shaw
P.O. Box 392
DuBois, PA 15801

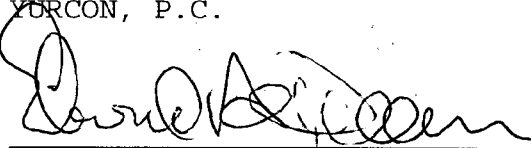
Michael F. Nerone, Esquire
DICKIE, McCAMEY & CHILCOTE
Two PPG Place, Suite 400
Pittsburgh, PA 15222

Nancy Heilman, Esquire
Cohen & Grigsby, P.C.
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222

John R. Benty, Esquire
Commonwealth of PA
Office of Attorney General
Tort Litigation Unit
Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

ANSTANDIG, McDYER, BURDETTE &
YURCON, P.C.

BY:



EDWARD A. YURCON, ESQUIRE
ATTORNEYS FOR DEFENDANTS,
R & F MILLER, INC. AND
EDDIE C. ROBERTS

FILED

M 11:35 AM
FEB 24 2003

no cc
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2003

William A. Shaw
Prothonotary

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

RANDALL D. WELLS and TAMMY
WELLS

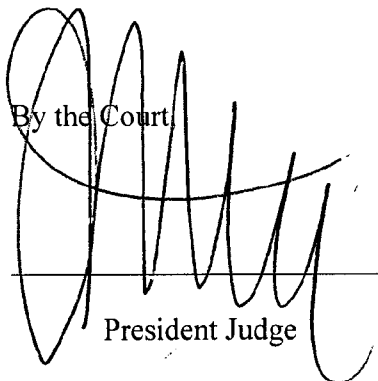
-vs-

No. 02 – 1608 – CD

GERALD E. ORT; ORT TRUCKING,
INC.; SIMON TRANSPORTATION
SERVICES, INC.; R. AND F. MILLER,
INC.; SAMUEL THOMAS KNIGHT;
EDDIE C. ROBERTS; JAMIE HARVEY
PARKER; and PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION :

ORDER

NOW, this 11th day of April, 2003, upon consideration of Preliminary
Objections in the nature of a demurrer to Plaintiffs' Complaint filed on behalf of Defendant
Jamie Harvey Parker, it is the ORDER of this Court that said Objections be and are hereby
sustained and Defendant Parker dismissed as a party defendant. Opinion to be filed in the
event of an appeal.

By the Court


President Judge

FILED

APR 11 2003

William A. Shaw
Prothonotary

FILED

1cc Atty. C. Shaw

1cc Atty. P. O. McNamee

1cc Atty. Heilmann

1cc Atty. Yurcon

1cc Atty. Seifarth

1cc Atty. Bonty

William A. Shaw
Prothonetary

APR 11 2003

WAS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RANDALL D. WELLS and
TAMMY WELLS,

Plaintiffs,

vs.

GERALD E. ORT TRUCKING, INC.,
ORT TRUCKING, INC.,
SIMON TRANSPORTATION
SERVICES, INC.,
R. AND F. MILLER, INC.,
SAMUEL THOMAS KNIGHT,
EDDIE C. ROBERTS,
JAMIE HARVEY PARKER, and
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Defendants.

CIVIL DIVISION

No. 02-1608-C.D.

**COMMONWEALTH DEFENDANT'S
ANSWER AND NEW MATTER TO
PLAINTIFFS' COMPLAINT AND
NEW MATTER UNDER PA. R.C.P.
2252 (d)**

Filed on Behalf of Defendant:

Pennsylvania Department of
Transportation

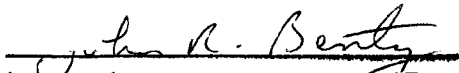
Counsel of Record for this
party:

JOHN R. BENTY
Sr. Deputy Attorney General
Pa. I. D. #44606

Office of Attorney General
Tort Litigation Unit
6th Floor, Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

(412) 565-3539

You are hereby notified to plead to the
within pleading within twenty (20) days
hereof or a default judgment may be
entered against you.


Attorney for Defendant PennDOT

FILED

APR 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

COMMONWEALTH DEFENDANT'S ANSWER AND NEW MATTER
TO PLAINTIFFS' COMPLAINT

AND NOW, comes the defendant, Commonwealth of Pennsylvania, Department of Transportation (hereinafter PennDOT), by the Attorney General of the Commonwealth of Pennsylvania, and states that it has a full, complete and just defense to any and all of Plaintiffs' Complaints and, insofar as it is necessary to set forth those defenses in an Answer and New Matter, they are as follows:

1. In response to the averments contained in Paragraph 1 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

2. In response to the averments contained in Paragraph 2 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

3. In response to the averments contained in Paragraph 3 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

4. In response to the averments contained in Paragraph 4 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

5. In response to the averments contained in Paragraph 5 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

6. In response to the averments contained in Paragraph 6 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

7. In response to the averments contained in Paragraph 7 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

8. In response to the averments contained in Paragraph 8 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable

investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

9. In response to the averments contained in Paragraph 9 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

10. In response to the averments contained in Paragraph 10 of Plaintiffs' Complaint, it is admitted that the Defendant, Pennsylvania Department of Transportation, is a Commonwealth agency with a place of business located at 1924-30 Daisy Street, Clearfield County, PA 16830. Any further allegations or inferences contained therein are denied as stated.

11. In response to the averments contained in Paragraph 11 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

12. In response to the averments contained in Paragraph 12 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments.

Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

13. In response to the averments contained in Paragraph 13 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

14. In response to the averments contained in Paragraph 14 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

15. In response to the averments contained in Paragraph 15 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

16. In response to the averments contained in Paragraph 16 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

17. In response to the averments contained in Paragraph 17 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

18. In response to the averments contained in Paragraph 18 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

19. In response to the averments contained in Paragraph 19 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

20. In response to the averments contained in Paragraph 20 of Plaintiffs' Complaint, Defendant PennDOT hereby incorporates its responses to Paragraphs 1 through 19 and 24 through 45 as though the same were set forth more fully herein.

21. In response to the averments contained in Paragraphs 21, 22 and 23, said paragraphs are directed towards another party and, therefore, no response is required from this answering Defendant. To the extent that there are any inferences or

allegations of negligence contained therein which refer to this answering Defendant, the same are denied.

22. In response to the averments contained in Paragraph 24 of Plaintiffs' Complaint, Defendant PennDOT hereby incorporates its responses to Paragraphs 1 through 23 and 28 through 45 as though the same were set forth more fully herein.

23. In response to the averments contained in Paragraphs 25, 26, and 27 of Plaintiffs' Complaint, said paragraphs are directed towards another party and, therefore, no response is required from this answering Defendant. To the extent that there are any inferences or allegations of negligence contained therein which refer to this answering Defendant, the same are denied.

24. In response to the averments contained in Paragraph 28 of Plaintiffs' Complaint, Defendant PennDOT hereby incorporates its responses to Paragraphs 1 through 27 and 31 through 45 as though the same were set forth more fully herein.

25. In response to the averments contained in Paragraphs 29 and 30 of Plaintiffs' Complaint, said paragraphs are directed towards another party and, therefore, no response is required from this answering Defendant. To the extent that there are any inferences or allegations of negligence contained therein which refer to this answering Defendant, the same are denied.

26. In response to the averments contained in Paragraph 31 of Plaintiffs' Complaint, Defendant PennDOT hereby incorporates its responses to Paragraphs 1 through 30 and 34 through 45 as though the same were set forth more fully herein.

27. In response to the averments contained in Paragraphs 32 and 33 of Plaintiffs' Complaint, said paragraphs are directed towards another party and, therefore, no response is required from this answering Defendant. To the extent that there are any inferences or allegations of negligence contained therein which refer to this answering Defendant, the same are denied.

28. In response to the averments contained in Paragraph 34 of Plaintiffs' Complaint, Defendant PennDOT hereby incorporates its responses to Paragraphs 1 through 33 and 37 through 45 as though the same were set forth more fully herein.

29. In response to the averments contained in Paragraphs 35 and 36 of Plaintiffs' Complaint, said paragraphs are directed towards another party and, therefore, no response is required from this answering Defendant. To the extent that there are any inferences or allegations of negligence contained therein which refer to this answering Defendant, the same are denied.

30. In response to the averments contained in Paragraph 37 of Plaintiffs' Complaint, Defendant PennDOT hereby incorporates its responses to Paragraphs 1 through 36 and 41 through 45 as though the same were set forth more fully herein.

31. In response to the averments contained in Paragraph 38 of Plaintiffs' Complaint, it is admitted only that Defendant PennDOT has certain duties and responsibilities as set forth in relevant Pennsylvania law.

32. The averments contained in Paragraph 39 of Plaintiffs' Complaint are denied.

33. The averments contained in Paragraph 40 of Plaintiffs' Complaint are denied.

34. In response to the averments contained in Paragraph 41 of Plaintiffs' Complaint, Defendant PennDOT hereby incorporates its responses to Paragraphs 1 through 40 as though the same were set forth more fully herein.

35. In response to the averments contained in Paragraph 42 of Plaintiffs' Complaint, Defendant PennDOT, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

36. In response to the averments contained in Paragraph 43 of Plaintiffs' Complaint, it is specifically denied that Defendant PennDOT was negligent in any manner whatsoever. In further answer, after reasonable investigation, Defendant PennDOT is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the same are denied and strict proof, thereof, is demanded at the time of trial.

37. In response to the averments contained in Paragraph 44 of Plaintiffs' Complaint, it is specifically denied that Defendant PennDOT was negligent in any manner whatsoever. In further answer, after reasonable investigation, Defendant PennDOT is without knowledge or information sufficient to form a belief as to the truth or falsity of said averments. Accordingly, the

same are denied and strict proof, thereof, is demanded at the time of trial.

NEW MATTER

By way of further and more complete answer to the plaintiffs' Complaint, this defendant sets forth the following New Matter:

38. The cause of action against the defendant, PennDOT, is barred by the Doctrine of Sovereign Immunity.

39. By way of further defense, it is averred that the cause of action against the defendant, PennDOT, does not fall within one of the nine (9) categories enumerated by §8522 of Act 152, September 28, 1978, . P.L. 788, as amended, 42 Pa. C.S.A. §8522.

40. By way of further defense, it is averred that the cause of action against the defendant, PennDOT, fails as a result of the failure of this defendant to receive actual written notice pursuant to §8555 of Act 152, September 28, 1978, P.L. 788, as amended, 42 Pa. C.S.A. §5522.

41. By way of further defense, it is averred that in the event that damages are awarded in this case, said damages are limited to the amounts and for the losses as set forth in §8528 of Act 152, September 28, 1978, P.L. 788, as amended, 42 Pa. C.S.A. §8528.

42. The rights of the plaintiff(s) in this action are diminished or fully barred by plaintiff(s)' contributory negligence in accordance with the provisions of the Pennsylvania Comparative Negligence Law, 42 Pa. C.S.A. §7102.

43. The injuries, losses, damages or occurrences alleged in the plaintiffs' Complaint were the result of an independent and intervening cause or caused over which the defendant, PennDOT, had no control or in any way participated.

44. The injuries, losses, damages or occurrences alleged in the plaintiffs' Complaint were the result of the assumption of the risk of such injuries, losses or damages by the plaintiff(s).

45. All rights which might otherwise exist against this party are barred in whole or in part by the applicable statutes of limitations, other similar statutes, contractual provisions and/or other fundamental provisions, including waiver, estoppel and laches.

46. The responsibility of the defendant, PennDOT, to maintain the highway at issue is limited by its financial ability to do so (in accord with appropriations made by the General Assembly) or articulated by the Administrative Code, 71 P.S. §512.

47. The purported highway defect alleged to be a cause or contributing factor to the happening of the accident in question did not cause but, at most, only facilitated the happening of the accident in suit; accordingly, the cause of action against PennDOT is barred under applicable law.

48. The accomplishment of the work assigned to PennDOT to perform under applicable authority was made impossible to attain as a result of the economic resources which limited PennDOT's ability to attain such goal.

49. Plaintiffs have failed to allege or document the election of full tort option on the Pennsylvania Motor Vehicle Financial Responsibility Law.

50. To the extent that the plaintiffs sustained injuries and damages, they were the result of an accident which occurred on a vehicle operated by defendant Knight and owned by defendants Ort and/or Simon Transportation struck a vehicle occupied by the plaintiff. Plaintiffs injuries and/or damages that may be proven at the time of trial are the result of superseding, intervening act for which this defendant is not responsible.

WHEREFORE, the cause of action against the defendant, PennDOT, should be dismissed as against it with costs assessed against the plaintiffs.

NEW MATTER UNDER PA.R.C.P. 2252(d) ADDRESSED TO GERALD E. ORT, ORT TRUCKING, INC., SIMON TRANSPORTATION SERVICES, INC., R. AND F. MILLER, INC., SAMUEL THOMAS KNIGHT; EDDIE C. ROBERTS AND JAMIE HARVEY PARKER

51. Defendant PennDOT avers that if the accident occurred as alleged in the Plaintiffs' Complaint, then any injuries or damages allegedly sustained by the Plaintiffs were due to the negligence, carelessness and recklessness of Defendants Gerald E. Ort, Ort Trucking, Inc., Simon Transportation Services, Inc., R. and F. Miller, Inc., Samuel Thomas Knight, Eddie C. Roberts and Jamie Harvey Parker, as more specifically set forth in the Plaintiffs' Complaint, which paragraphs are incorporated herein solely for purposes of this crossclaim, as though the same were set forth more fully herein.

52. Defendant PennDOT hereby incorporates allegations contained in Plaintiffs' Complaint for purposes of its crossclaims against Defendants Gerald E. Ort, Ort Trucking, Inc., Simon Transportation Services, Inc., R. and F. Miller, Inc., Samuel Thomas Knight, Eddie C. Roberts and Jamie Harvey Parker, only.

WHEREFORE, Defendants Gerald E. Ort, Ort Trucking, Inc., Simon Transportation Services, Inc., R. and F. Miller, Inc., Samuel Thomas Knight, Eddie C. Roberts and Jamie Harvey Parker, are alone liable to the Plaintiffs. In the event that Defendant PennDOT is held to be liable to the Plaintiffs, which is expressly and specifically denied, then Defendants Gerald E. Ort, Ort Trucking, Inc., Simon Transportation Services, Inc., R. and F. Miller, Inc., Samuel Thomas Knight, Eddie C. Roberts and Jamie Harvey Parker, are jointly and/or severally liable with Defendant PennDOT or liable over to Defendant PennDOT in indemnity and/or contribution on the cause of action as set forth in the Plaintiffs' Complaint.

Respectfully submitted,

GERALD J. PAPPERT
Attorney General

BY: John R. Benty
John R. Benty
Sr. Deputy Attorney General

JRB
Wells v. PennDOT, et al.

VERIFICATION

I, PETER M. FILO, have read the
foregoing ANSWER AND NEW MATTER.

The statements therein are correct to the best of my personal
knowledge or information and belief.

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

Peter M. Filo

DATE: 4/16/04

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Commonwealth Defendant's Answer and New Matter to Plaintiffs' Complaint and New Matter Under Pa. Rule 2252(d) was served upon the following counsel of record by mailing the same via first class mail, postage pre-paid, on April 16, 2004.

Christopher J. Shaw, Esquire
P.O. Box 392
DuBois, PA 15801
(Counsel for Plaintiffs)

John T. Pion, Esquire
Michael F. Nerone, Esquire
DICKIE, McCAMEY & CHILCOTE, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
**(Counsel for Gerald E. Ort,
Ort Trucking, Inc. & Samuel Thomas Knight)**

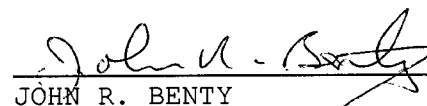
Nancy Heilman, Esquire
COHEN & GRIGSBY
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222
(Counsel for Simon Transportation)

Edward A. Yurcon, Esquire
ANSTANDIG, McDYER, BURDETTE
& YURCON, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219-1911
(Counsel for E. Roberts & F. Miller, Inc.)

Robert A. Seiferth, Esquire
MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN
33 W. Third Street, Suite 200
Williamsport, PA 17701
(Counsel for Jamie Harvey Parker)

GERALD J. PAPPERT
Attorney General

BY:


JOHN R. BENTY
Sr. Deputy Attorney General

FILED
m/1584
APR 21 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RANDALL D. WELLS and
TAMMY WELLS,

Plaintiffs,

vs.

GERALD E. ORT TRUCKING, INC.,
ORT TRUCKING, INC.,
SIMON TRANSPORTATION
SERVICES, INC.,
R. AND F. MILLER, INC.,
SAMUEL THOMAS KNIGHT,
EDDIE C. ROBERTS,
JAMIE HARVEY PARKER, and
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Defendants.

CIVIL DIVISION

No. 02-1608-C.D.

**NOTICE OF SERVICE TO
REQUEST TO PRODUCE UNDER
PA. R.C.P. 4009 DIRECTED
TO PLAINTIFFS**

Filed on Behalf of Defendant:

Pennsylvania Department of
Transportation

Counsel of Record for this
party:

JOHN R. BENTY
Sr. Deputy Attorney General
Pa. I. D. #44606

Office of Attorney General
Tort Litigation Unit
6th Floor, Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

(412) 565-3539

FILED

APR 22 2004

William A. Shaw
Prothonotary/Clerk of Courts

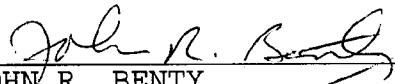
NOTICE OF SERVICE

TO THE PROTHONOTARY:

Please take note that the undersigned has served Request to Produce Under PA R.C.P. 4009 Directed to Plaintiffs and copies sent to all counsel of record, on behalf of Commonwealth of Pennsylvania, Department of Transportation in the above-referenced case.

GERALD J. PAPPERT
Attorney General

BY:



JOHN R. BENTY
Sr. Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Service to Request to Produce Under PA. R.C.P. 4009 Directed to Plaintiffs was served upon the following counsel of record by mailing the same via first class mail, postage pre-paid, on April 19, 2004.

Christopher J. Shaw, Esquire
P.O. Box 392
DuBois, PA 15801
(Counsel for Plaintiffs)

John T. Pion, Esquire
Michael F. Nerone, Esquire
DICKIE, McCAMEY & CHILCOTE, P.C.
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
**(Counsel for Gerald E. Ort,
Ort Trucking, Inc. & Samuel Thomas Knight)**

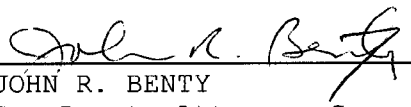
Nancy Heilman, Esquire
COHEN & GRIGSBY
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222
(Counsel for Simon Transportation)

Edward A. Yurcon, Esquire
ANSTANDIG, McDYER, BURDETTE
& YURCON, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219-1911
(Counsel for E. Roberts & F. Miller, Inc.)

Robert A. Seiferth, Esquire
MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN
33 W. Third Street, Suite 200
Williamsport, PA 17701
(Counsel for Jamie Harvey Parker)

GERALD J. PAPPERT
Attorney General

BY:


JOHN R. BENTY
Sr. Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiff,

No. 02-1608-C.D.

v.

Issue No.

Gerald E. Ort Trucking, Inc., Ort Trucking, Inc.,
Simon Transportation Services, Inc., R. and F.
Miller, Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and Pennsylvania
Department of Transportation,

**REPLY TO NEW MATTER PURSUANT
TO RULE 2252(D)**

Code:

Defendant.

Filed on behalf of Defendants, Gerald E. Ort
Trucking, Inc., Ort Trucking, Inc. and Samuel
Thomas Knight

Counsel of record for this party:

Michael F. Nerone, Esq.
PA. I.D. #62446

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

(412) 281-7272

FILED

APR 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

JURY TRIAL DEMANDED

REPLY TO NEW MATTER PURSUANT TO RULE 2252(D)

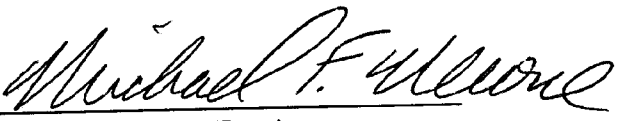
AND NOW, come the Defendants, Gerald E. Ort Trucking, Inc., Ort Trucking, Inc., and Samuel Thomas Knight, by and through their counsel, Dickie, McCamey & Chilcote, P.C. and Michael F. Nerone, Esquire and file this Reply to the Pennsylvania Department of Transportation's New Matter Pursuant to Rule 2252(d), in support of which they aver the following:

1. The averments set forth in Paragraph 51 of the Pennsylvania Department of Transportation's New Matter Pursuant to Rule 2252(d), state conclusions of law to which no response is required. To the extent a response may be deemed required, said allegations are generally denied.

2. The averments set forth in Paragraph 52 of the Commonwealth of Pennsylvania, Department of Transportation's New Matter Pursuant to Rule 2252(d) state conclusions of law to which no response is required. To the extent a response may deemed required, said allegations are generally denied.

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

DICKIE, McCAMEY & CHILCOTE, P.C.

BY: 
Michael F. Nerone, Esquire
Gerald E. Ort Trucking, Inc., Ort
Trucking and Samuel Thomas Knight

VERIFICATION

I, Michael F. Nerone, Counsel for Gerald E. Ort Trucking, Inc., Ort Trucking and Samuel Thomas Knight, have read the foregoing Answer, New Matter and New Matter Pursuant to Rule 2252(d). The statements therein are correct to the best of my personal knowledge or information and belief.

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

A handwritten signature in cursive script, reading "Michael F. Nerone", written over a horizontal line.

Michael F. Nerone

DATED: _____

4/26/04

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the within Reply to New Matter Pursuant to Rule 2252(d) by first class mail, postage prepaid, this 26th day of April, 2004 upon the following counsel of record:


John R. Benty, Esquire
Sr. Deputy Attorney General
Office of Attorney General
Tort Litigation Unit
6th Floor, Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219
(Counsel for Pennsylvania Department
Of Transportation)

Nancy Heilman, Esquire
Cohen & Grigsby
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222
(Counsel for Simon Transportation)

Edward A. Yurcon, Esquire
Anstandig, McDyer, Burdette
& Yurcon, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219-1911
(Counsel for E. Roberts & F. Miller, Inc.)

Robert A. Seiferth, Esquire
Marshall, Dennehey, Warner, Coleman &
Goggin
33 W. Third Street, Suite 200
Williamsport, PA 17701
(Counsel for Jamie Harvey Parker)

DICKIE, McCAMEY & CHILCOTE, P.C.

BY: 
Michael F. Nerone, Esquire

FILED NO
M 11:35 AM
APR 29 2004 CC

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RANDALL D. WELLS and TAMMY
WELLS,

Plaintiffs,

v.

GERALD E. ORT TRUCKING, INC.,
ORT TRUCKING, INC., SIMON
TRANSPORTATION SERVICES, INC.,
R. AND F. MILLER, INC., SAMUEL
THOMAS KNIGHT, EDDIE C.
ROBERTS, JAMIE HARVEY PARKER,
and PENNSYLVANIA DEPARTMENT
OF TRANSPORTATION,

Defendants.

CIVIL DIVISION

No. 02-1608-C.D.

REPLY TO 2252(d)NEW MATTER
OF COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION

Filed on behalf of R.& F. MILLER,
INC., and EDDIE C. ROBERTS,
Defendants

Counsel of Record for these Parties:

EDWARD A. YURCON, ESQUIRE
Pa. I.D. #30830

ANSTANDIG, McDYER, BURDETTE
& YURCON, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219

(412) 765-3700

FILED

MAY 10 2004

William A. Shaw
Prothonotary/Clerk of Courts

REPLY TO 2252(d) NEW MATTER OF
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION

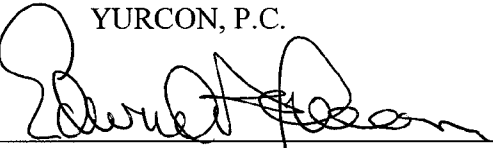
AND NOW, come the defendants, R & F MILLER, INC. and EDDIE C. ROBERTS, by their attorneys, ANSTANDIG, McDYER, BURDETTE & YURCON, P.C., and set forth the following Reply to 2252(d) New Matter of the Commonwealth of Pennsylvania Department of Transportation:

1. The averments contained in paragraph 51 of defendant, Commonwealth of Pennsylvania, Department of Transportation's Answer and New Matter constitute conclusions of law to which no response is required. In the event a response is required, defendants, R & F MILLER, INC. and EDDIE C. ROBERTS deny any and all averments of liability, negligence and/or carelessness. In further response, defendants R & F MILLER, INC. and EDDIE C. ROBERTS incorporate by reference as though more fully set forth herein the Answer and New Matter which they previously filed in the above-captioned case denying liability and pleading that any and all claims against them are barred by virtue of a Joint Tortfeasors Release executed by plaintiffs Randall D. Wells and Tammy Wells in favor of R & F MILLER, INC., and EDDIE C. ROBERTS. A copy of said Release is attached hereto and marked as Exhibit "A".

2. The averments contained in paragraph 52 of defendant Commonwealth of Pennsylvania, Department of Transportation constitutes conclusions of law to which no response is required. In the event that a response is required, these defendants, R & F MILLER, INC. and EDDIE C. ROBERTS deny that they are liable to plaintiffs or are jointly and severally liable with any party to plaintiffs or are liable over to Commonwealth of Pennsylvania, Department of Transportation for indemnity and/or contribution. In further response, defendants R & F MILLER, INC. and EDDIE C. ROBERTS incorporate by reference as though more fully set forth herein the Answer and New Matter which they previously filed in the above-captioned case denying liability and pleading that any and all claims against them are barred by virtue of a Joint Tortfeasors Release executed by plaintiffs Randall D. Wells and Tammy Wells in favor of R & F MILLER, INC., and EDDIE C. ROBERTS. A copy of said Release is attached hereto and marked as Exhibit "A".

WHEREFORE, defendants, R & F MILLER, INC. and EDDIE C. ROBERTS deny liability and demand judgment in their favor and against Commonwealth of Pennsylvania, Department of Transportation.

ANSTANDIG, McDYER, BURDETTE &
YURCON, P.C.

BY: 
ATTORNEYS FOR R & F MILLER, INC.
And EDDIE C. ROBERTS, INC.
DEFENDANTS

JOINT TORTFEASOR RELEASE AND SETTLEMENT AGREEMENT

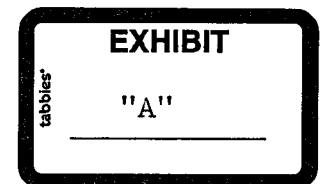
THIS Joint Tortfeasor Release and Settlement Agreement is made by and between Randall D. Wells and Tammy Wells, hereinafter referred to as "Releasors," and R. & F. Miller, Inc. and Eddie C. Roberts, hereinafter referred to as "Releasees."

WHEREAS, the parties hereto wish to enter into a full and final release and settlement of Releasors' claims against Releasees arising from injuries and damages to Randall D. Wells and Tammy Wells in a motor vehicle accident which occurred on October 24, 2000, on Interstate Highway 80 in Union Township, Clearfield County, Pennsylvania; and

WHEREAS, the Releasors further intend to preserve and do hereby exclude all of their rights to pursue claims against Gerald E. Ort, Ort Trucking, Inc., Simon Transportation Service, Inc., Samuel Thomas Knight, Jamie Harvey Parker, and Pennsylvania Department of Transportation, their subsidiaries, affiliates, agents, servants and employees for injuries to Randall D. Wells and Tammy Wells;

NOW, THEREFORE, the parties hereto hereby covenant and agree as follows:

1. Releasors, for and in consideration of the payment of the sum of One Hundred Thousand Dollars (\$100,000.00) by Safeco Insurance Company, the receipt of which sum is hereby acknowledged, do hereby release and forever discharge and,



by these presents, do for themselves, their heirs, executors, administrators, and assigns, release and forever discharge R. & F. Miller, Inc., Eddie C. Roberts and Safeco Insurance Company, and their respective heirs, executors, administrators, agents, employees, successors and assigns from any and all liability, claims, causes of action, liens, damages, costs and demands, whatsoever, in law or in equity, which against the said parties' Releasors ever had, now have, or which their heirs, executors, administrators, or assigns, hereafter can or may have by reason of the bodily and personal injury sustained by Releasors and the consequences thereof, known or unknown, foreseen or unforeseen, arising or which may arise as a result of or in any way connected with the accident referred to above.

2. It is understood that no claims or demands are being released which Releasors may have against any other party on account of the aforesaid accident or any injuries arising therefrom; but the damages recoverable against such other parties shall be reduced, extinguished or satisfied in accordance with the terms of this release if the verdict or judgment is also against any of the entities being released herein. The damages against such other party shall be reduced by the greater of that proportion of the total dollar amount awarded as damages or the ratio of the amount of causal negligence of the parties herein released to the amount of the causal negligence attributed to all parties against whom a verdict or judgment is obtained.

3. Should Releasors receive a verdict or judgment solely against a party other than the released parties, then the reduction or damages referred to herein shall not apply. But if a verdict or judgment in favor of Releasors results in a claim, verdict or judgment for contribution and/or indemnity against any of the released parties, at any time, then Releasors agree that they will not enforce their rights to collect the verdict or judgment to the extent that such enforcement creates any further liability against the released parties, it being the expressed intent and purpose of this Agreement to hold the released parties harmless from and against further liability which may arise by virtue of Releasors' claim against any other party. In such event, Releasors agree that they will reduce their claim or satisfy the verdict or judgment to the extent necessary to eliminate any further liability of the released parties, either to Releasors or to any party claiming contribution and/or indemnity.

4. In the event that Releasors enter into additional settlement agreements with persons or entities not released herein, Releasors agree to include a provision in such future releases shall not institute any action for contribution or common law indemnity against previous Releasees or against persons or entities subsequently released by the Releasors;

5. Releasees agree not to institute any action for contribution of common law indemnity against any person or

entity not a party to this Agreement in any way related to claims arising from the said accident;

6. Releasors understand and agree that payment of the said sums by Safeco on behalf of the Releasees is in compromise and settlement of a disputed claim and is not to be construed as an admission of liability for the said accident;

7. Releasors hereby discharge and agree to indemnify and save harmless the Releasees and Safeco Insurance Company from any liens asserted by any health care provider, hospital, insurer, or attorney for medical expenses, hospital expense, lost earnings, payments, attorneys liens, subrogation claims or liens and any worker's compensation liens as a result of the above-described accident or occurrence.

8. The parties hereto understand that this is a complete agreement and that there is no written or oral understanding or agreement between the parties which is not set forth herein;

9. This Agreement is to be construed in accordance with the laws of the Commonwealth of Pennsylvania.

WE HAVE READ THIS RELEASE AND SETTLEMENT AGREEMENT,
UNDERSTAND SAID TERMS AND AGREE TO BE LEGALLY BOUND BY ALL
OF THE TERMS OF THIS AGREEMENT.

IN WITNESS WHEREOF, we hereunto set forth our hands and
seals this 8th day of JANUARY, 2003.

Christopher J Shaw
Witness

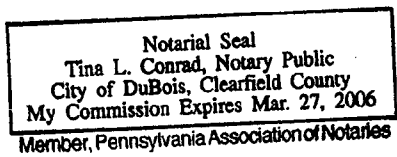
Randall D. Wells (Seal)
RANDALL D. WELLS

Christopher J Shaw
Witness

Tammy Wells (Seal)
TAMMY WELLS

SWORN to and SUBSCRIBED
to this 08 day of
January, 2003.

Tina L. Conrad
NOTARY PUBLIC




VERIFIED STATEMENT

I, Linda Long, being the SECRETARY of R&F MILLER, INC. am duly
(TITLE)
authorized to make this Verified Statement on its behalf, and I hereby verify that the statements set forth in the foregoing REPLY TO NEW MATTER OF COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION are true and correct to the best of my knowledge, information and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date: 5/5/04



VERIFIED STATEMENT

I, Eddie C. Roberts, hereby verify that the statements set forth in the foregoing REPLY TO 2252(d) NEW MATTER OF COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION are true and correct to the best of my knowledge, information and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsifications to authorities.

Eddie C. Roberts

Date: 5-2-04

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within REPLY TO 2252(d) NEW MATTER OF COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION has been served upon the following counsel by mailing, postage pre-paid, this 7th day of May, 2004 to the following:

Christopher J. Shaw, Esquire
P.O. Box 392
DuBois, PA 15801

Michael F. Nerone, Esquire
Dickie, McCamey & Chilcote
Two PPG Place, Suite 400
Pittsburgh, PA 15222

Nancy Heilman, Esquire
Cohen & Grigsby, P.C.
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222

John R. Benty, Esquire
Commonwealth of PA
Office of Attorney General
Tort Litigation Unit
Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

Robert Seiferth, Esquire
Marshall, Dennehey, Warner, Coleman
& Goggin
33 W. Third Street, Suite 200
Williamsport, PA 17701

ANSTANDIG, McDYER, BURDETTE &
YURCON, P.C.

BY: _____

EDWARD A. YURCON, ESQUIRE
ATTORNEYS FOR DEFENDANTS,
R & F MILLER, INC. AND EDDIE C. ROBERTS

William A. Shaw
Prothonotary/Clerk of Courts

FILED
MAY 10 2004
NO AC
KQV

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket #

13176

WELLS, RANDALL D. & TAMMY

02-1608-CD

VS.

ORT, GERALD E. al

COMPLAINT

FILED
013:2100
NOV 01 2004

SHERIFF RETURNS

William A. Shaw

Prothonotary/Clerk of Courts

NOW OCTOBER 21, 2002 AT 3:30 PM DST SERVED THE WITHIN COMPLAINT ON PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, DEFENDANT AT EMPLOYMENT, 1924-30 DAISY ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO DENNY PRESTASH, ACCIDENT ANALYSIS, A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: COUDRIET/RYEN

NOW OCTOBER 21,, 2002 SERVED THE WITHIN COMPLAINT ON ORT TRUCKING INC., DEFENDANT BY CERT. MAIL# 7001 1940 0001 9406 1331 AT PO BOX 267, NEW LONDON, WISCONSIN 5496 BEING THEIR LAST KNOWN ADDRESS. THE RETURN RECEIPT IS HERETO ATTACHED AND MADE A PART OF THIS RETURN ENDORSED BY AGENT FOR DEFENDANT.

NOW OCTOBER 19, 2002 SERVED THE WITHIN COMPLAINT ON EDDIE C. ROBERTS, DEFENDANT BY CERT.MAIL# 7001 1940 0001 9406 1362 AT 23700/64 MARQUETTE BLVD., SOUTH BEND, INDIANA 46628 BEING HIS LAST KNOWN ADDRESS. THE RETURN RECEIPT IS HERETO ATTACHED AND MADE A PART OF THIS RETURN ENDORSED BY AGENT FOR DEFENDANT. THE LETTER WAS SENT MARKED "ADDRESSEE ONLY".

NOW OCTOBER 22, 2002 SERVED THE WITHIN COMPLAINT ON SAMUEL THOMAS KNIGHT, DEFENDANT BY CERT. MAIL# 7001 1940 0001 9406 1355 AT 3915 SHIRLEY ROAD, VOUNGSTOWN, OHIO 44502 BEING HIS LAST KNOWN ADDRESS. THE RETURN RECEIPT IS HERETO ATTACHED AND MADE A PART OF THIS RETURN ENDORSED BY DEFENDANT. THE LETTER WAS SENT MARKED "ADDRESSEE ONLY".

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 13176

WELLS, RANDALL D. & TAMMY

02-1608-CD

VS.

ORT, GERALD E. al

COMPLAINT

SHERIFF RETURNS

NOW OCTOBER 21, 2002 SERVED THE WITHIN COMPLAINT ON R. AND F. MILLER INC., DEFENDANT BY CERT. MAIL# 7001 1940 0001 9406 1348 AT 58255 CRUMSTOWN HIGHWAY, SOUTH BEND, INDIANA 46619-9541 BEING THEIR LAST KNOWN ADDRESS. THE RETURN RECEIPT IS HERETO ATTACHED AND MADE A PART OF THIS RETURN ENDORSED BY AGENT FOR DEFENDANT.

NOW OCTOBER 23, 2002 SERVED THE WITHIN COMPLAINT ON JAMIE HARVEY PARKER, DEFENDANT BY CERT. MAIL # 7001 1940 0001 9406 1379 AT 500 SOUTH OHIO ST., HUMANSVILLE, MISSOURI 65613 BEING HIS LAST KNOWN ADDRESS. THE RETURN RECEIPT IS HERETO ATTACHED AND AND MADE A PART OF THIS RETURN ENDORSED BY DEFENDANT. THE LETTER WAS SENT MARKED "ADDRESSEE ONLY."

NOW OCTOBER 21, 2002 SERVED THE WITHIN COMPLAINT ON SIMON TRANSPORTATION SERVICES INC., DEFENDANT BY CERT. MAIL#7001 1940 0001 9406 1386AT 6100 NEIL ROAD, RENO, NEVADA 89511 BEING THEIR LAST KNOWN ADDRESS. THE RETURN RECEIPT IS HERETO ATTACHED AND MADE A PART OF THIS RETURN ENDORSED BY AGENT FOR DEFENDANT. ALSO ATTACHED IS THE LETTER THAT WAS SENT TO THE DEFENDANT. MARKED "ATTEMPTED NOT KNOWN".

NOW OCTOBER 17, 2002 MAILED THE WITHIN COMPLAINT TO GERALD E. ORT, DEFENDANT BY CERT. MAIL# 7001 1940 0001 9406 1324 AT 775 INDUSTRIAL PARK ROAD, NEW LONDON, WISCONSIN 5496L BEING HIS LAST KNOWN ADDRESS. THE LETTER IS HERETO ATTACHED AND MADE A PART OF THIS RETURN MARKED " UNCLAIMED". THE LETTER WAS SENT MARKED "ADDRESSEE ONLY".

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 13176

WELLS, RANDALL D. & TAMMY

02-1608-CD

VS.

ORT, GERALD E. al

COMPLAINT

SHERIFF RETURNS

Return Costs

Cost Description

112.14 SHFF. HAWKINS PAID BY: *atty*

80.00 SURCHARGE PAID BY; ATTY.

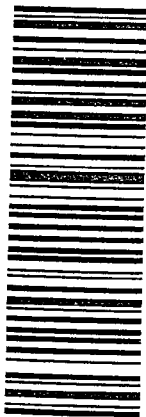
Sworn to Before Me This

1st Day Of *Nov*, *2004*
William A. Shaw
WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,

Chester A. Hawkins
by Maurya Hamr
Chester A. Hawkins
Sheriff

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



7001 1940 0001 9406 1324

RESTRICTED
CERTIFIED MAIL



ADDRESSEE ONLY

GERALD E. ORT
775 Industrial Park Road
New London, Wisconsin 54961

11/4/85

- ☐ MOVER LEFT NO ADDRESS
- ☐ NOT DELIVERABLE AS ADDRESSED
- ☐ UNABLE TO FORWARD
- ☒ UNCLAIMED
- ☐ NOT KNOWN
- ☐ NO SUCH STREET - NUMBER
- ☐ DO NOT REMAIN IN THIS ENVELOPE
- ☐ INSUFFICIENT ADDRESS
- ☐ NO MAIL RECEIPT
- ☐ PAY CASH NO ORDER

2. Article Number
(Transfer from service lab) 7001 1940 0001 9406 1324

PS Form 3811, August 2001 Domestic Return Receipt 102595-01-M-2509

1. Article Addressed to:
GERALD E. ORT
775 Industrial Park Road
New London, Wisconsin 54961

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☒ Yes

1. Article Addressed to:
GERALD E. ORT
775 Industrial Park Road
New London, Wisconsin 54961

SENDER: COMPLETE THIS SECTION

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.

A. Signature
X

B. Received by (Printed)

D. Is delivery address different?
If YES, enter delivery address

PO BOX 267

Certified Mail Provides:

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

Important Reminders:

- Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- Certified Mail is not available for any class of international mail.
- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a Return Receipt may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

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

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

PLACE STICKER AT TOP OF ENVELOPE TO MAKE SURE
OF THE RETURN ADDRESS FOLD AT DOTTED LINE

CERTIFIED MAIL



7001 1940 0001 9406 1386

Not at this

SIMON TRANSPORTATION SERVICES INC

6400 Neil Road

Reno, Nevada 89511

Address

JP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiffs,

No. 02-1608 - C.D.

v.

**MOTION FOR LEAVE TO AMEND NEW
MATTER PURSUANT TO Pa. R.C.P. 1033**

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Filed on behalf of Defendants Gerald E. Ort,
Ort Trucking, Inc. and Samuel Thomas Knight

Counsel of record for these parties:

Defendants.

John T. Pion, Esquire
PA. I.D. #43675

Michael F. Nerone, Esq.
PA. I.D. #62446

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

(412) 281-7272

JURY TRIAL DEMANDED

FILED NOCC
MT 4061
SEP 05 2006 EK

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiffs,

No. 02-1608 - C.D.

v.

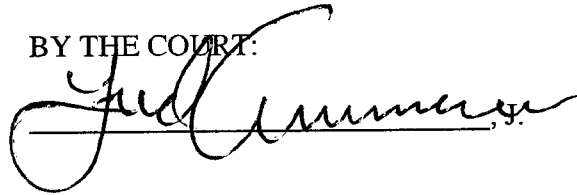
Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

ORDER OF COURT

AND NOW, to wit, this 6th day of September, 2006, the
hearing of Defendants' Motion for Leave to Amend New Matter Pursuant to Pa. R.C.P. 1033
will be held on 13th of October, 2006 at 1:30 o'clock a.m. (p.m.)

BY THE COURT:



FILED 6CC
09:54/01 Amy Nesone
SEP 11 2006 @

William A. Shaw
Prothonotary/Clerk of Courts

FILED

SEP 11 2006

William A. Shaw

Prothonotary/Clerk of Courts

DATE: 9/11/06

X 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

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiffs,

No. 02-1608 - C.D.

v.

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

MOTION FOR LEAVE TO AMEND NEW MATTER
PURSUANT TO Pa. R.C.P. 1033

AND NOW, come the Defendants, Gerald E. Ort Trucking, Inc., Ort Trucking, Inc., and Samuel Thomas Knight, by and through their counsel, Dickie, McCamey & Chilcote, P.C. and Michael F. Nerone, Esquire, and files this Motion for Leave to Amend New Matter Pursuant to Pa. R.C.P. 1033, in support of which they assert the following:

1. This action arises from a motor vehicle accident which occurred on or about October 24, 2000.
2. The Plaintiff filed his Complaint in civil action on October 16, 2002. Thereafter, on November 18, 2002, the Defendants, Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight, filed their Answer and New Matter to the Complaint.
3. These Defendants now seek leave to file an Amended New Matter.
4. Specifically, the Defendants attempt to assert in their Amended New Matter that the Pro Rata Joint Tortfeasor Release executed by the Plaintiff on October 8, 2002 serves as a

complete and total bar to any and all liability against them. (See a true and correct copy of the proposed Amended New Matter attached hereto as Exhibit "A").

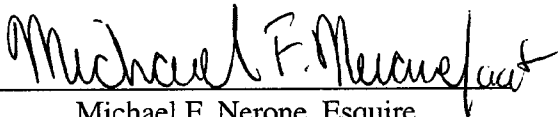
5. Therefore, pursuant to the mandate of Rule 1033 of the Pennsylvania Rules of Civil Procedure, these Defendants seek leave to amend their New Matter in order to assert that Plaintiff's claims are limited by the Pro Rota Joint Tortfeasor Release which was executed on October 8, 2002.

6. The granting of this Motion will not prejudice any party to this lawsuit or delay the trial of this matter in any way.

WHEREFORE, Defendants, Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight, request that this Court permit them to amend their New Matter pursuant to Pa. R.C.P. 1033.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

BY: 
Michael F. Nerone, Esquire

Attorneys for Gerald E. Ort Trucking, Inc.,
Ort Trucking, Inc. and Samuel Thomas
Knight

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

Plaintiffs,

v.

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

CIVIL DIVISION

No. 02-1608 - C.D.

AMENDED NEW MATTER

Filed on behalf of DEFENDANTS, GERALD
E. ORT TRUCKING, INC., ORT
TRUCKING, INC. AND SAMUEL
THOMAS KNIGHT

Counsel of record for these parties:

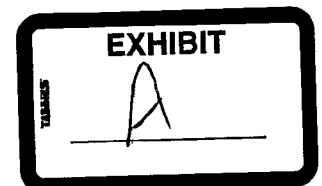
John T. Pion, Esq.
PA. I.D. #43675

Michael F. Nerone, Esq.
PA. I.D. #62446

Ashley A. Totodo, Esq.
PA I.D. #89757

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

(412) 281-7272



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiffs,

No. 02-1608 - C.D.

v.

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

AMENDED NEW MATTER

AND NOW, come the Defendants, Gerald E. Ort Trucking, Inc., Ort Trucking, Inc., and Samuel Thomas Knight, by and through their counsel, Dickie, McCamey & Chilcote, P.C. and Ashley A. Totodo, Esquire, and files this Amended New Matter in support of which they assert the following:

1. These defendants incorporate herein by reference their previously filed Answer and New Matter as if the same were set forth herein at length.

2. These defendants assert the Pro Rata Joint Tortfeasor Release which is attached hereto as Exhibit "A" as a complete and total bar to any liability against it.

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

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: _____
Ashley A. Totedo, Esquire
Attorneys for Gerald E. Ort Trucking, Inc.,
Ort Trucking, Inc. and Samuel Thomas
Knight

VERIFICATION

I, Ashley A. Totodo, Esquire, of Dickie, McCamey & Chilcote, P.C., have read the foregoing Amended New Matter. The statements therein are correct to the best of my personal knowledge or information and belief.

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

Ashley A. Totodo, Esquire

DATED _____

PRO-RATA JOINT TORTFEASOR RELEASE

1. BY THESE PRESENTS, WE, Randall D. Wells and Tammy L. Wells, for the total consideration of **TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$225,000.00)**, do hereby release and forever discharge Gerald E. Ort Trucking, Inc., Ort Trucking, Inc., and Samuel Thomas Knight, their heirs, administrators, executors, successors, assigns and insurers ("Releasees"), from any and all actions, causes of action, claims, compensatory damages, punitive damages and demands of whatsoever kind or nature, on account of any and all known injuries, losses and damages to us sustained or received on or about October 24, 2000 in a motor vehicle accident on or about Interstate 80 in Clearfield County, Pennsylvania at or about mile markers 103/104.

2. The settlement proceeds of \$225,000.00 represent a total settlement of all claims we possess against the Releasees and is intended to cover and does cover not only all now known injuries, losses and damages, but any future injuries, losses and damages not now known or anticipated, but which may later develop or be discovered, including all the effects and consequences thereof.

3. It is understood and agreed that this settlement represents a compromise of disputed claims, and that the payment made is not to be construed as an admission of liability on the part of the Releasees. To the contrary, Releasees expressly deny any and all liability and we realize that there is considerable doubt and uncertainty as to the liability of Releasees.

4. We reserve the right to make claims against any and every other person, entity or organization, including but not limited to Simon Transportation Services, Inc., R. and F. Miller, Inc.,



Eddie C. Roberts, Jamie Harvey Parker and the Commonwealth of Pennsylvania, Department of Transportation, who may be liable to us and to claim that they, and not the Releasees, are solely liable for the claimed injuries, losses and damages.

5. For the above consideration paid and pursuant to the Uniform Contribution Among Tortfeasors Act, 42 Pa.C.S.A. § 8321, should it be determined that the provisions of the Comparative Negligence Act, 42 Pa.C.S.A. § 1701 et. seq. apply to this action or that Releasees are joint tortfeasors, we further agree that the damages recoverable against any non-released person, association, governmental entity or corporation shall be reduced by the total amount of the Releasees' PRO-RATA share of liability (Releasees' percentage/proportionate share of causal responsibility) as determined by any verdict, award, decision or opinion.

6. Should the jury return a verdict, or should there be any other such determination, that Releasees are not liable to any degree for the claimed injuries and damages or that Releasees are not joint tortfeasors, then the amount claimed by us against any other alleged tortfeasor shall not be reduced by any amount.

7. Should we recover from any non-settling joint tortfeasor (including but not limited to Simon Transportation Services, Inc., R. and F. Miller, Inc., Eddie C. Roberts, Jamie Harvey Parker and the Commonwealth of Pennsylvania, Department of Transportation) any amounts apportioned to Releasees by any verdict, award, decision or opinion and should said non-settling joint tortfeasor assert claims against the Releasees for any amounts it has paid to us but which were apportioned to Releasees by verdict, award, decision or opinion, we agree to indemnify, defend and hold Releasees harmless from and against such claims up to the amount paid to us by a non-settling joint tortfeasor in excess of said non-settling joint tortfeasor's proportionate share of liability.

8. It is further understood by us and our attorneys that all medical liens/subrogation claims, workers compensation liens/subrogation claims, insurance liens/subrogation claims, and all liens/subrogation claims from any governmental body or program that relate to benefits paid to us or on our behalf or expenses incurred by us or on our behalf of whatsoever kind arising out of this accident or relating in any way to treatment received for our injuries and/or damages, shall be satisfied, settled and/or resolved by us and that all such claims, liens and expenses are solely our responsibility and that the satisfaction of any such claim is a material condition/term of this release agreement. We further agree to defend and indemnify Releasees for and against any such claim or lien asserted by any third party which relates to or arises from the above referenced October 24, 2000 accident and any benefits paid to us or on our behalf or expenses incurred by us or on our behalf.

9. It is further understood and agreed and made a part hereof, that we, our counsel and other representatives will keep the fact of this settlement and all of the terms and provisions of this settlement confidential from all persons, firms, and entities and that neither we nor our counsel or other representatives, will in any way discuss or publicize, including but not limited to newspapers, magazines, radio, internet or television, the facts or terms and conditions of this settlement. We expressly agree to decline comment on any aspect of this settlement to any person. However, it is expressly understood and agreed that either we or the Releasees may disclose the terms and facts of this settlement to any Court of competent jurisdiction solely for the purpose of enforcement of this settlement should such action become necessary. This paragraph is intended to become part of the consideration for settlement of this claim.

9. This Joint Tortfeasor Release shall be construed that wherever applicable the use of the singular number shall include the plural number and shall be binding upon and inure to the

successors, assigns, heirs, executors, administrators, and legal representatives of the respective parties hereto.

10. This Joint Tortfeasor Release contains the entire agreement between the parties hereto, and the terms hereof are contractual and not a mere recital. We have carefully read the foregoing with the assistance of legal counsel of our own choosing and know and understand the contents and meaning thereof, and sign the same as our free act.

IN WITNESS WHEREOF, and intending to be legally bound, we have hereunto set our hands and seal this 8th day October, 2002.

WITNESSED BY:

Christopher J Shaw Randall D. Wells
Randall D. Wells

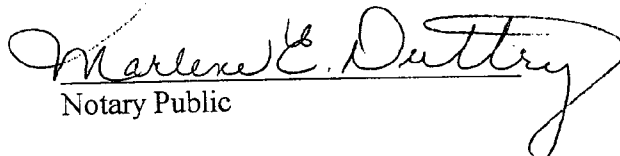
Christopher J Shaw Tammy L Wells
Tammy L. Wells

Commonwealth of Pennsylvania))
) SS:
County of Clearfield)

On this 8th day of October, 2002, before me personally appeared **Randall D. Wells and Tammy L. Wells**, to me known to be the persons named in and who executed the above **PRO-RATA JOINT TORTFEASOR RELEASE** and acknowledged that they executed same as their free act and deed.

Witness my hand and notarial seal the date aforesaid.

My Commission Expires


Notary Public

Notary Public

NOTARIAL SEAL Marlene E. Duttry, Notary Public City of Du Bois, Clearfield County My commission expires August 22, 2006
--

CERTIFICATE OF SERVICE

I, Ashley A. Totedo, Esquire, hereby certify that true and correct copies of the foregoing Amended New Matter were served this ____ day of September, 2006, by U.S. first-class mail, postage prepaid, to counsel of record listed below:

Edward A. Yurcon, Esquire
ANSTANDIG, McDYER, BURDETTE
& YURCON, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219-1911
(Attorney for Eddie C. Roberts and
F. Miller, Inc.)

Nancy Heilman, Esquire
COHEN & GRIGSBY
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222
(Attorney for Simon Transportation)

John R. Benty, Esquire
Commonwealth of Pennsylvania
Office of Attorney General
Tort Litigation Unit
Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219
(Attorney for PennDot)

Christopher J. Shaw, Esquire
P.O. Box 392
DuBois, PA 15801
(Attorney for Plaintiff)

DICKIE, McCAMEY & CHILCOTE, P.C.

By _____
Ashley A. Totedo, Esquire

Attorneys for Gerald E. Ort Trucking, Inc.,
Ort Trucking, Inc. and Samuel Thomas Knight

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the Motion for Leave to Amend New Matter Pursuant to Pa. R.C.P. 1033 upon the following counsel, this 1st day of September, 2006 by first class mail, postage prepaid:


Edward A. Yurcon, Esquire
ANSTANDIG, McDYER, BURDETTE
& YURCON, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219-1911
(Attorney for Eddie C. Roberts and
F. Miller, Inc.)

John R. Benty, Esquire
Commonwealth of Pennsylvania
Office of Attorney General
Tort Litigation Unit
Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219
(Attorney for PennDot)

Nancy Heilman, Esquire
COHEN & GRIGSBY
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222
(Attorney for Simon Transportation)

Christopher J. Shaw, Esquire
P.O. Box 392
DuBois, PA 15801
(Attorney for Plaintiff)

DICKIE, McCAMEY & CHILCOTE, P.C.

BY: 
John T. Pion, Esquire
Michael F. Nerone, Esquire
Defendants, Gerald E. Ort, Ort Trucking,
Inc. and Samuel Thomas Knight

LA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,
Plaintiffs,

CIVIL DIVISION
No. 02-1608 - C.D.

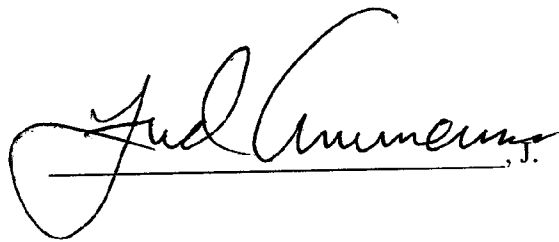
v.

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

ORDER OF COURT

AND NOW, to wit, this 13th day of October, 2006, upon
consideration of the Defendants, Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight's,
Motion for Leave to Amend New Matter, it is hereby ORDERED, ADJUDGED and DECREED
that the Defendants' Motion is hereby GRANTED and leave is GRANTED for Defendants to
file an Amended New Matter.



FILED 1CC
OCT 13 2006
William A. Shaw
Prothonotary/Clerk of Courts
1CC Atty: C. Shaw
P. on & Nerone
Heilman
Yurcon
Seiferth
Benty
(with memo)

Any Totedo.
(Ort; Knight)
in person,
without memo

FILED

OCT 13 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/13/06

___ 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

Randall D. Wells and Tammy Wells,

Plaintiffs,

v.

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

CIVIL DIVISION

No. 02-1608 - C.D.

AMENDED NEW MATTER

Filed on behalf of DEFENDANTS, GERALD
E. ORT TRUCKING, INC., ORT
TRUCKING, INC. AND SAMUEL
THOMAS KNIGHT

Counsel of record for these parties:

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

Michael F. Nerone, Esq.
PA. I.D. #62446

Ashley A. Totedo, Esq.
PA I.D. #89757

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

(412) 281-7272

FILED

OCT 18 2006

m/1:40/w
William A. Shaw
Prothonotary/Clerk of Courts
No c/c (62)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,
Plaintiffs,

CIVIL DIVISION
No. 02-1608 - C.D.

v.

Gerald E. Ort, Ort Trucking, Inc., Simon
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Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

AMENDED NEW MATTER

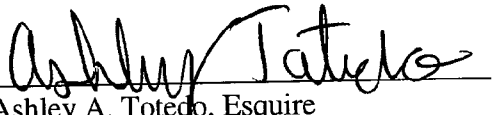
AND NOW, come the Defendants, Gerald E. Ort Trucking, Inc., Ort Trucking, Inc., and Samuel Thomas Knight, by and through their counsel, Dickie, McCamey & Chilcote, P.C. and Ashley A. Totodo, Esquire, and files this Amended New Matter in support of which they assert the following:

1. These defendants incorporate herein by reference their previously filed Answer and New Matter as if the same were set forth herein at length.
2. These defendants assert the Pro Rata Joint Tortfeasor Release which is attached hereto as Exhibit "A" as a complete and total bar to any liability against it.

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

Respectfully submitted,

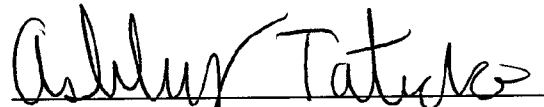
DICKIE, McCAMEY & CHILCOTE, P.C.

By: 
Ashley A. Toteco, Esquire
Attorneys for Gerald E. Ort Trucking, Inc.,
Ort Trucking, Inc. and Samuel Thomas
Knight

VERIFICATION

I, Ashley A. Totedo, Esquire, of Dickie, McCamey & Chilcote, P.C., have read the foregoing Amended New Matter. The statements therein are correct to the best of my personal knowledge or information and belief.

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


Ashley A. Totedo, Esquire

DATED

10/16/06

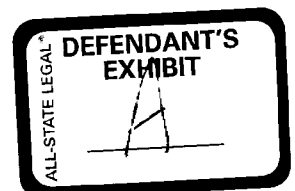
PRO-RATA JOINT TORTFEASOR RELEASE

1. BY THESE PRESENTS, WE, Randall D. Wells and Tammy L. Wells, for the total consideration of TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$225,000.00), do hereby release and forever discharge Gerald E. Ort Trucking, Inc., Ort Trucking, Inc., and Samuel Thomas Knight, their heirs, administrators, executors, successors, assigns and insurers ("Releasees"), from any and all actions, causes of action, claims, compensatory damages, punitive damages and demands of whatsoever kind or nature, on account of any and all known injuries, losses and damages to us sustained or received on or about October 24, 2000 in a motor vehicle accident on or about Interstate 80 in Clearfield County, Pennsylvania at or about mile markers 103/104.

2. The settlement proceeds of \$225,000.00 represent a total settlement of all claims we possess against the Releasees and is intended to cover and does cover not only all now known injuries, losses and damages, but any future injuries, losses and damages not now known or anticipated, but which may later develop or be discovered, including all the effects and consequences thereof.

3. It is understood and agreed that this settlement represents a compromise of disputed claims, and that the payment made is not to be construed as an admission of liability on the part of the Releasees. To the contrary, Releasees expressly deny any and all liability and we realize that there is considerable doubt and uncertainty as to the liability of Releasees.

4. We reserve the right to make claims against any and every other person, entity or organization, including but not limited to Simon Transportation Services, Inc., R. and F. Miller, Inc.,



Eddie C. Roberts, Jamie Harvey Parker and the Commonwealth of Pennsylvania, Department of Transportation, who may be liable to us and to claim that they, and not the Releasees, are solely liable for the claimed injuries, losses and damages.

5. For the above consideration paid and pursuant to the Uniform Contribution Among Tortfeasors Act, 42 Pa.C.S.A. § 8321, should it be determined that the provisions of the Comparative Negligence Act, 42 Pa.C.S.A. § 1701 et. seq. apply to this action or that Releasees are joint tortfeasors, we further agree that the damages recoverable against any non-released person, association, governmental entity or corporation shall be reduced by the total amount of the Releasees' PRO-RATA share of liability (Releasees' percentage/proportionate share of causal responsibility) as determined by any verdict, award, decision or opinion.

6. Should the jury return a verdict, or should there be any other such determination, that Releasees are not liable to any degree for the claimed injuries and damages or that Releasees are not joint tortfeasors, then the amount claimed by us against any other alleged tortfeasor shall not be reduced by any amount.

7. Should we recover from any non-settling joint tortfeasor (including but not limited to Simon Transportation Services, Inc., R. and F. Miller, Inc., Eddie C. Roberts, Jamie Harvey Parker and the Commonwealth of Pennsylvania, Department of Transportation) any amounts apportioned to Releasees by any verdict, award, decision or opinion and should said non-settling joint tortfeasor assert claims against the Releasees for any amounts it has paid to us but which were apportioned to Releasees by verdict, award, decision or opinion, we agree to indemnify, defend and hold Releasees harmless from and against such claims up to the amount paid to us by a non-settling joint tortfeasor in excess of said non-settling joint tortfeasor's proportionate share of liability.

8. It is further understood by us and our attorneys that all medical liens/subrogation claims, workers compensation liens/subrogation claims, insurance liens/subrogation claims, and all liens/subrogation claims from any governmental body or program that relate to benefits paid to us or on our behalf or expenses incurred by us or on our behalf of whatsoever kind arising out of this accident or relating in any way to treatment received for our injuries and/or damages, shall be satisfied, settled and/or resolved by us and that all such claims, liens and expenses are solely our responsibility and that the satisfaction or any such claim is a material condition/term of this release agreement. We further agree to defend and indemnify Releasees for and against any such claim or lien asserted by any third party which relates to or arises from the above referenced October 24, 2000 accident and any benefits paid to us or on our behalf or expenses incurred by us or on our behalf.

9. It is further understood and agreed and made a part hereof, that we, our counsel and other representatives will keep the fact of this settlement and all of the terms and provisions of this settlement confidential from all persons, firms, and entities and that neither we nor our counsel or other representatives, will in any way discuss or publicize, including but not limited to newspapers, magazines, radio, internet or television, the facts or terms and conditions of this settlement. We expressly agree to decline comment on any aspect of this settlement to any person. However, it is expressly understood and agreed that either we or the Releasees may disclose the terms and facts of this settlement to any Court of competent jurisdiction solely for the purpose of enforcement of this settlement should such action become necessary. This paragraph is intended to become part of the consideration for settlement of this claim.

9. This Joint Tortfeasor Release shall be construed that wherever applicable the use of the singular number shall include the plural number and shall be binding upon and inure to the

successors, assigns, heirs, executors, administrators, and legal representatives of the respective parties hereto.

10. This Joint Tortfeasor Release contains the entire agreement between the parties hereto, and the terms hereof are contractual and not a mere recital. We have carefully read the foregoing with the assistance of legal counsel of our own choosing and know and understand the contents and meaning thereof, and sign the same as our free act.

IN WITNESS WHEREOF, and intending to be legally bound, we have hereunto set our hands and seal this 8th day October, 2002.

WITNESSED BY:

Christopher J Shaw Randall D. Wells
Randall D. Wells

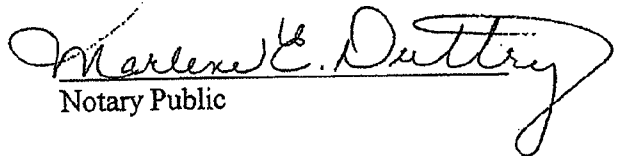
Christopher J Shaw Tammy L Wells
Tammy L. Wells

Commonwealth of Pennsylvania))
) SS:
County of Clearfield)

On this 8th day of October, 2002, before me personally appeared **Randall D. Wells and Tammy L. Wells**, to me known to be the persons named in and who executed the above **PRO-RATA JOINT TORTFEASOR RELEASE** and acknowledged that they executed same as their free act and deed.

Witness my hand and notarial seal the date aforesaid.

My Commission Expires


Notary Public

Notary Public

NOTARIAL SEAL Marlene E. Duttry, Notary Public City of Du Bois, Clearfield County My commission expires August 22, 2006
--

CERTIFICATE OF SERVICE

I, Ashley A. Totedo, Esquire, hereby certify that true and correct copies of the foregoing Amended New Matter were served this 16 day of October, 2006, by U.S. first-class mail, postage prepaid, to counsel of record listed below:

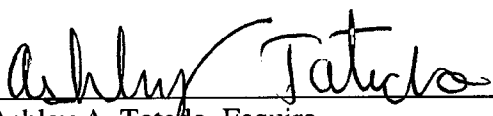
Edward A. Yurcon, Esquire
ANSTANDIG, McDYER, BURDETTE
& YURCON, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219-1911
(Attorney for Eddie C. Roberts and
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COHEN & GRIGSBY
11 Stanwix Street
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Pittsburgh, PA 15222
(Attorney for Simon Transportation)

John R. Benty, Esquire
Commonwealth of Pennsylvania
Office of Attorney General
Tort Litigation Unit
Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219
(Attorney for PennDot)

Christopher J. Shaw, Esquire
P.O. Box 392
DuBois, PA 15801
(Attorney for Plaintiff)

DICKIE, McCAMEY & CHILCOTE, P.C.

By 
Ashley A. Totedo, Esquire

Attorneys for Gerald E. Ort Trucking, Inc.,
Ort Trucking, Inc. and Samuel Thomas Knight

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

Plaintiffs,

v.

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

CIVIL DIVISION

No. 02-1608 - C.D.

**MOTION FOR SUMMARY JUDGMENT
OR IN THE ALTERNATIVE, MOTION
TO EXCUSE THESE DEFENDANTS
FROM ANY FURTHER
PARTICIPATION, OR IN THE
ALTERNATIVE, MOTION TO PLACE
THIS MATTER ON THE NEXT
AVAILABLE TRIAL LIST**

Filed on behalf of Defendants Gerald E. Ort,
Ort Trucking, Inc. and Samuel Thomas Knight

Counsel of record for these parties:

John T. Pion, Esquire
PA. I.D. #43675

Michael F. Nerone, Esquire
PA. I.D. #62446

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

(412) 281-7272

JURY TRIAL DEMANDED

FILED
NOV 03 2006
M/11/20/06
William A. Shaw
Prothonotary/Clerk of Courts
NO C.F. COPIES

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiffs,

No. 02-1608 - C.D.

v.

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

**MOTION FOR SUMMARY JUDGMENT OR IN THE ALTERNATIVE, MOTION TO
EXCUSE THESE DEFENDANTS FROM ANY FURTHER PARTICIPATION, OR IN
THE ALTERNATIVE, MOTION TO PLACE THIS MATTER ON THE NEXT
AVAILABLE TRIAL LIST**

AND NOW, come the Defendants, Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight, by and through their counsel, DICKIE, McCAMEY & CHILCOTE, P.C. and MICHAEL F. NERONE, ESQUIRE, and file this Motion, in support of which they assert the following:

1. This action arises from a motor vehicle accident which occurred on October 24, 2000. The Plaintiffs filed their Complaint in Civil Action on October 16, 2002. This is the second action filed arising out of the subject accident. The other action was commenced by James U. Lux in this Court at Docket No. 01-466 CD against the same Defendants named in this action. Defendant Parker was dismissed on Preliminary Objections in both actions. Thereafter, the Lux action essentially became the lead case. Because Mr. Lux reached amicable settlements with the remaining Defendants, he ultimately filed an appeal of the dismissal of Defendant

Parker. The Superior Court affirmed that dismissal and the Pennsylvania Supreme Court has denied allocatur.

2. This action stands in a similar procedural posture as did Lux, Defendants Gerald E. Ort Trucking, Inc., Samuel Thomas Knight and Eddie C. Roberts have settled with the Wells with duly executed Joint Tortfeasor Releases, Defendant Parker has been dismissed and the only remaining Defendant is PennDot.

3. Plaintiffs have allowed this action to sit dormant for an extended period of time and do not appear to have any intention of further prosecuting the action against PennDot. Further, given the appellate court rulings on the Lux appeal, there does not appear to be any chance of having the dismissal of Defendant Parker reversed.

4. As indicated above, on October 8, 2002, the Plaintiffs executed a Pro Rata Joint Tortfeasor Release, releasing Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight of all claims they possessed against them. (See a true and correct copy of the executed Pro Rata Joint Tortfeasor Release attached hereto as Exhibit "A").

5. These Defendants have asserted in their Amended New Matter, which was filed with the Court on October 18, 2006, that the executed Pro Rata Joint Tortfeasor Release serves as a full and complete defense to any and all claims asserted against them in this action.

6. "In Pennsylvania, the effect of a release is determined by the language appearing therein." Brosius v. Lewisburg Craft Fair, 383 Pa. Super. 454, 456, 557 A.2d 27, 28 (1989).

7. The clear meaning of the terms of the release executed by the Plaintiffs in the instant matter is that Plaintiffs, in exchange for payment of Two Hundred and Twenty-Five Thousand Dollars (\$225,000.00), released these Defendants from any and all liability stemming from the October 24, 2000 accident from which this lawsuit arises.

8. Further, the terms of the Release clearly state that should it be determined that these Defendants are joint tortfeasors, the damages recoverable against any non-released parties, shall be reduced by the total amount of these Defendants' pro rata share of liability as determined by any verdict, award, decision or opinion. (See Paragraph 5 of Exhibit "A").

9. In fact, Pennsylvania case law holds that if parties execute a Pro Rata Release, the plaintiff's ultimate recovery against the non-settling tortfeasors is the total award of damages reduced by the settling party's allocated share of liability. Baker v. ACandS, 562 Pa. 290, 755 A.2d 664 (2000), *citing* L. Kornhauser and R. Revesz, Settlements Under Joint and Several Liability, 68 N.Y.U.L. Rev. 427 (1993).

10. Therefore, as the damages awarded against the non-settling Defendant, PennDot, at trial will be reduced according to the settling Defendants' pro rata share of liability, PennDot will have no right of contribution and/or indemnity against these Defendants.

11. Further, as a matter of law, any verdict entered at trial will be molded in accordance with the terms of the Pro Rata Joint Tortfeasor Release executed by the Plaintiffs. Therefore, there is no need for these Defendants to further participate in this action.

12. Accordingly, there can be no further recovery from Defendants Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight, by either the Plaintiffs and/or PennDot.

13. As previously mentioned, this cause of action stems from a 2000 motor vehicle accident. Moreover, this matter has been pending before this Honorable Court for over four years.

14. Therefore, should these Defendants be compelled to remain parties while it continues to sit without any further progress, these Defendants will be forced to engage in

ongoing litigation, incurring additional legal fees, despite the fact that they have reached a settlement agreement with the Plaintiffs.

15. Further, the docket will continue to reflect that a lawsuit is pending against these parties, notwithstanding the settlement agreement these Defendants reached with the Plaintiffs more than four (4) years ago.

16. This places an undue burden on these Defendants who have made a good faith effort to bring this matter to an amicable conclusion.

17. Therefore, these Defendants submit that they should be dismissed from this matter with prejudice.

18. In the alternative, these Defendants request that they be excused from any further participation in this case, that this Honorable Court take judicial notice of the Pro Rata Joint Tortfeasor Release attached hereto as Ex. "A," and that any verdict, award or decision rendered in this matter be molded in conformance with the terms of the attached Pro Rata Joint Tortfeasor Release.

19. As a final alternative, these Defendants request that this case be immediately listed for trial.

WHEREFORE, Defendants, Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight, respectfully request that they be dismissed from this action with prejudice, or in the alternative, that they be excused from any further participation in this case and that this Honorable Court take judicial notice of the Pro Rata Joint Tortfeasor Release and mold any verdict, decision or award in conformance with the terms of this Release, or in the alternative these Defendants respectfully request that this matter be placed on the next available trial list.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

BY: 

Michael F. Nerone, Esquire

Attorneys for Gerald E. Ort Trucking, Inc.,
Ort Trucking, Inc. and Samuel Thomas
Knight

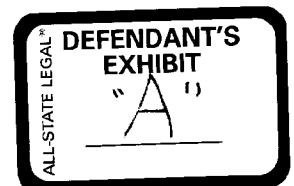
PRO-RATA JOINT TORTFEASOR RELEASE

1. BY THESE PRESENTS, WE, Randall D. Wells and Tammy L. Wells, for the total consideration of TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$225,000.00), do hereby release and forever discharge Gerald E. Ort Trucking, Inc., Ort Trucking, Inc., and Samuel Thomas Knight, their heirs, administrators, executors, successors, assigns and insurers ("Releasees"), from any and all actions, causes of action, claims, compensatory damages, punitive damages and demands of whatsoever kind or nature, on account of any and all known injuries, losses and damages to us sustained or received on or about October 24, 2000 in a motor vehicle accident on or about Interstate 80 in Clearfield County, Pennsylvania at or about mile markers 103/104.

2. The settlement proceeds of \$225,000.00 represent a total settlement of all claims we possess against the Releasees and is intended to cover and does cover not only all now known injuries, losses and damages, but any future injuries, losses and damages not now known or anticipated, but which may later develop or be discovered, including all the effects and consequences thereof.

3. It is understood and agreed that this settlement represents a compromise of disputed claims, and that the payment made is not to be construed as an admission of liability on the part of the Releasees. To the contrary, Releasees expressly deny any and all liability and we realize that there is considerable doubt and uncertainty as to the liability of Releasees.

4. We reserve the right to make claims against any and every other person, entity or organization, including but not limited to Simon Transportation Services, Inc., R. and F. Miller, Inc.,



Eddie C. Roberts, Jamie Harvey Parker and the Commonwealth of Pennsylvania, Department of Transportation, who may be liable to us and to claim that they, and not the Releasees, are solely liable for the claimed injuries, losses and damages.

5. For the above consideration paid and pursuant to the Uniform Contribution Among Tortfeasors Act, 42 Pa.C.S.A. § 8321, should it be determined that the provisions of the Comparative Negligence Act, 42 Pa.C.S.A. § 1701 et. seq. apply to this action or that Releasees are joint tortfeasors, we further agree that the damages recoverable against any non-released person, association, governmental entity or corporation shall be reduced by the total amount of the Releasees' PRO-RATA share of liability (Releasees' percentage/proportionate share of causal responsibility) as determined by any verdict, award, decision or opinion.

6. Should the jury return a verdict, or should there be any other such determination, that Releasees are not liable to any degree for the claimed injuries and damages or that Releasees are not joint tortfeasors, then the amount claimed by us against any other alleged tortfeasor shall not be reduced by any amount.

7. Should we recover from any non-settling joint tortfeasor (including but not limited to Simon Transportation Services, Inc., R. and F. Miller, Inc., Eddie C. Roberts, Jamie Harvey Parker and the Commonwealth of Pennsylvania, Department of Transportation) any amounts apportioned to Releasees by any verdict, award, decision or opinion and should said non-settling joint tortfeasor assert claims against the Releasees for any amounts it has paid to us but which were apportioned to Releasees by verdict, award, decision or opinion, we agree to indemnify, defend and hold Releasees harmless from and against such claims up to the amount paid to us by a non-settling joint tortfeasor in excess of said non-settling joint tortfeasor's proportionate share of liability.

8. It is further understood by us and our attorneys that all medical liens/subrogation claims, workers compensation liens/subrogation claims, insurance liens/subrogation claims, and all liens/subrogation claims from any governmental body or program that relate to benefits paid to us or on our behalf or expenses incurred by us or on our behalf of whatsoever kind arising out of this accident or relating in any way to treatment received for our injuries and/or damages, shall be satisfied, settled and/or resolved by us and that all such claims, liens and expenses are solely our responsibility and that the satisfaction of any such claim is a material condition/term of this release agreement. We further agree to defend and indemnify Releasees for and against any such claim or lien asserted by any third party which relates to or arises from the above referenced October 24, 2000 accident and any benefits paid to us or on our behalf or expenses incurred by us or on our behalf.

9. It is further understood and agreed and made a part hereof, that we, our counsel and other representatives will keep the fact of this settlement and all of the terms and provisions of this settlement confidential from all persons, firms, and entities and that neither we nor our counsel or other representatives, will in any way discuss or publicize, including but not limited to newspapers, magazines, radio, internet or television, the facts or terms and conditions of this settlement. We expressly agree to decline comment on any aspect of this settlement to any person. However, it is expressly understood and agreed that either we or the Releasees may disclose the terms and facts of this settlement to any Court of competent jurisdiction solely for the purpose of enforcement of this settlement should such action become necessary. This paragraph is intended to become part of the consideration for settlement of this claim.

9. This Joint Tortfeasor Release shall be construed that wherever applicable the use of the singular number shall include the plural number and shall be binding upon and inure to the

successors, assigns, heirs, executors, administrators, and legal representatives of the respective parties hereto.

10. This Joint Tortfeasor Release contains the entire agreement between the parties hereto, and the terms hereof are contractual and not a mere recital. We have carefully read the foregoing with the assistance of legal counsel of our own choosing and know and understand the contents and meaning thereof, and sign the same as our free act.

IN WITNESS WHEREOF, and intending to be legally bound, we have hereunto set our hands and seal this 8th day October, 2002.

WITNESSED BY:

Christopher J. Shaw Randall D. Wells
Randall D. Wells

Christopher J. Shaw Tammy L. Wells
Tammy L. Wells

Commonwealth of Pennsylvania))
County of Clearfield) SS:

On this 8th day of October, 2002, before me personally appeared Randall D. Wells and Tammy L. Wells, to me known to be the persons named in and who executed the above **PRO-RATA JOINT TORTFEASOR RELEASE** and acknowledged that they executed same as their free act and deed.

Witness my hand and notarial seal the date aforesaid.

My Commission Expires

Marlene E. Duttry
Notary Public

Notary Public

NOTARIAL SEAL
Marlene E. Duttry, Notary Public
City of Du Bois, Clearfield County
My commission expires August 22, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Motion for Summary Judgment or In the Alternative, Motion to Excuse These Defendants from Any Further Participation, or In the Alternative, Motion to Place This Matter on the Next Available Trial List, upon the following counsel, this 30 day of October, 2006 by first class mail, postage prepaid:

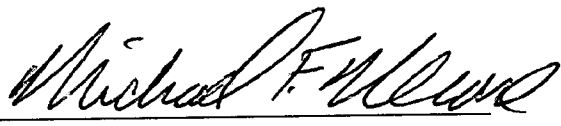
Edward A. Yurcon, Esquire
ANSTANDIG, McDYER, BURDETTE
& YURCON, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219-1911
(Attorney for Eddie C. Roberts and
F. Miller, Inc.)

John R. Benty, Esquire
Commonwealth of Pennsylvania
Office of Attorney General
Tort Litigation Unit
Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219
(Attorney for PennDot)

Nancy Heilman, Esquire
COHEN & GRIGSBY
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222
(Attorney for Simon Transportation)

Christopher J. Shaw, Esquire
P.O. Box 1043
DuBois, PA 15801
(Attorney for Plaintiff)

DICKIE, McCAMEY & CHILCOTE, P.C.

BY: 
Michael F. Nerone, Esquire

Counsel for Defendants, Gerald E. Ort, Ort
Trucking, Inc. and Samuel Thomas Knight

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiffs,

No. 02-1608 - C.D.

v.

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

SCHEDULING ORDER

AND NOW, to wit, this _____ day of _____, 2006, the
hearing of Defendants' Motion For Summary Judgment Or In The Alternative, Motion To
Excuse These Defendants From Any Further Participation, Or In The Alternative, Motion To
Place This Matter On The Next Available Trial List will be held on _____ of
_____, 2006 at _____ o'clock a.m./p.m.

BY THE COURT:

_____, J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiffs,

No. 02-1608 - C.D.

v.

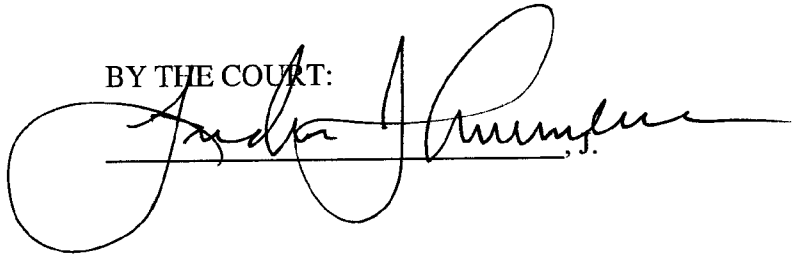
Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

ORDER OF COURT

AND NOW, to wit, this 17th day of November, 2006, it is
hereby ORDERED, ADJUDGED and DECREED that Defendants, Gerald E. Ort, Ort Trucking,
Inc. and Samuel Thomas Knight, are dismissed from the above-captioned lawsuit with prejudice.

BY THE COURT:

A large, stylized handwritten signature in black ink, likely belonging to William A. Shaw, the Prothonotary/Clerk of Courts. The signature is written over a horizontal line.

FILED cc Atty Nereone
0/11:15 am
NOV 17 2006 copy to CIA
William A. Shaw
Prothonotary/Clerk of Courts (6K)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiffs,

No. 02-1608 - C.D.

v.

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

ORDER OF COURT

AND NOW, to wit, this _____ day of _____, 2006, it is
hereby ORDERED, ADJUDGED and DECREED that Defendants, Gerald E. Ort, Ort Trucking,
Inc. and Samuel Thomas Knight, are hereby excused from any further participation in the above-
captioned lawsuit. It is further ORDERED that this Court takes judicial notice of the Pro Rata
Joint Tortfeasor Release attached as Exhibit "A" and any verdict, award, or decision entered in
this action will be molded in conformance with the terms of the Pro Rata Joint Tortfeasor
Release without any further action or participation from Defendants, Gerald E. Ort, Ort
Trucking, Inc. and Samuel Thomas Knight. It is further ORDERED that Defendants, Gerald E.
Ort, Ort Trucking, Inc. and Samuel Thomas Knight, as well as counsel for these Defendants, are
not required to appear at trial to enter the Release into evidence.

BY THE COURT:

_____, J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiffs,

No. 02-1608 - C.D.

v.

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

ORDER OF COURT

AND NOW, to wit, this _____ day of _____, 2006, it is
hereby ORDERED, ADJUDGED and DECREED that the above-captioned matter is scheduled
for trial beginning on the _____ day of _____, 2006.

BY THE COURT:

_____, J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

Plaintiffs,

v.

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

CIVIL DIVISION

No. 02-1608 - C.D.

**BRIEF IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT OR IN THE
ALTERNATIVE, MOTION TO EXCUSE
THESE DEFENDANTS FROM ANY
FURTHER PARTICIPATION, OR IN
THE ALTERNATIVE, MOTION TO
PLACE THIS MATTER ON THE NEXT
AVAILABLE TRIAL LIST**

Filed on behalf of Defendants,
Gerald E. Ort, Ort Trucking, Inc. and Samuel
Thomas Knight

Counsel of record for these parties:

John T. Pion, Esquire
PA. I.D. #43675

Michael F. Nerone, Esquire
PA. I.D. #62446

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

(412) 281-7272

JURY TRIAL DEMANDED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Randall D. Wells and Tammy Wells,

CIVIL DIVISION

Plaintiffs,

No. 02-1608 - C.D.

v.

Gerald E. Ort, Ort Trucking, Inc., Simon
Transportation Services, Inc., R. and F. Miller,
Inc., Samuel Thomas Knight, Eddie C.
Roberts, Jamie Harvey Parker, and
Pennsylvania Department of Transportation,

Defendants.

**BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR IN THE
ALTERNATIVE, MOTION TO EXCUSE THESE DEFENDANTS FROM ANY
FURTHER PARTICIPATION, OR IN THE ALTERNATIVE, MOTION TO PLACE
THIS MATTER ON THE NEXT AVAILABLE TRIAL LIST**

I. FACTUAL BACKGROUND

This action arises from a motor vehicle accident which occurred on or about October 24, 2000. Thereafter, on October 16, 2002, the Plaintiffs filed their Complaint in Civil Action. However, prior to filing suit, the Plaintiffs executed a Pro Rata Joint Tortfeasor Release on October 8, 2002, releasing Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight from any liability stemming from the subject accident. (See Exhibit "A").

These Defendants filed an Amended New Matter on October 18, 2006, asserting that the Pro Rata Joint Tortfeasor Release serves as a full and complete defense to any and all claims asserted against them in this action. The Defendants now submit, as they are released from any and all liability to the Plaintiffs, and because by the terms of the Pro Rata Joint Tortfeasor Release, they cannot be found liable in contribution and/or indemnity to the sole remaining non-

settling co-Defendant, PennDot, that they are entitled to be dismissed from this action with prejudice.

II. LEGAL ANALYSIS

A. **Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight Should Be Dismissed From This Action With Prejudice, or in the Alternative, They Should be Excused From Any Further Participation in this Case.**

In Pennsylvania, the effect of a release is determined by the language appearing therein. Brosius v. Lewisburg Craft Fair, 383 Pa. Super. 454, 456, 557 A.2d 27, 28 (1989). “The obligation of a tortfeasor as determined by settlement with the plaintiff should not be affected by a subsequent verdict against any of the remaining defendants.” Charles v. Giant Eagle Markets, 513 Pa. 474, 477, 522 A.2d 1, 2 (1982). Further, as the finality of a settlement agreement is crucial, should a trial against PennDot take place, the executed agreement between the plaintiff and the settling tortfeasor can not be disturbed. Id. at 2-3. In other words, the settling tortfeasor’s responsibility is resolved by the terms of the settlement agreement. Id. at 3.

Here, the clear meaning of the terms of the Release executed by the Plaintiffs in the instant case is that the Plaintiffs, in exchange for the payment of \$225,000.00, released Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight from any and all liability stemming from the subject accident. See Exhibit “A” to Motion. In accordance with Pennsylvania law, this agreement can not be altered or disturbed by any trial in this matter.

Further, as mentioned above, the Plaintiffs executed a Pro Rata Joint Tortfeasor Release. When a party executes a pro rata release, the plaintiff’s ultimate recovery against the non-settling tortfeasors is the total award of damages reduced by the settling party’s allocated share of liability. Baker v. ACandS, 562 Pa. 290, 755 A.2d 664, 666 (2000), *citing* L. Kornhauser and R. Revesz, Settlements Under Joint and Several Liability, 68 N.Y.U.L. Rev. 427 (1993). In fact, the

terms of the Release executed by the Plaintiffs herein provide that should it be determined that these Defendants are joint tortfeasors, the damages recoverable against any non-released parties shall be reduced by the total amount of these Defendants' pro rata share of liability as determined by any verdict, award, decision or opinion. (See Paragraph 5 of Exhibit "A"). In accordance with the terms of the Release, as well as Pennsylvania case law, the amount of damages PennDot must pay after trial will be determined by the jury's decision as to liability. Any verdict entered against PennDot will be reduced by the Ort Defendants proportionate share of liability. Thus, PennDot will not be able to seek contribution and/or indemnity from Gerald E. Ort, Ort Trucking, Inc. or Samuel Thomas Knight.

Therefore, it is clear from the Release that was executed by the Plaintiffs that they may no longer pursue any further claims against Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight. Further, PennDot will not be able to seek contribution and/or indemnity from these Defendants. Hence, none of the parties in this cause of action may pursue any further action against Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight.

The Defendants have made a good faith effort to conclude this litigation by reaching a settlement agreement with the Plaintiffs. It would be unjust and inequitable to force them to remain in a lawsuit in which no further recovery can be obtained from them. If required to remain in this litigation, these Defendants will need to expend further legal fees and costs defending this action. Further, these Defendants are faced with the burden of having a lawsuit pending against them, when they resolved all such claims against them more than four (4) years ago to bring this matter to a speedy and amicable resolution. Requiring these Defendants to further participate in this litigation would place an undue and unfair burden on them.

Accordingly, Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight respectfully request

that they be dismissed from this action with prejudice. In the alternative, these Defendants respectfully request that they be excused from any further participation in this lawsuit, that this Honorable Court take judicial notice of the Pro Rata Joint Tortfeasor Release executed by the Plaintiffs and any award, verdict or decision rendered at trial be molded in conformance with the terms of the Release.

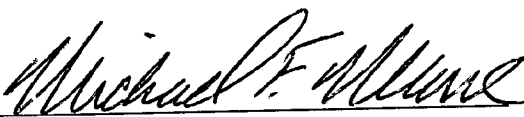
B. In the Alternative, this Matter Should be Placed on The Next Available Trial List.

As previously mentioned, this matter stems from a motor vehicle accident which occurred more than six years ago on October 24, 2000. Further, the Plaintiffs filed their Complaint in Civil Action on October 16, 2002. Therefore, this litigation has been pending for four years. Should this matter be allowed to sit on the docket without any further action, the Defendants will be prejudiced by being forced to participate in a trial of a matter in which they have been released by way of a Pro Rata Agreement. As evidenced by their execution of the settlement agreement, these Defendants wish to bring this matter to a speedy, just and amicable resolution. It places an undue burden on these Defendants to allow this lawsuit to remain pending against them, with no immediate conclusion in sight. Accordingly, these Defendants request that this matter be immediately listed for trial.

WHEREFORE, Defendants, Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight, respectfully request that they be dismissed from this action with prejudice, or in the alternative, that they be excused from any further participation in this case and that this Honorable Court take judicial notice of the Pro Rata Joint Tortfeasor Release and mold any verdict, decision or award in conformance with the terms of this Release, or in the alternative these Defendants respectfully request that this matter be placed on the next available trial list.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

BY: 
Michael F. Nerone, Esquire

Attorneys for Gerald E. Ort, Ort Trucking,
Inc. and Samuel Thomas Knight

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the Brief In Support of Motion for Summary Judgment, or in the Alternative, Motion to Excuse These Defendants From Any Further Participation, of in the Alternative, Motion To Place This Matter On The Next Available Trial List upon the following counsel, this 30 day of October, 2006 by first class mail, postage prepaid:

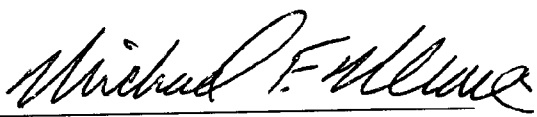
Edward A. Yurcon, Esquire
ANSTANDIG, McDYER, BURDETTE
& YURCON, P.C.
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219-1911
(Attorney for Eddie C. Roberts and
F. Miller, Inc.)

John R. Benty, Esquire
Commonwealth of Pennsylvania
Office of Attorney General
Tort Litigation Unit
Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219
(Attorney for PennDot)

Nancy Heilman, Esquire
COHEN & GRIGSBY
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222
(Attorney for Simon Transportation)

Christopher J. Shaw, Esquire
P.O. Box 1043
DuBois, PA 15801
(Attorney for Plaintiff)

DICKIE, McCAMEY & CHILCOTE, P.C.

BY: 
Michael F. Nerone, Esquire

Counsel for Defendants, Gerald E. Ort, Ort
Trucking, Inc. and Samuel Thomas Knight

5

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

RANDALL D. WELLS and TAMMY WELLS,
Plaintiffs

vs.

NO. 02-1608-CD

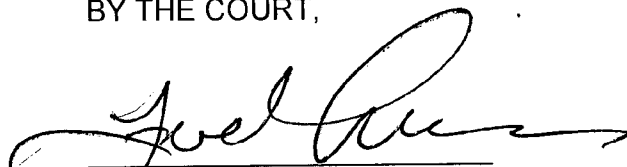
GERALD E. ORT, ORT TRUCKING, INC.,
SIMON TRANSPORTATION SERVICES, INC.,
R. and F. MILLER, INC., SAMUEL THOMAS
KNIGHT, EDDIE C. ROBERTS,
JAMIE HARVEY PARKER, and
PENNSYLVANIA DEPT. OF TRANSPORTATION,
Defendants

ORDER

NOW, this 7th day of November, 2006, it is the ORDER of this Court that
the argument on the Defendants' Motion for Summary Judgment be and is hereby
scheduled for the 17th day of November, 2006, at 11:00 a.m. in Courtroom No. 1 of the
Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

FILED
9/9:38/201
NOV 08 2006


FREDRIC J. AMMERMAN
President Judge

William A. Shaw
Prothonotary/Clerk of Courts

1 CC Atty: C. Shaw
J. Pion
M. Nesone
N. Heilman
E. Yurcon
R. Seifert
J. Bentley
(610)

FILED

NOV 08 2006

William A. Straw
Prothonotary/Clerk of Courts

DATE: 11/8/06

____ 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

RANDALL D. WELLS and TAMMY
WELLS,
Plaintiff,

vs.

GERALD E. ORT TRUCKING, INC., ORT
TRUCKING, INC., SIMON
TRANSPORTATION SERVICES, INC., R.
AND F. MILLER, INC., SAMUEL
THOMAS KNIGHT, EDDIE C. ROBERTS,
JAMIE HARVEY PARKER, and
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION,

Defendants.

CIVIL DIVISION

Case No. 02-1608-C.D.

MOTION TO DISMISS

Filed on behalf of R. AND F. MILLER, INC.
and EDDIE C. ROBERTS, Defendants

Counsel of Record for this Party:

Edward A. Yurcon, Esquire
Pa. I.D. #30830

ANSTANDIG, McDYER, &
YURCON, P.C.
Firm #866
1300 Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(412) 765-3700

JURY TRIAL DEMANDED

FILED
DEC 26 2006
William A. Shaw
Prothonotary/Clerk of Courts

no 9c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RANDALL D. WELLS and TAMMY WELLS,	)	CIVIL DIVISION
)	
Plaintiff,	)	Case No. 02-1608-C.D.
)	
v.)	
)	
GERALD E. ORT TRUCKING, INC., ORT TRUCKING, INC., SIMON)	
TRANSPORTATION SERVICES, INC., R. AND F. MILLER, INC., SAMUEL THOMAS)	
KNIGHT, EDDIE C. ROBERTS, JAMIE HARVEY PARKER, and PENNSYLVANIA)	
DEPARTMENT OF TRANSPORTATION,)	
)	
Defendants.)	

MOTION TO DISMISS

AND NOW, come the defendants, Eddie C. Roberts (hereinafter "Roberts") and R. and F. Miller, Inc. (hereinafter "Miller"), by and through their attorneys, ANSTANDIG, MCDYER & YURCON, P.C. and EDWARD A. YURCON, ESQUIRE, and files the following Motion to Dismiss and in support thereof, avers as follows:

1. This action arises from a motor vehicle accident that occurred on October 24, 2000. The Plaintiffs filed their Complaint in Civil Action on October 16, 2002. This is the second action filed arising out of the subject accident. The other action was commenced by James U. Lux in this Court at Docket No. 01-466 CD against the same Defendants named in this action. Defendant Parker was dismissed on Preliminary Objections in both actions. Thereafter, the Lux action essentially became the lead case. Because Mr. Lux reached amicable settlements, he ultimately filed an appeal of the dismissal of Defendant Parker. The Superior Court affirmed that dismissal and the Pennsylvania Supreme Court has denied allocatur.

2. This action stands in similar procedural posture as did Lux, Defendants Gerald E. Ort Trucking, Inc., Samuel Thomas Knight, Eddie C. Roberts and R. and F. Miller, Inc. have settled with the Wells with duly executed Joint Tortfeasor Releases, Defendant Parker has been dismissed and the only remaining Defendant is PennDOT.

3. Plaintiffs have allowed this action to sit dormant for an extended period of time and do not appear to have any intention of further prosecuting the action against PennDOT. Further, given the appellate court ruling on the Lux appeal, there does not appear to be any chance of having the dismissal of Defendant Parker reversed.

4. The Defendants Gerald E. Ort, Ort Trucking, Inc. and Samuel Thomas Knight were dismissed, with prejudice, from the suit on November 17, 2006, upon motion by those defendants citing the executed release agreement and prejudice resulting from general inaction in the suit.

5. On January 8, 2003, the Plaintiffs executed a Joint Tortfeasor Release and Settlement Agreement, releasing R. & F. Miller, Inc. and Eddie C. Roberts of all claims they possess against them. (See a true and correct copy of the executed Joint Tortfeasor Release and Settlement Agreement attached hereto as Exhibit "A").

6. These Defendants have asserted in their Answer and New Matter, filed with the Court on February 24, 2003, that they executed Joint Tortfeasor Release and Settlement Agreement serves as a full and complete defense to any and all claims asserted against them in this action.

7. "In Pennsylvania, the effect of a release is determined by the language appearing therein." Bosius v. Lewisurg Craft Fair, 383 Pa. Super. 454, 456, 557 A.2d 27, 28 (1989).

8. The clear meaning of the terms of the release executed by the Plaintiffs in the instant matter is that Plaintiffs, in exchange for payment of One Hundred Thousand Dollars (\$100,000), release these Defendants from any and all liability stemming from the October 24, 2000 accident from which this lawsuit arises.

9. "The obligation of a tortfeasor as determined by settlement with the plaintiff should not

be affected by a subsequent verdict against any of the remaining defendants.” Charles v. Giant Eagle Markets, 513 Pa. 474, 477, 522 A.2d 1, 2 (1982).

10. The finality of a settlement agreement is crucial, an executed agreement between a plaintiff and a settling tortfeasor cannot be disturbed. Id. at 2-3.

11. The settling tortfeasor’s responsibility is resolved by the terms of the settlement agreement. Id. at 3.

12. Further, the terms of the Release clearly state that should a verdict or judgment in favor of Releasors results in a claim, verdict or judgment for contribution and/or indemnity against any of the released parties, at any time, then the Plaintiffs agree that they will not enforce their rights to collect the verdict or judgment to the extent that such enforcement creates any further liability against the released parties, it being the expressed intent and purpose of the Release to hold the released parties harmless from and against further liability which may arise by virtue of Releasors’ claim against any other party. The Release further states that in such event, Plaintiffs agree that they will reduce their claim or satisfy the verdict or judgment to the extent necessary to eliminate any further liability of the released parties, either to Plaintiffs or to any party claiming contribution and/or indemnity.

13. Therefore, any damages awarded against the non-settling Defendant, PennDOT, at trial will be reduced according to the settling Defendants’ share of liability, PennDOT will have no right of contribution and/or indemnity against these Defendants.

14. Further, as a matter of law, any verdict entered at trial will be molded in accordance with the terms of the Release executed by the Plaintiffs. Therefore, there is no need for these Defendants to further participate in this action.

15. Accordingly, there can be no further recovery from Defendants Eddie C. Roberts and R. and F. Miller, Inc. by either Plaintiffs and/or PennDOT.

16. As previously mentioned, this cause of action stems from a 2000 motor vehicle accident. Moreover, this matter has been pending before this Honorable Court for over four years.

17. Therefore, should these Defendants be compelled to remain parties while it continues to sit without further progress, these Defendants will be forced to engage in ongoing litigation, incurring additional legal fees, despite the fact that they have reached a settlement agreement with the Plaintiffs.

18. Additionally, the docket will continue to reflect that a lawsuit is pending against these parties notwithstanding the settlement agreement these Defendants reached with the Plaintiffs nearly four (4) years ago.

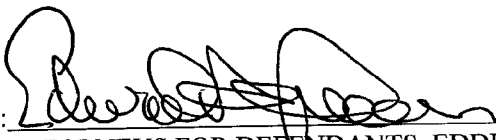
19. This places an undue burden on these Defendants who have made a good faith effort to bring this matter to an amicable conclusion.

20. Therefore, these Defendants submit that they should be dismissed from this matter with prejudice.

WHEREFORE, Defendants, Eddie C. Roberts and R. and F. Miller, Inc., respectfully request that they be dismissed from this action with prejudice.

Respectfully submitted,

ANSTANDIG, McDYER & YURCON, P.C.

BY: 
ATTORNEYS FOR DEFENDANTS, EDDIE C.
ROBERTS and R. AND F. MILLER, INC.

JOINT TORTFEASOR RELEASE AND SETTLEMENT AGREEMENT

THIS Joint Tortfeasor Release and Settlement Agreement is made by and between Randall D. Wells and Tammy Wells, hereinafter referred to as "Releasors," and R. & F. Miller, Inc. and Eddie C. Roberts, hereinafter referred to as "Releasees."

WHEREAS, the parties hereto wish to enter into a full and final release and settlement of Releasors' claims against Releasees arising from injuries and damages to Randall D. Wells and Tammy Wells in a motor vehicle accident which occurred on October 24, 2000, on Interstate Highway 80 in Union Township, Clearfield County, Pennsylvania; and

WHEREAS, the Releasors further intend to preserve and do hereby exclude all of their rights to pursue claims against Gerald E. Ort, Ort Trucking, Inc., Simon Transportation Service, Inc., Samuel Thomas Knight, Jamie Harvey Parker, and Pennsylvania Department of Transportation, their subsidiaries, affiliates, agents, servants and employees for injuries to Randall D. Wells and Tammy Wells;

NOW, THEREFORE, the parties hereto hereby covenant and agree as follows:

1. Releasors, for and in consideration of the payment of the sum of One Hundred Thousand Dollars (\$100,000.00) by Safeco Insurance Company, the receipt of which sum is hereby acknowledged, do hereby release and forever discharge and,

by these presents, do for themselves, their heirs, executors, administrators, and assigns, release and forever discharge R. & F. Miller, Inc., Eddie C. Roberts and Safeco Insurance Company, and their respective heirs, executors, administrators, agents, employees, successors and assigns from any and all liability, claims, causes of action, liens, damages, costs and demands, whatsoever, in law or in equity, which against the said parties' Releasors ever had, now have, or which their heirs, executors, administrators, or assigns, hereafter can or may have by reason of the bodily and personal injury sustained by Releasors and the consequences thereof, known or unknown, foreseen or unforeseen, arising or which may arise as a result of or in any way connected with the accident referred to above.

2. It is understood that no claims or demands are being released which Releasors may have against any other party on account of the aforesaid accident or any injuries arising therefrom; but the damages recoverable against such other parties shall be reduced, extinguished or satisfied in accordance with the terms of this release if the verdict or judgment is also against any of the entities being released herein. The damages against such other party shall be reduced by the greater of that proportion of the total dollar amount awarded as damages or the ratio of the amount of causal negligence of the parties herein released to the amount of the causal negligence attributed to all parties against whom a verdict or judgment is obtained.

3. Should Releasors receive a verdict or judgment solely against a party other than the released parties, then the reduction or damages referred to herein shall not apply. But if a verdict or judgment in favor of Releasors results in a claim, verdict or judgment for contribution and/or indemnity against any of the released parties, at any time, then Releasors agree that they will not enforce their rights to collect the verdict or judgment to the extent that such enforcement creates any further liability against the released parties, it being the expressed intent and purpose of this Agreement to hold the released parties harmless from and against further liability which may arise by virtue of Releasors' claim against any other party. In such event, Releasors agree that they will reduce their claim or satisfy the verdict or judgment to the extent necessary to eliminate any further liability of the released parties, either to Releasors or to any party claiming contribution and/or indemnity.

4. In the event that Releasors enter into additional settlement agreements with persons or entities not released herein, Releasors agree to include a provision in such future releases shall not institute any action for contribution or common law indemnity against previous Releasees or against persons or entities subsequently released by the Releasors;

5. Releasees agree not to institute any action for contribution of common law indemnity against any person or

entity not a party to this Agreement in any way related to claims arising from the said accident;

6. Releasors understand and agree that payment of the said sums by Safeco on behalf of the Releasees is in compromise and settlement of a disputed claim and is not to be construed as an admission of liability for the said accident;

7. Releasors hereby discharge and agree to indemnify and save harmless the Releasees and Safeco Insurance Company from any liens asserted by any health care provider, hospital, insurer, or attorney for medical expenses, hospital expense, lost earnings, payments, attorneys liens, subrogation claims or liens and any worker's compensation liens as a result of the above-described accident or occurrence.

8. The parties hereto understand that this is a complete agreement and that there is no written or oral understanding or agreement between the parties which is not set forth herein;

9. This Agreement is to be construed in accordance with the laws of the Commonwealth of Pennsylvania.

WE HAVE READ THIS RELEASE AND SETTLEMENT AGREEMENT,
UNDERSTAND SAID TERMS AND AGREE TO BE LEGALLY BOUND BY ALL
OF THE TERMS OF THIS AGREEMENT.

IN WITNESS WHEREOF, we hereunto set forth our hands and
seals this 8th day of JANUARY, 2003.

Christopher J Shaw
Witness

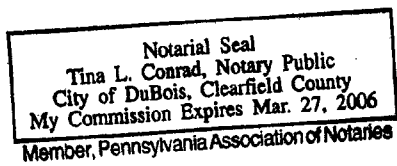
Randall D. Wells (Seal)
RANDALL D. WELLS

Christopher J Shaw
Witness

Tammy Wells (Seal)
TAMMY WELLS

SWORN to and SUBSCRIBED
to this 08 day of
January, 2003.

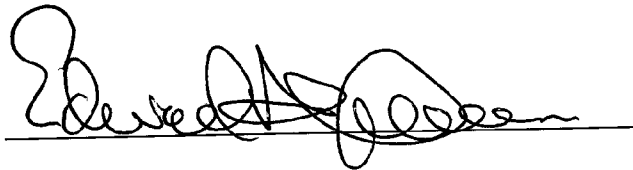
Tina L. Conrad
NOTARY PUBLIC



VERIFIED STATEMENT

I, Edward A. Yurcon, Esquire hereby verify that the statements set forth in the foregoing MOTION TO DISMISS are true and correct to the best of my knowledge, information and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsifications to authorities.

A handwritten signature in black ink, appearing to read "Edward A. Yurcon", is written over a horizontal line.

Date: Dec. 22, 2006

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within MOTION TO DISMISS has been served upon the following counsel by mailing, postage pre-paid, this 22nd day of December, 2006 to the following:

Christopher J. Shaw, Esquire
P.O. Box 392
DuBois, PA 15801

Nancy Heilman, Esquire
Cohen & Grigsby, P.C.
11 Stanwix Street
15th Floor
Pittsburgh, PA 15222

John R. Benty, Esquire
Commonwealth of PA
Office of Attorney General
Tort Litigation Unit
Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

ANSTANDIG, McDYER & YURCON, P.C.

BY: 

ATTORNEYS FOR DEFENDANTS,
R & F MILLER, INC. AND
EDDIE C. ROBERTS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RANDALL D. WELLS and TAMMY WELLS,	)	CIVIL DIVISION
)	
Plaintiff,	)	Case No. 02-1608-C.D.
)	
v.)	
)	
GERALD E. ORT TRUCKING, INC., ORT TRUCKING, INC., SIMON)	
TRANSPORTATION SERVICES, INC., R. AND F. MILLER, INC., SAMUEL THOMAS)	
KNIGHT, EDDIE C. ROBERTS, JAMIE HARVEY PARKER, and PENNSYLVANIA)	
DEPARTMENT OF TRANSPORTATION,)	
)	
Defendants.)	

ORDER OF COURT

AND NOW, to wit, this ____ this _____, 200 __, it is hereby ORDERED,
ADJUDGED and DECREED that Defendants, Eddie C. Roberts and R. and F. Miller, Inc., are
dismissed from the above-captioned lawsuit with prejudice.

BY THE COURT:

_____, J.

CA

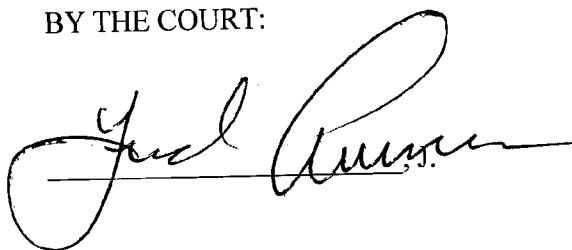
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RANDALL D. WELLS and TAMMY WELLS,	)	CIVIL DIVISION
)	
Plaintiff,	)	Case No. 02-1608-C.D.
)	
v.)	
)	
GERALD E. ORT TRUCKING, INC., ORT TRUCKING, INC., SIMON TRANSPORTATION SERVICES, INC., R. AND F. MILLER, INC., SAMUEL THOMAS KNIGHT, EDDIE C. ROBERTS, JAMIE HARVEY PARKER, and PENNSYLVANIA DEPARTMENT OF TRANSPORTATION,)	
)	
Defendants.)	

SCHEDULING ORDER

AND NOW, to wit, this 2nd day of Jan, 2007, the hearing of Defendants' Motion to Dismiss will be held on 26th of January, 2007, at 1:30 o'clock a.m./p.m.

BY THE COURT:



FILED ^{lecc}
012-2764
JAN 03 2007
William A. Shaw
Prothonotary/Clerk of Courts
Amy Furcon

FILED

JAN 03 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/3/07

X 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

RANDALL D. WELLS and TAMMY WELLS,	)	CIVIL DIVISION
)	
Plaintiff,	)	Case No. 02-1608-C.D.
)	
v.)	
)	
GERALD E. ORT TRUCKING, INC., ORT TRUCKING, INC., SIMON)	
TRANSPORTATION SERVICES, INC., R. AND F. MILLER, INC., SAMUEL THOMAS)	
KNIGHT, EDDIE C. ROBERTS, JAMIE HARVEY PARKER, and PENNSYLVANIA)	
DEPARTMENT OF TRANSPORTATION,)	
)	
Defendants.)	

ORDER OF COURT

AND NOW, to wit, this 26TH this JANUARY, 2007, it is hereby ORDERED, ADJUDGED and DECREED that Defendants, Eddie C. Roberts and R. and F. Miller, Inc., are dismissed from the above-captioned lawsuit with prejudice.

BY THE COURT:

/s/ Fredric J. Ammerman, J.

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

JAN 26 2007

Attest.

William L. Brown
Prothonotary/
Clerk of Courts

F. CORTEZ BELL, III, ESQUIRE
DISTRICT COURT ADMINISTRATOR

SHARON S. WHIPPLE
DEPUTY COURT ADMINISTRATOR

PHONE: 814-765-2641 x 5010
FAX: 814-765-7649
EMAIL: fbell@clearfieldco.org



OFFICE OF THE COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA
CLEARFIELD COUNTY COURTHOUSE
230 EAST MARKET STREET, SUITE 228
CLEARFIELD, PENNSYLVANIA 16830-2448

HON. FREDRIC J. AMMERMAN
PRESIDENT JUDGE

HON. PAUL E. CHERRY
JUDGE

April 17, 2013

RE: 2002-1608-CD

Randall D. Wells and Tammy Wells

vs.

Gerald E. Ort, ORT Trucking, Inc.,
Simon Transportation Services, Inc.,
R & F Miller, Inc., Samuel Thomas Knight,
Eddie C. Roberts, Jamie Harvey Parker and
Pennsylvania Department of Transportation

FILED 1cc AHy
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APR 17 2013 Shaw
William A. Shaw Benty
Prothonotary/Clerk of Courts
OK

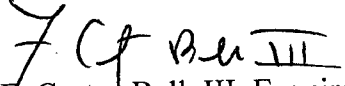
To All Parties and Counsel:

Please be advised that the Court intends to terminate the above-captioned case without notice, because the Court records show that no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement to Proceed must be filed on or before **June 17, 2013**.

If you fail to file the required Statement of Intention to Proceed within the required time period, the case will be terminated.

Sincerely,

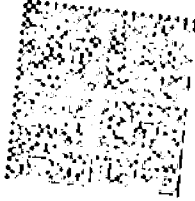

F. Cortez Bell, III, Esquire
Court Administrator

ORIGINAL

OFFICE OF COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
230 EAST MARKET STREET, SUITE 228
CLEARFIELD, PA 16830

FILED
APR 29 2013
Prothonotary/Clerk of Courts
William A. Shaw

RECEIVED APR 29 2013



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Nancy Heilman, Esq.
11 Stanwix Street, 15th Flr.
Pittsburgh, PA 15222-1319

1522216836@2448
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NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD
BC: 16830244833 *1019-02202-1/-42
1019-02202-1/-42

F. CORTEZ BELL, III, ESQUIRE
DISTRICT COURT ADMINISTRATOR

SHARON S. WHIPPLE
DEPUTY COURT ADMINISTRATOR

PHONE: 814-765-2641 x 5010
FAX: 814-765-7649
EMAIL: fbell@clearfieldco.org



OFFICE OF THE COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA
CLEARFIELD COUNTY COURTHOUSE
230 EAST MARKET STREET, SUITE 228
CLEARFIELD, PENNSYLVANIA 16830-2448

HON. FREDRIC J. AMMERMAN
PRESIDENT JUDGE

HON. PAUL E. CHERRY
JUDGE

2002 - 1608 - CD

April 17, 2013

RE: 2002-1608-CD

Randall D. Wells and Tammy Wells

vs.

Gerald E. Ort, ORT Trucking, Inc.,
Simon Transportation Services, Inc.,
R & F Miller, Inc., Samuel Thomas Knight,
Eddie C. Roberts, Jamie Harvey Parker and
Pennsylvania Department of Transportation

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

APR 17 2013

Attest.

William E. Cherry
Prothonotary/
Clerk of Courts

To All Parties and Counsel:

Please be advised that the Court intends to terminate the above-captioned case without notice, because the Court records show that no activity in the case for a period of at least two years.

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If you fail to file the required Statement of Intention to Proceed within the required time period, the case will be terminated.

Sincerely,

F. Cortez Bell III
F. Cortez Bell, III, Esquire
Court Administrator

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

RANDALL D. WELLS and TAMMY L. WELLS,

Plaintiffs

vs.

GERALD E. ORT TRUCKING, INC., ORT TRUCKING, INC.,

SIMON TRANSPORTATION SERVICES, INC., SAMUEL

THONMAS KNIGHT, JAMIE HARVEY PARKER,

COMMONWEALTH OF PENNSYLVANIA - DEPT. OF

TRANSPORTATION,

Defendants

NO. 2002-1608-CD

ORDER

NOW, this 20th day of June, 2013, upon the Court's review of the record, with the Court noting from the docket there has been no activity in the case since January 26, 2007 and that a Notice of Proposed Termination of Court Case had been mailed to the parties April 17, 2013 with no response having been received, pursuant to the provisions of Rule of Judicial Administration 1901 the case is hereby DISMISSED for inactivity. The Prothonotary shall code the case in Full Court as Z-1901A.

BY THE COURT,



FREDRIC J. AMMERMAN

President Judge

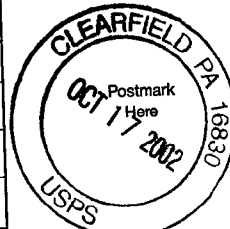
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... ..

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

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.11



Sent To
SIMON TRANSPORTATION SERVICES INC

**Street, Apt. No.;
or PO Box No.** 6100 Neil Road

City, State, ZIP+ 4 Reno, Nevada 89511

7001 1940 0001 9406 1386

Certified Mail Provides:

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

Important Reminders:

- ☐ Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- ☐ Certified Mail is not available for any class of international mail.
- ☐ NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider insured or Registered Mail.

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

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

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

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

PS Form 3800, January 2001 (Reverse)

102595-M-01-2425

13176

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

SIMON TRANSPORTATION SERVICES
INC.
6100 Neil Road
Reno, Nevada 89511

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x *Stacy Hult*

☐ Agent

☐ Addressee

B. Received by (Printed Name)

S. Clarke

C. Date of Delivery

10/21

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7001 1940 0001 9406 1386

UNITED STATES POSTAL SERVICE



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

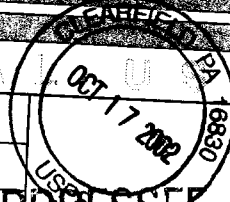
• Sender: Please print your name, address, and ZIP+4 in this box •

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

13176

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

OFFICIAL USE



ADDRESSEE
ONLY

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 8.61

Sent To
JAMIE HARVEY PARKER
Street, Apt. No.;
or PO Box No. 500 South Ohio St.
City, State, ZIP+4
Humansville, Missouri 65613

PS Form 3800, January 2001

See Reverse for Instructions

1379 1379 9406 9406 0001 0001 1140 1140

Post Office Provides:

mailing receipt
unique identifier for your mailpiece

A signature upon delivery

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

Important Reminders:

❑ Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
❑ Certified Mail is not available for any class of international mail.

❑ NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For
valuables, please consider Insured or Registered Mail.

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

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

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

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

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JAMIE HARVEY PARKER
800 South Ohio St.
Jumansville, Missouri 65613
H

COMPLETE THIS SECTION ON DELIVERY

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

JAMIE H. PARKER 10/23/02

C. Signature

X Jamie H. Parker

☐ Agent☒ Addressee☐ Is delivery address different from item 1? ☒ YesIf YES, enter delivery address below: ☒ NO

P.O. Box 211

3. Service Type

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

4. Restricted Delivery? (Extra Fee)

☒ Yes

2. Article Number (Copy from service label)

7001 1940 0001 9406 1379

UNITED STATES POSTAL SERVICE



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

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

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

13176

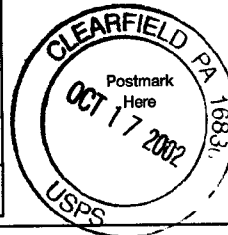
03



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

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.11



Sent To

R. AND F. MILLER INC.

Street, Apt. No.;
or PO Box No. 58255 Crumstown Highway

City, State, ZIP+4
South Bend, Indiana 46619-9541

PS Form 3800, January 2001

See Reverse for Instructions

7001 1940 0001 9406 1348

Certified Mail Provides:

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

Important Reminders:

- ☐ Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- ☐ Certified Mail is not available for any class of international mail.
- ☐ NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider insured or Registered Mail.

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

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

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

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

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

R. AND F. MILLER INC.
58255 Crumstown Highway
South Bend, Indiana 46619-9541

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

Linda Long

B. Date of Delivery

10/21/02

C. Signature

x [Signature]

☐ Agent☐ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

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

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number (Copy from service label)

7001 1940 0001 9406 1348

UNITED STATES POSTAL SERVICE

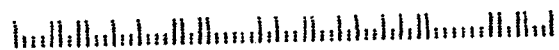


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

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

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

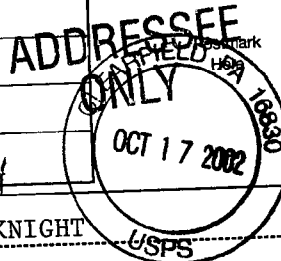
13176



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

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 8.61



Sent To
SAMUEL THOMAS KNIGHT
Street, Apt. No.;
or PO Box No. 3915 Shirley Road
City, State, ZIP+ 4 Youngstown, Ohio 44502

7001 1940 0001 9406 1355

Certified Mail Provides:

☐ A mailing receipt

☐ A unique identifier for your mailpiece

☐ A signature upon delivery

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

Important Reminders:

☐ Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.

☐ Certified Mail is not available for any class of international mail.

☐ NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For

valuable items, please consider insured or Registered Mail.

☐ For an additional fee, a Return Receipt may be requested to provide proof of

delivery. To obtain Return Receipt service, please complete and attach a Return

Receipt (PS Form 3811) to the article and add applicable postage to cover the

fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for

a duplicate return receipt, a USPS postmark on your Certified Mail receipt is

required.

☐ For an additional fee, delivery may be restricted to the addressee or

addressee's authorized agent. Advise the clerk or mark the mailpiece with the

endorsement "Restricted Delivery".

☐ If a postmark on the Certified Mail receipt is desired, please present the arti-

cle at the post office for postmarking. If a postmark on the Certified Mail

receipt is not needed, detach and affix label with postage and mail.

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

PS Form 3800, January 2001 (Reverse)

102595-M-01-2425

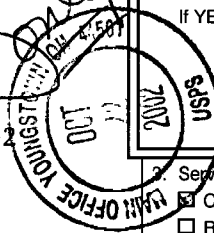
13776

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

SAMUEL THOMAS KNIGHT
3915 Shirley Road
Youngstown, Ohio 44502



COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

SAMUEL KNIGHT

B. Date of Delivery

10-22-02

C. Signature

Samuel T. Knight

☐ Agent

☒ Addressee

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☒ Yes

2. Article Number (Copy from -----)

7001 1940 0001 9406 1355

UNITED STATES POSTAL SERVICE



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

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

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

13176

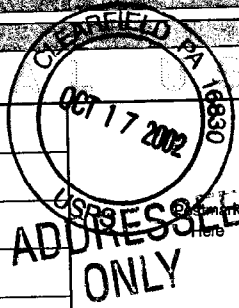
09



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

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 8.61



Sent To	EDDIE C. ROBERTS
Street, Apt. No.; or PO Box No.	23700/64 Marquette Blvd.
City, State, ZIP+ 4	South Bend, Indiana 46628

7001 1940 0001 9406 1362
29ET 9046 T000 046T T002

Certified Mail Provides:

☐ A mailing receipt

☐ A unique identifier for your mailpiece

☐ A signature upon delivery

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

Important Reminders:

☐ Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.

☐ Certified Mail is not available for any class of international mail.

☐ NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider insured or Registered Mail.

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

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

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

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

PS Form 3800, January 2001 (Reverse)

102595-M-01-2425

13174

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

EDDIE C. ROBERTS
23700/64 Marquette Blvd.
South Bend, Indiana 46628

COMPLETE THIS SECTION ON DELIVERY

- | | |
|---|--|
| A. Received by (Please Print Clearly)
<i>Robert C. Roberts</i> | B. Date of Delivery
<i>10/19/92</i> |
| C. Signature
<i>Robert C. Roberts</i> | |
| <input type="checkbox"/> Agent
<input checked="" type="checkbox"/> Addressee | |
| D. Is delivery address different from item 1? <input type="checkbox"/> Yes
If YES, enter delivery address below: <input type="checkbox"/> No | |

3. Service Type

- | | |
|--|---|
| <input checked="" type="checkbox"/> Certified Mail | <input type="checkbox"/> Express Mail |
| <input type="checkbox"/> Registered | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Insured Mail | <input type="checkbox"/> C.O.D. |

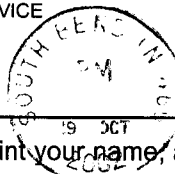
4. Restricted Delivery? (Extra Fee)

☒ Yes

2. Article Number (Copy from service label)

7001 1940 0001 9406 1362

UNITED STATES POSTAL SERVICE



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

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

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

13176

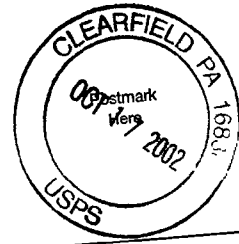
6630+2335

7001 1940 0001 9406 1331

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

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.11



Sent To ORT TRUCKING INC.
Street, Apt. No., or PO Box No. P.O. Box 267
City, State, ZIP+ 4 New London, Wisconsin 54961
PS Form 3800, January 2001 See Reverse for Instructions

Certified Mail Provides:

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

Important Reminders:

- ☐ Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- ☐ Certified Mail is not available for any class of international mail.
- ☐ NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider insured or Registered Mail.
- ☐ For an additional fee, a Return Receipt may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
- ☐ For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- ☐ If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

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

PS Form 3800, January 2001 (Reverse)

102595-M-01-2425

13174

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ORT TRUCKING INC.
P.O. Box 267
New London, Wisconsin 54961

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X ☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

10/21/02

D. Is delivery address different from item 1?

☒ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

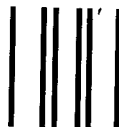
☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes2. Article Number
(Transfer from service label)

7001 1940 0001 9406 1331

UNITED STATES POSTAL SERVICE



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

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

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

C-13176

003

